

IHBAI - Independent Educational Evaluations (IEEs)

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A parent of a student with disabilities has a right to obtain an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by MSAD #35. An “independent educational evaluation” means an evaluation conducted by a qualified examiner who is not employed by MSAD #35.

If a parent requests an independent educational evaluation at public expense to challenge an evaluation obtained by MSAD #35, the school must provide a written response to that request within a reasonable period, not to exceed 30 days of the receipt of the request, and shall, without unnecessary delay, either (1) initiate a hearing with the Maine Department of Education to show that its evaluation is appropriate, or (2) ensure that an independent educational evaluation is provided at public expense, unless MSAD #35 demonstrates in a hearing with the Maine Department of Education that the evaluation obtained by the parent did not meet agency criteria.

If a parent requests an independent educational evaluation at public expense, the public agency may ask for the parent’s reason why he/she objects to MSAD #35’s evaluation. However, the explanation by the parent may not be required, and MSAD #35, may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend MSAD #35’s evaluation.

If the independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that MSAD #35 uses when it initiates an evaluation.

MSAD #35 shall provide to the parent, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained and information about the school’s criteria applicable to independent educational evaluations at public expense.

If the parent obtains an independent educational evaluation at private expense, the results of the evaluation must be considered by MSAD #35, if that evaluation meets MSAD #35’s criteria for independent educational evaluations, in any decision made with respect to the provision of a free appropriate public education for the child.

If the parent requests an independent evaluation at public expense when the parent does not disagree with an evaluation provided by MSAD #35, or when the school has not recently provided an evaluation in the area requested, the parent request shall be referred without unnecessary delay to the PET to determine whether the PET should order an evaluation in the area requested.

Legal Reference: 34 CFR § 300.502 (March 1999)

Ch. 101 §§ 9.19, 12.5 (Nov. 1999) (Me. Dept. of Ed. Rules)

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