

PURPOSE

The purpose of this policy is to ensure facility staff, including contractors, sub-contractors, interns and volunteers avoid exposing youth to actual or potentially negative influences in compliance with the Prison Rape Elimination Act National Standards Subpart D, Standards for Juvenile Facilities, Child Caring Institution licensing rules and the Michigan Department of Health and Human Services(MDHHS)/State of Michigan hiring guidelines and rules.

DEFINITIONS**Staff**

Pursuant to Mich Admin Code R. 400.4101(ii), staff means a person who is employed by an institution, a volunteer for the institution, including student interns or a person who is used by the institution to provide specific services.

For the purposes of this policy, staff also include contractors and sub-contractors or an individual who has direct contact with youth.

See [JRG, JJ Residential Glossary](#).

**RESPONSIBLE
STAFF**

MDHHS human resources staff, state run facility directors and designees, private, contracted juvenile justice residential treatment facility directors and designees and other staff involved in staff recruitment, screening and hiring.

PROCEDURES

Each state run and private, contracted juvenile justice residential treatment facility must develop and implement a written procedure for screening and hiring staff.

These procedures must contain the following requirements:

**JOB POSTING FOR
STATE RUN
JUVENILE JUSTICE
FACILITIES**

State of Michigan facility job postings must contain notification that new or transfer applicants are subject to all of the following:

- Criminal history background checks.

- Central registry checks.
- Other background checks including checks of the Michigan and national sex offender registries.
- Checks with prior institutional employers for information on substantiated allegations of sexual abuse by the applicant.
- Direct questions about previous misconduct in written applications for hiring or promotions and during interviews.
- Submission of fingerprints.
- Drug testing.

PRE-EMPLOYMENT SCREENING

All new hire(s) including prospective staff, at state run and private, contracted juvenile justice residential facilities, are required to undergo pre-employment screening that includes:

Prison Rape Elimination Act Questions

Pursuant to the Prison Rape Elimination Act National Standards for Juvenile Facilities, 28 CFR 115.317(a)(1)-(3), the facility designee must not hire anyone who may have contact with youth, and shall not enlist the services of any contractor who may have contact with youth, who:

- Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 USC 1997);
- Has been convicted 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; or
- Has been civilly or administratively adjudicated to have engaged in the activity described in the bullets above.

The facility shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with youth.

The state run or private, contracted juvenile justice residential treatment facility director or designee must ask the following questions during the application or interview process:

- Have you ever sexually assaulted someone, including in a prison, jail, lockup, detention, community confinement facility, juvenile facility, or other institution?
- Have you been convicted 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?
- Have you been civilly or administratively adjudicated to have engaged or attempted 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?
- Have you answered these questions truthfully and to the best of your ability?

Pursuant to PREA National Standards for Juvenile Facilities, 28 CFR 115.317(3)(g), material omissions regarding such misconduct, as outlined in this policy, or the provisions of materially false information, is grounds termination.

The answers to these questions shall be kept in the staff personnel file.

Criminal History Check

Fingerprints are required for all individuals who are applying to become a facility director at a state run or private, contracted juvenile justice residential treatment facility; see [SRM 200, Fingerprints](#) for more information.

State run or private, contracted juvenile justice residential treatment facilities must not offer employment or offer volunteer opportunities to any individual who has a criminal case pending or an individual convicted of a felony or certain other offenses specified in this policy.

The fingerprint results are retained in the Division of Child Welfare Licensing (DCWL) central office for the duration of the license.

**Criminal History
Background Check**

Pursuant to the Prison Rape Elimination Act National Standards for Juvenile Facilities, 28 CFR 115.317(c)(1) and (d), designated facility staff must complete a criminal history background check before hiring any staff who will have contact with youth. Designated facility staff are required to use the Internet Criminal History Access Tool (ICHAT) to obtain this information.

Pursuant to Mich Admin Code, R 400.4113(f)(i), designated facility staff must contact the equivalent state, Canadian province, or other county law enforcement agency for prospective staff who have lived outside of the state of Michigan within the previous 5 years.

For State run facilities, contact the Office of Human Resources at 517-373-8485 for criminal history background check results.

Pursuant to the Prison Rape Elimination Act National Standards for Juvenile Facilities, 28 CFR 115.317(a)(1)-(3), the facility designee must not hire anyone who may have contact with youth, and shall not enlist the services of any contractor who may have contact with youth, who:

- Has engaged in sexual assault in a prison, jail, lockup, detention, community confinement facility, juvenile facility, or other institution (as defined in 42 USC 1997);
- Has been convicted 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; or
- Has been civilly or administratively adjudicated to have engaged in the activity described in the bullets above.

