

INDEPENDENT EDUCATIONAL EVALUATIONS

A parent/guardian of a student with disabilities has a right to obtain an independent educational evaluation at public expense if the parent/guardian disagrees with an evaluation obtained by the local school unit. An “independent education evaluation” means an evaluation conducted by a qualified examiner who is not employed by the local school unit.

If a parent/guardian requests an independent educational evaluation at public expense to challenge an evaluation obtained by the local school unit, 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 the local school unit demonstrates in a hearing with the Maine Department of Education that the evaluation obtained by the parent/guardian did not meet agency criteria.

If a parent/guardian requests an independent educational evaluation at public expense, the public agency may ask for the parent’s/guardian’s reason why they object to the local school unit’s evaluation. However, the explanation by the parent/guardian may not be required, and the local school unit may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the local school unit’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 the local school unit uses when it initiates an evaluation.

The local school unit shall provide to the parent/guardian, upon request for an independent education 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/guardian obtains an independent educational evaluation at private expense, the results of the evaluation must be considered by the local school unit, if that evaluation meets the local school unit’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/guardian requests an independent evaluation at public expense when the parent/guardian does not disagree with an evaluation provided by the local school unit, or when the school has not recently provided an evaluation in the area requested, the parent/guardian 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)
Me. Dept. of Ed. Reg. ch. 101 §§ 9.19, 12.5 (Nov. 1999)

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