

§ 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 shall 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 part—

(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 § 300.301.

(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.

(2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either—

(i) Initiate a hearing under § 300.507 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 under § 300.507 that the evaluation obtained by the parent did not meet agency criteria.

(3) If the public agency initiates 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 explanation by the parent may not be required and the public agency may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.

(c) *Parent-initiated evaluations.* If the parent obtains an independent educational evaluation 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 as evidence at a hearing under this subpart regarding that child.

(d) *Requests for evaluations by hearing officers.* If a hearing officer requests an independent educational evaluation as part of a hearing, 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.

(Authority: 20 U.S.C. 1415(b)(1))

§ 300.503 Prior notice by the public agency; content of notice.

(a) *Notice.* (1) Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency—

(i) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or

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(ii) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

(2) If the notice described under paragraph (a)(1) of this section relates to an action proposed by the public agency that also requires parental consent under §300.505, the agency may give notice at the same time it requests parent consent.

(b) *Content of notice.* The notice required under paragraph (a) of this section must include—

(1) A description of the action proposed or refused by the agency;

(2) An explanation of why the agency proposes or refuses to take the action;

(3) A description of any other options that the agency considered and the reasons why those options were rejected;

(4) A description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;

(5) A description of any other factors that are relevant to the agency's proposal or refusal;

(6) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

(7) Sources for parents to contact to obtain assistance in understanding the provisions of this part.

(c) *Notice in understandable language.* (1) The notice required under paragraph (a) of this section must be—

(i) Written in language understandable to the general public; and

(ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(2) If the native language or other mode of communication of the parent is not a written language, the public agency shall take steps to ensure—

(i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(ii) That the parent understands the content of the notice; and

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(iii) That there is written evidence that the requirements in paragraphs (c)(2) (i) and (ii) of this section have been met.

(Authority: 20 U.S.C. 1415(b)(3), (4) and (c), 1414(b)(1))

§ 300.504 Procedural safeguards notice.

(a) *General.* A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents, at a minimum—

(1) Upon initial referral for evaluation;

(2) Upon each notification of an IEP meeting;

(3) Upon reevaluation of the child; and

(4) Upon receipt of a request for due process under § 300.507.

(b) *Contents.* The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under §§ 300.403, 300.500–300.529, and 300.560–300.577, and the State complaint procedures available under §§ 300.660–300.662 relating to—

(1) Independent educational evaluation;

(2) Prior written notice;

(3) Parental consent;

(4) Access to educational records;

(5) Opportunity to present complaints to initiate due process hearings;

(6) The child's placement during pendency of due process proceedings;

(7) Procedures for students who are subject to placement in an interim alternative educational setting;

(8) Requirements for unilateral placement by parents of children in private schools at public expense;

(9) Mediation;

(10) Due process hearings, including requirements for disclosure of evaluation results and recommendations;

(11) State-level appeals (if applicable in that State);

(12) Civil actions;

(13) Attorneys' fees; and

(14) The State complaint procedures under §§ 300.660–300.662, including a description of how to file a complaint and the timelines under those procedures.

(c) *Notice in understandable language.* The notice required under paragraph