



# **Haven Montessori Charter School**

## **Special Education Policies and Procedures**

Revisions Adopted by the Governing Board on October 29, 2018

## HAVEN MONTESSORI CHARTER SCHOOL POLICIES

### **FREE APPROPRIATE PUBLIC EDUCATION (FAPE)**

Haven Montessori Charter School ensures that all children with disabilities ages 5 through 14 within its jurisdiction have the right to a free appropriate public education (FAPE), including children with disabilities who are advancing from grade to grade. FAPE shall also be provided to students who have been suspended or expelled from school in accordance with §§300.530(d) of the IDEA regulations.

### **CHILD FIND**

Haven Montessori Charter School will ensure that all children with disabilities, including children with disabilities who are homeless or wards of the State, and children with disabilities attending private schools or home schools, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated.

### **EVALUATION AND ELIGIBILITY DETERMINATION**

Haven Montessori Charter School will conduct a full and individual evaluation before the initial provision of special education and related services to a child with a disability to determine the educational needs of the child. Procedures shall be established for conducting evaluation in accordance with the requirements described in 34 CFR (§§300.300- 300.311) of IDEA regulations. A re-evaluation of each child with a disability will be conducted in accordance with §§300-300.311 of the IDEA regulations.

### **DISCIPLINE**

A child with a disability may be disciplined for a violation of the student code of conduct, including removal from his or her current placement to an appropriate interim alternative educational setting, another setting, suspension, or expulsion in accordance with IDEA Regulations §§300.530 through 300.536.

### **INDIVIDUALIZED EDUCATION PROGRAMS**

Haven Montessori Charter School assures that an individualized education program (IEP) will be developed and implemented for each eligible child served by Haven Montessori Charter School and for each eligible child placed in or referred to a private school or facility by Haven Montessori Charter School in accordance with §§300.320-300.325 of the IDEA regulations.

### **LEAST RESTRICTIVE ENVIRONMENT (LRE)**

Haven Montessori Charter School ensures children with disabilities, including children in public or private institutions or other care facilities, will be educated to the maximum extent appropriate with children who are not disabled in accordance with (§§300.114-300.117) of the IDEA regulations.

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### **PROCEDURAL SAFEGUARDS**

Haven Montessori Charter School shall ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education §300.500 through 300.536. The parents of a child with a disability shall be given an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child. Haven Montessori Charter School shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

### **CONFIDENTIALITY OF INFORMATION**

Haven Montessori Charter School will ensure that protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the agency will be in accordance with 34 CFR §§300.611–300.627.

### **FREE APPROPRIATE PUBLIC EDUCATION (FAPE)**

Haven Montessori Charter School ensures that all children with disabilities ages 5 through 14 within its jurisdiction have the right to a free appropriate public education (FAPE), including children with disabilities who are advancing from grade to grade. FAPE shall also be provided to students who have been suspended or expelled from school in accordance with §300.530(d) of the IDEA regulations.

Haven Montessori Charter School will make the determination that a child is eligible for special education and related services on an individual basis by a properly constituted team.

Haven Montessori Charter School will make FAPE available to any child who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.

#### **The provision of FAPE can include:**

1. Assistive Technology (§300.105)
  - a. Haven Montessori Charter School will ensure that assistive technology devices or services or both will be available to a child with a disability, if required, as part of :
    - i. Special education
    - ii. Related services, and
    - iii. Supplementary aids and services.
  - b. On a case-by-case basis, Haven Montessori Charter School will ensure the use of school-purchased assistive technology devices in a child's home or other setting if the child's IEP team determines that the child needs access to those devices in order to receive FAPE.

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2. Extended School Year Services (ESY) (§300.106)
  - a. Haven Montessori Charter School will make extended school year services available as necessary to provide FAPE to children with disabilities
    - i. ESY services will be provided only if a child's IEP team determines, in accordance with §§300.320-300.324, that the services are necessary for the provision of FAPE.
    - ii. Services will not be:
      1. Limited to a particular category of disability; or
      2. Unilaterally limited to the type, amount, or duration of services
  - b. The ESY services that are provided to a child with a disability will:
    - i. Be provided beyond the normal school year of the agency;
    - ii. Be provided in accordance with the child's IEP;
    - iii. Be provided at no cost to the parents of the child; and
    - iv. Meet the standards of the State.
3. Nonacademic Services (§300.107)
  - a. Haven Montessori Charter School will afford children with disabilities an equal opportunity for participation in nonacademic and extracurricular services and activities including, as determined appropriate and necessary by the child's IEP team, the provision of supplementary aids and services.
  - b. Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by Haven Montessori Charter School.
4. Physical Education (§300.108)
  - a. Haven Montessori Charter School will make regular physical education services available to children with disabilities to the same extent that the agency provides those services to children without disabilities unless:
    - i. The child is enrolled full time in a separate facility; or
    - ii. The child needs specially designed physical education as prescribed in the child's IEP.
  - b. If special physical education is prescribed in a child's IEP, Haven Montessori Charter School will provide for those services.
5. Program Options (§300.110)
  - a. Haven Montessori Charter School will ensure that children with disabilities have available to them the variety of educational programs and services that are available to nondisabled children.
6. Routine Checking of Hearing Aids and External Components of Surgically Implanted Medical Devices (§300.113)
  - a. Haven Montessori Charter School will ensure that the hearing aids worn in school by children with hearing impairments are functioning properly; and
  - b. The external components of surgically implanted medical devices (e.g., cochlear implants) are functioning properly, except that the agency will

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not be responsible for any post-surgical maintenance, programming, or replacement of any component, external or internal, of the medical device.

### **AAC R7-2-401.F Parental Consent**

- 1) Haven Montessori Charter School shall obtain informed written consent from the parent of the child with a disability before the initial provision of special education and related services to the child.
- 2) If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, Haven Montessori Charter School may not use mediation or due process procedures in order to obtain agreement or a ruling that the services may be provided to the child.
- 3) If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, Haven Montessori Charter School:
  - a) Will not be considered to be in violation of the requirement to make available FAPE to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent, and
  - b) Is not required to convene an IEP team meeting or develop an IEP in accordance with these rules.
- 4) If, at any time after the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public education agency:
  - a) May not continue to provide special education and related services to the child, but shall provide prior written notice before ceasing the provision of special education and related services;
  - b) May not use the mediation procedures or the due process procedures in order to obtain agreement or a ruling that the services may be provided to the child;
  - c) 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 special education and related services; and
  - d) Is not required to convene an IEP team meeting or develop an IEP for the child for further provision of special education and related services.
- 5) If a parent revokes consent in writing for the child's receipt of special education services after the child is initially provided special education and related services, Haven Montessori School is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

### **CHILD FIND**

Haven Montessori Charter School will ensure that all children with disabilities, including children with disabilities who are homeless or wards of the State, and children with

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disabilities attending private schools or home schools, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated.

