

CONNECTICUT STATE DEPARTMENT OF EDUCATION

PROGRAM COMPLIANCE REVIEW REPORT

District: Farmington

Federal Civil Right Authorities: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, (34 C.F.R. Part 100); Title IX of the Education Amendments of 1972, 20 U.S.C, Sec. 1681 et seq, (34 C.F.R. Part 106); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C Sec 794, (34 C.F.R. Part 104); Title II of The American with Disabilities Act of 1990, 42 U.S.C Sec 12101 et seq., (34 C.F.R. Part 35); Guidelines for Eliminating Discrimination and Denial Services on the Basis Race, Color, National Origin, Sex and Handicap in Vocational Programs (34 C.F.R. Part 100, Appendix B)

Site Visited: Farmington High School

Dates of Visits: April 14, 2014, and April 23, 2014

The Civil Rights Compliance Review consisted of two types of visits. The first type of visit was the on-site visit, which occurred on April 23, 2014. Dr. Adrian R. Wood and three consultants from the Connecticut State Department of Education (CSDE) conducted the on-site review at Farmington High School. The on-site review was conducted pursuant to Title VI of the Civil Rights Act of 1964 and its implementing regulations found at 34 C.F.R. Part 100, Section 504 and its implementing regulations found at 34 C.F.R. Part 104, and Title II and its implementing regulations found at 28 C.F.R. Part 35, Title IX of the Education Amendments of 1972 and its implementing regulations found at 34 C.F.R. Part 106, and Guidelines for Eliminating Discrimination and Denial Services on the Basis of Race, Color, National Origin, Sex and Handicap in Vocational Programs and its implementing regulations found at 34 C.F.R. Part 100 Appendix B. Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in programs and activities receiving federal financial assistance.

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in any educational programs or activities that receive federal financial assistance. Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap prohibits discrimination in career education programs based on race, color, national origin, sex and handicap. As a recipient of federal financial assistance, Farmington High School is subject to the requirements of the following Federal Civil Rights Authorities: Title VI of the Civil Rights Act of 1964 (34 C.F.R. Part 100), Title IX of the Education Amendments of 1972 (34 C.F.R. Part 106), Title II of the Americans with Disabilities Act of 1990 (28 C.F.R. Part 35), Section 504 of the Rehabilitation Act of 1973 (34 C.F.R. Part 104) and Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap (34 C.F.R. Part 100, Appendix B).

Prior to the on-site review visit, a preliminary data request was made to the school district. The purpose of this request was for the district to submit evidence to the CSDE that demonstrated its compliance with the following Federal Civil Rights Authorities:

Title VI of the Civil Rights Act of 1964 (34 C.F.R. Part 100), Title IX of the Education Amendments of 1972 (34 C.F.R. Part 106), Title II of the Americans with Disabilities Act of 1990 (28 C.F.R. Part 35), Section 504 of the Rehabilitation Act of 1973 (34 C.F.R. Part 104) and Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap (34 C.F.R. Part 100, Appendix B). The review team reviewed the evidence submitted prior to the on-site review visit.

After reviewing the submitted evidence, a request for additional evidence was made to the recipient and the recipient was instructed to have that evidence available for the on-site review visit. During the on-site review visit, the review team verified the evidence that was submitted prior to the on-site review visit and reviewed any additional evidence that was requested. The review team also interviewed administrators, teachers and students.

The second type of visit is the facility review visit. The facility review visit occurred on April 14, 2014. Dr. Adrian R. Wood and another consultant from CSDE conducted the facility review visit at Farmington High School. The facility review visit was conducted pursuant to Section 504 and its implementing regulations found at 34 C.F.R. Part 104, and Title II and its implementing regulations found at 28 C.F.R. Part 35. Section 504 prohibits discrimination on the basis of disability in any program or activity that receives federal financial assistance from the United States Department of Education. Title II prohibits discrimination on the basis of disability by public entities. As a recipient of federal financial assistance, Farmington High School is subject to the requirements of Section 504 and Title II.

Prior to the facility review visit on April 14, 2014, the Regional School District 13 was required to submit a "8 ½ inches by 11 inches" floor plan for each level of the facility and the site, including the dates of construction and/or substantial alteration. They were also required to complete a self-assessment of the entire facility and site, including the off-site athletic facilities. The Americans with Disabilities Act Accessibility Guidelines (ADAAG) Checklist for Buildings and Facilities was used for the self-assessment.

