

**SANTA CLARA COUNTY  
NORTH WEST SPECIAL EDUCATION LOCAL PLAN AREA**

**INDEPENDENT EDUCATIONAL EVALUATION (IEE)  
POLICY AND PROCEDURES**

This policy sets forth the procedures under which students with disabilities are entitled to an Independent Educational Evaluation (IEE).

**Definitions**

*Independent educational evaluation (IEE)*: Means an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of the child in question.

*Public expense* means that the LEA either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with the law.

**General Procedures**

A parent (or guardian) has the right to request, at public expense, an IEE of the student from qualified specialists, as defined by this policy, if the parent disagrees with an assessment obtained by the public education agency, in accordance with the law.

Each LEA must provide to parents, upon request for an IEE, information about where an IEE may be obtained, and the agency criteria applicable for IEE as set forth in this policy.

If a parent requests an IEE at public expense, the LEA must, without unnecessary delay, either:

- (1) File a due process complaint to request a hearing to demonstrate that its evaluation is appropriate; or
- (2) Ensure that an IEE is provided at public expense, unless the agency demonstrates in a due process hearing that the evaluation obtained by the parent did not meet agency criteria.

If the LEA files a due process complaint to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an IEE, but not at public expense.

If a parent requests an IEE at public expense, the LEA may ask for the parent's reason why he or she objects to the public evaluation. However, the LEA may not require the parent to provide an explanation and may not unreasonably delay either providing the IEE at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

A parent is entitled to request only one IEE at public expense each time the LEA conducts an evaluation with which the parent disagrees.

**Parent-initiated Evaluations**

If the parent obtains an IEE at public expense or shares with the LEA an evaluation obtained at private expense, the results of the evaluation:

- (1) Must be considered by the LEA, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and
- (2) May be presented by any party as evidence at a hearing on a due process complaint regarding that child.

### **Requests for Evaluations by Hearing Officers**

If a hearing officer requests an IEE as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

### **LEA Criteria**

If an IEE 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 the LEA uses when it initiates an evaluation, to the extent those criteria are consistent with a parent's right to an IEE. However, a parent shall always have the opportunity to demonstrate that unique circumstances justify the selection of an evaluator outside of these criteria. Except for the criteria described in this policy, a LEA may not impose conditions or timelines related to obtaining an IEE at public expense.

### **Observation**

If the LEA observed the student in conducting the evaluation with which the parent disagrees, or if its assessment procedures allow in-class observations, the independent evaluator will be provided an equivalent opportunity to observe the student in the current educational setting, and to observe the LEA's proposed setting, if any. This opportunity shall be provided regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing proceeding.

The LEA shall define the nature and scope of an independent evaluator's in-class observations consistent with the right to an equivalent opportunity to observe, but also consistent with its obligations to prevent unnecessary disruption in the class and to protect the privacy interests of other students. This may include, but is not limited to, identifying the time constraints of such observation, LEA personnel who will participate in the observation and restrictions on student/teacher interactions.

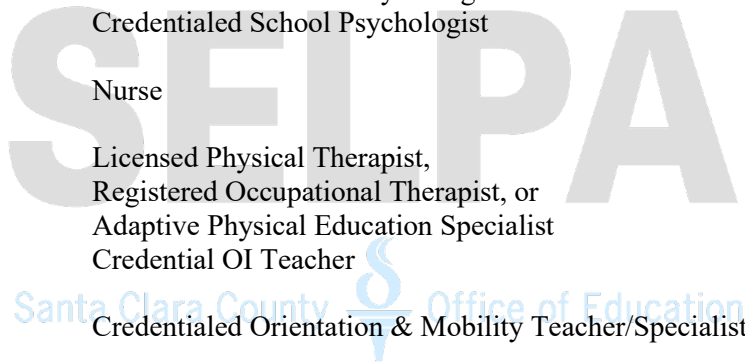
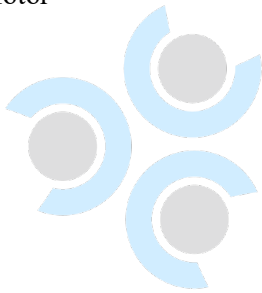
### **Location Limitations for Evaluators**

Evaluators will be located within the greater Bay Area (counties: Santa Clara, San Mateo, Santa Cruz, San Francisco & Alameda). Evaluators outside of this area will be approved only on an exceptional basis, providing parents can demonstrate the necessity of using an evaluator outside the specified area. Any expenses beyond the evaluation (i.e., food, lodging, transportation, etc.) are not covered in the cost of the independent educational evaluation unless exceptional circumstances are present and reimbursement for such expenses is specifically agreed upon in writing.

### **Minimum Qualifications for Evaluators**

<b>Type of Assessment</b>	<b>Qualifications</b>
Academic Achievement	Credentialed Special Education Teacher Licensed Educational Psychologist Credentialed School Psychologist
Psycho Educational	Credentialed Special Education Teacher Licensed Educational Psychologist Credentialed School Psychologist
Adaptive Behavior	Licensed Educational Psychologist Credentialed School Psychologist Credentialed Special Education Teacher

