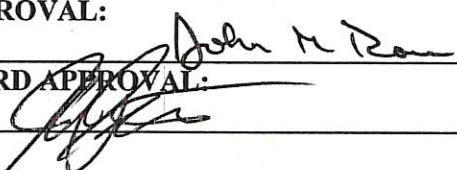



OAKVIEW JUVENILE RESIDENTIAL CENTER	
POLICY FO-3D-04-02-10	
TITLE: SEXUAL ABUSE/ASSAULT/HARASSMENT	
PURPOSE: To establish policy/procedure regarding incidents of sexual assault.	
ACA REFERENCE: 3-JCRF-3D-04 Facility Operations	
PREA COUNTY REFERENCE: 115.311 115.313 115.321 115.322 115.334 115.341 115.365 115.366 115.367 115.371 115.372 115.381, 115.382, 115.383	
C.C.F. REFERENCE: N/A	
O.D.J.F.S. REFERENCE: N/A	
EFFECTIVE DATE: 05/14/07	
REVIEW DATE: 02/05/10, 03/07/11, 10/20/12, 06/16/14, 03/10/16, 04/05/16, 08/13/18	
DIRECTOR'S APPROVAL:	
JOHN ROWAN 	DATE: 8/13/18
EXECUTIVE BOARD APPROVAL:	
	DATE: 8/16/18

POLICY: It is the policy, procedure, and practice of Oakview Juvenile Residential Center (Oakview) to ensure that sexual activity between staff and youth, visitors volunteers or contract personnel and youth, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions.

All employees, volunteers, and independent contractors are expected to have a clear understanding that Oakview has established a zero tolerance for any type of sexual relationship, sexual abuse, and sexual harassment with a youth in placement. **(115.311 a)** It is considered to be a serious breach of standards of employee conduct and these relationships will not be tolerated. Engaging in a personal and/or sexual relationship may result in employment termination and/or termination of the contractual or volunteer status. 7

This policy includes Oakview's approach to preventing, detecting, and responding to such conduct, coordinated response to sexual abuse, medical and mental health treatment, investigations, and acts of retaliation.

Oakview has designated the Tx/Licensing Director as the PREA Coordinator. The PREA Coordinator is responsible for developing, implementing, and overseeing agency efforts to comply with PREA standards. **(115.311 b)**

DEFINITIONS: As used in this policy, the following definitions apply:

§ 115.6 Definitions related to sexual abuse.

For purposes of this part, the term –

- (1) Sexual abuse/assault of an inmate, detainee, or resident by another inmate, detainee, or residents; and
- (2) Sexual abuse of an inmate, detainee, or residents by a staff member, contractor, or volunteer.

Sexual abuse/assault of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such an act by overt or implied threats of violence, or is unable to consent or refuse:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (4) 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 incidental to a physical altercation.

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) 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;
- (4) 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, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(5) Any other 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, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) – (5) of this section;

(7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and

(8) Voyeurism by a staff member, contractor, or volunteer.

Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using the toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all of an inmate's naked body or of an inmate performing bodily functions.

Sexual harassment includes –

(1) Repeated and unwelcomed sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and

(2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demanding references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Investigation terms include -

(1) Substantiated – The event was investigated and determined to have occurred.

(2) Unfounded – The event was determined NOT to have occurred.

(3) Unsubstantiated - Evidence was insufficient to make a final determination that the event occurred.

PROCEDURE:

Screening

1. Youth's Case Manager or assigned intake staff shall complete a vulnerability assessment for potential vulnerabilities and tendencies of acting out with sexually aggressive behavior (attachment I **115.341 a b Sexually Aggressive Behavior Form**), with each new youth within 24 hours of arrival at the facility. 3 If youth's screening indicates that he has experienced prior victimization, whether it occurred in an institutional setting or community, youth's Case Manager shall ensure that the youth is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. These youth shall be identified, monitored and counseled. **(115.381 a)**
 - a. This information shall be ascertained through conversations with the youth during intake and medical and mental health screening, during assessments, and by reviewing court records, case files, behavior records, or other relevant documentation in youth's file. **(115.341 c d)**
 - b. Sensitive information shall only be shared on a need to know basis and amongst administration and medical/mental health staff. **(115.341 e)**
 - c. The Case Manager is responsible for completing a Progress Note Form and forwarding it to the medical and mental health practitioner when a youth has reported prior sexual victimization or perpetration. **(115.381 a)**
2. All youth are assigned to single occupancy rooms regardless of assessment results.
3. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health therapist 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 laws. **(115.381 c)**
4. Youth identified as high risk with a history of assaultive behavior whether it occurred in an institutional setting or community is offered a follow-up meeting with a mental health therapist within 14 days of the intake screening. Such youth are identified, monitored, counseled, and provided appropriate treatment. All identified issues shall be incorporated into youth's treatment plan. 5 **(115.381 b)**
 - a. The Case Manager is responsible for completing a Progress Note Form and forwarding it to the medical and mental health practitioner.

