



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

February 23, 2015

Debbie Baus

Dear Ms. Baus:

This is in response to your June 27, 2014 electronic correspondence requesting guidance from the Office of Special Education Programs (OSEP) regarding an independent educational evaluation (IEE) under 34 CFR §300.502 of the Individuals with Disabilities Education Act (IDEA). Specifically, you ask whether a parent can request an IEE in an area that was not previously assessed by the school district's evaluation.

Under 34 CFR §300.502(b)(1) of the IDEA, a parent of a child with a disability is entitled to an IEE at public expense if the parent disagrees with an evaluation obtained by the public agency. Evaluation is defined at 34 CFR §300.15 as procedures used in accordance with 34 CFR §§300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. An initial evaluation of the child is the first completed assessment of a child to determine if he or she has a disability under IDEA, and the nature and extent of special education and related services provided. 34 CFR §300.301. Once a child has been fully evaluated for the first time in a State, a decision has been rendered that a child is eligible under the IDEA, and the required services have been determined, any subsequent evaluation of a child would constitute a reevaluation. See the *Analysis of Comments and Changes* published as Attachment 1 to the March 12, 1999 final regulations at 64 Fed. Reg. at 12606. Evaluation procedures at 34 CFR §300.304(b)(1) require that in conducting an evaluation, the public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child that may assist in determining whether the child is a child with a disability and the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general education curriculum. Furthermore, the State must ensure that in evaluating each child with a disability under 34 CFR §§300.304 through 300.306, the evaluation is sufficiently comprehensive to assess the child in all areas related to the suspected disability, and must identify all of the child's special needs, whether or not commonly linked to the disability category in which the child has been classified. 34 CFR §300.304(c)(4) and (6).

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

When an evaluation is conducted in accordance with 34 CFR §§300.304 through 300.311 and a parent disagrees with the evaluation because a child was not assessed in a particular area, the parent has the right to request an IEE to assess the child in that area to determine whether the child has a disability and the nature and extent of the special education and related services that child needs. Under 34 CFR §300.502(b)(2), if a parent requests an IEE at public expense, the public agency must, without unnecessary delay, either: (i) initiate a hearing under 34 CFR §300.507 to show that its evaluation is appropriate; or (ii) ensure that an IEE is provided at public expense, unless the agency demonstrates in a hearing under 34 CFR §300.507 that the evaluation obtained by the parent did not meet agency criteria.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

If you have questions, please do not hesitate to contact Jennifer Wolfsheimer at 202-245-6090 or by email at Jennifer.Wolfsheimer@ed.gov.

Sincerely,

/s/ Melody Musgrove

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs