HGCS Student Sexual Harassment Policy

Howard Gardner Community Charter School ·

1. Policy statement and scope

Howard Gardner Community Charter School (HGCS) prohibits sexual harassment of any student, by anyone. HGCS is committed to a safe learning environment free of sex-based harassment, intimidation, and discrimination for every student in grades TK–8.

This policy covers harassment by students, employees, volunteers, independent contractors, visitors, and other third parties. It applies:

- On campus, during the school day and in before/after-school programs.
- At school-sponsored activities and field trips, on or off campus.
- While going to or coming from school or a school activity.
- Off campus or online (including by electronic act), when the conduct creates or is likely to create a hostile environment at school.

HGCS will take immediate, appropriate action to stop harassment, prevent it from recurring, and address its effects on the student. This policy works alongside HGCS's Harassment, Intimidation, Discrimination & Bullying (HIDB) policy, Uniform Complaint Procedures (UCP), and Pupil Suspension and Expulsion Policy. Adult-on-student boundary violations are also governed by the school's SB 848 Pupil Safety and Child Abuse Prevention policy and mandated reporting law.

2. Definitions

Sexual harassment (California, EC 212.5; 5 CCR 4916) means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the educational setting, when:

1. Submission to the conduct is made, explicitly or implicitly, a term or condition of a student's academic status or progress;
2. Submission to or rejection of the conduct is used as the basis for academic decisions affecting the student;
3. The conduct has the purpose or effect of negatively affecting the student's academic performance, or of creating an intimidating, hostile, or offensive educational environment; or
4. Submission to or rejection of the conduct is used as the basis for any decision affecting the student's benefits, services, honors, programs, or activities.

Sexual harassment (federal Title IX, 34 CFR 106.30) means conduct on the basis of sex that satisfies one or more of the following:

1. An HGCS employee conditions an aid, benefit, or service on a student's participation in unwelcome sexual conduct (quid pro quo);

2. Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a student equal access to HGCS's education program or activity; or
3. Sexual assault, dating violence, domestic violence, or stalking.

Conduct that does not meet the Title IX definition may still violate California law and this policy, and will be addressed under Section 6.

Examples of prohibited conduct include, but are not limited to:

- Unwelcome comments, jokes, or name-calling of a sexual nature, including about a student's body or appearance.
- Unwelcome touching, grabbing, pinching, or brushing against a student's body.
- Displaying or sending sexual pictures, drawings, messages, or videos, including by text, social media, or other electronic act.
- Spreading sexual rumors, or rating students by sexual attractiveness.
- Sexual comments or conduct directed at a student because of the student's sex, sexual orientation, gender identity, or gender expression.
- Cyber sexual bullying, as defined in EC 48900(r).

Age-appropriate response. For younger students, HGCS staff consider the student's age and developmental level when deciding whether conduct is sexual harassment and how to respond. Developmentally typical behavior (such as curiosity among TK–2 students) is addressed through teaching and supervision, not discipline, unless it is coercive, repeated after redirection, or causes harm.

3. Title IX Coordinator

The HGCS Board designates the following employee to coordinate compliance with Title IX and this policy, and to receive reports and complaints:

Role	Name / Title	Contact
Title IX Coordinator	Kat Shaw, Executive Director	647 E St., Chula Vista, CA 91910 · (619) 934-0300 · kshaw@hgcschool.org
Alternate (if the Coordinator is unavailable or is the subject of the complaint)	Hala Robin	(619) 934-0300 · info@hgcschool.org

The Coordinator's name or title, office address, email, and phone number are posted on the HGCS website and printed in the Student/Family Handbook.

Separate roles. Under the federal Title IX grievance process, the person who decides whether a student is responsible cannot be the Coordinator or the investigator. The appeal decision-maker must also be a different person. Because HGCS is a small school, it may assign trained administrators to these roles or contract with an outside trained investigator or decision-maker.

4. How to report

Anyone may report sexual harassment at any time. That includes a student, parent/guardian, staff member, or bystander. Reports may be made:

- In person, to any teacher, staff member, counselor, or administrator.
- To the Title IX Coordinator, in person, by phone at (619) 934-0300, or by email.
- In writing, including an anonymous note left at the front office.

