

WORKING ALTERNATIVES, INC.

EFFECTIVE AS OF: January 16, 2016

REVISED AS OF: December 13, 2019 by Grant Weiss, COO

WORKING ALTERNATIVES, INC., PRISON RAPE ELIMINATION ACT POLICY

From: Barry Rubin Executive Director, Working Alternatives, Inc.

To: All residents, staff, contractors, and volunteers

Subj: PRISON RAPE ELIMINATION ACT POLICY FOR ALL WORKING ALTERNATIVES, INC., FACILITIES

- Ref:
- (a) Prison Rape Elimination Act (2003)
 - (b) U.S. Department of Justice Sexually Abusive Behavior Prevention and Intervention Program
 - (c) U.S. Department of Justice Prison Rape Elimination Act Community Confinement Standards
 - (d) U.S. Bureau of Prisons Working Alternatives, Inc. Statement of Work
 - (e) 28 CFR Part 115, National Standards to Prevent, Detect, and Respond to Prison Rape; Final Rule, dated June 20, 2012, located at <http://www.gpo.gov/fdsys/pkg/FR-2012-06-20/pdf/2012-12427.pdf>
 - (f) Working Alternatives, Inc. Employee Handbook
 - (g) Garden Grove Residential Re-Entry Center Operations Manual
 - (h) Brawley Residential Re-Entry Center Operations Manual

- Encls:
- (1) Zero Tolerance Policy
 - (2) Visitor Log and Zero Tolerance Advisement and Acknowledgement
 - (3) Quarterly PREA Physical Security and Administrative Assessment
 - (4) Weekly Staff/Resident PREA Integrity Walk-Through
 - (5) Staff Hiring and Promotion Package
 - (6) Resident Welcome Package Zero Tolerance and PREA Information and PREA Acknowledgement
 - (7) PREA Risk Screen
 - (8) PREA Sexual Abuse and Coordinated Response Checklist
 - (9) Data Collection Worksheet

1. PURPOSE.

a. To detail procedures, provide guidance, and set-forth policy regarding the Prison Rape Elimination Act of (2003) for all employees, contractors, volunteers, and residents in Working Alternatives, Inc., facilities. This policy details Working Alternative's standardization of prevention, detection, reporting, and response.

Additionally, this policy details procedures and provides a written policy that implements "Zero Tolerance" towards all forms of sexual activity, including sexual abuse and sexual harassment,

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and to provide guidelines to address the following prohibited and/or illegal sexually abusive behavior involving:

- (1) Resident perpetrator against staff victim.
- (2) Resident perpetrator against resident victim.
- (3) Staff perpetrator against resident victim.

This policy also covers incidents involving contractors and volunteers.

b. These guidelines are provided to:

- (1) Help detect incidents, perpetrators, and resident victims of sexually abusive behavior.
- (2) Help prevent sexually abusive behavior.
- (3) Educate staff to intervene properly and in a timely manner.
- (4) Document, report, and investigate reported incidents.
- (5) Discipline and/or prosecute perpetrators.

In keeping with Public Law 108-79, the Prison Rape Elimination Act (PREA) of 2003, this reissuance clarifies the interaction between Working Alternatives, Inc. and the Bureau of Prisons policies and the PREA regulations, which became effective on August 20, 2012 and revised on January 11, 2016. Working Alternatives, Inc., PREA Compliance Managers will comply with any future implemented changes or programs to the national PREA policy.

c. Program Objectives. The intent of this Program Statement is to ensure that:

- (1) Staff and residents are informed of Working Alternatives, Inc., zero-tolerance philosophy in regard to sexually abusive behavior.
- (2) Standard procedures are in place to detect and prevent sexually abusive behavior at all Working Alternatives Inc., facilities.
- (3) Victims of sexually abusive behavior receive prompt and effective response to their physical, psychological, and security needs.
- (4) Allegations of sexually abusive behavior receive prompt intervention upon report.
- (5) The perpetrators of sexually abusive behavior will be disciplined and, when appropriate, prosecuted in accordance with Working Alternatives, Inc., policy, Bureau of Prisons policy, Federal and State laws.

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2. RESIDENTIAL RE-ENTRY CENTER SUPPLEMENT

Each Working Alternatives, Inc., Residential Re-Entry Center is required to have a current facility supplement, using negotiated procedures at the local level, which reflects that institution's unique characteristics, jurisdictions, community health care, and support services and specifies how each institution will comply with this Program Statement, including the following:

- a. Specification of Staff Member(s) responsible for:
 - (1) Staff training activities to ensure a coordinated response to a report of sexually abusive behavior.
 - (2) Resident education regarding issues pertaining to sexually abusive behavior.
- b. Notification Procedures to be followed when sexually abusive behavior occurs (including notification of appropriate law enforcement agencies).
- c. Responding to the Resident Victim:
 - (1) Providing security to any resident who alleges that he/she is the victim of sexually abusive behavior and, where appropriate, to residents who are reported by others to be the victims of sexually abusive behavior
 - (2) Identifying entities (e.g., community health services) responsible for providing medical assessment (e.g., forensic examination) and treatment of the victim of a sexual assault.
- d. Monitoring the Resident Perpetrator
 - (1) Monitoring or managing the perpetrator in a way that minimizes the risk of future predation;
 - (2) Describing the system in place to ensure that the Residential Re-entry Center Director and PREA Coordinators are notified of residents with a serious sexual predation history or who are "at risk" of engaging in sexually abusive behavior while in Working Alternatives, Inc., custody. Identifying entities (e.g., institution Health Services or community health services) responsible for providing medical assessment (e.g., forensic examination) and treatment of the victim of a sexual assault.

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PREA STANDARDS FOR RESIDENTIAL RE-ENTRY CENTERS FOR WORKING ALTERNATIVES, INC.

