

 <b>Youth Opportunity</b> <b>CENTER FOR SUCCESS AND INDEPENDENCE</b> <b>Evart Youth Academy</b> <b>POLICIES AND PROCEDURES</b>	<b>Chapter Five: Safety and Security</b>	
	<b>Subject: Prison Rape Elimination Act</b>	
<b>APPROVED BY:</b>  <hr/> Facility Administrator  <hr/> Designated Corporate Approval	<b>Policy Number: 5-19</b>	
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	<b>Effective Date: 01/25/2019</b>	<b>Revised: 09/03/2020</b>

**I. POLICY:**

The Center for Success and Independence, Michigan programs promote a safe and secure work environment and facility living environment for all program staff and youth through the prevention, detection and response to all allegations of sexual misconduct in the facility. CSI, EYA Secure JJ programs has a zero tolerance for any acts of sexual abuse, assault, misconduct or harassment. Sexual activity between staff, volunteers or contracted personnel and youth, as well as between youth and youth is prohibited and subject to both administrative and criminal disciplinary sanctions. All staff shall take prudent measures to ensure the safety of youth and staff. Employees, contractors, volunteer and interns shall have a clear understanding that a sexual relationship with an individual under Youth Opportunity supervision is strictly prohibited and is a serious breach of employee conduct. All contracts with providers shall include the contracting agency’s obligation to adopt and comply with PREA standards outlined in PREA policy. As a contracted provider, the program shall be subject to PREA audits, including contract monitoring to ensure compliance.

**II. PURPOSE / RATIONALE:**

To provide procedures to ensure adherence to state and federal mandated requirements for PREA.

**III. DEFINITIONS:**

**Contractor** A service provider who provides services on a recurring basis pursuant to a contractual agreement with this agency.

**Exigent circumstances** A threat to the security or institutional order of a facility.

**Michigan Central Abuse Hotline** The agency that receives and conducts investigations of allegations of child abuse and neglect.

**Gender non-conforming** The appearance or manner of a person that does not conform to traditional societal gender expectations.



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**Intersex:** a person's sexual or reproductive anatomy or chromosomal patterns that does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

**Medical Practitioner:** A health professional who, by virtue of education, credentials and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A "qualified medical practitioner" refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

**Mental Health Practitioner:** A licensed mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his/her professional practice act. A "qualified mental health practitioner" refers to a licensed mental health professional who has also successfully completed specialized training for treating sexual abuse victims.

**Pat-down search:** Pat-down searches may include asking the individual to remove and shake out outerwear and shoes, empty and turn out pockets, and/or pull clothing away from the body; a running of the hands over the clothed body of a youth by staff to determine whether the individual possesses contraband. It does not require the individual to disrobe.

**PREA:** Prison Rape Elimination Act: The US Department of Justice final rule of national standards to prevent, detect, and respond to sexual abuse and sexual harassment in juvenile facilities; 28 C.F.R. Part 115.

**PREA Coordinator:** Designated corporate personnel responsible for the development, implementation and oversight of YOI's efforts to comply with PREA standards. All PREA Compliance Manager's will work closely with this designated person.

**PREA Facility Compliance Manager:** designated person in each facility responsible for coordinating the facility's efforts to comply with PREA standards.

**Sexual Abuse by a youth:** Includes any of the following acts if the victim does not consent, is coerced into such acts of overt or implied threats of violence, or is unable to consent or refuse:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- Contact between the mouth and the penis, vulva, or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person excluding contact incidental to a physical altercation.

**Sexual Abuse by a staff member, contractor, or volunteer:**

- Contact Between the penis and the vulva or the penis and the anus, including penetration, however slight;
- Contact between the mouth and the penis, vulva, or anus;
- Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;



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- Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to the official duties or where the staff member, contractor or volunteer has the intent to abuse, arouse, or gratify sexual desire.
- Any other intentional contact, either directly or through the clothing of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above.
- Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breasts in the presence of a youth; and
- Voyeurism by a staff member, contractor, or volunteer.

**Sexual Harassment Includes:**

- Repeated or unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one youth directed toward another;
- Repeated or unwelcome verbal comments or gestures of a sexual nature to a youth by a staff member, contractor, or volunteer including demeaning reference to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

**Sexual misconduct:** any act of sexual abuse and/or sexual harassment as defined herein.

**Strip Search:** A strip search requires the individual to disrobe fully. The person and their clothing are visually inspected for contraband. Strip searches must be conducted by two staff members of the same sex as the youth, and only in a private location. There is no physical contact with any part of the youth's body.

