

# Jager Adsit Associates LLC

## PREA AUDIT: AUDITOR'S FINAL REPORT

<b>Name of agency:</b> Nevada Division of Child and Family Services, Juvenile Justice Services		
<b>Date report submitted:</b> August 12, 2016		
<b>Auditor Information</b> Macilla (Kila) Jager Jager Adsit Associates LLC		
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<b>Date of facility visit:</b> December 14, 2015		
<b>Agency Information</b>		
<b>Telephone number:</b> Phone: (775) 684-4448		
<b>The facility is: Nevada Agency audit</b>		
<b>The agency is: Type:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> County
	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Municipal <input checked="" type="checkbox"/> <b>State</b>
	<input type="checkbox"/> Private not for profit	
<input type="checkbox"/> Jail	Prison	
<b>Agency Information</b>		
<b>Name of agency:</b> Nevada Division of Child and Family Services, Juvenile Justice Services		
<b>Governing authority or parent agency:</b> Nevada Division Health and Human Services		
<b>Physical address:</b> 4126 Technology Way Carson City, NV 89706 Phone: (775) 684-4448		
<b>Agency-Wide PREA Coordinator</b>		
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**Nevada Division Child and Families Services**  
**Juvenile Justice Services**  
**PREA AUDIT FINDINGS**

**NARRATIVE:**

Prior to my arrival at the agency, I sent, and required posting of, the juvenile facility audit notification and auditors contact information; and, requested materials--required by the Juvenile Pre-Audit Questionnaire, Juvenile Checklist of Documentation, and any additional information documenting standard requirements-- organized by standard and sent to me on a flash drive.

I reviewed all materials sent, ask questions for clarification, and completed an initial paperwork and document review. I also requested specialized staff interviews to be pre-scheduled over the time I would be on site.

The on-site portion of the PREA agency audit, of Nevada Division of Child and Family Services, was conducted on December 14, starting in the Reno office and continuing in the Carson City office, by certified DOJ PREA auditor Macilla (Kila) Jager.

Upon arrival, Monday December 14, 2014, an entrance meeting was held with myself and Division of Child and Family Services agency head Kristin Coulomb, the state agency responsible for ensuring provision of quality child protection, mental health, and juvenile justice services to children and families, Deputy Administrator-Juvenile Justice Services, and PREA Coordinator.

Interviews were conducted with Nevada Juvenile Services head Kristin Coulomb, Deputy Administrator Ross Armstrong, Agency Contract staff, administrative staff and Investigative Staff.

While at the Reno office, I reviewed the Nevada Division of Child and Family Services organizational chart, was given an overview of the agency, Juvenile Justice Services, juvenile correctional facilities (Nevada Youth Training Center, Caliente Youth Center, and new facility just opening Summit View).

Also reviewed were the PREA zero tolerance grant, agency PREA Coordinator position, agency stance on PREA, and agency/facility PREA policies. I also interviewed two parole/probation staff who have regular contact with youth in facilities and residential programs.

Additionally, in the Reno office, I reviewed contract language in residential contracts, monitoring language, agency PREA policy requirements for contracts and contractors, and random review of contractor files for required PREA background and child abuse registry checks.

There are no medical or mental health directors at agency level. Everything is done at the facility level.

In the Carson City agency office, I met with Human Resources staff. Reviewed required criminal background and child abuse registry checks, of staff, required by the agency, and PREA requirements of calling prior institutional employers and disclosing PREA required information to institutional employers that call for references.

Additionally, I reviewed forms developed for the PREA standard on required continuing duty to report, and reviewed random HR personal (employee) files.

## **DESCRIPTION OF AGENCY CHARACTERISTICS:**

Juvenile Justice Services is a part of the Nevada Division of Child and Family Services, which has oversight of Children's Mental/Behavioral Health Services, Child Protective and Welfare Services, and Juvenile Justice Services. They also have oversight of all administrative services for all three divisions.

Nevada's formal juvenile justice system was established by Chapter 62 of the Nevada Revised Statutes. Nevada Juvenile Justice Services includes three youth correctional facilities—Caliente Youth Center in Caliente, Nevada, Nevada Youth Training Center in Elko Nevada, and the soon to be opened Summit View in Las Vegas, Nevada, the Youth Parole Bureau in Las Vegas, Reno, Elko and Fallon Nevada, and the Juvenile Justice Programs Office in Carson City, Nevada.

Nevada Division of Child and Family Services, Juvenile Justice Services serve youth from the ages of 12-21, who are committed before their 18<sup>th</sup> birthday. They additionally contract with private providers for residential services.

Youth who are committed for care are generally placed in one of the centers for an average of six to nine months. Upon successful completion of the programming in the facility, the youth are released back into the community with supervision and case management services provided by Youth Parole.

Nevada Division of Child and Family Services, Juvenile Justice Services webpage is found at: <http://dcfs.nv.gov/Programs/JJS/>, with further information and parent agency/governing authority information.

The online PREA Incident Report is at: [http://dcfs.nv.gov/Forms/PREA\\_incident\\_report\\_form/](http://dcfs.nv.gov/Forms/PREA_incident_report_form/) , and on <http://dcfs.nv.gov/Programs/JJS/ProgramsOffice/>

The former PREA audit completed at Nevada Youth Training Center (NYTC) is published on the agency website at: <http://dcfs.nv.gov/Programs/JJS/ProgramsOffice/> , where links to the facility PREA Safety Standards are found also.

No annual report was found on the agency website.

## **SUMMARY OF AUDIT FINDINGS:**

On December 14, 2015. the site visit was completed at Reno Nevada and Carson City agency offices of the Nevada Child and Family Services, Juvenile Justice Services. After a pre-site paperwork review, document reviews, site visit, interviews, and observation of practices, an interim report was completed and a corrective action period commenced.

This is an agency audit as opposed to a facility audit and is to establish how compliant the overall agency is in policy and practice, required of agencies in the PREA standards. This audit will reflect all the standards, even if they are facility standards, and the auditor's comments will reflect if the standard being reviewed was met at the facility level in the Nevada Youth Training Center facility audit, at the agency level, or corrective action needed at the agency level.

