

# IDEA Policies and Procedures

## Hawthorn Academy's Manual



### **Mission Statement**

OUR MISSION is to provide an exciting and enabling learning environment where students will develop a desire to explore and understand the world around them; be inspired to set and reach personal goals, and become lifelong seekers of knowledge. We will provide challenging academics utilizing a proven methodology that will foster students who are responsible citizens, intellectually capable, and competitive in every aspect of society. Students will develop self-respect and self-discipline in a safe and supportive environment.

### **Vision Statement**

Hawthorn Academy provides a safe environment where inquiry based, and data driven differentiated instruction fosters confident, independent learners who will become balanced, productive, contributing members of a global society.

# GENERAL POLICY STATEMENT

Hawthorn Academy  
Special Education

It is the policy of Hawthorn Academy to adhere to and comply with federal and state laws and rules as they pertain to students with disabilities and the provision of a free appropriate public education to all students within the school, regardless of the nature or severity of the disability.

The purpose of this Special Education Policies and Procedures Manual is to ensure students with disabilities or suspected disabilities will be identified, evaluated, and provided appropriate educational services and/or accommodations within the definitions of IDEA 2004, ADA and Section 504.

Due process rights of students with disabilities and their parents under IDEA 2004, Section 504 of the Rehabilitation Act, and ADA are required. Students may be identified as disabled under the latter two of these laws even though they may not require specialized educational services. Confidentiality of student information and access to student files will meet the standards of the Family Educational Rights and Privacy Act (FERPA) and the Utah Ethics Act.

Hawthorn Academy is required to develop policies and procedures in the following areas:

- Specific Learning Disabilities (SLD) Eligibility
- Least Restrictive Behavioral Interventions (LRBI)
- Caseloads

Hawthorn Academy recognizes the Documents set forth by the Utah State Office of Education on each of these areas and accepts them as best practice; adhering to them as set forth. Hawthorn Academy's Special Education Policies and Procedures Manual (August 2019) is on file in the School's policy binder and at the Utah State Office of Education and posted on Hawthorn Academy's website.

References:

- Individuals with Disabilities Education Improvement Act (IDEA 2004)
- Utah State Board of Education Special Education Rules (August 2008)
- Utah State Board Rule
- Utah Code
- Section 504 of the Rehabilitation Act
- Americans with Disabilities Act (ADA)
- Family Educational Rights and Privacy Act (FERPA)

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## I. GENERAL PROVISIONS (USBE SER I)

### A. *Policies and Procedures*

Hawthorn Academy, in providing for the education of students with disabilities enrolled in its school, has in effect policies, procedures, and programs that are consistent with the Utah State Board of Education Special Education Rules (USBE SER) as described in this Policies and Procedures Manual.

### B. *Definitions.*

1. Hawthorn Academy (Elementary and Secondary Education Act (ESEA) of 1965 Section 5210(1)). (USBE SER I.E.6) is a public school that functions as an LEA, unless it is a school of an LEA, that:
  - a. Is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of the ESEA;
  - b. Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;
  - c. Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;
  - d. Provides a program of elementary or secondary education, or both;
  - e. Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
  - f. Does not charge tuition;
  - g. Complies with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Part B of the Individuals with Disabilities Education Act (IDEA);
  - h. Is a school to which parents choose to send their students, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

- i. Agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;
- j. Meets all applicable Federal, State, and local health and safety requirements;
- k. Operates in accordance with State law; and
- l. Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

2. Hawthorn Academy has adopted all of the other applicable definitions as found in USBE SER I.E.1-44.

**C. Budget Information and Categories**

Hawthorn Academy provides detailed budget information and budget categories in its annual application for IDEA Part B funding submitted to the Utah State Office of Education (USOE).

**D. Assurances.**

Students are admitted to Hawthorn Academy based solely on the lottery and other requirements under the Utah Code and the USBE Administrative Rules for Charter Schools, and without restrictions due to race, color, gender, national origin, disability status, or religion. Assurances with regard to compliance with IDEA Part A and Part B, as well as the National Instructional Materials Accessibility Standard, and compliance with other Federal laws including “New Restrictions on Lobbying, Debarment, Suspension, and Other Responsibility Matters,” and the Drug-Free Workplace Act of 1988 are submitted to the USOE annually with the application for IDEA Part B funding.

**E. General Program Description.**

Hawthorn Academy has two campuses located within the Jordan School District. The first campus is located at 9062 South 2200 West, West Jordan, Utah and the second campus is located at 1437 West 11400 South, South Jordan, Utah. The West Jordan campus is a two story facility sitting on approximately 5 acres of land and includes a multipurpose room, 1 library, 1 computer lab, administrative offices 35 classrooms, and 2 breakout rooms (for sub-grouping of students). The South Jordan campus is a 1 story building that includes a multipurpose room, lunch room, gym, stage, and multiple classrooms.

All students are enrolled at Hawthorn Academy through the normal registration and lottery procedures. Currently, Hawthorn Academy has over 1200 students enrolled in grades K-9. Eighty-five percent of the current student enrollment has been drawn from Jordan School District. The student population is presented by the following ethnicities:

- Asian
- Black
- Hispanic
- Native American
- Pacific Islanders
- Undeclared

Hawthorn Academy has an International Baccalaureate focus aimed at developing knowledgeable and caring young people who help to create a better and more peaceful world through intercultural understanding and respect. The mission of Hawthorn Academy is to provide an exciting and enabling learning environment where students will develop a desire to explore and understand the world around them; be inspired to set and reach personal goals, and become lifelong seekers of knowledge. The Utah Core Curriculum is the foundation for the curriculum in all grade levels, with basal and supplementary materials used for daily instruction in classrooms.

**F. Free Appropriate Public Education (FAPE)**

1. Hawthorn Academy follows the requirements of Charter Schools and Their Students (USBE SER III.O)
  - a. Students with disabilities ages 3 through 21 who attend public charter schools and their parents retain all rights under Part B of the IDEA and the USBE SER.
  - b. Hawthorn Academy is an LEA that receives funding under Part B, and is responsible for ensuring that all of the requirements of Part B of the IDEA and these Rules are met.
  - c. Hawthorn Academy, a public charter school, provides a Free Appropriate Public Education (FAPE) to all eligible students with disabilities in conformity with the requirements of the Utah State Board of Education Special Education Rules (USBE SER) and the United States Department of Education Final Regulations for the Individuals with Disabilities Education Act of 2004 (IDEA) August 2006.
2. Free appropriate public education (FAPE). (USBE SER I.E.15) Special education and related services that:
  - a. Are provided at public expense, under public supervision and direction, and without charge;
  - b. Meet the standards of the USOE and Part B of the IDEA;

- c. Include preschool, elementary school, and secondary school education in Utah; and
- d. Are provided in conformity with an Individualized Education Program (IEP) that meets the requirements of Part B of the IDEA and these Rules.

**G. Full Educational Opportunity Goal (FEOG).**

Hawthorn Academy hereby affirms the goal of providing a full educational opportunity to all students with disabilities determined eligible for special education or special education and related services under the IDEA and the USBE SER, of the ages served by the Charter School between 3 and 22, and in accordance with all of the timeline requirements of the IDEA with respect to the identification, location, evaluation, and provision of a free appropriate public education.



## II. IDENTIFICATION, LOCATION, and EVALUATION of STUDENTS SUSPECTED of HAVING DISABILITIES

### A. *Child Find. (USBE SER II)*

Hawthorn Academy has policies and procedures to ensure that all students with disabilities enrolled in the grades served by the school, including students who are highly mobile, students who have been suspended or expelled from school, and those who are suspected of being a student with a disability and who are in need of special education or special education and related services even though they are advancing from grade to grade, and regardless of the severity of the disability, are identified, located, and evaluated. This includes a practical method for determining which students are currently receiving needed special education or special education and related services.

