




TITLE: Sexual Abuse and Sexual Harassment: Reporting and Responding	PAGE 1 OF 12
	NUMBER: 179-YSA-01
RELATED RULE/CODE:	SUPERSEDES: 179-YSA-01 dated 06/28/2017
RELATED ACA STANDARDS: 2-CO-1G-07, 2-CO-1G-08, 4-JCF-3A-02, 4-JCF-3D-02, 4-JCF-3D-04, 4-JCF-3D-07, 4-JCF-3D-08, 4-JCF-3D-09, 2-7224, 2-7226	EFFECTIVE DATE: May 12, 2019
RELATED PREA STANDARDS: 115.311, 115.315, 115.317, 115.322, 115.331, 115.332, 115.333, 115.334, 115.335, 115.341, 115.342, 115. 351, 115.354, 115.361, 115.362, 115.363, 115.364, 115.365, 115.382, 115.386, 115.389, 115.393, 115.401	APPROVED:  Ryan Gies, Director

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5139.01, which delegates to the Director of the Department of Youth Services the authority to adopt rules for the governance of the department, the conduct of its officers and employees, the performance of its business, and the custody, use, and preservation of the department's records, papers, books, documents, and property.

II. PURPOSE

The purpose of this policy is to provide procedural guidance for the reporting, responding, and investigating of allegations of sexual abuse and sexual harassment.

III. APPLICABILITY

This policy applies to persons employed by the Ohio Department of Youth Services (DYS), independent contractors providing a service to DHS, volunteers, and youth.

IV. DEFINITIONS

Aggressor – A person committing a sexual abuse or sexual harassment against another person.

Bisexual – A person who is attracted to and may form sexual and romantic relationships with males and females.

Formal Grievance – An internal written complaint of a youth concerning any action, incident, living condition, dispute or application of any policy or practice of DHS.

Gay – Generally refers to a person who is emotionally, romantically, and sexually attracted to people of the same sex.

Gender – Refers to the range of socially constructed characteristics and traits pertaining to masculinity and femininity; such as norms, roles and relationships between men and women.

Gender Identity – A person’s concept of self as masculine, feminine, a blend of both or neither – how individuals perceive themselves and what they call themselves. One’s gender identity can be the same or different from his/her sex assigned at birth.

Intersex – A person whose sexual/reproductive organs do not match what is typically defined as male or female.

Lesbian – Generally refers to a female who is emotionally, romantically, and sexually attracted to other females.

LGBTQI Youth – Youth who have self-identified as lesbian, gay, bisexual, transgender, questioning, or intersex.

Merit – The presence of sufficient facts to support the grievance.

PREA Compliance Manager (PCM) – A DYS staff member assigned to an individual facility, designated to coordinate the facility’s efforts to comply with the PREA standards.

PREA Coordinator – A DYS central office staff member designated to develop, implement, and oversee the agency’s efforts to comply with the PREA standards in all facilities.

Questioning – The questioning of one’s gender, sexual identity, sexual orientation, or all three.

Sex – Refers to the person’s biological sex (male, female or intersex) assigned at birth due to the anatomy of an individual’s reproductive system and secondary sex characteristics.

Sexual Abuse – Any behavior or act of a sexual nature, or any attempt, threat or request for same, directed toward a youth by an employee, contractor, or volunteer, which may include one or more of: 1) sexual conduct, 2) sexual contact, 3) voyeurism, or, 4) indecent exposure; OR Any behavior or act of a sexual nature, 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, directed toward an inmate by another inmate which may include one or more of: (1) sexual conduct or (2) sexual contact.

Sexual Conduct – Vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and without relation to official duties, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

Sexual Contact – Any touching of an erogenous zone of another including without limitation the thigh, genitals, buttocks, pubic region, or if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

Sexual Harassment – (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by a youth directed toward another youth; and (2) Repeated verbal comments or gestures of a sexual nature to a youth by a staff

member, contractor, or volunteer, including demeaning references to gender, sexual orientation, or sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Transgender – A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

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

V. POLICY

It is the policy of the Ohio Department of Youth Services (DYS) to establish a zero tolerance standard for any incident of sexual abuse or sexual harassment that occurs between youth, staff, volunteers and contractors on youth.