5. Medical and mental health therapist shall obtain informed consent from a 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. Medical and mental health practitioners are responsible for completing Consent to Disclose Information Form. (115.381 d)

Preservation of ability to protect youth from contact with abusers

6. Neither the Oakview nor any other governmental entity responsible for collective bargaining on the agency's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits Oakview's ability to remove alleged sexual abusers from contact with residents pending the outcome of an investigation or a determination of whether and to what extent discipline is warranted. (115.366 a)
7. Nothing shall restrict the entering into or renewal of agreements that govern: (115.366 b)
 - a. The conduct of the disciplinary process as long as such agreements are not inconsistent with the provisions in 115.372 and 115.376.
 - b. Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

Detection and Prevention

8. Staff has a duty to provide youth with the level of supervision necessary to protect them from harm.
 - a. All areas of the facility have video monitoring with the exception of bathrooms and youth sleeping rooms.
 - b. Areas of darkness have motion detective lighting.
 - c. Closets and offices are equipped with windows to limit privacy.
 - d. All youth have single occupancy sleeping rooms.
9. Staff to youth ratio is 1:8 during waking hours with constant visual observation and at least 1:16 during sleeping hours. Only direct care staff (security staff) are included in the aforementioned ratios. Oakview shall comply with the staffing plan except during limited and discrete exigent circumstances, and shall fully document deviations from the plan during such circumstances. (115.313 b c)

10. Staff to youth ratio shall be one staff per unit (each unit holds 8 youth) during sleeping hours. Only direct care staff (security staff) are included in the aforementioned ratios.
11. Staff shall receive training in detection and prevention responsibilities, to include but not limited to: freedom from sexual abuse/assault/harassment and retaliation, reactions of youth victims, etc. (Policy AM-1D-1-13)
12. Oakview shall ensure and comply with a staffing plan that is developed, implemented, and documented to provide for adequate levels of staffing, and, where applicable, video monitoring, to protect youth against sexual abuse/assault. In calculating adequate staffing levels and determining the need for video monitoring, Oakview shall take the following into consideration: generally accepted practices, judicial finding of inadequacy, inadequacy findings from Federal investigative agencies, findings of inadequacy from internal or external oversights, all components of the facility's physical plant, composition of resident population, the number and placement of supervisory staff, programs occurring on a particular shift, applicable staff or local laws and regulations, prevalence of any substantiated or unsubstantiated incidents of sexual abuse, and any other relevant factors. (115.313 a1-11)
13. Whenever necessary, but not less than annually, the PREA Coordinator shall assess, determine, and document whether adjustments are needed to the staffing plan, prevailing staffing patterns, the facility's deployment of video monitoring systems, and other monitoring technologies, and the resources the facility has available to commit to ensure adherence to the staffing pattern. (115.313 d)
 - a. A Staffing Plan Review Form shall be completed at least one a year during an Administrative meeting.
14. Oakview shall maintain a policy and practice of administration and shift supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Rounds shall be conducted approximately 3 to 4 times per month and shall be staggered amongst shifts. Administration and Shift Supervisors are prohibited from alerting other staff of when unannounced rounds will occur, unless such announcement is related to the legitimate operational functions of the facility. (115.313 e)

Coordinated Response 115.365

If staff interrupts an assault in progress or the findings of the Administrative Investigation lead Supervisors and Administration to believe that a crime was committed, staff will follow all security protocols:

15. The Supervisor or Senior Staff shall call 911 if assault is in progress. Be sure to separate the alleged victim and abuser. (115.364 a1)

