

## Zero Tolerance for Sexual Abuse, Sexual Activity and Sexual Harassment

### A. Purpose

The purpose of this rule is to establish The Villages, Inc (TVI) zero-tolerance policy for any form of sexual abuse, sexual harassment, or sexual activity involving youth in the agency's care. This rule also addresses TVI's obligations under federal Prison Rape Elimination Act (PREA) standards for preventing, detecting, and responding to sexual abuse and sexual harassment.

### B. Applicability

Unless stated otherwise, this rule applies to all residential facilities operated by TVI.

### C. Definitions

1. Sexual Abuse - includes different acts depending on whether the perpetrator is a minor or an adult.
  - a. Sexual abuse of a minor by another MINOR includes the following acts:
    - The employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, (2) or (3) below or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;
    - Actual or simulated sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or opposite sex;
    - Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation;
    - Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument;
    - Bestiality;
    - Masturbation;
    - Lascivious exhibition of the genitals or pubic area of a person or animal;
    - Sadistic or masochistic abuse; or
    - Child pornography or child prostitution.
  - b. Sexual abuse of a minor by an ADULT includes the following acts:
    - The employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, (2) or (3) below or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;
    - Actual or simulated sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or opposite sex;
    - Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks that is unrelated to official duties or where the staff member, grantee, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
    - Contact between the mouth and any body part where the staff member, grantee, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument that is unrelated to official duties or where the staff member, grantee, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  - Any attempt, threat, or request by a staff member, grantee, contractor, or volunteer to engage in activities (1) through (5) above;
  - Any display by a staff member, grantee, contractor, or volunteer of his or her uncovered buttocks or breast in the presence of a child;
  - Bestiality;
  - Masturbation;
  - Lascivious exhibition of the genitals or pubic area of a person or animal;
  - Sadistic or masochistic abuse;
  - Child pornography or child prostitution; or
  - Voyeurism by a staff member, grantee, contractor, or volunteer (See definition below).
2. Voyeurism is an invasion of privacy of a child by a staff member, grantee, contractor, or volunteer for reasons unrelated to official duties. Examples include inappropriately viewing a child perform bodily functions or bathing; or requiring a child to expose his or her buttocks, genitals, or breasts; or recording images of all or part of a child's naked body or part of a child performing bodily functions.
  3. Sexual harassment includes different acts depending on whether the perpetrator is a minor or an adult.
    - a. Sexual harassment of a minor by another MINOR includes: repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, phone calls, emails, texts, social media messages, pictures sent or shown, other electronic communication, or actions of a derogatory or offensive sexual nature.
    - b. Sexual harassment of a minor by an ADULT includes: repeated verbal comments, gestures, phone calls, emails, texts social media messages, pictures sent or shown, or other electronic communication of a sexual nature to a child by a staff member, grantee, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
  4. Inappropriate sexual behavior is behavior that does not meet the definition of sexual abuse or sexual harassment but is sexual in nature.

#### **D. General Provisions**

It is the policy of TVI to ensure that any form of conduct that meets the definition of sexual abuse, sexual activity, or sexual harassment, regardless of consensual status, is strictly prohibited. Such conduct, if confirmed, will result in administrative disciplinary action and may result in criminal prosecution.

It is the policy of TVI to comply with all applicable PREA-related standards adopted by the U.S. Department of Justice

#### **E. Prevention Planning**

1. PSA Compliance manager
  - TVI designates an upper-level staff member as the agency-wide PSA Compliance Manager. This staff member's duties must be structured to allow sufficient time and authority to develop, implement, and oversee agency efforts to comply with PREA standards in all TVI operated residential facilities.

## 2. Contracting with Other Entities for Care of Youth

In all new or renewed contracts for residential placement of TVI youth, TVI includes a clause requiring the contractor to adopt and comply with applicable PREA standards.

