

# NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

December 23, 2021

Jennifer Carter  
Office of the Inspector General of Nebraska Child Welfare  
State Capitol  
P.O. Box 94604  
Lincoln, NE 68509-4604

Dear Ms. Carter,

Neb. Rev. Stat. § 83-105 requires the Youth Rehabilitation and Treatment Centers (YRTC) to submit, quarterly, a report of the number of youth grievances filed, a categorization of the issues to which the grievance relates, the process for addressing such grievances and any actions or changes made as a result of such grievances.

Below, please find the numbers for youth grievances submitted for each of the YRTCs for the period of September 16, 2021 to December 15, 2021. As this report is due for your review on the 1st of the month following the conclusion of each quarter, and given the time that is allotted for the resolution of a grievance, the numbers reflected below will contain the numbers up until the 15th of the last month of the quarter. The remaining data for the latter half of the month will be reflected in the next quarterly report.

Grievances are categorized upon completion as either substantiated, unfounded or resolved. A substantiated grievance is defined as having sufficient information to determine that the basis of the youth's grievance is accurate. A determination of unfounded is defined as either the basis of the youth's grievance is false, or there is a lack of sufficient evidence to determine whether or not the incident occurred. Grievances noted as either substantiated or unfounded have been handled by the facility's internal compliance team and the grievance is in reference to a youth's right as defined in Operational Memorandum (O.M) 116.1.6.

Grievances noted as resolved are in reference to issues that are not defined in OM 116.1.6. These types of grievances could be, for example, a youth disputing their progress in programming, a disagreement with another youth, or a youth requesting not to be served a particular food item due to personal preference. These grievances are resolved through the youth's treatment team and the

process of mediation. Youth are encouraged to write a grievance on any issue that they feel they cannot resolve on their own.

Each grievance is reviewed by the compliance team and assigned to the appropriate party to address the grievance. Should the grievance be in reference to any verbal, physical, or sexual abuse of the youth, the situation is handled by the compliance team and reported promptly to the Nebraska DHHS Hotline and the Nebraska State Patrol for proper investigation of any abuse or criminal act. Youth have several different ways to report abuse, to include, the grievance process, a verbal report to staff, or a phone call to the Nebraska DHHS Hotline that the youth can access without the assistance of staff.

Operational Memorandum 116.1.6 is attached to this report for reference in regards to Youth's Rights and the grievance process. Youth are informed on how to file a grievance upon their arrival of the respective facilities through the Youth Handbook.

**GRIEVANCES**  
**September 16, 2021 – December 15, 2021**  
**YRTC-Kearney**

Month/Year	Total # of Grievances	# Substantiated	# Unfounded	# Resolved
September 16 <sup>th</sup> /2021	3	0	0	3
October /2021	4	0	0	4
November /2021	2	0	0	2
December 15 <sup>th</sup> /2021	9	1	2	6

**Grievance Types:**

	September	October	November	December
Showers	0	0	1	0
Issued Clothing	1	0	0	0
Daily Routine	0	3	0	0
Professional Care	0	0	1	1
Verbal Abuse Youth to Youth	1	0	0	0
Verbal Abuse Staff to Youth	0	0	0	1
Physical Abuse Youth to Youth	0	0	0	4
Disciplinary Procedures	1	1	0	3

**Actions taken as a result of grievances:**

There was one [1] substantiated grievance this quarter for Youth to Youth Physical Abuse. Youth reported getting hit by a peer. This did occur and the victimizer had already received a rule violation for it. One [1] unfounded grievance was for Staff to Youth Verbal Abuse. This was proven false by the staff and youth witnesses to the incident. The second [1] unfounded grievance was a group of youth claiming a physical intervention was excessive. Upon review of the two camera angles able to see the intervention it was determined to have followed proper Handle with Care techniques as defined through policy and procedure.

**GRIEVANCES  
September 16, 2021 – December 15, 2021  
YRTC-Lincoln**

Month/Year	Total # of Grievances	# Substantiated	# Unfounded	# Resolved
September 16 <sup>th</sup> /2021	4	0	0	4
October/2021	6	0	0	6
November/2021	9	0	0	9
December 15 <sup>th</sup> /2021	1	0	0	1

**Grievance Types:**

	September	October	November	December
Other	0	1	0	1
Professional Care	3	1	7	0
Sexual Harassment/Discrimination	0	0	0	0
Disciplinary Procedure	0	1	0	0
Personal Hygiene	0	1	2	0
Medical/ Mental health	1	2	0	0

**Actions Taken as a result of Grievances:**

There were zero [0] substantiated grievances in the fourth quarter. There were a total of nine [11] grievances in reference to Professional Care. The Behavior Tech Supervisors continue to work with staff and youth to develop a better professional relationship. There were [3] Personal Hygiene grievances, the youth not being satisfied with the state issued hygiene products. YRTC- L Provides all youth with all necessary personal

hygiene products. Lincoln also received [3] grievances in reference to Medical/ Mental Health- Dentist, an appointment was made and the youth received dental care.