This Letter of Findings includes the review teams' findings from all site visits.

SCHOOL PROFILE

Farmington High School is located in Farmington, Connecticut. Farmington has a population of approximately 23,000 and is located in Hartford County. The approximate student enrollment at Farmington High School is 1300 students in Grades 9 through 12. The student body's ethnic enrollment is as follows: 12.3 percent African American, 0.2 percent American Indian, 12.3 percent Asian, 5.8 percent Hispanic and 76.2 percent white.

The building has a principal, two assistant principals, and a dean of students. The building is supported by fourteen full-time secretaries and three part-time secretaries. The full-time certified staff consists of 115 full-time teachers, eleven part-time teachers, and three guidance counselors. The noncertified instructional staff consists of thirteen full-time special education paraprofessionals and a part-time special education paraprofessionals. The full-time non-instructional staff consists of a full-time nurse, a full-time school psychologist, two full-time and a part-time social worker and a part-time speech pathologist.

The building has 80 general classrooms. In addition, six art rooms, two music rooms, two computer labs and a library.

The athletic facility includes two gyms, a weight room and a general locker room facilities are provided for females and males. The on-site athletic fields include a boy's football/lacrosse field, a junior varsity baseball field and a girl's varsity/junior varsity lacrosse/field hockey field.

COMMENDATIONS

1. The students whom we interviewed represented a fair cross section of the student population and responded openly and honestly to all questions.
2. The school facilities and grounds were very clean and well maintained.
3. The civil rights compliance review team appreciated and commends the district and school administration for the excellent preparation of supporting documentation and the cooperation and competence exhibited by the faculty and staff during the on-site visitation.
4. Students with special needs have access to all programs, receive support to meet their educational needs, and are an accepted part of the school community.

RECOMMENDATIONS

1. Continue providing programs for all students on the following issues: cultural and class differences, emotional needs of other children, bullying and harassment.
2. Continue providing professional development to faculty and staff on cultural sensitivity and culturally responsive education.
3. Continue implementing different strategies to help educate students about Title IX and the role of the Title IX Coordinator.
4. Continue providing professional development to update faculty and staff on nondiscrimination policies and practices for Title IX and Section 504.

SCHOOL VISITS (On-site Review and Facility Reviews)

A. ON-SITE REVIEW

The on-site review was conducted pursuant to Title VI of the Civil Rights Act of 1964 and its implementing regulations found at 34 C.F.R. Part 100, Title IX of the Education Amendments of 1972 and its implementing regulations found at 34 C.F.R. Part 106, Guidelines for Eliminating Discrimination and Denial Services on the Basis of Race, Color, National Origin, Sex and Handicap in Vocational Programs and its implementing regulations found at 34 C.F.R. Part 100 Appendix B, Section 504 and its implementing regulations found at 34 C.F.R. Part 104, and Title II and its implementing regulations found at 28 C.F.R. Part 35.

Legal Requirements

1. Administrative

Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 have certain base requirements that recipients are required to meet in regard to administrative procedures.

Recipients of federal financial assistance are required to have an annual public notice, continuous notification and designation of a person to coordinate activities under Title IX and Section 504, and a grievance procedure that will allow students an avenue for dealing with discrimination from faculty, fellow students and administrators. To assess the recipient's compliance with the above-mentioned Federal Civil Rights Authorities, the review team evaluated the evidence presented prior to the on-site review visit and during the on-site review visit. During the on-site review visit, the review team also interviewed administrators, staff (certified and noncertified) and students.

2. Employment

Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 have certain base requirements that recipients are required to meet in regard to employment. Recipients of federal financial assistance are prohibited from engaging in any employment practice, which discriminates against any employee or applicant for employment on the basis of sex, disability, race, color or national origin. Specific issues include employment policies, recruitment and selection matters, salary establishment and administration, reasonable accommodation and overcoming the effects of past discrimination. To assess the recipient's compliance with the above-mentioned Federal Civil Rights Authorities, the review team evaluated the evidence presented prior to the on-site review visit and during the on-site review visit. During the on-site review visit, the review team also interviewed administrators, staff (certified and noncertified) and students.

