

**POLICY 5.90 (49) APPLYING THE PREA JUVENILE STANDARDS IN JR**

**Policy Committee Chair**

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**Approved**



John Clayton, Assistant Secretary  
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**Authorizing Sources**

PL108-79, the Prison Rape Elimination Act (PREA)  
28 CFR Part 115 PREA, Juvenile Facility Standards, effective August 20, 2012  
RCW 9A.20.021,  
RCW 9A.44  
RCW 26.44.030,  
RCW 26.44.080,  
WAC 388-700-0005  
WAC 388-730  
DSHS Administrative Policy 18.62  
DSHS Administrative Policy 18.64  
DSHS Administrative Policy 18.66

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**I. PURPOSE AND SCOPE**

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This policy establishes a zero tolerance policy for any form of sexual abuse or sexual harassment of youth in the care of Juvenile Rehabilitation (JR), including youth on youth sexual assault and custodial sexual misconduct by staff. When youth are victimized, they suffer physically, psychologically and emotionally. Repercussions may be long lasting, not only for the youth, but for the families and communities to which they will return. Preventing victimization is a top priority for JR.

The policy follows the federal Prison Rape Elimination Act (PREA) Juvenile Facility Standards, which set forth standards for preventing, detecting, and reporting sexual abuse and sexual harassment, and investigating allegations. Additional standards have been incorporated to other JR policies, which are referenced in Section V.

All staff, contractors, volunteers, and interns working in the Division of Juvenile Institution Programs, Division of Community Programs and Parole, and the Division of Operations and Support Services are responsible for reviewing and complying with JR policies.

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## II. POLICY

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### STAFF AND YOUTH CONDUCT

- 1. JR has a zero tolerance for all forms of sexual abuse and sexual harassment in facilities operated directly by JR and in facilities operated under contract. (PREA Standard 115.311 (a))**
- 2. Sexual contact with a JR youth by a staff member is considered abusive and is prohibited. It may be prosecuted pursuant to RCW 9A.44.160 and RCW 9A.44.170. It must be reported in accordance with Policy 5.91 (34), *Reporting Abuse and Neglect of JR Youth*.**
- 3. Expectations for staff conduct is guided by Policy 1.20 (20), Staff Conduct.**
- 4. Sexual intercourse or sexual contact (RCW 9A.44.010) between JR youth, even when perceived as consensual, is counter to the treatment, care and rehabilitative goals of their commitment to JR and is prohibited. Youth will be subject to disciplinary sanctions for engaging in this behavior. (PREA Standard 115.378 (g))**
  - 4.1. Sexual intercourse or sexual contact between JR youth cannot be considered sexual abuse for youth disciplinary purposes if the investigation determines that the activity is not coerced. (PREA Standard 115.378 (g))
  - 4.2. Sexual intercourse between individuals of sufficient age difference may be prosecuted pursuant to RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.086 and 9A.44.089.
  - 4.3. All sexual contact between JR youth will be referred to Child Protective Services in accordance with Policy 5.91 (34), *Reporting Abuse and Neglect of JR Youth*.
- 5. JR has zero tolerance for resident on resident sexual abuse.**
  - 5.1. Youth will be disciplined subject to WAC 388-730 if sexual abuse occurs between youth.

### SANCTIONS

- 6. Staff must be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. (PREA Standard 115.376 (a))**
- 7. Termination will be the presumptive disciplinary sanction for staff who have engaged in sexual abuse in accordance with RCW 13.40.570. (PREA Standard 115.376 (b))**
- 8. Disciplinary sanctions for violations of DSHS or JR policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) will be 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. (PREA Standard 115.376 (c))**

Policy **5.90 (49)**, **Applying the PREA Juvenile Standards in JR 2/27/2015****9. All terminations for violations of JR sexual abuse or sexual harassment policies or resignations by staff who would have been terminated if not for their resignation must be reported to law enforcement and to any relevant licensing bodies. (PREA Standard 115.376 (d))**

- 9.1. The Superintendent, Regional Administrator or designee will complete the report to law enforcement and to relevant licensing bodies. The report will be documented and maintained at the facility.

