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Policy Number: 5800	
Section:	
<input type="checkbox"/> Community Relations <input type="checkbox"/> Administration <input type="checkbox"/> Business Procedures <input type="checkbox"/> Community Operations <input type="checkbox"/> Personnel <input checked="" type="checkbox"/> Students <input type="checkbox"/> Instruction	

SUBJECT: Weapons in School and the Gun-Free School Act

Policy Statement

The Health Sciences Charter School (the “School” or “HSCS”) is committed to the safety and security of our employees. Workplace violence could present a serious occupational safety hazard to our school, staff, and visitors. Workplace violence is defined as any physical assault or act of aggressive behavior occurring where an employee or student, in the course of his or her employment or enrollment, commits an act including but not limited to an attempt or threat, whether verbal or physical, to inflict physical injury upon another employee or student; an intentional display of force which would give an employee or student reason to fear or expect bodily harm; an intentional and wrongful physical contact with a person without his or her consent that entails some injury; or the stalking of an employee or student with the intent of causing fear of material harm to the physical safety and health of such employee or student when such stalking has arisen through and in the course of employment or enrollment.

The School will not tolerate any behavior while an employee or student is at work, on duty, or at school that: • Is violent; • Threatens violence; • Harasses or intimidates others; • Interferes with an individual's legal rights of movement or expression; or • Disrupts the workplace, the academic environment, or the School's ability to provide service to the public. All employees and students are responsible for helping to create an environment of mutual respect for each other as well as for students and visitors; following all policies, procedures, and practices; and for assisting in maintaining a safe and secure School work environment. Acts of violence against any of the School's administration, faculty, or staff on School property or off-site at any School activity will be thoroughly investigated and appropriate action will be taken, including involving law enforcement authorities when warranted.

Weapons in School

The possession of a dangerous weapon on school grounds, as defined by NYS Penal Law §220.00(14), is strictly prohibited, except by law enforcement personnel for duty-related purposes.

The Penal Code, including but not limited to §265, of the State of New York shall be used to determine what is considered a weapon, except that any rifle, shotgun or other mechanical which

uses gunpowder, compressed air or any other propellant to propel a projectile which might reasonably be deemed to cause bodily harm is also prohibited.

With the exception of law enforcement officers, as permitted by law, and individuals who have the express written permission of the Board of Education or its designee, no person may have in his/her possession any weapon on school grounds, in any school building, on a school bus or school vehicle, at any school sponsored activity or setting under the control and supervision of the School. This prohibition shall include, but not be limited to: any of the objects or instruments referred to in Section 265.01 of the New York State Penal Law; any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring, air, piston or CO2 cartridge; and any object that could be considered a reasonable facsimile of a weapon.

Specific Penalties Imposed by the Gun-Free Schools Act

No student shall bring or possess any "firearm" as defined in federal law on school grounds (including but not limited to school buildings and grounds, school-sponsored vehicles, school settings and/or school sponsored activities under the control and supervision of the School regardless of location). For purposes of this policy, the term "firearm" includes 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; the frame or receiver of such weapon; any firearm muffler or silencer; or any "destructive device" (e.g., any explosive, incendiary, or poison gas, including bombs, grenades, rockets or other similar devices). The term does not include a rifle which the owner intends to use solely for sporting, recreational or cultural purposes; antique firearms; or Class C common fireworks.

In accordance with the Gun-Free Schools Act Section 3214(3)(d) of the Education Law, any student who brings or possesses a firearm, as defined in federal law, on school grounds, will be referred by the Superintendent to the appropriate agency or authority for a juvenile delinquency proceeding in accordance with Article 3 of the Family Court Act when the student is under the age of sixteen (16) except for a student fourteen (14) or fifteen (15) years of age who qualifies for juvenile offender status under the Criminal Procedure Law, and will be referred by the Superintendent to the appropriate law enforcement officials when the student is sixteen (16) years of age or older or when the student is fourteen (14) or fifteen (15) years of age and qualifies for juvenile offender status under the Criminal Procedure Law.

