

NAME OF FACILITY: Butler County Juvenile Rehabilitation Center		
POLICY NUMBER: 3.4.4	POLICY TITLE: PROTECTION FROM HARM	
EFFECTIVE DATE: 7/6/07 REVISION DATE(S): 2/2/18 REVIEW DATE(S): 12/20/17	Ohio Administrative Code	5139-36-15(E1-E5)
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	Prison Rape Eliminate Act	115.311, 115.313, 115.321, 115.322, 115.333, 115.341, 115.342, 115.351, 115.352, 115.353, 115.354, 115.361, 115.362, 115.363, 115.364, 115.365, 115.366, 115.367, 115.368, 115.371, 115.372, 115.373, 115.376, 115.377, 115.378, 115.381, 115.382, 115.383, 115.386, 115.389
	Ohio Revised Code	2151.421
		
Jason Gundrum, Superintendent of Corrections		

I. Policy Statement

The Butler County Juvenile Rehabilitation Center (BCJRC) is committed to protecting residents in our care from harm. The facility has a zero tolerance policy regarding any form of abuse. This includes, but is not limited to, the detection, deterrence and/or prevention of corporal or unusual punishment, humiliation, mental abuse, neglect, physical abuse, sexual abuse and sexual harassment. All BCJRC employees, contractors, and volunteers will receive PREA training which clearly explains the strict prohibition on any type of sexual relationship with a resident under their supervision. The facility will report all identified instances of abuse to the proper authorities in accordance with applicable laws and standards. The facility's protection from harm policy, procedure and practices are in accordance with applicable laws and American Correctional Association (ACA), Ohio Administrative Code (OAC) and Prison Rape Elimination Act (PREA) standards.

II. Applicability

This policy is applicable to all Butler County Juvenile Rehabilitation Center employees and contract personnel. The Superintendent of Corrections or designee is responsible for procedural compliance with this policy.

III. Procedure

The Butler County Juvenile Rehabilitation Center has established the following procedures to detect, deter and remedy any form of abuse.

1. Prevention Planning

- a. In accordance with Section **§115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator** of the federal PREA standards the facility shall take the following actions:

- i. BCJRC has established a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment.
- ii. The Superintendent of Corrections shall designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee facility efforts comply with federal PREA standards.

1. The Superintendent of Corrections has appointed the Quality Assurance Manager as the PREA Coordinator. In this role the Quality Assurance Manager is responsible for the following:

- a. Coordination of the facility's PREA compliance measures
- b. Identification of facility issues related to PREA compliance
- c. Reporting any deficiencies and/or needed remedies in facility operations related to PREA compliance to the Superintendent of Corrections
- d. Working collaboratively with the Ohio Department of Youth Services regarding matters related to PREA compliance
- e. Managing all facility documentation related to PREA compliance

2. Facility protection duties

- a. In accordance with Section **§115.362 Agency protection duties** of federal PREA standards the facility shall take immediate action to protect a resident in any instance where it learns that a substantial and/or imminent risk of sexual abuse of the resident exists. The facility shall take immediate action as follows:

- i. Document any information regarding a substantial and/or imminent threat of sexual abuse for a resident
- ii. This information shall be forwarded to the on-duty Shift Leader
- iii. The on-duty Shift Leader or designee shall investigate and assess the nature of the threat
- iv. If the on-duty Shift Leader determines there is reason to believe that a substantial and/or imminent risk of sexual assault exists, they shall take immediate action to separate the resident from the potential threat
- v. The on-duty Shift Leader document the protective steps taken and shall then refer the matter to the Quality Assurance Manager or designee

- vi. The Quality Assurance Manager or designee shall conduct an administrative investigation to ensure that necessary measures were taken to protect the resident from harm
 - vii. The Quality Assurance Manager or designee shall inform the Superintendent of Corrections of their findings regarding any such matter
3. Staff Training
- a. In accordance with Sections **§115.331 Employee training**, **§115.332 Volunteer and contractor training**, **§115.334 Specialized training: Investigations**, **§115.335 Specialized training: Medical and mental health care**, the facility shall train contractors, employees, and volunteers in their applicable PREA related roles and responsibilities.
 - b. See policy and procedure number **1.4.1 Training and Staff Development**
4. Supervision and monitoring
- a. In accordance with Section **§115.313 Supervision and monitoring** of federal PREA standards the facility, absent exigent circumstances, shall:
 - i. Maintain and adhere to facility staffing plan
 - ii. Maintain the following staff to resident ratios:
 - 1. Day Shift(Waking) 1:8
 - 2. Night Shift(Sleeping) 1:16
 - iii. See policy and procedure number **3.1.2 Supervision and Monitoring**
5. Identification and Screening
- a. In accordance with Section **§115.341 Obtaining information from residents** of federal PREA, and applicable ACA and OAC standards the facility shall within 72 of a resident's admission to the facility obtain and use information about their personal history and behavior to reduce the risk of sexual abuse or harassment by or upon a resident.
 - b. In accordance with Division (d)(1) of Section **§115.361 Staff and agency reporting** of federal PREA standards and applicable Ohio Revised Code, facility members shall make residents aware of their duty to report any form of abuse that the resident may divulge to BCJRC staff.
 - c. Intake screening
 - i. The on-duty Shift Leader or designee is responsible for ensuring that each resident receives an intake screen.
 - ii. The facility has implemented an intake screening process for residents to identify any the following concerns:
 - 1. Behavioral issues
 - 2. History of sexually abusive and/or aggressive behavior
 - 3. History of sexual harassment and/or misconduct
 - 4. Medical concerns and/or conditions
 - 5. Risk of self-harming behavior
 - 6. Vulnerability to bullying and/or physically assaultive behavior
 - 7. Vulnerability to sexually abusive and/or aggressive behavior
 - 8. Vulnerability to sexual harassment and/or misconduct
 - iii. PREA Vulnerability Assessment
 - 1. The facility shall conduct a PREA Vulnerability Assessment on all residents upon admission to the facility.

2. The PREA Vulnerability Assessment is an objective screening instrument designed to obtain information about a resident's personal history and behavior to reduce the risk of sexual abuse by and/or upon another resident.
3. The following information shall be obtained by facility staff through the utilization of the PREA Vulnerability Assessment:
 - a. Prior sexual victimization or abusiveness
 - b. Any gender nonconforming appearance, manner, or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse
 - c. Current charges and offense history
 - d. Age
 - e. Level of emotional and cognitive development
 - f. Physical size and stature
 - g. Mental illness or mental disabilities
 - h. Intellectual or developmental disabilities
 - i. Physical disabilities
 - j. The resident's own perception of vulnerability
 - k. Any other information specific information that may indicate a heightened need for supervision, additional safety precautions, or separation for certain other residents
- iv. In accordance with **§115.381 Medical and mental health screenings; history of sexual abuse** of federal PREA standards facility staff shall:
 1. Refer a resident for a follow-up meeting with a clinical (mental health) and/or medical staff member if their intake screen indicates the respective resident experience prior sexual victimization
 - a. The facility's medical and/or mental health staff member shall meet with the resident within 14 days of admission
 2. Refer a resident for a follow-up meeting with a medical and/or clinical (mental health) staff member if their intake screen indicates the respective resident is a prior perpetrator of sexual abuse
 - a. The facility's medical and/or mental health staff member shall meet with resident with 14 days of admission
 3. Only permit clinical (mental health), medical and/or resident care staff, as necessary, to use information related to a resident's prior sexual abusiveness and/or behavior that occurred in an institutional setting to guide treatment plans and/or unit/programming assignments.
 4. Clinical (mental health) and/or medical staff members shall obtain informed consent from residents before reporting information about prior victimization that did not occur in an institutional setting, if the resident is 18 years of age or older.
- v. Facility staff shall ascertain information regarding a resident's history of neglect, physical and/or sexual abuse, risk for sexual victimization and/or the sexual victimization of others utilizing the following:
 1. Classification assessment

