

Policy Title:	Prison Rape Elimination Act Policy Statement		
Board Approval:	4/28/2017	Latest Revision:	7/1/2017
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):	N/A		

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

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

This Policy Statement replaces the following Policies:	
HCCS Policy 2095: Prison Rape Elimination Act	HCFYS Policy 1095: Prison Rape Elimination Act

Related Materials:

- HCS Procedure: Prison Rape Elimination Act
- HCS Policy and Procedure: Ethical Standards of Conduct
- HCS Policy and Procedure: Non-Punitive Disciplinary Process
- HCS Policy and Procedure: Internal Investigations
- HCS Policy and Procedure: Critical Incidents Sentinel Events

Policy Title:	Prison Rape Elimination Act Procedure		
Board Approval:	4/28/2017	Latest Revision:	7/1/2017
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):	N/A		

Procedure: It is the policy of Holy Cross Services that sexual activity between youths is a violation of facility rules, but is NOT deemed sexual assault IF the activity is determined to not be coerced. Sexual activity between coworkers and youths 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 youths at the facility regarding understanding and implementation of this policy and its associated procedures, including youths who have been transferred from one HCS facility to another HCS facility.
2. Providing Sexual Assault/Rape Prevention Information to youths: 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 youths 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 youths and visitors. The information provided includes but is not limited to:
 - a) Informing the youth 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. Clients will not be disciplined for making an allegation of sexual abuse or sexual harassment if the investigation determines that the abuse did not occur, so long as the allegation was based upon a reasonable belief that the abuse occurred and the allegation was made in good faith. Youths 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. Youths/ 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 actions(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 youth can understand. Interpretive services are to be made available for youth 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 youth 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 youth.
 - l) All youths 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. Youth Assessment:
- a) The behavior history of all youths 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. Past history of victimization
 - b) The youth must be evaluated as part of the intake process to determine if the youth is prone to victimize other youth, especially in regard to 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 youths 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 youths 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 youths 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 youth-on-youth 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 youths 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) Youths who identify as lesbian, gay, bisexual, transgender, or intersex (LGBTI) may not be housed solely on the basis of such gender identification or status. In addition, the facility must:
 - Decide on a case-by-case basis whether to place a youth who identifies as transgender or intersex in a facility for male or female youths. Placement decisions are based on whether the placement would ensure the health and safety of the youth, 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 youths.
 - Allow youths who identify as transgender and intersex the opportunity to shower separately from other youths.
 - For every youth, their own view of gender identity must be considered when determining placement.
 - Youths must not be considered more likely to perpetrate sexual abuse solely because of LGTBI identity.
 - f) Assessment activities must be documented.
 - g) Staff must not search or physically examine a youth 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 youth, 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 youth, when the policy or procedure changes, and on at least an annual basis. Staff must sign a written acknowledgment that they read and understood the policy. This signature sheet is kept on file.
- c) As a part of training on the rights of youths 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 youths to accessibility, including education, protection, and services, staff are directed to read materials to clients as needed, and programs arrange for translators or other assistive technology or services to meet these needs. Other clients in care or the client'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 youth respective to gender, sexual orientation, gender identification, and gender expression.
- d) In pre-employment interviews of a prospective staff person, 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 pat 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 youths 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 youth 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 youths must receive specialized training on: Detecting signs of sexual abuse, preserving physical evidence, effective response, and reporting. 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 youth-on-youth 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 youths under their care.
 - b) Staff must always be aware of warning signs that may indicate that a youth has been sexually assaulted or is in fear of being sexually assaulted. Warning signs include but are not limited to: isolation, depression, lashing out at others, refusing to shower, suicidal thoughts or actions, 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 youth 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 young people, and appropriate boundaries and conduct of staff (unannounced supervisory rounds). Observations of program staffing and staff supervision of young people are documented in the appropriate log.
 - e) Staff search of youth follows site protocols and Agency policies and procedures related to *Personal Search of Client & Property*.
 - f) (Moved from Section 4 to this section) Except in exigent (unforeseen, temporary, and necessary) circumstances, cross-gender staff are prohibited from viewing youths 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 youth might be changing clothes, showering, or performing bodily functions. Strip searches and body cavity searches are

prohibited.