### B. *Child Find Procedures.*

Hawthorn Academy conducts the following procedures to ensure that students suspected of having a disability are identified and located:

1. Finding students who have been receiving needed special education or special education and related services.
  - a. The enrollment application includes questions about whether a student has received special education or special education and related services in the previous school or educational program.
  - b. Parents are asked during registration if the student(s) received any services beyond the general program in the previous school.
  - c. If parents respond in the affirmative, a phone contact is made with the previous school to locate the special education records.
  - d. Hawthorn Academy follows all the procedures detailed on the In-State and Out-of-State Transfer Student Checklist of the USOE.
2. In identifying and locating students who are suspected of having a disability but have not been previously identified or determined eligible for special education or special education and related services, Hawthorn Academy implements the following procedures:
  - a. Annual training of all staff on the Child Find obligation and how to be alert for observed academic and/or other performance indicators, including behaviors, that suggest a suspected disability.

- b. Notice on the school’s website of the referral procedures and of the availability of services for eligible students with disabilities.
- c. If a parent or staff member is concerned about a student outside the grade levels of the charter school, the parent or staff member is referred to the district of the student’s parent’s residence.

**C. Referral.**

1. Procedure.

When a parent or staff member suspects a student may have a disability, the following referral procedure is implemented:

- a. Teachers implement research-based and/or peer-reviewed interventions and provide documentation of the results on the *Documentation of Response to Intervention Form* which is then reviewed by the school’s problem-solving team: the Child Study Team (CST). The CST includes an administrator, at least one special and general education teachers, and others as necessary (see additional description of the CST in the SLD evaluation process in Section II of this Manual).
- b. Note: Pre-referral interventions may not be used to substantially delay an evaluation for eligibility if it is determined necessary.
- c. The school’s problem-solving team reviews student progress, identifies recommendations for instructional and/or behavioral interventions as needed and considers the need for a referral. The team must determine whether interventions have been implemented with fidelity and for a sufficient amount of time. A referral is completed if an evaluation for special education is recommended. The referral form should document parent contacts regarding concerns about the student’s educational performance.
- d. Evaluation. *The Documentation of Response to Intervention Form*, accompanying data, and the *Referral Form* are submitted to one of the school’s administrator, who reviewed the existing data on the student (including the problem-solving team’s recommendations) and determines if the referral warrants a full evaluation.

The review of existing data and evaluation determination is conducted in collaboration with the problem-solving team. If the action taken is to conduct a full evaluation, the Special Education Director is assigned to coordinate all areas to be assessed as part of the full evaluation.

If the referral is not going to result in a full evaluation, the school's administrator in collaboration with the Special Education Director should send the parents a *Written Prior Notice of Refusal* to take the action of conducting a full evaluation and existing data; information should be placed in an inactive special education folder.

#### D. Evaluation.

##### 1. Parental Consent.

Prior to initiating a full and complete individual evaluation, parental consent is required. The consent informs the parent that the evaluation is being proposed because the student is suspected of having a disability that affects his educational performance and that he/she may be eligible for special education or special education and related services. The consent indicates the areas in which the evaluation team will conduct tests or administer other assessment tools to the student. Consent for evaluation must not be construed as consent for provisions of special education services.

Reasonable efforts to obtain parental consent are made and documented by Hawthorn Academy. Hawthorn Academy follows the requirements of USBE II.C.4 with respect to parents who cannot be located.

Parental consent is not required before administering a test or other evaluation that is given to all students, or before conducting a review of existing data.

##### 2. Written Prior Notice.

The parent is given *Written Prior Notice* that the evaluation will take place (See Section IV.C of this Policy and Procedures Manual for required components of *Written Prior Notice*). *Written Prior Notice* is embedded in Hawthorn Academy's *Consent for Evaluation Form*.

##### 3. Evaluation Timeline.

When the signed parental consent or refusal of consent for evaluation is received at the school, the assigned special education teacher writes the date it was received on the form to document the beginning of the timeline for the evaluation. Hawthorn Academy completes all evaluations within 45 school days of receiving the consent. The 45 school day timeline does not apply if the parent fails to produce the student for the evaluation. If the student enrolls in Hawthorn Academy after the timeframe has started in a previous LEA, Hawthorn Academy must make sufficient progress to ensure prompt compliance in accordance with a written agreement with the parent as to when the evaluation will be completed.

#### 4. Evaluation Process.

##### a. Review of Existing Data.

When conducting an initial evaluation (when appropriate), the evaluation team considers existing data on the student's educational performance. This may include student records of grades, courses completed, statewide test results, LEA-wide test results, classroom assessments, teacher interviews, observations, notes in the student's cumulative file, and any other information available.

##### b. Administration of Additional Assessments.

Additionally, the special education staff administers assessments in other areas as part of a full and individual initial evaluation, as indicated on the *Consent for Evaluation*, in order to determine eligibility and the student's educational needs. The test administration follows all of the requirements of the USBER SER II.F-H, including:

- I. Use of a variety of assessment tools
- II. Use of more than one procedure
- III. Use of technically sound instruments
- IV. Selection of tools that are not discriminatory on a racial or cultural basis
- V. Administration in student's native language or mode of communication
- VI. Use of assessments for the purposes intended and in accordance with the publisher's administration standards
- VII. Administration by trained and knowledgeable personnel
- VIII. Use of tools that assess what they purport to measure and not just the student's disability
- IX. Assessment in all areas related to the student's suspected disability
- X. Comprehensive assessment, not just in areas commonly associated with the specific disability

##### c. Evaluation Requirements.

Evaluations for students suspected in each of the 13 areas of disability include the requirements for evaluation procedures and assessment of student performance in specific areas identified in USBE SER II.J.1-13.

**E. *Reevaluation Procedures. (USBE SER II.G)***

1. Hawthorn Academy conducts a reevaluation of each student with a disability when the educational or related services needs, including improved academic achievement and functional performance of a student warrant a reevaluation; or if the student's parent or teacher requests a reevaluation.
2. Parental Consent for Reevaluations.
  - a. Hawthorn Academy obtains informed parental consent prior to conducting assessments as part of any reevaluation of a student with a disability, if the reevaluation includes the administration of additional assessments to the student.
  - b. If the parent refuses to consent to the reevaluation, Hawthorn Academy may, but is not required to, pursue the reevaluation by using the consent override procedures provided in the procedural safeguards, and including mediation or due process procedures.
  - c. The reevaluation may be conducted without parental consent if the school can demonstrate that it made reasonable attempts to obtain such consent and the student's parent has failed to respond. A written record of the attempts is maintained in the student's special education file.

**F. *Additional Requirements for Initial Evaluation and Reevaluation Procedures. (USBE SER II.H)***

1. As part of any initial evaluation (if appropriate) and as part of any reevaluation, the IEP Team and other qualified professionals, as appropriate, must review existing evaluation data on the student. This review may be conducted without a formal meeting. The special education teacher/director may review and discuss the existing data with team members and the parent individually. Existing data may include evaluations and information provided by the parents of the student; current classroom-based, local or State assessments, and classroom-based observations; observations by teachers and related services providers; grades; attendance, and other information regarding the student's current educational performance.
2. The IEP Team and appropriate other qualified professionals, based on their data review and input from the student's parents, identifies what additional data, if any, are needed to determine whether the student is or continues to be a student with a disability and the educational needs of the student, and

- a. The present levels of academic achievement and related developmental needs of the student;
  - b. Whether the student needs special education and related services; or, in the case of a reevaluation of a student, whether the student continues to need special education and related services; and
  - c. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum.
3. If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine continuing eligibility and student needs, the parents are given *Written Prior Notice* of that decision and of their right to request additional assessment. Hawthorn Academy then prepares a new *Evaluation Results Summary Report* (imbedded in the *Classification Forms*) including new and previous data as appropriate, and sends a *Notice of Meeting for Eligibility Determination*. A new *Prior Notice for Identification and Determination of Eligibility Determination Form* is completed and signed by the IEP Team, and the parents are given a copy of that determination along with a copy of the *Evaluation Results Summary Report*. *Written Prior Notice* is embedded in the *Prior Notice for Identification and Determination of Eligibility* document.
4. If the parent requests additional assessment as part of the reevaluation, Hawthorn Academy conducts assessment in the areas of educational functioning requested. When the additional assessment is completed, Hawthorn Academy prepares a new *Evaluation Results Summary Report*, including new and previous data as appropriate, and sends a *Notice of Meeting for Eligibility Determination*. A new *Evaluation Results Summary Report* and *Prior Notice for Identification and Determination of Eligibility Form* is completed and signed by the IEP Team, and the parents are given *Written Prior Notice* of that determination along with a copy of the *Evaluation Results Summary Report* and eligibility determination documents. *Written Prior Notice* is embedded in the *Prior Notice for Identification and Determination of Eligibility* document.
5. Evaluations before change in eligibility.
  - a. Hawthorn Academy evaluates students with disabilities before determining that students are no longer eligible for special education or special education and related services. However, an evaluation is not required before the termination of a student's eligibility due to graduation from secondary school with a regular diploma, or due to the student's reaching age 22, as provided under State law.

