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# Memo

**To** Board of Education

**From** Sondra Aguilera, Acting Superintendent  
Jennifer Blake, Special Education Executive Director and SELPA Director  
Joanna Powell, Staff Attorney

**Board Meeting Date** October 26, 2022

**Subject** Amendment – Board Policy BP 5141.7 – SELPA – Policy and Procedures Independent Educational Evaluations

**Action Requested and Recommendation** Approval of revisions to the Oakland Unified School District’s BP 5141.7 – SELPA – Policy and Procedures Independent Educational Evaluations

**Background and Discussion** The current BP 5141.7 outlines the process for contracting with a qualified independent examiner for Independent Education Evaluations (IEE). It also sets forth minimum criteria for those IEE evaluators. The revised BP would make the following changes:

- Extend the authority to the District SELPA Director or Director of Special Education to sign the Commitment to Pay forms with independent examiners
- Add a requirement to the minimum qualifications for evaluators that evaluators must meet criteria for school employees who work with children (ie, TB testing and fingerprinting), as well as other contract requirements enforced by the District.

The goal is to streamline the process of funding IEE evaluators while continuing to ensure adequate Board oversight and protection for the District.

**Fiscal Impact** No direct funding implications

**Attachments** BP 5141.7 – Redlined  
BP 5141.7 – Clean

# **OAKLAND UNIFIED SCHOOL DISTRICT**

## **Board Policy**

BP 5141.7 – SELPA – Policy and Procedures Independent Educational Evaluations  
**Students**

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Oakland Unified School District SELPA

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# **Policy and procedures Independent educational Evaluations**

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Programs for Exceptional Children, 2850 West Street, Oakland, CA 94608 (510) 874-3700 Fax (510) 874-3707

**Oakland Unified School District  
Policy and Procedures  
Independent Educational Evaluations**

This policy sets forth the procedures under which students with disabilities are entitled to an IEE at public expense.

**Definitions**

Independent educational evaluation (IEE) means an evaluation conducted by a qualified examiner who is not employed by the Oakland Unified School District (the “District”).

Public expense means that the District pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

**Policy and Procedures**

Parents have the right to an IEE at public expense if they disagree with an evaluation completed by the District.

Parents must indicate in writing to the District or inform the District at an IEP meeting that they:

1. disagree with the District’s evaluation and
2. that they are requesting an IEE at public expense.

The District may ask for the parent’s reason(s) for disagreeing with the school District’s evaluation, but the parent is not required to provide those reasons. The District may offer to conduct another evaluation of its own with parent consent. If the parent does not agree to another District evaluation, the District must respond to the parent’s request by ensuring an IEE is provided at public expense in a timely manner or initiate a due process hearing in accordance with this policy. The District may not unnecessarily delay either providing the IEE at public expense or initiating a due process hearing to defend its evaluation. Parents may only request one publicly funded independent evaluation for each evaluation completed by the school District. The parents must request the IEE within one calendar year of the date that the results of the school evaluation were shared with the parents as documented on the diagnostic summary.

Once the parent communicates his/her disagreement with the school District’s evaluation and requests an IEE at public expense in writing or an IEP meeting, the following procedures will be followed:

1. The District’s administrator responsible for special education will be notified.
2. The District will provide to the parents a copy of the Oakland SELPA policy and procedures including criteria for IEEs, the option for an alternative District examiner (Option A below), and options for an IEE at public expense (Options B, C, and D below) as follows:
  - A. A District staff member from another school
  - B. A staff member from another SELPA

- C. A private sector provider.
3. The parents will communicate to the District, in writing, their preferred option.
4. The District will determine whether the District will initiate due process to establish the appropriateness of its evaluation or proceed with obtaining an independent educational evaluation.

The above procedure must be completed in a timely manner. Without unnecessary delay, the District must decide whether to initiate a due process hearing to show that the District's evaluation is appropriate, or must ensure that an IEE is provided at public expense.

If the District agrees to provide an IEE:

- An Assessment Planning Team (APT) may be convened to develop an assessment plan, which specifies those areas, to be evaluated and who will complete each assessment in accordance with SELPA policy. The parent(s) should be encouraged to participate in the Assessment Planning Team. Within 15 calendar days of the decision to obtain an IEE, the parents will be sent an assessment plan for their review and consent.
- Upon receipt of the signed written consent to assess, the District will arrange for the completion of the IEE.
- Parents will be required to sign a release and exchange of information between the IEE evaluator(s) and the school District.

If the District initiates a hearing and the final decision is that the District's evaluation is appropriate, the parents still have the right to an IEE, but not at public expense.

If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:

- A. Must be considered by the District, if it meets District criteria, in any decision made with respect to the provision of FAPE to the student; and
- B. May be represented as evidence at a due process hearing regarding that student.

If a hearing officer requests an IEE as part of a hearing, the cost of the evaluation must be at the District's expense.

### **Time Line Regarding Independent Education Evaluation**

In the interest of consistency between public and private evaluations, the parents are encouraged to choose an option for additional assessment offered by the District within 15 calendar days of receiving the options.

After the parent of the student with a disability chooses an option for additional evaluation and signs an assessment plan, the District will initiate a contract with the examiner within 15 days of receiving the options.

