

INDEPENDENT EDUCATIONAL EVALUATION

Parents of children with disabilities have the right under Federal and State regulation to obtain an independent educational evaluation (IEE) at public expense under certain conditions. An IEE is an evaluation involving a student with a disability or a student suspected of having a disability conducted by a qualified examiner who is not employed by the District. Regulatory standards are outlined in New York State Regulations of the Commissioner of Education Part 200.5(g). Additionally, the Federal Regulations (34 C.F.R. 300.502) provide additional guidance on requirements for an independent evaluation.

The Board shall approve only one IEE at public expense each time the District conducts an evaluation with which the Parent disagrees.

The Board shall not agree to approve and fund an IEE unless the District has conducted its own evaluation with which the Parent disagrees.

The District may request that the Parent specify the area(s) of disagreement with its evaluation, but the failure of a parent to respond to such a request shall not delay the District's determination regarding the Parent's request for an IEE.

Public expense means that the District either pays for the reasonable cost of the IEE (consistent with Board Policy and administrative regulation) or otherwise ensures that the evaluation is provided at no cost to the Parent, provided that the cost does not exceed the monetary amount established by the District for such evaluations.

Parents seeking District authorization for an IEE must make a request, in writing (unless they are unable to do so), identifying the evaluation with which they disagree and setting forth their request for a publically funded IEE.

Requests for IEEs shall be reviewed by the Committee on Special Education (CSE) Chair or Special Education Director, who shall notify the Parent within fifteen [15] business days of his/her decision and shall state the reason for any denial in a prior written notice.

If the Committee on Special Education (CSE) Chair or Special Education Director, upon review, determines that a request for an IEE should be approved, and the evaluator selected by the Parent meets with the qualifications and agrees to be bound by the Board's criteria and the District's administrative regulations, the District shall enter into a contract with the individual to set forth the evaluation(s) to be completed and to provide for payment upon the District's receipt of the completed evaluation.

If the Committee on Special Education (CSE) Chair or Special Education Director, denies the Parents' request for an IEE at public expense on the grounds that the District's evaluation was appropriate, then the CSE Chairperson shall advise the Parent, in writing, of the decision and, unless the parties reach a different agreement to address the Parents' concerns, the Board shall appoint a hearing officer to defend its evaluation.

In all cases, the District shall first inquire of the Parents whether they are willing to use their insurance to cover any portion of the cost of the evaluation, in which case, with their informed consent, the District shall offer to assume the cost of the co-pay.

If the District files a due process complaint notice to request an impartial hearing to defend its evaluation and the final decision is that the District's evaluation is appropriate, or that the evaluation obtained by the Parent did not meet District criteria, the Parent still has the right to obtain an independent educational evaluation, but not a public expense.

If the Parent obtains an IEE at public expense, or shares with the District an evaluation obtained at private expense, the results of the evaluation must be considered by the District, if it meets the District's criteria, in any decisions made with respect to the provision of a free appropriate public education [FAPE] and such evaluation may be presented by any party as evidence at an impartial hearing for that student.

The Committee on Special Education (CSE) Chair or Special Education Director, shall maintain and provide to any Parent who requests an IEE a list of qualified independent evaluators who will accept the Board's compensation rates and whose practice is within the Board's geographical limits.

The District's Committee on Special Education (CSE) Chair or Special Education Director, shall develop, maintain and periodically update a maximum payment scale for such independent educational evaluations based on an assessment of the cost to secure such evaluations and shall not approve, without a waiver, an evaluation at public expense that exceeds such cost ceiling, or an evaluator which is located more than seventy-five [75] miles from the District. Such information shall be incorporated into administrative regulations consistent with the Board's IEE policy.

A waiver of the Board's policy and the District's administrative regulations regarding payment, evaluator qualifications and geographical limits shall be considered upon receipt of a written request to the Special Education Director, that establishes that without such a waiver, the child would be denied the right to an independent evaluation. The District will respond, in writing, to such a request. The failure to obtain a waiver prior to obtaining an IEE consistent with District policy constitutes grounds to deny such a request.

The Board shall not reimburse a Parent for the cost of an evaluation which does not conform to the Board's policy on reimbursement, in the absence of a waiver and the opportunity to conduct its own evaluation prior to the Parent's decision to secure such evaluation.

