



RECOVERY CENTER INC

## RULE

(a) Purpose.

The purpose of this rule is to establish the Nexus Recovery Center's 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 Nexus Recovery Center'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 adolescent residential facilities operated by Nexus Recovery Center or under contract with NEXUS RECOVERY CENTER.

(c) Definitions. (115.6)

- (1) **Exigent Circumstances**--any set of temporary and unforeseen circumstances that require immediate action to combat a threat to the security or institutional order of a facility.
- (2) **Residential Facilities**—the adolescent facility located at 8733 La Prada Drive in Dallas
- (3) **Sexual Abuse**--includes sexual abuse of a youth by another youth or sexual abuse of a youth by a staff member, contractor, or volunteer.
- (4) **Sexual Abuse of a Youth by Another Youth**--includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
  - (A) contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
  - (B) contact between the mouth and the penis, vulva, or anus;
  - (C) penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and

- (D) any other 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.
- (5) **Sexual Abuse of a Youth by a Staff Member, Contractor, or Volunteer**--includes any of the following acts, with or without consent of the youth:
- (A) contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
  - (B) contact between the mouth and the penis, vulva, or anus;
  - (C) contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  - (D) penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  - (E) any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  - (F) any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in subparagraphs (A) - (E) of this paragraph;
  - (G) any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a youth; and
  - (H) voyeurism by a staff member, contractor, or volunteer.
- (6) **Sexual Activity**--includes any form of sexual misconduct, that does not meet the definition of sexual abuse.
- (7) **Sexual Harassment**--includes:
- (A) repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory

or offensive sexual nature by one youth directed toward another;  
and

(B) repeated verbal comments or gestures of a sexual nature to a youth by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

(8) **Voyeurism**--an invasion of a youth's privacy by a staff member, contractor, or volunteer for reasons unrelated to official duties, such as:

(A) peering at a youth who is using a toilet in his or her cell to perform bodily functions;

(B) requiring a youth to expose his or her buttocks, genitals, or breasts; or

(C) taking images of all or part of a youth's naked body or of a youth performing bodily functions.

(d) General Provisions.

(1) It is the policy of NEXUS RECOVERY CENTER 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.

(2) It is the policy of NEXUS RECOVERY CENTER to comply with all applicable PREA-related standards adopted by the U.S. Department of Justice.

(e) Prevention Planning. (115.311)

(1) **PREA Coordinator and PREA Compliance Managers.**

(A) NEXUS RECOVERY CENTER designates an upper-level staff member as the agency-wide PREA coordinator. 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 NEXUS RECOVERY CENTER-operated residential facilities.

(B) NEXUS RECOVERY CENTER designates a PREA compliance manager at each NEXUS RECOVERY CENTER-operated residential facility. This staff member's duties must be structured

to allow sufficient time and authority to coordinate the facility's efforts to comply with PREA standards.

**(2) Contracting with Other Entities for Confinement of Youth. (115.312)**

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

**(3) Youth Supervision and Monitoring. (115.313)**

**0 (A) Staffing Plans.**

- (i) Each NEXUS RECOVERY CENTER-operated residential facility develops and implements a written staffing plan to provide adequate levels of staffing and video monitoring to protect youth against sexual abuse.
- (ii) Deviations from the staffing plan are permitted only during limited and discrete exigent circumstances. The facility documents each deviation and the reason for the deviation.
- (iii) At least once each year, the division director over residential services, in consultation with the NEXUS RECOVERY CENTER PREA coordinator, reviews and documents whether any adjustments are needed to each NEXUS RECOVERY CENTER-operated facility's:
  - (I) staffing plan;
  - (II) prevailing staffing patterns;
  - (III) deployment of video monitoring systems and other monitoring technologies; and
  - (IV) resources available to ensure adherence to the staffing plan.

**1 (B) Staff Ratios.**

Nexus Recovery Center Adolescent Facility operates staff ratios at a 1:8 ratio during awake hours and a 1:16 ratio during sleeping hours.

