

PREA Standards Comparison
Standards for Juvenile Justice Facilities

NPREC STANDARD		DOJ REVISED STANDARD		COMMENT/ EVALUATION	
NUMBER	STANDARD	NUMBER	STANDARD		
<i>Prevention Planning</i>		<i>Prevention Planning</i>			
PP-1	<p>Zero tolerance of sexual abuse The agency has a written policy mandating zero tolerance toward all forms of sexual abuse and enforces that policy by ensuring all of its facilities comply with the PREA standards. The agency employs or designates a PREA coordinator to develop, implement, and oversee agency efforts to comply with the PREA standards.</p>	115.311	<p>Zero tolerance of sexual abuse; Prison RAPE Elimination Act (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 to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities. (c) The PREA coordinator shall be a full-time position in all agencies that operate facilities whose total rated capacity exceeds 1000 residents, but may be designated as a part-time</p>	<i>Change</i>	<p>The DOJ standard added sexual harassment to inclusions for zero tolerance policy</p> <p>The DOJ standard requires that agencies outline the approach to preventing, detecting, and responding to sexual abuse.</p> <p>DOJ has defined that PREA Coordinators are an upper level person but not reporting necessarily to the head of the agency</p> <p>DOJ has revised the NPREC standard stating that PREA Coordinators are for agencies/ facilities with 1000 juveniles or more. Other facilities may have coordinators that are part time.</p>

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			<p>position in agencies whose total rated capacity does not exceed 1000 residents.</p> <p>(d) An agency whose facilities have a total rated capacity exceeding 1000 residents shall also designate a PREA coordinator for each facility, who may be full-time or part-time.</p>	<p><i>DOJ reasoning for change</i></p>	<p>The DOJ wanted to provide more clarity regarding the policy inclusions</p> <p>Commenters criticized the NPREC standards requiring a PREA Coordinator posed a financial burden to small facilities housing under 500 inmates. In response DOJ is only requiring full time PREA Coordinators in facilities housing over 1000 inmates.</p> <p>Commenters had concern that if the PREA Coordinator reports directly to the agency head it would become a political position. By making it upper-level DOJ is not requiring the PREA Coordinator to report directly to the agency head.</p> <p>DOJ's intent is to tailor this requirement to the needs and capacities of agencies and facilities.</p>

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				<i>Analysis</i>	
PP-2	<p>Contracting with facilities for the confinement of residents If public juvenile justice agencies contract for the confinement of their residents, they do so only with private agencies or other entities, including other government agencies, committed to eliminating sexual abuse in their facilities, as evidenced by their adoption of and compliance with the PREA standards. Any new contracts or contract renewals include the entity’s obligation to adopt and comply with the PREA standards and specify that the agency will monitor the entity’s compliance with these standards as part of its general monitoring of the entity’s performance.</p>	115.312	<p>Contracting with other entities for the confinement of residents (a) A public agency that contracts for the confinement of its residents with private agencies or other entities, including other government agencies, shall include in any new contracts or contract renewals the entity’s obligation to adopt and comply with the PREA standards. (b) Any new contracts or contract renewals shall provide for agency contract monitoring to ensure that the contractor is complying with PREA standards.</p>	<i>Change</i>	The new DOJ standard only applies to new contracts not existing ones. The NPREC standard expands to cover existing contracts.
				<i>DOJ reasoning for change</i>	<p>Commenters expressed concern that the NPREC standard would impose too great a financial burden if facilities are required monitor entities compliance. With PREA Standards.</p> <p>To remedy this DOJ modified the standard by requiring only new contracts and renewals be monitored. This is intended to indicate that agencies are not required to conduct audits of its contract facilities but rather must include PREA as p[art of its routine monitoring of compliance with contractual</p>

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					obligations.
				<i>DOJ question(s) relating to this standard</i>	Q3: “Should the final rule provide greater guidance as to how agencies should conduct such monitoring? If so, what guidance should be provided?”
				<i>Analysis</i>	
PP-3	Resident supervision Direct care staff provides the resident supervision necessary to protect residents from sexual abuse. The facility administrators and supervisors responsible for reviewing critical incidents must examine areas in the facility where sexual abuse has occurred to assess whether there are any physical barriers that may have enabled the abuse, the adequacy of	115.313	Supervision and Monitoring (a) For each facility, the agency shall determine the adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating such levels, agencies shall take into consideration the physical layout of each facility, the composition of the resident population, and any other relevant factors. (b) The facility shall also establish a	<i>Change</i>	The new DOJ standard combines NPREC standards PP-3 and PP-7 DOJ provides some additional information about how an agency can go about assessing “staffing” The DOJ standards specifically calls for each facility to have a policy for unannounced rounds by upper-level management.

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	staffing levels during different shifts, and the need for monitoring technology to supplement direct care staff supervision (DC-1). When problems or needs are identified, facility administrators and supervisors take corrective action (DC-3).		<p>plan for how to conduct staffing and, where applicable, video monitoring, in circumstances where the levels established in paragraph (a) of this section are not attained.</p> <p>(c) Each year, the facility shall assess, and determine whether adjustments are needed to:</p> <p>(1) The staffing levels established pursuant to paragraph (a) of this section;</p> <p>(2) Prevailing staffing patterns; and</p> <p>(3) The agency’s deployment of video monitoring systems and other technologies.</p> <p>(d) 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.</p>	<i>DOJ reasoning for change</i>	<p>Commenters complained that NPREC standards did not offer enough guidance on levels of supervision or how compliance would be measured.</p> <p>DOJ recognizes that determining adequate staffing levels is facility-specific.</p> <p>DOJ believes that relying on technology (video etc) as long as there is adequate staff to monitor that technology is acceptable to reduce staffing requirements.</p> <p>DOJ does not believe it is possible to craft a formula that would set appropriate staffing levels for all populations</p> <p>DOJ measures compliance by ensuring each facility has a plan in place for adequate staffing to keep residents safe from sexual abuse.</p>

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				<p><i>DOJ question(s) relating to this standard</i></p>	<p><i>Q4: "Should the standard require that facilities actually provide a certain level of staffing, whether determined qualitatively, such as by reference to "adequacy," or quantitatively, by setting forth more concrete requirements? If so, how?"</i></p> <p><i>Q5: "If a level such as "adequacy" were mandated, how would compliance be measured?"</i></p> <p><i>Q6: "Various States have regulations that require correctional agencies to set or abide by minimum staffing requirements. To what extent, if any, should the standard take into account such State regulations?"</i></p> <p><i>Q7: "Some States mandate specific staff-to-resident ratios for certain types of juvenile facilities. Should the standard mandate specific ratios for juvenile facilities?"</i></p>

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				<p>Q8: "If a level of staffing were mandated, should the standard allow agencies a longer time frame, such as a specified number of years, in order to reach that level? If so, what time frame would be appropriate?"</p> <p>Q9: "Should the standard require the establishment of priority posts, and if so, how should such a requirement be structured and assessed?"</p> <p>Q10: "To what extent can staffing deficiencies be addressed by redistributing existing staff assignments? Should the standard include additional language to encourage such redistribution?"</p> <p>Q11: "If the Department does not mandate the provision of a certain level of staffing, are there other ways to supplement or replace the Department's</p>

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					<p><i>proposed standard in order to foster appropriate staffing?”</i></p> <p>Q12: “ <i>Should the Department mandate the use of technology to supplement sexual abuse prevention, detection, and response efforts?”</i></p> <p>Q13: “<i>Should the Department craft the standard so that compliance is measured by ensuring that the facility has developed a plan for securing technology as funds become available?”</i></p> <p>Q14: “<i>Are there other ways not mentioned above in which the Department can improve the proposed standard?”</i></p>
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PP-4	<p>Limits to cross-gender viewing and searches Except in the case of emergency, the facility prohibits cross-gender strip and visual body cavity searches. Except in the case of emergency or other extraordinary or unforeseen circumstances, the facility restricts nonmedical staff from viewing residents of the opposite gender who are nude or performing bodily functions and similarly restricts cross-gender pat-down searches. Medical practitioners conduct examinations of transgender individuals to determine their genital status only in private settings and only when an individual's genital status is unknown.</p>	115.314	<p>Limits to cross-gender viewing and searches (a) The facility shall not conduct cross-gender strip searches or visual body cavity searches except in case of emergency or when performed by medical practitioners. (b) The facility shall document all such cross-gender searches. (c) The facility shall implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in the case of emergency, by accident, or when such viewing is incidental to routine cell checks. (d) The facility shall not examine a transgender resident to determine the resident's genital status unless the resident's genital status is unknown. Such examination shall be conducted in private by a medical practitioner. (e) The agency shall not conduct cross-gender pat-down searches except in the case of emergency or other unforeseen circumstances. Any such search shall be documented and</p>	<i>Change</i>	<p>The DOJ standard removes the restriction that only medical professionals perform cross-gender searches of transgender individuals</p> <p>The DOJ standard adds that there is training required for staff that perform cross-gender searches of transgender individuals.</p>
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			justified. (f) The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.		
PP-5	Accommodating residents with special needs The agency ensures that residents who are limited English proficient (LEP), deaf, or disabled are able to report sexual abuse to staff directly, through interpretive technology, or through non-resident interpreters. Accommodations are made to convey all written information about sexual abuse policies, including how to report sexual abuse, verbally to residents who have limited reading skills or who are visually impaired.	115.315	Accommodating residents with special needs (a) The agency shall ensure that residents who are limited English proficient, deaf, or disabled are able to report sexual abuse and sexual harassment to staff directly or through other established reporting mechanisms, such as abuse hotlines, without relying on resident interpreters, absent exigent circumstances. (b) The agency shall make accommodations to convey verbally all written information about sexual abuse policies, including how to report sexual abuse and sexual harassment, to residents who have limited reading skills or who are visually impaired.	This standard is substantively the same.	
				<i>DOJ question(s) relating to this standard</i>	<i>Q17: "Should the final rule include a requirement that inmates with disabilities and LEP inmates be able to communicate with staff throughout the entire investigation and response process? If such a requirement is included, how should agencies ensure communication throughout the process?"</i>
				<i>Analysis</i>	

