



Prison Rape Elimination Act (PREA) Considerations for Policy Review Juvenile Corrections

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Purpose

As part of its mission to assist juvenile correctional organizations in implementing the requirements of the Prison Rape Elimination Act (PREA), the National Resource Center for the Elimination of Prison Rape (PREA Resource Center or PRC) is offering assistance to jurisdictions in the review of policies developed to address sexual abuse. The United States Attorney General promulgated the final standards required under the law in May 2012, and this guide is intended to assist agencies in developing policy that represents best practice and that mirrors the core components of those final PREA standards.

This guide is informed by an ongoing evolution of practice that takes into consideration the extensive work of many organizations along with advances in the juvenile corrections field, legal opinions, current research in addressing sexual abuse, and the publication of the final PREA standards. As practice continues to evolve, it is recommended that policy be similarly updated.

Developing policy in this important area of correctional management requires discussion in many areas of operation and practice. It is important for users of the guide to spend time discussing the scope of this work, and to determine the best approach in your agency to address operations comprehensively. Some agencies put all possible components related to PREA/Sexual Abuse in one policy. Most find that several policies are necessary. For instance, a separate investigative policy allows for a thorough step-by-step guide to the investigative process. All policies should take into consideration gender differences and differences in managing special populations.

This **Policy Review Guide** is designed to help you refine your PREA policies. We ask that you review your policy using this guide, to ensure that you have considered all aspects of the PREA law, before submitting a technical assistance request through the PREA Resource Center (www.prearesourcecenter.org).

Many practitioners have contributed to this guide. We would like to express our appreciation to Brenda Smith, A.T. Wall, Susan McCampbell, Madie LaMarre, Gary Dennis, Ania Dobrzanska, Bob Dumond, Jeff Shorba, Mara Dodson, and Andie Moss. For contributions to the most recent update, we would again like to thank Bob Dumond and Jeff Shorba as well as Donna Deutsch, Rachel Bosley and Malcolm Ewing. We would like to thank Morris Thigpen and Dee Halley at NIC for their commitment and support to this project and also thank Michela Bowman, Jenni Trovillion and Dave Gaspar at the PREA Resource Center for their continued leadership and support.

Questions to Consider

Policy Organization

PREA covers issues related to youth-on-youth sexual assault as well as issues related to staff sexual misconduct. By responding to the questions in this guide, you will review the issues most important in establishing the management tools you need to address sexual abuse. The questions will guide you in a discussion of policy as well as practice; where questions are related specifically to the PREA standards, the standard reference is given. Be aware that some of the questions may not be applicable to your setting, i.e. some language is for agencies developing policy for multiple sites; others are for a single site. Similarly, not all of the questions will require detailed language in policy, but all will guide your practice. Further, we urge active involvement of the key stakeholders impacted by the development of policies addressing sexual abuse/PREA in your agency during this policy initiative. Effectively addressing PREA requires the collaboration of many of the key, functional areas both within, and external to, your agency.

If you are using this guide with an approved technical assistance request from the PREA Resource Center, a policy guide coach will review your final draft and be available for assistance during your technical assistance activity. The guide is designed with three categories related to each question. The first category is used to reflect the agency’s current status related to the question posed (i.e. Is the question already answered in policy? Is it being addressed by staff or a workgroup?). The second category is a place for agencies to document current policy, memoranda, laws, regulations, etc. that may address the question posed. The third category provides a space to document any follow-up needed, such as assigning staff to address the issue, changing collective bargaining agreements, revising laws, etc.

Question	Status	Current/Related Documents	Follow-up Needed
1.0 Would a single policy covering PREA in general provide a more direct source of information? OR			
1.1 Should there be separate policies for staff sexual misconduct issues and youth-on-youth sexual assault?			

Question	Status	Current/Related Documents	Follow-up Needed
1.2 If your agency oversees both adults and juveniles, should there be separate sexual abuse and harassment policies for each group of individuals?			
1.3 Is there 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? (115.311 (a))			
1.4 Does the agency employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities? (115.311 (b))			
1.5 If the agency operates more than one facility, does each facility designate a PREA compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards? (115.311 (c))			

Question	Status	Current/Related Documents	Follow-up Needed
<p>1.6 Does policy require any new contracts or contract renewals (with private agencies or other entities for the confinement of its residents) to include the contracting entity's obligation to adopt and comply with the PREA standards? (115.312 (a))</p>			
<p>1.7 Does policy provide for agency contract monitoring to ensure the contractor is complying with PREA standards? (115.312 (b))</p>			

Definitions

Question	Status	Current/Related Documents	Follow-up Needed
2.0 Are the definitions in policy consistent with those used in PREA standards 115.5 and 115.6?			
2.1 Are policy definitions of criminal acts related to staff sexual misconduct or assault consistent with state law?			
2.2 Does policy include prohibitions which may go beyond those of a criminal nature in the definition of staff sexual misconduct, such as conversations or correspondence of a romantic or sexual nature?			
2.3 Does policy carefully stipulate who may be covered by the policy? For example, does the policy define who is included when discussing “staff,” “contractors,” “volunteers,” “visitors,” etc.? Are private correctional facilities covered by the policy? Are residents under supervision in the community covered by the policy?			

