

**DOJ/NPREC Comparison (Juvenile Facilities)**

<b>Department of Justice</b>	<b>National Prison Rape Elimination Commission</b>
<b>Prevention Planning</b>	<b>I. Prevention and Response Planning</b>
<p><b>§ 115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.</b></p> <p>(a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency’s approach to preventing, detecting, and responding to such conduct.</p> <p>(b) An agency shall employ or designate an upper-level agency-wide PREA coordinator to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.</p> <p>(c) The PREA coordinator shall be a full-time position in all agencies that operate facilities whose total rated capacity exceeds 1000 residents, but may be designated as a part-time position in agencies whose total rated capacity does not exceed 1000 residents.</p> <p>(d) An agency whose facilities have a total rated capacity exceeding 1000 residents shall also designate a PREA coordinator for each facility, who may be full-time or part-time.</p>	<p><b>PP1: Zero tolerance of sexual abuse</b></p> <p>The agency has a written policy mandating zero tolerance toward all forms of sexual abuse and enforces that policy by ensuring all of its facilities comply with the PREA standards. The agency employs or designates a PREA coordinator to develop, implement, and oversee agency efforts to comply with the PREA standards.</p>
<p><b>§ 115.312 Contracting with other entities for the confinement of residents.</b></p> <p>(a) A public agency that contracts for the confinement of its residents with private agencies or other entities, including other government agencies, shall include in any new contracts or contract renewals the entity’s obligation to adopt and comply with the PREA standards.</p> <p>(b) Any new contracts or contract renewals shall provide for agency contract monitoring to ensure that the contractor is complying with PREA standards.</p>	<p><b>PP2: Contracting with facilities for the confinement of residents</b></p> <p>If public juvenile justice agencies contract for the confinement of their residents, they do so only with private agencies or other entities, including other government agencies, committed to eliminating sexual abuse in their facilities, as evidenced by their adoption of and compliance with the PREA standards. Any new contracts or contract renewals include the entity’s obligation to adopt and comply with the PREA standards and specify that the agency will monitor the entity’s compliance with these standards as part of its general monitoring of the entity’s performance.</p>
<p><b>§ 115.313 Supervision and monitoring.</b></p> <p>(a) For each facility, the agency shall determine the adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating such levels, agencies shall take into consideration the physical layout of each facility, the composition of the resident population, and any other relevant factors.</p> <p>(b) The facility shall also establish a plan for how to conduct staffing and, where applicable, video monitoring, in circumstances where the levels established in paragraph (a) of this section are not attained.</p> <p>(c) Each year, the facility shall assess, and determine whether adjustments are needed to:</p> <ol style="list-style-type: none"> <li>(1) The staffing levels established pursuant to paragraph (a) of this section;</li> <li>(2) Prevailing staffing patterns; and</li> <li>(3) The agency’s deployment of video monitoring systems and other technologies.</li> </ol> <p>(d) Each secure facility shall implement a policy and practice of having intermediate</p>	<p><b>PP3: Resident supervision</b></p> <p>Direct care staff provides the resident supervision necessary to protect residents from sexual abuse. The facility administrators and supervisors responsible for reviewing critical incidents must examine areas in the facility where sexual abuse has occurred to assess whether there are any physical barriers that may have enabled the abuse, the adequacy of staffing levels during different shifts, and the need for monitoring technology to supplement direct care staff supervision (DC-1). When problems or needs are identified, facility administrators and supervisors take corrective action (DC-3).</p> <p><b>PP7: Assessment and use of monitoring technology</b></p> <p>The agency uses video monitoring systems and other cost-effective and appropriate technology to supplement its sexual abuse prevention, detection, and response efforts. The agency assesses, at least annually, the feasibility of and need for new or additional monitoring technology and develops a plan for securing such technology.</p>

<p>level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts.</p>	
<p><b>§ 115.314 Limits to cross-gender viewing and searches.</b>  <b>(a)</b> The facility shall not conduct cross-gender strip searches or visual body cavity searches except in case of emergency or when performed by medical practitioners.  <b>(b)</b> The facility shall document all such cross-gender searches.  <b>(c)</b> The facility shall implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in the case of emergency, by accident, or when such viewing is incidental to routine cell checks.  <b>(d)</b> The facility shall not examine a transgender resident to determine the resident’s genital status unless the resident’s genital status is unknown. Such examination shall be conducted in private by a medical practitioner.  <b>(e)</b> The agency shall not conduct cross-gender pat-down searches except in the case of emergency or other unforeseen circumstances. Any such search shall be documented and justified.  <b>(f)</b> The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.</p>	<p><b>PP4: Limits to cross-gender viewing and searches</b>          Except in the case of emergency, the facility prohibits cross-gender strip and visual body cavity searches. Except in the case of emergency or other extraordinary or unforeseen circumstances, the facility restricts nonmedical staff from viewing residents of the opposite gender who are nude or performing bodily functions and similarly restricts cross-gender pat-down searches. Medical practitioners conduct examinations of transgender individuals to determine their genital status only in private settings and only when an individual’s genital status is unknown.</p>
<p><b>§ 115.315 Accommodating residents with special needs.</b>  <b>(a)</b> The agency shall ensure that residents who are limited English proficient, deaf, or disabled are able to report sexual abuse and sexual harassment to staff directly or through other established reporting mechanisms, such as abuse hotlines, without relying on resident interpreters, absent exigent circumstances.  <b>(b)</b> The agency shall make accommodations to convey verbally all written information about sexual abuse policies, including how to report sexual abuse and sexual harassment, to residents who have limited reading skills or who are visually impaired.</p>	<p><b>PP5: Accommodating residents with special needs</b>          The agency ensures that residents who are limited English proficient (LEP), deaf, or disabled are able to report sexual abuse to staff directly, through interpretive technology, or through non-resident interpreters. Accommodations are made to convey all written information about sexual abuse policies, including how to report sexual abuse, verbally to residents who have limited reading skills or who are visually impaired.</p>
<p><b>§ 115.316 Hiring and promotion decisions.</b>  <b>(a)</b> The agency shall not hire or promote anyone who has engaged in sexual abuse in an institutional setting; who has been convicted of engaging in sexual activity in the community facilitated by force, the threat of force, or coercion; or who has been civilly or administratively adjudicated to have engaged in such activity.  <b>(b)</b> Before hiring new employees, the agency shall:              <b>(1)</b> Perform a criminal background check; and              <b>(2)</b> Consistent with Federal, State, and local law, make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse.  <b>(c)</b> The agency shall either conduct criminal background checks of current employees at least every five years or have in place a system for otherwise capturing such information for current employees.  <b>(d)</b> The agency shall also ask all applicants and employees directly about previous</p>	<p><b>PP6: Hiring and promotion decisions</b>          The agency does not hire or promote anyone who has engaged in sexual abuse in an institutional setting or who has engaged in sexual activity in the community facilitated by force, the threat of force, or coercion. Consistent with Federal, State, and local law, the agency makes its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse; must run criminal background checks for all applicants and employees being considered for promotion; and must examine and carefully weigh any history of criminal activity at work or in the community, including convictions for domestic violence, stalking, child abuse and sex offenses. The agency also asks all applicants and employees directly about previous misconduct during interviews and reviews.</p>

