PREA

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Policy

LSS holds a zero-tolerance policy relating to sexual harassment/assault/rape of a resident (§ 115:311). LSS will cooperate in the investigation of anyone involved in sexual assault or rape of a resident in an LSS facility. LSS will administratively investigate allegations of sexual harassment of a resident in an LSS facility if those allegations do not fall under the jurisdiction of Child Protection Services or law enforcement. This policy shall be followed in conjunction with policy Staff and Agency Reporting Duties and mandatory child abuse reporting requirements (§ 115:361).

Prevention Planning

- **Supervision and Monitoring-Staffing plan, video monitoring**: LSS ensures that each facility it operates is in compliance with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse (§ 115:313).

  (a) LSS will comply with the staffing plan except during limited and discrete exigent circumstances, and shall fully document deviations from the plan during such circumstances.

  (b) Each residential/group facility shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented.

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

    (1) The staffing plan established pursuant to paragraph (a) of this section

    (2) Prevailing staffing patterns

    (3) The facility's deployment of video monitoring systems and other monitoring technologies

- Limits to Cross-Gender Viewing and Searches: Staff are prohibited from searching or physically examining a transgendered or intersex resident for the sole purpose of determining the resident's genital status (§ 115:315). LSS should attempt to gain genital status through conversation with a resident and a review of medical records. If additional methods are needed, a medical examination should be conducted in private by a medical

practitioner. Records will be retained for a minimum of seven years after discharge, and destroyed in accordance with HIPAA and state regulations.

- Staff are prohibited from completing a pat search; however, staff are trained in how to safely complete a pat search (§115.315). This training includes:
  - In the event of a pat search staff should communicate each step of the process and pay close attention to the language used to ensure that there is no unintentional re-traumatization of the youth.
  - Before any area is searched, the quadrant search method should be explained and then each movement should be communicated to the individual.
  - Do not rub or drag hand along the youth's body – use the press/release method.
  - In searching the side, chest, inside of legs use the back of the hand, in a blade form with the thumb tucked in.
  - Pay close attention to body language and how the youth is reacting in order to protect both the youth and the staff during the process.

- **Residents with Disabilities and Residents who are LEP**: LSS shall take appropriate steps to ensure that residents with disabilities (including, for example, residents who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of LSS's efforts to prevent, detect, and respond to sexual abuse and sexual harassment (§ 115.316).

  (a) Such steps shall include, when necessary to ensure effective communication with residents who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.
  (b) In addition, LSS shall ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities, including residents who have intellectual disabilities, limited reading skills, or who are blind or have low vision. (An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.)
  (c) LSS will not use resident interpreters, resident readers, or other types of resident assistance unless there would be an extended delay in waiting in obtaining effective interpreter services and this delay would compromise the safety of the resident, the performance of first responder duties, or the investigation of the resident's allegations. Outcome measures will be collected, analyzed, and used to inform program improvements, per COA PQI requirements.

- **Hiring and Promotion:** LSS will perform a criminal background records checks on all potential employees as well as consult any child abuse registry maintained by the state or locality in which the employee would work. (§ 115.317). LSS makes its best efforts to contact prior employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

  (a) LSS will conduct criminal background records checks at least every five years and/or upon promotion of current employees.

(b) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
(c) LSS will not knowingly hire or promote anyone, who may have contact with residents who has been convicted of sexual abuse, or who was terminated or resigned during an investigation of sexual abuse while employed in a prison, jail, lockup community confinement facility, juvenile facility, or other institution.
(d) LSS will consider known/disclosed substantiated allegations of sexual harassment when determining hiring and/or promotion decisions of anyone who may have contact with residents.
(e) LSS will follow these same outlined procedures for any contractors who may have contact with residents. If the contractor is employed by another social service agency, a MOU with that agency will be in place that includes agreement with PREA Standards and the LSS background check policy.

Responsive Planning

- **Evidence Protocol and Forensic Medical Examination**: To the extent that LSS is responsible for cooperating in investigations of 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 (§ 115.321).
  (a) LSS will offer all residents who experience sexual abuse access to forensic medical examinations at an outside facility, without financial cost, where medically appropriate.
  (b) LSS will make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization or a qualified agency staff member. Agencies shall document efforts to secure services from rape crisis centers.
  (c) Staff should ensure the collection and preservation of evidence (see Staff First Responder Duties (§ 115.364).