This audit will determine agency compliance

It was a pleasure to meet additional Nevada State staff, in this audit, and the level of professionalism and commitment to youth in this state is impressive. The Nevada Division of Child and Family Services is the parent agency to Nevada Juvenile Justice Services. Nevada Juvenile Justice Services includes two staff secure juvenile facilities, one secure juvenile facility and the Juvenile Parole Bureau.

The focus of this audit are those standards that require agency policy, contracts, data collection/storage, and agency wide action that is necessary for a clear, consistent, agency driven, compliance to the National Prison Rape Elimination Act (PREA) and published standards.

This audit will be used in all facility audits to show agency compliance when that is what is required in those particular standards. The Nevada Division of Child and Family Services, Juvenile Justice Services agency audit will

assist the facilities in their compliance audits, by showing compliance in agency areas that would have negatively affected the facility audit, if not assessed and complied with. Facilities will not fail their audit waiting for agency compliance and the same for the agency.

**The Nevada Division of Child and Family Services, Juvenile Justice Services interim audit report concluded the agency was compliant with 28 standards (some through the NYTC facility audit), non-compliant with 12 standards, and 1 standard was not applicable.**

**CORRECTIVE ACTION:**

The next step, in the audit process, was the corrective action period. This was a period, not to exceed six months, (July 18, 2016) for the agency to correct issues that have been identified as out of compliance with the PREA national standards, in the agency PREA audit.

After identification of standards that were out of compliance, Nevada Division of Child and Family Services and this auditor worked together to determine actions needed for standard compliance, in a corrective action plan.

Nevada Division of Child and Family Services faced many challenges in this corrective action time. There were changes at the top level of their organization and there were plans to hire an agency PREA Coordinator; however, due to the major agency changes, the PREA Coordinator was not hired to begin until July 2016.

As the Nevada Division of Child and Family Services, and Juvenile Justice Services continued their work towards PREA compliance, the challenges of new staff on a learning curve, a PREA Coordinator who had a full time job and was standing in for the planned hiring of a full time PREA coordinator, and facilities also being audited, it was a tough job. Nevada staff worked diligently through this period, never forgetting that the goal was to keep their youth residents safe.

Although much was accomplished, in the corrective action period, there are still a few compliance issues that were not able to be completed by the end of the corrective action period. Nevada continues to work on these issues and with a newly hired PREA Coordinator, continues to work towards compliance

This audit has determined that on July 18,2016, the end of the corrective action period, the Nevada Division of Child and Family Services, while out of compliance with a small number of PREA standard sub parts, is very close to attaining the goal of compliance.

<b>Number of standards met:</b>	<b>34</b>	<b>Number of sub parts of standards met</b>	<b>167</b>
<b>Number of standards not met:</b>	<b>6</b>	<b>Number of sub parts of standards not met</b>	<b>11</b>
<b>Standards not applicable:</b>	<b>1</b>	<b>N/A standards sub parts</b>	<b>5</b>

**Standard 115.311 Meets this standard after corrective action period**

**Zero Tolerance of sexual abuse and sexual harassment**

- 115.311a An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and the facilities have an implementation plan outlining how the facility will implement the agency's zero-tolerance approach to preventing, detecting, and responding to sexual abuse and sexual harassment
- 115.311b An agency shall employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.
- 15.311c Where an agency operates more than one facility, each facility shall designate a PREA compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards

**115.311 Auditor comments and final compliance determination**

After review of the facility PREA Safety Standards Manual, interviews with key agency administrative staff, and PREA Agency Coordinator, and completion of the corrective action plan, the following is now in compliance.

115.311a: During the corrective action period, the agency completed and implemented a written policy mandating zero tolerance of all forms of sexual abuse and harassment. This policy includes an implementation plan outlining how the facilities will implement the agency's zero tolerance policy. Prison Elimination Act Policy DCFS/JJ

113.311b: DCFS hired a full time PREA Coordinator at the end of the corrective action period. It is a dedicated position to ensure enough time and authority to develop, implement, and oversee agency efforts to comply with the PREA Standards. PREA policy DCFS/JJ page 5 and 6.

Staff training and annual training requirements are set out in this PREA policy on page 11 and 12.

**Standard 115.312 Does not Meet**

**Contracting with the other entities for the confinement of residents**

- 115.312a A public agency that contracts for the confinement of its residents with private agencies or other entities, including other government agencies, shall include **in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards**
- 15.312b Any new contract or contract renewal shall provide for **agency contract monitoring to ensure that the contractor is complying with the PREA standards**

**115.312 Auditor comments and compliance assessment**

Nevada Division of Child and Family Services contracts for the confinement/residential care of juvenile justice residents/youth, with private agencies, like China Spring Youth Camp. None of the contracts have the language required by PREA standards 115.312a and 115.312b.

All contracts, written or renewed since August 2012, with private agencies, for confinement of juvenile justice youth, pursuant to the juvenile justice system, need to have the required language from juvenile standard 115.312 included, as well as the contract monitoring language to ensure the contractor is complying with the PREA standards.

All residential contracts covered by this standard need to have language in each contract that complies with standard 115.312b, or, there is a documentation that the current contractor is a sole source provider, and a PREA compliant provider was not available. Also see standard

