

**STATE OF LOUISIANA
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS
CORRECTIONS SERVICES**



Department Regulation
No. C-01-022

28 June 2013

**FIELD OPERATIONS
General
Prison Rape Elimination Act (PREA)**

1. **AUTHORITY:** Secretary of the Department of Public Safety and Corrections as contained in Chapter 9 of Title 36; Department of Civil Service Rule No. 12 and the Prison Rape Elimination Act (PREA) of 2003 and Part 115 of Title 28 of the Code of Federal Regulations: Standards for Adult Prisons and Jails.
2. **REFERENCES:** La. R.S. 14:134.1 and 134.2; Ch.C. Art. 603 and 610; Act No. 250 of the 2011 Regular Session and Act No. 532 of the 2012 Regular Session; ACA Standards 4-4084 and 4084-1, 4-4281-1 through 4-4281-8, 4-4371, and 4-4406 (Adult Correctional Institutions); Department Regulation Nos. A-01-013 "Forms Management Program," A-02-018 "Institutional Staffing," A-02-022 "Criminal Record Check," A-02-024 "Critical Incident Stress Management Program," A-02-028 "Training and Staff Development," B-05-001 "Disciplinary Rules and Procedures for Adult Offenders," B-02-001 "Assignment and Transfer of Offenders," B-02-020 "Youthful Offenders," B-06-001 "Health Care Manual" (Health Care Policy Nos. 14 "Medical Level of Care" and HC-30 "Sexual Assault"), B-08-010 "Americans with Disabilities Act," B-08-013 "Offender Reentry Program," B-08-018 "Effective Communication with the Hearing Impaired" and C-05-001 "Activity Reports/Unusual Occurrence Reports Operational Units."
3. **PURPOSE:** To prevent, detect, and respond to sexual abuse by staff, volunteers, contractors and offenders within units of the Department of Public Safety and Corrections (DPS&C).
4. **APPLICABILITY:** Deputy Secretary, Undersecretary, Chief of Operations, Department's Medical/Mental Health Director, Regional Wardens, Wardens, Sheriffs and Administrators of transitional work programs under contract to or under cooperative endeavor agreement with the DPS&C, Director of Prison Enterprises, Headquarters Training Director, Department's PREA Coordinator, Procurement and Contractual Review Director and all DPS&C Staff. Each Unit Head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

Please Note: This regulation serves to provide guidance and an overview of the required PREA Standards. Each Unit Head shall also be responsible for ensuring complete compliance with all provisions of Part 115 of Title 28 of the Code of Federal Regulations: Standards for Adult Prisons and Jails (copy attached) as outlined in this regulation.

5. **POLICY:** It is the Secretary's policy to provide a safe, humane and appropriately secure environment, free from threat of sexual abuse for all staff and offenders by maintaining a program of prevention, detection, response, reporting, investigating and tracking of all alleged and substantiated incidents of sexual abuse. The DPS&C shall have zero tolerance for incidents of sexual abuse within its facilities.

6. **DEFINITIONS:**
 - A. **Abusive Sexual Contact:** Contact without a person's consent or when a person is unable to consent or refuses to consent. The intentional touching, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or buttocks where the intent to abuse, arouse, or gratify sexual desire. This does not include kicking, grabbing or punching genitals when the intent is to harm or debilitate rather than to sexually exploit.

 - B. **Aggressor:** A staff member, contractor or offender committing an incident that involves sexual contact that is forced on or against another staff member or offender.

 - C. **Biological Evidence:** The contents of a sexual assault examination kit or any item that contains blood, semen, hair, saliva, skin tissue, fingerprints, or other identifiable human biological material that may reasonably be used to incriminate or exculpate any person in a criminal investigation, whether that material is catalogued separately on a slide or swab, in a test tube, or some other similar method, or is present on clothing, ligatures, bedding, other household materials, drinking cups, cigarettes or any other item of evidence.

 - D. **Community Confinement Facility:** A community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center or other community correctional facility (including, a transitional work program (TWP) and residential reentry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pretrial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs or similar facility-approved programs during non-residential hours.

 - E. **Contractor:** An entity that provides services on a recurring basis pursuant to a contractual agreement with the Department to confine offenders. Any new contract or contract renewal following the effective date of this regulation shall include a requirement that the entity is obligated to adopt and comply with the PREA Standards. (§115.12)

 - F. **Direct Staff Supervision:** Security staff who are present in the same room and within reasonable hearing distance of offenders.

- G. **DPS&C Facility:** Includes, for the purpose of this regulation, state operated prison facilities, state privately operated prison facilities and all transitional work programs under contract to or under cooperative endeavor agreement with the DPS&C.
- H. **Exigent Circumstances:** Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.
- I. **Full Compliance:** Conformity with all material requirements of each standard except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance.
- J. **Gender Nonconforming:** A person whose appearance or manner does not conform to traditional societal gender expectations.
- K. **Health Care Practitioner:** Clinicians (such as physicians, dentist, psychologist, podiatrist, optometrists, nurse practitioners, physician assistants and psychiatrists) trained to diagnose and treat patients.
- L. **Intersex:** A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.
- M. **Investigation Outcome Categories**
 - 1) **Substantiated allegation:** An allegation that was investigated and the investigation determined the incident to have occurred.
 - 2) **Unfounded allegation:** An allegation that was investigated and the investigation determined the incident not to have occurred.
 - 3) **Unsubstantiated allegation:** An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the incident occurred.
 - 4) **Pending allegation:** An allegation that was investigated and the outcome of the investigation cannot be decided or settled due to awaiting DNA evidence.
- N. **Jail:** A confinement facility of a federal, state, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges or persons adjudicated guilty who are awaiting transfer to a correctional facility.

- O. **LGBTI:** An acronym for Lesbian, Gay, Bisexual, Transgender, Intersex and Gender Nonconforming offender.
- P. **Lockup:** A facility that contains holding cells, cell blocks or other secure enclosures that are:
 - 1) Under the control of a law enforcement agency, court or custodial officer; and
 - 2) Primarily used for the temporary confinement of individuals who have been arrested, detained, or being transferred to or from a court, jail, prison or other agency.
- Q. **Mental Health Practitioner:** A mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of their professional practice. A "qualified mental health practitioner" refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.
- R. **Offender:** Anyone in the physical custody of the DPS&C.
- S. **Pat-down Search:** A running of the hands over the clothed body of an offender, detainee or resident by an employee to determine whether the individual possesses contraband.
- T. **Potential Predator:** Any offender within the custody of the DPS&C and "Yes" is checked for two or more items on the PREA Screening Checklist (Form C-01-022-D), other than Section II, Item 1 (Possible Victim Factors).
- U. **Potential Victim:** Any offender within the custody of the DPS&C and "Yes" is checked for two or more items on the PREA Screening Checklist (Form C-01-022-D), other than Section III, Item 1 (Possible Predatory Factors).
- V. **PREA Screening Checklist (Checklist):** An assessment tool utilized to assess an offender's probability of being a High Risk Sexual Predator or High Risk Sexual Victim.
 - 1) **High Risk Sexual Predator (HRSP):** Based on the Checklist, any offender within the custody of the DPS&C who has been identified or confirmed as an individual with the propensity to sexually assault others.
 - 2) **High Risk Sexual Victim (HRSV):** Based on the Checklist, any offender within the custody of the DPS&C who has been identified as an individual who has been confirmed as a sexual victim or appears to be at high risk for sexual predation.