Haven Montessori Charter School procedures for child find include the following provisions:

1. Haven Montessori will identify, locate, and evaluate all children with disabilities within the population we serve who are in need of special education and related services. This includes children who are suspected of being a child with a disability and are in need of special education even though they are advancing from grade to grade or are highly mobile, including those who are migrant children.
2. Haven Montessori will maintain a record of children who are receiving special education and related services.
3. Haven Montessori Charter School will inform the general public and all parents of the availability of special education services for students age 3-21 years and how to access those services. This includes information regarding early intervention services for children aged birth through 2 years.
4. Haven administration will review the written procedures related to child identification and referral on an annual basis. Documentation will be maintained at Haven Montessori.
5. Screening activities will be implemented for all newly enrolled students and those transferring in without sufficient records.
6. The screening must be completed within 45 days of enrollment.
7. The screening will include consideration of academic or cognitive, vision, hearing, communication, motor, social or behavioral and adaptive development. Screening does not include detailed individualized comprehensive evaluation procedures.
8. As part of a screening, Haven Montessori Charter School will review enrollment data and education performance in the prior school. If there is a history of special education for a student not currently eligible for special education, or of poor progress, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services.
9. If a concern is identified through screening procedures or through a review of records, Haven Montessori Charter School shall notify the parents of the student of the concern within 10 school days and inform them of Haven Montessori Charter School's procedures to follow up on the student's needs.
10. Haven Montessori Charter School will maintain documentation of the identification procedures used, the dates of entry into school, and the notification of parents and dates of screening. Results will be maintained in the child's permanent records.

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11. If the identification process indicates a possible disability, the name of the student will be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services. A parent may request an evaluation of the student.
12. If after consultation with the parent, the responsible public education agency determines that a full and individual evaluation is not warranted, the public education agency shall provide prior written notice and procedural safeguards notice to the parent in a timely manner.

### **EVALUATION AND ELIGIBILITY DETERMINATION**

Haven Montessori Charter School will conduct a full and individual evaluation before the initial provision of special education and related services to a child with a disability to determine the educational needs of the child. Procedures shall be established for conducting evaluation in accordance with the requirements described in 34 CFR (§§300.300- 300.311) of IDEA regulations. A re-evaluation of each child with a disability will be conducted in accordance with §§300-300.311 of the IDEA regulations.

Haven Montessori Charter School's procedures for evaluation and eligibility include the following provisions:

#### **A. Parental Consent (§300.300)**

1. Haven Montessori will review existing data with the parents and provide prior written notice and obtain informed, consent from the parent of the child before collecting any additional data.
  - a. Parental consent for initial evaluation must not be construed as consent for initial provision of special education services
  - b. Haven Montessori Charter School must make reasonable efforts to obtain the informed consent form the parent for an initial evaluation.
2. For initial evaluations only, if the child is a ward of the state and is not residing with the child's parent, Haven Montessori Charter School is not required to obtain consent from the parent if:
  - a. Despite reasonable efforts to do so, Haven Montessori Charter School cannot discover the whereabouts of the parents of the child;
  - b. The rights of the parents of the child have been terminated by the court;
  - c. The rights of the parents to make educational decisions haven been subrogated by a judge and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.
3. Haven Montessori Charter School may, but is not required to, seek informed consent through due process procedures if the parent of a child who is enrolled or seeking to enroll in the public education agency refuses consent for an initial evaluation.

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4. Haven Montessori Charter School must obtain informed consent from the parent of the child before the initial provision of special education services
5. If a parent refuses consent for the initial provision of special education and related services, Haven Montessori Charter School may not seek consent through due process hearing procedures. Haven Montessori Charter School:
  - a. Will not be considered in violation for not providing FAPE
  - b. Is not required to convene an IEP team meeting or develop an IEP for the child.
6. Haven Montessori Charter School must obtain informed consent prior to conducting any reevaluation of a child with a disability.
  - a. If the parent refuses consent, Haven Montessori Charter School may use due process hearing procedures to seek consent but does not violate its obligation if it declines to pursue the evaluation or the reevaluation.
  - b. The informed parental consent for reevaluation need not be obtained if Haven Montessori Charter School can demonstrate that:
    - i. It made reasonable efforts to obtain such consent and has documented those attempts
    - ii. The child's parent has failed to respond.
7. Parent consent is not required before:
  - a. Reviewing existing data as part of an evaluation or reevaluation; or
  - b. Administering a test or other evaluation that is administered to all children unless consent is required of parents of all children prior to administration
8. Haven Montessori Charter School may not use a parent's refusal to consent to one service or activity under this section to deny the parent or child any other service, benefit, or activity of Haven Montessori Charter School, except as required by this part.

### **B. Procedures for initial evaluation (§300.301)**

1. Consistent with consent requirement of §300.300, either a parent of a child or the public education agency may initiate a request for an initial evaluation to determine if a child is a child with a disability.
2. The initial evaluation must:
  - a. Be completed within 60 days of receiving parental consent for the evaluation, unless:
    - i. The parents and Haven Montessori Charter School agree that it is in the best interest of the child to extend the timeline to complete the evaluation for an additional 30 days;



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- ii. The child enrolls in Haven Montessori Charter School from another public education agency after the parent has provided consent and before the determination of eligibility by the other agency (Haven Montessori Charter school will ensure prompt completion of the evaluation); or
  - iii. The parent of a child with a disability repeatedly fails or refuses to produce the child for the evaluation.
- b. Consist of procedures to determine if the child is a child with a disability and to determine the educational needs of the child.

### **C. Re-evaluations (§300.303)**

1. Haven Montessori Charter School will conduct a reevaluation of a child with a disability if:
  - a. Haven Montessori Charter School determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation, or
  - b. If the child's parents or teacher requests a reevaluation, except that,
  - c. Haven Montessori Charter School will not conduct a reevaluation more than once a year unless the parent and agency agree otherwise.
2. Haven Montessori Charter School will conduct a reevaluation at least once every 3 years, unless the parent and the agency agree that a reevaluation is unnecessary.

### **D. Evaluation Procedures (§300.304)**

1. Haven Montessori Charter School will provide prior written notice to the parents of a child who has or is suspected of having a disability that describes the evaluation procedures that the agency proposes to conduct.
2. In conducting an evaluation or reevaluation, Haven Montessori Charter School will:
  - a. Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent in order to determine:
    - i. Whether the child is a child with a disability; and
    - ii. If the child is a child with a disability, information related to enabling the child to be involved in and progress in the general education curriculum.
  - b. Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a

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- disability and for determining an appropriate educational program for the child; and
    - c. Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
  - 3. Haven Montessori Charter School will ensure that evaluation materials and strategies:
    - a. Are selected and administered so as not to be discriminatory on a racial or cultural basis;
    - b. Are administered in the child's native language or other mode of communication in the form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, unless it is clearly not feasible to do so;
    - c. Are used for the purposes for which the assessment(s) or measure(s) are valid and reliable;
    - d. Are administered by trained and knowledgeable personnel;
    - e. Are administered in accordance with the instructions provided by the assessment publisher;
    - f. Are selected and administered so as to ensure that if administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure rather than reflecting the child's impairments (unless those skills are the factors being measured)
    - g. Assess the child in all areas related to the suspected disability, including if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, adaptive behavior, communicative status, and motor abilities; and
    - h. Are sufficiently comprehensive to identify all of the child's special education and related services(s) needs, whether or not those needs are commonly associated with the child's disability.
    - i. Provide relevant information that directly assists in determining the educational needs of the child.
  - 4. Evaluations of children who transfer to or from another public education agency in the same school year are coordinated with the prior and subsequent schools, in order to expedite the completion of a full evaluation.

