

Policy Title:	Prison Rape Elimination Act Policy & Procedure		
Section:	Programming	Policy #:	4013
Issued By:	Residential Director	Effective Date:	11/1/2022
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Federal/State Regulation(s):	Federal: 45 USC 15601, Prison Rape Elimination Act (PREA), State: 1939 PA 280, Social Welfare Act, MCL 400.115a(1)(g)		
CARF Standard(s):	NA		

Policy Statement: Holy Cross Services maintains a zero-tolerance policy when it comes to sexual harassment, sexual assault/rape of participants within any agency program. Agency personnel must follow all rules and expectations designed to prevent sexual harassment, sexual assault/rape and must cooperate with law enforcement, prosecutors, and the courts in the investigation and possible prosecution of anyone involved in the sexual harassment, sexual assault/rape of any participant.

Purpose: To implement the Prison Rape Elimination Act (PREA) and prevent sexual harassment, sexual assault/rape of participants in residential care.

Definitions

Sexual Harassment is defined as either of the following:

1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one participant toward another participant; or
2. Repeated verbal comments or gestures of a sexual nature to participant 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.

Sexually abusive contact is defined as non-penetrative touching (either directly or through the clothing) of the genitalia, anus, groin, breast, inner thigh, or buttocks without penetration by a participant or coworker of a participant, with or without the latter's consent, or of a participant who is coerced into sexual contact by threats of violence, or of a participant who is unable to refuse.

Sexually abusive penetration is defined as any sexual penetration by a participant or coworker of a participant with or without the latter's consent, or of a participant who is coerced into the sexual contact by threats of violence, or of a participant who is unable to refuse. 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.

Voyeurism is defined as an invasion of privacy of a participant by a staff member, contractor, or volunteer, for reasons unrelated to official duties, such as peering at a participant who is using a toilet; requiring a participant to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a participant's naked body or of a participant performing bodily functions.

Procedure: It is the policy of Holy Cross Services that sexual activity between participants is a violation of facility rules but is NOT deemed a sexual assault IF the activity is determined to not be coerced.

Sexual activity between coworkers and participants is strictly prohibited. Such activity, when substantiated through investigation procedures, will result in the immediate termination of the coworker in question, reporting to local law enforcement personnel and reporting to Child Protective Services, as appropriate.

1. The facility Manager or designee is responsible for direct oversight, orientation and training of all coworkers and participants at the facility regarding understanding and implementation of this policy and its associated procedures, including participants who have been transferred from one HCS facility to another HCS facility.
2. Providing Sexual Assault/Rape Prevention Information to participants: The facility orientation process includes policies and procedures relating to prevention of and response to reports of sexual assault/rape and must be provided to participants within 72 hours of intake. Signs are posted listing options for reporting sexual abuse, external authorities, including the phone number for the Michigan Department of Health and Human Services, Child and Adult Protective Services, Centralized Intake Unit, at locations where the sign can be seen by participants and visitors. The information provided includes but is not limited to:
 - a) Informing the participant of the zero-tolerance policy.
 - b) Self-protection including avoiding risk situations related to sexual assault prevention/intervention.
 - c) Reporting procedures; how to report rape or sexual activity, in a variety of reporting channel options. Participants 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. Participants may be subject to disciplinary sanctions for sexual contact with staff only upon substantiated findings that the staff member did not consent to such contact.
 - d) Treatment and counseling, how to obtain counseling services and/or medical assistance if victimized.
 - e) Protection against retaliation. Participants/ staff are monitored for a minimum of 90 days following the report or involvement in the investigation of a sexual abuse situation to protect those persons from 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.
 - h) The information is provided verbally and in written form, and the information is in a language and format that the participant can understand. Interpretive services are to be made available for participant with hearing impairments and for those not proficient in the English language.
 - i) Video presentations may be used to supplement the content of the presentation, but direct verbal and written information must be included.
 - j) Each participant signs a written acknowledgement form for the sexual assault/rape prevention portion of the orientation.
 - k) The signed acknowledgment form is filed in the case record of the participant.
 - l) All participants receive comprehensive PREA education (including, but not limited to, legal rights, healthy and socially appropriate sexual activities, and how to respond to abuse and

harassment), within 10 days of entry into the HCS residential program.