2. Conversation and/or interview of the resident during the intake process
 3. Medical screening
 4. Mental health screening
 5. Review of available court records, case files, facility behavioral records, and other relevant documentation
 - vi. In accordance with Division (e) of Section **§115.341 Obtaining information from residents** of federal PREA standards, facility staff shall not divulge any sensitive information obtained through this screening process outside of the scope of their job duties
 - vii. Any resident that is identified as a victim of previous sexual abuse and/or risk for sexual victimization shall be referred to a Primary Therapist, as soon as practical, to evaluate for any needed room/unit assignment or supportive services.
 - viii. PREA Vulnerability Re-Assessment/Follow-Up
 1. At the conclusion of the intake process, all residents shall receive a referral to their Primary Therapist for a follow up PREA Vulnerability Re-Assessment. The re-assessment shall occur within 60 days of the resident's admission to the facility.
 2. Facility residents shall receive a referral to their Primary Therapist for on-going PREA Vulnerability Re-Assessment whenever warranted based upon:
 - a. Resident or staff request
 - b. Incident of sexual abuse and/or harassment
 - c. Receipt of additional information that may increase a resident's risk of being sexually abused and/or harassed by other resident(s)
 - d. Receipt of information that a respective resident poses a risk to display sexually abusive and/or harassing behavior towards other residents
6. Placement of residents
- a. In accordance with Section **§115.342 Placement of residents in housing, bed, program, education, and work assignments**, the facility has designed the intake screening process, including initial placement decisions, to keep all residents safe and free from sexual abuse.
 - b. Facility staff shall utilize pertinent information obtained through the intake screening process to inform and guide the following decisions:
 - i. Initial Room/Unit Assignment
 1. Facility staff shall assign any resident identified as a victim of previous sexual abuse and/or risk for sexual victimization to a room/unit that best fits their safety and monitoring needs.
 2. Facility staff shall assign any resident identified as predatory and/or high risk for sexually assaultive behavior to a room/unit assignment that allows the facility to manage and monitor the potential for such behavior.
 - ii. Education assignments
 - iii. Program assignments
 - iv. Work program and/or community service assignments

- c. In accordance with Section(s) § **115.342 Placement of residents in housing, bed, program, education, and work assignments** and § **115.368 Post-allegation protective custody** of federal PREA standards, the facility may separate a facility resident from the general population only as a last resort when less restrictive measures are inadequate to keep themselves and other residents of the facility safe, and only until the facility can arrange an alternative means of keeping all residents safe.
 - i. If a resident is isolated from general population the facility shall clearly document the following information:
 - 1. The basis for the facility's concern for the resident's safety
 - 2. The reason(s) why an alternative means of separation cannot be arranged
 - ii. The facility shall provide an isolated resident with the following:
 - 1. Access to medical staff
 - 2. Access to their primary therapist
 - 3. Daily large muscle activity
 - 4. Education programming
 - 5. Treatment programming
 - iii. The facility shall afford any resident separated from general population a review every 30 days to determine if there is a continuing need for separation.
 - d. Lesbian, gay, bisexual, transgender, or intersex residents shall not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status, nor shall the facility consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator or likelihood of being sexually abusive.
 - e. In deciding whether to assign a transgender or intersex resident to unit or programming assignments, the facility shall consider on a case-by-case basis whether a placement would ensure the resident's health and safety, whether the placement would present management and/or security problems.
 - i. BCJRC is a male-only facility
 - f. Placement and programming assignments for each transgender or intersex resident shall be reassessed at least twice each year to review any threats to the resident's safety
 - g. A transgender or intersex resident's own views with respect to their own safety shall be accepted and given serious consideration.
 - h. The facility shall permit transgender and intersex residents the opportunity to be housed and/or shower separately from other residents.
 - i. Facility staff may assign a transgender and/or intersex resident to either C-5 or C-6 on Unit C
 - ii. Facility staff shall permit a transgender and/or intersex resident to shower on Unit C in the absence of other facility residents
7. PREA Resident Education
- a. In accordance with Section §**115.333 Resident education** of federal PREA standards the facility shall provide resident education during the intake process and throughout a resident's admission to the facility.
 - b. Resident education shall provide residents of the facility with information about sexual abuse and harassment including:

- i. Clinical and/or mental health services
 - ii. Intervention and prevention
 - iii. Medical treatment
 - iv. Self-protection
 - v. Sexual abuse and/or harassment reporting
 - vi. Zero tolerance policy
- c. The facility shall provide resident education in formats accessible to all residents, including those who display the following impairments:
 - i. Cognitive limitations
 - ii. Developmental disability
 - iii. English proficiency
 - iv. Hearing impaired
 - v. Literacy and/or reading concerns
 - vi. Visually impaired
- d. The facility shall maintain documentation of resident attendance and participation.
- e. All facility residents shall receive PREA Resident Education to include, but not limited to, the following:
 - i. Initial PREA Education
 - 1. The facility shall provide education to residents in an age appropriate fashion upon intake explaining the following PREA related information:
 - a. Provision of written materials (e.g. PREA Pamphlet, Resident Handbook, etc.) explaining how to report sexual abuse and/or harassment
 - b. Verbal explanation of how to report sexual abuse and/or harassment
 - c. The agency's zero tolerance policy regarding sexual abuse and sexual harassment
 - d. The resident's right to be free from retaliation for reporting incidents of sexual abuse and/or sexual harassment
 - e. Any disciplinary action that may result from the engagement in sexual abuse, misconduct and/or harassment, as well as, any person that fails to report such behavior
 - ii. Comprehensive PREA Education
 - 1. The on-duty Shift Leader, Quality Assurance Manager or designee are responsible for ensuring that residents receive a Comprehensive PREA Education program.
 - 2. The facility shall provide an initial comprehensive age-appropriate PREA education program to facility residents within 10 days of their admission to the facility.
 - 3. The program shall take place either in person and/or through the use of video
 - 4. The education program shall explain the following information:
 - a. A resident's right to be free from sexual abuse and/or sexual harassment

- b. A resident's right to be free from retaliation for reporting incidents of sexual abuse and/or sexual harassment
 - c. Facility policies and procedures for responding to incidents of sexual abuse and/or sexual harassment
 - iii. PREA Re-Education
 - 1. The Quality Assurance Manager or designee is responsible for ensuring that residents receive a comprehensive PREA Re-Education program.
 - 2. Facility residents shall attend PREA re-education training within 60 days of their date of admission.
- 8. Resident reporting of abuse
 - a. In accordance with Section § **115.351 Resident reporting** of federal PREA standards, facility residents may anonymously or directly report allegations of sexual abuse, sexual harassment, retaliation by other residents or facility staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents
 - b. Facility residents may anonymously or directly report neglect, physical or sexual abuse, sexual misconduct, and/or sexual harassment to facility staff or a third party.
 - c. The facility shall make available to facility residents internal methods to report neglect, physical or sexual abuse, sexual misconduct, and/or sexual harassment anonymously or directly including, but not limited to, the following:
 - i. During the identification and screening process at intake as described in Division 4 of Section 3 of this policy and procedure.
 - ii. Resident complaint form
 - iii. Resident grievance form
 - iv. Resident sick call slip
 - v. Unimpeded use of the facility's direct Women Helping Women reporting line
 - vi. Verbal self-report to a facility contractor, employee, and/or volunteer
 - vii. Written correspondence to a third party agency (e.g. Butler County Children's Services, Butler County Sheriff's Office, Women Helping Women, etc.)
 - d. The facility shall provide residents with the necessary tools to make a written report
- 9. Third party reporting
 - a. In accordance with Section § **115.351 Resident reporting** of federal PREA standards, facility staff shall accept reports of sexual abuse and/or sexual harassment regarding a facility resident made verbally, in writing, anonymously, and from third parties.
 - b. Any such report shall be promptly documented by the facility employee receiving the information and referred to the on-duty Shift Leader, Quality Assurance Manager, Deputy Superintendent and/or Superintendent of Corrections.
 - c. In accordance with Section § **115.354 Third-party reporting** the facility shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information how to report sexual abuse and sexual harassment on behalf of the resident.