3. Counseling and Pre-Career and Technical Programs

Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Title II of the Americans with Disabilities Act Section 504 of the Rehabilitation Act of 1973 and Guidelines Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap, have certain base requirements that recipients are required to meet in regards to Counseling and Pre-Career and Technical Programs. Recipients of federal financial assistance are required to ensure equal access for all students into all career and technical education programs. More specifically, recipients must make sure that their counseling for career and technical programs do not include directing or urging any students toward particular courses or programs that are "traditional" for the student's race, color, national origin, English language proficiency, sex or disability status. Recipients are also responsible for ensuring that services and materials related to counseling and recruitment are free of discrimination and stereotyping in language, content and illustration. To assess the recipients compliance with the above-mentioned Federal Civil Rights Authorities, the review team evaluated the evidence presented prior to the on-site review visit and during the on-site review visit. During the on-site review visit, the review team also interviewed administrators, staff (certified and noncertified) and students.

4. Recruitment

Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 and Guidelines Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap, have certain base requirements that recipients are required to meet in regards to recruitment.

Legal Requirements, continued

Recipients of federal financial assistance are required to utilize recruitment activities and materials that convey the message that all career and technical programs are open to all students without regard to race, color, national origin, sex or disability status. Recipients are also responsible for ensuring that limited English language skills are not a barrier to admission and participation in career and technical education programs. In addition, recipients are responsible for ensuring that promotional materials do not include any stereotyping. Furthermore, recipients should make every effort to have recruitment teams, to the extent possible, that represent persons of different races, national origins, sexes and abilities. To assess the recipient's compliance with the above-mentioned Federal Civil Rights Authorities, the review team evaluated the evidence presented prior to the on-site review visit and during the on-site review visit. During the on-site review visit, the review team also interviewed administrators, staff (certified and noncertified) and students.

5. Access and Admissions

Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 and Guidelines Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap, have certain base requirements that recipients are required to meet in regards to program access and admission. Recipients of federal financial assistance are responsible for ensuring that their admissions policies, procedures and criteria do not exclude students from career and technical education programs based on race, color, national origin, sex or disability. To assess the recipient's compliance with the above-mentioned Federal Civil Rights Authorities, the review team evaluated the evidence presented prior to the on-site review visit and during the on-site review visit. During the on-site review visit, the review team also interviewed administrators, staff (certified and noncertified) and students.

6. Services for Students with Disabilities

Section 504 of the Rehabilitation Act of 1973, Guidelines Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap and Title II of the Americans with Disabilities Act of 1990 have certain base requirements that recipients of federal financial assistance are required to meet in regards to services with disabilities. Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 are based upon the premise that students with disabilities will be integrated with their nondisabled peers as much as possible. Therefore, recipients of federal financial assistance are required to ensure that they are not denying a qualified person with a disability from any course, program, activity or benefit. Recipients must also make sure that they are not restricting access for students with disabilities to schools, programs, services, and activities because of architectural barriers, equipment barriers, the need for related aides and services, or the need for auxiliary aids. Lastly, recipients are required to locate students with disabilities who may be in need of support and services to determine eligibility and provide appropriate accommodations to include auxiliary aids. To assess the recipient's compliance with the above-mentioned Federal Civil Rights Services for Students with Disabilities Authorities, the review team evaluated the evidence presented prior to the on-site review visit and during the on-site review visit. During the on-site review visit, the review team also interviewed administrators, staff (certified and noncertified) and students.

ON-SITE REVIEW FINDINGS

Based on the evaluation of all the evidence presented (i.e., interviews with staff and students and examination of district policies and procedures) in the data request and the on-site review, the team identified the following noncompliance issues. These issues are documented below.

Noncompliance Issues

1. The recipient provides showers in the girl's locker room, but does not provide showers in the boy's locker room. **Legal Requirements: Title IX: 34 C.F.R., § 106.41 (c) (7)** requires that a recipient who operates or sponsors interscholastic, club or intramural athletic shall provide equal athletic opportunity for members of both sexes, which includes comparable competitive facilities. In determining whether comparable facilities are offered for both sexes, the baseball field and softball field were reviewed. After reviewing the fields, it was determined that the facilities are not comparable.

B. FACILITIES REVIEW

The facility reviews were conducted pursuant to Section 504 and its implementing regulations found at 34 C.F.R Part 104 and Title II and its implementing regulations found at 28 C.F.R. Part 35. The regulations implementing Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act (ADA) contain general accessibility requirements that apply to facilities, programs, activities and services covered by those laws.