### **E. Additional Evaluation Requirements (§300.305)**

- 1. As part of an initial evaluation (if appropriate), and as part of any reevaluation, the IEP team and other qualified professionals, as appropriate will:

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- a. Review existing evaluation data on the child including:
    - i. Evaluations and information provided by the parents;
    - ii. Current classroom-based, local, and statewide assessments, and classroom-based observations; and
    - iii. Observations by teachers and related service providers.
  - b) On the basis of that review and input from the child's parents, identify what additional data, if any, are needed to determine:
    - i) Whether the child is or continues to be a child with a disability and if so, the educational needs of the child;
    - ii) The present levels of academic achievement and related developmental needs of the child; and
    - iii) Whether the child needs special education and related services to enable the child to meet measurable annual IEP goals and to participate, as appropriate, in the general education curriculum.
  - c) The IEP team may conduct the review without a meeting.
- 2) If additional data are needed, Haven Montessori will administer the assessments required to obtain the additional data.
  - 3) If additional data are not needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, Haven Montessori Charter School will notify the parents of:
    - a) The determination and the reasons for the determination; and
    - b) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs.
  - 4) Haven Montessori Charter School will evaluate a child before determining that the child is no longer a child with a disability except when the termination is due to graduation with a regular high school diploma or the child's reaching age 22.
  - 5) When the child's eligibility terminates because of graduation or reaching age 22, the agency will provide a summary of the child's academic achievement and functional performance that includes recommendations on how to assist the child in meeting the child's postsecondary goals.

### **F. Determination of Eligibility (§300.306)**

1. Upon completion of the evaluation process, Haven Montessori Charter School will ensure that:
  - a. A group of qualified professionals and the parent of the child determine:

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- i. If the child is a child with a disability under the Individuals with Disabilities Education Act and the Arizona State Statutes; and
    - ii. If so, the educational needs of the child.
  - b. The parents are provided, at no cost, a copy of the evaluation report and eligibility determination.
2. A child will not be determined to be a child with a disability if the primary factor for the determination is:
  - a. Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA as such section was in effect on the day before the date of enactment of the Every Student Succeeds Act (December 9, 2015));
  - b. Lack of appropriate instruction in math; or
  - c. Limited English proficiency.
3. The eligibility determination, including education needs, will be based on all of the information sources used in the evaluation process, and if the child is deemed eligible and in need of special education and related services, an IEP will be developed in accordance with §§300.320 through 300.324.

### **G. Additional Procedures for Identifying Children with Specific Learning Disabilities (§300.307)**

1. Haven Montessori Charter School will use the state-adopted criteria for determining whether a child has a specific learning disability through a process based on the child's response to scientific, research-based intervention in conformity with IDEA Regulations §§300.307–300.311; or
2. Haven Montessori Charter School will establish a criterion for determining whether a child has a specific learning disability through the identification of a severe discrepancy between intellectual ability and achievement in conformity with IDEA Regulations §§300.307–300.311; or
3. Haven Montessori Charter School will determine, on an individual child basis, the criteria for determining whether a child has a specific learning disability using one of the following criteria in conformity with IDEA Regulations §§300.307–300.311:
  - a. The state-adopted criteria based on a child's response to scientific, research-based intervention;
  - b. The identification of a severe discrepancy between intellectual ability and achievement.

### **H. Additional Group Members (§300.308)**

1. The determination of whether a child suspected of having a specific learning disability is a child with a disability must be made by the child's parents and a team of qualified professionals that must include:

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- a. The child's regular teacher; or
- b. If the child does not have a regular teacher, then a regular teacher qualified to teach children of that age;
- c. At least one person qualified to conduct individual diagnostic evaluation of children, such as a school psychologist, speech language pathologist, or remedial reading teacher.

### **I. Determining the Existence of a Specific Learning Disability (§300.309)**

1. A child may be determined to have a specific learning disability if:
  - a. The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or meet State-approved grade-level standards:
    - i. Oral expression
    - ii. Listening comprehension
    - iii. Written expression
    - iv. Basic reading skill
    - v. Reading fluency skills
    - vi. Reading comprehension
    - vii. Mathematics calculation
    - viii. Mathematics problem solving
  - b. The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas in (1)(a) when using a process based on the child's response to scientific, research-based intervention; or
  - c. The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments.
2. The findings of this section are not primarily the result of:
  - a. A visual, hearing, or motor disability;
  - b. Intellectual disability;
  - c. Emotional disturbance;
  - d. Cultural factors;
  - e. Environmental or economic disadvantage; or
  - f. Limited English proficiency.
3. The group must ensure that the underachievement is not due to a lack of appropriate instruction in reading or math and must consider:
  - a. Data that demonstrates that prior to, or as part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and

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- b. Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.
4. Haven Montessori Charter School must promptly request parent consent to evaluate if, prior to referral, the child has not made adequate progress after an appropriate period of time when provided instruction described in (3)(a) and (b).

### **J. Observation (§300.310)**

1. Haven Montessori Charter School must ensure that the child is observed in his/her learning environment, including the regular classroom setting, to document the child's academic performance and behavior in the areas of difficulty.
2. In the case of a child of less than school age or who is out of school, a group member must observe the child in an environment appropriate for a child of that age.

### **K. Specific Documentation for the Eligibility Determination (§300.311)**

1. For a child suspected of having a specific learning disability, the eligibility determination must contain a statement of:
  - a. Whether the child has a specific learning disability
  - b. The basis for making the determination, including an assurance the determination was made in accordance with the Individuals with Disabilities Education Act;
  - c. The relevant behavior, if any, noted during the observation and the relationship of that behavior to the child's academic functioning;
  - d. The educationally relevant medical findings, if any;
  - e. Whether the child does not achieve adequately for his/her age or to meet State-approved grade-level standards consistent with (1)(a); and does not make sufficient progress to meet age or State-approved grade-level standards consistent with (1)(b); or
  - f. The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards. or intellectual development consistent with (1)(c).
  - g. The determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency of the child's achievement level.
2. If the child participated in a process that assessed the child's response to scientific, research-based intervention, the determination must include:

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- a. The instructional strategies used and the student-centered data collected;
  - b. Documentation that the child's parents were notified about the State's policies regarding the amount and nature of student performance that would be collected and the general education services that would be provided;
  - c. Strategies for increasing the rate of learning; and
  - d. The parent's right to request an evaluation
3. Each group member must certify in writing whether the report reflects the member's conclusion. If it does not, the group member must submit a separate statement presenting the member's conclusions.

### **L. Evaluation/Reevaluation (AAC R7-2-401.E)**

1. Haven Montessori Charter School shall establish, implement, and make available to school-based personnel and parents written procedures for the initial full and individual evaluation of students suspected of having a disability, and for the reevaluation of students previously identified as being eligible for special education.
2. Procedures for the initial full and individual evaluation of children suspected of having a disability and for the reevaluation of students with disabilities shall meet the requirements of IDEA and its regulations, state statutes, and State Board of Education rules.
3. The initial evaluation of a child being considered for special education, or the reevaluation per a parental request of a student already receiving special education services, shall be conducted within 60 calendar days from the public education agency's receipt of the parent's informed written consent and shall conclude with date of the multidisciplinary evaluation team (MET) determination of eligibility.
4. If the parent requests the evaluation, Haven Montessori Charter School, within a reasonable amount of time not to exceed 15 school days from the date it receives a parent's written request for an evaluation, will either begin the evaluation by reviewing existing data or provide prior written notice refusing to conduct the requested evaluation. The 60-day evaluation period shall commence upon the PEA's receipt of the parent's informed written consent.
5. The 60-day evaluation period may be extended for an additional 30 days, provided it is in the best interest of the child and the parent and Haven Montessori Charter School agree in writing to such an extension. Neither the 60-day evaluation period nor any extension shall cause a reevaluation to exceed the timelines for a reevaluation within three years of the previous evaluation.
6. The public education agency may accept current information about the student from another state, public agency, public education

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agency, or through an independent educational evaluation. In such instances, the multidisciplinary evaluation team shall be responsible for reviewing and approving or supplementing an evaluation to meet the requirements identified in subsections (E)(1) through (7).