- d. The facility has established the following third-party reporting process:
 - i. Facility staff provides instruction to facility residents during the intake process on how to make a third-party report. This instruction includes, but is not limited to, the following:
 - 1. The purpose of the third-party reporting process
 - 2. Facility residents are provided with a copy of the third-party reporting form
 - 3. How their parent(s) and/or guardian(s) can submit the third-party reporting form to the Superintendent of Corrections on their behalf or an outside agency
 - ii. The facility shall provide public information about third-party reporting of sexual abuse and/or sexual harassment on behalf of a resident as follows:
 - 1. Place the facility's third-party reporting form and PREA information regarding third-party reporting in the Butler County Juvenile Justice Center's lobby
 - 2. Publicly post on the facility's website information on the process to make third-party reports and the third-party reporting form
 - 3. Post PREA posters with reporting information throughout the facility
 - 4. Provide a resident's parent(s) and/or guardian(s) with a parent handbook that contains PREA information, including their ability to make third-party reports
 - 5. The Superintendent of Corrections shall serve as the internal point of contact for any submitted third-party reports

10. Exhaustion of administrative remedies

- a. In accordance with Section § **115.352 Exhaustion of administrative remedies** the facility:
 - i. Shall not impose a time limit on when a resident may submit a complaint or grievance regarding an allegation of sexual abuse.
 - ii. May apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse
 - iii. Shall not require a resident to use any informal grievance process, or otherwise attempt to resolve with facility staff, an alleged incident of sexual abuse.
 - iv. Shall ensure that:
 - 1. A resident who alleges sexual abuse by a facility staff member can submit a grievance without submitting it to the staff member that is the subject of the allegation and/or complaint
 - 2. The submitted grievance is not referred to a staff member who is the subject of the allegation and/or complaint
 - v. Shall adhere to the following timeframe procedures:
 - 1. The facility shall issue a final decision on the merits of any portion of a complaint and/or grievance alleging sexual abuse within 90 days of the official filing and/or receipt of the complaint/grievance.
 - 2. In calculating the 90 day timeframe, the facility shall not include time taken by a resident to file an administrative appeal

3. The facility may claim an extension of time to respond, of up to 70 days and shall:
 - a. Document the reason that the original 90 day time period for response is insufficient to make an appropriate decision
 - b. Notify the resident in writing of any such extension and provide a date by which a decision will be rendered
4. If the facility fails to adhere to the aforementioned timeframes in Division 10 (a)(1-3) of the policy and procedure for responding to a resident's complaint and/or grievance during the grievance process, the resident may consider the facility's absence of response to be a denial
- vi. Shall permit a resident's parent(s) and/or legal guardian(s) to file a complaint and/or grievance regarding allegations of sexual abuse, including appeals, on behalf of the respective resident
 1. Any such complaint and/or grievance filed by a resident's parent(s) and/or legal guardian(s) does not require the respective resident's permission to do so
- vii. Shall permit third parties including, but not limited to, fellow residents, staff members, family members, attorneys, and outside advocates to assist residents in filing request for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of a resident
 1. If a third party, other than the resident's parent(s) and/or legal guardian(s), files such a request on behalf of a resident, the facility may require as a condition of processing the request that the respective resident agree to have the request filed on their behalf
 2. The facility may also require that the respective resident, who is the alleged victim, personally pursue any subsequent steps in the administrative remedy process
 3. If a resident declines to have a request processed on their behalf, the facility shall document the resident's decision
- viii. Shall permit for the filing of emergency grievances by any party that allege a resident is subject to imminent and/or substantial risk of sexual abuse.
 1. If the facility receives an emergency complaint and/or grievance the following shall occur:
 - a. Immediately forward the emergency complaint and/or grievance to the Superintendent of Corrections or designee
 - b. The Superintendent of Corrections or designee shall review the emergency complaint and/or grievance and take any necessary steps to immediately address the allegation of substantial and/or imminent risk of sexual abuse
 - i. These steps shall occur within 48 hours of receiving the emergency complaint and/or grievance
 - ii. The facility shall issue a final decision within 5 calendar days
 - iii. The initial response and final response to the emergency complaint and/or grievance shall

document the facility's determination as to whether the resident is in substantial and/or imminent risk of sexual abuse and any action the facility took in response to the matter

11. Resident access to outside support services and legal representation

a. In accordance with Section § **115.353 Resident access to outside support services and legal representation** of federal PREA standards the facility shall:

- i. Provide residents with access to outside victim advocates for emotional support services related to sexual abuse, by providing, posting, or otherwise making accessible mailing addresses and telephone numbers, including toll free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations
- ii. Enable reasonable communication between residents and supportive service agencies and/or organizations, in as confidential a manner as possible
- iii. Inform residents, prior to giving them access, of the extent to which any communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws
- iv. Maintain or attempt to enter in memoranda of understanding or other agreements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse
 1. The facility maintains copies of these agreements and or documents attempts to enter into such agreements
- v. Provide residents with reasonable and confidential access to their attorneys and/or other legal representation
- vi. Provide residents with reasonable access to their parent(s) and/or legal guardian(s)

12. Documentation of abuse

- a. Facility staff shall document all instances of abuse and/or neglect in an incident report.
- b. Incident reports documenting alleged abuse and/or neglect should contain the following information:
 - i. Any known perpetrator(s)
 - ii. Date, location and time of the alleged incident
 - iii. Description of the incident
 - iv. If the incident has been reported to another agency and to which agency the alleged abuse was reported
 - v. The disposition, if known, of the alleged incident

13. Facility Response to an Allegation of Abuse and/or Neglect

- a. Reporting
 - i. In accordance with Section 2151.421 of the Ohio Revised Code, BCJRC staff shall report all allegations and/or indications of emotional, physical or sexual abuse and neglect involving a minor resident (17 years of age or under) of the facility to the proper county child protection system and facility administration.

- ii. In accordance with Section § **115.361 Staff and agency reporting duties** of federal PREA standards the facility shall report all allegations and/or indications of sexual abuse involving a minor resident (17 years of age or under) to the proper county child protection system and facility administration and comply any mandatory child abuse reporting laws.
 - iii. In accordance with Section § **115.361 Staff and agency reporting duties** of federal PREA standards the facility shall report all allegations and/or indications of sexual abuse involving a resident 18 years of age or older to the appropriate law enforcement agency.
 - iv. In accordance with Section §**115.381 Medical and mental health screenings, history of sexual abuse** of federal PREA standards, BCJRC staff shall obtain informed consent from residents 18 years of age or older before reporting information about prior sexual victimization that did not occur in an institutional setting.
- b. Staff Direct Reporting
- i. Facility staff are permitted to report sexual harassment and/or sexual abuse of a resident as follows:
 - 1. In accordance with Division (c) of Section §**115.351 Resident reporting** of federal PREA standards facility staff may make anonymous reports of sexual abuse to the Superintendent of Corrections or designee
 - 2. Direct verbal or written report
 - 3. Direct verbal or written report to the respective county's child protective system
 - 4. Direct verbal or written report to the respective law enforcement agency of jurisdiction
 - 5. Using the facility's third party reporting process
- c. Facility staff shall document and report any of the following behavior:
- i. Behavior divulged by a resident that would have resulted in the physical and/or sexual abuse of another.
 - ii. Behavior that a staff member witnesses or becomes aware of that pertains to sexual activity, assault and/or harassment of a resident by another staff member.
 - iii. Any staff member who knowingly fails to report any allegation or knowledge of abuse or harassment shall be subject to disciplinary action and/or a referral to law enforcement for criminal investigation.
- d. Facility staff shall initially report alleged abuse to the respective county child protective system by telephone.
- e. The staff member making the report shall provide a written report, if requested by the respective child protective system.
- f. Any such written report shall contain the following known information:
- i. Name and address of the resident
 - ii. Name(s) and addresses of the alleged perpetrator
 - iii. Name(s), addresses and contact information of the resident's parent(s) and/or guardian(s)
 - iv. Date(s) and/or time(s) of the alleged abuse
 - v. Resident's age

- vi. The nature and extent of the resident's and/or victim's injuries, if applicable
- vii. The nature and summary, as applicable, of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed to have occurred

14. Reporting to other agencies

- a. In accordance with Section § **115.363 Reporting to other confinement facilities** the facility shall do the following:
 - i. Upon receiving an allegation that a resident was sexually abused while confined at another facility, the Superintendent of Corrections or designee that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred of the alleged abuse.
 - ii. The facility shall also notify the appropriate investigative agency.
 - iii. The facility shall provide such notification as soon as possible and no later than 72 hours after receiving the allegation of abuse.
 - iv. The facility shall document that it has provided the notification of alleged abuse to the respective facility head and investigative agency.
 - v. In the event that BCJRC is the receiver of any such notification, the Superintendent of Corrections or designee shall ensure that the allegation of abuse is investigated in accordance with federal PREA standards.