**GRIEVANCES**  
**September 16, 2021 – December 15, 2021**  
**YRTC- Hastings**

Month/Year	Total # of Grievances	# Substantiated	# Unfounded	# Resolved
September 16 <sup>th</sup> /2021	7	0	0	7
October/2021	5	0	0	5
November/2021	2	0	0	2
December 15 <sup>th</sup> /2021	0	0	0	0

**Grievance Types:**

	September	October	November	December
Grievance Procedure	0	1	0	0
Showers	0	1	0	0
Food	0	2	0	0
Mail	1	0	0	0
Professional Care	6	1	2	0

**Actions Taken as a result of Grievances:**

All the grievances this quarter were resolved by mediation with staff and youth.

If you have any questions, please do not hesitate to ask.



Mark LaBouchardiere  
 Office of Juvenile Services Administrator  
 Nebraska Department of Health and Human Services

**Youth Rehabilitation & Treatment Center – Kearney  
OPERATIONAL MEMORANDUM**

**NUMBER  
116.1.6**

**SUBJECT  
JUVENILE RIGHTS**

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**Purpose**

The Youth Rehabilitation & Treatment Center - Kearney (YRTC-K) will make every effort to protect the safety and constitutional rights of juveniles and seek to balance between expression of individual rights and preservation of facility order.

**General**

All juveniles placed at the YRTC-K are afforded certain rights as set forth in statutes, case law, and the constitution. It is the policy of this facility to grant those rights and other rights granted through the Department of Health & Human Services (DHHS), Office of Juvenile Services (OJS), and rules and regulations (Nebraska Administrative Code, Title 401).

**Procedures**

- A. YRTC-K shall ensure that all juveniles are advised of all written rules and regulations governing juvenile rights as set forth in the DHHS Rules and Regulations and Operational Memorandums (OM).
1. This will be done during the juvenile's orientation.
  2. Each juvenile will have in his possession a Youth Handbook that outlines the rights of juveniles.
- B. The opportunity of juveniles to participate in all facility programs shall not be discriminatory based on race, national origin, gender, religion, disability, political views, sexual orientation, or physical handicap. (4-JCF-3A-03)
- C. There is equal access to programs and services for male and female juveniles. (4-JCF-3A-04)
- D. Male and female juveniles do not occupy the same sleeping room. (4-JCF-3A-05)
- E. The supervision and control of juveniles shall be exercised by facility staff members only.
1. Twenty-four hour supervision of juveniles is provided by staff members in all programs and areas of the facility.
  2. Certified volunteers may assist in non-supervisory program areas.
- F. Juveniles shall not participate in medical, pharmaceutical, or cosmetic testing either for experimental or research purposes.

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- G. The right of access to the courts, attorneys, and their authorized representatives by the juvenile shall not be abridged.
1. Privileged incoming mail may be opened in the presence of the juvenile to check for contraband, but not read.
  2. Privileged outgoing mail will not be limited in number or frequency.
- H. **Juveniles shall be allowed access to legal counsel, their authorized representatives, the courts, and legal material.**
1. **The Facility Administrator or his designee shall assist juveniles in making confidential contacts with attorneys or their authorized representatives.**
  2. **Such contacts may include telephone communication, uncensored correspondence, and visits. (4-JCF-3A-01)**
- I. Juveniles being questioned about their involvement in a new law violation by law enforcement officials must have legal representation present during the questioning.
1. All requests for law enforcement officials to interview a juvenile will be referred to the Facility Administrator.
  2. When a juvenile is believed to be a witness or is being interviewed by law enforcement in relation to an abuse report, legal representation is not necessary, but at least one staff member will be present during the interview.
    - a. If the line of questioning enters the realm of the juvenile being suspected of a new crime, the staff member will terminate the interview until legal representation can be arranged.
- J. **Disciplinary measures will be used only as part of a learning process. The following will never be used as discipline or treatment:**
1. **Corporal or unusual punishment, including the use of excessive force**
  2. **Humiliation**
  3. **Disease**
  4. **Property Damage**

