

SAFE SCHOOLS AGAINST – VIOLENCE  
IN EDUCATION ACT



**Herricks Public Schools**  
Education Today Knowledge Forever

CODE OF CONDUCT

HERRICKS PUBLIC SCHOOLS  
New Hyde Park, NY 11040

**T**he Safe Schools Against-Violence in Education Act, known as S.A.V.E., became law at the end of the 2000 legislative year. Each school board is required to adopt and implement a plan for creating and maintaining a safe and secure learning environment for its students. This booklet contains the entire Student Code of Conduct originally adopted by the Board of Education on June 21, 2001.

**Code of Conduct (Education Law §2801)** — The Code of Conduct governs the conduct of students, teachers, and other school personnel, as well as visitors.

For the 2017-2018 school year, the Committee recommends that the Code of Conduct be disseminated as follows:

**HIGH/MIDDLE SCHOOL**

1. The high/middle school administrations will meet with students in class-level assemblies in early September to review the Code of Conduct.
2. Parents/Guardians can receive the Code of Conduct at the *Back-To-School Night*. Those not attending will receive it by mail.
3. Available On Line: [www.herricks.org](http://www.herricks.org).
4. Parents/Guardians and students will be required to sign off that they have received this information.

**ELEMENTARY**

1. The classroom teacher will meet with his or her students to discuss pertinent elements of the Code of Conduct.
2. Parents/Guardians can receive the Code of Conduct at the *Back-To-School Night*. Those not attending will receive it by mail.
3. Parents/Guardians will be required to sign off that they have received this information.

## STUDENT DISCIPLINE CODE (CODE OF CONDUCT)

The Code of Conduct of the Herricks Public Schools is based upon an understanding that discipline is not synonymous with punishment. Rather, the district views good discipline as an integral part of an overall instructional program which supports the development of students' sense of personal responsibility both as individuals and in groups. The Code of Conduct rests upon the dual assumptions that students can reasonably be expected to be responsible for their own behavior and that the majority of students do act responsibly.

The Code of Conduct establishes rules of conduct designed to provide consistency and direction so that students will know what is expected of them and be aware of what steps will be taken in case of an infraction. These rules of conduct focus on respect for the rights and property of others and the maintenance of school safety. Students who violate school rules will be subject to firm, but fair, disciplinary action which will be administered in an impartial and consistent manner. At all levels, the district recognizes the need to identify and help students whose individual problems prevent them from functioning in the regular school setting and appropriate disciplinary responses will be provided.

The Code of Conduct supplements and reinforces Board policy prohibiting the use of corporal punishment in the schools of the Herricks Union Free School District.

### STUDENT DISCIPLINE CODE

#### I. **Bill of Student Rights and Responsibilities**

The Board of Education assures district students that they shall have all the rights afforded them by federal, state, and local constitutions and statutes. The district recognizes all federal, state and local laws in connection with these rights, and reminds students that certain responsibilities accompany these rights.

The district's aim is to provide an environment in which a student's rights and freedoms are respected, and to provide opportunities which stimulate and challenge the student's interests and abilities to his/her highest potential. These opportunities will be available as long as the student pursues these interests and studies in an appropriate manner, and does not infringe upon the rights of others.

#### A. **Student Rights**

It shall be the right of each district student:

1. To learn and to pursue his or her education without interference
2. To have a safe, healthy, orderly and courteous school environment
3. To take part in all district activities on an equal basis regardless of a student's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (identity or expression) or sex.
4. To attend school and participate in school programs unless suspended from instruction and participation for legally sufficient cause as determined in accordance with due process of law
5. To have school rules and conditions available for review and, whenever necessary, explained by school personnel
6. To be suspended from instruction only after his/her rights pursuant to Education Law Section 3214 have been observed, and
7. In all disciplinary matters, to have the opportunity to present his/her version of the facts and circumstances leading to imposition of disciplinary sanctions to the professional staff member imposing such sanction.
8. In disciplinary matters related to students with disabilities, the district will comply with all necessary state and federal laws.

#### B. **Student Responsibilities**

All district students have the responsibility to:

1. Contribute to maintaining a safe and orderly school environment that is conducive to learning and to show respect to other persons and to property.
2. Be familiar with and abide by all district policies, rules and regulations dealing with student conduct.
3. Attend school every day unless they are legally excused and to be in class, on time, and prepared to learn.

4. Work to the best of their ability in all academic and extracurricular pursuits and to strive toward their highest level of achievement possible.
5. React to direction given by teachers, administrators and other school personnel in a respectful, positive manner.
6. Work to develop mechanisms to control their anger.
7. Ask questions when they do not understand.
8. Seek help in solving problems that might lead to discipline.
9. Dress appropriately for school and school functions.
10. Accept responsibility for their actions.
11. Conduct themselves as representatives of the district when participating in or attending school-sponsored extracurricular events and to hold themselves to the highest standards of conduct, demeanor, and sportsmanship.
12. Report rumors of threats of physical injury or damage of property to a school official.

**C. Parents/Guardians**

All Parents/Guardians are expected to:

1. Recognize that the education of their child(ren) is a joint responsibility of the Parents/Guardians and the school community.
2. Send their children to school ready to participate and to learn.
3. Ensure their children attend school regularly and on time.
4. Ensure absences are excused.
5. Insist their children be dressed and groomed in a manner consistent with the student dress code.

6. Help their children understand that in a democratic society appropriate rules are required to maintain a safe orderly environment.
7. Know school rules and to help their children understand them.
8. Convey to their children a supportive attitude toward education and the district.
9. Communicate with teachers, other parents/guardians and their children's friends.
10. Help their children deal effectively with peer pressure.
11. Inform school officials of changes in the home situation that may affect student conduct or performance.
12. Provide a place for study and ensure homework assignments are completed.
13. Report rumors of threats of physical injury or damage of property to a school official.

**D. Teachers**

All district teachers are expected to:

1. Maintain a climate of mutual respect and dignity which will strengthen students' self-concept and promote confidence to learn.
2. Be prepared to teach.
3. Demonstrate interest in teaching and concern for student achievement.
4. Know school policies and rules and to enforce them in a fair and consistent manner.
5. Communicate to students and Parents/Guardians:
  - a. Course objectives and requirements
  - b. Marking/grading procedures
  - c. Assignment deadlines

- d. Expectations for students
- e. Classroom discipline plan.

