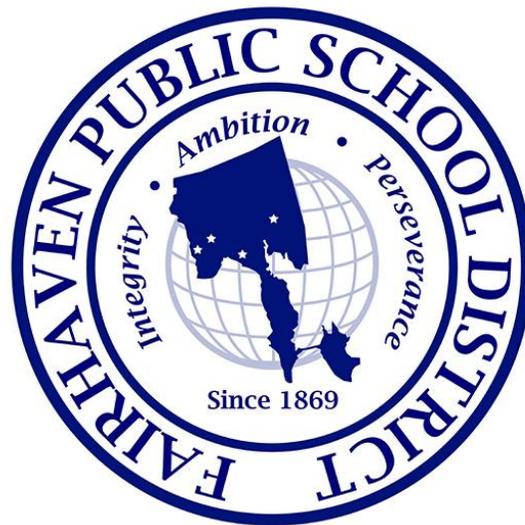


# FAIRHAVEN PUBLIC SCHOOLS

## Office of Student Services

### Special Education

# Manual



128 Washington Street  
Fairhaven, Massachusetts 02719

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## Introduction

Fairhaven Public Schools ascribes to the belief of *All Kids, All the Time!* We are dedicated to meeting the needs of all our students. We believe that parents/guardians are the primary educators for their children and the most important educational advocates. Fairhaven Public Schools believes in building collaborative relationships with families and the community in order to best serve our students.

This manual is intended as a reference for families, students and our community of procedural steps pertaining to state special education regulations (603 CMR 28.00 et seq.) and provides a description. The expectation for use of the manual is provide information on the regulatory processes and procedures that govern all aspects of special education<sup>1</sup>. The Director of Student Services is available to provide support after you have reviewed the procedural manual. The practices and procedures included in this manual align with special education regulations (603 CMR 28.00 et seq.). Required forms and documents referred throughout the document can be found in the Appendix section of this manual (and/or in ASPEN under Forms).

## Mission

Our mission is to provide an appropriate continuum of services to our students that meet their individual needs.

## Vision

The Office of Student Services aspires to embrace inclusivity across the district by creating a culture of collaboration that supports the success of all students with special education needs both academically and emotionally.

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<sup>1</sup> This manual will be reviewed at least annually, which may result in revisions to content and/or forms. Personnel will be provided with the updated version annually and should review and refer to it.

## Federal and State Regulations

Special Education in the K-12 setting is regulated by both the federal and state governments. At the federal level, these regulations are known as the Individuals with Disabilities Act (IDEA). Information regarding [IDEA](#) can be found here.

### OVERVIEW IDEA

(Individuals with Disabilities Education Act)

All children have a right to a free and appropriate public education (FAPE). This right is guaranteed by federal and state laws. In 1975, Public Law 94-142, The Education for all Handicapped Children Act, was signed into law to ensure that the educational rights of children with special needs were protected and that their education was provided in a way that met their needs. In 1990, this act was amended and renamed the Individuals with Disabilities Education Act or IDEA. In 1997, the IDEA was reauthorized to further strengthen the roles of parents, students and educators in the education process. IDEA provides the rules or guidelines for special education services throughout the United States. IDEA has the following major components, which are the landmark principles of special education: Zero-reject: This component prohibits schools from excluding any child from education because he or she has a disability. Non-discriminatory evaluation: Fair testing of children is required, with tests that are administered and scored in an unbiased way. Free, appropriate, individualized education: This is the landmark principle of IDEA, requiring a child's education to be designed to his or her needs. The Individualized Education Program, or IEP, is the document that spells out those needs into a program of services. Least restrictive educational placement (LRE): To the greatest extent possible, children with disabilities are required to be educated with their peers without disabilities. Procedural due process: Parents must be given the opportunity to consent or object to their children's education, referral, assessment, program, or placement. Parent participation: Parents may participate as full partners and have full knowledge of their child's education program. The special education laws once again were updated in 2004. The reauthorized law, called the Individuals with Disabilities Education Improvement Act (IDEIA), aligns the special education law with the requirements of the No Child Left Behind Act of 2001. The IDEIA amended the IDEA in efforts to create more flexibility in formulating programming and services for students with disabilities. The IDEA also places additional emphasis on cooperation between parents and school districts and attempts to streamline the process for resolving disputes under the IDEA.

The regulations can be accessed at the following website:

<http://www.ed.gov/policy/special-ed/guid/idea/idea2004.html>

In response to IDEA, each state must establish their own regulations in order to receive funding associated with compliance in the implementation of IDEA. In Massachusetts, IDEA is addressed

in 603 CMR 28.00 titled: "Special Education". 603 CMR 28.00 addresses the following components:

- 28.01 Authority, Scope and Purpose
- Definitions
- Administration and Personnel
- Referral and Evaluation
- The Team Process and Development of the IEP
- Placement and Service Options
- Parent Involvement
- Continuum of Options for Dispute Resolution
- Approval of Public or Private Day and Residential Special Education School Programs
- School District Responsibility

These regulations in their entirety can be found on the Massachusetts Department of Elementary and Secondary Education website here: [603 CMR 28](#).

## Rehabilitation Act Section 504

"Section 504" refers to Section 504 of the Rehabilitation Act of 1973 and to the amendments to the act since 1973. Section 504 states that no individual with a disability shall be: "excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." For children with disabilities, the most important regulations for Section 504 concern access and reasonable accommodation. To be eligible for protection under Subpart A of Section 504, an individual must meet the definition applying to any person with a physical or mental impairment substantially limiting one or more life activities such as walking, breathing, speaking, hearing, seeing, learning, performing manual tasks, or caring for oneself. Subpart C of Section 504 requires a program receiving federal funds to operate in facilities accessible to and usable by people with physical and/or sensory disabilities. Children who may be eligible for accommodations under Section 504 may have chronic conditions such as epilepsy, asthma, diabetes, Attention Deficit Disorder (ADD) but nonetheless might not qualify for services under the IDEA. This law is enforced by the U.S. Office of Civil Rights and each school district with more than 15 employees is responsible for assuring compliance with Section 504.

## The Family Education Rights and Privacy Act (FERPA)

This law, sometimes called the Buckley Amendment, is a federal law enacted in 1984. It gives all parents of students under 18 years of age and all students over 18 years of age, the right to see, correct, and control access to student records. Any school which receives federal funds from the U.S. Department of Education must follow this law. Schools are required to establish written procedures to carry out this law and to notify parents of their rights annually. The following is a summary of the parental rights associated with educational records:

1. The right to inspect and review the student's education records within 10 days after the day the Fairhaven Public Schools receives a request for access. Parents or eligible students who wish to inspect their child's or their education records should submit to the school principal [or appropriate school official] a written request that identifies the records they wish to inspect. The school official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.
2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA. Parents or eligible students who wish to ask the School to amend their child's or their education record should write to the school principal or appropriate school official, clearly identify the part of the record they want changed, and specify why it should be changed. If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and of their right to appeal. Additional information regarding the appeal will be provided to the parent or eligible student with the decision.
3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA or Massachusetts student records regulations authorize disclosure without consent. One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official typically includes a person employed by the school or school district as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer, contractor, or consultant who, while not employed by the school, performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official typically has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility. It also includes any online providers the

District uses to provide educational services. Upon request, the school discloses education records without consent to officials of another school or school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer.

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the School to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Student Privacy Policy Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

## **Americans with Disabilities Act**

The Americans with Disabilities Act (ADA) of 1990 provides a clear and comprehensive mandate to ban discrimination against individuals with disabilities. This act has had a powerful impact on schools in that it strengthens 'the least restrictive environment' principle and creates greater opportunities for a child's inclusion in schools and the community.

### **The Referral Process: *Beginning the Partnership***

Children bring unique abilities, strengths, and styles of learning to the educational setting. When a child experiences challenges in school, it may be noticed by the teacher, other school personnel, the parents or the child. What happens when a teacher has concerns? The District has developed District Curriculum Accommodation Plans (DCAP) which outlines the assistance and support available to students through general education. Unless the teacher suspects a disability, teachers should access the DCAP process on behalf of students who exhibit difficulty learning in the classroom. If a teacher continues to have concerns with a child's school performance, they may request assistance from the Student Support Team (SST). SST is a general education initiative designed to support teachers through strategies and suggestions for students who are experiencing difficulty in regular education. The SST works with the classroom teacher to suggest alternative intervention strategies to assist the child's access to the curriculum. After alternative strategies have been used, the teacher and other involved school personnel evaluate the child's school performance and determine whether the alternative strategies are successful and should continue. Very often, many problems are resolved at this level.

OR

If, after a series of interventions, the SST believes a full evaluation may be necessary, they request an evaluation. A team member contacts the parents/guardians to discuss the need for evaluation. After the initial referral, State law requires that the school must complete its evaluation and formulate an IEP, if appropriate, within 45 school days (excluding weekends, holidays, school vacations) from receipt of consent. As explained below, a parent may also initiate a referral that will begin the evaluation process. The initial referral that begins this 45-day period can take place at any time during the school year, even if there are not 45 days left before the end of the school year. In cases where the referral takes place with less than 45 school days left in the year, time remaining on the 45-day period for formulating an appropriate IEP for the student based upon the results of the evaluation recommences the following fall when school reconvenes.

### **What Happens When a Parent/Guardian Has Concerns?**

The parent/guardian(s) may also make a request for a special education evaluation by writing a letter to the teacher or building administration at the school their child attends. It is wise to date the request and keep a record copy. The parent/guardian(s) may also verbally request a referral, however, a letter provides proof that a referral was indeed made. Upon the receipt of the request for evaluation, a representative from the District will contact parent/guardian(s) regarding the request for an evaluation. The representative and parent/guardian(s) will discuss the reasons for the request. After the discussion for the evaluation, the same process outlined above would then be followed. If the parents disagree with the team's decision regarding the evaluation, they may refuse consent or exercise their due process rights.

### **Tips for Parents**

- Talk to your child
- Find out how your child feels about school.
- Find out their likes and dislikes.
- Talk with your child's teacher
- Is your child having difficulty with homework?
  - unable to complete work independently?
  - begins, but can't complete assignments?
  - can't recall the related instruction during the school day?
- Does your child complain about physical illnesses, or invent excuses, in order to stay home from school?
- Does your child appear not to have any friends, or doesn't talk about or know the names of classmates?
- Does your child only use negative comments when talking about school?
- Start a home file to include: - accurate record of meetings, phone calls, letters - copies of reports, correspondence, report cards, samples of your child's work
- Make sure the school personnel are aware of any services your child receives outside of school.

## The Initial IEP Process: *The TEAM at Work*

When Fairhaven Public Schools receives a request for an Evaluation for Special Education from a teacher, parent/guardian(s), or other agencies, then the following steps are followed:

- The district must respond to requests within five school working days.
- The assigned School Psychologist will contact the parent/guardian(s) to discuss specific concerns (academic, intellectual, behavioral, social/emotional, etc.)
- Evaluations are conducted within a 30 school day timeline and a meeting is scheduled by the 45th school day timeline to review evaluations.
- Meeting members must include but not be limited to the following: parent/guardian(s), School Psychologist, Classroom Teacher, Special Education Case Manager, other professional staff as needed.

Parent/guardian(s) have the right to participate in their child's IEP meeting and in the decision making process as an equal partner. Students should be included whenever possible or appropriate, especially during transition planning; which begins at the age of fourteen.

Parent/guardian(s) may bring persons of their choice to the meeting for additional support including private specialists, advocates, family members, and friends. An interpreter will be supplied if needed. At the start of the meeting, all participants are introduced.

Parent/guardian(s) will be provided a copy of the "Parent's Notice of Procedural Safeguards" The team members should clarify the purpose for the meeting as stated on the invitation. All decisions made at the meeting will be summarized on the Notice of Proposed School District Action (N1) or Refusal to Act (N2). The actions recommended by the team, the actions considered but not recommended by the team and any actions refused by the district should be clearly stated on the N1 or N2.

Parent/guardian(s) should check that their agreement or disagreement with the team recommendation is accurately recorded. Parent/guardian(s) may call an additional meeting to discuss concerns/questions of the IEP or refusal to act. A parent/guardian(s) signature is required for the IEP to be implemented.

The purpose of the Initial IEP TEAM meeting is to:

- Initiate and discuss evaluations and educational progress including attendance report, report card, district wide benchmark testing, progress reports, Dibels testing, and any other available educational evidence.
- Listen to parent concerns.
- Determine eligibility for special education services.
- Develop the Individualized Education Program if eligible (IEP).

- Review or revise interventions if an IEP is not warranted.
- Refer for 504 if the child is found to have a disability, but does not require specially designed instruction or related services.

If eligible, an IEP will be developed. If not eligible, the Notice of School District Refusal to Act (N2) letter will be written and mailed home.

If the student is found eligible and an IEP is developed, special education services will begin upon receiving signed acceptance of the IEP. A summary of the proposed IEP will be provided to the parent/guardian after the meeting.

*The Team Chairperson(s):*

Early Childhood Coordinator  
 Assistant Director of Student Services  
 School Psychologist  
 Out of District Coordinator  
 Case Manager

## Tips for Parents/Guardians

- Before the meeting, write a list of concerns or issues that you feel are important to discuss.
- Talk to other parents who have attended IEP meetings.
- Think about whether your child should be included at the meeting and discuss this with school personnel.
- If the school prepares a draft of the IEP prior to the meeting, you may request to review it before the meeting.
- Take your own notes at the meeting.
- Be a good listener. Listen to the staff's professional opinions about your child. Remember, school personnel are good advocates for your child too.
- If differences of opinion arise, talk them out.
- If you do not understand something, ask that it be restated. You may ask for an example or demonstration of what is meant.
- If you feel overwhelmed, it is okay to take a break. Leave the room, take a walk and reconvene. If you don't feel you can continue without timeout to think about what you have heard, you may ask that the meeting be continued at a later date.