3. Participant Assessment:

- a) The behavior history of all participants must be reviewed as part of the intake process to determine potential risk of sexual vulnerability based on the following risk factors:
 - i. Age
 - ii. Physical stature
 - iii. Developmental disability
 - iv. Mental illness
 - v. Sex offender status (per offense history)
 - vi. First-time offender status
 - vii. History of victimization
- b) The participant must be evaluated as part of the intake process to determine if the participant is prone to victimize other participants, especially regarding sexual behavior, based on the following risk factors:
 - i. History of sexually aggressive behavior
 - ii. History of violence as related to a sexual offense
 - iii. Anti-social attitudes indicative of sexually aggressive behavior
- c) All participants that disclose any prior sexual victimization during a screening receive a follow-up meeting with a medical or mental health practitioner within 14 days. All participants that disclose during screening that they previously perpetrated sexual abuse receive a follow-up meeting with a mental health practitioner within 14 days. NOTE: all participants receive such mental health and medical services. Ongoing medical and/or mental health treatment as determined as clinically necessary will be provided to all known sexual abuse victims and perpetrators that were victimized in an institutional setting or perpetrated abuse in an institutional setting. The facility must attempt to conduct a mental health evaluation of all known participant-on-participant abusers within 60 days of learning the abuse history, and provide treatment, when deemed appropriate, by mental health practitioners. Treatment services are provided to every victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- d) The facility must use all information obtained to make housing, bed, program, education, and work assignments for participants with the goal of keeping them safe and free from sexual abuse. The facility must document how the assessment information was used to inform placement and assignments.
- e) Participants who identify as lesbian, gay, bisexual, transgender, or intersex (LGBTI) may not be housed solely based on such gender identification or status. In addition, the facilities must:
 - Decide on a case-by-case basis whether to place a participant who identifies as transgender or intersex in a facility for male or female participants. Placement decisions are based on whether the placement would ensure the health and safety of the participant, and whether the placement would present management or security problems.
 - Review placement and programming assignments at least twice each year to assess any threats to safety experienced by participants.
 - Allow participants who identify as transgender and intersex the opportunity to shower separately from other participants.

- For every participant, their own view of gender identity must be considered when determining placement.
 - Participants must not be considered more likely to perpetrate sexual abuse solely because of LGBTBI identity.
- f) Assessment activities must be documented.
- g) Staff must not search or physically examine a participant who identifies as transgender or intersex for the sole purpose of determining genital status. If genital status is unknown, it may be determined during conversations with the participant, by reviewing medical records, or, if necessary, by learning such information as part of a broader medical examination conducted in private by a medical practitioner.
4. Staff Training on Offender Sexual Assault/Rape Prevention and Reporting:
- a) All facility staff must complete initial training for sexual assault/rape prevention, incident response, and reporting. All facility staff must complete annual refresher training. At the conclusion of each training session, staff must sign that they attended and understood the training. This signature sheet is kept on file for a period determined by the Record Retention Schedule. All facility contractors and volunteers must at a minimum be oriented on the zero-tolerance policy, facility rules and practices for preventing sexual abuse, ensuring safety, and for reporting abuse. Contractors and volunteers must sign that they have received and understood Prison Rape Elimination Act orientation and that they will follow the rules and practices. All staff, volunteers, and contracted personnel receive training on detecting signs of sexual abuse, preserving physical evidence, effective response, and reporting.
- b) All facility staff must read this policy prior to assuming duties with the participant, 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 policy. This signature sheet is kept on file.
- c) As a part of training on the rights of participants and cultural and diversity competence, all staff receive training on appropriate boundaries, dignity, and considerations in care of persons respective to gender, sexual orientation, gender identification, history of known and unknown trauma, literacy and English language proficiency, and other factors.
- i. As a part of the training of treatment staff on rights of participants to accessibility, including education, protection, and services, staff are directed to read materials to participants as needed, and programs arrange for translators or other assistive technology or services to meet these needs. Other participants in care or the participant's family members are not used to serve as interpreters unless in exigent circumstances.
 - ii. Full access to services and freedom from violations of dignity is made to all participants respective to gender, sexual orientation, gender identification, and gender expression.
- d) In pre-employment interviews of a prospective staff person, interview questions must ask the following: "Have you engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution? Have you been convicted or been civilly or administratively adjudicated for 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?"
- e) Direct care staff must be trained in how to conduct a part-down search. Cross gender pat

searches are prohibited, except in exigent circumstances. In that event, exigent circumstances must be documented with justification of the circumstances leading to cross gender pat search.

