



New Hampshire Division for Children, Youth and Families Policy Manual
2088 PREA INVESTIGATIONS

Chapter: Sununu Youth Services Center
Section: Safety & Security

Approved:

Joseph E. Ribsam, Jr., DCYF Director

Policy Directive: **22-25**

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References Of Note

Federal Authority: [28 CFR 115](#)

Statutes: [RSA 169-B](#), [RSA 169-C](#), [RSA 354-A:7](#), [RSA 621](#), [RSA 621-A](#), [RSA 629](#), [RSA 632-A](#), [RSA 639:3](#), and [RSA 642:2](#)

Administrative Rules: [PER 1002](#)

Case Law:

This policy establishes the John H. Sununu Youth Services Center's (SYSC) investigation and response to all incidents of reported sexual abuse, sexual harassment, and sexual misconduct.

Required Practices

Any deviations to the following information must be documented with Supervisory Approval.

- I. The SYSC Administrator will identify at least 4-Supervisory level employees to receive specialized training in sexual abuse investigations involving sexual assault in juvenile confinement settingsⁱ.
- II. All allegations of sexual abuse, sexual harassment, sexual misconduct, or retaliation for reporting or participating in an investigation must be documented on Reporting Form for Sexual Abuse, Sexual Harassment, Sexual Misconduct and Retaliation (Form 2055) and referred to an Internal Investigator.
- III. An administrative or criminal (delinquency) investigation must be completed for all allegations of sexual abuse, sexual harassment, or sexual misconduct made by, or on the behalf of, youth residing at SYSC and youth on Administrative Release to Paroleⁱⁱ.
 - A. Incidents involving youth on parole through the NH Juvenile Parole Board alleging sexual abuse, sexual harassment, or sexual misconduct will be reviewed by the SYSC Administrator (or designee) and the SYSC PREA Compliance Manager for determination of how best to respond to the incident.
 - B. Allegations of sexual abuse will be referred to the NH State Police for criminal investigation.
 - C. All allegations of sexual harassment and sexual misconduct will be referred to the NH State Police for criminal investigation unless the allegation does not involve potentially criminal behavior.ⁱⁱⁱ
- IV. SYSC will request the following investigating agencies follow the requirements of PREA:

- A. The NH State Police and/or the NH Attorney General's Office when investigating allegations of sexual abuse in SYSC^{iv};
 - B. Any State entity outside of the Division for Children, Youth and Families that is responsible for investigating allegations of sexual abuse in SYSC^v; and
 - C. Any Department of Justice component that is responsible for investigating allegations of sexual abuse in SYSC^{vi}.
- V. When conducting an administrative investigation, the Internal Investigator will:
- A. Promptly, thoroughly, and objectively conduct a minimal facts interview for all allegations of sexual abuse, sexual harassment and sexual misconduct, including third party and anonymous report;
 - B. Determine whether the allegation falls under PREA Standards and prioritize the determination for potentially criminal (or delinquent) behavior;
 - C. Report allegations that include potentially criminal (or delinquent) behavior to the NH State Police to request a criminal investigation^{vii};
 - 1. The standard for determining whether allegations of sexual abuse, sexual harassment, or sexual misconduct are substantiated will be no higher than a preponderance of the evidence according to training and generally accepted investigatory practices;
 - D. Make a screening decision on Form 2055 within 24-hours of receipt;
 - E. Not terminate an investigation solely because the source of the allegation recants the allegation;
 - F. For allegations screened-in for administrative investigation, begin the investigation immediately following the screen-in determination, and:
 - 1. Fully investigate all allegations and consider all evidence in the determination of the final disposition of the investigation;
 - 2. Interview alleged victims, suspected abusers, and witnesses;
 - 3. Review prior complaints and reports of sexual abuse, sexual harassment or sexual misconduct involving the suspected abuser;
 - 4. Document all PREA related investigatory actions on the Investigation for Sexual Abuse, and Harassment and Misconduct (Form 2096);