<p>misconduct in written applications for hiring or promotions, in interviews for hiring or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees.</p> <p>(e) Material omissions, or the provision of materially false information, shall be grounds for termination.</p> <p>(f) Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.</p>	
<p><b>§ 115.317 Upgrades to facilities and technologies.</b></p> <p>(a) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency’s ability to protect residents from sexual abuse.</p> <p>(b) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency’s ability to protect residents from sexual abuse.</p>	
<p><b><i>Responsive Planning</i></b></p>	<p><b><i>Response Planning (RP)</i></b></p>
<p><b>§ 115.321 Evidence protocol and forensic medical exams.</b></p> <p>(a) To the extent the agency is responsible for investigating allegations of sexual abuse, the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.</p> <p>(b) The protocol shall be adapted from or otherwise based on the 2004 U.S. Department of Justice’s Office on Violence Against Women publication “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” subsequent updated editions, or similarly comprehensive and authoritative protocols developed after 2010.</p> <p>(c) The agency shall offer all residents who experience sexual abuse access to forensic medical exams performed by qualified medical practitioners, whether onsite or at an outside facility, without financial cost, where evidentiarily or medically appropriate.</p> <p>(d) The agency shall make available to the victim a qualified staff member or a victim advocate from a community-based organization that provides services to sexual abuse victims.</p> <p>(e) As requested by the victim, the qualified staff member or victim advocate shall accompany and support the victim through the forensic medical exam process and the investigatory process and shall provide emotional support, crisis intervention, information, and referrals.</p> <p>(f) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall inform the investigating entity of these policies.</p> <p>(g) The requirements of paragraphs (a) through (f) of this section shall also apply to:</p> <p style="padding-left: 20px;">(1) Any State entity outside of the agency that is responsible for investigating</p>	<p><b>RP1: Evidence protocol and forensic medical exams</b></p> <p>The agency follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol must be adapted from or otherwise based on the 2004 U.S. Department of Justice’s Office on Violence Against Women publication “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” subsequent updated editions, or similarly comprehensive and authoritative protocols developed after 2004. As part of the agency’s evidence collection protocol, all victims of resident-on-resident sexually abusive penetration or staff-on-resident sexually abusive penetration are provided access to forensic medical exams performed by qualified forensic medical examiners who are trained in the unique psychological and emotional conditions of younger victims of sexual abuse. Forensic medical exams are provided free of charge to the victim. The facility makes available a victim advocate to accompany the victim through the forensic medical exam process.</p>

<p>allegations of sexual abuse in institutional settings; and  <b>(2)</b> Any Department of Justice component that is responsible for investigating allegations of sexual abuse in institutional settings.  <b>(h)</b> For the purposes of this standard, a qualified staff member shall be an individual who is employed by a facility and has received education concerning sexual assault and forensic examination issues in general.</p>	
<p><b>§ 115.322 Agreements with outside public entities and community service providers.</b>  <b>(a)</b> The agency shall maintain or attempt to enter into memoranda of understanding or other agreements with an outside public entity or office that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials pursuant to § 115.351, unless the agency enables residents to make such reports to an internal entity that is operationally independent from the agency’s chain of command, such as an inspector general or ombudsperson who reports directly to the agency head.  <b>(b)</b> The agency also shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide residents with emotional support services related to sexual abuse, including helping resident sexual abuse victims during community re-entry, unless the agency is legally required to provide such services to all residents.  <b>(c)</b> The agency shall maintain copies of agreements or documentation showing attempts to enter into agreements.</p>	<p><b>Agreements with outside public entities and community service providers</b>  The agency maintains or attempts to enter into memoranda of understanding (MOUs) or other agreements with an outside public entity or office that is able to receive and immediately forward resident reports of sexual abuse to facility heads (RE-1). The agency also maintains or attempts to enter into MOUs or other agreements with community service providers that are able to: (1) provide residents with emotional support services related to sexual abuse and (2) help victims of sexual abuse during their transition from incarceration to the community (RE-3, MM-3). The agency maintains copies of agreements or documentation showing attempts to enter into agreements.</p>
<p><b>§ 115.323 Policies to ensure investigation of allegations.</b>  <b>(a)</b> The agency shall have in place a policy to ensure that allegations of sexual abuse or sexual harassment are investigated by an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior, and shall publish such policy on its website.  <b>(b)</b> If a separate entity is responsible for conducting criminal investigations, such website publication shall describe the responsibilities of both the agency and the investigating entity.  <b>(c)</b> Any State entity responsible for conducting criminal or administrative investigations of sexual abuse in juvenile facilities shall have in place a policy governing the conduct of such investigations.  <b>(d)</b> Any Department of Justice component responsible for conducting criminal or administrative investigations of sexual abuse in juvenile facilities shall have in place a policy governing the conduct of such investigations.</p>	<p><b>RP3: Agreements with outside law enforcement agencies</b>  If an agency does not have the legal authority to conduct criminal investigations or has elected to permit an outside agency to conduct criminal or administrative investigations of staff or residents, the agency maintains or attempts to enter into a written MOU or other agreement specific to investigations of sexual abuse with the law enforcement agency responsible for conducting investigations. The agency also maintains or attempts to enter into an MOU with the designated State or local services agency with the jurisdiction and authority to conduct investigations related to the sexual abuse of children within confinement facilities. When the agency already has an existing agreement or long-standing policy covering responsibilities for all criminal investigations, including sexual abuse investigations and child abuse investigations conducted by a designated State or local services agency, it does not need to enter into new agreements. The agency maintains copies of its agreements or documentation showing attempts to enter into agreements.</p>

