



# Commonwealth of Massachusetts

Executive Office of Health and Human Services

Department of Youth Services

## Official Policy

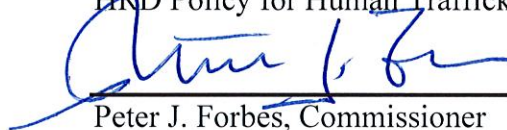
**Policy Name:** Preventing and Responding to Sexual Abuse, Sexual Exploitation and Sexual Harassment of Youth

**Policy #:** 01.05.07(c) **Effective Date:** June 1, 2020

**Repeals:** 01.05.07(b), Prevention of Sexual Abuse and Sexual Harassment of Youth

**References:** Prison Rape Elimination Act (PREA)  
Code of Employee Conduct Policy  
Youth Grievance Process Policy  
Serious Incident Policy  
Legal Advisory on 51A and 51B Reporting  
Executive Order 568  
HRD Policy for Human Trafficking

**Signature:**

  
Peter J. Forbes, Commissioner

6-1-2020  
Date

**Applicability:** This policy shall apply to DYS employees, contracted providers, youth, volunteers and interns.

### Policy

It is the policy of the Department of Youth Services ("DYS") to comply with the requirements of the Prison Rape Elimination Act ("PREA") and other federal and state mandates to protect its youth and have zero tolerance toward all forms of sexual abuse, sexual exploitation and sexual harassment. DYS seeks to prevent, detect and respond to allegations of such conduct. All allegations of sexual boundary violations, sexual abuse, sexual exploitation, sexual harassment or retaliation for reporting such conduct against youth by employees shall be considered a serious incident, investigated and may subject employees to appropriate discipline in accordance with these procedures.

All youth in DYS care and staff are prohibited from engaging in sexual boundary violations, sexual abuse, sexual exploitation, sexual harassment and retaliation for reporting such conduct as defined in this policy. All acts of a sexual nature as defined in this policy are considered non-consensual. Because DYS youth are persons in custody, youth cannot consent to any such act(s) due to age and/or their custodial status. All

allegations against youth by another youth shall be also investigated in accordance with these procedures.

The DYS PREA Coordinator shall oversee the agency's efforts to comply with the Federal Juvenile PREA standards in all its locations including state and contracted provider locations. Location PREA Compliance Managers shall coordinate efforts within each location in coordination with the DYS PREA Coordinator.

## **Procedure**

### **A. Definitions**

1. The following definitions shall have the meanings assigned to them in this policy for purposes of interpreting this policy.

Administrative Team: Such team includes the Program Director, Assistant Program Director, and Clinical Director.

Emergency Grievance: Any complaint alleging that a youth in residential placement believes he or she is at substantial risk of imminent sexual abuse.

First Clinical Session: First scheduled meeting a youth has with his or her assigned clinician or clinical designee following the completion of the Intake Procedures that occurs within 72 hours of admission to DYS custody.

Grievance: An allegation by a youth or third party on behalf of a youth based upon actual, perceived or alleged circumstances concerning a violation of this or other policies, or conditions of confinement.

Grievance Box: Locked box clearly labeled 'grievance box' that serves as a place for youth to anonymously drop completed youth grievance forms.

Grievance Form: Standardized form that a youth, employee or third party, on behalf of a youth, may use in order to submit a grievance.

Mandated Reporter: All DYS and provider employees in direct care positions who are required to report to the Department of Children and Families ("DCF") abuse or neglect of a child by a caretaker, under the provisions of G.L. c. 119, §51A.

Mental Health Evaluation: Assessment conducted by a licensed clinician of a youth's current emotional state and current mental health needs.

Multidisciplinary Team (MDT): Team of professionals which may include members of local police departments, social service providers, Department of Children and Families, Department of Youth Services, district attorney's offices and others who regularly convene to cooperatively assess the needs of a possibly sexually exploited youth and recommend a plan for services.



Prior Abusive Incident: An incidence of sexual abuse or exploitation, as defined within this policy, alleged by a youth that includes all of the following: (a) occurred in the past; (b) is not a new report, current or ongoing occurrence; (c) has previously been reported to a DYS state or contracted employee; (d) has been reported to DCF and/or law enforcement; AND (e) such report is documented in JJEMS PREA Risk Screening Folder. Such events do not require additional reporting under this policy if the prior traumatic incident is recorded in the JJEMS PREA Assessment e-file with the date the event was first reported to DYS and states that it was previously reviewed in accordance with this policy, ie. sent to DCF, law enforcement, etc.