**DCFS does not meet 115.312a and b.**

Standard	115.313 Met this standard at the Facility Level
	<b>Supervision and monitoring</b>
115.313a	The agency shall ensure that each facility it operates shall develop, implement, and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration: <ol style="list-style-type: none"> <li>(1) Generally accepted juvenile detention and correctional/secure residential practices;</li> <li>(2) Any judicial findings of inadequacy;</li> <li>(3) Any findings of inadequacy from Federal investigative agencies;</li> <li>(4) Any findings of inadequacy from internal or external oversight bodies;</li> <li>(5) All components of the facility's physical plant (including "blind spots" or areas where staff or residents may be isolated);</li> <li>(6) The composition of the resident population;</li> <li>(7) The number and placement of supervisory staff;</li> <li>(8) Institution programs occurring on a particular shift;</li> <li>(9) Any applicable State or local laws, regulations, or standards;</li> <li>(10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and Any other relevant factors</li> </ol>
115.313b	The agency shall comply with the staffing plan except during limited and discrete exigent circumstances, and shall fully document deviations from the plan during such circumstances.
115.313c	Each secure juvenile facility shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented. Only security staff shall be included in these ratios. Any facility that, as of the date of publication of this final rule, is not already obligated by law, regulation, or judicial consent decree to maintain the staffing ratios set forth in this paragraph shall have until October 1, 2017, to achieve compliance
115.313d	At least once every year the agency or facility, in collaboration with the PREA Coordinator, reviews the staffing plan to see whether adjustments are needed to: <ul style="list-style-type: none"> <li>• The staffing plan;</li> <li>• Prevailing staffing patterns;</li> <li>• The deployment of monitoring technology; or The allocation of agency or facility resources to commit to the staffing plan to ensure compliance with the staffing plan</li> </ul>
115.313e	Each secure facility shall implement a policy and practice of having intermediate-level or higher level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each secure facility shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.
	<b>115.313 Auditor comments and compliance assessment</b> <b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities</b>

Standard	115.315 Standard Met Standard at facility level
	<b>Limits to cross-gender viewing and searches</b>
115.315a	The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners
115.315b	The agency shall not conduct cross-gender pat-down searches except in exigent circumstances.
115.315c	The facility shall document and justify all cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches
115.315d	The facility has implemented policies and procedures that enable residents to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks (this includes viewing via video camera)
115.315e	The facility shall not search or physically examine a transgender or intersex resident for the sole purpose of determining the resident's genital status. If the resident's genital status is unknown, it may be determined during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
115.315f	
115.315	The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security need
	<b>115.315 Auditor comments</b> <b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities</b> <b>Agency policy meets this standard on page 9 of the DCFA/JJ PREA policy.</b>

**Standard 115.316a Meets this standard after the corrective action period**  
**Residents with disabilities and residents who are limited English proficient**

115.316a The agency shall take appropriate steps to ensure that residents with disabilities (including, for example, residents who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with residents who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities, including residents who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans with Disabilities Act, 28 CFR 35.164.

115.316b The agency shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

115.316c The agency shall not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under § 115.364, or the investigation of the resident's allegations

**Auditor comments and compliance assessment**

113.316a During the corrective action period, 113.316a was met by the creation of a PREA agency policy, DCFS/JJ. On page 10 of DCFS/JJ policy, DCFS directs the facilities in how to access services needed for all residents with disabilities.

113.316b was met with the youth, parent brochures and youth intake forms in both English and Spanish, as well as staff awareness and practice of reading the intake requirements and explaining them to all youth to ensure if they do not read well or understand English well, they have special care taken to ensure they understand. At facility level, youth interviews, staff interviews, observation of the process, and review of agency/facility materials complied with this part of this standard.

113.316c is in the facility PREA Safety Standards and in practice, as shown by the compliant NYTC facility audit.

**Standard 115.317 Meets the standard after corrective action period**  
**Hiring and promotion decisions**

115.317a Agency Policy: The agency shall not hire or promote anyone who may have contact with residents, and shall not enlist the services of any contractor who may have contact with residents, who—  
(1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42U.S.C. 1997);  
(2) 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  
Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a) (2) of this section.

115.317b Agency policy requires the consideration of 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

115.317c Agency policy requires, before hiring new employees who may have contact with residents, the agency shall:  
(1) Perform a criminal background records check; (2) Consults any child abuse registry maintained by the State or locality in which the employee would work; and  
(3) Consistent with Federal, State, and local law, make its best efforts 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.

115.317d The agency policy requires performance of a criminal background records check, and consult applicable child abuse registries, before enlisting the services of any contractor who may have contact with residents.

- 115.317e Agency policy requires that either criminal background records checks be conducted at least every five years of *current* employees and contractors who may have contact with residents or that a system is in place for otherwise capturing such information for current employees.
- 115.317f Policy on hiring and promotions—ask all employees about previous misconduct in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews for current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.
- 115.317g Agency policy states that material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination
- 115.317h Policy requires, unless prohibited by law, the agency shall provide 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

**115.317 Auditor comments and compliance assessment**

The agency is clearly meeting required practice by performing background and child abuse registry checks, in fact going over and above standard requirements in waiting for an FBI check that takes up to 2 months to receive—as every random employee and contractor file had required documentation of this, except one and that person was not offered the position and did not require all forms. Also all forms reviewed were clearly in compliance with the practice requirements of this standard.

Also, they are meeting PREA practice requirements for employees’ promotions, continuing affirmative duty to report, and ensuring employees are asked about previous conduct.

During the corrective action period, DCFS created and implemented a PREA policy DCFS/JJ, which covers the requirements of this standard on page 23 and 24.

In addition to this policy, DCFS created letter templates to use during the hiring process to ensure: they give other institutional agencies, who enquire, any information about that employees record of any sexual abuse or sexual harassment, and any current investigations pending; and to gather information from all previous institutional employers about employees applying—about allegations/convictions of sexual harassment or sexual abuse, or current investigations pending.

**Standard 115.318 Meets Standard  
Upgrades to facilities and technologies**

- 115.318a 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.
- 115.318b When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency’s ability to protect residents from sexual abuse

**115.318 Auditor comments and compliance assessment**

The Nevada Division of Child and Families, Juvenile Justice Services Agency is opening a new facility and it is evident that they are considering the safety of the youth in the planning of this facility--staff, cameras, technology, and design are all being evaluated in the planning and opening of this facility.

Additionally, after the NYTC audit, changes are being made in technology (cameras) and updates that have taken into account the need for additional safety measures.