**REPORTING****10. Staff must immediately report the following without delay (PREA Standard 115.361 (a)):**

- 10.1. Any knowledge, suspicion or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a jail, detention facility or JR facility,
- 10.2. Retaliation against youth or staff who reported such an incident,
- 10.3. Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

**11. Reports will be made to Child Protective Services in accordance with Policy 5.91 (34), *Reporting Abuse and Neglect of JR Youth*, and to local administration per statements 15-16.**

- 11.1. Facility administration will make a referral to the appropriate law enforcement agency with the legal authority to review the allegation for possible criminal investigation, per DSHS AP 18.62. (PREA Standard 115.322 (b))
- 11.2. JR must immediately make a referral to Child Protective Services per Policy 5.91 (34), *Reporting Abuse and Neglect of JR Youth*.

**12. Reports must be documented.**

- 12.1. Allegations of sexual abuse or sexual harassment will be documented on an incident report, Child Protective Services report and Administrative Report of Incidents in the JR Automated Client Tracking (ACT) system.
- 12.2. Incidents involving staff will be marked as "staff related" to increase confidentiality within the ACT system.
- 12.3. Upon receiving any allegation of sexual abuse, the Superintendent or Community Facility Administrator or designee will immediately and without delay report to the alleged victim's parents or legal guardians, unless the facility has official documentation (such as a no-contact order or other court order) showing that the parents or legal guardians should not be notified. (PREA Standard 115.361 (e)(1))
  - 12.3.1. If the alleged victim is under the guardianship of Children's Administration, the report must be made to the alleged victim's caseworker. (PREA Standard 115.361 (e)(2))

**13. Youth must be provided multiple methods for reporting sexual abuse and sexual harassment, in accordance with Policy 2.10 (13), *Handling Youth Complaints*. (PREA Standard 115.351 (a))**

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**14. If necessary, staff must be able to report sexual abuse and sexual harassment of youth outside their direct chain of command. (PREA Standard 115.351 (e))**

- 14.1. A report will be made by the receiving staff to Child Protective Services per Policy 5.91 (34), *Reporting Abuse and Neglect of JR Youth*.
- 14.2. The Superintendent, Regional Administrator or designee will be notified that the report has been made per Policy 5.91 (34).
- 14.3. If there is need, the receiving staff may make the notification to the Division Director after contacting Child Protective Services.

**RESPONSE****15. Upon learning of an allegation that a youth was sexually abused, the first staff member to respond to the report must:**

- 15.1. Separate the alleged victim and abuser, (PREA Standard 115.364 (a)(1))
- 15.2. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence. (PREA Standard 115.364 (a)(2))
- 15.3. If the abuse occurred within 120 hours, the first responder must request that the alleged victim and alleged abuser not take any actions that could destroy physical evidence, including (but not limited to) washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. (PREA Standard 115.364 (a)(3-4))
- 15.4. If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff. (PREA Standard 115.364 (b)(1))

**16. Each JR facility must have a written plan aligned with JR agency policy that guides coordinated actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership. (PREA Standard 115.365)****17. Youth are to be provided access to emergency and ongoing medical and mental health care as it relates to sexual abuse or sexual harassment in accordance with Policy 4.30 (14), *Providing Health Care to Youth*. (PREA Standard 115.382-383)****18. Forensic medical examinations will be performed by medical providers at the local hospital. (PREA Standard 115.321 (c))****19. If a youth is subject to a substantial risk of imminent sexual abuse, the Superintendent, Community Facility Administrator, Regional Administrator or designee must take immediate action to protect the youth. (PREA Standard 115.362)**

Policy **5.90 (49)**, Applying the PREA Juvenile Standards in JR 2/27/2015**20. Within 72 hours of receiving an allegation that a youth was sexually abused while confined at another facility, the Superintendent, Community Facility Administrator, Regional Administrator or designee must notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. Notification must be documented. (PREA Standard 115.363 (a-c))**

20.1. Notification must be given to Child Protective Services within 24 hours and to local law enforcement if appropriate. The notification must be documented. (PREA Standard 115.361 (a, c))

20.2. The JR PREA Administrator must be notified.

**INVESTIGATIONS****21. JR will ensure that all allegations of sexual abuse or sexual harassment, regardless of source, are investigated.**

21.1. An administrative or criminal investigation must be completed for all allegations of sexual abuse and sexual harassment. (PREA Standard 115.322 (a))

21.2. All allegations of sexual abuse and sexual harassment will be referred for investigation to an agency with the legal authority to conduct criminal investigations, such as Washington State Patrol or local law enforcement. (PREA Standard 115.322 (b)).