## The Evaluation Process

### Identifying Your Child's Strengths and Needs (SE 1, 2, 4)

The purpose of the evaluation process is to identify your child's specific learning strengths, needs and concerns. This is a problem-solving process that involves many ways of collecting information. Information may be gathered through informal and formal observations; reviewing school work and records, talking with the teachers, standardized testing and checklists. The evaluation is done to determine if your child is eligible for special education services.

This process also helps identify your child's strengths and abilities which are equally important in planning future services. Evaluations are conducted for different reasons:

- Screening - to identify those children who may be experiencing learning difficulties.
- Eligibility - to determine whether a child is eligible for special education services (each child receiving special education and related services shall be re-evaluated at least once every three years to determine continued eligibility).
- IEP development and placement - to develop a plan of action and make decisions about a child's program.
- Instructional Planning - to plan instruction appropriate to the child's specific strengths and needs and to monitor its effectiveness.

There are certain requirements that all schools must meet when evaluating your child's need for special education services. These requirements include:

- Evaluation(s) in all areas of the suspected disability(ies) including consideration of any needed assistive technology devices and services and/or instruction in Braille.
- Educational evaluation by a representative of the school district, including a history of your child's educational progress in the general curriculum.
- Educational assessment by a teacher(s) with current knowledge regarding the student's specific abilities in relation to learning standards of the Massachusetts Curriculum Frameworks and the district's general education curriculum, as well as an assessment of the student's attention skills, participation behaviors, communication skills, memory, and social relations with groups, peers, and adults.
- For a student being assessed to determine eligibility for services at age three (3), an observation of the student's interactions in the student's natural environment or early intervention program is strongly encouraged together with the use of current assessments from Early Intervention Teams to avoid duplicate testing.
- Optional assessments: The administrator of special education may recommend or the parent may request one or more of the following:
  - A comprehensive health assessment by a physician that identifies medical problems or constraints that may affect the student's education. The school nurse may add additional relevant health information from the student's school health records.
  - A psychological assessment by a certified school psychologist, licensed psychologist, or licensed educational psychologist, including an individual

psychological examination.

- A home assessment that may be conducted by a nurse, psychologist, social worker, guidance or adjustment counselor, or teacher and includes information on pertinent family history and home situation and may include a home visit, with the agreement of the parent.
- At the re-evaluation of a student, if no additional assessments are needed to determine whether the student continues to be eligible for special education, the school district recommends to the student's parents the following:
  - that no further assessments are needed and the reasons for this; and
  - the right of the parents to request an assessment.

## Tips for Parents/Guardians

- Share information with the IEP team that will benefit your child's education
- Ensure the evaluation to the needs of your child; make you an informed partner from the beginning
- A list of your child's strengths, needs, preferences, learning style
- Samples of your child's work
- Learn more about the evaluation and the process - Ask questions!
  - What questions do we have that we hope will be answered by the evaluation?
  - Who will be conducting the evaluation and in what setting?
  - What areas will be evaluated?
  - What specific tests or portions of tests will be used and why?
  - What is the training and experience of the persons administering the test?
  - Does the evaluation need to be adapted to compensate for your child's suspected disability?
- Talk with other experienced parents, school representatives, or outside professionals, such as your child's pediatrician, about the evaluation process.

## Eligibility (SE 9, 9A)

Eligibility is determined by the Educational Team following the evaluation of the child. The notice that invites parents to the Team Meeting (N3) must state that one of the purposes of the meeting is to determine eligibility for special education.

At the meeting, the Team will determine eligibility using the ED1 form, frequently called the "Eligibility Flowchart". If the child is found to have a disability, the Team will determine the type(s) of disability and so note it on the chart. In order to be determined to be eligible for special education services the student must meet the following conditions:

- The student must have a disability
- The student is not making effective progress

- The lack of effective progress is a result of the disability
- The student requires specially designed instruction in order to make effective progress or requires related services in order to access the general curriculum.
- No child shall be determined to be eligible for special education solely because of limited English proficiency, because the child fails to meet the school discipline code, or because the child lacks instruction in reading or math.

**Other Considerations:**

If the student is not found to be eligible, the Team should discuss other means of addressing the learning needs of the student. Additionally, the Team chairperson shall record the reason for the finding of non-eligibility, list the meeting participants, and provide written notice to the parent of their rights in accordance with federal requirements within ten days of the Team meeting. This is done using the N2 (School District Notification of Decision) form and must be accompanied by the Parent's Notice of Procedural Safeguards brochure.

As part of the eligibility discussion, the parent will be asked whether he or she is satisfied with the school's evaluation. If the answer is no, a discussion should be held regarding parent's rights to an Independent Educational Evaluation.

**Assessments: Selection and Interpretation** (SE 1,2)

Assessments are appropriately selected and interpreted for students referred for evaluation. All assessments provided are to address the student's suspected disability. Evaluation materials are validated for the specific purpose for which they are used. A multidisciplinary team conducts the evaluations with assessments adapted to the age of the child being evaluated. All tests are administered and interpreted by trained persons specifically qualified to administer and interpret them.

The Fairhaven Public School District has licensed, certified and trained School Psychologists and Special Education teachers to conduct initial, reevaluations, educational (achievement) evaluations, executive functioning/neurological evaluations, cognitive (ability) evaluations, social emotional assessments, functional behavioral assessments, and behavioral evaluations. Licensed/certified Speech Language Pathologists conduct speech and language evaluations. Licensed/certified Occupational Therapists conduct occupational therapy evaluations contracted by the district. Licensed/certified Physical Therapists conduct physical therapy evaluations also contracted by the district.

Testing procedures include tests and other evaluative materials tailored to assess specific areas of educational need. The evaluations are not only those designed to provide a single general intelligence quotient. They are selected and administered to accurately reflect the child's aptitude or achievement levels. In addition when a test is administered to a student with impaired sensory, motor, or speaking skills, the tests and evaluation materials are selected and

administered to ensure that the test results accurately reflect the student's aptitude or achievement level or the other factors the test purports to measure. Each specialist conducting an assessment is trained in the area of suspected need and gives the child a professionally sound, complete and suitably individualized educational assessment.

As mandated by the student's need(s), specialists in the areas of health, vision, hearing, and motor orientation abilities conduct evaluations. Each specialist is trained in the area of suspected need and gives the student a professionally sound, complete and suitably individualized assessment. Prior to scheduling assessments notification is given to the specialist if assistive technology devices and services and/or instruction in Braille is an area of consideration.

An Educational Assessment (Part A) is provided by the student's Case Manager. The assessment includes a history of the student's education and an overview of the student's progress and potential.

A teacher assessment (Educational Assessment: Part B) is provided by each of the student's teachers. These assessments include a student's specific abilities in relation to the Massachusetts Curriculum Frameworks, attentional capacity, classroom participation, communication skills, memory and interpersonal skills with groups, peers and adults.

The Fairhaven Public School District ensures the use of technically sound instruments that assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

All tests and evaluative material are as free as possible from cultural and linguistic bias. Tests and other evaluative materials are in the child's native language or other mode of communication. If the primary language of the home is other than English, evaluations, conferences, and meetings are conducted in the primary language.

No single procedure is used as the sole criterion for determining an appropriate educational program for a child.

Each person who conducts an assessment provides a summary in writing of the procedures employed, the results, diagnostic impression, and defines the child's needs. Summaries of these assessments are made available to parents and presented at Team meetings.

The Fairhaven Public School District requests information from the parents/guardians to ensure a full picture of the child's learning profile. In interpreting evaluation data and making decisions, the Fairhaven Public School District uses information from a variety of sources to gather relevant functional and developmental information, including information provided by the

parents/guardians.

Team recommendations resulting from the evaluation data are implemented to ensure the student's needs are met in the Least Restrictive Environment (LRE). The recommended services enable the student to be involved in and progress in the general education curriculum. The Fairhaven Public School District ensures that all students eligible for special education services have access to the general education curriculum in the LRE. The district provides a full continuum of support services.

In the IEP the District documents the student's participation in the general education curriculum, or provides justification for non-participation in the general education curriculum.

No Additional Assessments:

At the re-evaluation of a student (usually an eleventh or twelfth grader), if the Team decides that no further assessments are needed to determine whether the student continues to be eligible for special education services, the District recommends in a letter to the parent/guardian and/or student if age appropriate (18) the following:

That no further assessments are needed and the reasons; The right of the parent/student to request an assessment.

The Fairhaven Director of Student Services may consult with parents/guardians regarding assessments and evaluators conducting the assessments. Consultation takes place by phone or meeting if requested by parents.

### **Extended Evaluation** (SE 19)

If the Team finds the evaluation information insufficient to develop an IEP, the Team, with parental consent, may agree to an extended evaluation period. If the Team finds the student eligible for special education, but finds the evaluation information insufficient, a full or partial IEP is developed and if the Team finds a student eligible for special education and finds the evaluation information insufficient to develop a full or partial IEP, the Team, with the parents' consent, agrees to an extended evaluation period and completed an Extended Evaluation Form.

The extended evaluation period is not used to deny programs or services determined to be necessary by the Team. If, prior to the extended evaluation, the Team determines that sufficient information is available to determine, in part, necessary annual goals and services, the Team writes a partial IEP that, if accepted by the parent, is immediately implemented by the district while the extended evaluation is occurring. The extended evaluation period is not used to allow additional time to complete the required assessments. If the parent consents to an extended evaluation, the Team documents its findings and determines what evaluation time period is necessary and the types of information needed to develop an IEP. The Team may decide to

meet at intervals during the extended evaluation, but in all cases reconvene promptly to develop an IEP when the evaluation is complete. The extended evaluation may extend longer than one week, but does not exceed eight school weeks. The extended evaluation is not considered a placement.

### **Independent Educational Evaluations** (SE 11)

Upon receipt of evaluation results, if the parent disagrees with an initial evaluation or a reevaluation completed by the school district then the parent may request an independent educational evaluation (IEE). As with initial requests for evaluations, it is preferable that the request be received in writing but it is not mandatory. Any staff member who believes that a parent is requesting an independent educational evaluation to be funded by the school should immediately notify the chairperson of the student's Educational Team. The case manager shall immediately notify the Director of Student Services will contact the parent/guardian(s) to discuss the area of dissatisfaction. An NI or N2 will be sent to the parent within 5 days of the request outlining the reason agreeing to pay or not pay for the evaluation . If the request is by letter, and the district is agreeing to provide the assessments, the parent is called to discuss assessments and process.

At the initial point the parent/guardian(s) is asked if they have someone in mind to provide the evaluation(s). A list of evaluators may be provided to the parent. All independent educational evaluations funded by the district are conducted by qualified persons who are registered, certified, licensed, or otherwise approved and who abide by the rates set by the state agency responsible for setting such rates. Unique circumstances of the student are to be justified when an individual assessment rate is higher than that normally allowed. The district offers parents the option of participating in an income eligibility program for free or reduced cost independent educational evaluations that are equivalent to the types of assessments done by the school district. The district extends the right to a publicly-funded independent educational evaluation (only if cost-shared or funded for state wards or for students receiving free or reduced cost lunch) for 16 months from the date of the evaluation with which the parent disagrees.

If publicly funded, the report is sent to the parents and to the school district. The independent evaluator's report summarizes, in writing, procedures, assessments, results, and diagnostic impressions as well as educationally relevant recommendations for meeting identified needs of the student. The independent evaluator recommends appropriate types of placements but does not recommend specific classrooms or schools. Within 10 school days from the time the school district receives the report of the independent educational evaluation, the Team reconvenes and considers the independent educational evaluation (which may be publicly or privately funded) and whether a new or amended IEP is appropriate.

If the parent/guardian is requesting an evaluation in an area not assessed by the school district, or if the student does not meet or the parent does not choose to share the financial documentation regarding the income eligibility standards for free or reduced cost independent

educational evaluation, then the district responds in accordance with the requirements of federal law by paying for the independent educational evaluation or, within 5 school days, proceeding to the Bureau of Special Education Appeals (BSEA) to show that its evaluation was comprehensive and appropriate.

Parents always have the right at any time to have their child evaluated privately at their own expense.

### **Specific Learning Disabilities** (SE 8)

Whenever a student is suspected of having a specific learning disability additional procedures are required. These additional procedures contain four components:

Component 1: The Team must ensure that the student's underachievement is not due to a lack of appropriate instruction in reading or math. Therefore, the Team must determine that: The student has been provided appropriate instruction in general education settings and that instruction has been delivered by qualified personnel;

There is data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of the student's progress and this documentation was provided to the student's parents.

The Team makes this determination by conducting a Historical Review. The Team must also assure that the student's participation skills have been considered and that the student's performance history and medical information have been examined. The results of the Historical Review and examination of Participation Skills, Performance History and Medical Information are documented using the SLD 1 form.

Component 2: The Team must identify the Area(s) of Concern and determine the method they will employ to determine eligibility, choosing 'one of the methods listed below:

Use a process based on the student's response to scientific, research-based intervention.

OR

Demonstrate a severe discrepancy between IQ and achievement.

Whichever method is chosen, the Team must complete the appropriate section of the SLD 2 form and attach to it all documentation as instructed on the form.

