



State of New Jersey
 DEPARTMENT OF EDUCATION
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Acting Commissioner

September 9, 2014

TO: Chief School Administrators
 Directors of Special Education
 Administrators of a State Facility
 Administrators of a Charter School
 Administrators of an Approved Private School for the Disabled
 Administrators of a College-Operated Program
 Statewide Special Education Advisory Council
 Agencies or Organizations Concerned with Special Education

FROM: Peggy McDonald, Director *Peggy McDonald*
 Office of Special Education Programs

SUBJECT: Guidance with Respect to Federal Regulations Implementing the Individuals with Disabilities Education Act of 2004 – Independent Educational Evaluations

I am writing to provide an update with respect to the state regulations regarding Independent Educational Evaluations (IEEs). As you may be aware, changes to Chapter 14 of the Administrative code were presented to the State Board on July 9, 2014. Among the proposed changes is the elimination of N.J.A.C. 6A:14-2.5(c)1 which limits the parents' rights to an IEE by giving the public agency an opportunity to conduct an assessment in an area not covered by the initial evaluation or reevaluation before the parents are granted an IEE. The proposed changes were presented at second discussion to the State Board on August 6, 2014, and considered and voted on at proposal level by the State Board at its meeting on September 3, 2014.

As stated in the memoranda from this office, dated May 14, 2012 and October 1, 2013, the current regulations contained in N.J.A.C. 6A:14-2.5(c)1 are inconsistent with the IEE provisions in 34 CFR §300.502. As a result, the regulations are proposed for amendment as discussed above. This memorandum is a reminder that school districts may not limit the parents' right to an IEE by first conducting an assessment in an area not already assessed by the initial evaluation or reevaluation before the parents' request is granted. Rather, when a parental request for an independent evaluation is received, a district must provide the evaluation at no cost to the parent, unless the school district initiates a due process hearing to show that its evaluation is appropriate and a final determination to that effect is made following the hearing. N.J.A.C. 6A:14-2.5(c)2

The OSEP will provide guidance to school districts once the rulemaking process has concluded. Should you have any questions or require additional information, please contact Kathy Ehling at 609-292-7602.

PM/JW/KE

c: Members, State Board of Education
 Acting Commissioner David C. Hespe
 Senior Staff
 Susan Martz
 John Worthington
 OAL, Chief ALJ

Kathy Ehling
 Executive Director for Regional Achievement Center
 County Supervisor of Child Study
 Members, NJ LEE Group
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