This policy follows the organization of the relevant portions of the 28 CDR Part 115 (Prison Rape Elimination Act National Standards for Community Confinement) along with the Bureau of Prisons PREA policy:

- i. General definitions
- ii. Definitions related to sexual abuse

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5. Audit corrective action plan.
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XII. STATE COMPLIANCE

1. State determination and certification of full compliance

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ENCLOSURES

1. Zero tolerance policy
2. Visitor log and zero tolerance advisement and acknowledgement
3. Quarterly PREA physical security and administrative assessment
4. Weekly staff/resident PREA integrity walk-through
5. Staff hiring and promotion package
6. Resident welcome package zero tolerance and PREA information advisement and acknowledgement
7. PREA risk screen
8. PREA sexual abuse and coordinated response checklist
9. Data collection worksheet

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i. GENERAL DEFINITIONS

For purposes of this program, the term(s) -

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 forth by the governing, corporate, or nonprofit authority.

Agency head means the principal official of an agency.

Community confinement facility means a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.

Contractor means a person who provides services on a recurring basis pursuant to a contractual agreement with Working Alternatives, Inc.,

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

Employee means a person who works directly for Working Alternatives, Inc., 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 an individual.

Facility head or Center Director 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.

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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, 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.

Lockup means a facility that contains holding cells, cell blocks, or other secure enclosures that are:

- (1) Under the control of a law enforcement, court, or custodial officer; and
- (2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court jail, prison, or other agency.

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 successfully completed specialized training for treating sexual abuse victims.

Pat-down search means running the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possess 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.

Resident means any person confined or detained in a juvenile facility or in a community confinement facility.

Residential Re-Entry Manager (RRM) means the individual with the Bureau of Prison who oversees Working Alternatives, Inc., program meets the contractual agreement in Statement of Work.

Staff means employees.

Statement of Work (SOW) means the Statement of Work contract between the Bureau of Prisons and Working Alternatives, Inc.

Strip search means a search that requires a person to remove or arrange some or all clothing to permit a visual inspection of a 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 persons assigned sex at birth.

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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.

Volunteer means an individual who donates time and effort on a recurring basis to enhance the activities and programs of Working Alternatives, Inc.,

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.

ii. DEFINITIONS RELATED TO SEXUAL ABUSE

For the purposes of this part, the term(s) –

Sexual abuse includes –

(1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and

(2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such an 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 intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breasts, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

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

(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(2) Contact between the mouth and the penis, vulva, or anus;

(3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

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(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 breasts in the presence of an inmate, detainee, or resident, 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, detainee, or resident 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, detainee, or resident 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.

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I. PREVENTION PLANNING

1. Zero tolerance of sexual abuse and sexual harassment; Prison Rape Elimination Act (PREA) coordinator.

A. Working Alternatives, Inc., maintains a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment. Preventing, detecting, reporting, and responding to such incidents will be further detailed in this Program. In addition, all staff, contractors, residents, and any other individual who comes into contact with residents are required to sign and acknowledge Working Alternatives, Inc., zero tolerance policy and report any incidents such an incident occur (Enclosure 1).

B. Working Alternatives, Inc., requires visitors and individuals who are conducting business, such as plumbing or electrical repair, in the facility to sign-in the visitors' log with an acknowledgement of the facilities Zero Tolerance Policy towards Sexual Abuse and Sexual Harassment of residents (Enclosure 2).

C. Working Alternatives, Inc., has established the PREA Program for all facilities. Working Alternatives, Inc., has designated an organization-wide PREA Coordinator, whom is responsible for development, implementation, and oversight of agency efforts to comply with PREA. In addition, Working Alternatives, Inc., has established PREA Coordinators at each Residential Re-Entry Center.

2. Contracting with other entities for the confinement of residents.

A. The Bureau of Prisons shall require in any new contract or contract renewal Working Alternatives, Inc., obligation to adopt and comply with PREA standards.

B. Upon any new contract or contract renewal, the Bureau of Prisons shall provide monitoring for Working Alternatives, Inc., to ensure compliance with the PREA standards in addition to the required PREA certification.

3. Supervision and monitoring.

A. In accordance with the Statement of Work (SOW), Working Alternatives, Inc., has developed a staffing plan which provides adequate levels of staffing to include video monitoring to protect residents against sexual abuse. Working Alternatives has considered several factors in establishing adequate staffing levels and video monitoring:

- (1) Generally accepted community correctional practices;
- (2) Any judicial findings of inadequacy;
- (3) Any findings of inadequacy from Federal investigative agencies (e.g. Investigator General);
- (4) Any findings of inadequacy from internal or external oversight bodies (e.g., Bureau of Prisons);

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(5) The physical layout of each facility (including blind-spots or areas where staff and inmates may be isolated);

(6) The composition of the resident population;

(7) The number and placement of supervisory staff;

(8) Facility programs occurring on a particular shift;

(9) Any applicable State or local laws, regulations, or standards;

(10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and

(11) Any other relevant factors.

B. In addition, the staffing schedules will include one male and one female staff member per shift, whenever practical. In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan such as a sick employee.

C. Whenever necessary, but no less frequently than quarterly, Working Alternatives, Inc., will conduct a PREA Physical Security and Administrative Assessment (Enclosure 3) which shall assess, determine, and document whether adjustments are needed to:

(1) The staffing plan established pursuant to paragraph (a) of this section;

(2) Prevailing staffing patterns;

(3) The facility's deployment of video monitoring systems and other monitoring technologies;

(4) The resources the facility has available to commit to ensure adequate staffing levels, and,

(5) A 25% PREA records audit for staff and residents.

D. Working Alternatives, Inc. will conduct random, unannounced, weekly Staff/Resident PREA Integrity Walk-Through (Enclosure 4). These walkthroughs will be conducted by PREA Coordinators, Center Directors, and other senior organizational leadership as directed and approved by Working Alternatives, Inc. PREA Coordinator. The purpose is to ensure staff and resident PREA integrity is randomly monitored and ensures the integrity of staff and resident PREA policy compliance.

4. Youthful inmates.

Working Alternatives, Inc., does not accept any youthful inmates (anyone who is not attained the age of 18 years).

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5. Limits to cross-gender viewing and searches.

