

GUIDELINES FOR INDEPENDENT EDUCATIONAL EVALUATIONS

According to state and federal special education laws, parents/guardians have the right to an Independent Educational Evaluation (IEE) of their child at public expense if they disagree with an evaluation of the child conducted by the Newtown Public Schools (the “district”). The district has established the following procedure for obtaining an IEE at public expense and criteria for the selection of an appropriate evaluator.

Definitions

An **Independent Educational Evaluation (IEE)** is an evaluation conducted by a qualified examiner who is not employed by the district, which is the public agency responsible for the education of the child.

An **evaluation** means the formal testing and/or assessment procedures used to determine whether a child has a disability and the nature and extent of the special education and related services the child needs (i.e., an initial evaluation or reevaluation as those terms are used under the Individuals with Disabilities Education Act). **Evaluation** does not mean a limited or targeted assessment, including but not limited to, a functional behavioral assessment.

Public expense means the district either pays for the full cost of the evaluation or ensures the evaluation is otherwise provided at no cost to the parents/guardians.

Procedure

- A. Upon receipt of a request for an IEE by a parent/guardian, the school district will, without unnecessary delay, either: (a) initiate a due process hearing to show that the evaluation of the child conducted by the district is appropriate; or (b) provide an IEE at public expense, unless the school district demonstrates through a due process hearing that the evaluation obtained by the parent did not meet the district’s criteria. The district will provide the requesting parent/guardian with a written response to the IEE request generally within ten (10) school days if the request is made during the academic year, or within fourteen (14) calendar days if the request is made in between school years. If the school district requests a hearing and the final decision is that the district’s evaluation of the child is appropriate, the parent/guardian still has the right to an IEE, but not at public expense. The district may deny public funding of an IEE, and need not request a due process hearing, if the parent/guardian requests an IEE more than two (2) years after the district completed its evaluation.
- B. If, in response to the parent/guardian request for an IEE, the district agrees to provide the IEE at public expense, the district will provide names, addresses, and phone numbers of possible IEE evaluators who meet the district’s criteria (*as set forth below*). The list will identify those evaluators who, in the district’s judgment, are qualified to perform the evaluation requested by the parents. Parents/guardians may also select evaluators not included on the district’s list, provided the evaluators fully satisfy all of the criteria set forth below. Parents/guardians have the opportunity to demonstrate unique circumstances to justify the use of an independent evaluator who does not meet the district’s IEE criteria.

- C. Parents/guardians will be expected to contact the evaluator they have selected to conduct the IEE in a timely manner and to schedule any necessary appointments.
- D. The district will only fund or reimburse a parent/guardian for the cost of an IEE if the district receives a copy of the IEE from the parent/guardian or evaluator and it meets the district's criteria as set forth here. If written consent is required for the independent evaluator to provide the results of the IEE to the district and the parent/guardian refuses to provide consent, thereby denying the district access to the information in the IEE, the district will deny funding or reimbursement for the IEE because the district will be unable to consider the results of the IEE.

Voluntary Resolution and Mediation

- A. After an IEE request is made, the parent/guardian and the district may agree to engage in a voluntary resolution process through which the parties attempt to resolve the issues and concerns related to the IEE request. The period of time for resolution shall not be considered an unnecessary delay in responding to the request of the parent/guardian for an IEE at public expense. If the parties agree to this process, each party shall sign the district's Voluntary Resolution form.
- B. The parties shall agree on a reasonable period of time for resolution. This reasonable period of time generally shall not exceed twenty (20) school days from the initial request when the request is made during the school year, or thirty (30) calendar days from the initial request when the request is made in between school years.
- C. The parties may also agree to engage in mediation through the Connecticut State Department of Education or another independent mediator. Voluntary participation in the mediation process shall not be considered an unnecessary delay in responding to the request of the parent/guardian for an IEE at public expense.
- D. If the parties do not resolve the dispute after the voluntary resolution period or mediation, the district shall either file a request for due process or ensure that the IEE is provided at public expense.

Criteria for Independent Evaluators

Evaluators chosen to conduct independent evaluations must meet **ALL** of the criteria established by the district as follows:

A. Minimum Credentials for Evaluators

1. For Psychologists:

a. *Licensure or Certification*

Psychologists must either:

- 1) Hold a valid license as a psychologist from the Connecticut Department of Public Health and have achieved a Doctor of Philosophy (Ph.D.) or Doctor of Psychology (Psy.D.) in

Psychology, Neuropsychology or Clinical Psychology from an accredited university; OR

- 2) Hold an appropriate and valid certificate in school psychology from the Connecticut State Department of Education.

b. *Additional Requirements:*

Psychologists must:

- 1) Have training and experience in evaluating students of the same age level; and
- 2) Have clinical background, advanced training, and recent experience in the areas of disability being evaluated.