- 6. Communicate regularly with students, parents/guardians and other teachers concerning growth and achievement.
- 7. Report rumors of threats of physical injury or damage of property to a school official.

**E. Guidance Counselors**

All district guidance counselors are expected to:

- 1. Assist students in coping with peer pressure and emerging personal, social and emotional problems.
- 2. Initiate teacher/student/counselor conferences and parent/teacher/student/ counselor conferences, as necessary, as a way to resolve problems.
- 3. Regularly review with students their educational progress and career plans.
- 4. Provide information to assist students with career planning.
- 5. Encourage students to benefit from the curriculum and extracurricular programs.

**F. Principals**

All principals are expected to:

- 1. Promote a safe, orderly and stimulating school environment that supports active teaching and learning.
- 2. Ensure that students and staff have the opportunity to communicate regularly with the principal and to be able to approach the principal for redress of grievances.
- 3. Evaluate on a regular basis all instructional programs.
- 4. Support the development of and student participation in appropriate extracurricular activities.
- 5. Be responsible for enforcing the code of conduct and ensuring that all cases are resolved promptly and fairly.

**G. Superintendent**

The Superintendent is expected to:

- 1. Promote a safe, orderly and stimulating school environment that supports active teaching and learning.
- 2. Review with district administrators the policies of the board of education and state and federal laws relating to school operations and management.
- 3. Inform the board about educational trends relating to student discipline.
- 4. Work to create instructional programs that minimize problems of misconduct and are sensitive to student and teacher needs.
- 5. Work with district administrators in enforcing the code of conduct and ensuring that all cases are resolved promptly and fairly.

**H. Board of Education**

The Board of Education is expected to:

- 1. Collaborate with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel to develop a code of conduct that clearly defines expectations for the conduct of students, district personnel and visitors on school property and at school functions.
- 2. Adopt and review at least annually the district's code of conduct to evaluate the code's effectiveness and the fairness and consistency of its implementation.
- 3. Lead by example by conducting board meetings in a professional, respectful, and courteous manner.

## II. Student Disciplinary Code

A student may be subjected to disciplinary action when the student:

A. Engages in conduct which is:

1. Disorderly, i.e., intentionally causing public inconvenience, annoyance or alarm, or recklessly creating a risk thereof by:
  - fighting or engaging in violent behavior
  - making unreasonable noise
  - using threatening, abusive or obscene language or gestures
  - disturbing any lawful assembly or meeting of persons
  - obstructing vehicular or pedestrian traffic
  - creating a hazardous or physically offensive condition by any act which serves no legitimate purpose
  - engaging in conduct deemed to be sexually harassing
  - engaging in actions or language which is racially, religiously or ethnically offensive and/or in violation of a student's civil rights
  - using unauthorized portable audio or video equipment, including but not limited to cell phones, during instructional hours
  - misusing computer/electronic equipment, including any violation of the district's acceptable use policy.
2. Insubordinate, i.e., failing to comply with the lawful directions of a teacher, school administrator or other school employee in charge of the student.

B. Endangers the safety, morals, health or welfare of others by any act, including but not limited to:

- Selling, using or possessing alcohol, drugs or other controlled substances, or drug paraphernalia
- ! Selling, using or possessing firearms\*, box cutters, knives, fireworks or incendiary bombs or other - contraband/or facsimiles of these objects and/or possessing or using any object in a manner which is capable of causing physical injury.
- ! Damaging or destroying property or threatening to damage or destroy property.
- ! Selling, using or possessing obscene materials
- ! Using profane, vulgar or abusive language
- ! Smoking (includes electronic cigarettes)
- ! Gambling

Hazing or harassment or bullying  
Physically injuring any person or threatening the use of force which would result in such injury  
Engaging in lewd behavior or socially inappropriate behavior  
Using electronic paging devices, cell phones, or similar equipment  
Possessing a laser pointer  
Misusing computer/electronic equipment, including any violation of the district's acceptable use policy.

*\*A "firearm" is defined under Title 18 U.S.C. sec. 921 as (a) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (b) the frame or receiver of any such weapon; (c) any firearm muffler or firearm silencer; or (d) any destructive device. Such term does not include an "antique firearm."*

C. Engages in any of the following forms of academic misconduct:

- Lateness for, missing or leaving school or class without permission or excuse
- Cheating (including but not limited to copying, using unauthorized help sheets and the like, illegally obtaining tests in advance, substituting for a test taker, and other forms of unauthorized collusion)
- Plagiarism.

D. Engages in conduct which violates The Board's Rules and Regulations for the Maintenance of Public Order on School Property.

E. Bullying/Discrimination/Harassment: New York State Education Law §10-18 and §801-a, commonly known as Dignity for All Students Act (DASA), prohibits discrimination, harassment or bullying, including cyberbullying, on the basis of a student's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (identity or expression) or sex. District Policy #5021, Dignity for All Students Act, available on the district's website, addresses the district's plan for meeting the requirements of this law. Included in the district's efforts to maintain a safe environment for all students, is an awareness of the effects of

bullying on children. The term “bullying” among children is defined, in general as: “a variety of negative acts carried out repeatedly over time. It involves a real or perceived imbalance of power, with a more powerful child or group attacking those who are less powerful.” Discrimination/harassment means an intentional act against any student that creates a hostile environment by conduct of such a severe nature that it has, as does bullying, the effects of

1. Physically, emotionally or mentally harming a student.
2. Placing a student in reasonable fear of physical, emotional or mental harm.
3. Placing a student in reasonable fear of damage to or loss of personal property.
4. Creating an intimidating or hostile environment that substantially interferes with a student's educational opportunities.

Discrimination, harassment, bullying, including cyberbullying, can take physical, verbal, and/or psychological forms and includes, but is not limited to, actions such as hitting, kicking, pushing, spitting, taking personal belongings, taunting, malicious teasing, name calling, making threats, spreading rumors, manipulating social relationships, engaging in social exclusion, extortion, and intimidation.