15. Sexual Assault Protocol

- a. In accordance with Section § **115.365 Coordinated response** of federal PREA standards, the facility has developed a Sexual Assault Protocol 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 administration.
- b. In the event that a sexual assault takes place on the premises of the facility, the following shall occur or follow the facility's "First Responder-Sexual Assault Reporting Checklist".
- c. In accordance with Section § **115.364 Staff first responder duties** of federal PREA standards the following shall occur when an allegation of sexual assault with the facility has been received:
 - i. The resident care staff member that is the first responder shall:
 - 1. Separate the alleged victim and perpetrator
 - 2. Notify the on-duty Shift Leader and/or facility administration.
 - 3. Request medical attention for any life-threatening injuries
 - 4. Preserve evidence by:
 - a. Ensuring, to the best of their ability, that the alleged victim and/or perpetrator does not:
 - i. Shower
 - ii. Remove clothing without medical supervision
 - iii. Use the restroom facilities
 - iv. Consume any liquids or foods
 - v. Brush their teeth
 - 5. Secure the area of the facility where the alleged sexual assault occurred

6. Protect the potential crime scene by closing off and removing any residents from the area
- ii. In the event the facility staff member acting as a first responder is not a resident care staff member they shall:
 1. Request that the alleged victim not take any action, which could destroy physical evidence and then notify a resident care staff member. **See Division (c)(4) of Section 15 of this policy and procedure** regarding the preservation of evidence.
 2. Obtain assistance from a resident care staff member to secure the alleged crime scene
- iii. Document actions
 1. The reporting staff member shall write an incident report documenting the details of the alleged sexual assault. The incident report shall document, at a minimum, the following known information:
 - a. Alleged perpetrator
 - b. Date, location and time of the alleged sexual assault
 - c. If the resident has bathed or used the restroom since the assault
 - d. If the resident is still wearing the clothes they were wearing at the time of the assault
 - e. If the resident is not wearing the same clothing, the location of the clothing that was worn during the assault
- iv. Provide and/or obtain any necessary aid and support to the alleged victim
- d. The on-duty Shift Leader or designee shall be responsible for the following:
 - i. Obtain a briefing regarding the incident
 - ii. Collect written statements from any potential witness to the sexual assault.
 - iii. Secure the crime and/or incident scene.
 - iv. Ensure the alleged victim is safe and secure
 - v. Contact on-duty medical staff to examine the resident and collect clothing for evidence
 1. Any stains from bodily fluids (e.g. blood, semen, etc.) should be allowed to air dry
 2. The air dried clothing shall then be secured in a paper evidence collection bag and properly marked
 3. Any clothing collected as evidence shall be properly marked and secured until the items can be provided to the appropriate law enforcement agency
 - vi. If medical staff is not on-duty, the on-duty Shift Leader shall contact the Charge Nurse or designee to advise them of the incident.
 - vii. Obtain any written statements from staff members and/or residents regarding the alleged sexual assault.
 - viii. Ensure that any submitted written statements are factual and without unsubstantiated conclusions, opinions or accusations regarding the alleged sexual assault.

- e. Medical staff response and duties
 - i. In accordance with Division (c) of Section **§115.321 Evidence protocol and forensic examinations** the Charge Nurse or designee shall do the following:
 - 1. The Charge Nurse or designee will contact the identified hospital and advise them that a resident from BCJRC will be arriving and requires forensic sexual assault examination.
 - 2. The Charge Nurse or designee shall request that a SAFE medical provider or a SANE nurse conduct the victim's forensic sexual assault examination, when possible.
- f. Alleged sexual assault timeframes and facility response
 - i. The on-duty Shift Leader shall determine the alleged timeframe of alleged sexual assault and determine which procedure is applicable.
 - ii. Alleged sexual assault occurred within 72 hours
 - 1. If the alleged sexual assault occurred within 72 hours of the date and time of the disclosure, the following shall occur:
 - a. Arrange any necessary transport to the hospital for a forensic sexual assault examination to occur
 - b. Forensic services related to allegations of sexual abuse shall be provided without financial cost to the victim
 - 2. Assign a staff member to conduct the transport (preferably same gender)
 - 3. Send change of clothing for the alleged victim
 - 4. Transport the resident to a medical facility that performs forensic sexual assault evidence exams
 - 5. Residents less than 18 years of age shall ideally be transported to **Cincinnati Children's Hospital: Burnet Campus located at 3333 Burnet Ave., Cincinnati, OH 45229.**
 - 6. Residents over 18 years of age shall ideally be transported to **Ft. Hamilton Hospital located at 630 Eaton Ave., Hamilton, OH 45013.**
 - iii. Alleged sexual assault occurred longer than 72 hours ago
 - 1. If the alleged sexual assault occurred longer the 72 hours ago, facility staff shall refer the resident for examination by the facility doctor or one of the aforementioned local hospitals. The examination shall document the following:
 - a. Signs of abuse
 - b. Signs of sexually transmitted diseases
 - c. Signs of trauma
- g. Transporting alleged sexual assault victim to a hospital for forensic examination
 - i. Facility staff members conducting the transport of an alleged sexual assault victim and/or perpetrator shall do the following:
 - 1. Ensure, to the best of their ability, that the victim and/or perpetrator does not:
 - a. Shower
 - b. Remove clothing without proper medical supervision
 - c. Use the restroom facilities

- d. Consume any liquids or foods
 - e. Brush their teeth
 - 2. The transporter shall provide all necessary paperwork to the hospital regarding the alleged incident
 - 3. As requested by the alleged victim, the transporting staff member shall allow a victim advocate, qualified agency staff member, or qualified community-based organization staff member to accompany and support the victim through any forensic medical examination, investigatory interviews to provide emotional support, crisis intervention, information, and any necessary referrals.
 - 4. Transport the resident back to the facility at the completion of the hospital's sexual assault examination
- ii. Provide the on-duty Shift Leader with a briefing of pertinent information regarding the hospital transport
- h. Transporting an alleged sexual assault perpetrator to a hospital for forensic examination
 - i. Arrange any necessary transport to the hospital for the alleged perpetrator of the sexual assault
 - 1. Assign a staff member to conduct the transport
 - 2. Send change of clothing for the alleged perpetrator
- i. Providing supportive services to an alleged victim of sexual assault
 - i. In accordance with Division (d) of Section **§ 115.321 Evidence protocol and forensic medical examinations** the facility shall attempt to make available to the resident a victim advocate from a rape crisis center as follows:
 - 1. Contact Women Helping Women's (WHW) 24-hour hotline at (513) 381-5610 or 1(877) 889-5610 to provide any necessary emotional and/or supportive services for a potential sexual assault victim.
 - 2. If WHW is unavailable to respond, the facility shall contact the resident's Primary Therapist, who shall serve as a qualified advocate for the alleged victim.
 - 3. Upon resident request, the facility shall ask a representative from WHW or the resident's Primary Therapist shall accompany the resident through the forensic medical examination process and investigatory interviews and shall provide emotional, crisis intervention, information, and referrals.
- j. Upon Returning to the Facility
 - i. When a resident who is an alleged victim of sexual assault returns to the facility after examination the following shall occur:
 - 1. The on-duty Shift Leader will work with clinical staff to debrief the alleged victim
 - 2. Consider safe rooming and separation options for the alleged victim and perpetrator designed to keep them separated.
 - 3. Facility staff shall conduct any necessary suicide assessments
 - 4. The on-duty Shift Leader and/or facility administration shall provide a follow-up briefing for staff members.

- ii. Facility medical staff will review the resident's hospital discharge paperwork to ensure proper testing occurred.
- iii. Facility medical staff will provide and/or make any necessary arrangements for follow up care.
- iv. The Program Director or the resident's Primary Therapist shall evaluate the resident and create a plan to provide follow-up clinical services to the alleged victim.
- v. The Charge Nurse or designee, upon reviewing any follow-up orders and/or discharge plan from the respective treating hospital, shall determine the resident's follow-up treatment plan in consultation with the facility's clinical (mental health) staff and medical authority. This follow-up treatment plan shall include:
 - 1. Any facility based medical and/or mental health services to be provided
 - 2. Any community based medical and/or mental health services to be provided
 - 3. Any testing for sexually transmitted infections that should have or still needs to be conducted
 - 4. If the resident is released from the secure control of the facility, the Charge Nurse or designee shall ensure that the resident's next facility and/or parent(s)/legal guardian(s) are aware of any follow-up medical treatment plan services, and any referrals for continued care.
- k. Agency notifications and administrative response upon receiving an allegation of sexual abuse
 - i. In accordance with Section § **115.321 Evidence protocol and forensic medical examinations** of federal PREA standards, the on-duty Shift Leader or designee shall notify the Deputy Superintendent and/or Superintendent of Corrections of an alleged sexual assault incident.
 - ii. If the Deputy Superintendent is notified first, they shall then notify the Superintendent of Corrections of the incident.
 - iii. The Deputy Superintendent, Superintendent of Corrections or designee shall assign a designated investigator to investigate the allegation of sexual abuse.
 - iv. The designated investigator shall conduct an administrative investigation into the sexual assault allegation and report their findings to the Superintendent of Corrections.
 - v. The Superintendent of Corrections or designee shall refer the matter to the Butler County Sheriff's Office for criminal investigation in accordance with Division 16: Evidence of this policy and procedure.
 - vi. The Deputy Superintendent and/or Superintendent of Corrections will direct a facility staff member to report the alleged sexual assault to Butler County Children's Services at (513) 887-4055 or the 24-hour reporting hotline at 1(800) 325-2685.
 - vii. The Deputy Superintendent, Superintendent of Corrections or designee shall notify the respective resident's parent(s) and/or legal guardian(s) of the alleged sexual abuse and the facility's response to the allegation of

sexual abuse unless official documentation exists showing that a resident's parent(s) and/or legal guardian(s) should not be notified