16. The Director, or Deputy Director and PREA Coordinator shall be notified *immediately*. If the incident occurs outside of normal business hours, the aforementioned staff will report to the facility.
17. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim and ensure that the abuser not take any actions that could destroy physical evidence, including, as appropriate: washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating. (115.364 a3 a4)
 - a. If the first responder is not a security staff member, the responder shall be required to request the alleged victim not take any actions that could destroy physical evidence, and then notify security staff. (115.364 b)
18. The victim will be transported to the Belmont County Hospital where a forensic examination will be completed by a SAFE/SANE. If Belmont County SANE is unable to conduct the forensic examination, the youth will be referred to Akron or Pittsburgh Children's Hospital where the examination can be conducted.
 - a. Tri-County Help Center shall be contacted to provide an advocate to support the victim through the forensic examination/investigation process and to provide emotional support.
19. The Supervisor or Senior Staff will make every attempt to protect the scene until the appropriate steps can be taken to collect evidence. (115.364 a2)
20. Belmont County Sheriff's Office (BCSO) shall follow the Sexual Assault Protocol for adolescent and adult victims. This protocol addresses areas such as interviewing, evidence collection, victim services, notification, and the prosecution of sexual assault cases.
 - a. BCSO employs investigators with specialized training in sexual abuse investigations victims pursuant to PREA standard 115.334.
 - b. BCSO is responsible for collecting any physical and DNA evidence where available.
 - c. BCSO shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
 - d. BCSO shall maintain communication with OJRC about the progress of the investigation.

21. Upon arrival to the facility and reviewing the allegation, the Director or designee shall make the following notifications:
 - a. Parents/Legal Guardians of the alleged victim and abuser
 - b. The Committing Court(s)
 - c. Ohio Department of Youth Services
 - d. Ohio Department of Job and Family Services
 - e. Belmont County Department of Job and Family Services
22. Upon arrival to the facility and reviewing the allegation, OJRC Nurse and youth therapist(s) shall provide medical and mental health services, Medical and Mental Health Screenings and Access for Services for Sexual abuse and Ongoing Medical and Mental Health Care for Sexual Abuse Victims or Abusers.
23. All staff and youth with knowledge or involvement shall complete a Statement of Events before the end of their shift.
 - a. The Supervisor or Senior staff on duty shall complete a Significant Incident Report and the PREA Coordinator shall complete the Alleged Sexual Abuse and Sexual Assault Checklist Form and give to the Director or designee, along with staff and youth Statement of Events.
 1. Information about the incident shall be logged in the Shift Summaries to alert other shifts/staff that a Criminal Investigation has been initiated.
 2. In an effort to protect the confidentiality of all parties, all staff members are prohibited from discussing the investigation with other staff or youth, including the youth reporter/victim unless it is part of the Administrative review or investigation.
24. The Director or designee shall report all allegations of sexual abuse and sexual assault, including third party and anonymous reports to the facility's designated investigators, the Belmont County Sheriff's Office.
25. Criminal Investigations shall be documented and substantiated allegations shall be referred for prosecution.
26. The departure of the alleged abuser or victim from the control of the facility or employment of OJRC shall not provide a basis for terminating an investigation.
27. All OJRC staff shall cooperate fully with all outside investigative agencies.

28. OJRC shall not impose any standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
29. OJRC shall not terminate an investigation solely because the source of the allegation recants the allegation.
30. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as youth or staff. The agency shall not require a youth who alleges sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an allegation.
31. In the event of receiving a report from a third party source (parent, guardian, minister, etc.) the protocols as stated above shall be followed.
32. Following all instances of sexual abuse and sexual harassment, the circumstances shall be reviewed by Administration to determine if staff behavior contributed to the incident and/or if the policy and procedure needs modification.
 - a. The review shall be documented and kept on file by the Deputy Director and PREA Coordinator.

Access to Emergency Medical and Mental Health Services

33. 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. (115.382 a)
34. 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. (115.382 b)
35. 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. (115.382 c)
36. 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. (115.382 d)

Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers

37. 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. (115.383 a)
38. 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. (115.383 b)
39. The facility shall provide such victims with medical and mental health services consistent with the community level of care. (115.383 c)
40. Victims of sexually abusive penetration while incarcerated shall be offered pregnancy tests. (115.383 d) Oakview only houses male felony offenders.
41. If pregnancy results from conduct specified in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services. (115.383 e) Oakview only houses male felony offenders.
42. Victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate. (115.383 f) Prophylactic treatment and follow-up for sexually transmitted diseases are offered to all victims, as appropriate.
43. 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. (115.383 g)
44. 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. (115.383 h)

Referrals for allegation for Investigation

When Oakview receives an allegation of sexual harassment or sexual abuse/assault the following protocols shall be followed: 115.322