2. For individuals conducting academic achievement testing, the individual must **either:**

a. Fulfill the following requirements:

- 1) Have experience and training in teaching and evaluating students in the area of suspected disability; **and**
- 2) Have attained a minimum of a Master's degree; **or**
- 3) Hold an appropriate and valid special education or other academic specialization (such as reading or mathematics) certificate from the Connecticut Department of Education.

OR

- b. Fulfill the requirements of the psychologist above.

3. For Speech Pathologists, Audiologists, Occupational Therapists, Physical Therapists and Physicians:

- a. Hold a valid license to practice from the Connecticut Department of Public Health or Department of Education, as applicable;
- b. Have clinical pediatric experience in evaluating and treating children in the area of disability being evaluated; **and**
- c. In the case of physicians, be Board Certified in the appropriate specialty area (pediatrics, care of children and adolescents, etc.).

4. For individuals conducting assistive technology testing, the individual must **either:**

a. Fulfill the following requirements:

- 1) Have experience and training in teaching and evaluating assistive technology needs for students in the areas of suspected disability; **and**
- 2) Have attained a minimum of a Master's degree; **or**
- 3) Hold an appropriate and valid special education or other academic specialization (such as reading or mathematics) certificate from the Connecticut Department of Education.

OR

- b. Fulfill the requirements for Psychologists, Speech Pathologists, Audiologists, Occupational Therapists, Physical Therapists or Physicians listed above and have experience and training in teaching and evaluating assistive technology needs for students in the areas of suspected disability.

- B. Cost: Evaluators must charge fees for evaluation services which, in the judgment of the school district, are reasonable and customary for such evaluations. Parents/guardians may request specific cost information from the school district. Parents/guardians have the opportunity to demonstrate unique circumstances to justify the use of an independent evaluator whose fees exceed the district's criteria.
- C. The evaluator must not be an employee of the school district.
- D. The evaluator must be permitted to directly communicate with school staff who work with the child in school and the members of the Planning and Placement Team (PPT), including the Special Education Director, as well as to obtain information from the school and share information with the school.
- E. The evaluator must obtain and consider school information and observations of the child in the school setting in the evaluation process and the written report. All in-school observations as part of an IEE must be scheduled in advance with the Director or Special Education/Pupil Services or designee. The scope, schedule, setting and length of any such observations shall be based, in part, on the purpose of the IEE and the district's obligation to ensure programming of all of its students free from disruption. The district may limit the length of in-school observations that are part of IEEs to the same length as observations conducted as part of district evaluations.
- F. The evaluator must agree to provide the assessment information and results, including the results of teacher and parent checklists and surveys, in a written report to the district prior to receipt of payment for services. The report shall be provided to the district and the parent/guardian at the same time. In addition, if the district, in its sole discretion, determines that it needs to review the test protocols used by the independent evaluator conducting the IEE, the district will require that the independent evaluator provide an opportunity for district officials to inspect and review the test protocols and the independent evaluator must provide an explanation of the test protocols if requested by the district.

- G. The evaluator must comply with all requirements under the Individuals with Disabilities Education Act (IDEA) and its implementing regulations and the Connecticut State Department of Education regulations regarding the evaluation of children with disabilities. The failure of an evaluator to comply with these federal and state regulations regarding requirements for evaluations means that the IEE performed by the evaluator does not meet district criteria. For reference, the applicable federal and state regulations are included in an appendix to these criteria. The evaluator must also comply with all applicable confidentiality requirements under state and federal law.

After Completion of the IEE

The results of an IEE funded by the district will be considered at a PPT meeting. The PPT is not required to implement the recommendations from the IEE or to invite the independent evaluator to the PPT meeting. The district shall ensure that a participant of the PPT meeting can interpret the instructional implications of the IEE results.

Geographic Location

Evaluators who will be considered for approval must be located within a radius of seventy-five (75) miles of the school district. The district shall not be responsible to provide transportation, nor pay any travel expenses, to and from the location of the evaluator. Parents/guardians have the opportunity to demonstrate unique circumstances to justify obtaining an IEE from an evaluator located outside of these geographic limitations.

Additional Information

If the district has not conducted an evaluation of a child, or an evaluation or reevaluation of the student is currently pending, the parent/guardian does not have a right to an IEE at public expense. The district has the right to conduct its evaluation or reevaluation first. A parent/guardian may request only one IEE at public expense for each evaluation conducted by the district.