Resident Reporting

Question	Status	Current/Related Documents	Follow-up Needed
<p>3.0 Does policy 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 such incidents? (115.351 (a))</p>			
<p>3.1 Does policy require the agency to provide at least one way for residents to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the resident to remain anonymous upon request? (115.351 (b))</p>			
<p>3.2 Are residents detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? (115.351 (b))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>3.3 Does policy require staff to accept reports made verbally, in writing, anonymously, and from third parties? Does it require staff to document promptly all verbal reports? (115.351 (c))</p>			
<p>3.4 Does policy require facilities to provide residents with access to tools necessary to make a written report? (115.351 (d))</p>			
<p>3.5 Does policy require the agency to take appropriate steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment for residents with disabilities (including, for example, residents who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities)? Do such steps include, when necessary to ensure effective communication with residents who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both</p>			

Question	Status	Current/Related Documents	Follow-up Needed
receptively and expressively, using any necessary specialized vocabulary? (115.316 (a))			
3.6 In addition, does policy require the agency to ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities, including residents 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.) (115.316 (a))			
3.7 Does policy require the agency to 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 residents who are limited English			

Question	Status	Current/Related Documents	Follow-up Needed
<p>proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? (115.316 (b))</p>			
<p>3.8 Does policy not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances, where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under § 115.364, or the investigation of the resident's allegations? (115.316 (c))</p>			
<p>3.9 Does policy provide a central location where reports can be documented from any source?</p>			
<p>3.10 Does policy require the agency to ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment? (115.322 (a))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>3.11 Does policy 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? Does policy require the agency to document all such referrals? (115.322 (b))</p>			
<p>3.12 Does policy require the agency to publish the policy described in Question 3.10 on its website or, if it does not have one, to make the policy available through other means? If a separate entity is responsible for conducting criminal investigations, does such publication by the agency describe the responsibilities of both the agency and the investigating entity? (115.322 (b, c))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>3.13 Does policy require that the agency maintain or attempt to enter into MOUs or other agreements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse? (115.353 (c))</p>			
<p>3.14 Does policy require the agency to maintain copies of these agreements, or documentation demonstrating the attempt to enter into such agreements, described in Question 3.12? (115.353 (c))</p>			
<p>3.15 Is there a grievance policy in place for residents that can be used to address staff sexual misconduct or youth-on-youth sexual assault?</p>			
<p>3.16 Does policy not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse? (115.352 (b)(1))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>3.17 Does policy state that the agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse? (115.352 (b)(2))</p>			
<p>3.18 Does policy state that 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, and that computation of the 90-day time period shall not include time consumed by residents in preparing any administrative appeal? (115.352 (d)(1,2))</p>			
<p>3.19 Does policy state that 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? (115.352 (d)(3))</p>			
<p>3.20 Does policy state that the agency shall notify the resident in writing of any such extension, and provide a date by which a decision will be made? (115.352 (d)(3))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>3.21 Does the policy state that at any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level? (115.352 (d)(4))</p>			
<p>3.22 Does policy permit third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and also to file such requests on behalf of residents? (115.352 (e)(1))</p>			
<p>3.23 Does policy stipulate that if a third party, other than a parent or legal guardian, files such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>subsequent steps in the administrative remedy process? If the resident declines to have the request processed on his or her behalf, does the agency document the resident's decision? (115.352 (e)(2,3))</p>			
<p>3.24 Does policy state that a parent or legal guardian of a juvenile shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile, and that such a grievance shall not be conditioned upon the juvenile agreeing to have the request filed on his or her behalf? (115.352 (e)(4))</p>			
<p>3.25 Does policy state the agency shall not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (115.352 (b)(3))</p>			
<p>3.26 Does policy state that the agency shall ensure that a resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and that such grievance is not referred to</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>a staff member who is the subject of the complaint? (115.352 (c))</p>			
<p>3.27 Does policy state that the agency shall establish procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse? After receiving such an emergency grievance, does policy state that the agency shall: immediately forward it (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; provide an initial response within 48 hours; and issue a final agency decision within five calendar days? (115.352 (f)(1,2))</p>			
<p>3.28 Does policy state that 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? (115.352 (f)(2))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
3.29 Does policy state that the agency may discipline a resident for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the resident filed the grievance in bad faith? (115.352 (g))			
3.30 Does policy state that the agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment, and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of a resident? (115.354)			

Staff and Agency Reporting

Question	Status	Current/Related Documents	Follow-up Needed
4.0 Does policy provide a method for staff to report privately the sexual abuse and sexual harassment of residents? (115.351 (e))			

Question	Status	Current/Related Documents	Follow-up Needed
<p>4.1 Does policy require all staff to report immediately (according to agency policy): any knowledge, suspicion, or information 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? (115.361 (a))</p>			
<p>4.2 Does policy also require all staff to comply with any applicable mandatory child abuse reporting laws? (115.361 (b))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>4.3 Does policy stipulate that, apart from reporting to designated supervisors or officials, and to 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? (115.361 (c))</p>			
<p>4.4 If state law addresses a duty to report, is that referenced in the policy?</p>			
<p>4.5 Does policy require medical and mental health practitioners to report sexual abuse, pursuant to Question 4.2, to designated supervisors and officials, as well as to the designated State or local services agency where required by mandatory reporting laws? (115.361 (d)(1))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>4.6 Does policy require medical and mental health practitioners to inform residents of their duty to report, and the limitations of confidentiality, at the initiation of services ? (115.361 (d)(2))</p>			
<p>4.7 Does policy require the facility head or his or her designee, upon receiving any allegation of sexual abuse, to report the allegation promptly to the appropriate agency office and to the alleged victim’s parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified? If the alleged victim is under the guardianship of the child welfare system, does policy require the report to be made to the alleged victim’s caseworker instead of the parents or legal guardians? If a juvenile court retains jurisdiction over the alleged victim, does policy require the facility head or designee also to report the allegation to the juvenile’s attorney or other legal representative of record, within 14 days of receiving the allegation? (115.361 (e))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>4.8 Does policy state that the facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators? (115.361 (f))</p>			
<p>4.9 Does policy stipulate that upon 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 the head of the facility or appropriate office of the agency where the alleged abuse occurred, and shall also notify the appropriate investigative agency? Does policy state that such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation; and that the agency shall document that it has provided such notification? (115.363 (a,b,c))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>4.10 Does policy state that, upon such notification, the facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with the PREA standards? (115.363 (d))</p>			