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PP-6	<p>Hiring and promotion decisions The agency does not hire or promote anyone who has engaged in sexual abuse in an institutional setting or who has engaged in sexual activity in the community facilitated by force, the threat of force, or coercion. Consistent with Federal, State, and local law, the agency makes its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse; must run criminal background checks for all applicants and employees being considered for promotion; and must examine and carefully weigh any history of criminal activity at work or in the community, including convictions for domestic violence, stalking, child abuse and sex offenses. The agency also asks</p>	115.316	<p>Hiring and promotion decisions (a) The agency shall not hire or promote anyone who has engaged in sexual abuse in an institutional setting; who has been convicted of engaging in sexual activity in the community facilitated by force, the threat of force, or coercion; or who has been civilly or administratively adjudicated to have engaged in such activity. (b) Before hiring new employees, the agency shall: (1) Perform a criminal background check; and (2) Consistent with Federal, State, and local law, make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse. (c) The agency shall either conduct criminal background checks of current employees at least every five</p>	<i>Change</i>	<p>The DOJ standards defined that background checks be done every 5 years.</p> <p>The DOJ standard adds the following section:</p> <p>Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.</p>
				<i>DOJ reasoning for change</i>	<p>Commenters expressed concern over the burden of requiring background checks for promotions. Instead the DOJ had adopted a policy requiring background checks of current employees to be done every five years.</p>

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	all applicants and employees directly about previous misconduct during interviews and reviews.		years or have in place a system for otherwise capturing such information for current employees. (d) The agency shall also ask all applicants and employees directly about previous misconduct in written applications for hiring or promotions, in interviews for hiring or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees. (e) Material omissions, or the provision of materially false information, shall be grounds for termination. (f) Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.	<i>Analysis</i>	
PP-7	Assessment and use of monitoring technology The agency uses video monitoring	115.317	Upgrades to facilities technology (a) When designing or acquiring any new facility and in planning any substantial expansion or modification	<i>Change</i>	The DOJ standard is actually new.

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	systems and other cost-effective and appropriate technology to supplement its sexual abuse prevention, detection, and response efforts. The agency assesses, at least annually, the feasibility of and need for new or additional monitoring technology and develops a plan for securing such technology.		of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect residents from sexual abuse. (b) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect residents from sexual abuse.	<i>DOJ reasoning for change</i>	The DOJ believes it is appropriate to require agencies to consider the impact of their physical and technology upgrades.
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<i>Response Planning</i>		<i>Responsive Planning</i>			
RP-1	<p>Evidence protocol and forensic medical exams The agency follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol must be adapted from or otherwise based on the 2004 U.S. Department of Justice’s Office on Violence Against Women publication “A National Protocol for Sexual Assault Medical Forensic Examinations,</p>	115.321	<p>Evidence protocol and forensic medical exams (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 adapted from or otherwise based on the 2004 U.S. Department of Justice’s Office on Violence Against Women</p>	<i>Change</i>	This standard is substantively the same. However, the DOJ standard stipulates that a qualified staff member may accompany a victim in place of a community advocate

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	Adults/Adolescents,” subsequent updated editions, or similarly comprehensive and authoritative protocols developed after 2004. As part of the agency’s evidence collection protocol, all victims of resident-on-resident sexually abusive penetration or staff-on-resident sexually abusive penetration are provided access to forensic medical exams performed by qualified forensic medical examiners who are trained in the unique psychological and emotional conditions of younger		publication “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” subsequent updated editions, or similarly comprehensive and authoritative protocols developed after 2010. (c) The agency shall offer all residents who experience sexual abuse access to forensic medical exams performed by qualified medical practitioners, whether onsite or at an outside facility, without financial cost, where evidentiarily or medically appropriate.	<i>DOJ reasoning for change</i>	DOJ believes evidence collection can support or refute a claim even when penetration does not occur and evidence should be collected whenever possible

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	victims of sexual abuse. Forensic medical exams are provided free of charge to the victim. The facility makes available a victim advocate to accompany the victim through the forensic medical exam process.		(d) The agency shall make available to the victim a qualified staff member or a victim advocate from a community-based organization that provides services to sexual abuse victims. (e) As requested by the victim, the qualified staff member or victim advocate shall accompany and support the victim through the forensic medical exam process and the investigatory process and shall provide emotional support, crisis intervention, information, and referrals.	<i>DOJ question(s) relating to this standard</i>	

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			<p>(f) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall inform the investigating entity of these policies.</p> <p>(g) The requirements of paragraphs (a) through (f) of this section shall also apply to:</p> <p>(1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in institutional settings; and</p> <p>(2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in institutional settings.</p> <p>(h) For the purposes of this standard, a qualified staff member shall be an individual who is employed by a facility and has received education concerning sexual assault and forensic examination issues in general.</p>	<i>Analysis</i>	

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RP-2	<p>Agreements with outside public entities and community service providers</p> <p>The agency maintains or attempts to enter into memoranda of understanding (MOUs) or other agreements with an outside public entity or office that is able to receive and immediately forward resident reports of sexual abuse to facility heads (RE-1). The agency also maintains or attempts to enter into MOUs or other agreements with community service providers that are able to: (1) provide residents with emotional support services related to sexual abuse and (2) help victims of sexual abuse during their transition from incarceration to the community (RE-3, MM-3). The agency maintains copies of agreements or documentation showing attempts to enter into agreements.</p>	115.322	<p>Agreements with outside public entities and community service providers</p> <p>(a) The agency shall maintain or attempt to enter into memoranda of understanding or other agreements with an outside public entity or office that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials pursuant to § 115.351, unless the agency enables residents to make such reports to an internal entity that is operationally independent from the agency’s chain of command, such as an inspector general or ombudsperson who reports directly to the agency head.</p> <p>(b) The agency also shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide residents with emotional support services related to</p>	<i>Change</i>	The DOJ standard does not require MOUs with outside agency providers if the agency enables inmates to report to an internal entity that is operationally independent from the agency’s chain of command (ie: an IG or ombudsman)
				<i>DOJ reasoning for change</i>	<p>Commenters expressed concern over the burden this may cause on an agency. To that end DOJ has adopted a standard which would allow for agencies to use a qualified staff member to fulfill this role as long as they have had training on sexual assault and crisis intervention.</p> <p>This will not apply to lock-ups.</p> <p>Agencies are also exempt from this standard if they allow reporting to quasi-independent offices (such as inspector generals)</p>

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			sexual abuse, including helping resident sexual abuse victims during community re-entry, unless the agency is legally required to provide such services to all residents. (c) The agency shall maintain copies of agreements or documentation showing attempts to enter into agreements.	<i>DOJ question(s) relating to this standard</i>	Q19: Should this standard expressly mandate that agencies attempt to enter into memoranda of understanding that provide specific assistance for LEP inmates?
				<i>Analysis</i>	
		115.323	Policies to ensure investigation of allegations (a) The agency shall have in place a policy to ensure that allegations of sexual abuse or sexual harassment are investigated by an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior, and shall publish such policy on its website. (b) If a separate entity is responsible for conducting criminal	<i>Change</i>	This is a new DOJ standard.
				<i>DOJ reasoning for change</i>	The intent is that this standard replace the NPREC standard RP-3

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			<p>investigations, such website publication shall describe the responsibilities of both the agency and the investigating entity.</p> <p>(c) Any State entity responsible for conducting criminal or administrative investigations of sexual abuse in juvenile facilities shall have in place a policy governing the conduct of such investigations.</p> <p>(d) Any Department of Justice component responsible for conducting criminal or administrative investigations of sexual abuse in juvenile facilities shall have in place a policy governing the conduct of such investigations.</p>	<i>Analysis</i>	
RP-3	<p>Agreements with outside law enforcement agencies If an agency does not have the legal authority to conduct criminal investigations or has elected to permit an outside agency to conduct criminal or administrative investigations of staff or residents,</p>			DOJ did not choose to adopt this standard.	