- b. For a student whose eligibility terminates due to graduation from secondary school with a regular high school diploma or due to exceeding the age eligibility for FAPE under State law, Hawthorn Academy provides the student with a summary of the student's academic achievement and functional performance, including recommendations on how to assist the student in meeting the student's postsecondary goals.

6. Parental consent is not required before:

- a. Reviewing existing data as part of an evaluation or a reevaluation; or
- b. Administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

**G. Evaluation Timelines.**

1. An initial evaluation must be completed within 45 school days of the date Hawthorn Academy receives parental consent for the evaluation.
2. Upon completion of the evaluation or reevaluation, the IEP Team and other appropriate professionals determine eligibility within a reasonable time.
3. A reevaluation:
  - a. May not be conducted more than once a year, unless the parent and Hawthorn Academy agree otherwise; and
  - b. Must occur at least once every three (3) years, unless the parent and Hawthorn Academy agree that a reevaluation is unnecessary.

**H. Eligibility Determination.**

1. Notice of Meeting.

Upon completion of the evaluation, the special education teacher/director arranges a meeting of the eligibility team at a mutually agreeable time and place. A *Notice of Meeting* will be sent to the parent and other members of the team stating the meeting purposes, time, place, who is expected to be in attendance, and letting the parent know that they may bring others who have knowledge of the student to the meeting.

2. Evaluation Summary Report.

The special education teacher/director in collaboration with other team members collects all of the results of the evaluation and completes a summary report of the evaluation information. This *Evaluation Results Summary Report* is completed for each disability category and is part of Hawthorn Academy's Eligibility *Determination* document for each disability category.

3. Eligibility Team Membership.

The eligibility team shall include a group of qualified professionals and the parent. At Hawthorn Academy, this may include the special education teacher/director, general education teacher, speech-language pathologist, school psychologist, occupational therapist, physical therapist, and others who have conducted parts of the evaluation, as appropriate.

4. Eligibility Categories, Definitions, and Criteria.

Hawthorn Academy has adopted the definitions, evaluation requirements, and eligibility criteria in USBE SER.II.J.1-13.

5. Specific Learning Disability (SLD).

Hawthorn Academy has selected the Combination method of determining whether a student has a Specific Learning Disability. 34 CFR §300.307; USBE SER II.J.10.b-h.

a. Team members. 34 CFR §300.308; USBE SER II.J.10.b(2).

The determination of whether a student suspected of having a specific learning disability is a student with a disability must be made by the student's parent(s) or adult student and a team of qualified professionals, including:

- (1) The student's general teacher; or
- (2) If the student does not have a general teacher, a general classroom teacher qualified to teach a student of the student's age; and
- (3) At least one person qualified as defined by the examiner qualifications outlined in the administration manual of each of the specific diagnostic examinations to conduct individual diagnostic examinations of students and interpret the results of those assessments (as per the administration assessment criteria), such as a school psychologist, speech/language pathologist, reading teacher or reading specialist, or special education teacher.



- b. Determining the existence of a specific learning disability. 34 CFR §300.309; USBE SER II.J.10.b(3).

The team described may determine that a student has a specific learning disability if:

- (1) The student does not achieve adequately for the student's age or to meet State-approved grade-level standards, when provided with learning experiences and instruction appropriate for the student's age or State-approved grade-level standards, in one or more of the following areas:

- (a) Oral expression;
- (b) Listening comprehension;
- (c) Written expression;
- (d) Basic reading skills;
- (e) Reading fluency skills;
- (f) Reading comprehension;
- (g) Mathematics calculation;
- (h) Mathematics problem solving; and

- (2) For the combination method, the student meets the requirements of:

- (a) Response to Intervention (RtI) Method.

The student does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified above when using a process based on the student's response to scientific, research-based intervention (The team must refer to the *USBE Specific Learning Disability Eligibility Guidelines* when using this method.); and

- (b) Discrepancy Method.

The student's scores demonstrate that a severe discrepancy exists between the student's intellectual ability and achievement in one or more of the areas of specific learning disability listed above.

- (3) The group determines that its findings 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.
- c. The learning disability must adversely affect the student’s educational performance.
  - d. The student with the learning disability must need special education or special education and related services. 34 CFR §300.8(a).
2. Evaluation. 34 CFR §300.309(b–c); USBE SER II.J.10.c.
- a. An evaluation must include a variety of assessment tools and strategies and cannot rely on any single procedure as the sole criterion.
  - b. To ensure that underachievement in a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation:
    - (1) Data that demonstrate that prior to, or as a part of, the referral process, the student was provided appropriate instruction in general education settings, delivered by qualified personnel; and
    - (2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the student’s parent(s) or adult student.
  - c. Hawthorn Academy promptly requests parental or adult student consent to evaluate the student to determine whether the student is a student with a disability and needs special education or special education and related services, and must adhere to the 45-school-day evaluation timeframe, unless extended by mutual written agreement of the student’s parent(s) or adult student and a group of qualified professionals:
    - (1) If, prior to a referral, a student has not made adequate progress after an appropriate period of time as determined by Hawthorn Academy when provided appropriate instruction, and
    - (2) Whenever a student is referred for an evaluation.
  - d. Observation. 34 CFR §300.310(a–c); USBE SER II.J.10.c.(4).

Hawthorn Academy ensures that the student is observed in the student's learning environment (including the general classroom setting) to document the student's academic performance and behavior in the areas of difficulty.

- (1) The team must decide to:
  - (a) Use information from an observation in routine classroom instruction and monitoring of the student's performance that was done before the student was referred for an evaluation; or
  - (b) Have at least one member of the team conduct an observation of the student's academic performance in the general classroom after the student has been referred for an evaluation and parental consent or consent of the adult student is obtained.
  - (c) In the case of a student who is out of school, a group member must observe the student in an environment appropriate for a student of that age.
- e. Specific documentation for the eligibility determination. 34 CFR §300.311; USBE SER II.J.10.c.(5).

The team's documentation of the determination of eligibility with a specific learning disability must contain a statement of:

- (1) Whether the student has a specific learning disability;
- (2) The basis for making the determination;
- (3) The relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning;
- (4) The educationally relevant medical findings, if any; and
- (5) Whether the student meets the criteria for both the Response to Intervention and Discrepancy methods below:
  - (a) Response to Intervention (RtI) Method. 34 CFR §300.311(a)(7); USBE SER II.J.10.c.(5)(f).

