Tennessee Children’s Home

Administrative Policies and Procedures

**Subject:** Zero-Tolerance Standards and Guidelines for Sexual Abuse, Sexual Harassment, Assault or Rape

 Incidents and prison Rape Elimination Act (PREA)

**Authority:** Prison Rape Elimination Act of 2003 (PREA P.L. 109-79); DCS 18.8

**Standards:** DCS Practice Standard, 8-306; Juvenile Facility PREA Standards

**Policy Statement:**

Tennessee Children’s Home shall be committed to a zero-tolerance standard for all forms of sexual abuse/assault/misconduct/harassment or rape within its facilities and shall be committed to reducing the risk of sexual abuse, sexual harassment, assault, misconduct and rape through implementation of the Prison Rape Elimination Act (PREA) as outlined in Public Law 108-79, Section 3.

**Purpose:**

The purpose of this policy is to provide guidelines for TCH’s zero-tolerance for all forms of sexual abuse and sexual harassment, and the implementation of the Prison Rape Elimination Act (PREA) to provide a safe, humane, and appropriately secure environment free from threat of sexual abuse/assault/misconduct/harassment or rape is provided for all children/youth that live in congregate care settings such as TCH.

**Procedures:**

1. TCH will designate the PQI Manager as the PREA Compliance Coordinator. The Manager will develop, implement and oversee TCH’s efforts to comply with PREA Standards in all TCH facilities.
2. During the intake process, DCS form **CS-0946** **Assessment Checklist and Protocol for Behavior and Risk for Victimization** will be administered to all children/youth within 24 hours of admission to TCH.
3. The “At-Risk Protocol” section will be initialed and completed on children/youth that are identified as vulnerable for at-risk sexual victimization or identified as having the potential to victimize/perpetrate, especially in regards to sexual aggressive behavior.
4. Designated staff will develop appropriate treatment interventions that include further assessments or screenings by a mental health professional for identified children/youth prior to assigning the child/youth to program, education, work, housing unit, or bed to decrease the risk of sexual victimization/perpetration.
5. If further screening or assessments indicates that a child/youth has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, designated staff will ensure that the child/youth is offered a follow-up meeting with a medical or mental health practitioner within fourteen (14) days of the intake screening.
6. If the victimization occurred while the child/youth was confined at another facility/agency, the head of the facility/agency that received the allegation will promptly notify the head of the facility/agency where the alleged abuse occurred and will report the abuse incident directly to **DCS Child Abuse Hotline at 1-877-237-0004.**
7. If the screening indicates that a child/youth has previously perpetrated sexual abuse/assault/misconduct/harassment, whether it occurred in an institutional setting or in the community, designated staff will ensure that the child/youth is offered a follow-up meeting with a mental health practitioner within fourteen (14) days of the intake screening.
8. During the intake process, children/youth will receive information explaining, in an age appropriate fashion, TCH’s zero tolerance policy regarding sexual abuse/assault/misconduct/harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.
9. Written and verbal information on **PREA** will be provided and explained to children/youth within forty-eight (48) hours of arrival at TCH and will include, but not limited to:
* TCH’s zero-tolerance policy regarding **PREA**
* Prevention/Intervention
* Self-protection and how to avoid risk situations
* Consequences for engaging in any type of sexual activity while at TCH
* How to safely report sexual abuse such as:
* Reporting the abuse incident directly to DCS Child Abuse Hotline at 1-877-372-0004
* Reporting the abuse incident to facility/agency personnel
* Filing a grievance as outlined in TCH policy
* Reporting the abuse incident to their John L. Attorney or Guardian ad Litem
* How to obtain medical and mental health treatment and counseling.
1. PREA information will be covered in the Youth Handbook.
2. Appropriate provisions will be made as necessary for children/youth that are limited English proficient, have disabilities, and those with low intellectual, psychiatric, or speech disabilities. TCH will not rely on resident interpreters except in urgent circumstances where safety may be compromised.
3. All TCH children/youth are required to sign DCS form **CS-0939, Youth Acknowledgement and Notification of Prison Rape Elimination Act (PREA)** to acknowledge they have been notified and informed of PREA and on how to report incidents of sexual abuse/assault/misconduct/harassment.
4. Copies of the signed form will be sent to the child/youth’s parent(s) or guardians, family service worker, and
5. The original signed form will be maintained in the child/youth’s case file.
6. If youth request to consult with an attorney, access to an attorney will be in accordance with DCS policy 24.12. The Guardian ad Litem will be contacted for children/youth in Private Provider Agencies. (TCH)
7. TCH will maintain documentation on file of child/youth participation in PREA education sessions.
8. The applicable TCH staff will document PREA activities and efforts for educating and informing children/youth in TFACTS.
