

**VOA STAFF AND RESIDENT PREA POLICIES TO PREVENT SEXUAL ABUSE & HARASSMENT**

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## POLICY- §115.211

Volunteers of America of Western New York, Inc. (dba Volunteers of America of Upstate New York) shall comply with the Prison Rape Elimination Act (PREA) of 2003. PREA mandates the elimination, reduction, and prevention of sexual assault and rape in prisons, jails, and, community confinement facilities (half-way houses) housing adult male and female residents such as the Residential Parole Program in Binghamton and the Residential Reentry Center in Rochester operated by Volunteers of America of Upstate New York (VOA).

In compliance with PREA, VOA has a zero-tolerance stance towards all forms of sexual abuse and sexual harassment. This policy is applicable to residents, staff, volunteers, visitors and contractors. The zero-tolerance stance includes education, prevention, detection and responding to sexual abuse and sexual harassment incidents immediately.

All residents protected under PREA are prohibited from engaging in sexual contact with each other. All sexual contact between residents is deemed to be non-consensual and consent is not an affirmative defense, due to the custodial status of residents. VOA strictly prohibits any sexual contact between staff and residents, and expects staff to keep professional boundaries in all of their interactions with residents. Sexual contact between staff and residents is deemed to be non-consensual under all circumstances. Consent is not an affirmative defense to sexual contact between staff and resident, due to the custodial status of residents, and the unequal nature of the relationship.

All staff, contractors, volunteers and visitors who have contact with residents protected by PREA in a VOA facility are required to report any knowledge or suspicion of sexual abuse or harassment of a resident as outlined in the site's First Responder Protocol. Swift corrective action will occur if residents, staff, volunteers, visitors or contractors violate PREA standards.

## PROCEDURES

### Definitions

1. **Community confinement facility** means a community treatment center, residential re-entry center, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including Alternative to Incarceration Programs), 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, educational programs, or similar facility-approved programs during nonresidential hours. In this case it refers to VOA's Residential Reentry Center in Rochester (RRC).
2. **Contractor** means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency. In this case it refers to VOA.
3. **Resident** means a person residing in the RRC or participating in the Home Confinement Program.
4. **Gender nonconforming** means a person whose appearance or manner does not conform to traditional societal gender expectations.
5. **Intersex** means a person who's 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.
6. **Transgender**: A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
7. **PREA Coordinator**: The staff responsible for the coordination and compliance monitoring of PREA at VOA and its transitional housing programs. VOA has designated the PREA Coordinator to develop, implement and oversee agency efforts to comply with PREA requirements.
8. **Sexual Abuse**:
  - a. Sexual abuse of a resident by another resident.
    - i. Sexual abuse of a resident by another resident includes any of the following acts with or without consent:
      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.

- b. Sexual abuse of a resident by a staff member, volunteer, visitor or contractor.
  - i. Sexual abuse of a resident by a staff member, volunteer, visitor or contractor, includes any of the following acts, with or without consent of the 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, volunteer, visitor or contractor 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, volunteer, visitor or contractor has the intent to abuse, arouse, or gratify sexual desire;
    6. Any attempt, threat, or request by a staff member, volunteer, visitor or contractor to engage in the activities described in paragraphs (a)-(e) of this section;
    7. Any display by a staff member, volunteer, visitor or contractor of his or her uncovered genitalia, buttocks, or breast in the presence of a resident, and
    8. Voyeurism by a staff member, volunteer, visitor or contractor.
9. **Sexual Contact**: Sexual contact between residents is prohibited, deemed to be non-consensual due to the fact that they are persons in custody and therefore, deemed to be sexual abuse.
10. **Sexual Harassment**:
  - a. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one resident directed toward another; and
  - b. Repeated verbal comments or gestures of a sexual nature to a resident by a staff member, volunteer, visitor or contractor, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
11. **Volunteer** means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.
12. **Voyeurism** by a staff member, volunteer, visitor or contractor means an invasion of privacy of a resident by staff or reasons unrelated to official duties, such as peering at a resident who is showering or using a toilet to perform bodily functions; requiring a resident to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a resident's naked body or of a resident performing bodily functions.

## Prevention

1. The PREA Coordinator is responsible for oversight of all PREA related activities.
2. The PREA Coordinator will:
  - a. Develop, implement and oversee the VOA's compliance with PREA.
  - b. Maintain related statistics of incidents of sexually abusive behavior
  - c. Conduct or delegate audits to ensure compliance with VOA's policy and the PREA of 2003.
3. VOA's on-site Program Directors will serve as the PREA Compliance Managers and are responsible to:
  - a. Ensure compliance and implementation of all PREA policies and procedures with a focus on prevention of sexual abuse or harassment.
  - b. Report all PREA related incidents, including all incidents that involve any questionable boundaries between staff and parole or RRC residents, to the PREA Coordinator immediately following receipt of reports and regardless if they believe reports have merit
  - c. Monitor the programs to reduce and prevent PREA violations, including an annual PREA evaluation using the National PREA Resource Center PREA audit tool.
  - d. Provide all appropriate PREA training for staff
  - e. Track and report PREA statistical data to the PREA Coordinator as requested.

## Staffing- §115.213

### Planning and Monitoring

- a. VOA develops annual staffing plans that provide expected levels of program supervision and monitoring, to ensure that the facility is safe and secure.
- b. All staff and residents will be alert to signs of potential situations in which sexual misconduct might occur. Staff will:
  - i. Utilize video monitoring systems
  - ii. Staff will perform frequent, unannounced rounds of the facility at different times throughout the day and night with the intent of identifying and deterring sexual abuse and harassment.
  - iii. Staff will look for signs which may include:
    1. Staff/resident being overly friendly with one another
    2. Resident offering money, gifts, favors, etc., to other residents
    3. Security threat group activity (i.e., gangs, mafia affiliation, religious zealots, etc.).
  - iv. If a deviation ever occurs in the staffing plan, it is documented and the reason for noncompliance is justified
- c. Each year, the RRC Program Director will review the staffing plan for the RRC to see whether adjustments are needed in:
  - i. the staffing plan,
  - ii. prevailing staffing patterns,
  - iii. the deployment of video monitoring systems and other monitoring technologies, or
  - iv. the allocation of facility/agency resources to commit to the staffing plan to ensure compliance with the staffing plan.

