

PREA AUDIT: AUDITOR'S FINAL REPORT

JUVENILE FACILITIES



Name of Facility: Residential Cottages			
Physical Address: 1825 Faulkland Road, Building #3, Wilmington, DE 19805			
Date report submitted: December 14, 2015			
Auditor information: Charles J. Kehoe			
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Date of facility visit: June 16 -18, 2015			
Facility Information			
Facility Mailing Address: <i>(if different from above)</i>			
Telephone Number: (302) 633-2622			
The Facility is:	<input type="checkbox"/> Military	<input type="checkbox"/> County	<input type="checkbox"/> Federal
	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Municipal	<input checked="" type="checkbox"/> State
	<input type="checkbox"/> Private not for profit		
Facility Type:	<input type="checkbox"/> Detention (Juvenile)	<input type="checkbox"/> Correction	<input checked="" type="checkbox"/> Other: Residential Cottages
Name of PREA Compliance Manager: Brian Dietz		Title: Comp.	
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Agency Information			
Name of Agency: Department of Services for Children, Youth, and Their Families, Division of Youth Rehabilitative Serv.			
Governing Authority or Parent Agency: <i>(if applicable)</i>			
Physical Address: 1825 Faulkland Road, Wilmington, DE 19805			
Mailing Address: <i>(if different from above)</i>			
Telephone Number: (302) 633-2620			
Agency Chief Executive Officer			
Name: Nancy Dietz	Title: DYRS Dir		
Email Address: nancy.dietz@state.de.us	Telephone Number:	(302) 633-2620	
Agency Wide PREA Coordinator			
Name: Darryl Dawson	Title:	Social Serv. Senior Administrator	
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AUDIT FINDINGS

NARRATIVE:

The PREA audit of the Delaware Department of Services for Children, Youth and Their Families, Division of Youth Rehabilitative Services (DYRS), Residential Cottages (the facility) was conducted from June 16 - 18, 2015, in Wilmington, Delaware. The Designated Auditor was Charles J. Kehoe. Mr. Kehoe was assisted by Ms. Susan Heck of Richmond, Virginia. (At the time of the audit, Ms. Heck was waiting for notification regarding her certification as a PREA Auditor. Shortly after the audit, Ms. Heck was notified that she is now a Certified PREA Auditor.)

The auditors wish to extend their deepest appreciation to DYRS Director, Nancy Dietz, Social Services Senior Administrator/PREA Coordinator, Darryl Dawson, Residential Cottages Superintendent, Raheem Perkins, and Facility Health Services Administrator/PREA Compliance Manager, Brian Dietz, and all the employees of Residential Cottages for their professionalism, hospitality, and kindness.

The PREA Coordinator mailed the DYRS PREA policies and procedures, related documentation, and the Pre-Audit Questionnaire to the designated auditor several weeks before the audit.

The Auditor contacted Just Detention International to inquire if that agency had received any information regarding DYRS. A check of their records showed no complaints on file regarding the agency.

The auditors arrived at the facility at 8:00 a.m. on June 16, 2015 and were met by the PREA Coordinator, Mr. Dawson. An Entrance Meeting was held at 8:10 a.m. with the administrative team. Nine members the Residential Cottages' administrative team were in attendance and introduced to the auditors. The DYRS PREA Coordinator welcomed the auditors and provided a brief overview of the agency and this facility. The designated auditor introduced his colleague, Ms. Heck, thanked the DYRS Director and leadership for being involved in the PREA certification process, reviewed the audit process and the audit schedule, and gave the PREA Coordinator the lists of employees and residents selected for Random Interviews. The lists of specialized staff and youth in specialized categories were also reviewed.

The tour of the Residential Cottages began at 9:00 a.m., following the Entrance Meeting. Accompanying the auditors on the tour were Mr. Dawson, Superintendent Perkins, and Mr. Dietz. All areas where residents may be found were inspected, including the cottages and the academic building. The tour ended at 10:30 a.m.

Following the tour the auditors began the interviews.

The first day of the audit, there were 24 residents in the facility, 20 males and 4 females. Eleven residents were selected for random interviews. One youth, who disclosed prior victimization during risk screening, was interviewed. No residents reported being abused in the facility, no residents were identified as disabled or having difficulty with the English language, and no youth were identified as LGBTI. There is a "time-out" room in the school where a youth who is being disruptive can be taken temporarily during the school day, but this is not a sleeping room and the resident is always under the supervision of a staff member in the same room.

Interviews with residents clearly indicated that they are well informed about PREA, their rights, and how to report an abuse. New admissions to the facility are informed about PREA during orientation and are offered ample opportunity to ask questions. All the residents reported that they felt safe in this facility and that they are treated well by the staff.

Eleven direct care staff, who were randomly selected by the designated auditor from all shifts, were interviewed. Twenty-three interviews were conducted with staff or contractors in 17 specialized areas and included the DYRS Director, the DYRS PREA Coordinator, the Superintendent, the PREA Compliance Manager, the Agency Contract Administrator, intermediate level or higher level supervisors (2), medical and mental health professionals (2), Human Resources staff (3), a volunteer and a contractor, Investigative Staff (2), a staff member who Performs Screening for Risk of Victimization, an Incident Review Team Member, a Designated Staff Member Who Monitors for Retaliation, an Intake Staff, the Training Director, and the Management Analyst III who collects the data and compiles it. It should be noted that since this is a relatively small facility, some of the staff have multiple responsibilities so a few individuals were interviewed more than once if their duties covered more than one specialized area.

In all, the auditors conducted 48 interviews at the Residential Cottages.

The auditors also called the Child Abuse Hotline to see what would happen if a resident reported an abuse. When the person answered the phone, the auditor explained why he/she was calling. The person who answered the phone had no understanding of PREA or the PREA Standards.

The agency does contract with other facilities to take its residents and is in the process of updating contracts to insure the providers will comply with PREA Standards and to put a monitoring system into place at the contractual facilities.

Cross-gender searches are not allowed in this facility. At the time of the audit, the staff had not received training on how to conduct cross-gender searches and searches of transgender and intersex youth. During the report writing period, staff who conduct searches were given the appropriate training and saw the Moss Group Video tape.

The auditors interviewed two Institutional Abuse Investigators who worked for another division within the Department. However, the auditors were informed that DYRS did not have a designated investigator. Shortly after the on-site audit, the Division appointed an upper level manager as an investigator. The PREA Coordinator provided the documentation that the investigator received the required training from the National Institute of Corrections.

This facility has no isolation rooms.