VI. PROCEDURE

A. Reporting Responsibilities

1. Youth Reporting

- a. Youth shall have multiple internal ways to privately report sexual abuse, sexual harassment, and retaliation by other youth or staff to include but not limited to, a written or typed statement from the youth, a written or typed anonymous statement, a written or verbal statement from staff, a third party report, DYS Tip Line, Rape Crisis call, LAP call, verbal notification. Youth may report an allegation to any staff member in which he feels comfortable.
 - i. Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.
 - ii. Youth shall be provided with access to the necessary tools to make a written report.
- b. Youth shall be encouraged to report staff neglect or a violation of staff responsibilities that may have contributed to such allegations.

2. Grievance Reporting

- a. Youth may file a formal grievance and place in the secured grievance box on the living units and other common areas, as described in the Youth Grievance Handbook (DYS2065); or may hand the grievance to a staff member for filing.
 - i. If a youth files an allegation of sexual harassment through the grievance process:
 1. The facility grievance coordinator/investigator, or the facility designee in his/her

absence, shall enter the grievance into the Juvenile Justice Case Management System (JJCMS) and record the assigned grievance number on the DYS Youth Grievance Form (DYS2069) the same day the grievance is retrieved.

2. The facility grievance coordinator/investigator shall provide the facility PREA compliance manager (PCM) with all sexual harassment grievances for further processing, the same day as received.
3. The PCM shall meet with the youth to assess the nature of the allegation to determine if the grievance shall be coded under a PREA allegation, or if the allegation falls within another category.
4. The PCM shall record the outcome of this preliminary meeting on the DYS Youth Grievance Form (DYS2069), obtain the youth's signature, and record all information in the corresponding grievance section in JJCMS, the same day as the preliminary meeting.
5. If the PCM determines there is merit for a PREA allegation, he/she shall process the grievance in preparation for an administrative investigation per DYS Policies 109-INV-02, Investigations and 159-YRI-07, Youth Grievance Process.
 - a. The PCM shall make recommendations to the unit management administrator (UMA) to secure the safety of the youth making the allegation. This shall include either physical separation from the alleged harasser or a written safety plan by either a behavioral health services (BHS) clinician, social worker or case manager until after the outcome of the investigation.
 - b. The PCM shall enter the allegation into JJCMS according to DYS Policy 101-COM-08, Incident Reporting, as a new incident report along with the appropriate corresponding sexual harassment classification code based upon finding the grievance has merit. All corresponding documentation shall also be scanned into JJCMS incident report.
6. If it is determined that there is no merit for a PREA allegation as written on the grievance, and there is merit otherwise, the PCM shall:
 - a. Enter the information into JJCMS as a new incident report with the appropriate classification code;
 - b. Upload the documentation;
 - c. Attach any additional information noted at the narrative of the report including any video reviews.
7. The original grievance shall be returned to the facility grievance coordinator/investigator to scan and closeout accordingly in line with DYS Policy 159-YRI-07, Youth Grievance Process.

3. All Other Reporting

If an allegation of sexual abuse or sexual harassment is received through any other type of notification that which is not listed in section VI. A, all steps outlined in section VI.A.2 shall be followed.

4. False Statements made by Youth

- a. A youth may be subject to disciplinary sanctions in accordance with DYS policy 156-DSC-02, Rules of Conduct, for making a false statement or a statement in bad faith.
- b. The PCM or grievance coordinator/investigator shall review all evidence as outlined in section VI. A. 1-3.
- c. After a review of all the evidence of a sexual harassment allegation or sexual abuse allegation made by a youth is determined to be false and/or made in bad faith, the staff making the determination shall issue Youth Behavior Incident Report (YBIR) (DYS2117) - Rule #17 making a false statement, in accordance with DYS policy 156-DSC-02, Rules of Conduct.
- d. The staff member making the determination that the allegation is false, shall document and upload all the supporting evidence into JJCMS to the corresponding incident report.

5. Staff Reporting

- a. Any facility employee that witnesses or receives a verbal, written, anonymous source, or a third party report of sexual abuse or sexual harassment against a youth shall immediately notify his/her supervisor. Parole or Central Office staff shall notify the facility superintendent. The reporting employee shall complete a Statement Form (DYS1050) and forward to the facility PCM. In the absence of the PCM, notification shall go to the facility administrative assistant to the superintendent.
- b. The PCM shall notify the OM by phone immediately and follow-up via email attaching the Statement Form (DYS1050). The OM shall begin an incident report in JJCMS. Any written statements required from the reporting staff shall be completed and uploaded into JJCMS prior to the end of their current shift.
- c. Any employee that fails to report shall be subject to disciplinary action up to and including termination.