1. If the alleged victim is in the custody of a child protective and/or welfare system, the report shall be made to the alleged victim's caseworker instead of their parent(s) and/or legal guardian(s)
 2. If a juvenile court retains jurisdiction over the alleged victim, the Superintendent of Corrections or designee shall also report the allegation to the juvenile's attorney of record and/or other legal representative of record within 14 days of received the allegation
- viii. The Deputy Superintendent, Superintendent of Corrections or designee shall report the alleged sexual assault to the Ohio Department of Youth Services via the critical incident reporting process.
1. Facility staff shall give the resident that was the alleged victim of the sexual assault priority and privacy from other residents.
16. Separating an alleged victim and perpetrator of sexual abuse
- a. In accordance with Section § **115.366 Preservation of ability to protect residents from contact with abusers** the facility shall preserve the right to remove a resident from contact with an alleged abuser
17. Evidence Collection
- a. Evidence collection in relation to an alleged sexual assault
 - i. It is preferable that all evidence related to an alleged sexual assault be collected by the respective law enforcement agency of jurisdiction
 - ii. In instances where the facility must collect evidence and in accordance with Section § **115.321 Evidence protocol and forensic medical examinations** of federal PREA standards the facility shall:
 1. Utilize the following evidence procedure, which is designed to maximize the facility's ability to obtain, secure, and preserve usable physical evidence for administrative and/or criminal investigations that may lead to a referral for criminal charges and/or criminal prosecution
 2. This evidence procedure is designed to be developmentally appropriate for residents 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.
 - a. Facility staff shall follow these guidelines and/or request any other entity collecting evidence or conducting forensic medical examinations to follow such guidelines.
 - b. Evidence collection in relation to any alleged criminal matter
 - i. All evidence collected by facility staff in relation to a potential criminal matter shall be handled as follows:
 - c. Collection of evidence
 - i. Evidence should be photographed in the exact location where it was initially located before collecting it

- ii. Photographed evidence shall be stored in a secure format and forwarded to the Superintendent of Corrections or designee
- iii. Facility staff collecting evidence shall wear latex gloves during the collection of evidence
- d. Packaging evidence
 - i. Facility staff shall take the following measures when packaging evidence:
 - 1. Use proper packaging materials when collecting evidence
 - 2. Physical evidence
 - a. Any stains from bodily fluids (e.g. blood, semen, etc.) should be allowed to air dry
 - b. The air dried item shall then be secured in a paper evidence collection bag and properly marked
 - 3. Each piece of evidence shall be placed into the proper evidence container
 - 4. Evidence shall be properly sealed and secured with evidence tape.
 - 5. Evidence shall be properly marked as follows:
 - a. Alleged victim, if applicable
 - b. Alleged perpetrator, if applicable
 - c. Date and time of alleged incident
 - d. Location where evidence was located
 - e. Name and signature of the staff member who collected the evidence
- e. Chain of Custody
 - i. Each piece of collected evidence shall have a chain of custody log
 - ii. The on-duty Shift Leader or designee shall properly document on packaged evidence all persons who handled a particular piece of evidence
 - iii. Any staff member handling a respective piece of evidence shall document such handling on the item's chain of custody log
- f. Security
 - i. All evidence related to a potential criminal matter shall be sealed and stored in the Superintendent of Corrections office or directly provided to the appropriate law enforcement agency conducting a criminal investigation into the applicable matter.

18. Investigation

- a. In accordance with Division (f) of Section § **115.361 Staff and agency reporting duties**, facility employees shall report all allegations of sexual abuse and/or sexual harassment, including third party and anonymous reports, to the facility administration.
 - i. The Superintendent of Corrections or designee shall assign an administrative facility investigator to investigate the allegation.
 - ii. The following staff members have been appointed as administrative facility investigators regarding facility matters including, but not limited to, physical and/or sexual abuse:
 - 1. Superintendent of Corrections
 - 2. Deputy Superintendent
 - 3. Program Director
 - 4. Quality Assurance Manager

- b. In accordance with Section(s) § **115.322 Policies to ensure referrals of allegations for investigations** and **115.371 Criminal and administrative agency investigations** of federal PREA standards, the facility shall conduct an administrative investigation and/or make a referral for criminal investigation for all allegations of abuse including, but not limited to, physical and sexual abuse, unless the allegation does not involve potentially criminal behavior.
- c. Investigations of physical and/or sexual abuse shall be completed by staff members who have received specialized investigator training
- d. Facility administrative investigations shall include the following actions, as applicable:
 - i. Review of incident reports
 - ii. Review of any applicable facility audio and/or video footage
 - iii. Collection and review of witness statements
 - iv. Collection and preservation of any pertinent physical evidence
 - v. Interview(s) of alleged perpetrator(s), victim(s) and witness(s)
 - vi. Collection and review of any other material deemed pertinent to the investigation
- e. Pursuant to Division (E) of Section 5139-36-15 of the Ohio Administrative Code, the facility shall cooperate with any children's protective and/or law enforcement agency during an investigation of alleged or suspected abuse and/or neglect. The facility's cooperation shall include, but is not limited to, permitting access to:
 - i. The alleged victim
 - ii. The alleged perpetrator
 - iii. Applicable facility records to include, but not limited to, the following:
 - 1. Facility policy and procedure
 - 2. Incident report(s)
 - 3. Medical and/or dental record(s)
 - 4. Personnel record(s)
 - 5. Photographic documentation
 - 6. Training record(s)
 - 7. Video documentation
 - iv. Relevant staff members
 - v. Witnesses
- f. Facility staff members who are accused, have witnessed, or have personal knowledge of any conduct that violates this policy are mandated to cooperate with any administrative and/or criminal investigation into the respective matter.
 - i. Any facility staff member that fails to cooperate with an administrative and/or criminal investigation into an allegation of physical and/or sexual abuse is grounds for employee discipline subject to Section 7.1 Employee Discipline of the Butler County Juvenile Justice Center's personnel policy manual.
- g. In accordance with Section § **115.371 Criminal and administrative agency investigations**, the facility shall not terminate an investigation solely because of the following:
 - i. An employee who was an alleged perpetrator of sexual abuse has left the facility's employment.

- ii. A resident who was an alleged victim and/or perpetrator of sexual abuse has left the facility's control.
- iii. The source of the allegation recants the allegation.
- h. At the conclusion of a facility administrative investigation, the principal investigator shall prepare a written report detailing the allegations, documentation and conclusion of the investigation. The conclusion shall make one the following determinations as to the allegation:
 - i. Unfounded
 - ii. Unsubstantiated
 - iii. Substantiated
- i. In accordance with Section § **115.372 Evidentiary standard for administrative investigation** of federal PREA standards, facility investigators shall use the evidentiary standard of preponderance of the evidence to sustain and substantiate an administrative investigation into whether allegation of sexual abuse and/or sexual harassment has occurred.
 - i. A preponderance of evidence suggests that the event is more likely to have occurred than not.
- j. The Superintendent of Corrections shall review and approve the final administrative investigation report.
- k. Facility administration shall refer any substantiated allegation(s) of physical and/or sexual abuse to the appropriate legal authority to conduct a criminal investigation.
 - i. The facility shall generally refer allegations of physical and/or sexual abuse to the Butler County Sheriff's Office for criminal investigation and any potential ensuing criminal complaint against alleged perpetrators.
 - ii. Facility administration shall document any referral for criminal investigation.
 - iii. The facility shall request that the investigatory agency follows the requirements as established in Section § **115.371 Criminal and administrative agency investigations** of federal PREA standards.