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5. Mental or personal abuse or harassment
6. Personal Injury
7. Punitive interference with the daily functions of living, such as eating or sleeping (4-JCF-3B-03)
  - a. Food, including snacks, is not withheld, nor is the established menu varied as a disciplinary sanction.
- K. Juveniles shall not be required to participate in uncompensated work assignments not reasonably related to their general housekeeping, personal hygiene or vocational/training program.
- L. Items of jewelry that could be used to inflict bodily harm upon self or peers shall not be approved for use.
  1. A juvenile may wear a small cross or religious medal on a chain.
  2. A juvenile may wear a personal wristwatch.
  3. All non-approved items of jewelry will be catalogued and stored in a secure area or mailed home at the juvenile's expense.
- M. Hairstyles may be individually chosen except when special restrictions may be necessary for reasons of personal health and safety.
  1. Youth are not allowed to have hair extensions, weaves or wigs.
  2. Youth are not allowed to cut or color their own hair.
  3. Youth are not allowed to cut, color or alter hairstyles on visits regardless of on or off campus privileges.
- N. Fingernails
  1. Youth's fingernails will not be longer than their fingertips.
  2. Youth are not allowed to have artificial fingernails.
  3. Youth are not allowed to apply or have anyone apply artificial fingernails on visits

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regardless of on or off campus privileges.

- O. All religious services/activities are attended on a voluntary basis, subject only to the limitations necessary to maintain order and security.
- P. **Juveniles will have reasonable access to the general public through the communication media, subject only to the limitations necessary to maintain order and security and to protect the juvenile's rights. Media requests for interviews and juveniles/parents' consents are in writing. (4-JCF-3A-15)**
- Q. **An administrative review is provided for juveniles who have a change in programming, which includes a change to a more restrictive program. (4-JCF-3C-17)**
- R. YRTC-K shall maintain practices that ensure juveniles feel physically and emotionally safe, and are free from sexual harassment or abuse.
  - 1. If a juvenile feels physically or emotionally unsafe, they may speak privately to a staff member of their choice, including those staff members who are not immediate point-of-contact line staff members.
    - a. When a juvenile is requesting to see a staff member because of these concerns, they must indicate it is a priority.
  - 2. When staff members receive a report from a juvenile that they feel physically or emotionally unsafe, they will initiate immediate measures to ensure the juvenile's safety and alleviate his concerns pending an investigation.
- S. All juveniles and staff who report sexual abuse or sexual harassment or cooperate with investigations of sexual abuse or sexual harassment will be protected from retaliation by other juveniles or staff.
  - 1. The Facility Administrator/designee will monitor for any retaliation.
  - 2. Multiple protection measures for juveniles or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations will be initiated.
    - a. These measures may include, but are not limited to: housing changes for victims or abusers, removal of alleged staff or juvenile abusers from contact with victims, and emotional support services.
      - 1. Any housing changes to protect a juvenile who is alleged to have



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suffered sexual abuse shall be subject to the procedures in OM 301.1.6 "Classification." (115.368)

3. For at least 90 days following a report of sexual abuse, staff shall monitor the conduct or treatment of juveniles or staff who reported the sexual abuse and of juveniles who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by juveniles or staff and to act promptly to remedy any such retaliation.
    - a. Monitoring should be done through disciplinary reports, housing or program changes, periodic status checks, or reassignments of staff.
    - b. Monitoring shall continue beyond 90 days if the initial monitoring indicates a continuing need.
  4. If any other juvenile who cooperates with an investigation expresses a fear of retaliation, staff shall take appropriate measures to protect that juvenile against retaliation.
  5. Staff's obligation to monitor shall terminate if it is determined that the allegation is unfounded. (115.367)
- T. Juveniles may be subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the juvenile engaged in juvenile-on-juvenile sexual abuse or following a criminal finding of guilt for juvenile-on-juvenile sexual abuse.
1. Any disciplinary sanctions shall be commensurate with the nature and circumstances of the abuse committed, the juvenile's disciplinary history, and the sanctions imposed for comparable offenses by other juveniles with similar histories. In the event a disciplinary sanction results in confinement of a juvenile, they will receive:
    - a. Daily large-muscle exercise.
    - b. Educational programming or special education services.
    - c. Daily visits from a medical or mental health care clinician.
    - d. Other programming and work opportunities to the extent possible.
  2. The disciplinary process shall consider whether a juvenile's mental disabilities or mental illness contributed to their behavior when determining what type of discipline should be imposed.

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3. The juvenile may receive counseling, therapy, or other interventions designed to address and correct underlying reasons or motivations for the abuse.
  - a. Juveniles may be required to participate in such interventions as a condition to any rewards-based behavior management system or other behavior-based incentives, but not as a condition to access to general programming or education.

4. Juveniles may be disciplined for sexual contact with staff only upon finding that the staff member did not consent to such contact.

5. A report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

6. Sexual activity between juveniles is prohibited and juveniles will be disciplined for such activity; however, sexual activity will not constitute sexual abuse if it determines that the activity is not coerced. (115.378)

**U. A written grievance procedure shall be made available to all juveniles.**

1. The grievance procedure shall be reviewed on an annual basis to determine its efficiency and effectiveness.
2. This grievance procedure shall be incorporated in the Youth Handbook and made a part of the juvenile's orientation program.