- **Policies to Ensure Referrals of Allegations for Investigations** (§ 115.322): LSS will engage in appropriate referrals and follow-up to ensure that an administrative, Child Protection Services, or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. LSS will follow its child abuse reporting policy and procedures as well as incident reporting procedures to ensure all appropriate referral have been made, reporting is completed, and necessary follow-up is documented on the LSS Incident Report form. If Child Protection Services or law enforcement do not move forward with a criminal investigation, LSS will complete an administrative investigation using the PREA Investigation Report form. Documentation of referrals to Child Protection Services and law enforcement will be included on the LSS Incident Report form by the supervisor on duty or their designee making the referral. The Incident Report form and documentation of referral will be reviewed by the Treatment Team and/or Program Director or their designee the next business day.

Training and Education

- **Employee Training**: In accordance to § 115.331 LSS shall train all employees on the most current PREA practices and policies.

(a) All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the agency shall provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies. Employees of LSS shall be trained on:
    (1) The zero-tolerance policy for sexual abuse and harassment;
    (2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
    (3) Resident's right to be free from sexual abuse and sexual harassment;
    (4) The right of residents and employees to be free from retaliation for reporting cases of sexual abuse and sexual harassment;
    (5) The dynamics of sexual abuse and sexual harassment in juvenile facilities;
    (6) How to detect and respond to signs of threatened and actual sexual abuse;
    (7) How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents;
    (8) The common reactions of victims of sexual abuse and sexual harassment in juvenile victims;
    (9) How to avoid inappropriate relationships with residents; and
    (10) How to comply with relevant laws related to mandatory reporting.

- **Resident Training:** During the intake process, residents shall receive information explaining, in an age appropriate fashion, LSS's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment (§ 115.333).
    (a) Within 10 days of intake, LSS shall provide comprehensive age-appropriate education to residents either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.
    (b) Current residents who have not received such education shall be educated within one year of the effective date of the PREA standards, and shall receive education upon transfer to a different facility to the extent that the policies and procedures of the resident's new facility differ from those of the previous facility.
    (c) LSS 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.

- **Contractor and Volunteer Training:** In accordance to § 115.332 LSS shall train all contractors and volunteers on the most current PREA practices and policies.
    (a) All volunteers and contractors will receive training using the agency PREA brochure and will be required to sign off on their understanding of the training they received. This training must be completed prior to the contractor or volunteer having any interaction with youth in the facility. The training must include the following:

(1) The zero-tolerance policy for sexual abuse and harassment;
(2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
(3) Resident's right to be free from sexual abuse and sexual harassment;
(4) The right of residents and employees to be free from retaliation for reporting cases of sexual abuse and sexual harassment;
(5) The common reactions of victims of sexual abuse and sexual harassment;
(6) How to avoid inappropriate relationships with residents; and
(7) How to comply with relevant laws related to mandatory reporting.

- **Specialized Training: Investigations:** In addition to the general training provided to all employees pursuant to § 115.331, LSS shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its designated staff have received training in conducting such investigations in residential settings (§ 115.334).
    (a) Specialized training shall include techniques for interviewing youth sexual abuse victims, sexual abuse evidence collection in residential/group settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.
    (b) LSS shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:
        (1) How to detect and assess signs of sexual abuse and sexual harassment;
        (2) How to preserve physical evidence of sexual abuse;
        (3) How to respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment; and
        (4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

Screening for Risk of Sexual Victimization and Abusiveness

- **Obtaining information from Residents:** In compliance with § 115.341 LSS will make necessary efforts within 72 hours of the resident's arrival at the facility using the PREA intake assessment instrument to obtain information about each resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident. The assessment instrument will be used periodically during the resident's stay at the facility as indicated to reassess the resident's risk level.

    (a) At a minimum, LSS shall attempt to ascertain information about:
        (1) Prior sexual victimization or abusiveness
        (2) Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse
        (3) Current charges and offense history
        (4) Age
        (5) Level of emotional and cognitive development
        (6) Physical size and stature
        (7) Mental illness or mental disabilities
        (8) Intellectual or developmental disabilities

(9) Physical disabilities
(10) The resident's own perception of vulnerability
(11) Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.