Any student who believes that he/she is being subjected to this behavior, as well as any other person who has knowledge of or witnesses any possible occurrence of such behavior, shall promptly report (no later than one school day after receiving the report of the incident and file a written report no later than two school days following the oral report) the behavior to the school's designated DASA coordinator, or to any staff member or the building principal. The DASA Coordinator or building principal to whom the report is made (or the staff member/building principal who witnesses the behavior) shall investigate the complaint and take appropriate action to include, as necessary, referral to the next level of supervisory authority. Allegations shall be promptly investigated and will be treated as confidential and private to the extent possible within legal constraints.

As with other forms of bullying, cyberbullying is an attempt to display power and control over someone perceived as weaker. Cyber-

bullying involving District students may occur both on campus and off school grounds. It may involve student use of the District Internet system or student use of personal digital devices while at school, such as cell phones, digital cameras, and personal computers to engage in cyberbullying.

Cyberbullying includes, but is not limited to, the following misuses of technology: harassing, teasing, intimidating, threatening, or terrorizing another student or staff member by way of any technological tool, such as sending or posting inappropriate or derogatory e-mail messages, instant messages, text messages, digital pictures or images, or web site postings (including blogs). There is a clear right of the school district to involve itself in a disciplinary fashion in cases in which students are the victims of bullying or cyberbullying, which occurs either outside or in combination of inside/outside the school day, but whose ramifications extend to school.

### III. Cell Phones

Cell Phones can be a helpful communications tool; however, their presence within the school poses considerable and varied challenges: class disruption; texting; possibility of cheating via cell phone; harassment opportunity via cell phone; etcetera. Our focus is for all students and teachers to be able to give their full attention towards learning and achieving the best education. Guidelines have been established for all within the school in order to achieve minimal disruption while providing the proper learning atmosphere and setting. Cell phones may occasionally be used in the classroom for instructional purposes with the permission of the teacher.

#### CELL PHONE GUIDELINES:

**Elementary:** Student use or possession of cell phones at the elementary level is strongly discouraged. Special circumstances which would require the student to have a cell phone should be discussed with the building principal in advance.

**Middle School:** Students are permitted to have cell phones, but phones must be off (**off, not on vibrate**) throughout the school day and not visible.

**For the first and second infraction,** a warning will be issued to the student. The cell phone will be confiscated by the staff member and sent to the main office. The cell phone can be picked up by the student in the main office at the end of the school day. **For the third infraction,** lunch detention with notification to

the family. The cell phone will be confiscated by the staff member and sent to the main office. The cell phone can only be picked up by the student's parents from the main office. **Further infractions,** the cell phone will be confiscated by the staff member and sent to

the main office and the parents contacted. Parents must then pick up the cell phone or make arrangements with the assistant principal or principal for pick up. Student discipline will be after-school detention or one day suspension.

**High School:** Cell phones are permitted in non-instructional areas only. Cell phones must be off (off, not on vibrate) and not visible in any instructional area. Instructional areas are defined as any classroom, computer lab, auditorium, gym, library or meeting room in which students are present and receiving instruction, studying, reading, taking a quiz or test or meeting in an assembly.

First In-fraction, is a warning and the cell phone will be sent to the principal's office by the staff member. Student is required to meet with the assistant principal at the end of the day to retrieve cell phone. Second infraction, one-hour detention. The cell phone will be sent to the assistant principal's office by the staff member for retrieval by the student at the end of the school day. Parents will be contacted by the assistant principal. Third infraction, two-hour detention. The cell phone will be sent to the assistant principal's office by the staff member. Parents will be contacted and must then pick up the cell phone or make arrangements with the assistant principal for pick up. Fourth infraction, will be an in-school suspension. The cell phone will be sent to the assistant principal's office by the staff member. Parents will be contacted and must then pick up the cell phone or make arrangements with the assistant principal for pick up.

As with all disciplinary cases, teachers, and administrators are expected to make the final determination of appropriate discipline based on the specific circumstances.

#### IV. Dress Code

Student dress and general appearance rests with individual students and parents/guardians. However, students are required to attend school in appropriate dress that meets health and safety standards and does not interfere with the learning process. Students must wear appropriate protective gear in certain classes (i.e., Home and Careers, Technology, Physical Education).

Hats, clothing and attire which have an expression or insignia which is obscene or libelous, which advocates racial or religious prejudice, or is disruptive is forbidden.

#### V. Student Conduct on Buses

The Board of Education of the Herricks Public Schools (the Board) believes it is crucial for students to behave appropriately while riding on district buses, both to ensure their safety and that of other passengers, as well as to ensure the least possible distractions for bus drivers.

The Board requires students to conduct themselves on the bus in a manner consistent with established standards for classroom behavior. Excessive noise, pushing, shoving and fighting will not be tolerated. Students must be seated except when entering or exiting the bus. It is the responsibility of the school bus driver to maintain order. Students must also conduct themselves properly and respect the rights and property of others at bus stops. Students may be subject to disciplinary action which may include the loss of bus transportation privileges for inappropriate behavior.

A student subjected to a suspension from transportation is not entitled to a full hearing pursuant to Education Law §3214. However, the student and the student's parents/guardians will be provided with a reasonable opportunity for an informal conference with the building principal or the principal's designee to discuss the conduct and the penalty involved. Should the suspension from transportation amount to a suspension from attendance, the District will make appropriate arrangements to provide for the student's education.

While the law requires the school district to furnish transportation, it does not relieve parents/guardians from the responsibility of supervision until such time as the child boards the bus in the morning and after the child leaves the bus at the end of the school day. Once the child boards the bus, and only at that time, does the child become the responsibility of the school district. Such responsibility ends when the child is delivered to the regular bus stop at the close of the day.

#### VI. Corporal Punishment

The Board of Education of the Herricks Public Schools prohibits the use of corporal punishment by administrators and all other teaching and non-teaching personnel as a means of disciplining students. Physical restraint of students is permitted only in the

event that students are in the act of injuring themselves or others, or if they are in the act of destroying school property and do not cease upon verbal direction.

Whenever a school employee uses physical force against a student, the school employee shall, within the same school day, make a report to the Superintendent describing in detail the circumstances and the nature of the action taken.

The Superintendent of Schools shall submit a written report each year to the Commissioner of Education, with copies to the Board of Education, setting forth the substance of each use of corporal punishment during the reporting period, the results of each investigation, and the action, if any, taken by the school authorities in each case.

regarding the student to be disciplined, previous referrals and the severity of the misconduct.