This is covered in the PREA Safety Standards for facilities



Standard	115.321 Met at facility level at NYTC audit
	<b>Evidence protocol and forensic medical examinations</b>
115.321a	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.
115.321b	The protocol was 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
115.321c	The agency shall offer all residents who experience sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where evidentiary 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.
115.321d	The facility attempts to make a victim advocate from a rape crisis center available to the victim, in person or by other means 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 enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.
115.321e	As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referral
115.321f	If the agency is not responsible for administrative or criminal investigating allegations of sexual abuse and relies on another agency to conduct these investigations, the agency has requested that the responsible agency follow the requirements of paragraphs §115.321 (a) through (e) of the standards
115.321g	The requirements of paragraphs a through f of this section also apply to: any state entity outside of the agency that is responsible for investigation allegations of sexual abuse in juvenile facilities; and any department of Justice component that is responsible for investigation allegations of sexual abuse in juvenile facilities N/A
115.321h	For the purposed of this standard, a qualified agency staff member or a qualified community-based staff member 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
	<b>115.321 Auditor comments and compliance assessment</b> <b>This standard was met at the facility level with the NYTC audit and is covered in the Facility Safety Standards</b>

Standard	115.322 Does not meet this standard
	<b>Policies to ensure referrals of allegations for investigations</b>
115.322a	Agency policy ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment
115.322b	The agency has a policy that requires that allegations of sexual abuse or sexual harassment be referred for investigation to an agency with the legal authority to conduct criminal investigations, including the agency if it conducts its own investigations, unless the allegation does not involve potentially criminal behavior <b>The agency’s policy regarding the referral of allegations of sexual abuse or sexual harassment for a criminal investigation is published on the agency website or made publicly19 and 20 available via other means.</b>
115.322c	If a separate entity is responsible for conducting criminal investigations, <b>such publication shall describe the responsibilities of both the agency and the investigating entity.</b>
115.322d	Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in juvenile facilities shall have in place a policy governing the conduct of such investigations
115.322e	Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in juvenile facilities shall have in place a policy governing the conduct of such investigations
	<b>115.322 Auditor comments and compliance assessment</b> During the corrective action period, DCFS created and implemented a PREA policy, DCFS/JJ and addressed the requirements of this standard on page 18—20; however, did not meet the requirement of 115.322b and c, by publishing this information on the agency website, and describing the duties of both the criminal investigation body and the agency. <b>DCFS is not compliant with 115.322 b and c</b>

**Standard 115.331 Meets this standard at the facility NYTC audit**

**Employee Training**

- 115.331a The agency shall train all employees who may have contact with residents on:  
**(1)** Its zero-tolerance policy for sexual abuse and sexual harassment;  
**(2)** How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;  
**(3)** Residents' right to be free from sexual abuse and sexual harassment;  
**(4)** The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;  
**(5)** The dynamics of sexual abuse and sexual harassment in juvenile facilities;  
**(6)** The common reactions of juvenile victims of sexual abuse and sexual harassment;  
**(7)** How to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between residents;  
**(8)** How to avoid inappropriate relationships with residents;  
**(9)** How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents;  
**(10)** How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities; and  
Relevant laws regarding the applicable age of consent.
- 115.331b Such training shall be tailored to the unique needs and attributes of residents of juvenile facilities and to the gender of the residents at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male residents to a facility that houses only female residents, or vice versa.
- 115.331c All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the agency shall provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies.
- 115.331d The agency shall document, through employee signature or electronic verification that employees understand the training they have received.

**115.331 Auditor comments**

**This standard was met at facility audit and is part of the PREA Safety Standards for facilities**

**Standard 115.332 This standard was met at the NYTC facility audit**

**Volunteer and contractor training**

- 115.332a The agency shall ensure that all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.
- 115.332b The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.
- 115.332c The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.

**115.332 Auditor comments, including corrective actions needed if needed**

**This standard was met at facility audit and is part of the PREA Safety Standards for facilities**

**Standard 115.333 Met this standard at NYTC facility audit**

- 115.333a During the intake process, residents shall receive information explaining, in an age appropriate fashion, the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.
- 115.333b Within 10 days of intake, the agency shall provide comprehensive age-appropriate education to residents either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

115.333c	Current residents who have not received such education shall be educated within one year of the effective date of the PREA standards, and shall receive education upon transfer to a different facility to the extent that the policies and procedures of the resident's new facility differ from those of the previous facility
115.333d	Resident PREA education is available in accessible formats for 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
115.333e	The agency shall maintain documentation of resident participation in these education sessions.
115.333f	In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.
<p><b>115.333 Auditor comments and compliance assessment</b>  <b>This standard was met at the facility level (NYTC facility audit) and in the PREA Safety Standards</b></p>	

<b>Standard</b>	<b>115.334 meets the standard at agency policy level after corrective action period</b>
	<b>Specialized training--investigators</b>
115.334a	Agency policy requires: In addition to the general training provided to all employees pursuant to § 115.331, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.
115.334b	Specialized training shall include techniques for interviewing juveniles' sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.
115.334c	
115.334d	The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.
	Any State entity or Department of Justice component that investigates sexual abuse in juvenile confinement settings shall provide such training to its agents and investigators who conduct such investigations.
	<p><b>115.334 Auditor comments and compliance assessment</b></p> <p>Documentation was reviewed that verified the training taken by investigators, given by your Department of Corrections Investigators and the PREA investigators training online-for administrative investigations in a juvenile confinement setting The PREA Compliance Managers at facility level and designated agency staff have completed the required trainings to conduct administrative investigations.</p> <p><b>During the corrective action period, DCFS created and implemented PREA policy DCFS/JJ that addressed all the requirements of this standard on page 12 and is compliant.</b></p>

Standard	115.335 Exceeds this standard at NYTC facility audit
<b>Specialized training: Medical and mental health care</b>	
115.335a	<p>The agency shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:</p> <ol style="list-style-type: none"> <li>(1) How to detect and assess signs of sexual abuse and sexual harassment;</li> <li>(2) How to preserve physical evidence of sexual abuse;</li> <li>(3) How to respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment; and</li> <li>(4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.</li> </ol>
115.335b	N/A staff do not conduct forensic exams
115.335c	The agency maintains documentation showing that medical and mental health practitioners have completed the required training
115.335d	<p>Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.331 or for contractors and volunteers under § 115.332, depending upon the practitioner’s status at the agency.</p>
<p><b>115.335 Auditor comments and compliance assessment</b>  <b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities</b></p>	
<p>The facility, NYTC, ensures that medical and mental health staff take NIC training “Your Role to Responding to Sexual Abuse”, PREA 101 and PREA policy training</p>	
<p>In addition: Medical staff take NIC training- Medical Health Care for Victims of Sexual Assault in confinement Settings; Mental Health Staff take NIC Course-<i>Behavioral Health for Sexual Abuse Victims of Sexual Assault</i>;</p>	
<p>The above courses either have tests or staff indicate by signature their understanding of the training. Review of policy and procedure, interviews with staff, training review, and training attendance and understanding documentation, were reviewed to determine that NYTC exceeds this standard by going above and beyond to ensure their medical and mental health staff are trained, understand their training, and practice is in compliance with standard requirements</p>	