- f) Searches of transgender and intersex participants must be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. Staff that search transgender and intersex participant must be trained in how to conduct such searches.
 - g) All full and part time medical and mental health care practitioners that work regularly with participants must receive specialized training on: Detecting signs of sexual abuse, preserving physical evidence, effective response, and reporting. The training will be documented in personnel records.
 - h) Staff that conduct administrative investigations of sexual abuse allegations must receive specialized training on conducting such investigations. (Note: If the facility reports all allegations of sexual abuse and harassment to police or CPS for investigation—and this is generally not the case since some allegations, for example allegations of participant-on-participant sexual harassment—are more commonly investigated administratively at most facilities, then specialized training for investigators would not be necessary.)
5. Staff Supervision Relative to Prison Rape Elimination Act Standards:
- a) Staff must recognize that sexual assault/rape can occur in virtually any area in a residential facility. Staff must maintain proximity and awareness supervision of participants under their care.
 - b) Staff must always be aware of warning signs that may indicate that a participant 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, seeking protective custody, and refusing to leave isolation.
 - c) 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 participant that meets the profile of a potential victim, exhibiting voyeuristic and/or exhibitionistic behavior, and a demonstrated inability to control anger.
 - d) Staffing plans, and supervisors' rounds of observation include provisions to monitor proper proximity and awareness of participants, and appropriate boundaries and conduct of staff (unannounced supervisory rounds). Observations of program staffing, and staff supervision of participants are documented in the appropriate log.
 - e) Unannounced rounds will be conducted by designated supervisory staff representing all three shifts. Unannounced rounds will be documented; such documentation will include the date, time and name of the person conducting the unannounced round. Prior notification of unannounced rounds to staff on duty shall be strictly prohibited.
 - f) Staff search of participant follows site protocols and Agency policies and procedures related to personal searches (*Policy 4002-Participant Search & Seizure*).
 - g) Except in exigent (unforeseen, temporary, and necessary) circumstances, cross-gender staff are prohibited from viewing participants when they are changing clothes, showering, or performing bodily functions, and cross-gender pat-down searches are prohibited. Any instance of cross-gender viewing or a cross-gender body search must be documented. Opposite gender staff must announce their presence when entering an area where a participant might be changing clothes, showering, or performing bodily functions. Strip

searches and body cavity searches are prohibited.

- h) When any staff enters the juvenile justice unit, they must announce their presence. Further, when staff of the opposite gender enter the sleeping area and bathroom areas of the facility, 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.

6. Participant Response to Sexual Assault/Rape:

- a) Participants must be supported and encouraged to report sexual assault/rape, or attempted sexual assault/rape, and protected from retaliation. A participant that believes that they were the victim of a sexual assault/rape or attempted sexual assault/rape, or believes another participant was the victim of sexual assault/rape or attempted sexual assault/rape, must report this information to a staff member. Participants may also write down their report and use residential facility feedback boxes or the Agency's grievance system to submit reports. Participants must also have access to an outside reporting option such as an advocacy group, the state's Ombudsman, or Michigan Department of Health and Human Services, Child and Adult Protective Services, Centralized Intake Unit. Confidentiality to make these reports to someone or some agency outside of the facility must be facilitated in the most confidential manner possible, within safety and security guidelines. Reports from a third party, such as parent/guardian, legal representative, or referring agency, are to result in reporting to external authorities (DHHS/CPS, DCWL).
- b) Third parties, including other participants, staff, family, attorneys, and outside advocates may assist a participant filing grievance relating to allegations of sexual abuse and harassment. If a third party, other than the parent or guardian, files a grievance on behalf of a participant, the facility must request as a condition of processing that the alleged victim agree to the grievance filed on his/her 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/her behalf, the facility must document the decision.
- c) Participants 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. Participants age 18 and older must give written informed consent before medical/mental health personnel engage in reporting regarding victimization occurring outside of a facility or institutional setting.
- d) Following a participant's allegation that a staff member has committed sexual abuse against the participant, HCS documents the allegation, investigates, and informs the participant of the outcome of the investigation. HCS must also inform the participant (unless the facility has determined that the allegation is unfounded) whenever:
- The staff member is no longer posted within the participant's unit.
 - The staff member is no longer employed at the facility.
 - HCS learns that the staff member has been indicted on a charge related to sexual abuse within the facility.
 - HCS learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- e) Following a participant's allegation that he or she has been sexually abused by another participant in the facility, HCS subsequently informs and documents informing