PREA (Prison Rape Elimination Act): The Federal juvenile standard that creates requirements to prevent, detect and respond to allegations of sexual abuse, sexual harassment or retaliation by employees or youth for reporting such conduct.

PREA Compliance Manager: A DYS state or contracted provider employee assigned to coordinate a location's efforts to comply with the PREA standards. Such individual has the title of Facility Administrator of a set of programs located within one or more buildings or Program Director for locations that physically stand alone and do not share a building or campus with DYS or another provider.

PREA Coordinator: DYS employee who develops, implements and oversees statewide agency efforts to comply with the PREA standards.

Regional Child Sexual Exploitation Liaison: Identified individual(s) from each DYS region who coordinate the referral of DYS youth alleged to have been sexually exploited to county based MDTs and attend MDTs organized on behalf of DYS youth alleged to have been sexually exploited DYS youth, as well as any county based committees regarding sexual exploitation.

Serious Incident Report (SIR): A standardized process used by DYS state and contracted employees to report certain incidents defined as serious in accordance with the DYS Serious Incident Reporting Policy.

Sexual Abuse: newly reported, current or ongoing incident(s) that includes:

(a) Sexual Abuse of a youth by another youth: As defined by PREA, sexual abuse includes any of the following acts, even with consent by a youth:

- (1) contact between the penis and vulva or the penis and anus, however slight;
- (2) contact between the mouth and the penis, vulva or anus;
- (3) penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument; and
- (4) any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

(b) Sexual Abuse of a youth by an employee, volunteer or contracted provider: As defined by PREA, sexual abuse includes any of the following acts, even with consent by a youth:

- (1) contact between the penis and vulva or the penis and anus, however slight;
  - (2) contact between the mouth and the penis, vulva or anus;
  - (3) contact between the mouth and any body part where the employee, contractor, or volunteer has intent to abuse, arouse or gratify sexual desire;
  - (4) penetration of the anal or genital opening, however slight, by a hand, finger, object or other instrument, that is unrelated to official duties or where the employee, contractor, or volunteer has the intent to abuse, arouse or gratify sexual desire; and
  - (5) any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, that is unrelated to official duties or where the employee, contractor, contracted provider or volunteer has the intent to abuse, arouse or gratify sexual desire;
  - (6) any attempt, threat, or request by an employee, contractor, or volunteer to engage in the activities described in paragraphs (1) – (5) of this section;
  - (7) any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks or breast in the presence of a youth; and
  - (8) voyeurism by a staff member, contractor or volunteer.
- (c) any allegation by a youth of the above made against **any** individual, not just another youth or staff.

Sexual Boundary Violations: Any behavior against a youth by another youth, employee, volunteer or contracted provider in a residential or community placement of a sexual or overly personal nature that does not maintain appropriate and respectful verbal and/or physical boundaries and is not otherwise defined in this policy. Such acts include but are not limited to making threats of a sexual nature, unreasonable invasion of privacy, inappropriate discussion of matters of a sexual nature, written communication of a sexual or overly personal nature, and exerting pressure or coercion to engage in inappropriate physical behavior. Such acts are violations of this policy whether they are welcomed by the youth or not. Other boundary violations not defined here may be a violation of the DYS Code of Conduct or other policy, advisory or practice.

Sexual Exploitation of a youth: A Sexually Exploited youth is any person under the age of 18 of G.L. c. 119, §21, who is or is suspected of being:



- (1) the victim of the crime of sexual servitude pursuant to section 50 of chapter 265 or is the victim of sex trafficking as defined in 22 United States Code 7105;
- (2) an individual who engages, agrees to engage or offers to engage in sexual conduct with another person in exchange for a fee, in violation of subsection (a) of section 53A of chapter 272, or in exchange for food, shelter, clothing, education or care;
- (3) a victim of the crime of inducing a minor into prostitution under section 4A of chapter 272; or
- (4) an individual who engages in common night walking or common streetwalking under section 53 of chapter 272.

Sexual Harassment by a youth to another youth: As defined by PREA, repeated and unwelcomed 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.

Sexual Harassment by an employee, volunteer or contracted provider toward a youth: As defined by PREA, repeated verbal comments or gestures of a sexual nature including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing or obscene language or gestures.