	<p><b>RP4: Agreements with the prosecuting authority</b>                  The agency maintains or attempts to enter into a written MOU or other agreement with the authority responsible for prosecuting violations of criminal law. The agency maintains a copy of the agreement or documentation showing attempts to enter into an agreement.</p>
<p><b>Training and Education</b></p>	<p><b>Training and Education (TR)</b></p>
<p><b>§ 115.331 Employee training.</b>                  (a) The agency shall train all employees who may have contact with residents on:                  (1) Its zero-tolerance policy for sexual abuse and sexual harassment;                  (2) How to fulfill their responsibilities under agency sexual abuse prevention, detection, reporting, and response policies and procedures;                  (3) Residents’ right to be free from sexual abuse and sexual harassment;                  (4) The right of residents and employees to be free from retaliation for reporting sexual abuse;                  (5) The dynamics of sexual abuse in juvenile facilities;                  (6) The common reactions of juvenile victims of sexual abuse;                  (7) How to detect and respond to signs of threatened and actual sexual abuse;                  (8) How to avoid inappropriate relationships with residents;                  (9) How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, or intersex residents; and                  (10) Relevant laws related to mandatory reporting.                  (b) Such training shall be tailored to the unique needs and attributes of residents of juvenile facilities.                  (c) All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the agency shall provide annual refresher information to all employees to ensure that they know the agency’s current sexual abuse policies and procedures.                  (d) The agency shall document, via employee signature or electronic verification, that employees understand the training they have received.</p>	<p><b>TR1: Employee training</b>                  The agency trains all employees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and under relevant Federal, State, and local law. The agency trains all employees to communicate effectively and professionally with all residents. Additionally, the agency trains all employees on a resident’s right to be free from sexual abuse, the right of residents and employees to be free from retaliation for reporting sexual abuse, the dynamics of sexual abuse in confinement, and the common reactions of sexual abuse victims. Current employees are educated as soon as possible following the agency’s adoption of the PREA standards, and the agency provides periodic refresher information to all employees to ensure that they know the agency’s most current sexual abuse policies and procedures. The agency maintains written documentation showing employee signatures verifying that employees understand the training they have received.</p>
<p><b>§ 115.332 Volunteer and contractor training.</b>                  (a) The agency shall ensure that all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency’s sexual abuse prevention, detection, and response policies and procedures.                  (b) The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents shall be notified of the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report sexual abuse.</p>	<p><b>TR2: Volunteer and contractor training</b>                  The agency ensures that all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency’s sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and relevant Federal, State, and local law. The level and type of training provided to volunteers and contractors is based on the services they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents must be notified of the agency’s zero-tolerance policy regarding sexual abuse. Volunteers must also be trained in how to report sexual abuse. The agency maintains written</p>

<p>(c) The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.</p>	<p>documentation showing volunteer and contractor signatures verifying that they understand the training they have received.</p>
<p><b>§ 115.333 Resident education.</b>  <b>(a)</b> During the intake process, staff shall inform residents in an age-appropriate fashion of the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.  <b>(b)</b> Within 30 days of intake, the agency shall provide comprehensive age-appropriate education to residents either in person or via video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such abuse or harassment, and regarding agency sexual abuse response policies and procedures.  <b>(c)</b> Current residents who have not received such education shall be educated within one year of the effective date of the PREA standards, and the agency shall provide refresher information to all residents at least annually and whenever a resident is transferred to a different facility, to ensure that they know the agency’s current sexual abuse policies and procedures.  <b>(d)</b> The agency shall provide resident education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to residents who have limited reading skills.  <b>(e)</b> The agency shall maintain documentation of resident participation in these education sessions.  <b>(f)</b> In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.</p>	<p><b>TR3: Resident education</b>  During the intake process, staff informs residents of the agency’s zero-tolerance policy regarding sexual abuse and how to report incidents or suspicions of sexual abuse in an age-appropriate fashion. Within a reasonably brief period of time following the intake process, the agency provides comprehensive, age-appropriate education to residents regarding their right to be free from sexual abuse and to be free from retaliation for reporting abuse, the dynamics of sexual abuse in confinement, the common reactions of sexual abuse victims, and agency sexual abuse response policies and procedures. Current residents are educated as soon as possible following the agency’s adoption of the PREA standards, and the agency provides periodic refresher information to all residents to ensure that they know the agency’s most current sexual abuse policies and procedures. The agency provides resident education in formats accessible to all residents, including those who are LEP, deaf, visually impaired, or otherwise disabled as well as inmates who have limited reading skills. The agency maintains written documentation of resident participation in these education sessions.</p>
<p><b>§ 115.334 Specialized training: investigations.</b>  <b>(a)</b> In addition to the general training provided to all employees pursuant to § 115.331, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.  <b>(b)</b> Specialized training shall include techniques for interviewing juvenile sexual abuse victims, proper use of <i>Miranda</i> and <i>Garrity</i> warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.  <b>(c)</b> The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.  <b>(d)</b> Any State entity or Department of Justice component that investigates sexual abuse in juvenile confinement settings shall provide such training to its agents and investigators who conduct such investigations</p>	<p><b>TR4: Specialized training: Investigations</b>  In addition to the general training provided to all employees (TR-1), the agency ensures that agency investigators conducting sexual abuse investigations have received comprehensive and up-to-date training in conducting such investigations in confinement settings. Specialized training must include techniques for interviewing young sexual abuse victims, proper use of <i>Miranda</i>- and <i>Garrity</i>-type warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The agency maintains written documentation that investigators have completed the required specialized training in conducting sexual abuse investigations.</p>
<p><b>§ 115.335 Specialized training: medical and mental health care.</b>  <b>(a)</b> The agency shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:  <b>(1)</b> How to detect and assess signs of sexual abuse;</p>	<p><b>TR5: Specialized training: Medical and mental health care</b>  The agency ensures that all full- and part-time medical and mental health care practitioners working in its facilities have been trained in how to detect and assess signs of sexual abuse and that all medical practitioners are trained in how to preserve physical</p>