- g) When staff of the opposite gender enters 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. Youth Response to Sexual Assault/Rape:
- a) Youths must be supported and encouraged to report sexual assault/rape, or attempted sexual assault/rape, and protected from retaliation. A youth that believes that they were the victim of a sexual assault/rape or attempted sexual assault/rape, or believes another youth was the victim of sexual assault/rape or attempted sexual assault/rape, must report this information to a staff member. Youths may also write down their report and use residential facility feedback boxes or the Agency's grievance system to submit reports. Youths 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 youths, staff, family, attorneys, and outside advocates may assist a youth filing grievances relating to allegations of sexual abuse and harassment. If a third party, other than the parent or guardian, files a grievance on behalf of a youth, 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) Clients must be informed, prior to giving them access to outside victim advocates for emotional support services related to sexual abuse, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. Clients 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 client's allegation that a staff member or has committed sexual abuse against the youth, HCS subsequently informs and documents informing the client of the outcome of the investigation. HCS must also inform the client (unless the facility has determined that the allegation is unfounded) whenever:

- The staff member is no longer posted within the youth'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; or
 - HCS learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- e) Following a youth's allegation that he or she has been sexually abused by another youth in the facility, HCS subsequently informs and documents informing the client of the investigation outcome. HCS also informs the client 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) Client 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 youth 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 youths or between a youth 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 youth, 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 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 youth 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 youth believed or determined to have been the victim of a sexual assault/rape must also be examined by medical staff for possible injuries, regardless of when the alleged sexual assault occurred. Youth 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 youth, the MDHHS Division of Child Welfare Licensing, the youth's attorney (if youth 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 youth and service availability.

- i) In the event that a youth, family member, staff, or other person presents a complaint or grievance that a youth 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 youth in care, which shall be documented and entered into the record(s) of involved youth. 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 youth 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 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 youth 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 investigated to the fullest extent possible. Evidence collected must be maintained under strict control.
- a) If an allegation of sexual abuse or sexual assault/rape of a youth 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 make a determination 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 youth-on-youth rape, sexual assault, or forced sexual activity with or without sexual penetration, including youth-on-youth 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 youth safety, for example if a victim needed medical attention or first aid before being transported, but efforts must be made to disturb the area as little as possible.
 - 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 to not 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 youth as needed for required and appropriate notifications
 - h) Suspected or alleged staff-on-youth 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 youths.
 - 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 is 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 youths and staff.

11. 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 youth by staff or another youth. All incidents are reviewed by the HCS Quality Improvement Committee.
12. The facility must distribute information to the public on how to report sexual abuse and sexual harassment on behalf of youths, information on its zero tolerance policy for sexual abuse and sexual harassment of youths, 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 in order to assess and improve sexual abuse prevention, detection, and response practices. (Note: Personal identifiers must be removed.)
13. The facility must designate a PREA compliance manager that has the time and authority to oversee facility compliance efforts.
14. The facility must develop, document, and implement a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring to protect youths 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.

This Procedure replaces the following Policies:	
HCCS Policy 2095: Prison Rape Elimination Act	HCYFS Policy 1095: Prison Rape Elimination Act

Related Materials:

- Prison Rape Elimination Act Policy Statement
- Volunteer Recruitment, Orientation, & Training Policy #: 2075
- Background Checks (General & Criminal) Policy #: 4025
- Blood borne Pathogens & HIV/AIDS Policy #: 4065
- Good Moral Character Policy #: 4155
- Standards of Conduct Policy #: 4160
- Other Conduct Inconsistent with HCS’ Mission Policy #: 4165



Non-Punitive Disciplinary Process Policy #: 4170
Co-Worker Investigations Policy #: 4180
Sexual Harassment & Other Forms of Illegal Harassment Policy #: 4205
Internal Investigations Policy #: 6005
Client Rights and Responsibilities Policy #: 6010
Client Complaints Policy #: 6015
Client Grievances Policy #: 6020
Client's Family Grievances Policy #: 6025
Confidentiality Policy #: 6030
Disclosure of Confidential Information Policy #: 6035
Routine and Emergency Medical & Dental Care, Residential Child Caring Programs Policy #: 6055
Behavior Management Policy #: 6070
Client Discipline Policy #: 6090
Child Abuse Allegations #: 6110
Compliance with Child Protection Law #: 6115
Service Planning Policy #: 6120
Personal Search of Client & Property Policy #: 6285
Emergency Mental Health Policy #: 6310
Critical Incidents Reporting Policy #: 6320
Continuous Quality Improvement (CQI)/ Quality Assurance (QA) Policy #: 6340

Addendum A

Prison Rape Elimination Act-Related Definitions of Sexual Abuse

Excerpted from the Juvenile Justice Residential Glossary (online 9/1/2011)

ABUSIVE SEXUAL CONTACT

Within the provisions of the Bureau of Justice Statistics' Survey on Sexual Violence, this includes contact of any person without his or her consent, or of a person who is unable to consent or refuse and intentional touching, either directly or indirectly through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person. This definition excludes incidents in which the intent of the contact is to harm or debilitate rather than sexually exploit.