9. **Duty to Report – Tennessee Code Annotated 37-1-403 and 37-1-605** Pursuant to TCA 37-1-403 and 37-1-605, any person who has knowledge of or is called upon to render aid to any child/youth who is being sexually abused, sexually assaulted or sexually harassed has the duty to report such abuse.
10. **All allegations of sexual abuse must be reported to the DCS Child Abuse Hotline 1-877-237-0004.**
11. Failure to comply with “duty to report” requirements will result in disciplinary action up to and including termination and/or criminal charges.
12. Children/youth may report allegations of sexual abuse/assault/misconduct/harassment to local law enforcement agencies and may remain anonymous upon request.
13. TCH will follow local procedures for specific persons to be notified for abuse/sexual abuse reporting.
14. TCH must ensure that the name of the person or persons reporting the allegation is kept confidential.
15. Retaliation or negative consequences for reporting sexual abuse/harassment or cooperating with sexual abuse/harassment investigations will not be tolerated and may result in disciplinary action up to and including termination.
* For a period of ninety (90) days following a report, TCH will monitor the treatment of child/youth or staff that made a report and the child/youth that were reported to be abused to identify attempts at retaliation or negative consequences and will act immediately to remedy any such actions. Monitoring should include, but not limited to:
1. Resident disciplinary reports, housing, or program changes
2. Negative performance reviews or staff reassignments
3. Periodic status checks of residents
* TCH will continue to monitory beyond ninety (90) days if evidence indicates a continued need.
* If any individual involved in a report expresses fear of retaliation, TCH will take appropriate measures to protect that individual.
* TCH’s responsibility to monitor will terminate if the allegation is unfounded.
1. Pursuant TCA 37-1-413, any person who either verbally or by written/printed communication reports false accusations of sexual abuse commits a Class E felony. A report made in good faith upon reasonable belief of the alleged incident will not constitute a false report and may not be used as grounds for disciplinary action.
2. After an incident is reported to Child Abuse Hotline:
3. Special Investigations designated staff **IMMEDIATELY** notifies:
* Executive Director of Juvenile Justice
* Executive Director of Network Development (Private Provider Agencies)
* CEO/Executive Director of Private Provider Agency
* Local Police Department
* Youth’s Family Service Worker
1. Family Service Worker **IMMEDIATELY** notifies
* Parents/Guardians
1. In response to an allegation of sexual abuse, TCH will develop a written plan to coordinate actions taken among staff first responders, medical and mental health practitioners, investigators and TCH leadership.
2. Upon receiving notice of an incident of sexual abuse by a child/youth, or if an employee witnesses or unexpectedly encounters an assault taking place, the employee will ensure the child/youth is safe and kept separated from the perpetrator, immediately notify their supervisor, and:
3. Ensure child/youth does not change clothes, shower, wash, brush teeth, rinse mouth, eat, drink, or use the toilet until after all physical evidence is obtained in connection with the violation; and
4. Secure the incident area and treat it as a crime scene.
5. Refer to **Protocol-First Responder Guidelines for Sexual Assault** for guidelines on responding to sexual assaults.
6. For those sexual abuse incidents alleged to have occurred within seventy-tow (72) hours, designated personnel will offer to take the child/youth to the local hospital emergency room for examination, collection and preservation of evidence, and treatment.
7. If the child/youth refuses medical treatment, document on form **CS-0000 PREA Refusal of Medical Treatment** that medical treatment was offered to the child/youth and if the offer of medical treatment was:
8. Refused by the child/youth or
9. Accepted by the child/youth but refused to be examined after arriving at a medical facility.
10. If the alleged sexual abuse incident occurred beyond seventy-two (72) hours, appropriate staff will seek the advice of a hospital regarding a forensic exam.
11. Children/youth who are the victim of sexual abuse will be provided prompt and appropriate medical treatment and counseling, to include but not limited to:
12. Agency staff, as applicable, provides emotional support to child/youth with the forensic medical exam process and investigation interviews.
13. The development of a safety action plan that includes a review/adjustment, if necessary, of appropriate housing, bed, program, education and work assignments to keep child/youth safe and free from sexual abuse.
14. An assessment by a mental health professional.
15. Mental health counseling as needed.
16. Follow-up services and referrals, as applicable, for continued care following transfer to, or placement in other facilities, or release from custody.
17. No child/youth victim will be denied access to treatment resources and/or services for failing to fully disclose details to internal investigators, outside law enforcement investigators, and/or medical/mental health staff.
18. DCS will ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse/assault/misconduct/harassment.
19. Refer to DCS policy **14.25 Special Child Protective Services Investigations** for details regarding sexual abuse investigation process.
20. All incidents of sexual abuse/assault/misconduct/harassment and rape must be documented in appropriate **TFACTS** incident reporting section as outlined in DCS policy **1.4 Incident Reporting**.