In addition, any student attending a school who has been found guilty of bringing a firearm to or possessing a firearm on school grounds, after a hearing has been provided pursuant to Section 3214 of the Education Law, shall be suspended for a period of not less than one (1) calendar year and any student attending a non-school school who participates in a program operated by the School using funds from the Elementary and Secondary Education Act of 1965 who is determined to have brought a firearm to or possessed a firearm on school grounds or on other premises used by the School to provide education-related services, shall be suspended for a period of not less than one (1) calendar year from participation in such program. The procedures of Education Law Section 3214(3) shall apply to such a suspension of a student attending a non-School school. Further, after the imposition of the one (1) year penalty has been determined, the Head of School has the authority to modify this suspension requirement for each student on a case-by-case basis. In reviewing the student's one (1) year suspension penalty, the Head of

School may modify the penalty based on factors as set forth in Section 100.2 of the Regulations of the Commissioner of Education and in Commissioner's Decisions. The determination of the Head of School shall be subject to review by the Board of Education in accordance with Education Law Section 3214(3)(c) and by the Commissioner of Education in accordance with Education Law Section 310.

Student with a Disability

A student with a disability who is determined to have brought a firearm to school or possessed a firearm on school grounds may be placed in an interim alternative educational setting, in accordance with federal and state law, for not more than forty-five (45) calendar days. If the parent or guardian requests an impartial hearing, the student must remain in the interim alternative placement until the completion of all proceedings, unless the parent or guardian and School can agree on a different placement.

A student with a disability may be given a long term suspension pursuant to the Gun-Free Schools Act only if a group of persons knowledgeable about the student, as defined in federal regulations implementing the IDEA, determines that the bringing of a firearm to school or possessing a firearm at school was not a manifestation of the student's disability, subject to applicable procedural safeguards.

If it is determined that the student's bringing of a firearm to school or possessing a firearm at school was a manifestation of the student's disability, the Head of School must exercise his/her authority under the Gun-Free Schools Act to modify the long term suspension requirement, and determine that the student may not be given a long term suspension for the behavior. The Committee on Special Education may review the student's current educational placement and initiate change in placement proceedings, if appropriate, subject to applicable procedural safeguards.

The School may offer home instruction as an interim alternative educational setting during the pendency of review proceedings only if the student's placement in a less restrictive alternative educational setting is substantially likely to result in injury either to the student or to others.

The School may also seek a court order to immediately remove a student with a disability from school if the School believes that maintaining the student in the current educational placement is substantially likely to result in injury to the student or to others.

Students with disabilities continue to be entitled to all rights enumerated in the Individuals with Disabilities Education Act and Article 89 of the Education Law; and this policy shall not be deemed to authorize suspension of students with disabilities in violation of these laws.

Additional Penalties in Regard to Dangerous Weapon Possession

This policy does not and shall not be interpreted to prohibit, restrict or otherwise limit the School from utilizing other/additional BBOE policies, rules, regulations or laws to address student possession of firearms or other dangerous weapons on school grounds. Disciplinary measures including, but not limited to out-of-school suspensions or in-school suspensions, and/or

expulsion may be imposed in response to other types of student misconduct which infringe upon the established BBOE policies, rules, regulations and laws.

Additionally, this policy does not diminish the authority of the Board of Education to offer courses in instruction in the safe use of firearms pursuant to Education Law Section 809-a.

The School will continue to provide the suspended student who is of compulsory attendance age with appropriate alternative instruction during the period of the student's suspension.

Related Laws, Regulations & Acts:

Gun-Free Schools Act as reauthorized by the No Child Left Behind Act of 2001

Penal Law Sections 265.01-265.06, 265.20

18 United States Code (USC) Section 921(a)

Individuals with Disabilities Education Act (IDEA)

20 United States Code (USC) Sections 1400-1485 and 7151

Criminal Procedure Law Section 1.20(42)

Education Law Sections 310, 809-a, 3214, and Article 89

Family Court Act Article 3

8 New York Code of Rules and Regulations

(NYCRR) Section 100.2 and Part 200

Supporting Procedures:

Policy # - Unlawful Possession of a Weapon upon School Grounds

School Safety Plan

Adopted: 12/1/2016

Revised: 1/11/2022