



POLICY

SUBJECT: DJS Background Investigations Policy
NUMBER: HR-410-19
APPLICABLE TO: DJS staff, volunteers, and contractors

APPROVED: _____ /s/ signature on original
Sam Abed, Secretary
DATE: _____ 5/14/19

I. POLICY

The Department of Juvenile Services (DJS) shall ensure that a background investigation is completed for all applicants, contractors, and volunteers in accordance with state and federal statutes.

II. AUTHORITY

- A. MD. CODE ANN., HUM. SERVS. §§ 9-203, -204, -207, -209.
- B. MD. CODE ANN., FAM. LAW §§ 5-560 to -569.
- C. COMAR 12.10.01
- D. American Correctional Association (ACA) Standards 4-JCF-6C-05
- E. Prison Rape Elimination Act (PREA) juvenile facility standards

III. DIRECTIVES/POLICIES RESCINDED

- A. Background Investigations Policy, HR-410-18

IV. FAILURE TO COMPLY

Failure to comply with the Department's Policy and Procedures shall be grounds for disciplinary action up to and including termination of employment.

V. STANDARD OPERATING PROCEDURES

Standard operating procedures have been developed and are attached.

VI. REVISION HISTORY

DESCRIPTION OF REVISION	DATE OF REVISION
Criminal background check policy and procedures updated to reflect statutory, regulatory, and technological advances, including the time within which the Department is required to apply for an initial criminal history records check. Scope expanded to encompass components beyond criminal records checks. MPCTC certification standards updated to refer to MPCTC regulations.	March 2015
<p>Updated policy and procedures with the following:</p> <ul style="list-style-type: none"> • policy and procedure statement updated to include contractors, and volunteers to complete background screening process; • replaced “Office of the Volunteer Coordinator with the appropriate name “Office of Family Engagement”; • added to section B requirements to report any indications of sexual abuse or harassment; • contractors must have a system in place to capture criminal background checks ongoing; • all finding from criminal background checks are sent to the Director of Human Resources; • DJS Secretary can approve conditional employees or volunteers, but the employee or volunteer should not have any contact with youth until the background check is returned. 	May 18, 2018
<p>Policy renamed & renumbered. Procedures revised; added:</p> <ul style="list-style-type: none"> • new definitions; • new reasons for applicant disqualification; and • a link to the new <i>Residential Child Care Programs (RCCP) Background Investigations policy</i>. 	May 14, 2019



MARYLAND
Department of
Juvenile Services

Successful Youth • Strong Leaders • Safer Communities

PROCEDURES

SUBJECT: Background Investigations Policy
NUMBER: HR-410-18
APPLICABLE TO: DJS staff, volunteers, contractors

APPROVED: _____ /s/ signature on original

Lynette Holmes, Deputy Secretary

REVISION DATE: _____ 4/4/19

I. PURPOSE

The purpose of these procedures is to provide guidelines for the completion of background investigations for applicants, contractors, and volunteers within the Department of Juvenile Services (DJS).

II. DEFINITIONS

Applicant means an individual who is under consideration for full or part-time employment.

Background investigation means the investigation of an individual's background, including a criminal record check and child protection registry review of the individual.

Certification means the legal authority conferred by the Maryland Police Correctional Training Commission (MPCTC) authorizing an individual to exercise duties related to the investigation, care, custody, control, or supervision of youth in the custody or under the supervision of DJS.

Child Protection Registry review means the investigation of an individual's record in the Department of Human Services' database for any indicated findings of child abuse or neglect.

Conditional employees mean individuals employed prior to the Department's receipt of the Federal Bureau of Investigation (FBI) or Maryland Criminal Justice Information System - Central Repository (CJIS-CR) criminal history background checks.

Contractor means a person or employee of a company who provides direct services to youth on a recurring basis pursuant to a contractual agreement with the Department.

Conviction means a determination of guilt for a criminal offense in a court of law.

Criminal background investigation means the review of an individual's criminal history including information gleaned from the applicant's FBI and CJIS-CR records to determine if the individual has a criminal record.

Direct care staff/employee means mandated DJS staff requiring MPCTC certification whose primary work assignments result in daily contact with DJS youth.

Employee means an individual who is employed full or part time by DJS on a permanent or contractual basis, including provisionary and probationary employees.

Mandated means employment assignments subject to MPCTC regulation.

Material omission means that the omission itself is relevant to the decision under consideration.

