



TYPE:	POLICY
SECTION:	Special Education
TITLE:	<b>IEE</b>
BOT ADOPTED:	7.16.2024

**INDEPENDENT EDUCATIONAL EVALUATIONS POLICY**

The Board of Trustees recognizes that in accordance with applicable state and federal laws, including Chapter 711 of Title 22 of the Pennsylvania Code, a parent has the right to obtain an independent educational evaluation (“IEE”) of his or her child if the parent disagrees with an evaluation by the Charter School (“Charter School”) to the extent permitted by law, including the right of the Charter School, to file a due process complaint to show that its evaluation is appropriate and to contest the need for an independent evaluation.

If a parent requests an IEE, the CEO or designee is directed to provide the parent with information about where the parent may obtain an IEE and about the Charter School's criteria that apply to IEEs. As this policy contains information about the Charter School's criteria, this policy should be provided to parents upon request. An Independent Educational Evaluation or IEE is defined under applicable requirements as an evaluation conducted by a qualified examiner who is not employed by the Charter School.

Public expense is defined as follows: the Charter School either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with the provisions of Part B of IDEA 2004.

A parent has the right to an IEE of his or her child at public expense if the parent disagrees with an evaluation of the child obtained by the Charter School, SUBJECT TO

**THE FOLLOWING CONDITIONS:**

If a parent requests an IEE at public expense, the Charter School must, without unnecessary delay, either: (1) File a due process complaint to request a hearing to show that its evaluation of the child is appropriate; or (2) Provide an IEE at public expense, unless the Charter School demonstrates in a hearing that the evaluation obtained did not meet the Charter School's criteria.

The CEO or designee is directed to notify parents when declining the parent's request for an IEE at public expense and the reason for denial of the IEE via a written PWN/NOREP accompanied by a Procedural Safeguards Notice.

The CEO or designee must not unreasonably delay either providing the IEE at public expense or initiating due process to defend the Charter School's Evaluation Report.

The CEO or designee is directed to maintain a list of qualified independent evaluators in each of the various disciplines commonly relied upon to provide education-related evaluations and assessments and shall make that list reasonably available to any parent who requests it.

If the Charter School initiates a due process hearing and the final decision is that the Charter School's evaluation is appropriate, the parent still has the right to an independent evaluation, but not at public expense and therefore the Charter School is not responsible for the cost nor any other public source.

If a parent requests an evaluation at public expense, the Charter School shall ask in writing for the parent's reason why he or she objects to the public evaluation.

However, it must be made clear that the explanation by the parent may not be required and the Charter School may not unreasonably delay either providing the independent evaluation at public expense or initiating a hearing to defend its evaluation.

A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees. If a parent obtains an independent evaluation at private expense the results of the evaluation must be considered by the Charter School Team, if it meets the Charter School's criteria, in any decision made with respect to a determination of eligibility, and/or bases of eligibility pursuant to IDEA and Chapter 711 and the provision of FAPE to the child. The IEE Report may be presented as evidence at a hearing relating to the child.

If an independent evaluation is at public expense, the criteria under which the evaluation is obtained including, but not limited to the location of the evaluation and qualifications of the examiner, must be the same as the criteria that the Charter School uses when it initiates an evaluation to the extent that those criteria are consistent with the parents' right to an independent evaluation. These criteria must be made known to the parent. Such criteria are determined by the mandates of PA Charter School Law for charter renewal and the Governmental Accounting Standards Board, as per the required annual audit of the Charter School's finances, and are also set forth in the IEE Administrative Procedures and include:

- Production of required current state and federal child abuse and criminal clearances;
- Confirmation and production, of required licensure/certification to perform the independent evaluation;
- Agreement to comply with FERPA given review and use of Student's Personally Protected Information in evaluation process;
- Production of professional liability and workers compensation insurance as evaluator is an independent evaluator and not an employee of the Charter

- School;
- Email of the IEE report to Parent(s) and Charter School simultaneously;
- Compliance with federal, state and local health directives given the continuing COVID pandemic.

The Charter School may not impose conditions or timelines related to obtaining an evaluation at public expense.

All evaluations performed must take into account the child's English language skills and ethnicity to ensure that the testing and evaluation will not be unfair or discriminatory. Tests must be given in the child's native language or mode of communication (such as Braille or sign language) of the child, unless it is clearly not feasible to do so.

Evaluations must also take into account the child's disability to be sure the test measures what it is supposed to measure.

The specific tests used in the evaluation process depend upon the problems the child is experiencing. In most cases, the child will be given several tests to help find strengths and needs. The Charter School teacher(s) and other School IEP team member input must be considered. Information that parents provide must also be included in the evaluation.

Evaluators must be properly certified and qualified to administer the tests, assessments and evaluation techniques used. Such certification and qualification requirements must meet those mandated in Pennsylvania.

Evaluation techniques must be consistent with the most up to date techniques commonly practiced in the evaluator's field. Evaluations must not be racially, culturally or otherwise biased or discriminatory. Recommendations must be based upon the child and must not be generalized.

A complete copy of the independent evaluation report must be made available to the IEP team.

Parents are to be given a release of records so that information from the Charter School (including records, observations and other information gathered regarding the child) about the child may be disclosed to the independent evaluator and that Parents agree to release of information to the Charter School as obtained by the independent evaluator during course of independent evaluation.