A report does not need to be in writing or use any particular words. Students who are young or have limited language or communication skills may report through a trusted adult, a drawing, or any other way that tells an adult something happened.

Staff duty to report. Any HGCS employee who sees or learns of possible sexual harassment of a student must:

1. Act right away to stop the conduct and keep students safe.
2. Report it to the Title IX Coordinator the same school day.
3. If it may involve child abuse, including sexual abuse or exploitation, also make a mandated report to a child protective agency or law enforcement immediately by phone and in writing within 36 hours (Penal Code 11166). Reporting to the Coordinator does not replace this duty.

Under Title IX, notice to any HGCS employee is notice to the school. Once any employee knows, HGCS must respond.

5. School response and supportive measures

Within 1 school day of receiving a report, the Title IX Coordinator or designee will contact the student who was reportedly harassed (the complainant) and the student's parent/guardian. The Coordinator will:

- Explain the supportive measures available and consider the family's wishes about them.
- Explain that supportive measures are available whether or not a formal complaint is filed.
- Explain how to file a formal complaint and what happens next.

Supportive measures are free, non-disciplinary, and non-punitive. They are offered to the complainant, and may be offered to the respondent, to restore or keep equal access to school. Examples include:

- Changes to seating, class, schedule, recess, lunch, or pick-up arrangements.
- Increased adult supervision or a safety plan.
- Counseling with HGCS school-based mental health staff, or referral to community providers.
- Academic support, extended time, or rescheduled work.
- Mutual no-contact directions.

Supportive measures are kept confidential except as needed to carry them out.

Emergency removal. HGCS may remove a student from school on an emergency basis only after an individual safety and risk analysis finds an immediate threat to someone's physical health or safety. The student and parent/guardian receive notice and a chance to challenge the removal right away. Any removal of a student with an IEP or 504 plan follows IDEA, Section 504, and the special education

procedures in HGCS's Suspension and Expulsion Policy. An employee respondent may be placed on administrative leave while a complaint is pending.

6. Complaint and grievance procedures

A formal complaint is resolved through one of two tracks. The Title IX Coordinator decides which applies and tells the family in writing.

	Track A: Title IX grievance process	Track B: Uniform Complaint Procedures (UCP)
Used when	The conduct meets the Title IX definition and occurred in an HGCS program or activity in the U.S.	The conduct violates California law or this policy but not the Title IX definition, or the Title IX complaint is dismissed
Who files	Student or parent/guardian signs a written complaint, or the Coordinator signs one	Any person, in writing, within 6 months of the conduct (extendable up to 90 days for good cause)
Decision	Written determination by a decision-maker who is not the Coordinator or investigator	Written decision by the investigator within 60 calendar days
Appeal	To HGCS appeal decision-maker within 5 school days	To the California Department of Education within 30 calendar days

Track A steps (34 CFR 106.45):

1. Written notice of the allegations to both parties, with enough time to prepare before any interview.
2. The respondent is presumed not responsible until a determination is made at the end of the process.
3. A trained investigator gathers evidence. Both parties may present witnesses and evidence and have an advisor of their choice.
4. Both parties get the evidence collected and 10 days to respond. They then get the investigative report and 10 more days to respond.
5. Each party may submit written questions for the other party and witnesses before the decision.
6. The decision-maker decides using the preponderance of the evidence standard and sends both parties a written determination at the same time.
7. Either party may appeal for a procedural error, new evidence, or conflict of interest or bias.

HGCS aims to complete Track A within 60 calendar days, with written notice of any delay and its reason. Informal resolution (such as a facilitated restorative conference) is available only with both parties' written, voluntary consent. It is never used when an employee is accused of harassing a student.

Other options. Families may also file a complaint with the U.S. Department of Education, Office for Civil Rights, and may pursue civil law remedies, including injunctions and restraining orders. HGCS will provide information on these options on request.

7. Consequences

Discipline is imposed only after the grievance process finds a person responsible. Consequences match the severity of the conduct and the student's age.