21. TCH will conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation involving a PREA-related incident, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
22. The review will occur within thirty (30) days of the conclusion of the investigation.
23. The review team will consist of management level staff/designees, as applicable, with input from line supervisors, investigators, and medical and/or mental health practitioners.
24. The review team will:
25. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse:
26. Consider whether the incident or allegation was motivated by:
* Race
* Ethnicity
* Gender identity
* Lesbian, gay, bisexual, transgender (LGBT) or intersex identification, status, or perceived status, or
* Gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility.
1. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
2. Assess the adequacy of staffing levels in that area during different shifts;
3. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
4. Prepare a report of its findings including, but not limited to determinations made pursuant to paragraphs 37 b) of this Section, and any recommendations for improvement and submit the report to the Executive Director of TCH campus, President, Executive Director of Network Development as applicable.
5. TCH will implement the recommendations for improvement, or will document reasons for not doing so, e.g., inadequate funding or staffing issues.
6. Appropriately trained employees will help deter sexual assaults during the performance of their duties by:
7. Knowing and enforcing rules and procedures regarding sexual conduct of youth and staff;
8. Maintaining professionalism at all times; and
9. Treating any allegation of sexual assault seriously and following appropriate reporting procedures.
10. All TCH staff and persons listed below will receive **training in compliance with PREA Standards:**
11. All TCH employees will receive training during orientation or in-service and through annual refresher training thereafter.
12. All TCH employees and volunteers that have direct contact with children/youth will receive training during orientation and annual refresher training thereafter.
13. TCH will ensure that all full and part-time medical and mental health care practitioners who work regularly in its facilities receive training.
* If medical staff employed by TCH conduct forensic examinations, such medical staff will receive the appropriate training to conduct such examinations in compliance with **PREA Standards.**
* Medical and mental health practitioners will also receive the training mandated for employees under **PREA Standards 115.331** or for contractors and volunteers under **PREA Standards 115.332,** depending upon the practitioner’s status at the facilities.
1. Employees who conduct investigations of allegations of sexual abuse/harassment on children/youth in TCH care will receive training in **compliance with PREA Standards** as outlined in DCS policy **5.2 Professional Development and Training Requirements.**
2. All TCH employees, volunteers and contractors are required to sign form **CS-0940, Employee Acknowledgement and Notification of Prison Rape Elimination Act (PREA)** to acknowledge they have read the zero-tolerance policy and understand the training they have received.
3. TCH will maintain documentation on all employees, volunteers and contractors who receive training on **PREA**.
4. Each TCH campus will develop, implement, and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse.
5. Whenever necessary, but no less frequently than once each year, for each campus, in consultation with the **PREA** Coordinator, DCS will assess, determine, and document whether adjustments are needed to:
6. The staffing plan,
7. Prevailing staffing patterns,
8. The TCH deployment of video monitoring systems and other monitoring technologies, and
9. The resources TCH has available to commit to ensure adherence to the staffing plan.
10. TCH will collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions as instructed by the PREA Coordinator.
11. TCH will aggregate the incident-based sexual abuse data at least annually.
12. The incident-based data collected will include, at a minimum, the data necessary to answer all questions from the most recent version of the **Survey of Sexual Violence conducted by the Department of Justice.**
13. TCH will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
14. Upon request, TCH will provide all such data from the previous calendar year to the Department of Justice no later than June 30.
15. **Data Review for Corrective Action**
16. TCH will review data collected and aggregated pursuant to **PREA Standards 115.387** in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
* Identifying problem areas;
* Taking corrective action on an ongoing basis; and
* Preparing an annual report of its findings and corrective actions for each facility, as well as TCH as a whole.
1. The report will include a comparison of the current year’s data and corrective actions with those from prior years and will provide an assessment of the agency’s progress in addressing sexual abuse.
2. TCH’s report will be approved by the DCS Commissioner/designee and TCH’s Director and made readily available to the public through its website or through other means, as applicable.
3. TCH may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.
4. **Data Storage, Publication, and Destruction**
5. TCH will ensure that data collected pursuant to **PREA Standards** are securely retained.