the participant of the investigation outcome. HCS also informs the participant whenever:

- HCS learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 - HCS learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- f) Participant Grievances related to sexual abuse allegations:
- A grievance alleging sexual abuse can be filed at any time regardless of when the incident allegedly occurred.
 - Third party grievances alleging sexual abuse are accepted.
 - A grievance alleging sexual abuse or sexual harassment does not have to be submitted to the person that is the subject of the allegation.
 - There is no requirement that participant use an informal process for resolving grievances alleging sexual abuse or sexual harassment.
 - Emergency grievances alleging sexual abuse and/or the imminent threat of sexual abuse must be responded to immediately.
7. Staff Response to Sexual Assault/Rape:
- a) Staff receiving a report of a sexual assault/rape or attempted sexual assault/rape, or staff that become aware of sexual activity between participants or between a participant and staff, contractor, visitor, or volunteer must immediately report this event to their supervisor. Staff will report all such allegations or information, including those made in writing or orally, from participants, family members, or any third party even when made anonymously. The supervisor must immediately relay the report to the facility manager or manager-level designee. That administrator is responsible for notifying the Bureau of Child and Adult Licensing (MI Department of Health and Human Services).
 - b) The staff member receiving the report of actual or suspected sexual abuse or rape must complete and 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. The DHHS 3200 is filed with the facility manager or designee for submission to the proper authority.
 - c) 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 program manager or designee must make immediate arrangements to transport the participant to the facility-designated emergency room (list available in each program location) 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 will be contacted for further instructions.
 - d) Following emergency response and completion of the rape kit (if applicable) a participant 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. Participants are offered tests for sexually transmitted infections as medically appropriate.
 - i. Female victims of sexually abusive vaginal penetration must be offered pregnancy tests. If pregnancy results from sexual abuse while in residential treatment, victims will receive timely and comprehensive information about, and timely access to, all lawful medical services.

- e) Alleged victims and alleged perpetrators of sexual assault must be encouraged to complete an HIV/other Sexually Transmitted Disease test(s). In the case of a substantiated incident of sexual assault, the perpetrator must be requested to complete an HIV/other Sexually Transmitted Disease test(s). If the perpetrator will not voluntarily take an HIV/other Sexually Transmitted Disease test(s), the facility manager or designee may seek a court order compelling the test.
 - f) The victim of sexual assault/rape or attempted sexual assault/rape must be provided mental health assistance and counseling as determined necessary and appropriate.
 - g) The facility manager or designee ensures that incidents of sexual abuse/rape, findings from investigations, and other pertinent information is reported to the court of jurisdiction, the Juvenile Justice and/or foster care worker as applicable, or the parent/legal guardian of the participant, the MDHHS Division of Child Welfare Licensing, the participant's attorney (if participant has an attorney) and other regulatory authorities, if and as required. If a report is received of sexual abuse that allegedly occurred at another HCS or other agency facility, the facility manager must report such information to the other facility within 72 hours. (All other applicable reporting requirements apply, including MI DHHS CPS, DCWL).
 - h) Advocacy services are to be made available to victims of sexual abuse by advocates outside of Holy Cross Services; all reasonable efforts are to be made to connect victims with the county of jurisdiction's victims' rights/advocacy office of the county court, and/or the local rape crisis and counseling center, as determined by the preference of the participant and service availability.
 - i) If a participant, family member, staff, or other person presents a complaint or grievance that a participant is in imminent danger of being sexually abused, staff are to report to supervisor immediately and supervision will respond immediately with an internal investigation and actions as indicated to prevent such abuse, protect participant in care, which shall be documented and entered into the record(s) of involved participant. A final determination and plan for safety and protection is made within 5 days.
 - j) Staff are educated to not engage in any retaliation pursuant to a participant or other person making a report, allegation, or grievance regarding sexual abuse, as well as any report, allegation, complaint, or grievance. Staff are to inform the administration of their knowledge of any person(s) responding with retaliation; and administration is to document monitoring for retaliation for 90 days minimum, and longer as need is determined. Administration will engage in appropriate and documented responses to all such retaliation.
8. Alternate Living Space Placement of Victims and Perpetrators:
- a) The facility manager 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 and responses must be taken for any participant believed to be in imminent danger of being sexually abused.
9. Investigation Protocols: Each incident of alleged or reported sexual abuse or sexual assault/rape must be fully investigated possible. Evidence collected must be maintained under strict control.
- a) If an allegation of sexual abuse or sexual assault/rape of a participant is made against a coworker(s), the Agency must immediately contact Child Protective Services (CPS), the local police and MDHHS Licensing.