Protection from Retaliation

Question	Status	Current/Related Documents	Follow-up Needed
5.0 Is there language in policy prohibiting retaliation for the filing of a complaint?			
5.1 Does policy protect all residents and staff who report sexual abuse or sexual harassment, or who cooperate with sexual abuse investigations, from retaliation by other residents or staff? Does the policy designate which staff members or departments are charged with monitoring retaliation? (115.367 (a))			
5.2 Does policy 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? (115.367 (b))			

Question	Status	Current/Related Documents	Follow-up Needed
<p>5.3 Does policy stipulate that the agency monitor the conduct or treatment of residents or staff who have reported sexual abuse, and of residents who were reported to have suffered sexual abuse, (including any resident disciplinary reports, housing, or program changes; or negative performance reviews or reassignments of staff) for at least 90 days following a report of sexual abuse, to see if there are changes that may suggest possible retaliation by residents or staff? (115.367 (c))</p>			
<p>5.4 Does policy stipulate that the agency shall act promptly to remedy any such retaliation, and shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? In the case of residents, does such monitoring also include periodic status checks? (115.367 (c,d))</p>			
<p>5.5 If any other individual who cooperates with an investigation expresses a fear of retaliation, does the agency take appropriate measures to protect that individual against retaliation?</p>			

Question	Status	Current/Related Documents	Follow-up Needed
(115.367 (e))			
5.6 Does policy indicate that an agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded? (115.367 (f))			

Hiring and Staffing

Question	Status	Current/Related Documents	Follow-up Needed
<p>6.0 Does policy state that 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? (115.366 (a))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>6.1 Does policy prohibit the agency from hiring or promoting anyone who may have contact with residents, and from enlisting the services of any contractor who may have contact with residents, who</p> <p>(1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);</p> <p>(2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or</p> <p>(3) Has been civilly or administratively adjudicated to have engaged in the activity described in (2)?</p> <p>(115.317 (a))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>6.2 Does policy require the agency to consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents? (115.317 (b))</p>			
<p>6.3 Before hiring new employees who may have contact with residents, does policy require the agency:</p> <ul style="list-style-type: none"> • To perform a criminal background records check; • To consult any child abuse registry maintained by the State or locality in which the employee would work; and • Consistent with Federal, State, and local law, to make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse, or on any resignation during a pending investigation of an allegation of sexual abuse? (115.317 (c)) 			

Question	Status	Current/Related Documents	Follow-up Needed
<p>6.4 Does policy also require the agency to perform a criminal background records check, and consult applicable child abuse registries, before enlisting the services of any contractor who may have contact with residents? (115.317 (d))</p>			
<p>6.5 Does policy require the agency either to conduct criminal background records checks, at least every five years, of current employees and contractors who may have contact with residents, or to have in place a system for otherwise capturing such information for current employees? (115.317 (e))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>6.6 Does policy require the agency to ask directly all applicants and employees who may have contact with residents about previous misconduct, described in Question 6.1, in written applications or in interviews for hiring or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees? Does the agency also impose upon employees a continuing affirmative duty to disclose any such misconduct? (115.317 (f))</p>			
<p>6.7 Does policy state that material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination? (115.317 (g))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>6.8 Does policy state that, unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee, upon receiving a request from an institutional employer for whom such employee has applied to work? (115.317 (h))</p>			
<p>6.9 Does policy state that, for each facility it operates, the agency 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? (115.313 (a))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>6.10 In calculating adequate staffing levels and determining the need for video monitoring, does policy require facilities to take into consideration:</p> <ul style="list-style-type: none"> (1) Generally accepted juvenile detention and correctional 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 "blindspots" 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? <p>(115.313 (a))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>6.11 Does policy state that 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? (115.313 (b))</p>			
<p>6.12 Does policy require each secure juvenile facility to maintain ratios, only for security staff, 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? (Any facility that as of May 2012 is not already obligated by law, regulation or judicial consent decree to maintain the staffing ratios set forth in this question shall have until October 1, 2017 to achieve compliance.) (115.313 (c))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>6.13 Does policy state that 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:</p> <ul style="list-style-type: none"> (1) The staffing plan established pursuant to Question 6.9; (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? <p>(115.313 (d))</p>			
<p>6.14 Does policy state that facilities have in place security policies and protocols that support the prevention and detection of sexual abuse? If so, identify them (i.e. cameras, recorders, authorization for issuance of keys, sign-in requirements, etc.)</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>6.15 Does policy state that each secure facility shall implement a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds, during both night and day shifts, to identify and deter staff sexual abuse and sexual harassment?</p> <p>Does each secure facility also 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?</p> <p>(115.313 (e))</p>			

Viewing and Searches

Question	Status	Current/Related Documents	Follow-up Needed
<p>7.0 Does agency policy prohibit facilities from conducting cross-gender strip, pat-down and visual body cavity searches (meaning a search of the anal or genital opening), except in the case of emergency or when performed by medical practitioners? In addition, does policy require facilities to document and justify all such searches? (115.315 (a, b, c))</p>			
<p>7.1 Does agency policy state that the facility shall implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in case of emergency, or when such viewing is incidental to routine cell checks? (115.315 (d))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>7.2 Do such policies and procedures require staff of the opposite gender to announce their presence when entering a resident housing unit? In facilities (such as group homes) that do not contain discrete housing units, are staff of the opposite gender required to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing? (115.315 (d))</p>			
<p>7.3 Does policy forbid searching or physically examining a transgender or intersex resident for the sole purpose of determining the resident’s genital status? If the resident’s genital status is unknown, is it only determined during conversations with the resident, by reviewing medical records, or if necessary by learning that information as part of a broader medical examination conducted in private by a medical practitioner? (115.315 (e))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
7.4 Does policy state that the agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible that is consistent with security needs? (115.315 (f))			