**22. Allegations received from another facility or agency will be investigated in accordance with this policy. (PREA Standard 115.363 (d))****23. JR must conduct administrative investigations of allegations of sexual abuse or sexual harassment that are not investigated by Child Protective Services or law enforcement.**

23.1. Designated investigators who conduct PREA-related investigations must complete specialized training specific to conducting PREA investigations in the confinement setting (PREA Standard 115.334 (a))

23.2. PREA Investigators must:

23.2.1. gather direct and circumstantial evidence, including any available electronic monitoring data;

23.2.2. interview alleged victims, suspected perpetrators, and witnesses;

23.2.3. review prior complaints and reports of sexual abuse involving the suspected perpetrator. (PREA Standard 115.371 (c)(1)).

23.3. Administrative investigations must:

23.3.1. Include an effort to determine whether staff actions or failures to act contributed to the abuse (PREA Standard 115.371 (g)(1))

23.3.2. Be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments and investigative fact and findings. (PREA Standard 115.371 (g)(2))

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23.4. JR will use no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. (PREA Standard 115.372 (a)(1)).

**24. Following the law enforcement and child protective services review or investigation of the allegation, JR will conduct an investigation to address possible policy violations and resulting discipline. This investigation does not replace the incident review process in Section 47.**

**25. JR must not terminate an investigation solely because the source of the allegation recants the allegation. (PREA Standard 115.371 (d)(1))**

**26. JR must not terminate the investigation due to the departure of the alleged abuser or victim from employment or control of the facility or agency. (PREA Standard 115.371 (k))**

**27. Staff are prohibited from revealing any information related to a sexual abuse report to anyone other than those who will make treatment, investigation, security or other management decisions. (PREA Standard 115.361 (c))**

**28. Retaliation against youth or staff who file complaints or cooperate in investigations of allegations related to sexual abuse or sexual harassment is prohibited. (PREA Standard 115.367 (a))**

28.1. Superintendents, Regional Administrators or designees are to monitor and respond to allegations of retaliation. (PREA Standard 115.367 (a))

28.2. JR must provide multiple protection measures, such as housing changes or transfers for youth victims or abusers, removal of alleged staff or abusers from contact with victims, and emotional support services for youth or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. (PREA Standard 115.367 (b))

28.3. For at least 90 days following a report of sexual abuse, JR must 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 other youth or staff, and must act promptly to remedy any such retaliation. (PREA Standard 115.367 (c))

28.3.1. JR must monitor any disciplinary reports, housing, or program changes, negative performance reviews or reassignments of staff. (PREA Standard 115.367 (c)). For youth, monitoring must include periodic status checks. (PREA Standard 115.367 (d))

28.3.2. JR must continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. (PREA Standard 115.367 (c))

28.4. If any other individual who cooperates with an investigation expresses a fear of retaliation, JR must take appropriate measures to protect that individual against retaliation. (PREA Standard 115.367 (e))

28.5. JR's obligation to monitor must terminate if Child Protective Services determines that the allegation is unfounded. (PREA Standard 115.367 (f))

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- 29.1. Following an investigation into a youth's allegation of sexual abuse, the Superintendent, Regional Administrator or designee must inform the victim as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. (PREA Standard 115.373(a))
- 29.2. If CPS or law enforcement conducted the investigation, JR will request the relevant information in order to inform the youth of the outcome of the investigation. (PREA Standard 115.373(b))
- 29.3. Except when an allegation has been determined to be unfounded, following a youth's allegation that he or she has been sexually abused by a staff member, the Superintendent, Regional Administrator or designee must inform the youth when: (PREA Standard 115.373(c))
  - 29.3.1. The staff is no longer employed at the facility.
  - 29.3.2. The staff has been indicted or convicted on a charge related to sexual abuse within the facility, if JR learns of the outcome.
- 29.4. Communication will be documented on the Youth Notification form – Staff-Youth (DSHS Form 20-293). A copy will be given to the youth and placed in the youth's case file per Policy 2.40 (11), *Managing Youth Case Files*.
- 29.5. Following a youth's allegation that he or she has been sexually abused by another youth, the Superintendent, Regional Administrator or designee must inform the youth whenever either of the following occur (PREA Standard 115.373(d))
  - 29.5.1. The alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility, if JR learns of the outcome.
- 29.6. Communication will be documented on the Youth Notification form – Youth-Youth (DSHS Form 20-294). A copy will be given to the youth and placed in the youth's case file per Policy 2.40 (11), *Managing Youth Case Files*.
- 29.7. The obligation to report under this standard shall terminate if the victim is discharged from JR care. (PREA Standard 115.373(f))