- i. MDHHS Licensing will conduct a formal investigation.
 - ii. HCS cannot initiate any internal investigation until MDHHS has completed their investigation. This is to ensure there is no possibility of the Agency unduly influencing the investigation one way or another.
 - iii. Following the outcome of the MDHHS Investigation, the Agency may be required to complete its own internal investigation to identify corrective action opportunities and to facilitate remediation, if necessary and appropriate.
- b) HCS will not terminate an investigation solely because the source of the allegation recants the allegation.
 - c) HCS will not terminate an investigation due to the alleged victim or alleged perpetrator(s) leaving the facility.
 - d) Investigators will not decide based on the credibility of the alleged victim.
 - e) Substantiation of an allegation will be based on an evidentiary standard no higher than a preponderance of the evidence.
 - f) Based on the results of the investigation, facility personnel and prosecuting authorities will meet to determine if prosecution is appropriate.
 - g) Suspected or alleged participant-on-participant rape, sexual assault, or forced sexual activity with or without sexual penetration, including participant-on-participant sexual touching (intentional non-penetrative touching of a sexual nature, either directly or through the clothing):
 - i. The victim and alleged perpetrator must be separated, kept isolated from each other, and prevented from communicating.
 - ii. The facility manager must be contacted immediately. The facility manager or designee will make necessary required notifications.
 - iii. If the assault is alleged to have occurred within the past 96 hours, the victim must be transported to a hospital for a forensic examination. If the assault is alleged to have occurred more than 96 hours earlier, the hospital is contacted for instructions. Programs have arrangements with area hospitals for emergency medical services.
 - iv. The police must be contacted to take victim statements at the hospital and open an investigation.
 - v. 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 participant 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.
 - vi. 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 not to wash, brush teeth, shower or change clothing before being transported to the hospital. The alleged perpetrator must not be allowed to wash, shower, brush teeth, or change clothing before evidence is collected.
 - vii. Staff must submit an Incident Report before the end of their shift.
 - viii. Note: In cases of sexually abusive touching through the clothing items c. (forensic examination of victim), e. (protection of incident scene), and f. (protection of victim clothing) are not generally required and may be waived at the discretion of the responding Administrator.

