



NCCD Center for Girls and Young Women

Position Statement - Youth on Youth Sexual Contact

The NCCD Center for Girls and Young Women (The Center) has several concerns regarding the Florida Department of Juvenile Justice Central Communications Center (CCC) proposed new rule (right) which requires reporting of sexual contact. The Center supports all policies and practices that protect youth and ensures their safety, particularly from occurrences of sexual battery. It is of the utmost importance that youth in the justice system are not sexually abused or victimized by peers and/or staff. Likewise, it is imperative that juvenile justice programs document instances of sexual abuse and victimization. There needs to be better data on the sexual abuse and assaults that occur within facilities so we can accurately identify the scope of the problem and implement solutions.

Youth on Youth Sexual Contact: Current Florida Department of Juvenile Justice Language - (d) Youth on Youth Sexual Contact: Any alleged incident or event occurring in a department facility, juvenile assessment center, day treatment program, contracted facility, shelter, contracted site or program where **youths engage in sexual contact with one another**. Additionally, any alleged sex act which may constitute a form of sexual battery as defined in Section 794.011, Florida Statutes, occurring in a department facility, juvenile assessment center, day treatment program, contracted facility, shelter, contracted site, or program in which there is obvious injury or physical evidence to support the allegations will be reported regardless of the elapsed time. <https://www.flrules.org/gateway/readFile.asp?sid=2&tid=8564244&type=1&File=63F-11.001.htm>

The goal to keep youth safe and document incidents of abuse should be balanced with meeting their rehabilitation needs. These needs may include building healthy alliances within a caring and therapeutic environment, which is particularly important for girls. Currently, “sexual contact” must be reported but the term in the proposed language, “sexual contact” is not defined, which is extremely problematic. Moreover, most facilities have enacted “no touch” policies, which eliminate all forms of touch. **Instead, The Center supports careful and deliberate crafting of policies that (1) clearly define sexual contact and (2) differentiates harmful physical contact, including sexual contact, from nurturing and healthy contact.** We believe that without doing so, these policies can lead to several unintended negative consequences, which are outlined below:

Problem 1:

The term “sexual contact” is not defined.

- Ideas regarding what constitutes sexual contact may vary by staff, which leads to inconsistent practices. For example, girls are not allowed to do each other’s hair or nails in some facilities because some staff consider this sexual in nature¹. In a qualitative study, girls discussed their desire and frustrations regarding hugs in the milieu and staff perceptions regarding boundaries.¹
- Any touching between two youth could be interpreted as “sexual” by staff. Without clear guidelines, reporting can become arbitrary and not reflect the unwanted sexual behaviors intended.

Negative Consequences:

- Youth can be penalized and receive additional infractions due to touch that is not sexual because of overly broad categorizations
- Staff can be confused by the vague term and their responsibility in meeting reporting requirements

¹Richmond, P. A. (2006). Boundary realities from the wisdom of female youth in residential treatment. *Journal of Child and Youth Care Work*, 21. pp. 80-93.

Problem 2:

No-touch rules are not gender-responsive

- “No touch” rules do not take into consideration female adolescent development and the role of healthy relationships in girls’ lives.
 - Qualitative research shows that the most important topic discussed by girls in residential treatment was their need for healthy physical contact. The majority expressed the need to have emotional and physical (non-sexual) relationships with peers and staff¹.
 - In general, research suggests that deficits in physical contact can have negative effects on the development
- “No touch” rules are often developed out of fear and are reactionary
- “No touch” policies do not differentiate between nurturant and sexual touch

Negative Consequences:

- Youth will be denied opportunities to experience healthy boundaries with adults.
- Youth may experience confusion regarding which behaviors are considered sexual in nature.
- Girls (and boys) who have experienced abuse may have skewed perspectives regarding physical contact, and “no-touch” rules can add to confusion
- Staff may be conflicted regarding how to be supportive to youth but remain professional and abide by policies

Problem 3:

LGBTQ youth are overcharged with sex offenses²

- It is a reality that youth may engage in consensual same-sex sexual activity but often suffer more severe consequences from the legal and justice systems²
- Profound bias and damaging misconceptions of LGBTQ youth place them at risk of both being the victims of abuse and receiving additional charges while in facilities²

Negative Consequences:

- Youth are labeled as sexual offenders though behavior was consensual, which severely impacts future employment and life opportunities

In conclusion, The Center strongly recommends clearly defining *sexual contact* and revising “no touch” policies for youth in the juvenile justice system. This will ensure that data is accurate and truly reflects the sexual behaviors they were intended to capture. Re-examining “no touch” policies will be important to ensure that treatment needs are met and a safe and therapeutic environment is created.



² Majd, K., Marksamer, J., & Reyes, C. (2009). Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts. San Francisco, CA: The Equity Project.