- W. **Prison:** For the purpose of this regulation, any institution under federal or state jurisdiction whose primary use is for the confinement of individuals convicted of a felony.
- X. **Reception and Diagnostic Centers:** Elayn Hunt Correctional Center (EHCC) and the Louisiana Correctional Institute for Women (LCIW) shall serve as the Department's primary reception and diagnostic centers, responsible for reception and diagnostic processing, escapes, apprehensions, extraditions and returns. However, other facilities may also provide reception and diagnostic processing. (See Department Regulation No. B-02-001 "Assignment and Transfer of Offenders" for additional information).
- Y. **Repeated:** Regarding sexual harassment, "repeated" is more than three incidents/complaints. A third alleged sexual harassment complaint against a staff member will require a formal counseling session with the appropriate supervisor to discuss the complaint. A fourth alleged sexual harassment complaint shall result in a PREA Investigation.
- Z. **Security Staff:** Employees primarily responsible for the supervision and control of offenders in housing units, recreational, dining and other program areas of the facility.
- AA. **Sexual Abuse (§115.6):**
 - 1) Sexual abuse of an offender by another offender which includes any of the following acts if the victim does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse:
 - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - b. Contact between the mouth and the penis, vulva, or anus;
 - c. Penetration of the anal or genital opening of another person; and
 - d. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of any person, excluding incidents in which the intent of the sexual contact is solely to harm or debilitate rather than to sexually exploit.
 - 2) Sexual abuse of an offender by a staff member, contractor or volunteer which includes any of the following acts, with or without the consent of the offender:

- a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - b. Contact between the mouth and the penis, vulva, or anus;
 - c. Contact between the mouth and any body part where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire;
 - d. Penetration of the anal or genital opening, however slight, by a hand, finger, object or other instrument that is unrelated to official duties or where the staff member, contractor or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - e. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or the buttocks that is unrelated to official duties or where the staff member, contractor or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - f. Any attempt, threat, or request by a staff member, contractor or volunteer to engage in the activities described in Subsections 2)a. through e. of this Section;
 - g. Any display by a staff member, contractor or volunteer of their uncovered genitalia, buttocks or breast in the presence of an offender; and
 - h. Voyeurism by a staff member, contractor or volunteer.
- 3) Voyeurism by a staff member, contractor or volunteer: An invasion of an offender's privacy by staff for reasons unrelated to official duties: such as peering at an offender who is using a toilet in their cell to perform bodily functions; requiring an offender to expose their buttocks, genitals or breasts; or taking images of all or part of an offender's naked body or of an offender performing bodily functions, and distributing or publishing them.
- 4) Sexual harassment includes:
- a. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender directed toward another; and

- b. Repeated verbal comments or gestures of a sexual nature to an offender by a staff member, contractor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing or obscene language or gestures.

- BB. **Sexual Assault Forensic Examiners (SAFEs) and Sexual Assault Nurse Examiners (SANEs):** Specially trained and certified examiners that have specialized training and experience so that they are more sensitive to victim needs and are highly skilled in the collection of evidence, resulting in more successful prosecutions.

- CC. **Staff:** Individuals who are employed by the DPS&C on a full-time, part-time or contractual basis.

- DD. **Strip Search:** A search that requires a person to remove all of their clothing so as to permit a visual inspection of the person's breasts, buttocks or genitalia.

- EE. **Transgender:** A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

- FF. **Unit Head:** Refers to the head of an operational unit, specifically the Undersecretary, Wardens, Sheriffs and Administrators of transitional work programs under contract to or under cooperative endeavor agreement with the DPS&C and the Director of Prison Enterprises.

- GG. **Volunteer:** An individual who donates their time and effort on a recurring basis to enhance the activities and programs of the DPS&C.

- HH. **Victim Advocate:** A qualified staff member or a qualified community-based staff member from a rape crisis center who has been screened for appropriateness to serve in the role of a victim's advocate and has received education concerning sexual assault and forensic examination issues in general. (§115.21)

- II. **Youthful Offender:** Any offender under the age of 18 who is incarcerated in a DPS&C facility.

- 7. **COORDINATION OF PREA RELATED ISSUES:** The Headquarters Director of Investigations shall serve as the Department's PREA Coordinator, including Headquarters and Prison Enterprises. The Department's PREA Coordinator shall have oversight of all activities to develop, implement and oversee the Department's efforts to comply with the PREA Standards in all of its units.
 - A. Each Unit Head shall designate an employee to serve as the unit PREA Compliance Manager with sufficient time and authority to coordinate the

facility's efforts to comply with the PREA standards. Generally, the employee selected should hold an upper management position.

- B. Each Unit Head shall submit the names of prospective unit PREA Compliance Managers, along with their position title to the Department's PREA Coordinator. Each submittal shall be reviewed for approval by the Department's PREA Coordinator.
- C. The unit PREA Compliance Managers shall serve as a liaison between their facility and the Department's PREA Coordinator and other appropriate Headquarters staff and shall be responsible for monitoring PREA related activities, etc. The unit PREA Compliance Managers shall ensure that each requirement of this regulation, including verification that all training, screening, assessments, reporting and monitoring is accomplished in a timely manner.
- D. Each facility shall develop and document a staffing plan (see Department Regulation No. A-02-018 "Institutional Staffing") that provides for adequate levels of staffing and, where applicable, video monitoring, to protect offenders against sexual abuse. The staffing plan and annual updates shall be submitted to the Chief of Operations and the Department's PREA Coordinator. (§115.13(A))
- E. Each 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 unit 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 unit. (§115.13(D))

8. SCREENING, HIRING, DETAIL TO SPECIAL DUTY AND PROMOTION DECISIONS (§115.17):

- A. No unit shall hire, detail or promote any applicant or employee who:
 - 1) Has engaged in sexual abuse in a community confinement facility, jail, lockup or prison as defined in Section 6. of this regulation;
 - 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;
 - 3) Has been civilly or administratively adjudicated to have engaged in the above conduct.

- B. In order to comply with the Prison Rape Elimination Act, applicants for hire must allow the Department to contact previous employers from a community confinement facility, jail, lockup or prison (as defined in Section 6. of this regulation). An Authorization to Contact Previous Employers (Form C-01-022-F) shall be completed by all applicants prior to the effective date of hire.
- C. Applicants for hire, detail to special duty or direct promotion must truthfully answer all questions included on the PREA Requirements for Applicants and Employees Being Considered for Hire, Detail to Special Duty and/or Promotion (Form C-01-022-G). This form shall be completed by the applicant/employee during the interview process or prior to the effective date of hire.
- D. The unit shall consider any incidents of sexual harassment in determining whether to hire, detail or directly promote anyone who may have contact with offenders.
- E. Before hiring, detailing or directly promoting any employee who may have contact with offenders each unit shall perform criminal background checks in accordance with Department Regulation A-02-022 "Criminal Record Check."
- F. Prior to hiring any applicant, each unit's Human Resources Office shall contact each applicant's prior community confinement facility, jail, lockup and/or prison employers (as defined in Section 6. of this regulation) for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse using the PREA Reference Check (Form C-01-022-H).
- G. Each employee has a personal responsibility to disclose to the Unit Head within 72 hours, any conduct for which he was accused, charged and/or convicted as listed in Section 6.A. of this regulation. The PREA Requirements for Applicants and Employees Being Considered for Hire, Detail to Special Duty and/or Promotion (Form C-01-022-G) shall be utilized upon hire for this purpose.
- H. Omissions by applicants for hire, detail to special duty or direct promotion regarding such conduct or providing false information about such conduct shall be grounds for disciplinary action up to and including dismissal.
- I. Unless prohibited by law, each unit shall provide information regarding substantiated allegations of sexual abuse or sexual harassment involving current or former employees upon receiving a request from a community confinement facility, jail, lockup or prison (as defined in Section 6. of this regulation) for whom such employee has applied to work.

