

**ZERO-TOLERANCE OF SEXUAL HARASSMENT, ASSAULT,
AND/OR ABUSE OF RESIDENTS**

I. PURPOSE:

To promote and ensure a culture of Zero-Tolerance of sexual abuse and sexual harassment of Residents in Detention or Residential Treatment through the implementation of a variety of preventive measures, and to respond promptly, effectively, and compassionately to allegations of sexual abuse or harassment of a Resident.

II. POLICY:

Spectrum Juvenile Justice Services has zero-tolerance for sexual abuse and/or sexual harassment of Residents, and has implemented a variety of prevention methods to achieve this. Which, are in place in each Facility. In addition, Spectrum Juvenile Justice Services will respond effectively to any and all allegations of sexual abuse or harassment in order to rapidly restore safety, attend to and support the victim, and promptly initiate the investigative process.

III. RESPONSIBLE STAFF:

Facility/Center Director or designee.

IV. STANDARD OPERATING PROCEDURE:

A. Providing Sexual Assault/Rape Prevention Information to Residents

1. The Spectrum Juvenile Justice Services Resident orientation process includes Policy and Procedures relating to prevention of and response to reports of sexual assault/rape. Orientation is provided within the first 72-hours of a Resident's admission and comprehensive PREA education is provided within 10 days of intake. A refresher is provided annually thereafter. The information provided must include but is not limited to:
 - a. Spectrum Juvenile Justice Services *Prevention of Sexual Assault and/or Sexual Harassment 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 SJJS include: 1) Verbally to any Staff, counselor, or Administrator; 2) in writing to any Staff, counselor, or Administrator; 3) in writing through the Resident and family Grievance process; and, 4) Externally by telephoning the DHHS Hotline. 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. Potential disciplinary action(s) for making false allegations.
2. The information must be provided verbally and in written form, and the information must be presented in a language and format that each Resident can understand.
 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 acknowledgement form must be filed in the Resident's case record.
 6. The use of Resident interpreters is prohibited except in limited circumstances when delay in translation could compromise Resident safety or the performance of first responder duties.

B. Resident Assessment

1. Each Resident's behavior history must be reviewed 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.

*All Residents that disclose any prior sexual victimization during screening must be offered a follow-up meeting with a medical or mental health practitioner within 14-days. All Residents that disclose during screening that they previously perpetrated sexual abuse are offered a follow-up meeting with a mental health practitioner. These referrals must be documented.

2. Each Resident must be evaluated as part of the Orientation process to determine if the Resident is prone to victimize other Resident, 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. Spectrum Juvenile Justice Services will 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.

4. Lesbian, gay, bisexual, transgender, or intersex (LGBTI) Residents may not be housed solely on the basis of such identification or status. In addition, Spectrum Juvenile Justice Services will:
 - a. Decide on a case-by-case basis whether to place a transgender or intersex Resident 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 Resident's own view of his/her gender identity will also be a key factor in the determination of 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 Residents the opportunity to shower separately from other Residents.
5. A Resident may be isolated from other Residents as a preventive and protective measure, but only as a last resort when other less restrictive measures are inadequate to keep the Resident safe from other Residents, and then only until an alternate means of keeping all Residents safe can be arranged. During any periods of protective isolation, Facility Staff may not deny a Resident otherwise under control, access to daily large-muscle exercise and legally-required educational programming or special education services. Any Resident 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.

C. Staff Supervision Relative to Prison Rape Elimination Act (PREA) Standards

1. Staff must recognize that sexual assault/rape can occur in virtually any area in a Residential Facility. Requirements for Staff Supervision of Resident and Staff-to-Resident ratios apply at all times with Staff to Resident ratio during waking hours no greater than 1:5 and Staff to Resident ratio during non-waking hours no greater than 1:10.
2. Staff must always be aware of warning signs that may indicate that a Resident 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 a prior history of committing sex offenses, use of strong arm tactics (extortion), associating or pairing up with a Resident that meets the profile

of a potential victim, exhibiting voyeuristic and/or exhibitionistic behavior, and a demonstrated inability to control anger.

4. All Staff of the opposite gender must announce their presence when entering a Resident housing unit. Staff of the opposite gender shall announce their presence when entering any areas where Residents are likely to be showering, performing bodily functions, or changing clothes.

D. Resident Reporting of Alleged Sexual Assault, Sexual Abuse, and/or Sexual Harassment

All Staff are required to promote a culture of Zero-Tolerance for sexual assault, abuse, and harassment. As such, all Residents must be supported and encouraged to report sexual assault/rape, attempted sexual assault/rape, and/or sexual harassment and be protected from retaliation. A Resident that believes he or she was a victim of a sexual assault/rape, attempted sexual assault/rape or sexual harassment, or believes another Resident was the victim of sexual assault/rape, attempted sexual assault/rape, or sexual harassment, the Resident must be instructed and encouraged to report this information. There are three options available to Residents for reporting such information, and Residents can choose one or more of the options that include:

- 1) Reporting information verbally to a Staff member;
- 2) Writing the allegations down and submitting the written document to a Staff person; and
- 3) Reporting the allegations through the established telephone Hotline. In addition, Residents may use the Facility Grievance process to report any allegations.