Component 3: The Team must ensure that the lack of achievement in the area(s) of concern is not primarily a result of cultural factors; environmental or economic disadvantage; limited English proficiency; visual, hearing, or motor disability; mental retardation; or an emotional disturbance. The SLD 3 form is used to document the findings on these "Exclusionary Factors".

Component 4: At least one Team member, other than the child's teacher, must complete a classroom observation of the student's relevant behavior and performance. When the child is less than school age, this observation should take place in an age appropriate environment. The

observation should note specifics about the student's performance and any relevant behavior and how it relates to the student's academic functioning. The SLD 4 form is used both as a tool to facilitate the observation and a means to document it. There are SLD 4 forms for each of the following grade spans: Preschool-K; 1-4; 5-8; and 9-12.

## **Special requirements for Determination of Specific Learning Disability (SLD) (SE 3 )**

If your child is suspected of having a specific learning disability is evaluated, the Team creates a written determination as to whether or not he or she has a specific learning disability, which is signed by all members of the Team, or if there is disagreement as to the determination, one or more Team members document their disagreement. If SLD is the existing or suspected disability, observation forms are sent to the case manager who will identify a teacher who will observe the student and complete the forms. The tester or person presenting the evaluation results presents a specific learning disability determination form for completion and signature at meetings for all students for whom this area was assessed as a suspected disability category.

- Staff sign agreement with the designation of the disability area.
- Team members who are in disagreement with the determination of a specific learning disability provide written documentation of their disagreement on the form.
- Once determined, the presence of a specific learning disability is reassessed at subsequent re-evaluation meetings.

## **Special Requirements for Students on the Autism Spectrum (SE 3 A)**

If an evaluation indicates that a child has a disability on the autism spectrum, which includes autistic disorder [autism], childhood disintegrative disorder, and Rhetts's Syndrome as defined in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-V, 2013), the IEP Team shall consider and shall specifically address the following:

- 1.) the verbal and nonverbal communication needs of the child
- 2.) the need to develop social interaction skills and proficiencies
- 3.) the needs resulting from the child's unusual responses to sensory experiences
- 4.) the needs resulting from resistance to environmental change or change in daily routines
- 5.) the needs resulting from engagement in repetitive activities and stereotyped movements
- 6.) the need for any positive behavioral interventions, strategies, and supports to address any behavioral difficulties resulting from autism spectrum disorder
- 7.) and other needs resulting from the child's disability that impact progress in the general curriculum, including social and emotional development.

The Team must complete the Autism (ASD) Checklist, Appendix . The checklist is located at each building or at the Student Services Office. The form will be included in the special education packet for the case manager to be reviewed and completed by the Team at IEP meetings for

students with autism. The content of the form will be used by Special Education Staff in developing the IEP and included in the sections of the IEP as indicated in the form (ie: PLEP A or B). This may be in addition to other information deemed necessary by the Team and IEP writer. The form will be kept in the student's file

## **The Individualized Education Program (IEP) (SE 18A):**

### *The Plan*

Once your child has been determined eligible to receive special education and related services, you will begin the team process of developing an individualized education program (IEP) designed to meet the specific needs of your child. The IEP is both a document and a process. The development of the IEP gives you the opportunity to work with educators as equal partners to identify your child's needs, what will be provided to meet those needs, and what the anticipated outcomes or goals may be. The process of collaborative goal setting allows both educators and parents to combine their separate areas of expertise to plan for the specific needs of a child. The IEP is also a document - a written description of the plan developed for your child. It is a contract in writing of the resources the school agrees to provide. The IEP document will be written at the team meeting. A proposed IEP, labeled DRAFT, may be presented at the meeting, but changes can and should be made as the team works together to develop the plan.

The IEP will include the following content areas:

- A statement of the child's present level of education performance, including (where appropriate): academic achievement, communication, social/emotional, vocational/transition, fine and gross skills and activities of daily living (community participation and independent living) skills.
- A statement of annual educational goals for the coming school year and a statement of how and when progress towards meeting the annual educational goals will be measured. (e.g.: Mary will use strategies and apply math skills to solve word problems.)
- A statement of short-term instructional objectives or benchmarks derived from the annual educational goals. (e.g. with teacher demonstration, the child will use a word to request a desired object across 3 people and 2 environments, .4/5 trials.)
- A statement of specific educational services needed by the child, including a description of special education and related services which are needed to meet the needs of the child and the recommended instructional settings, the date when those services will begin, the length of time the services will be given and the location.
- Program considerations must be discussed and documented including: the length of the school day and year, assistive technology, vocational/career education, physical education, extended school year services, need for a functional behavior assessment and transportation.
- A description of the extent to which the child will not participate in the general education program, and the justification for removal from general education (if needed).

- Modifications and accommodations in general education including nonacademic and extracurricular activities.

### **Timelines:**

- Parents will receive a copy of the IEP within five (5) school days after the IEP meeting. The IEP will be reviewed at least annually.

### **Tips For Parents Before the IEP is Developed:**

- Familiarize yourself with the IEP document.
- Review all relevant information, including: -assessments (make sure they are accurate and up to date) -prior IEPs -teacher progress notes -your child's schoolwork -the general education curriculum for your child's grade
- Remember, you are an expert in your child's development. Be prepared to share your observations of your child's functioning in the following areas: movement, communication, social relationships and behavior, independence, preferences, problem solving.
- Be prepared to share your educational expectations for your child and what annual outcomes you would like to see your child accomplish during the year.
- You will be asked for your vision for your child's future with the team. Prepare a statement ahead of time. You may change it at the meeting based on the information presented.
- Be prepared to share your observations about the way your child learns best. Does he/she learn by: -touching, holding -seeing, looking, watching -working in groups with other children -working alone or with one friend -drawing, writing -talking about new things he/she is learning
- Be sure all services necessary to implement your child's educational program are being written into the IEP.
- Be sure to consider all of your child's needs including socialization and include strategies such as Social Skills groups.
- Consider building strategies for ongoing communication with your child's team.
- After the IEP is developed:
  - Ask for suggestions from the general and special education teachers of how you can continue, expand and reinforce school activities at home.
  - Take the time to explain any special equipment your child uses outside of school
  - Inform the teacher of any activities or significant events that may influence your child's performance in school.
  - Let the school know that you would like to be called if your input is needed. Remember, you and the school want the best for your child. Working together can make that happen.

- If you have questions, make an appointment with the teacher(s) and other service providers to discuss new strategies to meet your child's goals. •
- Take the initiative. If you want to meet with the teacher, call him or her and arrange a visit.
- Remember, you and the school are on the same side: your child's!

## **Placement** (SE 18B)

The Fairhaven Public Schools is committed to placing children in the least restrictive environment possible. Placement decisions are made at Team meetings after service needs are determined. Placement considerations will start with the student's needs and how they can be addressed in a general classroom with modifications. Only if the student cannot make effective progress in a general classroom with modifications, then should placement outside of a general classroom be considered.

If the Team finds that a student must be removed from a general classroom for special education services for any part of their school day (or week) and that services are therefore provided outside the general education setting, then the Team must justify the reason for the student's removal from the general education setting on the IEP, indicating why the student could not be placed in the less restrictive setting even with the use of supplementary aids and services.

When a student is placed in an out of district program, whether a day program or a residential program, consideration will be given to whether the student requires special education services and supports to promote the student's transition to placement in a less restrictive program.

## **Least Restrictive Program Selected** (SE 20)

The program selected is the least restrictive environment for students, with consideration given to any potential harmful effect on the student or on the quality of services that he or she needs. If the student is removed from the general education classroom at any time, the Team states why the removal is considered critical to the student's program and the basis for its conclusion that education of the student in a less restrictive environment, with the use of supplementary aids and services, could not be achieved satisfactorily. (NPJ)

Educating the student in the least restrictive setting is the goal of the IEP Team. Removal from the general education setting is justified in the Nonparticipation Justification section on IEP 7. The removal discussion also includes the potential harm of being removed from a setting that is less restrictive to one that is more restrictive. The benefit of the removal is included in the statement. After the IEP has been fully developed, the Team determines the appropriate placement to deliver services. The location of a proposed placement may be delayed if the Chairperson, with parent input, determines the need for a Placement Meeting, which must be held within 10 days, or longer at the request of the parent, of the original IEP meeting. The case

manager arranges for the parent to visit proposed programs and classrooms, prior to the placement meeting.

## Continuum of Services

The IEP process results in a decision concerning a learning environment in which the identified goals and objectives can best be met by the child. Special education law requires an education in the least restrictive environment (LRE). Fairhaven Public Schools ensures an appropriate and effective education of every child in the general education classroom to the maximum extent appropriate. The following are guidelines regarding placement decisions:

- Special classes, separate schooling, or otherwise removing your child from general education should occur only when the nature or severity of your child's disability is such that education in general education classes cannot be achieved satisfactorily, even with the use of supplementary aids and services.
- Schools must consider a continuum of placement options (general education classes, general education classes with minimal support, general education classes with one-to-one assistance, special education classes, etc.), and supplementary services (occupational therapy, speech and language, etc.).
- The District ensures that a continuum of services and alternative placement is available to meet the needs of all students with disabilities, and takes all steps necessary to ensure compliance with all elements of the IEPs.

### Tips For Parents/Families

- Remember - special education is not a place - but, services and supports to assist your child in the setting most appropriate for his/her needs.
- Make sure you understand your child's strengths and needs and what types of support will be beneficial. Share your vision and expectations for your child with the TEAM.
- Be sure to consider all supports and services to help your child succeed (i.e. assistive technology, adapted or modified curriculum, special equipment, special education consultation)

## Extended School Year Services (SE 21)

The Educational Team for each child will determine whether that child requires Extended School Year services (ESY). The need for ESY must be based on (1) the unique nature of any specially designed instruction or related service needed due to the disability of the student or (2) whether the student has demonstrated, or is likely to demonstrate, substantial regression due to a break in service. Any such regression must be considered to be substantial such that the student would require a much greater than usual time to get back to the level the student had achieved before a break in service.

Special education service providers must keep data on all their students indicating the rates of their learning and relearning, as well as the student's attainment of IEP goals and objectives. However, the Team may not delay a decision from one year to the next while they wait to see whether regression can be demonstrated.

#### Process and Procedures:

The need for Extended School Year services (ESY) will be considered by the Educational Team for each child on an IEP at least once annually and a determination will be made whether such services are or are not needed. The results of this determination will be documented in the student's IEP. This determination will be made before there is a major break in services (i.e, the summer break).

In making a determination whether a student requires ESY services, the Team shall consider the unique needs and circumstances of that student including:

The degree of the child's impairment.

The child's rate of progress.

The child's specific behavior and/or physical problems.

The availability of alternative resources.

The child's ability to interact with non-disabled children.

The specific curricular areas in which the child needs continuing attention.

The vocational and transition needs of the child.

Whether the service requested is "extraordinary" rather than usual in consideration of the child's condition.

The Team shall also consider the child's history of substantial regression and limited recoupment capability as seen in the following interrelated elements:

- the loss of performance levels that were attained before a break in service.
- a limited learning rate, which lengthens the amount of time the student requires to review and/or relearn previously attained objectives, and
- the time needed for the student to recoup previously learned material is greater than the period of time the school district allows all other children for review and/or relearning.

When there is no previous record of a child's substantial regression after a significant break in service, the Team shall consider the need for an ESY program if the following circumstances are present:

- there is lack of progress in meeting short-term objectives over two marking periods, resulting in little or no progress made over the school year
- there are significant regression/recoupment problems over short-term vacation periods or other breaks in the school year, and/or the unique nature of any specially designed instruction or related services due to the disability of the student requires such extended school year programming.

## **Review and Revision of IEPs Annual Review/ Re-evaluation** (SE 14):

At least annually, on or before the anniversary date of the IEP, a Team meeting is held to consider the student's progress and to review, revise, or develop a new IEP or refer the student for a re-evaluation, as appropriate. The IEP Team reviews and revises the IEP to address any lack of expected progress towards the annual goals and in the general curriculum. The Student Services Office provides each special education contact with a list of assigned students which includes IEP service information (start and end dates, last review date, and next review and re-evaluation dates) at the beginning of each school year. The school-based special education clerk monitors the date of the last IEP meeting and sets an annual review meeting (review or re-evaluation meeting as indicated). A meeting invitation and attendance sheet is sent to families prior to the meeting. The Student Services Offices works with families to set dates that are convenient for both parties. The IEP meetings are scheduled at times convenient to the parent/guardian(s). The parent/guardian(s) are given at least two weeks written notice of the scheduled annual IEP meeting.

Related service providers must have completed their portions of the IEP for discussion at the meeting. Depending on the type of meeting, initial, annual, reconvene, etc, either the school psychologist or case manager facilitates the meeting and development of the IEP; they are the Team Chair of the meeting. The Team Chair completes a Meeting Summary and provides a copy to the parent/guardian(s) within 24 hours of the meeting. The parent/guardian(s) is asked to initial receipt of the summary or send an email to acknowledge the Meeting Summary. Within 10 school days of the meeting, two copies of the proposed IEP are sent to the parent/guardian(s). The parent/guardian(s) are asked to mail/return the signature pages to the school or to the Student Services Office. A self addressed stamped envelope will be provided in the packet with the two IEPs. District staff may not unilaterally make changes to the IEP. Changes may be made to the proposed IEP prior to parent/guardian(s) acceptance at the request of the parent/district as agreed upon by the district and parent/guardian(s).

If the TEAM determines that services are no longer needed, a N2 will be mailed home to the parent/guardian(s).

