

## PURPOSE

In an effort to provide a reporting method for an infringement of the client's personal rights, the following policy has been adopted.

It is the responsibility of all staff to report any sexual contact as outlined in this policy. It is the responsibility of the Program Supervisor and/or Administration to follow up with the report as outlined in this policy. Agency policy prohibits hiring or promoting anyone who may have contact with residents, and prohibits enlisting the services of any contractor who may have contact with residents. To insure Agency policy of prohibiting hiring or promoting staff is followed, Program Supervisor will obtain staff sign document during hiring the promoting on the following questions: – 1. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); 2. 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 3. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.

All infringement of personal rights (i.e. sexual contact, rape, or other immoral act) against the person must be reported following the adopted procedures below.

1. Inform the Program Supervisor or designee immediately.
2. As soon as possible, upon the client's consent, arrangements will be made to transport the client to the emergency room if the incident requires medical attention or if the use of a rape kit needs to be implemented.
3. Upon the client's consent and/or observing the State Mandatory Reporting Requirements indicating duty to warn, inform the police of the matter if an assault incident (physical or sexual) has occurred. Provide the authorities with appropriate information.
4. If an assault incident has occurred, the client will be requested not to wash or bath due to the need to collect evidence.
5. If clothes are changed, preserve all original clothing in original condition for the police as evidence.
6. Do not coach the client how to respond to questions, let them tell their own story in their own words.
7. Examination time is extremely important with males, but up to 48 hours is still valid with females. This in no way voids statement #2, but rather

illustrates the value of a belated physical examination at the hospital. The rule is an attempt to address a situation, which may not be reported promptly.

8. An incident report should be completed within 24 hours following the designated procedures, and handed in to the Program Supervisor and/or Administration.

## PREVENTION OF RESIDENT SEXUAL ASSAULT/RAPE

Residential juvenile justice staff must have zero tolerance for sexual abuse and sexual harassment of residents. Facilities must ensure that preventive plans are in place and, should allegations regarding sexual abuse or harassment be made, that staff are appropriately trained to take actions to rapidly restore safety, attend to and support the victim, and promptly initiate the investigative process.

## PURPOSE

To prevent incidents of sexual abuse and sexual harassment and to take prompt, effective, and compassionate action if allegations of sexual abuse or harassment are made.

## DEFINITIONS

GLRC follows all state requirements and terms to process any allegations and inappropriate contact.

**Resident-on-resident sexually abusive penetration:** Any sexual penetration by a resident of another resident that is coerced, or made without consent or without the resident being able to consent. The sexual acts included are: contact between the penis and the vagina or the anus; contact between the mouth and the penis, vagina, or anus; or, penetration of the anal or genital opening of another person by a hand, finger, or other object.

**Resident-on-resident sexually abusive contact:** Non-penetrative touching (either directly or through the clothing) of the genitalia, anus, groin, breast, inner thigh, or buttocks without penetration by a resident of another resident, with or without the latter's consent, or of a resident who is coerced into sexual contact by threats of violence, or of a resident who is unable to refuse, or of a resident that is unable to provide consent.

**Resident-on-resident sexual harassment:** Repeated and unwelcome sexual advances, requests for sexual favors, verbal comments, or gestures or actions of a derogatory or offensive sexual nature by one resident directed toward another.

**Staff-on-resident sexually abusive contact:** Includes non-penetrative touching (either directly or through the clothing) of the genitalia, anus, groin, breast, inner thigh, or buttocks by a staff member or a resident that is unrelated to official duties.

**Staff-on-resident sexually abusive penetration:** Sexual penetration by a staff member of a resident, including contact between the penis and vagina or anus; contact between the mouth and the penis, vagina, or anus; or, penetration of the anal or genital opening of another person by a hand, finger, or other object.

**Staff-on-resident indecent exposure:** The display by a staff member of his or her uncovered genitalia, buttocks, or breast in the presence of a resident.

**Staff-on-resident voyeurism:** An invasion of a resident's privacy by staff for reasons unrelated to official duties or when otherwise not necessary for safety and security reasons.