The range of penalties is not to be interpreted as a continuum. It represents a set of interventions which may be imposed individually or several may be used in concert to bring about the desired change in student behavior.

In a case where a "firearm" is brought onto school property (as defined in II. B. above) the following shall apply: In accordance with the provisions of the Gun-Free School Act (Public Law 103-227, Title X, Part B) any student who is determined to have brought a weapon to a school under the jurisdiction of the Board of Education shall be excluded from school for a period of not less than one year, provided that the Superintendent of Schools may modify such exclusion requirement on a case-by-case basis in accordance with applicable federal and state laws, rules and regulations and after affording the student such due process as may be required.

## VII. **Disciplinary Procedures and/or Penalties for Violations of the Student Discipline Code**

### A. Range of Penalties

The range of disciplinary procedures and/or penalties which may be imposed for violations of the Student Disciplinary Code include the following. They are not listed in progressive order:

- ! Spoken warning
- ! Written warning
- ! Spoken notification to parent
- ! Written notification to parent
- ! Probation
- ! Reprimand
- ! Detention
- ! Suspension from transportation
- ! Suspension from athletic participation
- ! Suspension from social or extracurricular activities
- ! Suspension of other privileges
- ! Exclusion from a particular class
- ! Involuntary transfer
- ! Suspension
- ! Involvement of civil authorities
- ! Permanent suspension.

### B. Choice of Penalties

The school officials shall take into account all relevant data

## VIII. **Detention**

The Herricks Union Free School District believes that from time to time it may be necessary for students to serve detention as a disciplinary measure.

At the secondary level, detention may be assigned in progressive increments of one hour, up to a maximum of three hours in one session. Detention is not assigned in the elementary schools.

Detention will be served only after the parent(s)/guardian(s) of a child has been personally notified.

## IX. **Suspension**

While the Board of Education retains its authority for the suspension of students, it places the prime responsibility for imposing such suspension(s) with the Superintendent of Schools and to the Building Principal in cases of suspension not exceeding five (5) days. Any professional staff member may initiate a recommendation for suspension to the Building Principal/Superintendent. Such recommendations shall be in writing unless the conditions underlying the recommendation warrant immediate and expeditious attention. In such cases, a written report is to follow immediately.



The Superintendent/Building Principal, upon receipt of a recommendation for suspension, shall gather the facts relevant to the matter and shall record them for subsequent presentation, if necessary.

**A. Types of Exclusion from Classes or School**

**1. Suspension not exceeding five school days**

The principal will conduct an informal hearing with the student and other individuals who may have information concerning the situation. Students' due process rights will be protected in every case. When a suspension is imposed, the student and parent(s) will be notified within 24 hours in writing, in the predominant language spoken at home. Such notice should be sent via personal delivery, express mail delivery, or some other means that is reasonably calculated to assure receipt of notice within twenty-four (24) hours of the student's removal. The notice shall provide a description of the charges against the student, and detail the incident(s) which resulted in the suspension. It shall inform the parents/guardians of their right to request an immediate informal conference with the principal. The principal will also attempt to reach the parent/guardian by telephone.

When a student is suspended the first time in a school year, along with the notice to the parent/guardian, a packet containing the following policies and regulations will be sent to the parent/guardian:

5311.1 - Student Due Process (policy and regulation)

5313 - Student Suspension

Unless a dangerous situation exists which requires immediate disciplinary action, a suspension will not be implemented until the parents/guardians have been appropriately notified.

The notice and the opportunity for an informal conference shall take place prior to the student's suspension unless the student's presence in school poses a continued danger to person or property or an ongoing threat to the academic process. If such a danger is evident, the notice and opportunity for an informal conference must occur as soon as possible after the suspension as is reasonably practicable.

At the conference, the parent(s)/guardian(s) shall be permitted to ask questions of complaining witnesses. After the conference, the Building Principal shall promptly advise the parent(s) or guardian(s) of his decision and that such decision may be appealed to the Superintendent of Schools.

Parents/guardians who are not satisfied with the principal's decision and wish to pursue the matter must file a written appeal to the Superintendent within five (5) business days. The Superintendent shall issue a written decision regarding the appeal within five (5) business days of receiving the appeal. If the parents/guardians are not satisfied with the Superintendent's decision, they must file a written appeal to the Board of Education within five (5) business days of the date of the Superintendent's decision. Only final decisions of the Board of Education may be appealed to the Commissioner within thirty (30) days of the decision.

An accurate record of the offense and response is maintained for all incidents.

**2. Suspension exceeding Five School Days**

If a student is to be suspended for a period in excess of five school days, a Superintendent's Hearing will be held. The student and the person in parental relation to such pupil shall be notified of the right to be represented by counsel, to question witnesses against the student, to examine evidence, and to present witnesses and other evidence on the student's behalf. Notification of the date, time and place of the Superintendent's Hearing will be written in the student's native language.

The Superintendent of Schools shall personally hear and determine the proceeding. The Superintendent, as hearing officer, shall be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding. A record of the hearing shall be maintained, but no stenographic transcript shall be required and a tape recording shall be deemed a satisfactory record.

**Student Witnesses:** If a student is to be questioned as a

third-party witness, his/her parents/guardians or shall be notified and shall have the right to be present during questioning. parents/guardians retain the right to decline to have a student participate as a witness. The hearing officer shall make findings of fact and recommendations as to the appropriate measure or discipline to the Superintendent. The report of the hearing officer shall be advisory only and the Superintendent may accept all or any part thereof.

An appeal from the decision of the Superintendent may be made to the Board of Education which shall make its decision based solely upon the record before it. All appeals to the Board of Education must be made in writing and be submitted to the District Clerk within five (5) business days of the receipt of the Superintendent's decision.

Final decisions of the Board of Education may be appealed to the Commissioner within thirty (30) days of the decision.

### **3. Instruction During Period of Suspension**

A student of compulsory attendance age who is suspended will be provided and must attend instruction that will be substantially equivalent to that provided in the regular classroom. An alternative program of instruction will also be provided for students over compulsory attendance age, although they are not required to attend such instruction.