The Program Director will make staffing recommendations to the PREA Coordinator who will review recommendations in the context of all PREA violations and concerns over the past 12 months, camera placements, security staff obligations, changes to programs or operations and any other relevant factors to determine whether the recommended model is appropriate. The PREA Coordinator will approve or recommend staffing plan changes as appropriate.

### Hiring and Promotion Decisions- §115.217

- d. VOA prohibits hiring or promoting anyone who has contact with residents, and prohibits enlisting the services of any contractor who has contact with residents, who:
  - i. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution;
  - ii. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
  - iii. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph a., (2) of this section.
- e. VOA considers any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.
- f. VOA requires that before any new employee, who may have contact with residents, is hired:
  - i. a criminal background record checks is conducted
  - ii. *best efforts* are made to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse (consistent with federal, state, and local law).
  - iii. ask the candidate about their history of sexual abuse and sexual harassment. This is documented on a form completed during the initial interview with the hiring manager.
  - iv. all new candidates receive clearance from the Bureau of Prisons or NYS Parole, whichever is applicable, before having contact with residents
- g. In addition, VOA requires that a criminal background record check be completed before enlisting the services of any contractor who may have unsupervised contact with residents.
- h. VOA requires that either criminal background record checks be conducted at least every five years for current employees and contractors who may have unsupervised contact with residents or that a system is in place for otherwise capturing such information for current employees and contractors.
- i. Any material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
- j. VOA will check the backgrounds of all applicants and employees who have contact with residents directly, about previous misconduct described in paragraph a. of this section.
- k. VOA also imposes upon employees a continuing affirmative duty to disclose any such misconduct and will annually require all existing staff to provide signed statements to this effect.

- I. VOA provides information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

### Training for Staff- **§115.231**

1. The VOA will train any and all staff who have contact with residents on:
  - a. VOA's zero-tolerance stance for sexual abuse and sexual harassment;
  - b. How to fulfill their responsibilities under VOA sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
  - c. Resident's right to be free from sexual abuse and sexual harassment;
  - d. The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment
  - e. The dynamics of sexual abuse and sexual harassment in confinement
  - f. The common reactions of sexual abuse and sexual harassment victims
  - g. How to detect and respond to signs of threatened and actual sexual abuse
  - h. How to avoid inappropriate relationships with residents
  - i. How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents
  - j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
2. Training will be provided via video, on-line testing, staff presentations and/or staff meeting updates. Staff are trained upon hire, provided with annual refresher training, and are provided with ongoing training at staff meetings throughout the year.
3. All current employees of the VOA working with residents protected by PREA shall be trained in the PREA standards (requirements), and VOA shall provide these employees with refresher training every year to ensure that these employees know VOA's current sexual abuse and sexual harassment policies and procedures. The VOA shall document through testing or an employee signature that they understand the training they have received.

### Training for Volunteers and Contractors- **§115.232**

1. VOA will ensure that all volunteers and contractors who have contact with PREA-protected residents have been trained on their responsibilities under the VOA's sexual abuse and sexual harassment prevention, detection and response policies and procedures.
2. The level and type of training provided to the volunteers and contractors shall be based on the services they provide and level of contact with residents. At a minimum, all volunteers and contractors will be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. This information will be provided prior to entering the facility or having any contact with residents.
3. The VOA shall maintain documentation confirming the volunteers and contractors understand the training they have received.



### Resident Intake/Orientation and Education- §115.233

- 1) During the intake process residents will receive information explaining the VOA's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. The program provides residents with PREA education in formats accessible to all residents, including those who are limited English proficient (LEP), deaf, visually impaired, or otherwise disabled as well as residents who have limited reading skills. The program maintains documentation of resident participation in all education sessions.
  - a) Within 30 days of intake the VOA shall provide comprehensive education to residents to include:
    - a. VOA's zero-tolerance policy on sexual abuse and sexual harassment
    - b. Definitions of sexually abusive behavior and sexual harassment.
    - c. Methods of prevention, detection, and reporting sexually abusive behaviors and sexual harassment.
    - d. Treatment options and programs available to resident victims of sexually abusive behavior and sexual harassment.
    - e. How to avoid inappropriate relationships with residents;
    - f. How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents
    - g. Their right to be free from sexual abuse and sexual harassment;
    - h. Their right to be free from retaliation for reporting sexual abuse and sexual harassment
      - i. Resident's right to be free from sexual abuse and sexual harassment;
      - ii. The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment
  - b) Staff shall communicate to residents this 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,
  - c) Definitions of sexual abuse and sexual harassment violations, and information on the various reporting mechanisms for residents who believe they are a victim of or witness to this behavior.
  - d) Staff will document verification of resident orientation and education on PREA by completing the *PREA Intake Orientation* form. Staff will maintain the original signed acknowledgement form in the resident's case file.
  - e) The programs provide refresher information whenever a resident is transferred from or to a different facility.
  - f) In addition to providing such education, the programs ensure that key information is continuously and readily available and visible to residents through posters and brochures.

### Residents with Disabilities and/or Limited English Proficiency- §115.216

- g) Residents under this category include:
  - (1) Limited English proficient. VOA will provide a PREA-trained staff person fluent in the resident's native language or access Language Line Solutions. RRC staff may also contact Language Intelligence at 16 North Goodman Street, Rochester, NY 14607 by calling them at 585-244-5578 and/or emailing them at [info@languageintelligence.com](mailto:info@languageintelligence.com)
  - (2) Deaf -- If the individual is able to read and write, staff will communicate through writing and use of cell phones to text information. If the resident needs further assistance, staff will contact a sign language interpreter from an ASL Interpreter Service through Rochester School for the Deaf or Rochester Institute of Technology.



- (3) Visually impaired – Staff will read the PREA information to the resident, and will consider other accommodation requests from the resident. If the resident will benefit from enlarged text, VOA will provide reading materials in a large font as well as use Association for the Blind and Visually impaired as needed. Additionally RRC Rochester has purchased two MAGNOPROS page magnifiers available to be used when completing PREA Paper Work with Residents.
- (4) Otherwise disabled – If a resident is cognitively or intellectually disabled, staff will verbally present PREA materials at a level the resident can understand. PREA reminders will be given more frequently. If a resident’s mental health interferes with the ability to understand PREA materials, staff will consult with the resident’s mental health provider to develop an appropriate plan to effectively convey information.
- (5) Limited in their reading skills – Staff will provide information verbally.
- h) These residents are provided equal opportunities to participate in or benefit from all aspects of VOA’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment.
- i) To ensure effective communications, all efforts will be made to bring interpreters or other skilled professionals into the program as soon as staff discover any residents with disabilities and/or limited English proficiency.
  - (1) The use of resident interpreters, resident readers, or other types of resident assistants will not be used, except in limited circumstances, where an extended delay in obtaining an effective interpreter could compromise the resident’s safety, the performance of first-responder duties or the investigation of the resident’s allegations.
  - (2) In these exceptions or limited circumstances, documentation of all such cases shall be documented.
  - (3) The program shall also provide PREA information in large print, for those residents with low vision disability.