Private Evaluations Obtained by Parents/Guardians

Evaluations and/or assessments obtained by parents/guardians that do not meet the criteria for an IEE are considered parent-initiated private evaluations for which parents/guardians are not entitled to reimbursement or payment from a public school district.

If a parent/guardian shares a parent-initiated private evaluation with the district and it meets these criteria, the district will review the evaluation at a PPT meeting and consider it relative to any decision made with respect to a free appropriate public education for the student.

Limited or Targeted Assessments

A parents/guardian is not entitled to an IEE at public expense based on the parent's/guardian's disagreement with a limited or targeted assessment obtained by the district.

Questions

Please contact the Director of Pupil Services with any questions regarding the criteria for IEEs.

Evaluators Meeting Criteria

A list of evaluators meeting district criteria will be provided upon request.

Legal Resources

Federal:

34 C.F.R. § 300.502

State:

Regs. Conn. State Agencies § 10-76d-9

Guidelines Regarding Independent Educational Evaluations at Public Expense and In-School Observations, Connecticut State Department of Education (Mar. 28, 2018).

Appendix

Regulatory Requirements for Evaluations

34 C.F.R. § 300.304 Evaluation procedures.

- (a) Notice. The public agency must provide notice to the parents of a child with a disability, in accordance with § 300.503, that describes any evaluation procedures the agency proposes to conduct.
- (b) Conduct of evaluation. In conducting the evaluation, the public agency must—
- (1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining—
 - (i) Whether the child is a child with a disability under § 300.8; and
 - (ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);
 - (2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and
 - (3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- (c) Other evaluation procedures. Each public agency must ensure that—
- (1) Assessments and other evaluation materials used to assess a child under this part—
 - (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;
 - (ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;
 - (iii) Are used for the purposes for which the assessments or measures are valid and reliable;
 - (iv) Are administered by trained and knowledgeable personnel; and
 - (v) Are administered in accordance with any instructions provided by the producer of the assessments.
 - (2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
 - (3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's

impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

(5) Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with § 300.301(d)(2) and (e), to ensure prompt completion of full evaluations.

(6) In evaluating each child with a disability under §§ 300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

(7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

34 C.F.R. § 300.305 Additional requirements for evaluations and reevaluations.

(a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must—

(1) Review existing evaluation data on the child, including—

- (i) Evaluations and information provided by the parents of the child;
- (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and
- (iii) Observations by teachers and related services providers; and

(2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—

- (i)(A) Whether the child is a child with a disability, as defined in § 300.8, and the educational needs of the child; or
- (B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;
- (ii) The present levels of academic achievement and related developmental needs of the child;
- (iii)(A) Whether the child needs special education and related services; or
- (B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and
- (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

(b) Conduct of review. The group described in paragraph (a) of this section may conduct its review without a meeting.

(c) Source of data. The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under paragraph (a) of this section.

(d) Requirements if additional data are not needed.

(1) If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency must notify the child's parents of—

(i) That determination and the reasons for the determination; and

(ii) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs.

(2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

(e) Evaluations before change in eligibility.

(1) Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with §§ 300.304 through 300.311 before determining that the child is no longer a child with a disability.

(2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law.

(3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, a public agency must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

Conn. Agencies Regs. § 10-76d-9. Evaluation; Independent Educational Evaluation; Determining the existence of a learning disability; Evaluation and identification for gifted and talented

(a) **Evaluation; Independent Educational Evaluations.** The board of education shall conduct an initial evaluation or reevaluation, in accordance with the provisions of the IDEA, to determine if a child is a child with a disability. A parent shall be permitted to obtain an independent educational evaluation, in accordance with the provisions of the IDEA.

(b) **Determination of a learning disability.** The following criteria shall be used to determine if a child is a child with a learning disability.

(1)(A) The child does not achieve adequately for the child's age or meet state-approved grade-level standards in one or more of the following areas when provided with learning experiences appropriate for the child's age or state-approved grade-level standards:

- (i) oral expression;
- (ii) listening comprehension;
- (iii) written expression;
- (iv) basic reading skills;
- (v) reading fluency skills;
- (vi) reading comprehension;
- (vii) mathematics calculation; or
- (viii) mathematics problem solving;

(B) The child does not make sufficient progress to meet age or state-approved grade-level standards in oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving when using a process based on the child's response to scientific, research-based intervention; and

(C) The child's learning difficulties are not primarily the result of a visual, hearing or motor disability, an intellectual disability, emotional disturbance, cultural factors, environmental or economic disadvantage, or limited English proficiency; and

(2) A severe discrepancy between educational performance and measured intellectual ability (Intelligence Quotient-achievement discrepancy) shall not be utilized to determine if a child is a child with a learning disability. The PPT may request the administration of individual intelligence quotient tests if the PPT believes such tests could provide information that would be helpful in an evaluation.