## 3. Youth Supervision and Monitoring

### a. Staffing Plans

1. TVI develops and implements a written staffing plan to provide adequate levels of staffing and video monitoring to protect youth against sexual abuse
2. At least once each year, the Executive Director in consultation with the PREA Coordinator reviews and documents whether any adjustments are needed to each TVI operated facility's:
  - a. Staffing plan
  - b. prevailing staffing patterns
  - c. deployment of video monitoring systems and other monitoring technologies
  - d. resources available to ensure adherence to the staffing plan

### b. Staffing ratio

Each TVI facility maintains staff ratios in accordance with all licensing rules and regulations.

### c. Unannounced Rounds

1. At each TVI operated facility, a staff member with management responsibilities conducts and documents unannounced rounds to identify and deter sexual abuse and sexual harassment. The unannounced rounds must be conducted at least once per month on each shift.
2. Staff members are prohibited from notifying other staff members that unannounced rounds are occurring, unless such notification is related to the legitimate operational functions of the facility.

## 4. Youth Limits to Cross-Gender Viewing and Searches

- TVI maintains restrictions and limitations on cross-gender searches
- TVI does not search or physically examine a transgender or intersex youth for the sole purpose of determining the youth's genital status. The status may be determined during conversation with the youth, by reviewing medical records, or as part of a broader medical examination conducted in private by a medical practitioner
- In TVI-operated residential facilities, staffing patterns and physical barriers are implemented to enable youth to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except when such viewing is incidental to routine room checks. If UAC has special needs and requires assistance or an exigent circumstance exists, staff assisting them have to be of the same gender.
- In TVI-operated residential facilities, staff who are not the same gender as the youth must announce their presence when entering:
  1. The upstairs hallway where the bedrooms and bathrooms are located, if there are no other staff of the opposite gender already present
  2. A sleeping room
- Pat down searches of UAC in The Villages, Inc. UAC Program will only be conducted in cases where staff has reason to believe that the UAC is hiding dangerous contraband (posing a threat to the health and safety of the UAC or others) on their body and the UAC refuses to voluntarily give up such contraband.

- Staff shall conduct all searches of youth in a professional and respectful manner. Staff shall not physically search youth in a manner that is humiliating or degrading. Staff may not conduct cross-gender pat down searches, except in exigent circumstances. Staff must document and justify any cross-gender searches for review by the PSA Compliance Manager. It is recommended that two staff members are present when possible and the search needs to be conducted in an open area.
- Staff shall give TGNCI (transgender, non-conforming and intersex) UAC the opportunity to identify the gender of the staff member they prefer to conduct searches of them. Staff shall document and accommodate the UAC's request, barring exigent circumstances. Staff shall document any search that deviates from the UAC's request, including the specific exigent circumstances that prevented the facility from accommodating the request. All documentation shall be reviewed by the facility's PSA Compliance Manager.

#### 5. Youth with Disabilities and Youth who are Limited English Proficient

- TVI takes appropriate steps to ensure that youth with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps include providing access to:
  1. Interpreters; and
  2. Written materials provided in formats or through methods to ensure effective communication
- TVI takes reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment for youth who are limited English proficient, including the use of interpreters.
- When using interpreters to meet requirements of this paragraph:
  1. TVI attempts to select interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary; and
  2. TVI does not use other youth to interpret, read, or otherwise assist except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise safety, the performance of first-response duties, or an investigation.

#### 6. Hiring and Promotion Decisions

- TVI does not hire or promote anyone who may have contact with youth and does not use the services of any contractor or volunteer who may have contact with youth if the person:
  1. has engaged in sexual abuse in prison, jail, lockup, community confinement facility, juvenile facility, or other institution, as defined in 42 U.S.C. 1997; or
  2. has been convicted or civilly or administratively adjudicated of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.
- For any person who may have contact with juveniles, TVI considers any incidents of sexual harassment in determining whether to hire, promote, or contract for services.
- Before hiring new employees who may have contact with youth, TVI:

1. performs a criminal background records check;
  2. Consults the child abuse registry maintained by the Kansas Department of Children and Families (DCF); and
  3. makes its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse
- before enlisting the services of a contractor or volunteer who may have contact with youth, TVI:
    1. performs a criminal background records check; and
    2. consults the DCF child abuse registry
  - TVI conducts annual criminal background records checks on current employees, contractors and volunteers
  - TVI asks applicants and employees who may have contact with youth directly about previous misconduct described in subparagraph (A) of this paragraph in written applications or interviews for hiring or promotion and in any interviews or written self-evaluations conducted as part of reviews of current employees. TVI employees have a continuing affirmative duty to disclose any such misconduct. Material omissions regarding such misconduct or the provision of materially false information is grounds for termination of employment.
  - unless prohibited by law, TVI provides information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom the former employee has applied to work
7. Upgrades to Facilities and Technologies
- a. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, TVI considers the effect of the design, acquisition, expansion or modification on the agency's ability to protect youth from sexual abuse
  - b. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, TVI considers how such technology may enhance the agency's ability to protect youth from sexual abuse.

## **F. Responsive Planning**

1. Evidence Protocol and Forensic Medical Examinations
  - a. TVI follows a uniform evidence protocol when responding to allegations of sexual abuse. The evidence protocol must be developmentally appropriate for youth.
  - b. When evidentiary or medically appropriate, TVI transports youth who experience sexual abuse, as soon as possible, to a hospital, clinic, or emergency room that can provide for medical examination by a Sexual Assault Nurse Examiner (SANE), Sexual Assault Forensic Examiner (SAFE), or other qualified medical practitioners. All such medical examinations are provided at no financial cost to the youth.
  - c. If requested by a youth who experiences sexual abuse, a victim advocate will accompany and support the youth through the forensic medical examination and investigatory interviews. The victim advocate provides emotional support, crisis intervention, information and referrals.
  - d. TVI seeks to secure victim advocacy services from local rape crisis centers. If a rape crisis center is not available, TVI makes these services available through a qualified staff member from a community-based organization or from a qualified TVI staff member who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues.
2. Policies to Ensure Referrals of Allegations for Investigations

- a. The TVI PSA Compliance Manager reviews all allegations of sexual abuse and sexual harassment and ensures that each allegation is reported to the appropriate investigative agency (Local Law Enforcement or DCF) to complete a criminal investigation, administrative investigation, or both
- b. In accordance with Kansas Department of Health and Environment K.A.R. 28-4-275(6), Local Law Enforcement is authorized to conduct criminal investigations

## **G. Training and Education**

### **1. Employee Training**

- a. TVI provides PREA-related training to all employees who may have contact with youth. The training is tailored to the unique needs and attributes of youth in juvenile facilities and to the specific gender(s) represented at the facility. The training addresses:
  - ORR and the care provider facility's zero tolerance policies for all forms of sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - The right of unaccompanied alien children and staff to be free from sexual abuse, sexual harassment, and inappropriate sexual behavior;
  - Definitions and examples of prohibited and illegal sexual behavior;
  - Recognition of situations where sexual abuse, sexual harassment, and inappropriate sexual behavior may occur;
  - Recognition of physical, behavioral, and emotional signs of sexual abuse and methods of preventing and responding to such occurrences;
  - How to avoid inappropriate relationships with unaccompanied alien children;
  - How to communicate effectively and professionally with unaccompanied alien children, including unaccompanied alien children who are lesbian, gay, bisexual, transgender, questioning, or intersex;
  - Procedures for reporting knowledge or suspicion of sexual abuse, sexual harassment, or inappropriate behavior as well as how to comply with relevant laws related to mandatory reporting;
  - The requirement to limit reporting of sexual abuse, sexual harassment, and inappropriate sexual behavior to staff with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement, investigative, or prosecutorial purposes;
  - Cultural sensitivity toward diverse understanding of acceptable and unacceptable sexual behavior and appropriate terms and concepts to use when discussing sex, sexual abuse, sexual harassment, and inappropriate sexual behavior with a culturally diverse population;
  - Sensitivity regarding trauma commonly experienced by unaccompanied alien children;
  - Knowledge of existing resources for unaccompanied alien children inside and outside the care provider facility, such as trauma-informed treatment, counseling, and legal advocacy for victims;
  - General cultural competency and sensitivity to the culture and age of unaccompanied alien children; and
  - Proper procedures for conducting professional pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex unaccompanied alien children in a respectful and least intrusive manner.
- b. All employees must complete refresher trainings on the above topics every year or with any policy change or update, whichever comes first. All employees must receive

refresher trainings about avoiding inappropriate relationships and reporting sexual abuse and sexual harassment every six months.

