

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF YOUTH REHABILITATION SERVICES  
POLICY AND PROCEDURES MANUAL**

<b>POLICY NUMBER:</b>	<b>DYRS-006</b>
<b>RESPONSIBLE OFFICES:</b>	<b>Agency-wide</b>
<b>EFFECTIVE DATE OF POLICY:</b>	<b>April 10, 2013</b>
<b>SUPERSEDES POLICY:</b>	<b>N/A</b>
<b>SUBJECT:</b>	<b>Prevention of and Response to Sexual Misconduct</b>

**I. PURPOSE**

The purpose of this policy is to establish DYRS's zero-tolerance approach to sexual misconduct against youth in DYRS custody or retaliation for reporting sexual misconduct. The policy sets forth the agency's approach to sexual misconduct prevention, detection and response.

**II. POLICY**

DYRS staff and youth may not engage in sexual abuse or sexual harassment of youth in DYRS custody or retaliation against staff or youth who have reported sexual abuse or harassment of youth in DYRS custody. DYRS staff shall report and investigate allegations of sexual assault and sexual harassment in conformance with this policy, and shall provide alleged victims and youth perpetrators with needed services and supports. DYRS shall employ supervision and search practices that minimize the possibility of harm to youth in their care, and shall educate youth and staff about their rights and responsibilities under this policy.

**III. AUTHORITY**

This policy is governed by all applicable District of Columbia and Federal laws and regulations including, but not limited to, DYRS Establishment Act, D.C. Official Code §§ 2-1515.01 *et seq.* (2008), the District of Columbia Personnel Manual (DPM), Chapters 16 and 18, the Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. 15601 *et seq.*, and the Department of Justice regulations implementing the PREA standards, 28 C.F.R. Part 115.

**IV. SCOPE**

The policies and procedures herein shall apply to every DYRS staff member and every person who enters the New Beginnings Youth Development Center (New Beginnings) or the Youth Services Center (YSC).

**V. DEFINITIONS**

- A. Employee** – An individual hired by DYRS in a particular employment capacity, or an individual assigned to DYRS to provide services to youth in the care and custody of DYRS. "Employee" has the same meaning as "staff."
- B. Exigent circumstances** – Any set of temporary and unforeseeable circumstances that require immediate action in order to combat a serious threat to the security of a facility.

- C. Compliance Specialist – The facility-based DYRS employee responsible for internal quality assurance, ensuring that staff adhere to facility policies and procedures, laws, rules, and expectations relevant to the secure detention of court-involved youth.
- D. Office of Internal Integrity (OII) – The office responsible for the swift and competent internal investigations into allegations and indications of unprofessional and unlawful conduct by employees or contractors of the Department and investigating allegations of abuse and neglect of youth in DYRS' custody.
- E. Safety Sensitive Position – A staff position with duties and responsibilities that require the employee to provide services that affect the health, safety, or welfare of children or youth, including direct care and custody of children or youth, including but not limited to at least one of the following duties and responsibilities:
  - 1. Recreational activities
  - 2. Delinquency prevention and control services, including custody, security, supervision, and residential and community support services for committed and detained youth
  - 3. Educational activities
  - 4. Individual counseling
  - 5. Group counseling
  - 6. Assessment, case management, and support services
  - 7. Psychiatric and psychological assessment services
  - 8. Medical or clinical service
  - 9. Therapeutic services, including individual and group therapy and play therapy
  - 10. Prevention and intervention services
  - 11. Mentoring services
  - 12. Youth care services
  - 13. Healthcare services, including medical, behavioral, mental health, dental, vision, nutrition, or developmental services
  - 14. Cultural enrichment services
  - 15. Public safety services, including counseling or education intervention services about safety, crime prevention, fire safety, youth problem solving
  - 16. Driving a motor vehicle to transport children or youth.
- F. Secure Facility – A locked residential facility that provides structured twenty-four hour care for youth in the care and custody of DYRS (e.g., the New Beginnings Youth Development Center and the Youth Services Center).
- G. Sexual Abuse –
  - 1. The definition of sexual abuse for purposes of this policy includes:
    - a. Sexual abuse by of a resident by another resident; and
    - b. Sexual abuse of a resident by a DYRS staff member, contractor, or volunteer.
  - 2. Sexual abuse of a resident by another resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:<sup>1</sup>

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<sup>1</sup> This policy is not meant to address sexual contact between two equally willing residents. Such behavior is prohibited under DYRS Policy No. YSA III.8B-001 – Residents' Rights and shall be addressed through disciplinary channels for rule violations contained in that policy.