**First Responder Guidelines for Sexual Assaults**

**Supplemental to: DCS Policy 18.8 Zero-Tolerance Standards and Guidelines for**

**Sexual Abuse, Assault or Rape Incidents and Prison Rape Elimination Act**

**(PREA)**

1. In general, if a sexual assault has taken place you will learn of it after the fact. To witness or

 unexpectedly walk upon an assault taking place is rare but it can happen. If you do respond to a sexual

 assault in progress, the first thing you’ll need to do is to ensure that you can safely take action; get

 help if necessary. If you are not security personnel, call security or other protocol immediately.

2. You and other available staff will need to separate the victim and perpetrator as quickly as possible. If

 it is immediately apparently that someone else has taken part in or witnessed the assault, you may

 need to separate that individual as well. Maintain separation of all the individuals involved to prevent

 them from collaborating on the details of the incident or pressuring the victim to change his or her

 story.

3. As you control the situation, make sure that no one is tampering with the scene or with any evidence.

 This means immediately notifying a supervisor, controlling child/youth movement, securing or locking

 up the crime scene and calling the local police as outlined in DCS policy/Private Provider Manual. It is

 unlikely, but if you feel reporting to your supervisor will compromise the integrity of the report, find

 another appropriate authority and report the incident. Also maintain a log of who is present, what

 time they entered and what time they departed.

4. Ask the victim the following:

  Are you injured?

  Do you need medical attention?

  Do you believe that you or someone else is in immediate danger?

5. Emergency medical attention for the victim must be the first priority of the response. Call for facility

 nursing personnel if the YDC clinic is open, or transport child/youth to the nearest emergency facility.

6. Medical experts dealing with sexual assault consider “recent” to mean up to 72 hours from the time

 of the assault. This is relevant to the collection of medical evidence. If the assault was more than 72

 hours but less than 96 hours, call your local hospital for direction. If facility nursing personnel is on

 duty, they can make the call and relay direction.

7. Both the victim’s and the perpetrator’s bodies should be treated as crime scenes. In additional, their

 clothing, bedding, towels, and other personal objects may be considered part of the crime scene and

 should be secured for the investigator. If you’re responding to an assault that was recent, you’ll need

 to do your best to ensure that the victim and perpetrator involved don’t compromise the evidence by

 immediately showering, washing, using the toilet, changing their clothes, eat or drink, brush their

 teeth, or rinse their mouth until all physical evidence is obtained. Also do not allow any bedding or

 sheets to be removed and do not allow any fluids to be cleaned up. Safe guard any items found at the

 scene or given to you by the victim.

8. Your initial observations of the crime scene can be very helpful to the investigation. The following are

 some questions you should contemplate:

  Are there multiple crime scenes?

  Is anything out of place in those areas?

  Are there any objects of note such as clothing or bedding?

  Are there suspicious items on the floor?

  Are there any obviously missing objects?

  Are there puddles or stains?

  Is there a handprint?

  What time is it?

  Are the lights on or off in the area?

  Who is present in the area?

9. You will also need to take note of the victim’s appearance and demeanor. Because people respond

 differently to trauma, it’s important to withhold judgment about what happened. Instead, you should

 observe the facts in anticipation of communicating them to the police and any other authorized

 investigators. Take note of the behavior of those involved.

  Can you accurately paraphrase what was told to you?

  Can you describe the physical appearance of those involved?

10. The importance of documentation can’t be overstated. In order to protect yourself, you should fully

 document known details of the incident as soon as possible after insuring the safety and health of

 the victim and securing the scene. Information that is added at a later time may not have the same

 level of credibility during legal proceedings. Like other incident reports, remember that your opinion,

 assumptions, or guesses must not be included. Document only what you can see and only what you

 are told. Review DCS policy 1.4 Incident Reporting and Incident Reporting Manual for YDC’s.

11. Document the victim’s exact words with quotes as precisely as you can.

12. Document all that you’ve observed including the names of those with whom you’ve spoken since the

 response and exactly what was said during the interactions. You should also document who else was

 at the scene even if you didn’t speak with them. If the victim is seen by medical, mental health, or

 other staff, document their names, job titles, and contact information for your report.