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	<p>the agency maintains or attempts to enter into a written MOU or other agreement specific to investigations of sexual abuse with the law enforcement agency responsible for conducting investigations. The agency also maintains or attempts to enter into an MOU with the designated State or local services agency with the jurisdiction and authority to conduct investigations related to the sexual abuse of children within confinement facilities. When the agency already has an existing agreement or long-standing policy covering responsibilities for all criminal investigations, including sexual abuse investigations and child abuse investigations conducted by a designated State or local services agency, it does not need to enter into new agreements. The agency maintains copies of its agreements or documentation showing attempts to enter into agreements.</p>			<p><i>DOJ reasoning for change</i></p> <p>Commenters expressed concerns that this would impose significant burdens. While the DOJ does encourage agencies to have these MOUs with outside law enforcement, due to burden concerns the department does not believe that agencies should be required to do so.</p> <p>DOJ does propose standard 115.323 instead so that agencies ensure that allegations of sexual abuse or harassment are investigated by an agency with the legal authority to conduct criminal investigations.</p>	
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RP-4	Agreements with the prosecuting authority The agency maintains or attempts to enter into a written MOU or other agreement with the authority responsible for prosecuting violations of criminal law. The agency maintains a copy of the agreement or documentation showing attempts to enter into an agreement.			DOJ did not choose to adopt this standard.	
				<i>DOJ reasoning for change</i>	Commenters expressed concerns that this would impose significant burdens. While the DOJ does encourage agencies to have these MOUs with prosecuting authorities, due to burden concerns the department does not believe that agencies should be required to do so.
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<i>Training and Education</i>		<i>Training and Education</i>			
TR-1	<p>Employee training The agency trains all employees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and under relevant Federal, State, and local law. The agency trains all employees to communicate effectively and professionally with all residents. Additionally, the agency trains all employees on a resident's right to be free from sexual abuse, the right of residents and employees to be free from retaliation for reporting sexual abuse, the dynamics of sexual abuse in confinement, and the common reactions of sexual abuse victims. Current employees are educated as soon as possible following the agency's adoption of the PREA standards, and the agency provides periodic refresher information to all employees to ensure that they know the agency's most current sexual</p>	115.331	<p>Employee training (a) The agency shall train all employees who may have contact with residents on: (1) Its zero-tolerance policy for sexual abuse and sexual harassment; (2) How to fulfill their responsibilities under agency sexual abuse prevention, detection, reporting, and response policies and procedures; (3) Residents' right to be free from sexual abuse and sexual harassment; (4) The right of residents and employees to be free from retaliation for reporting sexual abuse; (5) The dynamics of sexual abuse in juvenile facilities; (6) The common reactions of juvenile victims of sexual abuse; (7) How to detect and respond to signs of threatened and actual sexual abuse; (8) How to avoid inappropriate relationships with residents; (9) How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, or intersex residents;</p>	<p><i>Change</i></p> <p>The DOJ standard allows for electronic verification of training.</p>	
				<p><i>Analysis</i></p>	

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	abuse policies and procedures. The agency maintains written documentation showing employee signatures verifying that employees understand the training they have received.		and (10) Relevant laws related to mandatory reporting. (b) Such training shall be tailored to the unique needs and attributes of residents of juvenile facilities. (c) All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the agency shall provide annual refresher information to all employees to ensure that they know the agency's current sexual abuse policies and procedures. (d) The agency shall document, via employee signature or electronic verification, that employees understand the training they have received.		
TR-2	Volunteer and contractor training The agency ensures that all volunteers and contractors who have contact with residents have been trained on their	115.332	Volunteer and contractor training (a) The agency shall ensure that all volunteers and contractors who have contact with residents have been trained on their responsibilities under	This standard is substantively the same.	

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	responsibilities under the agency’s sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and relevant Federal, State, and local law. The level and type of training provided to volunteers and contractors is based on the services they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents must be notified of the agency’s zero-tolerance policy regarding sexual abuse. Volunteers must also be trained in how to report sexual abuse. The agency maintains written documentation showing volunteer and contractor signatures verifying that they understand the training they have received.		the agency’s sexual abuse prevention, detection, and response policies and procedures. (b) The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents shall be notified of the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report sexual abuse. (c) The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.	<i>Analysis</i>	

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TR-3	Resident education During the intake process, staff informs residents of the agency’s zero-tolerance policy regarding sexual abuse and how to report incidents or suspicions of sexual abuse in an age-appropriate fashion. Within a reasonably brief period of time following the intake process, the agency provides comprehensive, age-appropriate education to residents regarding their right to be free from sexual abuse and to be free from retaliation for reporting abuse, the dynamics of sexual abuse in confinement, the common reactions of sexual abuse victims, and agency sexual abuse response policies and procedures. Current residents are educated as	115.333	Resident education (a) During the intake process, staff shall inform residents in an age-appropriate fashion of the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. (b) Within 30 days of intake, the agency shall provide comprehensive age-appropriate education to residents either in person or via video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such abuse or harassment, and regarding agency sexual abuse response policies and procedures. (c) Current residents who have not received such education shall be	<i>Change</i>	The DOJ standard defines the timing in which training is to occur with residents.
				<i>DOJ reasoning for change</i>	Commenters expressed concern regarding what a reasonably brief period of time may be. The DOJ clarified this in the standard.

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	<p>soon as possible following the agency’s adoption of the PREA standards, and the agency provides periodic refresher information to all residents to ensure that they know the agency’s most current sexual abuse policies and procedures. The agency provides resident education in formats accessible to all residents, including those who are LEP, deaf, visually impaired, or otherwise disabled as well as inmates who have limited reading skills. The agency maintains written documentation of resident participation in these education sessions.</p>		<p>educated within one year of the effective date of the PREA standards, and the agency shall provide refresher information to all residents at least annually and whenever a resident is transferred to a different facility, to ensure that they know the agency’s current sexual abuse policies and procedures. (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.</p>	<i>Analysis</i>	

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TR-4	<p>Specialized training: Investigations In addition to the general training provided to all employees (TR-1), the agency ensures that agency investigators conducting sexual abuse investigations have received comprehensive and up-to-date training in conducting such investigations in confinement settings. Specialized training must include techniques for interviewing young sexual abuse victims, proper use of <i>Miranda</i>- and <i>Garrity</i>-type warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The agency maintains written documentation that investigators have completed the required specialized training in conducting sexual abuse investigations.</p>	115.334	<p>Specialized training: Investigations (a) In addition to the general training provided to all employees pursuant to § 115.331, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. (b) Specialized training shall include techniques for interviewing juvenile sexual abuse victims, proper use of <i>Miranda</i> and <i>Garrity</i> warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. (c) The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations. (d) Any State entity or Department of Justice component that investigates sexual abuse in juvenile confinement settings shall provide such training to</p>	<p>This standard is substantively the same. However, the DOJ standard does apply to outside law enforcement in the case where an agency does not conduct its own investigation.</p> <p><i>Analysis</i></p>

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			its agents and investigators who conduct such investigations		
TR-5	<p>Specialized training: Medical and mental health care The agency ensures that all full- and part-time medical and mental health care practitioners working in its facilities have been trained in how to detect and assess signs of sexual abuse and that all medical practitioners are trained in how to preserve physical evidence of sexual abuse. All medical and mental health care practitioners must be trained in how to respond effectively and professionally to young victims of sexual abuse and how and to whom to report allegations or suspicions of sexual abuse. The agency maintains documentation that medical and mental health practitioners have received this specialized training.</p>	115.335	<p>Specialized training: Medical and mental health care (a) The agency shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: (1) How to detect and assess signs of sexual abuse; (2) How to preserve physical evidence of sexual abuse; (3) How to respond effectively and professionally to juvenile victims of sexual abuse; and (4) How and to whom to report allegations or suspicions of sexual abuse. (b) If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.</p>	<p>This standard is substantively the same. However, the DOJ standard does state that if forensic medical exams are to be done in house by agency medical staff they have to receive appropriate training.</p>	
				<i>Analysis</i>	

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			(c) The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere.		
<i>Assessment and Placement of Residents</i>		<i>Assessment and Placement of Residents</i>			
AP-1	Obtaining information about residents During intake and periodically throughout a resident’s confinement, employees obtain and use information about each resident’s personal history and behavior to keep all residents safe and free from sexual abuse. At a minimum, employees attempt to ascertain information about prior sexual victimization or abusiveness; sexual orientation	115.341	Obtaining information about residents (a) During the intake process 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 assessment shall be conducted using an objective screening instrument, blank copies of which shall be made available to the	This standard is substantively the same.	

