Alternatives, Inc.

Policy and Procedural Statement

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| SOP: A22  | Subject: Prison Rape Elimination Act of 2003 |
| Section: Administration, General  | Page 1 of 11 |
| Reference Standards: DOC Policy 1.3.14 Prison Rape Elimination Act of 2007 | Revision Date: May 15, 2019 |
| Signature: “David O. Armstrong” | Effective Date: May 22, 2019 |

**I. Policy:** It is the policy of Alternatives Inc. to have zero tolerance relating to the sexual abuse or sexual harassment of offenders under their supervision. Alternatives Inc. recognizes these offenders as victims of a crime and will immediately respond to allegations, investigate reported incidents, pursue disciplinary action, and refer for investigation and prosecution those staff and offenders who perpetrate such conduct.

**II. Related State and Federal Policies and Procedures:**

Federal Bureau of Statement of Work, 2007, Chapter 22

DOC Policy 1.1.1700 Prison Rape Elimination Act of 2003 (PREA)

PPD 1.1.600 Priority Incident Reporting

Prison Rape Elimination Act of 2003 (PREA)

**III. Definitions:**

Alternatives Inc.: Refers to the facility grounds and any location under the supervision of Alternatives Inc. staff, which would include Alpha House, Passages, Beta Jail Alternatives in Yellowstone, Carbon, Stillwater Counties and Misdemeanor Probation.

Employee or Staff: For the purpose of this policy, the terms include paid employees, contracted persons, volunteers and interns who are paid or donate time or services to Alternatives Inc., and individual service providers, e.g. delivery, maintenance, vendors or other service providers who may not be contracted to the Agency.

MSP Command Post: The location at Montana State Prison to which all Priority I incidents are reported.

Offender: Any individual in the custody of Alternatives Inc. as noted above.

PREA: Prison Rape Elimination Act of 2003, was enacted by Congress to address the problem of sexual abuse of persons in the custody of U.S. correctional agencies.

Special Needs Offender: Offenders who may require accommodations, arrangements, or programming different from the general population offender. Special needs offenders may include, but are not limited to, developmentally disabled, mentally ill, physically handicapped, chronically ill, chemical dependent, and others considered vulnerable or predatory who may require special protection or management.

Facility Contract Manager: The Department of Corrections employee who acts as the liaison for services and monitors the contractual agreement between the Department and Alternatives, Inc.

**IV: Procedures:**

1. **Sexual Contact Between Staff/Offenders: Offenders under the supervision of Alternatives, Inc. cannot give consent to any sexual acts with staff, vendors, volunteers, or visitors. Sexual Contact between offenders that is consensual is not a violation of PREA but is a Disciplinary Rule violation per DOC and Alternatives, Inc. policies. Sexual abuse and sexual harassment per PREA:**

Alternatives Inc. defines sexual abuse and sexual harassment as follows:

* + - 1. Sexual Abuse occurs when an offender or group of offenders, through use of threats, intimidation, force, or other actions and/or communications causes an offender to submit to a sexual act
				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.
			2. Sexual abuse of an offender by a staff member, contractor, or volunteer include any of the following acts, with or without consent of the offender:
				1. Contact between the penis and the vulva or the penis and the anus involving penetration,however slight;
				2. Contact between the mouth and the penis, vulva, or anus; and
				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 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 the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
				6. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an offender, and
				7. Voyeurism by a staff member, contractor, or volunteer.Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an offender by staff for reasons unrelated to official duties, such as peering at an inmate who is using the toilet in his or her cell to perform bodily functions; requiring an offender to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an offenders naked body or of an offender performing bodily functions.
			3. Abusive sexual contact does not include kicking, grabbing, or punching genitals when the intent is to harm rather than sexually exploit.
			4. 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 as staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
1. **Staff Responsibilities**
2. The PREA Coordinator is responsible for developing, implementing and overseeing efforts to comply with the PREA standards in all Alternatives facilities.
3. Coordinate and develop procedures to identify, monitor, and track sexual abuse incidents occurring in the facility and programs.
4. Conduct audits of incidents and policy to ensure compliance with Agency policy and the Prison Rape Elimination Act of 2003.
5. Ensure compliance with training requirements.
6. Ensure compliance with reporting procedures set for by the Bureau of Justice in the Prison Rape Elimination Act of 2003.
7. Assist in assuring PREA policies are adhered to by attending investigation interviews.
8. Advise staff on PREA policies and when it is necessary to solicit an investigation by the police department.
	* 1. The Chief Operating Officer and the Director at Alpha House are designated as the PREA Compliance Managers and are responsible for oversight of all Prison Rape Elimination Act (PREA) related activities at each facility. The COO/Director will coordinate facility/program PREA related activities as follows:
9. Develop and document a staffing plan that provides for adequate levels of staffing and video monitoring to protect residents against sexual abuse.
10. Receive reports of allegations of sexual abuse that allegedly occurred at Passages or Alpha reported to other facilities. Make sure they are investigated according to policy.