- a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
  - b. Contact between the mouth and the penis, vulva, or anus;
  - c. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
  - d. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of any person. Sexual abuse does not include contact incidental to horseplay or a physical altercation.
3. Sexual abuse of a resident by a staff member, contractor, or volunteer includes—
- a. Sexual touching by a staff member, contractor, or volunteer, including any of the following:
    - i. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
    - ii. Contact between the mouth and the penis, vulva, or anus;
    - iii. 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;
    - iv. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; and
    - v. Any other intentional touching not required by official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks of any person;
  - b. Any attempted, threatened, or requested sexual touching by a staff member, contractor, or volunteer;
  - c. Indecent exposure by a staff member, contractor, or volunteer;
  - d. Indecent exposure by a staff member, contractor, or volunteer means the display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a resident;
  - e. Voyeurism by a staff member, contractor, or volunteer.
    - i. Voyeurism by a staff member, contractor, or volunteer means an invasion of a resident's privacy by staff for reasons unrelated to official duties, such as peering at a resident who is using a toilet in his or her room to perform bodily functions; requiring a resident to expose his or her buttocks, genitals or breasts other than in a strip search in accordance with DYRS policy; or taking images of all or part of a resident's naked body or of a resident performing bodily functions.
- H. Sexual Harassment –
1. The definition of sexual harassment includes:
    - a. Unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one youth in DYRS custody toward another youth in DYRS custody; and
    - b. Verbal comments or gestures of a sexual nature to a resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
- I. Sexual Misconduct – Actions constituting either sexual harassment or sexual abuse.

- J. Unusual Incident Report – The documentation of unusual incidents involving youth, in accordance with DYRS Policy No. YSA 1.14 (e.g., fights or injuries).
- K. Visitors – People other than employees, contractors or volunteers who come to a facility for a limited time period for official or unofficial reasons.

## **VI. COMPLIANCE COORDINATION**

- A. The DYRS Director shall designate a coordinator responsible for development, implementation and oversight of agency-wide measures to prevent, detect and respond to incidents and allegations of sexual misconduct.
- B. The facility Superintendent at each DYRS secure facility shall designate a PREA compliance manager for that facility. The PREA compliance manager shall have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards.
- C. The Department shall include the obligation to comply with the PREA standards in any new or renewal contracts with private agencies or other entities that operate facilities for youth in the Department's care. The Department shall also include a provision for contract monitoring to ensure compliance with the agency's sexual misconduct policy and the PREA standards.

## **VII. REPORTS OF ALLEGED SEXUAL MISCONDUCT**

- A. Staff shall provide youth with the multiple internal ways for residents to privately report sexual misconduct, retaliation, and staff neglect that may have led to such incidents. The policy governing such methods is DYRS Policy No. DYRS-011, Youth Grievance Policy. The grievance policy, provides in part:
  - 1. Youth may report a grievance by:
    - i. Completing a grievance form and putting it in the grievance box or giving it to a DYRS staff member or a DC Public Defender Service Juvenile Services Program (JSP) staff member;
    - ii. Writing the grievance on any piece of paper and putting it in the grievance box or giving it to a DYRS staff member or a JSP staff member;
    - iii. Talking with JSP staff and indicating that they have a complaint or grievance;
    - iv. Talking with any DYRS staff member, volunteer or contractor and indicating that they have a complaint or grievance; or
    - v. Calling the OII hotline.
- B. When a youth requests a writing implement in order to write a grievance concerning sexual misconduct, staff shall provide the youth with a writing implement at the earliest time that it is safe to allow the youth to have a writing implement. When a youth asks to make a call to the OII hotline, staff shall permit the youth to make the telephone call at the earliest point when it is safe to do so. Youth shall not be required to disclose why they wish to call. Youth shall not be required to disclose that they are calling the hotline during times when they are otherwise permitted to use the telephone.
- C. Staff shall accept and document any reports of sexual misconduct that they receive verbally, in writing, anonymously, or from third parties. The Agency shall not require residents to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual

misconduct. All staff in safety sensitive positions, managers and supervisors are mandated reporters and shall report any allegations of child abuse or neglect in accordance with Policy No. DYRS-008, Reporting of Child Abuse and Neglect.