The facility shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with youth.

Pursuant to MCL 722.119, a licensee, licensee designee, chief administrator, or program director of a child care organization shall not be present in a facility if he or she has been convicted of any of the following:

- Child abuse under section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, or neglect under section 145 of the Michigan penal code, 1931 PA 328, MCL 750.145.
- A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire.

A staff member or unsupervised volunteer shall not have contact with youth who are in a facility if he or she has been convicted of either of the following:

- Child abuse under section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, or neglect under section 145 of the Michigan penal code, 1931 PA 328, MCL 750.145.
- A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire or appointment.

The results of the criminal background check shall be kept in the staff personnel file (Mich Admin Code 400.4113(f)).

Assessment of Criminal Convictions/History for Private, Contracted Facilities

Pursuant to Mich Admin Code R 400.4113(g)-(h), designated facility staff may hire an individual with previous convictions. A written evaluation of the convictions must be completed that addresses the nature of the conviction, the length of time since the conviction and the relationship of the conviction to regulated activity for the purpose of determining suitability for employment. Also, the employee is responsible for providing a written statement regarding any convictions.

Designated facility staff may request to hire an individual previously convicted of a misdemeanor offense by taking the following steps:

- Prepare a written evaluation showing that the candidate is of good moral character and has demonstrated a suitable history of lawful behavior.
- A statement from the prospective staff regarding any convictions.

The evaluation and written statement shall be kept in the staff personnel file.

Pursuant to 1973 PA 116, as amended, MCL 722.119(2)(a)-(b), staff and unsupervised volunteers must not have contact with youth if he or she has been convicted of either of the following:

- Child abuse or neglect.
- A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire or appointment.

Assessment of Criminal Convictions/History for State Run Facilities

MDHHS Office of Human Resources will make this determination for state run juvenile justice residential treatment facilities, not the facility director or designee.

Prior Institutional Employer Checks

Pursuant to the Prison Rape Elimination Act National Standards for Juvenile Facilities, 28 CFR 115.317(c)(3), designated facility staff must make 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.

State run or private, contracted juvenile justice residential treatment facilities must not offer employment or offer volunteer opportunities to any individual who has substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

The results of the prior institutional checks shall be kept in the staff personnel file.

For State Run Facilities Only

In the event that a facility is contacted by an institutional employer regarding a former employee seeking work, the facility director must coordinate providing information regarding substantiated allegations of sexual abuse with the Office of Labor Relations.

Central Registry Checks

This applies to staff hired after September 1, 2011.

Pursuant to the Prison Rape Elimination Act Standards for Juvenile Facilities, 28 CFR 115.317(c)(2) and Mich Admin Code, R 400.4112(3), designated facility staff must consult any child abuse registry maintained by the State or locality in which the staff would work.

The prospective staff or employer agency must submit a completed DHS-1929, Central Registry Clearance Request. The DHS-1929, Central Registry Clearance Request and instructions can be found on the MDHHS public website page, [Central Registry Clearance Requests](#), Section V. Employers and Volunteer Agencies.

The MDHHS county office must provide a completed DHS-1910, Child Abuse/Neglect Central Registry Check, within 10 working days to the prospective employee or employer agency, which documents that there is no central registry record for that individual; see [SRM 131, Confidentiality, Michigan Individual Request, Employer and Volunteer Agencies](#) for more information.

Pursuant to Mich Admin Code, R 400.4112(3), an individual who is listed on the central registry must not have unsupervised contact with youth. Pursuant to Prison Rape Elimination Act, National Standards for Juvenile Facilities, 28 CFR 115.317(c)(1)-(2), state run and private, contracted residential juvenile justice facilities must not offer employment or volunteer opportunities to any individual who has a substantiated child abuse or neglect complaint.

For state run facilities contact the Office of Human Resources at 517-373-8485 for central registry check results.

The results of the central registry check must be kept in the staff personnel file.

Sex Offender Registry Checks

Conduct checks on the [Michigan Public Sex Offender Registry](#) website and the [Dru Sjodin National Sex Offender Public Website](#) for all prospective staff.

Pursuant to the Prison Rape Elimination Act National Standards for Juvenile Facilities, 28 CFR 115.317(a)(1)-(3), the facility designee must not hire or promote anyone who may have contact with youth and who have been convicted of, adjudicated or engaged, in sexual abuse or 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.