### Screening for Risk of Sexual Victimization and Abusiveness- §115.241

- j) All residents arriving at the program shall be assessed during an intake screening (and upon transfer to another facility) for their risk of being sexually abused by other residents or sexually abusive toward other residents, using the PREA Possible Victim/Predator Screening and Scoring Checklist or the PREA Risk Screening Form as appropriate.
- k) Intake screening shall ordinarily take place within 72 hours of arrival at the program.
- l) Such assessments shall be conducted using an objective screening instrument.
- m) The intake screening shall consider, at a minimum, the following criteria to assess residents for risk of sexual victimization:
  - (1) Whether the resident has a mental, physical, or developmental disability;
  - (2) The age of the resident;
  - (3) The physical build of the resident;
  - (4) Whether the resident has previously been incarcerated;
  - (5) Whether the resident's criminal history is exclusively nonviolent;
  - (6) Whether the resident has prior convictions for sex offenses against an adult or child;
  - (7) Whether the resident is or is perceived to be (by staff or residents) gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
  - (8) Whether the resident has previously experienced sexual victimization; and
  - (9) The resident's own perception of vulnerability.

- n) In assessing residents for risk of being sexually abusive, the intake screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency.
  - o) Using the information from the screening, the Case Manager will work with VOA's Residential Re Entry Center Director to make determinations about the following room/bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive.
    - i) A resident who is at risk of victimization will be placed in a first floor room that is close to the Public Safety Officer Desk.
    - ii) At-risk residents will not be placed in program groups or work assignments with individuals who have been screened for risk of being sexually abusive.
    - iii) Additional determinations will be made as necessary to minimize risk.
  - p) Within 30 days from the resident's arrival at the program, the Case Manager will reassess the resident's risk of victimization or abusiveness based upon any additional, relevant information received by the program since the intake screening.
    - (1) A resident's risk level shall also be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness.
    - (2) Using the PREA Possible Victim/Predator Screening and Scoring Checklist, the Program Director, or designee, will conduct the 30-day reassessment of the resident's risk level of victimization or abusiveness.
  - q) Residents may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to:
    - (1) Whether the resident has a mental, physical, or developmental disability
    - (2) Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming
    - (3) Whether the resident has previously experienced sexual victimization
    - (4) The residents own perception of vulnerability
  - r) Program staff shall implement appropriate controls on the dissemination within the program of responses to questions asked pursuant to the intake screening in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents. The screening is completed by only case management staff and the information is stored in locked cabinets in locking offices.
  - s) Only the program Case Manager, Program Director, PSO Manager, PREA Coordinator, funder staff and program auditors will have access to the risk assessment.
- 2) The program makes individualized determinations about how to ensure the safety of each resident. If a resident is determined to be at risk of sexual victimization or at risk of being a predator, case management staff will share the information with the RRC Director who will help determine next steps related to continued placement in the facility and housing, education and employment placements. The RRC Director will involve the Bureau of Prison's RRM and/or the PREA Coordinator as appropriate.

### Use of Screening Information- §115.242

- a) The programs use information from the PREA Possible Victim/Predator Screening and Scoring Checklist and/or the PREA Risk Screening Form to inform housing, bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive.
- b) The programs make individualized determinations about how to ensure the safety of each resident.
- c) The programs make housing and program assignments for transgender or intersex residents in the facility on a case-by-case basis considering whether a placement would ensure the residents' health and safety, and whether the placement would present management or security problems.
- d) A transgender or intersex resident's own views with respect to his or her (if applicable) own safety shall be given serious consideration.
- e) Transgender and intersex residents shall be given the opportunity to shower separately from other residents.
- f) The placement of lesbian, gay, bisexual, transgender, or intersex residents in dedicated units solely on the basis of such identification or status, (unless such placement is in a dedicated unit established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such residents) is prohibited.

### *Roommate and Room Assignments*

- g) Supervisory staff shall be proactive in the prevention of sexual abuse and sexual harassment when making roommate and room selections for residents. Staff will use the results of the PREA Possible Victim/Predator Screening and Scoring Checklist and will consider the following factors:
  1. Compatibility of resident's chronological age
  2. Maturity
  3. Gang affiliation
  4. Level of sophistication
  5. Functioning level
  6. Size and strength
  7. Disabilities
  8. Infirmities
  9. Behavioral history
  10. Detaining or committing offenses.
- h) If a resident has a known history of being a sexual predator, as evidenced through detaining or committing offenses, reports from prior placements, or other credible information, that resident shall be placed in a single room, if space allows. No potential victims will be placed with potential perpetrators or vice versa.
- i) Staff shall take seriously a resident's request for a room change and discretely inquire whether the resident is feeling unsafe. If the resident answers yes, the staff member should bring this to the attention of a Site Supervisor and/or the agency PREA Coordinator for investigation.