**Staff-on-resident sexual harassment:** Repeated verbal comments or gestures of a sexual nature to a resident by a staff member. Such statements include demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or profane or obscene language or gestures.

**Staff sexual misconduct:** Includes any behavior or act of a sexual nature directed toward a juvenile or youthful offender by an employee, volunteer, contractor, official visitor, or other agency representative. Sexual relationships of a romantic nature between staff and youth are included in this definition.

**Sexual Exploitation:** Includes allowing, permitting, or encouraging a child to engage in prostitution, or allowing, permitting, encouraging, or engaging in the photographing, filming, or depicting of a child engaged in a listed sexual act as defined in MCL 750.145c

**Age of legal consent in Michigan:** While no statute specifically establishes an age at which a minor may legally consent to sexual activity, there can be criminal penalties for consensual sexual activity with a minor under 16 years of age. See MCL § 750.520b. There also can be criminal penalties for consensual sexual activity with a minor under 18 years old when certain circumstances exist. For example, it is considered "third degree criminal sexual conduct" for a teacher or school administrator to sexually penetrate a student under 18 years old, irrespective of consent. MCL § 750.520d.

**First Responder:** Includes any/all agency personnel to whom an incident or report of alleged sexual abuse, or any other form of abuse/neglect of youth is reported. This includes staffs own observation or suspicion, direct report (verbal or written) from youth or third parties of abuse or neglect in accordance with Mandated Reporting laws and agency policies. Also see JRG, on-line [JJ Residential Glossary](#).

## STANDARD OPERATING PROCEDURE

### A. Providing Sexual Assault/Rape Prevention Information to Youth

1. The facility youth orientation process includes policy and procedures relating to prevention of and response to reports of sexual assault/rape. This orientation must occur within the first 72 hours of youth intake. The information provided includes but is not limited to:
  - a. The agency's zero-tolerance policy.
  - b. Self-protection including avoiding risky situations related to sexual assault prevention/intervention.
  - c. Reporting procedures; how to report rape, sexual activity, sexual abuse, or sexual harassment. Multiple reporting options at Facility include: 1) Verbally to any staff, counselor, or administrator; 2) in writing to any staff, counselor, or administrator; 3) in writing through the youth and family grievance process; and, 4) Externally by telephoning Children's Protective Services. Anonymous and third party reports must also be accepted.
  - d. Treatment and counseling, how to obtain counseling services and/or medical assistance if victimized.
  - e. Protection against retaliation.
  - f. Risks and potential consequences for engaging in any type of sexual activity while at the facility.
  - g. Disciplinary action(s) for making false allegations. Clients will not be disciplined for making an allegation of sexual abuse or sexual harassment if the investigation determines that the abuse did not occur, so long as the allegation was based upon a reasonable belief that the abuse occurred and the allegation was made in good faith. Clients may be subject to disciplinary sanctions only pursuant to positive findings that the youth engaged in youth-on-youth sexual abuse. Clients may be subject to disciplinary sanctions for sexual contact with staff only upon findings that the staff member to not consent to such contact
2. The information must be provided verbally and in written form, and the information must be in a language and format that the youth can understand. Translation and/or other interpretive services must also be provided as needed so that all youth may benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Accommodations must be provided so that LEP, deaf, blind, or otherwise disabled residents have full access to this information. Resident readers or interpreters may not be used to provide this

information, except when not allowing this would cause an unnecessary delay that could compromise the youth's safety.

3. Video presentations may be used to supplement the content of the presentation but direct verbal and written information must be included.
4. Each resident must sign a written acknowledgement form for the sexual assault/rape prevention portion of the orientation.
5. The signed acknowledgment form must be filed in the youth's case record.
6. Youth must be provided with comprehensive PREA education within 10 days of intake.