At the end of the audit, the auditors identified 8 standards that the DYRS did not meet the requirements. In most instances policy or procedures need additional wording or procedure enhancements. In addition, DYRS needed to appoint one investigator to conduct administrative investigations and medical and mental health staff needed the specialized training that is required by the standard. During the report writing period, the DYRS corrected all the standards, except 115.316 which addresses the PREA brochure and resident handbook being printed in Spanish and 115.363 which requires a policy regarding allegations of abuse that occurred at other juvenile facilities. These two standards were brought into compliance with the standards during the corrective action period.

The agency provides Instructor Lead Classroom and Online Staff Training which is very comprehensive. All random staff interviewed acknowledged, in writing, that they had received the training and retraining within the last 12 months. At the time of the audit, the form that was used to confirm the employee had taken the training did not require the staff to also acknowledge he/she understood the material. Following the audit, during the report writing period, that issue was corrected. Staff who have taken the online training acknowledge electronically that they received and understand the training. Training records and the curriculum were reviewed.

With one exception, all staff knew who is responsible for conducting sexual abuse investigations.

During the interviews, direct care workers did describe, in detail, procedures for protecting residents from harm or threats of retaliation, the preservation of evidence, and the mandatory reporting requirements.

Medical and mental health services are provided to the residents of the facility on site by a team including a physician's assistant, a psychologist, and counselors. At the time of the audit, the physician's assistant and the psychologist (mental health professional) had not taken the specialized PREA Training.

The Delaware State Police will investigate allegations of sexual abuse at this facility, should an allegation be reported. Allegations will also be investigated by the Department of Services for Children, Youth, and Their Families, Office of Children's Services, Institutional Abuse Unit. This unit investigates all allegations of abuse, neglect or dependency in licensed child care facilities, Departmental facilities and DFS foster homes throughout the state.

In the past 12 months there have been no allegations of sexual abuse or sexual harassment reported.

The DYRS has a current staffing plan that includes all the elements required by the PREA standards, however, at the time of the audit, the plan was not dated and there was no documentation it had been reviewed by PREA Coordinator. During the interim report writing period, both of those concerns were corrected. The auditors were impressed by the staffing ratio at this facility and the emphasis the staff have on constant supervision and lines of sight.

The DYRS has a procedure in place to collect data regarding sexual abuse and sexual harassment in DYRS facilities and in contracted facilities. DYRS has published two Annual Reports (2013 and 2014) that present data and information on the Division's continuous effort to comply with all the PREA standards. Both of the Annual Reports are available on the Department's Web site.

When the on-site audit was completed, the auditor conducted an exit meeting at 9:55 a.m. on June 18, 2015. The DYRS Director, the PREA Coordinator, the management analyst from the New Castle County Detention Center, and nine members of the facility's administrative team were present. While the auditor could not give the facility a final finding, as there were issues needing further attention, the Auditor did give an overview of the audit and thanked the administrators and their staff for their hard work and dedication to the full implementation of the Prison Rape Elimination Act.

DESCRIPTION OF FACILITY CHARACTERISTICS:

The Department of Services for Children, Youth and Their Families, Division of Youth Rehabilitative Services (DYRS) provides services including detention, treatment, probation and aftercare services to youth in the State of Delaware who are committed to its care by the Family Court. DYRS is responsible for assessing the individual needs of youth and collaborates with their families, schools, community partners, and private residential programs. The Division's goal is to coordinate services and resources in an effort to rehabilitate youth and assist them into becoming positive citizens within their communities.

The Residential Cottages are located in Wilmington, Delaware on a large campus setting in a business and residential community that is anchored by the DuPont Company's world headquarters. Located on the DYRS campus is the DYRS Central Office, the New Castle County Detention Center, the Ferris School (the DYFS juvenile correctional facility), and the Residential Cottages.

The Residential Cottages program is comprised of four buildings, including three residential cottages, and a multi-purpose building that incorporates the school and central dining.

The auditors observed throughout the four buildings that the notices of the PREA audit were posted in numerous locations. The auditors also noticed signs informing residents of the agency's Zero Tolerance Policy and how the residents can report sexual abuse and sexual harassment, including the "800" phone number for reporting Child Abuse which goes directly to the Office of Children's Services. The signs were bi-lingual. Cameras are located on the main floor beginning at the entrance and in all hallways, on the second floors where the sleeping rooms are located, and on the lower levels where there are staff offices and resident activities take place. The auditors noted a few areas where there are blind spots and suggested the agency consider corner mirrors in these areas, if not cameras. Cameras do not cover toilet areas, showers or in the residents' rooms. There are cameras in the laundry rooms and in the former kitchen areas. The video monitors are in the Program Manager's Office and the Superintendent's office. The video recordings have a storage capacity of 18 days. The auditors viewed the monitors in the Program Manager's Office in Grace Cottage. Sleeping rooms are not locked. When residents are changing their clothes, the door is closed, but at all other times, the door is open. Residents are not allowed in other residents' rooms. Showers and toilet areas are private. Basement areas are "off limits" to residents and most staff and are primarily used for storage. During the tour, staff announced their presence when necessary. The auditors also reviewed the cottage logs and saw the documentation of the unannounced rounds.

Grace Cottage is a Level IV staff-secure residential program focusing on the unique treatment needs of adolescent females in a safe, gender-sensitive environment. The average length of stay for the young women in Grace Cottage is 9 months. On the day of the audit there were four (4) female residents in Grace Cottage. There are seven sleeping rooms with a maximum of two residents per room for a total cottage capacity of 14 residents. Services provided to the female residents include:

- Transition/Aftercare Services
- Rewards-Based Behavior Management System (Cognitive Behavior Therapy)
- Individual and Family Counseling
- Daily academic education by certified instructors, special education services and GED preparation
- Mental health services provided by a certified psychologist and psychiatrist
- Gender-Responsive Life Skills Curriculum
- Medical, dental, and eye care services
- Programming offered by various community partners

Mowlds Cottage is a staff-secure transition program that houses male adjudicated youth up to the age of 18 years who have completed the Ferris School program. In addition to youth transitioning from Ferris School, Mowlds Cottage also accommodates short-term commitments for youth on Aftercare supervision who have been committed by Family Court and "low-level" probation violators. The average length of stay is six weeks. On the day of the audit there were 12 male residents in Mowlds Cottage. The cottage capacity is 16 residents. Services include:

- Transition/Aftercare planning for community reintegration
- Rewards-Based Behavior Management System (Cognitive Behavior Therapy)
- Substance Abuse Relapse Education
- Family Engagement
- Psycho-Educational Group Curriculum
- Social Skills Development
- Community Service Projects
- Job Searching/Job Skill Development
- Daily academic curriculum provided by certified instructors, special education services and GED preparation

Snowden Cottage is a Level IV staff-secure residential treatment program designed to address the needs of younger adjudicated male adolescents and assist them in making a successful transition to the community. The minimum length of stay is 90 days. On the day of the audit there were 8 male residents in Snowden Cottage. The cottage capacity is 15 residents in 8 sleeping rooms. Services include:

- Transition/Aftercare Services
- Rewards-Based Behavior Management System (Cognitive Behavior Therapy)
- Individual and Family Counseling
- Daily academic education by certified instructors, special education services and GED preparation
- Mental health services provided by a certified psychologist and psychiatrist
- Psycho-Educational Group Curriculum
- Social Skills Development
- Medical, dental, and eye care services
- A variety of programming provided by community-based organizations

The Multi-Purpose Building is the newest building in the Residential Cottages complex. It was opened in 2014. The auditors were told by the Division Director that the DYRS and Residential Cottages administrators and architects discussed sightlines, camera locations, window glazing, and PREA standards and safety of residents and staff in designing this building.