3. The Passages Assistant Director/Contract Assurance Coordinator and the PREA Coordinator are the designated PREA investigator for all Alternatives, Inc. facilities and will investigate alleged incidents of sexual abuse and sexual harassment in cooperation with local law enforcement and report to the Department of Corrections, Bureau of Prisons as needed and as delineated in SOP A29 PREA Investigator Description and Duties.

1. **Offender Orientation and Education**
2. During orientation and within seven days of arrival, all offenders will receive information about sexual abuse and sexual harassment regardless of their supervision level, status, disciplinary, or administrative status. Designated staff shall communicate the information verbally and in writing, in a manner that is clearly understood by offenders, including those with limited English proficiency, deaf, visually impaired or otherwise disabled as well as residents who have limited reading abilities. Offenders will be given the opportunity to review appropriate policies and/or procedures for grievances and PREA and ask questions, receive answers. Information provided will include, but is not limited to:
* Presentation of this policy
* Resident Grievance procedure
* Agency zero tolerance policy
* The right to be free from sexual abuse and sexual harassment
* Self protection methods
* Prevention and intervention
* Treatment and counseling
* Reporting incidents
* Protection against retaliation
* Agency policies and procedures for responding to incidents
* PREA Coordinator Resident Reporting Business Card
* Access to interpreter(s) for limited English speaking residents (Use of specific staff or Language Line Services)
* Consequences of false allegations
	+ 1. Staff will document verification of offender orientation and education on PREA by completing the Offender PREA acknowledgment form (P483 / A520) and place in offender’s file.
		2. Additional training will be provided as needed at the discretion of the Agency Director.
1. **Offender Reporting**
	1. Reporting Incident
		* + 1. Offenders who are victims of or have knowledge of sexual abuse should immediately report the incident to any staff member; or
				2. Offenders may utilize the formal grievance procedure to report sexual abuse in accordance with the facility procedure found in the resident handbook; however, offenders are not required to use the formal grievance process to report allegations of sexual abuse. Staff receiving such grievances will process them as a high priority and will immediately notify the facility Director. The Director will then notify the Assistant Director/CAC or the PREA Coordinator to begin the necessary investigative process.
				3. Offenders who submit a report alleging sexual abuse by a staff member should not submit the report to the staff member who is the subject of the complaint. Said staff member will have no involvement in the investigation of the claim against him/her.
				4. Offenders may call the Great Falls Transition Center at 406-727-0944 24/7 or write 1019 15th St. North, Great Falls, MT 59401 to report sexual abuse or sexual harassment.
				5. Offenders may call the YWCA Billings Gateway at 406-245-4472 or write 909 Wyoming Avenue, Billings, MT 59101 for emotional support from a victim advocate 24/7 (confidential: advocate will not contact Alternatives, Inc., unless permission is given by the resident).
				6. Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates may assist residents in filing requests for administrative remedies relating to allegations of sexual abuse and may file requests on behalf of residents.
				7. Residents may report sexual abuse while confined at another facility. The Director at Alpha House or the COO at Passages must contact the head of the agency or facility where the alleged sexual abuse occurred no later than 72 hours after receiving the allegation.
2. Offenders are not required to file written reports; however, staff who receive verbal reports from offenders are required to file written incident reports as set forth in this policy. If a resident declines third party assistance in filling a grievance alleging sexual abuse, the agency will document the resident’s decision (ALT92).
3. Additional methods for reporting incidents may be developed at the Agency’s discretion.
4. All reports of sexual abuse and sexual harassment are to remain confidential to protect the victim from retaliation from both other residents and staff.
5. Substantiated deliberately malicious or false reports by offenders or other parties will result in disciplinary action or criminal charges.
6. **Prevention**
	* + 1. All staff and offenders must be alert to signs of potential situations in which sexual abuse and sexual harassment might occur and be capable of identifying the following indicators of sexual abuse and sexual harassment:
				1. Overly friendly behavior of staff and/or offenders;
				2. The exchange of money, favors, etc.
			2. Alternatives, Inc. will assess each offender within 72 hours of intake to identify and manage offenders with special needs, including those who are potentially vulnerable and potentially dangerous, to provide safe housing, adequate protection, and programmatic resources to meet their needs.
7. **Intervention**