(b) LSS shall use all information obtained pursuant to § 115.341 and subsequently to make housing, bed, program, education, and work assignments for residents with the goal of keeping all residents safe and free from sexual abuse (§ 115.342).
(c) LSS will ensure that screening responses and information is protected and not used in a manner to exploit the resident by staff or other residents (§ 115.341). Screening information is available only to staff working within the specific program serving the resident. Client electronic files are available only with password protected access. Client paper files are stored and locked off of the unit and are inaccessible to residents.

Reporting

- **Resident Reporting (§ 115.351):**
  (a) LSS shall provide multiple internal ways for residents to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.
  (b) LSS shall also provide at least one way for residents to report abuse or sexual harassment to a public or private entity or office that is not part of the agency and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials, allowing the resident to remain anonymous upon request.
  (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) LSS shall provide a method for staff to privately report sexual abuse and sexual harassment of residents.

- **Exhaustion of Administrative Remedies** (§ 115.352).
  (a) LSS does not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.
  (b) LSS may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.
  (c) LSS will not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
  (d) LSS will ensure that:
    (1) A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint.
    (2) Such grievance is not referred to a staff member who is the subject of the complaint.
  (e) LSS will issue a final agency decision within 30 days of the original grievance If an extension is needed in order to make an appropriate decision, an extension may be granted up to an additional 60 days. Residents involved will receive

written notice of this extension which will include a date by which a decision will be made.

(f) LSS allows third parties, including fellow residents, staff members, family members, attorneys, or outside advocates, to assist residents in filing grievances relating to allegations of sexual abuse/harassment. These third parties will also be allowed to file grievances on behalf of residents.

(g) An emergency grievance may be filed at any time and through any on-duty personnel or on-call personnel, and any immediate corrective action will be taken to protect the resident from imminent risk. An initial response to the emergency grievance will be received within 48 hours, and a final agency decision will be reached within 5 calendar days. Both the initial response and the final agency response will issue a determination of whether the resident is in substantial risk of imminent sexual abuse and the action taken following the emergency grievance.

(h) Any allegation made in good faith will not be subject to consequences. Any allegation made in bad faith will face consequences as appropriate on a case by case basis.

- **Resident Access to Outside Support Services and Legal Representation:** In compliance with § 115.353 LSS shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse, by providing, posting, or otherwise making accessible mailing addresses and telephone numbers, including toll free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies.
  (a) The facility shall enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible.
  (b) The facility shall also provide residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.

Official Response Following a Resident Report

- **Staffing and Agency Reporting Duties:** LSS requires all staff to report immediately and according to agency policy any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation (§ 115.361).

  (a) LSS requires all staff to comply with any applicable mandatory child abuse reporting laws.
  (b) Apart from reporting to designated supervisors or officials and designated State or local services agencies, staff shall be prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.
  (c) Upon receiving any allegation of sexual abuse, the facility director/manager shall promptly report the allegation to the appropriate social services agency office and to the alleged victim's parents or legal guardians at the direction of social

services intake, unless the facility has official documentation showing the parents or legal guardians should not be notified.

(d) If the alleged sexual assault/harassment occurred in another youth facility and was reported to be a youth/youth encounter, the program director or designee will contact the program director or designee of the other facility to report the allegations the next business day. A report will also be made to the local child protection agency to ensure appropriate follow up occurs. All notifications are documented on the LSS Incident Reporting form (§ 115.363).

(e) If the alleged sexual assault/harassment occurred in another youth facility and was reported to be a youth/staff encounter, the program director or designee will contact the local law enforcement and/or child protection agency and follow the guidance provided from that agency in regards to reporting to the other youth facility. All notifications are documented on the LSS Incident Reporting form (§ 115.363).

(f) The program director or designee will complete follow up contact with law enforcement or the child protection agency assigned within 30 days to confirm the allegation is investigated to conclusion.

- **Agency Protection Duties; Immediate Action to Protect the Resident (§ 115.362):** LSS shall take immediate action to protect a resident upon learning that the resident is subject to a substantial risk of imminent sexual abuse.

- **Staff First Response Duties (§ 115.364):**
  (a) Upon learning of an allegation that a resident was sexually abused, the first staff member to respond to the report shall be required to:
    (1) Separate the alleged abuser and the victim.
    (2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence.
    (3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
    (4) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged abuser not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
    (5) Ensure that any removal of clothes takes place over a clean, dry, white sheet for the preservation of evidence. A separate sheet is to be used for each person.
    (6) Ensure that all evidence remains dry when possible.
    (7) Store evidence for each person involved in a separate paper bag, properly labeled with name and date.