## Limits to Cross-Gender Viewing- §115.215

**\*No physical searches of residents of any kind are allowed in the Binghamton parolee program**

- j) Staff in facilities that conduct physical searches (Residential Reentry Centers only) will watch the Guidance on Cross-Gender and Transgender Pat Searches video on the PREA Resource Center Website.
  - k) Residents at the program are able to shower, perform bodily functions, and change clothing without staff of the opposite gender viewing their buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine room checks.
  - l) Staff of the opposite gender announce their presence when entering a resident room or bathroom where residents are likely to be showering, performing bodily functions or changing clothes. Staff of the same gender are used whenever possible.
- 3) Staff Searches of Residents
- a) VOA authorizes several types of body searches.
    - i) Metal Detector
    - ii) Pat Search (Residential Reentry Center only) - Conducted by gender
    - iii) Frisk Search (Residential Reentry Center only) - Conducted by gender
  - b) Transgender or Intersex Residents
    - (1) Staff are prohibited from searching or physically examining a transgender or intersex resident for the sole purpose of determining the resident's genital status.
    - (2) When gender is unknown, it may be determined:
      - (a) during conversations with the resident,
      - (b) by reviewing medical records or prior custody situation.
      - (c) if necessary by learning that information as part of a broader medical examination conducted in private by a medical practitioner
    - (3) The program shall train all staff in how to conduct searches of transgender and intersex residents (Residential Reentry Centers only) in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

## Physical Contact

### Resident Sexual Contact

- 1) Residents are prohibited from engaging in any sexual contact with each other. Any sexual contact between residents is deemed to be sexual abuse and is deemed to be non-consensual. Sexual contact between residents shall subject them to appropriate discipline.
- 2) Sexual contact between staff and residents is also strictly forbidden and is governed by the PREA Law of 2003.

### *Staff Reporting Allegations of Resident Sexual Abuse or Sexual Harassment- §115.261*

- a) Program staff who learn of alleged sexual abuse, sexual harassment or sexual contact between residents must immediately report the allegations to the RRC Director, the PSO Manager, and/or the PREA Coordinator.
- b) The initial report to a Supervisor may be verbal, but it must be followed up with a written incident report, authored by the staff involved in the incident, prior to the end of the shift.
- c) The appropriate staff must file a report as required by facility procedures.
- d) Failure of staff to report allegations of resident or staff sexual abuse or sexual harassment or sexual contact will result in disciplinary action, up to and including termination.

- e) Staff, with knowledge of sexual abuse or sexual harassment, or sexual contact between residents, who wish to make a confidential report, may do so by contacting/calling VOA's PREA Coordinator or a non-VOA agency.
  - (1) All such reports will be kept strictly confidential.
  - (2) Depending on the circumstances, the contracting agency, local law enforcement or PREA Coordinator shall be assigned to investigate the allegations.
  - 3) The PREA Coordinator's contact information is [preacoordinator@voaupny.org](mailto:preacoordinator@voaupny.org) and 585-402-7211.

### Staff Sexual Contact

1. Staff are strictly prohibited from engaging in any type of sexual contact with residents.
2. Any sexual contact between staff and residents is sexual abuse and is deemed to be non-consensual.
3. Sexual abuse, sexual harassment or sexual contact with residents shall subject staff to appropriate discipline, up to and including termination.

### *Staff Reporting Allegations of Staff Sexual Abuse or Sexual Harassment- §115.261*

- a. Staff who learn of alleged staff sexual abuse or sexual harassment must immediately report the allegations to the RRC Director and the PREA Coordinator. If they are not immediately available, staff should contact the RRC on-call staff and the PSO Manager.
- b. The initial report to a Supervisor may be verbal, but it must be followed up with a written incident report, authored by the staff involved in the incident, prior to the end of the shift.
- c. The appropriate staff must file a report as required by program procedures.
- d. Failure of staff to report allegations of staff sexual abuse or sexual harassment will result in disciplinary action, up to and including termination and/or criminal charges.
- e. Staff with knowledge of sexual abuse or sexual harassment who wish to make a confidential report may do so by contacting/calling VOA's PREA Coordinator or a non-VOA agency.
  - i. All such reports will be kept strictly confidential.
  - ii. Depending on the circumstances, the contracting agency, local law enforcement or PREA Coordinator shall be assigned to investigate the allegations.
  - iii. The PREA Coordinator's contact information is [preacoordinator@voaupny.org](mailto:preacoordinator@voaupny.org) and 585-402-7211.

### Resident Reporting Allegations of Staff or Resident Sexual Abuse or Sexual Harassment Violations

- f. The program has standardized reporting forms available to residents to fill out. Residents can submit confidential reports of sexual abuse or sexual harassment violations by completing the reporting form, putting it in an envelope and placing the envelope at the front desk or designated locked box.
- g. When residents make a disclosure to staff, the staff shall not harass, make fun of, belittle, or condescend to the resident. Every allegation must be taken seriously. Staff shall not disclose this information to any unnecessary party.

### Separating Residents- §115.266

- h. If there appears to be evidence of sexual abuse between residents, the appropriate staff shall separate them so there is no possibility of further unmonitored contact between them until an investigation is completed.
  - i. In less serious abuse situations (administrative), the appropriate staff shall consider whether to separate the residents or take other steps for their safety, to prevent intimidation or retaliation.
- i. Staff may move residents to another location within the program. The PREA Coordinator, HR Manager, or designee shall assist the RRC Director/Site Supervisor with this decision.
- j. Staff should also consider whether there are any resident witnesses who should be relocated to insure their safety and protect them from intimidation or retaliation.

### Separating Staff and Residents- §115.266

- k. If there appears to be evidence of sexual abuse or sexual harassment between staff and resident, supervising staff shall take steps to separate them so there is no possibility of further unmonitored contact between them until an investigation is completed.
- l. The appropriate staff shall determine if the staff member should be placed on administrative leave pending the results of an investigation.
- m. The appropriate staff may move residents or the involved staff to other VOA programs for safety and to prevent intimidation or retaliation. The PREA Coordinator, HR Manager, or designee shall assist the RRC Director/Site Supervisor with this decision if necessary.
- n. In less serious abuse situations (administrative), the appropriate staff shall consider whether to separate the staff and residents or take other steps for safety and to prevent intimidation or retaliation.
- o. The appropriate staff should also consider whether there are any staff or resident witnesses who should be relocated to ensure their safety and protect them from intimidation or retaliation.

### Sexual Contact with Family Members of Current Residents

- p. VOA staff are strictly prohibited from engaging in any sexual contact with family members of current VOA residents.
- q. Staff who engage in sexual contact with family members of current VOA residents shall be deemed to have engaged in sexual misconduct and will be subject to discipline up to and including termination.

### Sexual Contact with Former Residents and their Families

- r. VOA staff are prohibited from engaging in any sexual contact with former VOA residents or their family members for three years.
- s. Staff who engage in sexual contact with former residents or their family members during this time period may be subject to possible discipline.