5. Sign and deliver Form 2096 to the SYSC PREA Compliance Manager for uploading to YouthCenter once an investigation is completed.
 - G. For allegations screened-out, document the justification for the screen-out on the Reporting Form for Sexual Abuse, Sexual Harassment, Sexual Misconduct and Retaliation (Form 2055) and deliver the form to the SYSC PREA Compliance Manager.
- VI. When the NH State Police, and/or the NH Attorney General's Office investigate sexual abuse, the SYSC Administrator (or designee) will:
- A. Cooperate and remain informed about the progress of the investigation^{viii};
 - B. Work collaboratively with the external investigator to process safety concerns of the staff and youth, as well as to process disciplinary actions if deemed necessary;
 - C. Apply the PREA standards and the most recent version of the [NH Attorney General's Model Protocol For The Multidisciplinary Response To Child Abuse And Neglect](#) while working with external investigators^{ix};
 - D. Request criminal (delinquency) investigations conducted by the NH State Police, and/or the NH Attorney General's Office be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence including copies of all documentary evidence where feasible^x;
 - E. Advocate that the external investigator conducting the investigation, do so pursuant to the applicable requirements of PREA; and
 - F. Not require a youth who allege 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.
- VII. The departure of an alleged abuser or victim from the control or employment of SYSC will not provide a basis for terminating an investigation^{xi}.
- VIII. Youth experiencing sexual abuse will have access to medical and clinical services through policy 2180 Medical/Clinical Response to PREA.
- A. Youth must consent to forensic medical examinations and *must* not be mandated to comply.
 - B. No Sexual Assault Evidence Collection Kit shall be administered at SYSC.
 1. Youth must be transported to the Hospital as authorized and coordinated by the SYSC Medical Department and On-Duty Supervisor^{xii}.

- C. SYSC Medical staff will coordinate the services of Sexual Assault Nurse Examiners (SANE) or other qualified medical practitioners to conduct all forensic medical examinations.
- IX. The SYSC Administrator or designee will ensure youth's legal rights are maintained throughout any investigatory process^{xiii}.
- X. Upon conclusion of an investigation of alleged sexual abuse, the Internal Investigator, with support of Clinical staff as applicable, will inform the youth whether the allegation has been substantiated, unsubstantiated, or unfounded^{xiv}.
- A. The Internal Investigator will request the relevant case information from the investigative agency, if they did not conduct the investigation, to inform the youth^{xv}.
 - B. Following a substantiated or unsubstantiated determination that staff has committed sexual abuse against the youth, the Internal Investigator will subsequently inform the youth whenever^{xvi}:
 - 1. The staff is no longer posted within the youth's unit^{xvii};
 - 2. The staff is no longer employed at SYSC^{xviii};
 - 3. The Internal Investigator learns that the staff has been indicted on a charge related to sexual abuse within SYSC^{xix}; or
 - 4. The Internal Investigator learns that the staff has been convicted on a charge related to sexual abuse within SYSC^{xx}.
 - C. Consistent with the provisions of RSA 169-B:35-a, following an allegation a youth has been sexually abused by another youth, the Internal Investigator will request from the prosecutor, information to inform the alleged victim whenever^{xxi}:
 - 1. The alleged abuser has been indicted on a charge related to sexual abuse within SYSC^{xxii}; or
 - 2. The alleged abuser has been convicted on a charge related to sexual abuse within SYSC^{xxiii}.
 - D. The Internal Investigator and Clinical staff if applicable will document these discussions or attempts^{xxiv}.
 - E. The obligation to report the above information to the youth will terminate when the youth is released from SYSC custody^{xxv}.
- XI. For allegations screened-in for investigation, the Internal Investigator's final report will be documented on Form 2096 Investigation for Sexual Abuse, Misconduct and Harassment to include:

- A. A description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings^{xxvi}; and
 - B. A determination as to whether staff actions or failures to act contributed to the abuse, or the reason(s) why a determination could not be made^{xxvii}.
 - C. SYSC will retain all written reports associated to the investigation for as long as the alleged abuser is committed, detained, or employed by SYSC, plus 5-years^{xxviii}.
- XII. Within 5 business days of the conclusion of the investigation, unless unfounded or screened out, the Internal Investigator will refer all concluded investigations to the SYSC PREA Incident Review Committee by completing Form 2196A PREA Case Review Request Sheet and delivering the form to the SYSC PREA Compliance Manager^{xxix}.
- A. Form 2196A is used to request an SYSC PREA Incident Review be conducted within 30 days of the investigations conclusion.
 - B. Unfounded and screened-out cases may be reviewed at the discretion of the SYSC Administrator, PREA Compliance Manager, any member of SYSC Senior Management, or PREA Coordinator.
- XIII. SYSC must issue a final agency decision and status report on any allegation of sexual abuse within 90-calendar days of the initial filing of the complaint or conclusion of external investigation^{xxx}. This information is confidential and may be limited to a status report.
- A. Completion of the 90-day time period will not include time taken by youth to prepare any administrative appeal^{xxxi};
 - B. The SYSC Administrator or designee 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;
 - 1. The SYSC Administrator or designee will notify the youth in writing of any such extension and provide a date by which a decision will be made^{xxxii}; and
 - C. The SYSC Director or designee will ensure appropriate supports for the processing of information with the alleged victim.
 - D. If the youth does not receive a response within the time allotted for reply at any point in the administrative process, including the final stage or during any properly noticed extension, the absence of a response will be considered a denial of the allegation at that level^{xxxiii}.

Applicable Forms	
Form	Title

2055	Reporting Form for Sexual Abuse, Sexual Harassment, Sexual Misconduct and Retaliation
2096	Investigation for Sexual Abuse, Harassment, and Misconduct
2196A	PREA Case Review Request Sheet

Glossary and Document Specific Definitions

A - B C - D E - F G - I J - L M - N O - Q R - S T - V W - Z

Document Change Log

PD	Modification Made	Approved	Date
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- i 28 CFR 115.334 (a) and 28 CFR 115.371 (b)
- ii 28 CFR 115.322 (a)
- iii 28 CFR 115.322(b)
- iv 28 CFR 115.321 (f)
- v 28 CFR 115.321 (g)(1)
- vi 28 CFR 115.321 (g)(2)
- vii 28 CFR 115.322 (b)
- viii 28 CFR 115.371 (m)
- ix 28 CFR 115.321 (f) and 28 CFR 115.321 (g)
- x 28 CFR 115.371 (h)
- xi 28 CFR 115.371 (k)
- xii 28 CFR 115.321 (c)
- xiii 28 CFR 115.371 (e)
- xiv 28 CFR 115.373 (a)
- xv 28 CFR 115.373 (b)
- xvi 28 CFR 115.373 (c)
- xvii 28 CFR 115.373 (c)(1)
- xviii 28 CFR 115.373 (c)(2)
- xix 28 CFR 115.373 (c)(3)
- xx 28 CFR 115.373 (c)(4)
- xxi 28 CFR 115.373 (d)
- xxii 28 CFR 115.373 (d)(1)
- xxiii 28 CFR 115.373 (d)(2)
- xxiv 28 CFR 115.373 (e)
- xxv 28 CFR 115.373 (f)
- xxvi 28 CFR 115.371 (g)(2)
- xxvii 28 CFR 115.371 (g)(1)
- xxviii 28 CFR 115.371 (j)
- xxix 28 CFR 115.386 (a)
- xxx 28 CFR 115.352 (d)(1)

xxxi 28 CFR 115.352 (d)(2)

xxxii 28 CFR 115.352 (d)(3)

xxxiii 28 CFR 115.352 (d)(4)