  (b) If the first responder is not a staff member, they shall request that the alleged victim not take any actions that could destroy physical evidence and then notify a staff member. (§115.364)

- **Coordinated Response (§ 115.365):** LSS will have in place a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first

responders, medical and mental health practitioners, investigators, and facility leadership as contained in this policy

- **Preservation of Ability to Protect Resident From Contact With Abusers:** In accordance with § 115.366 neither LSS nor any other governmental entity responsible for collective bargaining on LSS's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits LSS's ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
    (a) Nothing in this standard shall restrict the entering into or renewal of agreements that govern:
        (1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §§ 115.372 and 115.376; or
        (2) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

- **Agency Protection Against Retaliation (§ 115.367):** LSS will enforce policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff and shall designate which staff members or departments are charged with monitoring retaliation.
    (a) LSS shall employ protection measures such as 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.
    (b) For at least 90 days following a report of sexual abuse, LSS shall monitor the conduct or treatment of residents or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. Items LSS should monitor include any resident disciplinary reports, program changes, or negative performance reviews or reassignments of staff. LSS shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. Outcome measures will be collected, analyzed, and used to inform program improvements, per COA PQI requirements.
    (c) In the case of residents, such monitoring shall also include periodic status checks.
    (d) If any other individual who cooperates with an investigation expresses a fear of retaliation, LSS shall take appropriate measures to protect that individual against retaliation.
    (e) LSS's obligation to monitor shall terminate if LSS determines that the allegation is unfounded.

- **Post-Allegation Protective Custody (§ 115.368):** LSS does not use isolation to segregate victims unless there is no possible other choice and for as short a duration as necessary. 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. This will include:

(a) LSS will document the basis for the concern to the resident's safety and the reason that no other means of separation can be arranged in an agency incident report.
(b) Every 24 hours a review will be conducted to ensure there is continued need for separation based on the safety of the resident.
    - This review must include at least the Associate Director and Program Director, with consultation of the PREA Coordinator and Vice President of Residential Services for extensions beyond 24 hours.
    - This review will be documented in an agency incident report.
(c) LSS will ensure that any resident who is separated for their safety is entitled to the same access to programming, visits, educational, vocational, recreational, medical, and mental health services as all other residents within the facility.

Investigations

- **Criminal and Administrative Agency Investigations (§ 115.371):** Investigation of suspected sexual abuse, rape, and sexual harassment that rises to the level of potential abuse/neglect will be referred to Child Protection Services or law enforcement in alignment with the LSS Incident Reporting policy. LSS will cooperate with investigators and shall endeavor to remain informed on the progress of the investigation. LSS will administratively investigate allegations of sexual harassment of a resident in an LSS facility if those allegations do not fall under the jurisdiction of Child Protection Services or law enforcement. Administrative investigations will be completed as soon as possible but within five days and will include all individuals involved in the allegation. Investigations will be completed for all allegations or reports received including those received anonymously or from a third party.
    (a) In the event of an administrative investigation the following steps will be taken:
        - The staff person who receives the initial report or grievance regarding a potential allegation of abuse will ensure that the resident(s) is currently safe and follow all policy and procedures related to evidence and first responder duties.
        - The staff person will report the allegation to the on-duty supervisor as soon as possible assuring compliance with program supervision and ratio requirements.
        - The on-duty supervisor will follow the LSS Incident Reporting Matrix regarding additional internal and external notifications.
        - The staff person will complete an agency incident report that includes documentation of physical and testimonial evidence, steps take to assure resident safety, and notifications made. The incident report will be submitted to the program's PREA investigator.
        - Upon receipt of the incident report, the program's PREA investigator will interview all residents and staff who are involved in the alleged incident using the PREA Investigation form. If a resident no longer resides in the facility, the PREA investigator will attempt to interview the youth or document the reason they were unable to complete the interview.
        - LSS refrains from terminating an investigation solely because the source of the allegation recants the allegation.

- LSS does not require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation.
- Agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as a resident or staff.
- Administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse allegation.