19. Reporting to residents

- a. In accordance with Sections § **115.373 Reporting to residents** of federal PREA standards and following an allegation that a facility employee or resident committing an act of sexual abuse against a resident, the facility shall inform the resident of certain information. This information is as follows:
 - i. Allegations involving facility staff members
 - 1. Inform the resident whenever:
 - a. The staff member is no longer assigned to the resident's unit
 - b. The staff member is no longer employed by the facility
 - c. If the facility is the principle investigative agency, then the facility shall inform the respective resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
 - d. If the facility did not conduct the investigation, then the facility shall request the relevant information from the investigative agency (e.g. investigation was unfounded, unsubstantiated, substantiated, potential criminal charges,

- etc.). The facility shall inform the resident of the investigative agency's determination.
- e. The agency learns that the facility employee has been indicted for a criminal charge related to the respective sexual abuse allegation
- f. The facility learns that the staff members has been convicted of a criminal charge related to the respective sexual abuse allegation
- ii. Allegations involving facility residents:
 - 1. Inform the resident whenever:
 - a. The facility learns that the alleged perpetrator has been indicted on a charge related to the allegation of sexual abuse within the facility
 - b. The facility learns that the alleged perpetrator has been convicted on a charge related to the allegation of sexual abuse within the facility
 - iii. The facility shall document all such notifications
 - iv. The facility's obligation to report to a resident shall terminate if the resident is released from the facility's custody
- 20. Agency protection against retaliation
 - a. In accordance with Section § **115.367 Agency protection against retaliation** of federal PREA standards the facility shall protect all residents and staff who report sexual abuse and/or sexual harassment allegations or cooperate with an investigation in such matters from retaliation from other residents and/or staff members. The facility has developed a retaliation monitoring systems as follows:
 - i. The Superintendent of Corrections has appointed the Quality Assurance Manager to coordinate and monitor all PREA related retaliation monitoring issues
 - ii. The facility shall employ multiple protection measures such as:
 - 1. Constant and continual supervision
 - 2. Facility removals
 - 3. Provision of emotional support services for residents and/or staff who fear retaliation for reporting sexual abuse and/or harassment or cooperating with any such investigations
 - 4. Unit re-assignments
 - 5. Removal of alleged abuser (resident and/or staff) from contact with alleged victim(s)
 - iii. Monitoring
 - 1. In an effort to detect and/or prevent retaliation the facility shall:
 - a. Complete a Sexual Abuse & Sexual Assault Monitoring Status Check form
 - i. This form is to be completed by the on-duty Shift Leader, resident's Primary Therapist, Deputy Superintendent, Program Director, Charge Nurse, Quality Assurance Manager and/or Superintendent of Corrections every 30 days

- b. Monitor for at least 90 days following a report of sexual abuse and/or harassment
 - c. Monitor the conduct or treatment of residents and/or staff who reported or participated in an investigation involving sexual abuse and/or harassment to see if there are change in behavior that might suggest retaliatory behavior
 - d. Act promptly to address and remedy any identified retaliatory behavior
 - e. Monitor resident disciplinary records, housing, or program changes, performance reviews or reassignments of staff members
 - f. Continue the facility's monitoring beyond 90 days if there is an identified concern or need to do so
 - g. Conduct periodic status checks on residents
 - h. Take appropriate measures to protect facility resident(s) and/or staff member(s) that express fear of retaliation
2. The facility's obligation to monitor terminates if the allegation of sexual abuse and/or harassment is unfounded

21. Discipline

a. Facility resident

i. In accordance with Sections § **115.352 Exhaustion of administrative remedies** and § **115.378 Interventions and disciplinary sanctions for residents** of federal PREA standards, the facility:

- 1. May discipline a resident for making a false allegation of sexual abuse and/or harassment against a facility contractor, staff member, and/or volunteer
 - a. This includes any verbal, third-party, and/or written allegation that was found by the facility to have been made in bad faith
 - b. 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 making a false allegation.
 - i. The facility shall not discipline a resident, if the facility conducts an investigation into a report of sexual abuse and the investigation does establish sufficient evidence to substantiate the allegation, so long as the facility believes said report was made in good faith
- 2. Shall discipline a resident found to have committed an act of sexual assault and/or harassment in accordance with the facility's sanction grid
- 3. Shall discipline residents for any form of sexual activity, unless said activity was coerced, found in violation of the facility's rules and behavior management system
- 4. The facility may discipline a resident for sexual contact with facility contractors, employees, and/or volunteers upon finding that there was no consent to such contact

5. Disciplinary sanctions shall be commensurate with the nature and circumstances of the sexual abuse and/or harassment committed
 6. The facility shall not use room confinement as a disciplinary sanction
 7. The disciplinary process shall consider any mitigating factors including, but not limited to, any cognitive, developmental disability and/or mental health concerns in determining what sanction(s) shall be imposed.
 8. The facility may require a resident to participate in additional therapy, counseling, and/or other interventions
 - a. The facility may require participation in these activities as a condition of access to the facility's positive rewards system
 - b. The facility shall not require participation in such activities as a condition to access facility programming and/or education programming.
- b. Facility staff
- i. In accordance Sections § **115.376 Disciplinary sanctions for staff** of federal PREA standards, a facility staff member that is found to have committed any of the following acts shall be subject to disciplinary action pursuant to **Section 7.1 Employee Discipline** of the Butler County Juvenile Justice Center's personnel manual:
 1. Substantiated act of physical abuse, sexual abuse, and/or sexual harassment
 2. Failed to cooperate in an administrative and/or criminal investigation
 3. Failed to report knowledge of physical abuse, sexual abuse and/or sexual harassment to the appropriate parties
 4. Found to have been dishonest or misleading in the course of an administrative and/or criminal investigation
 - ii. Termination is the presumptive disciplinary action for staff who have engaged in a substantiated act of sexual abuse
 - iii. The facility will weigh the nature and circumstances of the acts committed, the staff member's disciplinary history, and the disciplinary sanctions previously imposed by the facility for comparable offenses
 - iv. The facility shall report all actions deemed to be criminal in nature to the appropriate law enforcement agency for investigation and potential criminal prosecution. This includes staff members terminated by the facility or staff members that resigned, whose actions would have resulted in termination by the facility.
 - v. The facility shall report all actions by a staff member deemed criminal in nature to any relevant licensing bodies.
- c. Contractors and/or volunteers
- i. In accordance Sections § **115.377 Disciplinary sanctions for staff** of federal PREA standards, the facility shall:
 1. Prohibit any contractor and/or volunteer who engages in sexual abuse and/or sexual harassment from contact with facility residents

2. Report any behavior the facility has deemed to be criminal to the respective law enforcement agency for investigation and potential criminal prosecution
3. Report any behavior the facility has deemed to be criminal to any relevant licensing bodies
4. Take appropriate remedial measures
5. Consider whether to prohibit further contact with facility residents
6. Terminate the contractor and/or volunteers relationship with the facility if an allegation of sexual abuse and/or harassment is substantiated

22. Supportive Services

- a. In accordance with Section § **115.382 Access to emergency medical and mental health services** of federal PREA standards the facility shall:
 - i. Provide residents with timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by the facility's clinical and/or medical staff according to their professional judgment.
 - ii. In the event that no qualified clinical (mental health) and/or medical staff members are on duty at the time a report of sexual abuse is received, take preliminary steps to protect a victim of sexual abuse in accordance with Section § **115.362** of federal PREA standards and immediately notify the appropriate clinical (mental health) and/or medical staff member(s).
 - iii. Offer resident victims of sexual abuse timely information about and access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
 - iv. Provide treatment services to a victim of sexual abuse without financial cost, regardless as to whether the victim names the abuser or cooperates with any administrative and/or criminal investigation into the matter.
- b. In accordance with § **115.383 Ongoing medical and mental health care for sexual abuse victims and abusers** the facility shall:
 - i. Offer medical and/or mental health evaluation to all residents who have been victims of sexual abuse in a corrections facility
 - ii. Offer medical and/or or mental health treatment as deemed appropriate to all residents who have been victims of sexual abuse in a corrections facility
 - iii. Include in any evaluation and treatment of sexual abuse, follow up services, treatment plans, and, when necessary referrals for continued care following a resident's transfer to, or placement in, another facility, or their release from custody
 - iv. Provide residents with medical and mental health services consistent with the community level of care
 - v. Offer resident victims who suffered sexual abuse while incarcerated tests for sexually transmitted infections as medically appropriate
 - vi. Offer ongoing treatment services for victims of sexual abuse in the facility without financial cost and regardless whether the victim names the abuser or cooperates in any administrative and/or criminal investigation into the matter

