

POLICY 5113.13 - STUDENTS
POLICY 4112.1 - STAFF

1.0 STUDENTS - ATTENDANCE, NONDISCRIMINATION ON THE BASIS OF HANDICAP
PERSONNEL – NONDISCRIMINATION ON THE BASIS OF HANDICAP

2:0 STATEMENT OF CONDITIONS

2:1 Section 504 of the Rehabilitation Act of 1973 and the Department of Health, Education and Welfare (DHEW) regulations implementing this law require that all facilities, programs, and activities of a school district be accessible to handicapped persons, including employment or student participation therein.

2:2 Some of the facilities of the school system do not currently lend themselves to accessibility without restrictions due to some physical characteristics of plant.

3:0 POLICY PURPOSES

3:1 The provisions of Section 504 of the Rehabilitation Act of 1973 apply to all school districts receiving federal funds, including this school district.

3:2 These provisions as amplified by the DHEW regulations generally:

3:2.1 Prohibit discrimination against qualified persons in all aspects of employment solely on the basis of handicap;

3:2.2 Require that facilities, programs, and activities be acceptable, usable, and open to otherwise qualified handicapped persons;

3:2.3 Require that an appropriate free public education at the elementary and secondary levels is provided each qualified person, including nonacademic and extra-curricular services and activities;

3:2.4 Prohibit exclusion of any qualified handicapped person solely on the basis of handicap from participation in any pre-school education, day-care program or activities; or any adult education or vocational program activity offered by the school district; and

3:2.5 Require that each qualified handicapped person be provided the same services in all respects that the school district provides for other persons.

3:3 In order to continue receiving federal financial assistance from the various federal sources, the Fairhaven Schools must comply with Section 504.

3:3.1 If any program or activity of this school district fails to comply, public hearings would be held by the federal government which could result in the termination of federal funds to the school district.

3:4 In addition to the sanction of non-receipt of federal funds, the School Committee is of the general view that:

3:4.1 Discrimination against a qualified handicapped person solely on the basis of handicap is unfair; and

3:4.2 To the extent reasonably possible, the School Committee is committed to the integration of qualified handicapped persons in the mainstream of life in this school community.

4:0 POLICY STATEMENT

4:1 Definitions - For the purposes of interpreting this policy, the following definitions are summarized:

4:1.1 “Handicap” is a physical or mental impairment that substantially limits one or more major life activities of a person. Any person who actually has such an impairment, or is regarded as having such an impairment, is a person with a “handicap” under this policy.

4:1.2 “Handicapped person” is a person with a handicap who can, with reasonable accommodation, perform the job in question with respect to instructional programs, including preschool, elementary, secondary, or adult education services, is of an age during which it is mandatory under state law to provide such services to handicapped persons; or to whom a state is required to provide a free appropriate public education under Section 612 of the Education of All Handicapped Children Act of 1975. (20 U.S. Code 1401)

4:1.3 “Free appropriate public education” is an educational program or activity operated by the Fairhaven Public Schools that is designed to meet individual educational needs of qualified handicapped persons, as adequately as the needs of non-handicapped persons are met by the schools district; and

4:1.31 is conducted in the regular school environment, as program and activities for non-handicapped persons are, unless this school system can demonstrate that education of the qualified handicapped person in the regular school environment with the use of supplementary services cannot be achieved satisfactorily; and

4:1.32 includes provisions for testing and evaluation of qualified handicapped persons under validated standards and procedures that accurately reflect aptitude or achievement level; and

4:1.33 operates in conjunction with a system of procedural safeguards to ensure proper placement of each qualified handicapped person.

4:2 Application to specific school district programs and activities

4:2.1 The prohibitions or requirements of this policy on non-discrimination against qualified handicapped persons applies to the following programs conducted by the Fairhaven Public Schools:

4:2.11 Employment

- a. No qualified handicapped person, on the basis of handicap, shall be subjected to discrimination and the school system shall not limit, segregate, or classify any applicants for employment or any employee in any way that adversely effects their opportunities or status, because of handicap, except as may be provided under Civil Service regulations for the employment of mentally retarded personnel.
- b. The Fairhaven Public Schools shall make reasonable accommodation to a known physical or mental limitations of an otherwise qualified handicapped applicant or employee, unless it is clear that an accommodation would impose an undue hardship on the operation of the school district program. Such reasonable accommodations may include making facilities used by employees readily accessible and usable by handicapped persons, or restructuring the job, part-time or modified work schedules, acquisition or modification of equipment or devices, or other similar actions.