## Coordinated Response to Alleged Incidents of Sexual Abuse/Staff First Responders- §115.221,222, 262, 264 and 265

1. This section serves as a coordinated response outline. Staff will follow the PREA First Responder Protocol and Agency Coordinated Response Plan for their specific site.
2. Upon learning that a resident is subject to risk of imminent sexual abuse, the first staff member to respond will:
  - a. Separate the alleged victim and alleged abuser (to protect the victim and prevent further violence);
  - b. Not leave the alleged victim alone;
  - c. Call 911 if warranted.
  - d. Contact the Person-in-Charge (RRC Director/Site Supervisor or designee) to request assistance (including notifying BOP or Parole, as applicable, of incident)
3. Upon learning that a resident was sexually abused, the first staff member to respond to the scene must:
  - a. Separate the alleged victim and alleged abuser (to protect the victim and prevent further violence);
  - b. Not leave the alleged victim alone;
  - c. Ensure no one else enters the area to preserve and protect the crime scene;
  - d. Call 911 if warranted.
  - e. Contact the Person-in-Charge (RRC Director/Site Supervisor or designee) to request assistance (including notifying BOP or Parole, as applicable, of incident);
  - f. If the abuse occurred within a time period that would still allow for the collection of physical evidence (up to 96 hours), request that the alleged victim **and** abuser not take any action that could destroy physical evidence, including washing or showering, drinking or eating (unless medically indicated), brushing teeth, changing clothes, or toileting.
    - i. If toileting needs to take place, the resident should be instructed to not wipe.
4. In the event of an allegation of sexual abuse within the last 96 hours, including but not limited to those involving penetration, staff will have resident transported to a local hospital, with the victim's permission, equipped to evaluate and treat sexual abuse/rape victims, where he/she may receive a forensic medical exam (at no charge to the victim) by medical personnel not employed by the program.
  - a. Staff will request that the resident doesn't wash, shower, toilet, change clothes, brush teeth, eat or drink (unless medically indicated) before examination, as evidence may be destroyed.
  - b. The medical personnel will use an evidence collection kit for the collection of forensic evidence with the resident's consent and without financial cost where evidentiary or medically appropriate.
  - c. Program staff are prohibited from providing forensic medical examinations to any victim of sexual abuse.
5. If the victim refuses medical attention following a sexual misconduct incident or allegation, staff will document the refusal in the communication log.
6. Staff will have the resident transported to the medical facility, ensuring that the resident feels safe with the person accompanying him or her.
7. Staff shall record the medical facility contact information and details of physical injury in a written Incident Report before the end of the shift.
8. If a disclosure is made of a sexual assault more than 24 hours after the incident, staff should follow the reporting steps and also refer the resident to counseling services.
  - a. Law enforcement or an ambulance will transport the victim transported to a community medical facility for evidence collection.



9. If requested by the victim, a victim advocate, qualified program staff member, or qualified staff from a community based agency shall accompany and support the victim through the forensic medical examination process and investigatory reviews and shall provide emotional support, crisis intervention, information, and referrals.
10. The RRC Director Site Supervisor, or designee, will contact RESTORE (or other similar local agency) to provide follow up support and services to the resident.
11. The RRC Director/Site Supervisor, or designee, in consultation with the local mental health provider serving RRC residents or a mental health provider supporting a parolee resident, shall determine if the resident requires one-to-one observation.
12. The RRC Director/ Site Supervisor, or designee, shall take steps to preserve any physical evidence of the alleged sexual abuse.
  - a. The RRC Director/Site Supervisor should prevent anyone from entering the area, altering the area, or removing anything from the area, until investigators can arrive and document it
13. Staff who receive an initial report of sexual abuse must separate the victim from the alleged assailant to protect the victim and prevent further violence, and, are required to promptly intervene on the victim's behalf to ensure the victim receives prompt medical and psychological assistance, as appropriate to his or her needs and the circumstances of the alleged offense.
14. Psychological trauma may also occur to individuals of sexual abuse or sexual harassment. Mental health staff must be available to support and assist those in need.
15. VOA will ensure that all allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potential criminal behavior.
  - a. VOA will document all such referrals.
  - b. VOA's policy on this issue will be made publically available by requesting a copy from VOA's PREA Coordinator.

### Services Provided/Treatment for Victims- §115.253

1. VOA ensures that an administrative (internal) or criminal investigation is completed for all allegations of sexual abuse or sexual harassment. Sexual abuse allegations are referred for investigation to local law enforcement to document criminal investigations, unless the allegation does not involve potentially criminal behavior. All such referrals are documented.
2. VOA will help residents who allege that they are victims of sexual misconduct access available services and ensure that residents who allege that they are victims have access to the following services:
  - a. medical examination, documentation, and treatment of injuries, including testing for HIV and other sexually transmitted diseases;
  - b. mental health crisis intervention and treatment;
  - c. social, family, and peer support; and
  - d. Reasonable measures taken to protect and prevent future assaults such as screening procedures to identify predator and vulnerable offenders and separation needs.
3. Victim services for residents will include crisis intervention and trauma-specific treatment provided by mental health and/or medical professionals.
4. Staff will also attempt to make available to the victim, a victim advocate from a rape crisis center (RESTORE), either in person or by other means.
5. Victim services will be made available through community services to all program residents while they reside at the program, who were victims of sexual abuse or sexual harassment by program staff, contract employees, volunteers, or other residents while in the program or in other community programs.

### Resident Access to Outside Confidential Support Services:

- a. The program will provide residents with access to outside victim advocates for emotional support services related to sexual abuse by giving residents mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, and national victim advocacy or rape crisis organizations, and by enabling reasonable communication between residents and these organizations, in as confidential a manner as possible.
- b. The program will inform residents, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
- c. The program will maintain or attempt to enter into memoranda of understanding (MOUs) or other agreements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse.
  - i. The program maintains copies of agreements or documentation showing attempts to enter into such agreements.

### Access to Emergency Medical and Mental Health Services- §115.282

- d. 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.
- e. At the time a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim pursuant to the program's protection duties and shall immediately notify the appropriate medical and mental health practitioners.
- f. Resident victims of sexual abuse while in community confinement 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.
- g. 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- §115.253 and 283

- h. The program shall coordinate access to medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any criminal justice setting. This includes helping residents call local or state sexual abuse hotlines, connecting residents with immediate mental health care options and referring residents to emergency medical services with SANE nurses. Each site should refer to its PREA First Responder Protocol for site-specific and updated information. VOA staff will help residents make phone calls, provide transportation and/or accompany residents to appointments as appropriate and requested.
- i. 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, or their release from custody.
- j. The program shall help such victims with access to medical and mental health services consistent with the community level of care.
- k. In VOA programs that house female offenders, resident victims of sexually abusive vaginal penetration while in the program shall be offered pregnancy tests.