Pending charge means a criminal offense for which an individual has been charged, but has not yet been adjudicated in court.

Residential Child Care Program means an organization which provides services on a recurring basis pursuant to a contractual agreement with the Department and is licensed by the Department of Human Services (DHS), Maryland Department of Health (MDH), or Department of Juvenile Services (DJS) for the residential treatment of youth including the following:

- Alternative living units;
- Group homes, including shelter care, respite care, mother/baby programs, programs for youth who are medically fragile or with developmental disabilities, diagnostic evaluation programs, or any other therapeutic residential program.
- Nonpublic residential educational facilities;
- MDH/Community Mental Health Programs/Residential Crisis Services; and
- State-operated residential educational facilities.

Volunteer means an individual at least eighteen (18) years of age who has successfully completed the volunteer application process and has been approved by the Department to donate service hours to youth, their families and DJS. Included in this definition are mentors, student interns, and staff from profit or non-profit groups, faith-based organizations, colleges and universities.

III. PROCEDURES

A. MPCTC Selection and Certification Standards

1. Mandated direct-care staff are subject to certification by MPCTC and, therefore, are required to meet MPCTC selection and certification standards set forth in COMAR 12.10.01, which are hereby incorporated by reference.
2. Applicants may refer to COMAR 12.10.01 and position specification

sheets for age, citizenship, education, and other requisite position-specific qualifications.

B. Background Investigations – Requirements

1. Contemporaneous with or subsequent to the initial interview, the appropriate hiring manager shall refer applicants under consideration for the position to the Office of Human Resources (OHR) for pre-employment fingerprinting.
2. The OIG shall receive a completed *Request for Information for Criminal History Records Check form* from the applicant, contractor or volunteer. The Office of the Inspector General (OIG) staff are responsible for fingerprint collection and transmission.
3. The OIG shall apply to the CJIS-CR for a federal and State criminal history records check for each applicant, contractor or volunteer.
4. The OIG shall receive ongoing updates of criminal records for current staff, contractors, and volunteers.
5. The OIG staff shall promptly provide the results of each search listed below (a. through g.) for each applicant and contractor to OHR; OIG shall forward search results for volunteers to the Office of Family Engagement:
 - a. any indicated findings of child abuse or neglect recorded in the Department of Human Resources' Children's Electronic Social Services Information Exchange (CHESSIE) database;
 - b. any indications the applicant has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or any other institution;
 - c. any indication the applicant has been convicted of engaging or attempting to engage in sexual activity in the community by force or threat of force or coercion, if the victim did not or was unable to consent or refuse;
 - d. any indications of civil or administrative adjudication for the activity described in c. above;
 - e. any incidents of sexual harassment;
 - f. any indicated registration requirements with any sex offender registration systems; and
 - g. consistent with applicable law, the result of 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.
6. The OIG shall promptly provide the CJIS-CR and FBI reports to OHR for each applicant. The Office of Family Engagement shall receive these reports for each volunteer.

7. As needed, OIG shall, in collaboration with OHR and the Office of Family Engagement, interpret the report of all background investigation findings and advise the hiring manager of the applicant's suitability for employment or volunteer service.
8. OHR shall report all required information for mandated position applicants to MPCTC via an *Application for Certification*. If MPCTC does not certify the individual, the applicant or employee shall be ineligible for appointment to or continuation in a mandated position, except as provided by applicable law.
9. OHR shall notify the appropriate hiring manager of any background check results for applicants in non-mandated positions.
10. Each applicant's criminal records report shall be maintained separately from the individual's personnel file in OHR for the duration of employment. Each volunteer's report of findings shall be maintained by OIG separately from other volunteer records for the duration of their service.
11. Applicants and employees shall consent to have the Department review their driving record with the Maryland Motor Vehicle Administration and any equivalent government entity that has issued the candidate a driver's license.
12. Contractors who may have contact with DJS youth shall submit, prior to having contact with youth, a criminal background records check that ensures no disqualification as listed in section III. E. 2. including, the results of searches of all applicable child abuse registries. Contracted entities shall have a system in place for capturing ongoing criminal background information for each contracted employee and notify DJS of any disqualifying crime or incident and submit information, as required, to DJS.
13. All Residential Child Care Programs (RCCP) and their staff shall comply with the *RCCP Background Investigation Policy*.