**Transgender:** A person whose gender identity (i.e.: internal sense of feeling male or female) is different from the person's assigned sex at birth.

**Substantiated Allegation (Sustained):** An allegation where the preponderance of evidence of the incident indicates that the incident subject violated existing statutes, rule, or other regulatory guidance.

**Unfounded Allegation:** An allegation where the preponderance of evidence of the incident does not indicate that the incident subject violated existing statutes, rules, or other regulatory guidance.

**Unsubstantiated Allegation (Not Sustained):** An allegation where the preponderance of evidence of the incident cannot be determined based on a lack of facts or evidence that the incident subject violated existing statutes, rules, or other regulatory guidance.

**Volunteer:** An individual who donates time and effort on a recurring basis to enhance the activities and programs of the facility.

**Voyeurism by a staff member, contractor or volunteer:** observing a youth for a purpose that is unrelated to official duties or where the person has the intent to abuse, arouse, or gratify sexual desire, such as:

- Peering at a youth who is using a toilet to perform bodily functions



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- Requiring a youth to expose their buttocks, genitals or breasts
- Taking images of all or part of a youth's naked body or of a youth performing bodily functions.

**Youth:** Any Person under the supervision or care of the agency.

#### **IV. PROCEDURES:**

##### **A. PREA Compliance Manager**

The Facility Director is the designated PREA Facility Compliance Manager and shall ensure that all mandated requirements of this policy, the state, and the federal government are met. This shall include:

1. Responsibility for oversight of the facility implementation and compliance efforts as they relate to PREA standards, as well as applicable state and federal laws.
2. Coordination and communication on a regular basis with the Michigan State Director and the MDHHS PREA Coordinator as to the facility's compliance with PREA standards;
3. Responsibility for hands-on involvement with the auditors conducting reviews at the facility and for developing corrective action plans as necessary as a result of the audit reports;
4. Responsibility for ensuring all PREA training is conducted as required at the facility, and that all of the staff have been properly trained on PREA prior to their interaction with youth at the facility.
5. Responsibility for ensuring that youth have access to information regarding PREA, the MDHHS department's zero-tolerance policy on sexual misconduct, and that information is readily available to youth if they need to report any incident;
6. Responsibility for ensuring confidentiality of reported information and monitoring any retaliation that may happen as a result of a reported incident.

##### **B. Screening for Sexual Abuse and/or Sexual Victimization at Admission**

1. All youth admitted to the facility shall be screened for vulnerability to victimization and sexually aggressive behavior, prior to a room assignment. If the youth is a transfer, the prior screening form will be requested and if available, reviewed by the screener in conjunction with the completion of the PREA screen during intake.
2. Youth identified as sexually aggressive or vulnerable to victimization shall be placed permanently on the internal alert system.
3. All entries into the alert communication system in reference to the status of an aggressive youth or a victimized youth shall not contain any specifics, nor shall any specifics be identified to staff or other youth unless there is a documented need-to-know basis. If a youth's status changes, appropriate changes will be made to the alert communication system.



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4. This facility prohibits disciplining youth for refusing to answer or for not disclosing complete information related to the youth's mental, physical, or developmental disability whether the youth is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming whether the youth has previously experienced sexual victimization or youth's own perception of vulnerability.
5. Dorm assignment by staff shall ensure a youth's potential for victimization or predatory risk has been reviewed through screening tools, as well as alert communication to ensure placement does not pose a risk.
6. New information gathered regarding prior aggressive sexual behaviors or having been a victim shall be documented in the youth's file and the information shall be forwarded to the youth's JPO and the youth's case manager for further investigation. All sensitive information shall be on a need-to-know basis and shall not be exploited to the youth's detriment by staff or other youth.
7. If the youth discloses prior sexual victimization or perpetrated sexual abuse based on the intake screening information, health/mental health screening information or health history information gathered, whether it occurred in a facility setting or in the community, then staff shall ensure the youth is referred for medical and mental health services within fourteen (14) days of screening.
  - a. If youth reports having been a victim of sexual abuse and this information has already been reported to appropriate enforcement agencies, no further reporting is required.
  - b. If the youth reports they have sexually abused another, regardless of having been previously reported, this must be called into appropriate enforcement agencies (Law enforcement, BJJ staff, JPO)
8. If the youth discloses a youth-on-youth abuse or victimization, the program shall make an immediate referral to mental health for a crisis assessment and mental health practitioner will attempt to conduct a mental health evaluation within sixty (60) days of referral of such abuse history and offer treatment when deemed necessary.
9. Staff shall ensure that any report of sexual abuse obtained during screening be immediately reported to the proper authorities if the abuse has not been previously reported.
10. Medical and mental health practitioners shall abstain informed consent from youth 18 years of age and older before reporting information about prior sexual victimization that did not occur at the facility.