- i. If pregnancy results from conduct specified in paragraph (4) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services.
- l. Resident victims of sexual abuse while incarcerated shall be provided referrals for tests for sexually transmitted infections as medically appropriate. Staff will also provide residents with requested level of support (transportation, staff accompaniment, etc.) necessary for residents to access these referrals.
- m. On-going 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.
- n. The program shall attempt to coordinate a mental health evaluation of all known resident-on-resident abusers who remain in a VOA facility within 60 days of learning of such abuse history and connect abusers with treatment when deemed appropriate by mental health practitioners. VOA staff will work with the funding agency to identify an appropriate mental health evaluator and encourage resident engagement in the evaluation and follow-up treatment deemed appropriate by the mental health evaluator.

### Resident Reporting Methods and Reporting to Residents -§115.251

1. The program 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. (See Section H., 5.) This information will be prominently displayed in the facility.
2. The program also shall inform residents of at least one way to report sexual 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. This information will be prominently displayed in the facility.
3. Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document and respond to any verbal reports.
4. The program shall provide a method for staff to privately report sexual abuse and sexual harassment of residents. Reports can be made in person to the RRC Director in the Director's office, via email or via phone from the staff office.

### Third Party Reporting- §115.254

- a. The program shall allow for third-parties to report sexual abuse or sexual harassment for any resident and distributes information explaining how to report sexual abuse and sexual harassment on behalf of a resident.
  - i. VOA staff will accept and investigate both written and verbal reports from third-parties
- b. All reports of sexual abuse and sexual harassment received from third parties shall be responded to according to VOA policy by agency staff.
- c. Any staff receiving a third party report of sexual abuse or sexual harassment shall forward such report to their immediate supervisor who will in turn forward to the RRC Director/ Site Supervisor and PREA Coordinator who will follow the proper PREA reporting guidelines.
- d. Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse and sexual harassment, and shall also be permitted to file such requests on behalf of residents;

- e. If a third party files such a request on behalf of a resident, VOA may require as a condition of processing the request, that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process;
- f. If the resident declines to have the request processed on his or her behalf, VOA shall document the president's decision and include this information with the original incident report.

### Reporting to Other Confinement Facilities- §115.263

- g. Upon receiving an allegation that a resident was sexually abused or sexually harassed while confined at another facility, the RRC Director/Site Supervisor that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse or harassment occurred.
- h. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- i. The program shall document that it has provided such notification, and send the documentation to the VOA PREA Coordinator.
- j. The agency head or program director from the non-VOA agency that receives such notification shall ensure that the allegation is investigated in accordance with these standards (this is outside of VOA's control).
- k. Within 90 days, the Site Supervisor will contact the agency head or program director from the non-VOA agency who received the notification and request an update.

### Protection against Retaliation - §115.267

- a. Residents and staff who report sexual harassment or abuse or who participate in a related investigation will be protected from retaliation.
- b. The PREA Coordinator will help staff identify any changes to the program structure or operations necessary to minimize retaliation.
- c. The PREA Coordinator or the PREA Compliance Manager/RRC Director will meet with any residents or staff who report sexual harassment or abuse or who participate in a related investigation within 2 business days of the report and will:
  - a. Inform them that they have a right to protection from retaliation.
  - b. Describe what retaliation might look or feel like.
  - c. Provide staff contact information for multiple staff who will respond to reports of retaliation.
  - d. Collect preferred method of on-going contact (phone or email).
- d. The PREA Coordinator or PREA Compliance Manager/RRC Director will designate staff to monitor the conduct and treatment of residents and staff to ensure retaliation is not happening.
- e. The PREA Coordinator or PREA Compliance Manager/RRC Director will pro-actively contact residents and staff every 30 days (as long as they are in the facility) via their preferred contact method to ask about any concerns related to retaliation.
- f. Any reports of retaliation will be thoroughly investigated and appropriate efforts will be made to keep staff and residents safe.

### Reporting to residents -§115.273

- l. Following an investigation into a resident's allegation of sexual abuse suffered in an agency facility, the agency shall inform the resident in writing as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
- m. If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the resident.
- n. Following a resident's allegation that a staff member has committed sexual abuse against the resident, the agency shall subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever:
  - i. The staff member is no longer posted within the resident's unit;
  - ii. The staff member is no longer employed at the facility;
  - iii. The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
  - iv. The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- o. 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:
  - i. (1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
  - ii. (2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- p. All such notifications or attempted notifications shall be documented. Residents will be asked to sign notifications to indicate receipt. A copy of the letter provided to the resident will be attached to the original incident report.
- q. An agency's obligation to report under this standard shall terminate if the resident is released from the agency's custody.

### Exhaustion of Administrative Remedies- §115.252

1. The program ensures a formal administrative process to address resident grievances regarding sexual abuse and sexual harassment. The program prohibits an informal grievance process or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse or sexual harassment. To submit a grievance, a resident can:
  - a. Provide a verbal or written report to any VOA staff member
  - b. Call or email VOA's PREA Coordinator
  - c. Call VOA's Human Resources line
  - d. Call local or state crime victims or sexual abuse hotline

This information will be shared with residents at move-in and be posted prominently throughout the facility and in the residents' rooms.

2. VOA will respond to any third party reports of sexual abuse on behalf of residents, and allows residents to access staff and other outside parties to assist with grievances. If the resident chooses to decline third-party assistance, VOA will document the refusal in the resident's chart.
3. The program shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse or sexual harassment.