A. Working Alternatives, Inc., shall not conduct cross-gender search strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) under any circumstances, as this is deemed a medical procedure only to be conducted by medical staff, which are available at the facility. All residents shall be appropriately clothed in all common areas of the facility.

B. As of August 20, 2015, for a facility whose rated capacity does not exceed 50 residents, the Residential Re-Entry Center shall not permit cross-gender pat-down searches of female residents, absent exigent circumstances. As both male and female staff are always scheduled, there is not an opportunity for cross-gender searches. Were there to be a staffing-failure, staff would hold a resident until a same-sex staff member was available. However (c) below:

C. The facility shall document all cross-gender pat-down searches. Should a cross-gender pat-down search be conducted, **ONLY** in the event of an emergency, and the unlikely scenario where there are no female staff members, the pat-down search will maintain two-staff member integrity. The search will be documented and forwarded to the Center Director and PREA Coordinators explaining the circumstances necessitating the search, witnesses, and results. This documentation will be maintained in the resident file.

D. Residents will be allowed to shower, perform bodily functions, and change clothing without staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances. Staff of the opposite gender will announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing. Residents will be notified of the presence of opposite-gender staff members in several ways:

(1) Residents are advised of the requirement to remain clothed, and the presence of cross-gender staff generally, during the Intake Screening process and the admission and orientation process.

(2) A sign on bulletin boards in common spaces will be posted, “NOTICE TO RESIDENTS: Male and female staff conduct routine living quarter checks and will announce prior to entry”

(3) Announcement of opposite-gender staff entering any living area.

E. The Residential Re-Entry Center 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.

F. Working Alternatives, Inc., will conduct searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

6. Residents with disabilities and residents who are limited English proficient.

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A. Working Alternatives, Inc., takes several 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 Working Alternatives, Inc., efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Staff members will ensure easy Sexual Abuse and Sexual Harassment brochures are provided in multiple languages, PREA posters, PREA Acknowledgement forms, and staff who are there to explain in terms in which the resident can understand. Additionally, follow-up will be conducted and the PREA policy will again be fully explained. Videos in both Spanish and English will be provided to further educate residents in order to protect them against sexual abuse and sexual harassment. In the event there is a communication issue, interpreter services will be obtained to ensure the individual is fully aware of Working Alternatives, Inc., efforts to prevent, detect, report, and responds to sexual abuse and sexual harassment.

If an individual's needs cannot be accommodated as determined by the Center Director, the resident will not be accepted into a Working Alternatives, Inc., facility. If the individual is already a resident and is then determined to have needs which cannot be fully met, the Center Director will seek immediately notify the Bureau of Prisons and will seek immediate transfer to a location where the resident's needs can be met.

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.

B. Working Alternatives, Inc., will take reasonable steps to ensure meaningful access to all aspects of Working Alternatives, Inc., efforts to prevent, detect, report, 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.

C. Working Alternatives, Inc., does 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, or the investigation of resident's allegations.

7. Hiring and promotion decisions.

A. Working Alternatives Inc., does 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, to the best of our knowledge:

(1) Has engaged in sexual abuse in prison, jail, lockup, community confinement facility, juvenile facility, or other institution

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(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

(3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (A)(2) of this section.

B. Working Alternatives, Inc., considers any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

C. Before hiring new employees and contractors, who may have contact with residents, Working Alternatives, Inc., shall:

(1) Initiate a criminal background records check through the Bureau of Prisons; and

(2) 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 (Enclosure 5).

D. Working Alternatives, Inc., via the Bureau of Prisons, also performs a criminal background records check at least every five years of current employees and contractors who may have contact with residents.

E. Unless prohibited by law, Working Alternatives, Inc., 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.

8. Upgrades to facilities and technologies.

A. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, Working Alternatives, Inc., will consider the effect of the design, acquisition, expansion, or modification upon Working Alternatives, Inc., ability to protect residents from sexual abuse.

B. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, Working Alternatives, Inc., shall consider how such technology may enhance Working Alternatives' ability to protect residents from sexual abuse.

II. RESPONSIVE PLANNING

1. Evidence protocol and forensic medical examinations.

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

B. Working Alternative's standard protocol is to refer all sexual abuse cases to the medical facility capable of performing evidentiary medical examinations.

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C. Working Alternatives, Inc., shall offer all victims of sexual abuse access to forensic medical examinations at an outside medical facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFE's) or Sexual Assault Nurse Examiners (SANE's) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. Working Alternatives, Inc., shall document its efforts to provide SAFEs or SANEs.

D. Working Alternatives, Inc., shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, Working Alternatives, Inc., shall make available to provide these services a qualified staff member from a community-based organization or a qualified agency staff member. Working Alternatives, Inc, shall document efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance. Working Alternatives, Inc., 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.

E. As requested by the victim, the victim advocate, qualified 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 referrals. The resident has the ability to decline any support from Working Alternatives, Inc., and can be referred to outside victim services.

F. To the extent Working Alternatives, Inc., itself is not responsible for conducting criminal investigations into allegations of sexual abuse; however, Working Alternatives, Inc., shall request that the investigating agency follow the requirements (A) through (F) of this section.

G. The requirements of paragraphs (A-F) shall also apply to:

(1) Any local law enforcement agency with jurisdiction over the location and offense outside of Working Alternatives, Inc., that is responsible for investigating allegations of sexual abuse in Working Alternatives, Inc., facilities; and

(2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in community confinement facilities.

H. For the purposes of this standard, a qualified agency staff member or a qualified community-based staff 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.

2. Policies to ensure referrals of allegations for investigations.

A. Working Alternatives, Inc., shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

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B. Working Alternatives, Inc., shall have in place a policy to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. Working Alternatives, Inc., shall publish such policy on its website or, if it does not have one, make a policy available through other means. Working Alternatives, Inc., shall document all such referrals.

C. If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both Working Alternatives, Inc., and the investigating entity.

D. Any state entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in community confinement facilities shall have in place a policy governing the conduct of such investigations.

E. Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in community confinement facilities shall have in place a policy governing the conduct of such investigations.

III. TRAINING AND EDUCATION

1. Employee training.

A. Working Alternatives, Inc., staff is trained with material provided by the Bureau of Prisons, Department of Justice PREA Program website, National PREA Resource Center, and other Department of Justice approved PREA resources. Working Alternatives, Inc, trains all employees who may have contact with residents on:

- (1) Working Alternatives, Inc., 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 confinement;
- (6) The common reactions of sexual abuse and sexual harassment victims;
- (7) How to detect and respond to signs of threatened and actual sexual abuse;
- (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; and

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(10) How to comply with laws related to mandatory reporting of sexual abuse to outside authorities.

B. Such training shall be tailored 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.

C. All current employees who have not received such training shall be trained within three months of the effective date of Working Alternatives, Inc., PREA Policy, and shall provide each employee with formal annual refresher training to ensure that all employees know the agencies current sexual abuse and sexual harassment policies and procedures.

D. Working Alternatives, Inc., along with Residential Re-Entry Center's shall document, through employee signature or electronic verification, that employees understand the training they have received.

2. Volunteer and contractor training.

A. Working Alternatives, Inc., shall ensure that all volunteers and contractors who have contact with residents have been informed of their responsibilities under Working Alternatives, Inc., sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures.

B. The level and type of training provided to volunteers and contractors shall be based on the services they provide and the level of contact they have with residents, but all volunteers and contractors who have contact with residents shall be notified of Working Alternatives, Inc., Zero-Tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

C. Working Alternatives, Inc., shall maintain documentation confirming that volunteers and contractors understand the training they have received.

3. Resident education.

A. Residential Re-Entry Center Directors will upon screening and acceptance of an inmate to the Center, will provide in the Welcome Package information explaining Working Alternatives, Inc., Zero Tolerance policy, PREA information in a brochure which is provided in English, Spanish, and Vietnamese, as applicable, and the member will sign and acknowledge prior to the individual's arrival to a Working Alternatives, Inc., Residential Re-Entry Center (Enclosure 6).

B. During the intake process, residents will again receive information explaining Working Alternatives, Inc., Zero-Tolerance policy regarding sexual abuse and sexual harassment, 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. This includes residents who transfer from other community corrections facilities. Within 30 days of intake, Working Alternatives, Inc., shall provide comprehensive education to residents either in person or through video regarding their rights to be free from sexual abuse and

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sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and incidents. The organizational or facility PREA Coordinator will provide a presentation which includes:

- (1) Definitions of sexually abusive behavior and sexual harassment
- (2) Prevention strategies the resident can take to minimize his/her risk of sexual victimization;
- (3) Methods of reporting an incident of sexually abusive behavior against oneself, and for reporting allegations of sexually abusive behavior involving other inmates, including reporting procedures directly to corporate staff and outside agency reporting, if desired.
- (4) Methods of reporting an incident of sexual harassment against oneself, and for reporting allegations of sexual harassment involving other inmates.
- (5) Treatment options and programs available to resident victims of sexually abusive behavior and sexual harassment.
- (6) Monitoring, discipline, and prosecution of sexual predators.
- (7) Notice that male and female staff routinely work and enter residential living quarters.

B. Working Alternatives, Inc., shall provide resident education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled as well as residents who have limited reading skills. Staff will explain in terms in which the resident can understand and provide further guidance to ensure the resident fully understands their rights and responsibilities pertaining to PREA.

C. Working Alternatives, Inc., shall maintain documentation of resident participation in these educational sessions.

D. In addition to providing such education Working Alternatives, Inc., shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.

4. Specialized training: Investigations.

A. In addition to the general training provided to all employees, Working Alternatives, Inc., shall ensure that, to the extent Working Alternatives, Inc., itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations.

B. Specialized training shall include techniques for interviewing sexual abuse victims, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. In accordance with the Bureau of Prisons Statement of Work, when the investigation appears likely the incident is subject to criminal prosecution, the investigating officer will suspend the investigation and immediately notify the Center Director, PREA Coordinator, and Executive Director who will advise the Bureau of Prisons Residential Re-Entry Manager. Staff may not question the offender

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until the Federal Bureau of Investigation or other investigative agency interviews have been completed or until the agency responsible for the criminal investigation advises that staff questioning may occur. The prosecution referral will be at the discretion of the Bureau of Prisons based on Working Alternatives, Inc., investigation.

C. Working Alternatives, Inc., shall document all required training in accordance with the Bureau of Prisons Statement of Work. Additionally, this training will be verified prior to the individual being assigned to conduct the investigation.

D. Any state entity or Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations.

5. Specialized training: Medical and mental health care.

A. Working Alternatives, Inc., does not maintain part time or full time medical or mental health practitioners on staff. Working Alternatives, Inc., will ensure residents have access to community resources to provide medical and mental health care needs.

IV. SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

1. Screening for risk of victimization and abusiveness.

A. Residential Re-Entry Center Directors shall thoroughly screen each prospective resident's record for acceptance into a Working Alternatives, Inc., facility. The Directors will start the PREA Risk Screen (Enclosure 7) and to preliminarily determine risk potential. The Director will look to identify the following:

- (1) Residents with a history of sexual victimization while in Bureau of Prisons custody.
- (2) Inmates with a history of sexual victimization while in a non-BOP setting.
- (3) Inmates with a history of sexual predation.

The Center Director may not have all information to complete the PREA Risk Screen, but can begin the assessment through a thorough screen prior to accepting a resident.

B. Once an individual is accepted by Working Alternatives, Inc., the individual shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other residents or sexually abusive toward other residents.

C. Intake screening shall ordinarily take place within 72 hours of arrival to the facility.

D. Such assessments shall be conducted using an objective screening instrument.

E. The intake screening shall consider, at a minimum, the following criteria to assess residents for risk of sexual victimization:

- (1) Whether the resident has a mental, physical, or developmental disability;
- (2) The age of the resident;

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- (3) The physical build of the resident;
- (4) Whether the resident has previously been incarcerated;
- (5) Whether the resident's criminal history is exclusively nonviolent;
- (6) Whether the resident has prior convictions for sex offenses against an adult or child;
- (7) Whether the resident self-reports to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
- (8) Whether the resident has previously experienced sexual victimization; and
- (9) The resident's own perception of vulnerability.

