

§ 115.5

115.318 Upgrades to facilities and technologies.

RESPONSIVE PLANNING

115.321 Evidence protocol and forensic medical examinations.

115.322 Policies to ensure referrals of allegations for investigations.

TRAINING AND EDUCATION

115.331 Employee training.

115.332 Volunteer and contractor training.

115.333 Resident education.

115.334 Specialized training: Investigations.

115.335 Specialized training: Medical and mental health care.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

115.341 Obtaining information from residents.

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

115.343 [Reserved]

REPORTING

115.351 Resident reporting.

115.352 Exhaustion of administrative remedies.

115.353 Resident access to outside support services and legal representation.

115.354 Third-party reporting.

OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT

115.361 Staff and agency reporting duties.

115.362 Agency protection duties.

115.363 Reporting to other confinement facilities.

115.364 Staff first responder duties.

115.365 Coordinated response.

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

115.367 Agency protection against retaliation.

115.368 Post-allegation protective custody.

INVESTIGATIONS

115.371 Criminal and administrative agency investigations.

115.372 Evidentiary standard for administrative investigations.

115.373 Reporting to residents.

DISCIPLINE

115.376 Disciplinary sanctions for staff.

115.377 Corrective action for contractors and volunteers.

115.378 Interventions and disciplinary sanctions for residents.

MEDICAL AND MENTAL CARE

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

28 CFR Ch. I (7–1–13 Edition)

115.382 Access to emergency medical and mental health services.

115.383 Ongoing medical and mental health care for sexual abuse victims and abusers.

DATA COLLECTION AND REVIEW

115.386 Sexual abuse incident reviews.

115.387 Data collection.

115.388 Data review for corrective action.

115.389 Data storage, publication, and destruction.

AUDITS

115.393 Audits of standards.

Subpart E—Auditing and Corrective Action

115.401 Frequency and scope of audits.

115.402 Auditor qualifications.

115.403 Audit contents and findings.

115.404 Audit corrective action plan.

115.405 Audit appeals.

Subpart F—State Compliance

115.501 State determination and certification of full compliance.

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§ 115.5 General definitions.

For purposes of this part, the term—
Agency means the unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.

Agency head means the principal official of an agency.

Community confinement facility means a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment,

Department of Justice

§ 115.5

educational programs, or similar facility-approved programs during nonresidential hours.

Contractor means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

Detainee means any person detained in a lockup, regardless of adjudication status.

Direct staff supervision means that security staff are in the same room with, and within reasonable hearing distance of, the resident or inmate.

Employee means a person who works directly for the agency or facility.

Exigent circumstances means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

Facility means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.

Facility head means the principal official of a facility.

Full compliance means compliance with all material requirements of each standard except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance.

Gender nonconforming means a person whose appearance or manner does not conform to traditional societal gender expectations.

Inmate means any person incarcerated or detained in a prison or jail.

Intersex means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Jail means a confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.

Juvenile means any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.

Juvenile facility means a facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.

Law enforcement staff means employees responsible for the supervision and control of detainees in lockups.

Lockup means a facility that contains holding cells, cell blocks, or other secure enclosures that are:

(1) Under the control of a law enforcement, court, or custodial officer; and

(2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

Medical practitioner means a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A "qualified medical practitioner" refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Mental health practitioner means a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A "qualified mental health practitioner" refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Pat-down search means a running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband.

Prison means an institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.

Resident means any person confined or detained in a juvenile facility or in a community confinement facility.

Secure juvenile facility means a juvenile facility in which the movements

§ 115.6

28 CFR Ch. I (7–1–13 Edition)

and activities of individual residents may be restricted or subject to control through the use of physical barriers or intensive staff supervision. A facility that allows residents access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, typically will not be considered to be a secure juvenile facility.

Security staff means employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.

Staff means employees.

Strip search means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

Substantiated allegation means an allegation that was investigated and determined to have occurred.

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

Unfounded allegation means an allegation that was investigated and determined not to have occurred.

Unsubstantiated allegation means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

Volunteer means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

Youthful inmate means any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

Youthful detainee means any person under the age of 18 who is under adult court supervision and detained in a lockup.

§ 115.6 Definitions related to sexual abuse.

For purposes of this part, the term—
Sexual abuse includes—

(1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and

(2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(2) Contact between the mouth and the penis, vulva, or anus;

(3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and

(4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(2) Contact between the mouth and the penis, vulva, or anus;

(3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;