The Multi-Purpose building is the point of entry for visitors and guests and is also the administrative nucleus for the Residential Cottage. The Superintendent's office and other administrative offices and a large conference room are located here. Other treatment staff offices are also found in this building. The largest part of the Multi-Purpose Building is dedicated to the academic program. The auditors were impressed with the size of the classrooms, excellent sightlines, and wide halls. The time-out room is located in the academic section of the building. In addition to the school, residents and staff eat all meals in a large room that is used for dining and other activities.

The DYRS has implemented a uniform behavior management system, Cognitive Behavior Training (CBT), in all Secure Care facilities: New Castle County Detention Center, Stevenson House Detention Center, Ferris School for Boys, Grace Cottage, Snowden Cottage, and Mowlds Cottage.

CBT is an evidence-based practice that focuses on helping youth change their thinking patterns and make better choices in their lives. The goal of the program is to change behavior by helping residents examine the beliefs and thinking patterns that happen before they behave in an inappropriate way. Once the youth is aware of these thoughts, he/she can learn to change these thoughts and attitudes so that they can get along with others appropriately and be successful both within the facility and in society. The program provides youth with instruction in decision-making, anger management, interpersonal relationships, cooperation, hygiene and social skills. It is the hope of the DYRS that once youth transition into the community, they will be able to apply these skills at home, school, the workplace, and other settings.

SUMMARY OF AUDIT FINDINGS:

Number of standards exceeded: 4

Number of standards met: 35

Number of standards not met: 0

Number of standards not applicable: 2

Standard Prevention Planning

§ 115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DYRS Zero Tolerance Policy states:

“DYRS has a zero tolerance for any incidence of sexual activity with youth in our care. DYRS commits to full compliance with the Prison Rape Elimination Act (PREA). Any type of forced or unwanted sexual activity, touching or sexual harassment between youth or any type of sexual activity or sexual harassment between staff and youth (including consensual) is criminal and prohibited” This policy is widely published in DYRS materials, including the Resident Handbook. The Zero Tolerance statement is also on the Web site in the agency’s 2014 Annual Report.

The agency has a full-time PREA Coordinator who oversees all PREA activities, including but not limited to, policy development, allegations and investigations, staff training, resident education, and standards compliance. The PREA Coordinator’s state classification is Social Services Senior Administrator. His duties also include agency-wide quality assurance and accreditation. He stated he has the time and support necessary to meet his PREA responsibilities.

The Residential Cottages has a PREA Compliance Manager. His duties include overseeing all PREA activities in the three cottages and the Multi-purpose building. In addition to his PREA duties, he also serves as Program Manager of the Mowlds Cottage. He stated he has the full support of the administration and time and resources to do his Program Manager duties and his PREA responsibilities.

Standard

§ 115.312 Contracting with other entities for the confinement of residents.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The auditors interview the DYRS Contract Administrator. She reported that the Department has 8 contract administrators and two managers. The DSCYF has contracts with 12 residential providers in and outside of Delaware that provide residential services for DYRS youth.

The DSCYF Operating Guidelines for Contracted Children and Family Programs and Services, Effective 9//1/2014 state in Section V. LAWS APPLICABLE TO THE OPERATION OF PROGRAMS AND SERVICES, paragraph D. under the title Prison Rape Elimination Act, “Providers shall comply with all applicable PREA Standards and any DSCYF Policies or Standards related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within DSCYF contracted or subcontracted Facilities/Programs/Offices. In addition to “self-monitoring requirements” and submission to PREA state or federal audits, providers will allow DSCYF announced or unannounced, compliance monitoring to include “on-site” monitoring. Failure to comply with PREA, including PREA Standards and DSCYF PREA related policies or standards, may result in a loss of business until the provider comes into compliance with PREA standards and/or subsequent contract termination.”

Later in the document, it also describes how allegations of sexual abuse are to be reported to DSCYF

and includes a reporting form. In cases of alleged sexual abuse, the Department must be directly notified within 4 hours.

The contract monitor provided documentation of the agency's effort to monitor the progress of the private providers toward total compliance with the PREA Standards. The contract monitor has a spread sheet that shows the progress the providers are making. All private providers are working toward compliance, but not all have been audited, as yet. Those that have not been audited yet have given assurances that their audits will be completed within the three-year cycle. Some have been audited and certified. DSCYF monitors the private provider programs and conducts on-site visits at the facilities, at least annually, monitoring for compliance with the PREA Standards.

Standard

§ 115.313 Supervision and monitoring

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The Residential Cottages Staffing Plan was most recently updated on January 5, 2015. The plan documents that all the elements in 115.313 (a) (1) – (11) were taken into consideration as the annual staffing plan was prepared for the current calendar year. The Superintendent and the PREA Coordinator confirmed that the PREA Coordinator reviewed and approved the current staffing plan. (The auditor suggests that in the future, the PREA Coordinator should initial the final annual staffing plan to document his review.) The Residential Cottages maintain a staffing ratio of approximately 1:3 during waking hours and 1:4 during sleeping hours. The Superintendent stated that the Residential Cottages have not deviated from the plan. The Superintendent stated that the union contract provides that staff can be held over (i.e., "freeze staff") to ensure full compliance with the staffing plan.

The four buildings that make up the Residential Cottages have comprehensive camera coverage. The auditors were impressed by the number of cameras, the location of the cameras, and the video retention period.

It was obvious to the auditors during the three days of the audit that DSCYF has committed considerable resources to ensure the staffing ratio is maintained and that residents are safe.

The auditors interviewed two supervisors who make unannounced rounds and also observed the supervisors documentation in the log books when unannounced rounds were made. The supervisors said they stagger their unannounced rounds to prevent staff from notifying other staff that the rounds are occurring.

Standard

§ 115.315 Limits to cross-gender viewing and searches.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 3.10, Security and Control under the subject of "Unclothed and Clothed Searches" states that cross-gender searches are not permitted. The policy describes how staff of the same gender as the resident being searched are to conduct an unclothed search. The staff member is to stand in the doorway of the

room the juvenile is in and instruct the juvenile on the removal of his or her clothing. That staff member is viewed by a second staff member who only watches that staff member and cannot see the resident. The second staff member can be of either gender.