7. For the following disabilities, the full and individual initial evaluation shall include:
  - a. Emotional disability: verification of a disorder by a qualified professional.
  - b. Hearing impairment:
    - i. An audiological evaluation by a qualified professional, and
    - ii. An evaluation of communication/language proficiency.
  - c. Other health impairment: verification of a health impairment by a qualified professional.
  - d. Specific learning disability: a determination of whether the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development that meets the public education agency criteria through one of the following methods:
    - i. A discrepancy between achievement and ability;
    - ii. The child's response to scientific, research-based interventions; or
    - iii. Other alternative research-based procedures.
  - e. Orthopedic Impairment: verification of the physical disability by a qualified professional.
  - f. Speech Language Impairment: an evaluation by a qualified professional
  - g. For students whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written evaluation may be limited to:
    - i. An audiometric screening within the past calendar year,
    - ii. A review of academic history and classroom functioning
    - iii. An assessment of the speech problem by a speech therapist
    - iv. An assessment of the student's functional communication skills
  - h. Traumatic Brain Injury: verification of the injury by a qualified professional
  - i. Visual Impairment: verification of a visual impairment by a qualified professional
8. The multidisciplinary evaluation team shall determine, in accordance with the IDEA and regulations, whether the



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requirements of subsections 7(a) through (i) are required for student's reevaluation.

9. The MET/IEP team will provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.
10. The evaluation report will also include general information pertaining to:
  - a. whether the child has a category of disability or, in the case of re-evaluation if the child continues to be a child with a category of disability
  - b. The present levels of performance and educational needs
  - c. Whether the child needs special education and related services or continues to need special education and related services
  - d. Whether any additions and modifications to special education and related services needed to meet the measurable annual goals established in the IEP and to participate, as appropriate, in the general curriculum

### **INDIVIDUALIZED EDUCATION PROGRAMS**

Haven Montessori Charter School assures that an individualized education program (IEP) will be developed and implemented for each eligible child served by Haven Montessori Charter School and for each eligible child placed in or referred to a private school or facility by Haven Montessori Charter School in accordance with §§300.320-300.325 of the IDEA regulations.

Haven Montessori Charter School's procedures for individualized education programs include the following provisions:

#### **§300.320 Contents of the IEP**

- 1) The contents of each IEP will include a statement of:
  - a) The child's present levels of academic achievement and functional performance, including:
    - i) How the child's disability affects the child's involvement and progress in the general education curriculum;
  - b) Measurable annual goals, including academic and functional goals designed to:
    - i) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and
    - ii) Meet each of the child's other educational needs that result from the child's disability;
    - iii) For children with disabilities who take alternate assessments aligned to alternate achievement standards (MSAA and AIMS A), a description of benchmarks or short-term objectives;
  - c) How the child's progress toward meeting the IEP goals will be measured and

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- when periodic reports on the child's progress toward the goals will be provided;
- d) The special education and related services to be provided to the child, the supplementary aids and services to be provided to the child or on behalf of the child, and the program modifications or supports for school personnel that will be provided to enable the child:
    - i) To advance appropriately toward attaining the annual goals; and
    - ii) To be involved in and progress in the general education curriculum and to participate in extracurricular and other nonacademic activities with other children with disabilities and nondisabled children.
  - e) The extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and other nonacademic activities;
  - f) Any individual accommodations that are needed to measure the academic achievement and functional performance of the child on State and district-wide assessments;
  - g) If the IEP team determines that the child must take an alternate assessment instead of a particular regular State or district-wide assessment of student achievement, a statement of why:
    - i) the child cannot participate in the regular assessment; and
    - ii) the particular alternate assessment selected is appropriate for the child;
  - h) The projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications.

### **§300.321 The IEP Team**

- 1) The IEP team for each child with a disability will include:
  - a) The parents of the child;
  - b) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
  - c) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
  - d) A representative of Haven Montessori Charter School who:
    - i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
    - ii) Is knowledgeable about the general education curriculum; and
    - iii) Is knowledgeable about the availability of resources of the public education agency;
    - iv) May be a public education agency team member described in (b) through (f) if the above criteria are met.
  - e) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in (b) through (f).
  - f) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
    - i) A child of any age if the purpose of the meeting is to

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consider postsecondary goals and transition services needed to assist the child in reaching the IEP goals.

- ii) If the student does not attend the IEP meeting, the public education agency will take other steps to ensure that the student's preferences and interests are considered.
  - h) To the extent appropriate and with consent of the parents or the adult child, the public education agency will invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.
- 2) A member of the IEP team described in (1)(a) through (1)(e) is not required to attend the IEP meeting if the parent and the school agree in writing prior to the meeting that attendance is not necessary because the member's area of curriculum or related services is not being modified or discussed in the meeting.
  - 3) A member of the IEP team described in (1)(a) through (1)(e) may be excused from attending the IEP meeting in whole or part when the meeting involves a modification to or discussion of the member's area of the curriculum or related services if the parent and the public education agency consent to the excusal, in writing, and the member submits to the IEP team, in writing, input into the development of the IEP prior to the meeting.

### **§300.322 Parent Participation**

- 1) Haven Montessori Charter School will take steps to ensure the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate by:
  - a) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
  - b) Scheduling the meeting at a mutually agreed on time and place.
- 2) The meeting notice will:
  - a) Indicate the purpose, time, and location of the meeting and who will be in attendance; and
- 3) Inform the parents of the provisions relating to the participation of other individuals who have knowledge or special expertise about the child; if neither parent can attend, the public education agency will use other methods to ensure parent participation, including individual or conference telephone calls.
- 4) A meeting may be conducted without a parent in attendance if Haven Montessori Charter School is unable to convince the parents that they should attend. In this case, Haven Montessori Charter School will maintain a record of its attempts to arrange a mutually agreed on time and place, such as:
  - a) Detailed records of telephone calls made or attempted and the results of those calls;
  - b) Copies of correspondence sent to the parents and any responses received; and
  - c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.
- 5) The public education agency will take whatever action is necessary to help the parent understand the proceedings at the IEP meeting, including arranging for an

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interpreter for parents with deafness or whose native language is other than English.

- a) The public education agency will give the parent a copy of the child's IEP at no cost to the parent.

### **§300.323 When IEPs Must Be in Effect**

- 1) At the beginning of each school year, the public education agency must have in effect for each child with a disability in its jurisdiction, an IEP as defined in §300.320.
- 2) Haven Montessori Charter School will ensure that:
  - a) A meeting to develop an IEP for an eligible child is conducted within 30 days of a determination of eligibility for special education and related services.
  - b) As soon as possible following the development of the IEP, the services indicated in the IEP are made available to the child.
  - c) An IEP will be in effect at the beginning of each school year.
- 3) For children aged 2 years 9 months through 5 years who were previously served by AzEIP, the IEP team will consider the contents of the child's IFSP. An IFSP may serve as the IEP of the child if:
  - a) The agency has provided the parents with a detailed explanation of the differences between an IEP and an IFSP;
  - b) The parent and the agency agree in writing to the use of an IFSP;
  - c) The IFSP contains an educational component that promotes school readiness and includes pre-literacy, language, and numeric skills; and
  - d) The IFSP is developed in accordance with IEP procedures.
- 4) Haven Montessori Charter School will ensure that each child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for implementing the IEP.
  - a) Each teacher and related service provider will be informed of his or her specific responsibilities in implementing the IEP; and
  - b) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.
- 5) For a child with an IEP who transfers in to Haven Montessori Charter School from another public education agency in Arizona, Haven Montessori Charter School, in consultation with the parents, will provide a free appropriate public education (including services comparable to the services described in the existing IEP) until the agency:
  - a) Reviews and adopts the child's IEP from the previous public education agency or
  - b) Develops, adopts, and implements a new IEP.
- 6) For a child with an IEP who transfers in to Haven Montessori Charter School from another state, the public education agency, in consultation with the parents, will provide a free appropriate public education (including services comparable to the services described in the existing IEP) until the agency:
  - a) Conducts an evaluation for eligibility for special education in Arizona or determines that such an evaluation is unnecessary; and

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- b) Develops, adopts, and implements a new IEP, if appropriate.
- 7) To facilitate the transition of a child enrolling from another public education agency, either from within or from outside of Arizona, Haven Montessori Charter School will take reasonable steps to promptly obtain the child's education records, including all records pertaining to special education, from the previous public education agency in which the child was enrolled.
- 8) When a records request is received from another public agency, from either within or outside of Arizona, Haven Montessori School will respond promptly to the request.