Residents who wish to report allegations to a third party/someone outside of the Facility can do so by using the established Department of Health and Human Services (DHHS) Hotline. The Hotline number is visibly throughout each Facility. The hotline number is (855)444-3911. If a Resident requests to report outside of the Facility, the following steps must be taken:

- a. The Staff person receiving the Resident's request to contact the DHHS Hotline must immediately contact the on-duty Supervisor or Manager to facilitate the call. The call is confidential. The Supervisor/Manager is not permitted to eavesdrop on the Resident's reporting.
- b. The Supervisor/Manager will maintain line of sight supervision of the Resident at all times during the call.
- 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 Resident made a call to the hotline.

***Note:** Calls to the Hotline are confidential; however, it could occur that a Resident also volunteers information to Staff about sexual abuse. If at any time a Resident discloses information about sexual abuse to any Spectrum Juvenile Justice Services Staff, Staff

must respond in accordance with the Procedures listed under Section F: *Staff Response to Sexual Abuse/Rape*.

E. Staff Response to Allegations of Sexual Assault and/or Abuse

1. Staff must report immediately any knowledge, suspicion, or information that they receive regarding: An incident of sexual abuse or sexual harassment that occurred in a Facility, whether or not the Facility is part of the agency; retaliation against Residents or Staff that reported such an incident; and/or, any Staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. (*See also Policy 4131: Resident Protection Law Compliance.*)
2. Staff receiving a report of a sexual assault/rape or attempted sexual assault/rape, or Staff that become aware of sexual activity between Residents or between a Resident and Staff, contractor, visitor, or volunteer must immediately report this to the immediate Supervisor. The Supervisor must immediately relay the report to the Facility Director or manager-level designee. That Administrator is responsible for notifying the Division of Child Welfare Licensing (DCWL).
3. The Staff member receiving the report of actual or suspected sexual abuse or rape must immediately call Child 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 *DHHS-3200, Report of Actual or Suspected Child Abuse or Neglect*, within 72-hours of becoming aware of the incident. Staff members must also comply with all rules for mandated reporters as articulated in the Child Protection Law and all related Spectrum Policies (e.g., *Abuse and/or Neglect of Consumer Policy*).
4. If it is believed or determined that a sexual assault/abuse occurred and that the alleged sexual assault/abuse occurred within the last 96-hours, the Facility Director or designee must make immediate arrangements to transport the Resident to the Facility-designated emergency room 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.
5. Following emergency response and completion of the rape kit (if applicable) a Resident 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 Residents/victims must be provided with pregnancy tests and/or emergency contraception without financial cost to the victim. If the medical provider has not done so, Spectrum must also coordinate the services of a Sexual Assault Nurse Examiner.
6. Alleged victims and alleged perpetrators of sexual assault must be encouraged to complete tests for sexually transmitted diseases, including an HIV test. Sexually

transmitted infections prophylaxis must be given in accordance with professionally accepted standards of care, without financial cost to the victim, and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. 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 must seek a Court Order compelling the test.

7. The Facility Director or designee will report allegations of sexual abuse to the alleged victim's attorney within 14-days of receiving the allegation.
8. The victim of sexual assault/rape or attempted sexual assault/rape must be provided mental health assistance and counseling as determined necessary and appropriate. The Center Director or designee must notify the DHHS Bureau of Child Welfare and Juvenile Programs of the incident.
9. Ongoing Medical and mental health services must be available to the victim of sexual assault/rape or attempted sexual assault/rape throughout the victim's stay in the Facility.
10. The victim of sexual assault/rape or attempted sexual assault/rape must be provided access to legal representation and/or other support services.
11. The Facility Director or designee also ensures that incidents of sexual abuse/rape, findings from investigations, and other pertinent information is reported to the Resident's Court of jurisdiction, the Resident's Case Worker, and the Resident's parent or legal guardian.
12. All records of allegations of sexual assault/rape must be maintained for a minimum of ten years.
13. 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.)
14. A designated Facility employee must monitor Staff and Resident to prevent retaliation for a minimum of 90-days after a sexual abuse report is made.
15. Following the outcome of an investigation, follow-up regarding the results of the investigation must be provided to the Resident who is the alleged/confirmed victim.