- **Students in grades 4–8** may be suspended or recommended for expulsion for sexual harassment (EC 48900.2), following HGCS's Pupil Suspension and Expulsion Policy.
- **Students in grades TK–3** may not be suspended or expelled for sexual harassment under EC 48900.2. HGCS responds with teaching, parent conferences, supervision changes, counseling, and restorative practices. Students of any grade remain subject to other grounds in the Suspension and Expulsion Policy, such as sexual assault or battery.
- **Students with disabilities** receive all IDEA and Section 504 protections, including a manifestation determination where required.
- **Employees** are subject to discipline up to and including dismissal. HGCS reports to the Commission on Teacher Credentialing and the Statewide Data System as required by law, and does not enter agreements that conceal findings (SB 848).
- **Volunteers, contractors, and visitors** may be removed from campus and barred from school activities.

HGCS also takes steps to remedy the effects on the complainant and to prevent recurrence, such as continued supportive measures or classroom-wide instruction.

8. Retaliation, confidentiality, and false reports

Retaliation is prohibited. No one may threaten, pressure, punish, or exclude anyone for reporting, filing a complaint, serving as a witness, or refusing to participate. Retaliation is a separate violation and may be reported the same way as harassment.

Confidentiality. HGCS keeps the identities of the complainant, respondent, and witnesses confidential, except as needed to investigate, carry out supportive measures, meet legal duties (including mandated reporting), or as permitted by FERPA. If a complainant asks that their name not be shared, the Coordinator will explain how that may limit HGCS's response, and will weigh the request against the safety of all students.

False reports. A report made in good faith is never punished, even if it is not substantiated. A person who knowingly makes a false report or gives false information may face discipline. A finding of "not responsible" alone does not mean a report was false.

9. Notice, distribution, and posting

HGCS shares this policy in each of the ways state law requires:

- □ Displayed in a prominent location in the front office, where school rules and standards of conduct are posted (EC 231.5).
- □ Provided, in age-appropriate form, at orientation for new and continuing students at the start of each semester and any summer session (EC 231.5).
- □ Printed in the Student/Family Handbook and any other publication that sets out school rules and standards of conduct (EC 231.5).

- □ Posted prominently on hgcschool.org, easy for families and students to find, along with the definition of sex discrimination and harassment (EC 230) and the rights in EC 221.8 (EC 234.6).
- □ Title IX Coordinator contact information, students' Title IX rights, and how to file a complaint with the Office for Civil Rights posted on the website (EC 221.61; 34 CFR 106.8).
- □ Provided to employees at hire and annually.

Notices are translated into a family's primary language when required under EC 48985. The sexual harassment poster rule in EC 231.6 applies only to schools serving grades 9–12, so it does not apply to HGCS.

10. Training and recordkeeping

Training. The Title IX Coordinator, investigators, decision-makers, appeal decision-makers, and anyone facilitating informal resolution receive training on the Title IX definition, the grievance process, impartiality, and avoiding bias before serving. Training materials are posted on the HGCS website (34 CFR 106.45(b)(10)). All staff receive annual training on recognizing and reporting sexual harassment, alongside mandated reporter and SB 848 training. Students receive age-appropriate instruction on respectful behavior, body safety, and how to tell a trusted adult.

Records. HGCS keeps the following for at least 7 years: each Title IX investigation, determination, and appeal; any informal resolution; supportive measures offered (and, if none were offered, why); and all training materials. Records are kept confidential and released only as allowed by FERPA and state law.

11. Legal references and adoption

State: Education Code 200–262.4 (including 212.5, 221.8, 221.61, 230, 231.5, 231.6, 233, 234–234.6), 48900, 48900.2, 48985; Penal Code 11164–11174.3; 5 CCR 4600–4670 (Uniform Complaint Procedures), 4900–4965.

Federal: Title IX of the Education Amendments of 1972 (20 USC 1681 et seq.); 34 CFR Part 106 (2020 regulations, recodified September 29, 2026); FERPA (20 USC 1232g); IDEA; Section 504 of the Rehabilitation Act.

The 2020 Title IX regulations govern K-12 schools: in January 2025 a federal court vacated the 2024 regulations, bringing the 2020 regulations back into effect, and on September 29, 2026, the Department of Education published a final rule codifying them (Bricker Graydon; Holland & Knight). HGCS's legal counsel should review this draft before Board adoption.