The regulation implementing Section 504 at 34 C.F.R. Section 104.21 and the regulation implementing the ADA at 28 C.F.R. Section 35.149 similarly state that no person with a disability shall, because a covered entity's facilities are not accessible to or usable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504 or the ADA applies. The regulations implementing Section 504 and ADA contain two standards for determining whether a covered entity's programs, activities and services are accessible to individuals with disabilities. One standard applies to existing facilities; the other, covers new construction and alterations. The applicable standard depends upon the date of construction and/or alteration of the facility.

Under Section 504 at 34 C.F.R. Section 104.22, buildings constructed prior to June 3, 1977, which is the effective date of the Section 504 regulation, are considered "existing facilities" and must meet a program accessibility standard, while, under 34 C.F.R. 104.23, facilities constructed after that date and parts of "existing facilities" altered after that date are deemed "new construction" and must meet a facility accessibility standard. Under the ADA, the effective date of its implementing regulation, January 26, 1992, is the determinant whether a building must meet the "existing facilities" program accessibility standard or the "new construction" facility accessibility standard.

For "existing facilities," the legal standards under Section 504 and the ADA are essentially the same. Neither requires that each "existing" facility or part of such facility be accessible to and usable by persons with mobility disabilities. Instead, the legal standards focus on the specific programs, activities and services offered in an "existing" facility and require that each program, activity or service, when viewed in its entirety, be accessible and usable.

FACILITIES REVIEW, continued

So long as each program, activity or service is accessible and usable in one location, the "program accessibility" standards of Section 504 and the ADA generally are satisfied, unless multiple accessible locations are needed in order for persons with disabilities to participate effectively in the program, activity or service. The Section 504 and ADA regulations also specifically provide that "program accessibility" for an "existing facility," may be by nonstructural means of redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, or any other methods that result in making its programs or activities accessible to handicapped persons. Structural changes are only required when there is no other feasible way to make a program, activity or service accessible and usable. To determine the accessibility and usability of programs, activities and services in "existing facilities," the CSDE generally uses the Uniform Federal Accessibility Standards (UFAS) as a guide to assess the degree to which certain physical barriers may render the program, activity or service inaccessible or unusable. The CSDE does not require strict compliance with UFAS, but uses UFAS to determine whether a particular feature or features of the "existing facility" would effectively render the program, activity or service inaccessible to or unusable by persons with disabilities.

By contrast, for buildings and parts of buildings considered "new construction," the regulations implementing both Section 504 and the ADA require that the buildings or parts of buildings themselves (not just the programs, activities and services offered in the buildings) be accessible to and usable by persons with disabilities. The Section 504 regulation at 34 C.F.R. 104.23(c) further provides that facilities constructed or modified after January 18, 1991, must conform strictly to the requirements of UFAS. Prior to January 18, 1991, the Section 504 regulation stated that "new construction" commenced after June 23, 1977, had to conform to the American National Standards Institute standards (ANSI 1971). The regulation implementing the ADA at 28 C.F.R. 35.151(c), on the other hand, requires conformity with either UFAS or the Americans with Disability Act Accessibility Guidelines (ADAAG).

Where a building or portion of a building is constructed or modified between the effective dates of the Section 504 and ADA regulations, the building or alteration, if it impacted accessibility or usability, is considered "new construction" and must satisfy the facility accessibility standard under Section 504, while it is considered an "existing facility" and must satisfy the program accessibility standard under the ADA.

To the extent that these requirements may be inconsistent, the ADA regulation at 28 C.F.R. 35.103 provides that the ADA regulation should not be construed to apply a lesser standard than the requirement under Section 504.

Thus, the SDE generally applies the more demanding Section 504 facility accessibility standard for "new construction" in such circumstances.

The Section 504 regulation at 34 C.F.R. Section 104.22(f) further requires that recipients adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities and facilities that are accessible to and usable by individuals with disabilities.

FACILITIES REVIEW FINDINGS

Farmington High School was built in 1928 with additions in 1952, 1964, 1971 and 1978. Parts of the building were substantially altered in building projects that occurred in 1996 and 2005. UFAS was the standard that was used for the building projects. If the construction or alteration began on/or before June 3, 1977, it is considered an existing facility. The program, when viewed in its entirety, must be "readily accessible" as required by 34 C.F.R. Section 104.22. Compliance may be by means of redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of 34 C.F.R. Section 104.23 or any other methods that result in making its programs or activities accessible to handicapped persons. Areas that have been altered after June 3, 1977, are considered "new construction." The requirement for "new construction" is that building or parts of the building themselves (not just the programs, activities and services offered in the buildings) are accessible to and usable by persons with disabilities. If the construction or alteration began after June 3, 1977, but before January 18, 1991, the American National Standards Institute (ANSI) A117.1 – 1961 (R 1971) standards apply. If the construction or alteration began on/or after January 18, 1991, but before January 26, 1992, the Uniform Federal Accessibility Standards (UFAS) apply. If the construction or alteration began after January 26, 1992, either the UFAS or the Americans with Disabilities Act (ADA) Standards apply, depending on which of these standards are selected by the subrecipient for design and construction.