Clothed (pat-down) searches are also conducted by members of the same gender as the resident.

If a staff member suspects that a resident is hiding something in a body cavity, the staff member must notify the supervisor, who calls the administrator on duty (AOD). The AOD then calls the superintendent. The superintendent will notify the health care staff.

Staff do announce their presence when entering the housing and sleeping units where residents of the opposite gender live. Residents confirmed that staff announce.

At the time of the audit, interviews with randomly selected employees found that they have not been trained in how to conduct a cross-gender pat-down search or searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. Within 30 days of the end of the on-site audit, all the staff who search youth were trained in how to conduct cross-gender pat-down searches and searches of transgender and intersex youth. The staff were trained using the video developed by the Moss Group and available on the PREA Resource Center Web site.

Standard

§ 115.316 Residents with disabilities and residents who are limited English proficient.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The auditors observed numerous posters throughout the facility. The management analyst III reported the DYRS has 12 contracts with interpreter services. Department Policy 118, Language Access Policy describes the agency's policy and procedures for enabling staff and residents to communicate when language may be a barrier. The policy provides for interpreter services and prohibits the use of other family members or clients from serving as interpreters. The Department also has other policies that address communication with clients who may have other disabilities.

Residents are also given a brochure titled What you need to know about Sexual Assault, Harassment, and Abuse and the resident handbook. The agency did not meet the standard at the time of the on-site audit because the brochure and handbook were not been printed in Spanish. On November 10, 2015, the PREA Coordinator provided the documents in Spanish to the auditor.

Standard

§ 115.317 Hiring and promotion decisions.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

HB 167 which was signed into law on May 8, 2014, made it unlawful for any public employer to inquire into or consider the criminal record of an applicant for employment during the initial application process, up to and including the first interview. After it is determined that the applicant is otherwise qualified and the employer has conditionally offered the applicant a position, then the employer may inquire into or consider an applicant's criminal record.

The Department of Services for Children, Youth and Their Families Policy #109, Criminal History Checks and Policy #313, Subsequent Arrests and/or Allegations of Child Abuse/Neglect describe the procedures that must be followed when hiring new staff for the Residential Cottages and any subsequent arrests or allegations of child abuse or neglect.

With regard to paragraph (c) 3, during the report writing period, the DYRS clarified its procedures as follows "Upon completion of the interview process where a successful candidate is selected, the hiring manager will use the resume, application and the candidate's direct response to ascertain if he/she has previously worked in an institutional setting. If so, the Hiring Manager (sic) will have the responsibility inquire/collect (sic) information from that employer regarding substantiated allegations of sexual abuse or resignation during a pending investigation or allegation(s) of sexual abuse." Persons with a criminal history of the listed behaviors are not eligible for employment. Those with civil or administrative violations as listed in the standard may also be barred from employment. During the 30 days following the audit, DYRS created a form that applicants and contractors sign that states whether or not they have any convictions or administrative adjudications for the prohibited behaviors. The agency now meets this requirement.

The DSCYF is part of a statewide system that receives notifications whenever an employee in the department is arrested in the state. To ensure the DYRS was compliant with paragraph (e), a background check was completed on all Residential Cottage employees on July 13, 2015. An expanded criminal check monitoring system, that will identify any arrest information on DSCYF employees and contractors nationwide, will be effective in early 2016.

At the time of the audit, employees being considered for promotions or employees undergoing performance evaluations were not being specifically asked if they have engaged in the prohibited behaviors. During the report writing period, the DYRS amended its procedures to require that employees being considered for promotions or employees undergoing performance evaluations state whether or not they have any convictions or administrative adjudications for the prohibited behaviors. The agency now meets this requirement.

During an interview, the auditors were also told that under the previously mentioned state statute, the agency could not tell a prospective employer about any substantiated allegations of sexual abuse or sexual harassment involving a former DYRS employee without a signed consent from the former employee. Since the audit, DYRS requested that the State Assistant Attorney General research the statute. The State Assistant Attorney General responded as follows: "An employer or any person employed by the employer who discloses information about a current or former employee's job performance to a prospective employer is presumed to be acting in good faith; and unless the lack of good faith is shown, is immune from civil liability for such disclosure or its consequences...Given that placement on the CPR is confidential by state law (outside the stated parameters), disclosure of that information could not be disclosed under 709. However, if there was an internal finding of an act that constituted a violation of federal, state, or local law, such as sexual harassment or sexual abuse, and that finding were (sic) reported in good faith, there should be immunity from civil liability in the disclosure."

Since the Assistant State Attorney General's statement, the DYRS has implemented a new procedure to ensure that the DSCYF Human Resources Unit has a structure in place to ensure discipline concerns and counseling warnings regarding behaviors outlined by the PREA standards are captured in one confidential location. This information will be accessed whenever there are inquiries from future employers about a former employee. "This procedure assures that what is reported represents the agency's best efforts to give full disclosure and act in good faith."

Standard**§ 115.318 Upgrades to facilities and technologies.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The multi-purpose building was opened in 2014. The multi-purpose building includes classrooms, a time-out room, a dining area that also serves as the visiting room, the main entrance for visitors, and offices for administrative, counseling and other staff. The auditors were told that as the Multi-Purpose Building was in the design phase, DYRS considered the effect the design would have on its ability to protect residents from sexual abuse. This building has excellent sightlines, and large glazing into the classrooms, time-out room, and visiting areas. There are no blind spots where students are.

The facility has a total of 63 cameras. Regarding the placement of the video cameras, DYRS has considered how this technology enhances the agency's ability to protect residents from sexual abuse. Camera locations are reviewed as part of the annual staffing plan review.

Standard Responsive Planning**§ 115.321 Evidence protocol and forensic medical examinations.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Allegations of sexual abuse are reported to the Child Abuse Hotline, per Policy #2.13. D. Investigations. The Institutional Abuse Unit investigates all allegations of child abuse and neglect. If the allegation could result in criminal prosecution, the Delaware State Police (DSP) are also called into to investigate. The DSP has confirmed it follows all the protocols as described in this standard. There is also a Memorandum of Understanding (MOU) between the DSCYF, the Delaware Children's Advocacy Center, the Delaware Department of Justice (Attorney General), and all the police departments in Delaware. The Memorandum confirms that the signers wish to improve services to children who have been abused or neglected and to their families. The Memorandum states the agencies listed are committed to interagency cooperation to protect children, reduce trauma, and assist the family during investigations, treatment, and prosecution. The Memorandum defines and clarifies roles and expectations of each department, sets standards for interagency cooperation, and establishes guidelines for collaborative intervention, cross reporting, information sharing, and training. While the MOU does identify specific areas of responsibility, it does not mention PREA nor the PREA Juvenile Facility Standards. The Memorandum was signed by the parties in 2009 before the PREA Standards were published. While the MOU and Department procedures meet the requirements of the standard, the auditor found it difficult to find the material on the Web site. The Auditor recommends that, at a minimum, the DYRS put a note and a link on the PREA page in the Division's Web site that will take the reader directly to the MOU in the DSCYF Web site.