6. Facility to Facility Reporting

- a. Upon receiving an allegation that a youth was sexually abused while confined at another facility, the superintendent of the facility that received the allegation shall notify the superintendent of the facility where the alleged abuse occurred as soon as possible, but no later than seventy-two (72) hours after receiving the allegation.
- b. This notification shall be made in writing by either:

- i. On the facility's letterhead with the facility superintendent's signature; or
 - ii. Sent from the facility superintendent's email account.
- c. The facility superintendent that receives such notification shall ensure the allegation is investigated in accordance with applicable provisions of this policy.
 - d. The facility superintendent that forwards the allegations shall document and retain the notification.

7. Third Party Reporting

- a. The PREA coordinator shall establish an email link on the DYS's official internet site that allows for third-party reports of sexual abuse and sexual harassment on behalf of a youth.
- b. The appropriate facility PCM and agency PREA coordinator shall both receive the information submitted via the DYS website.
- c. All notifications submitted that do not have a specific facility designated shall be received by the agency PREA coordinator and forwarded to the appropriate facility PCM.
- d. The facility PCM shall obtain the youth's acceptance or denial of third party assistance by documenting on Response to Third Party Reporting of Alleged Sexual Abuse and Sexual Harassment (DYS2287). Regardless of a youth's acceptance or denial, the PCM shall handle any third party report in accordance with this policy, DYS Policies 101-COM-08, Incident Reporting and 109-INV-03, Suspected Child Abuse and Neglect Reporting.

B. Initial Response and Protection for Sexual Abuse

DYS staff shall follow the Institutional Plan for Coordinated Response to Sexual Abuse - Circleville (DYS2280), Cuyahoga Hills (DYS2281) and Indian River (DYS2282).

1. First Responders

- a. As the first responder, staff shall ensure that the alleged victim and aggressor are physically separated.
 - i. Operations shall be notified immediately by the first responder and an operations manager (OM) shall contact the facility PCM for further evaluation.
 - ii. Non-punitive protective housing shall be provided for the alleged victim. The victim shall be housed in an environment that permits the same level of privileges the victim was permitted prior to the alleged sexual abuse.
 - iii. When a separation occurs, the OM shall document the move and reason for the move in the unit logbook and JJCMS.

- iv. If the alleged abuser is an employee, immediate efforts shall be made to eliminate contact between the youth and the staff member. Such movement shall be documented in JJCMS under the incident report number. The superintendent shall determine if the employee shall be placed on no-contact status or administrative leave during the course of the investigation.
 - b. Operations shall take the necessary steps to preserve and protect the crime scene according to DYS Policy 109-INV-01, Protection of a Crime Scene and Preservation of Physical Evidence.
 - i. If the sexual abuse involves sexual conduct and occurred within the previous ninety-six (96) hours, the alleged victim and aggressor shall be advised by the staff receiving the report and/or the OM not to shower, change clothes, urinate, defecate, drink, eat or otherwise clean themselves. Operations shall arrange for victim transport to the hospital. When both the alleged aggressor and alleged victim need to be transported, they shall be transported separately.
 - ii. If the sexual conduct was oral, the alleged victim shall be advised by the staff receiving the report and/or the OM not to eat, drink or brush their teeth, or otherwise take any action that could damage or destroy evidence.
 - c. If the first responder is not a security staff, the responder shall provide any necessary first aid, instruct the alleged victim not to take any action that could destroy physical evidence, and then notify Operations.
 - d. The OM shall notify:
 - i. The Ohio State Highway Patrol immediately in all cases involving sexual conduct or contact;
 - ii. The youth's parents or legal guardians;
 - iii. The facility superintendent;
 - iv. The agency PREA coordinator and facility PCM;
 - v. The local Rape Crisis Center, if applicable for advocacy services; and
 - vi. The OM shall refer to DYS Policy 109-INV-03, Suspected Child Abuse and Neglect Reporting, for additional notifications and reporting requirements.
 - e. Operations managers shall enter the incident in the JJCMS in accordance with DYS Policy 101-COM-08, Incident Reporting, in the absence of the facility PCM.
- 2. Medical and Behavioral Health Services
 - a. Alleged victims and alleged aggressors of sexual abuse shall be immediately referred to medical and behavioral health services by the facility PCM if the allegation occurs during their normal working hours. During holidays, weekends and in the absence of the facility PCM, the

facility operations manager shall make the referral to Behavioral Health either by phone or email. Alleged victims and alleged aggressors shall remain separated and will not be taken to medical at the same time.