## **B. Youth Assessment**

1. The resident's behavior history must be reviewed using an objective screening tool within 72 hours of arrival at the facility, as part of orientation to determine the resident's potential risk of sexual vulnerability based on the following risk factors:
  - a. Age
  - b. Physical stature
  - c. Developmental disability
  - d. Mental illness
  - e. Sex offender status (per offense history)
  - f. First-time offender status
  - g. Past history of victimization
  - h. Physical disabilities and the residents own perception of vulnerabilities.
  - i. Any perception of gender non-conforming and/or LGBTI status.
  - j. Any other specific information.

Note: If the assessment indicates that the resident has been a victim of sexual abuse or has committed sexual abuse, the resident will be examined by a medical or mental health provider within 14 days of the completed assessment.

2. The youth must be evaluated as part of orientation to determine if the youth is prone to victimize other youth, especially in regard to sexual behavior, based on the following risk factors:
  - a. History of sexually aggressive behavior
  - b. History of violence as related to a sexual offense
  - c. Anti-social attitudes indicative of sexually aggressive behavior
3. The agency must use all information obtained to make housing, bed, program, education, and work assignments for residents with the goal of keeping residents safe and free from sexual abuse. The agency must

document how the assessment information was used to inform placement and assignments.

4. Lesbian, gay, bisexual, transgender, or intersex (LGBTI) residents may not be housed solely on the basis of such identification or status. In addition, the agency must:
  - a. Decide on a case-by-case basis whether to place a transgender or intersex youth in a facility for male or female residents. Placement decisions are based on whether the placement would ensure the resident's health and safety, and whether the placement would present management or security problems. The youth's own view of his gender identity should be considered when determining placement.
  - b. Review placement and programming assignments at least twice each year to assess any threats to safety experienced by the resident.
  - c. Allow transgender and intersex youths the opportunity to shower separately from other residents.
  - d. The student's own view of his/her gender identity should be considered when determining placement.
  - e. Youth must not be considered more likely to perpetrate sexual abuse solely because of LGTBI identity.
5. A youth may be isolated from other youth as a preventive and protective measure, but only as a last resort when other less restrictive measures are inadequate to keep the youth safe from other youths, and then only until an alternate means of keeping all youths safe can be arranged. During any periods of protective isolation, facility staff may not deny a youth otherwise under control, access to daily large-muscle exercise and legally-required educational programming or special education services. Any youth in isolation must receive daily visits from a medical or mental health care clinician and must have access to other programs to the extent possible.
6. Staff must not search or physically examine a transgender or intersex resident for the sole purpose of determining a youth's genital status. If a youth's genital status is unknown, it may be determined during conversations with the youth, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
7. Assessment activities must be documented.

### **C. Staff Training on Offender Sexual Assault/Rape Prevention and Reporting**

1. All facility staff, and contractors and volunteers that have regular contact with youths, must complete initial and annual training for sexual

assault/rape prevention, incident response, and reporting. At the conclusion of each training session, all trainees must sign that they attended and understood the training. This signature sheet must be kept on file for a period determined by the agency's Record Retention Schedule.

2. All facility staff must read this policy and any related local facility written policy or procedure articles prior to assuming duties with youth, when the policy or procedure changes, and on at least an annual basis. Staff must sign a written acknowledgment that they read and understood the policies and procedures. This signature sheet must be kept on file for a period determined by the Record Retention Schedule.
3. When staff that have been trained later transfer to work at a facility or unit housing a different gender, then additional gender-specific training is required.
4. Direct care staff must trained in how to conduct a pat down search. Cross gender pat searches are prohibited, except in exigent circumstances. In that event, exigent circumstances shall be documented with justification of the circumstances leading to cross gender pat search.
5. Searches of transgender and intersex residents must be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.
6. All full and part time medical and mental health care practitioners who work regularly with residents must receive specialized training on: Detecting signs of sexual abuse, preserving physical evidence, effective response, and reporting. Training will be documented in personnel records.
7. All full and part time staff who conduct PREA investigation must receive training in conducting such investigations in confinement settings. Specialized training shall include techniques for interviewing juvenile sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Training will be documented in personnel records.

#### **D. Staff Supervision Relative to PREA Standards**

1. Staff must recognize that sexual assault/rape can occur in virtually any area in a residential facility. Facility requirements for line of sight supervision and staff-to-youth ratios apply at all times.