9. LIMITS TO CROSS-GENDER VIEWING AND SEARCHES (§115.15):

- A. Cross-gender pat-down searches of female offenders are not permitted, absent exigent circumstances.
- B. Cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) shall not be conducted except in exigent circumstances.
- C. Upon entering a housing unit, all cross-gender staff shall announce their presence.

10. TRAINING: All training on sexual abuse pursuant to the PREA Standards shall be developed by the Department's Training Director in conjunction with the Chief of Operations, Regional Wardens, Department's PREA Coordinator and Department's Medical/Mental Health Director and shall include the following:

A. Employee Training (§115.31)

- 1) All current staff and new hire employees shall sign the Sexual Assault and Sexual Misconduct with Offenders Acknowledgement (Form C-01-022-A) and the Malfeasance in Office (Form C-01-022-B). Both forms shall be maintained in the employee's personnel file. All staff shall receive instruction related to the prevention, detection, response, reporting and investigation of sexual abuse.
- 2) Training shall be tailored to the gender of the offenders at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male offenders to a facility that houses only female offenders, or vice versa.
- 3) All current employees who have not received training shall be trained within one year of the effective date of this regulation. The Department shall provide Correctional Officers with refresher training annually and all other employees shall receive refresher training every two years to ensure that all employees are aware of the Department's current sexual abuse and sexual harassment policies and procedures.
- 4) All security staff shall be trained in how to conduct cross-gender pat-down searches, and searches of transgender and intersex offenders, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. (§115.15(c))

B. Volunteer Training (§115.32)

The Department shall ensure that all volunteers who have contact with offenders have been trained on their responsibilities under the Department's sexual abuse and sexual harassment prevention, detection and response policies and procedures.

- 1) All volunteers must sign the Sexual Assault and Sexual Misconduct with Offenders Volunteer Acknowledgement (Form C-01-022-C) stating that they understand that any violation shall result in disbarment from the unit and may include the filing of criminal charges as warranted. Form C-01-022-C shall be maintained in a file under the direct responsibility of the Unit Head or designee.
- 2) The level and type of training provided to volunteers shall be based on the services they provide and level of contact they have with offenders, but all volunteers who have contact with offenders shall be notified of the Department's zero tolerance policy regarding sexual abuse and sexual harassment and informed of the procedures to follow to report such incidents.
- 3) The Department shall maintain documentation confirming the training the volunteers received.

C. Offender Training (§115.33)

- 1) Offender orientation for all new incoming offenders shall include verbal and written training information regarding sexual assault and sexual misconduct. This information shall address the following:
 - Prevention;
 - Self-protection;
 - Multiple channels of reporting sexual assault and sexual misconduct;
 - Protection from retaliation;
 - Treatment and counseling;
 - DPS&C zero tolerance for sexual assault and sexual misconduct.
- 2) Offenders at all institutions shall receive information concerning sexual abuse during offender orientation at their respective permanent housing unit upon intake. In addition, each offender shall receive one hour of annual training regarding sexual abuse and reporting.

D. Offenders with Disabilities and Offenders who are Limited English Proficient (§115.16)

All facilities shall take appropriate steps to ensure that offenders with disabilities (including, for example, offenders who are deaf or hard of hearing, those who

are blind or have low vision, those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the Department's efforts to prevent, detect and respond to sexual abuse and sexual harassment. (See Department Regulation Nos. B-08-010 "Americans with Disabilities Act" and B-08-018 "Effective Communication with the Hearing Impaired" for additional information).

- 1) The Department shall take reasonable steps to ensure meaningful access to all aspects of the Department's efforts to prevent, detect and respond to sexual abuse and sexual harassment to offenders who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.
- 2) Certified offender interpreters may be used to explain the policies and procedures for reporting; however, the Department shall not rely on offender interpreters, offender readers or other types of offender assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties (§115.64) or the investigation of the offender's allegations.

11. SCREENING FOR RISK OF VICTIMIZATION AND ABUSIVENESS (§115.41):

All new incoming offenders shall be screened at the reception and diagnostic centers for a history of predator sexual behavior, sexual abuse and the likelihood/potential of sexual abuse/victimization. Initial intake screening shall occur ordinarily within 72 hours of intake, and requires that the facility reassess the offender's risk of victimization or abusiveness within a set time period, not to exceed 30 days from the offender's arrival at the facility, based upon any additional, relevant information received by the facility subsequent to the intake screening.

A. Reception center staff shall interview and evaluate all incoming offenders for High Risk Sexual Predator (HRSP) and/or High Risk Sexual Victim (HRSV) tendencies utilizing the results of the PREA Screening Checklist and Instructions for Utilizing the PREA Screening Checklist (Form C-01-022-D), available offender records and mental health screening. The completed Checklist shall be filed in the offender's Master Record and in the mental health section of the offender's medical record file.

- 1) Any offender who answers "Yes" to Item 1. in Section III of the PREA Screening Checklist shall be considered to be a known predator. An offender who answers "Yes" to two or more items other than Item 1. of the Checklist shall be considered a potential predator.

- 2) Any offender who answers "Yes" to Item 1. in Section II of the PREA Screening Checklist shall be considered a confirmed victim of sexual assault. An offender who answers "Yes" to two or more items other than Item 1. of the Checklist shall be considered a potential victim.
- B. Offenders who enter the Department as sex offenders or offenders identified as HRSP by the Checklist shall be advised of the sex offender treatment and programming available by mental health professionals involved in the reception and classification process. Clinical decisions involving these offenders awaiting transfer to a permanent institutional setting shall be the responsibility of the mental health staff at the reception centers.
 - C. Offenders who enter the Department and are identified as confirmed victims of sexual assault utilizing the Checklist shall be considered for placement in a permanent institutional setting considered more sheltered than general population.
 - D. The Unit Head is encouraged to utilize precautions to separate potential victims. Potential victims who have a higher risk profile should be given extra consideration regarding their housing assignment. Facility staff shall utilize the Offender Management System (formerly known as CAJUN) High Risk Sexual Predator/Victim Report (Entry Code "CHRSPV") to identify offenders that have been screened and identified as potential or confirmed victims and their current housing assignment. PREA Compliance Managers or delegated appropriate staff shall utilize this reporting method to review housing assignments on the first working day of each month in order to verify that confirmed victims and confirmed predators are not housed inappropriately or in conflict with this regulation.

12. USE OF SCREENING INFORMATION UPON INITIAL INTAKE (§115.41):

- A. Decisions concerning housing assignments, jobs and group activities for HRSP and HRSV offenders shall be the responsibility of the Initial Board at each receiving institution and shall be based on the Checklist, record review, prior facility behavior and current behavior. If mental health intervention is indicated, a referral shall be made by the Initial Board to a mental health professional. Offenders may not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked pursuant to Sections (d)(1), (d)(7), (d)(8) or (d)(9) of §115.41.
- B. In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, and in making other housing and programming assignments, the unit shall consider on a case-by-case basis whether a placement would ensure the offender's health and safety, and whether the placement would present management or security problems.

- C. Reception center staff shall note the results of the Checklist in the Offender Management System (formerly known as CAJUN). Consideration concerning housing, including possible single cell, shall be determined by the Classification Board based on initial screening information for those offenders confirmed/deemed HRSP and/or HRSV.

13. USE OF SCREENING INFORMATION AT PERMANENT HOUSING ASSIGNMENT (§115.42):

The completed Checklist for all offenders at their permanent housing assignment shall be filed and shall remain in the offender's Master Record and in the mental health section of the offender's medical record file. The Checklist shall not be considered a public record.

- A. Once an offender is confirmed/deemed as HRSP and/or HRSV at any time during incarceration, the offender shall be evaluated by the Classification Board for appropriate housing and programs and the offender shall be referred to a mental health professional. The mental health professional shall meet with the offender upon receipt of the referral and then every six months thereafter to offer services, encourage programming and monitor movement for a period of not less than one year.
- B. Placement and programming assignments for transgender or intersex offenders shall be reassessed at least twice each year by Classification staff to review any threats to safety experienced by the offender.