- D. Staff shall take immediate action to protect youth when informed by any means that he or she is subject to a substantial risk of imminent sexual abuse.
- E. The superintendent at each DYRS secure facility shall ensure that youth detained for immigration purposes receive information on contacting consular officials and the United States Department of Homeland Security.

#### **VIII. SEXUAL MISCONDUCT ALLEGATION INVESTIGATION AND RESPONSE**

- A. Any staff member, contractor, volunteer or visitor to a DYRS secure facility with any knowledge of, suspicion of, or information regarding any of the following at any facility that holds youth in custody shall immediately report the allegation to the Office of Internal Integrity (OII):
  - 1. sexual misconduct involving a youth in DYRS custody;
  - 2. retaliation against residents or staff who reported sexual misconduct; or
  - 3. any staff neglect or violation of responsibilities that may have contributed to an incident of sexual misconduct or retaliation.
- B. Upon receiving any allegation of sexual misconduct, the Program Manager of OII shall:
  - 1. coordinate the response of OII, including any necessary child abuse reporting in accordance with D.C. law and DYRS policy, and any communication with CFSA and MPD; and
  - 2. report the incident to the secure facility Superintendent (if the alleged incident took place at the facility), the Chief of Detained or Committed Services, the Chief of Health Services, Deputy Director and the Director of DYRS.
- C. Medical and mental health practitioners shall
  - 1. report sexual abuse to designated supervisors pursuant to paragraph B(2) of this section; and
  - 2. Inform residents at the initiation of services of their duty to report and the limitations of confidentiality.
- D. Upon receiving any allegation of sexual misconduct, the Superintendent shall ensure that all appropriate medical and behavioral health services are offered to the youth. The Superintendent shall promptly report the allegation 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. If the alleged victim is under the guardianship of a child welfare system, the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians. The Superintendent or designee shall ensure that notification of the attorney of record is made within 14 days of receiving the allegation. If the attorney of record cannot be located or notified, the secure facility Superintendent or designee shall coordinate with the Public Defender Service's Juvenile Services Program to identify counsel.
- E. Direct care, educational, medical and behavioral health staff shall fulfill their mandatory child abuse reporting responsibilities as outlined in the DYRS policy on Reporting of Child Abuse and Neglect (see Policy No. DYRS-008).
- F. Aside from fulfilling reporting responsibilities and cooperating with investigations and supervisory reviews, staff shall keep confidential any information they learn regarding an allegation of sexual

misconduct, and shall comply with the DYRS policy on the Protection and Disclosure of Confidential Youth Information (see DYRS-009).

- G.** The Deputy Director or designee shall ensure that all staff with responsibilities to respond to an allegation of sexual misconduct respond in a coordinated fashion.
- H.** The Department will isolate youth or confine a youth to his or her room only when there are no less restrictive alternatives to keeping a youth and other residents safe after an allegation of sexual misconduct, and then only until an alternative means of keeping all residents safe can be arranged. During any period of isolation, staff will:
1. provide youth with large muscle exercise, required educational programming or special education services, daily visits from a medical or mental health clinician, and access to programming to the extent possible;
  2. clearly document the basis for facility's concern for the youth's safety and the reason why no other alternative arrangement is possible; and
  3. review the continuing need for isolation or room confinement daily.
- I.** Within 72 hours of receiving an allegation that a resident was sexually abused while confined at another facility the Program Manager of OII shall:
1. notify in writing the head of the facility or appropriate central office of the agency where the alleged abuse occurred;
  2. notify the appropriate investigative agency; and
  3. document that he or she provided such notifications.
- J.** OII shall complete investigations and document findings within thirty five (35 days) of a referral for allegations concerning sexual misconduct, retaliation and/or neglect of duty giving rise to such an incident, unless responsibility for the investigation falls with an outside law enforcement entity.
- K.** OII will inform youth in its custody of the outcome of its investigation and document all such notifications.
1. Following an investigation into a resident's allegation of sexual abuse suffered in a DYRS secure facility, OII shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded. If OII did not conduct the investigation, OII staff shall request the relevant information from the investigative agency in order to inform the youth.
  2. For allegations of staff abuse that are substantiated or unsubstantiated, OII will inform youth when:
    - i. The staff member is no longer posted on the youth's unit;
    - ii. The staff member is no longer employed at the facility; or
    - iii. The agency learns that the staff member has been indicted or convicted for a charge related to sexual abuse within the facility.
  3. For allegations of abuse by other youth, OII will inform youth when the alleged abuser has been indicted or convicted for a charge related to sexual abuse within the facility.