F. The intake screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to Working Alternatives, Inc., in assessing residents for risk of being sexually abusive.

G. Within a set time period, not to exceed 30 days from the resident's arrival at the facility, the facility will reassess the resident's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

H. A resident's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness.

I. Residents may not be disciplined for refusing to answer or for not disclosing complete information in response to, questions asked pursuant to (E)(1), (E)(7), (E)(8), or (E)(9) of this section.

J. Working Alternatives, Inc., and Center Directors shall implement appropriate controls on the dissemination within the Residential Re-Entry Center 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.

2. Use of screening information.

A. Working Alternatives, Inc., shall use information from the risk screening to assist in determining housing, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive.

B. Working Alternatives, Inc., shall make individualized determinations about how to ensure the safety of each resident.

C. 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, Working Alternatives, Inc., shall consider on a case-by-case basis whether a placement would ensure the

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resident's health and safety, and whether the placement would present management or security problems.

D. A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.

E. Transgender and intersex residents shall be given the opportunity to shower separately from other residents.

F. Working Alternatives, Inc., shall not place lesbian, gay, transgender, or intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated room established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such residents.

3. Protective custody. Residents are housed in accordance with the Bureau of Prisons Standards of Work. Residents at high risk of sexual victimization shall not be placed involuntary segregated housing unless an assessment of all available alternatives has been made. If the safety of an individual is in question, the Center Director will determine if a transfer is warranted.

V. REPORTING

1. Resident reporting.

A. Working Alternatives, Inc., 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. Residents are informed that they can report these events to the Working Alternatives, Inc., corporate office telephonically or by mail or to any staff member or supervisor.

B. Working Alternatives, Inc., shall also inform residents of at least one way to report abuse or harassment to a public or private entity or office that is not part of Working Alternatives, Inc., 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 are provided the ability to communicate with Bureau of Prisons Residential Re-Entry Manager, Inspector General, or local law enforcement.

C. Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.

D. Working Alternatives, Inc., shall provide a method for staff to privately report sexual abuse and sexual harassment of residents. Staff may contact any center or organizational supervisor and any center or organizational PREA Coordinator. Additionally, if the allegation is involving another staff member the incident may be reported to Working Alternatives, Inc., Human Resources, the Bureau of Prisons RRM, or Inspector General.

2. Exhaustion of administrative remedies.

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A. The Bureau of Prisons Residential Re-Entry Manager has the overall responsibility of operations of the Administrative Remedy at all Working Alternatives, Inc., facility's. The RRM has:

- (1) Established procedures for receiving, reviewing, investigating and responding to Administrative Remedy Requests (BP-229-Attachment S) that are submitted by residents
- (2) Developed a protocol for returning a receipt to a resident thereby acknowledging the receipt of the BP-229.
- (3) Developed a protocol to conduct an investigation of each request.
- (4) Developed procedures to respond to and sign all Requests filed at the RRM level.
- (5) A procedure in place to act as Administrative Remedy Coordinator.

B. Initial Filing of BP-229

(1) Informal Resolution: All residents are encouraged but not required, to attempt informal resolution of Residential Re-Entry Center staff. However, all residents are apprised of their rights to seek Formal Administrative Remedies.

(2) Once a resident has filled out the BP-229 it is distributed by and returned to the Center Director unless it is handled under the "sensitive issues" procedures.

B. (1) Working Alternatives, Inc., shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse

(2) Working Alternatives, Inc., may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.

(3) Working Alternatives, Inc., shall not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

(4) Nothing in this section shall restrict Working Alternatives, Inc., ability to defend against a lawsuit filed by a resident on the ground that the applicable statute of limitations has expired.

C. Working Alternatives, Inc., shall ensure that

(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.

D. (1) Working Alternatives, Inc., 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.

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(3) Working Alternatives, Inc., 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. Working Alternatives, Inc., 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 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 on that level.

E. (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 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, Working Alternatives, Inc., shall document the resident's decision.

F. (1) Working Alternatives, Inc., shall establish procedures for 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, Working Alternatives, Inc., shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review 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 Working Alternatives, Inc., determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(3) Working Alternatives, Inc., Center Director, PREA Coordinator, and Executive Director will determine if a transfer is needed for the protection of any resident if determined the imminent sexual abuse is determined.

G. Working Alternatives, Inc., may discipline a resident for filing a grievance related to alleged sexual abuse only where Working Alternatives, Inc., demonstrates that the resident filed the grievance in bad faith.

3. Resident access to outside confidential support services.

A. Residential Re-Entry Centers will provide residents with access to outside victim advocates for emotional support services related to sexual abuse by giving residents mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, state, or national victim advocacy or rape crisis organizations, and by enabling reasonable

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communication between residents and these organizations, in as confidential a manner as possible.

B. The facility shall inform residents, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

C. Working Alternatives, Inc., shall maintain or attempt to enter into memoranda of understanding and provided Statement of Acknowledgements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse. Working Alternatives, Inc., shall maintain copies of agreements or documentation showing attempts to enter into such agreements in both Working Alternatives, Inc., corporate office and at the Residential Re-Entry Center.

4. Third party reporting.

Working Alternatives, Inc., shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publically information on how to report sexual abuse and sexual harassment on behalf of a resident.