Note: It is prohibited to place a lesbian, gay, bisexual, transgender, intersex and gender nonconforming offender (LGBTI) in a dedicated unit or facility solely on the basis of LGBTI identification unless such placement is pursuant to a legal requirement for the purpose of protecting such an offender. Transgender and intersex offenders must be given the opportunity to shower separately from other offenders.

- C. The Department's Medical/Mental Health Director shall ensure that the institution employs or has access to the services of a licensed mental health professional that has a scope of practice, training and/or experience in trauma counseling.
- D. Mental health services for HRSP offenders shall focus on alleviating the offender's propensity for predatory or aggressive sexual behavior.
- E. Mental health services for HRSV offenders shall focus on issues related to treatment for and prevention of victimization.
- F. The Director of Classification or designee at each institution shall be notified at intake by the Initial Board or by any staff member thereafter who identifies an

offender as an HRSP and/or HRSV. The Director of Classification or designee shall ensure that this information is entered into the offender's ReAP, Annual Assessment, Master Record and in the mental health section of the offender's medical record for monitoring purposes.

- G. At least quarterly, Unit Managers shall ensure housing area supervisors and staff are provided with information identifying which offenders within those housing locations are designated as HRSP and HRSV in order to achieve the effective management of these offender populations. Additionally, this information shall be provided to housing area supervisors each time a HRSP or HRSV offender's housing location is changed.
- H. Offenders at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If the facility restricts access to programs, privileges, education or work opportunities, the facility shall document this information. (§115.43)
- I. Any offender who is recognized as displaying predatory behavior or the potential for victimization shall be referred to the Warden or designee for appropriate evaluation utilizing the Checklist and if indicated, a referral shall be made to a mental health professional for intervention.
- J. After an offender who has been identified as a potential HRSP and/or a potential HRSV has demonstrated successful adjustment to incarceration without any evident predatory or victim behaviors for no less than one year, the Classification Board may change the HRSP and/or HRSV code. However, if the offender's discharge date occurs prior to the Annual Assessment, a screening shall be completed prior to discharge.

14. REPORTING:

- A. An allegation of sexual abuse shall be reported to the Department's PREA Coordinator immediately following the initial notification to the Unit Head. Such allegations shall be treated with discretion and confidentiality.
- B. All allegations of sexual assault or sexual misconduct may be reported to any staff member. The staff member who receives such reports whether verbally or in writing, shall immediately notify their supervisor who shall ensure that an Unusual Occurrence Report (UOR) is completed. All PREA related UOR's shall be forwarded immediately up the chain of command. The appropriate supervisor shall immediately contact the facility investigative section.
- C. An offender may also use the Administrative Remedy Procedure (ARP) as a means to report an alleged sexual assault or sexual misconduct. There is no

time limit imposed regarding when an offender may submit a grievance regarding an allegation of sexual abuse. The Department shall not require an offender to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. Nothing in this section shall restrict the unit's ability to defend against an offender's lawsuit on the ground that the applicable statute of limitations has expired. (§115.52)

- D. In every case where the alleged aggressor is a staff member, there shall be no contact between the alleged aggressor and the alleged offender/victim without the approval of the Unit Head.
- E. The staff member receiving the report and/or the appropriate supervisor shall advise the victim not to shower or otherwise hygienically clean or if the assault was oral, not to eat, drink, or brush the teeth or otherwise take any action that could damage or destroy physical evidence pending completion of the gathering of that evidence and/or the initial investigation.
- F. If the alleged assault has occurred within the previous 72 hours and evidence is obtainable or other circumstances dictate, arrangements shall immediately be made to have the alleged victim escorted under appropriate security provisions to the infirmary for assessment. Testing for pregnancy, sexually transmitted diseases (HIV, gonorrhea, hepatitis etc.) and other diseases as determined by the attending physician and counseling shall be made available to the alleged victim when appropriate.
- G. The Department shall offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost to the victim, when evidentiary 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 Department shall document its efforts to provide SAFEs and SANEs. (§115.21(c))
- H. The assigned investigator shall immediately notify the Victim Advocate (but no later than the next business day), that an alleged sexual abuse has occurred. (§115.21)
 - 1) The Victim Advocate shall consult with the assigned investigator and offer assistance to the alleged victim as is appropriate.
 - 2) As requested by the victim and with the alleged victim's written consent utilizing the Consent for Victim Advocate (Form C-01-022-I), the Victim Advocate may participate in supporting victims throughout the forensic medical examination process (ensuring compliance in confidentiality

laws) and investigatory interviews and shall provide emotional support, crisis intervention, information and referrals.

- 3) The Victim Advocate may not obstruct or interfere with the course of the investigation in any manner.
 - 4) All conversations between the Victim Advocate and the alleged victim shall remain confidential except when:
 - a. Disclosure of the confidential information is necessary to protect the victim or another (staff or offender) from potential harm; or
 - b. The identity of an otherwise unknown alleged sexual predator is revealed.
 - 5) The Victim Advocate shall not prepare or submit an Unusual Occurrence Report based upon conversations or functions performed while in the role of Victim Advocate.
- I. If the alleged victim is a youthful offender, the reporting requirements outlined in this Section shall be followed. (§115.61)
- 1) The unit PREA Compliance Manager shall complete the Department of Children and Family Services/Child Welfare Report For Mandated Reporters of Child Abuse/Neglect (Form C-01-022-J) and e-mail a copy of the report to the Chief of Operations and the Department's PREA Coordinator within 24 hours of the allegation or incident. Within this 24 hour period, the unit PREA Compliance Manager shall also make an oral report of the allegation or incident to the Department of Family Services by calling 1-855-452-5437.
 - 2) Following review and concurrence with the report by the Department's PREA Coordinator, the unit PREA Compliance Manager shall fax a copy of the report (Form C-01-022-J) to the Department of Family Services at the appropriate fax number listed below. For convenience, telephone numbers are also included.

<u>Facility</u>	<u>Fax No.</u>	<u>Telephone No.</u>
AVC	318-253-5053	318-253-7734
ALC, WNC	337-639-4052	337-639-2963
DCI, LSP	225-683-9634	225-683-3734
DWCC	318-371-3083	318-371-3004
EHCC, LCIW	225-687-2129	225-687-4373
RCC	985-732-6826	985-732-6800

- 3) Mandatory reporters of sexual abuse of a youthful offender include health practitioners, mental health/social service practitioners, clergy, teachers and law enforcement officers. Failure to report sexual abuse of a youthful offender by a mandatory reporter may result in disciplinary action taken by the Department and the individual's professional licensing board.
- 4) Submission of Form C-01-022-J as stated in Sections 14.1.1) and 2) shall be in addition to and prior to the completion of the mandatory PREA investigation.
- 5) Form C-01-022-J shall be maintained in the investigative file of the incident and a copy shall be maintained in the youthful offender's mental health file.

15. REPORTING TO OTHER CONFINEMENT FACILITIES (§115.63):

Upon receiving an allegation that an offender was sexually abused while confined at another facility, the Unit Head or designee of the facility that received the allegation shall notify in writing the Unit Head of the facility or designee where the alleged abuse occurred. Notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation and documentation shall be placed in the offender's Master Record.