C. Background Investigations – DJS Executive Service, Management Service, and Special Appointees

1. In addition to the criminal history records check, child abuse and neglect check, sex offender registration check, and driving records check outlined in section B. above, the hiring manager or designee shall:
 - a. conduct interviews with professional references submitted by candidates for executive service and special appointee positions; and
 - b. perform a comprehensive background investigation to determine

that a candidate for a position in the management service is of good moral character and reputation, is emotionally stable, and displays suitable behavior necessary to perform the duties of the position. This investigation includes, but is not limited to, a review of military records and interviews with current and past employers within the last five years.

2. All reports of findings shall be forwarded to the Director of the OHR.
3. The Director of OHR or his or her designee shall provide all investigative findings for executive service and special appointee candidates to the Deputy Secretary for Support Services, unless the applicant is a candidate for that position, in which case the findings shall be submitted to the Deputy Secretary for Operations.
4. The Director of OHR or his or her designee shall provide all investigative findings for management service candidates to the Deputy Secretary for Support Services.
5. The Deputy Secretary for Support Services or Deputy Secretary for Operations shall submit all investigative findings and recommendations regarding candidates for direct appointment to the Secretary.

D. Conditional Employees

1. If the Department has not received the reports of the findings of all criminal history investigations prior to start of service date and as required by these procedures for an individual to be employed, the individual may be employed only with the approval of the Secretary or the Secretary's designee but should have no contact with youth until the findings of all criminal history investigations are received.
2. The applicant shall sign a statement acknowledging the applicant's understanding and agreement that if the reports of findings required by these procedures are unacceptable, the applicant's employment or volunteer status with the Department shall be terminated immediately.

E. Disqualification

1. A mandated applicant, employee, contractor, or volunteer shall be disqualified if the individual has or obtains a conviction or convictions enumerated in COMAR 12.10.01.20.
2. In addition to the convictions enumerated in COMAR 12.10.01.20, the following may result in disqualification of applicants, termination of the employee or volunteer, or discontinuation of services provided by the contractor:
 - a. a conviction of first degree assault;
 - b. a conviction of child abuse;

- c. a conviction for distribution of controlled dangerous substances;
 - d. convictions for infamous crimes, such as perjury or fraud, which have occurred within the past ten years;
 - e. convictions and civil or administrative adjudications of activity involving engaging or attempting to engage in sexual activity 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;
 - f. instances of engaging in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution;
 - g. incidents of sexual harassment (excluding unfounded accusations);
 - h. failure to report an arrest or pending charge for a criminal offense or a positive indication of child abuse or neglect;
 - i. conviction for drug possession;
 - j. conviction for drug distribution;
 - k. conviction for assault;
 - l. currently on supervised probation; or
 - m. Gangnet - verified and/or affiliated.
3. The Department reserves the authority to disqualify applicants or terminate the employment of an employee, volunteer, or contractor with a criminal record not covered by this Policy and Procedure.
4. If an applicant or employee submits false information or makes a material omission regarding any misconduct on any employment, volunteer, student intern application, required disclosure, or any addendum or supplement thereto, such falsification or omission may result in the disqualification of the applicant or termination of the employee. If a volunteer submits false information on the Volunteer and Internship Application, this falsification may result in the dismissal of the volunteer.
5. The following procedure shall be observed in the event that the criminal history records initial report or a report update has an indication of child abuse or neglect, or an employee or volunteer's criminal conviction otherwise requires the exercise of discretion by the Department in employing, retaining or dismissing an applicant, employee or volunteer:
- a. The OHR or Office of Family Engagement shall review the OIG recommendation and may consult with the DJS Office of the Attorney General (OAG) for advice pertaining to legal issues regarding employment or volunteer service with the Department.
 - b. The OHR or Office of Family Engagement shall present the report, including recommendations of OIG and OAG, if needed, to the appropriate unit director. The unit director will consider the duties and responsibilities assigned to the position and any mitigating circumstances pertaining to the applicant's selection, retention, or disqualification.

- c. The unit director shall determine whether selection, retention, or disqualification is appropriate.
 - d. In no case may a party who may have contact with youth be allowed to be employed, provide service or be promoted if he or she has been found to have engaged in any activities cited in COMAR 12.10.01.20 and as listed in section III. E. 2.
 - e. The unit director shall forward his or her decision to the appropriate Deputy Secretary who will ratify or reject the unit director's decision.
6. Each employee's report of findings shall be maintained separately from the individual's personnel file in OHR for the duration of employment. Each volunteer's report of findings shall be maintained separately from other volunteer records in OCA for the duration of their volunteer status.

