



PREA Standards In Focus

Standard in Focus

Prevention Planning

§ 115.16, 115.116, 115.216, 115.316 Inmates with disabilities and inmates who are limited English proficient

- (a) The agency shall take appropriate steps to ensure that inmates with disabilities (including, for example, inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with inmates who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities, including inmates who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under Title II of the Americans With Disabilities Act, 28 CFR 35.164.
- (b) The agency shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.
- (c) The agency shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under §115.64, or the investigation of the inmate's allegations.

Purpose

To prevent, detect, and respond to sexual abuse of all inmates by ensuring that all inmates, including those who have disabilities, are Deaf, or who are limited English proficient, have equal access to PREA-related educational materials and departmental policies, reporting mechanisms, and available victim services. Reporting mechanisms and victim services are meaningless if inmates do not know about them or cannot access them. Equal access is achieved by:

- Providing access to qualified interpreters for Deaf inmates and inmates with limited English proficiency who are able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary;
- Ensuring that any written materials are provided in formats or by methods of communication that are accessible to inmates with disabilities, including those with intellectual disabilities, limited reading skills, or who are blind or low vision;

- Taking accessibility into consideration when devising and reviewing all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including the accessibility of reporting mechanisms (§115.51), outside confidential support services (§115.53), and advocacy, medical, and mental health services (§115.21; §115.81-§115.83); and
 - Limiting the use of inmate interpreters and inmate readers, so that inmates with disabilities and Deaf inmates do not have to rely on other inmates to communicate critical information about sexual abuse and sexual harassment. Using inmate interpreters or other inmate helpers to support inmates with disabilities or Deaf inmates may create an unintended power imbalance among inmates. Situations may arise where the inmate helper exerts control over the inmate with the disability/Deafness and makes demands in exchange for assistance. Additionally, the inmates who are Deaf or have a disability may not get accurate information, and they may not wish to confide confidential information to other inmates in order to be able to make a report about sexual abuse or sexual harassment. To ensure that inmates who are LEP, Deaf, or have difficulty reading have equal access to critical information about sexual abuse prevention, access to reporting mechanisms, and access to victim services, the standard requires that staff only use inmate interpreters, inmate readers, or other types of inmate assistants in extremely limited circumstances: when a delay in obtaining a qualified interpreter would compromise the inmate’s safety, the performance of first responder duties under § 115.64 (which include separating the alleged victim from the alleged perpetrator, securing the scene, and preserving physical evidence), or the investigation of the inmate’s allegation.
- **Important Note:** The standards use the lower case “d” to denote loss of hearing, but best practice is to acknowledge that many Deaf people view themselves as a distinct linguistic and cultural group. To model best practices, the PRC is choosing to use the capital “D” in this brief. For more information, please see: <https://www.prearesourcecenter.org/sites/default/files/library/preadisabilityguide.pdf>

Implementation

- Agencies must ensure that any new or existing policies, inmate educational materials, and facility protocols (particularly related to reporting and access to supportive services and medical/mental health treatment) are accessible to inmates with disabilities (including inmates who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), Deaf or hard of hearing inmates, and inmates who are limited English proficient.
- The standard specifically sets requirements related to interpreters and written materials. To find qualified American Sign Language interpreters, agencies might find it helpful to consult the Registry of Interpreters for the Deaf, Inc. (<https://www.rid.org/>).
 - Namely, except in extremely limited circumstances where an inmate’s safety may be at risk because of an extended delay in obtaining a qualified interpreter, inmate interpreters and other inmate helpers may not be used. Interpreters should be independent, qualified, and adhere to strong codes of ethics regarding the information exchanged during communications. The Vera Institute of Justice has produced a series of tip sheets designed to aid organizations seeking to design accessible events for people with disabilities and Deaf people. Tip Sheet Number 5, “[Working with Sign Language Interpreters for Events](#)” explains American Sign Language, types of sign language interpreters, and provides guidance on interpreter standards and finding qualified interpreters.
 - Regarding written materials, agencies need to take into consideration people with intellectual disabilities, low reading skills, and those who are blind or low vision. This means paying attention to both how materials are designed (e.g., font size and style) and how the content is presented (e.g., reading level). This also means delivering the material in spoken presentations, and possibly individually with inmates with serious mental illness or intellectual disabilities who may not be able to understand the information unless they receive it directly from a counselor or mental health provider who is qualified to convey the information to them.