### **C. Placement, Supervision and Monitoring**

1. Lesbian, gay, bisexual, transgender, or intersex youth shall not be placed in particular housing, bed or other assignments solely on the basis of such identification or status.
  - a. A transgender or intersex youth's own view with respect to his or her own safety shall be given serious consideration.
  - b. Lesbian, gay, bisexual, transgender or intersex identification or status is not an indicator of likelihood of being sexually abusive.



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2. Placement shall be considered on a case-by-case basis whether the placement will ensure the youth's health and safety, and whether the placement would present management or security problems.
3. Staff working directly with the youth are advised of the status of a youth identified as a risk or as posing a risk to others by reviewing the results of the screen.
4. The results of the youth's screening shall be used in making room assignment to ensure vulnerable youth are not assigned a roommate believed to pose a risk.
5. Supervising staff in dorm should continually review the youth's adjustment.
6. The PREA Facility Compliance Manager shall periodically review the staffing plan to ensure adequate levels of staffing are in place to protect youth against sexual misconduct.
7. Staffing ratios shall follow contractual requirements.
8. Once per year, The PREA Facility Compliance Manger shall review the staffing plan with the MDHHS PREA Coordinator in order to assess, determine and document whether adjustments are needed to:
  - a. The staffing plan
  - b. Prevailing staffing patterns
  - c. The deployment of video monitoring system and other monitoring technologies
  - d. Resources the facility has available to commit to ensure adherence to the staffing plan.
9. The program shall document any deviation of the required staffing ratios in either the logbook or the shift report.
10. The Facility Administrator, Program Director, Clinical Director and Program supervisors shall conduct unannounced rounds to identify and deter staff sexual abuse and sexual harassment.
11. The unannounced rounds should occur at least weekly on all shifts and all areas of the facility and will be documented.
12. Staff are prohibited from alerting other staff of the supervisory round, unless it is related to the legitimate operation functions of the facility. Staff alerting other staff shall receive disciplinary sanctions.

#### **D. Cross-gender Viewing and Searches**

1. All searches will conform to policy on Contraband and Searches.
2. All staff is required to announce their presence when entering a youth housing unit.
3. Staff will not search or physically examine a transgender or intersex youth for the sole purpose of determining the youth's genital status. If the youth's genital status is unknown, it may be determined during conversations with the youth, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
4. Staff shall not conduct cross-gender (opposite sex) pat down search except in exigent circumstances, which are any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional orders of the facility.
  - a. All such searches circumstances will be documented with the specific exigent circumstance in the log book.



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- b. If exigent circumstances occur, staff are certified in Protective Action Response; Module 8: Lesson 7: Search Techniques
5. The facility will ensure that youth have access to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks or genitalia, except in exigent circumstances.
6. Transgender and intersex youth shall be given the opportunity to shower separately from other youth.