## **2 (C) Unannounced Rounds.**

- (i) At Nexus Recovery Center Adolescent 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.
- (ii) 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) Limits to Cross-Gender Viewing and Searches. (115.315)**

- (A) NEXUS RECOVERY CENTER shall not do cross gender searches except in exigent circumstances or when performed by medical personnel.
- (B) NEXUS RECOVERY CENTER shall 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 conversations with the youth, by reviewing medical records, or as part of a broader medical examination conducted in private by a medical practitioner.
- (C) In NEXUS RECOVERY CENTER-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 in exigent circumstances or when such viewing is incidental to routine room checks.
- (D) In NEXUS RECOVERY CENTER-operated residential facilities, staff who are not the same gender as the youth must announce their presence when entering:
  - (i) the dormitory, but only if there are no other staff of the opposite gender already in the pod or wing; or
  - (ii) a client's room.
- (E) The facility shall not search or physically examine a transgender or intersex client for the sole purpose of determining the client's genital status. If the client's genital status is unknown, it may be

determined during conversations with the client, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

- (F) The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex clients, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

**(5) Youth with Disabilities and Youth who are Limited English Proficient.  
(115.315)**

- (A) NEXUS RECOVERY CENTER 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:
  - (i) interpreters; and
  - (ii) written materials provided in formats or through methods that ensure effective communication.
- (B) NEXUS RECOVERY CENTER 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.
- (C) When using interpreters to meet requirements of this paragraph:
  - (i) NEXUS RECOVERY CENTER shall provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary; and
  - (ii) NEXUS RECOVERY CENTER shall 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. (115.317)**

- (A) NEXUS RECOVERY CENTER shall not hire or promote anyone who may have contact with youth and does not use the services of any contractor who may have contact with youth if the person:
  - (i) has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution, as defined in 42 U.S.C. 1997; or
  - (ii) 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.
  - (iii) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (A)(ii) of this section.
  
- (B) For any person who may have contact with juveniles, NEXUS RECOVERY CENTER considers any incidents of sexual harassment in determining whether to hire, promote, or contract for services.
  
- (C) Before hiring new employees who may have contact with youth, NEXUS RECOVERY CENTER:
  - (i) performs a criminal background records check;
  - (ii) consults the child abuse registry maintained by Texas Department of Family and Protective Services (DFPS); and
  - (iii) 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.
  
- (D) Before enlisting the services of a contractor who may have contact with youth, NEXUS RECOVERY CENTER:
  - (i) performs a criminal background records check; and
  - (ii) consults the DFPS child abuse registry.
  
- (E) NEXUS RECOVERY CENTER conducts periodic criminal background records checks on current employees.
  
- (F) NEXUS RECOVERY CENTER 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.

- (G) NEXUS RECOVERY CENTER 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.
- (F) Unless prohibited by law, NEXUS RECOVERY CENTER 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. (115.318)**

- (A) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, NEXUS RECOVERY CENTER 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, NEXUS RECOVERY CENTER 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. (115.321)**

- (A) NEXUS RECOVERY CENTER 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, NEXUS RECOVERY CENTER transports youth who experience sexual abuse 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) The agency shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member. Agencies shall document efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages.
- (E) NEXUS RECOVERY CENTER seeks to secure victim advocacy services from local rape crisis centers. If a rape crisis center is not available, NEXUS RECOVERY CENTER makes these services available through a qualified staff member from a community-based organization.
- (F) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall request that the investigating agency follow the requirements of paragraphs (a) through (e) of this section.
- (G) The requirements of paragraphs (a) through (f) of this section shall also apply to:
  - (1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in prisons or jails; and
  - (2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails.

**(2) Policies to Ensure Referrals of Allegations for Investigations.  
(115.322)**

The NEXUS RECOVERY CENTER shall refer all allegations of sexual abuse and sexual harassment to the Dallas Police Department to complete a criminal investigation.

(g) Training and Education.