16. INVESTIGATIONS (§ 115:71):

NOTE: When sexual abuse is alleged, the unit shall use investigators who have received special training in investigating incidents of sexual assault and sexual misconduct. This training may include, but not be limited to: sexual abuse investigations; crime scene management; elimination of contamination; evidence collection protocol and crisis intervention. (§115:234)

- A. Investigation of recent sexual assault or sexual misconduct occurring within 72 hours: If the alleged sexual assault or sexual misconduct is reported or discovered within 72 hours of the incident, the following steps shall be taken by the Unit Head or designee.
 - 1) The Unit Head shall be notified and an investigation shall be initiated as directed. Based upon the initial inquiry and/or evidence that the allegation represents possible criminal activity, the Unit Head or designee shall notify local law enforcement and the facility investigative section.
 - 2) If the alleged aggressor is known to be an offender, he shall be placed in segregation pending investigation.

- 3) At the initiation of the investigation, alleged victim(s) and alleged aggressor(s) shall be immediately separated.

Note: The Unit Head, designee or unit PREA Compliance Manager shall coordinate with the assigned investigator in making decisions regarding the housing and management of the alleged offender/victim(s), the alleged offender/ aggressor(s) and any alleged offender/witness(es) so as not to inadvertently interfere with the criminal investigation.

- 4) Secure the alleged crime scene if feasible and if forensic evidence is likely to exist.
- 5) A log shall be maintained to record the name of each person entering the crime scene, the time of entry and time of departure.
- 6) The only persons allowed to enter a secured crime scene are the assigned investigator(s), medical staff and/or the Unit Head, as needed.
- 7) The crime scene shall remain secured until released by the investigator.
- 8) Investigators shall: gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- 9) In accordance with La. R.S. 15:621, all biological evidence collected in cases involving homicide and rape shall be held in secure custody indefinitely or turned over to the Sheriff's Office that is handling the criminal investigation. In either case, the biological evidence shall not be destroyed and shall be stored appropriately. This does not preclude removing parts containing biological evidence from large items of evidence and retaining only the parts containing the biological evidence.

Note: All unit PREA Compliance Managers or investigators shall notify the Department's PREA Coordinator via e-mail before any sexual assault kits involving staff DNA are submitted to the Louisiana State Police Crime Lab for investigative purposes.

- 10) The alleged victim shall be promptly escorted under appropriate security provisions to the infirmary for assessment.
- 11) In preparation for transporting the alleged victim to the infirmary or hospital emergency room, the victim shall be instructed to undress over a clean sheet in order to collect any potential forensic evidence that may fall from his person. The sheet, along with the victim's clothing, shall be

collected as evidence and placed in a paper bag with an appropriate chain of evidence form attached. Appropriate substitute clothing shall be provided to the victim.

- 12) When the alleged victim is an offender and is released from the infirmary or emergency room, the alleged offender/victim shall be segregated from the alleged aggressor and screened by a mental health professional and appropriate referrals are made.
- 13) Separate interviews of the alleged victim and the alleged aggressor shall be conducted.
- 14) No facility shall require an offender who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
- 15) 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 detainee or staff.
- 16) Alleged aggressors who are offenders shall be held in segregation pending investigation and shall remain there until the investigation is complete, unless other circumstances require the transfer of the alleged offender aggressor.

B. Investigations of sexual abuse occurring more than 72 hours after the incident: The following steps shall be taken by the Unit Head or designee.

- 1) Alleged victim(s) and alleged aggressor(s) shall be immediately separated and assigned to an appropriate housing unit.
- 2) Medical and mental health screening shall be offered to all victims.
- 3) A determination shall be made based upon the amount of time that has passed since the alleged incident occurred and the possibility of evidence still existing, as to whether the alleged aggressor, if known to be an offender, should be placed in a dry cell to preserve forensic evidence. An offender who is placed in a dry cell for purposes of preserving forensic evidence shall be strip-searched, issued a paper gown and will have all possessions removed. No offender placed in a dry cell shall remain in such status any longer than is necessary to determine if any forensic or other evidence can be obtained.
- 4) A determination shall be made based upon the amount of time that has passed since the alleged incident and other factors, whether there is a possibility of evidence still existing at the crime scene. If it is determined

that evidence may still exist, the alleged crime scene shall be secured and any potential evidence shall remain in place for the investigation. If the alleged crime scene cannot be secured, it shall be photographed and/or videotaped and proper evidence protocols followed.

- 5) Investigators shall: gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; interview alleged victims, suspected perpetrators, and witnesses; and review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- 6) All PREA investigations shall result in a formal report utilizing the Standardized Case Report (Form C-01-022-E). Standardized case reporting shall be conducted as follows.
 - 1) A case report numbering format shall be utilized:
 - a. Three letter facility identifier;
 - b. Two digit year identifier;
 - c. Single letter month identifier, with January beginning "A";
 - d. A sequential case number example: The case report number for Rayburn Correctional Center assigning the first case of January, 2012 would be: RCC-12-A-001.
 - 2) All PREA investigation case reports shall be reviewed and approved by the Warden or designated Deputy Warden. Upon unit review and approval, all PREA investigation case reports shall be forwarded to the Department's PREA Coordinator for final review, approval/disapproval and disposition.
- 7) All investigation case reports shall be concluded, reviewed and forwarded to Headquarters within 30 days of receiving the initial allegation. In the event an extension of the 30-day time period is needed, a request shall be submitted to the Headquarters Director of Investigations who shall approve or deny the request.
- 8) Investigations concerning allegations of employees holding the rank of Colonel or above shall be conducted by investigators assigned by the Department's PREA Coordinator.

C. Investigations of Potential Criminal Allegations

Incidents involving criminal acts of sexual assault and sexual misconduct where local law enforcement is not conducting the investigation should be investigated by an investigator who is acting under the authority of the Headquarters Director

of Investigations. If such an investigator is not assigned to the reporting unit, one shall be assigned to the facility by the Department's PREA Coordinator.

17. DATA COLLECTION AND PROSECUTION:

A. Data Collection

- 1) The PREA Allegation Database, accessed in Lotus Notes, is the electronic data collection system which tracks all allegations of sexual abuse defined by this regulation.
- 2) Allegations shall be input into the Database by authorized staff (approved by the Chief of Operations or designee) who shall track the investigations of all allegations of sexual assault and sexual misconduct.
- 3) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice's Bureau of Justice Statistics. (§115.87)

B. Prosecution

- 1) Substantiated allegations shall be forwarded to the local District Attorney for a decision regarding prosecution. (§115:71(h)) Administrative disciplinary action should be initiated on the aggressor (offender or staff). The unit PREA Investigator shall work with the District Attorney's Office to ensure appropriate criminal prosecution of substantiated cases of sexual assault.
- 2) The PREA Allegation Database shall be updated by authorized staff in accordance with Section 18.A.2) to reflect the District Attorney's actions concerning PREA cases.

18. SEXUAL ABUSE INCIDENT REVIEWS (§115.86):

The unit shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including substantiated cases, as well as unsubstantiated cases, unless the allegation has been determined to be unfounded. The review shall ordinarily occur within 30 days of the conclusion of the investigation. The review team shall include upper management officials, (Deputy Warden, or Assistant Warden(s) and unit PREA Compliance Manager, etc.) with input from line supervisors, investigators and medical or mental health practitioners. The review team shall prepare a Sexual Abuse Incident Review (Form C-01-022-K) pursuant to Paragraphs (1) through (6) of §115.86 and shall send a copy of the report to the Chief of Operations and the Department's PREA Coordinator. The completed Sexual Abuse Incident Review (Form C-01-022-K) shall be maintained in the investigative file of the

incident and a copy shall be sent to the Unit Head and the unit PREA Compliance Manager.

19. DISCIPLINARY ACTION:

- A. The Department has adopted a zero tolerance policy toward victimization and sexual abuse within our facilities through the PREA Program. It is imperative that all Department personnel take appropriate actions to properly document and investigate allegations of sexual assault, sexual misconduct, sexual harassment and sexual coercion. Full investigations, appropriate reporting and compliance to the standards program are crucial to the success of the program and will be treated as a top priority by administrators and investigators.
- B. Staff who violate this regulation may receive disciplinary action, up to and including termination. Appropriate steps shall be taken to ensure fairness and due process.