If a forensic exam is needed, the DSP would transport the victim to Christiana Care Hospital where a Sexual Assault Forensic Examiner (SAFE) would conduct a forensic exam.

Christiana Care's forensic nurse examiner team was recently honored by the U.S. Department of Justice for its work caring for crime victims. The team received the Allied Professional Award in Washington, D.C. The team is made up of 24 nurses – all women – who also are trained in emergency trauma.

DYRS also has a Memorandum of Agreement Between the DYRS and Survivors Of Abuse in Recovery, Inc.

(SOAR) that states SOAR will provide mental health professionals who will deliver outreach, advocacy, assessment, and psychotherapy services to DYRS youth who have been, or may have been, victims of sexual abuse in accordance with the definitions outlined in the PREA standards.

The auditors interviewed two of the investigators from the Internal Abuse Unit (IAU). The investigators described, in detail, the training they have received and continue to receive, how abuse referrals are made to the Child Abuse Hotline, how the IAU is notified, and how investigations are conducted. Investigations normally begin within 90 minutes of the time the Unit is notified. The DSCYF has four levels of findings, 1) no evidence to substantiate, 2) unsubstantiated, 3) unsubstantiated with concerns, and 4) substantiated. The investigators said they work very closely with the DSCYF and DYRS administrators and the DSP in conducting all child abuse investigations, including sexual abuse.

Standard

§ 115.322 Policies to ensure referrals of allegations for investigations.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

As previously stated, DSCYF and the DYRS have procedures and memorandums of understanding in place that require the agency to refer sexual abuse allegations to law enforcement and allegations of sexual abuse and sexual harassment to the Institutional Abuse Unit. The DSCYF also has a Web site, but finding the procedures that ensure all allegations of sexual abuse or sexual harassment are referred for investigation to the DSP and the Institutional Abuse Unit represented a challenge to the auditor and would probably frustrate a resident's parent who may not know how to navigate the Web site.

As previously recommended, DYRS should consider putting a link on the PREA Web page in the DYRS Web site that would take a reader to investigation procedures.

Standard – TRAINING AND EDUCATION

§ 115.331 Employee training.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DYRS Center for Professional Development provides both Instructor Lead Training (ILT) and online training for employees. Training is provided to all new employees and refresher training is provided to current employees. Policy 2.13, subsection IV. A. Training, states the Division's requirement that all staff working directly with or monitoring programs/services of youth in secure care and community services must receive PREA training. The subject areas cover all the areas required in the standard.

The auditors confirmed in random interviews that the employees have received the training. The auditors did find that the employees' were confirming in writing that they have received the training, but the statement did not have them acknowledge that the employees understood the training. During the 30-day report writing period, the agency corrected this oversight and all employees have since confirmed in writing that they have received PREA training and that they understand it.

The auditors reviewed four employee training files and confirmed the needed documentation was present.

Standard**§ 115.332 Volunteer and contractor training.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The Auditors interviewed two contractors who confirmed that they received detailed training on the agency's Zero Tolerance Policy, how to report an allegation of abuse and how to respond. The contractors were informed that they would have to call the Child Abuse Line.

Standard**§ 115.333 Resident education.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action).

All new admissions are informed about the DYRS Zero Tolerance policy and how to report sexual abuse or sexual harassment, up arrival at the Cottages. Within a few days, the new residents are given a more detailed education on PREA that meets the requirements of the standard. The residents who have been transferred from the Ferris School (the juvenile correctional facility on the same campus) stated they had received a similar education while at Ferris and received it again at the Cottages.

The auditors reviewed four resident files and observed written confirmation that the residents had received the training and printed materials.

Residents are provided with the DYRS brochure What you need to know about Sexual Assault, Harassment, and Abuse. PREA is also reviewed in the resident handbook and includes information about PREA, how to report sexual abuse, treatment and counseling, and three ways residents can report sexual abuse or sexual harassment.

The auditors observed posters throughout the cottages informing residents about PREA and how to report sexual abuse and sexual harassment.

Standard**§ 115.334 Specialized training: Investigations.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

At the time of the audit, the DYRS did not have a staff member who was designated and trained to be the Division's investigator. Investigations were primarily conducted by the Institutional Abuse Unit within the Department. However, the IAU investigators did not always investigate allegations of sexual harassment. The auditors found the Division did not meet the standard because there was not a designated staff member to conduct the administrative investigations regarding allegations of sexual harassment. During the report writing period, the PREA Coordinator provided written documentation that a staff member was

appointed as an investigator and had received the three-hour training program provided by the National Institute of Corrections, on July 21, 2015.

Standard

§ 115.335 Specialized training: Medical and mental health care.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

During the audit, the Division provided documentation that the contract nurses had received the Specialized Training for Medical and Mental Health professionals. However, the psychologist had not received the training. During the report writing period, the psychologist took the NIC Specialized Training. The certificate that documented the training was provided to the auditors.

Standard Screening for Risk of Sexual Victimization and Abusiveness

§ 115.341 Obtaining information from residents.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS has a Memorandum of Understanding with the Division of Prevention and Behavioral Health Services (DPBHS) to comply with PREA. "The primary goal is to identify youth at risk for being sexually victimized, as well as those at risk for sexually victimizing others in order to limit such risk."

Under the MOU the DPBHS clinicians will meet with residents within one (1) business day of admission. The clinician will also review available information regarding the new admission and review Family and Child Tracking System (FACTS) information in the FACTS database. The clinician will use the information from the file review and interview with the resident to identify risk factors that include age, prior sexual history, current charge and offenses history, non-conforming appearance or mannerisms, sexual orientation, level of emotional and cognitive development, physical size, mental illness or disability, physical disability, intellectual or developmental disabilities, the youth's own perception of vulnerability and any other specific information about the youth that may indicate heightened need for supervision, additional safety precautions, or separation from other youth. The MAYSI-2 Questionnaire, the UCLA PTSD Index for DSM IV, and the APS-SF Adolescent Questionnaire are also administered.

Assessments are updated approximately every 30 to 45 days or when an event or allegation triggers a demand for an evaluation.

The auditors reviewed Initial Psychological Reviews and Interim Intake Dispositions conducted less than 30 days later.