4. A resident who alleges sexual abuse or sexual harassment may submit a grievance without submitting it to a staff member who is the subject of the complaint.
5. Such grievance is not referred to a staff member who is the subject of the complaint.
6. VOA will address the grievance in a timely manner.
  - a. The staff person who receives the initial report will immediately notify the RRC Director or the PREA Coordinator. The PREA Coordinator will be notified on the first business day following the initial report.
  - b. Within 72 hours of notification the PREA Coordinator or the PREA Compliance Manager/ RRC Director will inform the resident of the grievance process including all notifications that will be made to the resident and the associated timeframes.
7. VOA shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance unless the contracting agency or another appropriate entity is conducting an investigation into the grievance in VOA's stead or has instructed VOA not to share information. Residents who made an allegation of personal abuse will be informed in writing of any agency decision.
8. Computation of the 90-day time period shall not include time consumed by residents in preparing any administrative appeal.
9. VOA may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision; VOA shall notify the resident in writing of any such extension and provide a date by which a decision will be made.
10. At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level.
11. Emergency Grievances
  - a. The program shall provide procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse or sexual harassment.
  - b. After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse or sexual harassment, the program shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse or sexual harassment) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final decision shall document the program's determination whether the resident is in substantial risk of imminent sexual abuse or sexual harassment and the action taken in response to the emergency grievance.
12. Unsubstantiated Grievances
  - a. The program may discipline a resident for filing a grievance related to alleged sexual abuse only where the program demonstrates that the resident filed the grievance in bad faith.

## Staff and Agency Reporting Duties- §115.261

1. Reporting Duties
  - a. Any staff must immediately report to the RRC Director/Site Supervisor or designee, any knowledge, suspicion, or information regarding:
    - i. an incident of sexual abuse or sexual harassment that occurred in the program;
    - ii. retaliation against residents or staff who reported an incident of sexual abuse or sexual harassment;
    - iii. any staff neglect or violation of responsibilities that may have contributed to such an incident or retaliation.



- b. All reports of sexual abuse and sexual harassment that are received from third parties must be received and responded to according to policy by all staff.
- c. As soon as practical, program staff must report all allegations of sexual abuse or sexual harassment, including third party and anonymous reports, to the local authorities as relevant and to all contracting agencies for further investigation:
  - i. Call 911 to obtain transportation for the resident to a local hospital which is PREA compliant;
  - ii. When a resident indicates that they have been sexually abused or sexually harassed, staff must request that the resident not take any action that could destroy physical evidence, including washing, drinking or eating, unless medically indicated. If toileting needs to take place, the resident should be instructed to not wipe;
  - iii. The Site Supervisor/supervisory designee must contact the local Rape Crisis Center or similar local agency to arrange for a sexual assault advocate to go to the hospital where the resident is being transported.
  - iv. Staff receiving a report of sexual abuse or sexual harassment of a vulnerable adult, as defined by APS, is required to report the incident to the state or local adult protective services by the person who received the report or the Site Supervisor.
- d. All allegations of sexual abuse or sexual harassment must be reported to the PREA Coordinator:
  - i. Allegations of sexual harassment between residents will be reported for investigation by the RRC Director/Site Supervisor;
  - ii. Allegations of sexual harassment of residents by staff will be reported for investigation by the RRC Director/Site Supervisor.
- e. Upon receiving an allegation that a resident was sexually abused while residing at the program, the staff receiving this information must immediately notify the RRC Director/Site Supervisor.
  - i. The RRC Director/Site Supervisor, or designee, must then:
    - 1. institute the Incident Report process
    - 2. notify the PREA Coordinator and Human Resources if a staff person is involvedThe PREA Coordinator will provide direction about:
  - 1. calling the local authorities to begin a criminal investigation
  - 2. calling the appropriate contracting agency
- f. The RRC Director/Site Supervisor will notify the PREA Coordinator as soon as possible, but not longer than by the end of the business day of the day the report of the allegation was received.
  - i. The RRC Director/Site Supervisor will document such report and notification in the facility log.
  - ii. The PREA Coordinator, receiving this information, must immediately document such report and notification in the PREA data log.
- g. If the allegations of sexual abuse are reported to staff after the alleged victim has been transported to a medical facility, staff must:
  - i. Notify the receiving medical facility of the allegation of sexual abuse and the victim's potential need for medical or social services unless the victim has requested otherwise.
  - ii. Complete an Incident Report in accordance with program procedures.
    - 1. A copy of all Incident Reports regarding sexual abuse and sexual harassment will be sent to the PREA Coordinator.
- h. If the allegation is made after a resident has left the facility, or right before they are leaving, the RRC Director/Site Supervisor will interview all parties involved (and available) and document the situation.



- i. If a crime is determined to have been committed, the Site Supervisor will notify the local law enforcement agency and the contracting agency and await further guidance.
2. Additional Notifications
  - a. Contracting agencies
    - i. When probable cause exists to believe an incident has occurred, notify the local law enforcement agency to report it and then notify all contracting agencies for further guidance.
3. The applicable staff (Program Directors, the PREA Coordinator or designee) will keep a record of the details of the notifications, including:
  - a. All persons notified
  - b. Date and time of notification
  - c. Date and time notice of allegation was received
  - d. Any details of the allegation
  - e. Date and time of notification of PREA Coordinator
4. Confidentiality
  - a. Apart from reporting to designated supervisors or agency officials, staff shall not reveal 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.

## Investigations- §115.221, §155.222, §115.271 and 272

1. Local Authorities for Investigations
  - i. In allegations of sexual abuse, the RRC Director/Site Supervisor shall notify the local law enforcement department as soon as possible and any contracting agency.
  - ii. The RRC Director/Site Supervisor must ensure that all protocols are followed for crime scene preservation in order to enable the local authorities to conduct a proper investigation of all allegations of sexual abuse.
  - iii. The RRC Director/Site Supervisor or designee, shall make all witnesses, the scene, and any evidence 115.321 immediately available to the police investigators.
  - iv. In allegations of sexual abuse by staff upon a resident, the matter may be prosecuted.
2. Qualifications of investigating Agency
  - i. The program shall request that the investigating agency abide by all PREA requirements/standards.
  - ii. Documentation shall be maintained if this request is unsuccessful.
3. In all other allegations of sexual harassment (boundary violations), the RRC Director/Site Supervisor, will contact the contracting agency and a determination will be made whether the allegation will be investigated by the contracting agency or should be investigated internally.
4. In internal investigations, after the matter has been investigated by the RRC Director/Site Supervisor and copied to the PREA Coordinator, the determination will be made if the matter will be forwarded to the appropriate authorities for criminal prosecution.
5. Staff must cooperate fully with the local authorities and any administrative investigators in all facets of any criminal and/or administrative (internal) investigations.
6. Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
7. Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

8. Evidentiary standard for administrative investigations
  - i. The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
  - ii. Agencies conducting a sexual abuse investigation will use a uniform evidence protocol.
  - iii. The protocol is adapted from or otherwise based on the most recent edition of the DOJ'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.
9. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff. No agency shall require a resident who alleges sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an allegation.

