

RIGHTS OF PERSONS WITH DISABILITIES

Date of Adoption: October 17, 1996

It is the policy of the Scotch Plains-Fanwood Board of Education that no otherwise qualified person shall, solely be reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment or under any program or activity sponsored by this Board. The Board shall comply with Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act of 1990 (ADA), and the Individuals with Disabilities Education Act (IDEA).

Notice of Board policies on nondiscrimination in employment (Policy #4111) and education (Policies #6171.43-6) will be given in the Board policy manual, posted throughout the district, and published in any district statement regarding the availability of employment positions or educational services.

I. Section 504/ADA Requirements

- A. Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 protect the rights of individuals with disabilities in programs and activities that receive federal financial assistance. Section 504 provides that: "No otherwise qualified individual with disabilities in the United States...shall, solely be reason of her or his disabilities, be excluded for the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance..."
- B. The Section 504/ADA regulations require a recipient operating federally funded public elementary and secondary education programs to provide a "free appropriate public education" (FAPE) to each qualified person with a disability who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disabilities.
- C. Section 504/ADA defines a "person with a disability" as anyone who:
 1. has a mental or physical impairment which substantially limits one or more major life activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;
 2. has a record of such impairment; or,
 3. is regarded as having such an impairment.

II. Program Accessibility

- A. The district acknowledges its responsibility under Section 504/ADA to avoid discrimination in policies and practices regarding personnel and students. No qualified person with a disability shall be denied the benefit of, be excluded from participation in, or otherwise be subjected to discrimination in any activity offered by this district.
- B. The school district has an affirmative obligation to evaluate a pupil who is suspected of having a disability to determine the pupil's need for special education and related services. The Board directs that all reasonable efforts be made to identify unserved children with educational disabilities in this district who are eligible for special education and/or related services in accordance with Policies #6171.43-6. A free appropriate public education will be provided for each child determined to be in need of special education and/or related services. Such a program of special education shall be provided in the least restrictive environment and in barrier-free facilities comparable to those provided for pupils without educational disabilities. To the maximum extent appropriate to the pupil's disability, a pupil with an educational disability shall be placed in an instructional setting with pupils without educational disabilities or with less severe disabilities.
- C. Under Section 504/ADA, the school district has an affirmative obligation to address the needs of children who are considered disabled under Section 504/ADA as adequately as the needs of non-disabled persons are met. A student may be disabled within the meaning of Section 504/ADA, and therefore entitled to regular or special education and related aids and services under the Section 504/ADA regulations, even though the student may not be eligible for special education and related services under Part B of the Individuals with Disabilities Education Act.
- D. The school district has the responsibility to identify, evaluate, and, if the student is determined to be eligible under Section 504/ADA, to afford access to appropriate educational services.
- E. The due process rights of pupils with disabilities and their parents will be afforded. If the parent/guardian disagrees with the determination made by the professional staff of the school district, he/she has a right to a hearing pursuant to the grievance procedures set forth in the accompanying regulations.
- F. No pupil will be denied, because of his/her educational disability, participation in co-curricular, intramural, or interscholastic activities of any other services offered or recognitions rendered regularly to the pupils of this district.

III. Employment

- A. No employee or candidate for employment shall be discriminated against in recruitment, hiring, advancement, discharge, compensation, training, transfer, or any other terms, condition, or privilege of employment solely because of his/her disability, provided the employee or candidate can, with or without reasonable accommodation, perform the essential functions of the position sought or held.
- B. No candidate for employment shall be required to answer a question or submit to an examination regarding a disability except as such disability relates directly to the performance of the job sought. No candidate will be discriminated against on the basis of a disability that is not directly related to the essential function of the position for which he or she has applied.
- C. Reasonable accommodations, not directly affecting the instructional program, shall be made to accommodate employment conditions to the needs of qualified persons with disabilities. Such accommodations may include rescheduling; restructuring jobs; making facilities accessible; acquiring or modifying equipment; modifying examinations, training materials, and policies; and providing readers or interpreters.

IV. Facilities

- A. The educational program of this district shall be accessible to all pupils at each grade level. Barrier-free access to school facilities shall be provided to the extent that no person with disabling condition is denied an opportunity to participate in a district program available to persons without a disabling condition.

V. Enforcement

- A. The Director of Special Services is designated as the district 504/ADA Coordinator. A complaint regarding a violation of law and this policy will be subject to a complaint procedure that provides for the prompt and equitable resolution of disputes.
- B. The complainant shall be notified of his/her rights of appeal at each step of the process, and accommodations to the needs of disabled complainants shall be made. A complainant shall be informed of his/her right to file a formal action for redress with or without recourse to the complaint procedure established by this policy.
- C. A complaint regarding the identification, evaluation, classification, or educational program of a pupil with an educational disability shall be governed by the due process rules of the State Board of Education, NJAC 6:28-2.7 and the Office of Administrative Law, NJAC 1:6A-1 et seq., and by the conflict resolution process established by Board Policy #1312.

VI. Guarantee of Rights

The Board shall not interfere, directly or indirectly, with any person's exercise or enjoyment of the rights protected by Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, or the Individuals with Disabilities Education Act.

VII. Evaluation and Compliance

A. The Board directs the Superintendent to evaluate district programs and practices on nondiscrimination, in accordance with law, and to report evaluations to the Board. The Board will submit such assurances of compliance as are required by law.

Scotch Plains-Fanwood Public Schools

Legal References:

- 29 USC 794 (Section 504, Rehabilitation Act of 1973)
- 20 USC 1401 et seq. (Individuals with Disabilities Education Act)
- 42 USC 12101 (Americans with Disabilities Act of 1990)
- NJSA 10:5-1 et seq. (Law Against discrimination)
- NJSA 18A: 18A-17 (Tenure)
- NJAC Title 6 Chapter 28 (Special Education)
- 34 CFR Part 104 (Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance)
- 45 CFR Part 84 (Nondiscrimination under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Acts of 1964)