

<p style="text-align: center;">Department of Health & Human Services</p> 	<p>Department of Health and Human Services Division of Children and Family Services Office of Juvenile Services Administrative Regulation</p>	
<p>Subject: Adherence with State of Nebraska Classified System Personnel Rules and Regulations, DHHS Workplace Policies and appropriate Labor Contracts</p>	<p>Number: 112.2</p>	<p>Page Number: 1 of 10</p>

PURPOSE

This policy provides for the uniform and consistent application of rules and regulations governing the full scope of personnel management at juvenile facilities under the direction of the Nebraska Department of Health and Human Services.

APPLICABILITY

This Administrative Regulation is specifically applicable to personnel employed at the Youth Rehabilitation and Treatment Centers (YRTC) located at Kearney and Geneva, Nebraska.

State Statute 43-404 (2): “This subsection applies beginning July 1, 2014. There is created within the Department of Health and Human Services the Office of Juvenile Services. The office shall have oversight and control of the Youth Rehabilitation and Treatment Centers”. Therefore, the Department is a code agency whose personnel rules and regulations are promulgated by the Department of Administrative Services, State Personnel Division or by labor contract negotiated by the Department of Administrative Services (DAS) Employee Relations Division.

GENERAL

In the past State Personnel Rules and Regulations were provided to Youth Rehabilitation and Treatment Center employees by means of AR 112 series. Most of the personnel rules and regulations contained in the AR 112 series can now be found in the DHHS Work Place Policies Manual, Labor Contracts or the State of Nebraska Classified System, Personnel Rules and Regulations (hereafter referred to as Rules).

Included in DHHS Work Place Policies Manual, Labor Contracts and the (Rules) or in addition to them the following policies shall apply:

- A. Each YRTC employee shall acknowledge on-line that they have reviewed DHHS Work Place Policies Manual. Additionally, employees must acknowledge in writing receipt of

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policies and procedures, facility work rules, and regulations. These documents are made accessible and available to all staff.

- B. YRTC's shall ensure the following policies referencing personnel selection, retention, promotion and position qualifications expected practices are followed;
1. Equal employment opportunities exist for all positions.
 2. All personnel are selected, retained or promoted from within the facility and from outside sources, on the basis of merit, specified qualifications, reference information, background and criminal history checks.
 3. Qualifications pertinent to new positions shall be reviewed with HR to determine selection fairness and equitability.
 4. Provisions exist for experience and education substitutes for certain position qualifications.
 5. All professional specialists must be qualified in their fields.
 6. A criminal records check is conducted on all new employees in accordance with state and federal statutes.
 7. Employees who have direct contact with juveniles receive a physical examination prior to job assignment. Employees receive reexaminations according to a defined need or schedule.
 8. New employees shall be appointed initially for a probationary term of at least six months but no longer than one year.
 9. A mechanism exists to provide for provisional appointments to ensure that short-term personnel, both full-time and part-time, can be available during emergencies.
 10. After a probationary period is served, involuntary termination or demotion is permitted only for good cause and a meeting shall be held to discuss the specific charges.
 11. The Facility Administrator can document that the overall vacancy rate among staff positions authorized to work directly with juveniles does not exceed 10 percent for any 18-month period.
 12. All employees are provided annual performance reviews based on defined criteria, the results of which are discussed with the employee. These

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completed performance evaluations are then filed in the employee's file within the Employee Development Center.

13. Compensation and benefit levels for all facility personnel are comparable to those for similar occupational groups in the state or region.

- B. Any type of harassment and discrimination is specifically prohibited. All staff are trained in the specific process to be followed if they believe they are being harassed or discriminated against on the basis of race, color, religion, age, sex, disability, national origin, or any other protected status under state or federal law. The DHHS Work Place Policies outline the steps for reporting an incident of discrimination, harassment or retaliation. Receipt of training provided to staff, contractors and volunteers is documented.
- C. Campaigning, lobbying and political practice policies conform to governmental statutes and regulations, which are made known and available to all employees.

The YRTC's shall comply with the above stated policy statements. The authority for establishing the above stated policy can be found in the Management Authority chapter of the Rules or in the Management Rights Articles of the labor contracts.