Staff, Volunteer, and Contractor Training

Question	Status	Current/Related Documents	Follow-up Needed
8.0 Does policy require training of all employees who may have contact with residents on the agency's zero-tolerance policy for sexual abuse and sexual harassment, as well as how to fulfill their responsibilities under agency sexual abuse prevention, detection, reporting, and response policies and procedures? (115.331 (a)(1-2))			
8.1 Does policy require all employees who may have contact with residents to be trained to			

Question	Status	Current/Related Documents	Follow-up Needed
<p>communicate effectively and professionally with all residents, including lesbian, gay, bisexual, transgender, gender non-conforming or intersex residents? (115.331 (a)(9))</p>			
<p>8.2 Does policy require all employees who may have contact with residents to be trained on residents' right to be free from sexual abuse and sexual harassment; the right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment; the dynamics of sexual abuse and sexual harassment in juvenile facilities; and the common reactions of juvenile victims of sexual abuse and sexual harassment? (115.331 (a)(3-6))</p>			
<p>8.3 Does policy require all employees who may have contact with residents to be trained on how to detect and respond to signs of threatened and actual sexual abuse, on how to distinguish between consensual sexual contact and sexual abuse between residents, and on how to avoid inappropriate relationships with residents? (115.331 (a)(7-8))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>8.4 Does policy require all employees who may have contact with residents to be trained on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities, and on relevant laws regarding the applicable age of consent? (115.331 (a)(10-11))</p>			
<p>8.5 Does policy state that the training in Questions 8.0-4 will be tailored to the unique needs and attributes of residents of juvenile facilities, and to the gender of the residents at the employee's facility? Does policy state that the employee shall receive additional training if the employee is reassigned from a facility that houses only male residents to a facility that houses only female residents, or vice versa? (115.331 (b))</p>			
<p>8.6 Does policy indicate that all current employees who have not received such training be trained within one year of the effective date of the PREA standards? Does policy ensure that refresher</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>training is provided to each employee every two years, to ensure all employees know the agency's current sexual abuse and sexual harassment policies and procedures? In years in which an employee does not receive refresher training, does the policy require the agency to provide refresher information on current sexual abuse and sexual harassment policies? (115.331 (c))</p>			
<p>8.7 Are employees aware in policy that they may be subject to search of their person, car, computer e-mail, etc.? (The answer may depend on laws and collective bargaining agreements in each jurisdiction.)</p>			
<p>8.8 Does policy require the agency to document, via employee signatures or electronic verification that employees understand the training they have received? (115.331 (d))</p>			
<p>8.9 Does policy stipulate that all volunteers and contractors who have contact with residents must be trained on their</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures? (115.332 (a))</p>			
<p>8.10 Does policy stipulate that the level and type of training provided to volunteers and contractors be based on the services they provide and the level of contact they have with residents? (115.332 (b))</p>			
<p>8.11 Does policy also require all volunteers and contractors who have contact with residents to be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment, and informed of how to report such incidents? (115.332 (b))</p>			
<p>8.12 Does the policy stipulate that the agency maintain documentation confirming that volunteers and contractors understand the training they have received? (115.332 (c))</p>			
<p>8.13 Are staff trained in the constitutional requirements</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>associated with investigative interviews (i.e. Miranda, Garrity, Weingarten)?</p>			
<p>8.14 Does agency policy stipulate that, in addition to the general training provided to all employees pursuant to § 115.331, the agency shall ensure that agency investigators conducting sexual abuse investigations have received training in conducting such investigations in confinement settings (to the extent that the agency itself conducts sexual abuse investigations)? (115.334 (a))</p>			
<p>8.15 Does agency policy require the investigator training to include: 1) techniques for interviewing juvenile sexual abuse victims; 2) proper use of Miranda- and Garrity-type warnings; 3) sexual abuse evidence collection in confinement settings; and 4) the criteria and evidence required to substantiate a case for administrative action or prosecution referral? (115.334 (b))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>8.16 Does agency policy require the agency to maintain documentation that investigators have completed the required specialized training in conducting sexual abuse investigations? (115.334 (c))</p>			
<p>8.17 Does agency policy ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:</p> <ol style="list-style-type: none"> 1) How to detect and assess signs of sexual abuse and sexual harassment; 2) How to preserve physical evidence of sexual abuse; 3) How to respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment; and 4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment? <p>(115.335 (a))</p>			
<p>8.18 If medical staff employed by the agency conduct forensic examinations, does policy require such medical staff to receive the appropriate training</p>			

Question	Status	Current/Related Documents	Follow-up Needed
to conduct such examinations? (115.335 (b))			
8.19 Does agency policy stipulate that the agency maintain documentation that medical and mental health practitioners have received this specialized training, either from the agency or elsewhere? (115.335 (c))			
8.20 Does agency policy require that medical and mental health care practitioners shall also receive the training mandated for employees under § 115.331, or for contractors and volunteers under § 115.332, depending upon the practitioner's status at the agency? (115.335 (d))			