**(1) Employee Training. (115.331)**

- (A) NEXUS RECOVERY CENTER 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:
- (i) the zero-tolerance policy for sexual abuse, sexual harassment, and sexual activity;
  - (ii) how to fulfill employees' responsibilities to prevent, detect, report, and respond to sexual abuse and sexual harassment;
  - (iii) youths' right to be free from sexual abuse and sexual harassment;
  - (iv) the right of youth and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
  - (v) the dynamics of sexual abuse and sexual harassment in juvenile facilities;
  - (vi) the common reactions of juvenile victims of sexual abuse and sexual harassment;
  - (vii) how to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between youth;
  - (viii) how to avoid inappropriate relationships with youth;
  - (ix) how to communicate effectively and professionally with youth, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming youth;
  - (x) how to comply with relevant laws related to mandatory reporting of sexual abuse; and
  - (xi) relevant laws and rules regarding consent.
- (B) Such training shall be tailored to the gender of the clients at the employee's facility.

- (C) NEXUS RECOVERY CENTER requires all employees to receive the PREA-related training annually.
- (D) NEXUS RECOVERY CENTER documents employees' written verification that they understand the training they have received.

**(2) Volunteer and Contractor Training. (115.332)**

- (A) The agency shall ensure that all volunteers and contractors who have contact with clients have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.
- (B) The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with clients, but all volunteers and contractors who have contact with clients shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.
- (C) The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.

**(3) Youth Education. (115.333)**

- (A) During the admission process, NEXUS RECOVERY CENTER provides youth with age-appropriate information about the agency's zero-tolerance policy and how to report incidents or suspicions of sexual abuse, sexual harassment, or sexual activity.
- (B) Within 10 calendar days after admission, NEXUS RECOVERY CENTER provides comprehensive, age-appropriate education to youth about:
  - (i) their rights to be free from sexual abuse, sexual harassment, and retaliation for reporting such incidents; and
  - (ii) agency policies and procedures for responding to such incidents.

- (C) The standard that states that: current clients who have not received such education shall be educated within one year of the effective date of the PREA standards, and shall receive education upon transfer to a different facility to the extent that the policies and procedures of the client's new facility differ from those of the previous facility, does not apply to this agency.
- (D) The agency shall provide client education in formats accessible to all clients, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to clients who have limited reading skills.
- (E) The agency shall maintain documentation of client participation in these education sessions.
- (F) In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats

(h) **Specialized training: Medical and mental health care. (115.335)**

- (1) The agency shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:
  - (a) How to detect and assess signs of sexual abuse and sexual harassment;
  - (b) How to preserve physical evidence of sexual abuse;
  - (c) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
  - (e) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
- (2) Medical staff employed by the agency shall not conduct forensic examinations.
- (3) The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere.
- (4) Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.31 or for contractors and

volunteers under § 115.32, depending upon the practitioner's status at the agency.

- (i) Screening for Risk of Sexual Victimization and Abusiveness.

**(1) Obtaining Information from Youth. (115.341)**

- (A) Within 72 hours after a youth's admission to NEXUS RECOVERY CENTER, NEXUS RECOVERY CENTER 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. Periodically throughout the youth's stay, information from the screening instrument is used to reassess housing and supervision assignments.
- (B) NEXUS RECOVERY CENTER establishes appropriate controls to prevent sensitive information obtained from these screenings from being exploited to the youth's detriment by staff or other youth.
- (C) Such assessments shall be conducted using an objective screening instrument.
- (D) At a minimum, the agency shall attempt to ascertain information about:
  - (i) Prior sexual victimization or abusiveness;
  - (ii) Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse;
  - (iii) Current charges and offense history;
  - (iv) Age;
  - (v) Level of emotional and cognitive development;
  - (vi) Physical size and stature;
  - (vii) Mental illness or mental disabilities;
  - (viii) Intellectual or developmental disabilities;
  - (ix) Physical disabilities;
  - (x) The resident's own perception of vulnerability; and
  - (xi) Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.
- (E) This information shall be ascertained through conversations with the resident during the intake process and medical and mental

health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the resident's files.