<p>(2) How to preserve physical evidence of sexual abuse;</p> <p>(3) How to respond effectively and professionally to juvenile victims of sexual abuse; and</p> <p>(4) How and to whom to report allegations or suspicions of sexual abuse.</p> <p>(b) If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.</p> <p>(c) The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere.</p>	<p>evidence of sexual abuse. All medical and mental health care practitioners must be trained in how to respond effectively and professionally to young victims of sexual abuse and how and to whom to report allegations or suspicions of sexual abuse. The agency maintains documentation that medical and mental health practitioners have received this specialized training.</p>
<p><b>Screening for Risk of Sexual Victimization and Abusiveness</b></p>	<p><b>Screening for Risk of Sexual Victimization and Abusiveness (SC)</b></p>
<p><b>§ 115.341 Obtaining information from residents.</b></p> <p>(a) During the intake process and periodically throughout a resident’s confinement, the agency shall obtain and use information about each resident’s personal history and behavior to reduce the risk of sexual abuse by or upon a resident.</p> <p>(b) Such assessment shall be conducted using an objective screening instrument, blank copies of which shall be made available to the public upon request.</p> <p>(c) At a minimum, the agency shall attempt to ascertain information about:</p> <ol style="list-style-type: none"> <li>(1) Prior sexual victimization or abusiveness;</li> <li>(2) Sexual orientation, transgender, or intersex status;</li> <li>(3) Current charges and offense history;</li> <li>(4) Age;</li> <li>(5) Level of emotional and cognitive development;</li> <li>(6) Physical size and stature;</li> <li>(7) Mental illness or mental disabilities;</li> <li>(8) Intellectual or developmental disabilities;</li> <li>(9) Physical disabilities;</li> <li>(10) The resident’s own perception of vulnerability; and</li> <li>(11) Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.</li> </ol> <p>(d) This information shall be ascertained through conversations with residents during the intake process and medical and mental health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the residents’ files.</p> <p>(e) The agency shall implement appropriate controls on the dissemination of responses to screening questions within the facility in order to ensure that sensitive information is not exploited to the resident’s detriment by staff or other residents.</p>	<p><b>AP1: Obtaining information about residents</b></p> <p>During intake and periodically throughout a resident’s confinement, employees obtain and use information about each resident’s personal history and behavior to keep all residents safe and free from sexual abuse. At a minimum, employees attempt to ascertain information about prior sexual victimization or abusiveness; sexual orientation and gender identity; current charges and offense history; age; level of emotional and cognitive development; physical size/stature; mental illness or mental disabilities; intellectual/developmental disabilities; physical disabilities; and any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents. This information may be ascertained through conversations with residents at intake and medical and mental health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the residents’ files. Medical and mental health practitioners are the only staff permitted to talk with residents to gather information about their sexual orientation or gender identity, prior sexual victimization, history of engaging in sexual abuse, mental health status, and mental or physical disabilities. If the facility does not have medical or mental health practitioners available, residents are given an opportunity to discuss any safety concerns or sensitive issues privately with another employee.</p>
<p><b>§ 115.342 Placement of residents in housing, bed, program, education, and work assignments.</b></p> <p>(a) The agency shall use all information obtained about the resident during the intake process and subsequently to make placement decisions for each resident based upon the objective screening instrument with the goal of keeping all residents safe and free</p>	<p><b>AP2: Placement of residents in housing, bed, program, education, and work assignments</b></p> <p>Employees use all information obtained about the resident at intake and subsequently to make placement decisions for each resident on an individualized basis with the goal of keeping all residents safe and free from sexual abuse. When determining housing, bed,</p>

<p>from sexual abuse.</p> <p><b>(b)</b> When determining housing, bed, program, education and work assignments for residents, the agency must take into account:</p> <ol style="list-style-type: none"> <li><b>(1)</b> A resident’s age;</li> <li><b>(2)</b> The nature of his or her offense;</li> <li><b>(3)</b> Any mental or physical disability or mental illness;</li> <li><b>(4)</b> Any history of sexual victimization or engaging in sexual abuse;</li> <li><b>(5)</b> His or her level of emotional and cognitive development;</li> <li><b>(6)</b> His or her identification as lesbian, gay, bisexual, transgender, or intersex; and</li> <li><b>(7)</b> Any other information obtained about the resident pursuant to § 115.341.</li> </ol> <p><b>(c)</b> Residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged.</p> <p><b>(d)</b> Lesbian, gay, bisexual, transgender, or intersex residents shall not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status.</p> <p><b>(e)</b> The agency shall make an individualized determination about whether a transgender resident should be housed with males or with females.</p>	<p>program, education and work assignments for residents, employees must take into account a resident’s age; the nature of his or her offense; any mental or physical disability or mental illness; any history of sexual victimization or engaging in sexual abuse; his or her level of emotional and cognitive development; his or her identification as lesbian, gay, bisexual, or transgender; and any other information obtained about the resident (AP-1). Residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged.</p>
<p><b>Reporting</b></p>	<p><b>Reporting (RE)</b></p>
<p><b>§ 115.351 Resident reporting.</b></p> <p><b>(a)</b> The agency shall provide multiple internal ways for residents to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse.</p> <p><b>(b)</b> Pursuant to § 115.322, the agency shall also make its best efforts to provide at least one way for residents to report abuse or harassment to an outside governmental entity that is not affiliated with the agency or that is operationally independent from agency leadership, such as an inspector general or ombudsperson, and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials.</p> <p><b>(c)</b> Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.</p> <p><b>(d)</b> The facility shall provide residents with access to tools necessary to make a written report.</p> <p><b>(e)</b> The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of residents.</p>	<p><b>(RE1)</b> <b>Resident reporting</b></p> <p>The facility provides multiple internal ways for residents to report easily, privately, and securely sexual abuse, retaliation by other residents or staff for reporting sexual abuse, and staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse. The facility also provides at least one way for residents to report the abuse to an outside public entity or office not affiliated with the agency that has agreed to receive reports and forward them to the facility head (RP-3). Staff accepts reports made verbally, in writing, anonymously, and from third parties and immediately puts into writing any verbal reports.</p>
<p><b>§ 115.352 Exhaustion of administrative remedies.</b></p> <p><b>(a)(1)</b> The agency shall provide a resident a minimum of 20 days following the occurrence of an alleged incident of sexual abuse to file a grievance regarding such incident.</p> <p><b>(2)</b> The agency shall grant an extension of no less than 90 days from the deadline for filing such a grievance when the resident provides documentation, such as from a</p>	<p><b>RE2: Exhaustion of administrative remedies</b></p> <p>Under agency policy, a resident has exhausted his or her administrative remedies with regard to a claim of sexual abuse either (1) when the agency makes a final decision on the merits of the report of abuse (regardless of whether the report was made by the resident, made by a third party, or forwarded from an outside official or office) or (2) when 90 days have passed since the report was made, whichever occurs sooner. A report</p>

medical or mental health provider or counselor, that filing a grievance within the normal time limit was or would likely be impractical, whether due to physical or psychological trauma arising out of an incident of sexual abuse, the resident having been held for periods of time outside of the facility, or other circumstances indicating impracticality. Such an extension shall be afforded retroactively to a resident whose grievance is filed subsequent to the normal filing deadline.

**(b)(1)** The agency shall issue a final agency decision on the merits of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.

**(2)** Computation of the 90-day time period shall not include time consumed by residents in appealing any adverse ruling.

**(3)** An agency may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision.

**(4)** The agency shall notify the resident in writing of any such extension and provide a date by which a decision will be made.

**(c)(1)** Whenever an agency is notified of an allegation that a resident has been sexually abused, other than by notification from another resident, it shall consider such notification as a grievance or request for informal resolution submitted on behalf of the alleged resident victim for purposes of initiating the agency administrative remedy process.

**(2)** The agency shall inform the alleged victim that a grievance or request for informal resolution has been submitted on his or her behalf and shall process it under the agency's normal procedures unless the alleged victim expressly requests that it not be processed. The agency shall document any such request.

**(3)** The agency may require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

**(4)** The agency shall also establish procedures to allow the parent or legal guardian of a juvenile to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile.