Hawthorn Academy has a process that assesses a student's response to scientific, research-based intervention as part of determining if the student has a specific learning disability. This process includes:

- i. High quality research-based instruction delivered by qualified staff in the general education setting; and

- ii. Assessment of student performance that specifically includes universal screening and progress-monitoring; and
  - iii. Multiple tiers of evidence-based interventions to address individual student difficulties; and
  - iv. Documentation of systematic and regular parent(s) or adult student, and/or family involvement and communication as well as notification about:
    - (A) The State’s policies regarding the amount and nature of student performance data that are collected and the general education services that are provided (The team refers to the *USBE Specific Learning Disability Eligibility Guidelines* when using this method.);
    - (B) Strategies for increasing the student’s rate of learning; and
    - (C) The parent(s)’ or the adult student’s right to request an evaluation; and
  - v. System supports (e.g., leadership, problem-solving, data management systems, coaching and collaboration, professional development, and measures of fidelity) in place to ensure effective implementation; or
  - vi. The instructional strategies used, and the student-centered data collected; AND
- (b) Discrepancy Method. 34 CFR §300.311; USBE SER II.J.10.c.(5)(g).
- Hawthorn Academy uses a severe discrepancy between the student’s achievement and intellectual ability as part of its process to determine if the student has a specific learning disability, and the team documents
- (c) The student’s performance on a standardized, norm-referenced, individually administered achievement measure in the area of the suspected disability, and
  - (d) That the student scored above the intellectual disability range on a standardized, norm-referenced, individually administered measure of intellectual ability, and
    - i. The comparison of the standard scores on the tests of achievement and intellectual ability using local board-approved and USBE staff-reviewed discrepancy analysis method.

- ii. The team documents consideration of the discrepancy analysis and the team’s determination of whether or not it represents a severe discrepancy.
  - f. The determination of the team concerning the effects of a visual, hearing or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the student’s achievement level.
  - g. The requirements of USBE SER II.D–H are followed.
  - h. Each team member certifies in writing whether the report reflects the member’s conclusion. 34 CFR §300.311(b). If it does not reflect the member’s conclusion, the team member submits a separate statement presenting the member’s conclusions.
3. Determining Eligibility. 34 CFR 300.306; USBE SER II.I.

- a. Using the criteria for each category of disability as described above, the Eligibility Team determines:
  - (1) Whether the student has a disability that adversely affects his educational performance, and
  - (2) Whether the student requires special education or special education and related services.

*Special education* is defined as specially designed instruction to meet the unique needs of a student with a disability and may include related services if they meet the definition of special education. Special education services are services provided to the student and do not include consultation between teacher or monitoring a student’s grades or work completion. 34 CFR §300.39; USBE SER I.E.43.

*Specially designed instruction* is adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student’s disability, and to ensure access of the student to the general curriculum, so that the student can meet educational standards of Hawthorn Academy that apply to all students. 34 CFR §300.39(b)(3); USBE SER I.E.44.

- b. A student is not determined to be a student with a disability if the determinant factor is:
  - (1) Lack of appropriate instruction in reading, including the essential components of reading instruction (phonemic awareness, alphabetic principle, vocabulary, comprehension, and fluency);

- (2) Lack of appropriate instruction in math; or
  - (3) Limited English proficiency; and
  - (4) If the student does not otherwise meet the eligibility criteria.
- c. Procedures for determining eligibility and determining need.
- In interpreting evaluation data for the purpose of determining if a student is a student with a disability and the educational needs of the student, Hawthorn Academy:
- (1) Draws upon information from a variety of sources, such as aptitude and achievement tests, parent(s) or adult student input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and
  - (2) Ensures that information obtained from all of these sources is documented and carefully considered.
- d. The determination of eligibility is documented on the appropriate “Team Evaluation Summary Report and Written Prior Notice of Eligibility Determination” form with signatures of team members.
- e. The parent(s) or adult student is provided with a copy of the Team Evaluation Summary Report and Written Prior Notice of Eligibility Determination document(s).
4. Evaluations before Change in Eligibility. 34 CFR §300.305; USBE SER II.H.6.
- a. Hawthorn Academy evaluates a student with a disability before determining that the student is no longer an eligible student with a disability.
  - b. Hawthorn Academy is a K-9 charter school, termination of a student’s eligibility due to graduation from secondary school with a general high school diploma, or due to exceeding the age of eligibility for FAPE under Utah law (i.e., age 22) is not applicable.

### III. IEP DEVELOPMENT and SERVICE DELIVERY.

Hawthorn Academy implements the following policies and procedures to address the IEP requirements of USBE SER III.I-U.

#### A. *IEP Team Meeting.*

Within 30 calendar days of the determination of eligibility, the special education teacher/director shall arrange a meeting of the IEP Team to develop an IEP at a place and time that is mutually convenient to the parent and the School. A *Notice of Meeting* will be sent to the parent and other members of the team stating the purposes, time, place, who is expected to be in attendance, and letting the parent know that the parent or Hawthorn Academy may bring others who have knowledge or special expertise about the student to the meeting. The determination of knowledge or expertise of the invited person is made by the party who invited that person.

#### B. *Parental Opportunity to Participate.*

Parents are expected to be participants along with school team members in developing, reviewing, and revising the IEP. This includes providing critical information about needs and strengths of their student, contributing to discussions about the student's needs for special education, determining how the student will be involved and make progress in the general curriculum, deciding how the student will participate in the state- and district wide assessments, and deciding what services Hawthorn Academy will provide and in what settings.

Hawthorn Academy documents in writing all attempts to get parental participation in IEP meetings. If the parent cannot attend, participation by other means such as teleconference may be used. Parents must be given whatever help they need to understand the proceedings of the IEP meetings, such as interpreters. If Hawthorn Academy cannot obtain parental participation, it proceeds with the development of the IEP as required by Part B of the IDEA and USBE SER.

#### C. *IEP Team.*

The team shall consist of the parent, the special education teacher and general education teacher of the student, a representative of Hawthorn Academy, a person who can interpret the results of the evaluation, and the student, when appropriate. Other team members may be added when they are likely to provide services to the student. The representative of Hawthorn Academy must meet the School's administrator standards as someone who has supervisory responsibilities, and have knowledge of the general education curriculum and of the availability of resources of Hawthorn Academy.

**D. IEP Team Attendance. (USBE SER III.F)**

1. A required member of the IEP Team is not required to attend all or part of a particular IEP Team meeting if the parent of a student with a disability and Hawthorn Academy agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.
2. A required member of the IEP Team may be excused from attending all or part of a particular IEP meeting when the meeting does involve a modification to or discussion of the member's area of the curriculum or related services, if the parent and Hawthorn Academy consent to the excusal in writing; and the member submits written input into the development of the IEP to the parent and the IEP Team, prior to the meeting.

**E. IEP Timelines.**

1. An IEP is in effect for each identified student with a disability prior to the beginning of the school year.
2. Each student's IEP is reviewed and revised at least annually. The IEP Team reviews the IEP at least annually to determine whether the annual goals for the student are being achieved. The team may decide to meet at the request of the parent or other IEP Team member to revise the IEP to address lack of expected progress toward annual goals and lack of progress in the general curriculum, the results of any reevaluation, information about the student provided to or by the parents, the student's anticipated needs, or other matters.
3. An IEP is developed within 30 calendar days of initial determination that a student is an eligible student with a disability.
4. Once parental consent for the initial provision of special education or special education and related services is obtained, the special education services, related services, and supplementary aids and services are provided as soon as possible.

**F. Transfer Students.**

Hawthorn Academy provides a student transferring from another LEA in or out of the state with comparable services to those listed on an existing IEP while it determines next needed steps in accordance with the In-State and Out-of-State Transfer Student Checklist of the USOE.