VI. OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT

1. Staff and agency reporting duties.

A. Working Alternatives, Inc., requires all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of: sexual abuse or sexual harassment that occurred in a facility, 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 whether or not it is part of Working Alternatives, Inc. Detection requires an awareness by staff of facility climate and the reputations and behaviors of residents by paying attention to the following, for example:

- (1) Resident communications.
- (2) Comments to staff.
- (3) Posted picture files, and Correctional Services “confidentials.”
- (4) Resident interactions.
- (5) Changes in resident or staff behavior (eating, sleeping, hygiene, work habits, etc.)
- (6) Isolated or “dark” areas of the facility

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B. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

C. Unless otherwise precluded by Federal, State, or local law, all medical and mental health practitioners, and licensed social workers shall be required to report sexual abuse pursuant to paragraph (A) of this section and to inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

D. If the alleged victim is considered a vulnerable adult under a State or local vulnerable persons statute, Working Alternatives, Inc., shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

E. The Residential Re-Entry Centers shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the Working Alternatives, Inc., PREA Coordinator.

2. Agency protection duties.

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.

3. Reporting to other confinement facilities.

A. Upon receiving an allegation that a resident was sexually abused while confined at another facility, Working Alternatives, Inc., Executive Director or PREA Coordinator that received the allegation shall notify the head of the facility or appropriate office where the alleged abuse occurred.

B. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.

C. Working Alternatives, Inc., shall document that it has provided such notification.

D. The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards. Similarly, if Working Alternatives, Inc., receives notification of an allegation from other facilities or agencies it will conduct an investigation in accordance with these standards.

4. Staff first responder duties.

A. Upon learning of an allegation that a resident was sexually abused, the first security staff member to respond to the report shall be required to:

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- (1) Separate the alleged victim and abuser;
- (2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
- (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; and/or
- (4) 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.
- (5) Immediately upon the securing of the physical area and once the alleged victim is safe, a statement should be taken from the alleged offender, and this might is best accomplished by having a second staff member take that statement. At that time the alleged offender needs to be asked if he or she has any material or evidence they wish to provide.
- (6) The alleged offender will be directed not to not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
- (7) Once the scene, alleged victim and alleged offender are secured that the situation deemed safe, local law enforcement will be notified, either the Garden Grove P.D. or Brawley P.D. Immediately afterwards, assuming the situation is maintained in a safe and secure manner, notification will be as follows:
 - a. PREA Coordinator by duty phone
 - b. Facility Director by duty phone
 - c. PREA Liaisons by office phone

5. Coordinated response.

A. Working Alternatives, Inc., as directed in this policy will ensure a timely and coordinated response upon notification of sexual abuse incident. To assist in ensuring proper notification and response, a PREA Sexual Abuse Coordinated Response Checklist (Enclosure 8) will be at each Residential Re-Entry Center Monitor Supervisor. This checklist will be used to document times each steps were taken and completed.

B. Upon receiving a report of resident-on-resident sexual abuse the following actions should be taken by the individual receiving the report:

- (1) Ensure the safety of victim. Separate the victim and take them to a safe confidential location and notify the supervisor.
- (2) If the abuse just occurred, advise the victim to take evidence preserving measures such as not shower or wash themselves, change clothing, brush their teeth, urinate, or defecate.
- (3) Determine when and where the abuse occurred. If the abuse occurred at the facility, dispatch a staff member and ensure the room is cleared of residents and secure the room
- (4) Contact the local law enforcement agency

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(5) Ensure the resident is taken to the designated medical facility for a medical assessment and treatment

(6) Contact the Center Director and PREA Coordinator

(7) Upon receipt of the information, the Executive Director, Center Director, or PREA Coordinator will contact Bureau of Prisons Community Manager for notification

(8) If the Residential Re-Entry Center has a trained Victim Advocate, the victim will be notified and may elect to have Working Alternatives, Inc. Victim Advocate accompany them. If the victim declines, the victim will be provided with the local victim advocate resources, rape crisis center, and other resources the victim may need such as mental health and continued medical services.

(9) The Executive Director, Center Director, and PREA Coordinator will determine immediate victim housing placement to ensure the safety of the victim

C. Upon receiving a report of staff-on-resident, contractor-on-resident, volunteer-on resident sexual abuse the following actions should be taken by the individual receiving the report:

(1) Ensure the safety of victim. Separate the victim and take them to a safe confidential location and directly notify the Center Director, PREA Coordinator, and Executive Director. Do not notify the individual the allegation is against.

(2) If the abuse just occurred, advise the victim to take evidence preserving measures such as not shower or wash themselves, change clothing, brush their teeth, urinate, or defecate.

(3) Determine when and where the abuse occurred. If the abuse occurred at the facility, dispatch a staff member and ensure the room is cleared of residents and secure the room

(4) Contact the local law enforcement agency

(5) Ensure the resident is taken to the designated medical facility for a medical assessment and treatment

(6) Upon receipt of the information, the Executive Director, Center Director, or PREA Coordinator will contact Bureau of Prisons Residential Re-Entry Manager for notification

(7) If the Residential Re-Entry Center has a trained Victim Advocate, the victim will be notified and may elect to have Working Alternatives, Inc. Victim Advocate accompany them. If the victim declines, the victim will be provided with the local victim advocate resources, rape crisis center, and other resources the victim may need such as mental health and continued medical services.

(8) The Executive Director, Center Director, and PREA Coordinator will determine immediate victim housing placement to ensure the safety of the victim

(9) If the allegation is against any staff member, contractor, or volunteer, the individual will temporarily be reassigned as determined by the Executive Director, Center Director, and PREA Coordinator.

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D. The First Responders will not discuss the allegations with anyone without a need to know and will maintain confidentiality to protect the victim and the preservation of evidence.

E. Prior to end of shift, the First Responders will fill out a narrative detailing the incident and response and give to the Center Director.

6. Preservation of ability to protect residents from contact with abusers.

A. Neither Working Alternatives, Inc., nor any other governmental entity responsible for collective bargaining on Working Alternatives, Inc., behalf shall enter into or renew any collective bargaining agreement or other agreement that limits Working Alternatives, Inc., 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. Nothing in this standard shall restrict the entering into or renewal of agreements that govern:

(1) The conduct of the disciplinary process; or

(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.

7. Agency protection against retaliation.

A. Working Alternatives, Inc., primary objective in protection against retaliation is 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. The Executive Director, PREA Coordinator, and Center Director shall designate which staff member(s) or departments are charged with monitoring against retaliation.