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	and gender identity; current charges and offense history; age; level of emotional and cognitive development; physical size/stature; mental illness or mental disabilities; intellectual/developmental disabilities; physical disabilities; and any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents. This information may be ascertained through conversations with residents at intake 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 residents' files. Medical and mental health practitioners are the only staff permitted to talk with residents to gather information about their sexual orientation or gender identity, prior sexual victimization, history of engaging		public upon request. (c) At a minimum, the agency shall attempt to ascertain information about: (1) Prior sexual victimization or abusiveness; (2) Sexual orientation, transgender, or intersex status; (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 residents during the intake	<i>Analysis</i>	

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	in sexual abuse, mental health status, and mental or physical disabilities. If the facility does not have medical or mental health practitioners available, residents are given an opportunity to discuss any safety concerns or sensitive issues privately with another employee.		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 residents' files. (e) The agency shall implement appropriate controls on the dissemination of responses to screening questions within the facility in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents.		
AP-2	Placement of Residents in housing, bed, program, education and work assignments Employees use all information obtained about the resident at intake and subsequently to make placement decisions for each resident on an individualized basis with the goal of keeping all residents safe and free from sexual abuse. When determining housing, bed, program, education and work	115.342	Placement of Residents in housing, bed, program, education and work assignments (a) The agency shall use all information obtained about the resident during the intake process and subsequently to make placement decisions for each resident based upon the objective screening instrument with the goal of keeping all residents safe and free from sexual abuse.	<i>Change</i>	The DOJ standards specified the following: 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. The agency shall make an individualized determination about whether a transgender resident should be housed with males or with females.

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	assignments for residents, employees must take into account a resident’s age; the nature of his or her offense; any mental or physical disability or mental illness; any history of sexual victimization or engaging in sexual abuse; his or her level of emotional and cognitive development; his or her identification as lesbian, gay, bisexual, or transgender; and any other information obtained about the resident (AP-1). 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.		(b) When determining housing, bed, program, education and work assignments for residents, the agency must take into account: (1) A resident’s age; (2) The nature of his or her offense; (3) Any mental or physical disability or mental illness; (4) Any history of sexual victimization or engaging in sexual abuse; (5) His or her level of emotional and cognitive development; (6) His or her identification as lesbian, gay, bisexual, transgender, or intersex; and (7) Any other information obtained about the resident pursuant to § 115.341. (c) 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. (d) Lesbian, gay, bisexual, transgender, or intersex residents shall not be placed in particular housing, bed, or other assignments	<i>DOJ question(s) relating to this standard</i>	Q22: “Should the final rule provide greater guidance regarding the required scope of the intake screening, and if so, how?”
				<i>Analysis</i>	

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			solely on the basis of such identification or status. (e) The agency shall make an individualized determination about whether a transgender resident should be housed with males or with females.		
<i>Reporting</i>		<i>Reporting</i>			
RE-1	Resident reporting The facility provides multiple internal ways for residents to report easily, privately, and securely sexual abuse, retaliation by other residents or staff for reporting sexual abuse, and staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse. The facility also provides at least one way for residents to report the abuse to an outside public entity or office not affiliated with the agency that has agreed to receive reports and forward them to the facility head	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 an incident of sexual abuse. (b) Pursuant to § 115.322, the agency shall also make its best efforts to provide at least one way for residents to report abuse or harassment to an outside governmental entity that is not affiliated with the agency or that	This standard is substantively the same.	
				<i>DOJ question(s) relating to this standard</i>	<i>Q23: "Should the final rule mandate that agencies provide residents with the option of making a similarly restricted report to an outside public entity? To what extent, if any, would such an option conflict with applicable State or local law?"</i>

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	(RP-3). Staff accepts reports made verbally, in writing, anonymously, and from third parties and immediately puts into writing any verbal reports.		is operationally independent from agency leadership, such as an inspector general or ombudsperson, and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials. (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.	<i>Analysis</i>	
RE-2	Exhaustion of administrative remedies Under agency policy, a resident has exhausted his or her administrative remedies with regard to a claim of sexual abuse either (1) when the agency makes a final decision on the merits of the report of abuse (regardless of	115.352	Exhaustion of administrative remedies (a)(1) The agency shall provide a resident a minimum of 20 days following the occurrence of an alleged incident of sexual abuse to file a grievance regarding such incident. (2) The agency shall grant an	<i>Change</i>	The DOJ standard defines the exhaustion process further and extends timeframes.
				<i>DOJ reasoning for change</i>	Commenters raised concerns about the legality of NPREC standards regarding exhaustion requirements. DOJ balanced legitimate agency concerns with resident's appropriate access to the legal process.

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	whether the report was made by the resident, made by a third party, or forwarded from an outside official or office) or (2) when 90 days have passed since the report was made, whichever occurs sooner. A report of sexual abuse triggers the 90-day exhaustion period regardless of the length of time that has passed between the abuse and the report. A resident seeking immediate protection from imminent sexual abuse will be deemed to have exhausted his or her administrative remedies 48 hours after notifying any agency staff member of his or her need for protection.		extension of no less than 90 days from the deadline for filing such a grievance when the resident provides documentation, such as from a medical or mental health provider or counselor, that filing a grievance within the normal time limit was or would likely be impractical, whether due to physical or psychological trauma arising out of an incident of sexual abuse, the resident having been held for periods of time outside of the facility, or other circumstances indicating impracticality. Such an extension shall be afforded retroactively to a resident whose grievance is filed subsequent to the normal filing deadline. (b)(1) The agency shall issue a final agency decision on the merits of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance. (2) Computation of the 90-day time period shall not include time consumed by residents in appealing any adverse ruling. (3) An agency may claim an extension of time to respond, of up to 70 days, if the normal time period for		DOJ feels the immanent harm proposal by the NPREC is unworkable and will allow for immediate access to the courts thus allowing for the filing of frivolous claims. Instead agencies will have to establish emergency reporting procedures.
				<i>DOJ question(s) relating to this standard</i>	<i>Q24: "Because the Department's proposed standard addressing administrative remedies differs significantly from the Commission's draft, the Department specifically encourages comments on all aspects of this proposed standard."</i>
				<i>Analysis</i>	

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			<p>response is insufficient to make an appropriate decision.</p> <p>(4) The agency shall notify the resident in writing of any such extension and provide a date by which a decision will be made.</p> <p>(c)(1)Whenever an agency is notified of an allegation that a resident has been sexually abused, other than by notification from another resident, it shall consider such notification as a grievance or request for informal resolution submitted on behalf of the alleged resident victim for purposes of initiating the agency administrative remedy process.</p> <p>(2) The agency shall inform the alleged victim that a grievance or request for informal resolution has been submitted on his or her behalf and shall process it under the agency's normal procedures unless the alleged victim expressly requests that it not be processed. The agency shall document any such request. (3) The agency may require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.</p> <p>(4) The agency shall also establish</p>		

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			<p>procedures to allow the parent or legal guardian of a juvenile to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile.</p> <p>(d)(1) An agency shall establish procedures for the filing of an emergency grievance where a resident is subject to a substantial risk of imminent sexual abuse.</p> <p>(2) After receiving such an emergency grievance, the agency shall immediately forward it to a level of review at which corrective action may be taken, provide an initial response within 48 hours, and a final agency decision within five calendar days.</p> <p>(3) The agency may opt not to take such actions if it determines that no emergency exists, in which case it may either:</p> <p>(i) Process the grievance as a normal grievance; or</p> <p>(ii) Return the grievance to the resident, and require the resident to follow the agency's normal grievance procedures.</p> <p>(4) The agency shall provide a written explanation of why the</p>		

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			grievance does not qualify as an emergency. (5) An agency may discipline a resident for intentionally filing an emergency grievance where no emergency exists.		
RE-3	Resident access to outside confidential support services and legal representation In addition to providing on-site mental health care services, the facility provides residents with access to outside victim advocates for emotional support services related to sexual abuse. The facility provides such access by giving residents the current mailing addresses and telephone numbers, including toll-free hotline numbers, of local, State, and/or national victim advocacy or rape crisis organizations and enabling reasonable communication between residents	115.353	Resident access to outside confidential support services and legal representation (a) In addition to providing onsite mental health care services, 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 by enabling reasonable communication between residents and these organizations, as confidential as	<i>Change</i>	The DOJ standard allows for monitoring of resident's access to outside resources.
				<i>DOJ reasoning for change</i>	Commenters were concerned about the resident's access to outside support services without monitoring. DOJ rectified this by only allowing access as far as law would allow. DOJ also specified that contact only be as confidential as possible as weighed against the agencies security needs.

