

## **Attachment D1. Boys and Girls Home Performance Measures and Penalties**

### **Penalties**

Subcontractor acknowledges that the State Contract permits NDHHS to assess monetary penalties in instances when Boys and Girls Home, a Boys and Girls Home employee, or a Boys and Girls Home Subcontractor has failed to perform in a prescribed manner. The NDHHS assessment process is described in the State Contract. NDHHS may assess monetary penalties within the following ranges for the following infractions which could be caused by Boys and Girls Home, a Boys and Girls Home employee, or a Boys and Girls Home Subcontractor (including the Subcontractor's employee):

1. Failure to report an instance of suspected abuse that results in an employee of Boys and Girls Home or the Subcontractor being criminally charged and convicted for "failure to report"-
  - Penalty Range: \$5,000 to \$25,000 per instance
  - This penalty will be applied on an incident basis.
  
2. An egregious act or omission which causes a child to be unsafe as determine by a law enforcement agency or by NDHHS's application of the NSIS "Out of Home Safety Assessment".
  - Penalty Range: \$5,000 to \$25,000
  - This penalty will be applied on an incident basis.
  
3. An act or omission which causes a scheduled visit between the child and a parent/caregiver or which causes a child or one or more children to be left out of a planed or court ordered visit.
  - Penalty Range: \$1,000 to \$15,000 per visit
  - This penalty will be applied on an incident basis

Boys and Girls Home will be responsible for paying the entire amount of any penalties assess and imposed by NDHHS because of a failure to report or an act or omission by an employee of Boys and Girls Home. Subcontractors will be responsible for paying the costs of providing legal representation or defense for any of Subcontractor's employees accused of a failure to report or an act or omission for which NDHHS intends to assess a penalty. Nothing in this section shall require Boys and Girls Home to pay any other assessment, penalty, charge, or claim against Subcontractor by any person or entity for any error, omission, or any act or failure to act by an employee of the Subcontractor. If a determination is made that Subcontractor did not report an incidence of suspected child abuse and neglect, a penalty will be assessed to the Subcontractor. Any penalty assessed will be deducted from the next payment made to the Subcontractor. Upon conclusion of any criminal court action, if the employee is convicted under the statute, Subcontractor's funds will be permanently forfeited to Boys and Girls Home otherwise, payment will be released.