

## **POLICY**

### **Child Find**

Heritage Academy shall ensure that all children residing within the Heritage Academy boundaries who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to:

1. Homeless children;
2. Children who are wards of the state;
3. Children attending private schools;
4. Highly mobile children (including migrant children); and
5. Children who are suspected of being in need of special education but who are advancing from grade to grade.

20 U.S.C. 1412(a)(3)(A); 34 CFR 300.111(a)(1)(i), (c).

### **Private School Students**

Heritage Academy shall conduct a timely and meaningful consultation with private school representatives regarding the child find process and the provision of special education and related services to children enrolled in private schools within the Heritage Academy boundaries.

Heritage Academy shall undertake activities similar to those undertaken for public school children and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending the public schools within the Heritage Academy boundaries. 20 U.S.C. 1412(a)(10)(A)(ii)–(iv).

### **Preschool Students**

Heritage Academy shall develop a system to notify residents within the Heritage Academy boundaries with children who are at least three and younger than six and who are eligible for enrollment in a special education program of the availability of such programs. Education Code 29.009

### **Referral**

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of Heritage Academy overall general education referral or screening system. Either a parent, TEA, another state agency, or Heritage Academy may initiate a request for an initial evaluation.

### **Obligation to Refer**

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students. If a student continues to experience difficulty in the general classroom after the provision of interventions,

Heritage Academy personnel must refer the student for a full and individual initial evaluation. 20 U.S.C. 1414(a)(1); 34 CFR 300.301; 19 TAC 89.1011.

### **Parent Request**

If a parent submits a written request for a full individual and initial evaluation of a student, Heritage Academy shall, not later than the 15th school day after the date Heritage Academy receives the request:

1. Provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 CFR 300.503, a copy of the procedural safeguards notice required by 34 CFR 300.504, and an opportunity to give written consent for the evaluation; or
2. Provide the parent with prior written notice of its refusal to conduct an evaluation consistent with 34 CFR 300.503, and a copy of the procedural safeguards notice required by 34 CFR 300.504.

20 U.S.C. 1414(a)(1); 34 C.F.R. 300.301; 19 TAC 89.1011(a), (b); Education Code 29.004(c).

### **Notice of Rights**

Heritage Academy shall provide written notice to a student's parent or guardian within a reasonable time before proposing or refusing to initiate the identification, evaluation, or educational placement of a student or the provision of a FAPE. 20 U.S.C. 1415(b)(3); 34 CFR 300.503(a).

### **Initial Evaluation**

Heritage Academy shall conduct a full and individual initial evaluation before the initial provision of special education and related services. 20 U.S.C. 1414(a)(1)(A).

Heritage Academy shall ensure that evaluations of children who transfer from one district to another in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. 20 U.S.C. 1414(b)(3)(D).

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. 20 U.S.C. 1414(a)(1)(E).

### **Consent For Initial Evaluation**

Heritage Academy shall make reasonable efforts to obtain informed parental consent before conducting an initial evaluation.

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If the parent does not provide consent for an initial evaluation or fails to respond to a request to provide consent, Heritage Academy may—but is not required to—pursue the initial evaluation by utilizing due process procedures, except to the extent inconsistent with state law relating to such parental consent.

Parental consent to initial evaluation shall not be construed as consent for placement for special education and related services. 20 U.S.C. 1414(a)(1)(D)(i)(1); 34 CFR 300.300.

#### *Wards of the State*

If the child is a ward of the state and is not residing with the child's parent, Heritage Academy shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:

1. Heritage Academy cannot discover the whereabouts of the parent, despite reasonable efforts to do so;
2. The rights of the parent have been terminated; or
3. The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge to represent the student has given consent for an initial evaluation.

20 U.S.C. 1414(a)(1)(D)(iii); 34 CFR 300.300(a)(2).

#### **Consent for Initial Evaluation**

Heritage Academy must complete the written report of a full individual and initial evaluation:

1. Not later than the 45th school day following the date on which Heritage Academy receives written consent for the evaluation from the student's parent. If a student has been absent from school during that period on three or more school days, the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or
2. For students under five years of age by September 1 of the school year and not enrolled in public school and for students enrolled in a private or homeschool setting, not later than the 45th school day following the date on which Heritage Academy receives written consent for the evaluation from the student's parent.

If Heritage Academy receives written consent for the evaluation from the student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the written report of a full individual and initial evaluation of a student must be provided to the student's parent not later than June 30 of that year.

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If Heritage Academy receives written consent signed by a student's parent less than 35 school days before the last instructional day of the school year or if Heritage Academy receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, the report must be completed not later than the 45th school day following the date Heritage Academy received written consent, except that the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent.

A student is considered absent for the school day if the student is not in attendance at the official Heritage Academy attendance taking time or at the alternate attendance taking time set for that student. A student is considered in attendance if the student is off campus participating in an activity that is approved by the Board and is under the direction of a professional staff member of Heritage Academy or an adjunct staff member who has a minimum of a bachelor's degree and is eligible for participation in the Teacher Retirement System of Texas.

"School day" does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term.

These time frames shall not apply if the parent repeatedly fails or refuses to produce the child for the evaluation.

#### **Transfer Students**

Heritage Academy shall ensure that evaluations of children who transfer from one public school to another in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations.

If a student was in the process of being evaluated for special education eligibility by another public school and enrolls in Heritage Academy before the previous school completed the full individual and initial evaluation, Heritage Academy must coordinate with the previous school as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation in accordance with 34 C.F.R. 300.301(d)(2) and (e) and 300.304(c)(5).

The time lines above do not apply in such a situation if:

1. The new school is making sufficient progress to ensure a prompt completion of the evaluation; and
2. The parent and the new school agree to a specific time when the evaluation will be completed.