IV. RESPONSIBILITY

Superintendents and Regional Directors are responsible for implementation and compliance with this procedure.

V. INTERPRETATION

The Deputy Secretary for Support Services shall be responsible for interpreting and granting any exceptions to these procedures.

VII. LOCAL OPERATING PROCEDURES REQUIRED

No

VIII. DIRECTIVES/POLICIES REFERENCED

1. RCCP Background Investigation Policy

IX. MARYLAND LAW/REGULATIONS REFERENCES

Note: Copies of all statutes and regulations referenced below regarding MPCTC requirements are attached to this policy.

- Md. Code Ann., **Correctional Services, Title 8, Subtitle 2**
- COMAR **12.10.01.01 to 12.10.01.23**

X. APPENDICES

1. Addendum to Application for State Employment
2. Applicant Self Report – Prior Substance Use
3. Authorization to Release Information
4. Applicant Willingness Statement
5. PREA Mandated Disclosure Form



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DJS POLICY AND STANDARD OPERATING PROCEDURES

Statement of Receipt and Acknowledgment of Review

SUBJECT: Background Investigations Policy

NUMBER: HR-410-18

APPLICABLE TO: DJS staff, volunteers, and contractors

REVISED: May 14, 2019

I have received and reviewed a copy (electronic or paper) of the above titled policy.

I understand that failure to sign this acknowledgment form within five working days of receipt of the policy shall be grounds for disciplinary action up to and including termination of employment.

I understand that I will be held accountable for implementing this policy even if I fail to sign this acknowledgment form.

SIGNATURE

PRINT FULL NAME

DATE

WORK LOCATION

***SEND THE ORIGINAL, SIGNED COPY TO DIRECTOR OF THE DJS OFFICE OF
HUMAN RESOURCES FOR PLACEMENT IN YOUR PERSONNEL FILE.***

**MARYLAND DEPARTMENT OF JUVENILE SERVICES
ADDENDUM TO APPLICATION FOR STATE EMPLOYMENT**

Name: _____

Social Security Number: _____ Position Applied For: _____

INSTRUCTIONS – READ CAREFULLY

1. Print or Type, do not use pencil.
 2. False statements, omissions or any misrepresentation will be considered grounds for rejection for candidate or in case of employment, immediate dismissal.
-

Have you ever been fired or asked to resign from any place of employment?

If Yes, please explain below.

YES _____ NO _____

Have you ever been arrested for a crime for which the records have not been expunged?

If Yes, please explain below.

YES _____ NO _____

Do you have an addiction to any habit-forming narcotics or drugs or recurring addiction which may prevent you from properly performing the duties of the position for which you are applying?

If Yes, please explain below.

YES _____ NO _____

Have you ever worked for an employer that required certification by the Maryland Police & Correctional Training Commission (MPCTC)?

If Yes, please explain below.

YES _____ NO _____

Is there any fact, issue or other circumstance not covered in this application which may be relevant to your fitness to perform the duties of the position for which your background is being investigated? This includes any misconduct that has occurred or actions that, if publicized, would bring the State into disrepute.

If Yes, please explain below.

YES _____ NO _____

Neither a conviction nor an addiction will necessarily bar you from employment, subject to applicable statutes. Each application will be individually considered on its own merits, taking into account such factors as the nature and seriousness of the conviction, how long ago it occurred and whether the applicant is undergoing treatment or rehabilitation. However, your candor will be a material part of this agency's consideration. Your failure to disclose a conviction or addiction or to otherwise provide accurate information now could result in termination of your possible future employment.

To obtain a copy of your criminal record for correction, you must have a criminal background check performed at your expense. Contact the Criminal Justice Information System (CJIS) at 410-764-4501 for details.

I hereby affirm that this application addendum contains no willful misrepresentations or falsifications and that this information given by me is true and complete to the best of my knowledge and belief.

Signature

Date

Maryland Department of Juvenile Services

Applicant Self Report of Prior Substance Use

Name: _____ Date Form Completed: _____

Position Applied for: _____

Read Carefully!!!

As a requirement of the Maryland Police and Correctional Training Commission, the Department of Juvenile Services must ask all potential applicants who may be responsible for the investigation, care, custody and supervision of youth about prior substance use. The information acquired on this report is considered sensitive and will be used to insure that an individual meets the minimum requirement as established by the Training Commission for employment.