CHILD ABUSE

Harm or threatened harm to a child's health or welfare that occurs through accidental physical or mental injury, sexual abuse, sexual exploitation or maltreatment, by a parent, a legal guardian or any other person responsible for the child's health or welfare or by a teacher, a teacher's aide or a member of the clergy.

NONCONSENSUAL SEXUAL ACTS

Within the provisions of the Bureau of Justice Statistics' Survey on Sexual Violence, these acts involve contact of any person without his or her consent, or of a person who is unable to consent or refuse and one of the following:

- Contact between the penis and the vagina or the penis and the anus including penetration, however slight.
- Contact between the mouth and the penis, vagina, or anus.
- Penetration of the anal or genital opening of another person by a hand, finger, or other object.

SEXUAL ABUSE

To engage in sexual contact or sexual penetration as those terms are defined in MCL 750.520a, with a child. Under rules proposed by the US Department of Justice to implement the Prison Rape Elimination Act (PREA), sexual abuse includes:

- Sexual abuse by another youth.
- Sexual abuse of a youth by a staff member, contractor, or volunteer.

SEXUAL ABUSE BY ANOTHER YOUTH

Under rules proposed by the US Department of Justice to implement Prison Rape Elimination Act, sexual abuse by another youth 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:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
- Contact between the mouth and the penis, vulva, or anus.
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of any person, excluding incidents in which the intent of the sexual contact is solely to harm or debilitate rather than to sexually exploit.

SEXUAL ABUSE BY A STAFF MEMBER, CONTRACTOR, OR VOLUNTEER

Under rules proposed by the US Department of Justice to implement Prison Rape Elimination Act, sexual abuse by a staff member, contractor, or volunteer includes:

- Sexual touching by a staff member, contractor, or volunteer.
- Any attempted, threatened, or requested sexual touching by a staff member, contractor, or volunteer.
- Indecent exposure by a staff member, contractor, or volunteer.

- Voyeurism by a staff member, contractor, or volunteer.

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.

SEXUAL HARASSMENT

Under rules proposed by the US Department of Justice to implement Prison Rape Elimination Act, sexual harassment includes:

- Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one youth directed toward another.
- Repeated verbal comments or gestures of a sexual nature to a youth 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.

SEXUAL MISCONDUCT

Sexual behavior that falls outside the established norms and policies of the facility and rises to the level of an incident.

SEXUAL TOUCHING BY A STAFF MEMBER, CONTRACTOR, OR VOLUNTEER

Under rules proposed by the US Department of Justice to implement Prison Rape Elimination Act, sexual touching by another staff member, contractor, or volunteer includes any of the following acts, with or without consent:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
- Contact between the mouth and the penis, vulva, or anus.
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.
- Any other intentional touching either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with the intent to abuse, arouse, or gratify sexual desire.

STAFF SEXUAL MISCONDUCT

Within the provisions of the Bureau of Justice Statistics' Survey on Sexual Violence, includes any behavior or act of a sexual nature directed toward a juvenile or youth offender by an employee, volunteer, contractor, official visitor, or other agency representative excluding the youth's family,

friends, or other visitors. Sexual relationships of a romantic nature between staff and a youth are included in this definition. Includes consensual or non-consensual sexual acts including:

- Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire.
- Completed, attempted, threatened, or requested sexual acts.
- Occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.

VOYEURISM BY A STAFF MEMBER, CONTRACTOR, OR VOLUNTEER

Under rules proposed by the US Department of Justice to implement the Prison Rape Elimination Act, voyeurism by a staff member, contractor, or volunteer means an invasion of a youth’s privacy by staff for reasons unrelated to official duties, such as peering at a youth who is using a toilet in a cell to perform bodily functions; requiring youth to expose their buttocks, genitals, or breasts; or taking images of all or part of a youth’s naked body or a youth performing bodily functions, and distributing or publishing them.

This Procedure replaces the following Policies:	
HCS Policy 2095: Prison Rape Elimination Act	HCYFS Policy 1095: Prison Rape Elimination Act

Related Materials:

- HCS Policy Statement: Prison Rape Elimination Act
- HCS Policy and Procedure: Ethical Standards of Conduct
- HCS Policy and Procedure: Non-Punitive Disciplinary Process
- HCS Policy and Procedure: Internal Investigations
- HCS Policy and Procedure: Critical Incidents Sentinel Events