A minimum suspension period for a student who is repeatedly and substantially disruptive\* shall be three (3) school days, provided this suspension may be reduced on a case by case basis.

A minimum suspension for a student who threatens an act of violence shall be three (3) school days, provided this suspension may be reduced on a case by case basis.

A minimum suspension period for a student who commits an act of violence\*\* shall be five (5) school days, provided this suspension may be reduced on a case by case basis.

*\*A disruptive pupil is an elementary or secondary student under the age of twenty-one who substantially throws into disorder or interrupts the normal course of learning and/or substantially interferes with the teacher's authority over the classroom.*

*\*\*A violent pupil is an elementary or secondary student under the age of twenty-one who intimidates, threatens, or uses physical force so as to cause injury or abuse of another person and/or property, possesses and/or displays, while on school property, a gun, knife, explosive or incendiary bomb, or any other dangerous instrument capable of causing physical injury or death..*

## **X. Initiation of a Student Disciplinary Procedure**

### **A. Reporting a Violation**

Anyone may report a violation of the Student Discipline Code to the building principal and/or designee. Any staff member who makes a referral will call to inform the parent(s)/guardian(s) of the infraction. The principal and/or designee shall investigate the charges as he or she deems appropriate, and institute an informal or formal disciplinary proceeding.

### **B. Teacher Removal of Student from Classroom**

When a teacher believes that a pupil's continued presence will pose a continuing danger or ongoing threat of disruption, the teacher shall, prior to removing the student from the classroom, immediately provide the student with an explanation of the basis for the removal and allow the student to informally present his/her version of the events. In all other cases, the teacher shall provide the explanation and an informal opportunity to be heard within twenty-four hours of the removal.

The teacher must also inform the principal or the principal's designee who, in turn, must inform the parents/guardians of the removal and the reasons therefore within twenty-four hours of the removal. The notice will be in writing, in the predominant language spoken at home and sent via personal delivery, express mail delivery, or some other means that is reasonably calculated to assure receipt of notice within twenty-four (24) hours\* of the student's removal. It must inform the parents/guardians that, upon request they will be given an opportunity for an informal conference with the principal or the principal's designee to discuss the removal. The parent(s)/guardian(s) shall be permitted to ask questions of complaining witnesses. If the pupil denies the charges, the principal or designee shall provide an explanation for the removal and allow the pupil to present his/her version of the events. Such

an informal hearing must be within forty-eight (48) hours of the removal. The teacher removing a student from class must attend any and all conferences related to the removal.

*\*If this twenty-four or forty-eight hour period does not end on a school day, the allowed time shall be extended to the next school day.*

The principal or his/her designee may overturn a removal at any point between receiving the referral form issued by the teacher and the close of business on the day following the forty-eight (48) hour period for the informal conference, if a conference is requested. No student removed from the classroom by the classroom teacher shall return to the classroom until the principal makes a final determination or the period of removal expires, whichever is less.

#### **C. Stipulations of Removal from Classroom**

1. The teacher is expected to implement progressive steps of discipline before removing a student from class. This should include referrals to pupil support services. The steps must also include a conference with the student and his or her parents/guardians.
2. Out of class removals will not exceed three school days.
3. If a child is removed from a class, the school must provide a room, staffed with a certified teacher, for the purpose of providing instruction for the student throughout the duration of the removal.

#### **D. Referrals**

1. The Guidance Office shall handle all referrals of students to counseling.
2. The police will be notified whenever a criminal offense (i.e., false alarm or bomb threat, vandalism, use or possession or sale of controlled substances, etc.) has been committed. All infractions of the discipline code and/or public law will be subject to disciplinary proceedings as described in this policy.
3. In accordance with the provisions of IDEA and its implementing regulations:
  - a. The District may report a crime committed by a

child with a disability to appropriate authorities, and such action will not constitute a change in the child's placement.

- b. The Superintendent shall ensure that copies of the special education and disciplinary records of a student with disabilities are transmitted for consideration to the appropriate authorities to whom a crime is reported, in accordance with law.
4. The district may file a PINS (person in need of supervision) petition in Family Court on any student under the age of eighteen who demonstrates that he or she requires supervision and treatment by:
    - a. Not attending school as required by Part I of Article 65 of the Education Law.
    - b. Engaging in a continual course of conduct which makes the student ungovernable, or habitually disobedient and beyond the lawful control of the school.
    - c. Knowingly and unlawfully possessing marijuana or any other controlled substance in violation of Penal Law §221.05. A single violation of §221.05 will be a sufficient basis for filing a PINS petition.
  5. The Superintendent is required to refer the following students to the County Attorney for a juvenile delinquency proceeding before the Family Court:
    - a. Any student under the age of eighteen who is found to have brought a weapon to school, or
    - b. Any student fourteen or fifteen years old who qualifies for juvenile offender status under the Criminal Procedure Law §1.20(42).
    - c. The Superintendent is required to refer students age sixteen and older or any student fourteen or fifteen years old who qualifies for juvenile offender status to

the appropriate law enforcement authorities.

6. Any faculty and staff member may refer any student to the Pupil Personnel Team (PPT) for evaluation.

#### XI. **Role of the School Board**

The School Board shall annually review the Disciplinary Code as part of its annual review of the conduct and discipline policy. The School Board shall also sit to hear appeals or conduct hearings on suspensions pursuant to education Law No. 3214.

The School Board shall insure the publication and explanation to all students and provide in writing to their parents/guardians on an annual basis the contents of this "Code of Conduct."

#### XI.. **Suspension of a Student with a Disability**

The Board of Education of the Herricks Union Free School District recognizes that the need to address disruptive or problem behavior within its schools may result in the suspension, removal or other discipline of students with disabilities. The District also recognizes that students with disabilities enjoy certain procedural protections whenever school authorities intend to impose discipline on them. In this regard, it shall be the Board's policy that the procedures followed for suspending, removing or otherwise disciplining students with disabilities will conform with the procedural safeguards required by the Individuals With Disabilities Education Act ("IDEA"), Article 89 of the Education Law, their corresponding regulations, and any other applicable laws and regulations. In this regard, this policy affords students with disabilities subject to disciplinary action no greater or lesser rights than those expressly afforded by applicable federal and state law and regulations.