**(2) Placement of Youth in Housing, Bed, Program, Education, and Work Assignments. (115.342)**

- (A) NEXUS RECOVERY CENTER uses all information obtained under paragraph (1) of this subsection to make housing, bed, program, education, and work assignments for youth.
- (B) NEXUS RECOVERY CENTER does not place youth in isolation as a means of protection.
- (C) 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. NEXUS RECOVERY CENTER does not consider such identification or status as an indicator of likelihood of being sexually abusive.
- (D) For each transgender or intersex youth, NEXUS RECOVERY CENTER:
  - (i) makes a case-by-case determination when making 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) provides the opportunity to shower separately from other youth.
  - (iv) Placement and programming assignments for each transgender or intersex resident shall be reassessed at least twice each year to review any threats to safety experienced by the resident.

(j) Reporting.

**(1) Reports from Youth and Third Parties. (115.351)**

- (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) filing a written grievance;
  - (ii) calling the 24-hour, toll-free hotline maintained by the Dallas Rape Crisis Center without being heard by staff or other youth;
  - (iii) telling any staff member, volunteer, or contract employee, who must then call the Dallas Rape Crisis Center hotline; or
- (B) NEXUS RECOVERY CENTER 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 Dallas Rape Crisis Center by calling the toll-free hotline. NEXUS RECOVERY CENTER publicly 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) NEXUS RECOVERY CENTER provides youth with access to grievance forms. NEXUS RECOVERY CENTER provides all staff with access to telephones to privately call the Dallas Rape Crisis Center hotline immediately if the staff member has reason to believe a youth has been a victim of sexual abuse or harassment.

**(2) Administrative Remedies. (115.352)**

- (A) NEXUS RECOVERY CENTER reports all allegations of sexual abuse regardless of how much time has passed since the alleged incident.
- (B) Youth are not required to use the youth grievance system or the informal conference request 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 or the conference request system to report an allegation of sexual abuse, the allegation is immediately forwarded to the Dallas Police Department for assignment and investigation.
- (D) NEXUS RECOVERY CENTER does not refer allegations of sexual abuse to staff members who are the subject of the allegation.

- (E) A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint.
- (F) The agency shall establish procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse.
- (G) The agency shall ensure that—
  - (i) A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and
  - (ii) Such grievance is not referred to a staff member who is the subject of the complaint.
- (H) The agency shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.
  - (i) Computation of the 90-day time period shall not include time consumed by residents in preparing any administrative appeal.
  - (ii) The agency may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The agency shall notify the resident in writing of any such extension and provide a date by which a decision will be made.
  - (iii) At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level.
- (I) Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of residents.
  - (i) If a third party, other than a parent or legal guardian, files such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally

pursue any subsequent steps in the administrative remedy process.

- (ii) If the resident declines to have the request processed on his or her behalf, the agency shall document the resident's decision.
- (iii) A parent or legal guardian of a juvenile shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile. Such a grievance shall not be conditioned upon the juvenile agreeing to have the request filed on his or her behalf.

(J) The agency shall establish procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse. After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final agency decision shall document the agency's determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(K) The agency may discipline a resident for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the resident filed the grievance in bad faith

### **(3) Youth Access to Outside Support Services and Legal Representation. (115.353)**

(A) NEXUS RECOVERY CENTER 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. NEXUS RECOVERY CENTER also provides youth with on-site access to representatives of such advocacy organizations. NEXUS RECOVERY CENTER enables reasonable communication between youth and these organizations and agencies in as confidential a manner as possible. NEXUS RECOVERY CENTER 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) NEXUS RECOVERY CENTER 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. NEXUS RECOVERY CENTER maintains documentation of such agreements or attempts to enter into such agreements. Support services are available from Dallas Rape Crisis Center and can be reached at 972-641-7273

(C) NEXUS RECOVERY CENTER provides youth with reasonable and confidential access to their:

- (i) attorneys or other legal representatives,; and
- (ii) parents or legal guardians.