**STAFF TRAINING****30. JR must train all employees who may have unsupervised contact with JR youth. (PREA Standard 115.331 (a)) The training must include:**

- 30.1. The zero tolerance policy for sexual abuse and sexual harassment; (PREA Standard 115.331 (a)(1))
- 30.2. How to fulfill their responsibilities under agency policy regarding prevention, detection, reporting and response policies and procedures; (PREA Standard 115.331 (a)(2))
- 30.3. Youth rights to freedom from sexual abuse and sexual harassment; (PREA Standard 115.331 (a)(3))

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- 30.4. The right of youth and staff to be free from retaliation for reporting sexual abuse and sexual harassment; (PREA Standard 115.331 (a)(4))
- 30.5. The dynamics of sexual abuse and sexual harassment in juvenile facilities; (PREA Standard 115.331 (a)(5))
- 30.6. The common reactions of juvenile victims of sexual abuse and sexual harassment; (PREA Standard 115.331 (a)(6))
- 30.7. 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; (PREA Standard 115.331 (a)(7))
- 30.8. How to avoid inappropriate relationships with youth; (PREA Standard 115.331 (a)(8))
- 30.9. How to communicate effectively and professionally with youth, including lesbian, gay, bisexual, transgender, questioning, intersex and gender non-conforming youth in accordance with Policy 4.60 (50), *Ensuring the Health and Safety of LGBTQI Youth*; (PREA Standard 115.331 (a)(9))
- 30.10. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities; (PREA Standard 115.331 (a)(10))
- 30.11. Relevant laws regarding the applicable age of consent for youth and youth allegations (PREA Standard 115.331 (a)(11))
- 31. Staff who do not have unsupervised contact with youth will receive PREA training at the appropriate level for the amount of contact they will have with youth.**
- 32. The staff training must be tailored to the unique needs and attributes of youth in JR's juvenile facilities and to the gender of the youth at the employee's facility. (PREA Standard 115.331 (b))**
- 33. JR must provide refresher training every two years to ensure awareness and compliance with current JR policies prohibiting sexual abuse and sexual harassment. Training must be documented through employee signature or electronic verification. (PREA Standard 115.331 (c-d))**
- 34. JR must ensure that all volunteers, interns and contractors who have contact with youth have been trained on their responsibilities under the agency's current sexual abuse and sexual harassment prevention, detection, and response policies. JR must maintain documentation confirming that volunteers and contractors understand the training they have received. (PREA Standard 115.332 (a, d))**
  - 34.1. The level and type of training provided to volunteers, interns and contractors must be based on the services they provide and the level of contact they have with youth. (PREA Standard 115.332 (b))
  - 34.2. All volunteers, interns and contractors must be notified of JR's zero tolerance policy regarding sexual abuse and sexual harassment and provided procedures for reporting incidents or suspicions of sexual abuse or sexual harassment. (PREA Standard 115.332 (b))

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**35. All youth must receive age appropriate information about sexual abuse and sexual harassment on the day of arrival. (PREA Standard 115.333 (a)) The information provided must:**

- 35.1. Explain the agency's zero-tolerance policy,
- 35.2. Provide information about how to report incidents or suspicions of sexual abuse or sexual harassment.
- 35.3. Youth must sign the PREA Youth Intake form (DSHS Form 20-280) and have a copy placed in the Case File.

**36. Within 10 days of entry and placement, JR must provide comprehensive age-appropriate education to youth either in person or through video. (PREA Standard 115.333 (b)) The education must address:**

- 36.1. Their rights to be free from sexual abuse and sexual harassment,
- 36.2. Their rights to be free from retaliation for reporting any incidents, and
- 36.3. The agency's policies and procedures for responding to such incidents.