20. DATA PUBLICATION (§115.89):

The Department's PREA Coordinator shall make an annual report regarding all sexual abuse data from DPS&C facilities available to the public through the Department's website (www.doc.la.gov). The report shall consist of numbers only and shall not include personal identifiers or specific institutions.

s/James M. Le Blanc
Secretary

Attachment: Part 115 of Title 28 of the Code of Federal Regulations: Standards for Adult Prisons and Jails

Forms:	C-01-022-A	Sexual Assault and Sexual Misconduct with Offenders Acknowledgement
	C-01-022-B	Malfeasance in Office
	C-01-022-C	Sexual Assault and Sexual Misconduct with Offenders Volunteer Acknowledgement
	C-01-022-D	PREA Screening Checklist and Instructions for Utilizing the PREA Screening Checklist
	C-01-022-E	Standardized Case Report
	C-01-022-F	Authorization to Contact Previous Employers
	C-01-022-G	PREA Requirements for Applicants and Employees Being Considered for Hire, Detail to Special Duty and/or Promotion
	C-01-022-H	PREA Reference Check
	C-01-022-I	Consent for Victim Advocate
	C-01-022-J	Department of Children and Family Services/Child Welfare Written Report for Mandated Reporters of Child Abuse/Neglect
	C-01-022-K	Sexual Abuse Incident Review

This regulation supersedes Department Regulation No. C-01-022 dated 28 December 2012.

**PART 115 OF TITLE 28 OF THE CODE OF FEDERAL REGULATIONS: STANDARDS
FOR ADULT PRISONS AND JAILS**

(EFFECTIVE 19 August 2012)

The Standards listed that have three clear goals: to protect, to detect and respond to sexual abuse. Each facility is responsible for compliance with the standards. The standards require that each facility be audited every three years to assess compliance, with the first auditing period commencing one year after the effective date of the standards.

PREVENTION PLANNING (PP)

- §115.11 PP-1: Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator
- § 115.12 PP-2 Contracting with other entities for the confinement of inmates
- § 115.13 PP-3: Supervision and monitoring
- § 115.14 PP-4: Youthful inmates
- § 115.15 PP-5: Limits to cross-gender viewing and searches
- § 115.16 PP-6: Inmates with disabilities and inmates who are limited English proficient.
- §115.17 PP-7: Hiring and promotion decisions
- §115.18 PP-8: Upgrades to facilities and technologies.

RESPONSE PLANNING (RP)

- § 115.21 RP-1: Evidence protocol and forensic medical exams
- § 115.22 RP-2 Policies to ensure referrals of allegations for investigations.

TRAINING AND EDUCATION (TR)

- § 115.31 TR-1: Employee training
- § 115.32 TR-2: Volunteer and contractor training
- § 115.33 TR-3: Inmate education
- § 115.34 TR-4: Specialized training; Investigations
- § 115.35 TR-5: Specialized training: Medical and mental health care

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS (SC)

- § 115.41 SC-1: Screening for risk of victimization and abusiveness
- § 115.42 SC-2: Use of screening information
- § 115.43 SC-3: Protective Custody

REPORTING (RE)

- § 115.51 RE-1: Inmate reporting
- § 115.52 RE-2: Exhaustion of administrative remedies
- § 115.53 RE-3: Inmate access to outside confidential support services
- § 115.54 RE-4: Third-party reporting

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT (OR)

- § 115.61 OR-1: Staff and agency reporting duties
- § 115.62 OR-2: Agency protection duties
- § 115.63 OR-3: Reporting to other confinement facilities
- § 115.64 OR-4: Staff first responder duties

- § 115.65 OR-5: Coordinated response
- § 115.66 OR-6: Preservation of ability to protect inmates from contact with abusers
- § 115.67 OR-7: Agency protection against retaliation
- § 115.68 OR-8: Post-allegation protective custody

INVESTIGATIONS (IN)

- § 115.71 IN-1: Criminal and administrative agency investigations
- § 115.72 IN-2: Evidence standard for administrative investigations
- § 115.73 IN-3: Reporting to inmates

DISCIPLINE (DI)

- § 115.76 DI-1: Disciplinary sanctions for staff
- § 115.77 DI-2: Corrective action for contractors & volunteers
- § 115.77 DI-3: Disciplinary sanctions for inmates

MEDICAL AND MENTAL HEALTH CARE (MM)

- § 115.81 MM-1: Medical and mental health screenings—history of sexual abuse
- § 115.82 MM-2: Access to emergency medical and mental health services
- § 115.83 MM-3: Ongoing medical and mental health care for sexual abuse victims and abusers

DATA COLLECTION AND REVIEW (DC)

- § 115.86 DC-1: Sexual abuse incident reviews
- § 115.87 DC-2: Data collection
- § 115.88 DC-3: Data review for corrective action
- § 115.89 DC-4: Data storage, publication, and destruction

AUDITS (AU)

- § 115.93 AU-1: Audits of standards
The agency shall conduct audits pursuant to §§ 115.401–.405.
- § 115.401 Frequency and scope of audits.
- § 115.402 Auditor qualifications.
- § 115.403 Audit contents and findings.
- § 115.404 Audit corrective action plan.
- § 115.405 Audit appeals.

STATE COMPLIANCE

- § 115.501 State determination and certification of full compliance.

STANDARDS FOR ADULT PRISONS AND JAILS

PREVENTION PLANNING

§ 115.11 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.

(b) An agency shall 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.

(c) Where an agency operates more than one facility, each facility shall designate a PREA compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards.

§ 115.12 Contracting with other entities for the confinement of inmates

(a) A public agency that contracts for the confinement of its inmates 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.

§ 115.13 Supervision and monitoring

(a) The agency shall ensure that each facility it operates shall develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration:

- (1) Generally accepted 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 "blind-spots" or areas where staff or inmates may be isolated);
- (6) The composition of the inmate 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) In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.

- (c) Whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by § 115.11, 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) The facility's deployment of video monitoring systems and other monitoring technologies; and
 - (3) The resources the facility has available to commit to ensure adherence to the staffing plan.
- (d) Each agency operating a 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 agency 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.

§ 115.14 Youthful inmates

- (a) A youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters.
- (b) In areas outside of housing units, agencies shall either:
- (1) maintain sight and sound separation between youthful inmates and adult inmates, or
 - (2) provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact.
- (c) Agencies shall make best efforts to avoid placing youthful inmates in isolation to comply with this provision. Absent exigent circumstances, agencies shall not deny youthful inmates daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful inmates shall also have access to other programs and work opportunities to the extent possible.

§ 115.15 Limits to cross-gender viewing and searches

- (a) The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.
- (b) As of August 20, 2015, or August 21, 2017 for a facility whose rated capacity does not exceed 50 inmates, the facility shall not permit cross-gender pat-down searches of female inmates, absent exigent circumstances. Facilities shall not restrict female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.
- (c) The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female inmates.
- (d) The facility shall implement policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures

shall require staff of the opposite gender to announce their presence when entering an inmate housing unit.

(e) The facility shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, 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.

(f) The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

§ 115.16 Inmates with disabilities and inmates who are limited English proficient

(a) The agency shall take appropriate steps to ensure that inmates with disabilities (including, for example, inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with inmates who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities, including inmates who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.

(b) The agency shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(c) The agency shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under § 115.64, or the investigation of the inmate's allegations.

§ 115.17 Hiring and promotion decisions

(a) The agency shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who—

(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);

(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

(3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.

(b) The agency shall 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 inmates.