**G. IEP Development and Content.**

1. The IEP Team will develop an IEP that is reasonably calculated to confer a free appropriate public education for the student.
2. In developing the IEP, the IEP Team must consider the student's strengths, parental concerns, evaluation results, academic development and functional needs, and special factors.
3. The IEP must include:
  - a. A statement of the student's present level of academic achievement and functional performance, including baseline data on his achievement and how the student's disability affects his access and progress in the general curriculum for his age or grade level.
  - b. Measurable annual goals and short term objectives for students who are assessed using the Utah's Alternate Assessment based on the present level statement that enable the student to be involved and make progress in the general education curriculum and addressing each of the student's educational needs resulting from the student's disability.
  - c. How progress on the goals will be measured and reported to the parents on a periodic basis.
  - d. The special education and related services, and the supplementary aids and services, the student needs to address his goals and make progress in the general curriculum. The services are based on peer-reviewed research to the extent practicable.
  - e. Program modifications and supports for the student and the teacher in the general education classroom.
  - f. The dates that services, accommodations, and program modifications will begin and end (no more than one year from the date of the IEP); and the frequency, location, and amount of each service listed. Services listed must be specific, such as "reading comprehension," not "resource."
  - g. Consideration of special factors as follows:
    - i. In the case of a student with limited English proficiency, consider the language needs of the student as those needs relate to the student's IEP;

- ii. In the case of a student 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 student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student'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 student;
- iii. Consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode;
- iv. Consider whether the student needs assistive technology devices and services; and
- v. In the case of a student whose behavior impedes the student's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.
  - 1) When making decisions on behavioral interventions, the IEP Team should refer to the Least Restrictive Behavioral Interventions Technical Assistance Manual (LRBI), Hawthorn Academy's School Discipline Plan and Emergency Safety Interventions.
  - 2) An emergency is defined in Administrative Rule R277-609. Hawthorn Academy follows the emergency notification procedures as written.
  - 3) A pattern of behavior that requires emergency safety interventions (ESIs) as defined in the Rule R277-609 may be addressed in the IEP, a behavior intervention plan, or a crisis management plan.
  - 4) If a parent disagrees with a proposed emergency safety intervention, they may access any of the dispute resolution procedures in this manual and the State Rules.

- 5) Hawthorn Academy ensures that all staff members who interact with students receive the training necessary to effectively implement a continuum of behavioral interventions and supports.
  - 6) Hawthorn Academy has established an Emergency Safety Intervention Committee to monitor policies for disciplinary actions and behavioral intervention procedures, protections, and safeguards. The committee is composed of at least two school administrators, a parent or guardian of a student enrolled in Hawthorn Academy, and at least two licensed educational professional staff members.
  - 7) As appropriate, the student should receive a functional behavioral assessment and behavior intervention services and modifications that are designed to address the behavior.
- h. If the IEP Team in considering the special factors described above decides that a student needs a particular device or services for educational purposes, which could be an intervention, accommodation, or other program modification in order to receive a FAPE, the team must include these in the IEP.
  - i. How the student will participate in LEA-wide and statewide assessments, such as the Student Assessment of Growth and Excellence (SAGE). While every student with a disability must participate, an individual student may be determined to participate with some accommodations based on his disability, or with modifications. Students who have the most significant cognitive disabilities, and meet other criteria in the USOE Assessment Participation and Accommodation Policy, may be assessed with alternate assessments such as the DLM or UAA as required by the USOE. The IEP Team must indicate this on the IEP Assessment Addendum, along with the reason that the student cannot otherwise participate in the statewide assessment program.
  - j. In addition to the required elements of the statewide assessment program, Hawthorn Academy administers the following school-wide assessments: Fountas and Pinnell in grades 1-6, Guided Reading in grades K-6, Modified Fountas and Pinnell in grades 7-8, and CBM in all grades. All students, including students with identified disabilities, are included in these assessments with appropriate accommodations and modifications as determined by the IEP Team and documented in the

student's IEP. Alternate assessments for individual students, as determined by the student are IEP Team and documented in the student's IEP, are provided for students who cannot participate in the school-wide assessments in any other way.

- k. How the student will participate in physical education services, specially designed or adapted if necessary.
- l. Each IEP Team must determine whether the student will need Extended School Year (ESY) services in order to receive a free appropriate public education.
  - i. This determination in Hawthorn Academy will be based on regression and recoument data collected over at least two breaks in the school year consisting of 4 or more weekdays when there is no school.
  - ii. If the student's recovery from measured regression on pinpointed skills directly related to the IEP goals takes so long that he would not receive FAPE without services during the summer or other school break, the IEP Team must find him eligible for ESY services.
  - iii. Other factors must also be considered in determining if the student needs ESY in order to receive FAPE. These includes but are not limited to rate of progress on IEP goals, emerging skills, vocational and transition needs, availability of alternative resources, information from parents and other caregivers, and other available data.
  - iv. The IEP Team shall determine eligibility and develop a written document that indicates which IEP goals the student will work on during the ESY, what services will be provided, how long and how often the ESY services will be provided, and the setting(s) in which the services will be provided.
- m. Assistive Technology. Hawthorn Academy makes assistive technology devices or assistive technology services, or both, available to a student with a disability if required as part of the student's special education, related services, or supplemental aids and services. School-purchased assistive technology devices may be used in the student's home, if the IEP Team determines, on a case-by-case basis, that assistive technology in the home is required for the student to receive a FAPE.

#### *H. IEP Team Access to IEP Information.*

1. Hawthorn Academy makes the student's IEP accessible to each general education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider is informed of his or her specific responsibilities related to the implementation of the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.
2. Hawthorn Academy prepares a summary of the present level of academic achievement and functional performance, goals, services, and program modifications and supports for each general education teacher and/or related service providers expected to be following a student's IEP. This summary is provided to the general education teacher and/or related service providers prior to the time of initial implementation of the IEP as well as annual updates as appropriate.

#### *I. Placement in the Least Restrictive Environment (LRE). (USBE SER III.P)*

1. Placement decisions are made by a group of persons, including the parents and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. This group may be the IEP Team, including the parent. The group determines the placement on the continuum of placement options where the student will receive special education or special education and related services.
2. Hawthorn Academy ensures that the parents of each student are members of any group that makes decisions on the education placement of their student. If unable to get the parents to participate, after repeated and documented attempts, the team may need to proceed with a placement decision. However, no initial placement and provision of services may be put in place without written parental consent.
3. Placement is determined at least annually, based on the student's present levels of performance, goals, services, and program modifications as detailed in the IEP.
4. Identified students with disabilities shall receive the special education or special education and related services in the Least Restrictive Environment to the maximum extent appropriate to meet the student's needs. This means that the student will not be removed from the general education classroom, with general education peers, unless the IEP Team determines that due to the nature and severity of the disability, the student's educational needs cannot be addressed satisfactorily in the general education environment, even with the use of supplementary aids and services.

5. Hawthorn Academy provides the IDEA- required range of placement options, including placement in the general education classroom, with or without resources and/or itinerant services; placement in a special class; placement in a special school; placement in a residential program, and homebound or hospitalized placement. Determination of placement by the IEP Team is made based on where the student's FAPE can be provided.
6. Hawthorn Academy provides supplementary services, such as resource or itinerant instruction, in conjunction with placement in the general education classroom, when needed.

*J. Nonacademic Settings, Activities, and Services. (USBE SER III.U-V)*

1. Hawthorn Academy ensures that each student with a disability participates with nondisabled students in the extracurricular services and activities to the maximum extent appropriate to the student's needs. This includes meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school, referrals to agencies that provide assistance to individuals with disabilities and employment of students, and other activities and services of Hawthorn Academy.
2. Hawthorn Academy ensures that each student with a disability has the supplementary aids and services determined by the student's IEP Team to provide the nonacademic and extracurricular services and activities in such a way that students with disabilities are given an equal opportunity to participate.