**(d)(1)** An agency shall establish procedures for the filing of an emergency grievance where a resident is subject to a substantial risk of imminent sexual abuse.

**(2)** After receiving such an emergency grievance, the agency shall immediately forward it to a level of review at which corrective action may be taken, provide an initial response within 48 hours, and a final agency decision within five calendar days.

**(3)** The agency may opt not to take such actions if it determines that no emergency exists, in which case it may either:

- (i)** Process the grievance as a normal grievance; or
- (ii)** Return the grievance to the resident, and require the resident to follow the agency's normal grievance procedures.

**(4)** The agency shall provide a written explanation of why the grievance does not qualify as an emergency.

**(5)** An agency may discipline a resident for intentionally filing an emergency grievance where no emergency exists.

of sexual abuse triggers the 90-day exhaustion period regardless of the length of time that has passed between the abuse and the report. A resident seeking immediate protection from imminent sexual abuse will be deemed to have exhausted his or her administrative remedies 48 hours after notifying any agency staff member of his or her need for protection.

<p><b>§ 115.353 Resident access to outside support services and legal representation.</b>  <b>(a)</b> In addition to providing onsite mental health care services, the facility shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse, by providing, posting, or otherwise making accessible mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and by enabling reasonable communication between residents and these organizations, as confidential as possible, consistent with agency security needs and with applicable law.  <b>(b)</b> The facility shall inform residents, prior to giving them access, of the extent to which such communications will be monitored.  <b>(c)</b> The facility shall also provide residents with reasonable and confidential access to their attorney or other legal representation and reasonable access to parents or legal guardians.</p>	<p><b>RE3: Resident access to outside support services and legal representation</b>  In addition to providing on-site mental health care services, the facility provides residents with access to outside victim advocates for emotional support services related to sexual abuse. The facility provides such access by giving residents the current mailing addresses and telephone numbers, including toll-free hotline numbers, of local, State, and/or national victim advocacy or rape crisis organizations and enabling reasonable communication between residents and these organizations. The facility ensures that communications with such advocates is private, to the extent allowable by Federal, State, and local law. The facility informs residents, prior to giving them access, of the extent to which such communications will be private, confidential, and/or privileged. The facility also provides residents with unimpeded access to their attorney or other legal representation and their families.</p>
<p><b>§ 115.354 Third-party reporting.</b>  The facility shall establish a method to receive third-party reports of sexual abuse. The facility shall distribute publicly, including to residents’ attorneys and parents or legal guardians, information on how to report sexual abuse on behalf of a resident.</p>	<p><b>RE4: Third-party reporting</b>  The facility receives and investigates all third-party reports of sexual abuse and refers all third-party reports of abuse to the designated State or local services agency with the authority to conduct investigations into allegations of sexual abuse involving child victims (IN-1 and RP-4). At the conclusion of the investigation, the facility notifies in writing the third-party individual who reported the abuse and the resident named in the third-party report of the outcome of the investigation. The facility distributes information on how to report sexual abuse on behalf of a resident to residents’ parents or legal guardians, attorneys, and the public.</p>
<p><b><i>Official Response Following Inmate Report</i></b></p>	<p><b><i>Official Response Following an Inmate Report (OR)</i></b></p>
<p><b>§ 115.361 Staff and agency reporting duties.</b>  <b>(a)</b> The agency shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information they receive regarding an incident of sexual abuse that occurred in an institutional setting; retaliation against residents or staff who reported abuse; and any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or retaliation.  <b>(b)</b> The agency shall also require all staff to comply with any applicable mandatory child abuse reporting laws.  <b>(c)</b> Apart from reporting to designated supervisors or officials and designated State or local services agencies, staff shall be prohibited from revealing any information related to a sexual abuse report to anyone other than those who need to know, as specified in agency policy, to make treatment, investigation, and other security and management decisions.  <b>(d)(1)</b> Medical and mental health practitioners shall be required to report sexual abuse to designated supervisors and officials pursuant to paragraph (a) of this section, as well as to the designated State or local services agency where required by mandatory reporting laws.  <b>(2)</b> Such practitioners shall be required to inform residents at the initiation of services of their duty to report.</p>	<p><b>OR1: Staff and facility head reporting duties</b>  All staff members are required to report immediately and according to agency policy and relevant State or local mandatory child abuse reporting laws any knowledge, suspicion, or information they receive regarding an incident of sexual abuse that occurred in an institutional setting; retaliation against residents or staff who reported abuse; and any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or retaliation. Apart from reporting to designated supervisors or officials and designated State or local services agencies, staff must not reveal any information related to a sexual abuse report to anyone other than those who need to know, as specified in agency policy, to make treatment, investigation, and other security and management decisions. Medical and mental health practitioners are required to report sexual abuse to designated supervisors and officials as well as the designated State or local services agency and must inform residents of their duty to report at the initiation of services. Upon receiving any allegation of sexual abuse, the facility head must immediately report the allegation to the agency head, the juvenile court that handled the victim’s case or the victim’s judge of record, and the victim’s parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified. If the victim is involved in the child welfare system, the facility head reports to the victim’s caseworker instead of the victim’s parents or legal guardians.</p>

<p>(e)(1) Upon receiving any allegation of sexual abuse, the facility head or his or her designee shall promptly report the allegation to the appropriate central office of the agency and the victim’s parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.</p> <p>(2) If the victim is under the guardianship of the child welfare system, the report shall be made to the victim’s caseworker instead of the victim’s parents or legal guardians.</p> <p>(3) If a juvenile court retains jurisdiction over a juvenile, the facility head or designee shall also report the allegation to such court within 14 days of receiving the allegation, unless additional time is needed to comply with applicable rules governing ex parte communications.</p> <p>(f) The facility shall report all allegations of sexual abuse, including third-party and anonymous reports, to the facility’s designated investigators.</p>	
<p><b>§ 115.362 Reporting to other confinement facilities.</b></p> <p>(a) Within 14 days of receiving an allegation that a resident was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify in writing the head of the facility or appropriate central office of the agency where the alleged abuse occurred and shall also notify the appropriate investigative agency.</p> <p>(b) The facility head or central office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.</p>	<p><b>OR2: Reporting to other confinement facilities</b></p> <p>When the facility receives an allegation that a resident was sexually abused while confined at another facility, the head of the facility where the report was made notifies in writing the head of the facility where the alleged abuse occurred. The head of the facility where the alleged abuse occurred ensures the allegation is investigated.</p>
<p><b>§ 115.363 Staff first responder duties.</b></p> <p>Upon learning that a resident was sexually abused within a time period that still allows for the collection of physical evidence, the first staff member to respond to the report shall be required to:</p> <p>(a) Separate the alleged victim and abuser;</p> <p>(b) Seal and preserve any crime scene; and</p> <p>(c) Request the victim not to take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.</p>	<p><b>OR3: Staff first responder duties</b></p> <p>Upon learning that a resident was sexually abused within a time period that still allows for the collection of physical evidence, the first direct care staff member to respond to the report is required to (1) separate the alleged victim and abuser; (2) seal and preserve any crime scene(s); and (3) instruct the victim not to take any actions that could destroy physical evidence, including washing, brushing his or her teeth, changing his or her clothes, urinating, defecating, smoking, drinking, or eating. If the first staff responder is a non–direct care staff member, he or she is required to instruct the victim not to take any actions that could destroy physical evidence and then notify direct care staff.</p>
<p><b>§ 115.364 Coordinated response.</b></p> <p>The facility shall coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership.</p>	<p><b>OR4: Coordinated response</b></p> <p>All actions taken in response to an incident of sexual abuse are coordinated among staff first responders, medical and mental health practitioners, investigators, victim advocates, and facility leadership. The facility’s coordinated response ensures that victims receive all necessary immediate and ongoing medical, mental health, and support services and that investigators are able to obtain usable evidence to substantiate allegations and hold perpetrators accountable.</p>
<p><b>§ 115.365 Agency protection against retaliation.</b></p> <p>(a) The agency shall protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from</p>	<p><b>OR5: Agency protection against retaliation</b></p> <p>The agency protects all residents and staff who report sexual abuse or cooperate with sexual abuse investigations from retaliation by other residents or staff. The agency</p>