### **§300.324 Development, Review, and Revision of an IEP**

- 1) In developing each child's IEP, the IEP team will consider:
  - a) The strengths of the child and the concerns of the parents for enhancing the education of their child;
  - b) The results of the initial or most recent evaluation of the child; and
  - c) The academic, developmental, and functional needs of the child.
- 2) In consideration of special factors, the IEP team must:
  - a) In the case of a child whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports and other strategies to address that behavior;
  - b) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
  - c) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille) that instruction in Braille or the use of Braille is not appropriate for the child;
  - d) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communication with peers and professional personnel in the child's language and communication mode, academic levels and full range of needs, including opportunities for direct instruction in the child's language and communication mode;
  - e) Consider whether the child requires assistive technology devices and services.
- 3) The regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including the determination of:
  - a) Appropriate positive behavioral interventions and strategies for the child; and
  - b) Supplementary aids and services, program modifications, and/or supports for school personnel that will be provided for the child, consistent with §300.320(a)(4).
- 4) In making changes to the IEP after the annual IEP meeting, the parent and Haven Montessori Charter School may agree to amend the IEP without a meeting to make those changes and instead, develop a written document to amend or modify the child's current IEP. The public education agency must:

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- a) Inform all members of the child's IEP team of those changes and
- b) Upon request, provide the parents with the revised copy of the IEP.
- 5) To the extent possible, Haven Montessori Charter School will encourage the consolidation of evaluation, reevaluation, and IEP meetings for a child.
- 6) Haven Montessori Charter School will ensure that the IEP team reviews the child's IEP periodically, but not less than annually, to determine if goals are being achieved and revises the IEP, when appropriate, to address:
  - a) Any lack of expected progress toward the annual goals and in the general education curriculum, if appropriate;
  - b) The results of any reevaluation;
  - c) Information about the child provided to, or by, the parents;
  - d) The child's anticipated needs, or other matters.

### **§300.325 Private School Placements by the Public Education Agency**

- 1) Before Haven Montessori Charter School places a child with a disability in a private school or facility, the agency must initiate and conduct a meeting to develop an IEP for the child and ensure that a representative of the private school or facility attends the meeting in person or by conference call.
- 2) Subsequent IEP reviews may be initiated and conducted by the private school at the discretion of Haven Montessori Charter School. However, the public education agency must ensure that:
  - a) The parents and the public education agency representative are involved in any decisions about the child's IEP; and
  - b) They agree to any proposed changes in the IEP before those changes are implemented.
- 3) The public education agency remains responsible for ensuring FAPE to a child placed by the public education agency in a private school or facility.

### **§300.327 Educational Placements**

Haven Montessori Charter School ensures that the parents of a child with a disability are members of any group that makes decisions on the educational placement of their child.

### **AAC R7-2-401.G Individualized Education Program (IEP)**

- 1) Haven Montessori Charter School shall establish, implement, and make available to its school-based personnel and parents written procedures for the development, implementation, review, and revision of IEPs.
- 2) Procedures for IEPs shall meet the requirements of the IDEA and its regulations, the state statutes, and the State Board of Education rules.
- 3) Procedures shall include the incorporation of Arizona academic standards as adopted by the State Board of Education into the development of each IEP and address grade-level expectations and grade-level content instruction.
- 4) Each IEP of a student with a disability shall be developed in accordance with IDEA and its regulations, state statutes, and State Board of Education rules. If appropriate to meet the needs of a student and to ensure access to the general

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curriculum, an IEP team may include specially designed instruction in the IEP that may be delivered in a variety of educational settings by a general education teacher or other certificated personnel provided that certificated special education personnel are involved in the planning, progress monitoring, and when appropriate, the delivery of the specially designed instruction.

- 5) Each student with a disability who has an IEP shall participate in the state assessment system. Students with disabilities can test with or without accommodations or modifications as indicated in the student's IEP. Students who are determined to have a significant cognitive disability based on the established eligibility criteria will be assessed with the state's alternate assessments as determined by the IEP team.
- 6) A meeting of the IEP team shall be conducted to review and revise each student's IEP at least annually, or more frequently if the student's progress substantially deviates from what was anticipated. Haven Montessori Charter School shall provide written notice of the meeting to the parents of the student to ensure that parents have the opportunity to participate in the meeting. After the annual review, Haven Montessori Charter School and parent may agree not to convene an IEP team meeting for the purposes of making changes, and instead may develop a written document to amend or modify the student's current IEP.
- 7) A parent or public education agency may request in writing a review of the IEP and shall identify the basis for requesting review. Such review shall take place within 45 school days of the receipt of the request at a mutually agreed upon date and time.

### **LEAST RESTRICTIVE ENVIRONMENT (LRE)**

Haven Montessori Charter School ensures children with disabilities, including children in public or private institutions or other care facilities, will be educated to the maximum extent appropriate with children who are not disabled in accordance with (§§300.114-300.117) of the IDEA regulations.

Haven Montessori Charter School's procedures for least restrictive environment (LRE) include the following provisions:

#### **A. LRE Requirements (§300.114)**

1. Haven Montessori Charter School will ensure that special classes, separate schooling, or other removals of children with disabilities from the regular educational environment occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

#### **B. Continuum of Alternative Placements §300.115**

1. A continuum of alternative placements to meet the needs of children with disabilities for special education and services must include:
  - a. Instruction in regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions

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- b. Supplementary services, such as a resource room or itinerant instruction, to be provided in conjunction with regular class placement

### **C. Placements §300.116**

1. The placement decision for each child will be:
  - a. Made by a group that includes the parents and other persons knowledgeable about the child, about the meaning of the evaluation data, and about the placement options;
  - b. In conformity with the LRE provisions of the IDEA regulations;
  - c. Determined at least annually;
  - d. Based on the child's IEP; and
  - e. As close as possible to the child's home.
2. Unless the IEP of a child requires some other arrangement, the child will be educated in the school that he or she would attend if not disabled.
3. In selecting the LRE, consideration will be given to any potential harmful effect on the child or on the quality of services that she or he needs.
4. A child with a disability will not be removed from age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

### **D. Nonacademic Settings (§300.117)**

1. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and other nonacademic activities, Haven Montessori Charter School will ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child.
2. Haven Montessori Charter School will ensure that the supplementary aids and services determined by the IEP team to be appropriate and necessary are provided to allow the child to participate in nonacademic settings.

### **E. Least Restrictive Environment (AAC R7-2-401)**

1. Haven Montessori Charter School will establish, implement and make available to its school-based personnel and parents, written procedures to ensure the delivery of special education services in the least restrictive environment as identified by IDEA and its regulations, the state statutes, and the State Board of Education rules.