State run or private, contracted juvenile justice residential treatment facilities must not offer volunteer opportunities to an individual who appears on the Michigan or national sex offender registry.

The results of the sex offender registry checks shall be documented in the staff personnel file.

Driver's License Checks

Pursuant to Mich Admin Code R 400.4139, the facility designee must ensure and document that the driver of any vehicle transporting youth is an adult and possesses a valid operator or chauffeur license.

The results of the driver's license check shall be documented in the staff personnel file.

Tuberculosis Testing

All facility staff will be tested for the presence of communicable tuberculosis (TB).

Pursuant to Mich Admin Code, R 400.4114, designated facility staff, prior to employment, must document that each staff member, including contracted staff, who has contact with youth four or more hours per week or more than two consecutive weeks is free from communicable tuberculosis. Freedom from communicable tuberculosis shall be verified within the one year period before assigning services.

The results of the TB test shall be documented in the staff personnel file.

Positive Tuberculosis Results

Staff whose results come back for communicable TB must not have contact with youth.

For more information on positive test results see; [OSHA Policy, d\) Case Management of Infected Employees and 2005 CDC Guidelines, pages 30-31.](#)

Drug Testing

For State Run Facilities Only

Pursuant to the Office of Human Resources, all new hires and re-hires (previously employed with the State of Michigan) must take and pass a drug test before making an offer of employment.

After a conditional offer has been made the prospective staff must pick up a drug test form from the employer agency or local MDHHS county office and complete the drug test within 24 hours. MDHHS Office of Human Resource staff will notify the state facility director of the results of the drug test.

Prospective employees whose drug test comes back positive for a prescribed medication are required to provide documentation of the prescription(s). All other positive drug test results are considered failed.

The results of the drug test shall be kept in the staff personnel file.

For more information on drug testing contact the MDHHS Office of Human Resources at 517-373-8485.

PROSPECTS DETERMINED INELIGIBLE

The facility director or designee must notify the prospective staff if they are determined to be ineligible for employment. Upon the prospective staffs' request, the facility director or designee shall provide the reasoning as to why they are ineligible for employment.

ONGOING BACKGROUND CHECKS

The facility designee must ensure the following checks are conducted and completed for each staff and shall be kept in the staff personnel file:

Central Registry Checks

Pursuant to Mich Admin Code, R 400.4113(i) and 1973 PA 116, as amended, MCL 722.119(3), the facility designee must document that a staff is not listed on the central registry every 12 months

following the start of employment. Staff named as a perpetrator on the central registry may not be present in the facility.

Criminal History Background Checks

Pursuant to Prison Rape Elimination Act Standards for Juvenile Facilities, 28 CFR 115.317(e), the facility designee must conduct background checks at least every five years for current employees and contractors who have contact with youth.

Pursuant to the Prison Rape Elimination Act National Standards for Juvenile Facilities, 28 CFR 115.317(c)(1) and (d), designated facility staff must complete a criminal background check before promoting any staff who will have contact with youth. Designated facility staff are required to use the Internet Criminal History Access Tool (ICHAT) to obtain this information.

For State Run facilities, contact the MDHHS Human Resources at 517-373-8485 for criminal history background check results.

Pursuant to the Prison Rape Elimination Act National Standards for Juvenile Facilities, 28 CFR 115.317(a)(1)-(3), the facility designee must not promote anyone who may have contact with youth who:

- Has engaged in sexual assault in a prison, jail, lockup, detention, community confinement facility, juvenile facility, or other institution (as defined in 42 USC 1997);
- Has been convicted 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; or
- Has been civilly or administratively adjudicated to have engaged in the activity described in the bullets above.

Pursuant to PREA National Standards for Juvenile Facilities, 28 CFR 115.317(3)(g), material omissions regarding such misconducted, as outlined in this policy, or the provisions of materially false information, is grounds termination.

The facility shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with youth.

The results of the criminal background check shall be kept in the staff personnel file (Mich Admin Code 400.4113(f)).

Pursuant to Mich Admin Code R 400.4113(g)-(h), designated facility staff may promote an individual with previous convictions. There must be a written evaluation of the convictions that addresses the nature of the conviction, the length of time since the conviction and the relationship of the conviction to regulated activity for the purpose of determining suitability for employment. The employee is also responsible for providing a written statement regarding any convictions.

Designated facility staff may request to promote an individual previously convicted of a misdemeanor offense by taking the following steps:

- Prepare a written evaluation showing that the candidate is of good moral character and has demonstrated a suitable history of lawful behavior.
- A statement from the prospective staff regarding any convictions.