Assistive Technology	Certificated or Licensed Speech/Language Pathologist (AT Certification preferred) Certified Special Education Teacher (AT Certification preferred) Licensed Occupational Therapist (AT Certification preferred)
Auditory Acuity	Licensed Educational Audiologist Licensed or Credentialed Speech/Language Pathologist
Auditory Perception (CAP)	Licensed or Credentialed Speech/Language Pathologist
Behavioral	Credentialed Special Education Teacher Licensed Psychiatrist Licensed Educational Psychologist Credentialed School Psychologist Certified Behaviorist
Cognitive	Licensed Educational Psychologist Credentialed School Psychologist
Fine Motor	Licensed Occupational Therapist Licensed Educational Psychologist Credentialed School Psychologist
Health	Nurse
Motor	Licensed Physical Therapist, Registered Occupational Therapist, or Adaptive Physical Education Specialist Credential OI Teacher
Orientation & Mobility	Credentialed Orientation & Mobility Teacher/Specialist
Speech and Language	Certificated or Licensed Speech/Language Pathologist
Social/Emotional	Credentialed School Psychologist Licensed Educational Psychologist Licensed Psychiatrist
Vision (Functional)	Certificated Teacher of the Visually Impaired
Functional Vision	Credentialed Teacher of the Visually Impaired
Vision Perception	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Educational Psychologist
Transition	Credentialed Special Education Teacher



### **Cost Limitations for Independent Evaluations**

The cost of the IEE shall be comparable to those costs that the LEA incurs when it uses its own employees or contractors to perform similar evaluations unless exceptional circumstances requiring additional costs are demonstrated. Costs may include observations, administration and scoring tests, and report writing. Reimbursement will be in an amount no greater than the actual cost to the parent and will be subject to proof of payment. SELPA IEE cost limitations can be found [here](#). The LEA and parent can agree to exceed the cost limitation when exceptional circumstances are demonstrated.

When private insurance will cover all or partial costs of the IEE, the LEA may request that the parent voluntarily have their insurance pay the covered IEE costs. However, parent will not be asked to have insurance cover IEE costs if such action would result in a financial cost to the parent not reimbursed by the LEA, including, but not limited to the following:

- 1) A decrease in available lifetime coverage or any other benefit under an insurance policy;
- 2) An increase in premiums or the discontinuance of the policy; or
- 3) An out-of-pocket expense such as payment of a deductible amount incurred in filing a claim.

In seeking and obtaining parents' voluntary consent to seek insurance contribution for an IEE, such consent should be written and should clearly state that the parent:

- Agrees to the LEA's filing of an insurance claim to obtain reimbursement for specifically identified services.
- Acknowledges that the information and records identified in the request for consent will be released to specifically identified persons or entities in connection with submitting the claim for reimbursement.
- Understands that they are not required to consent to the filing of insurance claims and may refuse to do so at any time in the future.
- Recognizes that any refusal to permit the LEA to access their private insurance does not relieve the LEA of its obligation to provide all required services at no cost.

As part of the contracted evaluation, independent evaluators may be asked to:

- Attend relevant IEP Team meetings by phone or in person to discuss their findings
- Provide protocols of all the assessments, and
- Provide a written report prior to the IEP Team meeting

Independent evaluators must agree to release their assessment information and results to the LEA prior to receipt of payment for services. The results of the IEE will be considered in the determination of eligibility, program decisions, and placement of the student with disabilities as required by the IDEA.

All independent educational evaluators should utilize testing and assessment materials and procedures which are selected and administered so as not to be racially, culturally, or sexually discriminatory. Tests and other assessment materials should be provided and administered in the student's primary language or other mode of communication unless the evaluation plan indicates reasons why this provision and administration are not clearly feasible. All assessment instruments utilized should have been validated for the specific purpose for which they are used and be administered by trained personnel in conformity with the instructions provided by the publisher.

### **Recommended Procedures for Responding to IEE Requests**

Once a parent communicates his/her disagreement with the LEA's evaluation and requests orally or in writing an IEE at public expense, the following procedures should be followed:

1. Upon receipt of the request, the LEA will respond and provide the parent with information about where an IEE may be obtained, and the agency criteria applicable for IEE, by providing a copy of the SELPA's IEE Policy and Procedures.
2. Without unnecessary delay following the review of the IEE request, the LEA *will* respond, through the provision of prior written notice, regarding its decision to either seek due process to defend the appropriateness of its assessment or agree to the IEE at public expense.
3. Should the LEA choose to initiate due process to defend the appropriateness of its assessment, the LEA must do so without unnecessary delay.
4. Should the LEA agree to fund the IEE at public expense, the LEA:
  - a. May discuss the possible options for obtaining an IEE at public expense with parent, including the use of:
    - An evaluator from another LEA in the SELPA;
    - An evaluator from another SELPA; or
    - A private sector evaluator.

Ultimately, if an IEE is agreed to be funded, parents have the choice of the assessor to be used (so long as the chosen assessor meets the criteria in this policy).

- b. Should seek confirmation in writing of parent's decision/agreement to pursue the IEE and the agreed upon method of payment/delivery (e.g., contract, parent reimbursement).
- c. Should seek a signed release and exchange of information between the independent evaluator(s) and the LEA.

Should the parent at any time obtain an IEE at either public or private expense, the LEA must hold an IEP meeting with the student's relevant IEP team members to discuss and consider the IEE results.

*Approved by Executive Council:*

<i>SELPA I</i>	<i>10/18/07</i>	<i>10/21/10</i>	<i>10/16/14</i>	<i>10/20/22</i>
<i>SELPA II</i>	<i>10/19/07</i>	<i>10/29/10</i>	<i>10/17/14</i>	<i>10/21/22</i>
<i>SELPA III</i>	<i>10/18/07</i>	<i>10/21/10</i>	<i>10/16/14</i>	<i>10/20/22</i>
<i>SELPA IV</i>	<i>10/15/07</i>	<i>10/20/10</i>	<i>10/15/14</i>	<i>10/21/22</i>
<i>SELPA VII</i>	<i>10/15/07</i>	<i>10/20/10</i>	<i>10/15/14</i>	<i>10/19/22</i>