	1. Staff who receive an initial report of sexual abuse must separate the victim from the alleged assailant to protect the victim and prevent further violence.
	2. Staff who receive an initial report of sexual abuse are required to promptly intervene on the victim’s behalf to ensure the victim receives unimpeded access to medical and psychological assistance, as appropriate to his or her needs and the circumstances of the alleged offense. Victims of sexual abuse must have an assessment for potential risk of suicide.
	3. A PREA Investigator (Passages Assistant Director/Contract Assurance Coordinator or PREA Coordinator) or the In-Charge must initiate the Sexual Assault Response Checklist (ALT219) to ensure proper protocol is implemented.
	4. In the event an active sexual assault is occurring, staff is to immediately call for back up andwill follow appropriate security procedures, which include:
		* + 1. Separating the alleged victim from the alleged perpetrator;
				2. Do not allow the alleged victim or abuser to take any actions that could destroy any physical evidence. (washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating);
				3. Providing unimpeded access to medical and mental health assistance for the alleged victim.;
				4. Taking reasonable measures to identify, isolate, and separate witnesses;
				5. Securing the incident scene so items cannot be removed or introduced;
				6. Allowing only assigned investigators to assess the scene.
	5. Psychological trauma may occur individuals such as witness, staff members, as well as the victim of the sexual assault. Mental health staff must be made available to support and assist those in need, i.e. Staff LCPC, PAC Team, etc.
	6. Staff who receive a report of sexual abuse of an offender by a staff member shall take the report directly to the CEO or COO.
8. **Services Provided for Victims:**
	1. Staff will coordinate available services to offenders who allege that they are victims of sexual abuse**.**
	2. Facility administration will ensure that offenders who allege that they are victims of sexual abuse will have access to the following services:
		* + 1. Medical examination, documentation, and treatment of injuries, including testing for pregnancy, HIV and other sexually transmitted diseases. These services will be provided without financial cost to the alleged victim, regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident;
				2. Coordinate with qualified mental health professional for crisis intervention counseling and long term follow up; and
				3. Social, family, and peer support; and
				4. Reasonable measures taken to protect and prevent retaliation and future assaults through housing changes, emotional support services, and removal of alleged abusers from contact with victim(s).
9. **Examination of Sexual Abuse Victims**
	* + 1. If the alleged sexual abuse is reported within 120 hours of the incident, staff will transport the victim to Billings Clinic where a sexual assault nurse examiner (SANE) is on call 24 hours a day to treat sexual assault/rape victims and collect evidence as soon as possible. If requested by the victim, a victim advocate or qualified staff member may accompany and support the victim through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information, and referrals.
			2. If the alleged sexual abuse is reported more than 120 hours after the incident the offender will be referred to “in house” health care providers who will:
				1. Complete a patient history and conduct an examination to document the extent of physical injury to determine whether referral to another medical facility is indicated;
				2. Offer to victims, as appropriate, prophylactic treatment and follow up care for sexually transmitted or other communicable diseases (e.g. HIV, hepatitis B). If pregnancy results, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services.
				3. Submit a report to the Director regarding interactions with the patient, treatment given, and medical recommendations.
				4. The Director and/or law enforcement may request that facility and program staff transport the victim to Billings Clinic for evidence collection with the victim’s permission.
				5. If the victim refuses medical or mental health attention, staff will document the refusal on the Medical Treatment Refusal Form (ALT48).
10. **Staff Reporting**
	1. Agency staff, contract employees, and volunteers who receive information, regardless of its source, concerning offender on offender sexual abuse, who observe an incident of offender on offender sexual abuse or staff on offender sexual abuse, must immediately report the information or incident directly to a PREA Investigator or to the CEO who will notify local law enforcement.
	2. Report immediately any staff neglect or violation of responsibilities that may have contributed to the incident or retaliation.
	3. The Department of Corrections considers a PREA violation a priority one incident and must be reported verbally to the MSP Command Post at (406) 846-6059 and the Contract Manager immediately. If a Contract Manager cannot be reached, continue calling up the chain-of-command as follows until a person is reached:
* Contract Program Manager: Office 406-444-4902,
* Programs and Facilities Bureau Chief: Office 406-444-1538, Cell 406-531-2635
* Deputy Compact Administrator: Office 406-444-4916, Cell 406-437-2668
* PPD Administrator: Office 406-444-9610