## **PROCEDURAL SAFEGUARDS**

Haven Montessori Charter School shall ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education §300.500 through 300.536. The parents of a child with a disability shall be given an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child. Haven Montessori Charter School shall ensure that the parents of



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each child with a disability are members of any group that makes decisions on the educational placement of their child.

### **§300.501 Opportunity to Examine Records; Parent Participation in Meetings**

- 1) Haven Montessori Charter School will ensure that the parents of a child with a disability shall be given an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child.
- 2) Haven Montessori Charter School will ensure that the parents of a child with a disability shall:
  - a) Be given an opportunity to participate in meetings with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child.
  - b) Be provided notice consistent with §300.322 to ensure they have the opportunity to participate in meetings.
  - c) Be members of any group that makes decisions on the educational placement of their child.
- 3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, Haven Montessori Charter School must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.
- 4) A placement decision may be made by a group without the involvement of the parent, if Haven Montessori Charter School is unable to obtain the parent's participation and has maintained a record of its attempts to ensure their involvement.

### **§300.502 Independent Educational Evaluation**

- 1) The parents of a child with a disability have the right to obtain an independent educational evaluation of their child. Haven Montessori Charter School shall provide to parents, upon request for an independent educational evaluation:
  - a) Information about where an independent educational evaluation may be obtained; and
  - b) The agency criteria applicable for independent educational evaluations. Agency criteria for the independent educational evaluation must be the same as the criteria the agency uses when it conducts an evaluation, to the extent consistent with the parent's right to an evaluation.
- 2) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public education agency. If a parent requests an independent educational evaluation at public expense, Haven Montessori Charter School must, without unnecessary delay, either:
  - a) File for a due process hearing to show that its evaluation is appropriate; or
  - b) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing that the evaluation obtained by the parent did not meet agency criteria.
- 3) If a due process hearing decision is that Haven Montessori Charter School's

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evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

- 4) If a parent requests an independent educational evaluation, Haven Montessori Charter School may ask for the parent's reasons for the objections but may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a request for due process to defend its evaluation.
- 5) A parent is entitled to only one independent educational evaluation at public expense each time the public education agency conducts an evaluation with which the parent disagrees.
  - a) The results of any independent educational evaluation that is obtained by or provided to the public education agency:
  - b) Must be considered by the public education agency if it meets agency criteria in any decision with respect to the provision of FAPE to the child; and
  - c) May be presented by any party as evidence in a due process hearing.  
If a hearing officer requests an independent educational evaluation as part of a due process hearing, the cost of the evaluation must be at public expense.

### **§300.503 Prior Notice by the Public Education Agency; Content of Notice**

- 1) Written notice must be given to the parents of a child with a disability a reasonable time before Haven Montessori Charter School:
  - a) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
  - b) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.
- 2) The notice will include:
  - a) A description of the action proposed or refused;
  - b) An explanation of why Haven Montessori Charter School proposes or refuses to take the action;
  - c) A description of each evaluation procedure, assessment, record, or report that was used as a basis for the proposed or refused action;
  - d) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part, and if this notice is not an initial referral for evaluation, how a copy of a description of the procedural safeguards can be obtained;
  - e) Sources for parents to contact to obtain assistance in understanding the provisions of this part;
  - f) A description of other options that the IEP team considered and the reasons why those options were rejected;
  - g) A description of other factors that are relevant to the proposal or refusal.
- 3) The notice must be written in language understandable to the general public and provided in the native language or other mode of communication used by the parent.
- 4) If the native language or other mode of communication used by the parent is not a written language, the agency must ensure:

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- a) The notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
- b) That the parent understands the content of the notice;
- c) That there is written evidence of these requirements.

### **§300.504 Procedural Safeguards Notice**

- 1) A copy of the procedural safeguards available to the parent of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents:
  - a) Upon initial referral or parent request for evaluation;
  - b) Upon receipt of a first complaint to the State or first request for a due process hearing in a school year;
  - c) When a disciplinary change of placement/removal has been initiated; or
  - d) Upon request by a parent.
- 2) The procedural safeguards notice must include a full explanation of all the procedural safeguards available under §300.148, §§300.151– 300.153, §300.300, §§300.502–300.503, §§300.505–300.515, §300.520, §§300.530–300.536, and §§300.610–300.625 relating to:
  - a) Independent educational evaluations;
  - b) Prior written notice;
  - c) Parental consent;
  - d) Access to education records;
  - e) Opportunity to present and resolve complaints through the due process hearing and State complaint procedures, including:
    - i) The time period in which to file a complaint;
    - ii) The opportunity for the agency to resolve the complaint;
    - iii) The difference between due process hearing and State complaint procedures, jurisdictions, issues that may be raised, timelines, and relevant procedures.
  - f) The availability of mediation;
  - g) The child’s placement during the due process hearing;
  - h) Procedures for students subjected to placement in an interim alternative educational setting;
  - i) Requirements for unilateral placements by parents of children in private schools at public expense;
  - j) Due process hearings including requirements for disclosure of evaluation results and recommendations;
  - k) Civil actions, including timelines; and
  - l) Attorney fees.
- 3) This notice must meet the same requirements for understandable language as for the written prior notice described in §300.503.

### **§300.505 Electronic Mail**

- 1) The parent of a child with a disability may elect to receive required notices by an electronic mail communication.

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### **§300.506 Mediation**

- 1) Haven Montessori Charter School will establish procedures to allow parties to dispute (including those matters arising prior to a request for a due process hearing) to resolve disputes through mediation. Procedures will ensure that the mediation process:
  - a) Is voluntary on the part of the parties;
  - b) Is not used to deny or delay a parent's right to a due process hearing or any other right under the IDEA; and
  - c) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
- 2) Haven Montessori Charter School may establish procedures to offer parents that choose not to use mediation an opportunity to meet at a time and location convenient to the parties with a disinterested party:
  - a) Who is under contract with an appropriate alternative dispute resolution entity, a parent training and information center, or community parent resource center; and
  - b) Who would explain the benefits of and encourage the mediation process to the parents.

### **§300.507 Filing a Due Process Complaint**

- 1) A parent or Haven Montessori Charter School may file a request for a due process hearing relating to the identification, evaluation, or educational placement of a child with a disability.
- 2) The request for a due process hearing must allege a violation that occurred not more than two years before the date the parent or Haven Montessori Charter School knew or should have known about the alleged violation.
- 3) Haven Montessori Charter school shall inform the parent of any free or low cost legal and other relevant services available in the area upon parent request.

### **§300.508 Due Process Complaint (Hearing)**

- 1) Haven Montessori Charter School will have procedures that require either party, or the attorney representing a party, to provide to the other party a confidential due process complaint.
- 2) The party filing the notice for a hearing must forward a copy of the request to the State.
- 3) The due process hearing complaint must include the following in order for the complaint to be heard:
  - a) The name of the child;
  - b) The residential address of the child;
  - c) The school of attendance;
  - d) Description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and
  - e) Proposed resolution of the problem to the extent known and available to the party at the time.
- 4) The due process complaint will be deemed sufficient unless the party receiving

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- the complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the complaint, that it believes the complaint does not meet the content requirements.
- 5) Within five days of receipt of notice, the hearing officer must determine whether the complaint meets the requirements and notify the parties, in writing, of that determination.
  - 6) A party may amend its due process complaint only if:
    - a) The other party consents in writing and is given an opportunity to resolve the complaint through the resolution process; or
    - b) The hearing officer grants permission, but in no case is it amended later than five days before the due process hearing begins.
  - 7) If a party files an amended complaint, the relevant timelines begin again.
  - 8) Haven Montessori Charter School must send a prior written notice to the parent regarding the subject matter contained in the due process complaint, within 10 days of receiving the complaint.
  - 9) Within 10 days of receiving the complaint, the receiving party will send to the other party a response that specifically addresses the issues raised in the due process complaint.