Resident Education

Question	Status	Current/Related Documents	Follow-up Needed
<p>9.0 Does policy state that, during the intake process, residents shall receive information explaining 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? (115.333 (a))</p>			
<p>9.1 Does the agency provide resident education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to residents who have limited reading skills? (115.333 (d))</p>			
<p>9.2 Does policy state that, within 10 days of intake, the agency shall provide comprehensive age-appropriate education to residents (either in person or via video) regarding 1) their rights to be free from sexual abuse and sexual harassment, 2) their rights to be free from retaliation for reporting such abuse or harassment, and 3) the agency's sexual abuse response policies and procedures? (115.333 (b))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>9.3 Does policy state that current residents who have not received such education shall be educated within one year of the effective date of the PREA standards, and that residents shall receive education upon transfer to a different facility, to the extent that the policies and procedures of the resident's new facility differ from those of the previous facility? (115.333 (c))</p>			
<p>9.4 Does policy state that the agency shall maintain documentation of resident participation in these education sessions? (115.333 (e))</p>			
<p>9.5 Does policy state that, 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? (115.333 (f))</p>			

Screening for Risk of Sexual Victimization and Abusiveness

Question	Status	Current/Related Documents	Follow-up Needed
<p>10.0 Does agency policy ensure that it 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? Does policy state this information shall be obtained and used within 72 hours of a resident's arrival at a facility, and periodically throughout a resident's confinement? (115.341 (a))</p>			
<p>10.1 Does agency policy state that such assessments shall be conducted using an objective screening instrument? (115.341 (b))</p>			
<p>10.2 Does agency policy require it, at a minimum, to attempt to ascertain information about: 1) Prior sexual victimization or abusiveness 2) Any gender non-conforming appearance or manner, or identification as lesbian, gay, bisexual, transgender or intersex, and whether the resident may therefore be vulnerable to sexual</p>			

<p>abuse</p> <p>3) Current charges and offense history</p> <p>4) Age</p> <p>5) Level of emotional and cognitive development</p> <p>6) Physical size and stature</p> <p>7) Mental illness or mental disabilities</p> <p>8) Intellectual or developmental disabilities</p> <p>9) Physical disabilities</p> <p>10) The residents own perception of vulnerability</p> <p>11) Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents? (115.341 (c))</p>			
<p>10.3 Does policy state that this information shall be ascertained through conversations with the resident 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 resident's files? (115.341 (d))</p>			

<p>10.4 Does policy state that the agency shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to § 115.341, in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents? (115.341 (e))</p>			
<p>10.5 Does policy state that, if the screening pursuant to § 115.341 indicates that a resident has experienced 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 meeting with a medical or mental health practitioner within 14 days of the intake screening? (115.381 (a))</p>			
<p>10.6 Does policy state that if the screening pursuant to § 115.341 indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening?</p>			

(115.381 (b))			
<p>10.7 Does policy state that 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 necessary, (or as otherwise required by Federal, State, or local law), to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments? (115.381 (c))</p>			
<p>10.8 Does policy state that 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 inmate is under the age of 18? (115.381 (d))</p>			
<p>10.9 Does policy state that the agency shall use all information obtained pursuant to § 115.341 and subsequently to make housing, bed, work, education, and program assignments for residents, with the goal of keeping all residents safe and free from sexual abuse?</p>			

(115.342 (a))			
<p>10.10 Does policy state that 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>(115.342 (b))</p>			
<p>10.11 Does policy state that during any period of isolation:</p> <p>1) Agencies shall not deny residents daily large-muscle exercise and any legally-required educational programming or special education services;</p> <p>2) Residents in isolation shall receive daily visits from a medical or mental health care clinician; and</p> <p>3) Residents shall also have access to other programs and work opportunities to the extent possible?</p> <p>(115.342 (b))</p>			
<p>10.12 Does policy state that 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, nor shall agencies consider</p>			

<p>lesbian, gay, bisexual, transgender or intersex identification or status as an indicator of likelihood of being sexually abusive? (115.342 (c))</p>			
<p>10.13 Does policy state that the agency, when deciding whether to assign a transgender or intersex resident to a facility for male or female residents, and in making other housing and programming assignments, shall consider on a case-by-case basis:</p> <ol style="list-style-type: none"> 1) Whether a placement would ensure the residents health and safety; and 2) Whether the placement would present management or security problems? <p>(115.342 (d))</p>			
<p>10.14 Does policy state that the placement and programming assignments for each transgender and intersex resident shall be reassessed at least twice each year to review any threats to safety experienced by the resident? (115.342 (e))</p>			
<p>10.15 Does policy also state that a transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration?</p>			

(115.342 (f))			
10.16 Does agency policy state that transgender and intersex residents shall be given the opportunity to shower separately from other residents? (115.342 (g))			
10.17 Is it agency policy that if a resident is isolated pursuant to Question 10.10, the facility shall clearly document the basis for the facility's concern for the resident's safety, and the reason why no alternative means of separation can be arranged?? (115.342 (h))			
10.18 Is it agency policy that every 30 days, the facility shall afford each resident described in Question 10.17 a review to determine whether there is a continuing need for separation from the general population? (115.342 (i))			
10.19 Is agency procedure for considering resident housing change requests designed to promote housing changes which would help prevent or stop resident sexual assaults?			