If either the alleged victim or abuser is a Federal inmate contact the Salt Lake Office and the Duty Officer.

* 1. Initial written reports for Priority One incidents will be faxed to the MSP Command Post at 406-846-2953, the DOC Investigations Bureau at 406-846-2951 and to the Contract Program Manager at 406-444-7909 within one (1) hour of verbally reporting the incident to the MSP Command Post.
	2. In addition to the above reporting requirements, staff, contract employees, and volunteers who know or have reasonable cause to suspect that a youth offender, has been abused or neglected, must immediately report the matter to the Director, and to the Department of Public Health and Human Services as required by MCA 41-3-201. Staff, contract employees, and volunteers who know or have reasonable cause to suspect that an older person or a person with a developmental disability has been subjected to abuse, sexual abuse, neglect, or exploitation, must immediately report the matter to the Director, and to the Department of Public Health and Human Services as required by MCA 52-3-811.
	3. Any employee or volunteer who fails to report an allegation, or coerces or threatens another person to submit inaccurate, incomplete, or untruthful information with the intent to alter a report, may face disciplinary action, up to and including termination, even on a first offense.
	4. Staff will complete incident reports of all incidents, including written witness statements.
	5. Reports of incidents that occurred in another facility shall be forwarded to the Director who, in conjunction with the CEO, shall immediately notify the head of the facility where the alleged abuse occurred and/or the proper jurisdictional agency of that offender in accordance with that agency’s reporting protocols requirements. (The Federal Bureau of Prisons and/or the Department of Corrections.) Document that the facility was notified within 72 hours of receiving the allegation.
	6. All reports, and any subsequent reports, will be faxed to MSP Command Post and the appropriate CEO or Contract Manager.
1. **Investigative Protocols of Sexual Abuse**
	1. The Assistant Director/Contract Assurance Coordinator and PREA Coordinator as PREA Investigators will conduct an initial investigation; and
	2. Will submit an incident report regarding the investigation to the Director or designee. The agency imposes a standard of a preponderance of evidence for determining whether allegations of sexual abuse or sexual harassment are substantiated. Preponderance of the evidence means that more than 50% of the evidence supports the allegation.
	3. If there is a question as to whether an incident deemed inappropriate is covered under PREA, the Contract Manager will be contacted immediately for direction.
	4. The PREA Investigator will ensure compliance with the Sexual Assault Response Checklist (ALT219). The completed checklist will be faxed to the MSP Command Post at (406) 846-2953.
	5. The departure of the alleged abuser or victim from employment or control of the agency does not provide a basis for terminating an investigation.
	6. Alternatives, Inc. prohibits requiring residents who allege sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with an investigation.
2. **Documentation**
	1. All staff who witness or have knowledge of alleged sexual abuse must submit an incident report before the end of their shift. This includes staff that secured the incident scene, transported offenders, or talked to possible witnesses. Written witness statements must be included in this report.
	2. The Director will ensure that employees and volunteers will report incidents and complete reports in accordance with ACCD 1.1.600 RD Priority Incident Reporting.
	3. At the completion of an investigation (within 90 days), the PREA Investigator will notify the Agency CEO and victim of the outcome in writing. Victim notification, or attempted notification, must be documented on the Sexual Assault Response Checklist (ALT219).
	4. If a decision has not been reached within 90 days, a 70 day extension may be granted. The resident will be notified in writing of the extension and by which date a decision will be made.