2. Staff must always be aware of warning signs that may indicate that a youth has been sexually assaulted or is in fear of being sexually assaulted. Warning signs include but are not limited to: Isolation, depression, lashing out at others, refusing to shower, suicidal thoughts or actions, and seeking protection from staff.
3. Staff must be aware of sexually aggressive behavior. Characteristics or warning signs may include but are not limited to: A prior history of committing sex offenses, use of strong arm tactics (extortion), associating or pairing up with a youth that meets the profile of a potential victim, exhibiting voyeuristic and/or exhibitionistic behavior, and a demonstrated inability to control anger.
4. Non-medical staff of the opposite gender of youth may not observe youth changing clothing, showering, or performing other bodily functions where buttocks or genitalia of youth are exposed except in exigent circumstances or when such viewing is incidental to routine room checks.
5. When staff of the opposite gender enters the youth sleeping area and bathroom areas of the house they must announce their presence. When a staff of the opposite gender is assigned to work with the group throughout the shift a single announcement at the start of the shift meets this requirement.

#### **E. Youth Response to Sexual Assault/Rape**

Youths must be supported and encouraged to report sexual assault/rape, attempted sexual assault/rape, and/or sexual harassment and be protected from retaliation. A youth that believes that they were the victim of a sexual assault/rape, attempted sexual assault/rape or sexual harassment, or believes another youth was the victim or sexual assault/rape, attempted sexual assault/rape, or sexual harassment, must report this information to a staff member. Youths may also write down their report and turn it in to staff, or use the facility grievance process to report. An option must exist for youths to report sexual abuse to someone outside of the facility. The outside reporting option for Facility is to place a call to Children's Protected Services, 1-855-444-3911. If a youth requests to report outside of the facility, the following must occur:

- a. Contact the on-duty Supervisor or Manager to facilitate the call. The call is confidential. The Supervisor / Manager will not listen to the youth's reporting.
- b. The Supervisor / Manager will maintain line of sight supervision of the youth at all times.
- c. Following completion of the call, the Supervisor / Manager will notify the facility Director or designee in the Director's absence and report that a youth made a call to the hotline.

**\*Note:** Calls to the hotline are confidential however it could occur that a youth also volunteers information to staff about sexual abuse. If at any time a youth discloses information about sexual abuse to any Facility personnel then staff must respond in accordance with the procedures listed under "Staff Response to Sexual Abuse/Rape".

1. Clients must be informed, prior to giving them access to outside victim advocates for emotional support services related to sexual abuse, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. Clients over the age of 18 must give written informed consent before medical/mental health personnel engage in mandatory reporting regarding victimization occurring outside of an agency or institutional setting.
2. Following a client's allegation that a staff member or has committed sexual abuse against the resident, GLR subsequently informs and documents informing the client (unless the agency has determined that the allegation is unfounded) 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. GLR learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
  - d. GLR learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
3. Following a resident's allegation that he or she has been sexually abused by another resident in an agency facility, GLR subsequently informs and documents informing the client whenever:
  - a. GLR learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
  - b. GLR learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
4. Client Grievances related to sexual abuse allegations:
  - a. A grievance alleging sexual abuse can be filed at any time regardless of when the incident allegedly occurred.
  - b. Third party grievances alleging sexual abuse are accepted.

- c. A grievance alleging sexual abuse or sexual harassment does not have to be submitted to the person that is the subject of the allegation.
- d. There is no requirement that youth use an informal process for resolving grievances alleging sexual abuse or sexual harassment.
- e. Emergency grievances alleging sexual abuse and/or the imminent threat of sexual abuse must be responded to immediately.