Third Parties: Individuals who can report a grievance on behalf of a youth or assist a youth in filing a grievance including other youth, employees, family members, attorneys, and outside advocates.

Youth Orientation Materials: Information presented to youth that shall include but is not limited to the DYS approved postings of Rape Crisis Centers and the pamphlet on 'How to Conduct Yourself' which contains information regarding the Department of Children and Families Child at Risk Hotline 1- 800-792-5200.

Youth Education Materials: Information presented to youth that shall include but is not limited to the following: the DYS approved intake presentation; Policy on the Youth Grievance Process; Policy on the Prevention of Sexual Abuse, Sexual Exploitation and Sexual Harassment of Youth; notification of the Department of Children and Families Child at Risk Hotline 1- 800-792-5200; numbers for the MA Rape Crisis Programs; resources for sexually exploited youth.

Volunteer: Any individual with authorization to be at a DYS location that is not a DYS staff or contracted provider including interns.

Voyeurism by a staff member, contractor or volunteer: As defined by PREA, an invasion of privacy of a youth by an employee for reasons unrelated to official duties such as peering at a resident using the toilet, taking images of all or part of a youth's naked body or of youth performing bodily functions.

2. Terms that are defined DYS Policy No. 01.01.04, "Policy Definitions," shall have the meanings assigned to them in that policy, unless contrary meaning is intended.
3. Terms not defined in DYS Policy No. 01.01.04 or in this policy shall have the meanings assigned to them by reasonably accepted standard dictionary definitions of American English.

B. How to Notify Youth of Protections:

1. Within 24 hours of arriving at a location, during the DYS Intake Process, employees shall notify every youth of the protections contained in this policy using the youth orientation materials. Youth shall sign the acknowledgement form verifying that they were informed of this information. Employees shall retain a copy within the youth intake packet and scan into JJEMS. Employees shall also document in the JJEMS Intake/Risk Assessment Folder that youth has received and signed.
2. At the first scheduled clinical session, clinical employees shall review the youth education materials with the youth and document that the youth has received the information by noting such in the JJEMS clinical progress notes. Such presentation shall include but not be limited to the following:
  - a. Protections contained in this policy, including definitions of sexual boundary violations, sexual abuse, sexual exploitation, sexual harassment and retaliation;
  - b. Information on reporting mechanisms for youth who allege being a victim of or witness to sexual boundary violations, sexual abuse, sexual exploitation and/or sexual harassment including Youth Grievance Process and Department of Children and Families (DCF) Child at Risk Hotline (1- 800-792-5200); and
  - c. Responses to youth who intentionally make false allegations.
3. This policy and procedures, statewide listing of Massachusetts Rape Crisis Centers and DCF Child at Risk Hotline (1- 800-792-5200) shall be posted at residential and community locations in two or more areas visible to:
  - a. Youth, in areas such as the library, bathrooms, classroom, cafeteria and clinical offices; and
  - b. Third parties, in areas outside the youth living areas such as the lobby, visiting locations, bathrooms, entrance areas and waiting rooms.
4. Information in the youth orientation and education materials and posters on the Rape Crisis Centers, and DCF Child at Risk Hotline (1- 800-792-5200) shall be provided in formats accessible to all youth, including those who have limited English proficiency, are deaf, visually impaired, or otherwise disabled, as well as to youth who have limited reading skills. Employees seeking alternative formats



for conveying this information to youth shall notify the Regional Clinical Coordinator upon identifying this need. Youth shall not be used in order to translate or relay this information to other youth.

C. How Youth May Report Allegations of Sexual Boundary Violations, Sexual Abuse, Sexual Exploitation, Sexual Harassment and/or Retaliation

1. Youth may report allegations of sexual boundary violations, sexual abuse, sexual exploitation, sexual harassment, and/or retaliation for reporting in any way including but not limited to:
  - a. Verbally to any employee;
  - b. In writing through a grievance form using the Youth Grievance Process;
  - c. In writing or verbally to any third party who may file a grievance in accordance with the Youth Grievance Process; and/or
  - d. Verbally through the DCF Child at Risk Hotline (1-800-792-5200).
2. Youth may report that he or she is or perceives him or herself to be subject to a substantial risk of imminent sexual abuse. Such report is considered an emergency grievance, can be reported verbally or in writing and requires investigative response within 48 hours as described in section E.3.
3. Youth reporting prior abusive incident(s) as defined by this policy if previously reported and recorded as such in JJEMS PREA Questions e-file, shall receive regular clinical services as needed and do not need to receive services consistent with the requirements of this policy. Staff shall not report the prior traumatic incident(s) through incident reporting, CIC, DCF or law enforcement. Staff receiving reports by a youth of a newly reported, current, or ongoing sexual abuse or exploitation by any individual (not just by state or contracted staff) shall follow requirements of this policy, as applicable.