	5. The agency will conduct Sexual Abuse Incident Reviews at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The incident review team consisting of upper level management, will meet within 30 days of the incident to identify policy, training, or other issues that indicate a need to change agency standards to better protect, detect, or respond to incidents of sexual abuse and document its finding on the Sexual Abuse Incident Review form (ALT71). The review process allows for input from supervisors, investigators, and medical or mental health practitioners. A report of the findings along with recommendations for improvement will be forwarded to the CEO and PREA Coordinator. The agency will make such improvements or document the reasons for not doing so on Annual Report.
	6. Critical Incident Stress Debriefing (SOP H47) for staff and/or resident’s involved will be scheduled as necessary and follow protocols outlined in SOP H47.
3. **Staff Training**
4. All Agency staff, contract employees, and volunteers with direct and/or incidental contact with offenders will receive documented PREA training during orientation and sign a PREA Statement of Understanding (ALT86). Mandatory annual training sessions are required, and annually thereafter.
5. Training will include, but is not limited to:
	* + - 1. Review of this policy, the Prison Rape Elimination Act of 2003, Alternatives, Inc. Fraternization Policy, and any other applicable state or federal laws.
				2. Prevention, detection, reporting and response policies and procedures
				3. Zero tolerance policy for sexual abuse and sexual harassment;
				4. Recognition of sexual abuse, predatory offenders, potential victims, and/or staff involvement;
				5. Facility procedures on sharing confidential information;
				6. Reporting procedures;
				7. The staff’s right to be free from retaliation.
6. The Agency will provide specialized training for staff that respond to and/or investigate allegations of sexual abuse. Training will include crime scene management/investigation, victim sensitivity, and crisis intervention.
7. Language Line Personal Interpreter Services:
	1. Alternatives Inc. has a standing account with Language Line Personal Interpreter services for use with residents who are limited English proficient.
	2. Language Line provides access to over 200 languages and is available 24/7/365.
	3. To Access Language Line:
		1. Dial 1-888-808-9008
		2. Enter PIN Number: 99199760 at the prompt
		3. Clearly state the name of the language you need (for example Italian)
		4. You will be asked if you need Language Line to dial a third-party number for you. Say NO. You will be connected to a professional interpreter.
		5. Explain to the interpreter the circumstances of the need and that the interviewee may be nervous, agitated, emotional, hostile or quiet or noncommunicative. Have the interpreter assure the resident that they are safe, medical, mental health and victim services are available and law enforcement have been notified (or already on-site).
8. **Data Collection/Tracking of Sexual Assaults**
9. The PREA Coordinator will complete the Survey of Sexual Victimization for each reported substantiated incident of sexual abuse and sexual harassment.
10. The PREA Coordinator will compile records and report statistical datato the State PREA Coordinator who will report to the Federal Bureau of Justice as required by the Prison Rape Elimination Act of 2003 annually. The agency will maintain this data for at least 10 years after the initial collection, unless Federal, State, or local law requires otherwise.
11. The PREA Coordinator will securely retain records including incident and investigative reports, offender information, case disposition, medical and counseling findings, and recommendations for post release treatment and/or counseling. These records shall be retained for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.
12. The PREA Coordinator will review aggregated data and identify problem areas, take corrective action, compare the current year data with prior year data, and prepare an annual report of its findings for the Chief Executive Officer to review annually.
13. The annual report includes a comparison of the current year’s data and corrective actions with those from prior years and provides an assessment of the facilities progress in addressing sexual abuse. The annual report will be made public by being placed on the agency website with all personal identifiers removed.
	1. **V. CLOSING**

Questions concerning this policy should be directed to the Facilities Director or the Chief Executive Officer.