Standard	115.341 Meets Standard at the facility level NYTC audit
<b>Screening for risk of victimization and abusiveness</b>	
115.341a	<p>The agency has a policy that requires screening (upon admission to a facility or transfer to another facility) for risk of sexual abuse victimization or sexual abusiveness toward other residents. Including:</p>
115.341b	<p>Within 72 hours of the resident’s arrival at the facility and periodically throughout a resident’s confinement, the agency shall obtain and use information about each resident’s personal history and behavior to reduce the risk of sexual abuse by or upon a resident  Such assessments will be conducted using an objective screening instrument</p>
115.341c	<p>At a minimum, the agency shall attempt to ascertain information about:</p> <ol style="list-style-type: none"> <li>(1) Prior sexual victimization or abusiveness;</li> <li>(2) Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse;</li> <li>(3) Current charges and offense history;</li> <li>(4) Age;</li> <li>(5) Level of emotional and cognitive development;</li> <li>(6) Physical size and stature;</li> <li>(7) Mental illness or mental disabilities;</li> <li>(8) Intellectual or developmental disabilities;</li> <li>(9) Physical disabilities;</li> <li>(10) The resident’s own perception of vulnerability; and</li> <li>(11) Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.</li> </ol>
115.341d	<p>This information shall be ascertained through conversations with the resident during the intake process and medical and mental health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the resident’s files.</p>

115.341e The agency shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents

**115.341 Auditor comments and compliance assessment**

**This standard was met at facility audit and is part of the PREA Safety Standards for facilities.**

**Standard**

**115.342 Meets Standard through the NYTC facility audit**

**Use of Screening Information**

- 115.242a The agency shall use all information obtained pursuant to § 115.341 and subsequently to make housing, bed, program, education, and work assignments for residents with the goal of keeping all residents safe and free from sexual abuse.
- 115.342b The facility has a policy that residents at risk of sexual victimization may *only* be placed in isolation as a last resort if less restrictive measures are inadequate to keep them and other residents safe, and *only* until an alternative means of keeping all residents safe can be arranged. The facility policy requires that residents at risk of sexual victimization who are placed in isolation have access to legally required educational programming, special education services, and daily large-muscle exercise.
- 115.342c Lesbian, gay, bisexual, transgender, or intersex residents shall not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status, nor shall agencies consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of likelihood of being sexually abusive.
- 115.342d In deciding whether to assign a transgender or intersex resident to a facility for male or female residents, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether the placement would present management or security problems.
- 115.342e Placement and programming assignments for each transgender or intersex resident shall be reassessed at least twice each year to review any threats to safety experienced by the resident.
- 115.342f A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.
- 115.342g Transgender and intersex residents shall be given the opportunity to shower separately from other residents.
- 115.342h If a resident is isolated pursuant to paragraph (b) of this section, the facility shall clearly document:  
**(1)** The basis for the facility's concern for the resident's safety; and  
**(2)** The reason why no alternative means of separation can be arranged.
- 115.342i Every 30 days, the facility shall afford each resident described in paragraph (h) of this section a review to determine whether there is a continuing need for separation from the general population

**115.342 Auditor comments and compliance assessment**

**This standard was met at the facility level in the NYTC audit. It is covered in the Facility PREA Safety Standards**

**Standard**

**115.351 Does not meet this standard**

**Resident Reporting**

- 115.351a The agency shall provide multiple internal ways for residents to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.
- 115.351b **The agency** shall also provide at least one way for residents to report abuse or 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. Residents detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security
- 115.351c Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports
- 115.351d The facility shall provide residents with access to tools necessary to make a written report.

115.351e

The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of residents

**115.351 Auditor comments and compliance assessment**

NYTC, at facility level, minimally met this standard by providing Grievance forms and lock boxes, mental health and medical personal as sources to report to, besides staff, and the Department of Human Services as an outside reporting source; however, because youth do not have access to phones to call out to parents and other outside reporting sources (parents have to call in only), the ability for youth to report outside the facility is severally limited. Even the call to DHS was limited because of the lack of access to phones for the youth.

During corrective action, DCFS created PREA Policy DCFS/JJ and on page 15 addressed the agency stand on reporting, including internal sources; however, there was no external source identified that would and could immediately forward resident reports of sexual abuse and sexual harassment to agency officials. The agencies identified are crisis hotlines that do not report back to the agency unless they have the resident’s permission, so do not meet the standard of an outside source.

**DCFS does not meet 115.351b**

**Standard**

**115.352 Meets Standard at facility level audit**

**Exhaustion of administrative remedies**

115.352a

An agency shall be exempt from this standard if it does not have administrative procedures to address resident grievances regarding sexual abuse.

115.352b

An agency allows a resident to submit a grievance regarding an allegation of sexual abuse at any time regardless of when the incident is alleged to have occurred

115.352c

- (1) A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and
- (2) Such grievance is not referred to a staff member who is the subject of the complaint.

115.352d

- (1) The agency 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.
- (2) Computation of the 90-day time period shall not include time consumed by residents in preparing any administrative appeal.
- (3) The agency 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. The agency shall notify the resident in writing of any such extension and provide a date by which a decision will be made.
- (4) 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.