The Charter School will comply with and monitor changes in all state and federal time lines, procedures and due process requirements throughout the entire independent evaluation process. In the event that there are changes in state or federal law with regard to any part of this policy, Charter School will comply with state and federal law.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE

AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.

ADOPTED this 16 day of July, 2024.

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President

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Secretary

## **INDEPENDENT EDUCATION EVALUATIONS (IEE) ADMINISTRATIVE PROCEDURES**

A parent who disagrees with an evaluation performed or obtained by the Gillingham Charter School (“Charter School”) may request an independent educational evaluation (IEE) at public expense to the extent allowed by applicable state and federal regulations. If the request is received verbally, the staff member who receives the IEE request shall inform the parent that the staff member is forwarding the request to the Chief Executive Officer (“CEO”) or designee. The staff member is to forward the request to the CEO or designee without delay.

The CEO or designee shall take the following steps to the extent that they remain consistent with applicable state and federal regulations regarding IEEs:

The CEO or designee, may, upon receipt of the request for an IEE, request that the parent state her reasons for disagreement with the evaluation conducted or proposed by the Charter School. The CEO or designee shall not require the parents to do so, however, and shall not delay the process for providing or disputing an IEE.

Within 10 school days, of receipt of a request for an IEE in writing from a parent, the CEO or designee shall issue a NOREP and Procedural Safeguards Notice to the Parent in which the CEO or designee either approves or denies the request for the IEE. IDEA regulations actually state: “...may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.” This is not mandated by the IDEA regulations. We have noted this as a reasonable time pursuant to Hearing Officer Decisions. However, a period of time longer than 10 days could be justified depending on facts of individual matters.

If the parent refuses to consent to the decision not to provide an IEE, the CEO or designee must file a Due Process Hearing Request with the Office for Dispute Resolution and notify the parent in writing that the Charter School has done so. The parent must be copied on the Due Process Hearing Request in the same manner as it is sent to the Office for Dispute Resolution. The parent must be provided with a copy of the Procedural Safeguards Notice upon filing of a Due Process Hearing Request.

If the CEO or designee consents to provide an IEE, the parent must receive written documentation from the CEO or designee with a Permission to Re-evaluate which should state what the Charter School is proposing by way of testing to serve as prior written notice to Parent of the Charter School’s intent, and also a Procedural Safeguards Notice. If the situation is one where, in addition to the request for an IEE, Parent has already disagreed with a NOREP as to all or part of the proposed programming by the Charter School, then another NOREP should also be issued to establish that Student’s IEP programming will continue, in accordance with the prior IEP, if Parent has not filed for due process or with the currently recommended NOREP, if Parent has disagreed but not filed for due process. The written documentation must also include the following:

(1) The Charter School will pay for an IEE provided the IEE meets all of the requirements of an appropriate evaluation as defined in the enclosed Charter School IEE policy. (The IEE policy will also be included with the written documentation).

(2) The CEO or designee shall provide a list of qualified independent evaluators to the parent in the discipline requested.

[Note that this list may be obtained from your I.U. And/or added to by the Charter School based on prior matters but should have choices not only of School psychologists but of related service providers too including SLT, OT, PT and BCBA's for FBAs.]

(3) The Charter School will not pay for the IEE until the CEO or designee receives from the evaluator a complete copy of a report of that evaluation and determines that the evaluation meets all of the requirements of the Charter School's policy.

(4) A request that the parents consider accessing reimbursement for all or part of the evaluation from public or private sources of insurance or reimbursement, together with a clear assurance that the parent is not required to do so and that the Charter School would pay any cost not covered by such sources;

(5) A request that Parents sign a Release of Records to allow the Charter School to send student records to the Independent Evaluator and for the Independent Evaluator to be allowed to release all information obtained from Parents during course of independent evaluation to the Charter School. [Ensure that this Release of Records form allows for this release of information obtained by independent evaluator to the Charter School and not just the release of student records by Charter School to independent evaluator.]

(6) The criteria used by the Charter School for their own evaluations, which are applied to independent evaluators, as set forth in the IEE Board Policy, include:

- Production of required current state and federal child abuse and criminal clearances;
- Confirmation and production, of required licensure/certification to perform the independent evaluation;

Note that this list may be obtained from your I.U. And/or added to by the Charter School based on prior matters but should have choices not only of School psychologists but of related service providers too including SLT, OT, PT and BCBA's for FBAs. Ensure that this Release of Records form allows for this release of information obtained by independent evaluator to the Charter School and not just the release of student records by Charter School to independent evaluator.

- Agreement to comply with FERPA given review and use of Student's Personally Protected Information in evaluation process;
- Production of professional liability and workers compensation insurance as evaluator is an independent evaluator and not an employee of the Charter School;
- Email of the IEE report to Parent(s) and Charter School simultaneously;
- Compliance with federal, state and local health directives given the continuing COVID pandemic.

(7) The IEE shall be reviewed by the student's Multi-Disciplinary IEP Team and considered with respect to the provision of FAPE to the student. Where necessary and/or warranted as required by law, a Team Meeting shall be convened to discuss the results of the IEE and/or any Reevaluation Report performed by Multi-Disciplinary IEP School Team after review of the IEE report. A Meeting may also include discussion and offering of changes in the provision of FAPE proposed as a result of the IEE and/or the Reevaluation Report.