## 2. Volunteer and Contractor Training

TVI provides all trainings listed for employees to all new contractors and volunteers if they provide services on a regular basis and have contact with unaccompanied alien children. Volunteers who provide services for one day or less, such as holiday events, are not required to complete the above trainings. However, the volunteers must be directly supervised by staff at all times. Care provider facilities must maintain documentation confirming that contractors and volunteers received all required trainings and pre-service trainings and understood the training they completed.

## 3. Youth Education

(a) Within 48 hours of admission, TVI provides every unaccompanied alien child with an orientation on topics related to preventing, detecting, and responding to sexual abuse and harassment. TVI also provides a refresher orientation to children and youth every 90 days from the initial orientation. The orientation must include, at a minimum, the following topics:

- The care provider's zero tolerance policy towards sexual abuse and sexual harassment;
- The child's right to be free from sexual abuse or sexual harassment;
- The child's right to be free from retaliation for reporting sexual abuse or sexual harassment;
- The child's rights and responsibilities related to sexual abuse and sexual harassment;
- Definitions, explanations, and examples of: child on child sexual abuse, adult on child sexual abuse, coercive sexual activity, inappropriate sexual behavior, appropriate and inappropriate relationships, and sexual harassment;
- How to report sexual abuse and sexual harassment, including:
  - Reporting to any care provider staff member, volunteer, or contractor either verbally, in writing, or via a grievance;
  - Reporting to ORR by telling an FFS or calling the ORR Hotline;
  - Informing an outside community service provider via telephone or in writing;
  - Reporting to consular officials via telephone or in writing;
- The child's right to receive treatment, services, and counseling if the child or youth has been sexually abused or harassed and what those services include; and
- Boundaries and respecting one another.

(b) If a youth is transferred to a different TVI operated facility, TVI provides the information in subparagraphs (A) and (B) of this paragraph to youth.

(c) TVI provides the information in formats accessible to all youth, including those who:

- i. Are limited English proficient;
- ii. are deaf, visually impaired, or otherwise disabled; and
- iii. have limited reading skills

## 4. Specialized Training: Investigations

TVI staff members do not investigate allegations of sexual abuse. All investigations are handled by outside agencies (Shawnee County Sheriff's Office and Kansas DCF).

## 5. Specialized Training: Medical and Mental Health Care

TVI ensures and maintains documentation that all full and part-time medical and mental health practitioners who work in TVI-operated facilities have been trained in how to:

- Detect and assess signs of sexual abuse and sexual harassment
- Preserve physical evidence and sexual harassment
- Respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment; and
- Report allegations or suspicions of sexual abuse and sexual harassment and to whom such reports must be made

## **H. Screening for Risk of Sexual Victimization and Abusiveness**

### **1. Obtaining Information from Youth**

- Within 72 hours after a youth's admission to TVI, TVI uses an objective screening instrument to obtain information about the youth's personal history and behavior to reduce the risk of sexual abuse by or upon another youth. Every 30 days after the admission date, information from the screening instrument is used to reassess housing and supervision assignments.
- TVI establishes appropriate controls to prevent sensitive information obtained from these screenings from being exploited to the youth's detriment by staff or other youth.

### **2. Placement of Youth in Housing, Bed, Program, Education, and Work Assignments**

- TVI uses all information obtained under paragraph (1) of this subsection to make housing, bed, program, education, and work assignments for youth.
- TVI does not place youth in isolation as a means of protection
- Lesbian, gay, bisexual, transgender, or intersex youth are not placed in particular housing, bed, or other assignments solely on the basis of such identification or status. TVI does not consider such identification or status as an indicator of likelihood of being sexual abusive:
- For each transgender or intersex youth, TVI:
  - (i) Makes a case-by-case determination when assigning the youth to a male or female facility and when making other housing and programming assignments, considering the youth's health and safety and any management or security concerns
  - (ii) Gives serious consideration to the youth's own views concerning his/her own safety when making placement and programming assignments
  - (iii) Reassesses the placement and programming assignments at least twice each year to review any threats to safety experienced by the youth; and
  - (iv) Provides the opportunity to shower separately from other youth