B. Working Alternatives, Inc., 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 or for cooperating with investigations.

C. For at least 90 days following a report of sexual abuse, Working Alternatives, Inc., shall monitor the conduct and treatment of residents or staff who reported the 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 Working Alternatives, Inc., should monitor include any resident disciplinary reports, housing, or program changes, or negative performance reviews or reassignment of staff. Working Alternatives, Inc., shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

D. In the case of residents, such monitoring shall also include periodic status checks.

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E. If any individual who cooperates with an investigation expresses a fear of retaliation, Working Alternatives, Inc., shall take appropriate measures to protect that individual against retaliation.

F. An agency's obligation to monitor shall terminate if Working Alternatives, Inc., determines that the allegation is unfounded.

VII. INVESTIGATIONS

1. Criminal and administrative investigations overview.

A. All criminal activities will be reported to the law enforcement agency with jurisdiction over the offense. At no time will any staff members conduct a sexual abuse criminal investigation. If a criminal investigation is taking place, Working Alternatives, Inc., will not interfere with that investigation. Working Alternatives, Inc., will conduct a thorough Administrative Investigation and forward to the Bureau of Prisons to determine whether further criminal investigation is warranted, Inspector General notification, or further disposition guidance. When Working Alternatives, Inc., 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. At the conclusion of the investigation, the allegations must be indicated as:

- (1) Substantiated.
- (2) Unsubstantiated (may have occurred, but insufficient evidence to prove).
- (3) Unfounded (evidence proves that this could not have happened).

B. Where sexual abuse is alleged, Working Alternatives, Inc., shall conduct an administrative investigation in accordance with Bureau of Prisons Statement of Work.

C. 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.

D. When the quality of evidence appears to support criminal prosecution, Working Alternatives, Inc., shall consult with the Bureau of Prisons and local law enforcement for further investigation. Local law enforcement is responsible for conducting compelled interviews for subsequent criminal prosecution. Working Alternatives, Inc., will provide all evidence for criminal investigation.

E. 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. Working Alternatives, Inc. shall not 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.

F. Administrative investigations:

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(1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and

(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.

G. Criminal investigations will be handled by appropriate sanctioned law enforcement entity and will 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.

H. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

I. Working Alternatives, Inc., shall retain all written reports referenced in paragraphs (6) and (7) of this section for as long as the alleged abuser is incarcerated or employed by Working Alternatives, Inc., plus five years.

J. 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.

K. Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

L. 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.

2. Evidentiary standard for administrative investigations.

Working Alternatives, Inc., shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

3. Reporting to residents.

A. Following an investigation into a resident's allegation of sexual abuse suffered in an agency facility, Working Alternatives, Inc., shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

B. If Working Alternatives, Inc, did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the resident.

C. Following a resident's allegation that a staff member has committed sexual abuse against the resident, Working Alternatives, Inc., shall subsequently inform the resident (unless Working Alternatives, Inc., has determined the allegation is unfounded) whenever:

- (1) The staff member is no longer posted within the resident's unit;
- (2) The staff member is no longer employed at the facility;

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(3) Working Alternatives, Inc., learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

(4) Working Alternatives, Inc., learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

D. Following a resident's allegation that he or she has been sexually abused by another resident, Working Alternatives, Inc., shall subsequently inform the alleged victim whenever:

(1) Working Alternatives, Inc., learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

(2) Working Alternatives, Inc., learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

E. All such notifications or attempted notifications shall be documented.

F. An agency's obligation to report under this standard shall terminate if the resident is released from Working Alternatives, Inc., 's custody.

VIII. DISCIPLINE

1. Disciplinary sanctions for staff.

A. Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

B. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

C. 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.

D. 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.

2. Corrective action for contractors and volunteers.

A. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

B. 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.

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3. Disciplinary sanctions for residents.

A. Residents shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.

B. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.

C. 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.

D. If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons motivations for the abuse, the facility shall consider whether to require the offending resident to participate in such interventions as a condition of access to programming or other benefits.

E. Working Alternatives, Inc., may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

F. 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 false reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

G. 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.

IX. MEDICAL AND MENTAL CARE

1. Access to emergency medical and mental health services.

A. 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.

B. Working Alternatives, Inc. staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners.

C. Resident victims of sexual abuse shall be offered timely information from local medical facility about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

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D. 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.

2. Ongoing medical and mental health care for sexual abuse victims and abusers.

A. The Residential Re-Entry center 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, or community corrections facility.

B. 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.

C. The facility shall provide such victims with medical and mental health services consistent with the community level of care.

D. Resident victims of sexually abuse vaginal penetration while incarcerated shall be offered pregnancy tests.

E. 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.

F. Working Alternatives, Inc. resident victims of sexual abuse shall be offered tests for sexually transmitted infections as medically appropriate at the local medical facility.

G. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

H. The facility shall attempt to conduct 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.

X. DATA COLLECTION AND REVIEW

1. Sexual abuse incident reviews.

A. Working Alternatives, Inc. will 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.

B. Such review shall ordinarily occur within 30 days of the conclusion of the investigation.

C. The review team shall include the Executive Director, PREA Coordinator, Center Director, assigned investigator, with input from all facility supervisors, staff and medical and mental health practitioners.

D. The review team shall:

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(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 motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;

(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 different shifts;

(5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and

(6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (D)(1)-(D)(5). Which will be submitted to the Board of Directors' at the next scheduled meeting and will require a response to the PREA Coordinator.

E. The PREA Coordinator and Center Director shall implement the recommendations for improvement, or shall document its reasons for not doing so.

2. Data collection.

A. Working Alternatives, Inc., shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument, Data Collection Worksheet (Enclosure 9).