Based on the evaluation of the evidence presented to the review team during the facility reviews, the team identified a number of noncompliance issues. The noncompliance issues for the areas of the building that are considered "existing construction" are documented below. The off-site athletic fields and facilities were inspected as pre-1977 conditions. The program areas that were not in compliance, when viewed in their entirety, are documented below and in the voluntary corrective action plan (VCP).

Noncompliance Issues

1. The choral program, when viewed in its entirety, is not readily accessible to persons with disabilities because there is no access to the tiers.
2. The band program, when viewed in its entirety, is not readily accessible to persons with disabilities because there is no access to the tiers.
3. The Outtake program, when viewed in its entirety, is not readily accessible to persons with disabilities because the serving line is not usable.
4. The nurse program, when viewed in its entirety, is not readily accessible to persons with disabilities because the sink and the drug cabinet are not accessible and usable.
5. The field hockey program, when viewed in its entirety, is not readily accessible to persons with disabilities because there is no accessible seating.
6. The football program, when viewed in its entirety, is not readily accessible to persons with disabilities because there is no accessible seating. There is no accessible route from the parking lot to the field.
7. The photography program, when viewed in its entirety, is not readily accessible to persons with disabilities because the sink is not accessible and usable. There is no accessible workstation.
8. The general art program, when viewed in its entirety, is not readily accessible to persons with disabilities because the sink is not accessible and usable.
9. The ceramics program, when viewed in its entirety, is not readily accessible to persons with disabilities because the sink is not accessible and usable.

Noncompliance Issues, continued

10. The library program, when viewed in its entirety, is not readily accessible to persons with disabilities because the sink is not accessible and usable.
11. The physical education program, when viewed in its entirety, is not readily accessible to persons with disabilities because the toilet and shower in the boy's and girl's locker rooms are not accessible and usable. The toilet and shower in the coach's offices are not accessible and usable. There is no accessible seating in the gym. There is no accessible route between the benches in the boy's and girl's locker room and lockers.
12. The auditorium program, when viewed in its entirety, is not readily accessible to persons with disabilities because there is no listening device for the hearing impaired and the control room is not accessible.

Compliance in these areas may be by means of redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of 34 C.F.R. Section 104.23 or any other methods that result in making its programs or activities accessible to handicapped persons. The above noted noncompliance issues are also included in the VCP.

The noncompliance issues for the areas of the building that are considered "new construction" are documented in the VCP. As previously stated, the noncompliance issues for the areas of the building that are considered "new construction" are documented in the VCP. Previously, the facility was altered under the UFAS design standard; therefore, all future alterations must be made using that standard.

The requirement for "new construction" is that building or parts of the building themselves (not just the programs, activities and services offered in the buildings) are accessible to and usable by persons with disabilities. If the construction or alteration began after June 3, 1977, but before January 18, 1991, the American National Standards Institute (ANSI) A117.1 - 1961 (R 1971) standards apply. If the construction or alteration began on/or after January 18, 1991, but before January 26, 1992, the Uniform Federal Accessibility Standards (UFAS) apply. If the construction or alteration began after January 26, 1992, either the UFAS or the Americans with Disabilities Act (ADA) Standards apply, depending on which of these standards are selected by the subrecipient for design and construction.

Please submit your VCP for the noncompliance issues noted above to Dr. Adrian R. Wood within forty five (45) days of receipt of this report. Dr. Wood will serve as the State Department of Education liaison to Farmington School District until all issues are resolved. Resolution of the preceding noncompliance issues will be achieved when satisfactory documentation has been received and accepted by the Connecticut State Department of Education.

Report prepared by:

Dr. Adrian R. Wood

Dr. Adrian R. Wood, Education Consultant
Turnaround Office

4/16/14
Date

Report reviewed by:

M-Barth

Morgan Barth, Division Director
Turnaround Office

4/16/14
Date