- b. Medical treatment and behavioral health services shall be provided in accordance with DYS Policy 179-YSA-03, Medical and Behavioral Health Services Response to Sexual Abuse.
- c. If the at-risk youth is on the Special Living Unit, appropriate placement shall be made in consultation with the on-call psychology supervisor/designee or in the absence, the deputy superintendent of programs and documented in a JJCMS case note.

3. Victim Advocacy

- a. Upon notification of an allegation of sexual abuse, the PCM shall meet with the alleged victim. The alleged victim has a right to a victim advocate and shall be informed of this right.
 - b. At the request of the victim, the PCM shall provide a victim advocate from a local Rape Crisis Center or when applicable a staff trained victim advocate. In the absence of the PCM, the OM shall notify a victim advocate as directed by the Institutional Plan for Coordinated Response to Sexual Abuse - Circleville (DYS2280), Cuyahoga Hills (DYS2281) and Indian River (DYS2282).
 - c. The victim advocate may:
 - i. Sit in on interviews of the youth but may not obstruct or interfere in the course of the investigation;
 - ii. Accompany the victim to the hospital, accompany and support the victim through the forensic medical examination process; and
 - iii. Provide emotional support, crisis intervention, information, and referrals.
4. The PCM shall complete the Alleged Sexual Abuse Response Checklist (DYS2283) for every alleged incident of sexual abuse. The form shall be completed the day of the allegation or no later than the next working day and scanned into JJCMS.

C. Investigations

- 1. An investigation shall be conducted and documented whenever a youth alleges sexual abuse, or sexual harassment in accordance with sections VI. A. and B. and with DYS Policy 109-INV-02, Investigations. All staff, volunteers and contractors are prohibited from disclosing any information relating to sexual abuse or sexual harassment to anyone other than persons required to make treatment, investigation, security and administrative decisions.
- 2. All incident reports of sexual abuse, sexual harassment and retaliation shall be forwarded to the facility deputy superintendent of Direct Services for referral for internal or external investigation as applicable.

- a. The facility Labor Relations Officer (LRO) shall assign referred allegations for investigation accordingly:
 - i. PREA allegations shall be assigned and investigated in accordance with DYS Policy 109-INV-02, Investigations.
 - ii. The facility investigator shall investigate all reports of sexual harassment.
 - iii. No standard shall be imposed for administrative investigations higher than the preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
- b. The Ohio State Highway Patrol shall receive notification of all allegations of sexual abuse.
- c. Discipline and/or additional criminal charges for the alleged aggressor may occur pending the results of the internal and external investigations.
- d. With all external investigations of sexual abuse, the facility investigator or designee shall cooperate with outside investigators and shall remain informed about the progress of the investigation.

D. Retaliation

Retaliation against youth or staff who report sexual abuse and sexual harassment shall be strictly prohibited and is subject to discipline up to and including termination. The facility shall protect all youth and staff who report sexual abuse or sexual harassment or who cooperate with such investigations, from retaliation by other youth or staff.

1. The facility PCM shall monitor retaliation resulting from all cases of sexual abuse and sexual harassment. The monitoring shall be documented on Alleged Sexual Abuse and Sexual Harassment Retaliation Monitoring Checklist (DYS2285) and scanned into the respective incident report in JJCMS.
2. For at least ninety (90) days following a report of sexual abuse and sexual harassment, there shall be monitoring of the conduct or treatment of youth or staff who reported the incident and of youth who were reported to have suffered from the incident.
 - a. Periodic status checks shall occur at least every thirty (30) calendar days during the monitoring period and shall include:
 - i. Youth disciplinary reports (JJCMS);
 - ii. Housing assignments (JJCMS);
 - iii. Program changes (JJCMS);
 - iv. Staff performance reviews and/or removal of alleged staff from employment (Human Resources); and