- vii. Attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by the facility's clinical (mental health) staff
23. Data collection, review and corrective action
- a. In accordance with Section § **115.387 Data collection** the facility shall:
 - i. Collect accurate, uniform data for every allegation of sexual abuse using a standardized instrument and set definitions
 - 1. The facility has adopted the standardized definitions as contained in Sections § **115.5 General definitions** and § **115.6 Definitions related to sexual abuse** for the purpose of this data collection
 - ii. Collect aggregate data on an annual basis regarding incidents of sexual abuse that occur in the facility
 - 1. This aggregate data collection 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
 - iii. Maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
 - iv. Upon request, the facility shall provide all such aforementioned data from the previous calendar year to the Department of Justice no later than June 30 of the respective year of request.
 - b. In accordance with Section § **115.388 Data review for corrective action** of federal PREA standards the facility shall:
 - i. Review data collected and aggregated in accordance with Section § **115.387** of federal PREA standards in order to assess and improve the effectiveness of the facility's sexual abuse prevention, detection, and response policies, practices and training, including:
 - 1. Identifying problem areas;
 - 2. Taking corrective action on an ongoing basis; and
 - 3. Preparing an annual report the facility's findings and corrective actions
 - ii. 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 facility's progress in addressing sexual abuse
 - iii. The facility's reports shall be approved by the Superintendent of Corrections and made available on the Butler County Juvenile Justice Center's website
 - iv. The facility may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of the facility
 - 1. The report must indicate the nature of the material redacted by the facility

24. Data storage, publication, and destruction

- a. In accordance with Sections § **115.371 Criminal and administrative agency investigations** and § **115.389 Data storage, publication, and destruction** of federal PREA standards the facility shall:
 - i. Retain all records related to allegations of abuse including, but not limited to, incident reports, investigation reports, resident information, medical and clinical findings, and recommendations for post-release services (e.g. counseling, treatment, etc.) in accordance with the facility's record retention policy and procedure.
 1. The facility shall maintain sexual abuse data collected in accordance with Section § **115.387** of federal PREA standards for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.
 - ii. Ensure that data collected in accordance with Section § **115.387 Data collection** is securely retained
 - iii. Make all aggregated sexual abuse data, under its direct control, readily available to the public at least annually through the Butler County Juvenile Justice Center's website
 - iv. Remove all personal identifiers before making aggregated sexual abuse data publicly available

25. Confidentiality

- a. In accordance with Section § **115.341 Obtaining information from residents and § 115.361 Staff and agency reporting duties** of federal PREA standards, all facility employees shall adhere to the facility's confidentiality policy and procedure regarding the dissemination of any sensitive information related to this policy and procedure.
- b. Information will be disseminated to facility staff members on a need-to-know basis regarding the following:
 - i. Administrative investigations
 - ii. Intake screening information
 - iii. PREA Vulnerability Assessment results
 - iv. Referrals made to child protective service and/or law enforcement agencies
 - v. Reports made regarding sexual abuse and/or victimization
 - vi. Sexual assault protocol findings and recommendations

26. Sexual abuse incident reviews

- a. In accordance with Section § **115.386 Sexual abuse incident reviews** of federal PREA standards the facility shall conduct a review at the conclusion of all substantiated and/or unsubstantiated allegations of sexual abuse. This shall occur as follows:
 - i. Within 30 days of the conclusion of the facility's administrative investigation
 - ii. The review team shall include members of facility administration, with input from supervisors, resident care, clinical and medical staff members.
 - iii. The review shall consider the following:
 1. Whether the allegation and/or investigation indicates a need to change facility policy, procedure and/or practice to better prevent, detect, and/or respond to sexual abuse

2. Whether the incident or allegation was motivated by:
 - a. Race
 - b. Ethnicity
 - c. Gender identity
 - d. Lesbian, gay, bisexual, transgender, or intersex identification, status, and/or perceived status
 - e. Gang affiliation
 - f. Motivated by group dynamics within the facility
- iv. The facility shall review the area where the incident allegedly occurred to assess whether physical barriers contributed and/or enabled the alleged abuse to occur
- v. Assess the adequacy of staffing levels in the area during different shifts
- vi. Assess whether monitoring technology should be deployed and/or augmented to supplement supervision by staff
- vii. Prepare a report of the review team's findings to present to the Superintendent of Corrections and Quality Assurance Manager (PREA Compliance Manager) with any identified concerns and recommendations for improvement
- viii. The facility shall implement the recommendations for improvement and/or document the reasons for not doing so

IV. Standards

ACA

1. **3-JCRF-3D-04-Written policy, procedure, and practice provide that juveniles are not subjected to corporal or unusual punishment, humiliation, mental abuse, or punitive interference with the daily functions of living, such as eating or sleeping.**
2. **3-JCRF-3D-04-1-Written policy, procedure, and practice provide for the reporting of all instances of child abuse and/or neglect consistent with appropriate state law or local laws.**
3. **3-JCRF-3D-04-2-Written policy, procedure and practice ensure that information is provided to juveniles about sexual abuse / assault including:**
 - **Prevention / intervention**
 - **Self-protection**
 - **Reporting sexual abuse /assault**
 - **Treatment and counseling**

The information is communicated orally and in writing, in a language clearly understood by the juvenile, upon arrival at the facility
4. **3D-JCRF-3D-04-3-Juveniles are screened within 24 hours of arrival at the facility for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior.**
5. **3-JCRF-3D-04-4-Housing assignments are made accordingly Written policy, procedure and practice require that an investigation is conducted and documented whenever a sexual assault is alleged, threatened, or occurs.**
6. **3-JCRF-3D-04-5-Written policy, procedure and practice require that juveniles identified as high risk with a history of assaultive behavior are assessed by mental health or other qualified professional. Such juveniles are identified, monitored, counseled, and provided appropriate treatment.**

7. **3-JCRF-3D-04-6-Written policy, procedure and practice require that juveniles identified as at risk for sexual victimization are assessed by mental health or other qualified professional. Such juveniles are identified, monitored, and counseled.**
8. **3-JCRF-3D-04-7-Written policy, procedure and practice ensure that sexual conduct between staff and juveniles, volunteers, or contractual employees and juveniles, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions.**
9. **3-JCRF-3D-04-8-Victims of sexual assault are referred under appropriate security provisions to a community facility for treatment and gathering of evidence. If these procedures are performed in-house, the following guidelines are used:**
 - **A history is taken by health care professionals who conduct an examination to document the extent of physical injury and to determine is referral to another medical facility indicated. With the victim's consent, the examination includes collection of evidence from the victim using a kit approved by the appropriated authority.**
 - **A provision is made for testing for sexually transmitted diseases (for HIV, gonorrhea, hepatitis, and other diseases) and counseling as appropriate.**
 - **Prophylactic treatment and follow-up for sexually transmitted diseases are offered to all victims, as appropriate.**
 - **Following the physical examination, there is availability of an evaluation by a mental health professional to assess the need for crisis intervention counseling and long term follow-up.**
 - **A report is made to the facility or program administrator or designee to assure separation of the victim from his / her assailant.**
10. **3-JCRF-3D-04-9-Written policy, procedure and practice provide that juveniles who are victims of sexual abuse have the option to report the incident to a designated staff member other than an immediate point-of-contact line staff member.**
11. **3-JCRF-3D-04-10-Written policy, procedure and practice provide that all case records associated with claims of sexual abuse, including incident reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and / or counseling are retained in accordance with an established schedule.**
12. **3-JRCF-3D-05-Written policy, procedure, and practice provide for the reporting of all instances of child abuse and/or neglect consistent with appropriate state laws or local laws.**

PREA

1. **§ 115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.**
 - (a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct.
 - (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.

2. § 115.313 Supervision and monitoring

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

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

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

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

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

- (1) The staffing plan established pursuant to paragraph (a) of this section;
 - (2) Prevailing staffing patterns;
 - (3) The facility's deployment of video monitoring systems and other monitoring technologies; and
 - (4) The resources the facility has available to commit to ensure adherence to the staffing plan.
- (e) Each secure facility shall implement a policy and practice of having intermediate-level or higher level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each secure facility shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

3. § 115.321 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 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 residents who experience sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where 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 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 continuity-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 juvenile facilities; and

(2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in juvenile facilities.

(h) For the purposes of this standard, 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.

4. § 115.322 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 juvenile facilities 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 juvenile facilities shall have in place a policy governing the conduct of such investigations.

5. § 115.333 Resident education

(a) During the intake process, residents shall receive information explaining, in an age appropriate fashion, 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 10 days of intake, the agency shall provide comprehensive age-appropriate education to residents 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 residents 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 resident's new facility differ from those of the previous facility.

