

Policy 1.23– Deciding to Hire or Promote Staff or Contractors
Summary

- Establishes mandatory requirements for hiring/promotion decisions and counseling certification

Background:

The policy was drafted to establish expectations for hiring and promotion decisions which were mandated by the PREA Juvenile Standards. During policy revisions establishing mandatory fingerprint background checks based on PREA audit findings, the Policy Committee realized that the requirements for the legally mandated agency affiliated counselor requirements did not live in policy and decided to add a new section here. The policy language has been reviewed by appointing authorities and the AAG.

Policy Summary

The policy addresses specific criteria that prohibit the hiring and promotion of contractors if they will have contact with youth, addresses requirements for background checks and institutional reference checks based on PREA, outlines the legal mandates for application and maintenance of the agency affiliated counselors license (including legal citations), and highlights the requirement for disclosure of sexual misconduct prior to hiring.

Changes from Former Practice

- The policy now requires a national fingerprint background check to be completed for all initial hiring and contractor awards.
- The policy outlines the requirements for application and maintenance of the agency-affiliated counseling license per RCW and WAC.

Training Required: No

Policy Effective Date: July 23, 2018

Please note that the effective date is not two weeks out as usual practice, because these changes are already in effect for JR's hiring practices. While this is more extensive revision than a technical edit, the policy update represents a documentation of current practice and not a change to current practice.

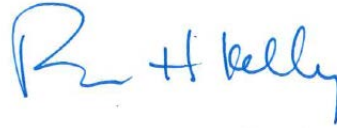
*Staff are responsible for reading and understanding the information contained in the full policy.
Review of this summary is not sufficient for full understanding.*

POLICY 1.23 DECIDING TO HIRE OR PROMOTE STAFF OR CONTRACTORS

Policy Committee Chair

Don Mead, Ed. D.
Superintendent, Echo Glen
Juvenile Rehabilitation

Approved



Rebecca Kelly, Acting Assistant Secretary
Juvenile Rehabilitation
7/20/2018

Authorizing Sources

PL108-79, Prison Rape Elimination Act (PREA)
28 CFR Part 115 PREA Juvenile Facility Standards
RCW 13.40.570
RCW 43.43.837
WAC 110-700
DCYF AP 11.21 Ethics & Employee Conduct
DCYF AP 11.02 Background Checks

Information Contact

Andrea Ruiz
Policy, Planning & Lean Administrator
Juvenile Rehabilitation

Effective Date (*Technical Edit 11/18/19¹*)
7/23/2018

Sunset Review Date
7/23/2022

I. PURPOSE AND SCOPE

This policy establishes special requirements for hiring and promotion decisions as mandated by the PREA Juvenile Standards, and counseling certification requirements as mandated by RCW.

All staff, contractors, volunteers, and interns working in or for Juvenile Rehabilitation (JR) are responsible for reviewing and complying with JR policies.

II. POLICY

1. Juvenile Rehabilitation will not hire or promote employees or enlist the services of any contractor who may have contact with residents if the employee or contractor: 1.1.

Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); (PREA Standard 115.317(a)(1)).

¹ 11/18/19 Technical Edit: Changed DSHS references and forms to DCYF.

Policy 1.23, Deciding to Hire or Promote Staff or Contractors 7/23/2018

- 1.2. 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; (PREA Standard 115.317(a)(2))
- 1.3. Has been civilly or administratively adjudicated to have engaged in the activity described in sections 1.1 and 1.2. (PREA Standard 115.317(a)(3))
- 2. Juvenile Rehabilitation must consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor if the employee or contractor may have contact with youth. (PREA Standard 115.317(b)).**
- 3. On-call staff will be considered equivalent to permanent staff for the purposes of this policy.**