## **Amendments**

Amendments may be used to make minor changes to an IEP. If the case manager feels that the IEP needs a minor revision, they contact the parent/guardian(s) who may agree to make changes with or without a Team meeting. If the parent/guardian(s) wants to come in to discuss the proposed changes, a meeting will be scheduled. All major changes to the IEP require a Team meeting.

Once an amendment is approved by the parents/guardians, the amendment form must be attached to the IEP that it amends. Changes to the child's IEP cannot be made until the parent has approved the changes in writing. The IEP completed amendments are sent to the parent/guardian(s) for acceptance. Plan revisions cannot be implemented until an acceptance

signature is received. The Student Services Office will send a revised IEP copy with change(s) along with the explanation described in the amendment documentation. The accepted amendment will be provided to all service providers.

### **Frequency of Re-Evaluation** (SE 12)

When the student's needs warrant it or a parent or teacher requests it, the school district, with parental consent, conducts a full re-evaluation consistent with the requirements of federal law, provided that:

- a re-evaluation is conducted every 3 years unless the parent and district agree that it is unnecessary, and
- a re-evaluation is conducted no more frequently than once a year unless the parent and district agree otherwise.

The district implements re-evaluation procedures in all cases where it is suspected that a student is no longer eligible for special education, except that no re-evaluation is required before the termination of eligibility because a student has graduated with a general high school diploma or exceeded the age of eligibility. The school psychologist will review the list of reevaluations due prior to the start of the school year and, based on disability and placement; will identify those students who will be evaluated during the upcoming year and at least 90 days before the evaluation due date, provide the Student Services' secretary with the appropriate assessments to include on the consent form. If re-evaluation is not indicated a recommendation not to re-evaluate may be made to the parent and a waiver requested. Re-evaluation will be provided if the parent does not accept the recommendation not to reevaluate. The psychologist completes the evaluation consent form and sends it to the parent at least 90 days prior to the due date. When the consent form is returned, the Notice of Evaluation is completed and distributed to evaluators. The district will initiate a re-evaluation if it is suspected that the student is no longer eligible for special education, but not in the cases of graduation or exceeding the age of eligibility. Upon agreement between the parent and district, the re-evaluation may be provided earlier than 3 years, but not less than 1 year. The special education secretaries monitor and track all times and paperwork associated with the re-evaluation process.

### **Progress Reports** (SE 13)

Special Education providers must report on the progress of their special education students at least as frequently as grade reports are provided to the parents/guardians of general education students. At the preschool level, these reports are completed four times a year. At the Elementary level, these reports are done three times a year. At the Secondary level, these reports are done four times a year.

Progress reports must describe the student's progress toward meeting each annual goal and objective and should be written by the staff person addressing each goal using the Progress Report form. If more than one staff person works with the student, the student's case manager

is responsible for assuring that the progress report is completed by all the required service providers. The Special Education secretarial staff ensures that progress reports are filed in the students folders in the Student Services Office.

### **School Day and School Year Requirements** (SE 21)

The Team routinely considers the need for an educational program that is less than or more than the regular school day or school year, including extended day, year, and/or residential services, and indicates on the IEP why the shorter or longer program is necessary. The daily duration of the student's program is equal to that of the regular school day unless the Team states that a different duration is necessary to provide a free appropriate public education to the student. In this case the Team specifies the daily duration of the program and states the reason for the different duration on the IEP. Specialized transportation schedules do not impede a student's access to a full school day and program of instruction.

An extended day or year program is identified if the student has demonstrated or is likely to demonstrate substantial regression in his or her learning skills and/or substantial difficulty in relearning such skills if an extended program is not provided. If residential services are required, the IEP clearly specifies the reasons for such determination and how such services will be coordinated with the day education services provided to the student. Additionally, the annual goals and services on the student's IEP reflect the comprehensive nature of the educational program required.

Camping or recreation programs provided solely for recreational purposes and with no corresponding IEP goals or specially designed instruction are not to be considered for extended year programs. The Team Chair ensures that each page of IEP 8 is addressed in the development of the IEP. The needs for a shorter or longer (extended) day or school year are considered at each meeting where an IEP is developed. Extended day and school year decisions are based on data and staff expertise that shows a regression of skills without the extension. The Team describes the reason for the need of a day or year that is more or less than the regular school day or year, the duration of the proposed day or year and documents the information on the appropriate pages of the IEP: IEP -7 modified school year, and /or IEP 8- additional information, and /or IEP 5- service delivery grid. Extended year and day programs must have corresponding IEP goals or specially designed instruction.

### **Continuum of Alternative Services and Placements** (SE 34)

The district provides or arranges for the provision of each of the elements of the IEPs of students in need of special education from the ages of three through twenty one, ensuring that a continuum of services and alternative placements is available to meet the needs of all students with disabilities, and takes all steps necessary to ensure compliance with all elements of the IEPs, including vocational education.

Each eligible special education student, from the ages of three through twenty one, is

assigned a special education contact person who will provide or coordinate special education or related services to the student. A qualified special education or related service provider is assigned to provide each service designated on the IEP. The district ensures that a continuum of services and alternative placements is available to meet the needs of all students with disabilities, and takes all steps necessary to ensure compliance with all elements of the IEPs, including vocational education.

## **Assistive Technology: Specialized Materials and Equipment (SE 35)**

Fairhaven Public Schools provides evidence that assistive technology is considered for each eligible student and—if the student needs Assistive Technology in order to receive a free, appropriate public education—described in the IEP and it is provided by the district. Specialized materials and equipment are specified on the Plep B page and or Additional Information of the IEP are provided as described.

Assistive Technology is considered by the psychologist when a student is referred for special education and consent for evaluation is requested as needed. Assistive technology is also considered by any staff person completing a special education referral and teachers and related service providers in an ongoing manner as they work with students throughout the school year.

Once it is determined by the Team that a student requires an assistive technology device/equipment

- Once the device has been purchased it will be brought to the technology department or the appropriate related service provider for customizing and adapting to meet the needs of the individual student
- The district's Technology Department as well as related service providers will assess the need for training for students, staff and families to ensure proper usage, maintenance and repair of devices to meet student's needs.

## **Home Communication**

Parents/Guardians are the single most important person in a child's education and life. Therefore, all efforts will be made to support a parent to participate in their child's educational endeavors. When working with families whose primary language is not English, the district is required to provide translation services. These services may include interpreters at team meetings, as well as having documents translated. All special education documentation that is sent to the home should be translated for the family. This would include, for example, N1s, Evaluation Consent Forms, Meeting Invitations, assessments, IEPs.

Any interpreter used in fulfilling these requirements should be fluent in the primary language of the home and familiar with special education procedures; programs and services if at all

possible. If the parents or the students are unable to read in any language or are blind or deaf; communications may be made orally, or in sign language, or in Braille; or via a TTY device. All such communication accommodations must be documented and placed in the student's file indicating:

- the notice or communication was provided in an alternate manner and what that manner was, and
- what steps were taken to ensure that the parent understood the notice or communication.

When any documents by a district staff member need to be translated, a copy should be sent to one of the Student Services secretaries as a word document, to facilitate the translation process. Copies of all interpreted documents should be sent to the Office of Student Services to be maintained as part of the student's file.

### **Early Childhood Screening** (SE 16)

The elementary principal coordinates annual screening for all children of age to enter kindergarten to review development and to assist in the identification of a referral for eligibility for special education. Entering kindergarten students are scheduled for screening upon registration for kindergarten. Screenings are scheduled beginning in April and May prior to the student's kindergarten school year.

Entering kindergarten students are screened using the Early Screening Inventory Revised. The screener is designed to identify potential learning delays and giftedness in language, motor, self-help, social-emotional, and cognitive skills. A Developmental Questionnaire is administered to the caregivers to provide further information about the student's developmental history. Three and four year old students not entering kindergarten are screened upon request by parent/guardian or early childhood provider. Three and four year child screenings are conducted by the early childhood coordinator throughout the year.

The community is informed of the option for screening of three and four year olds through the district's website, local community access channel, and through Student Find outreach, which includes annual direct mailings to local early childhood providers.

Three and four year olds are screened using the Brigance Preschool Screen-II, which is designed to identify potential learning delays and giftedness in language, motor, self-help, social-emotional and cognitive skills. Parents/guardians are informed of the results following the screening. If a need for further evaluation is indicated by the screening results, parents/guardians are informed of this and Consent for Evaluation is sought. Parents/Guardians are informed in the screening announcement that participation in the screening for three and four year olds is optional on the part of the parent.

### **Initiation of Services at Age Three and Early**

## Intervention Transition Procedures (SE 17)

The District accepts referrals from the Department of Public Health, other agencies, and individuals for young children who are two-and-one-half years old or older in order to ensure continuity of services and to ensure the development and implementation of an IEP for eligible children by the date of the student's third birthday in accordance with federal requirements. Children referred prior to their 3rd birthday are determined eligible (or not) and an IEP developed as indicated by the student's 3rd birthday.

The district implements procedures to ensure the effective transition of young children with disabilities from Early Intervention Programs through participation in transition planning conferences arranged by such programs. The early childhood coordinator/designee participates in transition planning activities to ensure effective transition from Early Intervention Programs.

## Programs for Young Children Three and Four Years of Age (SE 42)

Fairhaven Public Schools ensures programs are available for eligible students three and four years of age. Such programs shall be developmentally appropriate and specially designed for students ages three and four years. Where appropriate, the school district elects, consistent with federal requirements, to use the format and services of the Individualized Family Service Plan (IFSP), if appropriate, for an additional year as a means of transitioning eligible students to public school services. Where appropriate the Team allows a student to remain in a program designed for three and four year old students for the duration of the school year in which the student turns five years old (including the summer following the date of the student's fifth birthday).

Fairhaven has the following settings:

- Inclusionary preschool programs are located within the District's two elementary schools. These settings includes students both with and without disabilities and meet the following standards:
  - Services in such programs may include: Speech and Language therapy Occupational therapy, Physical therapy, ABA services, AAC supports, Teacher of the Deaf and Hard of Hearing, Behavioral consultation, and social emotional support. Services may be provided in the home, the public school, Head Start, or a licensed childcare setting
  - In the FPS public school programs that integrate students with and without disabilities, the class size is no larger than 15 students with 1 teacher and 1 para educator.
  
- One substantially separate program for young students is located in a classroom within one of the District's two elementary schools. This classroom serves solely students with disabilities.
  - Services in this program may include: Speech and Language therapy, Occupational Therapy, Physical Therapy, ABA, DTT, AAC supports, Teacher of the

- DHH, TVI, Behavioral Consultation and Social emotional supports.
- Substantially separate programs operated by the district limit class sizes to 9 students with 1 teacher and a minimum of 2 paraeducators.
- All students are provided with inclusive opportunities as deemed appropriate.

### **Instructional Grouping Requirements for Students Aged Five and Older** (SE 40)

The purpose of this procedure is to ensure that the Fairhaven Public Schools provides a program instruction to students with IEPs with the goal, as it is for all students, of providing a free and appropriate public education (FAPE). Students removed from the general education setting are appropriately grouped with consideration of class size, staffing, age, age span, and specific requirements for children aged 3 and 4 years.

The size and composition of instructional groupings for eligible students receiving services outside the general education classroom are compatible with the methods and goals stated in each student's IEP.

Instructional grouping size requirements are maximum sizes and the school district exercises judgment in determining appropriate group size and supports for smaller instructional groups serving students with complex special needs.

When eligible students are assigned to instructional groupings outside of the general education classroom for 60% or less of the students' school schedule, group size does not exceed

- 8 students with a certified special educator,
- 12 students if the certified special educator is assisted by 1 aide, and
- 16 students if the certified special educator is assisted by 2 aides.

For eligible students served in settings that are substantially separate, serving solely students with disabilities for more than 60% of the students' school schedule, the district provides instructional groupings that do not exceed

- 8 students to 1 certified special educator, or
- 12 students to 1 certified special educator and 1 aide.

After the school year has begun, if instructional groups have reached maximum size as delineated in parts 3 and 4 of this criterion, the administrator of special education and the certified special educator(s) providing services in an instructional group may decide to increase the size of an instructional grouping by no more than 2 additional students if the additional students have compatible instructional needs and then can receive services in their neighborhood school.

In such cases, the administrator provides written notification to the Department and the parents of all group members of the decision to increase the instructional group size and the reasons for such decision. Such increased instructional group sizes are in effect only for the year in which they are initiated.

The district takes all steps necessary to reduce the instructional groups to the sizes outlined in parts 3 or 4 of this criterion for subsequent years. Such steps are documented by the district.

### **Age Span Requirements** (SE 41)

The ages of the youngest and oldest student in any instructional grouping do not differ by more than 48 months. A written request for approval of a wider age range is submitted by the district to the commissioner of elementary and secondary education in cases where the district believes it is justified. Such requests are implemented only after approval of the Department of Elementary and Secondary Education.

### **State and District Wide Assessments** (SE 5)

All students with disabilities enrolled in the Fairhaven Public Schools participate in the Massachusetts Comprehensive Assessment System (MCAS) 2.0, as well as any other testing required by the state or the district. The IEP Team will determine how each student will participate in this testing and document the decision on the IEP. Test accommodations appearing on the State or District-Wide Assessment page of the IEP should correspond to the accommodations that the student needs and receives during routine instruction. These accommodations are listed in the IEP under sections PLEP A and PLEP B. The IEP Team addresses each page and section of the IEP, including the State or District-Wide Assessment and designates how the student will participate in the MCAS and other district-wide assessment programs. Case managers ensure that accommodations are appropriately applied and those required during district and state assessments are provided routinely throughout the instructional day. The student services office will provide access to all special education teachers by providing the MCAS Requirements for Students with Disabilities. Teachers are expected to be familiar with the accommodation requirements. MSAC accommodations will be reviewed annually with special education teachers who attend school-based IEP training. Follow-up teaching will be provided individually through individual plan reviews and at school staff meetings and small group sessions as requested by the school principal. The Team will consider all MCAS assessment options, including alternate assessment. Teams will refer to MCAS Requirements for Students with Disabilities as indicated when developing the IEP.