## **IX. EVIDENCE COLLECTION**

- A. The first staff members to respond to a sexual abuse allegation shall separate the alleged victim and alleged abuser and request that the alleged victim and alleged abuser not take any action that could destroy physical evidence. If the first staff responder is not security staff, he or she shall notify security staff and OII after requesting the alleged victim not take any action that could destroy physical evidence.
- B. Medical staff shall ensure that youth residents alleged to have been the victims of sexual abuse are transported to Children's Hospital for forensic examinations. Medical staff shall document all efforts to offer access to forensic medical examinations.
- C. DYRS staff shall preserve crime scenes in accordance with the training they have received from the Metropolitan Police Department (MPD).

## **X. VICTIM SUPPORT**

- A. DYRS staff shall offer to arrange for residents to have the support of a victim advocate from outside of the agency. If none is available, youth may be offered support from a behavioral health staff member who has been trained in victim advocacy, sexual assault, forensic examinations, and the needs of young sexual abuse victims. The secure facilities shall inform residents, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of sexual abuse will be forwarded to authorities in accordance with mandatory reporting laws.
- B. The Chief of Health Services shall work with the agency and facility-level coordinators to determine the most appropriate way to provide information about national victim advocacy or rape crisis organizations and how youth can communicate with them in as confidential a manner as possible. The Chief of Health Services shall ensure that all efforts to secure services from rape crisis organizations on behalf of residents are documented.
- C. The Department shall provide access to medical and mental health services, prophylactic treatment and tests for sexually transmitted infections, pregnancy tests, pregnancy-related medical services, and emergency contraception when such treatment is deemed by medical practitioners to be medically indicated. The Department shall provide such services for free and will not condition access upon participation in an investigation of sexual misconduct.
- D. The Department shall offer evaluation and, as appropriate, treatment to youth who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility, including, as appropriate:
  - 1. Follow-up services.
  - 2. Behavioral health services.
  - 3. Treatment plans.
  - 4. Referrals for continued care after transfer or departure.

## **XI. SUPERVISION OF YOUTH DURING SHOWERS, BODILY FUNCTIONS AND CHANGING CLOTHES**

- A. Nonmedical DYRS staff shall not supervise youth of the opposite sex during times when youth shower, change clothes or are otherwise expected to be in a state of undress. However, all staff remain responsible for ensuring that youth are supervised at all times.

- B. Staff of the opposite sex shall announce their presence in areas and during times when youth may be undressed or performing bodily functions and shall allow sufficient time for youth to cover themselves before entering those areas.

## **XII. ACCOMMODATIONS FOR YOUTH WITH DISABILITIES AND YOUTH WITH LIMITED ENGLISH PROFICIENCY**

- A. The Department shall ensure that youth with disabilities have an equal opportunity to participate in or benefit from efforts to prevent, detect, and respond to sexual misconduct by:
1. providing access to interpreters when necessary; and
  2. ensuring that written materials are provided in a way that ensures effective communication.

The Department will ensure that youth with limited English proficiency have meaningful access to the agency's efforts to prevent, detect, and respond to sexual misconduct. The Department will not rely on youth interpreters, readers, or assistants, except when an extended delay could compromise the youth's safety, first-responder duties, or an investigation of a youth's allegations. Further guidance for staff on accessing interpreters and other accommodations for youth with limited English proficiency shall be found in the Department's policy on youth with limited English proficiency.

