



Disability Law Center's Self-Advocacy Materials

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Special Education

This document is designed for people with disabilities.

The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

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Funding

DLC receives funding from government grants, private foundations, and individual contributions. For details about our funding and programs, please visit our website:

<https://dlc-ma.org>



Independent Educational Evaluations (“IEEs”)

You Will Learn About:

- When Independent Educational Evaluations (IEEs) Are Available
- How to Ask for One
- Who Must Pay

This document includes general information about legal issues and is intended to be used for informational purposes only. These informational materials should not be taken as legal advice, and do not create an attorney-client relationship. The outcome of any particular matter will depend on a variety of factors. For specific legal problems you would need to contact an attorney.

Independent Educational Evaluations (IEEs)

Evaluations – When and Why

When you first ask a school to provide special education services for your child, you must ask for an evaluation. It will determine what disabilities your child has, if any, that interfere with his/her ability to succeed in school. The special education (IEP) team will automatically test in some general areas. But you can also ask for more tests, such as speech/language, occupational therapy, physical therapy, or assistive technology. The special education Team Leader should send you a standard form (also available at http://www.doe.mass.edu/sped/iep/eng_toc.html). You need to sign and date it, remember to keep a copy, and return it to the Team Leader. You will also need a recent evaluation if your child already receives special education services, but you want to change or add to them.

What happens if I disagree with the Team's Completed Evaluation?

When this happens, you have a *legal* right to ask for an Independent Educational Evaluation (IEE). You start by writing a letter saying that you disagree and want an IEE.

What Is An Independent Educational Evaluation (IEE)?

An IEE is an evaluation done by someone who does not work for the school district. When you ask for it, the school must give you a list of qualified evaluators and you then choose one. These evaluators must meet certain professional requirements and agree to a certain pay scale.

Who Pays For This Second Evaluation or IEE?

The law is a little complex, but here are the key points: Under certain circumstances, the school must pay. Sometimes you will want an IEE in an area in which the school has already tested. If you meet certain income requirements, you then have an *automatic* right to an IEE in that same area. You will meet the income requirements if your child is eligible for free or reduced lunch. So, for example, if you income qualify and want your child re-tested for a certain disability, you only need to ask for an IEE, always in writing.

Suppose I Want Testing in a Different Area? Do I Still Have A Right To An IEE?

It depends, but you should still ask, in writing. In this case, you do not have an automatic right to an IEE. But the school must respond to your request and must either 'fund or file.' If it agrees to *fund* the additional test, the new evaluation will occur. But if the school refuses, it must do that within *five days* of your request. It must then file a hearing request at the Bureau of Special Education Appeals (BSEA) to explain why it believes its initial evaluation was enough and the IEE is not necessary. If the school wins, you will *not* get a state-funded IEE but can always pay for one on your own. But if the BSEA agrees with you that an IEE is necessary, the school must pay for it.

Can I Still Get An IEE If I Do Not 'Income Qualify'?

Yes, but the school must follow the procedure outlined above to either 'fund or file.' If it refuses to fund a requested IEE, it must still file at the BSEA to justify its refusal.

If I Get An IEE, Must The Team Consider It?

Yes. The IEP Team must always meet to consider any newly obtained evaluation. It still may disagree with it, but it must give you the chance to present it at a Team meeting and to listen to the person who prepared it if that person attends the meeting.