If an impartial hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense and the evaluation shall comply with the Board's policy and administrative regulations.

Administrative regulations on IEEs will be developed in order to explain the rights of Parents and the responsibilities of the District with regard to independent evaluations and to avoid any misunderstandings.

References: 34 CFR §§300.12 and 300.502; 8 NYCRR §§200.1(z) and 200.5(g)

Effective Date: December 7, 2021

INDEPENDENT EDUCATIONAL EVALUATION REGULATION

Introduction:

In accordance with Board Policy # 4321.4 which addresses the District’s obligations to respond to parental requests for Individual Educational Evaluations (IEE) at public expense, the Ichabod Crane Central School District (“District”) adopts the following regulations:

A parent is entitled to only one IEE at public expense each time the District conducts an evaluation with which the Parent disagrees unless the Parent and District agree otherwise.

In responding to a request, the District may request that the parent specify the area(s) of disagreement with its evaluation. However, failure to respond shall not delay or preclude the District from making a timely response to the Parent’s request for an IEE.

Parents have the right to request an IEE at public expense subject to the following conditions:

1. The District has completed and the Committee has reviewed its evaluation and the Parent disagrees with the District’s evaluation;
2. The Parent has not withheld consent or otherwise failed to produce their child for a District initiated evaluation;
3. The IEE being requested meets the requirements set forth in Commissioner’s regulations at 200.4;
4. The evaluator selected by the Parents meets the District’s criteria (including qualifications, geographical location and cost parameters) and agrees to enter into a contract with the District for the timely completion of the IEE consistent with District policy and regulation;
5. The District has not established through an impartial hearing that its evaluation was appropriate or otherwise established that the evaluation secured privately by the Parent failed to comply with the District’s policy or administrative regulations.

Definitions:

An IEE is an evaluation requested for a student identified under Part 200 of Commissioner’s regulations as student with a disability or a student suspected of having a disability to be conducted by a qualified examiner.

Public expense means that the District either pays for the reasonable cost of the IEE or ensures that the evaluation is otherwise provided at no cost to the Parents, provided that the cost of such evaluation does not exceed the reasonable regional monetary fee schedule established by the District for such evaluations.

Request

1. Parents seeking District authorization for an IEE **must make a request, in writing** (unless unable to do so) identifying the evaluation with which they disagree, and (if known), they may propose an evaluator whom they would like to perform the IEE.

Criteria for the Approval of a Request for an IEE

1. The CSE Chairperson or Special Education Director shall develop, maintain and update periodically the maximum charge to be paid by the District for an IEE which shall be based on a survey of the actual cost of securing such evaluations in the community within the geographical limits established in the Board's policy. The IEE shall fall within those cost parameters, absent a waiver
2. An evaluator approved to conduct the IEE shall demonstrate that he/she has the requisite New York State licensure, qualifications or certifications, of those qualified to conduct such evaluations for the District, absent a waiver.
3. The evaluation shall be conducted at a location no more than seventy-five [75] miles from the District, absent a waiver.
4. The CSE Chairperson or Special Education Director shall not approve any request for an IEE that does not comply with the criteria set forth above without a request for waiver and a finding by the chairperson that in the absence of a waiver, the Parents and the child would be denied the right to an IEE, as required by law.
5. Parents may submit a written request for a waiver of any applicable term and condition of the District's IEE policy, setting forth the basis for such waiver, and establishing the unique circumstances or why, in the absence of such waiver, they would be otherwise unable to secure an IEE. The District will respond to a request for a waiver in writing, and offer to schedule a hearing, as necessary.

Response to Request for an IEE

6. Upon the District's receipt of a Parents' request the CSE Chairperson or Special Education Director shall confirm receipt in writing with **ten (10) business days**, and may ask the Parent(s) to explain the nature of their disagreement with the District's evaluation and, where appropriate, offer to schedule a reevaluation to consider the need for any additional assessments. The failure of the Parent to disclose the nature of their disagreement shall not otherwise delay the District's response to the Parents' request. The Chairperson or Board Designee shall also send a copy of the Board's policy and District regulations with the District's list of regional independent evaluators who meet the District's criteria for approval.
7. If the District has not conducted its own evaluation within one year of the Parents' request, it may either offer to do so, if parents consent; or shall approve the Parents' request unless

it deems the evaluations conducted already are otherwise appropriate and initiates an impartial hearing to defend the District's evaluation(s).