(c) Before hiring new employees who may have contact with inmates, the agency shall:

(1) Perform a criminal background records check; and

(2) Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

(d) The agency shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates.

(e) The agency shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees.

(f) The agency shall ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

(g) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

(h) 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.

§ 115.18 Upgrades to facilities and technologies

(a) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse.

(b) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect inmates from sexual abuse.

RESPONSIVE PLANNING

§ 115.21 Evidence protocol and forensic medical examinations

(a) To the extent the agency is responsible for investigating allegations of sexual abuse, the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

(b) The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be 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.

(c) The agency shall offer all victims of 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.

(e) As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

(f) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall request that the investigating agency follow the requirements of paragraphs (a) through (e) of this section.

(g) The requirements of paragraphs (a) through (f) of this section shall also apply to:

(1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in prisons or jails; and

(2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails.

(h) For the purposes of this section, 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.

§ 115.22 Policies to ensure referrals of allegations for investigations

(a) The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

(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.

(d) Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

(e) Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

TRAINING AND EDUCATION

§ 115.31 Employee training

(a) The agency shall train all employees who may have contact with inmates on:

(1) Its zero-tolerance policy for sexual abuse and sexual harassment;

(2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;

(3) Inmates' right to be free from sexual abuse and sexual harassment;

(4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;

(5) The dynamics of sexual abuse and sexual harassment in confinement;

(6) The common reactions of sexual abuse and sexual harassment victims;

(7) How to detect and respond to signs of threatened and actual sexual abuse;

(8) How to avoid inappropriate relationships with inmates;

(9) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and

(10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

(b) Such training shall be tailored to the gender of the inmates at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa.

(c) All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the agency shall provide each employee with refresher training every two years to ensure that 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, the agency shall provide refresher information on current sexual abuse and sexual harassment policies.

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

§ 115.32 Volunteer and contractor training

(a) The agency shall ensure that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

(b) The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with inmates, but all volunteers and contractors who have contact with inmates shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

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

§ 115.33 Inmate education

(a) During the intake process, inmates 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.

(b) Within 30 days of intake, the agency shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

(c) Current inmates who have not received such education shall be educated within one year of the effective date of the PREA standards, and shall receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility.

(d) The agency shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.

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

(f) In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.

§ 115.34 Specialized training: Investigations

(a) In addition to the general training provided to all employees pursuant to § 115.31, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.

(b) Specialized training shall include techniques for interviewing sexual abuse victims, proper use of *Miranda* and *Garrity* warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

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

(d) Any State entity or Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations.

§ 115.35 Specialized training: Medical and mental health care

(a) The agency shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:

- (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 victims of sexual abuse and sexual harassment; and
- (4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

(b) If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

(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.

(d) Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.31 or for contractors and volunteers under § 115.32, depending upon the practitioner's status at the agency.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

§ 115.41 Screening for risk of victimization and abusiveness

(a) All inmates shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates.

(b) Intake screening shall ordinarily take place within 72 hours of arrival at the facility.

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

(d) The intake screening shall consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization:

- (1) Whether the inmate has a mental, physical, or developmental disability;
- (2) The age of the inmate;
- (3) The physical build of the inmate;
- (4) Whether the inmate has previously been incarcerated;
- (5) Whether the inmate's criminal history is exclusively nonviolent;
- (6) Whether the inmate has prior convictions for sex offenses against an adult or child;
- (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
- (8) Whether the inmate has previously experienced sexual victimization;
- (9) The inmate's own perception of vulnerability; and
- (10) Whether the inmate is detained solely for civil immigration purposes.

(e) The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing inmates for risk of being sexually abusive.

(f) Within a set time period, not to exceed 30 days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

(g) An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.

(h) Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section.

(i) The agency shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.

§ 115.42 Use of screening information

(a) The agency shall use information from the risk screening required by § 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

(b) The agency shall make individualized determinations about how to ensure the safety of each inmate.

(c) In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.

(d) Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

(e) A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.

(f) Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.

(g) The agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

§ 115.43 Protective custody

(a) Inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment.

(b) Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document:

- (1) The opportunities that have been limited;
- (2) The duration of the limitation; and
- (3) The reasons for such limitations.

(c) The facility shall assign such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.

(d) If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, the facility shall clearly document:

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

(e) Every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.

REPORTING

§ 115.51 Inmate reporting

(a) The agency shall provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

(b) The agency shall also provide at least one way for inmates 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 inmate to remain anonymous upon request. Inmates detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security.

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

(d) The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.

§ 115.52 Exhaustion of administrative remedies

(a) An agency shall be exempt from this standard if it does not have administrative procedures to address inmate grievances regarding sexual abuse.

(b)(1) The agency shall not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse.

(2) The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.

(3) The agency shall not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

(4) Nothing in this section shall restrict the agency's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired.

(c) The agency shall ensure that—

(1) An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and

(2) Such grievance is not referred to a staff member who is the subject of the complaint.

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

(2) Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal.

(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 inmate in writing of any such extension and provide a date by which a decision will be made.

(4) At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level.

(e)(1) Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates.

(2) If a third party files such a request on behalf of an inmate, 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 subsequent steps in the administrative remedy process.

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

(f)(1) The agency shall establish procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse.

(2) After receiving an emergency grievance alleging an inmate 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 inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(g) The agency may discipline an inmate for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the inmate filed the grievance in bad faith.

§ 115.53 Inmate access to outside confidential support services

(a) The facility shall provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates 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, immigrant services agencies. The facility shall enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible.

(b) The facility shall inform inmates, prior to giving them 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.

(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 inmates 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.

§ 115.54 Third-party reporting

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 an inmate.

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

§ 115.61 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 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 inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

(b) Apart from reporting to designated supervisors or officials, staff shall not reveal 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.

(c) Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (a) of this section and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

(d) If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

(e) The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators.

§ 115.62 Agency protection duties

When an agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate.

§ 115.63 Reporting to other confinement facilities

(a) Upon receiving an allegation that an inmate 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.

- (b) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- (c) The agency shall document that it has provided such notification.
- (d) The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

§ 115.64 Staff first responder duties

- (a) Upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report shall be required to:
 - (1) Separate the alleged victim and abuser;
 - (2) 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, 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; and
 - (4) If the abuse occurred within a time period that still allows for the collection of physical evidence, 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.
- (b) If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

§ 115.65 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.

§ 115.66 Preservation of ability to protect inmates 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 any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
- (b) Nothing in this standard shall restrict the entering into or renewal of agreements that govern:
 - (1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §§ 115.72 and 115.76; or
 - (2) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

§ 115.67 Agency protection against retaliation

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

(b) The agency shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

(c) For at least 90 days following a report of sexual abuse, the agency shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation. Items the agency should monitor include any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

(d) In the case of inmates, such monitoring shall also include periodic status checks.

(e) If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.

(f) An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

§ 115.68 Post-allegation protective custody

Any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of § 115.43.

INVESTIGATIONS

§ 115.71 Criminal and administrative agency investigations

(a) 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 third-party and anonymous reports.

(b) Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations pursuant to § 115.34.

(c) Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.

(d) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

(e) 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 inmate or staff.

No agency shall require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

(f) Administrative investigations:

(1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and

(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.

(h) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

(i) The agency shall retain all written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

(j) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.

(k) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

(l) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

§ 115.72 Evidentiary standard for administrative investigations

The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

§ 115.73 Reporting to inmates

(a) Following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, the agency shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

(b) If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate.

(c) Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever:

(1) The staff member is no longer posted within the inmate's unit;

(2) The staff member is no longer employed at the facility;

(3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

(4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

(d) Following an inmate's allegation that he or she has been sexually abused by another inmate, the agency shall subsequently inform the alleged victim whenever:

- (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.
- (e) All such notifications or attempted notifications shall be documented.
- (f) An agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody.

