

## IPREA STANDARDS – PRISONS & JAILS

### § 115.5 General definitions.

For purposes of this part, the term—

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

**Agency head** means the principal official of an agency.

**Contractor** means a person who provides services pursuant to a contractual agreement with the agency.

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

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

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

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

**Facility head** means the principal official of a facility.

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

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

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

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

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

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

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

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

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

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

**Staff** means employees.

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

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

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

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

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

**Volunteer** means an individual who donates time and effort to enhance the activities and programs of the agency.

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

## **§ 115.6 Definitions related to sexual abuse.**

For purposes of this part, the term—

### **Sexual abuse includes—**

- (1) Sexual abuse of an inmate by another inmate; and
- (2) Sexual abuse of an inmate by a staff member, contractor, or volunteer.

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

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

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

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

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

(6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;

(7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, and

(8) Voyeurism by a staff member, contractor, or volunteer.

**Voyeurism by a staff member**, contractor, or volunteer means an invasion of privacy of an inmate by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

**Sexual harassment includes—**

(1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate directed toward another; and

(2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.