The superintendent:

- files an MCAS performance appeal for a student with a disability when the student's parent or guardian or the student, if 18 or over, requests it, provided that the student meets the eligibility requirements for such an appeal;

- obtains the consent of the parent or guardian or the student, if 18 or over, for any MCAS performance appeal filed on behalf of a student with a disability;
- includes in the MCAS performance appeal, to the extent possible, the required evidence of the student’s knowledge and skills in the subject at issue.

### **MCAS Appeals** (SE 5)

At the request of a student's parent or guardian, or the student, if 18 or over, the school district will file an MCAS performance appeal if that student meets the eligibility requirements for such an appeal. The district will first obtain the consent of the parent or guardian, or of the student if 18 or over, for any MCAS performance appeal filed on behalf of a student with a disability. The district will include in the performance appeal, to the extent possible, the required evidence of the student's knowledge and skills in the subject at issue.

### **Behavioral Interventions** (SE 43)

Fairhaven Public Schools ensures appropriate services designed to support the student’s IEP and maximize opportunities to participate with nondisabled peers in general education settings and school sponsored activities. The district addresses the needs of students with co-existing social and emotional needs which impede the student’s learning or the learning of others in accordance with regulations.

For a student whose social and emotional needs impede their learning or the learning of others, the Team considers the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

Students identified as having behaviors which impede the learning of the student or the learning of others are referred to the SST. The team identifies needs and interventions and other considerations including positive behavioral interventions, student observations and the need for a functional behavioral assessment in assessing the student’s behavior.

A member of the team, most likely the principal, will have on-going communication with the parent/guardian(s) regarding the interventions. If interventions are unsuccessful, the parent is informed and the team will be convened to discuss further actions and a consent to evaluate will be proposed.

Students exhibiting behaviors that interfere with their or other student’s learning may have an individual behavior intervention plan (BIP) attached to the IEP, participate in a classroom behavior plan, or have a behavior goal on the IEP. If a BIP is developed, it is reviewed with all staff who work directly with the student or whom the student’s behavior may affect. The BIP will be reviewed and revised annually or as indicated.

## Procedures for Approved and Unapproved Out-of-District Placements (SE 37)

Fairhaven Public Schools monitors the provision of service and the programs of individual students placed in public and private out-of-district programs. Documentation of monitoring plans are placed in the files of every eligible student who has been placed out-of-district. To the extent that this monitoring requires site visits, such site visits are completed by the Out of District Coordinator and documentation of said visits are placed in the students' files for review. The duty to monitor out-of-district placements is not delegated to parents or their agents, to the Department of Elementary and Secondary Education, or to the out-of-district programs themselves.

**Student right to full procedural protections:** The school district retains full responsibility for ensuring that the student is receiving all special education and related services in the student's IEP, as well as all procedural protections of law and regulation. Any Team meetings conducted during the time that a student is enrolled in the out-of-district program are initiated by the school district in coordination with the out-of-district program.

**Preference to approved programs:** The school district, in all circumstances, first seeks to place a student in a program approved by the Department pursuant to the requirements of 603 CMR 28.09. Preference is given to approved programs located within the Commonwealth of Massachusetts if the choice of such program is consistent with the needs of the student and the choice of such program complies with LRE requirements. When an approved program is available to provide the services on the IEP, the district makes such placement in the approved program in preference to any program not approved by the Department.

**Written contracts:** The school district enters into written contracts with all public and private out-of-district placements. At a minimum, such contracts meet the content requirements of 28.06(3)(f)(1-5), and specifically include a statement that the district shall not contract with any out-of-district placement that discriminates on the grounds of race, color, religion, creed, gender identity, age, national origin, ancestry, ethnicity, disability, pregnancy/ parenting status, marital status, sexual orientation, homelessness, veteran or military status, or political affiliation.

**Use of unapproved programs:** A school district that places a student in a program that has not been approved by the Department according to the requirements under 603 CMR 28.09 ensures that such programs and services are provided in appropriate settings by appropriately credentialed staff able to deliver the services on the student's IEP. Students placed by the school district in such programs are entitled to the full protections of state and federal special education law and regulation.

**Placement documentation:** The following documentation is maintained by the school

district pursuant to its placement of students in unapproved out-of-district programs:

- **Search:** The administrator of special education documents the search for and unavailability of a program approved by the Department. The administrator places such documentation in the student record.
- **Evaluation of facility:** The administrator of special education or his/her designee thoroughly evaluates the appropriateness of any unapproved facility prior to placement of the student in such a program. Such evaluation determines whether the unapproved facility can appropriately implement the student's IEP in a safe and educationally appropriate environment. Such evaluation determines whether the unapproved facility can and will provide the student with all the rights that are accorded to the student under state and federal special education law. Such evaluation is documented in detail and placed in the student record for review. To the extent that this evaluation requires a site visit, such site visits are documented and placed in the student record for review. The duty to evaluate the appropriateness of any unapproved facility is not delegated to the parents or their agents or the proposed unapproved facility.
- **School district approval to operate a private school in Massachusetts:** If services in an unapproved program are provided in a school setting, the administrator of special education ensures that such school has received approval from the school committee where the private school is located under M.G.L. c.76, §1 and a copy of such approval is retained in the student record.
- **Pricing:** Pursuant to the requirements for Compliance, Reporting, and Auditing for Human and Social Services at 808 CMR 1.00, the administrator obtains pricing forms required to set program prices for programs receiving publicly-funded students. Such pricing forms are completed by the proposed placement and document that the price proposed for the student's tuition is the lowest price charged for similar services to any student in that program.
- **Notification of the Department of Elementary and Secondary Education:** Prior to placement, if the Team determines that placement in such facility is appropriate, the administrator notifies the Department of the intent to place the student and the name and location of the proposed placement before placing the student into the program by sending a completed mandated 28M3 form titled "Notice of Intent to Seek Approval for Individual Student Program" and all the required supporting documentation (i.e., completed pricing forms, signed written contract that will govern such placement, and monitoring plan pursuant to 603 CMR 28.06(3)(b)). The district maintains copies of this documentation, as well as any documentation of the Department's objections to such placement and the steps the district has taken in regard to such objection.

The district maintains documentation of the approved price for publicly-funded students as set by the state agency responsible for setting program prices. The district maintains documentation of actual monitoring of the unapproved placement, including any site visits made and other monitoring activities undertaken

by the school district.

- **Out of state programs:** If out-of-district programs are provided in a placement outside of Massachusetts, and such school has not received approval by the Department under 603 CMR 28.09, the administrator of special education ensures that such school has received approval from the host state.

### **Outreach by School District** (SE 15)

The District identifies and contacts local agencies and organizations that provide educational services to children who may have a current need or who may through promotion or transfer enter the Fairhaven Public Schools in need of special education services.

The Student Service Director and early childhood coordinator collaborate to send notices containing referral information to groups which may be in the position to identify students in need of special education annually (each spring). Each notice includes a request for response.

Outreach may include the following groups:

- Local Head Start Program
- private early education and care centers
- family child care providers
- group homes
- parent organizations
- pediatricians/clinics/health care agencies
- early intervention programs
- private/parochial schools
- agencies serving migrant and/or homeless persons pursuant to the McKinney-Vento Act

The Student Service Director and early childhood coordinator review the responses and respond back to the group/ individual as indicated. District staff communicate and/or meet with referring agencies on an as-needed, or ongoing basis as indicated. District staff provides at least annual contact with providers of eligible students through annual review meetings and on other occasions as requested or indicated.

### **Special Education in Institutional Settings (SEIS)** (SE 38)

Department of Elementary and Secondary Education responsibility: In cases where the Department provides certain special education services to eligible students in certain facilities operated by or under contract with the Department of Mental Health, the Department of Youth Services, County Houses of Corrections, or the Department of Public Health, the Department retains the discretion to determine, based upon resources, the type and amount of special education and related services that it provides in such facilities.

Fairhaven Public Schools implements its responsibilities to students in institutional settings by acting on requests for evaluation, issuing proposed IEPs in a timely manner, and

providing special education and/or related services in accordance with state and federal law. Where a student's IEP requires a type or amount of service that the facility does not provide, it remains the responsibility of the parent's school district to implement the student's IEP by arranging and paying for the provision of such service(s).

The parent's school district coordinates with the state agency to ensure that the student receives an evaluation, an annual review, and special education services as identified at a Team meeting convened by the parent's school district.

The Student services office acts on requests for evaluation, issuing proposed IEPs in a timely manner, and providing special education and/or related services in accordance with state and federal law to students in institutional settings. It is the responsibility of the parent's school district to implement the student's IEP by arranging and paying for the provision of service(s) when a student's IEP requires a type or amount of service that the facility does not provide.

Fairhaven Public Schools student services office coordinates with the state agency to ensure that the student receives an evaluation, an annual review, and special education services as identified at a Team meeting convened by the district.

### **Procedures used to Provide Services to Eligible Students Enrolled in Private Schools at Private Expense Whose Parents Reside in the District** (SE 39A)

Fairhaven Public Schools conducts student find activities--comparable to those for public school students--for all students enrolled at private expense in private schools in the district. The district consults with private schools in accordance with federal requirements:

- An announcement informing the community of the Child Find process is posted on the district's web site and advertised in the local newspaper.
- An informational letter is sent to local private schools and child care providers. The letter explains the Child Find process, asks for information, and invites schools and organizations to meet with the district to clarify roles and responsibilities and obtain feedback on the calculation and use of the proportionate share of federal funds.
- Inviting a private school representative to IEP meetings for children in their care.

The district calculates the proportionate share of Federal Special Education Entitlement funds (Fund Code 240) required to be spent on eligible private school students (including all eligible students attending private school in the district whether their parents reside in the district, in another Massachusetts district, or out of state) and documents the spending of at least this amount of federal entitlement funds (Fund Code 240) on one or more of the eligible private school students attending private school in the district whose parents reside in the district or out of state.

The district provides or arranges for the provision of an evaluation for any private school student whose parent resides in the district who is referred for evaluation. The evaluation may take place in the public school, the private school, or an appropriate contracted facility.

As part of its consultation with the private school, the district ensures that a representative of the student's private school is invited to participate as a member of the Team pursuant to §28.05. Consultation is defined in general as follows with the statement individualized for the student: Consultation is provided by the district through a special education teacher to "said student's" parent/guardian(s) and/or the designated school contact. Consultation may be provided through meetings, email, telephone, face-to-face conversations, written communication, and includes review of data, preparation of materials, and any other activities related to "said student". Progress reports are not required for consultation services, but the district generally asks the receiving school for period reports on student progress.

The district provides an IEP for any such private school student who is found eligible for special education and/or related services. The district provides special education and/or related services designed to meet the needs of eligible students, who are attending private schools at private expense and whose parents reside in the district, and does so according to a properly developed IEP. The district provides to such students genuine opportunities to participate in a public school special education program consistent with state constitutional limitations.

In providing or arranging for the provision of the special education and/or related services described by the student's IEP, the district determines with the parent/guardian(s) where services shall be provided and ensures that special education services funded with state or local funds are provided in a public school facility or other public or neutral site.

When services are provided using only federal funds, services are provided on public or private school grounds. When the student attends a private school located outside of the district, the district makes reasonable efforts to provide or arrange for the provision of services for the student in the community where the school is located.

The district does not withdraw or withhold services from a student whose parents reside in the district solely because the district has met the spending requirements of federal law. Special education services and/or related services for a private school student whose parents reside in the district are comparable in quality, scope, and opportunity for participation to those provided to public school students with needs of equal importance.

## **Procedures Used to Provide Services to Eligible Students who are Enrolled at Private Expense in Private Schools in the District and whose Parents Reside Out of District<sup>(SE 39B)</sup>**

Fairhaven Public Schools conducts student find activities--comparable to those for public school students--for all students enrolled at private expense in private schools in the district. For students enrolled at private expense in private schools in the district and whose parents reside out of the district, the district consults with the private schools in accordance with federal requirements. Consultation about out-of-district residents who attend private school in Massachusetts:

- Inviting private school representatives to attend the IEP meeting.
- If the student is found eligible, the district describes how, where, and by whom special education and related services will be provided, including a discussion of types of services - direct services and alternate service-delivery mechanisms.
- If funds are insufficient to serve all students such services will be apportioned on a first-come, first-served basis this decision will be made at the IEP meeting when the IEP is developed.
- If the school district representatives disagree with the views of the private school officials on any aspect of services for eligible out-of-district residents, the district will provide to the private school officials a written explanation of the reasons why the LEA chose not to adopt the recommendations of the private school officials.

The district conducts evaluations and determines eligibility in accordance with state and federal requirements. If the district provides services to any eligible private school student from out of state, it does so using an individual services plan which addresses how, where, by whom and what type of special education and related services will be provided.

The district calculates the proportionate share of federal special education entitlement funds (Fund Code 240) required to be spent on eligible private school students in another Massachusetts district, or out of state) and documents the spending of at least this amount of federal entitlement funds (Fund Code 240) on one or more of the eligible private school students attending private school in the district whose parents reside out of the district or out of state.