BACKGROUND CHECKS

- 4. Juvenile Rehabilitation must conduct a national fingerprint criminal background check as a component of all initial hiring and contractor awards where the position may have contact with youth. (RCW 43.43.837, PREA Standard 115.317(c)).**
 - 4.1. JR must conduct the criminal background check in partnership with the designated Background Check Central Unit (BCCU). (PREA Standard 115.317(c)(1))
 - 4.2. A review of agency negative actions, which includes findings of child abuse, is conducted as part of the BCCU background check process. (PREA Standard 115.317(c)(2))
- 5. Background check forms and results are confidential and must be maintained in a secured location. Information from background checks may only be shared on a need-to-know basis.**
- 6. Decisions to disqualify any prospective employee, volunteer or contractor from unsupervised access to JR youth must be made in accordance with collective bargaining agreements, DCYF AP 11.02, and agency Disqualifying List.**
- 7. Employees in department-covered positions will be required to complete a mandatory national fingerprint criminal background re-check through the agency designated BCCU every five years.**
- 8. Employees in department-covered positions will be required to complete a mandatory criminal background check through the agency designated BCCU for all promotions and transfers within the agency.**
- 9. Contractors will be required to complete a mandatory national fingerprint criminal background re-check through the agency designated BCCU no less than every five years. The background check must include a consultation with the child abuse and neglect records maintained by the agency in accordance with statement 4.2.**
 - 9.1. School personnel not employed by DCYF will be required to submit proof of a completed background check, completed within five years and conducted with the same standards as the agency designated BCCU uses.

Policy 1.23, Deciding to Hire or Promote Staff or Contractors 7/23/2018

10. Volunteers will complete a one-time background check through the agency designated BCCU at the time of their volunteer application.

INSTITUTION REFERENCE CHECKS

11. Additional reference checks are required prior to hiring new employees who may have contact with youth. (PREA Standard 115.317)

11.1. Candidates will be asked to list on the PREA Institutional/Employment/Service Disclosure form (DCYF Form 20-297) all prisons, jails, lockups, community confinement facilities, juvenile facilities, or other institutions in which they have been employed or where they have provided services on a contract or volunteer basis.

11.2. Hiring managers must contact each prior institutional employer regarding each candidate. (PREA Standard 115.317(c)(3)) Previous employers will be asked for:

11.2.1. Any information on substantiated allegations of sexual abuse or sexual harassment;

11.2.2. Any resignation during a pending investigation of an allegation of sexual abuse or sexual harassment.

11.3. All PREA Institutional/Employment/Service Disclosure forms will be retained for a period no less than three years.

12. Unless prohibited by law, all hiring managers at JR institutions and community facilities must provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee, contractor or volunteer upon receiving a request from an institutional employer for whom the individual has applied to work.(PREA Standard 115.317(h))

12.1. Hiring managers will consult with their local Human Resource Consultants prior to responding to the request.

13. JR must make its 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.

AGENCY AFFILIATED COUNSELOR CERTIFICATION

14. A person may not, as a part of his or her position as an employee of a state agency, practice counseling without being registered by the Department of Health (DOH) to practice as an agency affiliated counselor. (RCW 18.19.030)

15. The following job classes in JR will be required to register with DOH and maintain the Agency Affiliated Counseling (AAC) credential:

15.1. JR Community and Residential Counselors

15.2. JR Community and Residential Counselor Assistants

15.3. JR Coordinators, including FFT (as determined by local sites and PDF)

Policy 1.23, Deciding to Hire or Promote Staff or Contractors 7/23/2018

15.4. JR Supervisors

15.5. JR Program Managers

15.6. Psychologists, unless otherwise licensed or certified

16. Registration and maintenance of the credential is a condition of employment with JR, for the above positions. The requirement for the credential must be included as part of the PDF for the above positions and included in appointment letters for newly hired staff.

16.1. Failure to obtain and maintain the credential as specified in the position description will result in disciplinary action, up to and including dismissal.

17. Staff in the above job classes must register with DOH as an Agency Affiliated Counselor within seven days of employment. (RCW 18.19.210(1)(a)).

17.1. Counselors may provide counseling as an AAC for a maximum of 60 days while the application is processed. (RCW 18.19.210(1)(a)).

17.2. Counselors may not provide unsupervised counseling prior to completion of a mandatory national fingerprint criminal background check through the DSHS BCCU performed as a part of the hiring process. (RCW 18.19.210(1)(b))

17.3. The counselor must stop providing counseling on the 60th day of employment if the registration has not been granted for any reason. (RCW 18.19.210(1)(a)).

18. Counselors must maintain their credential and renew it as necessary under the law (WAC 246-12).

18.1. The counselor must stop providing counseling if the registration has not been renewed or is revoked for any reason. (RCW 18.19.210(1)(a)).

19. Staff who maintain an active Chemical Dependency Professional (CDP) or Chemical Dependency Professional Trainee (CDPT) credential are not required to hold the AAC certification in addition to the CDP/CDPT, as long as they are actively providing chemical dependency counseling full time.

