

# **Administrative Regulation**

## **Sexual Harassment**

**GCCS**

AR 5145.7

### **Students**

#### **Definitions**

Sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress.
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student.
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance, or of creating an intimidating, hostile or offensive educational environment.
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any school program or activity.

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sexual harassment in violation of Grizzly Challenge Charter School (GCCS) policy if it has a continuing effect on or creates a hostile school environment for the complainant or victim of the conduct.

For purposes of applying the complaint procedures specified in Title IX of the Education Amendments of 1972, sexual harassment is defined as any of the following forms of conduct that occurs in an education program or activity in which a school exercises substantial control over the context and respondent: (34 CFR 106.30, 106.44)

1. A GCCS employee conditioning the provision of a GCCS aid, benefit, or service on the student's participation in unwelcome sexual conduct
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to GCCS's education program or activity

3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291

### **Examples of Sexual Harassment**

Examples of types of conduct which are prohibited in GCCS and which may constitute sexual harassment under state and/or federal law, in accordance with the definitions above, include, but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion
12. Electronic communications containing comments, words, or images described above

### **Title IX Coordinator/Compliance Officer**

GCCS designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972 in accordance with AR 5145.71 - Title IX Sexual Harassment Complaint Procedures, as well as to oversee, investigate and/or resolve sexual harassment complaints under AR 1312.3 – Uniform Complaint Procedures. The Title IX Coordinator(s) may be contacted at:

Assistant Superintendent of Student Programs and Services  
San Luis Obispo County Office of Education

3350 Education Drive, San Luis Obispo, CA 93405  
(805) 543-7732

## **Notifications**

The Principal or designee shall notify students and parents/guardians that GCCS does not discriminate on the basis of sex as required by Title IX and that inquiries about the application of Title IX to GCCS may be referred to GCCS's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education. (34 CFR 106.8)

GCCS shall notify students and parents/guardians of the name or title, office address, email address, and telephone number of GCCS's Title IX Coordinator. (34 CFR 106.8)

A copy of GCCS's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)
2. Be displayed in a prominent location in the main administrative building or other area where notices of GCCS rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
3. Be summarized on a poster which shall be prominently and conspicuously displayed in each bathroom and locker room at each school that services students in grades 9 - 12. The poster may be displayed in public areas that are accessible to and frequented by students, including, but not limited to, classrooms, hallways, gymnasiums, auditoriums, and cafeterias. The poster shall display the rules and procedures for reporting a charge of sexual harassment; the name, phone number, and email address of an appropriate school employee to contact to report a charge of sexual harassment; the rights of the reporting student, the complainant, and the respondent; and the responsibilities of the school. (Education Code 231.6)
4. Be posted, along with the name or title and contact information of the Title IX Coordinator, in a prominent location on GCCS's website in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6; 34 CFR 106.8)
5. Be provided as part of any orientation program conducted for new and continuing students at the beginning of each quarter, semester, or summer session (Education Code 231.5)
6. Appear in any GCCS publication that sets forth GCCS's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
7. Be included, along with the name or title and contact information of the Title IX Coordinator, in any handbook provided to students or parents/guardians, employees (34 CFR 106.8)

The Principal or designee shall also post the definition of sex discrimination and harassment as described in Education Code 230, including the rights set forth in Education Code 221.8, in a prominent location on GCCS's web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6)

### **Reporting Complaints**

A student or parent/guardian who believes the student has been subjected to sexual harassment by another student, an employee, or a third party or who has witnessed sexual harassment is strongly encouraged to report the incident to a teacher, the principal, GCCS's Title IX Coordinator, or any other available GCCS employee. Within one school day of receiving such a report, the principal or other GCCS employee shall forward the report to GCCS's Title IX Coordinator. Any GCCS employee who observes an incident of sexual harassment involving a student shall, within one school day, report the observation to the principal or Title IX Coordinator. The report shall be made regardless of whether the alleged victim files a formal complaint or requests confidentiality.

When a report or complaint of sexual harassment involves off-campus conduct, the Title IX Coordinator shall assess whether the conduct may create or contribute to the creation of a hostile school environment. If the Title IX Coordinator determines that a hostile environment may be created, the complaint shall be investigated and resolved in the same manner as if the prohibited conduct occurred at school.

When a verbal or informal report of sexual harassment is submitted, the Title IX Coordinator shall inform the student or parent/guardian of the right to file a formal written complaint in accordance with applicable GCCS complaint procedures.

### **Complaint Procedures**

All complaints and allegations of sexual harassment by and against students shall be investigated and resolved in accordance with law and GCCS procedures. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. All complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with AR 5145.71 – Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to BP/AR 1312.3 – Uniform Complaint Procedures.

If sexual harassment is found following an investigation, the Title IX Coordinator, or designee in consultation with the Coordinator, shall take prompt action to stop the sexual harassment, prevent recurrence, implement remedies, and address any continuing effects.

Federal

Description

20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.71	Nondiscrimination on the basis of sex in education programs
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking
42 USC 1983	Civil action for deprivation of rights
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended

#### **Management Resources**

#### **Description**

Court Decision	Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736
Court Decision	Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Court Decision	Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274
Court Decision	Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
Court Decision	Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
Court Decision	Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447
Court Decision	Davis v. Monroe County Board of Education, (1999) 526 U.S. 629
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014
U.S. DOE, Office for Civil Rights Publication	Sexual Harassment: It's Not Academic, September 2008
U.S. DOE, Office for Civil Rights Publication	Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001
U.S. DOE, Office for Civil Rights Publication	Q&A on Campus Sexual Misconduct, September 2017
U.S. DOE, Office for Civil Rights Publication	Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016
Website	<a href="#">U.S. Department of Education, Office for Civil Rights</a>
Website	<a href="#">CSBA</a>

Website

California Department of Education

**State**

**Description**

2000e-2000e-17

Title VII, Civil Rights Act of 1964 as amended

5 CCR 4600-4670

Uniform complaint procedures

5 CCR 4900-4965

Nondiscrimination in elementary and secondary education programs

Civ. Code 1714.1

Liability of parent or guardian for act of willful misconduct by a minor

Civ. Code 51.9

Liability for sexual harassment; business, service and professional relationships

Ed. Code 200-262.4

Educational equity; prohibition of discrimination on the basis of sex

Ed. Code 35160

Authority of governing boards

Ed. Code 48900

Grounds for suspension or expulsion; definition of bullying

Ed. Code 48900

Grounds for suspension and expulsion

Ed. Code 48900.2

Additional grounds for suspension or expulsion; sexual harassment

Ed. Code 48904

Liability of parent/guardian for willful student misconduct

Ed. Code 48980

Parent/Guardian notifications

Gov. Code 12950.1

Sexual harassment training