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	and these organizations. The facility ensures that communications with such advocates are private, to the extent allowable by Federal, State, and local law. The facility informs residents, prior to giving them access, of the extent to which such communications will be private, confidential, and/or privileged. The facility also provides residents with unimpeded access to their attorney or other legal representation and their families.		possible, consistent with agency security needs and with applicable law. (b) The facility shall inform residents, prior to giving them access, of the extent to which such communications will be monitored. (c) The facility shall also provide residents with reasonable and confidential access to their attorney or other legal representation and reasonable access to parents or legal guardians.	<i>Analysis</i>	
RE-4	Third-party reporting The facility receives and investigates all third-party reports of sexual abuse and refers all third-party reports of abuse to the designated State or local services agency with the authority to conduct investigations into allegations of sexual abuse involving child victims (IN-1 and RP-4). At the conclusion of the investigation, the facility notifies in writing the third-party individual who reported the abuse and the resident named in the	115.354	Third-party reporting The facility shall establish a method to receive third-party reports of sexual abuse. The facility shall distribute publicly, including to residents' attorneys and parents or legal guardians, information on how to report sexual abuse on behalf of a resident.	<i>Change</i>	The DOJ standard does not require notification to a third party regarding the outcome of an investigation.
				<i>Analysis</i>	

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	third-party report of the outcome of the investigation. The facility distributes information on how to report sexual abuse on behalf of a resident to residents' parents or legal guardians, attorneys, and the public.				
<i>Official Response</i>		<i>Official Response Following an Inmate Report</i>			
OR-1	<p>Staff and facility head reporting duties</p> <p>All staff members are required to report immediately and according to agency policy and relevant State or local mandatory child abuse reporting laws any knowledge, suspicion, or information they receive regarding an incident of sexual abuse that occurred in an institutional setting; retaliation against residents or staff who reported abuse; and any staff neglect or violation of responsibilities that may have</p>	115.361	<p>Staff and agency reporting duties</p> <p>(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 that occurred in an institutional setting; retaliation against residents or staff who reported abuse; and any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or retaliation.</p> <p>(b) The agency shall also require all</p>	<i>Change</i>	<p>The DOJ standard adds that reports to juvenile courts must be made within 14 days.</p> <p>The DOJ standard adds that the facility is required to report abuse to the facility's investigators</p>

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	<p>contributed to an incident of sexual abuse or retaliation. Apart from reporting to designated supervisors or officials and designated State or local services agencies, staff must not reveal any information related to a sexual abuse report to anyone other than those who need to know, as specified in agency policy, to make treatment, investigation, and other security and management decisions. Medical and mental health practitioners are required to report sexual abuse to designated supervisors and officials as well as the designated State or local services agency and must inform residents of their duty to report at the initiation of services. Upon receiving any allegation of sexual abuse, the facility head must immediately report the allegation to the agency head, the juvenile court that handled the victim's case or the victim's judge of record, and the victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal</p>		<p>staff to comply with any applicable mandatory child abuse reporting laws.</p> <p>(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 those who need to know, as specified in agency policy, to make treatment, investigation, and other security and management decisions.</p> <p>(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.</p> <p>(2) Such practitioners shall be required to inform residents at the initiation of services of their duty to report.</p> <p>(e)(1) Upon receiving any allegation of sexual abuse, the facility head or his or her designee shall promptly report the allegation to the</p>	<i>Analysis</i>	

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	guardians should not be notified. If the victim is involved in the child welfare system, the facility head reports to the victim's caseworker instead of the victim's parents or legal guardians.		appropriate central office of the agency and the 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 victim is under the guardianship of the child welfare system, the report shall be made to the victim's caseworker instead of the victim's parents or legal guardians. (3) If a juvenile court retains jurisdiction over a juvenile, the facility head or designee shall also report the allegation to such court within 14 days of receiving the allegation, unless additional time is needed to comply with applicable rules governing ex parte communications. (f) The facility shall report all allegations of sexual abuse, including third-party and anonymous reports, to the facility's designated investigators.		
OR-2	Reporting to other confinement facilities When the facility receives an	115.362	Reporting to other confinement facilities (a) Within 14 days of receiving an	<i>Change</i>	The DOJ standard defines the timeframe for reporting.

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	allegation that a resident was sexually abused while confined at another facility, the head of the facility where the report was made notifies in writing the head of the facility where the alleged abuse occurred. The head of the facility where the alleged abuse occurred ensures the allegation is investigated.		allegation that a resident was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify in writing the head of the facility or appropriate central office of the agency where the alleged abuse occurred and shall also notify the appropriate investigative agency. (b) The facility head or central office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.	<i>Analysis</i>	
OR-3	Staff first responder duties Upon learning that a resident was sexually abused within a time period that still allows for the collection of physical evidence, the first direct care staff member to respond to the report is required to (1) separate the alleged victim and abuser; (2) seal and preserve any crime scene(s); and (3) instruct the victim not to take any actions that could destroy physical evidence, including washing, brushing his or her teeth, changing his or her clothes, urinating, defecating,	115.363	Staff first responder duties Upon learning that a resident was sexually abused within a time period that still allows for the collection of physical evidence, the first staff member to respond to the report shall be required to: (a) Separate the alleged victim and abuser; (b) Seal and preserve any crime scene; and (c) Request the victim not to take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes,	This standard is substantively the same.	
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	smoking, drinking, or eating. If the first staff responder is a non-direct care staff member, he or she is required to instruct the victim not to take any actions that could destroy physical evidence and then notify direct care staff.		urinating, defecating, smoking, drinking, or eating.		
OR-4	Coordinated response All actions taken in response to an incident of sexual abuse are coordinated among staff first responders, medical and mental health practitioners, investigators, victim advocates, and facility leadership. The facility’s coordinated response ensures that victims receive all necessary immediate and ongoing medical, mental health, and support services and that investigators are able to obtain usable evidence to substantiate allegations and hold perpetrators accountable.	115.364	Coordinated response The facility shall coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership.	This standard is substantively the same.	
				<i>DOJ question(s) relating to this standard</i>	<i>Q25: “Does this standard provide sufficient guidance as to how compliance would be measured? If not, how should it be revised?”</i>
				<i>Analysis</i>	

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OR-5	<p>Agency protection against retaliation The agency protects all residents and staff who report sexual abuse or cooperate with sexual abuse investigations from retaliation by other residents or staff. The agency employs multiple protection measures, including housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or cooperating with investigations. The agency monitors the conduct and/or treatment of residents or staff who have reported sexual abuse or cooperated with investigations, including any resident disciplinary reports, housing, or program changes, for at least 90 days following their report or cooperation to see if there are changes that may suggest possible</p>	115.365	<p>Agency protection against retaliation (a) The agency shall 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. (b) The agency shall employ multiple protection measures, including housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. (c) The agency shall monitor the conduct or treatment of residents or staff who have reported sexual abuse or cooperated with investigations, including any resident disciplinary reports, housing, or program changes, for at least 90 days following their report or cooperation, to see if there are changes that may suggest</p>	<i>Change</i>	<p>The DOJ standard adds the following language:</p> <p>The agency shall not enter into or renew any collective bargaining agreement or other agreement that limits the agency’s ability to remove alleged staff abusers from contact with victims pending an investigation.</p>
				<i>DOJ reasoning for change</i>	DOJ wanted to build on the suggestion from NPREC
				<i>DOJ question(s) relating to this standard</i>	Q26: “Should the standard be further refined to provide additional guidance regarding when continuing monitoring is warranted, or is the current language sufficient?”

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	retaliation by residents or staff. The agency discusses any changes with the appropriate resident or staff member as part of its efforts to determine if retaliation is taking place and, when confirmed, immediately takes steps to protect the resident or staff member.		possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. (d) The agency shall not enter into or renew any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff abusers from contact with residents pending an investigation.	<i>Analysis</i>	
		115.366	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.	<i>Change</i>	This is a new DOJ standard.
				<i>DOJ reasoning for change</i>	DOJ saw a need to clarify the use of protective custody
				<i>Analysis</i>	

PREA Standards Comparison
Standards for Juvenile Justice Facilities

NPREC STANDARD		DOJ REVISED STANDARD		COMMENT/ EVALUATION	
NUMBER	STANDARD	NUMBER	STANDARD		
<i>Investigations</i>		<i>Investigations</i>			
IN-1	<p>Duty to investigate The facility investigates all allegations of sexual abuse, including third-party and anonymous reports, and notifies victims and/or other complainants in writing of investigation outcomes and any disciplinary or criminal sanctions, regardless of the source of the allegation. If additional parties were notified of the allegation (OR-1), the facility notifies those parties in writing of investigation outcomes. All investigations are carried through to completion, regardless of whether the alleged abuser or victim remains at the facility and regardless of whether the source of the allegation recants his or her allegation.</p>			DOJ did not choose to adopt this standard.	
				<i>DOJ reasoning for change</i>	Notification requirements under the NPREC standard have been replaced by DOJ standard 115.73
				<i>Analysis</i>	

PREA Standards Comparison
Standards for Juvenile Justice Facilities

NPREC STANDARD		DOJ REVISED STANDARD		COMMENT/ EVALUATION	
NUMBER	STANDARD	NUMBER	STANDARD		
IN-2	<p>Criminal and administrative agency investigations Agency investigations into allegations of sexual abuse are prompt, thorough, objective, and conducted by investigators who have received special training in sexual abuse investigations involving young victims (TR-4). When outside agencies investigate sexual abuse, the facility has a duty to keep abreast of the investigation and cooperate with outside investigators (RP-4). Investigations include the following elements:</p> <ul style="list-style-type: none"> • Investigations are initiated and completed within the time frames established by the highest- ranking facility official, and the highest-ranking official approves the final investigative report. • Investigators gather direct and circumstantial evidence, including physical and DNA evidence when available; interview alleged victims, suspected perpetrators, and witnesses; and review prior complaints and reports of sexual 	115.371	<p>Criminal and administrative agency investigations (a) When the agency conducts its own investigations into allegations of sexual abuse, it shall do so promptly, thoroughly, and objectively, using investigators who have received special training in sexual abuse investigations involving juvenile victims pursuant to § 115.334, and shall investigate all allegations of sexual abuse, including third-party and anonymous reports. (b) 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. (c) The agency shall not terminate an investigation solely because the source of the allegation recants the allegation. (d) When the quality of evidence</p>	<i>Change</i>	<p>DOJ added the following to the standard:</p> <p>(h) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. (i) The agency shall retain such investigative records for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. (j) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation. (k) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements. (l) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the</p>