## **XIII. TRAINING**

- A. The Director of the Office of Professional Development in coordination with the Chief of Health Services shall ensure that all staff in safety sensitive positions, OII staff and the Compliance Specialists receive initial training and refresher training every two years in the following topics:
1. DYRS's zero tolerance for sexual misconduct and retaliation;
  2. How to fulfill responsibilities regarding prevention, detection, reporting and response to sexual misconduct;
  3. Residents' right to be free from sexual misconduct;
  4. The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
  5. The dynamics of sexual abuse and sexual harassment in juvenile facilities;
  6. The factors that make youth vulnerable to sexual abuse and sexual harassment;
  7. Adolescent development for girls and boys, including what is developmentally appropriate sexual behavior for adolescents, what is acceptable behavior of adolescents, how to distinguish between developmentally appropriate adolescent behavior and sexually aggressive and dangerous behaviors, and the ways in which sexual victimization can affect healthy development;
  8. The prevalence of trauma and abuse histories among youth in juvenile justice facilities, possible behaviors of youth with trauma and abuse histories, and appropriate gender specific ways of responding to those behaviors;
  9. The common reactions of juvenile victims of sexual abuse and sexual harassment;
  10. How to detect and respond to signs of threatened and actual sexual abuse and sexual harassment;
  11. How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex or gender nonconforming residents;
  12. How to handle disclosures of victimization by youth in a sensitive manner;
  13. How to preserve evidence associated with instances of sexual abuse;
  14. How to avoid inappropriate relationships with residents;
  15. Relevant laws and policies related to mandatory reporting and age of consent; and



16. Conducting professional, respectful and minimally intrusive cross-gender patdown searches and searches of transgender and intersex youth.
- B. In the years that staff do not receive refresher training, the Office of Professional Development shall provide refresher information on current sexual misconduct policies.
- C. In addition, all full and part-time medical and behavioral health care staff shall be trained in:
  - A. How to detect and assess signs of sexual abuse;
  - B. Their responsibilities for resident education and information gathering outlined in this policy; and
  - C. How to respond effectively and professionally to juvenile victims of sexual abuse
- D. All OII staff responsible for conducting investigations into sexual misconduct shall, in addition to receiving the training listed under Part A, receive specialized training in:
  1. Conducting investigations in confinement settings;
  2. Techniques for interviewing juvenile sexual abuse victims;
  3. Proper use of *Miranda* and *Garrity* warnings;
  4. Sexual abuse evidence collection in confinement settings; and
  5. The criteria and evidence required to substantiate a case for administrative action or referral for prosecution.
- E. Volunteers and contractors who have contact with youth shall be trained on their responsibilities under this policy. All program managers or their designees shall ensure that contractors and volunteers working in their division receive appropriate training, the level and type of which must be based on the services provided by the volunteer or contractor and the volunteer or contractor's level of contact with youth. At a minimum, volunteers and contractors shall acknowledge notification and understanding of the agency's zero-tolerance sexual misconduct policy and ways of reporting sexual misconduct by signing an agreement that includes this information.
- F. The Office of Professional Development shall maintain documentation that all employees have received and understand the training referenced in this standard, and that all volunteers and contractors have acknowledged notification and understanding of the agency's zero-tolerance sexual misconduct policy and ways of reporting sexual misconduct by signing an agreement that includes this information.

#### **XIV. RESIDENT EDUCATION**

- A. During intake at YSC or New Beginnings, medical staff will provide youth with developmentally appropriate information on the Department's zero-tolerance sexual misconduct policy and how to report incidents. Medical staff shall document their provision of this information to youth.
- B. The Chief of Health Services shall create a developmentally-appropriate, trauma-informed program for youth residents at DYRS secure facilities regarding their rights to be free from sexual misconduct and from retaliation for reporting such misconduct. The program shall cover the Department's sexual misconduct response policies and procedures, and shall be accessible to all residents. The Chief of Health Services or designated staff shall ensure that all youth have the opportunity to participate in the program within 10 days of intake to a secure facility and that all resident participation is documented.
- C. Each facility Superintendent or his/her designee shall post in living units and other areas of each secure facility information about youth rights to safety and how to report if they feel unsafe, and shall ensure

that the youth resident handbook for each facility is updated to reflect this and other relevant policies.

## **XV. OUTREACH TO FAMILY MEMBERS AND THIRD PARTIES**

- A.** DYRS staff shall explain to youth and their families the methods available to report the items identified in section VII. A above, including the process to contact OII. DYRS shall publicly distribute information on how third parties can report the items identified in section VIII. A above to OII. The DYRS Family Liaison shall provide information to youths' family members regarding the grievance process and other ways they can be in contact with DYRS staff during family orientation.
- B.** Each secure facility Superintendent or designee shall post information in the visiting areas of secure facilities detailing how family members, attorneys, and other third parties can report complaints, including concerns about youth safety, victimization or retaliation. Additionally, the DYRS family liaison shall provide information on reporting through the grievance process and through other points of access during parent orientation.
- C.** Each secure facility Superintendent or designee shall ensure that information about opportunities to report concerns about youth safety, victimization or retaliation is available to family members during visitation.
- D.** DYRS staff shall ensure that youth have reasonable access to parents or legal guardians and shall provide youth with reasonable and confidential access to their attorneys, as outlined by Policy Number YSA 12.1.