### **§300.510 Resolution Process**

- 1) Within 15 days of receiving the notice of the parent's due process complaint and prior to the initiation of a due process hearing, Haven Montessori Charter School shall convene a meeting with the parent and the relevant members of the IEP team who have specific knowledge of the facts identified in the complaint that:
  - a) Includes a representative of the public education agency who has agency decision-making authority;
  - b) May not include an attorney of the public education agency unless the parent is accompanied by an attorney.
- 2) The purpose of the meeting is for the parent of the child to discuss the due process complaint and the factual basis of the complaint so that Haven Montessori Charter School has the opportunity to resolve the dispute.
- 3) The resolution meeting need not be held if:
  - a) The parent and Haven Montessori Charter School agree in writing to waive the meeting; or
  - b) The parent and Haven Montessori Charter School agree to use the mediation process.
- 4) The parent and the Haven Montessori Charter School determine the relevant IEP team members to attend the meeting.
- 5) If Haven Montessori Charter School has not resolved the complaint to the satisfaction of the parent within 30 days of the receipt of the complaint, the due process hearing may occur. The timeline for issuing a final decision begins at the end of this 30-day period.

The failure of the parent to participate in the resolution meeting that has not been mutually agreed to be waived will delay the timelines for the resolution process and due process hearing until the meeting is held.

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- 7) If Haven Montessori Charter School is unable to obtain the participation of the parent after reasonable efforts have been made and documented, the agency may, at the end of the 30-day period, request that the hearing officer dismiss the parent's due process complaint.
- 8) If Haven Montessori Charter School fails to hold the resolution meeting within 15 days of receiving the complaint or fails to participate in the meeting, the parent may request that the hearing officer begin the hearing timeline.
- 9) The 45-day timeline for the due process hearing starts the day after:
  - a) Both parties agree in writing to waive the resolution meeting; OR
  - b) After either the mediation or resolution meeting starts but before the end of the 30-day resolution period, the parties agree in writing that no agreement is possible; OR
  - c) If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, one party withdraws from the mediation process.
- 10) If a resolution is reached at the meeting, the parties must execute a legally binding agreement that is:
  - a) Signed by both the parent and public education agency representative who has authority to legally bind the agency; and
  - b) Enforceable in any state court of competent jurisdiction or in a district court of the United States.
- 11) Either party may void the agreement within 3 business days of the agreement's execution.

### **§300.518 Child's Status during Proceedings**

- 1) The child involved in the due process hearing complaint must remain in his or her current educational placement:
  - a) Unless a discipline appeal has been filed as provided in §300.533;
  - b) During the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing under §300.507; or
  - c) Unless the public education agency and parents of the child agree otherwise.
- 2) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.
- 3) If the hearing officer agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the State and parent for the purposes of (1)(c) of this section

### **§300.519 Surrogate Parents**

- 1) Haven Montessori Charter School will ensure that the rights of a child are protected by assigning an individual to act as a surrogate for the parents when:
  - a) No parent can be identified;
  - b) After reasonable efforts are made, no parent can be located;

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- c) The child is a ward of the State (with no foster parent); or
  - d) The child is an unaccompanied homeless youth as defined by the McKinney-Vento Homeless Assistance Act;
- 2) Haven Montessori Charter School will have a method for determining when a surrogate parent is needed and for making surrogate parent assignments.
  - 3) Haven Montessori Charter School will ensure that a person selected as a surrogate parent:
    - a) Is not an employee of the State, the agency, or any other agency that is involved in the education or care of the child;
    - b) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and
    - c) Has knowledge and skills that ensure adequate representation of the child.
  - 4) In the case of an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents until a surrogate parent can be appointed that meets all the requirements of this section.

### **AAC R7-2-401.I Procedural Safeguards**

- 1) Haven Montessori Charter School shall establish, implement, and make available to school-based personnel and parents of students with disabilities written procedures to ensure children with disabilities and their parents are afforded the procedural safeguards required by federal statute and regulation and state statute. These procedures shall include dissemination of information to parents about the public education agency's and the state's dispute resolution options.
- 2) In accordance with the requirements of IDEA, prior written notice shall be provided to the parents of a child within a reasonable time after the PEA proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, educational placement or provision of FAPE to the child, but before the decision is implemented.

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### CONFIDENTIALITY OF INFORMATION

Haven Montessori Charter School will ensure that protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the agency will be in accordance with 34 CFR §§300.611–300.627.

Haven Montessori Charter School’s procedures for confidentiality of information include the following provisions:

#### **§300.613 Access Rights**

- 1) Haven Montessori Charter school permits parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under IDEA. The agency must comply with a request without unnecessary delay and in no case more than 45 days after the request has been made and before:
  - a) Any IEP meeting;
  - b) Any hearing involving a due process complaint or disciplinary hearing; or
  - c) Any resolution session.
- 2) The right to inspect and review education records includes:
  - a) The right to a response from the agency to reasonable requests for explanations and interpretations of the records;
  - b) The right to request that the agency provide copies of the records if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
  - c) The right to have a representative of the parent inspect and review the records.
- 3) Haven Montessori Charter School may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised to the contrary by legal proceeding involving guardianship, separation, and divorce.

#### **§300.614 Record of Access**

The public education agency will keep a record of parties obtaining access to education records collected, maintained, or used under IDEA (except access by parents and authorized employees of the agency), including:

- a) The name of the party;
- b) The date access was given; and
- c) the purpose for which the party is authorized to use the records

#### **§300.615 Records on More Than One Child**

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child.

#### **§300.616 Lists of Types and Locations of Information**

Haven Montessori Charter School must provide parents on request a list of the types and



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locations of education records collected, maintained, or used by Haven Montessori Charter School.

### **§300.617 Fees**

- 1) Haven Montessori Charter School may charge a fee for copies of records that are made for parents if the fee does not effectively prevent the parents from exercising their right to inspect and review records.
- 2) Haven Montessori Charter School may not charge a fee to search for or to retrieve information.

### **§300.618 Amendment of Records at Parent's Request**

- 1) A parent who believes that information in the education records collected, maintained, or used by Haven Montessori Charter school is inaccurate or misleading or violates the privacy or other rights of the child may request the agency to amend the information.
- 2) Haven Montessori Charter School will decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.
- 3) If Haven Montessori Charter School refuses to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under §300.619.

### **§300.619 Opportunity for a Hearing**

Haven Montessori Charter School will, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

### **§300.620 Result of Hearing**

- 1) If, as a result of a hearing, Haven Montessori Charter School decides to amend information determined inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must do so accordingly and so inform the parent in writing.
- 2) If, as a result of a hearing, Haven Montessori decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parent of the parent's right to place in the maintained records a statement commenting on the information or setting forth any reasons for disagreeing with the agency's decision.

### **§300.622 Consent**

- 1) Parental consent must be obtained before personally identifiable information is disclosed to parties other than participating agencies, unless the information is contained in education records and the disclosure is authorized without parent

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consent under FERPA.

- 2) Parental consent must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with §300.321.
- 3) If a child is enrolled, or is going to enroll, in a private school that is not located in the boundaries of the district of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the district where the private school is located and officials in the district of the parent's residence.