#### **F. Staff Response to Sexual Assault/Rape**

1. Staff receiving a report of sexual assault/rape or attempted sexual assault/rape that occurred in a facility, whether or not it is part of the agency; staff that become aware of sexual activity between residents or between a resident and staff, contractor, visitor, or volunteer; become aware of retaliation against students or staff that reported such an incident; and/or, become aware of any staff negligence or violation of responsibilities that may have contributed to an incident or retaliation must immediately report this to the supervisor. If a supervisor is not on duty the staff must call an administrator. The administrator is responsible for notifying the proper authorities which include the police, CPS, and the Division of Child Welfare Licensing (DCWL, formerly BCAL).
2. The staff member receiving the report of actual or suspected sexual abuse or rape must immediately call Children's Protective Services and report the incident and/or allegation. The staff member receiving the report of actual or suspected sexual abuse or rape must submit an Incident Report before the end of their work shift and must complete a DHS-3200, Report of Actual or Suspected Child Abuse or Neglect, within 72 hours of becoming aware of the incident.
3. If it is believed or determined that a sexual assault/rape occurred and that the alleged sexual assault/rape occurred within the last 96 hours, the facility Director or designee must make immediate arrangements to transport the youth to the facility-designated emergency room (Marquette General Hospital) for a rape kit and the area where the incident occurred must be secured for evidence collection. If it is believed or determined that a sexual assault/rape occurred more than 96 hours previous, the emergency room must be contacted for further instructions.
4. Following emergency response and completion of the rape kit (if applicable) a youth believed or determined to have been the victim of a sexual assault/rape must also be examined by medical staff for possible injuries, regardless of when the alleged sexual assault occurred. Female youths must be provided with pregnancy tests.

5. Victims and perpetrators of sexual assault must be encouraged to complete tests for sexually transmitted diseases, including an HIV test. In the case of a substantiated incident of sexual assault, the perpetrator must be requested to complete an HIV test. If the perpetrator will not voluntarily take an HIV test, the facility Director or designee may seek a court order compelling the test.
6. The victim of sexual assault or attempted sexual assault must be provided mental health assistance and counseling as determined necessary and appropriate. Resident victims of sexual abuse will 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. Female victims of sexually abusive vaginal penetration must be offered pregnancy tests. If pregnancy results from sexual abuse while incarcerated, victims will receive timely and comprehensive information about, and timely access to, all lawful pregnancy-related medical services. All medical and counseling services will be provided at no charge to the victim.
7. The facility Director or designee must notify the MDHHS Juvenile Justice Program Office of the incident.
8. The facility Director or designee also ensures that incidents of sexual abuse/rape, findings from investigations, and other pertinent information is reported to the youth's court of jurisdiction, the youth's worker, and the youth's parent or legal guardian.
9. Records of allegations involving an employee must be kept for as long as the employee is employed or the youth is in residence, plus five years.
10. If a report is received of sexual abuse from another facility, the facility Director must report Director-to-Director to the other facility within 72 hours. (All other applicable reporting requirements still apply.)
11. Allegations received from other agencies or facilities are investigated in accordance with the PREA standards.
12. A designated facility employee must monitor staff and youth to prevent retaliation for a minimum of 90 days after a sexual abuse report is made. Monitoring to prevent retaliation must utilize multiple monitoring techniques, including but not limited to: Direct observation, file and log reviews, and face-to-face contact with victims and/or supporting witnesses. Monitoring activities must be documented in the designated log.

## **G. Alternate Housing Placement of Victims and Perpetrators**

The facility Director or designee must take immediate steps to protect the alleged victim from further potential sexual assault or rape (if still at the facility) by separating the alleged victim from the alleged perpetrator(s) including arranging for separate housing, dining, and/or other elements of daily routine to the extent necessary to ensure protection. These same protections must also be provided to youth(s) believed to be in imminent danger of sexual abuse.

## **H. Investigation Protocols**

Each incident of alleged or reported sexual harassment, sexual abuse or sexual assault/rape must be investigated to the fullest extent possible. Evidence collected must be maintained under strict control. All allegations of sexual abuse or sexual harassment will be referred for investigation to the police unless the allegation does not involve potentially criminal behavior. GLR will not terminate an investigation solely because the source of the allegation recants the allegation. GLR will not terminate an investigation due to the alleged victim or alleged perpetrators leaving the facility. Investigators will not make a determination based on the credibility of the alleged victim. Substantiation of an allegation will be based on an evidentiary standard no higher than a preponderance of the evidence. Based on the results of the investigation, facility personnel and prosecuting authorities will meet to determine if prosecution is appropriate.