## **XVI. OBTAINING INFORMATION ABOUT RESIDENTS**

- A.** Health Services staff shall gather necessary information about youth residents at DYRS secure facilities in order to keep them safe from harm and provide proper housing and programming. Behavioral Health staff shall complete the Intake Behavioral Health Assessment, Medical staff shall complete the Intake History and Physical Exam, Education staff shall conduct diagnostic tests, and DYRS staff shall conduct an Intake Assessment. This gathering of information shall include a review of the Department's records about any prior stay by the youth and a review of the screening and intake sheet provided by Court Social Services, information about current charges, known enemies, and interviews with and observations of each youth.
- B.** Behavioral health staff shall interview each youth within 24 hours of admission to assess their need for behavioral health services and to determine whether a special needs plan is necessary for the youth to reduce the risk of sexual abuse by or upon a resident.
- C.** During this assessment, behavioral health staff shall discuss with each youth his or her perceptions and concerns about vulnerability to sexual misconduct in the facility, including the possibility of victimization due to sexual orientation, gender identity, gender expression, prior sexual victimization, mental health status, and mental or physical disabilities.
- D.** If the screening indicates that a youth has experienced prior sexual victimization or has engaged in sexual abuse, the Department will offer youth a follow-up meeting with a medical or mental health practitioner within 24 hours.
- E.** Pursuant to the agency's behavioral health protocols, all youth shall receive a behavioral health evaluation with three (3) days of arrival.

- F. The information gathered in these interviews and record reviews shall be kept confidential to be used only for treatment, housing and placement purposes, and to comply with mandatory reporting requirements.
- G. Staff shall not place youth in isolation in order to protect them from victimization except as described in Section VIII.H.
- H. The classification committee shall use the information gathered to decide where each youth should be housed, and whether any special plans for youths' programming, education and other activities are needed in order to keep residents safe. The committee shall develop such plans as needed.
- I. In accordance with DYRS-007, Lesbian, Gay, Bisexual, Transgender, Questioning and Intersex (LGBTQI) Youth, all classification and housing decisions at DYRS secure facilities shall be based on youths' individualized needs, prioritizing the youth's physical and emotional well-being. LGBTQI youth shall not be placed in particular housing or other assignments based solely on their LGBTQI status, nor shall any staff consider LGBTQI status an indicator of likelihood of being sexually abusive. Placement and programming assignments for each transgender or intersex youth shall be reassessed by the classification committee at least twice each year, in addition to the provision in DYRS-007 that allows for youth to request review by the committee at any time.

## **XVII. PROTECTION AGAINST RETALIATION**

- A. DYRS staff and youth shall not retaliate in any manner against any youth or staff who have raised or are involved in allegations of sexual misconduct.
- B. Residents or staff who fear retaliation for reporting misconduct or cooperating with investigations will be provided with protection measures if desired, such as housing changes, removal of alleged staff or resident abusers from contact with victims or reporters of alleged misconduct, and emotional support services.
- C. For at least 90 days following a report of sexual abuse, the Superintendent of a secure facility shall monitor the conduct or treatment of residents or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. Monitoring will continue beyond this 90 day period as needed. The obligation to monitor shall terminate if OII determines that the allegation of sexual misconduct is unfounded.

## **XVIII. YOUTH DISCIPLINE**

- A. A resident may be subject to disciplinary sanctions for sexual misconduct only pursuant to the formal disciplinary process delineated in YSA-III8b-001 – Residents' Rights. Any disciplinary sanctions shall be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.
- B. When the hearing officer at YSC or New Beginnings conducts disciplinary hearings for youth accused of engaging in sexual misconduct or youth who have been victims of sexual misconduct and whose subsequent behavior violates facility rules, the hearing officer:

1. Shall consider whether a youth's mental disabilities, mental illness, or previous victimization contributed to his or her behavior when determining an appropriate response;
  2. May consult with Health Services staff and the secure facility Superintendent when determining an appropriate course of action; and
  3. May consider referring a youth to therapy or counseling in lieu of a sanction.
- C. If a youth refuses treatment or counseling, staff shall not use that refusal as a reason to deprive the youth of general programming and education in the facility.
- D. Staff shall not discipline youth for sexual contact with a staff member unless there is a finding that the staff member did not consent.
- E. Staff shall not discipline a resident for filing a grievance regarding sexual misconduct, made in good faith and based upon a reasonable belief that the alleged conduct occurred, even if it is not substantiated.
- F. During any period of isolation or room confinement issued pursuant to the disciplinary process as a result of a substantiated finding of a youth's sexual misconduct, staff shall comply with YSA-II18b-001 – Residents' Rights, and provide all protections enumerated in Section VIII(H) of this policy.