DISCIPLINE

§ 115.76 Disciplinary sanctions for staff

- (a) Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.
- (b) Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
- (c) Disciplinary sanctions 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.
- (d) All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

§ 115.77 Corrective action for contractors and volunteers

- (a) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
- (b) The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

§ 115.78 Disciplinary sanctions for inmates

- (a) Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.
- (b) Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.
- (c) The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
- (d) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider

whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits.

(e) The agency may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

(f) For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

(g) An agency may, in its discretion, prohibit all sexual activity between inmates and may discipline inmates for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

MEDICAL AND MENTAL CARE

§ 115.81 Medical and mental health screenings; history of sexual abuse

(a) If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

(b) If the screening pursuant to § 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

(c) If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior

sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

(d) 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, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.

(e) Medical and mental health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.

§ 115.82 Access to emergency medical and mental health services

(a) Inmate 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.

(b) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to § 115.62 and shall immediately notify the appropriate medical and mental health practitioners.

(c) Inmate 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.

(d) 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.

§ 115.83 Ongoing medical and mental health care for sexual abuse victims and abusers

(a) The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

(b) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.

(c) The facility shall provide such victims with medical and mental health services consistent with the community level of care.

(d) Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.

(e) If pregnancy results from the conduct described in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

(f) Inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.

(g) 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.

(h) All prisons shall attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

DATA COLLECTION AND REVIEW

§ 115.86 Sexual abuse incident reviews

(a) The facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

(b) Such review shall ordinarily occur within 30 days of the conclusion of the investigation.

(c) The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.

(d) The review team shall:

(1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;

(2) Consider 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 motivated or otherwise caused by other group dynamics at the facility;

(3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

(4) Assess the adequacy of staffing levels in that area during different shifts;

(5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and

(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.

§ 115.87 Data collection

(a) The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.

(b) The agency shall aggregate the incident-based sexual abuse data at least annually.

(c) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.

(d) The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

(e) The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.

(f) Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

§ 115.88 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:

(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.

(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.

§ 115.89 Data storage, publication, and destruction

- (a) The agency shall ensure that data collected pursuant to § 115.87 are securely retained.
- (b) The agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.
- (c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.
- (d) The agency shall maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

AUDITS

§ 115.93 Audits of standards

The agency shall conduct audits pursuant to §§ 115.401–.405.

- (a) An audit shall be considered independent if it is conducted by:
 - (1) A correctional monitoring body that is not part of the agency but that is part of, or authorized by, the relevant State or local government;
 - (2) An auditing entity that is within the agency but separate from its normal chain of command, such as an inspector general or ombudsperson who reports directly to the agency head or to the agency's governing board; or
 - (3) Other outside individuals with relevant experience.
- (b) No audit may be conducted by an auditor who has received financial compensation from the agency being audited within the three years prior to the agency's retention of the auditor.
- (c) The agency shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the agency's retention of the auditor, with the exception of contracting for subsequent audits.
- (d) All auditors shall be certified by the Department of Justice to conduct such audits, and shall be re-certified every three years.
- (e) The Department of Justice shall prescribe methods governing the conduct of such audits, including provisions for reasonable inspections of facilities, review of documents, and interviews of staff and inmates. The Department of Justice also shall prescribe the minimum qualifications for auditors.
- (f) The agency shall enable the auditor to enter and tour facilities, review documents, and interview staff and inmates to conduct a comprehensive audit.
- (g) The agency shall ensure that the auditor's final report is published on the agency's website if it has one or is otherwise made readily available to the public.

§ 115.401 Frequency and scope of audits

- (a) During the three-year period starting on August 20, 2013 and during each three-year period thereafter, the agency shall ensure that each facility operated by the agency, or by a private organization on behalf of the agency, is audited at least once.
- (b) During each one-year period starting on August 20, 2013, the agency shall ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, is audited.
- (c) The Department of Justice may send a recommendation to an agency for an expedited audit if the Department has reason to believe that a particular facility may be experiencing problems relating to sexual abuse. The recommendation may also include referrals to resources that may assist the agency with PREA-related issues.
- (d) *The Department of Justice shall develop and issue an audit instrument that will provide guidance on the conduct of and contents of the audit.*
- (e) The agency shall bear the burden of demonstrating compliance with the standards.
- (f) The auditor shall review all relevant agency-wide policies, procedures, reports, internal and external audits, and accreditations for each facility type.
- (g) The audits shall review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period.
- (h) The auditor shall have access to, and shall observe, all areas of the audited facilities.
- (i) The auditor shall be permitted to request and receive copies of any relevant documents (including electronically stored information).
- (j) The auditor shall retain and preserve all documentation (including, e.g., video tapes and interview notes) relied upon in making audit determinations. Such documentation shall be provided to the Department of Justice upon request.
- (k) The auditor shall interview a representative sample of inmates, residents, and detainees, and of staff, supervisors, and administrators.
- (l) The auditor shall review a sampling of any available videotapes and other electronically available data (e.g., Watchtour) that may be relevant to the provisions being audited.
- (m) The auditor shall be permitted to conduct private interviews with inmates, residents, and detainees.
- (n) Inmates, residents, and detainees shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.
- (o) Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.

§ 115.402 Auditor qualifications

- (a) An audit shall be conducted by:
 - (1) A member of a correctional monitoring body that is not part of, or under the authority of, the agency (but may be part of, or authorized by, the relevant State or local government);
 - (2) A member of an auditing entity such as an inspector general's or ombudsperson's office that is external to the agency; or
 - (3) Other outside individuals with relevant experience.

(b) All auditors shall be certified by the Department of Justice. The Department of Justice shall develop and issue procedures regarding the certification process, which shall include training requirements.

(c) No audit may be conducted by an auditor who has received financial compensation from the agency being audited (except for compensation received for conducting prior PREA audits) within the three years prior to the agency's retention of the auditor.

(d) The agency shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the agency's retention of the auditor, with the exception of contracting for subsequent PREA audits.

§ 115.403 Audit contents and findings

(a) Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review.

(b) Audit reports shall state whether agency-wide policies and procedures comply with relevant PREA standards.

(c) For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: Exceeds Standard (substantially exceeds requirement of standard); Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period); Does Not Meet Standard (requires corrective action). The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level.

(d) Audit reports shall describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and shall include recommendations for any required corrective action.

(e) Auditors shall redact any personally identifiable inmate or staff information from their reports, but shall provide such information to the agency upon request, and may provide such information to the Department of Justice.

(f) The agency shall ensure that the auditor's final report is published on the agency's website if it has one, or is otherwise made readily available to the public.

§ 115.404 Audit corrective action plan

(a) A finding of "Does Not Meet Standard" with one or more standards shall trigger a 180-day corrective action period.

(b) The auditor and the agency shall jointly develop a corrective action plan to achieve compliance.

(c) The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.

(d) After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.

(e) If the agency does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that it has achieved compliance.

§ 115.405 Audit appeals

- (a) An agency may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within 90 days of the auditor's final determination.
- (b) If the Department determines that the agency has stated good cause for a re-evaluation, the agency may commission a re-audit by an auditor mutually agreed upon by the Department and the agency. The agency shall bear the costs of this re-audit.
- (c) The findings of the re-audit shall be considered final.

STATE COMPLIANCE

§ 115.501 State determination and certification of full compliance

- (a) In determining pursuant to 42 U.S.C. 15607(c)(2) whether the State is in full compliance with the PREA standards, the Governor shall consider the results of the most recent agency audits.
- (b) The Governor's certification shall apply to all facilities in the State under the operational control of the State's executive branch, including facilities operated by private entities on behalf of the State's executive branch.