1. Suspected or alleged youth-on-youth rape, sexual assault, or forced sexual activity with or without sexual penetration:
  - a. The victim and alleged perpetrator must be separated, kept isolated from each other, and prevented from communicating.
  - b. Reporting must occur as listed in Section F above.
  - c. If the assault is alleged to have occurred within the past 96 hours, the victim must be transported to Marquette General Hospital (or alternate if directed by Administration or emergency personnel) for examination by qualified personnel. If the assault is alleged to have occurred more than 96 hours earlier, the hospital is contacted for instructions.
  - d. Qualified investigators must take victim statements, open an investigation, and if applicable collect physical evidence.
  - e. The area where the suspected assault took place is sealed off until investigators can gather evidence. Note: Staff or medical personnel can enter the area if it is necessary to ensure youth safety, for example if a victim needed medical attention or first aid before being transported, but efforts must be made to disturb the area as little as possible.
  - f. If the abuse occurred within a time period that still allows for the collection of physical evidence, any clothing or articles belonging to

the victim are left in place and not handled or disturbed until investigators have gathered evidence. The victim must be requested to not shower or change clothing before being transported to the hospital. The facility must ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

- g. Staff must not extensively interview victims or alleged perpetrators for incident details beyond obtaining the basic information necessary to inform further actions that must be taken, such as separation of victims and perpetrators, facilitating for victim medical needs, etc.
- h. Staff must submit an Incident Report before the end of their shift. Incident Reports must contain all facts as known, including the victim's statement of allegation in the victim's own words. Incident Reports must not express the writer's opinion.
- i. Staff must not discuss the details of sexual abuse allegations or incidents, beyond the extent needed to maintain safety and security at the facility, with persons other than Supervision/Management, investigators, and prosecuting officials.

2. Suspected or alleged staff-on-youth sexual activity of any type:

- a. Reporting must occur immediately, as listed in Section F above.
- b. The facility Director or designee must make all required notifications, including notification to the suspected employee restricting work activities.
- b. Pending notification from the Director or designee, the suspected employee must not be in direct contact with facility residents.
- c. If there has been suspected or alleged sexual activity of any type the victim is transported for a forensic examination and evidence is protected using the same procedures as listed in items c through g in Section H, Number 1, above.
- d. Dismissal is the presumptive employee discipline upon a substantiated finding of sexual abuse of a resident. All terminations for violations of agency 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.
- e. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
- f. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and

- circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
- g. All terminations for violations of agency 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 other intentional youth-on-youth sexual touching (non-penetrative touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks without penetration by a resident of another resident, with or without the latter's consent) and/or alleged or suspected youth-on-youth sexually abusive contact:
    - a. If reported by youth, observed, or suspected, duty staff must alert Supervision. Supervision must ensure that duty staff document information in an Incident Report and must ensure that youth safety is restored or maintained.
    - b. The facility Director or designee must be notified immediately.
    - c. The facility Director or designee determines applicable reporting and investigation responsibilities and ensures that reporting occurs as required.
    - d. The facility Director or designee makes required notifications as applicable.
    - e. GLR prohibits all sexual activity between residents and will remove privileges from youth for engaging in any form of sexual acting out, however sexual activity is NOT deemed sexual abuse IF the activity was not coerced, as determined through investigation.
  4. Upon receiving any allegation of sexual abuse, the facility head or his or her designee shall promptly report the allegation to the appropriate agency office and to the alleged victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.
    - a. If the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians.
    - b. If a juvenile court retains jurisdiction over the alleged victim, the facility head or designee shall also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation.

