§ 115.221 Evidence protocol and forensic medical examinations.

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

(b) The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice’s Office on Violence Against Women publication, “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” or similarly comprehensive and authoritative protocols developed after 2011.

(c) The agency shall offer all victims of sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The agency shall document its efforts to provide SAFEs or SANEs.

(d) The agency shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization or a qualified agency staff member. Agencies shall document efforts to secure

§ 115.218 Upgrades to facilities and technologies.

(a) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency’s ability to protect residents from sexual abuse.
services from rape crisis centers. For
the purpose of this standard, a rape cri-
sis center refers to an entity that pro-
vides intervention and related assist-
ance, such as the services specified in
42 U.S.C. 14043g(b)(2)(C), to victims of
sexual assault of all ages. The agency
may utilize a rape crisis center that is
part of a governmental unit as long as
the center is not part of the criminal
justice system (such as a law enforce-
ment agency) and offers a comparable
level of confidentiality as a nongovern-
mental entity that provides similar
victim services.

(e) As requested by the victim, the
victim advocate, qualified agency staff
member, or qualified community-based
organization staff member shall ac-
company and support the victim
through the forensic medical examina-
tion process and investigatory inter-
views and shall provide emotional sup-
port, crisis intervention, information,
and referrals.

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

(g) The requirements of paragraphs
(a) through (f) of this section shall also
apply to:
(1) Any State entity outside of the
agency that is responsible for inves-
tigating allegations of sexual abuse in
community confinement facilities; and
(2) Any Department of Justice com-
ponent that is responsible for inves-
tigating allegations of sexual abuse in
community confinement facilities.

(h) For the purposes of this standard,
a qualified agency staff member or a
qualified community-based staff mem-
ber shall be an individual who has been
screened for appropriateness to serve in
this role and has received education
concerning sexual assault and forensic
examination issues in general.

§ 115.222 Policies to ensure referrals of
allegations for investigations.

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

(b) The agency shall have in place a
policy to ensure that allegations of
sexual abuse or sexual harassment are
referred for investigation to an agency
with the legal authority to conduct
criminal investigations, unless the al-
legation does not involve potentially
criminal behavior. The agency shall
publish such policy on its Web site or,
if it does not have one, make the policy
available through other means. The
agency shall document all such refer-
rels.

(c) If a separate entity is responsible
for conducting criminal investigations,
such publication shall describe the re-
sponsibilities of both the agency and
the investigating entity.

(d) Any State entity responsible for
conducting administrative or criminal
investigations of sexual abuse or sexual
harassment in community confinement
facilities shall have in place a policy
governing the conduct of such inves-
tigations.

(e) Any Department of Justice com-
ponent responsible for conducting ad-
ministrative or criminal investigations
of sexual abuse or sexual harassment in
community confinement facilities shall
have in place a policy governing the
conduct of such investigations.

TRAINING AND EDUCATION

§ 115.231 Employee training.

(a) The agency shall train all employ-
ees who may have contact with resi-
dents on:
(1) Its zero-tolerance policy for sex-
ual abuse and sexual harassment;
(2) How to fulfill their responsibil-
ities under agency sexual abuse and
sexual harassment prevention, detec-
tion, reporting, and response policies
and procedures;
(3) Residents’ right to be free from
sexual abuse and sexual harassment;
(4) The right of residents and employ-
ees to be free from retaliation for re-
porting sexual abuse and sexual harass-
ment;
(5) The dynamics of sexual abuse and
sexual harassment in confinement;
(6) The common reactions of sexual
abuse and sexual harassment victims;
(7) How to detect and respond to
signs of threatened and actual sexual
abuse;