B. Working Alternatives, Inc., shall aggregate the incident-based sexual abuse data at least annually.

C. The incident-based data collected should 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.

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

E. Working Alternatives, Inc., shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents.

F. Upon request, Working Alternatives, Inc., shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

3. Data review for corrective action.

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A. Working Alternatives, Inc., shall review data collected and aggregate in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

(1) Identifying problem areas;

(2) Taking corrective action on an ongoing basis; and

(3) Preparing an annual report of its findings and corrective actions for each facility, as well as Working Alternatives, Inc., as a whole.

B. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of Working Alternatives, Inc., progress in addressing sexual abuse.

C. Working Alternatives, Inc., report shall be approved by Working Alternatives, Inc., Executive Director and made readily available to the public through website or, if it does not have one, through other means.

D. Working Alternatives, Inc., 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.

4. Data storage, publication, and destruction.

A. Working Alternatives, Inc., shall ensure that data collected are securely retained.

B. Working Alternatives, Inc., shall make all aggregated sexual abuse data, from facilities under its direct control readily available to the public at least annually through its website, or if it does not have one, through other means.

C. Before making aggregated sexual abuse data publically available, Working Alternatives, Inc., shall remove all personal identifiers.

D. Working Alternatives, Inc., shall maintain sexual abuse data collected pursuant to for at least 10 years after the date of the initial collection unless Federal, State, or local laws requires otherwise.

XI. AUDITS

1. Audits of standards.

Working Alternatives, Inc., shall conduct audits in accordance with the Prison Rape Elimination Act described in this policy.

2. Frequency and scope of audits.

A. During the three-year period starting on August 20, 2013, and during each three-year period thereafter, Working Alternatives, Inc., shall ensure that each facility operated by Working

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Alternatives, Inc., is audited once by a Department of Justice certified auditor in accordance with the Prison Rape Elimination Act on behalf of Working Alternatives, Inc.

B. During each one-year period starting on August 20, 2013, Working Alternatives, Inc., shall ensure that at least one-third of each facility type operated by Working Alternatives, Inc., or by a private organization on behalf of Working Alternatives, Inc., is audited.

C. The Department of Justice may send a recommendation to an agency for an expedited audit if the Department has reason to believe that a particular facility may be experiencing problems relating to sexual abuse. The recommendations may also include referrals to resources that may assist Working Alternatives, Inc., with PREA-related issues.

D. The Department of Justice shall develop and issue an audit instrument that will provide guidance on the conduct and contents of the audit.

E. Working Alternatives, Inc., shall bear the burden of demonstrating compliance with standards.

F. The auditor shall bear the burden of demonstrating compliance with standards.

G. The auditor shall review all relevant agency-wide policies, procedures, reports, internal and external audits, and accreditations for each facility type.

H. The audits shall review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period.

I. The auditor shall have access to, and shall observe, all areas of the audited facilities.

J. The auditor shall be permitted to request and receive copies of any relevant documents (including electronically stored information).

K. The auditor shall interview a representative sample of inmates, residents, and detainees, and of staff, supervisors, and administrators.

L. The auditor shall review a sampling of any available videotapes and electronically available data that may be relevant to the provisions being audited.

M. The auditor shall be permitted to conduct private interviews with inmates, residents, and detainees.

N. Inmates, residents, and detainees shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.

O. Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.

3. Auditor qualifications.

A. An audit shall be conducted by:

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(1) A member of a correctional monitoring body that is not part of, or under the authority of, Working Alternatives, Inc., (but may be part of, or authorized by, the relevant state or local government);

(2) A member of an auditing entity such as an inspector general's or ombudsperson's office that is external to Working Alternatives, Inc.; or

(3) Other outside individuals with relevant experience.

B. All auditors shall be certified by the Department of Justice. The Department of Justice shall develop and issue procedures regarding the certification process, which shall include training requirements.

C. No audit may be conducted by an auditor who has received financial compensation from Working Alternatives, Inc., being audited (except compensation received for conducting prior PREA audits) within the three years prior to Working Alternatives, Inc., 's retention of the auditor.

D. Working Alternatives, Inc., shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to Working Alternatives, Inc., 's retention of the auditor, with the exception of contracting for subsequent PREA audits.

4. Audit contents and findings.

A. Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of Working Alternatives, Inc., under review.

B. Audit reports shall state whether agency-wide policies and procedures comply with relevant PREA standards.

C. For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: Exceeds Standard (substantially exceeds requirement of standard); Meets Standard (substantial compliance complies in all material ways with the standard for the relevant review period); Does Not Meet Standard (requires corrective action). The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level.

D. Audit reports shall describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and shall include recommendations for any required correction action.

E. Auditors shall redact any personally identifiable inmate or staff information from their reports, but shall provide such information to Working Alternatives, Inc., upon request, and may provide such information to the Department of Justice.

F. Working Alternatives, Inc., shall ensure that the auditor's final report is published on Working Alternatives' website if it has one, or is otherwise made readily available to the public.

5. Audit corrective action plan.

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A. A finding of “Does Not Meet Standard” with one or more standards shall trigger a 180-day corrective action period.

B. The auditor and Working Alternatives, Inc., shall jointly develop a corrective action plan to achieve compliance.

C. The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plans such as reviewing updated policies and procedures or re-inspecting portions of a facility.

D. After the 180-day corrective action ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.

E. If Working Alternatives, Inc., does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that it has achieved compliance.

6. Audit appeals.

A. An agency may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within 90 days of the auditor’s final determination.

B. If the Department of Justice determines that Working Alternatives, Inc., has stated good cause for re-evaluation, Working Alternatives, Inc., may commission a re-audit by an auditor mutually agreed upon by the Department of Justice and Working Alternatives, Inc., which Working Alternatives, Inc., shall bear the costs of this re-audit.

C. The findings of the re-audit shall be considered final.

XII. STATE COMPLIANCE

1. State determination and certification of full compliance.

A. In determining pursuant to 42 U.S.C. 15607(c)(2) whether the State is in full compliance with the PREA standards, the Governor shall consider the results of the most recent agency audits.

B. The Governor’s certification shall apply to all facilities in the State under the operation control of the State’s executive branch, including facilities operated by private entities on behalf of the State’s executive branch.

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