**(A) Third Party Reporting (115.354)**

You may inform any of the following people at the Nexus Recovery Center Facility: Nancy Fite (PREA Compliance Manager) 214-321-0156 X 2602, Stacey Burns (PREA Coordinator) 214-321-0156 X 2121, Becca Crowell (Executive Director) 214-321-0156 X 2100 You can also contact Texas Department of State Health Services at 1-800-832-9623.

(k) Official Response Following a Report of Alleged Sexual Abuse or Sexual Harassment.

**(1) Staff and Agency Reporting Duties. (115.361)**

(A) All NEXUS RECOVERY CENTER staff members must immediately report to an agency administrator or Dallas Police Department, 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
- (iv) 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 NEXUS RECOVERY CENTER.
- (C) The requirement to report includes staff members 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, these staff members must inform the youth of the staff member's duty to report abuse and the limits of confidentiality.
- (D) In addition to the reporting requirement in subparagraph (A) of this paragraph, NEXUS RECOVERY CENTER staff must comply with mandatory child abuse reporting laws in Texas Family Code Chapter 261 and with applicable professional licensure requirements.
- (E) Any NEXUS RECOVERY CENTER staff who receives a report of alleged sexual abuse is prohibited from revealing any information to anyone other than to the extent necessary, to make treatment, investigation, and other security and management decisions.
- (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. If the alleged victim is under the conservatorship of DFPS, the report is made to DFPS.

**(2) Agency Protection Duties. (115.362)**

Upon receipt of a report that alleges a youth is subject to a substantial risk or imminent sexual abuse, NEXUS RECOVERY CENTER takes immediate action to protect the youth.

**(3) Reporting to other confinement facilities (115.363)**

- (A) Upon receiving an allegation that a resident was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred and shall also notify the appropriate investigative agency.

- (b) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- (c) The agency shall document that it has provided such notification.
- (d) The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

**(4) Staff First Responder Duties. (115.364)**

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. (115.365)**

NEXUS RECOVERY CENTER 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. (115.366)**

NEXUS RECOVERY CENTER 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. (115.367)**

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, NEXUS RECOVERY CENTER:

- (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.
- (F) An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

**(8) Post-Allegation Protective Custody. (115.368)**

NEXUS RECOVERY CENTER does not use segregated housing to protect a youth who is alleged to have suffered sexual abuse.

(l) Investigations

(1) Criminal and Administrative Investigations (115.371)

- (A) Nexus Recovery Center will refer all investigations to the Dallas Police Department.
- (B) The agency shall retain all written reports referenced in paragraphs (g) and (h) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention.
- (C) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.
- (D) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.
- (F) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

(2) **Evidentiary Standard for Administrative Investigations (115.372)**

The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

(3) **Reporting to residents (115.373)**

- (A) Following an investigation into a resident's allegation of sexual abuse suffered in an agency facility, the agency shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

- (B) If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the resident.
- (C) Following a resident's allegation that a staff member has committed sexual abuse against the resident, the agency shall subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever:
  - (i) The staff member is no longer posted within the resident's unit;
  - (ii) The staff member is no longer employed at the facility;
  - (iii) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
  - (iv) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- (D) Following a resident's allegation that he or she has been sexually abused by another resident, the agency shall subsequently inform the alleged victim whenever:
  - (i) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
  - (ii) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- (E) All such notifications or attempted notifications shall be documented.
- (F) An agency's obligation to report under this standard shall terminate if the resident is released from the agency's custody.

(m) Discipline.

**(1) Disciplinary Sanctions for Staff. (115.376)**

- (A) Staff members are subject to disciplinary sanctions up to and including termination of employment for violating NEXUS

RECOVERY CENTER 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 NEXUS RECOVERY CENTER 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) NEXUS RECOVERY CENTER 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. (115.377)**

- (A) If a contractor or volunteer engages in sexual abuse, NEXUS RECOVERY CENTER:
  - (i) prohibits the contractor or volunteer from having any contact with NEXUS RECOVERY CENTER youth; and
  - (ii) reports the finding of abuse to any relevant licensing bodies.
- (B) If a volunteer or contractor violates NEXUS RECOVERY CENTER sexual abuse or sexual harassment policies but does not actually engage in sexual abuse, NEXUS RECOVERY CENTER takes appropriate remedial measures and considers whether to prohibit further contact with NEXUS RECOVERY CENTER youth.

