

Chapter: Suspension and Separation	Effective Date: 3/1/17
Title: Removal from Direct-Care Duties Pending Investigation Outcome	Page: 1 of 4
Statutes: N/A	Replaces: Admin. Directive #2 FY 2017
Implements: GAP.380.9333	

(a) **Standard.**

- (1) An employee who is accused of engaging in sexual contact with a youth or causing serious bodily injury to a youth **must** be immediately removed from direct-care duties pending investigation results.
- (2) An employee who is accused of any other type of abuse, neglect, or exploitation of a youth **may** be removed from direct-care duties pending investigation results.
- (3) A volunteer who provides services in a TJJD-operated facility or to TJJD youth in the community must have his/her access to TJJD youth and TJJD facilities immediately suspended if the volunteer is accused of any type of abuse, neglect, or exploitation, with one exception as noted in [\(e\)\(1\)\(A\)](#) below.
- (4) A contractor, social services provider, registered advocate, personal clergy member, personal attorney, or Child Protective Services (CPS) staff member who provides services in a TJJD-operated facility or to TJJD youth in the community must have his/her access to TJJD youth and TJJD facilities immediately suspended if the individual is accused of any type of abuse, neglect, or exploitation.

(b) **Definitions.**

- (1) **Direct-Care Duties**--responsibilities that may involve youth supervision duties or unsupervised access to youth. Duties that may involve interactions with youth that are incidental and momentary are not considered direct-care duties.
- (2) **Serious Bodily Injury**--an injury that creates a substantial risk of death, serious permanent disfigurement, or extended loss or impairment of the function of any bodily member or organ.
- (3) **Sexual Contact**—includes any of the following:
 - (A) contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - (B) contact between the mouth and the penis, vulva, or anus;
 - (C) 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;
 - (D) 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; or
 - (E) 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.

(c) **General Provisions.**

- (1) An employee who is removed from direct care duties may not be assigned to the control center/picket in the housing unit where the alleged victim is currently housed.
- (2) An employee who is removed from direct-care duties may not return to direct-care duties until all official investigations involving staff conduct are completed and the [chief local administrator \(CLA\)](#) has received written notice from the director of administrative investigations or designee. However, closure of the investigation file is not required before an employee is returned to direct-care duties.
- (3) Removal of an employee from direct-care duties is accomplished by:
 - (A) reassigning an employee to duties that do not involve direct care; or
 - (B) suspending an employee with or without pay in accordance with [PRS.11.09](#).
- (4) A volunteer who is under investigation may not enter TJJJ premises (unless the exception in [\(e\)\(1\)\(A\)](#) applies), have any contact with TJJJ youth, or have access to youth records until all official investigation files are closed.
- (5) A contractor, social services provider, registered advocate, personal clergy member, personal attorney, or CPS staff who is under investigation may not enter TJJJ premises, have any contact with TJJJ youth, or have access to youth records until all official investigation files are closed.

(d) **Procedures for Employees.**(1) **Decision to Remove from Direct-Care Duties.**

- (A) Immediately upon learning of an allegation that may involve sexual contact or serious bodily injury, **the CLA or designee** removes the employee from direct-care duties.
- (B) Immediately upon learning of an allegation of any other type of abuse, neglect, or exploitation, **the CLA or designee** determines whether the nature of the allegation requires the employee to be removed from direct-care duties. In making this determination, the CLA or designee considers factors including, but not limited to:
 - (i) the specific actions or inactions that are alleged;
 - (ii) the impact that the alleged conduct, if true, would have on the safety of youth and the integrity of the investigation;
 - (iii) any available video footage;
 - (iv) available documents, such as incident reports, continuation forms, and use of force reports; and
 - (v) the employee's disciplinary history and any prior allegations or grievances involving similar issues.
- (C) If the CLA or designee determines the employee will be removed from direct-care duties, the **CLA or designee** then determines whether to suspend or reassign the employee.

(2) **Suspension.**

If the CLA determines the employee will be suspended with or without pay pending the outcome of the investigation, the **CLA** follows procedures in PRS.11.09. Factors to be considered when making this determination are listed in PRS.11.09.

(3) **Reassignment.**(A) **Notice of Reassignment.**

If the CLA determines the employee will be reassigned to non-direct-care duties, the **CLA or designee**:

- (i) completes the [Notice of Reassignment to Non-Direct-Care Duties form, HR-125a](#);
- (ii) obtains the employee's signature on the form; and
- (iii) sends the original form to the human resources administrator, keeps a copy for the CLA's files, and gives a copy to the employee.

(B) **Return to Regular Duties.**

If a decision is made to return the employee to the duties of his/her regular position, the **CLA or designee**:

- (i) completes the [Notice of Return from Reassignment form, HR-125b](#);
- (ii) obtains the employee's signature on the form; and
- (iii) sends the original form to the human resources administrator, keeps a copy for the CLA's files, and gives a copy to the employee.

(e) **Procedures for Volunteers.**

- (1) Immediately upon becoming aware that a volunteer has been accused of abuse, neglect, or exploitation, the **manager over volunteer services**:

- (A) issues a letter informing the volunteer that he/she may not enter TJJD premises or have any contact with TJJD youth pending the outcome of the investigation; and

Note: If the accused volunteer is a member of the local Community Resource Council, he/she may continue to attend Council meetings held at a TJJD facility but only if he/she remains under constant supervision by a TJJD employee and has no access to or contact with TJJD youth.

- (B) notifies appropriate facility staff of the restrictions on the accused volunteer.

- (2) If the manager over volunteer services determines that the restrictions on the accused volunteer should be removed, the **manager over volunteer services**:

- (A) notifies the volunteer that he/she is no longer restricted from entering TJJD premises or having contact with TJJD youth; and

- (B) notifies appropriate facility staff that the restrictions have been removed.

(f) **Procedures for Contractors, Social Services Providers, Registered Advocates, Personal Clergy Members, Personal Attorneys, or CPS Staff.**

- (1) Immediately upon becoming aware that an individual who provides services in a TJJD facility or to TJJD youth in the community has been accused of abuse, neglect, or exploitation, the **director of contracts** (for contractors), **manager over volunteer services** (for social services providers, registered advocates, and personal clergy), **executive director** (for personal attorneys), **senior director over placement services** (for CPS staff), or a **designee**:

- (A) issues a letter that informs the individual or his/her employer of the allegation and provides notice that the accused individual may not enter TJJD premises, have any contact with TJJD youth, or have access to youth records pending the outcome of the investigation; and

- (B) notifies appropriate facility staff of the restrictions on the accused individual.

- (2) If the **director of contracts, manager over volunteer services, executive director, senior director over placement services, or a designee** determines that the restrictions on the accused individual should be removed, the above-referenced TJJD staff member:
 - (A) notifies the accused individual or his/her employer that the individual is no longer restricted from entering TJJD premises, having contact with TJJD youth, or having access to youth records; and
 - (B) notifies appropriate facility staff that the restrictions have been removed.
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