

Sexual Abuse

”Sexual Abuse” means “an incident of conduct which would constitute an offense under RSA 632-A:2, RSA 632-A:3, or RSA 632-A:4, or a common law cause of action for assault or battery that involves sexual contact or sexual penetration as defined by RSA 632-A:1.” (RSA 21-M:11-a, I. (i))

To be compensable, sexual or physical abuse must have been perpetrated upon a Former YDC Resident by or at the behest of a member of the YDC staff. (RSA 21-M:11-a, I. (c))

“Former YDC Resident” means an individual who resided at YDC at any time. (RSA 21-M:11-a, I. (d))

“YDC” means the Youth Development Center, as identified in RSA chapter 621, or its renamed or successor entity, and any predecessor entity performing the function of housing adjudicated delinquent or pre-adjudication detained youth, including the State Industrial School, the Philbrook School, the Tobey Special Education School and the Youth Services Center. (RSA 21-M:11-a, I. (k))

For purposes of valuing claims, sexual abuse is divided into five categories in order of seriousness, with Category A being the most serious and Category E being the least serious:

Category	Description
A	Anal or Genital Rape (Sexual Penetration of the Anus or Genital Openings)
B	Oral Rape (Fellatio, Cunnilingus, Sexual Penetration of the Mouth)
C	Intimate Sexual Touching (Masturbation)
D	Other Touching (Groping)
E	Conduct Creating a Reasonable Apprehension of Sexual Touching or Sexual Penetration (Indecent Exposure, Lewdness, Violations of Privacy)

To the extent an incident of sexual abuse does not fit clearly within one of these five categories, the category which most closely resembles the incident in question should be used.

Sexual Abuse Category A—Anal or Genital Rape

This category is characterized by sexual penetration by the Actor of the anus or genital openings of the Claimant, or sexual penetration by the Claimant of the anus or genital openings of the Actor.

"**Actor**" means a staff member of YDC who had direct supervisory or disciplinary authority over the Claimant by virtue of the Claimant being incarcerated in YDC, or a juvenile probation and parole officer who had direct supervisory or disciplinary authority over the victim while the victim was on juvenile probation from YDC.

"**Genital openings**" means the internal or external genitalia including, but not limited to, the vagina, labia majora, labia minora, vulva, urethra or perineum.

Sexual penetration for purposes of Category A includes, but is not limited to, sexual intercourse and anal intercourse. "**Sexual penetration**" for purposes of Category A means:

(a) Any intrusion, however slight, of any part of the actor's body, including emissions, or any object manipulated by the actor into genital or anal openings of the Claimant's body;

(b) Any intrusion, however slight, of any part of the Claimant's body, including emissions, or any object manipulated by the Claimant into the genital, or anal openings of the actor's body; or

(c) When the actor through force, coercion or intimidation causes any part of another person's body to be utilized in place of the actor's in the manner described in (a) or (b).

"**Emissions**" include semen, urine, and feces.

"**Objects**" include animals as defined in RSA 644:8, II.

Sexual Abuse Category B—Oral Rape

This category is characterized by sexual penetration by the Actor of the oral opening (mouth) of the Claimant or sexual penetration by the Claimant of the oral opening (mouth) of the Actor.

The terms "**actor**," "**emissions**," and "**objects**" have the same meaning here as in Category A.

Sexual penetration for purposes of Category B includes, but is not limited to, fellatio and cunnilingus. "**Sexual penetration**" for purposes of Category B means:

(a) Any intrusion, however slight, of any part of the actor's body, including emissions, or any object manipulated by the actor into oral opening of the Claimant's body;

(b) Any intrusion, however slight, of any part of the Claimant's body, including emissions, or any object manipulated by the Claimant into the oral opening of the actor's body; or

(c) When the actor through force, coercion or intimidation causes any part of another person's body to be utilized in place of the actor's in the manner described in (a) or (b).