## **I. Reporting**

### **1. Reports from Youth and Third Parties**

- a. Youth may report sexual abuse, sexual harassment, retaliation by others for reporting sexual abuse or harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents by:
  - i. Care provider staff;
  - ii. Child Protective Services (CPS);
  - iii. The UAC Sexual Abuse Hotline;
  - iv. A local community service provider or national rape crisis hotline if a local provider is unavailable; and
  - v. Consular officials.

- b. TVI accepts verbal and written reports made anonymously or by third parties and promptly documents verbal reports. Anonymous and third-party reports may be submitted to TVI by calling the toll-free hotline maintained by DCF. TVI publically distributes information on how to report alleged abuse or sexual harassment on behalf of a youth by posting this information on the agency’s website
  - c. TVI provides youth with access to grievance forms. TVI provides all staff with access to telephones to privately call the PSA Compliance Manager, or the DCF hotline immediately if the staff has reason to believe a youth has been a victim or sexual abuse or harassment.
2. Administrative Remedies
- a. TVI reports all allegations of sexual abuse to the DCF hotline regardless of how much time has passed since the alleged incident
  - b. Youth are not required to use the youth grievance system to report an allegation of sexual abuse. Youth are not required to attempt to resolve the allegation with staff.
  - c. If a youth uses the grievance system to report an allegation of sexual abuse, the allegation is immediately forwarded to the PSA Compliance Manager
  - d. TVI does not refer allegations of sexual abuse to staff members who are the subject of an allegation.
3. Youth Access to Outside Support Services and Legal Representation
- a. TVI provides youth with access to outside victim advocates for emotional support services related to sexual abuse by making available mailing addresses and telephone numbers, including toll-free numbers of any local, state, or national victim advocacy or rape crisis organizations. TVI enables reasonable communication between youth and these organizations and agencies in as confidential as manner as possible. TVI informs youth, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws
  - b. TVI maintains or seeks to enter into agreements with community service providers that are able to provide youth with confidential emotional support services related to sexual abuse. TVI maintains documentation of such agreements or attempts to enter into such agreements
  - c. TVI provides youth with reasonable and confidential access to their:
    - i. Attorneys or other legal representatives  
If a minor has an attorney of record, TVI will notify the attorney of any allegations of sexual abuse or harassment that occur in ORR care within 48 hours, provided the child consents to the disclosure of information and is 14 years old or older. If a child does not have an attorney of record and is 14 years old or older, TVI will inform the child that the allegation may affect his/her eligibility for immigration relief and ask whether the minor would like to speak with an attorney. If the child agrees, TVI will notify its local legal service provider within 48 hours of the allegation. If the child is under 14 years old, TVI will notify the child’s attorney of record or the local legal service provider. If the child has a diagnosed developmental disability and is 14 years old or older, TVI will notify its ORR/FFS prior to asking the child for consent to notify the child’s attorney of record or asking whether the child would like to speak with a local legal service provider. TVI will provide a notification only and will not send SA/SIRs.
    - ii. Parents or legal guardians

- d. UAC will be allowed to make informed decisions regarding medical care by engaging the UAC in discussions with family members or attorneys of record