D. How Employees **Should Report** Alleged Incident of Sexual Boundary Violations, Sexual Abuse, Sexual Exploitation, Sexual Harassment and/or Retaliation

1. Alleged Incident occurred within a DYS overnight arrest (ONA) or DYS residential placement: Any DYS state or contracted provider employee, intern or volunteer who learns of or suspects alleged sexual boundary violations, sexual abuse, sexual exploitation or sexual harassment within a DYS ONA or residential placement shall immediately report the information to their Location Manager and either the PREA Compliance Manager or one of the members from the administrative team where the allegation occurred. Such initial report may be verbal, but the reporter must also complete the JJEMS Incident report as a serious incident prior to the end of the shift if residential employee or otherwise end of business day. Staff shall follow remaining procedures below, as applicable, for additional response requirements.

2. Alleged Incident occurred in the community by a DYS state or contracted employee, intern or volunteer: Any DYS state or contracted provider employee, intern or volunteer who learns of or suspects alleged sexual boundary violations, sexual abuse, sexual exploitation or sexual harassment against a DYS youth may have occurred in the community by a state employee, contract provider, intern or volunteer shall immediately report the information to their Location Manager and either the PREA Coordinator or a member from the Regional Management Team. Such initial report may be verbal, but the reporter must also complete the JJEMS Incident Report e-file as a serious incident prior to the end of the business day. Staff shall follow remaining procedures in this policy, as applicable, for additional response requirements.
3. Alleged incident of sexual abuse or sexual exploitation occurred in the community by any other individual not considered an employee, provider, volunteer or intern:
  - a. Staff shall determine if report is a prior traumatic incident as defined by this policy and if previously reported and recorded as such in JJEMS PREA Risk Screening Folder, staff shall provide regular clinical services as needed and not follow the requirements of this policy. Staff shall not report the prior traumatic incidents through JJEMS incident reporting, CIC, DCF or law enforcement but record information in the PREA Questions e-file to ensure confidentiality. If there is no record of the youth previously reporting such incident, staff shall treat the information as if it is a newly reported incident and follow the reporting and responding requirements detailed below.
  - b. If newly reported, current, or ongoing incident of sexual abuse or sexual exploitation is reported, staff shall follow same reporting and responding requirements as list above in Section D.2 and remainder of this policy, as applicable.
4. Staff may privately report sexual abuse, sexual harassment, sexual exploitation, sexual boundary violations and/or retaliation as required by policy and procedures outside of their chain of command and/or request their name not be used in the DYS reporting documents.
5. Individuals shall not disclose information about the youth's allegation to anyone who is not directly involved in the treatment, investigation or any other security or management decisions.

**E. How Employees Shall Respond to Alleged Incident of Sexual Abuse or Exploitation**

1. For allegations of contact or penetration as found in the definition of sexual abuse for this policy alleged to have occurred **within last 5 days**, Location Manager and/or designee(s) shall complete the following immediate actions, as applicable:
  - a. For obvious physical injury, call 911 for emergency medical response and provide immediate first aid, if warranted.