10.20 Does the facility provide adequate numbers of protective custody or single cell beds to protect residents reporting sexual abuse?			
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Agency and Staff Response to Resident Reports

Question	Status	Current/Related Documents	Follow-up Needed
<p>11.0 Does policy state that when the agency learns that a resident is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the resident? (115.362)</p>			
<p>11.1 Does policy state the steps taken by first responders and the correct order of these steps, regarding notification of superiors, notification of medical/mental health, notification of investigators, etc.?</p>			
<p>11.2 Does policy state the provision of check-lists to staff to ensure that, in the event that they must act as first responders, they have clear directions to follow in fulfilling their duties?</p>			

<p>11.3 Does agency policy stipulate that, upon learning of an allegation that a resident was sexually abused, the first staff member to respond to the report is required:</p> <ol style="list-style-type: none"> 1) To separate the alleged victim and abuser; 2) To preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; 3) If the abuse occurred within a time period that still allows for the collection of physical evidence, to request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; 4) If the abuse occurred within a time period that still allows for the collection of physical evidence, to ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating? <p>(115.364 (a))</p>			
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<p>11.4 Does policy state a protocol for ensuring that all physical evidence is secured?</p>			
<p>11.5 Does agency policy stipulate that, if the first staff responder is a non-security staff member, he or she is required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff? (115.364 (b))</p>			
<p>11.6 Does agency policy stipulate that 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? (115.365)</p>			
<p>11.7 Does policy state that 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? (115.368)</p>			

Investigations

Question	Status	Current/Related Documents	Follow-up Needed
12.0 Does policy reflect the impact state statutes, administrative regulations, or collective bargaining agreements may have on the investigative process?			
12.1 Does policy state the following: 1) Who is given authority to initiate an investigation, 2) Who has the authority to conduct an investigation, and 3) Who has the authority to act on the investigators' findings?			
12.2 Does policy state who authorizes the use of investigative tools – covert, warrants, phone call monitoring, DNA samples, polygraphs, etc?			
12.3 Does policy specify a protocol for notifying mental health staff for assistance with questioning of victims and perpetrators in the investigative process?			
12.4 Does policy specify when outside medical or mental health staff are used in the investigative or treatment process?			

Question	Status	Current/Related Documents	Follow-up Needed
<p>12.5 Does policy state that when the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly and objectively for all allegations, including for third-party and anonymous reports? (115.371 (a))</p>			
<p>12.6 Does policy state that where sexual abuse is alleged, the agency will use investigators who have received special training in sexual abuse investigations involving juvenile victims pursuant to § 115.334? (115.371 (b))</p>			
<p>12.7 Does policy state how investigators are chosen for particular investigations? Does policy state if the gender of the victim is considered when assigning an investigator?</p>			
<p>12.8 When investigators are internal to the agency, does policy state if they are assigned to headquarters or if they work out of a facility?</p> <p>If they are locally based, does policy state when non-resident investigators are brought in?</p>			

Question	Status	Current/Related Documents	Follow-up Needed
12.9 Does policy state when outside (non-agency) investigators are used?			
12.10 Does policy state the type of memorandum of understanding or other agreement established to outline outside investigators' authority, protocol, etc.?			
12.11 Does policy state that, 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? (115.371 (m))			
12.12 Does policy state that investigators shall: 1) Gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any suitable electronic monitoring data; 2) Interview alleged victims, suspected perpetrators and witnesses; and 3) Review prior complaints and reports of sexual abuse involving the suspected perpetrator? (115.371 (c))			

Question	Status	Current/Related Documents	Follow-up Needed
<p>12.13 Does policy state that the credibility of an alleged 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? (115.371 (f))</p>			
<p>12.14 Does policy specify that no resident who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation? (115.371 (f))</p>			
<p>12.15 Does policy state that the agency shall not terminate an investigation solely because the source of the allegation recants the allegation? (115.371 (d))</p>			
<p>12.16 Does policy state that, when the quality of the 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? (115.371 (e))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>12.17 Does policy state that administrative investigations shall:</p> <p>1) Include an effort to determine whether staff actions or failures to act contributed to the abuse; and</p> <p>2) 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?</p> <p>(115.371 (g))</p>			
<p>12.18 Does policy state that 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>(115.371 (h))</p>			
<p>12.19 Does policy state that substantiated allegations of conduct that appears to be criminal shall be referred for prosecution?</p> <p>(115.371 (i))</p>			
<p>12.20 Does policy state how the system deals with a large number of inconclusive investigations?</p>			
<p>12.21 Does policy state that the agency shall impose no standard higher than a</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated? (115.372)</p>			
<p>12.22 Does policy state that 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? (115.371 (k))</p>			
<p>12.23 Does policy state that the agency shall retain all written administrative and criminal investigative records for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention? (115.371 (j))</p>			
<p>12.24 How is the status of an ongoing investigation communicated with various entities such as staff, inmates, and/or the media?</p>			
<p>12.25 Does policy consider any requirements under state statutes, administrative regulations, or collective bargaining agreements dictating when the subject of an investigation must be notified?</p>			

Question	Status	Current/Related Documents	Follow-up Needed
12.26 Does policy state how the results of completed investigations are communicated with various entities such as staff, inmates or the media?			
12.27 Does policy state how witnesses are protected during and after the investigation?			
12.28 Does policy state how victims are protected during and after the investigation?			
12.29 Does policy state that, following an investigation into a resident's allegation that he or she suffered sexual abuse in an agency facility, the agency shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded? (115.373 (a))			
12.30 Does policy state that, if the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the resident? (115.373 (b))			

Question	Status	Current/Related Documents	Follow-up Needed
<p>12.31 Does policy state that, following a resident’s allegation that a staff member has committed sexual abuse against the resident, that has been found to be either substantiated or unsubstantiated (but not unfounded), the agency shall subsequently inform the resident whenever:</p> <ol style="list-style-type: none"> 1) The staff member is no longer posted within the resident’s unit, 2) The staff member is no longer employed at the facility, or 3) The agency learns that the staff member has been indicted or convicted on a charge related to sexual abuse in the facility? (115.373 (c)) 			
<p>12.32 Does policy state that, following a resident’s allegation that he or she has been sexually abused by another resident, the agency shall subsequently inform the alleged victim whenever:</p> <ol style="list-style-type: none"> (1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or (2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility? <p>(115.373 (d))</p>			