115.352e

- (1) **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 shall also be permitted to file such requests on behalf of residents.**
- (2) **If a third party, other than a parent or legal guardian, files such a request on behalf of a resident, the facility 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.**
- (3) **If the resident declines to have the request processed on his or her behalf, the agency shall document the resident’s decision.**
- (4) **A parent or legal guardian of a juvenile shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile. Such a grievance shall not be conditioned upon the juvenile agreeing to have the request filed on his or her behalf**

115.352f

- (1) The agency shall establish procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse.
- (2) After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) 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 agency decision shall document the agency’s determination

115.352g	<p>whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.</p> <p>The agency may discipline a resident for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the resident filed the grievance in bad faith</p> <p><b>115.352 Auditor comments and compliance assessment</b>  <b>This standard was met at the facility level audit and is included in the Facility PREA Safety Standards</b></p>
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<b>Standard</b>	<p><b>115.353 Meets the Standard at the facility level</b>  <b>Resident access to outside confidential support services</b></p>
115.353a	<p>The facility shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse, by providing, posting, or otherwise making accessible mailing addresses and telephones, including toll free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible.</p>
115.353b	<p>The facility informs residents, prior to giving them access to outside support services, the extent to which such communications will be monitored.</p> <p>The facility informs residents, prior to giving them access to outside support services, of the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply to disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant Federal, State, or local law</p>
15.353c	<p>The agency shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.</p>
115.353d	<p>The facility shall also provide residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians</p> <p><b>115.353 Auditor comments and compliance assessment</b>  <b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities</b></p>

<b>Standard</b>	<p><b>115.354 Meets this standard</b></p>
115.354a	<p>The agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of a resident.</p> <p><b>115.354 Auditor comments and compliance assessment</b></p> <p>The agency provides a PREA reporting form on its website and it is in the parent handbook and in the PREA Safety Standards published on the agency website.</p>

<b>Standard</b>	<p><b>115.361 Meets this standard after the corrective action period</b>  <b>Staff and agency reporting duties</b></p>
115.361a	<p>The agency shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation</p>
115.361b	<p>The agency requires all staff to comply with any applicable mandatory child abuse reporting laws</p>

115.361c	Apart from reporting to designated supervisors or officials and designated State or local services agencies, staff shall be prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions
115.361d	<ol style="list-style-type: none"> <li>1. Medical and mental health practitioners shall be required to report sexual abuse to designated supervisors and officials pursuant to paragraph (a) of this section, as well as to the designated State or local services agency where required by mandatory reporting laws.</li> <li>2. Such practitioners shall be required to inform residents at the initiation of services of their duty to report and the limitations of confidentiality.</li> </ol>
115.361e	<ol style="list-style-type: none"> <li>1. Upon receiving any allegation of sexual abuse, the facility head or his or her designee shall promptly report the allegation to the appropriate agency office and to the alleged victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.</li> <li>2. If the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians.</li> <li>3. If a juvenile court retains jurisdiction over the alleged victim, the facility head or designee shall also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation.</li> </ol>
115.361f	The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators.
<p><b>115.361 Auditor comments and compliance assessment</b></p> <p>The Division of Child and Family Services has policy around reporting child abuse; however, the agency does not have a policy that requires all aspects of this standard for facilities. Through policy and procedure review, interviews of specialized and random staff, NYTC facility exceeded this standard in policy/procedure, training, staff understanding, and practice. The facilities have the PREA Safety Standards.</p> <p><b>During the corrective action period, DCFS created and implemented an agency policy, PREA Policy DCFS/JJ-page 15 and 16, that meets the requirements of this reporting standard.</b></p>	

<b>Standard</b>	<b>115.362 Meets Standard in facility level audit</b> <b>Agency protection duties</b>
115.362a	When an agency learns that a resident is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the resident.
	<b>115.362 Auditor comments, including corrective actions needed if does not meet standard</b> <b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities</b>

<b>Standard</b>	<b>115.363 Meets Standard in facility level audit</b> <b>Reporting to other confinement facilities</b>
115.363a	Upon receiving an allegation that a resident was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred and shall also notify the appropriate investigative agency.
115.363b	Agency policy requires that the facility head provides such notification as soon as possible, but no later than 72 hours after receiving the allegation



115.363c	The agency or facility documents that it has provided such notification within 72 hours of receiving the allegation
115.363d	The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.
<p><b>115.363 Auditor comments and compliance assessment</b>  <b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities</b></p>	

<b>Standard</b>	<b>115.364 Meets Standard at facility level (NYTC audit)</b> <b>Staff first responder duties</b>
115.364a	<p>Upon learning of an allegation that a resident was sexually abused, the first staff member to respond to the report shall be required to:</p> <ul style="list-style-type: none"> <li>(1) Separate the alleged victim and abuser;</li> <li>(2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;</li> <li>(3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating;</li> </ul> <p>If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating</p>
115.364b	If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff
<p><b>115.364 Auditor comments and compliance assessment</b>  <b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities</b></p>	

<b>Standard</b>	<b>115.365 Meets Standard at facility level audit (NYTC)</b> <b>Coordinated response</b>
115.365a	The facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership
<p><b>115.365 Auditor comments and compliance assessment</b>  <b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities.</b></p>	

<b>Standard</b>	<b>115.366 N/A</b> <b>Preservation of ability to protect residents from contact with abusers</b>
<b>115.366a</b> <b>NA</b>	Neither the agency nor any other governmental entity responsible for collective bargaining on the agency's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted
<b>115.366b</b> <b>N/A</b>	<p>Nothing in this standard shall restrict entering into or renewal of agreements that govern:</p> <ul style="list-style-type: none"> <li>1. The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §§ 115.372 and 115.376; or</li> <li>2. Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated</li> </ul>
<p><b>115.366 Auditor comments, including corrective actions needed if does not meet standard</b>  <b>N/A Nevada is a right to work state and does not have a union</b></p>	

<b>Standard</b>	<b>115.367 Meets Standard at facility level (NYTC audit)</b> <b>Agency protection against retaliation</b>
115.367a	The agency shall establish a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff and shall designate which staff members or departments are charged with monitoring retaliation.
115.367b	The agency shall employ multiple protection measures, such as housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment of form cooperating with investigations
115.367c	For at least 90 days following a report of sexual abuse, the agency shall monitor the conduct or treatment of residents or staff who reported to have suffered sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. Items the agency shall monitor include any resident disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.
115.367d	In the case of residents, such monitoring shall also include periodic status checks.
115.367e	If any other individual who cooperates with an investigation expresses fear of retaliation, the agency shall take appropriate measures to protect the individual against retaliation
115.367f	An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded
	<b>115.367 Auditor comments and compliance assessment</b> <b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities</b>