- b. Request that the alleged victim not take any actions that could destroy physical evidence including washing or showering, brushing teeth, changing clothes, urinating, defecating, drinking or eating;
  - c. Attempt to prevent the alleged abuser or exploiter from leaving the site and taking any action that could destroy physical evidence including washing, brushing teeth, changing clothes, urinating, defecating, drinking or eating;
  - d. Ensure the transport of the alleged victim to a designated Sexual Assault Nurse Examiner (SANE) Hospital where he or she can be examined by medical personnel not employed by DYS, by either:
    - 1. Emergency medical transport; or
    - 2. DYS staff in accordance with the DYS Transportation Policy; or
    - 3. For Overnight Arrest programs, by the referring police dept.
    - 4. Employees shall ensure that the youth feels safe with the employee(s) chosen to accompany him or her during transport.
    - 5. Employees shall seek supervisory and regional support if the youth refuses a transport in this circumstance.
  - e. Preserve and protect any alleged crime scene by not allowing anyone to go in or out of the alleged area, altering the area, or removing anything until investigators arrive and preserve any electronic monitoring data for the time period when the abuse may have occurred;
  - f. Keep all witnesses apart from one another until law enforcement authorities have an opportunity to speak with them.
  - g. Follow additional steps outlined below in Section 2.
2. Additional Responding Requirements for Sexual Abuse or Sexual Exploitation alleged to have occurred, that are not prior traumatic incident(s), Location Manager and/or designee(s) shall, as applicable:
- a. Make all efforts to have the alleged victim remain in a separate and secure area away from the alleged perpetrator;
  - b. Call the law enforcement agency for that location who will conduct any resulting criminal investigation and cooperate fully with responding law enforcement personnel;
  - c. If law enforcement is responding, ensure employees do not question any individual about the specific events while waiting for law enforcement;

- d. Call the parent or guardian of the youth, unless there is documentation that the parent or guardian should not be called, notifying them that there has been an allegation and where the youth is being transported, if applicable.
- e. File a 51A report with the Department of Children and Families (DCF), as set forth in DYS Legal Advisory on the 51A and 51B Reports notifying DCF specifically if sexual exploitation is suspected.
- f. Offer to transport the alleged victim to a SANE hospital if youth has not already been transported ensuring the youth feels safe with the employee chosen to accompany him or her during transport.
- g. For allegations of sexual exploitation, the Location Manager shall report the information to the Regional Child Sexual Exploitation Liaison. Such liaison shall coordinate a referral to the relevant MDT and coordinate DYS staff and/or Provider staff participation in any MDTs to discuss the youth's treatment planning.
- h. Consider moving youth to other programs to separate the alleged victim and abuser with assistance from the Regional Director of Operations or designee, minimizing any additional impact on the alleged victim.
- i. Consult with the Regional Clinical Coordinator or designee to determine if youth requires one-to-one observation in accordance with DYS Suicide Assessment Policies.
- j. For any allegation of sexual abuse that is alleged to have occurred in residential placement, ensure the completion of a mental health evaluation within 72 hours for both the alleged victim and alleged perpetrator. Such evaluation must be completed by a licensed clinician to assess a youth's current emotional state and current mental health needs, and not to investigate the alleged incident.
- k. In consultation with the Regional Clinical Coordinator or designee, make available a victim advocate from a local rape crisis center to provide support services to the youth and document that such services were offered in the Clinical Progress Notes e-file. For youth in an ONA, the location manager may contact such advocates and note such services in the youth's file.
- l. Monitor the conduct or treatment of the youth or employee(s) who reported the sexual abuse and the alleged victim of sexual abuse or exploitation for possible retaliation for at least 90 days following the report of sexual abuse or exploitation and follow the DYS Serious Incident Policy to report.
- m. Upon receiving an allegation that a youth was sexually abused or exploited at any other non DYS residential location, the Location Manager shall, in addition to the above, notify the supervisor of the location of alleged incident.



- n. If the alleged victim has an open court case, the Location Manager shall report the allegation of sexual abuse or sexual exploitation to the youth's attorney or other legal representative of record, if known, and supervising court within 14 days of receiving the allegation.

F. How Employees Shall Respond to Allegations of Sexual Boundary Violations, Sexual Harassment and/or Retaliation: Location Manager and/or designee(s) shall:

1. Consider if a 51A report shall be filed with the Department of Children and Families, as set forth in DYS Legal Advisory on the filing of 51A and 51B;
2. Monitor the conduct or treatment of youth or employee for possible retaliation. Remedy any such retaliation and follow the DYS Serious Incident Policy to report any retaliation.