##### A. **Authorized Suspension or Removal of Students with Disabilities**

In accordance with the federal and state procedural protections applicable to the discipline of students with disabilities:

1. A suspension means a suspension pursuant to Education Law Section 3214.

2. A removal means a removal for disciplinary reasons from the student's current educational placement other than a suspension, and change in placement to an interim alternative educational setting ("IAES") ordered by an impartial hearing officer because the student poses a risk of harm to himself/herself or others.
3. An IAES means a temporary educational placement for a period of up to 45 days, other than a student's current placement at the time the behavior precipitating the IAES placement occurred, that enables the student to continue to progress in the general curriculum, although in another setting, to continue to receive those services and modifications, including those described on the student's current Individualized Education Program ("IEP"), that will enable the student to meet the goals set out in such IEP, and includes services and modifications to address the behavior which precipitated the IAES placement, that are designed to prevent the behavior from recurring. The CSE shall be responsible for determining the nature of the IAES as well as the services to be provided to the student.

##### B. School personnel may order the suspension or removal of a student with a disability from his or her current educational placement as follows:

1. The Board, the Superintendent, or a Building Principal, may suspend a student with a disability for a period not to exceed five consecutive school days and not to exceed the amount of time a non-disabled student would be subject to suspension for the same behavior. If the suspension is for 5 consecutive school days or less, the parents/guardians shall be provided with an opportunity for an informal conference.
2. The Superintendent of Schools may impose a suspension for up to 10 consecutive school days, inclusive of any Period in which the student has been suspended or removed under subparagraph (a), above,

for the same behavior, if the Superintendent determines that the student has engaged in behavior that warrants a suspension and the suspension or removal does not exceed the amount of time non-disabled students would be subject to suspension for the same behavior, and provided that appropriate due process procedures have been followed.

3. The Superintendent of Schools may order additional suspensions of not more than 10 consecutive school days in the same year for separate incidents of misconduct, as long as those removals do not constitute a change of placement.
4. During any period of suspension or removal, including placement in an IAES, students with disabilities shall be provided services, as required by federal and state law.

C. Superintendent's hearings on disciplinary charges against students with disabilities and students presumed to have a disability for discipline purposes shall be bifurcated into a guilt phase and a penalty phase and conducted in accordance with the following procedures:

1. The Superintendent of Schools or hearing officer in the Superintendent's hearing shall proceed with the guilt phase and determine whether the student is guilty of the alleged misconduct. If it is determined that the student is guilty of the alleged misconduct, the Superintendent of Schools or hearing officer in the superintendent's hearing shall make a threshold determination of whether a suspension or removal in excess of 10 consecutive school days or that would otherwise constitute a disciplinary change in placement should be considered. If a threshold determination is made that such a suspension or removal should be considered, before the Superintendent of Schools orders or the hearing officer in the Superintendent's hearing recommends any such removal, a manifestation determination shall be made by the Committee on Special Education ("CSE"), except as otherwise provided herein. If the

Superintendent of Schools or hearing officer determines that a suspension or removal that would constitute a disciplinary change in placement should not be considered, the hearing shall proceed to the penalty phase. Notwithstanding the foregoing, the District may choose to conduct a manifestation determination prior to a determination of guilt at a Superintendent's hearing.

2. In making the manifestation determination, the CSE shall consider all relevant and diagnostic and evaluative information, including reports by the parents/guardians, observations of the child, the child's IEP and placement. The CSE shall also consider whether, in relationship to the behavior that is subject to the disciplinary action:
  - a. The IEP and placement were appropriate;
  - b. The supplementary aides and services and behavior intervention strategies were provided consistent with the student's IEP and placement;
  - c. The disability did not impair the child from understanding the impact and consequences of the behavior that led to the disciplinary action;
  - d. The disability did not impair the ability of the child to control the behavior subject to the disciplinary action.

3. Upon a determination by the CSE that the behavior of a student with a disability was not a manifestation of the student's disability, such a student may be disciplined in the same manner as a non-disabled student, except that such student shall continue to receive services in accordance with federal and state law. Upon receipt of notice of such determination the Superintendent or hearing officer in the Superintendent's hearing shall proceed with the penalty phase of the hearing. If the CSE determines that the behavior was a manifestation of the student's disability, the Superintendent or hearing officer in the Superintendent's hearing shall dismiss the

Superintendent's hearing, except as otherwise provided herein.

4. The above notwithstanding, the Superintendent of Schools may order the placement of a student with a disability in an IAES to be determined by the CSE, for the same amount of time that a student without a disability would be subject to discipline, but for not more than 45 days, if the student carries or possesses a weapon to school or to a school function, or the student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.
  - a. The term weapon means the same as “dangerous weapon” under 18 U.S.C. §930 (g) (w) which includes “a weapon, device, instrument, material or substance, animate or inanimate, that is used for; or is readily capable of causing death or serious bodily injury except . . . [for] a pocket knife with a blade of less than 2 ½ inches in length.”
  - b. Controlled substance means a drug or other substance identified in certain provisions of the federal Controlled Substances Act as specified in both federal and state law and regulations.
  - c. Illegal drugs means a controlled substance except for those legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act or any other federal law.

Similarly, subject to specified conditions required by both federal and state law and regulations an impartial hearing officer may order the placement of a student with a disability in an IAES setting for up to 45 days at a time, if maintaining the student in his or her current educational placement poses a risk of harm to the student or others.

#### **D. Change of Placement Rule**

1. A disciplinary change in placement means a suspension or

removal from a student's current educational placement that is either:

- a. for more than 10 consecutive school days; or
  - b. for a period of 10 consecutive school days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because they cumulate to more than 10 school days in a school year and because of such factors as the length of each suspension or removal, the total amount of time the student is removed and the proximity of the suspensions or removals to one another.
2. School personnel may not suspend or remove a student with disabilities if imposition of the suspension or removal would result in a disciplinary change in placement based on a pattern of suspension or removal.

However, the District may impose a suspension or removal which would otherwise result in a disciplinary change in placement based on a pattern of suspensions or removals if the CSE has determined that the behavior was not a manifestation of the student's disability, or if the student is placed in an IAES for behavior involving weapons, illegal drugs or controlled substances.