**37. Youth must receive education upon transfer to a different facility to the extent that the policies and procedures at the new facility are different from those at the previous facility. (PREA Standard 115.333 (c))**

**38. JR must provide youth education in formats accessible to all youth, including those who are limited English proficient, deaf, visually impaired or otherwise disabled, in accordance with Policy 2.50 (36), *Assessing Interpreter and Translation Services for Youth and Families*, as well as to youth who have limited reading skills. (PREA Standard 115.333 (d))**

**39. JR must document each youth's participation in PREA education sessions. (PREA Standard 115.333 (e)). Documentation will be maintained on the Youth PREA Education Session Acknowledgment form (DSHS Form 20-281).**

**40. JR must ensure that key information is continuously and readily available or visible to youth through posters in the living units, facility handbooks, and other written formats. (PREA Standard 115.333 (f))**

**SCREENING AND SUPERVISION**

**41. Within 72 hours of intake, diagnostic staff must administer the SAVY assessment, in accordance with Policy 3.20 (39), *Assessing Sexually Aggressive or Vulnerable Youth (SAVY)* to collect information about each youth's personal history and behavior in order to reduce the risk of sexual abuse by or upon other youth. (PREA Standard 115.341 (a))**

- 41.1. JR must use all information collected by the screening tool to make housing, bed, program, education and work assignments for youth with the goal of keeping youth safe from sexual abuse. (PREA Standard 115.342 (a))

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41.2. JR must implement appropriate controls on the dissemination of responses to the screening tool in order to ensure that sensitive information is not exploited to the youth's detriment by staff or other youth. (PREA Standard 115.341 (e))

**42. Transgender and Intersex youth must be treated in accordance with Policy 4.60 (50), *Ensuring the Health and Safety of LGBTQI Youth.***

**43. Cross-gender searches are prohibited except in exigent circumstances. Searches must be conducted in accordance with Policy 5.70 (42), *Conducting Searches.* (PREA Standard 115.315)**

43.1. All cross-gender frisk/pat down searches must be documented using the Cross-Gender Pat Down form (DSHS Form 20-286). Documentation must be accessible for review at any time. (PREA Standard 115.315 (c))

**44. Youth must be allowed to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks during graveyard shifts or per Policy 5.50 (22), *Assigning Youth Isolation* and Policy 3.30 (24), *Assessing and Treating Youth Suicide and Self-Harm Risk.* (PREA Standard 115.315(d))**

44.1. Staff will document accidental viewing of youth breasts, buttocks, or genitalia on the Accidental Exposure form (DSHS Form 20-284).

**45. Staff must announce themselves when entering an area where youth of the opposite gender may be showering, performing bodily functions, and changing clothing (PREA Standard 115.315(d))**

**46. JR must ensure that youth with disabilities and youth who are limited English proficient have an equal opportunity to participate in or benefit from all aspects of JR's efforts to prevent, detect and respond to sexual abuse and sexual harassment. (PREA Standard 115.316)**

46.1.1. Access to interpreters must be provided in accordance with Policy 2.50 (36), *Accessing Interpreter and Translation Services for Youth and Families.* (PREA Standard 115.316)

46.1.2. Written materials must be provided in formats, or through methods that ensure effective communication with youth who have disabilities. (PREA Standard 115.316)

## **POST-INCIDENT REVIEW**

**47. Each facility must conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation for allegations that are substantiated and unsubstantiated. (PREA Standard 115.386 (a))**

47.1. No incident review is required if allegation has been determined to be unfounded. (PREA Standard 115.386 (a))

47.2. The review must occur within 30 days of the conclusion of the investigation. (PREA Standard 115.386 (b))

47.3. The review team must include upper management from the facility at which the incident occurred with input from line supervisors. Input from investigators may be included, as well

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as from medical providers and mental health practitioners in facilities who have them. (PREA Standard 115.386 (c))

47.4. The review team must utilize the Sexual Abuse Incident Review (DSHS Form 20-295) to:

47.4.1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (PREA Standard 115.386 (d)(1))

47.4.2. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex status or perceived status; or, gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; (PREA Standard 115.386 (d)(2))

47.4.3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (PREA Standard 115.386 (d)(3))

47.4.4. Assess the adequacy of staffing levels in that area during different shifts; (PREA Standard 115.386 (d)(4))

47.4.5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; (PREA Standard 115.386 (d)(5))

47.4.6. Prepare a report of its findings and any recommendations for improvement and submit such report to the Superintendents, Regional Administrators or designees and the PREA Administrator. (PREA Standard 115.386 (d)(6))

47.5. The review team findings and recommendations must be documented on the Sexual Abuse Incident Review – Summary Report (DSHS Form 20-292).

