



## BOARD POLICY ON INDEPENDENT EDUCATIONAL EVALUATIONS

### I. Purpose and Scope

John Adams Academies (“JAA”) recognizes that parents of a scholar with a disability may be entitled to an independent educational evaluation (“IEE”) at public expense if they disagree with an evaluation obtained by JAA. JAA adopts this IEE Policy (“Policy”), which sets forth the procedures under which scholars with disabilities are entitled to an IEE at public expense and the procedures that JAA will follow in responding to a request for an IEE.

### II. Definitions

“Independent Educational Evaluation” means an evaluation conducted by a qualified evaluator who is not employed by JAA.

“Evaluation” includes any individual assessment of a school that results in a report that is used by the individualized education program (“IEP”) team to determine eligibility and services.

“Parent” is defined as the following:

1. A biological or adoptive parent of a scholar.
2. A foster parent if the authority of the biological or adoptive parents to make educational decisions on the scholar’s behalf specifically has been limited by court order.
3. A guardian generally authorized to act as the scholar’s parent, or authorized to make educational decisions for the scholar, including a responsible adult appointed for the scholar.
4. An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the scholar lives, or an individual who is legally responsible for the scholar’s welfare
5. A surrogate parent who has been appointed.

“Public expense” means that JAA pays for the full cost of the evaluation (in accordance with cost guidelines described in this Policy) or ensures that the evaluation is otherwise provided at no cost to the parent.

### III. Procedures

Parents of a scholar with a disability may have a right to an IEE at public expense if they disagree with an evaluation completed by JAA. Parents who wish to request an IEE at public expense should follow the procedures set forth below.

#### Requesting an IEE

If a parent seeks an IEE at public expense, the parent must submit the request in writing to JAA or inform JAA at an IEP meeting of the following:

1. JAA evaluation(s) that he or she disagrees with; and
2. The areas for which he or she requests an IEE.

A parent who disagrees with the findings of an evaluation conducted by JAA must submit an IEE request within two (2) years from the date of JAA's assessment. JAA may ask for the parent's reason(s) for disagreeing with JAA's evaluation, but the parent is not required to provide those reasons.

#### Responding to an IEE Request

Once the parent communicates their disagreement with JAA's evaluation and requests an IEE in writing or at an IEP meeting, JAA will follow the following procedures:

1. *Review Request:* JAA will review the request and determine whether JAA will do either of the following without unnecessary delay: (i) deny the request for an IEE and initiate a due process hearing to establish the appropriateness of its evaluation or (ii) go forward with the IEE request and fund parent's request for an IEE at public expense (consistent with this Policy).<sup>1</sup>
2. *Send Prior Written Notice Denying Request for IEE:* If JAA determines that it will not fund the IEE and instead intends to initiate a due process hearing to establish the appropriateness of its evaluation, JAA will notify the parent of such decision in writing prior to filing a due process complaint in accordance with Section 300.503(b) of Title 34 of the Code of Federal Regulations. In addition, JAA will provide the parent with a copy of JAA's IEE policy and the procedural safeguards.
  - a. If the hearing officer issues a final decision finding that JAA's evaluation is appropriate, the parent will still have the right to obtain an IEE, but not at JAA's expense. If, however, the hearing officer determines that JAA's

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<sup>1</sup> a. As noted above, JAA may ask a parent why the parent disagrees with JAA's evaluation, but may not require the parent to provide an explanation and may not unreasonably delay either providing the IEE at public expense or filing a request for due process to request a hearing to establish the appropriateness of JAA's evaluation.

assessment is not appropriate and orders JAA to fund an IEE, JAA will cover the costs of the IEE as required by the hearing officer's order.

3. *Send Prior Written Notice Granting Request for IEE:* If JAA determines that it will grant parent's request for an IEE at public expense, JAA will notify the parent of such decision in writing in accordance with the prior written notice requirements of Section 300.503(b) of Title 34 of the Code of Federal Regulations. JAA will also provide the parent a copy of the JAA's IEE policy, which shall include the criteria for IEEs, information on where an IEE may be obtained, and a copy of procedural safeguards.
4. *Identifying an IEE Assessor:* If JAA grants parent's request for an IEE at public expense, JAA will work collaboratively with the parent to identify potential IEE evaluator(s). Alternatively, a parent may provide, in writing, the name and contact information of his or her preferred evaluator(s). Once an evaluator has been agreed upon, the parent will be required to sign a release and exchange of information form authorizing JAA to communicate directly with the parent's chosen independent evaluator.
  - a. The IEE may be completed by a staff member employed by another local educational agency (e.g., school district, charter school, county office of education, SELPA, etc.), a nonpublic agency provider, a provider on JAA's list of approved assessors, or an assessor identified by parent who meets JAA's IEE criteria as described below.
  - b. If JAA agrees to fund an IEE at public expense and the parent provides the name and contact information of his or her preferred evaluator, JAA will review the request and determine whether the evaluator complies with JAA's IEE criteria, including the minimum qualifications and cost limitations. If the IEE complies with JAA's IEE criteria, JAA will fund the IEE. If, however, JAA does not comply with one or more of JAA's IEE criteria, JAA will notify the parent in writing and request that parent identify another assessor that complies with JAA's IEE criteria or explain why parent believes unique circumstances warrant JAA funding an IEE that does not comply with the IEE criteria.
  - c. JAA will not have an obligation to fund an IEE that does not comply with JAA's IEE criteria unless JAA determines that unique circumstances warrant JAA funding an IEE that does not comply with the IEE criteria.