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

(e) The agency shall maintain documentation of resident 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 residents through posters, resident handbooks, or other written formats.

6. § 115.341 Obtaining information from residents

(a) Within 72 hours of the resident's arrival at the facility and periodically throughout a resident's confinement, the agency shall obtain and use information about each resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident.

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

(c) At a minimum, the agency shall attempt to ascertain information about:

(1) Prior sexual victimization or abusiveness;

(2) Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse;

(3) Current charges and offense history;

(4) Age;

(5) Level of emotional and cognitive development;

(6) Physical size and stature;

(7) Mental illness or mental disabilities;

(8) Intellectual or developmental disabilities;

(9) Physical disabilities;

(10) The resident's own perception of vulnerability; and

(11) Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.

(d) This information shall be ascertained through conversations with the resident during the intake process and medical and mental health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the resident's files.

(e) 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 resident's detriment by staff or other residents.

7. § 115.342 Placement of residents in housing, bed, program, education, and work assignments

(a) The agency shall use all information obtained pursuant to § 115.341 and subsequently to make housing, bed, program, education, and work assignments for residents with the goal of keeping all residents safe and free from sexual abuse.

(b) Residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged. During any period of isolation, agencies shall not deny residents daily large-muscle exercise and any legally required educational programming or special education services. Residents in isolation shall receive daily visits from a medical or mental health care clinician. Residents shall also have access to other programs and work opportunities to the extent possible.

(c) Lesbian, gay, bisexual, transgender, or intersex residents shall not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status, nor shall agencies consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of likelihood of being sexually abusive.

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

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

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

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

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

(1) The basis for the facility's concern for the resident's safety; and

(2) The reason why no alternative means of separation can be arranged.

(i) Every 30 days, the facility shall afford each resident described in paragraph (h) of this section a review to determine whether there is a continuing need for separation from the general population.

8. § 115.351 Resident reporting

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

(b) The agency shall also provide at least one way for residents to report abuse or harassment to a public or private entity or office that is not part of the agency and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials, allowing the resident to remain anonymous upon request. Residents 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 facility shall provide residents with access to tools necessary to make a written report.

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

9. § 115.352 Exhaustion of administrative remedies

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

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

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

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

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

(c) The agency shall ensure that—

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

(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 residents 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 resident 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 resident does not receive a response within the time allotted for reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level.

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

(2) If a third party, other than a parent or legal guardian, files such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

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

(4) A parent or legal guardian of a juvenile shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile. Such a grievance shall not be conditioned upon the juvenile agreeing to have the request filed on his or her behalf.

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

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

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

10. § 115.353 Resident access to outside support services and legal representation

(a) The facility shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse, by providing, posting, or otherwise making accessible mailing addresses and telephone numbers, including toll free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible.

(b) The facility shall inform residents, 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 residents with confidential emotional support services related to sexual abuse. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

(d) The facility shall also provide residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.

11. § 115.354 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 a resident.

12. § 115.361 Staff and agency reporting duties

(a) The agency shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

(b) The agency shall also require all staff to comply with any applicable mandatory child abuse reporting laws.

(c) Apart from reporting to designated supervisors or officials and designated State or local services agencies, staff shall be prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

(d)(1) Medical and mental health practitioners shall be required to report sexual abuse to designated supervisors and officials pursuant to paragraph (a) of this section, as well as to the designated State or local services agency where required by mandatory reporting laws.

(2) Such practitioners shall be required to inform residents at the initiation of services of their duty to report and the limitations of confidentiality.

(e)(1) Upon receiving any allegation of sexual abuse, the facility head or his or her designee shall promptly report the allegation to the appropriate agency office and to the alleged victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.

(2) If the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians.

(3) If a juvenile court retains jurisdiction over the alleged victim, the facility head or designee shall also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation.

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

13. § 115.362 Agency protection duties

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

14. § 115.363 Reporting to other confinement facilities

(a) Upon receiving an allegation that a resident was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred and shall also notify the appropriate investigative agency.

(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.

15. § 115.364 Staff first responder duties

(a) Upon learning of an allegation that a resident was sexually abused, the first 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.

16. § 115.365 Coordinated response

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

17. § 115.366 Preservation of ability to protect residents from contact with abusers

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

(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 §§ 115.372 and 115.376; 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.

18. § 115.367 Agency protection against retaliation

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

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

(c) For at least 90 days following a report of sexual abuse, the agency shall monitor the conduct or treatment of residents or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. Items the agency should monitor include any resident 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 residents, 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.

19. § 115.368 Post-allegation protective custody

Any use of segregated housing to protect a resident who is alleged to have suffered sexual abuse shall be subject to the requirements of § 115.342.

20. § 115.371 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 involving juvenile victims pursuant to § 115.334.

(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) The agency shall not terminate an investigation solely because the source of the allegation recants the allegation.

(e) 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.

(f) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff. No agency shall require a resident 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.

(g) 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.

(h) 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.

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

(j) The agency shall retain all written reports referenced in paragraphs (g) and (h) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention.

(k) 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.

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

(m) 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.

21. § 115.372 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.

22. § 115.373 Reporting to residents

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

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

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

(1) The staff member is no longer posted within the resident'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 a resident's allegation that he or she has been sexually abused by another resident, 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 resident is released from the agency's custody.

23. § 115.376 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.

24. § 115.377 Corrective action for contractors and volunteers

(a) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

(b) The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with residents, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

25. § 115.378 Interventions and disciplinary sanctions for residents

(a) A resident may be subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.

(b) Any disciplinary sanctions shall be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories. In the event a disciplinary sanction results in the isolation of a resident, agencies shall not deny the resident daily large-muscle exercise or access to any legally required educational programming or special education services. Residents in isolation shall receive daily visits from a medical or mental health care clinician. Residents shall also have access to other programs and work opportunities to the extent possible.

(c) The disciplinary process shall consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

(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 offer the offending resident participation in such interventions. The agency may require participation in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives, but not as a condition to access to general programming or education.

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

(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 residents and may discipline residents for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

26. § 115.381 Medical and mental health screenings; history of sexual abuse

(a) If the screening pursuant to § 115.341 indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

(b) If the screening pursuant to § 115.341 indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

(c) 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.

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

27. § 115.386 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.

28. § 115.389 Data storage, publication, and destruction

(a) The agency shall ensure that data collected pursuant to § 115.387 are securely retained.

(b) The agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.

(c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.

(d) The agency shall maintain sexual abuse data collected pursuant to § 115.387 for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.

V. Definitions

1. **Agency head** means the principal official of an agency, which is the Administrative Judge.
2. **Contractor** means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.
3. **Facility head** means Superintendent of Corrections, who the Administrative Judge has appointed to oversee operations of the facility.
4. **Medical practitioner** means a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for individuals within the scope of

- their professional practice. A “qualified medical practitioner” refers to such a professional, who has also successfully completed specialized training for treating sexual abuse victims.
5. **PREA Coordinator** means an upper-level agency wide employee with the sufficient time and authority to coordinate the facility’s efforts to comply with the PREA standards.
 6. **PREA Compliance Manager** means an agency level employee with the sufficient tie and authority to coordinate the facility’s efforts to comply with the PREA standards.
 7. **Preponderance of evidence** means that
 8. **Resident** means any person confined or detained in a juvenile facility or in a community confinement facility
 9. **Sexual Abuse** means and includes the following:
 - a. Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
 - b. Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.
 - c. Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident 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:
 - i. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - ii. Contact between the mouth and the penis, vulva, or anus;
 - iii. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
 - iv. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
 - d. Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:
 - i. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - ii. Contact between the mouth and the penis, vulva, or anus;
 - iii. 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;
 - iv. 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;
 - v. 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;
 - vi. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;
 - vii. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
 - viii. Voyeurism by a staff member, contractor, or volunteer.
 - ix. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate’s naked body or of an inmate performing bodily functions.

10. **Sexual Assault Forensic Examiner (SAFE)** means an individual who provides forensic medical examinations off site
11. **Sexual Assault Nurse Examiner (SANE)** means an individual who provides forensic medical examinations off site
12. **Sexual Harassment** means the following:
 - 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 inmate, detainee, or resident directed toward another; and
 - b. Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident 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.
13. **Staff** means employees
14. **Substantiated allegation** means an allegation that was investigated and determined to have occurred.
15. **Unfounded allegation** means an allegation that was investigated and determined not to have occurred.
16. **Unsubstantiated allegation** means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
17. **Volunteer** means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.