#### **E. Special Rules Regarding the Suspension or Removal of Students with Disabilities**

1. The District's Committee on Special Education shall:
  - a. Conduct functional behavioral assessments to determine why a student engages in a particular behavior, and develop or review behavioral intervention plans whenever the District is first suspending or removing a student with a disability for more than 10 school days in a school year or imposing a suspension or removal that constitutes a disciplinary change in placement, including a change in placement to an IAES for misconduct involving weapons, illegal drugs, or controlled substances.

If subsequently, a student with a disability who has a behavioral intervention plan and who has been suspended or removed from his or/her current

educational placement for more than 10 school days in a school year is subjected to a suspension or removal that does not constitute a disciplinary change in placement, the members of the CSE shall review the behavioral intervention plan and its implementation to determine if modifications are necessary. If one or more members of the CSE believe that modifications are needed, the District shall convene a meeting of the CSE to modify such plan and its implementation, to the extent the committee determines it is necessary.

- b. Conduct a manifestation determination review of the relationship between the student's disability and the behavior subject to disciplinary action whenever a decision is made to place a student in an IAES either for misconduct involving weapons, illegal drugs or controlled substances or because maintaining the student in his current educational setting poses a risk of harm to the student or others; or a decision is made to impose a suspension that constitutes a disciplinary change in placement.
2. The parents/guardians of a student who is facing disciplinary action, but who has not been determined to be eligible for services under the IDEA and Article 89, at the time of misconduct, shall have the right to invoke applicable procedural safeguards set forth in federal and state law and regulations if, in accordance with federal and state statutory and regulatory criteria, the District is deemed to have had knowledge that the child was a student with a disability before the behavior precipitating disciplinary action occurred. If the District is deemed to have had such knowledge, the student will be considered a student presumed to have a disability for discipline purposes.
    - a. It shall be the responsibility of the Superintendent, Building Principal or other school official imposing a suspension or removal to determine whether the student is a student presumed to have a disability,
    - b. A student will not be considered a student presumed to have a disability for discipline purposes if, upon receipt of

information supporting a claim that they had knowledge the student was a student with a disability, the District either:

- (1) conducted an individual evaluation and determined that the student is not a student with a disability, or
- (2) determined that an evaluation was not necessary and provided notice to the parents/guardians of such determination. in the manner required by applicable law and regulations.

If there is no basis for knowledge that the student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as any other non-disabled student who engaged in comparable behaviors. However, if a request for an individual evaluation is made while such non-disabled student is subjected to a disciplinary removal, an expedited evaluation shall be conducted and completed in the manner prescribed by applicable federal and state law and regulations. The expedited evaluation must be performed within 15 school days after the receipt of the request for the evaluation and the CSE must convene within 5 school days of the completion of the expedited evaluation. Until the expedited evaluation is completed, the non-disabled student who is not a student presumed to have a disability for discipline purposes shall remain in the educational placement determined by the District, which can include suspension.

3. The District shall provide parents/guardians with notice of disciplinary removal no later than the date on which a decision is made to change the placement of a student with a disability to an IAES for either misconduct involving weapons, illegal drugs or controlled substances or because maintaining the student in his or her current educational setting poses a risk of harm to the student or others; or a decision is made to impose a suspension or removal that constitutes a disciplinary change in placement. The notice of disciplinary removal shall be accompanied by the procedural safeguards notice

prescribed by the Commissioner of Education.

#### **F. Expedited Due Process Hearings**

1. An expedited due process hearing shall be conducted in the manner specified by the Regulations of the Commissioner of Education, if.
  - a. The District requests such a hearing to obtain an order of an impartial hearing officer placing a student with a disability in an IAES where school personnel maintain that it is dangerous for the student to be in his or her current educational placement, or during the pendency of due process hearings where school personnel maintain that it is dangerous for the student to be in his or her current educational placement during such proceedings.
  - b. The parent/guardian requests such a hearing from a determination that the student's behavior was not a manifestation of the student's disability, or relating to any decision regarding placement, including but not limited to any decision to place the student in an IAES.

During the pendency of an expedited due process hearing or appeal regarding the placement of a student in an IAES for behavior involving weapons, illegal drugs or controlled substances, or on grounds of dangerousness, or regarding a determination that the behavior is not a manifestation of the student's disability, for a student who has been placed in an IAES, the student shall remain in the IAES pending the decision of the impartial hearing officer or until the expiration of the IAES placement, whichever occurs first, unless the parents/guardians and the District agree otherwise.

#### **XII. Maintenance of Public Order/Safe Schools**

The following rules and guidelines are adopted in compliance with Chapter 740, Article 55 of the Education Law. They shall govern the conduct of students, parents/guardians, faculty and other staff members, licensees, visitors, and any other persons, whether or not their presence is authorized within the buildings or on the grounds of the Herricks Public Schools.

As part of the larger community, the Herricks Public Schools respects the laws of the land and expects its members to adhere to them. As part of the academic community, the Herricks Public Schools has a special interest in the prevention of certain modes of conduct which abuse the rights of others and are contrary to its own efforts to facilitate responsible inquiry and educational growth.

Nothing herein is intended, nor shall be construed, to limit or restrict any constitutional or legally protected rights of freedom of speech or peaceful assembly.

#### **A. Prohibited Conduct**

1. No person, either singly or in concert with others, shall:
  - a. Willfully cause or threaten to do physical injury to any other person.
  - b. Willfully damage or destroy property of the school system or remove or use such property without authorization.
  - c. Deliberately disrupt or prevent the peaceful and orderly conduct of classes and meetings or deliberately interfere with the freedom of any person to express his/her views, including invited speakers.
  - d. Enter upon and remain in any building or facility for any purpose other than authorized uses or in such manner as to obstruct authorized use by others.
  - e. Physically restrain, detain, or remove any person from any place where he/she is authorized to remain.
  - f. Refuse to leave any building or facility after being requested to do so by authorized personnel.
  - g. Obstruct the free movement of persons and vehicles in any place to which these rules apply.
  - h. Knowingly have in his/her possession upon any premises to which these rules apply, any rifle, shotgun, pistol, revolver, or other firearm, slingshot, knife, box cutter, or any other instrument which is capable of causing physical injury that can be used as a weapon without the written permission of the



administrative officer, whether or not a license to possess same has been issued to such person; nor knowingly have in his/her possession any dangerous or illegal drug as prescribed by law.