1. Have you ever been involved in the illegal sale, manufacture or distribution of a controlled dangerous substance? Yes _____ No _____
2. Have you ever been convicted of a misdemeanor or felony for the sale, manufacture or distribution of a controlled dangerous substance? Yes _____ No _____
3. Have you ever ingested, inhaled or otherwise used any of the following substances in the past three years? (Without documented medical authorization)

Amphetamines	Yes _____	No _____	
Barbiturates	Yes _____	No _____	
Opiates	Yes _____	No _____	Includes Morphine and Heroin.
Cannabis	Yes _____	No _____	(Marijuana or Cannabinoids)
Cocaine	Yes _____	No _____	(Or Cocaine Metabolite)
Benzodiazepines	Yes _____	No _____	
Hallucinogens	Yes _____	No _____	Includes PCP, LSD, Mescaline and their derivatives.
Inhalants	Yes _____	No _____	Includes solvents, glue, paint, etc.
Anabolic Steroids	Yes _____	No _____	

If you answered YES to any of the above questions, please give the arrest date or last date of use.

Arrest date _____ Last date of use _____

I hereby affirm that this document contains no willful misrepresentations or falsifications and that this information is given by me is true and complete to the best of my knowledge and belief.

Signature

Date

**MARYLAND DEPARTMENT OF JUVENILE SERVICES
AUTHORIZATION TO RELEASE INFORMATION**

This is to certify that I, _____, am an applicant for the position(s) of _____ with the Maryland Department of Juvenile Services and that I do hereby authorize the release to the Department of Juvenile Services of any and all information and records pertaining to me that they may request. This includes, but is not limited to, records that are photocopies, faxes, scanned or otherwise reproduced documents. Such information will include, but not be limited to, military records, police records, arrest records, court records, Child Protective Services records, state and national sex offender registry records, medical records, credit reports, employment records, driving records, and/or educational records. I also release all persons from any liability, which could result from furnishing information to the Maryland Department of Juvenile Services. I further authorize DJS to redistribute such information that it receives during the course of its background investigation to other state agencies, including but not limited to the State Medical Director or the Maryland Correctional Training Commission, to the extent that such information is necessary for the purposes of conducting pre-employment screening.

Further, I authorize the Maryland Department of Juvenile Services to copy, fax, scan or otherwise reproduce this original document, and to let such copied, faxed, scanned or otherwise reproduced document act as the original instrument. I understand that the original document will be retained on file with the Maryland Department of Juvenile Services in accordance with Department record retention and maintenance procedures.

I further understand that the Maryland Department of Juvenile Services will not disclose to me the identities of individuals with whom it speaks during the course of its background investigation, and that the Department of Juvenile Services will not disclose to me any of the documents or their contents obtained during the course of its background investigation.

I understand that if I provide, or cause others to provide, false information, including omissions of relevant facts, that I may not be selected, or if employed, may be terminated.

Print Last, First Name and Middle Initial _____ Sex _____ Date of Birth _____

Home Address _____ City, State & Zip Code _____

Social Security Number _____ Driver's License Number _____ State _____

Phone Number (Home) _____ Phone Number (Cell) _____

Signature of Applicant Date

Witness Signature Date

DJS APPLICANT WILLINGNESS STATEMENT

PLEASE KEEP IN MIND:

- Employees in DJS mandated positions (involving the investigation, custody, control or supervision of minors, juvenile delinquents, and youthful offenders who are under the supervision and authority of DJS) are **subject to substance abuse testing** in accordance with Code of Maryland Regulations (COMAR).
- Applicants must meet the selection standards required and successfully complete the training prescribed by the Maryland Correctional Training Commission (MCTC).
- DJS employees in mandated positions **may be** (1) subject to being **on-call 24 hours a day** and therefore must provide the employing Agency with a telephone number where they can be reached; and (2) assigned duties that require the **operation of a motor vehicle** and therefore will be required **to possess a motor vehicle operator's license** valid in the State of Maryland.
- DJS employees in all mandated positions are assigned a regular shift but may be required to work other shifts, evenings, nights, weekends, and holidays as required by staffing needs.

