

Adopted: 9/16/19

NRHEG Public Schools Policy 635

Orig. 2019

Revised: \_\_\_\_\_

Rev. \_\_\_\_\_

## 635 INDEPENDENT EDUCATIONAL EVALUATION

### I. PURPOSE

Parents of a student with a disability have the right to obtain an **Independent Educational Evaluation (IEE)** at public expense if they disagree with an evaluation conducted or obtained by the School District. The purpose of this policy is to provide procedures and criteria for requesting an IEE.

### II. GENERAL STATEMENT OF POLICY

- A. Parents of a student with a disability have the right to obtain an independent educational evaluation at public expense if they disagree with an evaluation conducted or obtained by the School District. Parents are only entitled to one independent educational evaluation at public expense for each evaluation conducted or obtained by the District with which there is disagreement.

All independent educational evaluations provided at public expense are conducted to assist the team in establishing eligibility for special education and related services and/or to determine appropriate educational programming as specified in state and federal special education laws. When an IEE is conducted at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, are the same as the criteria the District uses when it initiates an evaluation. In exceptional situations, the Parents may be provided the opportunity to demonstrate that unique circumstances justify the selection of an evaluator or IEE that does not meet District criteria.

The IEP team will consider the results of any IEE obtained at public expense or provided by the Parent(s). It is important to note, however, that the District is not required to adopt or incorporate those results as part of the student's IEP or other educational programming.

### III. DEFINITION OF TERMS

- A. Independent Educational Evaluation or "IEE" means an evaluation conducted by a qualified examiner who is not employed by the District.
- B. Public Expense means the District either pays for the full cost of the evaluation or evaluation components or ensures that the evaluation or evaluation components are otherwise provided at no cost to the Parent.

#### **IV. PROCEDURES FOR REQUESTING AN IEE**

- A. Parent must give notice to the district of the request for an IEE. The notice may be given verbally, but preferred written.
- B. Upon request for an IEE, the district must give the parent information regarding its criteria for selection of an independent examiner and information about where an independent education evaluation may be obtained. 34 C.F.R. § 300.502(a)(2).
- C. If the parent requests an IEE, the district must, without delay, ensure that it is provided at public expense or request a hearing to determine the appropriateness of its evaluation. 34 C.F.R. § 300.502(b)(2). If the district goes to hearing and the hearing officer determines the district's evaluation is appropriate, the parent still has the right to an independent evaluation, but not at public expense. 34 C.F.R. § 300.502(b)(3).
- D. If the parent obtains an IEE, the results of the evaluation must be considered by the IEP/IIIP (Individual Interagency Intervention Plan) Team and may be presented as evidence at a due process hearing regarding the child. 34 C.F.R. § 300.502(c).

#### **VI. PROCEDURES AND CONDITIONS FOR CONDUCTING AN IEE**

- A. Persons conducting an IEE must be properly trained and licensed by the Minnesota Board of Professional Educator Licensing and Standards Board or an accredited organization or agency representing their profession that is recognized in the State of Minnesota (e.g., American Psychological Association, American Speech and Hearing Association, American Medical Association, etc.). If there are a sufficient number of individuals qualified to conduct the IEE in the State of Minnesota, the IEE must be conducted by an individual within the State of Minnesota
- B. Parents must provide written consent for the IEE and must simultaneously give their written consent for an exchange of information between the District and independent evaluator(s), including the release to the District of the evaluation report and results of all assessment data collected by the independent evaluator(s).
- C. An evaluation plan will be developed prior to starting the IEE. The evaluation plan will be developed by the District working in cooperation with the independent evaluator(s) and Parent(s). This plan will document the procedures and instruments to be included in the evaluation and identify who will conduct the evaluation. The Parent will be provided the opportunity to agree or disagree with the evaluation plan before the IEE is commenced.
- D. Evaluation procedures must comply with all State criteria for special education evaluations including all applicable parts of Minnesota Rule 3525.2710 (as amended) and Minnesota Rules 3525.1325 to 3525.1352 (as amended). A copy of these regulations will be provided to the Parent(s) or the independent evaluator(s) upon request.
- E. The IEE must include the use of evaluation instruments that are normed, validated,

and administered for the purposes designed. The independent evaluator(s) must use a variety of evaluation tools and strategies to gather relevant functional and developmental information, including information provided by teachers, other educational and related service providers and the Parent, that are designed to assist in determining whether the child is a pupil with a disability and the content of the pupil's individualized education program, including information related to enabling the pupil to be involved in and progress in the general curriculum or, for preschool pupils, to participate in appropriate activities. The independent evaluator(s) should not use any single procedure as the sole criterion for determining whether a child is a pupil with a disability or determining an appropriate education program for the pupil. The independent evaluator(s) must use technically sound instruments that are designed to assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

