



State of New Jersey


DEPARTMENT OF EDUCATION
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September 2004

TO: Chief School Administrator
Director of Special Education
Administrator of a State Facility
Administrator of a Charter School
Administrator of an Approved Private School
for the Disabled
Administrator of a College-Operated Program

FROM: Barbara Gantwerk, Director 
Office of Special Education Programs

SUBJECT: Code Clarification-Independent Evaluations

Clarification has been requested regarding whether school districts may prohibit independent evaluators from including recommendations in reports being funded by the school district. As set forth below, independent evaluators may not be prohibited by school districts from including programmatic recommendations in their evaluation reports.

Code Citation

N.J.A.C. 6A:14-2.5(c)

N.J.A.C. 6A:14-2.5(c) provides that parents may request independent evaluations if they are not in agreement with the evaluation provided by a district board of education. All such independent evaluations are to be conducted pursuant to N.J.A.C. 6A:14-3.4. *See*, N.J.A.C. 6A:14-2.5(c)2. N.J.A.C. 6A:14-3.4(f) sets forth the requirements pertaining to the content of evaluation reports of school district personnel and, by reference, independent evaluators. Among these requirements are: that the report delineate the student's current functioning and an analysis of instructional implications; a statement regarding relevant behavior of the student; if the assessment is not conducted under standard conditions, the extent of any variation from standard conditions; and several additional requirements regarding determinations of whether a student has a specific learning disability. These requirements necessitate that an evaluator offer professional opinions regarding educational performance and the instructional impact that may result from a student's disability. Likewise, opinions as to disability and conditions necessitating special education and related services may be offered.

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Based on the foregoing, recommendations as to specific educational and related services, methodologies, programs or placements are logically an appropriate part of an independent evaluation report. While school districts may limit their staff to descriptions regarding educational performance and the instructional impact that may result from a student's disability, leaving programmatic determinations for the IEP meeting, independent evaluations may not be so limited. To limit independent evaluation reports in this way would dilute the efficacy of such reports and the independence of the evaluator; an evaluator who is not part of the IEP meeting and cannot offer programmatic opinions at that meeting. However, while school districts must consider all independent evaluations when making decisions regarding special education and related services, they are not required to accept or implement any of the findings or recommendations in such reports if they disagree.

In sum, evaluators providing independent evaluations may include recommendations as to specific educational and related services, methodologies, programs or placements in their reports, as such recommendations are an appropriate component of an evaluation.

BG/CK/JW

c: Members, State Board of Education
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