<p>retaliation by other residents or staff.</p> <p><b>(b)</b> The agency shall employ multiple protection measures, including housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.</p> <p><b>(c)</b> The agency shall monitor the conduct or treatment of residents or staff who have reported sexual abuse or cooperated with investigations, including any resident disciplinary reports, housing, or program changes, for at least 90 days following their report or cooperation, to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.</p> <p><b>(d)</b> The agency shall not enter into or renew any collective bargaining agreement or other agreement that limits the agency’s ability to remove alleged staff abusers from contact with residents pending an investigation.</p>	<p>employs multiple protection measures, including housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or cooperating with investigations. The agency monitors the conduct and/or treatment of residents or staff who have reported sexual abuse or cooperated with investigations, including any resident disciplinary reports, housing, or program changes, for at least 90 days following their report or cooperation to see if there are changes that may suggest possible retaliation by residents or staff. The agency discusses any changes with the appropriate resident or staff member as part of its efforts to determine if retaliation is taking place and, when confirmed, immediately takes steps to protect the resident or staff member.</p>
<p><b>§ 115.366 Post-allegation protective custody.</b> Any use of segregated housing to protect a resident who is alleged to have suffered sexual abuse shall be subject to the requirements of § 115.342.</p>	
<p><b>Investigations</b></p>	<p><b>Investigations (IN)</b></p>
<p><b>§ 115.371 Criminal and administrative agency investigations.</b></p> <p><b>(a)</b> When the agency conducts its own investigations into allegations of sexual abuse, it shall do so promptly, thoroughly, and objectively, using investigators who have received special training in sexual abuse investigations involving juvenile victims pursuant to § 115.334, and shall investigate all allegations of sexual abuse, including third-party and anonymous reports.</p> <p><b>(b)</b> Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.</p> <p><b>(c)</b> The agency shall not terminate an investigation solely because the source of the allegation recants the allegation.</p> <p><b>(d)</b> When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.</p> <p><b>(e)</b> The credibility of a victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person’s status as resident or staff.</p> <p><b>(f)</b> Administrative investigations:</p> <p><b>(1)</b> Shall include an effort to determine whether staff actions or failures to act facilitated the abuse; and</p> <p><b>(2)</b> Shall be documented in written reports that include a description of the physical</p>	<p><b>IN1: Duty to investigate</b></p> <p>The facility investigates all allegations of sexual abuse, including third-party and anonymous reports, and notifies victims and/or other complainants in writing of investigation outcomes and any disciplinary or criminal sanctions, regardless of the source of the allegation. If additional parties were notified of the allegation (OR-1), the facility notifies those parties in writing of investigation outcomes. All investigations are carried through to completion, regardless of whether the alleged abuser or victim remains at the facility and regardless of whether the source of the allegation recants his or her allegation.</p> <p><b>IN2: Criminal and administrative agency investigations</b></p> <p>Agency investigations into allegations of sexual abuse are prompt, thorough, objective, and conducted by investigators who have received special training in sexual abuse investigations involving young victims (TR-4). When outside agencies investigate sexual abuse, the facility has a duty to keep abreast of the investigation and cooperate with outside investigators (RP-4). Investigations include the following elements:</p> <ul style="list-style-type: none"> <li>• Investigations are initiated and completed within the time frames established by the highest- ranking facility official, and the highest-ranking official approves the final investigative report.</li> <li>• Investigators gather direct and circumstantial evidence, including physical and DNA evidence when available; interview alleged victims, suspected perpetrators, and witnesses; and review prior complaints and reports of sexual abuse involving the</li> </ul>

<p>and testimonial evidence, the reasoning behind credibility assessments, and investigative findings.</p> <p>(g) Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.</p> <p>(h) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.</p> <p>(i) The agency shall retain such investigative records for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.</p> <p>(j) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.</p> <p>(k) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.</p> <p>(l) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.</p>	<p>suspected perpetrator; and potentially corroborating physical or other evidence.</p> <ul style="list-style-type: none"> <li>• When the quality of evidence appears to support criminal prosecution, prosecutors are contacted to determine whether compelled interviews may be an obstacle for subsequent criminal prosecution.</li> <li>• Investigative findings are based on an analysis of the evidence gathered and a determination of its probative value.</li> <li>• The credibility of a victim, suspect, or witness is assessed on an individual basis and is not determined by the person’s status as resident or staff.</li> <li>• Investigations include an effort to determine whether staff negligence or collusion enabled the abuse to occur.</li> <li>• Administrative investigations are documented in written reports that include a description of the physical and testimonial evidence and the reasoning behind credibility assessments.</li> <li>• Criminal investigations are documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and provides a proposed list of exhibits.</li> <li>• Substantiated allegations of conduct that appears to be criminal are referred for prosecution.</li> </ul>
<p><b>§ 115.372 Evidentiary standard for administrative investigations.</b> The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated.</p>	<p><b>IN3: Evidence standard for administrative investigations</b> Allegations of sexual abuse are substantiated if supported by a preponderance of the evidence.</p>
<p><b>§ 115.373 Reporting to residents.</b></p> <p>(a) Following an investigation into a resident’s allegation of sexual abuse suffered in an agency facility, the agency shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.</p> <p>(b) If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the resident.</p> <p>(c) Following a resident’s allegation that a staff member has committed sexual abuse, the agency shall subsequently inform the resident whenever:</p> <ol style="list-style-type: none"> <li>(1) The staff member is no longer posted within the resident’s unit;</li> <li>(2) The staff member is no longer employed at the facility;</li> <li>(3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or</li> <li>(4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. This requirement shall not apply to allegations that have been determined to be unfounded.</li> </ol>	
<p><b>Discipline</b></p>	<p><b>Discipline (DI)</b></p>
<p><b>§ 115.376 Disciplinary sanctions for staff.</b></p> <p>(a) Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.</p> <p>(b) Termination shall be the presumptive disciplinary sanction for staff who have</p>	<p><b>DI1: Disciplinary sanctions for staff</b> Staff is subject to disciplinary sanctions up to and including termination when staff has violated agency sexual abuse policies. The presumptive disciplinary sanction for staff members who have engaged in sexually abusive contact or penetration is termination.</p>

