POLICY # 203	SUBJECT: MIXING
EFFECTIVE DATE: July 6, 1987 **REVISION DATE: August 22, 2008; June 15, 2016; March 1, 2020**	Page 1 of 5
AUTHORIZED SIGNATURE: Josette Manning	

DELAWARE CHILDREN'S DEPARTMENT POLICY

I. PURPOSE

The purpose of this policy is to promote the best interests and safety of all children in placement by considering potential risks when youth with certain delinquency histories are placed in a home or facility with dependent or neglected children and youth who have no delinquency history. The legal basis for this policy is in Delaware Code, Title 10, Chapter 9, Subsection 1009.

II. POLICY

A. Mixing applies only to homes and facilities in the State of Delaware that are managed, monitored, and/or contracted by DSCYF. Accredited hospitals and licensed hospitals do not apply.

B. Mixing approval is required prior to placement of a youth with a history of delinquency in a home or facility with children who have no delinquency history as follows:

1. Youth with an adjudication or probation before adjudication disposition for any of the following serious misdemeanor offenses (youth with pending misdemeanor charges do not require mixing consideration or approval).
   a. Criminal Solicitation in the 3rd degree
   b. Offensive Touching
   c. Menacing
   d. Assault in the 3rd degree
   e. Terroristic Threatening
   f. Unlawfully Administering Drugs
   g. Vehicular Assault in the 2nd degree
   h. Sexual Harassment
   i. Indecent Exposure 1st or 2nd
   j. Incest
   k. Unlawful Sexual Contact 3rd
   l. Unlawful Imprisonment 2nd
   m. Reckless Burning or Exploding
   n. Endangering the Welfare of a Child
   o. Escape in the 3rd degree
   p. Resisting Arrest with force or violence
   q. Harassment
   r. Lewdness
   s. Carrying a Concealed Dangerous Instrument

2. Youth with any pending or adjudicated felony offense.

C. Mixing requirements do not apply to charges nor adjudications that have been expunged.

D. All placements involving youth subject to these mixing requirements must be authorized by the DSCYF Cabinet Secretary or a division director/designee. Placements involving youth with pending or adjudicated felony charges and those considered to be repeat offenders (three or more serious misdemeanor adjudications in the last 24 months prior to program admission) also require judicial approval.

E. The Office of Case Management (OCM) is responsible for completing mixing reviews and making them available to division workers and the resource/facility in accordance with law.

III. DEFINITIONS

A. Adjudication/Adjudicated - any type of judgment of delinquency contained with the definition of "conviction" or "convicted" pursuant to Chapter 9 of Title 16, and shall include any probation before adjudication plea or admission, and any mental health or drug court deferred plea regardless of whether the plea or charge was subsequently discharged or dismissed under such programs.

B. Conviction/convicted - means entry of a plea of guilty or nolo contendere, regardless of whether the plea was subsequently discharged or dismissed under the first offenders domestic violence diversion program pursuant to § 1024 of Title 10, or under the first offenders controlled substances diversion program pursuant to § 4767 of this title, or of a Robinson plea, or of a probation before judgment discharge without judgment of conviction notwithstanding the provisions of § 4218(g) of Title 11, or a finding of guilt after trial, or a finding of not guilty after trial as a result of the defense of mental disease or defect pursuant to Title 11, or adjudication of delinquency for conduct which if committed by an adult, would constitute a crime; or "conviction" or "convicted" under similar proceedings of another state, territory or jurisdiction.

C. Designee – individual in each division designated by the division director to consider mixing requests and authorized to approve or deny the request.

D. Expungement – refers to a court order to remove all documentation of arrest, including any electronic records, relating to the charge or the case pursuant to § 1018(d) of Title 10.

E. Facility – any residential shelter, group home, foster home, treatment center, institution or any other place designated as a temporary or permanent residential placement for children located in the State of Delaware, excluding accredited or licensed hospitals.

F. Felony level offense - any delinquent act constituting a felony under the laws of Delaware, any other state, or the United States.

G. Mixing – placement by DSCYF of any child charged with or adjudicated of a felony level juvenile offense or adjudicated of any serious misdemeanor level juvenile offense (see list in section II. B. 1 in this policy) in the same home or facility with dependent or neglected children with no delinquency history.

H. Mixing placement requestor – department representative seeking a placement in a facility (defined above in E) for a juvenile subject to mixing.

I. Repeat Offender - any child adjudicated delinquent of three (3) or more serious misdemeanor level juvenile offenses occurring within the 24 months prior to the request for mixing.