19.1. Staff who have a CDP/CDPT and do not provide chemical dependency counseling full time must have an active AAC certification.

20. All units in JR must review the certification status of staff on at least a quarterly basis to ensure credentials are current. Central Office staff may conduct an audit at any time.

20.1. If credentials are not current, management will send the AAC Notification Letter (attached) to staff.

20.2. At the discretion of the appointing authority, staff will be allowed up to 30 days to bring the credential current. Staff may take leave or be reassigned to a non-counseling position while the credential is expired.

21. If staff continue to be out of compliance with the certification requirements, appointing authorities will take appropriate corrective action.

Policy 1.23, Deciding to Hire or Promote Staff or Contractors 7/23/2018

22. Agency affiliated counselors must notify the DOH if they are either no longer employed by the agency identified on their application or are now employed with another agency, or both.

SEXUAL MISCONDUCT DISCLOSURE

23. Prospective employees, current employees, contractors and volunteers will be required to complete the PREA Sexual Misconduct Disclosure form (DCYF Form 20-296) prior to any hiring or promotion decision (PREA Standard 115.317(f)).

23.1. The completed form will be made available to auditors during scheduled PREA audits.

23.2. All PREA Sexual Misconduct Disclosure forms will be retained for a period no less than three years.

24. Employees, contractors and volunteers must immediately disclose any incidents of sexual misconduct to the Superintendent, Regional Administrator or designee, if incidents occur in the period between background checks. (PREA Standard 115.317(f))

25. Material omissions regarding such misconduct or the provision of materially false information must be grounds for termination. (PREA Standard 115.317(g))

Policy 1.23, Deciding to Hire or Promote Staff or Contractors 7/23/2018

III. DEFINITIONS

Counseling: employing any therapeutic techniques, including but not limited to social work, mental health counseling, marriage and family therapy, and hypnotherapy, for a fee that offer, assist or attempt to assist an individual or individuals in the amelioration or adjustment of mental, emotional, or behavioral problems, and includes therapeutic techniques to achieve sensitivity and awareness of self and others and the development of human potential. (RCW 18.19.020(6))

Sexual Misconduct: as defined by PREA, sexual misconduct includes sexual abuse in a prison, jail, lockup, community confinement facility or other instutiton, a conviction or civil/administrative adjudication of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force or coercion, or sexual activity if the victim did not consent or was unable to consent or refuse.

IV. RELATED JR POLICIES

Policy 5.90 – Applying PREA Juvenile Standards in
JR

V. FORMS AND DOCUMENTS

Document Title	Available In ACT	Link to Paper form
PREA Sexual Misconduct Disclosure		DCYF Form 20-296
PREA Institutional/Employment/Service Disclosure		DCYF Form 20-297

Date

FACILITY
ADDRESS
CITY, WA ZIP

CONFIDENTIAL
PERSONAL SERVICE

Dear Ms./Mr. NAME:

This is official notification that effective _____, you will not be allowed to work, as an alternate to being reassigned. This action is the result of an investigation into allegations concerning your failure to renew your Agency Affiliated Counselor Credential. Your removal from work is not a disciplinary action or a presumption that misconduct has occurred. You are required as a condition of employment to maintain your credential on your own time and at your own expense. This action is in accordance with the Master Agreement between the State of Washington and the Washington State Federation of State Employees (WFSE).

If you renew your Agency Affiliated Counselor Credential during the time you are off work, you will need to contact us for further instructions. In the meantime, we will be investigating the allegations and preparing to conduct a pre-disciplinary meeting upon completion of the investigation.

I am authorizing you to use your accrued annual leave or compensatory time while off work. If you do not have sufficient balances of annual leave or compensatory time, you will be authorized Leave without Pay.

As a DCYF employee, you are still subject to all applicable DCYF policies, rules, regulations and Master Agreement, including, but not limited to, safety rules. Failure to comply with the work instructions contained in this letter may result in disciplinary action up to and including dismissal.

You will be provided an opportunity to respond to the allegations.

If you have any questions regarding your status or the above work instructions, you may contact NAME at PHONE NUMBER.

Respectfully,

NAME, Superintendent
INSTITUTION

cc: Human Resources Administrator
Human Resource Manager
Associate Superintendent
Juvenile Rehabilitation Program Manager 2