### **AAC R7-2-401.J(4) Confidentiality**

Upon receiving a written request, Haven Montessori Charter School shall forward special education records to any other public education agency in which a student has enrolled or is seeking to enroll. Records shall be forwarded within the time-frame specified in A.R.S. § 15- 828(F). Haven Montessori Charter School shall also forward records to any other person or agency for which the parents have given signed permission.

### **§300.623 Safeguards**

- 1) Haven Montessori Charter School will protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
- 2) One official at Haven Montessori Charter School agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.
- 3) All persons collecting or using personally identifiable information will receive training or instruction regarding the State's policies and procedures under 300.123 and FERPA (34 CFR part 99).
- 4) Haven Montessori Charter School will maintain, for public inspection, a current listing of the names and positions of its employees who may have access to personally identifiable information.

### **AAC R7-2-401.J(1) Confidentiality**

Haven Montessori Charter School shall establish, implement, and make available to its personnel and parents written policies and procedures to ensure the confidentiality of records and information in accordance with the IDEA and its regulations, the Family Educational Rights and Privacy Act (FERPA) and its regulations, and state statutes.

### **§300.624 Destruction of Information**

- 1) Haven Montessori Charter School will inform parents when personally identifiable information collected, maintained, or used for IDEA purposes is no longer needed to provide educational services to the child.
- 2) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may

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be maintained without time limitation.

### **AAC R7-2-401.J(2) Confidentiality**

Parents shall be fully informed about the requirements of the IDEA and regulations, including an annual notice of the policies and procedures that the PEA shall follow regarding storage, disclosure to a third party, retention, and destruction of personally identifiable information.

### **§300.532 Appeal**

- 1) The parent of a child with a disability who disagrees with any decision regarding placement under §§300.530 and 300.531 or the manifestation determination may appeal the decision by requesting an expedited due process hearing in conformance with §§300.310 through 300.314 and AAC R7-2-405.I.
- 2) If Haven Montessori Charter School believes that maintaining the current placement of the child is substantially likely to cause injury to the child or others may appeal the decision by requesting an expedited due process hearing in conformance with §§300.310 through 300.314 and AAC R7-2-405.I.

### **§300.533 Placement during Appeals**

The student must remain in the interim alternative educational setting pending the decision of the hearing officer or expiration of the interim setting, whichever comes first, unless the parent and public education agency agree otherwise.

### **§300.534 Protections for Children Not Determined Eligible for Special Education and Related Services**

- 1) A student who has not been determined eligible and who engaged in a behavior that violated a code of student conduct may assert protections if Haven Montessori Charter School had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred. Haven Montessori Charter School would be deemed to have such knowledge if:
  - a) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;
  - b) The parent of the child requested an evaluation of the child pursuant to §§300.300 through 300.311; or
- 2) The teacher of the child, or other personnel of Haven Montessori Charter School expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education or to other supervisory personnel of the agency. A public education agency would not be deemed to have knowledge if the parent of the child:
  - a) Has not allowed an IDEA evaluation of the child;
  - b) Has refused special education services for the child; or
  - c) The child has been evaluated and determined to not be a child with a

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disability under IDEA.

- 3) If Haven Montessori Charter School does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be disciplined as other children without disabilities who engage in comparable behaviors.
- 4) If an evaluation is requested during the time in which a child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.
  - a) Until the evaluation is completed, the child remains in the educational placement determined by the public education agency, which can include suspension or expulsion without educational services.
  - b) If the child is determined to be a child with a disability, the agency must provide special education and related services in accordance with this part, including the requirements of §§300.530 through 300.536.

### **§300.535 Referral to and Action by Law Enforcement and Judicial Authorities**

- 1) Haven Montessori Charter School may report a crime committed by a child with a disability to appropriate authorities to enable the agency to exercise its responsibilities.
- 2) An agency reporting a crime committed by a child with a disability will ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime, but only to the extent permitted by FERPA.

### **§300.536 Change of Placement Because of Disciplinary Removals**

- 1) A change of placement occurs if:
  - a) The removal is for more than 10 consecutive school days; or
  - b) The child has been subjected to a series of removals that constitute a pattern:
    - i) because the series of removals total more than 10 school days in a school year;
    - ii) because the child's behavior is substantially similar to the behavior in previous incidents that resulted in a series of removals; and
    - iii) because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.
- 2) Haven Montessori Charter School will determine on a case-by-case basis whether a pattern of removals constitutes a change of placement, and such determinations are subject to review through due process and judicial proceedings.

## **DISCIPLINE**

A child with a disability may be disciplined for a violation of the student code of conduct, including removal from his or her current placement to an appropriate interim alternative

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educational setting, another setting, suspension, or expulsion in accordance with IDEA Regulations §§300.530 through 300.536.

Haven Montessori Charter School's procedures for discipline include the following provisions:

### **§300.530 Authority of School Personnel**

- 1) On a case-by-case basis and in consideration of any unique circumstances, school personnel may remove a child with a disability who violates a student code of conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement under §300.536.
- 2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal, the Haven Montessori Charter School must provide services to the extent required to:
  - a) Enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting his/her IEP goals; and
  - b) Receive, as appropriate, a functional behavioral assessment, behavioral intervention services, and modifications that are designed to address the behavior violation so that it does not recur.
- 3) Haven Montessori Charter School is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 days or less in that school year, if it provides services to nondisabled children similarly removed.
- 4) After a child with a disability has been removed from his or her current placement for 10 school days and the current removal is for not more than 10 consecutive school days and not a change of placement, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed, so as to enable the child to continue to participate in the general education curriculum and to progress toward meeting the IEP goals.
- 5) If the removal is a change in placement, the child's IEP team determines the appropriate services.
- 6) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the public education agency, parent, and relevant members of the IEP team must review all relevant information in the student's file, the IEP, teacher observations, and any relevant information to determine:
  - a) If the conduct was caused by, or had a direct and substantial relationship to, the child's disability; or
  - b) If the conduct in question was the direct result of the public education agency's failure to implement the IEP.

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- 7) The conduct must be determined to be a manifestation of the disability if either (6)(a) or (b) occurred, and if the IEP was not implemented, then Haven Montessori Charter School will take immediate steps to remedy that deficiency.
- 8) If Haven Montessori Charter School, parent, and relevant members of the IEP team determine that the conduct was a manifestation of the child's disability, the child must be returned to the placement from which the child was removed, unless the parent and public education agency agree to a change of placement. The IEP team must either:
  - a) Conduct a functional behavioral assessment, unless one has already been done, and implement a behavioral intervention plan; or
  - b) If a behavioral intervention plan has already been developed, review the plan and modify it, as necessary, to address the behavior.
- 9) School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to manifestation of disability if the child:
  - a) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of a state or public education agency;
  - b) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a state or public education agency; or
  - c) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a state or public education agency.
- 7) The public education agency will notify parents and provide notice of procedural safeguards on the day the PEA determines the student has violated the code of conduct and the violation constitutes a change of placement (i.e., interim alternative education setting).

### **AAC R7-2-401.P Suspension and Expulsion**

- 1) Haven Montessori Charter School shall establish, implement, and make available to personnel and parents written procedures for the suspension and expulsion of students with disabilities.
- 2) All school-based staff involved in the disciplinary process will review the policies and procedures related to suspension and expulsion on an annual basis. The public education agency shall maintain documentation of staff review.
- 3) Procedures for such suspensions and expulsions shall meet the requirements of the IDEA and its regulations, and state statutes.

### **§300.531 Determination of Setting**

- 4) The child's IEP team determines the interim alternative educational setting for services.