- Taking steps to ensure “an equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment” for inmates with disabilities, Deaf inmates, and inmates who are limited English proficient means addressing access concerns beyond interpretive services and printed materials. It means reviewing all aspects of the agency’s PREA efforts to check for accessibility. For example, PREA signage should be posted at a height that people using wheelchairs would be able to see. Methods for reporting should not be located in areas accessible only by stairs. Additionally, facilities should have plans in place to ensure that verbal announcements made by opposite gender staff entering housing units are accompanied by flashing lights, signs, or other non-verbal signals when a Deaf inmate is housed in the unit.
- Providing interpretive services means not only providing services to inmates who are already in the facility, but also being prepared in advance to meet the language access needs of inmates who might become incarcerated there. This means the facility needs a plan in place to obtain interpretive services for multiple languages, including American Sign Language, regardless of whether the facility currently houses inmates with limited English proficiency or Deaf inmates. This is particularly important for jails and lockups, which receive people directly from the community who may be angry, frightened, confused, and/or extremely stressed.
- The standard instructs agencies that they are not required to take steps that would result in undue financial and administrative burdens. Agencies can reduce the financial and administrative burdens of responding to individual requests for accommodations by designing materials and protocols to be accessible for the greatest number of users. They can also enter into resource-sharing agreements with local disability providers for assistance with providing auxiliary aids and services to inmates with disabilities. Many disability service organizations have programs available to loan assistive technology, wheelchairs, and other adaptive equipment.

Challenges

- Ensuring that staff are knowledgeable about different types of disabilities and how access needs may vary by disability type. For example, a person with a physical disability who uses a wheelchair may not be able to read a hotline phone number if it is posted in small print above a phone that cannot be reached from a wheelchair. On the other hand, a person with an intellectual disability may be able to read that same hotline number but not understand what it is for if the instructions are not written in plain language. Another challenge is ensuring that staff know how to use and maintain any adaptive equipment to ensure it works when it is needed.
- Establishing relationships with qualified interpreters, particularly in rural areas, and ensuring reasonable access to all possible languages spoken by the inmate population. National language interpretation and translation organizations that provide services via telephone or video may be good options for overcoming this challenge.
- Identifying inmates who have disabilities. Not everyone with a disability self-discloses having a disability upon intake, and/or some people with disabilities may not know to ask for an accommodation.
- Ensuring that staff responsible for reviewing requests for accommodations and/or auxiliary aids (e.g., large print PREA educational materials or an American Sign Language interpreter for an orientation on PREA) are trained to assess requests and approve or deny them based on objective criteria, such as professional medical assessment, and not subjective opinions about the legitimacy of the inmate’s disability.
- Dedicating staff resources to reviewing the agency’s PREA policies and protocols and making adjustments to improve accessibility for inmates with disabilities, Deaf inmates, and those with limited English proficiency.

Best Practices

- Because people with disabilities do not always self-disclose having a disability, correctional agencies can achieve compliance with this standard and generally minimize the number of requests for modifications to materials, policies, and services by developing them to be accessible to the broadest range of users. This means developing materials and services with people with disabilities and Deaf people in mind, so that everyone – including people with disabilities and those without disabilities – can benefit from those materials and services. For example, using large font and plain language for print materials will likely make them easier to understand for all readers. Ensuring that rooms used for orientations are not crammed to capacity will likely reduce distractions and create a better learning environment for all participants.
- Agencies should consider reviewing policies and protocols regarding accessibility at least annually. This should include a review of auxiliary aides, assistive technology, and adaptive equipment for serviceability. Routine maintenance should be more frequent.
- Agencies should consider incorporating information on disability and accessibility into mandatory employee training. Initial training modules should focus on understanding the concept of disability generally, recognizing signs of certain disabilities and understanding “invisible” disabilities like some cognitive and intellectual disabilities, understanding barriers experienced by inmates with disabilities and strategies to remove them, and understanding the unique dynamics that individuals with disabilities experience when they are sexually abused or sexually harassed.
- Many access changes can be done with little to no additional financial resources. To create accessible print materials, for example, facilities take a number of low-cost steps, including:
 - Using a fifth-grade reading level as a benchmark for information conveyed in written format. Microsoft Word allows users to check the reading level by selecting “show readability statistics” in the spelling and grammar tool.
 - Choosing a font that comes from the sans serif family—fonts that do not have decorative strokes at the ends of characters. This will include Arial, Tahoma, and Helvetica. Avoid ornate fonts and fonts with serifs as these can blend together on the page and can be impossible to read for people with low vision.
 - Using a font size that is no smaller than 14 point.
 - Choose a font color that has the highest contrast against the paper on which it is printed.
 - Limit the amount of information on a page. Generally, this means ensuring that lines consist of eight to 15 words maximum. Too much information can be daunting to people with learning or intellectual disabilities, causing them to skim the information and miss important points.
- Agencies also need to be prepared to create individualized access solutions for inmates who are Deaf, blind, or have low vision, inmates with intellectual disabilities, inmates who cannot read, inmates with psychiatric disabilities, and inmates who are limited English proficient. These solutions vary by disability type but include measures such as:
 - Having American Sign Language interpreters and videophones or text telephones (TTY) available for Deaf inmates;
 - Having access to a braille transcription company or technology (e.g., screen readers) to accommodate inmates who are blind;
 - Using pictures to augment text that is written in plain language for people with intellectual disabilities; and
 - Minimizing distractions in any learning environment, including unnecessary noise and wall decorations for inmates with psychiatric disabilities.