At the time of the audit, the facility's intake staff person was not required to state whether he/she perceived the resident to be gender non-conforming. During the 30 days following the audit, the agency amended Policy 2.13, Section IV-B-2-a to require that such a statement is made at the initial intake. The policy reads, "A subjective judgement shall be made by the program's initial intake staff person to include a one sentence note to staff, stating if the youth's presentation conforms or does not conform to their gender."

DYRS Policy 2.20, Section IV-B-2 states "Information regarding a youth's sexual orientation or gender identity/expression shall be shared with other staff only on a need-to-know basis and when determined to be therapeutically necessary to ensure the youth's safety. Random interviews confirmed that staff understand

they are not to disclose information regarding a resident's assessments or any information regarding a resident's sexual history to anyone who does not have a need to know. Access to information in the FACTS system is limited to authorized personnel only.

Standard

§ 115.342 Placement of residents in housing, bed, program, education, and work assignments.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.20-IV-E.1.a. and 1. d. e. f. g. state that the information obtained from the assessment is used to make housing, bed, program, education and work assignments with sexual safety being one of the primary goals.

- a. "DYRS shall use all information obtained in intake and referral documentation and the Mental Health Assessment to make housing, bed, program, education, and work assignments for youth with the goal of keeping all youth safe and free from sexual abuse and sexual assault."
- d. "LGBTQI youth shall not be placed in particular housing, bed or other assignments solely on the basis of such identification or status, nor shall DYRS consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of likelihood of being sexually abusive."
- e. "In deciding whether to assign a transgender or intersex youth to a facility for male or female youth, and in making other housing and programming assignments, DYRS shall consider on a case-by-case basis whether a placement would ensure the youth's health and safety, and whether the placement would present management or security problems."
- f. "Placement and programming assignments for each transgender or intersex youth shall be reassessed by the interdisciplinary team at least twice each year to review any threats to safety experienced by the youth."
- g. "Placement and programming assignments for each transgender or intersex youth shall be reassessed by the interdisciplinary team at least twice each year to review any threats to safety experienced by the youth."
- h. "A transgender or intersex youth's views with respect to his/her own safety shall be given serious consideration."

Policy 2.20 – IV – F. Bathroom/Shower states "Transgender and intersex youth shall be given the opportunity to shower and use the bathroom separately from other youth."

The Residential Cottages do not use isolation. This was confirmed through interviews with the Superintendent, PREA Coordinator, PREA Manager and others. The auditors found no isolation cells during the tour.

Standard Reporting**§ 115.351 Resident reporting.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV. C. 2. Reporting by DYRS Youth describes the means youth can use to report sexual abuse or sexual harassment, threats of retaliation, or staff neglect that may have contributed to a sexual abuse or sexual harassment allegation. During interviews, residents described how they can report sexual abuse or sexual harassment by calling the Child Abuse Hotline, by telling a trusted staff member, by filing a grievance, or by telling a third party (i.e., parent, attorney, probation officer, etc.).

The auditors observed phones in the living units that are directly connected to the Child Abuse Hotline. The residents said they have unimpeded access to the phones. The auditors called the Child Abuse Hotline using the phones in the living units on the first and second day of the audit. When the auditor told the person on the Hotline that this was a PREA Audit and the auditor was testing the system, the person on the Hotline stated they were not familiar with PREA. The auditor explained what PREA was, but the person still did not understand why the auditor was calling. The second day, the auditors called the Hotline, again, and got the same response from the person answering the call. The PREA Coordinator made the DYRS Director immediately aware of this. Although DYRS cannot control the level of training that is provided to the Hotline staff, the auditors felt the Hotline staff needed training on the basics of PREA and how Hotline referrals are to be handled. Residents have been told they can remain anonymous when making calls. Residents are provided access to the Child Abuse Hotline phone.

During the interviews with random staff, the interviewees reported that staff can accept verbal, written, anonymous, and third party allegations from residents. Residents also reported that they are aware that they can make reports verbally, in-writing, anonymously, or via a third party. Residents also said staff would make writing instruments available to them if they desired to make a written report.

Staff reported they can privately report sexual abuse and sexual harassment by calling the Child Abuse Hotline. This is also stated in DYRS Policy 2.13 – IV. C. 2. d.

Residents are not held in this facility solely for civil immigration purposes.

Standard**§ 115.352 Exhaustion of administrative remedies**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)
- Not Applicable

Residents report allegations of sexual abuse and sexual harassment by calling the Child Abuse Hotline, reporting to staff or telling a third party. If a resident should file a grievance alleging sexual abuse or sexual harassment, the grievance is taken out of the grievance process and handled as PREA referral and reported to the Institutional Abuse Unit.

Standard**§ 115.353 Resident access to outside support services and legal representation.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DYRS provides access to outside victim advocates for emotional support services. DYRS has a written Memorandum of Agreement with Survivors Of Abuse in Recovery (SOAR) which describes in detail the responsibilities of each agency in providing emotional support services to victims of sexual assault. Contact information for SOAR is made available on the brochure What you need to know about Sexual Assault, Harassment, and Abuse, which the facility provides to each new resident. Contact information is also provided on the brochure for Brandywine Counseling and Community Services, Delaware Guidance Services, Delaware Renaissance, and AIDS Delaware.

DYRS Policy 2.13 – IV. E. Victim Services states, “In addition to or in place of the counseling services provided by the DPBH clinicians in our facilities, all youth shall be made aware of community agencies, addresses and contact numbers of mental health practitioners that provide emotional support services related to sexual abuse. The Division shall enter into a Memorandum of Agreement with one or more such agencies to ensure statewide service agreement.”

While some residents said they were not aware of such services, the auditors pointed out that the information was available on the brochure. Other residents reported that they were told about these services during orientation.

All residents reported that they have access to parents, guardians, and family members through visitation and phone calls and access to their attorneys, as needed.

Standard**§ 115.354 Third-party reporting.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Visitors to the Residential Cottages are informed how to report an allegation of sexual abuse and sexual harassment. Posters throughout the facility provide the phone number for the Child Abuse Hotline.

Residents are also informed, during Orientation, that they can report sexual abuse or sexual harassment to their parents, family members, trusted staff, probation officers, or by calling their attorney.

Standard Official Response Following a Resident Report**§ 115.361 Staff and agency reporting duties.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV. C. states, “All staff are required to report any allegations and instances of Non-consensual Sexual Acts, Abusive Sexual Contact, and Sexual Harassment to the Child Abuse Hotline (800)292-9582.” Staff reported they are also required to report any retaliation for reporting sexual abuse or sexual harassment,

All staff interviewed said they receive training on mandatory reporting and applicable mandatory child abuse reporting laws. Staff are also aware that they are prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make investigation, treatment, security, and management decisions.