8. The District CSE Chairperson or Special Education Director shall issue a formal prior written notice of its decision with regard to the Parents' request for an IEE within **fifteen (15) business days**, in writing.
 - a. If, upon review, the SE Chairperson or Special Education Director approves the request, the District shall enter into a contract with the individual selected by the Parent that complies with the District's policy terms and conditions.
 - b. In a case where the evaluation is not approved solely on the basis that the evaluator will not accept the District's fee cap, the CSE Chairperson or Special Education Director shall advise the Parent to either select another evaluator or request a waiver setting forth the special circumstances that support the request. The District will advise the Parent in writing of its determination regarding a waiver and offer to schedule a hearing, as necessary.
 - c. If the CSE Chairperson or Special Education Director declines to approve a request for an IEE on grounds that the District's evaluation was appropriate, the Chairperson or Board designee shall advise the Parent, in writing, of the decision and, unless the parties reach an agreement to address the Parents' concerns regarding the District's evaluation, the Board shall appoint a hearing officer to defend its evaluation and shall advise the Parent of the right to secure an IEE at his/her expense which shall be reviewed and considered by the District.
9. The Board shall not authorize reimbursement to a parent for the cost of an evaluation which does not conform to the Board's policy on reimbursement, in the absence of a waiver, and the opportunity to conduct its own evaluation prior to the parents' decision to secure such evaluation.
10. Upon approval of a request for an IEE, the CSE Chairperson or Special Education Director shall:
 - a. Obtain the name and address of the individual or organization the Parent(s) selected to conduct the IEE;
 - b. Develop and forward to the individual selected by the Parent to conduct the IEE, a copy of the District's IEE policy and a proposed contract that reflects the District's criteria (unless a waiver has been granted in which case the contract shall reflect the terms agreed to).
 - c. Inquire of the parent as to the availability of any health insurance to offset the cost or a portion of the cost of the IEE.

- d. Forward relevant records and a copy of the District's evaluation which the Parent disagreed with to the evaluator for review to the evaluator;
 - e. Arrange for District staff to be available to speak with the evaluator to address their concerns and to invite the evaluator, if deemed appropriate to observe the student in class.
 - f. Arrange for payment of the evaluation within 30 days of receipt of the final evaluation report and an itemized invoice of services, dates of services, and total cost from the evaluator.
11. The failure to have a signed contract between the District and the evaluator selected by the Parent may constitute a basis for denying payment for an IEE.

IEE Policy and Regulation FEE SCHEDULE

The following services shall be reimbursed up to the maximum set forth below, in accordance with the Policy of the Board of Education of the Ichabod Crane Central School District. These rates were derived by a survey of the regional costs from independent evaluators within the geographical limit of the Board's Policy.

| | <u>Service/Evaluation Type</u> | <u>Monetary Cap</u> |
|-----|---|---------------------|
| 1. | Medical examination to determine general health | [\$150.00] |
| 2. | Social history | [\$150.00] |
| 3. | Psychoeducational Evaluation | [\$2500.00] |
| 4. | Psychological Evaluation | [\$2000.00] |
| 5. | Speech and Language Evaluation | [\$500.00] |
| 6. | Occupational Therapy Evaluation | [\$500.00] |
| 7. | Physical Therapy Evaluation | [\$500.00] |
| 8. | Neuropsychological Evaluation | [\$3000.00] |
| 9. | Psychiatric Evaluation | [\$3000.00] |
| 10. | Neurological Evaluation | [\$400.00] |
| 11. | Physiatry Evaluation | [\$350.00] |
| 12. | Audiology Evaluation | [\$500.00] |
| 13. | Ophthalmologic Evaluation | [\$250.00] |

LIST OF INDEPENDENT EVALUATORS FOR CPSE AND CSE

Attached is a list of independent evaluators available to issue IEE's in conformance with the criteria established by the Board of Education's Policy. The list of evaluators is not exclusive. All evaluators on this list have been determined to meet the criteria set forth in the Board's IEE policy. This list is provided as required by law and does not constitute an endorsement of any of the individuals listed therein. This list is updated annually.

Effective Date: December 7, 2021