The District will contract with a qualified independent examiner who is able to provide a written report for an IEP within 60 days of the date of contracting for an evaluation. [The Board delegates authority to the District SELPA Director or Director of Special Education to sign Commitment to](#)

[Pay forms with independent examiners.](#) If the selected candidate cannot meet the time line, the District will inform the parent and ask for agreement to an extension of time or selection of another option.

### **Agency Criteria**

The criteria under which an IEE is obtained at public expense, including the locations limitations for the evaluation, minimum qualifications of the examiner, and cost containment criteria, must be consistent with the criteria set forth in this policy, and consistent with the criteria that the District uses when it initiates an evaluation.

If the District observed the student in conducting the evaluation with which the parents disagree or if its assessment procedures allow in-class observations, the independent examiner will be provided with an equivalent opportunity to observe the student in the current educational setting, and to observe the District's proposed setting, if any. The opportunity shall also be provided if the parents obtain an evaluation at private expense.

The District shall define the nature and scope of an independent examiner's in-class observations consistent with the right to an equivalent opportunity to observe, but also consistent with its obligations to prevent unnecessary disruption in the class and to protect the privacy interests of other students. This may include, but is not limited to, identifying the time constraints of such observation, District personnel who will participate in the observation and restrictions on student/teacher interactions.

## Location Limitations for Evaluators

Evaluators shall be located with the greater Bay Area including: Alameda, Contra Costa, Marin, San Francisco, San Mateo, Sonoma, and Santa Clara Counties. Evaluators outside of this area will be approved only on an exceptional basis, providing parents can demonstrate the necessity of using personnel outside the specified area. Any expenses beyond the evaluation (i.e. food, lodging, transportation, etc.) are not covered in the cost of the independent evaluation.

## Minimum qualifications for Evaluators

1. Evaluators must hold a valid license from the State of California in the field related to the known or suspected disability.
  
2. Evaluators with credentials other than those listed on reverse will not be approved unless parent can demonstrate the appropriateness of using an evaluator meeting other qualifications. (Ed. Code 56320 (b)(3)). In instances where no applicable credential or license exists, the District must be satisfied that the evaluator has extensive training and experience related to the known or suspected disability.
  
3. Evaluators must not have an interest in the outcome of the IEE. In determining whether an evaluator has an interest in the outcome of the IEE, the District will consider factors including, but not limited to: the nature of the relationship between the evaluator and the student/family; whether services were provided in the past or are currently provided; the length of time between cessation of previous services and generation of the IEE.
  
4. Additionally, evaluators must meet the criteria for any school employee who works with children, i.e. TB testing and fingerprinting, as well as any other contract requirements enforced by the District.

Type of Assessment	Qualifications
Academic Achievement	Credentialed Special Education Teacher School Psychologist Licensed Educational Psychologist
Adaptive Behavior	School Psychologist Licensed Psychologist
Assistive Technology	Credentialed or Licensed Speech/Language Pathologist Credentialed Assistive Technology Specialist Credentialed Special Education Teacher
Auditory Acuity	Licensed Educational Audiologists Licensed or Credentialed Speech/Language Pathologist
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Visual Acuity/Developmental Vision	Licensed Ophthalmologist Optometrist
Functional Vision	Credentialed Teacher of the Visually Impaired
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## Cost Containment Criteria for Evaluations

The cost of an IEE shall be comparable to those costs that the District incurs when it uses its own employees or contractors to perform a similar assessment. Costs include: observations, administration and scoring of tests, report writing, and attendance in person or by phone at an IEP team meeting. Reimbursement will be in an amount no greater than the actual costs to the parent and will be subject to proof of payment.

Guidelines for all IEE costs are calculated by considering time required for the assessment and the appropriate District employee hourly rate. Costs above these amounts will not be approved unless the parent can demonstrate that such costs reflect unique circumstances justifying the selection of an evaluator whose fees fall outside these criteria. A school District will not necessarily fund the attendance of the assessor at the IEP team meeting convened to consider the IEE.

When insurance will cover all or partial costs of the IEE, the school District will request that the parent voluntarily have their insurance pay the IEE costs covered by their insurance. However, parents will not be asked to have insurance cover independent evaluation costs if such action would result in a financial cost to the parents including, but not limited to the following:

- A. a decrease in available lifetime coverage or any other benefit under an insurance policy,
- B. an increase in premiums or the discontinuance of the policy, or
- C. an out-of-pocket expense such as payment of a deductible amount incurred in filing a claim unless the parent is willing to have the District reimburse them for the amount of the deductible.

As part of the contracted evaluation, independent evaluators must:

- provide protocols of all the assessments, and
- provide a written report prior to the IEP team meeting

Independent evaluators must agree to release their assessment information and results to the school District prior to receipt of payment for services. The results of the IEE will be considered in the determination of eligibility, program decisions, and placement of the student with disabilities as required by the Individuals With Disabilities Act.

### EDUCATION CODE

*56329 Notice to parents or guardians; independent education assessments; hearings; proposals for publicly financed nonpublic placements*

*56506© Due process rights of pupil and parent*

### CALIFORNIA CODE OF REGULATIONS, TITLE 5

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### UNITED STATES CODE, TITLE 20

*1415(b)(1)*

### CODE OF FEDERAL REGULATIONS, TITLE 34

*300.502 Independent Educational Evaluation*

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