#### **IV. IEE Criteria**

The criteria under which an IEE is obtained at public expense, including the location limitations for the evaluator, minimum qualifications of the evaluator, and cost

containment criterion, must be consistent with the criteria set forth in this Policy and consistent with the criteria that JAA uses when it initiates its own evaluation.

### Minimum Qualifications of the Assessors

All assessments shall be completed by persons competent to perform the assessment as determined by JAA. IEE evaluators must, among other things, maintain appropriate certifications, licenses, and/or other qualifications that would otherwise be required of a JAA staff member completing a similar evaluation, including, but not limited to, the credentials listed in **Exhibit A**, which is attached to this Policy.

### Cost Limitations

The cost of an IEE shall be comparable to those costs that JAA incurs when it uses its own employees or contractors to perform a similar assessment. The cost limitations for an IEE are limited to the cost caps set forth in **Exhibit A**, which is attached to this Policy. JAA's Superintendent or designee has the authority to update and revise the cost limitations set forth in Exhibit A from time-to-time to ensure that the cost caps are consistent with market rates.

The cost of the IEE may include: observations, administration and scoring of tests, report writing, and attendance in person or by phone at an IEP team meeting. Any expenses beyond what are directly related to the preparation of the evaluation (e.g., food, lodging, transportation, etc.) are not covered in the cost of the IEE.

Costs above the amounts set forth in Exhibit A will not be approved unless the parent can demonstrate, and JAA agrees, that unique circumstances justify the selection of an evaluator whose fees exceed the cost cap.

### Geographic Limitations

The IEE evaluator must be located within a 50-mile radius of the scholar's school site or residence. JAA may approve an evaluator outside of the 50-mile radius only on an exceptional basis, provided the parent and JAA determine that there is a unique need for a specialized evaluation and that there are no qualified evaluators within the specified area who can appropriately assess the scholar's educational needs.

## **V. Completion and Consideration of the IEE**

Once JAA grants an IEE and JAA has initiated a contract for completion of the IEE, the parent is responsible for ensuring that the IEE is completed in a timely manner including, but not limited to, scheduling any assessment appointments, completion of written assessment reports, or submission of required documentation. JAA may directly contract with the independent evaluator for the IEE. Alternatively, JAA may issue payment to the IEE evaluator for the costs of the IEE following its receipt of the items

listed below. JAA will issue payment to the IEE evaluator for the cost of conducting the IEE after JAA's receipt of the following:

1. Written IEE assessment report prepared by the evaluator containing all necessary assessment and eligibility sections. The evaluator should provide JAA and the parent a copy of the report at least five days prior to the IEP meeting;
2. The original assessment protocols utilized to conduct the IEE; and
3. Detailed invoice(s), including dates of assessment(s), observation(s), and hourly rates.

JAA may also reimburse the parent for the costs of a privately-obtained IEE in accordance with JAA's policies and procedures and in the amount no greater than the actual cost to the parent. The request for reimbursement must be made within a reasonable time after receiving the evaluation report and the IEE must meet all criteria in this Policy.

All IEE evaluators must utilize testing and assessment materials and procedures which are selected and administered so as not to be racially, culturally, or sexually discriminatory. Tests and other assessment materials must be provided and administered in the scholar's primary language or other mode of communication unless there are stated reasons why this provision and administration are not clearly feasible. All assessment instruments utilized must have been validated for the specific purpose for which they are used and be administered by trained personnel in conformity with the instructions provided by the publisher. All written reports must meet the requirements of the Individuals with Disabilities Education Act ("IDEA") and California Education Code Section 56327.

The results of the IEE will be considered in the determination of eligibility, program decisions, and placement of the scholar with disabilities as required by the IDEA. However, the results of an IEE will not control JAA's determinations and may not be considered if not completed by a qualified professional, as determined by JAA.