**V. The following procedures will apply to grievances:**

1. When a juvenile files a grievance, it is his responsibility to secure the required Step I Grievance Form.
  - a. Grievance Forms are readily available in all living units and may be accessed without staff assistance. (4-JCF-3A-06)
2. The grievance must be filed within 20 days of the incident instigating the complaint. The grievance process will be considered commenced when the juvenile completes the section of the form titled, "Part A -Youth Request" and submits it in the locked Grievance box. The person receiving the form will sign and date the form immediately following receipt.

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3. An assigned staff member will conduct an investigation and communicate the result to the Facility Administrator/designee, including a proposed resolution of the grievance. The Facility Administrator/designee will review this information and forward a written response to the juvenile within 10 working days following receipt of the grievance. An explanation of the decision will be included in the response.
4. Should a juvenile not agree with the decision on the Step I grievance, they may file a Step 2 grievance with the Administrator of the OJS.
  - a. If an appeal is filed with the OJS Administrator, the necessary Step II Grievance Form Central Office Appeal must be submitted within 10 calendar days of the original Facility Administrator's response to the Step I Grievance.
  - b. The juvenile shall complete "Part A - Reason for Appeal" and may include additional information with or on the grievance form, which will also be submitted to the OJS Administrator.
  - c. A Step II Grievance shall be mailed in compliance with DHHS's rule governing privileged mail. The envelope shall be clearly marked to indicate it contains a grievance form.
  - d. The OJS Administrator shall complete the appropriate portion of the grievance form and return to the juvenile within 15 working days. The OJS Administrator may rely on the information contained in the original Facility Administrator investigation or conduct an additional investigation. The OJS Administrator is not bound by a previous decision to deny the relief suggested by the Facility Administrator.
5. Juveniles may communicate grievances or concerns to persons outside the Department, including the office of the Nebraska State Ombudsman at PO Box 94604, Room 807 State Capitol, Lincoln, NE 68509-4604, (800) 742-7690. Juveniles may also contact legislators, attorneys, courts or other appropriate individuals or groups.
6. Claims against the Department involving miscellaneous or tort claims for monetary damages may be filed pursuant to the State Tort Claims Act.
7. Juveniles will be permitted to circulate petitions for signatures as long as the petition does not violate or propose a violation of the facility's rules, state or federal law, or interfere with the security or good order of the facility.
  - a. Juveniles wanting to circulate a petition must ask staff the proper

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procedures for circulation.

- b. All completed petitions will be forwarded to the Facility Administrator/ designee for consideration.

**APPLICABLE ACA STANDARDS: 4-JCF-3A-01, 4-JCF-3A-03, 4-JCF-3A-04, 4-JCF-3A-05, 4-JCF-3A-06, 4-JCF-3A-15, 4-JCF-3B-03, 4-JCF-3C-17**

**APPLICABLE PREA STANDARDS: 115.367, 115.368, 115.378**



Paul Gordon  
Facility Administrator

4/14/20

Date



Mark LaBouchardiere  
Director, DHHS Facilities

4/15/2020

Date

Revised: April 3, 2020  
Revised: March 10, 2017  
Revised: December 1, 2016  
Revised: April 15, 2015

Summary of Revisions

April 3, 2020

- Changed to neutral gender language throughout OM
- Changed Youth Manual to Handbook throughout OM
- Procedures: C & D: Added ACA standards as they were non-applicable prior.
- Procedures K & L added
- Updated grievance procedures
- Updated signature lines

March 10, 2017

- Changed Facility Administrator signature line to Trevor Spiegel
- Changed Office of Juvenile Services Administrator signature line to Mark LaBouchardiere
- Changed Logo to reflect new DHHS Logo
- Changed Deputy Director to Administrator throughout
- Reformatted, reorganized, and revised entire OM to reflect current YRTC-K procedures

December 1, 2016

- Deleted "Jana Peterson and Tony Green" from signature line. Added "Mark LaBouchardiere and Doug

# NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES

Division of Children & Family Services  
Office of Juvenile Services

## Youth Rehabilitation & Treatment Center – Kearney OPERATIONAL MEMORANDUM

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Weinburg" to signature line.

- Revised summary of revisions newest to oldest
- Deleted Summary of revisions prior to 2011

### April 15, 2015

- Updated the Header
- Made changes to "Agency" and "facility" throughout to reflect DHHS / YRTC – K responsibility.
- Pg. 4, letter L subsection 4, removed "In the case of residents" as YRTC – K only houses residents – Juveniles.
- Pg. 5, letter L subsection 6, removed "the agency"
- Pg. 7, # 2 – Removed "to the Youth Security Supervisor (YSS)" replaced with "in the grievance box which are located throughout the facility".
- Pg. 7, # 3 – Removed "The YSS will then sign and date the form immediately following receipt." Replaced with "The grievances will be collected by the Youth Counselor Supervisor / LUM"