#### **E. Reporting**

1. All allegations of sexual misconduct or youth-on-youth sexual activity shall be reported to MDHHS within 2 hours and submitted to Central Intake within one business day as required by DCWL licensing standards.
2. There is no time limit when a youth may report or submit a grievance regarding an allegation of sexual misconduct.
3. Youth shall be provided multiple ways to privately report sexual misconduct, retaliation for reporting sexual misconduct, and staff neglect or violation of responsibilities. Youth can report through the grievance system or conversation with a staff person, case manager, therapist, supervisor, or the PREA Facility Compliance Manager, and call the Michigan Abuse Hotline.
4. Youth are afforded an opportunity upon request to use the telephone for the purpose of reporting sexual abuse and sexual harassment to the Michigan Abuse Hotline.
  - a. Upon request, the youth will be given immediate access to use the telephone unless the safety and security of the facility is compromised.
  - b. Staff shall not question the youth about the reason for the call.
  - c. Staff shall dial the phone number to Michigan Abuse Hotline and hand the phone to the youth.
  - d. Staff shall remain at a distance that allows the youth to report privately.
5. The facility shall provide youth with access to tools necessary to make a written report and staff shall accept reports made verbally, in writing, anonymously, and from third parties.
6. Facility staff shall be provided the opportunity to privately report sexual abuse and sexual harassment of youth.
7. An emergency grievance can be filed alleging the risk of imminent sexual assault. These grievances should be responded to immediately, within 48 hours.
8. If a grievance alleging sexual abuse is not responded to at any level of the process within the time allotted by policy, the grievance will be deemed denied at that level.
9. The PREA Facility Compliance Manager shall ensure that youth with disabilities, including youth who are deaf/hard of hearing, blind/low vision, or those who have intellectual, developmental, psychiatric, or speech disabilities, have an equal opportunity to participate in or benefit from all aspects of the facilities efforts to prevent, detect, and respond to sexual misconduct.
10. The facility will also ensure meaningful access to its efforts to prevent, detect, and respond to sexual misconduct to youth who are limited English proficient, including steps to provide



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interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

- a. The facility prohibits the use of youth interpreters, youth readers, or other types of youth assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the youth's safety, the performance of first-response duties under 115.364, or the investigation of the youth's allegations.
  - b. All cases must be documented in the log book.
11. Any staff that receives a report of sexual misconduct or possible sexual misconduct must ensure that it is immediately reported to their immediate supervisor.
- a. Reports can be received verbally, in writing, anonymously and from third parties.
  - b. Supervisor shall ensure that it is reported to the Abuse Registry, local law enforcement, if criminal in nature, MDHHS and to the PREA Facility Compliance Manager.
  - c. All verbal reports shall be documented promptly and reported accordingly.
  - d. Staff is prohibited from revealing any information related to a sexual misconduct report to anyone than to the extent necessary to make treatment, investigation, and other security and management decisions.
  - e. While victims and complainants may report anonymously, staff that follow up to report the allegations shall not be afforded anonymous status.
12. All staff are required to immediately report any knowledge, suspicion, or information received regarding: any incident that has occurred in the facility; retaliation against youth or staff who report sexual misconduct; and any staff neglect or violation of responsibilities that may have contributed to an incident of sexual misconduct or retaliation to the Abuse Registry, local law enforcement, and MDHHS as required by mandatory reporting laws and YOA policy.
13. If staff learns that a youth is subject to a substantial risk of imminent sexual misconduct, they shall take immediate action to protect the youth from further harm or threat.
14. If staff learns a youth posts a substantial risk of sexually abusing other youth in the facility, they shall take immediate action to protect other youth from further harm or threat.
15. Medical, case managers and mental health practitioners are required to report sexual misconduct to designated supervisors and Department officials, MDHHS, law enforcement if criminal in nature, and the Abuse Registry.
- a. Said practitioners must inform residents at the initiation of services of their duty to report and the limitation of confidentiality.
16. Staff will fully cooperate with any laws enforcement investigation of sexual abuse.
17. Michigan Statutes, make certain acts of sexual misconduct between a youth and staff person a felony. The youth's consent to sexual acts with a staff member is not a defense under this subsection of the law.
18. Youth who are victims of a sexual abuse shall be provided prompt and appropriate medical and mental health treatment by medical and mental health practitioners after the first responder involvement by medical and law enforcement personnel.
19. Youth and staff shall be advised that any person who knowingly and willfully makes a false report to the Abuse Registry or counsels another to make a false report is guilty of a third-degree felony. Anyone reporting in good faith shall be immune from any civil or criminal liability.





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20. Youth and staff who have reported sexual misconduct or cooperate with sexual misconduct investigations shall be provided protection against retaliation and discipline. Residents who file a grievance alleging sexual abuse in bad faith will not be disciplined.
- a. Accommodations will include housing changes and removal of alleged staff or youth from contact with victims.
  - b. Emotional support services for youth or staff that fears retaliation for reporting or cooperating with investigations will be available.
  - c. The director or designee will monitor for possible retaliation.
    1. Designated staff will monitor the conduct/treatment of residents/staff who reported sexual abuse to see if there are any changes that may suggest possible retaliation for 90 days.
    2. Designated staff will monitor the conduct/treatment of residents/staff who were reported to have suffered sexual abuse to see if there are any changes that may suggest possible retaliation for 90 days.
    3. The facility will extend such monitoring beyond the 90 days if the initial monitoring indicates a continuing need.
    4. The facility will act promptly to remedy any such retaliation.
21. The facility shall receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of a youth. This will be accomplished via posters placed in administration building, visitation area, dorms and classrooms.