- Delivering information verbally and one-on-one, possibly from a mental health professional, for inmates with severe psychiatric disabilities.
- Translating relevant information verbally and/or in writing to other languages for individual inmates when those translations do not already exist.
- To be prepared to meet the language needs of inmates who are limited English proficient, agencies may benefit from entering into agreements with national language lines and transcription service organizations.

Audit Issues

Understanding what practices indicate that an agency is providing inmates with disabilities, Deaf inmates, and inmates who are limited English proficient with an equal opportunity to participate in and benefit from all aspects of the agency's PREA efforts.

Auditors will review policies, printed materials for inmates, reporting mechanisms; observe methods for reporting during the site review; and interview any inmates with disabilities, Deaf inmates, and those who are limited English proficient. Auditors may also find it necessary to interview representatives from outside entities that provide interpretive services or services to inmates with disabilities. The auditor will need to describe in sufficient detail the basis for compliance decisions in his or her report, including clear knowledge of what the agency *would* do should it be in a position to provide services to an inmate with any particular disability, Deaf inmates, or those who are limited English proficient. Auditors will look for such indications of accessibility as:

- Are posted PREA signs able to be read from a sitting position?
- Can inmates with mobility devices (e.g., wheelchairs or walkers) get to phones used for reporting?
- Can Deaf inmates report sexual abuse using a TTY, videophone, or other technology?
- Do staff understand how to provide access to technology and other auxiliary aids when inmates request help? (e.g., do they know where videophone are located?)
- Do inmates with disabilities and Deaf inmates have a way to report sexual abuse or sexual harassment anonymously?
- Are printed materials written in large font and plain language?
- Are printed materials available in other languages?
- Does the agency have an established relationship with an interpretation service that can meet the language needs of its inmate population?
- Does the facility take any extra measures related to classroom set-up or instruction when delivering PREA-related material to inmates with disabilities? This may mean observing whether classroom aisles are wide enough to accommodate mobility devices and asking staff if they allow for one-on-one meetings after group instruction for inmates with intellectual disabilities.
- Can staff describe what steps the facility takes to make sure that inmates with disabilities, Deaf inmates, and inmates who are limited English proficient understand agency sexual abuse and sexual harassment policies and know how to report and get help if they have been victimized?
- Can staff describe different types of disability and indicate understanding of "non-visible" disabilities such as intellectual and psychiatric disabilities?

- Can inmates with disabilities, Deaf inmates, and inmates who are limited English proficient describe the agency's policies regarding sexual abuse and sexual harassment and tell the auditor how they would report any abuse or harassment?

Standard Variations

- The requirements in §115.16 apply to Lockups (§115.116), Community Confinement Facilities (§115.216), and Juvenile Facilities (§115.316).

Resources

➤ **Frequently Asked Questions (FAQs) on the PREA Resource Center (PRC) Website:**

<https://www.prearesourcecenter.org/frequently-asked-questions>

The Department of Justice has issued guidance on the use of peer educators, which intersects with the requirement in §115.16 that inmate interpreters, readers, or other types of inmate assistants only be used in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an inmate's safety. The FAQ to date is as follows:

- April 23, 2014. *Can inmate peer educators be used to deliver the inmate information and education requirements of standard 115.33? If so, under what circumstances and are there any limitations?*

<https://www.prearesourcecenter.org/node/3264>

➤ **PREA Essentials on the National PREA Resource Center Webpage**

www.prearesourcecenter.org/training-technical-assistance/PREA-essentials

➤ ***Making PREA and victim services accessible for people with disabilities: An implementation guide for practitioners on the adult and juvenile standards.*** October 2015. Sandra Harrell, Allison Hastings, and Margaret diZerega. (Vera Institute of Justice: New York, NY).

<https://www.prearesourcecenter.org/sites/default/files/library/preadisabilityguide.pdf>

➤ ***Making PREA and Victim Services Accessible for People with Disabilities***, archived webinar on the PRC's website: <https://www.prearesourcecenter.org/training-and-technical-assistance/webinars/3543/making-prea-and-victim-services-accessible-people>

➤ **Additional Training Resources:** Always check the following sources for excellent training on PREA.

National Institute of Corrections (NIC) - <http://nicic.gov/training/prea>

End Silence: The Project on Addressing Prison Rape - <https://www.wcl.american.edu/endsilence/>

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