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NPREC STANDARD		DOJ REVISED STANDARD		COMMENT/ EVALUATION	
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	<p>abuse involving the suspected perpetrator; and potentially corroborating physical or other evidence.</p> <ul style="list-style-type: none"> • When the quality of evidence appears to support criminal prosecution, prosecutors are contacted to determine whether compelled interviews may be an obstacle for subsequent criminal prosecution. • Investigative findings are based on an analysis of the evidence gathered and a determination of its probative value. • The credibility of a victim, suspect, or witness is assessed on an individual basis and is not determined by the person's status as resident or staff. • Investigations include an effort to determine whether staff negligence or collusion enabled the abuse to occur. • Administrative investigations are documented in written reports that include a description of the physical and testimonial evidence and the reasoning behind credibility assessments. 		<p>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.</p> <p>(e) The credibility of a 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.</p> <p>(f) Administrative investigations:</p> <p>(1) Shall include an effort to determine whether staff actions or failures to act facilitated the abuse; and</p> <p>(2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative findings.</p> <p>(g) Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.</p>		<p>investigation.</p>
				<i>Analysis</i>	

PREA Standards Comparison
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NPREC STANDARD		DOJ REVISED STANDARD		COMMENT/ EVALUATION	
NUMBER	STANDARD	NUMBER	STANDARD		
	<ul style="list-style-type: none"> • Criminal investigations are documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and provides a proposed list of exhibits. • Substantiated allegations of conduct that appears to be criminal are referred for prosecution. 		<p>(h) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.</p> <p>(i) The agency shall retain such investigative records for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.</p> <p>(j) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.</p> <p>(k) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.</p> <p>(l) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.</p>		

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NPREC STANDARD		DOJ REVISED STANDARD		COMMENT/ EVALUATION	
NUMBER	STANDARD	NUMBER	STANDARD		
IN-3	Evidence standard for administrative investigations Allegations of sexual abuse are substantiated if supported by a preponderance of the evidence.	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 are substantiated. § 115.373 Reporting to residents.	This standard is substantively the same.	
				<i>Analysis</i>	
		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,	<i>Change</i>	This is a new DOJ standard.

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			<p>unsubstantiated, or unfounded.</p> <p>(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.</p> <p>(c) Following a resident’s allegation that a staff member has committed sexual abuse, the agency shall subsequently inform the resident whenever:</p> <p>(1) The staff member is no longer posted within the resident’s unit;</p> <p>(2) The staff member is no longer employed at the facility;</p> <p>(3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or</p> <p>(4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.</p> <p>This requirement shall not apply to allegations that have been determined to be unfounded.</p>	<p><i>DOJ reasoning for change</i></p>	<p>This standard was proposed to strike a balance between staff member privacy and the inmate’s right to know the outcome of an investigation while protecting the security of both.</p>
				<p><i>Analysis</i></p>	

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NPREC STANDARD		DOJ REVISED STANDARD		COMMENT/ EVALUATION	
NUMBER	STANDARD	NUMBER	STANDARD		
<i>Discipline</i>		<i>Discipline</i>			
DI-1	<p>Disciplinary sanctions for staff Staff is subject to disciplinary sanctions up to and including termination when staff has violated agency sexual abuse policies. The presumptive disciplinary sanction for staff members who have engaged in sexually abusive contact or penetration is termination. This presumption does not limit agency discretion to impose termination for other sexual abuse policy violations. All terminations for violations of agency sexual abuse policies are to be reported to law enforcement agencies and any relevant licensing bodies.</p>	115.376	<p>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 touching. (c) Sanctions 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.</p>	<p><i>Change</i></p> <p>The DOJ standard limits the NPREC standard by not requiring a report to law enforcement if the conduct was clearly not criminal</p> <p>The DOJ standard also defines that “Sanctions 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.”</p>	
				<p><i>Analysis</i></p>	

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NPREC STANDARD		DOJ REVISED STANDARD		COMMENT/ EVALUATION	
NUMBER	STANDARD	NUMBER	STANDARD		
DI-2	<p>Disciplinary sanctions for residents who engage in sexual abuse</p> <p>Residents receive appropriate interventions if they engage in resident-on-resident sexual abuse. Decisions regarding which types of interventions to use in particular cases, including treatment, counseling, educational programs, or disciplinary sanctions, are made with the goal of promoting improved behavior by the resident and ensuring the safety of other residents and staff. When imposing disciplinary sanctions in lieu of or in addition to other interventions, the facility informs residents of their rights and responsibilities during the disciplinary process, including how to appeal sanctions, and only imposes sanctions commensurate with the type of violation committed and the resident’s disciplinary history. Intervention decisions must take into account the social, sexual, emotional, and cognitive development of the resident and the resident’s mental</p>	115.77	<p>Disciplinary sanctions for residents</p> <p>(a) Residents shall be subject to disciplinary sanctions 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.</p> <p>(b) 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.</p> <p>(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.</p> <p>(d) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending resident to participate in such interventions as a condition of access</p>	<p><i>Change</i></p> <p>The DOJ standard made 3 changes to the NPREC standard they are:</p> <p>Does not permit disciplining residents for sex with staff without a finding that the staff member did not consent to such contact</p> <p>Residents may not be punished for good faith allegations</p> <p>Agencies must not consider consensual sexual contact between residents as sexual abuse</p>	<p><i>Analysis</i></p>

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NPREC STANDARD		DOJ REVISED STANDARD		COMMENT/ EVALUATION	
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	health status.		<p>to programming or other benefits.</p> <p>(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.</p> <p>(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.</p> <p>(g) Any prohibition on resident-on-resident sexual activity shall not consider consensual sexual activity to constitute sexual abuse.</p>		

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NPREC STANDARD		DOJ REVISED STANDARD		COMMENT/ EVALUATION	
NUMBER	STANDARD	NUMBER	STANDARD		
<i>Medical and Mental Health</i>		<i>Medical and Mental Care</i>			
MM-1	<p>Medical and mental health intake screenings During medical and mental health reception and intake screenings, qualified medical or mental health practitioners talk with residents to ascertain information regarding the resident’s sexual orientation, gender identity, prior sexual victimization or history of engaging in sexual abuse (whether</p>	115.381	<p>Medical and mental health screenings; history of sexual abuse (a) All facilities shall ask residents about prior sexual victimization during the intake process or classification screenings. (b) If a resident discloses prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the</p>	<i>Change</i>	The DOJ standard does not specify that medical or mental health staff have to conduct the screening however, if there is a reported sexual abuse incident the standard does require follow up in 14 days by medical/ mental health

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	it occurred in an institutional setting or in the community), mental health status, and mental or physical disabilities. Such conversations are conducted in the manner that the medical or mental health practitioner deems appropriate for each resident in light of the resident’s age and developmental status according to the practitioner’s professional judgment and use inclusive language that avoids implicit assumptions about a young person’s sexual orientation. The information obtained during these screenings is strictly limited to medical and mental health practitioners, with information provided to appropriate staff on a need to know basis to the extent needed to inform all housing, bed, program, education, and work assignments for the resident (AP-2). If a resident discloses prior sexual victimization or abusiveness during a medical or mental health reception or intake screening, the practitioner reports		resident is offered a follow-up reception with a medical or mental health practitioner within 14 days of the intake screening. (c) Unless such intake or classification screening precedes adjudication, the facility shall also ask residents about prior sexual abusiveness. (d) If a resident discloses prior sexual abusiveness, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up reception with a mental health practitioner within 14 days of the intake screening. (e) Subject to mandatory reporting laws, 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 required by agency policy and Federal, State, or local law, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments.	<i>DOJ reasoning for change</i>	Commenters felt was too costly to require mental health practitioners to do this DOJ standard does not specify who conducts the screening
				<i>Analysis</i>	

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	the abuse according to agency policy and relevant State or local mandatory child abuse reporting laws (OR-1) and provides the appropriate treatment or referral for treatment, based on his or her professional judgment.		(f) 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.		
MM-2	Access to emergency medical and mental health services Victims of sexual abuse have timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. Treatment services must be provided free of charge to the victim and regardless of whether the victim names the abuser. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, direct care staff first	115.382	Access to emergency medical and mental health services (a) Resident victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. (b) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser. (c) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders shall take	Change	The DOJ added the following language to this standard: Resident victims of sexual abuse while incarcerated shall be offered timely information about and access to all pregnancy-related medical services that are lawful in the community and sexually transmitted infections prophylaxis, where appropriate.
				DOJ question(s) relating to this standard	Q27: "Does the standard that requires known inmate abusers to receive a mental health evaluation within 60 days of learning the abuse has occurred provide adequate guidance regarding the scope of