<b>Standard</b>	<b>115.368 Meets Standard at facility level audit (NYTC audit)</b> <b>Post Allegation protective custody</b>
115.368a	Any use of segregated housing to protect a resident who is alleged to have suffered sexual abuse shall be subject to the requirements of § 115.342
	<b>115.368 Auditor comments, including corrective actions needed</b> <b>This standard was met in the facility audit and is part of the PREA Safety Standards for facilities</b>

<b>Standard</b>	<b>115.371 Meets this standard</b> <b>Criminal and administrative agency investigations</b>
115.371a	UPLOAD POLICY RELATED TO CRIMINAL AND ADMINSTRATIVE AGENCY INVESTIGATIONS When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.
115.371b	When sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations involving juvenile victims
115.371c	Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator
115.371d	The agency shall not terminate an investigation solely because the source of the allegation recants the allegation.
115.371f	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.
115.371g	Administrative investigations: <ol style="list-style-type: none"> <li>1. Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and</li> </ol>

115.371h	2. 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.
115.371i	Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible
115.371j	Substantiated allegations of conduct that appear to be criminal are referred for prosecution
115.371k	The agency shall retain all written reports referenced in paragraphs (g) and (h) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention
115.371l	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.
115.371m	Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.
	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
	<b>115.371 Auditor comments and compliance assessment</b>
	I conducted interviews with administrative staff and agency PREA Coordinator, also reviewed facility PREA Safety Standards. While this standard is covered in the facility Safety Standards, there is no Nevada Division of Child and Families Services, Juvenile Justice Services policy that covers requirements for criminal and administrative investigations.
	<b>During the corrective action period, DCFS created and implemented PREA Policy DCFS/JJ and on page 16-24 and page 25 addressed all the requirements of this standard regarding criminal and administrative investigations.</b>

<b>Standard</b>	<b>115.372 Met this at the facility level audit</b> <b>Evidentiary standard for administrative investigations</b>
115.372a	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.
	<b>115.372 Auditor comments and compliance assessment</b> <b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities</b>
<b>Standard</b>	<b>115.373 Met at the facility level audit</b> <b>Reporting to Residents</b>
115.373a	The agency has a policy requiring that any resident who makes an allegation that he or she suffered sexual abuse in an agency facility is informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation by the agency.
115.373b	If an outside entity conducts such investigations, the agency requests the relevant information from the investigative entity in order to inform the resident of the outcome of the investigation
115.373c	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: ) The staff member is no longer posted within the resident's unit; ) The staff member is no longer employed at the facility; ) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility
115.373d	Following a resident's allegation that he or she has been sexually abused by another resident, the agency shall subsequently inform the alleged victim whenever: (1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or (2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. All such notifications or attempted notifications shall be documented

115.373e An agency's obligation to report under this standard shall terminate if the resident is released from the agency's custody

**115.373 Auditor comments and compliance assessment**  
**This standard was met at facility audit and is part of the PREA Safety Standards for facilities**

**Standard 115.376 Met this at the facility level**  
**Disciplinary sanctions for staff**

- 115.376a Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.
- 115.376b Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
- 115.376c Disciplinary sanctions for violations of agency 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.
- 115.376d All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies

**115.376 Auditor comments and compliance assessment**  
**This standard was met through the agency audit (NYTC) and is part of the PREA Safety Standards for facilities**

**Standard 115.377 Met the standard at the facility level audit**

- 115.377a Agency policy requires that any contractor or volunteer who engages in sexual abuse be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
- 115.377b Agency policy required that 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 agency sexual abuse or sexual harassment policies by a contractor or volunteer.

**Auditor comments, including corrective actions needed if does not meet standard**  
**This standard was met at facility audit and is part of the PREA Safety Standards for facilities**

**Standard 115.378 Met this standard at the facility audit**  
**Disciplinary sanctions for residents/youth**

- 115.378a Agency policy on resident disciplinary sanctions: A resident may be subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident- on-resident sexual abuse or following a criminal finding of guilt for resident- on-resident sexual abuse  
In the event a disciplinary sanction for resident-on resident sexual abuse results in the isolation of a resident, the facility policy requires that residents in isolation have daily access to large muscle exercise, legally required educational programming, and special education services
- 115.378b In the event a disciplinary sanction for resident-on resident sexual abuse results in the isolation of a resident, residents in isolation have access to other programs and work opportunities to the extent possible
- 115.378c 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
- 115.378d If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to offer the offending resident participation in such interventions. The agency may require participation in such interventions as a condition of access to any rewards- based behavior management system or other behavior-based incentives, but not as a condition to access to general programming or education.

115.378e	The agency may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact
115.378f	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.
115.378g	An agency may, in its discretion, prohibit all sexual activity between residents and may discipline residents for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.
<p><b>115.378 Auditor comments, including corrective actions needed</b>  <b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities</b></p>	

<b>Standard</b>	<p><b>115.381 Met this standard at the facility level</b>  <b>Medical and mental health screenings; history of sexual abuse</b></p>
115.381a	If the screening pursuant to § 115.341 indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening
115.381b	All residents who have previously perpetrated sexual abuse, as indicated during the screening pursuant to § 115.341, are offered a follow-up meeting with a mental health practitioner If YES, the follow-up meeting was offered within 14 days of the intake screening Mental health staff maintain secondary materials (e.g., form, log) documenting compliance with the above required
115.381c	Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law
115.381d	Medical and mental health practitioners obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18.
<p><b>115.381 Auditor comments, including corrective actions needed</b>  <b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities</b></p>	

<b>Standard</b>	<p><b>115.382 Met this standard at the facility audit</b>  <b>Access to emergency medical and mental health services</b></p>
115.382a	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
115.382b	If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim pursuant to § 115.362 and shall immediately notify the appropriate medical and mental health practitioners.
115.382c	Resident victims of sexual abuse while incarcerated 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
115.382d	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.
<p><b>115.382 Auditor comments and compliance assessment</b>  <b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities</b></p>	