### **Transfer of Parental Rights at Age of Majority**

One year before the student reaches the age of 18, the age of majority under Massachusetts State law, the student and parent must be informed of the transfer of rights on reaching the age of majority. The Team Chairperson will inform the student and parent of the student's right at age 18 to make all decisions in relation to special education programs and services. The issue is discussed at the Team meeting one year prior to the student turning 18 and is noted under Additional Information on the IEP.

Upon turning 18, absent a court appointed guardian, the student will be asked by his/her liaison or case manager to complete and sign an Age of Majority Letter. At this time the student must decide whether he/she wishes to accept all decision-making responsibility himself or herself, or whether he/she wishes to delegate that responsibility to another willing adult, or to share the responsibility with another willing adult. Should the student choose to share decision-making, the student's choice prevails at any time that a disagreement occurs between the adult student and the parent or other willing adult with whom the student has shared decision-making.

The student's choice on decision-making is recorded on the Administrative Data Form which is the first page of the IEP.

## **Student Participation and Consent at the Age of Majority**

Process and procedure:

One year before the student reaches the age of 18, the age of majority under Massachusetts State law; the student and parent are informed of the transfer of rights on reaching the age of majority. The Fairhaven Public School District informs the student and parent of the student's right at age 18 to make all decisions in relation to special education programs and services. The issue is discussed at the Team meeting one year prior to the student turning 18 and noted under Additional Information on the IEP. Upon reaching eighteen, the District implements procedures to obtain consent from the student for evaluations and programming.

The Fairhaven Public School District continues to send the parent written notices and information but the parent will no longer have decision-making authority.

The exceptions are as followed:

If the parent has sought and received guardianship from a court of competent jurisdiction, then the parent retains full decision-making authority. The parent does not have authority to override any decision or lack of decision made by the student who has reached the age of majority unless the parent has sought or received guardianship or other legal authority from the court of competent jurisdiction.

The student, upon reaching the age of majority, and in the absence of any court action to the contrary, may choose to share decision-making with his/her parent or willing adult, including allowing the parent to cosign the IEP. Such choice is made in the presence of the Team and is documented under Additional Information on page 8 of the IEP. The final decision is documented on the first page of the IEP, the ADM 1. The student's choice prevails at any time that a disagreement occurs between the adult student and the parent or other adult with whom the student has shared decision-making.

The student, upon reaching eighteen, and in the absence of any court actions to the contrary, may choose to delegate continued decision-making to his/her parent, or willing adult. Such a choice is made in the presence of at least one representative of the District and one other

witness and is documented in written form and maintained in the student's records. This choice will also be documented on page 8 of the IEP under Additional Information and on the first page of the IEP, the ADM 1.

## Summary of Student Performance

When a special education student graduates from high school or turns 22, his/her right to special education services terminates. At this time the student's Team Chairperson will ensure that a summary of the student's academic achievement and functional performance is completed and recommendations are made on how to assist the student in meeting his/her desired postsecondary goals. The Summary of Student Performance is used for this purpose and is presented to the student with a copy placed in the student's file.

## Determination of Transitional Services

Process and Procedures:

Fairhaven ensures that students aged 14; or younger, if appropriate, are invited to attend the Team meeting at which transition services are discussed or proposed.

For students who are 16 years of age, or younger if appropriate, the Team develops a statement that promotes movement of the student from Fairhaven to post-school activities. These activities include post-secondary education, additional vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The guidance counselor and vocational teachers are present at the Team meeting for students 16 years old, or younger if appropriate.

The parent and student input is asked for prior to the meeting. This information is discussed at the Team meeting and noted on IEP, reflecting the student's preferences, interest, and desired outcomes in adult living, post-secondary, and working environment.

The vision statement is taken into consideration when the Team discusses the need for transitional services and is documented on page 8 of the IEP under Additional Information.

The transitional services are based upon the student's needs, taking into consideration the student's preferences, interest, and including specially designed instruction, community experiences, the development of employment or other post-school adult living objectives, and if appropriate, the acquisition of daily living skills and functional vocational evaluation.

At least two years prior to the student graduating or turning twenty-two, the appropriate transitional agencies are notified and invited to participate in the Team meeting.

For students approaching graduation or the age of twenty-two, the Team determines whether the student is likely to require continuing services from adult human service agencies. In such circumstances, the Director of Student Services makes a referral to the Bureau of Transitional

Planning in the Executive Office of Health and Human Services (known as Chapter 688).

In cases where the IEP includes needed transitional services and the participating agency other than the District fails to provide these services, the Team will reconvene to identify alternative strategies to meet the transitional objectives.

## **Guidelines for Classroom/Program Observation**

The purpose of An Act to Provide Access to Information for Parents and Evaluators (House Bill No. 391) is to protect the rights of parents in participating fully and effectively with school personnel in the development of appropriate educational programs for their children. Fairhaven Public Schools has established guidelines regarding parents' observations of their child or child's program conducted by themselves, their educational advocate, or an evaluator. The cooperation of school and parent is essential to ensure the safety of children and the integrity of the program while under observation.

The district's guidelines for observations of students and programs are as follows:

Requesting an Observation:

Parent(s)/Advocates/Evaluators

In order for the school district to have verbal or written contact with an educational advocate or evaluator, a "Release of Information" form must be signed by the parent for requests for an advocate or evaluator to observe the student in the classroom.

A request for an observation shall be made to the school principal either through email, letter or telephone minimally 3 days in advance of the requested observation date. Principals will immediately notify the teachers involved and determine the appropriateness of the specific date requested.

Principals should inform parents that their presence might influence the performance of their child that day, as well as the performance of other children.

The building principal shall notify the Director of Student Services of the request.

Different observation requests may require more planning and observation time than others depending on the complexity of the students needs being evaluated or observed.

For evaluators, observations may occur at greater frequency to complete an assessment. An evaluator must be credentialed/licensed in the area being evaluated. This will also be scheduled with the Principal or designee.

There will be periods of time when observations will not be scheduled, such as during MCAS or other district wide testing and during the first two weeks of school and the last two weeks of school.

The duration and extent of the observation will be determined on an individual basis.

#### Expectations During Observations:

For evaluators, the length of the observation shall be a reasonable time to address the purpose of the observation and desired outcome and shall be limited to an amount of time agreed upon by the evaluator and school principal or designee.

The number of people scheduled to observe a child or program at one time shall be limited to 2 people and no children may accompany a parent, advocate or evaluator.

An administrator will accompany a parent, advocate, or evaluator for the duration of the observation.

Those observing will be seated in an area that will not disrupt instruction.

Staff members involved in a classroom observation will welcome observers to the class but will not interact with observers before, during or immediately after the observation period.

Those observing shall respect student confidentiality and shall not share any impressions of other students with anyone. Observers will be asked to sign a statement that in the event that they obtain personally identifiable or confidential information during the course of an evaluation/observation, they will not disclose it.

School safety procedures shall be adhered to at all times.

Parents/Guardians will comply with the District's and individual school's mask and social distancing policies as well as all other policies of the District and the school in which the observation is conducted. Parents/Guardians will remain at least six feet from all students and staff during the duration of the time in the classroom. Parents/Guardians acknowledge and understand that the failure to comply with health and safety requirements currently in effect or other violations of school or district policies while present in the school facility will result in immediate termination of your observation. Due to current safety requirements and to minimize the potential for virus transmission to District students and staff, the in-person observation will be limited to (30) minutes. Additional periods of observation will be scheduled if, upon completion of your observation, you believe additional observation to be necessary for purposes of your observation.

Principals retain the authority to exercise their discretion at any time to reschedule or terminate

an observation in the event of a building emergency or a disruption that impacts the physical or emotional well-being of the children in the school or the program being observed or when necessary to protect:

- The safety of the children in the program during the observation;
- The integrity of the program during the observation; and
- Children in the program from disclosure by an observer of confidential or personally identifiable information he or she may obtain while observing the program.

**For every team meeting where the student's disability is ASD or suspected to be ASD, the "Autism Checklist" needs to be completed by the case manager. All areas need to be considered during the team meeting. Also, as a reminder, as with all special education students, the IEP Team needs to consider and to the extent warranted, specifically address the skills and proficiencies needed to avoid and respond to bullying, harassment, or teasing.**

**The following are to be specifically considered and addressed by the Team as a part of the eligibility/IEP development/placement meeting for this student:**

## Bullying

### Guidance

An Act Relative to Bullying in Schools / Section 7

Many of the requirements of this new law are codified in a new statute, M.G.L. c. 71, § 37o. The district already has policy and strategies for responding to bullying and harassment. A specific provision of the Act, Section 7, requires the attention of the IEP team as outlined below.

### SECTION 7 Requirements for Students with Disabilities

"For students identified with a disability on the autism spectrum, the IEP Team must consider and specifically address the skills and proficiencies needed to avoid and respond to bullying, harassment, or teasing. (See M.G.L. c. 71B, § 3, as amended by Chapter 92 of the Acts of 20 10.)

Whenever the IEP Team evaluation indicates that a student's disability affects social skills development, or when the student's disability makes him or her vulnerable to bullying, harassment, or teasing, the IEP must address the skills and proficiencies needed to avoid and respond to bullying, harassment, or teasing."

To include, if appropriate, in modification section of PLEP B:

Developmentally appropriate social stories, visual action plan, rehearsal/practice of a safety

action plan.

A safety plan components include:

- Review (emphasize and rehearse) with the student:
  1. How to access help (identify 'safe' staff and the pragmatics of who, how, when, the student can turn to for help).

In response to an episode of perceived bullying and/or harassment

A safety plan to include corrective actions should be clarified with the student and parent, and documented. The components include:

- Review (emphasize and rehearse) with the student:
  1. How to access help (identify 'safe' staff and the pragmatics of who, how, when, the student can turn to for help).
  2. Informing staff that the student may request access to 'safe' staff.
  
- In the event of a reported bullying episode:
  1. Reconvene team / IEP meeting.
  2. Consider any indicated changes in the IEP to support the student, to include options for daily check-ins with staff to determine mood, perception, experience (gauge the level of anxiety and safety) and additional counseling if indicated.
  3. Review concerns and plan components, emphasize monitoring measures.

Suggestions: Anti Bullying IEP language for students who have a disability that manifests in self-regulation, non-verbal learning and impulse control deficits:

Should have social skills/social pragmatics/counseling in service delivery.

- Some ideas to add social skills/pragmatics as a benchmark.
- The student will increase/improve in self-regulation strategies.
- The student will increase/improve in understanding non-verbal communication.
- The student will increase/improve in impulse control strategies.
- The student will increase/improve in understanding behaviors which are inappropriate with peers.
- The student will seek staff support before responding to a peer.

Documentation

To include in N1 and/or IEP, Additional Information:

- 'The team considered the student's level of social skills development and disability. At this time, the team concluded that social development and/or the disability is likely to make the student more vulnerable to teasing, harassment and/or bullying. The proposed IEP has identified developmentally appropriate accommodations and/or social and emotional goal/benchmark to address this.

## Disclaimer

To include in N1 and/or IEP Additional Information:

'The team considered the student's level of social skills development in relation to their disability. At this time, the team concluded the student is able to navigate peer relationships in ways that are positive and developmentally appropriate. At this time, the team concluded the student is not lacking or deficient in the area of social development and the disability is not likely to make the student more vulnerable to teasing, harassment and/or bullying.'

**\*Please see the appendix for Fairhaven's Bullying Prevention and Intervention Plan**

## Physical Restraint and Timeout

File: JKAA

### PHYSICAL RESTRAINT OF STUDENTS

Maintaining an orderly, safe environment conducive to learning is an expectation of all staff members of the Fairhaven Public School district. Further, students of the Fairhaven School district are protected by law from the unreasonable use of physical restraint. Such restraint shall be used only in emergency situations as a last resort and with extreme caution after other lawful and less intrusive alternatives have failed or been deemed inappropriate.

When an emergency situation arises, and physical restraint is the only option deemed appropriate to prevent a student from injuring himself or herself, another student or school community member, a teacher or employee or agent of the Fairhaven Public School district may use such reasonable force needed to protect students, other persons or themselves from assault or imminent, serious, physical harm.

The definitions of forms of restraint shall be as defined in 603 CMR 46.02.

The use of mechanical restraint, medical restraint, and seclusion is prohibited.

Physical restraint, including prone restraint where permitted under 603 CMR 46.03, shall be considered an emergency procedure of last resort and shall be prohibited except when a student's behavior poses a threat of assault, or imminent, serious, physical harm to themselves and/or others and the student is not responsive to verbal directives or other lawful and less intrusive behavior interventions are deemed inappropriate.

The Superintendent will develop procedures identifying:

Appropriate responses to student behavior that may require immediate intervention;

Methods of preventing student violence, self-injurious behavior, and suicide including crisis planning and de-escalation of potentially dangerous behaviors among groups of students or

individuals;

Descriptions and explanations of alternatives to physical restraint as well as the school's method of physical restraint for use in emergency situations;

Descriptions of the school's training and procedures to comply with reporting requirements including, but not limited to making reasonable efforts to verbally notify a parent/guardian of the imposition of physical restraint as soon as possible, and by written report postmarked no later than three (3) school working days following the use of the physical restraint.;

Procedures for receiving and investigating complaints;

Methods for engaging parents in discussions about restraint prevention and use of restraint solely as an emergency procedure;

A statement prohibiting: medication restraint, mechanical restraint, prone restraint unless permitted by 603 CMR 46.03(1)(b), seclusion, and the use of physical restraint in a manner inconsistent with 603 CMR 46.00;

A process for obtaining Principal approval for a time out exceeding 30 minutes.

