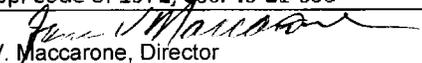


| <b>MISSISSIPPI DEPARTMENT OF HUMAN SERVICES</b><br><b>DIVISION OF YOUTH SERVICES</b><br><b>JUVENILE INSTITUTIONS</b> |   |
|--|---|
| Subject:<br>PREA   | Policy Number:<br>7   |
| Number of Pages:<br>5  | Section:<br>XV  |
| Attachments:<br>A. Student PREA Acknowledgement form<br>B. Staff PREA Acknowledgement form                           | Related Standards & References<br>Prison Rape and Elimination Act of 2003<br>Mississippi Code of 1972, Sec. 43-21-353           |
| Effective Date:<br>March 8, 2013   | Approved:<br><br>James V. Maccarone, Director |

**I. POLICY**

The Mississippi Department of Human Services, Division of Youth Services (DYS), Oakley Youth and Development Center has zero tolerance relating to nonconsensual sexual acts on youths, youth on youth sexual abuse, sexual misconduct, and staff on youth sexual harassment in accordance with the standards set forth in the Prison Rape Elimination Act of 2003 (PREA). The state shall employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards.

**II. APPLICABILITY**

This policy applies to all OYDC employees, independent contractors, and volunteers.

**III. DEFINITIONS**

- A. **Administrator** means the official ultimately responsible for the division, facility, or program operations and management.
- B. **Agency** means the unit of a State, local, corporate, or nonprofit authority, or the Department of Justice, with direct responsibility for the operation of any facility that confine inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.
- C. **Contractor** means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.
- D. **Due Process Hearing Officer** an impartial supervisory staff member or designee assigned to conduct disciplinary hearings and with the authority to impose sanctions.
- E. **Employee** means a person who works directly for the agency or facility.
- F. **Exigent circumstances** mean any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.
- G. **Facility** means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a buildings) that is used by an agency for the confinement of individuals.
- H. **Juvenile** means any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.

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- I. **Juvenile facility** means a facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.
- J. **Nonconsensual Sexual Contact** means touching of an confined youth directly or through clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks for sexual gratification perpetrated by another youth if the victimized youth does not consent or is mentally incapable of consent or perpetrated by an employee, contractor, or volunteer, unless the act is part of a lawful search.
- K. **Pat-down search** means a running of the hands over the clothed body of a confined youth by an employee to determine whether the individual possesses contraband.
- L. **Prison Rape Elimination Act of 2003(PREA)** is the first United States federal law passed dealing with sexual abuse of persons in custody in the U.S. correctional agencies.
- M. **PREA Coordinator** is responsible for coordinating and developing procedures to identify, monitor, and train staff on youth sexual misconduct, harassment and youth on youth sexual abuse or contact.
- N. **Program Integrity Investigator** is the departmental staff member assigned to examine all incidents that potentially involve abuse or unsafe practices involving abuse of youth and/or the safety of youth in the facility.
- O. **Sexual act** means contact between the penis and the vagina or the penis and the anus involving penetration, however slight; contact between the mouth and the penis, vagina, or anus; or penetration of the vagina or anus of another person by hand, finger, or object.
- P. **Sexual Harassment** is bullying or coercion of a sexual nature, or the unwelcomed or inappropriate promise for rewards in exchange of sexual favors.
- Q. **Staff** means employees.
- R. **Strip search** means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.
- S. **Substantiated allegation** means an allegation that was investigated and determined to have occurred.
- T. **Unfounded allegation** means an allegation that was investigated and determined not to have occurred.
- U. **Unsubstantiated allegation** means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- V. **Volunteer** means an individual who donated time and effort on a recurring basis to enhance the activities and programs of the agency.