20 U.S.C. 1414(a)(1)(C), (b)(3)(D); 34 C.F.R. 300.301(c)–(e); Education Code 29.004; 19 TAC 89.1011

### **Psychological Exams**

If Heritage Academy determines that an additional examination or test is required for the evaluation, Heritage Academy shall provide the information required by Education Code 29.0041(a) and shall obtain parental consent. If a parent does not give consent within 20 calendar days after the School provides the information, the parent's consent is considered denied.

The time required for Heritage Academy to provide information and seek consent may not be counted toward the timeframe for completion of an evaluation. Education Code 29.0041.

### **Eligibility Determinations**

Upon completion of the administration of assessments and other evaluation measures, a team of qualified professionals and the parent shall make the determination of whether the child has a disability and of the educational needs of the child.

Heritage Academy shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. 20 U.S.C. 1414(b)(4)(B); 34 CFR 300.306(a).

The admission, review, and dismissal ("ARD") committee must make its decisions regarding a student's initial eligibility determination and, if appropriate, individualized education program ("IEP") and placement within 30 calendar days from the date of the completion of the written full individual and initial evaluation report. If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, IEP, and placement, unless the full individual and initial evaluation indicates that the student will need extended school year (ESY) services during that summer.

When a report is provided to a parent not later than June 30 as described at Timeframe for Completion of Written Report, above, the ARD committee must meet not later than the 15th school day of the following school year to consider the evaluation. If, however, an evaluation indicates that a student will need ESY services, the ARD committee must meet as expeditiously as possible. 19 TAC 89.1011(d), (e)(4).

### **Reevaluations**

Heritage Academy shall ensure that each child with a disability is reevaluated if Heritage Academy determines that the educational or related services needs of the child,

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including improved academic achievement and functional performance, warrant a reevaluation, or if the child's parent or teacher requests a reevaluation.

Reevaluation shall occur:

1. No more than once a year, unless the parent and Heritage Academy agree otherwise; and
2. At least once every three years, unless the parent and Heritage Academy agree that a reevaluation is unnecessary.

Heritage Academy shall obtain informed parental consent before conducting a reevaluation, except that informed parental consent is not needed if Heritage Academy can demonstrate that it has taken reasonable measures to obtain consent and the child's parent has failed to respond. 20 U.S.C. 1414(a)(2), (c)(3); 34 CFR 300.303.

#### **Evaluation for Change in Eligibility**

Heritage Academy shall evaluate a child before determining that the child is no longer a child with a disability. However, an evaluation is not required before the termination of eligibility due to graduation from secondary school with a regular diploma or due to exceeding the age eligibility for FAPE under state law; a summary of academic achievement and functional performance must be provided in these circumstances. 20 U.S.C. 1414(c)(5); 34 CFR 300.305(e); 19 TAC 89.1070(g).

#### **Independent Evaluation**

Parents have a right to obtain an independent educational evaluation of their child. Upon such a request, Heritage Academy shall provide the parents with information regarding where one can be obtained and Heritage Academy's criteria for independent evaluations.

##### *At Public Expense*

If a parent requests an independent evaluation at public expense, Heritage Academy shall, without unnecessary delay, either:

1. File a due process complaint to request a hearing to show that its evaluation is appropriate; or
2. Ensure that an independent evaluation is provided at public expense, unless Heritage Academy demonstrates that the evaluation obtained by the parent did not meet Heritage Academy's criteria for independent evaluations.

##### *At Private Expense*

If Heritage Academy initiates a hearing, and the final decision is that Heritage Academy's evaluation is appropriate, the parent still has a right to an independent evaluation, but not at public expense. If the parent obtains an independent

evaluation at private expense, Heritage Academy shall consider the results of the evaluation, if it meets Heritage Academy's criteria, in any decision made with respect to providing FAPE to the child. 34 CFR 300.502.

### **Eligibility for Participation**

A student is eligible to participate in the Heritage Academy special education program if:

1. The student is between the ages of 3 and 21, inclusive;
2. The student has one or more of the disabilities listed in federal regulations, state law, or both; and
3. The student's disability(ies) prevents the student from being adequately or safely educated in the public schools without the provision of special services.

20 U.S.C. 1401(3); Education Code 29.003(b); 19 TAC 89.1035, 89.1040.

### **Visual and Auditory Impairments**

A student with a visual or auditory impairment shall be eligible to participate in the Heritage Academy special education program from birth. 19 TAC 89.1035(b); Education Code 30.002.

### **Parental Consent**

#### **Initial Provision of Services**

Heritage Academy must obtain informed consent from the parent for the initial provision of special education and related services. If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of services, Heritage Academy:

1. May not use the procedures in 34 CFR part 300 subpart E (including the mediation and due process procedures) in order to obtain agreement or a ruling that the services may be provided to the child;
2. Will not be considered to be in violation of the requirement to make FAPE available to the child for the failure to provide the services for which Heritage Academy requests consent; and
3. Is not required to convene an ARD meeting or develop an IEP for the child for the services.

#### **Revoking Consent**

If, at any time after the provision of initial services, the parent of a child revokes consent in writing for the continued provision of services, Heritage Academy:

1. May not continue to provide services to the child, but must provide prior written notice before ceasing services;

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2. May not use the procedures in 34 CFR part 300 subpart E in order to obtain agreement or a ruling that the services may be provided to the child;
3. Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further services; and
4. Is not required to convene an ARD meeting or develop an IEP for further provision of services.

34 CFR 300.300(b).

**Requiring Prescription Medication**

Heritage Academy employees are prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services.

Heritage Academy employees are not prohibited from consulting or sharing classroom-based observations with parents regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services. 20 U.S.C. 1412(a)(25).