- F. Tests and other evaluation materials used to by the independent evaluator(s) must be selected and administered so as not to be discriminatory on a racial or cultural basis and must be provided and administered in the pupil's native language or other modes of communication unless it is clearly not feasible to do so. Materials and procedures used to evaluate a child with limited English proficiency must be selected and administered to ensure that they measure the extent to which the child has a disability and needs special education rather than measure the child's English language skills. The independent evaluator(s) shall use only the most current version of each assessment instrument as part of the evaluation.
- G. Any standardized tests that are given to the child by the independent evaluator(s) must be validated for the specific purpose for which they are used, must be administered by trained and knowledgeable personnel, and must be administered in accordance with any instructions provided by the producer of such tests;
- H. The independent evaluator(s) must utilize evaluation tools and strategies that provide relevant information that directly assists the District in determining the educational needs of the student;
- I. If the IEE is not conducted under standard conditions, the independent evaluator must provide a description of the extent to which it varied from standard conditions in the evaluation report;
- J. Checklist, questionnaire, or survey instruments must include the input of District teachers or other relevant staff. The independent evaluator(s) will also collect and include observational data provided by District staff. The District may require the IEE to include classroom observations and/or interviews with District staff.
- K. The independent evaluator(s) shall review the student record, including the results of evaluations conducted by the District.
- L. The evaluation must be completed in a timely manner consistent with current State of Minnesota practices. This means that the evaluation, where possible, should be completed within 30 school days of the date. Exceptions are as allowed by law and by mutual agreement of the Parents and the District.
- M. Evaluation costs must be reasonable and must not exceed prevailing and established

rates for similar services in the community. Unnecessary or excessive costs incurred in obtaining an IEE will not be reimbursed by the District. The District will enter into a written agreement regarding the costs and conditions of the evaluation with the evaluator(s) prior to the start of the evaluation. Where possible all costs must be pre-approved by the District.

- N. The independent evaluator(s) shall provide a written report of findings simultaneously to the Parent(s) and the District. That report shall contain all of the components required by Minnesota and federal law, and at a minimum must contain:
1. dates when evaluation activities when conducted;
  2. the scores, along with subtest scores, of any and all tests administered;
  3. a discussion and interpretation of test results;
  4. the procedures used to ensure against bias due to ethnic or linguistic differences;
  5. a diagnosis of the student's condition, as appropriate; and
  6. recommendations, based on evaluation data, for the District's evaluation team to consider.
- O. Payment for the independent evaluation will occur only after the District has received the final written report of findings from the evaluator(s) that comply with these criteria.
- P. Upon request, the independent evaluator(s) must be available in person or electronically (e.g., telephone conference, video chat, etc.) to discuss the results of the independent educational evaluation with the IEP team.
- Q. No patient-provider relationship will be formed with either the School District or the Parent or Student as a result of the evaluation.
- R. The Parent understands that the independent evaluator will have access to District staff and school records and that the District is entitled to a copy of the report at the same time it is provided to the Parent. The evaluator is obligated to provide the final evaluation, observation notes, protocols or other information in the evaluator's file concerning the evaluation of the student.
- S. The District reserves the right to deny a parental request for a specific independent evaluator(s), defend its evaluation, or challenge the appropriateness and/or the qualifications of the requested IEE or the qualifications of the evaluator(s) where it appears any requested evaluator may have a vested interest in the outcome of the IEE. In determining whether an evaluator(s) has a vested interest in the outcome of the IEE, the District may consider factors such as, but not limited to, the nature of the relationship between the proposed evaluator and the student, their family, or legal counsel representing the student or family. If privately obtained evaluations do not satisfy the provisions of state and/or federal law, Parents may not be entitled to reimbursement for the evaluation. Also, Parents may not be entitled to reimbursement, or payment, for evaluations conducted by unqualified individuals.

**Legal References:** 34 Code of Federal Regulation (C.F.R.) § 300.502  
Minnesota Rule 3525.2710 (as amended)  
Minnesota Rules 3525.1325 to 3525.1352 (as amended).