<p>engaged in sexual touching.</p> <p>(c) Sanctions shall be commensurate with the nature and circumstances of the acts committed, the staff member’s disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.</p> <p>(d) All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.</p>	<p>This presumption does not limit agency discretion to impose termination for other sexual abuse policy violations. All terminations for violations of agency sexual abuse policies are to be reported to law enforcement agencies and any relevant licensing bodies.</p>
<p><b>§ 115.377 Disciplinary sanctions for residents.</b></p> <p>(a) Residents shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.</p> <p>(b) Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the resident’s disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.</p> <p>(c) The disciplinary process shall consider whether a resident’s mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.</p> <p>(d) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending resident to participate in such interventions as a condition of access to programming or other benefits.</p> <p>(e) The agency may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.</p> <p>(f) For the purpose of disciplinary action, 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.</p> <p>(g) Any prohibition on resident-on-resident sexual activity shall not consider consensual sexual activity to constitute sexual abuse.</p>	<p><b>DI2: Interventions for residents who engage in sexual abuse</b></p> <p>Residents receive appropriate interventions if they engage in resident-on-resident sexual abuse. Decisions regarding which types of interventions to use in particular cases, including treatment, counseling, educational programs, or disciplinary sanctions, are made with the goal of promoting improved behavior by the resident and ensuring the safety of other residents and staff. When imposing disciplinary sanctions in lieu of or in addition to other interventions, the facility informs residents of their rights and responsibilities during the disciplinary process, including how to appeal sanctions, and only imposes sanctions commensurate with the type of violation committed and the resident’s disciplinary history. Intervention decisions must take into account the social, sexual, emotional, and cognitive development of the resident and the resident’s mental health status.</p>
<p><b><i>Medical and Mental Care</i></b></p>	<p><b><i>Medical and Mental Health Care (MM)</i></b></p>
<p><b>§ 115.381 Medical and mental health screenings; history of sexual abuse.</b></p> <p>(a) All facilities shall ask residents about prior sexual victimization during the intake process or classification screenings.</p> <p>(b) If a resident discloses prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up reception with a medical or mental health practitioner within 14 days of the intake screening.</p> <p>(c) Unless such intake or classification screening precedes adjudication, the facility shall also ask residents about prior sexual abusiveness.</p>	<p><b>MM1: Medical and mental health intake screenings</b></p> <p>During medical and mental health reception and intake screenings, qualified medical or mental health practitioners talk with residents to ascertain information regarding the resident’s sexual orientation, gender identity, prior sexual victimization or history of engaging in sexual abuse (whether it occurred in an institutional setting or in the community), mental health status, and mental or physical disabilities. Such conversations are conducted in the manner that the medical or mental health practitioner deems appropriate for each resident in light of the resident’s age and developmental status according to the practitioner’s professional judgment and use inclusive language that</p>

<p>(d) If a resident discloses prior sexual abusiveness, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up reception with a mental health practitioner within 14 days of the intake screening.</p> <p>(e) Subject to mandatory reporting laws, any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as required by agency policy and Federal, State, or local law, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments.</p> <p>(f) Medical and mental health practitioners shall obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18.</p>	<p>avoids implicit assumptions about a young person’s sexual orientation. The information obtained during these screenings is strictly limited to medical and mental health practitioners, with information provided to appropriate staff on a need to know basis to the extent needed to inform all housing, bed, program, education, and work assignments for the resident (AP-2). If a resident discloses prior sexual victimization or abusiveness during a medical or mental health reception or intake screening, the practitioner reports the abuse according to agency policy and relevant State or local mandatory child abuse reporting laws (OR-1) and provides the appropriate treatment or referral for treatment, based on his or her professional judgment.</p>
<p><b>§ 115.382 Access to emergency medical and mental health services.</b></p> <p>(a) Resident victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.</p> <p>(b) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser.</p> <p>(c) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim pursuant to § 115.363 and shall immediately notify the appropriate medical and mental health practitioners.</p> <p>(d) Resident victims of sexual abuse while incarcerated shall be offered timely information about and access to all pregnancy-related medical services that are lawful in the community and sexually transmitted infections prophylaxis, where appropriate.</p>	<p><b>MM2: Access to emergency medical and mental health services</b></p> <p>Victims of sexual abuse have timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. Treatment services must be provided free of charge to the victim and regardless of whether the victim names the abuser. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, direct care staff first responders take preliminary steps to protect the victim (OR-3) and immediately notify the appropriate medical and mental health practitioners.</p>
<p><b>§ 115.383 Ongoing medical and mental health care for sexual abuse victims and abusers.</b></p> <p>(a) The facility shall offer ongoing medical and mental health evaluation and treatment to all residents who, during their present term of incarceration, have been victimized by sexual abuse.</p> <p>(b) The evaluation and treatment of sexual abuse victims shall include appropriate follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.</p> <p>(c) The facility shall provide resident victims of sexual abuse with medical and mental health services consistent with the community level of care.</p> <p>(d) The facility shall conduct a mental health evaluation of all known resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by qualified mental health practitioners.</p> <p>(e) Resident victims of sexually abusive vaginal penetration while incarcerated shall be</p>	<p><b>MM3: Ongoing medical and mental health care for sexual abuse victims and abusers</b></p> <p>The facility provides ongoing medical and/or mental health evaluation and treatment to all known victims of sexual abuse. The evaluation and treatment of sexual abuse victims must include appropriate follow-up services, treatment plans, and, when necessary, referrals for continued care following their release from custody. The level of medical and mental health care provided to resident victims must match the community level of care generally accepted by the medical and mental health professional communities. The facility conducts a mental health evaluation of all known abusers and provides treatment, as deemed necessary by qualified mental health practitioners.</p>