**F. Responding to Abuse Reports**

1. Upon the discovery of an incident defined as sexual abuse, staff shall take immediate action to ensure the safety of the victim(s), and notify supervisor, law enforcement and medical personnel.
2. Immediate reporting must be made to MDHHS, providing as much information and detail as possible about the incident(s), victim(s), suspect(s) or witnesses.
3. All garments/clothing worn by those involved and the scenes where alleged act(s) occurred will be protected to ensure that evidence is not further contaminated.
4. Staff shall secure any evidence until the arrival of law enforcement and keep control over the evidence or scene and document any access to or deviation regarding access to the evidence in the log book.
5. Upon receipt of notice that any sexual abuse has occurred within the last 72 hours, staff shall take the following actions:
  - a. Ensure the victim(s) is safe
  - b. Do not question the youth, other than to obtain basic information such as where the incident occurred and who may be involved. This includes questioning the victim or alleged perpetrator to obtain further information.
  - c. Immediately preserve the area where the incident allegedly occurred, including ensure that bedding, clothing or related material are not disposed of or cleaned up by staff.
    1. Request that the alleged victim and perpetrator not take any actions that could



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- destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, drinking or eating.
- d. Keep those materials secure or free from contamination by anyone else until instructed to do differently by law enforcement.
  - e. Immediate notification to the administration
  - f. Immediately notify law enforcement
  - g. Notify MDHHS within two (2) hours of the incident or learning of the incident.
  - h. Do not discuss the facts of the incident with anyone except those directly involved in response or investigation of the incident.
  - i. If the subject is in the care and custody of the facility, do not notify them of the victim's report, but take adequate steps to ensure the safety of the youth, and report suspect or subject information to law enforcement upon their arrival.
  - j. Cooperate fully with law enforcement.
6. Upon receipt of notice that any sexual abuse has occurred longer than 72 hours ago, staff shall take the following actions:
- a. Ensure the victim is safe, has no further contact with the alleged subject (youth or staff), and if medical staff is available, take the victim to medical staff.
  - b. Do not question the youth, other than to obtain basic information such as where the incident occurred and who may be involved.
  - c. Immediately preserve the area where the incident allegedly occurred, including ensuring that bedding, clothing or related material are not disposed of or cleaned by staff and keep those materials secure or free from contamination by anyone else until instructed to do differently by law enforcement.
  - d. Immediate notification to the administration.
  - e. Immediate notification to law enforcement.
  - f. Immediately contact MDHHS Central Intake.
  - g. Notify MDHHS within two (2) hours of the incident or learning of the incident.
  - h. Do not discuss the facts of the incident with anyone except those directly involved in response or investigation of the incident.
  - i. If the subject is in the care and custody of the facility, do not notify them of the victim's report, but take adequate steps to ensure the safety of the youth, and report suspect or subject information to law enforcement upon their arrival.
  - j. Cooperative fully with law enforcement.
7. The Facility Administrator, or designee, shall notify the alleged victim's parents or legal guardians; unless there is official documentation show the parents or legal guardians should not be notified.
8. If the youth is under MDHHS custody, the caseworker shall be notified of the allegation with in fourteen (14) days of receiving the allegation.
9. Upon receiving an allegation that a youth was sexually abused while confined at another facility, the Facility Administrator, or designee, of the facility that received the allegation will notify the head of the facility where the alleged abuse occurred as soon as possible, but no later than 72 hours.
- a. The facility documents that it has provided required notification.
  - b. The facility director will also notify the appropriate investigative agency.



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- c. All allegations received from other agencies or facilities are investigated in accordance with the PREA standards.