PROCEDURE

- I. YRTCs shall ensure a personnel information listed below is accessible to employees electronically through the DHHS Intranet, YRTC Operational Memorandums or other YRTC documents that addresses, at a minimum, the following areas:
 - 1. Organizational chart
 - 2. Staff development
 - 3. Recruitment and selection
 - 4. Promotion
 - 5. Job qualifications and job descriptions
 - 6. Affirmative action

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7. Sexual harassment
8. Grievance and appeal procedures
9. Orientation
10. Employee evaluation
11. Personnel records
12. Benefits
13. Holidays
14. Leave
15. Work hours
16. Probationary period
17. Compensation
18. Travel
19. Disciplinary procedures
20. Termination
21. Resignation
22. Employee assistance program
23. Code of ethics
24. Conflicts of interest
25. Legal assistance

II. Youth Rehabilitation and Treatment Center management and employees shall comply with all rules and regulations as stated in the most current edition of the Rules, DHHS Work Place Policies and appropriate labor contracts.

III. YRTC's shall advise employees of the contents and availability of the Rules, Labor Contract and Work Place Policies by means of Operational Memoranda. YRTC's shall also draft Operational Memoranda for Policy Statements listed under "General" of this AR.

IV. When department policy appears to change or supersede Rules, DHHS Work Place Policies or labor contracts, the latter will prevail.

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- V. Facility Administrators shall ensure YRTC personnel procedures and practice comply with ACA Standards as stated in the American Correctional Association, Standards for Juvenile Correctional Facilities 4th edition and Prison Rape Elimination Act (PREA) Juvenile Facility Standards.
- VI. YRTCs shall ensure that a grievance procedure is available to all employees.
- VII. YRTCs shall ensure there is an approved employee assistance program.
- VIII. YRTCs shall maintain a current, accurate, and confidential personnel record on each employee. Information obtained as part of a required medical examination (and/or inquiry) regarding the medical condition or history of applicants and employees is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record.
- IX. YRTCs shall ensure that employees are able to challenge the information in their personnel file. The information is removed or corrected if proven inaccurate. YRTCs shall state procedures for the handling of contested performance evaluations.
- X. PREA requirements for disciplinary sanctions for staff:
 - A. In accordance to State of Nebraska current Personnel Rules and Regulations and Labor Contracts:
 1. Staff shall be subject to disciplinary sanctions up to and including termination for violating DHHS / YRTC sexual abuse or sexual harassment policies.
 2. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
 3. Disciplinary sanctions for violations of DHHS Personnel Policies and Procedures and Labor Contracts relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed,

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the staff member’s disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

- 4. All terminations for violations of DHHS Personnel Policies and Procedures and Labor Contracts agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

XI. Corrective action for contractors and volunteers.

- A. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
- B. The YRTC shall take appropriate remedial measures, and shall consider whether to prohibit further contact with residents, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

XII. Preservation of ability to protect residents from contact with abusers.

- A. Neither the DHHS, YRTC, nor any other governmental entity responsible for collective bargaining on the DHHS / YRTC’s behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the DHHS / YRTC’s ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
- B. Nothing in this policy shall restrict the entering into or renewal of agreements that govern:
 - 1. The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions that pertain to PREA evidentiary standards or PREA disciplinary sanctions for staff as noted in applicable PREA standards; or
 - 2. 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

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personnel file following a determination that the allegation of sexual abuse is not substantiated.

REFERENCE:

**401 NAC 1-002 Legal Authority
43-404 (2) N.R.S Reissue 2013
Dept. of Administrative Services, Personnel Division**

I. Attachments: None

II. ACA Standards:

**4-JCF-6C-01, 4-JCF-6C-02, 4-JCF-6C-03, 4-JCF-6C-04, 4-JCF-6C-05, 4-JCF-6C-06,
4-JCF-6C-07, 4-JCF-6C-08, 4-JCF-6C-09, 4-JCF-6C-10, 4-JCF-6C-11, 4-JCF-6C-12,
4-JCF-6D-01, 4-JCF-6D-02, 4-JCF-6D-04, 4-JCF-4D-06, 4-JCF-6D-08, 4-JCF-6D-11,
4-JCF-6D-12, 4-JCF-6G-06**

III. PREA Standards:

115.366, 115.376, 115.377

APPROVED:

**Tony Green, Deputy Director
Office of Juvenile Services**

EFFECTIVE: January 1, 1997
REVISED: June 26, 1998
REVIEWED: March 31, 1999
REVISED: October 1, 1999