*K. Parental Consent for Initial Placement and Provision of Services. (USBE SER III.T)*

1. In order for the IEP to be implemented and the special education services the team has decided on to begin, written parental consent must be obtained. If the parent refuses consent for the provision of those services, the LEA may not implement the IEP and may not access due process procedures.
2. Hawthorn Academy does not use a parent's refusal to consent to one service or activity to deny the parent or student any other service, benefit, or activity of Hawthorn Academy, or to fail to provide a student with a FAPE.
3. If, at any time subsequent to the initial provision of special education and related services, the parent of a student with disabilities revokes consent in writing for the continued provision of special education and related services, Hawthorn Academy:
  - a. May not continue to provide special education and related services to the students, but must provide Written Prior Notice to the parent before ceasing the provision of special education and related services;

- b. May not use the due process procedures in order to obtain agreements or a ruling that the services may be provide to the student;
- c. Will not be considered in violation of the requirement to make FAPE available to the student, and
- d. Is not required to convene an IEP Team meeting or develop an IEP for the student.
- e. Consent means that the parent(s) understand that the granting of consent is voluntary on the part of the parent and may be revoked at any time. (§300.9) If a parent revokes consent, that revocation is not retroactive, that is, it does not negate an action that occurred after consent was given and before the consent was revoked.

**L. Documentation of Participation.**

- 1. All members of the IEP Team will sign the IEP document indicating that they participated in the development of the IEP. A parent's signature on the IEP does not mean that the parent is in full agreement with the content of the IEP and does not abrogate the parental right to access the Procedural Safeguards of the IDEA.
- 2. If Hawthorn Academy, despite at least two documented attempts, is unsuccessful in having parental attendance at the meeting, the rest of the IEP Team shall proceed with the meeting.
- 3. Parents may participate via telephone conference or video conference.
- 4. Parents will be provided with a copy of the completed IEP, and *Written Prior Notice* of Hawthorn Academy's intent to implement the program and services in the IEP. This Notice is embedded in the IEP form. If Hawthorn Academy refuses to include in its offer of FAPE as detailed on the IEP services or program modifications the parent has requested, a *Written Prior Notice* of that refusal is provided to the parent.

**M. Changes to the IEP.**

- 1. Changes to the IEP may be made at the request of any member of the IEP Team in a meeting or by amendment to the existing IEP.
- 2. Changes may be needed if there is new information about the student's performance.

3. Amendments to the IEP without a team meeting may be made only with the agreement of Hawthorn Academy and the parent.
  - a. Amendments such as a change in the amount of a special education or related service that is no more than 30 minutes per week, a change of location that is no more than 60 minutes per week, or a goal change that is the next logical step forward or backwards and is based on the student's progress may be made without an IEP Team meeting.
  - b. If the change involves a move on the continuum of Least Restrictive Environment placement options, or the amount of services to be changed is more than indicated above, or a service is to be added, an IEP Team meeting is held with a *Notice of Meeting* to all team members.
4. The parent will be provided with a copy of the amended IEP including *Written Prior Notice* that these additional actions or changes in actions are going to be implemented.

**N. Transition from Part C to Part B. (USBE SER VII.A)**

Not applicable since Hawthorn Academy does not have a pre-school program.

**O. Transition from School to Post-School Settings. (USBE SER VII.B)**

1. For a student with a disability beginning not later than the first IEP to be in effect when the student turns 16 (such as in an IEP meeting conducted when the student is 15 years old), or younger if determined appropriate by the IEP Team, the Notice of Meeting indicates that a purpose of the meeting is the consideration of the postsecondary goals and transition services for the student, that Hawthorn Academy will invite the student, and identifies any other agency that will be invited, with the consent of the parents or student age 18 or older, to send a representative.
  - a. If the student does not attend the IEP meeting, Hawthorn Academy takes other steps to ensure that the student's preferences and interests are considered.
2. Transition services. Beginning not later than the first IEP to be in effect when the student turns 16 (such as in an IEP meeting conducted when the student is 15 years old), or younger if determined appropriate by the IEP Team, and updated annually thereafter, the IEP includes:



- a. Appropriate measurable postsecondary goals, including academic and functional goals, based upon age-appropriate transition assessments related to training or education, employment, and, where appropriate, independent living skills;
  - b. The transition services, including courses of study, needed to assist the student in reaching the student's post-secondary goals.
3. Transfer of rights at age of majority.

Not applicable since students at Hawthorn Academy do not reach age of majority while in attendance.

4. If a participating agency, other than Hawthorn Academy, fails to provide the transition services described in the IEP, Hawthorn Academy must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

**P. *Graduation. (USBE VII.C)***

Not applicable since Hawthorn Academy does not serve students in the 12<sup>th</sup> grade.

**Q. *Least Restrictive Behavior Interventions (LRBI).***

Hawthorn Academy follows all parts of the USOE Least Restrictive Behavioral Interventions Technical Assistance Manual (LRBI), as written. These requirements are already addressed on pages 23-24 of this Manual.

**R. *Private School Placements by Hawthorn Academy. (USBE SER VI.A)***

Before Hawthorn Academy places a student with a disability in, or refers a student to, a private school or facility, or a public or private residential program in order to provide a FAPE to the student, it initiates and conducts a meeting to develop an IEP for the student, with a representative of the private school in attendance. The costs of such placements, including non-medical care and room and board, are at no cost to the parents.

*S. Students with Disabilities Enrolled by their Parents in Private Schools When FAPE is at Issue. (USBE SER VI.C)*

If the parents of a student with a disability who had previously received special education or special education and related services from Hawthorn Academy enroll the student in a private school without the consent of or referral by the school, Hawthorn Academy is not required to pay for the cost of that placement if Hawthorn Academy made a FAPE available to the student. Disagreements between the parents and Hawthorn Academy regarding the availability of a program appropriate for the student and the question of financial reimbursement are subject to the State complaint and due process complaint procedures in USBE SER IV.G-V. Hawthorn Academy follows other requirements in USBE SER VI.C as written

## IV. PROCEDURAL SAFEGUARDS

Hawthorn Academy, consistent with the requirements of Part B of the IDEA and the USBE Special Education Rules, has established, maintains, and implements Procedural Safeguards for students with disabilities and their parents.

### A. *Opportunity for Parental Participation in Meetings.*

Hawthorn Academy affords parents the opportunity to participate in all decisions related to the location, identification, evaluation, and provision of FAPE for their student, including decisions related to the Discipline requirements of Part B of the IDEA. This includes arranging meetings at a mutually convenient time and place, providing Notice of Meeting at least one week prior to a scheduled meeting, and making at least two documented attempts to obtain parent participation in meetings.

### B. *Independent Educational Evaluation (IEE). (USBE SER IV.C)*

1. Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by Hawthorn Academy.
2. Hawthorn Academy has established and implements the following policies and procedures related to independent educational evaluation that meets the requirements of Part B of the IDEA and the USBE SER.
  - a. The parents of a student with a disability have the right to obtain an independent educational evaluation of the student at public expense if they disagree with an evaluation obtained by Hawthorn Academy.
  - b. Hawthorn Academy provides to parents, upon request for an independent educational evaluation (IEE), information about where an independent educational evaluation may be obtained, and Hawthorn Academy's criteria applicable for independent educational evaluations. Hawthorn Academy has available a list of persons and/or agencies where an IEE may be obtained by the parent. In addition, Hawthorn Academy considers any other evaluator or agency proposed by the parent to conduct the IEE if the examiner and the evaluation meet Hawthorn Academy's criteria. A qualified examiner is one who meets the USOE criteria for qualified personnel as a special education teacher, school psychologist, psychologist with expertise in administration and analysis of assessments, or other equivalent qualifications as determined by Hawthorn Academy. Criteria for the evaluation are that the evaluation procedures meet all of the same standards as those listed in Section II.D-H of this Policy and Procedures Manual. Hawthorn Academy either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

- c. Hawthorn Academy ensures that when a parent requests an IEE, either Hawthorn Academy files a due process complaint to request a hearing to show that its evaluation is appropriate, or that the independent educational evaluation is provided at public expense, unless the evaluation obtained by the parent does not meet Hawthorn Academy's criteria as described above. If a due process complaint decision finds Hawthorn Academy's evaluation was appropriate, an IEE obtained by the parent is considered by the team, but is not provided at public expense.
  - d. Additional protections for the parent of a student with a disability and Hawthorn Academy are followed as written in USBE SER IV.C.3(c-h).
3. An independent educational evaluation conducted at Hawthorn Academy's expense becomes the property of Hawthorn Academy, in its entirety.