(b) In the event of a criminal investigation the following steps will be taken:

- The staff person who receives the initial report or grievance regarding a potential allegation of abuse will ensure that the resident is currently safe and follow all policy/procedures related to evidence and first responder duties.
- The staff person will report the allegation to the on-duty supervisor immediately.
- The on-duty supervisor will follow the LSS Incident Reporting Matrix regarding additional internal and external notifications, taking note to contact Child Protection Services and/or Law Enforcement regarding the abuse allegation and need for a criminal investigation.
- The staff person will complete an agency incident report that includes documentation of physical and testimonial evidence, steps take to assure resident safety, and notifications made.
- LSS staff and leadership will defer to child protection services and law enforcement for all investigative decisions and await the outcomes of their investigations prior to moving forward with an internal administrative investigation.
- LSS will ensure the safety of all residents during the investigative process.

Departure of an alleged abuser or victim from the employment or control of the agency does not provide a basis for terminating an alleged abuse investigation. The agency retains all written incident reports pertaining to §115.371 for as long as the alleged abuser resides in the program or is employed by the agency, plus five years.

- **Evidentiary Standard for Administrative Investigations (§ 115.372):** LSS will not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

- **Reporting to Residents (§ 115.373):**

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

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

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

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

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

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

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

(d) Following a resident's allegation that he or she has been sexually abused by another resident, the agency shall subsequently inform the alleged victim whenever:
   (1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
   (2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

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

(f) An agency's obligation to report under this standard shall terminate if the resident is released from the agency's custody.

Discipline

- **Disciplinary Sanctions for Staff (§ 115.376):**
  (a) Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Disciplinary sanctions will be determined based upon 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 disciplinary histories.
  (b) Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
  (c) All terminations for violations of LSS 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.

- **Disciplinary Sanctions for Volunteers and Contractors (§ 115.377)**
  (a) Any volunteer or contractor who engages in sexual abuse or sexual harassment is prohibited from contact with residents.
  (b) Any volunteer or contractor who engages in sexual abuse or sexual harassment shall be reported to law enforcement agencies (unless the activity was clearly not criminal) and to relevant licensing bodies (see LSS Incident Reporting Matrix).
  (c) Appropriate remedial measures will be taken in the case of any other violation of agency sexual abuse or sexual harassment policies by a volunteer or contractor; this includes consideration of whether further contact with residents will be allowed.

- **Interventions and Disciplinary Sanctions for Residents (§ 115.378):** A resident may be subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.
  (a) 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.
  (b) LSS will offer therapy, counseling, and other program interventions designed to address and correct underlying reasons or motivations for the abuse. LSS may require participation in such interventions as a condition of access to any

rewards-based behavior management system or other behavior-based incentives, but not as a condition to access to general programming or education.

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

(d) 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.

Medical and Mental Health

- **Medical and Mental Health Screenings; History of Sexual Abuse (§ 115.381):**
  (a) If the screening pursuant to § 115.341 indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
  (b) If the screening pursuant to § 115.341 indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting, residential/group treatment setting, or in the community, staff shall ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.
  (c) Any information related to sexual victimization or abusiveness that occurred in an institutional/residential setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.

- **Access to Emergency Medical and Mental Health Services (§ 115.382):** 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.
  (a) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim pursuant to § 115.362 and shall immediately notify the appropriate medical and mental health practitioners.
  (b) Resident victims of sexual abuse shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
  (c) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

- **Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers (§ 115.383):** LSS shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse.
  (a) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities.

(b) The facility shall provide such victims with medical and mental health services consistent with the community level of care.
(c) Resident victims of sexually abusive vaginal penetration shall be offered pregnancy tests.
(d) If pregnancy results from conduct specified in paragraph (c) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.
(e) Resident victims of sexual abuse shall be offered tests for sexually transmitted infections as medically appropriate.
(f) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

Data Collection and Review

- **Sexual Abuse Incident Review (§ 115.386):**
  (a) LSS will 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. The review will occur within 30 days of the conclusion of the incident investigation.
  (b) The review team shall include program supervisors, associate director, and/or case managers. The review team will:
    (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
    (2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
    (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
    (4) Assess the adequacy of staffing levels in that area during different shifts;
    (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
    (6) Make recommendations for improvement to program policy or procedure.
      (a) All potential PREA incidents will be sent to the PREA Coordinator for review. After reviewing the incident, a recommendation will be made and sent to the program director and the vice president of residential services. Once each determination is final, the PREA Coordinator will forward all substantiated incidents to the Director of Culture and Quality as a part of the PQI review.