In determining whether or not accommodation would impose undue hardships on the school system, factors to be considered include the nature and cost of the accommodation; provided, however, that the school system will not deny employment opportunity to a qualified handicapped person solely on the basis of the need to make a reasonable accommodation.

- c. This school system will not make use of any employment test or criteria of employment that screens out handicapped persons unless the test or criteria is specifically job-related and alternative tests or criteria that do not screen out handicapped persons are not available.
- d. While the school system may not make a pre-employment inquiry as to whether an applicant has a handicap, or as to the nature or the severity of any such handicap, it may inquire into an applicant's ability to perform job-related functions.

4:2.2 Facilities

4:2.21 No qualified handicapped person shall be denied the benefits of, and be excluded from, participation in, or otherwise be subjected to discrimination in any school district program on the basis that school district facilities are inaccessible to, or unusable by, handicapped persons if it is possible with reasonable modification to make facilities accessible and usable.

4:2.22 As to existing facilities, the school district intends to conduct its programs or activities so that when viewed in their entirety, they are readily accessible to handicapped persons. While we believe that the school system is not required to make every facility accessible to handicapped persons, careful planning should be done so that handicapped persons may participate in all programs or activities. Toward that end, if structural changes are necessary, the school system shall develop a long-range plan setting forth the changes deemed necessary. In any new facilities or alternatives to facilities, the school system intends to design and construct such facilities to make them readily accessible to, and usable by, handicapped persons. Any such work shall be in conformance with pertinent standards of the American National Standards Institute and applicable state law.

4:2.3 Educational Programs

4:2.31 The school system intends to provide an appropriate free public education to each qualified person in the school district, including the provision of free transportation to and from home and school wherever appropriate.

4:2.32 The school system will formulate evaluation procedures for the best placement of handicapped persons in educational programs and to the maximum extent possible such placement will be in the regular educational environment.

4:2.33 All non-academic and/or extra-curricular services and activities shall also be made available to handicapped students, including but not limited to counseling, physical education, health services, clubs, and recreational programs. Non-academic and extra-curricular services shall be offered to handicapped students on an equal opportunity basis with other students.

4:2.4 Health, Welfare, and Social Services

4:2.41 Any programs of health, welfare, and social services for students and/or employees provided by this school system shall be provided to qualified handicapped persons on a nondiscriminatory basis.

5:0 PROFESSIONAL ACTION DIRECTIONS

- 5:1 The Superintendent shall provide to the School Committee a comprehensive report evaluating the efforts of the school system in complying with this policy. In developing the report, the Superintendent shall seek the advice and counsel of handicapped persons and/or their advocates.
- 5:2 The Superintendent shall propose to the School Committee a grievance procedure, with final appeal to the School Committee, for resort by persons to prompt and equitable resolution of complaints alleging actions in violation of this School Committee policy, except that such procedures will not be available to applicants for employment.
- 5:3 The Superintendent shall designate administrators, who shall be responsible for the administration of this policy within the regular administrative structure of the school system.
- 5:3.1 The Director of State and Federal Programs, as the Equal Opportunity Officer, shall be responsible for the preparation of assurances of compliance, the development of all plans and reports required under this policy, administration of the grievance procedure for students and professional personnel.
- 5:3.2 the Administrative Assistant shall be responsible for the compliance of the school system and the development of plans and reports respecting all classified and non-instructional personnel and for the administration of the grievance procedure established under this policy with respect to classified and non-instructional personnel.
- 5:3.3 The Assistant Superintendent for Special Needs shall be responsible for implementation of the Educational Program mandated under this policy.

Adopted: March 1, 1978

Revised: June 1, 2002

- References:
1. U.S. Rehabilitation Act, Part 84, Title 45, U.S. Code 12116
 2. U.S. Education for All Handicapped Children Act, 20 U.S. Code 1401
 3. Chapter 766 (M.G.L. Chapter 71B)