Sexual Abuse Category C—Intimate Sexual Touching

This category is characterized by intimate sexual contact between the Actor and the Claimant which does not involve sexual penetration as defined in Categories A and B.

The term “**actor**,” has the same meaning here as in Category A.

Sexual contact for purposes of Category C includes, but is not limited to, masturbation. “**Sexual contact**” for purposes of Category C means the intentional touching, directly, through clothing, or otherwise, of the Claimant's or Actor's sexual or intimate parts, including emissions, tongue, anus, breasts, and buttocks. Sexual contact includes only that aforementioned conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification or the humiliation of the person being touched. Sexual contact may include touching by the Claimant of his or her own sexual or intimate parts, if done at the behest of the Actor.

Sexual Abuse Category D—Other Touching

This category is characterized by touching of the Claimant by the Actor for the purpose of sexual arousal or gratification of the Actor which does not involve sexual penetration as defined in Categories A and B or sexual contact as defined in Category C.

The term “**actor**,” has the same meaning here as in Category A.

“Other touching” is synonymous with “groping.”

“**Groping**” means the intentional touching whether directly, through clothing, or otherwise, of the Claimant's sexual or intimate parts, including emissions, tongue, anus, breasts, and buttocks, by the Actor under circumstances that can be reasonably construed as being for the purpose of sexual arousal or gratification of the Actor. Groping does not include touching of the Claimant's sexual or intimate parts for another legitimate purpose, such as for purposes of medical care; or touching of the Claimant's sexual or intimate parts that is accidental or is incidental to justified touching of the Claimant in the interests of the safety of the Claimant or others, or the security of the

facility or the preservation of order and discipline.

Sexual Abuse Category E-- Conduct Creating a Reasonable Apprehension of Sexual Touching or Sexual Penetration

This category is characterized by conduct that involves no touching, but which causes Claimant to reasonably fear an imminent danger of touching or sexual penetration.

The term “**actor**,” has the same meaning here as in Category A.

The terms “sexual penetration” and “sexual contact” shall here include any of the meanings of those terms contained in Categories A-C.

Conduct which satisfies the conditions of Category E includes, but is not limited to, Indecent Exposure, Lewdness and Violations of Privacy.

“**Indecent Exposure**” and/or “**lewdness**” occur when an Actor, for the purpose of the Actor’s sexual gratification or arousal:

(a) purposely fornicates, exposes his or her genitals, or performs any other act of gross lewdness knowing that the Claimant is present; or

(b) purposely performs any act of sexual penetration or sexual contact on himself or herself or another in the presence of Claimant; or

(c) transmits to Claimant an image of himself or herself fornicating, exposing his or her genitals, or performing any other act of gross lewdness.

A “**violation of privacy**” for purposes of Category E occurs when an Actor:

(a) for the purpose of sexual gratification or arousal installs or uses any device for the purpose of observing, photographing, recording, amplifying, broadcasting, or in any way transmitting images or sounds of the private body parts of Claimant including the genitalia, buttocks, or female breasts, or a Claimant's body underneath that person's clothing; or

(b) for the purpose of arousing or gratifying his or her sexual desire, knowingly views the private body parts of Claimant including the genitalia, buttocks, or female breasts, with or without the Claimant’s knowledge.

“Views” as used here, means looking at another person with the unaided eye or any device intended to improve visual acuity.

A violation of privacy does not occur when installation or use of a device as described in (a) is done for another legitimate purpose, such as for purposes of medical care; or in

the interests of the safety of the Claimant or others, or the security of the facility or the preservation of order and discipline.

A violation of privacy also does not occur when viewing as described in (b) occurs accidentally, or for another legitimate purpose, such as for purposes of medical care or in the interests of the safety of the Claimant or others, or the security of the facility or the preservation of order and discipline, or to obtain evidence of suspected illegal activity, the suspected violation of any administrative rule or regulation, or any other suspected pattern or practice by the Claimant or others, potentially adversely affecting safety of the Claimant or others or the security of the facility or the preservation of order and discipline.