



The IEP Advocate

Pam Lindemann, Founder

Helping Families Get Services From The Public School System So Their Children Can Be Successful in School

McKay Scholarship and Re-Evaluations by the Public School

From: The McKay Coalition (mckaycoalition.org)

RE-EVALUATIONS

The McKay Coalition has received many calls from schools concerning re-evaluation letters their parents are receiving from the public school. The following is the opinion of The Coalition of McKay Scholarship Schools but should not be construed as legal advice. At the bottom of this article is information excerpted from the 2004 IDEA statute.

Information for Parents:

While the law states that a re-evaluation must occur every three years unless the parent and public agency agree that it is not necessary. That means that if the public agency "determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation," but the parent disagrees, the parent must undergo a re-evaluation.

However, in practice how would the public agency be able to "determine" that a re-evaluation is "warranted" if the child is in private school? It's circular and our legal counsel argues that the public school could only make that determination if they had already re-evaluated the child, and they don't have the right to make that determination unless they know that the child's achievement and performance. We would argue that the child's private school records are not enough to make that determination about achievement and performance.

The bottom line is that if the parent has no intention of placing the child back in public school, and does not want a public re-evaluation, and that given under the McKay law the parent has a right to keep their child in a private McKay school using the current funding level, the public agency has no reason to waste public resources to force a re-evaluation.

If the public agency presses the family, advise parents to tell them, in writing, that they do not agree to a re-evaluation and if the public agency has made the "determination" under the law that one is warranted, the public agency has a right to file due process against them. That should make them go away.

School Information

We have been told that several over-zealous districts have demanded re-evaluation and the private school sends all sorts of records and testing and attend any IEP meetings with the parents.

The districts have no authority to demand any such testing, records or attendance at meetings.

Parents may request records and the school should have a policy to determine which are the general records released without cost and when does an additional fee need to be added if record requests move beyond the standard procedures covered in the tuition. In the same way, policies for any fees for attendance away from the school should also be reviewed and parents made aware of what these are.

Sample Letter for Parents

Dear _____ ,

Thank-you for your offer of a re-evaluation for my child, _____. At this time we do not feel that a re-evaluation is warranted. We are pleased with the services we are receiving at _____ (school) and feel that our child's disability, which the public school identified, is being addressed in the proper way.

If the district wants to press the issue of a re-evaluation, you will need to start a due process hearing.

Sincerely,

Parent's name
Address

Phone: 407-342-9836 Fax: 407-393-5582

Email: Info@TheIEPadvocate.com Website: TheIEPadvocate.com