<p>offered pregnancy tests.  <b>(f)</b> If pregnancy results, such victims shall receive timely information about and access to all pregnancy-related medical services that are lawful in the community.</p>	
<p><b>Data Collection and Review</b></p>	<p><b>Data Collection and Review (DC)</b></p>
<p><b>§ 115.386 Sexual abuse incident reviews.</b>  <b>(a)</b> The facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.  <b>(b)</b> The review team shall include upper management officials, with input from line supervisors, investigators, and medical or mental health practitioners.  <b>(c)</b> The review team shall:              <b>(1)</b> Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;              <b>(2)</b> Consider whether the incident or allegation was motivated or otherwise caused by the perpetrator or victim’s race, ethnicity, sexual orientation, gang affiliation, or other group dynamics at the facility;              <b>(3)</b> Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;              <b>(4)</b> Assess the adequacy of staffing levels in that area during different shifts;              <b>(5)</b> Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and              <b>(6)</b> Prepare a report of its findings and any recommendations for improvement and submit such report to the facility head and PREA coordinator, if any.</p>	<p><b>DC1: Sexual abuse incident reviews</b>          The facility treats all instances of sexual abuse as critical incidents to be examined by a team of upper management officials, with input from line supervisors, investigators, and medical/mental health practitioners. The review team evaluates each incident of sexual abuse to identify any policy, training, or other issues related to the incident that indicate a need to change policy or practice to better prevent, detect, and/or respond to incidents of sexual abuse. The review team also considers whether incidents were motivated by racial or other group dynamics at the facility. When incidents are determined to be motivated by racial or other group dynamics, upper management officials immediately notify the agency head and begin taking steps to rectify those underlying problems. The sexual abuse incident review takes place at the conclusion of every sexual abuse investigation, unless the allegation was determined to be unfounded. The review team prepares a report of its findings and recommendations for improvement and submits it to the facility head.</p>
<p><b>§ 115.387 Data collection.</b>  <b>(a)</b> The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.  <b>(b)</b> The agency shall aggregate the incident-based sexual abuse data at least annually.  <b>(c)</b> The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice’s Bureau of Justice Statistics.  <b>(d)</b> The agency shall collect data from multiple sources, including reports, investigation files, and sexual abuse incident reviews.  <b>(e)</b> The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents.  <b>(f)</b> Upon request, the agency shall provide all such data from the previous year to the Department of Justice no later than June 30.</p>	<p><b>DC2: Data collection</b>          The agency collects accurate, uniform data for every reported incident of sexual abuse using a standardized instrument and set of definitions. The agency aggregates the incident-based sexual abuse data at least annually. The incident-based data collected includes, at a minimum, the data necessary to answer all questions from the most recent version of the BJS Survey on Sexual Violence. See Appendix C for a list of recommended data elements. Data are obtained from multiple sources, including reports, investigation files, and sexual abuse incident reviews. The agency also obtains incident-based and aggregated data from every facility with which it contracts for the confinement of its residents.</p>
<p><b>§ 115.388 Data review for corrective action.</b>  <b>(a)</b> The agency shall review data collected and aggregated pursuant to § 115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:              <b>(1)</b> Identifying problem areas;</p>	<p><b>DC3: Data review for corrective action</b>          The agency reviews, analyzes, and uses all sexual abuse data, including incident-based and aggregated data, to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training. Using these data, the agency identifies problem areas, including any racial dynamics or other group dynamics</p>

<p>(2) Taking corrective action on an ongoing basis; and          (3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.          (b) Such report shall include a comparison of the current year’s data and corrective actions with those from prior years and shall provide an assessment of the agency’s progress in addressing sexual abuse.          (c) The agency’s report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.          (d) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.</p>	<p>underpinning patterns of sexual abuse, takes corrective action on an ongoing basis, and, at least annually, prepares a report of its findings and corrective actions for each facility as well as the agency as a whole. The annual report also includes a comparison of the current year’s data and corrective actions with those from prior years and provides an assessment of the agency’s progress in addressing sexual abuse. The agency’s report is approved by the agency head, submitted to the appropriate legislative body, and made readily available to the public through its Web site or, if it does not have one, through other means. The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but it must indicate the nature of the material redacted.</p>
<p><b>§ 115.389 Data storage, publication, and destruction.</b>          (a) The agency shall ensure that data collected pursuant to § 115.387 are securely retained.          (b) The agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.          (c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.          (d) The agency shall maintain sexual abuse data for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.</p>	<p><b>DC4: Data storage, publication, and destruction</b>          The agency ensures that the collected sexual abuse data are properly stored, securely retained, and protected. The agency makes all aggregated sexual abuse data, from facilities under its direct control and those with which it contracts, readily available to the public at least annually through its Web site or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers from the data. The agency maintains sexual abuse data for at least 10 years after the date of its initial collection unless Federal, State, or local law allows for the disposal of official information in less than 10 years.</p>
<p><b>Audits</b></p>	<p><b>Audits (AU)</b></p>
<p><b>§ 115.393 Audits of standards.</b>          (a) An audit shall be considered independent if it is conducted by:          (1) A correctional monitoring body that is not part of the agency but that is part of, or authorized by, the relevant State or local government;          (2) An auditing entity that is within the agency but separate from its normal chain of command, such as an inspector general or ombudsperson who reports directly to the agency head or to the agency’s governing board; or          (3) Other outside individuals with relevant experience.          (b) No audit may be conducted by an auditor who has received financial compensation from the agency being audited within the three years prior to the agency’s retention of the auditor.          (c) The agency shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the agency’s retention of the auditor, with the exception of contracting for subsequent audits.          (d) All auditors shall be certified by the Department of Justice to conduct such audits, and shall be re-certified every three years.          (e) The Department of Justice shall prescribe methods governing the conduct of such</p>	<p><b>(AU1)</b>  <b>Audits of standards</b>          The public agency ensures that all of its facilities, including contract facilities, are audited to measure compliance with the PREA standards. Audits must be conducted at least every three years by independent and qualified auditors. The public or contracted agency allows the auditor to enter and tour facilities, review documents, and interview staff and residents, as deemed appropriate by the auditor, to conduct comprehensive audits. The public agency ensures that the report of the auditor’s findings and the public or contracted agency’s plan for corrective action (DC-3) are published on the appropriate agency’s Web site if it has one or are otherwise made readily available to the public.</p>

<p>audits, including provisions for reasonable inspections of facilities, review of documents, and interviews of staff and inmates. The Department of Justice also shall prescribe the minimum qualifications for auditors.</p> <p><b>(f)</b> The agency shall enable the auditor to enter and tour facilities, review documents, and interview staff and inmates to conduct a comprehensive audit.</p> <p><b>(g)</b> The agency shall ensure that the auditor's final report is published on the agency's website if it has one or is otherwise made readily available to the public.</p>	
--	--