**I. Independent Audits and Agency Monitoring and Reporting, Data Collection**

1. In addition to internal administrative review and analysis, and DCWL reviews, an independent and qualified auditor must audit the agency at least every three years. Auditors must be able to access and tour the facility, review documents and records, and interview residents and staff.
2. The facility must designate a PREA compliance manager that has the time and authority to oversee facility compliance efforts.
3. The agency must distribute information to the public on how to report sexual abuse and sexual harassment on behalf of residents, information on its zero tolerance policy for sexual abuse/rape of residents, and sexual abuse data reports.
4. A sexual abuse incident review will be conducted at the conclusion of every sexual abuse investigation unless the allegation has been determined to be unfounded. The sexual abuse incident review team will include at a minimum an upper level Administrator, and a supervisor. The review will occur within 30 days of the conclusion of the investigation. The review team must review each incident of sexual abuse for cause, staffing, and physical barriers, and make recommendations for prevention. Recommendations must be implemented or the reason(s) if not implemented must be.
5. The facility must develop, document, and implement a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring to protect residents from sexual abuse. At least annually, facility Administration and the facility PREA compliance manager must review the plan to ensure:
  - (1) Generally accepted juvenile detention and correctional/secure residential practices;
  - (2) Any judicial findings of inadequacy;
  - (3) Any findings of inadequacy from Federal investigative agencies;
  - (4) Any findings of inadequacy from internal or external oversight bodies;
  - (5) All components of the facility's physical plant (including "blind spots" or areas where staff or residents may be isolated);
  - (6) The composition of the resident population;
  - (7) The number and placement of supervisory staff;
  - (8) Institution programs occurring on a particular shift;
  - (9) Any applicable State or local laws, regulations, or standards.
  - (10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse;
  - (11) Any other relevant factors.

- a. Generally accepted secure residential practices are met.
  - b. Findings of inadequacy are addressed.
  - c. Adequate numbers of Supervisory personnel.
  - d. Physical plant inadequacies, such as “blind spots” on video monitoring systems are addressed to the maximum extent possible.
  - e. Responses are made where there is a prevalence of sexual abuse reporting on a certain shift, in a certain location, with certain personnel, or as pertaining to other factors.
6. Mid or upper level Supervision must make documented unannounced rounds to identify and deter staff sexual misconduct and sexual abuse. All staff are prohibited from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.
7. The conduct and treatment of residents or staff that report an abuse incident, or are cooperating witnesses, must be monitored by mid or upper-level management for at least 90 days.
8. The facility must collect accurate, uniform data for every allegation of sexual abuse. At a minimum the data must be sufficient to answer all questions on the annually-required Survey of Sexual Violence. Aggregated data must be:
- a. Reviewed in order to assess and improve sexual abuse prevention, detection, and response practices.
  - b. Made available to the public through a public Website or some other means at least annually. (Note: Personal identifiers must be removed.)

## **J. Exhaustion of Administrative Remedies**

1. The facility must issue a final decision (initial decision and appeal decision if appealed) on the merits of a grievance alleging sexual abuse or harassment within 90 calendar days of the initial filing of the grievance.
2. The facility may claim an extension of time to respond of up to 70 calendar days if the normal time period for a response is insufficient to make a decision. The facility must notify the youth and the youth’s parent/guardian in writing of any such extension.
3. Third parties, including fellow youths, staff, family, attorneys, and outside advocates may assist a youth filing grievances relating to allegations of sexual abuse and harassment. If a third party, other than the parent or guardian, files a grievance on the youth’s behalf, the facility must request as a condition of processing that the alleged victim agree to the grievance

filed on his behalf and may also require that the alleged victim pursue any subsequent steps in the remedy process. If the alleged victim declines to have the grievance processed on his behalf, the facility must document the youth's decision.

4. At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level.

**AUTHORITY**

1939 PA 280, Social Welfare Act, MCL 400.115a(1)(g)

45 USC 15601, Prison Rape Elimination Act

HISTORY					
<b>Revised:</b>	06/23/2016	10/10/2016	4/4/2018	08/16/2019	

<b>Annual Board Approved:</b>	12/03/2014	12/02/2015	12/07/2016	12/06/2017
12/05/2018				