**C. *Written Prior Notice.***

Hawthorn Academy provides *Written Prior Notice* to parents a reasonable time before it proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or provision of a free appropriate public education to the student. The notice includes: a description of the action proposed or refused, an explanation of reasons for the proposal or refusal, a description of evaluations or other information the proposal or refusal is based on, a statement that the parents and eligible student have protection under the Procedural Safeguards and how to obtain a copy of the Safeguards, sources of assistance to understand Part B of the IDEA, a description of other options the IEP Team considered and why the other options were rejected, and a description of other relevant factors to the proposal or refusal. The *Written Prior Notice* is provided in understandable language and in the parents' native language or other mode of communication unless it is clearly not feasible to do so.

**D. *Procedural Safeguards Notice.***

A copy of the Procedural Safeguards is given to the parent once a year, usually at the annual IEP review, except that a copy also is given to the parent upon initial referral or parental request for evaluation, upon receipt of the first State complaint or due process complaint in that school year, and upon request by the parent at any time. Hawthorn Academy uses the USOE Procedural Safeguards Notice that is posted on the USOE website, [www.schools.utah.gov](http://www.schools.utah.gov). The special education teacher/director provides a brief explanation of the main provisions of the Procedural Safeguards to the parents at consent for evaluation, eligibility determination, and annual IEP meetings.

This notice contains an explanation of the procedural safeguards related to independent educational evaluations, written prior notice, parental consent, access to educational records, opportunity to present and resolve complaints through State complaint or due process complaint procedures, opportunity for Hawthorn Academy to resolve the complaint, availability of mediation, student's placement during pendency of hearings, procedures for students placed in an interim alternative educational setting, requirements for unilateral placement of student in private schools at public expense, hearings on due process complaints, civil actions, attorney's fees. This notice is in language understandable to the parents.

**E. Parental Consent.**

Informed written parental consent is obtained for evaluation and reevaluation, initial placement/provision of special education, and for release of records to certain parties. Efforts to obtain consent are documented in writing. No student receives special education or special education and related services without the signed initial consent for placement in the student file. Other relevant parental consent requirements are addressed in Sections II and III of this Policies and Procedures Manual.

**F. Dispute Resolution.**

Hawthorn Academy follows the Dispute Resolution requirements of the USBE SER described in IV.G-U as written. These include the procedures for State Complaints, Mediation, Due Process Complaints, Resolution Process, Due Process Hearings, Civil Actions, Attorney's Fees, and Student's Status during Proceedings.

**G. Surrogate Parents.**

Hawthorn Academy assigns a surrogate parent for a student when the parent cannot be identified or cannot be located, the parent's rights to make educational decisions has been taken away by a court, the student is a ward of the state, or the student is an unaccompanied homeless youth. The surrogate parent meets the requirements of USBE SER IV.V.5-8. Hawthorn Academy contacts the Utah Parent Center for assistance in obtaining names of trained surrogates, and maintains a list of surrogate parents who are available when needed.

**H. Transfer of Rights.**

Not applicable since students do not reach Transfer of Rights age while in attendance at Hawthorn Academy.

## I. Confidentiality of Information. (USBE SER IV.X)

Hawthorn Academy takes appropriate steps to ensure the protection of the confidentiality of any personally identifiable data, information, and records it collects or maintains related to Part B of the IDEA.

1. Definitions. As used in these safeguards:
  - a. *Destruction* means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
  - b. *Education records* means the type of records covered under the definition of “education records” in 34 CFR 99, implementing regulations for the Family Educational Rights and Privacy Act of 1974, 20 USC 1232g (FERPA).
  - c. *Participating agency* means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the IDEA.
2. Access rights.
  - a. Hawthorn Academy permits parents to inspect and review any education records relating to their student that are collected, maintained, or used by Hawthorn Academy. Hawthorn Academy complies with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing, or resolution session, and in no case more than 45 calendar days after the request has been made.
  - b. The right to inspect and review education records includes the right to:
    - I. A response from Hawthorn Academy to reasonable requests for explanations and interpretations of the records;
    - II. Request that Hawthorn Academy provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
    - III. Have a representative of the parent inspect and review the records.
  - c. Hawthorn Academy may presume that the parent has authority to inspect and review records relating to his or her student unless the

school has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

3. Record of access.

Hawthorn Academy keeps a record of parties obtaining access to education records collected, maintained, or used under Part B of the IDEA (except access by parents and authorized employees of Hawthorn Academy) in each student's special education file, including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records. If any education record includes information on more than one student, Hawthorn Academy ensures that the parents of a student has the right to inspect and review only the information relating to their student or to be informed of that specific information.

4. List of types and locations of information.

On request, Hawthorn Academy provides parents with a list of the types and locations of education records collected, maintained, or used by Hawthorn Academy. This list is maintained in the main office at Hawthorn Academy.

5. Fees.

Hawthorn Academy may charge a fee for copies of records that are made for parents under Part B of the IDEA if the fee does not effectively prevent the parents from exercising their right to inspect and review those records; however, it may not charge a fee to search for or to retrieve information under Part B of the IDEA.

6. Amendment of records at parent's request.

- a. A parent who believes that information in the education records collected, maintained, or used under Part B of the IDEA is inaccurate or misleading or violates the privacy or other rights of the student may request that Hawthorn Academy that maintains the information to amend the information. Hawthorn Academy must decide whether to amend the information within a reasonable period of time of receipt of the request. If Hawthorn Academy decides to refuse to amend the information, it must inform the parent of the refusal and advise the parent of the right to a hearing on the matter.

- b. Hawthorn Academy, on request, provides 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 student. If, as a result of the hearing, Hawthorn Academy decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, must amend the information accordingly and so inform the parent in writing.
- c. If, as a result of the hearing, Hawthorn Academy decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it must inform the parent of the right to place in the records it maintains on the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of Hawthorn Academy. Any explanation placed in the records of the student under this section must be maintained by Hawthorn Academy as part of the records of the student as long as the record or contested portion is maintained; and if the records of the student or the contested portion is disclosed by Hawthorn Academy to any party, the explanation must also be disclosed to the party. Hawthorn Academy follows the hearing procedures described in USBE SER IV.12 as written.

7. Release and disclosure of records.

Parental consent is not required for disclosure of records to officials of agencies collecting or using information under the requirements of Part B of the IDEA, to other school officials, including teachers within the school who have been determined by Hawthorn Academy to have legitimate educational interests, to officials of another school or school site in which the student seeks or intends to enroll, or for disclosures addressed in referral to and action by law enforcement and judicial authorities, for which parental consent is not required by 34 CFR 99.

All Utah Local Education Agencies (LEAs) include in the annual Procedural Safeguards notice that it is their policy to forward educational records of a student with disabilities without parental consent or notice to officials of another school or school district in which a student seeks or intends to enroll.

Written parental consent is obtained prior to releasing any records to any other person or agency not listed above.

8. Safeguards.

- a. Hawthorn Academy protects the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.



- b. The Special Education Director of Hawthorn Academy assumes responsibility for ensuring the confidentiality of any personally identifiable information.
- c. Staff members at Hawthorn Academy who collect or use personally identifiable information receive training or instruction regarding the State's policies and procedures in USBE SER IV.X and 34 CFR 99 on an annual basis.
- d. Hawthorn Academy maintains, for public inspection, a current listing of the names and positions of those employees within the school who may have access to personally identifiable information on students with disabilities. This list is posted on the file cabinet in which students' special education files are maintained and updated annually.

9. Destruction of Information.

Hawthorn Academy informs parents or the student age 18 or older when personally identifiable information collected, maintained, or used under Part B of the IDEA is no longer needed to provide educational services to the student. Information no longer needed must be destroyed at the request of the parents or student age 18 or older. 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 be maintained without time limitation. Each student's records may be considered "no longer needed to provide educational services" and may be destroyed three (3) years after the student graduates or three (3) years after the student turns 22.