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- REVISED: August 15, 2000
- REVISED: August 31, 2001
- REVIEWED: August 31, 2000
- REVISIED: March 31, 2004
- REVISIED: March 25, 2005
- REVISIED: July 30, 2008
- REVISIED: August 31, 2010
- REVISIED: February 15, 2011
- REVISIED: March 15, 2011
- REVISIED: June 1, 2013
- REVISIED: August 15, 2013
- REVISED: February 1, 2014
- REVISED: July 15, 2014
- REVISED: August 1, 2015**

SUMMARY OF REVISION/REVIEW

August 1, 2015

- Added “DHHS” where necessary in regards to PREA Standard language throughout
- **Pg. 1, Applicability – Updated State Statute 43-404(2)**
- **Pg. 2, General, Letter B, 2 – revised sentence structure**
- **Pg. 5, Proc. V – Added “Prison Rape Elimination Act (PREA) Juvenile Facility Standards”**
- **Pg. 7, Reference – Updated reference to 43-404**
- **Policy reviewed by LaDene Madson, DHHS Human Resource Manager**

July 15, 2014

- General – under General, C stated 4-JCF-6D-09. Human Resources, LaDene Madson asked that the standard be removed from this AR since HR has no authority to write policy and procedure that describes the roles and functions of private contractors.
Note: 6D-09 is still covered AR 300.2 and corresponding YRTC, OMs.
Remainder of “General” section re-lettered.

February 1, 2014

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- Procedure XII added to address PREA standard 115.366 that pertains to YRTC/Agency entering into any collective bargaining agreements that are inconsistent with PREA standards that discuss evidentiary standards or disciplinary standards as noted in PREA standards 115.372 and 115.376.

August 15, 2013

- Procedure X and XI added to include mandatory PREA standards that relate to sexual abuse and sexual harassment
- Policy reviewed and approved by Pat Trainer, HR Human Resources Manager
- Policy reviewed and approved YRTC Facility Administrators

June 1, 2013

- Terri Nutzman's name removed and replaced with Tony Green, Deputy Director
- Ed Matney's signature removed from document

March 15, 2011

- Page 4 E added to include 4th edition standard 4-JCF-6G-06

February 15, 2011

- Policy reviewed and approved with modifications by Linda Gerner, DHHS Human Resources
- Pg. 2A – Employees acknowledge on-line that they have reviewed DHHS Work Place Policies, Labor Contracts and the Rules
- Pg. 2 B – first sentence added to include standard 4-JCF-6C-02. Second sentence enhanced to include all of 4th edition standard 4-JCF-6C-01. Last two sentences added to include 4-JCF-6C-03 and 4-JCF-6C-04.
- Pg. 3 #6 – see standard 6C-05
- Pg. 3 #7 – see standard 6C-06
- Pg. 3 #8 – see standard 6C-07
- Pg. 3 #9 - see standard 6C-08
- Pg. 3 #10 - see standard 6C-09
- Pg. 3 #11 - see standard 6C-10
- Pg. 4 #12 - see standard 6C-11
- Pg. 4 #13 - see standard 6C-12
- Removed from that same sentence. Next sentence reference to conditions of employment, and code of ethics removed.

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- B 2 rephrased and reference to criminal history checks inserted.
- B 4 the word certain added to sentence
- Pg. 7 VI – see standard 6D-04

August 31, 2010

- Policy reviewed and approved with modifications by Linda Gerner, DHHS Human Resources
- Pg 2. Procedure 1 – changed to insert 4th edition language from 4-JCF-6D-O1 Note: Not everything listed under 6D-01 can be found on DHHS Intranet website for Human Resources. Items and areas such as organizational chart, staff development, job qualifications and job descriptions, grievance and appeal procedure, orientation and compensation must be located in another place.
- Pg 2 A – Staff acknowledgement of certain documents expanded to meet with 4th edition standard 4-JCF-6D-02
- Pg 2. C – Changed to meet 4th edition standard that talks about personnel coming into the facility.
- Pg 2 D – sexual harassment language added (4D-06)
- Page 3 III- the words “Labor Contract” added after the word Rules
- Pg 4 VI added to show employees entitled to grievance procedure (6D-04)
- Pg 4 VII added to show employee assistance program (6D-08)
- Pg. 4 VIII and IX added to show Personnel Record and employee access to it (6D-11 and 6D-12) – Exception to performance evaluation added.