## Incident Report

10. Program staff must complete an Incident Report in accordance with program procedures for any sexual abuse or sexual harassment incident including any allegations.
  - i. Reports should include:
    1. Description of physical evidence
    2. Testimonial evidence
    3. Credibility assessments and the reasoning behind them
    4. Investigative facts and findings
    5. Documentary evidence, if any, should be attached
11. 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.
12. 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.
13. At the completion of an investigation, the PREA Coordinator will be notified, along with the victim if still in the facility, the RRC Director/Site Supervisor, and the VOA Executives of the outcome.
14. After an investigation, if a resident or staff have been determined to have intentionally made false allegations, the appropriate sanctions will be imposed.
15. Victims also have the right to refuse an investigation of an alleged sexual abuse incident. Staff will ensure that this right is documented.

## Records Retention

16. If the alleged abuser is a resident under the custody of a contracting agency, all written reports of the investigation must be retained while the abuser is under custody plus an additional five years.
17. If the alleged abuser is a staff member, all written reports of the investigation must be retained while the staff member remains employed plus an additional five years.

## Reporting to Residents- §115.273

1. Following an investigation into a residents allegation of sexual abuse suffered in the agency facility, the agency shall inform the resident as to whether the allegations has been determined to be substantiated, unsubstantiated or unfounded.
2. If VOA does not conduct the investigation, a request for relevant information from the investigating agency will be collected in order to provide outcome information to the resident.

3. Following a residents allegation that a staff member has committed sexual abuse against the resident, the VOA will inform the resident (unless the agency has determined the allegation is unfounded) whenever:
  - a. The staff member is no longer employed at the facility.
  - b. The staff member has been indicted or convicted on a charge related to sexual abuse within the facility
4. Following a residents allegation that he or she has been sexually abused by another resident, the agency shall inform the alleged victim whenever:
  - a. The agency learns that the alleged abuser has been indicted or convicted on charge related to sexual abuse within the facility
  - b. All such notifications or attempted notifications will be documented in the residents file. Upon discharge from the facility the agencies obligation to report under this standard shall terminate.

## Discipline

### Disciplinary Sanctions for Staff- **§115.276**

- a. Staff shall be subject to disciplinary sanctions up to and including termination for violating VOA sexual abuse or sexual harassment policies.
  - i. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse of residents.
- b. Disciplinary sanctions for violations of VOA policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
- c. All terminations for violations of VOA 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.

### Corrective Action for Contractors and Volunteers- **§115.277**

- d. Any contractor or volunteer who engages in sexual abuse or sexual harassment shall be prohibited from entry to any VOA programs and shall be reported to law enforcement agencies, (unless the activity was clearly not criminal), and to relevant licensing bodies.
- e. The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with residents, in the case of any other violation of VOA sexual abuse or sexual harassment policies by a contractor or volunteer.

### Disciplinary Sanctions for Residents- **§115.278**

- f. 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 sexual harassment or following a criminal finding of guilt for resident-on-resident sexual abuse or sexual harassment.
- g. 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.

- h. 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.
- i. The program may offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse and shall consider whether to require the offending resident to participate in such interventions as a condition of continued access to programming or other benefits.
- j. The program may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
- k. 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.
- l. The program prohibits all consensual sexual activity between residents and will discipline residents for such activity. However, according to PREA, VOA may not deem such activity to constitute sexual abuse if it determines that the activity was not coerced.

### Sexual Abuse Incident Reviews- §115.286

1. The facility shall conduct a sexual abuse or sexual harassment incident review at the conclusion of every sexual abuse/harassment investigation, including where the allegation has not been substantiated.
2. Such review shall ordinarily occur within 30 days of the conclusion of the investigation.
3. The review team shall include upper-level management officials, with input from line supervisors, investigators, local law enforcement and medical or mental health practitioners.
4. The review team shall:
  - a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
  - b. 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;
  - c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
  - d. Assess the adequacy of staffing levels in that area during different shifts;
  - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff and current camera systems; and
  - f. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to sections a. – e. (above) and any recommendations for improvement, and submit such report to the RRC Director and the PREA Coordinator.
5. The facility shall implement the recommendations for improvement, or shall document its reasons for non-compliance.

### Data Collection- §115.287

1. VOA shall collect accurate, uniform data for every allegation of sexual abuse and sexual harassment at all facilities under its direct control using a standardized instrument and set of definitions.
2. VOA shall aggregate the incident-based sexual abuse data at least annually.
3. 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.

4. VOA shall maintain, review, and collect data as needed from all available incident based documents including reports, investigation files, and sexual abuse incident reviews.
5. Upon request, VOA shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

#### **Data Review for Corrective Action- §115.288**

1. VOA shall review data collected and aggregated pursuant to Section Q. in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
  - a. Identifying problem areas;
  - b. Taking corrective action on an ongoing basis; and
  - c. Preparing an annual report of its findings and corrective actions for each program, as well as VOA as a whole.
2. 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.
3. VOA's report shall be approved by VOA's CEO and made readily available to the public through its website.
4. VOA may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a program, but must indicate the nature of the material redacted.

#### **Data Storage, Publication, and Destruction- §115.289**

1. VOA shall ensure that data collected pursuant to Section Q. are securely retained in locked filing cabinets behind locked doors or in limited access electronic files. Access to electronic files is controlled by Information Technology staff and access requires the PREA Coordinator's authorization.
2. VOA shall make all aggregated sexual abuse data, from programs under its direct control, readily available to the public at least annually through its website.
3. Before making aggregated sexual abuse data publicly available, VOA shall remove all personal identifiers.
4. VOA shall maintain sexual abuse data collected pursuant to Section Q. for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

#### **Program Tracking and Reporting of Sexual Abuse and Sexual Harassment**

1. The PREA Coordinator will be responsible for compiling the number of reports of sexual abuse and sexual harassment at a minimum of once a month.
2. The program has an obligation to report incidents of sexual abuse and sexual harassment under PREA. It will be the responsibility of the PREA Coordinator to maintain a list with sufficient detail necessary to number and track all reports of sexual misconduct.
3. The PREA Coordinator may periodically use the database to analyze trends with respect to sexual misconduct and boundary violations, and may initiate an investigation of locations where there is a pattern of sexual misconduct and boundary violations.
4. VOA, under the direction of the PREA Coordinator, will comply with the PREA reporting requirements.