45. Allegations of sexual abuse or sexual harassment shall be taken from any source, including but not limited to the following:
 - a. Youth note to any staff
 - b. Youth verbal report to any staff
 - c. A verbal or written report from any staff
 - d. A grievance by youth, parent, or staff
 - e. A phone call from any Third Party Representative
46. Reporters and/or Victims of sexual abuse or sexual harassment shall be treated with respect and dignity. Their request for anonymity shall be safeguarded.
47. All staff must report any knowledge, suspicion, or information of any inappropriate behavior by staff or youth to the Supervisor-on-Duty or the Director.
48. Third Party and/or anonymous reports are received by the Director, designee, and/or PREA Coordinator. Based upon the nature of the allegation, they shall initiate the procedures for an Administrative or Criminal Investigation.
49. When staff receives a verbal or written report of an incident of sexual abuse or harassment from a resident, staff will *immediately* report the information to the Supervisor on Duty.
 - a. If the allegation is about the Supervisor on Duty, staff should report the allegation to the Director or Administration (In House or On-Call).
50. When a report is made to a staff member, while the staff is stationed on a living unit, in order to maintain confidentiality, the Youth Leader should refrain from using the radio, and should instruct all youth to return to their rooms and contact their Supervisor by using the telephone.
51. Once the Supervisor receives the allegation then he/she will initially gauge whether the youth is subject to substantial risk of imminent sexual abuse and take immediate actions to protect the youth.
 - a. Steps may include: placing a youth on special watch, separating the alleged victim/abuser, moving the youth to another living unit, etc.
 - b. After gauging the level of danger, the Supervisor will then instruct the Youth Leader on how to proceed (resume programming, secure facility, etc.)
52. The Supervisor will then speak with the reporter (youth) and ask for the information in writing using the Statement of Events Form.
 - a. The youth reporter may remain anonymous and is not required to use his name or submit a written report.
 - b. Staff will ensure the youth reporter/victim remains anonymous.

- c. Staff failure to safeguard anonymity will be considered retaliation and grounds for staff discipline.
53. The Supervisor will then contact Administration (In House or On-Call) to determine the next course of action. If Supervision and Administration believe that a crime has been committed proceed to the Coordinated Response Plan for Criminal Investigations. If the Incident occurs outside of normal business hours, the Director, Deputy Director, PREA Coordinator, On-Call Administrator, Case Manager and Medical personnel shall be contacted to report to the facility.
54. All staff with knowledge or involvement shall complete a Statement of Event Forms before the end of their shift. The Supervisor or Senior Youth Leader on shift must complete the Significant Incident Report and attach all Statement of Events.
55. Criminal and Agency Investigation Standards **115.371**
- (a) When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.
 - (b) Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations involving juvenile victims pursuant to §115.334.
 - (c) Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
 - (d) The agency shall not terminate an investigation solely because the source of the allegation recants the allegation.
 - (e) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecutions.
 - (f) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as residents or staff. No agency shall require a resident who alleges sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an allegation.

(g) Administration investigations:

(1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and

(2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

(h) Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.

(i) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

(j) 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.

(k) 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.

(l) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

(m) 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.

56. Evidence Protocol and Forensic Medical Examinations Standards **115.321**

(a) To the extent the agency is responsible for investigating allegations of sexual abuse, the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

(b) The protocol shall be developmentally appropriate for youth and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011.

(c) The agency shall offer all residents who experience sexual abuse access to forensic medical examinations whether on site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The agency shall document its efforts to provide SAFEs or SANEs.

(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. The agency may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.

(e) As requested by the victim, the victim advocate, qualified agency staff member, or qualified community based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

(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 juvenile facilities; and

(2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in juvenile facilities.

(h) For the purposes of this standard, a qualified agency staff member or a qualified community based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

Administrative Investigation

57. Administrative Review/Action:

- a. If it is determined that there is a high probability that a serious rule infraction occurred, determination shall be made if the alleged perpetrator/offender should be moved to a different unit, while the Administrative review or Investigation is completed.
- b. The Supervisor and On-Call Administrator shall determine further course of action including if the incident should be investigated as potentially criminal behavior.
- c. The Supervisor shall complete the PREA Administrative Investigation Checklist Form and give to the Director, along with staff Incident Reports and any resident statements.
 1. An email shall be sent out by the Supervisor completing the Significant Incident Report to alert other shifts/staff that an internal Administrative Investigation has been initiated.
 2. In an effort to protect the confidentiality of all parties, all staff are prohibited from discussing the investigation with other staff or youth, including the youth reporter/victim, unless as part of the Administrative review or Investigation
 3. The circumstances shall be reviewed by Administration to determine if staff behavior contributed to the incident and/or if the policy and procedure needs modification. The review shall be documented and kept on file.