## **VI. Other Considerations**

### Observations

If JAA observed the scholar in conducting its own evaluation with which the parent disagrees or if its assessment procedures allow in-class observations, the independent evaluator will be provided with an equivalent opportunity to observe the scholar in the current educational setting, and to observe JAA's proposed setting, if any. This opportunity shall also be provided if the parents obtain an IEE at private expense.

If JAA grants an observation by an independent evaluator, JAA will define the nature and scope of that observations so that it is consistent with the right to an equivalent opportunity to observe, but also consistent with its obligations to prevent unnecessary

disruption in the school setting and to protect the privacy interests of other scholars. This may include, but is not limited to, identifying the time parameters in which the observations may take place, JAA staff members who will participate in the observation, and restrictions on interactions with scholars/teachers.

#### Limitations on the Number of IEEs

A parent is entitled to only one IEE at public expense each time JAA conducts an evaluation with which the parent disagrees.

#### Consideration of a Privately-Obtained IEE

If the parent obtains an IEE at private expense or through an agency other than JAA and shares the IEE report with JAA, the results of the IEE will be considered by JAA in any decision made with respect to the provision of a free, appropriate public education related to the scholar. The IEE may also be presented as evidence in a due process hearing regarding the scholar.

#### Criteria for Accessing Private Insurance

When insurance will cover all or some portion of the costs associated with an IEE, JAA will request that the parent voluntarily have their insurance pay the IEE costs covered by their insurance. However, parents will not be asked to have insurance cover independent evaluation costs if such action would result in a financial cost to the parents including, but not limited to the following:

1. A decrease in available lifetime coverage or any other benefit under an insurance policy;
2. An increase in premiums or the discontinuance of the policy; or
3. An out-of-pocket expense such as payment of a deductible amount incurred in filing a claim unless the parent is willing to have JAA reimburse them for the amount of the deductible.

#### Conflict of Interest

JAA should ensure there is no conflict of interest between the evaluator and the service provider, or the evaluator and the family. To ensure the independence of the evaluation and any recommendations, JAA will not contract with an independent evaluator who is providing services to the scholar absent exceptional circumstances. Likewise, if the independent evaluator recommends a particular service and the IEP team agrees to that service, in its discretion, JAA will not fund the service through the independent evaluator absent exceptional circumstances.

### **EXHIBIT A**

<b>Type of Evaluation</b>	<b>Minimum Qualifications</b>	<b>Cost Cap*</b>
Academic Achievement	Credentialed Special Education Teacher, Licensed Educational Psychologist	\$800
Adaptive Behavior	Licensed Educational Psychologist	\$600
Adapted Physical Education	Credentialed Adapted Physical Education Specialist	\$1500
Assistive Technology	Certified Assistive Technology Specialist	\$2000
Auditory Acuity	Licensed Educational Audiologist Clinical or Rehabilitative Services Credential Language, Speech and Hearing and Audiology Credential	\$1000
Auditory Perception/ Auditory Processing	Language, Speech, and Hearing and Audiology: Clinical or Rehabilitative Services Credential Education Specialist Instruction Credential: Deaf and Hard- of-Hearing Licensed Educational Psychologist Pupil Personnel Services Credential	\$1,000
Functional Behavioral Assessment	Licensed Educational Psychologist, Board Certified Behavior Analyst	\$2,500
Cognitive / psychoeducational evaluation	Licensed Educational Psychologist, Pupil Personnel Services Credential	\$6000
Health	Licensed Physician, Registered Nurse, School Nurse Services Credential	\$500
Motor	Licensed Physical Therapist, Registered Occupational Therapist, Adaptive Physical Education Specialist	\$500
Occupational Therapy	Licensed Occupational Therapist	\$2,500
Orientation and Mobility	Orientation and Mobility: Clinical or Rehabilitative Services Credential,	\$1000

	Education Specialist Instruction Credential: Physical and Health Impairment	
Physical Therapy	Licensed Physical Therapist	\$1,000
Social/Emotional	Licensed Educational Psychologist, Pupil Personnel Services Credential, Licensed Clinical Social Worker, Licensed Marriage and Family Therapist	\$2,000
Speech and Language	Credentialed or Licensed Speech and Language Pathologist	\$2000
Visual Acuity/Transition/Vocational	Credentialed Special Education Teacher, Adult Education Credential with a Career Development Authorization, Pupil Personnel Services Credential	\$500
Developmental Vision	Education Specialist Instruction Credential: Visual Impairments	\$500
Functional Vision	Education Specialist Instruction Credential: Visual Impairments	\$400

\* The cost caps will be periodically assessed to ensure it is consistent with market rates.

Appendix A:

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