G. DYS Investigation Requirements

1. The DYS Director of Investigations or his/her designee shall investigate all allegations of alleged sexual boundary violations, sexual abuse, sexual exploitation and/or sexual harassment and retaliation for reporting such allegations or cooperating with an investigation. The investigation will include an effort to determine whether employees' actions or omissions contributed to the allegations.
2. Substantiated allegations of conduct that appear criminal in nature, including alleged sexual abuse and sexual exploitation, shall be referred to the appropriate state or local law enforcement agency. In such cases, the Director of Investigations or his/her designee shall:
  - a. Cooperate and consult with law enforcement and the District Attorney's Office conducting the criminal investigation and ensure that the criminal investigation is completed;
  - b. Conduct any additional investigation deemed necessary;
  - c. Issue a final agency decision on the merits of any portion of a youth grievance alleging sexual abuse within 60 days of the initial filing of the grievance. The DYS Director of Investigations or his/her designee may claim a reasonable extension if 60 days is insufficient to make an appropriate decision due to the needs of concurrent law enforcement or other outside agency investigations.
  - d. Notify the youth who is the subject of the allegations of decisions on the merits of the allegations being investigated by the DYS Investigations Unit and law enforcement and any time extensions for the completion of the decision and document such notifications in the JJEMS progress notes. Such notifications shall include whether the:
    - i. allegation has been determined to be substantiated, unsubstantiated, or unfounded;

- ii. employee or youth alleged to have committed the sexual abuse or sexual exploitation is no longer within the youth's program or facility; and
  - iii. employee or youth alleged to have committed the sexual abuse or sexual exploitation is indicted and/or convicted on a charge related to sexual abuse or sexual exploitation due to the youth's allegation.
- 3. Upon receipt of a Serious Incident that constitutes an emergency grievance, CIC shall contact the Director of Investigations immediately upon receiving the verbal and/or written report. The Director of Investigations or his or her designee shall provide an initial response within 48 hours and a final decision within 5 calendar days documenting whether the youth is subject to a substantial risk of imminent sexual abuse or not, and what action should be taken in response to the emergency grievance.
- 4. All DYS investigations shall be documented in written reports that include a description of the physical, documentary, and testimonial evidence, facts and findings. The reports shall also contain the reasoning behind credibility assessments. No standard higher than preponderance of the evidence in determining whether or not such allegations occurred may be used. Reports will make formal investigative findings, and also detail any corrective action necessary, and will note whether management employee acts or omissions contributed to the abuse if abuse is found.
- 5. Investigative reports shall be retained for as long as the alleged abuser or exploiter is within DYS custody, if a youth, or employed by the agency, plus five years.
- 6. After investigation, if it is determined that a youth intentionally made false allegations and did not act in good faith based upon a reasonable belief, program behavior management systems should be utilized to address the youth's behavior.
- 7. The following shall not be grounds to terminate an investigation:
  - a. Withdrawal of the complaint;
  - b. Failure of the youth to continue with an allegation of sexual abuse, sexual exploitation, sexual harassment, boundary violation or retaliation;
  - c. Departure of the abuser or victim from employment or DYS custody or supervision.
- 8. Unless the allegation is unfounded, the Administrative Team and PREA Compliance Manager will conduct an incident review within thirty (30) days of the conclusion of the investigation. At the conclusion of the incident review a report shall be prepared of its findings, including but not limited to the determinations identified in 8. (i)-(v) and any recommendations for improvement and submitted to the Location Manager, PREA Compliance Manager and PREA Coordinator. The incident review shall include input from shift administrators, investigators, health services and clinical employees, as appropriate and consider the following:



- i. Whether the allegation or investigation indicates a need to change a policy or practice to better prevent, detect, or respond to sexual abuse or sexual exploitation;
  - ii. Whether the incident or allegation was motivated by the victim's race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status or perceived status or gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility;
  - iii. Whether a physical examination of the area in the facility where the incident allegedly occurred reveals any physical barriers in the area that may enable abuse;
  - iv. The adequacy of staffing levels in the area during different shifts;
  - v. Whether monitoring technology should be deployed or improved to supplement supervision by staff; and
9. Failure of a state or contract provider employee to report or to make intentional false allegations of sexual boundary violations, sexual abuse, sexual exploitation or sexual harassment by youth or employees may result in disciplinary action, up to and including termination. Termination shall be the presumptive disciplinary sanction for staff found to have engaged in sexual abuse.
10. Employees covered by a Collective Bargaining Agreement are entitled to their rights in accordance with *NLRB v. Weingarten, Inc.*, 420 U.S. 251 (1975), under which employees may refuse to be interviewed without union representation if they (a) are the target of an investigation or if (b) they reasonably believe that an investigation will result in disciplinary action being taken against them.
11. All employees are entitled to their rights in accordance with *Carney v. City of Springfield*, 403 Mass. 604 (1988). Such rights state that an employee cannot be asked during a DYS interview about potentially criminal conduct unless the proper law enforcement authority (generally, state or local police, or Attorney General's Office and/or local District Attorney) has offered the employee transactional immunity.
12. Disciplinary sanctions for violations of this policy by employees shall take into consideration nature and circumstances of the acts committed, employee's disciplinary history and sanctions imposed for comparable offenses by others with similar histories.
13. On an annual basis, the Director of Investigations in coordination with the PREA Coordinator shall aggregate sexual abuse data from the serious incident database and incident reviews submitted pursuant to section E.8. in order to prepare an annual report. Such annual report shall:

- i. Identify any problem areas;

- ii. Include corrective action plans of each facility and agency as a whole; and
- iii. Compare the current year's data and corrective action plans to the prior year with an assessment of progress made in addressing sexual abuse.
- iv. Upon approval by the Commissioner, the annual report shall be posted through the DYS website for public review. Information may be redacted if it presents a clear and specific threat to the safety and security of a facility as long as the nature of such redacted information is indicated. Personal identifiers shall be redacted from the public report.

#### H. General Practices

1. When necessary, but no later than once each year, the PREA Coordinator shall assess, determine and document whether adjustments are needed to staffing plans, staffing patterns or video monitoring systems resources.
2. Supervisory employees in all programs shall be proactive in the prevention of sexual abuse, sexual exploitation and harassment when making roommate and bedroom selections for youth. Factors staff should consider include compatibility of youths' chronological age, maturity, gang affiliation, level of sophistication, functioning level, size, strength, disabilities, infirmities, behavioral history, and the detaining or committing offenses.
3. Employees shall consider every request by a youth for a room change and discretely inquire whether the youth is feeling unsafe. If the youth reports feeling unsafe, the employee should bring this to the attention of a supervisor and clinician for further review.
4. Employees should also consider whether there are any witnesses who should be relocated to ensure their safety and protect them from intimidation or retaliation.
5. Each region shall identify an individual(s) to serve as a Regional Child Sexual Exploitation Liaison. Such liaison shall participate on the region's Child Sexual Exploitation Multi-Disciplinary Team (MDT).

#### I. Training Requirements

1. All new employees with direct care responsibilities shall receive training in this policy through DYS Basic Training. Such training will take into consideration the ages and gender of the youth in DYS locations and will include:
  - a. Responsibilities under PREA and this policy;
  - b. Youth's right to be free from sexual boundary violations, sexual abuse, sexual exploitation and sexual harassment; and youth and employees' right to be free from retaliation for reporting violations of this policy;
  - c. Common reactions of juvenile victims of sexual abuse, sexual exploitation and sexual harassment;



- d. How to detect and respond to signs of threatened and actual sexual abuse, how to identify youth at risk of or who have been/are being sexually exploited, how to distinguish between boundary violations and sexual abuse between youth and how to avoid inappropriate relationships with residents;
  - e. How to communicate effectively and professionally with residents; and
  - f. How to comply with mandatory reporting of sexual abuse and sexual exploitation to outside agencies and laws regarding applicable age of consent.
- 2. DYS Training Unit shall provide, at minimum, a refresher training every year to current employees.
  - 3. Volunteers and interns who may have contact with youth shall receive training on this policy either through Basic Training or the Volunteer Orientation Training.
  - 4. DYS shall ensure its investigators receive specialized training in conducting sexual abuse investigations to the extent such investigations are done by these investigators. Such training includes:
    - a. techniques for interviewing juvenile sexual abuse and sexual exploitation victims;
    - b. proper use of *Miranda* and *Garrity* warnings;
    - c. criteria and evidence required to substantiate a case for administrative action or prosecutorial referral.
  - 5. DYS contracted providers shall attend the trainings detailed above in section 1-3 or as otherwise determined by the Director of the DYS Training Academy.
  - 6. DYS shall ensure that the contracted health services employees receive training detailed in the above section G. 1 and 2 and have training in detecting and assessing sexual abuse, sexual exploitation and sexual harassment, preserving physical evidence of sexual abuse and sexual exploitation, and responding to juvenile victims of sexual abuse, sexual exploitation and sexual harassment.
  - 7. Those attending the trainings listed above shall sign an acknowledgment after such trainings that they understand and will follow the training received.