J. Serious misdemeanor level juvenile offense – any delinquent act constituting any of the stated serious misdemeanor level juvenile offenses or any court adjudicated violation of probation or juvenile aftercare in which the underlying adjudication is any of the stated misdemeanors pursuant to Title 10, Chapter 9, Subsection 1009(j)(1)(f) whether under the laws of the State of Delaware, any other state or the United States. See section II. B. 1 of this policy for the list of serious misdemeanor offenses.

IV. PROCEDURES

A. When determining the appropriateness of mixing a youth with an applicable delinquency history in a home or facility with dependent and neglected children, staff shall consider the possible safety risks and assess the ability of the placement resource to manage those risks before seeking placement approval.

B. After the initial determination that the resource can manage potential safety risks, a mixing request shall be completed by a staff member from the division seeking placement approval. Instructions for completing mixing request workflow in FOCUS can be found in the shared drive: S:\FOCUS Training\Mixing (Multi-Division)

1. The placement requestor should take care when completing the mixing request to ensure accurate content and appropriate grammar. This information is included in the Mixing Request Memorandum generated through FOCUS for submission to Family Court. Supervisors and other reviewers/approvers should review information for content and grammar prior to approval.

C. The request is to be assigned to, and reviewed by, the DSCYF Cabinet Secretary, a division director, or a designee who will approve or deny the request. A list of division designees is maintained by the Office of Case Management.

D. If the youth is a repeat offender and/or is charged with, or adjudicated delinquent of, a felony level offense judicial review and approval is required prior to placement or within two days of a provisional placement. It is the responsibility of the mixing placement requestor to check repeat offender status for youth with serious misdemeanor adjudications and to ensure all required documentation, including delinquency history information, is provided to the division designee.

E. The division designee is responsible for forwarding this information to staff in the Family Court Liaison Unit who will coordinate with DSCYF legal counsel to submit for judicial review.

F. A family court liaison will provide copies of the signed judicial order authorizing the mixing placement or documentation indicating that the request for placement has not been approved.

G. In the event of an emergency placement in a home or facility, where the need for placement could not have been reasonably determined in advance, the child may be placed on a provisional basis, pending mixing consideration. The mixing placement requestor is required to submit the mixing request and supporting information to their division designee as follows:

1. No later than 12:00 p.m. the first business day following the provisional placement if judicial review and approval is required. DSCYF legal counsel should be notified as soon as possible, but no later than the first business day following provisional placement, that the Mixing Request Memo is forthcoming to ensure submission to Family Court by close of the second business day as required by law. The designee is responsible for forwarding information to the Family Court Liaison Unit as noted in IV. E. of this policy.
2. No later than the second business day after the provisional placement if internal review and approval by a division designee is the only requirement.

H. The Office of Case Management will complete a formalized review within five business days of placement which will be available for view in FOCUS. A copy of this review will be made available to the facility and forwarded to the approving judicial officer, if applicable.

I. Division case managers are responsible for assessing risk and safety of all children involved during regular required contacts and when conducting assessments. The purpose of the reviews shall be to determine whether the placement of the child offender presents an unreasonable and/or unmanageable physical risk to other children in the facility, and if such placement is contrary to the best interests of the other children in the home or facility.

J. Once mixing approval has been obtained as required for youth placement in a specified home or facility, re-authorization is not required when additional dependent or neglected children are placed in the home or facility. It is the responsibility of assigned department case managers, facility staff, and the placement resource to determine if there are any changes in the resource's ability to manage potential risk.

K. If a youth eligible for mixing is placed in a home or facility where there are no dependent or neglected children, mixing is not required. If a dependent or neglected child is subsequently placed in the home or facility with youth subject to mixing, a mixing request shall be initiated and approved for all youth subject to mixing in order for those youth to remain in the home or facility. If placement of a dependent child occurs prior to obtaining mixing approval, follow provisional placement procedures in IV. G. of this policy

L. If a youth eligible for mixing is removed from an approved placement to a different home or facility, a new mixing request must be initiated and approved prior to placement as outlined in this policy.

M. If a youth in a home or facility with dependent and neglected children incurs applicable charges or adjudications, a mixing request shall be initiated and approved in order for the youth to remain in the home or facility. Follow provisional placement procedures in IV. G. of this policy.

N. A mixing case is closed once the youth leaves the placement, no longer meets the delinquent status requirements for mixing or reaches the age of 18 (mixing only applies to minors).

O. Division staff should contact the Office of Case Management for clarification and direction when there are questions about the mixing process.

V. RESPONSIBILITY FOR THIS POLICY

The Office of Case Management will have training, departmental review and monitoring responsibility to assure compliance with this Mixing Policy.