- v. Reassignment of staff from assigned post (operations administrator).
 - b. The youth and/or employee being monitored shall be interviewed during the periodic status check and documented on the monitoring of Alleged Sexual Abuse and Sexual Harassment Retaliation Monitoring Checklist (DYS2285).
 - c. All Alleged Sexual Abuse and Sexual Harassment Retaliation Monitoring Checklists (DYS2285) shall be scanned and uploaded into the respective incident report in JJCMS.
3. Monitoring shall continue beyond ninety (90) days if the initial monitoring period indicates a continuing need by PCM.
 4. The monitoring shall cease if (1) the allegation is unfounded, (2) the youth transferred to another facility, or (3) the youth is released from custody.
 5. If there is evidence of retaliation against a youth or staff, the facility shall employ protection measures such as, but not limited to, housing changes, transfers, limited or no contact, and victim advocacy support.
 - a. This information shall be reported to the facility superintendent before the end of current shift.
 - b. An incident report in JJCMS shall be entered prior to the end of the current shift.

E. Sexual Abuse Review Team (SART)

1. Each facility superintendent shall designate a Sexual Abuse Review Team (SART) to provide after-action reviews of sexual abuse incidents and to determine whether revisions shall be made in order to minimize the risk of future sexual abuse incidents.
2. The SART shall, at a minimum, consist of:
 - a. PREA compliance manager, chair;
 - b. Facility investigator;
 - c. Unit manager;
 - d. Behavior health clinician;
 - e. Operations administrator;
 - f. Unit manager administrator;
 - g. Superintendent; and
 - h. Any other staff that may have relevant input, such as unit staff, line supervisors, medical and mental health professionals.

3. The SART shall review all sexual abuse incidents, unless determined to be unfounded, within thirty (30) calendar days of the conclusion of the investigation.
4. The SART shall consider:
 - a. Whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
 - b. Whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, questioning, or intersex identification, (LGBTQI) status, or perceived status; or gang affiliation; or was motivated, or otherwise caused by facility culture;
 - c. Whether the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may have contributed to the sexual abuse;
 - d. The adequacy of staffing levels in that area during different shifts;
 - e. Whether monitoring technology should be installed to supplement supervision by staff;
5. The review shall be documented using the Alleged Sexual Abuse and Sexual Harassment Incident Review Team Checklist (DYS2284).
6. The PCM shall advise the following of the completed review: superintendent, assistant director, the deputy director of Quality Assurance, and the PREA coordinator.
7. The facility superintendent shall consider the recommendations for improvement, and shall document those recommendations that were implemented or the reasons for not doing so. The superintendent shall provide written notification as to the outcome to the assistant director, deputy director of Quality Assurance, and PREA coordinator no later than forty-five (45) days following the receipt of the review.

VII. ATTACHMENTS

DYS1050	Statement Form
DYS2065	Youth Grievance Handbook
DYS2069	DYS Youth Grievance Form
DYS2280	Institutional Plan for Coordinated Response to Sexual Abuse – Circleville Juvenile Correctional Facility
DYS2281	Institutional Plan for Coordinated Response to Sexual Abuse – Cuyahoga Hills Juvenile Correctional Facility
DYS2282	Institutional Plan for Coordinated Response to Sexual Abuse – Indian River Juvenile Correctional Facility
DYS2283	Alleged Sexual Abuse Response Checklist
DYS2284	Alleged Sexual Abuse and Sexual Harassment Incident Review Team Checklist
DYS2285	Alleged Sexual Abuse and Sexual Harassment Retaliation Monitoring Checklist
DYS2287	Response to Third Party Reporting of Alleged Sexual Abuse and Sexual Harassment

Table of Effective Changes

Number	Effective Date	Superseded/Modified	Significant Changes
304.04	04/11/2005	NA	First Issuance
304.04	04/14/2005	04/11/2005	
304.04	01/21/2013	04/14/2005	
304.04	05/10/2013	01/21/2013	
304.04	05/17/2014	05/10/2013	
304.04	07/21/2014	05/17/2014	
304.04	08/06/2014	07/21/2014	
304.04	06/28/2017	08/06/2014	Renumbered to 179-YSA-01 (Dec. 2017)
179-YSA-01	05/12/2019	06/28/2017	Adopted new policy format and new policy number. Streamlined the entire policy.