#### **XIX. STAFFING**

- A. The Department shall implement a staffing plan that provides for adequate levels of direct supervision at its secure facilities to protect youth against sexual misconduct. The staffing plan shall comply with all requirements enumerated in 28 CFR 115.313. The staffing plan shall be complied with absent exigent circumstances.,
- B. At least annually, the secure facility superintendents and the PREA Coordinator shall determine whether modifications to the staffing plan, staffing patterns, deployment of video monitoring systems and other monitoring technologies, and resources to ensure adherence to the staffing plan are needed and make any recommendations to the Deputy Director for Youth Program Services.

#### **XX. SEXUAL ABUSE INCIDENT REVIEWS**

- A. A team of upper management officials, with input from line supervisors, investigators, and medical and mental health staff from Health Services, shall conduct a Sentinel Event Review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. The review shall commence within one week of completion of the investigation.
- 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 alleged incident was motivated by the victim's race, ethnicity, gang affiliation, gender identity, or status or perceived status as gay, lesbian, bisexual, questioning or intersex, or was motivated or otherwise caused by other group dynamics at the facility;

3. Consider how additional or enhanced staff training opportunities could have prevented abuse and how it can prevent future abuse;
4. Examine any barriers to reporting or filing grievances;
5. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
6. Assess the adequacy of staffing levels in that area during different shifts;
7. Assess whether video cameras or other monitoring technology should be deployed or augmented to supplement supervision by staff;
8. Incorporate input from youth and family members or guardians on how to improve the investigation and response process; and
9. Prepare a report of its findings and any recommendations for improvement and submit such report to the Director, Deputy Director, Superintendents, facility PREA compliance manager, and the Program Manager of OII.

- C. The Department shall implement the review team's recommendations for improvement or document its reasons for not doing so.

## **XXI. DATA COLLECTION, ANALYSIS, AND REPORTING**

### **A. Data Collection**

1. The Department shall collect accurate, uniform data for every allegation of sexual misconduct at its secure facilities using a standardized instrument and set of definitions.
2. The Department shall aggregate the incident-based sexual misconduct data at least annually.
3. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the United States Department of Justice's Bureau of Justice Statistics.
4. The Department shall maintain, review and collect data from all available incident-based documents, including reports, investigation files, and sexual misconduct incident reviews.
5. The Department shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents.
6. The Department shall ensure that data collected pursuant to this section is securely retained.
7. After removing all personal identifiers, the Department shall make all aggregated sexual abuse data, from facilities operated by DYRS and from private facilities with which it contracts, available on its website.
8. The Department shall maintain sexual abuse data collected pursuant to this section for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.

### **B. Data Analysis**

1. Annually and also after sentinel events, DYRS shall review data and analyses collected pursuant to this policy in order to assess and improve the effectiveness of its sexual misconduct prevention, detection, and response policies, practices, and training. The assessment and improvement activities shall include:
  - a. Identifying problem areas;
  - b. Taking corrective action on an ongoing basis; and
  - c. Preparing an annual report of its findings and corrective actions for each secure facility and the agency as a whole.

2. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the Department's progress in addressing sexual misconduct.
3. The Department's report shall be approved by the DYRS Director or designee prior to publication on the DYRS website. The agency shall redact all personal identifiers. The agency may redact other specific material when publication of such material would present a clear and specific threat to the safety and security of a facility but must indicate the nature of the material redacted.

**C. Reporting**

1. The Department shall publish this policy and any subsequent modifications on the DYRS public website.
2. The Department shall publish the report prepared in part B of this section on the DYRS public website.

**XXII. AUDITS**

- A. The Department shall conduct audits of its facilities and those operated by private organizations on behalf of the agency as directed in 28 C.F.R. 115.393 – 115.501 and in any further guidance provided by the Department of Justice.

**Approval of the Agency Director:**

*Neil A. Stanley*

Director

*10 April 2013*