47.6. JR must implement the recommendations for improvement or must document reasons for not doing so. (PREA Standard 115.386 (e))

**ADMINISTRATIVE STRUCTURE****48. JR must have an administrative structure supporting the implementation of the PREA Standards.**

48.1. JR must employ a PREA administrator with designated authority to develop, implement and oversee agency efforts to comply with the PREA Standards in all of its facilities. (PREA Standard 115.311 (b))

48.2. Because JR operates more than one facility, each facility must designate a PREA Compliance Manager with authority to coordinate the facility's efforts to comply with the PREA standards. (PREA Standard 115.311 (c))

48.3. Because JR contracts with local juvenile courts for the confinement of its youth, JR must include in any new contract or contract renewal the court's obligation to adopt and comply with the PREA Standards. Contracts will be monitored in accordance with Policy 1.60 (41), *Monitoring Contracts* and Policy 1.61 (43), *Managing Vendor and Contractor Compliance*. (PREA Standard 115.312)

Policy **5.90 (49)**, **Applying the PREA Juvenile Standards in JR 2/27/2015****DATA MANAGEMENT****49. JR must collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. (PREA Standard 115.387 (a))**

- 49.1. JR must aggregate the incident-based sexual abuse data at least annually. (PREA Standard 115.387 (b))
- 49.2. The incident-based data collected must 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. Upon request, the data from the previous calendar year must be provided to the Department of Justice by June 30. (PREA Standard 115.387 (c, f))
- 49.3. JR must maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. (PREA Standard 115.387 (d))
- 49.4. JR must obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its youth. (PREA Standard 115.387 (e))
- 49.5. JR must review data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training. (PREA Standard 115.388 (a)) The data review must include:
  - 49.5.1. Identifying problem areas
  - 49.5.2. Taking corrective action on an ongoing basis
  - 49.5.3. Preparing an annual report of its findings and corrective actions for each facility as well as for the agency as a whole.
- 49.6. The annual report must include a comparison of the current year's data and corrective actions with those from prior years and must provide an assessment of the agency's progress in addressing sexual abuse. (PREA Standard 115.388 (b))
- 49.7. JR's report must be approved by the Assistant Secretary and made readily available to the public through its website. (PREA Standard 115.388 (c))
- 49.8. JR 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. (PREA Standard 115.388 (d))

**50. JR must ensure that data collected pursuant to section 46 is securely retained and is maintained for at least 10 years after the date of its initial collection in accordance with Policy 1.40 (29), *Maintaining Confidentiality when Releasing Records*. (PREA Standard 115.389 (a, d))****51. JR must make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website. (PREA Standard 115.389 (b))**

- 51.1. Before making aggregated sexual abuse data publicly available, the agency must remove all personal identifiers. (PREA Standard 115.389 (c))

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### III. DEFINITIONS

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**Exigent circumstances:** Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

**Cross-Gender:** Interaction of male youth with female staff, or of female youth with male staff.

**Custodial Sexual Misconduct:** Sexual intercourse or sexual contact between a person who is a resident of a juvenile correctional facility and an employee of the juvenile correctional facility who has or could reasonably be believed to have the ability to influence the terms, conditions, length or fact of incarceration or correctional supervision. Consent of the victim is not a defense to prosecution. (RCW 9A.44.160 and 9A.44.170).

**PREA:** The Prison Rape Elimination Act. PREA is federal legislation.

**Sexual Contact:** any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party per RCW 9A.44.010.

**Sexual Abuse:** Includes sexual contact between JR youth and sexual abuse of JR youth by a staff member, contractor or volunteer (PREA Standard 115.6).