The evaluation and written statement shall be kept in the staff personnel file.

Driver's License Checks

The facility designee must ensure that the driver of any vehicle transporting youth is an adult and possess a valid operator and chauffer license. This check should be done annually/during staff performance reviews. Staff who do not possess a valid operator or chauffer license are not allowed to operate any vehicle transporting youth.

Sex Offender Checks

The facility designee must complete annual checks of the Michigan Public Sex Offender Registry and the Dru Sjodin National Sex Offender Public Website for all employees. Staff who appear on the Michigan or national sex offender registry may no longer be employed.

Random Drug Tests-State Run Facilities Only

Each month MDHHS Office of Human Resources will notify the facility director or designee of the employees who have been randomly selected for drug testing. For more information on random drug tests contact the Human Resources at 517-373-8485.

Prospective employees whose drug test comes back positive for a prescribed drug are required to provide documentation of the prescription(s). All other positive drug test results are considered failed.

Tuberculosis Screening

Pursuant to Mich Admin Code R 400.4114, the facility designee must verify every one (1) year after the last verification or prior to the expiration of the current verification, that each staff who has contact with youth are free from communicable TB.

Staff whose results come back for communicable TB must not have contact with youth.

For more information on positive test results, see [OSHA Policy, d\) Case Management of Infected Employees and the 2005 CDC Guidelines, pages 30-31](#).

LEGAL BASE

Federal

Dru Sjodin National Sex Offender Public Database Act of 2005, Section 3(a)(1)(2).

The Attorney General shall create a public website that contains information from the National Sex Offender Registry or State sex offender web sites, for users to access to determine which individuals are listed as sex offenders.

Prison Rape Elimination Act National Standards, Hiring and Promotion Decisions, 28 CFR 115.317(a)-(h).

Requires that the facility does not hire, promote or enlist the services of any prospective employees, contractors or volunteers who has engaged, been convicted of engaging or attempting to engage or has been civilly or administratively adjudicated to have engaged in sexual assault in a prison, jail, lockup, detention, community confinement facility, juvenile facility, or other institution or in the community.

Requires that the facility perform a criminal background records check before hiring individuals who will have contact with youth. Requires the facility to ask prospective employees, contractors, or volunteers about any previous misconduct during the application or interview process and to consult applicable child abuse registry.

State**Child Care Organizations Act, 1973 PA 116, as amended, MCL 722.119.**

Requires child caring organization to now allow the chief administrator, licensee designee or staff member in the facility if they have been convicted of child abuse or neglect and/or has a felony involving hard or threatened harm to an individual within the 10 years immediately preceding the date of hire or appointment and to provide documentation that they are not listed on the central registry. Requires child caring organizations to have a policy regarding supervision of volunteers.

Child Protection Law, 1975 PA 238, as amended, MCL 722.627j.

With written request from an individual, employment agency or volunteer agency, the department must provide documentation stating that the individual is not named in central registry case as a perpetrator of child abuse or neglect. The individual or department may share the document with whomever is appropriate for the purpose of seeking employment or serving as a volunteer, if the services provided includes contact with youth.

**Michigan
Administrative
Code****Licensing Rules for Child Caring Institutions, Mich Admin Code, R 400.4101(ii).**

"Staff" means a person who is employed by an institution, a volunteer for the institution including student interns, or a person who is used by the institution to provide specific services covered by these rules.

Licensing Rules for Child Caring Institutions, Mich Admin Code, R 400.4112.

Requires staff and volunteers who have unsupervised contact with youth must not be convicted of either child abuse or neglect, a felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire or not be a person who is listed on the central registry as a perpetrator of child abuse or child neglect.

Licensing Rules for Child Caring Institutions, Mich Admin Code, R 400.4113.

Requires employee records to be maintained for each employee on criminal background and child abuse registry check results.

Licensing Rules for Child Caring Institutions, Mich Admin Code, R 400.4114.

Requires documentation on each employee and volunteer who has contact with youth is free from communicable tuberculosis. This must be verified within the 1-year period before employment and shall be verified every 1 year after the last verification or prior to the expiration of the current verification.

Licensing Rules for Child Caring Institutions, Mich Admin Code, R 400.4139.

Requires documentation that the driver of any vehicle transporting youth must be an adult who possess a valid operator or chauffeur license.

POLICY CONTACT

Facility supervisor or managers may submit policy clarification questions to: Juvenile-Justice-Policy@michigan.gov.