- i. Willfully incite, procure, or aid others to commit any of the acts herein prohibited.

Intimidate, harass or discriminate against any person on the basis of race, color, creed, national origin, religion, age, gender, sexual orientation, or disability.

- j. Loiter on school property.
- k. Gamble on school property or at school functions.
- l. Engage in any criminal act while on school property or at a school function.
- m. Violate any District policy, regulation, rule and/or procedure.
- n. Violate any federal or state statute, regulation, and/or local ordinance while on school property or while at a school function.

- 2. No person, either singly or in concert with others, shall jeopardize the health and/or safety of one's self or others by engaging in conduct which may include but are not limited to:
  - a. Throwing stones, bottles, or other objects at any time while on school property
  - b. Operating go-carts, motorcycles, motor bikes, or bicycles in other than designated areas
  - c. Parking automobiles in other than designated areas
  - d. Walking dogs on school grounds
  - e. Driving golf balls on school grounds
  - f. Discarding trash or litter other than in receptacles
  - g. Using or possessing alcoholic beverages or dangerous

or unlawful drugs on school grounds.

- h. Smoking or using electronic cigarettes on school grounds.

- 3. No person, either singly or in concert with others, shall solicit, sell or purchase any item on school grounds without specific permission from the building principal and/or Superintendent of Schools.

Any violation of the above shall be reported immediately to the building principal. He or she will investigate the case thoroughly and make a written report to the superintendent.

## B. Enforcement and Penalties

### 1. *Range of Penalties and Legal Authority*

- a. If a licensee, invitee, trespasser, visitor, or student from other than the Herricks Public Schools shall violate these rules or regulations, he/she shall be informed that his/her actions are in violation of

Board of Education policy and requested to discontinue the action in question. Should he/she refuse to do so, he/she shall be directed to leave the premises. In the event of failure or refusal to comply, he/she shall be subject to ejection and/or arrest by the police.

- b. If a student in the Herricks Public Schools shall violate any of the provisions of these rules or regulations, he/she shall be subject to disciplinary action in accordance with the provisions of:
  - (1) the policies and regulations of the Board of Education,
  - (2) the Student Code of Conduct
  - (3) Section 3214 of the Education Law.
- c. If an employee of the Herricks Public Schools shall violate the provisions of these rules and regulations, he/she shall be subject to the following range of penalties: reprimand, fine, suspension, dismissal, and/or arrest by civil authorities. Such penalties shall be imposed in a manner consistent with the provisions of :
  - (1) policies and regulations of the Board of Education,
  - (2) Section 3020A of the Education Law and Chapter 866 of the Laws of 1972 (with regard to teachers and other faculty and staff members,
  - (3) Section 75 of the Civil Service Law (with regard to Civil Service employees), and
  - (4) employee contract provisions, where applicable.

These regulations and penalties are not considered to be inclusive nor do they preclude in any way the prosecution and conviction of any person for the violation of any federal or state law or local ordinance and the imposition of a fine or penalty provided for therein.

## 2. **Enforcement Procedures**

The principal is charged with the responsibility of maintaining the security and safety in the school by implementing appropriate procedures, providing safe conditions, facilities, supervision, and staff, and taking action against those who threaten the safety of the school.

In accordance with established concepts of due process, the principal shall take the following actions as indicated for each case:

- a. If the safety of persons or property is threatened:  
In the case of an immediate threat, the police shall be immediately notified and charges shall be pressed against any person responsible for a crime on school property. Appropriate action will be taken, including suspension or other disciplinary action or arrest in the case of a student or employee who unlawfully threatens the safety of people or property.

If the threat is not immediate, the principal shall proceed as follows:

- (1) Request that the violation be stopped and ask the individual for identification. Should the request for identification be refused, the principal shall request that the individual leave the premises.
  - (2) If there is not an adequate response, repeat the request and indicate that unless the request is immediately responded to, the police will be called and charges will be pressed on behalf of the Board of Education of the Herricks Public Schools to the fullest extent of the law.
  - (3) If there is no adequate and immediate response to the second request, call the police and request assistance.
- b. Restitution - In accordance with law, the Board of Education shall pursue the cost of the repair from the parents/guardians of the student. The levy of the actual cost of repairs shall be made by the Board of Education or its designee. If the parents/guardians refuse to accept this responsibility, legal action will be taken.
  - c. Littering or walking animals on school property - One

verbal and/or written warning shall be given by the building principal or central office administrator. On subsequent occasion, the principal or central office administrator will notify the offending party in writing and forward a copy of the correspondence to the Superintendent of Schools. If necessary the Board of Education may bring legal action under the ordinances of the Town of North Hempstead.

- d. Automobile use on school property - Visitors, staff members, and students shall park automobiles in designated areas only. Vehicles parked in "No Parking" areas shall be ticketed and/or towed at the owner's expense.
- e. Unauthorized visitors on school property shall be asked to leave by any staff member or by the principal. If the unauthorized visitors do not leave upon such request, the principal, or his or her designee, shall seek police assistance. The incident shall be reported at once to the principal if he/she has not been involved and to the Superintendent of Schools. Legal charges shall be filed if appropriate.

**XIII. False Reporting of an Incident and/or Placing a False Bomb**

Pursuant to General Obligations Law §3-112, a School District is also authorized to seek restitution, as described in law, from a parent/guardian of an unemancipated student over the age of ten (10) and under the age of eighteen (18) where such student:

- a. Has falsely reported an incident; or
- b. Has placed a false bomb as defined in the New York State Penal Law.
- c. Damages for falsely reporting an incident or placing a false bomb shall mean *the* funds reasonably expended by the School District in responding to such false report of an incident or false bomb, less the amount of any funds which have been or will be recovered from any other source as enumerated in law.

The District seeks restitution pursuant to General Obligations Law

§3.112. The School District shall file with the court district attorney and defense counsel an affidavit stating that the funds reasonably expended for which restitution is being sought have not *been* and will not be recovered from any other source or in any other civil or criminal proceeding, except as provided for pursuant to General Obligations Law Section 3-172.

The District also reserves the right to pursue, in accordance with law, all other available means of seeking restitution from the parent/guardian of any student.

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**Superintendent of Schools**  
Dr. Fino Celano