## **G. Investigations**

1. Local law enforcement, Division of Child Welfare Licensing and the Department of Health and Human Services Maltreatment in Care Unit handle the investigation involving youth in Michigan. Staff are expected to cooperate with the investigation.
2. The office of the Inspector General (OIG) conducts administrative investigations, separate and apart from any criminal investigations, to identify any misconduct by staff as related to Department regulator guidance. Staff are expected to cooperate with the OIG investigation.
3. Sexual Misconduct Review Team: The facility shall conduct a sexual misconduct incident review at the conclusion of every sexual misconduct investigation or administrative review, including those where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
4. This review shall ordinarily be conducted within thirty (30) days of the conclusion of the investigation by a Review Team.
  - a. The facility shall create a review team that consists of:
    1. PREA Facility Compliance Manager
    2. Michigan State Director
    3. BJJ Staff
    4. Assistant Facility Administrator
    5. Medical official
    6. Mental Health official
    7. OIG, if the incident was investigated by the OIG.
  - b. The review team shall:
    1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual misconduct.
    2. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status or perceived status; or, gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility
    3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barrier in the area may enable abuse.
    4. Assess the adequacy of staffing levels in that area during different shifts.
    5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
    6. Prepare a report of the Team findings, including but not necessarily limited to items 1-5 above, and any recommendations for improvement and submit the report to the MDHHS PREA Coordinator, PREA Facility Compliance Manager and the PREA Corporate Compliance Coordinator.
      - a. The report shall include recommendations for improvement
      - b. All recommendations shall be implemented, or justification provided for not implementing said recommendations.



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7. At the conclusion of any law enforcement investigation where a sexual abuse incident has been reported, the victim or victim's parents or legal guardian should be notified that the investigation is concluded, either by the investigating law enforcement agency or through a victim services agency officer or representative.
8. At the conclusion of the OIG administrative investigation, the victim's parents or legal guardians will be notified by receipt of a final administrative investigative report.
9. After the completion of the investigation, all clients will be informed verbally or in writing as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation by the agency.

#### **H. Reporting to Residents**

1. Following a resident's allegation that a staff member has committed sexual abuse against the resident, the agency/facility subsequently informs the resident whenever:
  - a. The staff member is no longer posted within the resident's unit,
  - b. The staff member is no longer employed at the facility;
  - c. The facility learns that the staff member has been indicted on a charge related to sexual abuse within the facility, or
  - d. The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
  - e. All notification to youth described under this section are documented.

#### **I. Follow-up and Access to Emergency and Mental Health Services**

1. Victims of sexual abuse will have timely, unimpeded access to emergency medical treatment, crisis intervention services, and victim advocacy, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
2. The facility shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide youth with confidential emotional support services related to sexual abuse. The facility shall maintain copies of agreements or documentation showing attempts to enter into such agreements.
3. The facility shall offer all youth who experience sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate.
  - a. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible.
  - b. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners
  - c. The facility shall document its efforts to provide SAFEs or SANEs.
4. The facility will attempt to make available to the victim a victim advocate from a rape crisis center.



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- a. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization or a qualified agency staff member.
  - b. The facility will enable reasonable communication between residents and these organizations, in as confidential a manner as possible.
  - c. The facility will inform the resident, prior to giving them access to outside support services:
    1. the extent to which such communications will be monitored.
    2. of the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply for disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant Federal, State, or local law.
  - d. Agencies shall document efforts to secure services from rape crisis centers.
  - e. The facility may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.
5. As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information and referrals.
  6. Youth victims of sexual abuse shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
  7. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
  8. All youth who have been victimized by sexual abuse shall be offered medical and mental health evaluation; and, treatment as determined by the medical and mental health staff to ensure that if the incident did not occur within the last seventy-two hours that the youth will be offered these services within fourteen days.
  9. Youth victims shall be provided medical and mental health services consistent with the community level of care.
  10. Youth victims of sexually abuse vaginal penetration shall be offered pregnancy tests.
    - i. If the pregnancy test is positive, the youth shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services.
  11. Youth victims of sexual abuse shall be offered tests for sexually transmitted infections as medically appropriate.
  12. The facility shall attempt to conduct a mental health evaluation of all know youth-on-youth abusers within 30 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.
  13. The facility will provide youth with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.



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14. The facility will offer and provide medical and mental health evaluations and, as appropriate, treatment to all resident who have been victimized by sexual abuse in and jail, detention center, or juvenile facility.
15. The facility will attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offers treatment when deemed appropriate by mental health practitioners.