Question	Status	Current/Related Documents	Follow-up Needed
<p>12.33 Does policy indicate that all such notifications or attempted notifications to residents shall be documented, and that an agency’s obligation to report to residents under this standard shall terminate if the resident is released from the agency’s custody? (115.373 (e,f))</p>			
<p>12.34 Does policy state that results of investigations be recorded according to PREA requirements, for reporting purposes?</p>			
<p>12.35 Does policy state that the results of investigations are recorded according to the requirements of Uniform Crime Reports, for reporting purposes?</p>			
<p>12.36 Is there a process for reporting information to the appropriate licensing organizations (i.e., medical staff, attorneys, etc.)?</p>			

Staff and Resident Discipline

<p>13.0 Does policy state that staff shall be subject to disciplinary sanctions, up to and including termination, for violating agency sexual abuse or sexual harassment policies? (115.376 (a))</p>			
<p>13.1 Does policy state that termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse? (115.376 (b))</p>			
<p>13.2 Does policy state that disciplinary sanctions on staff for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) 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? (115.376 (c))</p>			

<p>13.3 Does policy state that all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations of 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? (115.376 (d))</p>			
<p>13.4 Does policy state that any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents, and shall be reported to law enforcement agencies (unless the activity was clearly not criminal), and to relevant licensing bodies? (115.377 (a))</p>			
<p>13.5 Does policy state that facilities shall take appropriate remedial measures, and shall consider whether to prohibit further contact with residents, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer? (115.377 (b))</p>			

<p>13.6 Does policy state that residents may be subject to disciplinary sanctions only 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? (115.378 (a))</p>			
<p>13.7 Does policy state that any disciplinary 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? (115.378 (b))</p>			

<p>13.8 Does policy state that in the event a disciplinary sanction results in the isolation of a resident:</p> <ol style="list-style-type: none"> 1) The agency shall not deny the resident daily large-muscle exercise, or access to any legally-required educational programming or special education services; 2) Residents in isolation shall receive daily visits from a medical or mental health care clinician; and 3) Residents shall also have access to other programs and work opportunities to the extent possible? (115.378 (b)) 			
<p>13.9 Does policy state that 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? (115.378 (c))</p>			

<p>13.10 Does policy state that, 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 offer the offending resident participation in such interventions? (115.378 (d))</p>			
<p>13.11 Does policy also state that the agency may require participation in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives, but not as a condition to access to general programming or education? (115.378 (d))</p>			
<p>13.12 Does policy state that 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? (115.378 (e))</p>			

<p>13.13 Does policy state that, 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? (115.378 (f))</p>			
<p>13.14 Does policy state that any agency prohibition on all sexual activity between residents shall not allow the agency to deem such activity to constitute sexual abuse, if it determines that the activity is not coerced? (115.378 (g))</p>			

Medical and Mental Health Care

Question	Status	Current/Related Documents	Follow-up Needed
<p>14.0 Does agency policy stipulate that 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? (115.382 (a))</p>			
<p>14.1 Does agency policy stipulate that treatment services shall be provided to the victim without financial cost, and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident? (115.382 (d))</p>			
<p>14.2 Does agency policy ensure that 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 §115.362 , and shall immediately notify the appropriate medical and mental health practitioners? (115.382 (b))</p>			

<p>14.3 Does policy state that resident victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate? (115.382 (c))</p>			
<p>14.4 Does policy specify that, 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>Is this protocol developmentally appropriate for youth and, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice’s Office on Violence Against Women publication, “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” or similarly comprehensive and authoritative protocols developed after 2011?</p>			

(115.321 (a, b))			
<p>14.5 Does policy state that the agency shall offer all residents who experience sexual abuse access to forensic medical exams, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate? (115.321 (c))</p>			
<p>14.6 Does policy state that such forensic medical exams shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible?</p> <p>If SAFEs or SANEs cannot be made available, are the examinations performed by other qualified medical practitioners? Does the agency document its efforts to provide SAFEs or SANEs? (115.321 (c))</p>			
<p>14.7 Does agency policy state that the agency shall attempt to make available to the victim a victim advocate from a rape crisis center?</p>			

<p>If a rape crisis center is not available to provide victim advocate services, does the agency make available, to provide these services, a qualified staff member from a community-based organization, or a qualified agency staff member? (115.321 (d))</p>			
<p>14.8 Does policy require the agency to document efforts to secure services from rape crisis centers that provide intervention and related assistance 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 it offers a comparable level of confidentiality as a non-governmental entity that provides similar victim services.) (115.321 (d))</p>			
<p>14.9 Does agency policy state that, as requested by the victim, a qualified agency staff member, victim advocate or qualified community-based organization staff member shall accompany and support the victim through the forensic medical exam process and the investigatory</p>			

<p>interviews, and shall provide emotional support, crisis intervention, information, and referrals?</p> <p>(A qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role, and has received education concerning sexual assault and forensic examination issues in general.) (115.321 (e, h))</p>			
<p>14.10 Does agency policy state that, to the extent that the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall request that the investigating agency follow the requirements of Questions 14.4-9? (115.321 (f))</p>			
<p>14.11 Does policy state that the requirements of Questions 14.4-9 shall also apply to any state entity outside of the agency that is responsible for investigating allegations of sexual abuse in juvenile facilities, and to any Department of Justice component that is responsible for investigating allegations of sexual abuse in juvenile facilities? (115.321 (g))</p>			

<p>14.12 Does policy state that facilities 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 for persons detained solely for civil immigration purposes, of immigrant services agencies?</p> <p>Does policy require facilities to do so by enabling reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible? (115.353 (a))</p>			
<p>14.13 Does policy state that the facility shall inform residents, prior to giving them this access, of the extent to which such communications will be monitored, and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws? (115.353 (b))</p>			