#### **J. Official Response Following a Report of Alleged Sexual Abuse or Sexual Harassment**

##### **1. Staff, Volunteer, Contractor and Agency Reporting Duties**

- (a) All TVI staff members, volunteers and contractors, must immediately report to the PREA Coordinator in accordance with agency policy, any knowledge, suspicion, or information they receive regarding:
    - i. an incident of sexual abuse;
    - ii. an incident of sexual harassment;
    - iii. Retaliation against youth or staff who reported such an incident; and
    - iiii. Any staff neglect or violation of responsibilities that may have contributed to such an incident or retaliation.
  - (b) The requirement to report applies to incidents occurring in any residential facility, whether or not it is operated by TVI
  - (c) The requirement to report includes staff members, volunteers and contractors whose personal communications may otherwise be privileged, such as an attorney, member of the clergy, medical practitioner, social worker, or mental health practitioner. Upon the initiation of services, the youth must be informed of the duty to report abuse and the limits of confidentiality
  - (d) In addition to the reporting requirement in subparagraph (a) of this paragraph, TVI staff, volunteers and contractors must comply with mandatory child abuse reporting laws in Kansas: K.S.A. 38-1521 and K.S.A. 38-1522 and with applicable professional licensure requirements
  - (e) Any TVI staff, volunteer or contractor who receives a report of alleged sexual abuse is prohibited from revealing any information to anyone other than to the extent necessary, as specified in 380.9333 of this title, to make treatment, investigation, and other security and management decision.
  - (f) Upon receiving an allegation of sexual abuse, the facility administrator or his/her designee must promptly report the allegation to the alleged victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.
  - (g) The PSA Compliance Manager assigns all reports of alleged sexual abuse and sexual harassment, including third-party and anonymous reports, immediately (within 4 hours) to the appropriate investigator and will request the investigative agency follow the requirements as outlined under Responsive Planning, Items 1a-1c. TVI will keep abreast of investigations and will fully cooperate with outside investigations.
- (2) Agency Protection Duties  
Upon receipt of a report that alleges a youth is subject to a substantial risk or imminent sexual abuse, TVI takes immediate action to protect the youth.
- (3) Reporting to Other Confinement Facilities
- (a) Any staff member, volunteer or contractor must immediately notify the PSA Compliance Manager if he/she receives an allegation that a youth was sexually abused while confined at a juvenile facility not operated by TVI and not operated under contract with TVI
  - (b) The PSA Compliance Manager must notify the head of the facility or the appropriate office of the agency where the abuse is alleged to have occurred and the appropriate investigative agency as soon as possible, but within 72 hours after receiving the allegation
- (4) Staff First Responder Duties

Upon learning of an allegation that a youth was sexually abused, the first staff member to respond to the report must:

- (a) Separate the alleged victim and alleged abuser;
  - (b) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; and
  - (c) If the alleged abuse occurs within a time period that still allows for the collection of physical evidence:
    - (i) Request that the alleged victim not take any actions that could destroy physical evidence, including as appropriate washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
    - (ii) Ensure that the alleged abuser does not take any actions that could destroy physical evidence
- (5) Coordinated Response  
TVI maintains a written plan to coordinate the actions taken among staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse
- (6) Preservation of Ability to Protect Youth from Contact with Abusers  
TVI will not enter into any agreement that limits its ability to remove alleged staff sexual abusers from contact with youth pending the outcome of an investigation or a determination of whether and to what extent discipline is warranted
- (7) Agency Protection Against Retaliation  
Retaliation by a youth or staff member against a youth or staff member who reports sexual abuse or sexual harassment or who cooperates with an investigation is strictly prohibited. To help prevent retaliation, TVI:
- (a) Designates certain staff members to monitor the person who reported the allegation and the alleged victim to determine whether retaliation is occurring;
  - (b) Uses multiple measures to protect youth and staff from retaliation, such as housing transfers, removal of the alleged abuser from contact with the alleged victim, and emotional support services for youth or staff who fear retaliation;
  - (c) For at least 90 days (except when the allegation is determined to be unfounded):
    - (i) Monitors the reporter and the alleged victim for signs of retaliation including items such as disciplinary reports, housing or program changes, staff reassignments, and negative performance reviews; and
    - (ii) Conducts periodic status checks on the alleged victim;
  - (d) Acts promptly to remedy any retaliation; and
  - (e) Takes appropriate measures to protect any other individual who cooperates with the investigation who expresses a fear of retaliation.
- (8) Post-Allegation Protective Custody  
TVI does not use segregated housing to protect a youth who is alleged to have suffered sexual abuse

## **K. Investigations**

1. Criminal and Administrative Agency Investigations
  - a) TVI conducts prompt, thorough, and objective investigations for all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports
  - b) TVI does not have internal investigators
  - c) TVI will not terminate an investigation solely because the source of the allegation recants the allegation
  - d) TVI does not require youth who allege sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation

- e) Substantiated allegations of conduct that appear to be criminal are referred for prosecution
  - f) TVI maintains all criminal and administrative investigation reports for as long as the abuser is a resident of TVI or employed by TVI, plus at least five years
  - g) TVI does not terminate investigations solely on the basis that the alleged abuser or victim is no longer in residence at TVI or employed by TVI
  - h) When an outside agency conducts an investigation into an allegation of sexual abuse, TVI staff must cooperate with the outside investigators. TVI management will attempt to remain informed about the progress of the investigation
2. Evidentiary Standard for Administrative Investigations  
TVI does not conduct its own administrative investigations into allegations of sexual abuse and sexual harassment
  3. Reporting to Youth  
The notification requirements in this paragraph apply until the youth is discharged from TVI. TVI documents all notifications and attempted notifications
    - a) Following an investigation into a youth's allegation of sexual abuse suffered in a TVI facility, TVI management will request the information from the investigating agency so that the youth may be informed whether the allegation is substantiated, unsubstantiated, or unfounded
    - b) Following a youth's allegation that a staff member has committed sexual abuse against the youth, TVI informs the youth whenever the following events occur except when the allegation is determined to be unfounded:
      - i) The staff member is no longer posted within the youth's housing unit;
      - ii) The staff member is no longer employed at the facility;
      - iii) TVI learns that the staff member has been indicted on a charge related to the sexual abuse; or
      - iv) TVI learns that the staff member has been convicted on a charge related to the sexual abuse
    - c) Following a youth's allegation that he/she has been sexually abused by another youth, TVI informs the alleged victim whenever the following events occur:
      - i) TVI learns that the alleged abuser has been indicted on a charge related to the sexual abuse; or
      - ii) TVI learns that the alleged abuser has been convicted on a charge related to the sexual abuse

## L. Discipline

1. Disciplinary Sanctions for Staff.
  - a) Staff members are subject to disciplinary sanctions up to and including termination of employment for violating TVI sexual abuse or sexual harassment policies
  - b) Termination of employment is the presumptive disciplinary sanction for staff members who have engaged in sexual abuse
  - c) Disciplinary sanctions for violations of TVI policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories
  - d) TVI reports the following actions to any relevant licensing bodies:
    - i) Terminations of employment for violations of agency sexual abuse or sexual harassment policies; and
    - ii) Resignations by staff members who would have been terminated if they had not resigned
2. Corrective Action for Contractors and Volunteers

- a) If a contractor or volunteer engages in sexual abuse, TVI:
    - i) Prohibits the contractor or volunteer from having any contact with TVI youth; and
    - ii) Reports the finding of abuse to any relevant licensing bodies
  - b) If a volunteer or contractor violates TVI sexual abuse or sexual harassment policies but does not actually engage in sexual abuse, TVI takes appropriate remedial measures and considers whether to prohibit further contact with TVI youth
3. Interventions and Disciplinary Sanctions for Youth
- a) A youth may be subject to disciplinary sanctions for engaging in sexual abuse only when there is a criminal finding of guilt by DCF or Law Enforcement that the youth engaged in youth-on-youth sexual abuse
  - b) Any disciplinary sanctions must be commensurate with the nature and circumstances of the abuse committed, the youth's disciplinary history, and the sanctions imposed for comparable offenses by other youth with similar histories
  - c) The disciplinary process must consider whether a youth's mental disabilities or mental illness contributed to his/her behavior when determining what type of sanction, if any, should be imposed
  - d) TVI does not impose isolation as a disciplinary sanction
  - e) TVI offers youth abusers counseling and other interventions designed to address and correct underlying reasons or motivations for the abuse. TVI may require participation in such counseling and interventions as a condition of access to behavior-based incentives, but not as a condition to access general programming or education
  - f) A youth may not be disciplined for sexual contact with a staff only upon a finding that the staff member did not consent to such contact
  - g) TVI may not discipline a youth if the youth made a report of sexual abuse in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation
  - h) In accordance with 380.9503 of this title, TVI may also discipline a youth for engaging in prohibited sexual activity that does not meet the definition of abuse