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	responders take preliminary steps to protect the victim (OR-3) and immediately notify the appropriate medical and mental health practitioners.		preliminary steps to protect the victim pursuant to § 115.363 and shall immediately notify the appropriate medical and mental health practitioners. (d) Resident victims of sexual abuse while incarcerated shall be offered timely information about and access to all pregnancy-related medical services that are lawful in the community and sexually transmitted infections prophylaxis, where appropriate.		<i>treatment that subsequently must be offered to such abusers? If not, how should it be revised?"</i>
				<i>Analysis</i>	
MM-3	Ongoing medical and mental health care for sexual abuse victims and abusers The facility provides ongoing medical and/or mental health evaluation and treatment to all known victims of sexual abuse. The evaluation and treatment of	115.383	Ongoing medical and mental health care for sexual abuse victims and abusers (a) The facility shall offer ongoing medical and mental health evaluation and treatment to all residents who, during their present term of incarceration, have been victimized	<i>Change</i>	DOJ is expanding on two NPREC suggestions: (1) pregnancy tests must be provided and (2) there must be access to STI prophylaxis. The DOJ standard requires follow up within 60 days

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	sexual abuse victims must include appropriate follow-up services, treatment plans, and, when necessary, referrals for continued care following their release from custody. The level of medical and mental health care provided to resident victims must match the community level of care generally accepted by the medical and mental health professional communities. The facility conducts a mental health evaluation of all known abusers and provides treatment, as deemed necessary by qualified mental health practitioners.		<p>by sexual abuse.</p> <p>(b) The evaluation and treatment of sexual abuse victims shall include appropriate follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.</p> <p>(c) The facility shall provide resident victims of sexual abuse with medical and mental health services consistent with the community level of care.</p> <p>(d) The facility shall conduct a mental health evaluation of all known resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by qualified mental health practitioners.</p> <p>(e) Resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.</p> <p>(f) If pregnancy results, such victims shall receive timely information about and access to all pregnancy-related medical services that are lawful in the community.</p>	<i>Analysis</i>	

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NPREC STANDARD		DOJ REVISED STANDARD		COMMENT/ EVALUATION	
NUMBER	STANDARD	NUMBER	STANDARD		
<i>Data Collection and Review</i>		<i>Data Collection and Review</i>			
DC-1	<p>Sexual abuse incident reviews The facility treats all instances of sexual abuse as critical incidents to be examined by a team of upper management officials, with input from line supervisors, investigators, and medical/mental health practitioners. The review team evaluates each incident of sexual abuse to identify any policy, training, or other issues related to the incident that indicate a need to change policy or practice to better prevent, detect, and/or respond to incidents of sexual abuse. The review team also considers whether incidents were motivated by racial or other group dynamics at the facility. When incidents are determined to be motivated by racial or other group</p>	115.386	<p>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) The review team shall include upper management officials, with input from line supervisors, investigators, and medical or mental health practitioners. (c) 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 or</p>	<i>Change</i>	<p>The DOJ standard does not require a review after unfounded allegations.</p> <p>The DOJ standard added the following areas for review:</p> <p>Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;</p> <p>Assess the adequacy of staffing levels in that area during different shifts;</p> <p>Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff</p>

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	dynamics, upper management officials immediately notify the agency head and begin taking steps to rectify those underlying problems. The sexual abuse incident review takes place at the conclusion of every sexual abuse investigation, unless the allegation was determined to be unfounded. The review team prepares a report of its findings and recommendations for improvement and submits it to the facility head.		otherwise caused by the perpetrator or victim's race, ethnicity, sexual orientation, gang affiliation, or 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 and any recommendations for improvement and submit such report to the facility head and PREA coordinator, if any.	<i>Analysis</i>	
DC-2	Data collection The agency collects accurate, uniform data for every reported incident of sexual abuse using a standardized instrument and set of definitions. The agency aggregates	115.387	Data collection (a) The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.	<i>Change</i>	The Department is requiring reporting of data to them on June 30 each year.

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	the incident-based sexual abuse data at least annually. The incident-based data collected includes, at a minimum, the data necessary to answer all questions from the most recent version of the BJS Survey on Sexual Violence. See Appendix C for a list of recommended data elements. Data are obtained from multiple sources, including reports, investigation files, and sexual abuse incident reviews. The agency also obtains incident-based and aggregated data from every facility with which it contracts for the confinement of its residents.		(b) The agency shall aggregate the incident-based sexual abuse data at least annually. (c) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice's Bureau of Justice Statistics. (d) The agency shall collect data from multiple sources, including reports, investigation files, and sexual abuse incident reviews. (e) The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents. (f) Upon request, the agency shall provide all such data from the previous year to the Department of Justice no later than June 30.	<i>Analysis</i>	

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DC-3	<p>Data review for corrective action The agency reviews, analyzes, and uses all sexual abuse data, including incident-based and aggregated data, to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training. Using these data, the agency identifies problem areas, including any racial dynamics or other group dynamics underpinning patterns of sexual abuse, takes corrective action on an ongoing basis, and, at least annually, prepares a report of its findings and corrective actions for each facility as well as the agency as a whole. The annual report also includes a comparison of the current year's data and corrective actions with those from prior years and provides an assessment of the agency's progress in addressing sexual abuse. The agency's report is approved by the agency head, submitted to the appropriate legislative body, and made readily</p>	115.388	<p>Data review for corrective action (a) The agency shall review data collected and aggregated pursuant to § 115.387 in order to assess and improve the effectiveness of its 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 of its findings and corrective actions for each facility, as well as the agency as a whole. (b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse. (c) The agency's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means. (d) The agency may redact specific material from the reports when publication would present a clear and</p>	<i>Change</i>	The DOJ standard does not require agencies to make its report available to the legislative body
				<i>Analysis</i>	

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	available to the public through its Web site or, if it does not have one, through other means. The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but it must indicate the nature of the material redacted.		specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.		
DC-4	Data storage, publication, and destruction The agency ensures that the collected sexual abuse data are properly stored, securely retained, and protected. The agency makes all aggregated sexual abuse data, from facilities under its direct control and those with which it contracts, readily available to the public at least annually through its Web site or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers from the data. The agency maintains sexual abuse data for at least 10 years after the date of its	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 for at least 10 years after	This standard is substantively the same.	
				<i>Analysis</i>	

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	initial collection unless Federal, State, or local law allows for the disposal of official information in less than 10 years.		the date of its initial collection unless Federal, State, or local law requires otherwise.		
<i>Audits</i>		<i>Audits</i>			
AU-1	<p>Audits of standards The public agency ensures that all of its facilities, including contract facilities, are audited to measure compliance with the PREA standards. Audits must be conducted at least every three years by independent and qualified auditors. The public or contracted agency allows the auditor to enter and tour facilities, review documents, and interview staff and residents, as deemed appropriate by the auditor, to conduct comprehensive audits. The public agency ensures that the report of the auditor’s findings and the public or contracted agency’s plan for corrective action (DC-3) are published on the appropriate agency’s Web site if it has one or are otherwise made readily available to the public.</p>	115.393	<p>Audits of standards (a) An audit shall be considered independent if it is conducted by: (1) A correctional monitoring body that is not part of the agency but that is part of, or authorized by, the relevant State or local government; (2) An auditing entity that is within the agency but separate from its normal chain of command, such as an inspector general or ombudsperson who reports directly to the agency head or to the agency’s governing board; or (3) Other outside individuals with relevant experience (b) No audit may be conducted by an auditor who has received financial compensation from the agency being audited within the three years prior to the agency’s retention of the auditor. (c) The agency shall not employ, contract with, or otherwise</p>	<p><i>Change</i></p> <p>The DOJ did not define how often audits would be conducted</p> <p>DOJ further defined what an audit may entail</p>	<p><i>DOJ reasoning for change</i></p> <p>DOJ believes further discussion of this is necessary.</p> <p>Frequency is of concern and the DOJ is proposing three possibilities: (1) triennial audits for all covered facilities; (2) random sampling; or (3) implement an audit system based on information indicating concern at a particular facility</p>