58. Oakview shall not impose a standard higher than a preponderance of evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. **115.372**

59. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as youth or staff. The agency shall not require a youth who alleges sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an allegation.

60. Oakview shall not terminate an investigation solely because the source of the allegation recants the allegation.

Criminal Investigations

61. The Director or designee shall report all allegations of sexual abuse and sexual harassment, including third party and anonymous reports to the facility's designated investigators, the Belmont County Sheriff's Office.
62. Criminal Investigations shall be documented and substantiated allegations shall be referred for prosecution.
63. The departure of the alleged abuser or victim from the control of the facility or employment of Oakview shall not provide a basis for terminating an investigation.
64. All Oakview staff shall cooperate fully with all outside investigative agencies.
65. The Belmont County Sheriff's Office shall not impose any standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
66. The Belmont County Sheriff's Office shall not terminate an investigation solely because the source of the allegation recants the allegation.
67. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff. The agency shall not require a resident who alleges sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an allegation.
68. In the event of receiving a report from a third party source (parent, guardian, minister, etc.) the protocols as stated above shall be followed.
69. Following all instances of sexual abuse and sexual harassment, the circumstances shall be reviewed by Administration to determine if staff behavior contributed to the incident and/or if the policy and procedure needs modification.
 - a. The review shall be documented and kept on file.

Specialized Training: Investigations

70. In addition to the general training provided to all employees pursuant to § 115.331,
 - a. The agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. *(115.334 a) Oakview Administrators and Supervisors are trained to perform Administrative Investigations. The Belmont County Sheriff's Office is responsible for completing all sexual assault/abuse/harassment Criminal Investigations.*

- b. Specialized training shall include techniques for interviewing juvenile sexual Abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. (115.334 b)
Belmont County Sheriff's Office Sexual Assault Investigative Unit are trained officers.
- c. The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations. (115.334 c)
- d. Any State entity or Department of Justice component that investigates sexual abuse in juvenile confinement settings shall provide such training to its agents and investigators who conduct such investigations. (115.334 d)

Record Retention

- 71. Oakview shall retain all written reports referenced in PREA standard 115.371 (g) and (h) and incident reports, investigative reports, youth information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment/counseling 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.
- 72. All documentation pertaining to an administrative or criminal investigation shall become part of the resident's permanent file and subject to the facility's record retention policy.
- 73. Oakview Juvenile Residential Center shall post this policy on the facility website and make it available to all youth, staff, and parents/guardians. Interested parties and/or visitors may make a written request for the policy.

Retaliation

- 74. Retaliation against the youth or staff who reported alleged abuse or cooperates with a sexual abuse/assault/harassment investigation is prohibited. Any reports of retaliation shall be reported to the PREA Coordinator who is responsible for monitoring acts of retaliation. (115.367 a)
- 75. Any staff or youth suspected of retaliation shall be removed from contact with the victim until an investigation is completed. Youth shall be moved to the opposite unit of the retaliator and staff shall monitor and log daily interaction of youth with others. Staff who are reportedly retaliating shall be placed on paid administrative leave until completion of investigation. (115.367 b)

76. For at least 90 days following a report of sexual abuse, Oakview shall monitor the conduct or treatment of youth or staff who reported the sexual abuse and of youth who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by youths or staff, and shall act promptly to remedy any such retaliation. Items the agency should monitor include any youth disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. This would include periodic status checks for the youth. (115.367 c) (115.367 d)
- a. The PREA Coordinator or designee is responsible for completing both a Sexual Abuse and Sexual Harassment Retaliation Status Check and an Alleged Sexual Abuse and Sexual Assault Retaliation Monitoring Checklist.
 - b. The Director shall be notified of any reports of retaliation.
77. If any other individual who cooperates with an investigation expresses a fear of retaliation, Oakview shall take appropriate measures to protect that individual against retaliation by investigating and initiating disciplinary action. (115.367 e)
78. Oakview's obligation to monitor shall terminate if the agency determines that the allegation is unfounded. (115.367 f)