DJS APPLICANT WILLINGNESS STATEMENT

DJS EMPLOYEES IN ALL MANDATED POSITIONS MUST BE WILLING TO DO THE FOLLOWING:

1. Give directions and follow instructions.
2. Be accountable and responsible for one's own work and decisions.
3. Behave as a role model for co-workers and youth.
4. Communicate and provide services to youth.
5. Successfully complete a six-week Training Academy.
6. Accept assignment on any work shift: day, evening, or night.
7. Work weekends and holidays, work mandatory overtime following your shift when needed due to a staff shortage, and work around the clock (with breaks) in cases of emergency.
8. Be designated as essential personnel, requiring you to attend work regardless of weather-related and other emergencies.
9. Arrive on time at the beginning of your assigned shift every day as scheduled.
10. Move from one assignment to another on short notice.
11. Take responsibility for your own transportation to work.
12. Regard your position with DJS as your primary employment, committing to work schedules and emergency call-ins over any other job you may hold.
13. Work directly with youth who may have behavioral problems and issues.
14. Patrol youth living quarters, work areas, and recreational areas to monitor youth activity and prevent or detect unusual or potentially disruptive behavior.
15. Listen to youth problems, needs, and complaints and respond with the appropriate action or referral.
16. Ensure that activities are in compliance with required laws and regulations and youth are held accountable for violations.
17. Conduct searches of living areas, youth rooms, and visitors for safety hazards and contraband, as required.
18. Administer basic first responder first aid as necessary to youth, including cardiopulmonary and mouth-to-mouth resuscitation.
19. Complete routine paper work on a regular basis, including writing notes in logbooks, documenting head counts, and writing in-depth narrative reports to document disruptive incidents.
20. Listen to and follow oral instructions from your supervisor.

The items listed above describe many of the things that you may be required to do as a DJS employee in a mandated position and are in addition to the duties and responsibilities outlined in your job description (MS-22) and state and DJS policies, procedures, regulations and standards. Please consider each item carefully and honestly. If you are not willing to agree to these terms and conditions, you should probably consider a different career opportunity in Maryland State government. For additional career information, please visit www.dbm.maryland.gov. **Please return this page with your signature as part of your application packet.**

I hereby certify that I have read and fully understand these items, and I am willing to conform to these terms and conditions of employment as a DJS employee in a mandated position.

Signature of Applicant

Date

PREA-MANDATED DISCLOSURE FORM

In accordance with national standards to prevent, detect, and respond to prison rape under the Prison Rape Elimination Act (PREA), Juvenile Facility Standard 115.317 requires that the Department ask all applicants, employees, and contractors who may have contact with youth directly about previous misconduct as described in the following questions. These questions must be completed for hiring, promotions, and performance evaluation reviews. The Department requires that all employees complete the PREA-Mandated Disclosure form regardless of their position and each employee has a continuing duty to disclose any such misconduct. Material omissions of such misconduct, or the provision of materially false information, shall be grounds for termination.

1. Have you ever engaged in sexual abuse¹ in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution?²

Yes No

¹ *Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident* 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:

- (1) contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) contact between the mouth and the penis, vulva, or anus;
- (3) penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (4) any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

- (1) contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) contact between the mouth and the penis, vulva, or anus;
- (3) contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (4) penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (5) any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (6) any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;
- (7) any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and (8) Voyeurism by a staff member, contractor, or volunteer.

(28 C.F.R. § 115.6.)

² “Institution” means any facility or institution (A) which is owned, operated, or managed by, or provides services on behalf of any State or political subdivision of a State; and (B) which is:

- (i) for persons who are mentally ill, disabled, or retarded, or chronically ill or handicapped;
- (ii) a jail, prison, or other correctional facility;
- (iii) a pretrial detention facility;
- (iv) for juveniles:
 - (I) held awaiting trial;
 - (II) residing in such facility or institution for purposes of receiving care or treatment; or
 - (III) residing for any State purpose in such facility or institution (other than a residential facility providing only elementary or secondary education that is not an institution in which reside juveniles who are adjudicated delinquent, in need of supervision, neglected, placed in State custody, mentally ill or disabled, mentally retarded, or chronically ill or handicapped); or
- (v) providing skilled nursing, intermediate or long-term care, or custodial or residential care.

(42 U.S.C. § 1997(1).)

DJS EMPLOYEE PREA-MANDATED DISCLOSURES

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2. Have you ever been convicted of engaging or attempting to engage in sexual activity in the community that was (1) facilitated by force, overt or implied threats of force, or coercion, or (2) under circumstance where the victim did not consent or was unable to consent or refuse?

Yes No

3. Have you ever been civilly or administratively adjudicated to have engaged in the activity described in paragraph 2 above?

Yes No

Employee's name (printed) _____

Employee's signature _____ Date _____