**(3) Interventions and Disciplinary Sanctions for Youth. (115.378)**

- (A) A youth may be subject to disciplinary sanctions for engaging in sexual abuse only when:

- (i) there is a criminal finding of guilt or an administrative finding that the youth engaged in youth-on-youth sexual abuse; and
    - (ii) the discipline is determined through a Level II due process hearing.
  - (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) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to offer the offending resident participation in such interventions. The agency may require participation in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives, but not as a condition to access to general programming or education.
  - (E) A youth may be disciplined for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
  - (F) NEXUS RECOVERY CENTER 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.
  - (G) NEXUS RECOVERY CENTER may also discipline a youth for engaging in prohibited sexual activity that does not meet the definition of abuse.
- (n) Medical and Mental Care
- (1) **Screening (115.381)**
    - (A) If the screening pursuant to § 115.341 indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that

the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

- (B) If the screening pursuant to § 115.341 indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.
- (C) Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall 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 Federal, State, or local law.
- (D) Medical and mental health practitioners shall obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18.

**(2) Access to Emergency Medical and Mental Health Services. (115.382)**

- (A) Resident victims of sexual abuse shall 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 shall take preliminary steps to protect the victim pursuant to § 115.362 and shall immediately notify the appropriate medical and mental health practitioners.
- (C) Resident victims of sexual abuse while incarcerated shall be 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) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the

abuser or cooperates with any investigation arising out of the incident.

(3) **Ongoing medical and mental health care for sexual abuse victims and abusers (115.383)**

- (A) The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
- (B) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
- (C) The facility shall provide such victims with medical and mental health services consistent with the community level of care.
- (D) The facility shall attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners

(o) **Sexual Abuse Incident Reviews. (115.386)**

- (1) NEXUS RECOVERY CENTER conducts an incident review at the conclusion of every sexual abuse investigation unless the allegation is determined to be unfounded.
- (2) Such review shall ordinarily occur within 30 days of the conclusion of the investigation.
- (3) Managers and supervisors participate in the review.
- (4) The review team:
  - (A) considers whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
  - (B) 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;

- (C) examines the area where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
  - (D) assesses the adequacy of staffing levels in that area during different shifts;
  - (E) assesses whether monitoring technology should be used or enhanced to supplement supervision by staff; and
  - (F) submits a report of its findings and recommendations to the facility administrator, the local PREA compliance manager, and other appropriate staff members.
- (5) The facility where the incident allegedly occurred must implement the review team's recommendations or document its reasons for not doing so.

(p) Data

- (1) Collection and Storage. (115.387)
- (A) The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.
  - (B) The agency shall aggregate the incident-based sexual abuse data at least annually.
  - (C) The incident-based data collected shall 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.
  - (D) The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
  - (E) Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

(2) Data Review for Corrective Action (115.388)

- (A) The agency shall review data collected and aggregated pursuant to § 115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
  - (i) Identifying problem areas;
  - (ii) Taking corrective action on an ongoing basis; and
  - (ii) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
- (B) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.
- (C) The agency's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.
- (D) The agency 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

(3) Publication and Storage of Sexual Abuse Data. (115,389)

- (A) NEXUS RECOVERY CENTER reviews aggregate sexual abuse data to assess and improve the effectiveness of its policies, practices, and training. Following this review, NEXUS RECOVERY CENTER 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.
- (B) Annually, NEXUS RECOVERY CENTER posts on its website all aggregated sexual abuse data from NEXUS RECOVERY CENTER-operated facilities, making sure that all personal identifiers are removed.
- (C) Nexus Recovery Center securely retains all sexual abuse data it collects for ten years after the date of initial collection.

(q) Audits of PREA Standards.

NEXUS RECOVERY CENTER conducts audits on it's PREA standards.