13. What you do as a responder is critical for setting up the basis for an effective, formal investigation –

 yet there are limits to your responsibilities. Be sure that you do not launch your own investigation in

 any form such as collecting evidence, interviewing additional witnesses about the abuse, or getting

 more than the basic facts. When the initial response stage is complete, you can aid the investigator

 most by providing him or her with your documentation.

14. You may be called upon as a major contributor to the investigation. By following these guidelines

 you can feel confident that your role has added to and not jeopardized the outcome of the

 investigation or your exposure to liability.

 **ALLEGATION REPORTING GUIDELINES**

Tennessee Children’s Home is committed to creating and maintaining the safest possible environment for all participants in TCH. If is the duty of all TCH Staff to safeguard to the best of their ability the welfare of and to prevent the physical sexual, or emotional abuse of children and young people with whom they come into contact.

 **For adults to whom a resident reports an incident of abuse or harassment**

1. **Listen attentively and stay calm:** Acknowledge that it takes a lot of courage to report abuse. Listen and be encouraging. Do not express shock, horror or disbelief.
2. **Protect the student:** Ensure the safety and well-being of the youth, Remove the youth from the situation immediately and from all contact with the alleged abuser or harasser. Reassure the student that this is for his/her own safety and is not a punishment.
3. **Get the facts, but don’t interrogate:** Ask the youth questions that establish what was done and who did it. Reassure the student that she/he did the right thing in telling you. Avoid asking “why” questions. Remember your responsibility is to present the youth’s story to the proper authorities.
4. **Be non-judgmental and reassure the youth:** Do not be critical of anything that has happened or anyone who may be involved. It is especially important not to blame or criticize the student. Assure the student that the situation was not his/her fault and he/she was brave and mature to come to you.
5. **Assure privacy but not confidentiality:** Explain that you will have to tell someone about the abuse/harassment to make it stop and to ensure that it doesn’t happen to other youth.
6. **Record:** Keep a written record of the conversation with the youth as soon after the report as you can, including the date and time of the conversation. Use the youth’s words, and record only what has been told to you.
7. **Report abuse:** Report abuse according to TCH policy
8. **Avoid gossip and blame:** Do not tell anyone about the report other than those required by TCH policy. Care must be taken to protect the rights of both the victim and the accused during the investigation.
9. **Do not challenge the alleged offender.** The adult to whom the youth reports must not contact the alleged offender. In cases of abuse, interrogation must be left entirely to law enforcement authorities. In cases of harassment, the Executive Director is responsible for having an investigation conducted and will be in contact with the alleged offender after the youth has been moved to a safe environment.
10. **Follow-up:** After appropriately reporting the allegations, follow up to make sure steps have been taken to address the situation.

 **Sexual Abuse & Harassment Reporting Guidelines**

Tennessee Children’s Home is committed to creating and maintaining the safest possible environment for all residents. It is the duty of all TCH Staff to safeguard to the best of their ability the welfare of and to prevent the physical, sexual, or emotional abuse of children and young people with whom they come into contact.

 **Resident Procedures**

**If you are sexually or physically assaulted, abused, or are accused of sexually or physically assaulting or abusing another person, you should follow this procedure:**

1. **Report the situation immediately to:**
* **Residential Counselor**
* **TCH Case Manager**
* **DCS FSW**
* **Child Abuse Hotline (1-877-237-0004)**
1. **If nothing happens when you report the situation, report it again. Continue reporting until someone takes it seriously. Make sure we understand you are serious.**
2. **If you think it is wrong, it probably is. If you feel uncomfortable about a situation. TELL SOMEONE.**

 **Definitions**

**Sexual Abuse**: Engaging in implicit or explicit acts with a youth or forcing or encouraging a youth to engage implicit or explicit sexual acts alone or with another person of any age, of the same sex or opposite sex.

Examples of sexual abuse include, but are not limited to: indecent exposure, exposing a child to sexual or pornographic material

**Sexual Harassment:** Refers to sexual advances, requests for sexual favors or verbal or physical conduct or a sexual nature. In some cases, sexual harassment precedes sexual abuse and is a technique used by sexual predators to desensitize or “groom” their victims.

Examples of sexual harassment include, but are not limited to: sexual advances; sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one’s sexual life, comments about one’s sexual activity, deficiencies or prowess, verbal abuse of a sexual nature, displaying sexually suggestive objects, pictures or drawings, sexual leering or whistling, any inappropriate physical contact such as brushing or touching, obscene language or gestures and suggestive or insulting comments.