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			<p>financially compensate the auditor for three years subsequent to the agency’s retention of the auditor, with the exception of contracting for subsequent audits.</p> <p>(d) All auditors shall be certified by the Department of Justice to conduct such audits, and shall be re-certified every three years.</p> <p>(e) The Department of Justice shall prescribe methods governing the conduct of such audits, including provisions for reasonable inspections of facilities, review of documents, and interviews of staff and residents. The Department of Justice also shall prescribe the minimum qualifications for auditors.</p> <p>(f) The agency shall enable the auditor to enter and tour facilities, review documents, and interview staff and residents to conduct a comprehensive audit.</p> <p>(g) The agency shall ensure that the auditor’s final report is published on the agency’s website if it has one or is otherwise made readily available to the public.</p>	<p><i>DOJ question(s) relating to this standard</i></p>	<p>Q28: “Should audits be conducted at set intervals, or should audits be conducted only for cause, based upon a reason to believe that a particular facility or agency is materially out of compliance with the standards? If the latter, how should such a for-cause determination be structured?”</p> <p>Q29: “If audits are conducted for cause, what entity should be authorized to determine that there is reason to believe an audit is appropriate, and then to call for an audit to be conducted? What would be the appropriate standard to trigger such an audit requirement?”</p> <p>Q30: “Should all facilities be audited or should random sampling be allowed for some or all categories of facilities in order to reduce burdens while ensuring that all facilities could be subject to an audit?”</p> <p>Q31: “Is there a better</p>

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					<p><i>approach to audits other than the approaches discussed above?"</i></p> <p><i>Q32: "To what extent, if any, should agencies be able to combine a PREA audit with an audit performed by an accrediting body or with other types of audits?"</i></p> <p><i>Q33: "To what extent, if any, should the wording of any of the substantive standards be revised in order to facilitate a determination of whether a jurisdiction is in compliance with that standard?"</i></p> <p><i>Q34: "How should "full compliance" be defined in keeping with the considerations set forth in the above discussion?"</i></p> <p><i>Q35: "To what extent, if any, should audits bear on determining whether a State is in full compliance with PREA?"</i></p>

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				<i>Analysis</i>	

Other Questions:

Juveniles in Adult Facilities:

Q36: “Should the final rule include a standard that governs the placement of juveniles in adult facilities?”

Q37: “If so, what should the standard require, and how should it interact with the current JJDPA requirements and penalties mentioned above”

Data Collection and Accuracy of Statistics:

Q38: “Has the Department appropriately determined the baseline level of sexual abuse in correctional settings for purposes of assessing the benefit and cost of the proposed PREA standards?”

Q39: “Are there any reliable, empirical sources of data, other than the BJS studies referenced in the IRIA, that would be appropriate to use in

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determining the baseline level of prison sexual abuse? If so, please cite such sources and explain whether and why they should be used to supplement or replace the BJS data.”

Q40: *“Are there reliable methods for measuring the extent of underreporting and over-reporting in connection with BJS’s inmate surveys?”*

Q41: *“Are there sources of data that would allow the Department to assess the prevalence of sexual abuse in lockups and community confinement facilities? If so, please supply such data. In the absence of such data, are there available methodologies for including sexual abuse in such settings in the overall estimate of baseline prevalence?”*

Cost:

Q42: *“Has the Department appropriately adjusted the conclusions of studies on the value of rape and sexual abuse generally to account for the differing circumstances posed by sexual abuse in confinement settings?”*

Q43: *“Are there any academic studies, data compilations, or established methodologies that can be used to extrapolate from mental health costs associated with sexual abuse appropriately estimated that the cost of mental health treatment associated with sexual abuse in confinement settings is twice as large as the corresponding costs in community settings?”*

Q44: *“Has the Department correctly identified the quantifiable costs of rape and sexual abuse? Are there other costs of rape and sexual abuse that are capable of quantification, but are not included in the Department’s analysis?”*

Q45: *“Should the Department adjust the “willingness to pay” figures on which it relies (developed by Professor Mark Cohen for purposes of valuing the benefit to society of an community settings to such costs in confinement settings? Has the Department avoided rape10) to account for the possibility that some people may believe sexual abuse in confinement facilities is a less pressing problem than it is in society as a whole, and might therefore think that the value of avoiding such an incident in the confinement setting is less than the value of avoiding a similar incident in the non-confinement setting? Likewise, should the Department adjust these figures to take into account the fact that in the general population the vast majority of sexual abuse victims are female, whereas in the confinement setting the victims are overwhelmingly male? Are such differences even relevant for purposes of using the contingent valuation method to monetize the cost of an incident of sexual abuse? If either adjustment were appropriate, how (or on the basis of what empirical data) would the Department go about determining the amount of the adjustment?”*

Q46: *“Has the Department appropriately accounted for the increased costs to the victim and to society when the victim is a juvenile? Why or why not?”*

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Q47: “Are there available methodologies, or available data from which a methodology can be developed, to assess the unit value of avoiding a nonconsensual sexual act involving pressure or coercion? If so, please supply them. Is the Department’s estimate of this unit value (i.e., 20% of the value of a forcible rape) appropriately conservative?”

Q48: “Are there available methodologies, or available data from which a methodology can be developed, to assess the unit value of avoiding an “abusive sexual contact between inmates,” as defined in the IRIA? If so, please supply them. Is the Department’s estimate of this unit value (i.e., \$375 for adult inmates and \$500 for juveniles) appropriately conservative? Would a higher figure be more appropriate? Why or why not?”

Q49: “Are there any additional nonmonetary benefits of implementing the PREA standards not mentioned in the IRIA?”

Q50: “Are any of the nonmonetary benefits set forth in the IRIA actually capable of quantification? If so, are there available methodologies for quantifying such benefits or sources of data from which such quantification can be drawn?”

Q51: “Are there available sources of data relating to the compliance costs associated with the proposed standards, other than the sources cited and relied upon in the IRIA? If so, please provide them.”

Q52: “Are there available data as to the number of lockups that will be affected by the proposed standards, the number of individuals who are detained in lockups on an annual basis, and/or the anticipated compliance costs for lockups? If so, please provide them.”

Q53: “Are there available data as to the number of community confinement facilities that will be affected by the proposed standards, the number of individuals who reside or are detained in such facilities on an annual basis, or the anticipated compliance costs for community confinement facilities? If so, please provide them.”

Q54: “Has the Department appropriately differentiated the estimated compliance costs with regard to the different types of confinement facilities (prisons, jails, juvenile facilities, community confinement facilities, and lockups)? If not, why and to what extent should compliance costs be expected to be higher or lower for one type or another?”

Q55: “Are there additional methodologies for conducting an assessment of the costs of compliance with the proposed standards? If so, please propose them.”

Q56: “With respect to §§ 115.12, 115.112, 115.212, and 115.312, are there other methods of estimating the extent to which contract renewals and renegotiations over the 15-year period will lead to costs for agencies that adopt the proposed standards?”

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Q57: “Do agencies expect to incur costs associated with proposed §§ 115.13, 115.113, 115.213, and 115.313, notwithstanding the fact that it does not mandate any particular level of staffing or the use of video monitoring? Why or why not? If so, what are the potential cost implications of this standard under various alternative scenarios concerning staffing mandates or video monitoring mandates? What decisions do agencies anticipate making in light of the assessments called for by this standard, and what will it cost to implement those decisions?”

Q58: “With respect to §§ 115.14, 115.114, 115.214, and 115.314, will the limitations on cross-gender viewing (and any associated retrofitting and construction of privacy panels) impose any costs on agencies? If so, please provide any data from which a cost estimate can be developed for such measures.”

Q59: “Will the requirement in §§ 115.31, 115.231, and 115.331 that agencies train staff on how to communicate effectively and professionally with lesbian, gay, bisexual, transgender, or intersex residents lead to additional costs for correctional facilities, over and above the costs of other training requirements in the standards? If so, please provide any data from which a cost estimate can be developed for such training.”

Q60: “Has the Department accounted for all of the costs associated with §§ 115.52, 115.252, and 115.352, dealing with exhaustion of administrative remedies? If not, what additional costs might be incurred, and what data exist from which an estimate of those costs can be developed?”

Q61: “Is there any basis at this juncture to estimate the compliance costs associated with §§ 115.93, 115.193, 115.293, and 115.393, pertaining to audits? How much do agencies anticipate compliance with this standard is likely to cost on a per-facility basis, under various assumptions as to the type and frequency or breadth of audits?”

Q62: “Has the Department used the correct assumptions (in particular the assumption of constant cost) in projecting ongoing costs in the out years? Should it adjust its projections for the possibility that the cost of compliance may decrease over time as correctional agencies adopt new innovations that will make their compliance more efficient? If such an adjustment is appropriate, please propose a methodology for doing so and a source of data from which valid predictions as to “learning” can be derived.”

Q63: “Are there any data showing how the marginal cost of rape reduction is likely to change once various benchmarks of reduction have been achieved? If not, is it appropriate for the Department to assume, for purposes of its breakeven analysis, that the costs and benefits of reducing prison rape are linear, at least within the range relevant to the analysis? Why or why not?”

Q64: “Are the expectations as to the effectiveness of the proposed standards that are subsumed within the breakeven analysis (e.g., 0.7%-1.7% reduction in baseline prevalence needed to justify startup costs and 2.06%-3.13% reduction required for ongoing costs) reasonable? Why or why not?”

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not? Are there available data from which reasonable predictions can be made as to the extent to which these proposed standards will be effective in reducing the prevalence of rape and sexual abuse in prisons? If so, please supply them.”