#### **M. Medical and Mental Care**

- 1. Medical and Mental Health Screenings; History of Sexual Abuse
  - a) Regardless of the results of the screening in subsection H1, TVI offers all youth an appointment with a medical and mental health practitioner within 14 days after the initial intake and within 72 hours if a referral for medical or mental health follow-up is initiated.
  - b) Any information obtained related to sexual victimization or abusiveness that occurred in an institutional setting must be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by law
  - c) Medical and mental health practitioners must obtain informed consent from youth before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the youth is under the age of 18
- 2. Access to Emergency Medical and Mental Health Services
  - a) TVI ensures that youth victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment
  - b) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders must take preliminary steps to protect the

- victim and must immediately notify the appropriate medical and mental health practitioners
- c) TVI ensures that youth victims of sexual abuse are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
  - d) TVI provides treatment services to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising from the incident.
3. Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers
- a) TVI offers medical and mental health evaluation and, as appropriate, treatment to all youth who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility
    - i) The evaluation and treatment of such victims includes, as appropriate:
      - (1) Follow-up services;
      - (2) Treatment plans; and
      - (3) Referrals for continued care following their transfer to other facilities or their release from custody.
    - ii) TVI provides such victims with medical and mental health services consistent with the community level of care
  - b) TVI offers pregnancy tests to youth victims of sexually abusive vaginal penetration while a resident of TVI. If pregnancy results, TVI ensures the youth is provided timely and comprehensive information about and timely access to all lawful pregnancy-related medical services. UAC will be allowed to make informed decisions regarding medical services through discussions with family members or attorneys of record to the extent practicable.
  - c) TVI ensures that tests for sexually transmitted infections are offered, as medically appropriate, to youth victims of sexual abuse
  - d) TVI provides treatment services to a victim of sexual abuse without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising from incident
  - e) TVI will conduct a mental health evaluation of all known youth-on-youth abusers within 72 hours and will offer treatment upon learning about UAC-on-UAC sexual abuse incident or history of abuse.

#### **N. Sexual Abuse Incident Reviews**

1. TVI conducts an incident review at the conclusion of every sexual abuse investigation unless the allegation is determined to be unfounded.
2. Managers, supervisors, investigators, and medical or mental health practitioners participate in the review.
3. The review team:
  - Considers whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
  - Considers whether the incident or allegation was motivated by race; ethnicity; gender identity; status or perceived status as lesbian, gay, bisexual, transgender, or intersex; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
  - Examines the area where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
  - Assesses the adequacy of staffing levels in that area during different shifts;
  - Assesses whether monitoring technology should be used or enhanced to supplement supervision by staff;

- Submits a report of its findings and recommendations to the facility administrator, the PSA Compliance Manager, and other appropriate staff members.
4. The facility where the incident allegedly occurred must implement the review team's recommendations or document its reasons for not doing so.

**O. Data Collection and Storage**

- TVI collects data for every allegation of sexual abuse at TVI-operated facilities using a standardized instrument and set of definitions and aggregates the data at least once each year. TVI also maintains, reviews, and collects data as needed from all available incident-based documents, such as reports, investigation files, and sexual abuse incident reviews.
- TVI develops its data collection instrument to include the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the U.S. Department of Justice.
- TVI obtains incident-based and aggregate data from each residential facility operating under a contract with TVI.
- TVI securely retains all sexual abuse data it collects for at least 10 years after the date of its initial collection unless Federal, State or local law requires otherwise.

**P. Publication of Sexual Abuse Data**

- TVI reviews aggregate sexual abuse data to assess and improve the effectiveness of its policies, practices, and training. Following this review, TVI prepares an annual report of its findings and corrective actions for each facility and the agency as a whole. The report will be posted on the agency's website.
- Annually, TVI posts on its website all aggregated sexual abuse data from TVI-operated and contracted facilities.

**Q. Audits of PREA Standards**

TVI conducts audits pursuant to ORR Standards.