

**Sec. 1. PROCEDURAL SAFEGUARDS**

The Superintendent shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education (“FAPE”). 20 U.S.C. 1415(a)–(b).

These procedures shall include:

1. An opportunity for the parents to review all education records and to participate in meetings relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. 34 CFR 300.501.
2. An opportunity for the parents to obtain an independent educational evaluation of the child. 34 CFR 300.502.
3. Assignment of an individual to act as a surrogate for the parent when no parent can be identified, Heritage Academy cannot locate the parents, or the child is a ward of the state. 34 CFR 300.519.
4. Prior written notice to the parents whenever Heritage Academy proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. 34 CFR 300.503.
5. Procedures to allow parties to resolve disputes through a mediation process. 34 CFR 300.506.
6. An opportunity for any party to file a due process complaint on any matter relating to the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. 34 CFR 300.507.
7. Procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which shall remain confidential). 34 CFR 300.508.

**Sec. 2. CONSENT**

Consent means that:

1. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
2. The parent understands and agrees in writing to the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
3. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. A revocation of consent is not retroactive.

If the parent revokes consent in writing for his or her child’s receipt of services after the child is initially provided special education and related services, Heritage Academy is not required to

amend the child's education records to remove any references to the child's receipt of services because of the revocation of consent.

34 CFR 300.9

**Sec. 3. LANGUAGE OF NOTICES**

The procedural safeguards and prior notices described below must be written in a language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. 34 CFR 300.503(c), 300.504(d).

**a) *Electronic Delivery of Notices***

A parent of a child with a disability may elect to receive required notices by electronic mail, if Heritage Academy makes that option available. 34 CFR 300.505.

**Sec. 4. NOTICE OF PROCEDURAL SAFEGUARDS**

Heritage Academy shall provide a copy of the procedural safeguards to parents only once per year, except that a copy also shall be given to the parents:

1. Upon initial referral or parental request for evaluation;
2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent.

Heritage Academy may also place a current copy of the procedural safeguards notice on its Internet website.

**a) *Contents of Notice***

The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluations;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;
5. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:

- a. The time period in which to file a complaint,
  - b. The opportunity for Heritage Academy to resolve the complaint; and
  - c. The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.
6. The availability of mediation;
  7. The child's placement during pendency of any due process proceedings;
  8. Procedures for children who are subject to placement in an interim alternative educational setting;
  9. Requirements for unilateral placement by parents of children in private schools at public expense;
  10. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
  11. Civil actions, including the time period in which to file such actions; and
  12. Attorneys' fees.

20 U.S.C. 1415(a)–(b), (d); 34 CFR 300.504(c).

#### **Sec. 5. PRIOR NOTICE AND CONSENT**

Whenever Heritage Academy proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education to the student, Heritage Academy must provide prior written notice as required in 34 CFR, §300.503, including providing the notice in the parent's native language or other mode of communication. This notice must be provided to the parent at least five school days before the school district proposes or refuses the action unless the parent agrees to a shorter timeframe. 19 T.A.C. § 89.1050(h).

##### **a) *Contents of Notice***

The notice must include:

1. A description of the action proposed or refused by Heritage Academy;
2. An explanation of why Heritage Academy proposes or refuses to take the action;
3. A description of each evaluation procedure, assessment, record, or report Heritage Academy used as a basis for the proposed or refused action;
4. A statement that the parents have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained;
5. Sources for parents to contact to obtain assistance in understanding the IDEA rules;

6. A description of other options the admission, review and dismissal (“ARD”) committee considered and the reasons why those options were rejected; and
7. A description of other factors relevant to Heritage Academy’s proposal or refusal.

34 CFR 300.503(b)

**Sec. 6. CONSENT TO INITIAL EVALUATION**

Before Heritage Academy conducts an initial evaluation, it shall provide prior written notice, including a description of any evaluation Heritage Academy proposes to conduct, and obtain informed consent for the evaluation from the parents. 20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.304(a).

**Sec. 7. CONSENT TO SERVICES**

Heritage Academy shall seek informed consent from the parent before providing special education and related services to a child. 20 U.S.C. 1414(a)(1)(D).

**Sec. 8. CONSENT TO REEVALUATION**

Heritage Academy shall obtain informed parental consent before conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if Heritage Academy can demonstrate that it has taken reasonable measures to obtain such consent and the parent has failed to respond. 20 U.S.C. 1414(c)(3).

**Sec. 9. CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING**

A Heritage Academy member of the ARD committee may be excused from attending an individualized education program (“IEP”) meeting, in whole or in part, when the meeting involves a modification to or discussion of the member’s area of curriculum or related services if the parent, in writing, and Heritage Academy consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

**Sec. 10. PSYCHOLOGICAL EXAMINATIONS AND TESTS**

On request of a child’s parent, before obtaining the parent’s consent for the administration of any psychological examination or test to the child as part of the evaluation of the child’s need for special education, Heritage Academy shall provide to the child’s parent:

1. The name and type of the examination or test; and

2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child.

If Heritage Academy determines that an additional examination or test is required for the evaluation of a child's need for special education, Heritage Academy shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test. Education Code 29.0041(a), (b).

**Sec. 11. PARENTAL CONSENT TO ACCESS PUBLIC BENEFITS**

Heritage Academy shall obtain informed consent from the parent each time that access to a parent's private insurance proceeds or to public benefits or an insurance program is sought. (34 CFR §300.154(d)(2)(iv)(A))

**Sec. 12. PARENTAL CONSENT FOR TRANSFER OF ASSISTIVE TECHNOLOGY DEVICES**

Heritage Academy shall obtain informed consent from the parent, or the adult student if the adult student has the legal capacity to enter into a contract before transferring an assistive technology device through a transfer agreement that incorporates the standards of the state.

**Sec. 13. OTHER CONSENT REQUIREMENTS**

Parental consent is not required before Heritage Academy may:

1. review existing data as part of the student's evaluation or a reevaluation; or
2. give the student a test or other evaluation that is given to all students unless, before that test or evaluation, consent is required from parents of all students. 34 CFR 300.300(d)