

Juvenile Standards Documentation Requirements

This document is meant to assist agencies and facilities in their PREA compliance efforts. The standards listed below are examples of juvenile PREA standards that explicitly require documentation of agency or facility activities through policy or other forms of documentation; agencies and facilities may find it beneficial to also document activities that are not listed below to demonstrate compliance.

Policy requirements:

§ 115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.

(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.

§ 115.313 Supervision and monitoring.

(e) Each secure facility shall implement a **policy** and practice of having intermediate-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. Each secure facility shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

§ 115.322 Policies to ensure referrals of allegations for investigations.

(b) The agency shall have in place a **policy** to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The agency shall publish such policy on its website or, if it does not have one, make the policy available through other means. The agency shall document all such referrals.

(c) If a separate entity is responsible for conducting criminal investigations, such **publication** shall describe the responsibilities of both the agency and the investigating entity.

§ 115.361 Staff and agency reporting duties.

(a) 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 or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

(c) 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 to the extent necessary, as specified in agency **policy**, to make treatment, investigation, and other security and management decisions.

§ 115.367 Agency protection against retaliation.

(a) The agency shall establish a **policy** to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff and shall designate which staff members or departments are charged with monitoring retaliation.

Other forms of documentation requirements:

§ 115.312 Contracting with other entities for the confinement of residents.

(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 **contract or contract renewal** the entity's obligation to adopt and comply with the PREA standards.

(b) Any new **contract or contract renewal** shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.

§ 115.313 Supervision and monitoring.

(a) The agency shall ensure that each facility it operates shall develop, implement, and document a **staffing plan** that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration:

- (1) Generally accepted juvenile detention and correctional/secure residential practices;
- (2) Any judicial findings of inadequacy;
- (3) Any findings of inadequacy from Federal investigative agencies;
- (4) Any findings of inadequacy from internal or external oversight bodies;
- (5) All components of the facility's physical plant (including "blind spots" or areas where staff or residents may be isolated);
- (6) The composition of the resident population;
- (7) The number and placement of supervisory staff;
- (8) Institution programs occurring on a particular shift;
- (9) Any applicable State or local laws, regulations, or standards;
- (10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
- (11) Any other relevant factors.

(b) The agency shall comply with the staffing plan except during limited and discrete exigent circumstances, and shall fully **document** deviations from the plan during such circumstances.

(c) Each secure juvenile facility shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which shall be fully **documented**. Only security staff shall be included in these ratios. Any facility that, as of the date of publication of this final rule, is not already obligated by law, regulation, or judicial consent decree to maintain the staffing ratios set forth in this paragraph shall have until October 1, 2017, to achieve compliance.

(d) Whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by § 115.311, the agency shall assess, determine, and **document** whether adjustments are needed to:

- (1) The staffing plan established pursuant to paragraph (a) of this section;
- (2) Prevailing staffing patterns;
- (3) The facility's deployment of video monitoring systems and other monitoring technologies; and
- (4) The resources the facility has available to commit to ensure adherence to the staffing plan.

§ 115.315 Limits to cross-gender viewing and searches.

(c) The facility shall **document** and justify all cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches.

§ 115.321 Evidence protocol and forensic medical examinations.

(c) The agency shall offer all residents who experience sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The agency shall **document** its efforts to provide SAFEs or SANEs.

(d) The agency shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization or a qualified agency staff member. Agencies shall **document** efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages. The agency may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.

§ 115.322 Policies to ensure referrals of allegations for investigations.

(b) The agency shall have in place a policy to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The agency shall publish such policy on its website or, if it does not have one, make the policy available through other means. The agency shall **document** all such referrals.

§ 115.331 Employee training.

(d) The agency shall **document**, through employee signature or electronic verification, that employees understand the training they have received.

§ 115.332 Volunteer and contractor training.

(c) The agency shall maintain **documentation** confirming that volunteers and contractors understand the training they have received.

§ 115.333 Resident education.

(e) The agency shall maintain **documentation** of resident participation in these education sessions.

§ 115.334 Specialized training: Investigations.

(c) The agency shall maintain **documentation** that agency investigators have completed the required specialized training in conducting sexual abuse investigations.

§ 115.335 Specialized training: Medical and mental health care.

(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.

§ 115.341 Obtaining information from residents.

(b) Such assessments shall be conducted using an **objective screening instrument**.

§ 115.342 Placement of residents in housing, bed, program, education, and work assignments.

(h) If a resident is isolated pursuant to paragraph (b) of this section, the facility shall clearly **document**:

- (1) The basis for the facility's concern for the resident's safety; and
- (2) The reason why no alternative means of separation can be arranged.

§ 115.351 Resident reporting.

(c) Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly **document** any verbal reports.

§ 115.352 Exhaustion of administrative remedies.

(d)

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

(e)

(3) If the resident declines to have the request processed on his or her behalf, the agency shall **document** the resident's decision.

(f)

(2) After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final agency decision shall **document** the agency's determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

§ 115.353 Resident access to outside support services and legal representation.

(c) The agency shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse. The agency shall maintain **copies of agreements or documentation** showing attempts to enter into such agreements.

§ 115.363 Reporting to other confinement facilities.

(c) The agency shall **document** that it has provided such notification.

§ 115.365 Coordinated response.

The facility shall develop a **written institutional plan** to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

§ 115.366 Preservation of ability to protect residents from contact with abusers.

(a) Neither the agency nor any other governmental entity responsible for collective bargaining on the agency's behalf shall enter into or renew any **collective bargaining agreement** or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

§ 115.371 Criminal and administrative agency investigations.

(f) Administrative investigations:

(2) Shall be **documented** in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

(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.

§ 115.373 Reporting to residents.

(e) All such notifications or attempted notifications shall be **documented**.

§ 115.386 Sexual abuse incident reviews.

(d) The review team shall:

(6) Prepare a **report** of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager.

(e) The facility shall implement the recommendations for improvement, or shall **document** its reasons for not doing so.

§ 115.388 Data review for corrective action.

(a) The agency shall review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:

(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.