(3) To ensure that underachievement in a child suspected of having a learning disability is not due to lack of appropriate instruction in reading or math, the PPT shall consider, as part of the comprehensive evaluation conducted to determine the child's eligibility for special education:

(A) Data demonstrating that prior to, or as part of, the referral process, such child was provided appropriate instruction by qualified personnel in a regular education setting; and

(B) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

(4) The board shall promptly request parental consent to evaluate a child who is suspected of having a learning disability to determine if such child needs special education and related services, and shall adhere to the timeframes described in section 10-76d-13 of the Regulations of Connecticut State Agencies, unless extended by mutual written agreement of the child's parents and the PPT (A) if prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction pursuant to this subsection and (B) whenever a child is referred for an evaluation.

(c) Identification and evaluation of children who may be gifted or talented.

(1) Each board of education shall evaluate and identify gifted and talented children using the planning and placement team. A board of education may identify up to ten per cent of its total student population for the district as gifted and talented.

(2) A board of education may use individual evaluations or group assessment and evaluations to identify gifted and talented children, provided the board of education obtains parental consent in writing before a child is individually evaluated. A board of education may conduct planning and placement team meetings on groups of children for whom evaluation and identification as gifted and talented are planned. The board of education shall provide parents with written notice that their child has been referred to the planning and placement team for consideration as a gifted and talented child. Written parental consent shall be secured before a child is individually evaluated for identification as gifted and talented. The results of the planning and placement team meeting concerning a determination of the child's identification as gifted or talented shall be provided to the parent in writing. If a parent disagrees with the results of the evaluation conducted by the board of education, the parent has a right to a hearing, pursuant to sections 10-76h-1 to 10-76h-16, inclusive, of the Regulations of Connecticut State Agencies.

**NEWTOWN PUBLIC SCHOOLS
AGREEMENT TO PARTICIPATE IN VOLUNTARY
RESOLUTION OF REQUEST FOR INDEPENDENT EDUCATIONAL EVALUATION**

_____ (the "Parent") has requested an independent educational evaluation ("IEE") at public expense from the Newtown Board of Education (the "District") based on the Parent's disagreement with an evaluation obtained by the District.

The Parent and the District (collectively, the "Parties") understand that pursuant to the regulations of the Individuals with Disabilities Education Act ("IDEA"), upon such a request for an IEE at public expense, the District must, without unnecessary delay, either:

- i. File a due process complaint to request a hearing to show its evaluation is appropriate; or
- ii. Ensure the IEE is provided at public expense, unless the District demonstrates in a due process hearing that the evaluation obtained by the parent does not meet the District's IEE criteria.

The Parties understand that the right to request an IEE at public expense upon the Parent's disagreement with an evaluation obtained by the District is a procedural safeguard and parental right under the IDEA regulations.

The Parties believe that it is in both parties' interest to participate in an informal, voluntary resolution period to further discuss the request for an IEE at public expense and related issues and concerns of the parties before the District files a due process complaint or agrees to fund the IEE, in order to avoid the potential costs of litigation and direct resources toward a possible resolution between the Parties.

The Parties agree that the time period necessary to engage in an informal, voluntary resolution period does not constitute an unnecessary delay relative to the federal requirements imposed on the District when an IEE request is made by a parent.

Based on this mutual consideration, the Parties agree to the following:

- 1. The time period for the informal, voluntary resolution period shall be:
 - One week (End date: _____)
 - Two weeks (End date: _____)
 - Three weeks (End date: _____)
 - In order to participate in the CT State Department of Education's mediation process, or mediation through an independent mediator
 - Other: _____ (End date: _____)
- 2. Either Party may terminate this Agreement at any time in writing provided to the other Party.
- 3. The Parent shall not raise a claim in any forum that the District was untimely in responding to the Parent's request for an IEE at public expense based on the time covered under this Agreement. This Agreement does not waive any other rights, obligations, or defenses of either Party.
- 4. Upon the expiration or termination of this Agreement, including the conclusion of the mediation process, the District shall have 10 school days or 14 calendar days (whichever is fewer) to either file for due process or ensure the IEE is provided at public expense.
- 5. The Parent understands and acknowledges that the Parent has no obligation to sign this Agreement or otherwise agree to participate in the informal, voluntary resolution process. If this Agreement is not signed by the Parent, the District will, without unnecessary delay, respond to the IEE request in accordance with federal law.

For the Parents:

For the _____ Board of Education

Parent/Guardian Date

District Administrator Date

Parent/Guardian Date