Each building Principal will identify staff members to serve as a school-wide resource to assist in ensuring proper administration of physical restraint. These staff members will participate in an in-depth training program in the use of physical restraint.

In addition, each staff member will be trained regarding the school's physical restraint policy and accompanying procedures. The Principal will arrange training to occur in the first month of each school year, or for staff hired after the beginning of the school year, within a month of their employment.

Physical restraint is prohibited as a means of punishment, or as a response to destruction of property, disruption of school order, a student's refusal to comply with a school rule or staff directive, or verbal threats that do not constitute a threat of imminent, serious physical harm to the student or others.

Physical restraint is prohibited when it is medically contraindicated for reasons including, but not limited to, asthma, seizures, a cardiac condition, obesity, bronchitis, communication-related disabilities, or risk of vomiting;

The use of "time out" procedures during which a staff member remains accessible to the student shall not be considered "seclusion restraint."

This policy and its accompanying procedures shall be reviewed and disseminated to staff annually and made available to parents of enrolled students. The Superintendent shall provide a copy of the Physical Restraint regulations to each Principal, who shall sign a form acknowledging receipt thereof.

SOURCE: MASC

ADOPTED: August 2015

REVISED: December 2015

LEGAL REF.: M.G.L. 71:37G; 603 CMR 46.00

ADMINISTRATIVE REGULATION JKAA-R  
PHYSICAL RESTRAINT AND TIME OUT PROCEDURE  
PHYSICAL RESTRAINT PROCEDURES

Physical restraint is defined as the use of bodily force to restrict a student's freedom of movement. Physical restraint shall only be used as an emergency procedure when other less intrusive alternatives have failed or been deemed inappropriate. In the event that physical restraint is

required to protect the safety of school community members, the Fairhaven School Committee has enacted the following procedures to ensure the proper use of physical restraint and to prevent or minimize any harm to the student as a result of the use of physical restraint. These procedures shall be annually reviewed, provided to the school staff, and made available to parents of enrolled students.

None of the foregoing paragraphs or the procedures that follow precludes any teacher, employee or agent to the Fairhaven School Department from using reasonable force to protect students, other persons or themselves from assault or imminent, serious harm.

#### Staff Training

All staff/faculty will receive training regarding the school's restraint policy within the first month of each school year, and employees hired after the school year begins will receive training within one month of starting their employment.

Required training for all staff will include review of the following:

The Fairhaven School Department physical restraint policy and procedures;

Interventions which may preclude the need for physical restraint, including de-escalation of problematic behaviors;

Types of physical restraints and related safety considerations, including information regarding the increased risk of injury to a student when an extended restraint is used;

Administering physical restraint in accordance with known medical or psychological limitations and/or emergency procedures applicable to an individual student; and

Identification of school staff who have received in-depth training (as set forth below in Section C) in the use of physical restraint.

Designated staff members are recommended to participate in at least sixteen hours of in-depth training in the use of physical restraint.

At the beginning of the school year, the Executive Director will identify those staff who will participate in in-depth training and who will then be authorized to serve as school-wide resources to assist in ensuring proper administration of physical restraint.

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In-depth training will include:

Appropriate procedures for preventing the need for physical restraint, including relationship building, the de-escalation of problematic behavior, and the use of alternatives to physical restraint;

A description and identification of dangerous behaviors on the part of a student that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of physical restraint is warranted;

The simulated experience of administering and receiving physical restraint, instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;

Instruction regarding district documentation ('Physical Intervention Incident Report') and mandated state reporting requirements and investigation of injuries and complaints ('Physical Restraint Report'); and

Demonstration by participants of proficiency in administering physical restraint.

Staff/faculty will review any emergency procedures pertaining to special techniques for identified students.

#### **Administration of Physical Restraint**

Physical restraint may only be used in the following circumstances:

When non-physical interventions would be ineffective; and

The student's behavior poses a threat of imminent, serious physical harm to self and/or others.

Physical restraint is prohibited in the following circumstances:

As a means of punishment; or

As a response to property destruction, disruption of school order, a student's refusal to comply with a school rule or staff directive, or verbal threats that do not constitute a threat of imminent, serious, physical harm. However, if the

property destruction or the refusal to comply with a school rule or staff directive could escalate into, or could itself to serious, imminent harm to the student or to others, physical restraint is appropriate.

Only school personnel who have received required training or in-depth training pursuant to this policy shall administer physical restraint on students with one adult witness who does not participate in the physical restraint. The safety of the students and staff are paramount however, the training requirements shall not preclude a teacher, employee or agent of the school from using reasonable force to protect students, other persons or themselves from any assault, or any imminent, serious, or physical harm.

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Physical restraint shall be limited to the use of such reasonable force as is necessary to protect a student or others from assault or imminent, serious, physical harm.

A person administering physical restraint shall use the safest method available and appropriate to the situation. Floor or prone restraints are prohibited.

Physical restraint shall be discontinued when it is determined that the student is no longer at risk of causing imminent physical harm to self or others.

Additional safety requirements:

A restrained student shall not be prevented from breathing or speaking. A staff member will continuously monitor the physical status of the student, including skin color and respiration, during the restraint.

If at any time during a physical restraint the student demonstrates significant physical distress, as determined by the staff member, the student shall be released from the restraint immediately (“break”), and school staff shall take steps to seek medical assistance. School staff shall review and consider any known medical or psychological limitations and/or emergency procedures regarding the use of physical restraint on an individual student.

At an appropriate time after release of a student from physical restraint, the Principal/or Principal designee, or an appropriate school staff member shall:

- review the incident with the student to address the behavior that precipitated the the physical restraint;

- review the incident with the staff person(s) who administered the physical restraint to discuss whether proper physical restraint procedures were followed; and
- consider whether any follow-up is appropriate for students who witnessed the incident.

## Methods of Physical Restraint

### Children's Control Position (CPI)

- B. Team Control Position (CPI)
- C. Transport Position (CPI)
- D. Interim Control Position (CPI)

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### Mechanical and Medical Restraints and Seclusion

The use of mechanical restraint, medical restraint, and seclusion is prohibited.

#### Reporting Requirements:

School staff shall report the use of physical restraint after administration of a physical restraint.

- B. The staff member who administered the physical restraint shall verbally inform the principal  
of the restraint as soon as possible, and complete the 'Physical Intervention Incident Report'  
no later than the next school working day.

The written Physical Intervention Incident Report shall be provided to the principal or his/her designee.

The principal or his/her designee shall maintain an on-going record (Restraint Reporting Form) of all reported instances of physical restraint, which shall be made available for review by the Department of Elementary and Secondary Education, upon request.

- C. The principal or his/her designee shall verbally inform the student's parent(s)/guardian(s)  
of such physical restraint as soon as possible, and by written report postmarked no later than  
three school working days following the use of such physical restraint.

If the school customarily provides school related information to the parent(s)/guardian(s) in a language other than English, the written report shall be provided in that language.

D. The Physical Intervention Incident Report must be thoroughly completed and signed by all personnel that were involved and/or witnessed the incident leading to physical restraint.

E. IN the event of an extended physical restraint (physical restraint lasting twenty (20) consecutive minutes, then the school staff must obtain Principal approval before going beyond twenty (20) minutes.

The Principal must be provided with all details to make the determination. The Principal or Principal designee must complete the Department of Elementary and Secondary Education 'Physical Restraint Report' and submit to the Superintendent and the Department within five school working days of the reported physical restraint.

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F. The Principal will, within five school working days of the reported physical restraint, provide to the Department of Elementary and Secondary Education a copy of the Physical Restraint Report as described above and a copy of the record of physical restraints maintained by the Principal for the thirty day period prior to the date of the reported physical restraint when:

a physical restraint has resulted in a serious injury to a student or staff member; or when an extended restraint has been administered.

#### 6. Responsibilities of the Principal

The following notes are specific to the reporting requirements of the Principal:

Every physical restraint must be documented on a Physical Intervention Incident Report.

Ensure a process by which notification of any physical restraint is received as soon as possible to the principal who will maintain an ongoing record;

Notify parent of physical restraint verbally and in writing;

Conduct weekly reviews of physical restraints to determine if any student has been restrained multiple times during the week (if so, must convene a review team to discuss, assess, develop written plan of action);

E. Conduct monthly review of school-wide physical restraint data (look for patterns, identify student intervention plans, determine if revision to school physical

restraint

policy or more training is needed);

- F. Submit written report to DESE when extended physical restraint and/or if any injury (student or staff) occurs;
- G. Report all physical restraints to DESE on the Restraint Reporting Form.

#### 7. Grievance Procedures

- A. Any party aggrieved by the administration of any physical restraint procedure, reporting requirement, documentation or investigation and findings as defined within this Policy, may request a hearing before the Fairhaven School Department.
- B. Requests for a hearing before the Fairhaven School Department, may be made verbally or in writing, but must be made no later than three school working days following the use of physical restraint and the receipt of a written report (as set forth in 5 – Section C).
- C. Within three working school days following a hearing, the Principal shall provide all parties to the hearing a written summation of his/her findings and disposition.
- D. Any party to the hearing aggrieved by the findings and disposition of the Principal may request, in writing and no later than 48 hours following the receipt of said findings and disposition, a hearing before the Fairhaven School Department.

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#### Time Out Procedures

Time out from reinforcement ("time out") is a procedure in which a student self selects or is staff directed temporarily to a place in a different, less-rewarding situation or setting, away from the learning activity or classroom, whenever he or she engages in undesirable or inappropriate behaviors, often defined in the student's Behavior Intervention Plan ("BIP"). (Cooper et al 2007, p.360) Time out is not a place it is an event. For time outs to be most effective, it is imperative that timeouts are absent of all possible reinforcing events. Typically, timeout is used in tandem with positive discipline techniques. For example, time out might be employed to reduce the frequency of a student's negative behaviors while an individualized reward system might be put in place to increase the frequency of appropriate student behaviors. Time out is intended to reduce the frequency of a target behavior, as defined in BIP, and can result in unintended negative effects on the student. Subsequently, students should be carefully monitored when timeout is being used. All incidents in which the student is timed out should be recorded in writing on a timeout log. Time out procedures should be explained to students prior to a time out being administered. The time out space must be clean, safe, sanitary, and an appropriate space for calming. The time out shall cease as soon as the student has calmed.

Inclusionary time out: The student is removed from positive reinforcement or full participation in classroom activities, but remains in the classroom i.e. planned ignoring, ask student put head down, place student different location in classroom (not walled off time out rooms in

classroom).

Exclusionary time out: The student is removed from the classroom - complete visual separation or actual physical separation from classroom activities. Actual physical separation should only be used when students are displaying behaviors that are potentially unsafe or overly disruptive. Students remain supervised (with visual observation) by assigned staff at all times. This should not be used for punishment for non-compliance or incidents of misbehavior which are no longer occurring.

Student must be continuously observed by staff;

Staff must be immediately available at all times;

Space must be clean, safe, sanitary, and appropriate;

Time out must end as soon as student has calmed;

Staff must record and keep a log of time in and time out ('Time out Log');

Staff must seek approval from the Principal for continued time out use over 30 minutes;

The Principal may not routinely approve such requests - must consider specific circumstances (is student agitated to justify longer than 30 min or if has not helped, implement other behavioral strategies).

If during an exclusionary time out, if the student is not safe for staff to be present, then the student may be left in time out setting with the door closed, but a school counselor or other behavioral support professional must be immediately outside the timeout setting to continuously visually observe, communicate, and determine when student has calmed.

If during an exclusionary time out, if the student is displaying self-injurious behavior, then the staff must be present to assure student safety at all times.

### 3. Seclusionary time out: Prohibited.

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### Time out Parameters

Staffing - A minimum of two staff members should monitor a time out.

Entering Time Out - Staff should state the reason for time out briefly along with a directive to go to time out. (ex. "Spitting is not allowed. You need to go to time out."). Students should be expected to report independently to time out. If assistance is necessary, it should be carried out solemnly and silently. This is not the time for discussion or to explain what the student did wrong, why it is wrong or how time out will be carried out.

Time In - A timer can be used to track time. Set the timer or look at your watch as soon as the student enters time out. No objects that pose a danger to self or others should enter the time out area (ex. Pencils/pens, keys, paperclips, etc.)

Supervision – Visually monitor at all times, but do not engage in any communication with the student during the time out period.

Communicating with the Student During Time out - Talking with the student on the way to or during time out is reinforcing and only serves to sustain or increase student verbalization. Educators must refrain from engaging in ongoing explanations, warnings, and even arguments/power struggles with students regarding the procedures of time out. It is extremely

important for the staff to remain objective, calm and matter-of-fact when using time out. Therefore, staff should implement planned ignoring (all communication and social attention is removed). Interactions with the student should be purposeful, simple-directive, and not socially engaging. Talking should be kept to a minimum. For example, ignore all protests or comments; do not respond to questions or be swayed by remarks such as “I don’t care if I have to go to time out!”

Time Done - Be sure to release the student from time out as soon as the interval is over or if the student is displaying calm and in control behavior. The staff may process briefly with the student (ex. Your time out is done. You got the time out for spitting in class. What will you do in that situation next time?). The student may complete a behavior processing sheet after the time out is complete.

Return to Class - When the student is integrated back into the classroom, the teacher should welcome the student back to the room and direct the student to the last activity that preceded the behavior leading to the time out. The Teacher should immediately positively reinforce appropriate behavior as soon as it occurs. There should be no further references, lectures, or jokes about time out.