10. Students' rights.

The rights of privacy afforded to parents are transferred to the student who reaches the age of 18, providing the student has not been declared incompetent by a court order, including the rights with regard to education records.

## V. Discipline.

Hawthorn Academy follows the Discipline requirements and procedures described in USBE SER V.A-K as written.

## VI. Students with Disabilities in Other Settings

### A. *Private School Placements by LEAs. (§300.325)*

1. Developing IEPs.
  - a. Before Hawthorn Academy places a student with a disability in, or refers a student to, a private school or facility, Hawthorn Academy must initiate and conduct a meeting to develop an IEP for the student in accordance with Part B of the IDEA and these Rules.
  - b. Hawthorn Academy must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, Hawthorn Academy must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.
2. Reviewing and revising IEPs.
  - a. After a student with a disability is placed in a private school or facility, any meetings to review and revise the student's IEP may be initiated and conducted by the private school or facility at the discretion of Hawthorn Academy.
  - b. If the private school or facility initiates and conducts these meetings, Hawthorn Academy must ensure that the parents and a Hawthorn Academy representative:
    - i. Are involved in any decisions about the student's IEP; and
    - ii. Agree to any proposed changes in the IEP before those changes are implemented.
3. Even if a private school or facility implements a student's IEP, responsibility for compliance with this part remains with Hawthorn Academy and the USOE.
4. Residential placement. (§300.104)
  - a. If placement in a public or private residential program is necessary to provide special education and related services to a student with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the student.

**B. *Students with disabilities enrolled by their parents in private schools when FAPE is NOT at issue. (§300.148)***

This section is not applicable to charter schools.

**C. *Students with disabilities enrolled by their parents in private schools when FAPE is at issue. (§300.148)***

1. Hawthorn Academy is not required to pay for the cost of education, including special education and related services, of a student with a disability at a private school or facility if Hawthorn Academy made a FAPE available to the student and the parents elected to place the student in a private school or facility. However, Hawthorn Academy must include that student in the population whose needs are addressed consistent with Rule VI.B.
2. Disagreements between the parents and Hawthorn Academy regarding the availability of a program appropriate for the student, and the question of financial reimbursement, are subject to the State complaint and due process procedures in Rule IV.G-V.
3. If the parents of a student with a disability, who previously received special education and related services under the authority of Hawthorn Academy, enroll the student in a private preschool, elementary school, or secondary school without the consent of or referral by Hawthorn Academy, a court or a hearing officer may require Hawthorn Academy to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that Hawthorn Academy had not made a FAPE available to the student in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the USOE and Hawthorn Academy.
4. The cost of reimbursement may be reduced or denied if:
  - a. At the most recent IEP Team meeting that the parents attended prior to removal of the student from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by Hawthorn Academy to provide a FAPE to their student, including stating their concerns and their intent to enroll their student in a private school at public expense; or
  - b. At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the student from the public school, the parents did not give written notice to Hawthorn Academy of the information described in VI.C.4.a;

- c. Prior to the parents' removal of the student from the public school, Hawthorn Academy informed the parents, through the written prior notice requirements of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the student available for the evaluation; or
    - d. Upon a judicial finding of unreasonableness with respect to actions taken by the parents.
- 5. Notwithstanding the requirements for parents to provide notice to Hawthorn Academy prior to removal of the student, the cost of reimbursement:
  - a. Must not be reduced or denied for failure to provide the notice if:
    - i. The school prevented the parents from providing the notice;
    - ii. The parents had not received written prior notice of the notice requirement in VI.C.4.a-b; or
    - iii. Compliance with the notice requirements in VI.C.4.a-b would likely result in physical harm to the student; and
  - b. May, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if:
    - i. The parents are not literate or cannot write in English; or
    - ii. Compliance with VI.C.4.a-b would likely result in serious emotional harm to the student.

## VII. TRANSITIONS

Hawthorn Academy follows the relevant transition requirements and procedures described in USBE SER VII as written.

## VIII. RESPONSIBILITIES of the UTAH STATE OFFICE of EDUCATION

Hawthorn Academy provides data as required for State and Federal reports and other State functions.

## IX. LEA ELIGIBILITY and RESPONSIBILITIES

### A. *Participation in assessments and reporting of assessment results.*

All students enrolled in Hawthorn Academy, including students with disabilities, participate in the statewide testing program and the school-wide testing program. Participation requirements in the USOE Assessment Participation and Accommodation Policy are followed. The IEP Team determines how a student with disabilities will participate, and accommodations needed, if any. Results of statewide assessments are posted on the USOE website annually.

### B. *Public participation in policies and procedures development.*

This Policies and Procedures Manual, as well as any future changes to the contents, are presented to Hawthorn Academy's Board of Education in a public meeting for review and input. The agenda for Hawthorn Academy's board meetings is posted at least 24 hours prior to each meeting as required by state law.

### C. *Public posting of USOE monitoring results.*

Results of monitoring from the Utah Program Improvement Planning System are posted on the USOE website annually.

### D. *Methods of ensuring services.*

Hawthorn Academy ensures that each eligible student with a disability enrolled in the school receives the services included in the IEP through a systematic process of review of IEPs and monitoring of service delivery Hawthorn Academy school personnel and contracted service providers.

### E. *Supervision.*

All personnel of Hawthorn Academy are supervised by appropriately qualified staff as determined by Hawthorn Academy 's Board.

### F. *Use of Part B funds.*

Hawthorn Academy follows the requirements of USBE SER IX.B in ensuring the appropriate use of funds under Part B of the IDEA. Hawthorn Academy participates in the single audit process required by State law that includes an audit of Part B funds.



**G. Personnel standards.**

All special education and related services personnel of Hawthorn Academy meet the educator licensing requirements of the USOE for the positions in which they work, as described in the USBE SER IX.H and the Highly Qualified requirements of the USOE State Plan under No Student Left Behind and Educator Licensing – Highly Qualified Assignment (Administrative Rule R-277-510-1 through 11). All personnel necessary to carry out Part B of the IDEA are appropriately and adequately prepared, subject to the requirements related to personnel qualifications and Section 2122 of the ESEA. Hawthorn Academy provides a program of professional development for all special education personnel, based on the identified skill and knowledge needs of teachers, assistants, related service providers, and others, and including targeted training for persons working with students with specific and individual needs for academic and social/behavior instruction.

**H. Performance goals and indicators in the State Performance Plan.**

Hawthorn Academy participates in additional procedures and collects and provides additional information which the USOE may require in order to meet Federal reporting requirements, including suspension and expulsion rates, LRE environments, disproportionality data, and others. (USBE SER IX.A.2)

**I. Early Intervening Services.**

On a yearly basis, Hawthorn Academy may choose to use not more than 15 percent of the amount received under Part B of the IDEA for any fiscal year, in combination with other amounts to develop and implement CEIS for students who are not currently identified as needing special education or special education and related services, but who need additional academic and behavioral support to succeed in a general education environment. The use of such funds will be determined based on student data and will be indicated on Hawthorn Academy's Utah Consolidated Application Plan (UCA). When Hawthorn Academy uses Part B funds for CEIS, a plan of the program will be provided to the USOE as well as all required data will be submitted annually.

**J. Caseload guidelines.**

Hawthorn Academy refers to the *USOE Caseload Guidelines* in overseeing the caseload of each special educator, including related service providers, to ensure that a FAPE is available to all eligible students with disabilities.

**K. Enforcement.**

The confidentiality requirements of Part B of the IDEA are reviewed and approved as part of the LEA eligibility process.

*L. Routine checking of hearing aids and external components of surgically implanted medical devices.*

Hawthorn Academy ensures that hearing aids worn in school by students with hearing impairments, including deafness are functioning properly. Hawthorn Academy also ensures that external components of surgically implanted medical devices are functioning properly.