- ix. 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.
 - x. 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. Designated staff persons, such as Therapists, supervisors and managers will communicate such information to the parent/legal guardian(s) and referring workers for participant as needed for required and appropriate notifications
 - h) Suspected or alleged staff-on-participant sexual activity of any type:
 - i. The facility manager is immediately notified. The facility manager or designee will make all required notifications, including notification to the police to open an investigation and notification to the suspected employee restricting work activities.
 - ii. Pending notification from the Director or designee, the suspected employee must not be in direct contact with participants.
 - iii. If there has been suspected or alleged sexual penetration 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 1 above.
 - i) HCS administrative decisions on the merits of a report, allegation or grievance regarding sexual abuse are to be made within 90 days of the report, allegation, or grievance; and made in conjunction with the findings of external investigators (DCWL, MI DHHS CPS, law enforcement/court of jurisdiction).
 - j) Facility administration conducts a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigation unless the allegation has been determined to be unfounded. Incident reviews are initiated within 24 hours and conducted in a manner to prevent interference with external investigations, and ordinarily concluded within 30 days of the incident or conclusion of the external investigation, whichever occurs first. A sexual abuse incident review team includes upper-level management officials and allows for input from line supervisors, investigators, medical and/or mental health practitioners. Causes, staffing issues, and physical barriers are considered. The incident review team prepares a report of its findings, including any recommendations for improvement, and submits the report to the Health and Safety Committee. Recommendations for improvement are considered, and a response and prevention plan are implemented and documented as a part of ongoing incident analysis, management, and prevention activities.
10. Independent Audits: In addition to internal administrative review and analysis, 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 participants and staff.
11. Disciplinary Actions
- a) Disciplinary Sanctions for Staff: Staff shall be subject to discipline up to and including termination for violating sexual abuse or sexual harassment policies (28 CFR 115.376). Termination shall be the discipline for staff who have engaged in sexual abuse. Discipline for violations of PREA policies relating to sexual abuse or sexual harassment shall be based on the nature and circumstances of the acts committed,

discipline history and discipline imposed for comparable offenses by other staff with similar histories. All related terminations or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement and to the Division of Child Welfare Licensing (DCWL).

- b) Disciplinary Sanctions for Contractors and Volunteers: Any contractor or volunteer who engages in sexual abuse cannot have contact with participant and must be reported to law enforcement and DCWL (28 CFR 115.377). The facility director or designee shall determine whether to prohibit further contact with participant in the case of any violation of PREA sexual harassment policies.
 - c) Disciplinary Sanctions for Participant: Following any finding that a participant engaged in participant-on-participant sexual abuse, formal due process must be provided for participant discipline. 28 CFR 115.378. Sanctions for participant must correspond with the nature and circumstances of the abuse committed, the participant's disciplinary history, and the sanctions imposed for comparable offenses by other participant with similar histories. The disciplinary process must consider whether a participant has mental disabilities or mental illness that contributed to the behavior when determining what type of sanction, if any, should be imposed. If the facility offers therapy, counseling, or other interventions designed to address underlying reasons or motivations for the abuse, the facility must consider whether to require the offending participant to participate in such interventions as a condition of access to programming or other benefits. Facility staff may discipline a participant for sexual contact with staff only upon finding that the staff member did not consent to such contact. A participant must not be disciplined for making a report of sexual abuse if the participant made the report in good faith. Sexual activity between participants that does not involve coercion is considered a facility rule violation. See JRM 602, Discipline Response System for more information on disciplinary sanctions for participants.
12. The appointed PREA compliance manager oversees compliance at applicable sites and maintains records of all allegations and incidents of sexual harassment, exploitation, or assault of participant by staff or another participant. All incidents are reviewed by the HCS Quality Improvement Committee.
 13. The facility must distribute information to the public on how to report sexual abuse and sexual harassment on behalf of participants, information on its zero-tolerance policy for sexual abuse and sexual harassment of participants, and sexual abuse data reports. This information must be posted on the facility website, or if the facility does not have a website, made publicly available by other means. For this report 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 Victimization. Aggregated data must be reviewed to assess and improve sexual abuse prevention, detection, and response practices. (Note: Personal identifiers must be removed.)
 14. The facility must designate a PREA compliance manager that has the time and authority to oversee facility compliance efforts.
 15. The facility must develop, document, and implement a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring to protect participants from sexual abuse. At least annually, facility Administration and the facility PREA compliance manager must review the plan to ensure: Generally accepted secure residential practices are met; findings of inadequacy are addressed; there are adequate numbers of Supervisory personnel; physical plant



inadequacies, such as “blind spots” on video monitoring systems are addressed to the maximum extent possible; and, 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. The facility must comply with the published staffing plan except during limited and discrete exigent circumstances and shall fully document deviations from the plan during such circumstances. Documentation of deviations to the published staffing plan shall be completed using the agency’s Staffing Plan deviation form, which is maintained onsite.

Related Materials:

HCS Policy 1005 Ethical Standards of Conduct Policy and Procedure

HCS Policy 1006 Internal Investigations Policy and Procedure

HCS Policy 4004 Critical Incidents Sentinel Events Policy and Procedure