

# IHBAI - Independent Educational Evaluations (IEEs)

## **IHBAI - SPECIAL EDUCATION INDEPENDENT EVALUATION (IEEs)**

MSAD 35 has adopted this policy regarding special education independent educational evaluations, consistent with state and federal special education regulations.

An independent educational evaluation is an evaluation conducted by a qualified examiner who is not employed by MSAD 35. An independent educational evaluation at public expense means that the school either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent. Qualified examiners in private practice under contract with the school unit who have not previously evaluated, instructed or provided consultation regarding a particular student are eligible to provide an independent educational evaluation of the student.

A parent has a right to obtain an independent evaluation at public expense when they disagree with the evaluation done by the school, as set forth below.

If a parent requests an independent educational evaluation at public expense, the school unit may ask for the parent's reason why they object to the public school's evaluation. However, the school unit may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or denying the request and filing for a due process hearing to defend the public school's evaluation.

A parent is entitled to only one independent educational evaluation at public expense each time the school conducts an evaluation with which the parent disagrees, but only if other conditions in this policy are also met.

If MSAD 35 refuses to provide an independent evaluation at public expense, then the school unit must initiate a due process hearing within 30 days of receiving the request. If the hearing officer upholds the appropriateness of the school unit's evaluation, then the parents shall be fully responsible for the cost of the independent evaluation. If the hearing officer concludes that the school unit's evaluation was not appropriate, then the school unit must pay for the cost of the independent educational evaluation.

The following criteria must be met if the school unit is going to approve an independent evaluation at public expense. Unique circumstances may justify deviation from these criteria. If a parent or school staff member is aware of such unique circumstances, they should inform the student's case manager or the school unit's Special Services Director immediately.

1. MSAD 35 will provide to parents, upon request for an independent educational evaluation, information about where an independent evaluation may be obtained, and the criteria set

forth in this policy for obtaining an independent evaluation at public expense.

2. For an independent educational evaluation to be funded at public expense, it must meet the following conditions:
  - A. The parents must be in disagreement with a school-ordered evaluation;
  - B. The contested school evaluation is inappropriate in the opinion of the Special Services Director;
  - C. The proposed independent evaluator is appropriately qualified professional to conduct the type of evaluation being considered;
  - D. The person or agency completing the independent evaluation submits a written report that conforms to all the requirements for written evaluations set forth in Maine special education regulations, currently found at MUSER V;
  - E. The cost of the evaluation shall not be higher than the Medicaid rate ceiling for comparable evaluation services, unless the family establishes that an independent evaluation is not available at or below the Medicaid rate ceiling for that evaluation, and in that event, the cost of the evaluation shall not exceed the usual and customary rate for such evaluations in York County.
  - F. A complete copy of the independent evaluation has been provided to MSAD 35 before payment.
  - G. The evaluator has reviewed relevant educational records as part of the evaluation.
  - H. Unless otherwise determined by the members of the child's IEP Team, the evaluator has either: a) observed the child in one or more educational settings; or b) made at least one contact with the child's general education teacher for the purpose of determining how the student is progressing in the general curriculum. Evaluators are encouraged to make additional contacts with other involved general and special education teachers and related service providers.
  - I. The evaluator is permitted to directly communicate and share information with members of the IEP Team, the Special Services Director, and the Director's designees. The evaluator must also release the assessments and results, including any parent and teacher questionnaires, to members of the IEP Team, the Special Services Director, and the Director's designees.
  - J. MSAD 35 shall be entitled to inspect and obtain copies of the evaluator's records, including any records created by third parties. However, those records will not be deemed accessible to any school personnel other than the evaluator, unless and until the School Department exercises its right to inspect or obtain copies of those records from the evaluator.

3. The Special Services Director will respond within 30 days of receipt of a request for an independent evaluation at public expense. In the event that the Director is denying the request, the Director must also file for a due process hearing prior to the conclusion of that same 30-day time period.

4. A parent cannot request an independent evaluation at public expense in response to a school evaluation that is more than two years old. When the parent requests an independent evaluation at public expense in an assessment area that has not been evaluated by the school, MSAD 35 shall notify the parent that it cannot approve or deny such a request until after the school has had the opportunity to complete a school-ordered evaluation in the area requested. The Special Services Director should refer the question of additional school-ordered evaluations in the areas of concern to the IEP Team.

5. A qualified examiner is permitted to observe a child at school or at a potential educational placement when the qualified examiner is not employed by the school and is conducting an independent educational evaluation at the request of the parent, at times and durations as the school would permit a qualified examiner that is employed by the school.

6. If a parent provides MSAD 35 with a copy of an independent educational evaluation, the IEP team will consider the evaluation whether or not that evaluation is provided at public expense. MSAD 35 will not accept or rely on any independent educational evaluation that does not meet state regulatory criteria for evaluations.

#### Legal Reference:

34 C.F.R. § 300.502 (2006)

Me. Dept. of Educ. Rule Ch. 101, § V (2015);

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