The medical and mental health staff interviewed said they are mandated reporters and that they tell residents of the limitations of confidentiality.

The superintendent stated that he or his designee will immediately report any allegation of sexual abuse to the Division Director or her designee. The superintendent or his designee will also promptly report any allegation of sexual abuse to the alleged victim’s parent(s) or legal guardian (unless there is documentation that parent(s) should not be notified). If the resident is under the jurisdiction of the child welfare system or the juvenile court, the resident’s caseworker, probation officer, and attorney will notified.

When an allegation of sexual abuse or sexual harassment is made, including third party and anonymous reports, to the Child Abuse Hotline, the Hotline staff immediately notify the Institutional Abuse Unit. The IAU will immediately initiate the investigation.

Standard

§ 115.362 Agency protection duties.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The superintendent and all random staff interviewed said that when staff learn that a resident is subject to a substantial risk of imminent sexual abuse immediate steps will be taken to remove the resident who fears for his/her safety. DYRS Policy 2.13 – IV. C. 2. e. provides that a superintendent or designee can temporarily transfer a youth to another location if he or she believes the resident’s safety is in jeopardy. The superintendent and random staff interviewed confirmed their understanding of this procedure.

The superintendent stated there have been no incidents where youth have been in imminent risk of sexual abuse.

Standard

§ 115.363 Reporting to other confinement facilities.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DYRS had no policy or procedures for notifying another facility if a resident made an allegation that he/she had been sexually abused while confined at the other facility. On November 10, 2015, the PREA Coordinator provided the designated auditor with the DYRS amended Policy 2.13. In Section IV, Procedures, subsection C. Reporting, subsection 3 was added to state that if a resident reported an allegation of sexual abuse at another facility the head of facility that received the allegation would notify the head of the other facility and also report the allegation to the appropriate investigative agency.

Standard**§ 115.364 Staff first responder duties.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

All random staff interviewed by the auditors knew what to do if a resident reported to him/her that they had been sexually abused and described the steps in detail. Auditors reviewed the training curriculum that addressed how a first responder should react to a report of sexual abuse.

Interviews with non-security staff confirmed that they were also aware of what to do and what to tell the residents to do and not to do.

Standard**§ 115.365 Coordinated response.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The facility has established a coordinated response flow chart that clearly describes how staff in the various areas respond (security, investigations, health care, mental health, etc.) when an allegation of sexual abuse is made. There is also a first responder checklist that provides a narrative that describes what specific staff will do. First responders can check off when specific tasks are completed. Interviews with staff in the various areas established that the parties had reviewed the flow chart and the checklist and understand their role and the overall coordinated response.

Standard**§ 115.366 Preservation of ability to protect residents from contact with abusers.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The Division Director reported that the Department has not entered into or renewed a collective bargaining agreement since August 20, 2012. However, Department policy says an employee can be suspended, with pay, if there is an allegation of sexual abuse or sexual harassment. A substantiated case of sexual abuse of a resident could result in termination.

Standard**§ 115.367 Agency protection against retaliation.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV. C. 2.f. states “Retaliation from youth or staff will result in disciplinary action and subject to full progression of sanctions and/or referral for criminal prosecution.”

The program manager is responsible for monitoring for retaliation. He stated that if a resident reported an abuse that he would initiate the contact with the resident and he would monitor for retaliation for 90 days, longer if needed. At a minimum, contacts would be made weekly.

In monitoring for retaliation, the program manager stated he would monitor behavior or incident reports, and would call the resident’s parent(s) and probation officer for their observations.

If retaliation was suspected, the resident could be moved to another building on the campus or in an extreme case, the resident could be moved to another facility. The perpetrator could also be moved to another unit or the perpetrator could be given a new charge and moved to the juvenile detention center.

If a staff member was suspected of doing the retaliation, he/she could be suspended with pay pending the investigation or he or she moved to a non-contact post.

If a staff member was the target of the retaliation, he/she could be moved to another post, to a different shift, or temporarily transferred to another facility.

Standard**§ 115.368 Post-allegation protective custody.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)
- Not Applicable

The Residential Cottages do not use segregated housing (isolation).

Standard Investigations**§ 115.371 Criminal and administrative agency investigations.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

All allegations of sexual abuse are investigated by the DSCYF Institutional Abuse Unit (AIU) and the Delaware State Police (DSP). Both agencies use investigators who have received the specialized training and follow the protocols required in the standards. The DSCYF and the DSP have a Memorandum of Understanding that describes the responsibilities of each agency in the investigation of a sexual abuse.

The auditors interviewed the investigators from the AIU confirmed they have received the investigator training and additional training that goes beyond that required by the standard.

If an allegation is investigated as a criminal case, the DSP will work with the prosecutor to move the case forward. The AIU collaborates with the DSP in the investigation of sexual abuse cases in state facilities. The DYRS will not conduct compelled interviews without the authorization of the prosecutor or the DSP.

The investigators said an investigation will not terminate solely because the source of the allegation recants the allegation or leaves the facility.

Residents know they cannot be required to take a polygraph exam as a condition of an investigation moving forward.

Administrative investigations, especially involving allegations of sexual harassment are not investigated by the DSP and rarely by the IAU. At the time of the audit, DYRS did not have anyone trained as a DYRS an investigator. During the report writing period, DYRS had a staff member in a managerial role take the specialized training for investigators. The audit was provided documentation that the person had successfully completed the required course as provided by the National Institute of Corrections.

All investigations are documented in written reports. The retention schedule of the reports is consistent with the standards and what is required by Delaware law.

Standard

§ 115.372 Evidentiary standard for administrative investigations.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The AIU investigators stated the DSCYF uses the “preponderance of the evidence” standard in determining whether allegations of sexual abuse or sexual harassment are substantiated. For criminal prosecution, the standard is “beyond a reasonable doubt.”

Standard

§ 115.373 Reporting to residents.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The AIU investigators reported that residents are told by the staff person who has the best relationship with the victim what the outcome of the investigation was. DSCYF has four levels of response, 1) no evidence to substantiate, 2) unsubstantiated, 3) unsubstantiated with concerns, and 4) substantiated. The investigators stated that since there have been no investigations, thus there is no documentation.

DYRS Policy 2.13 – IV. D.1.i states, “Upon notification from Institutional Abuse or Law Enforcement, the program administrator will ensure that the youth is notified of the outcome of the case via the Notification Form.”

Standard Discipline**§ 115.376 Disciplinary sanctions for staff.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV. D.1.d states, “The staff sexual misconduct will be reported to the Child Abuse Hotline to address all matters involving staff actions that may not be of a criminal nature, yet still violates PREA, such as conversations or correspondence of a romantic or sexual nature.”

