

X. Independent Education Evaluations

IDEA Regulations: Independent Education Evaluations

Section 300.502 Independent educational evaluation

(a) General.

1. The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.
2. Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section.
3. For the purposes of this subpart —
 - i. Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and
 - ii. Public expense means that the public agency 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 §300.103.

(b) Parent right to evaluation at public expense.

1. A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section.

Nebraska Rule 51: Independent Education Evaluations

92 NAC 51-006.07

006.07A. A parent of a child with a disability has the right to obtain an independent educational evaluation of the child at public expense if the parent disagrees with the evaluation obtained by the school district or approved cooperative, subject to the provisions of 92 NAC 51-006.07.

006.07B. Each school district or approved cooperative shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the school district's or approved cooperative's criteria applicable for independent educational evaluations.

006.07C. A parent is entitled to only one independent educational evaluation at public expense each time the school district or approved cooperative conducts an evaluation with which the parent disagrees.

006.07C1. Public expense means that the school district or approved cooperative either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

006.07D. If a parent requests an independent educational evaluation at public expense, the school district or approved cooperative must, without unnecessary delay, either:

006.07D1. Initiate a hearing under 92 NAC 55 to show that its evaluation is appropriate; or

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2. If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either—
 - i. File a due process complaint to request a hearing to show that its evaluation is appropriate; or
 - ii. Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.
3. If the public agency files a due process complaint notice to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.
4. If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.
5. A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

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- 006.07D2.** Ensure that an independent educational evaluation is provided at public expense, unless the school district or approved cooperative demonstrates at a hearing under 92 NAC 55 that the evaluation obtained by the parent did not meet school district or approved cooperative criteria.
- 006.07E.** If the school district or approved cooperative initiates a hearing and the final decision is that the school district's or approved cooperative's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.
- 006.07F.** If a parent requests an independent educational evaluation, the school district or approved cooperative may ask for the parent's reason why he or she objects to the public evaluation. However, the school district or approved agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.
- 006.07G.** If the parent obtains an independent educational evaluation at public expense or shares with the school district or approved cooperative an evaluation obtained at private expense, the results of the evaluation:
- 006.07G1.** Must be considered by the school district or approved cooperative, if it meets school district or approved cooperative criteria, in any decision made with respect to the provision of a free appropriate public education to the child; and
- 006.07G2.** May be presented by any party as evidence at a hearing under 92 NAC 55 regarding that child.

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(c) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation —

1. Must be considered by the public agency, 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 under subpart E of this part regarding that child.

(d) Requests for evaluations by hearing officers. If a hearing officer requests an independent educational evaluation as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

(e) Agency criteria.

1. If an independent educational 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 the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.
2. Except for the criteria described in paragraph (e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

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006.07H. If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

006.07I. If an independent educational 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 the school district or approved cooperative uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

006.07J. Except for the criteria described in 92 NAC 51-006.07I, a school district or approved cooperative may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

District Considerations for Policy and Procedure Development

Sample district policy statement

The parent, guardian, or appointed surrogate will be notified of procedural safeguards consistent with Federal and state regulations (34 CFR § 300.502 and 92 NAC 51-006.07) associated with Individual Education Evaluations (IEEs) at the time of evaluation. When a parent, guardian, or appointed surrogate disagrees with the outcomes of an evaluation and requests an IEE, [xyz school district] will respond to the request within [X] number of days with a decision to move forward with the IEE or initiate a hearing to determine the appropriateness of the evaluation (consistent with 92 NAC 51-006.07D). The parent, guardian, or appointed surrogate will be given written notice of the decision. The district will maintain procedures outlining criteria associated with the evaluation and provide information to the parent upon request. The school team will consider independent evaluations (whether provided at parent or public expense) when making decisions.

Procedural Considerations

Outline steps and information for the following:

- Explanation and definitions
- Request process
- Decisionmaking regarding requests
- Pending IEE impact on services
- Notice of decisions procedures and associated parent options
- Location limits and information regarding evaluation locations
- Cost criteria and steps to complete the IEE
- Examiner qualifications
- School based observations by outside examiner
- Team considerations regarding evaluations

Guidance resources

- (OSEP) [Letter to Jennifer Carroll on independent educational evaluations \(IEE\). \(PDF\)](#)
- [Requesting an Independent Evaluation of Your Child | Center for Parent Information and Resources \(parentcenterhub.org\)](#)
- [Right to Obtain an Independent Educational Evaluation | Center for Parent Information and Resources \(parentcenterhub.org\)](#)