1. 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 due to the age difference between the youth (RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.086 and 9A.44.089) or any other incapacity.
  - 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 hand, finger, object, or other instrument;; and
  - d. Any intentional touching, either directly or through the clothing, of the genitalia (to include the penis, vulva or groin), anus, breast, inner thigh, or the buttocks of another person.
  - e. Contact incidental to a physical altercation does not fall under PREA legislation.
2. Sexual abuse of a youth by a staff member 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 has the intent to abuse, arouse, or gratify sexual desire;

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- d. Penetration of the anal or genital opening, by a hand, finger, object, or other instrument, however slight, that is unrelated to official duties or where the staff member has the intent to abuse, arouse, or gratify sexual desire;
- e. Any intentional contact, either directly or through the clothing, of or with the genitalia (to include the penis, vulva or groin), anus, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member 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 paragraphs a - e of this section;
- g. Any display by a staff member of his or her uncovered genitalia (penis, vulva, or groin) buttocks, or breast in the presence of a youth, and
- h. Voyeurism by a staff member.

**Sexual Harassment:** may occur between youth or between staff, contractors, volunteers, interns and youth.

1. For youth and staff, sexual harassment includes repeated and unwelcomed sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature.
2. In addition, for staff, sexual harassment also includes repeated verbal comments including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

**Security Staff:** employees primarily responsible for the supervision and management of youth in JR facilities. Security staff includes Counselors, Counselor Assistants, Supervisors and management staff.

**Staff Member:** all employees of JR, contractors, volunteers and interns.

**Undue Familiarity:** includes conversation, contact, personal or business dealing between a staff member and youth which is unnecessary, not a part of the employee's duties, and related to a personal relationship or purpose rather than legitimate treatment or custody.

**Voyeurism:** Voyeurism means an invasion of youth privacy by staff for reasons unrelated to official duties. Voyeurism includes:

1. peering at a youth who is using a toilet in his or her cell to perform bodily functions;
2. requiring a youth to expose his or her buttocks, genitals, or breasts; or
3. taking images of all or part of a youth's naked body or of a youth performing bodily functions.

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IV. RELATED JR POLICIES

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Policy 1.20 (20) – Establishing Standards of Conduct for Staff	Policy 3.20 (39) – Assessing Sexually Aggressive or Vulnerable Youth (SAVY)
Policy 1.30 (26) – Reporting Serious and Emergent Incidents	Policy 3.30 (24) – Assessing and Treating Youth Suicide and Self-Harm Risk
Policy 1.60 (41) - Monitoring Contracts	Policy 3.50 (31) – Using the Polygraph or Plethysmograph in YSO Treatment
Policy 1.61 (43) - Managing Vendor/ Contractor Compliance	Policy 4.30 (14) – Providing Health Care to Youth
Policy 1.70 (46) – Responding to External Customer Complaints	Policy 4.60 (50) – Ensuring the Health and Safety of LGBTQI Youth
Policy 2.10 (13) – Handling Youth Complaints	Policy 5.50 (22) – Assigning Youth Isolation
Policy 2.40 (11) – Managing Youth Case Files	Policy 5.70 (42) – Conducting Searches
Policy 2.60 (38) – Managing Youth who are Foreign Nationals	Policy 5.91 (34) – Reporting Child Abuse & Neglect of JR Youth
Policy 2.50 (36) – Accessing Interpreter and Translation Services For Youth & Families	Policy 6.20 (28) – Managing Youth Communication

Policy *5.90 (49)*, **Applying the PREA Juvenile Standards in JR 2/27/2015****V. FORMS AND DOCUMENTS**

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<b>Document Title</b>	<b>Available In ACT</b>	<b>Link to Paper form</b>
PREA Youth Intake		DSHS Form 20-280
Youth PREA Education Session Acknowledgment		DSHS Form 20-281
Accidental Exposure		DSHS Form 20-284
Cross-Gender Pat Down		DSHS Form 20-286
Youth Notification Form – Staff-Youth		DSHS Form 20-293
Youth Notification Form – Youth-Youth		DSHS Form 20-294
Sexual Abuse Incident Review – Summary Report		DSHS Form 20-292
Sexual Abuse Incident Review – Full Review		DSHS Form 20-295

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