F. Reporting to Residents

Following an investigation into an allegation of a Resident's sexual abuse suffered in the Facility/Center, the Director shall request the findings of the investigation from the external legal authority responsible for conducting the investigation in order to inform the

Resident whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

If the substantiated perpetrator was a Staff person, the Director must inform the Resident when the Staff person is:

- a. No longer employed at the Facility
- b. Has been indicted on a charge related to sexual abuse in the Facility
- c. Has been convicted on a charge related to sexual abuse within the Facility
- d. Is no longer posted on the Resident's unit.

All notifications and attempts to notify Residents of the outcomes of an investigation must be documented in writing by the Facility Director.

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 be provided to any youth believed to be in imminent danger of being sexually abused.

H. Investigation Protocols

Each incident of alleged or reported sexual abuse or sexual assault/rape must be investigated to the fullest extent possible. Evidence collected must be maintained under strict control. SJJS will not terminate an investigation solely because the source of the allegation recants the allegation. SJJS will not terminate an investigation due to the alleged victim or alleged perpetrators leaving the facility. Based on the results of the investigation, legal authorities will determine if prosecution is appropriate.

1. Suspected or alleged Resident-on-Resident 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 Children's Hospital of Michigan (or other Hospital with personnel qualified to perform forensic examinations of children as designated by Administration) 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. The Police must be contacted to take victim statements and open an investigation.
 - 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 Resident 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. The victim must be requested to not shower, wash, or change clothes before being transported to the Hospital. The alleged perpetrator must be prevented from changing clothes, washing, or showering. Any clothing or articles belonging to the victim are left in place and not handled or disturbed until investigators have gathered evidence.
 - 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-Resident 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 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.
 3. Any other intentional Resident-on-Resident 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 Resident-on-Resident sexually abusive contact:
 - a. If reported by Resident, observed, or suspected, duty Staff must alert Supervision. Supervision must ensure that duty Staff document information in an Incident Report and must ensure that Resident safety is restored or maintained.
 - b. The Facility Director or designee must be notified immediately.
 - c. The Facility Director or designee determines applicable reporting responsibilities and determines if an external investigation is required.

- d. The Facility Director or designee makes required notifications as applicable.
4. No standard higher than a preponderance of the evidence may be imposed by the Agency in determining whether allegations of sexual abuse or sexual harassment are substantiated.

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. Facility Management must review each incident of sexual abuse for cause, Staffing, and physical barriers, and make recommendations for prevention and implementation of remedy(s).
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:
 - 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.
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 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 the company website at least annually. (Note: All personal identifiers must be removed prior to publishing any data.) See *Sexual Abuse and/or Assault Incident Data Collection, Review, Data Storage and Reporting* policy for specific details.

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 Resident and the Resident’s parent/guardian in writing of any such extension.
3. Third parties, including fellow Residents, Staff, family, Attorneys, and outside advocates may assist a Resident 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 Resident’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 Resident’s decision.

K. Appointment of Facility-Level PREA Coordinators

In order to ensure effective coordination and facilitation of Zero-Tolerance and PREA-related issues, including but not limited to training, ongoing participation in related professional development activities, and maintaining internal oversight of compliance with national and agency standards, a PREA Coordinator position has been established at both Spectrum Juvenile Justice Services facilities.

L. Related Policies to Prevention of Sexual Abuse and/or Harassment

Other Policy articles in this Policy manual support and address the PREA standards in addition to regulating other activities. They include, but are not limited to: Body searches, Resident supervision, cross-gender viewing, employee and volunteer screening, Staff training, outside agency/entity agreements, investigations, health screenings and medical services, counseling and transition services, Staff discipline, and mental health screenings. In addition, other state and federal laws may be related to PREA (e.g., Child Protection Law) as well as, other Spectrum policies.

M. Definitions

Resident-on-Resident sexually abusive penetration: Any sexual penetration coerced by a Resident of another Resident. 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.

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.

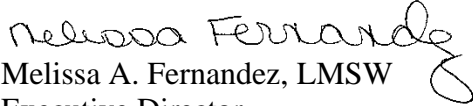
Staff sexual misconduct: Includes any behavior or act of a sexual nature directed toward a juvenile or Resident by an employee, volunteer, contractor, official visitor, or other agency representative. Sexual relationships of a romantic nature between Staff and Resident are included in this definition.

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

For additional definitions, please refer to the *Juvenile Justice Residential Glossary*

N. Cross-Referenced Policies

1939 PA 280,
Social Welfare Act, MCL 400.115a(1)(g)
115.311 Prison Rape Elimination Act (PREA)
115.333 PREA
115.341 PREA
115.351 PREA
115.354 PREA
115.361 PREA
115.362 PREA
115.363 PREA
115.364 PREA
115.366 PREA
115.367 PREA
115.368 PREA
115.372 PREA
115.373 PREA
115.382 PREA
115.386 PREA


Melissa A. Fernandez, LMSW
Executive Director
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