      (b) LSS will conduct a PQI review at the conclusion of every quarter that will include follow up from the monthly facility sexual abuse incident review. The review team shall include upper level administration, with input from facility program directors. This review team will review the recommendations from the program level review team and determine if any agency-wide policy changes are necessary and implement the recommendations for improvement, or shall document its reasons for not doing so.

(c) LSS will conduct a PQI review at the conclusion of every quarter that will include follow up from the monthly facility sexual abuse incident review. The review team shall include upper level administration, with input from facility program directors. This review team will review the recommendations from the program level review team and determine if any agency-wide policy changes are necessary and implement the recommendations for improvement, or shall document its reasons for not doing so.

- **Data Collection (§ 115.387):** 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.

- **Data Review for Corrective Action (§ 115.388):** The agency shall review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:
  (1) Identifying problem areas;
  (2) Taking corrective action on an ongoing basis; and
  (3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole. 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.

Data Storage (§ 115.389): LSS shall ensure that data collected pursuant to § 115.387 are securely retained.

Auditing and Corrective Action

- **Frequency and Scope of Audits (§ 115.401):** During the three-year period starting August 2013, and during each three-year period thereafter, the agency shall ensure that each facility operated by the agency is audited at least once.
  (a) The Department of Justice may send a recommendation to an agency for an expedited audit if the Department has reason to believe that a particular facility may be experiencing problems relating to sexual abuse. The recommendation may also include referrals to resources that may assist the agency with PREA-related issues.
  (b) The Department of Justice shall develop and issue an audit instrument that will provide guidance on the conduct of and contents of the audit. http://www.prearesourcecenter.org/audit/audit-instruments/juvenile-facilities
  (c) The agency shall bear the burden of demonstrating compliance with the standards.
  (d) The auditor shall review all relevant agency-wide policies, procedures, reports, internal and external audits, and accreditations for each facility type.
  (e) The audits shall review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period.

(f) The auditor shall have access to, and shall observe, all areas of the audited facilities.
(g) The auditor shall be permitted to request and receive copies of any relevant documents (including electronically stored information).
(h) The auditor shall retain and preserve all documentation (including, *e.g.*, video tapes and interview notes) relied upon in making audit determinations. Such documentation shall be provided to the Department of Justice upon request.
(i) The auditor shall interview a representative sample of residents, and of staff, supervisors, and administrators.
(j) The auditor shall review a sampling of any available videotapes and other electronically available data that may be relevant to the provisions being audited.
(k) The auditor shall be permitted to conduct private interviews with residents.

- **Audit Content and Findings (§ 115.403):**
  (a) Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review.
  (b) Audit reports shall state whether agency-wide policies and procedures comply with relevant PREA standards.
  (c) For each PREA standard, the auditor shall determine whether LSS reaches one of the following findings: Exceeds Standard (substantially exceeds requirement of standard); Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period); Does Not Meet Standard (requires corrective action). The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level.

- **Audit Corrective Action Plan (§ 115.404):**
  (a) A finding of "Does Not Meet Standard" with one or more standards shall trigger a 180-day corrective action period.
  (b) The auditor and LSS shall jointly develop a corrective action plan to achieve compliance.
  (c) The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.
  (d) After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether LSS has achieved compliance with those standards requiring corrective action.
  (e) If LSS does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that is has achieved compliance.

- **Audit Appeals (§ 115.405):**
  (a) LSS may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within 90 days of the auditor's final determination.
  (b) If the Department determines that LSS has stated good cause for a re-evaluation, the agency may commission a re-audit by an auditor mutually agreed upon by the Department and the agency. LSS shall bear the costs of this re-audit.
  (c) The findings of the re-audit shall be considered final.

State Compliance

- **State Determination and Certification of Full Compliance (§ 115.501):** In determining pursuant to 42 U.S.C. 15607(c)(2) whether the State is in full compliance with the PREA standards, the Governor shall consider the results of the most recent agency audits. The Governor's certification shall apply to all facilities in the State under the operational control of the State's executive branch, including facilities operated by private entities on behalf of the State's executive branch.