**J. Hiring and Promotion**

1. The facility shall not knowingly hire, promote or contract with anyone who:
  - a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution.
  - b. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt, or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
  - c. Has been civilly or administratively adjudicated to have engaged in the activity described above.
2. The facility shall ask all applicants and staff who may have contact with youth directly about previous misconduct in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of review of current staff.
3. The facility performs a background check prior to hiring any new staff.
4. Background checks shall be conducted every five years for staff.
5. All staff shall disclose any sexual misconduct. Material omission regarding such misconduct or the provision of materially false information shall be grounds for termination.

**K. Discipline**

1. Staff shall be subject to disciplinary sanctions up to and including termination for violating sexual abuse or sexual harassment policies. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
2. All terminations for violation of YOA's Sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
3. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with youth and shall be reported to law enforcement.
4. The facility shall take appropriate measures in the case of any other violation of YOA sexual abuse or sexual harassment policies by a contractor or volunteer.
5. A youth may receive disciplinary sanctions following an administrative finding that the youth engaged in youth-on-youth sexual abuse or following a criminal finding of guilt for youth-on-youth sexual abuse.



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6. Youth disciplinary sanctions shall be commensurate with the nature and circumstances of the abuse committed, the youth's disciplinary history, and the sanctions imposed for comparable offenses by the other youth with similar histories.
7. The facility may discipline a youth for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
8. Youths should be advised that any person who knowingly and willfully makes a false report to the Abuse Registry or counsels another to make a false report may be subject to criminal prosecution.
9. Youth will not be disciplined for filing a grievance alleging sexual abuse in bad faith.

**L. Training and Education**

1. Employee, Volunteer, and Contractor Training
  - a. All direct and non-direct care staff must complete training on zero-tolerance of sexual misconduct, Staff training within 30 days of hire.
  - b. All direct and non-direct care staff must complete PREA training within 30 days of hire.
  - c. Each employee is required to take refresher training every year.
  - d. All volunteers and contractors who have contact with youth shall be trained on their responsibilities regarding PREA using the National PREA Resource Website Training video and reviewing our agency PREA policy.
  - e. [https://url.emailprotection.link/?byXEO6xW4HbvZuDFkOqNYT3w7ZKxBtaV8cumv\\_CQtSCyF13zsNtBw\\_dM\\_vaEBaLEN5xW7fENpbiRWOynuSbizDhsLpwe6glO5jpQQkSFdmxWv5t8F-6CVVG15sTMHmfJX](https://url.emailprotection.link/?byXEO6xW4HbvZuDFkOqNYT3w7ZKxBtaV8cumv_CQtSCyF13zsNtBw_dM_vaEBaLEN5xW7fENpbiRWOynuSbizDhsLpwe6glO5jpQQkSFdmxWv5t8F-6CVVG15sTMHmfJX)
2. Youth Education:
  - a. During intake, all youth will be provided with information on zero tolerance policy regarding sexual misconduct, including how to report incidents or suspicions of sexual misconduct.
  - b. Each youth will sign an acknowledgement that he or she understands the PREA information.
  - c. A copy of the form shall be provided to the youth and the original placed in the youth's file.
  - d. Special accommodations shall be made to ensure all written information about sexual misconduct policies, including how to report sexual misconduct, is conveyed verbally to youth with limited reading skills, or who are visually impaired, deaf, or otherwise disabled.
  - e. Within 10 days of intake, the facility shall provide comprehensive education to youth (either in-person or via video) regarding:
    1. Their rights to be free from sexual misconduct,



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2. Their rights to be free from retaliation for reporting such misconduct,
  3. Sexual misconduct response policies and procedures.
  4. Refresher information will be readily available to all youth at all facilities.
  5. The facility will retain all documentation of youth training.
- f. Information regarding PREA will be posted and visible to all youth, at a minimum via posters and brochures.
3. Specialized training: Medical and Mental Health Care
- a. All full and part-time medical and mental health care practitioners whether employees or contractors, or volunteering, must be trained in:
    1. How to detect and assess signs of sexual abuse.
    2. How to preserve physical evidence of sexual abuse
    3. How to respond effectively and professionally to juvenile victims of sexual abuse; and
    4. How and to who to report allegations or suspicions of sexual abuse.
  - b. Medical and mental health care providers will be subject to sexual abuse training. The facility shall maintain documentation that practitioners have received the training referenced in this Operating guideline.
4. All staff is required to become familiar with the Prison Rape Elimination Act Guideline prior to working directly with youth.

**REFERENCES:** Youth Opportunity PREA Policy