<p>14.14 Does policy require the agency to 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? Is the agency required to maintain copies of agreements or documentation showing attempts to enter into such agreements? (115.353 (c))</p>			
<p>14.15 Does policy also require facilities to provide residents with reasonable and confidential access to their attorneys or other legal representation, and reasonable access to parents or legal guardians? (115.353 (d))</p>			
<p>14.16 Does agency policy ensure that facilities offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup or juvenile facility? (115.383 (a))</p>			
<p>14.17 Does agency policy ensure that the evaluation and treatment of sexual abuse victims includes appropriate follow-up services, treatment plans, and, when</p>			

necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody? (115.383 (b))			
14.18 Does agency policy ensure that facilities shall provide the level of medical and mental health care to resident victims of sexual abuse consistent with the community level of care? (115.383 (c))			
14.19 Does agency policy require facilities to attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history, and to offer treatment when deemed appropriate by qualified mental health practitioners? (115.383 (h))			
14.20 Does policy state that resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests? Does policy state that, if pregnancy results from such conduct, such victims shall receive timely and comprehensive information about, and timely access to, all lawful pregnancy-related medical services? (115.383 (d,e))			

<p>14.21 Does policy state that resident victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate? (115.383 (f))</p>			
<p>14.22 Does policy state that treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident? (115.383 (g))</p>			

Data Collection and Review

Question	Status	Current/Related Documents	Follow-up Needed
<p>15.0 Does policy state that facilities shall conduct sexual abuse incident reviews 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?</p> <p>Does policy state that such reviews shall ordinarily occur within 30 days of the conclusion of the investigation? (115.386 (a,b))</p>			
<p>15.1 Does policy state that the review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners? (115.386 (c))</p>			
<p>15.2 Does agency policy ensure that the review team considers whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, and/or respond to incidents of sexual abuse? (115.386 (d)(1))</p>			

<p>15.3 Does agency policy ensure that the review team considers whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; or gang affiliation; or was otherwise caused by other group dynamics at the facility? (115.386 (d)(2))</p>			
<p>15.4 Does agency policy ensure that the review team examines the area in the facility where the incident allegedly occurred to assess:</p> <ol style="list-style-type: none"> 1) Whether physical barriers in the area may enable abuse; 2) The adequacy of staffing levels in that area during different shifts; and 3) Whether monitoring technology should be deployed or augmented to supplement supervision by staff? (115.386 (d)(3-5)) 			

<p>15.5 Does policy state that the review team prepare a report of its findings, including but not necessarily limited to determinations made pursuant to Questions 15.2-4, and any recommendations for improvement, and submit the report to the facility head and the PREA compliance manager? (115.386 (d)(6))</p>			
<p>15.6 Does policy require facilities to implement the recommendations for improvement, or to document their reasons for not doing so? (115.386 (e))</p>			
<p>15.7 Does agency policy ensure that the agency collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control, using a standardized instrument and set of definitions? (115.387 (a))</p>			

<p>15.8 Does agency policy ensure that the agency aggregates the incident-based sexual abuse data at least annually, and that 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 conducted by the Department of Justice? (115.387 (b,c))</p>			
<p>15.9 Does agency policy ensure that it maintains, reviews and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews, and that it obtains incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents? (115.387 (d,e))</p>			
<p>15.10 Does agency policy state that, upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30? (115.387 (f))</p>			

<p>15.11 Does agency policy ensure that the agency reviews data collected and aggregated pursuant to § 115.387 (see Questions 15.7-10), in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:</p> <ol style="list-style-type: none"> 1) Identifying problem areas; 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? (115.388 (a)) 			
<p>15.12 Does agency policy ensure that the annual report shall include a comparison of the current year's data and corrective actions with those from prior years, and provide an assessment of the agency's progress in addressing sexual abuse? (115.388 (b))</p>			

15.13 Does agency policy stipulate that 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? (115.388 (c))			
15.14 Does agency policy state that 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 that the agency must indicate the nature of the material redacted? (115.388 (d))			
15.15 Does agency policy ensure that the collected sexual abuse data are securely retained for at least 10 years after the date of their initial collection, unless Federal, state, or local law requires otherwise? (115.389 (a,d))			

<p>15.16 Does agency policy state that all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, are made readily available to the public at least annually through its website or, if it does not have one, through other means?</p> <p>Does agency policy state that, before making aggregated sexual abuse data available, the agency shall remove all personal identifiers? (115.389 (b,c))</p>			
<p>15.17 Does agency policy ensure that all of its facilities, including contract facilities, are audited to measure compliance with the PREA standards (pursuant to § 115.401-405)? (115.393)</p>			

List of Resources for Guidance on the Prison Rape Elimination Act

Here are just a few of the many resources available to help you develop your response to PREA:

1. PREA Resource Center: www.prearesourcecenter.org
2. National Institute of Corrections: www.nicic.org
3. National Institute of Corrections/Washington College of Law Project on Addressing Prison Rape:

American University
Washington College of Law
4801 Massachusetts Ave NW
50th Street Building
Washington, DC 20016

Phone: 202-274-4385

Website: www.wcl.american.edu/endsilence

E-mail: endsilence@wcl.american.edu

4. The Moss Group, Inc.: www.mossgroup.us
5. Bureau of Justice Statistics/PREA and Sexual Violence in Correctional Facilities: <http://bjs.ojp.usdoj.gov/index.cfm?ty=tp&tid=20>
6. Bureau of Justice Assistance: www.BJA.gov
7. Just Detention International: <http://www.justdetention.org/>