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#### IV. PROCEDURES

##### A. General Requirement

1. Facility Administrator, or designee, will immediately respond to allegations of youth on youth sexual abuse/contact and staff on youth sexual misconduct and harassment, fully investigate reported incidents in accordance with OYDC Institutional Investigations policy, pursue disciplinary action, and refer for investigation and prosecution those who violate the requirements set forth in this policy.
2. During orientation staff will communicate information to all youths verbally and in writing regarding the facility's zero tolerance of sexual abuse/assault and nonconsensual sexual contact. A juvenile cannot consent to the acts stated above. Consent may not be implied regardless of youth age. Youth will be required to complete the PREA acknowledgement of training. (Attachment A)
3. Youth shall be screened within 72 hours of arrival at the facility for potential vulnerabilities or tendencies of acting out with sexual aggressive behavior and shall be classified and housed according to classification decisions and directives of the Mental Health Professionals.
4. The facility Administrator, or designee, will assign a PREA Coordinator responsible for the following;
  - a. Coordinate and develop procedures to identify, monitor, and train staff on youth sexual misconduct, harassment and youth on youth sexual abuse and contact.
  - b. Conduct audits to ensure compliance with the facility policy, and applicable state and federal laws, and PREA standards at least once a year.
  - c. Compile records and report statistical data on an annual basis as required by PREA standards.
5. The facility will not tolerate retaliation against youth, employees, or other parties for reporting sexual misconduct, individuals that retaliate may face disciplinary actions.

##### B. Youth Reporting

1. Youths who are victims sexual acts/abuse or sexual misconduct should immediately report the incident by one of the following methods:
  - a. Report the incident to a staff member;
  - b. Utilize the Youth's Grievance procedure "locked box" (policy # XV.2 Youth Grievance) or;
  - c. Use the facility confidential child abuse hotline (800-222-8000 or 601-359-4991).

##### C. Prevention and Intervention

1. Sexual contact will be discouraged and prevented through student supervision and the practice of professional ethics by employees.
2. No cross gender strip search or pat-down search shall be done, except in exigent circumstances and must be accompanied with documentation.

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3. The housing units will be staffed with a minimum of 1:10 ratio during waking hours; and 1:20 during sleeping hours, except in exigent circumstances.
4. The JCW Supervisor will make periodic unannounced rounds of each unit.

**D. Victim Services Provided**

1. The facility administrator, or designee, will develop procedures for providing victim services to youth who allege that they are victims of youth on youth sexual abuse/assault or contact or staff on youth sexual misconduct or harassment. Services must include, a minimum:
  - a. Medical examination, documentation, and treatment of injuries shall be processed according to (policy #XI, Medical and Health Care Services).
  - b. Mental health crisis intervention and treatment by the Mental Health Professionals.

**E. Staff Reporting**

1. Whenever there is a sexual assault or threat is reported it is immediately referred to the on-duty supervisor. Per the Mississippi Code of 1972 any individual operating or providing services under the auspices of the authority of the MDHS/DYS including, but not limited to the following: any physician, dentist, nurse, psychologist, school employee, social worker, care giver, including counselor, recreation staff, juvenile care staff, and/or direct care staff are mandatory reporters.
  - a. Any alleged, suspected or observed incident of sexual abuse will be documented according to (policy VII.2, Incident Reporting) using an Incident Report form.
  - b. The form will be completed before the staff person leaves shift, and will be turned in to the shift Supervisor on duty at the time of the shift change.
  - c. The Incident report form will be forwarded to the Program Integrity Investigator for investigation of the incident.
  - d. The Program Integrity Investigator will report all incidents of youth on youth sexual abuse and staff on youth sexual misconduct to the PREA Coordinator.

**F. Investigative Protocols**

1. The Program Integrity Investigator will investigate to determine whether allegation is substantiated, unfounded, or unsubstantiated and process according to (policy # VII.3, Institutional Investigations).

**G. Staff Training**

1. Prior to working with students, all employees, contract employees, and volunteers with direct or incidental contact with youths must sign the Staff PREA Acknowledgement form (Attachment B) and receive documented PREA awareness training concerning; the prohibition of sexual contact with youths; youth on youth sexual contact awareness; procedures for identifying, responding to, resolving, and reporting youth sexual contact. Refresher training will occur every 2 years after initial PREA training.

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**V. DISCIPLINARY ACTION**

- A. Sexual assault between youth and another youth will be referred to the Disciplinary Hearing Officer and processed according OYDC (policy # VII.9 Due Process Hearings).
- B. Sexual conduct between staff, volunteers or contract personnel with a student is prohibited and is subject to administrative and criminal disciplinary sanctions.