Standard	<b>115.383 Met standard in the facility audit</b> <b>Ongoing medical and mental health care for sexual abuse victims and abusers</b>
115.383a	The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
115.383b	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
115.383c	The facility shall provide such victims with medical and mental health services consistent with the community level of care
115.383d N/A	Resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests
115.383e N/A	If pregnancy results from conduct specified in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services
115.383f	Resident victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate
115.383g	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
115.383h	The facility shall attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners
<b>115.383 Auditor comments, including corrective actions needed if does not meet standard</b>	
<b>This standard was met at facility audit and is part of the PREA Safety Standards for facilities</b>	

Standard	<b>115.386 Meet Standard at facility audit (NYTC audit)</b>
115.386a	The facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded
115.386b	The review team shall include upper- level management officials, with input from line supervisors, investigators, and medical or mental health practitioners
115.386c	The facility prepares a report of its findings from sexual abuse incident reviews, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submits such report to the facility head and PREA compliance manager
115.386d	(d) the review team shall: (1) consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse (2) consider whether the incident or allegation was motivate by race, ethnicity; gender identity; LGBTQI status or perceived status; or gang affiliations; or was motivated or otherwise caused by other group dynamics at the facility; (3) examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (4) assess the adequacy of staffing levels in that area during the different shifts; (5) assess whether monitoring technology should be deployed or augmented to supplement supervision by the staff and (6) prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so.
<b>115.386 Auditor comments and compliance assessment</b>	
<b>This standard was met at the facility level and through the Facility PREA Safety Standards</b>	

**Standard**

**115.387 Does not meet standard**

**Data Collection**

115.387a

**UPLOAD POLICY ON SEXUAL ABUSE DATA COLLECTION**

*The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.*

*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.*

115.387b

The agency shall aggregate the incident-based sexual abuse data at least annually.

115.387c

The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

115.387d

*The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents.*

115.387e

*The data from private facilities complies with SSV reporting re: content.*

115.387f

Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30

**115.387 Auditor comments and compliance assessment**

Nevada Juvenile Justice Services collects sexual abuse and sexual harassment data from each of its youth facilities to aggregate for the Department of Justice SSV report. This is done by the PREA Compliance Managers, in facilities, and the agency PREA Coordinator and submitted to the DOJ once a year. This is represented by interviews with the PREA Coordinator, DOJ website and report, and review of SSV forms and report.

They do not collect incident based and aggregated data from every private facility for which it contracts with for confinement of juvenile justice residents

During the corrective action period, DCFS created and implemented a PREA Policy DCFS/JJ. On page 23 and 24 it lists the data collection part of the policy; however, it does not have a policy for collecting data from the residential facilities that it contracts with to house residents of the juvenile justice system. Also, in the annual report, it only collected data from one of the two operational facilities, at that time. The standards require collection of data from all the facilities under the direct control of DCFS and from the private facilities that it contracts with for residential care. DCFS is not compliant with 115.387 a, d and e.

This standard requires the contracting agency to collect that data. This can be done by requiring the contracting agencies to share the SSV report made to the Department of Justice, or to require the contracted agencies to report the required data to Nevada Juvenile Justice Services as it is reported or occurs--often this is the best method as the agency is kept up to date on any reports of sexual abuse or sexual harassment on youth in their custody/jurisdiction.

Also, requiring a completed copy of the contracted agency's PREA audit, that shows compliance with this standard would give you the required information

**DCFS is not compliant with 115.387 a, d, and e of this standard.**

**Standard 115.388 Does Not Meet Standard**  
**Data Review for Corrective Action**

The agency shall review data collected and aggregated pursuant to § 115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

- 115.388a ) Identifying problem areas;
- ) Taking corrective action on an ongoing basis; and
- ) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole

115.388b The annual report includes a comparison of the current year's data and corrective actions with those from prior years.

115.388c *The agency makes its annual report readily available to the public at least annually through its website*

115.388d The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted

**115.388 Auditor comments and compliance assessment**

This auditor looked on the agency website, interviewed management employees and the agency PREA coordinator and the required annual report, although sent to the Department of Justice in the form of SSV reports, was not published on the agency website, or other standards of review and assessment completed that are required by this standard

During the corrective action period, DCFS created and implemented a PREA Policy, DCFS/JJ and on page 22 and 23 outlines the policy and actions this standard requires; however, the report is incomplete with only one facility's information, and has no information on residential contracted facilities. This report is not published to the agency's website as required by the standards.

The report does take the information it collected and uses it to develop a plan to assess and improve the effectiveness of its sexual abuse prevention, detection and response policies, practices, and training.

**DCFS is not compliant with standard 115.388 a and c.**

**Standard 115.389 Does not meet standard**  
**Data storage, publication, and destruction**

115.389a The agency shall ensure that data collected pursuant to § 115.387 are securely retained

115.389b *Agency policy requires that aggregated sexual abuse data from facilities under its direct control and private facilities with which it contracts be made readily available to the public, at least annually, through its website*

115.389c Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers  
The agency shall maintain sexual abuse data collected pursuant to § 115.387 for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise

**Auditor comments and compliance determination**

DCFS, from interview of management, PREA Coordinator, staff, and review of documents and website, ensures that the data they collect is securely retained and only those that need to know have access to it; however, this information is not made readily available to the public on their website.



Although section 115.389c seems to be in compliance, in the working of this agency to keep information and identifiers private, until this report is published and this part of the standard is met, it cannot be marked compliant.

During the corrective action period, DCFS created and implemented a PREA Policy, DCFS/JJ, and on page 22 meets the agency policy for the requirements of this standard; however, the aggregated data is not on the agency's website.

**DCFS is not compliant with 115.389b.**

**AUDITOR CERTIFICATION:**

The auditor certifies that the contents of the report are accurate to the best of his/her knowledge and no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review.

Macilla (Kila) Jager

*Macilla a Jager*

August 13, 2016

Auditor Signature

Date