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### Common Mistakes During Timeout

Answering questions posed by the student regarding how much more time he or she has remaining

Countering misbehavior by penalizing with additional time

Trying to calm the student down, cajoling or urging him/her to stop the misbehavior (i.e., tantrums, yelling, swearing, kicking, etc.) so that he/she may leave time out (e.g., “If you are quiet, then time out will soon be over.”)

Responding to swearing or threats from the student regarding what he/she will do when out. Please remember, these behaviors on the part of staff weaken the potential effectiveness of time out.

### Time Out Practices

Open Door Time Out - The student is removed from the instructional setting to a separate time out space, i.e. a time out room. Door is left open. A staff must supervise the student at all times during time out.

Closed Door Time out - The student is removed from the instructional setting to a separate time out space, i.e. a time out room. The door may be closed if the student exhibits aggressive, violent, or elopement behavior. The door may also be closed if the student exhibits significant disruption and/or safety concerns that disrupts the learning environment of others. A staff must supervise the student at all times during time out through the viewing window. The door is immediately opened when the behavior subsides and the student calms.

Time out Length - Generally a timeout is short (ex. 3-10 minutes based on the developmental age of the student). The student should display a period of safe, calm, compliant behavior. An effective time out should be swift and brief.

Prompting - Student will be prompted and given the opportunity every 5 minutes to display safe, calm, compliant behavior.

Clinical / Administrative Support - Administration should be notified if a student has not been able to process out of the time out at 30 minutes. Administration should collaboratively make a decision regarding next steps and a plan of action. Administration may continue the time out or request support from the School Adjustment Counselor/Guidance Counselor for a mental status assessment or another clinical intervention as needed.

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Exiting Timeout - Generally a time out is a short (3-10 minutes) period of safe, calm, compliant behavior. The student may rejoin the class or move to a process area after he/she has demonstrated safe, calm, compliant behavior. If the student continues to be disruptive during time out, you can simply reset the time and tell the student that he or she must display safe, calm, compliant behavior for a set interval of time (e.g. 5 minutes) before the student can return to the class activity. The timer is reset at each additional outburst--until the student complies.

Nurse Involvement - Students should be checked by the school nurse upon completion of the time out event if the student displayed self injurious behavior and/or unsafe physical behavior while in the time out. If injury is noted staff should report to the nurse/administration immediately.

### Time Out Space Environment

Time out space should be a minimum space of 60 square feet.

The time out space must be clean, safe, sanitary, and an appropriate space for calming.

The space should be clear of any potentially dangerous objects such as desks, wires, etc.

Electrical outlets should be capped, lights protected, and walls reinforced if needed.

The time out space door should be a solid door with a window that allows staff to view all of the room. The door should open inward and have a handle on the outside.

The time out room door should remain open at all times unless the behaviors listed in 'closed door time out' present.

### Documentation

Time out space interventions should be reflected in a Behavioral Intervention Plan or a Program Overview and signed by all parties, including the parent/guardian(s), prior to implementation.

Log all incidents in which time out is used as a behavioral consequence. Note key information

about time outs, including:

Date, Student's Name, Time In, Time Out, and Reason for Time out including antecedent behavior.

Notation of 5 minute prompt.

Signature/Initial of Administrator at 30 minutes

Note any concerning behaviors during time out implementation.

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### Evidence

There is a large body of evidence supporting the effectiveness of time out procedures and practices.

Miltenberger, 2008

Cooper, Heron, & Heward, 2007, p. 363

Kazdin, A.E. (1989). Behavior modification in applied settings. Pacific Grove, CA: Brooks/Cole Publishing  
Yell, M.L. (1994). Timeout and students with behavior disorders: A legal analysis. Education and Treatment of Children, 17, 293-301.

### Grievance Procedures

A. Any party aggrieved by the administration of any time out procedure, reporting requirement, documentation or investigation and findings as defined within this Policy, may request a hearing before the Fairhaven School Department.

B. Requests for a hearing before the Fairhaven School Department, may be made verbally or in writing, but must be made no later than three school working days following the use of the time out procedure.

C. Within three working school days following a hearing, the Principal shall provide all parties to

the hearing a written summation of his/her findings and disposition.

D. Any party to the hearing aggrieved by the findings and disposition of the Principal may request, in writing and no later than 48 hours following the receipt of said findings and disposition, a hearing before the Fairhaven School Department.

S.C. Originally Adopted: July 26, 2006

## **Discipline for Special Education Students Procedures for Suspensions** (SE 45)

Procedures for suspensions up to 10 days and after 10 days.

Upon their enrollment in the school, all students, including eligible students with disabilities, shall receive a copy of the school's student handbook which contains the school's code of conduct. The handbooks also contain the regulations regarding discipline of students with disabilities.

Students with disabilities may be suspended up to 10 cumulative days in a school year without triggering special procedures. However, once a student accumulates 10 school days those special procedures are activated. In this case, the Educational Team will meet prior to the 11th day of suspension to conduct a manifestation determination of disability. At this time they will make a determination as to whether the student's behavior is a result of:

- the student's disability
- the IEP not being fully or correctly implemented

If the manifestation determination finds that the behavior was caused by or directly and substantially related to the student's disability or that the behavior was the direct result of the district's failure to fully implement the student's IEP then the student may not be suspended. Instead, the student's plan (IEP and/or behavior plan) and placement should be changed as necessary (with the approval of the parent/guardian) to better meet the student's needs. If a Functional Behavior Assessment has not already been completed, it should be discussed by the Team. The Team may also write a behavior plan if needed.

If the manifestation determination concludes that the student's behavior was not related to the student's disability, then the student may be suspended and the Team will decide how the student's educational services will be provided during the period of suspension.

Regardless of the findings of the manifestation determination the Team may opt to place the student in an interim alternative education setting for up to 45 days if:

- the behavior involved weapons or illegal drugs or another controlled substance while at school or a school function

- the behavior resulted in serious injury to another person  
or
- there is evidence that the student is substantially likely to injure him/herself or others and a hearing officer orders the alternative placement

The Team Chairperson will document the Manifestation Determination Meeting using the Manifestation Determination form.

The Team will be responsible for locating an interim alternative educational setting that will enable the student to continue in the general curriculum, to continue receiving services identified on the IEP, and that provides services to address the problem behavior.

### **Discipline Procedures When a Student has not yet been Determined to be Eligible for Special Education** (SE 47)

In disciplining students, any student who is in the special education evaluation process will have the same rights and protections, and will be processed in the same manner, as students who have already been determined to be eligible for special education. Additionally, if it is known or suspected that the student may be a student with a disability, then the school will immediately follow procedures to evaluate the student. In the meantime that student will have the same rights and protections as a student who has already been determined to be eligible. These protections will not end until and unless the student is duly found to be not eligible for special education.

The parent has expressed concern in writing.

The parent has requested an evaluation.

School staff have expressed concern that the student may have a disability.

If the school has had no reason to consider that the student might be disabled and the parent requests an evaluation subsequent to a disciplinary action, the evaluation will be conducted as quickly as possible. If the student has already accumulated 10 suspension days then the evaluation will be expedited.

### **Parent Advisory council for Special Education** (SE 32)

Fairhaven Public Schools has partnered with Acushnet Public Schools and has established a district-wide parent advisory council on special education.

Membership on the council is offered to all parents of students with disabilities and other interested parties. The parent advisory council duties include but are not limited to: advising the district on matters that pertain to the education and safety of students with disabilities; and meeting regularly with school officials to participate in the planning, development, and evaluation of the school district's special education programs.

The parent advisory council has established by-laws regarding officers and operational procedures. The parent advisory council receives assistance from the school committee without charge, upon reasonable notice, and subject to the availability of staff and resources.

Both districts conduct, in cooperation with the parent advisory council, at least one workshop annually within the district on the rights of students and their parents and guardians under the state and federal special education laws.

### **Administrator of Special Education** (SE 50)

Fairhaven Public Schools appoints a person to be its administrator of special education who supervises all special education for the school district and ensures compliance with all federal and state special education laws.

The administrator of special education is appropriately licensed or holds a current waiver for an appropriate license or otherwise demonstrates that he or she has the qualifications to perform all of the duties of the administrator. As appropriate, and in accordance with the requirements of M.G.L. c.71B, §3A, the administrator may designate other school district personnel to carry out some of the duties of the administrator.

Individuals (teachers) who design and/or provide direct special education services described in IEPs are appropriately licensed.

Any person, including non educational personnel, who provides related services described under federal special education law, who supervises paraprofessionals in the provision of related services, or who provides support services directly to the general or special education classroom teacher is appropriately certified, licensed, board registered or otherwise approved to provide such services by the relevant professional standards board or agency for the profession.

Providers of interpreting services for students who are deaf or hard of hearing must be registered with the Massachusetts Commission for the Deaf and Hard of Hearing.

### **Appropriate Special Education Teacher Certification/Licensure** (SE 51)

Individuals who design and/or provide direct special education services described in IEPs are appropriately licensed.

### **Appropriate Certifications/Licenses or Other Credentials-Related Services Providers** (SE 52)

Any person, including non educational personnel, who provides related services described under federal special education law, who supervises paraprofessionals in the provision of

related services, or who provides support services directly to the general or special education classroom teacher is appropriately certified, licensed, board registered or otherwise approved to provide such services by the relevant professional standards board or agency for the profession.

### **Registration of Educational Interpreters** (SE 52A)

Providers of interpreting services for students who are deaf or hard of hearing must be registered with the Massachusetts Commission for the Deaf and Hard of Hearing.

### **Paraprofessionals** (SE 53)

In Fairhaven, persons employed as paraprofessionals and assistants do not design instruction for students with disabilities but are expected to implement instruction monitored by an appropriately certified or licensed professional who is proximate and readily available to provide such oversight.

Paraprofessionals are supervised and evaluated by the Principal in accordance with collective bargaining.

### **Professional Development** (SE 54)

Fairhaven Public Schools annually surveys staff to determine training needs and incorporates suggestions into its on-line training program. The district ensures that all staff, including both special education and general education staff, are trained on :

- state and federal special education requirements and related local special education policies and procedures;
- analyzing and accommodating diverse learning styles of all students in order to achieve an objective of inclusion in the general education classroom of students with diverse learning styles;
- methods of collaboration among teachers, paraprofessionals and teacher assistants to accommodate diverse learning styles of all students in the general education classroom; and the
- DESE restraint policy (PowerPoint).
- Special education teachers and related service providers are also trained or provided procedures and supporting documentation regarding suspensions and manifestation determination, MCAS accommodations, and alternative assessment as relevant to their job expectations.

The district provides in-service training for all locally hired and contracted transportation providers, before they begin transporting any special education student receiving special transportation, on his or her needs and appropriate methods of meeting those needs; for any such student it also provides written information on the nature of any needs or problems that may cause difficulties, along with information on appropriate emergency measures.

Transportation providers include drivers of general and special education vehicles and any

attendants or aides identified by a Team for either type of vehicle.

### **Special Education Facilities and Classrooms** (SE 55)

Fairhaven Public Schools has facilities that are appropriate and at least equal in all physical aspects to the standards of general education facilities and classrooms while meeting the needs of all eligible students, regardless of disability, and maximizing opportunities for inclusion. The district will take reasonable steps to provide and obtain student records of students moving out or into the district to achieve a seamless continuum of the standard.

Fairhaven Public Schools provides facilities and classrooms for eligible students that

- maximize the inclusion of such students into the life of the school;
- provide accessibility in order to implement fully each student's IEP;
- are at least equal in all physical respects to the average standards of general education facilities and classrooms;
- are given the same priority as general education programs in the allocation of instructional and other space in public schools in order to minimize the separation or stigmatization of eligible students; and
- are not identified by signs or other means that stigmatize such students;
- require the approval of the Director of Student Services before they are located or relocated within the school buildings.

### **Special Education Programs and Services are Evaluated** (SE 56)

Parents are surveyed through a survey which is sent home annually. Special education teachers and related service providers are asked to provide feedback on the special education program each school year.

A program evaluation by an independent evaluator is conducted periodically.

### **Transfer of Student Records** (SE 59)

When a student with an IEP transfers into the Fairhaven Public Schools from school district to school district, whether both of those districts are within the Commonwealth of Massachusetts or not, the student services office will work with the local receiving school to ensure that special education records are included in any records request if they do not come with the student.

If the records received through the parent or local school are insufficient, the student services office will contact the sending school and request records using the release previously obtained.

When a student transfers out of the Fairhaven Public Schools, the local school sends student records to authorized school personnel of the school to which a student seeks or intends to transfer without the consent of the eligible student or parent.

To allow for the sending of records of leaving without a release of information, the district

describes this intent in the Student Handbook with the following statement:

- It is the practice of the Fairhaven Public Schools that authorized school personnel of the school to which a student seeks or intends to transfer may have access to such student's record without the consent of the eligible student or parent, provided that the school the student is leaving, or has left, gives notice that it forwards student records to schools in which the student seeks or intends to enroll. Such notice may be included in the routine information letter required under 603 CMR 23.10.

Personally identifiable information from a student record shall only be released to a third party on the condition that they will not permit any other third party to have access to such information without the written consent of the eligible student or parent/guardian(s).

When a release to provide information to a district to which a student has moved is received by the student services office, the request is responded to promptly and arrangements made to provide the records, for example, partial files may be scanned, faxed with the balance mailed.

When parents request only copies of current IEPs or testing (this year), that will be provided by the student services office. If they request historical records, meaning beyond this year's documents, then we will charge \$0.20 per page for all pages copied. The parent/guardian(s) must present payment to Fairhaven Public Schools for the total amount before the release of the records to them.