DYRS Policy 2.13 – IV. D.1.e. states, “For all incidents that occur in Delaware’s state operated facilities, the State will pursue personnel actions that honor due process and decision making that is in the best interest of the child.”

DYRS Policy 2.13 – IV. D.1.f. states, “Upon completion of an investigation, the facility administrator will make a recommendation for training and/or disciplinary action as necessary, after consulting with the Human Resources Unit.”

DSCYF policy #313 describes the steps that can be taken to separate an employee who has been involved in a substantiated case of child abuse, including sexual abuse. Termination is one option that is available to the Department in cases of substantiated sexual abuse or sexual harassment. The Department will notify licensing agencies, if appropriate.

Standard**§ 115.377 Corrective action for contractors and volunteers.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DSCYF policies are applicable to contractors and volunteers as they would be for paid staff. Any allegation of sexual abuse or sexual harassment that rises to the level of a criminal act will be investigated by the DSP. Volunteers and contractors will be immediately separated from the facility. The Department will notify licensing agencies, if appropriate.

Standard**§ 115.378 Interventions and disciplinary sanctions for residents.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV.C.2.i. states, “If the program administrator has demonstrated that a youth has: 1) filed a grievance in bad faith; or 2) made a verbal report about a PREA matter in bad faith, the program may discipline a youth via the Cognitive Behavior Treatment (CBT) program. A copy of this incident shall be kept on file by the program’s Compliance Manager and the PREA Coordinator.”

If the allegation is substantiated, the prosecutor will make the decision to prosecute or not.

If the allegation is substantiated, but the prosecutor chooses not to pursue prosecution, the program may discipline a youth via the Cognitive Behavior Treatment (CBT) program.

Treatment of a perpetrator would not be provided at the facility, because the juvenile would probably be transferred to a detention facility or another facility where treatment could be provided.

Standard Medical and Mental Care

§ 115.381 Medical and mental health screenings; history of sexual abuse.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

If the intake assessment indicates that the new resident has experienced prior sexual victimization he/she is seen by the nurse and the psychologist within 24 hours, but more likely the same day.

If the assessment identifies the new resident as a previous perpetrator, he/she will be seen by the psychologist within 72 hours.

The nurse and psychologist stated they do not obtain informed consent from residents before reporting information about prior sexual victimization because they are mandatory reporters under the law.

Standard

§ 115.382 Access to emergency medical and mental health services.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DYRS has a Memorandum of Agreement with Christiana Care Hospital that states the services the hospital will provide to any resident from the facility who is a victim of sexual abuse. The Hospital has SAFE/SANE staff available. The Hospital will also ensure that the victim is offered emotional support services through a victim advocacy agency. As previously mentioned, DYRS has an MOU with an advocacy agency.

The Hospital will provide timely information and access to emergency contraception and sexually transmitted infections prophylaxis, where medically appropriate.

Treatment services are provided to the victim without financial cost, regardless of whether the victim names the abuser or cooperates in the investigation.

Standard

§ 115.383 Ongoing medical and mental health care for sexual abuse victims and abusers.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

A resident who is a victim of sexual abuse will receive continuing medical and mental health services, as determined by the medical staff and the psychologist. The evaluation and treatment of the victim will include follow-up services, treatment plans, and referrals for continued care following transfer to or

placement in other facilities or release from custody.

The nurse and the psychologist said the level of care provided to the residents of this facility exceeds the standards of care in the community.

As previously stated, a female victim will receive timely information and access to emergency contraception and sexually transmitted infections prophylaxis, where medically appropriate.

All victims of sexual abuse will be offered tests of sexually transmitted infections as medically appropriate.

Services will be provided without cost.

A resident who is a perpetrator and who sexually abuses another resident will very likely be transferred out of the facility. If he/she is not, however, they will be seen by the psychologist

Standard Data Collection and Review

§ 115.386 Sexual abuse incident reviews.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV.D.4. states that the facility does have a sexual abuse incident review team that will review all sexual abuse investigations within 30 days of the report of the IAU or when directed if the official investigation extends beyond 45 days. In cases where the IAU declines to investigate and an administrative investigation is conducted, the team will review the administrative investigation. The review team will consider all the elements listed in 115.386.

The sexual abuse incident review team consists of upper-level management officials, with input from line supervisors, investigators, and medical and mental health practitioners.

The team will prepare a report of its findings and any recommendations for improvement and submit such report to the superintendent, the PREA Compliance Manager, the Deputy Director and the Division Management Analyst.

The facility will implement the recommendations for improvement or document its reasons for not doing so. Since there have been no sexual abuse investigations, the team has not had to meet.

Standard

§ 115.387 Data collection.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The auditor interviewed the Management Analyst III who explained how the DYRS captures data for every juvenile facility in the Division and all contracted facilities. The data is collected using 4 different forms. One collects information on the incident, one collects information on the victim, one collects information on a youth perpetrator, and the fourth form collects information on an adult perpetrator. The data is aggregated and quarterly reports are published and distributed. The DYRS has collected this data since 2008. The data provides the basis for the DOJ Survey of Sexual Violence, as requested.

The Management Analyst III confirmed that there have been no allegations of sexual abuse in the

Residential Cottages in more than 12 months.

Standard

§ 115.388 Data review for corrective action.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS has published two (2) Annual Reports (Calendar Year 2013 and 2014). The annual reports are prepared following the review of all data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices and training.

The annual reports include all DYRS facilities and all contracted facilities that provide services for the DYRS.

There were unfounded allegations (one in a DYRS facility and one in a contracted facility) in 2013 and three unfounded allegations (two in a DYRS facilities and one in a contracted facility) in 2014.

The annual report provides information for each facility reporting and the agency as a whole.

The report needs to compare the current year's data and corrective actions with those from prior years.

The annual report is signed by the Director of DYRS and is published on the agency's Web site

Standard

§ 115.389 Data storage, publication, and destruction.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The Management Analyst III reported to the auditor that he is responsible for the secure care of all of the data on sexual abuse allegations. Information is maintained in a secure cabinet in the Management Analyst's office. He is the only person with access to this data.

Before making aggregated sexual abuse data publically available, the Division removes all personal identifiers.

As previously mentioned, the 2013 and 2014 Annual Reports are available on the agency's Web site.

Sexual abuse data collected pursuant to 115.387 is maintained for a minimum of 10 years.

AUDITOR CERTIFICATION:

The auditor certifies that the contents of the report are accurate to the best of his knowledge and no conflict of interest exists with respect to his ability to conduct an audit of the agency under review. The Delaware Department of Services for Children, Youth, and Their Families, Division of Youth Rehabilitation Services, Residential Cottages meets the requirements of the Juvenile Facility Standards of the Prison Rape Elimination Act.



December 14, 2015

Auditor Signature

Date