

PHAROS HOUSE

POLICY: STAFF AND RESIDENT SEXUAL ABUSE AND SEXUAL HARASSMENT (PREA)

I. POLICY

Pharos House shall comply with the Prison Rape Elimination Act (PREA) of 2003. PREA mandates the elimination, reduction, and prevention of sexual assault and rape in prisons, jails, and community confinement facilities (half-way houses) housing adult residents.

In compliance with PREA, Pharos House has a zero-tolerance stance towards all forms of sexual abuse and sexual harassment and is applicable to residents, staff, volunteers, visitors, and contractors. The zero-tolerance policy includes education, prevention, detection and responding to sexual abuse and sexual harassment incidents immediately. All residents are prohibited from engaging in sexual contact with each other. All sexual contact between residents is deemed to be non-consensual and consent is not an affirmative defense, due to the custodial status of residents. Pharos House strictly prohibits any sexual contact between staff and residents and expects staff to keep professional boundaries in all their interactions with residents. Sexual contact between staff and residents is deemed to be non-consensual under all circumstances. Consent is not an affirmative defense to sexual contact between staff and resident, due to the custodial status of residents, and the unequal nature of the relationship.

Swift corrective action will occur with residents, staff, volunteers, visitors, and contractors who violate this policy.

II. DEFINITIONS

A. Community confinement facility means a community treatment center, half-way 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.

B. Contractor means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

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

D. Intersex means a person who's sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

Intersex medical conditions are sometimes referred to as disorders of sex development.

E. PREA Coordinator: The PREA Coordinator shall be responsible for the coordination and compliance monitoring of PREA at Pharos House. Pharos House has designated the PREA Coordinator to develop, implement and oversee agency efforts to comply with PREA requirements.

F. *Qualified Agency Staff/Community Based Staff*: An individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and sexual harassment issues in general.

G. *Rape Crisis Center*: An entity that provides intervention and related assistance to victims of sexual assault.

H. *Sexual Abuse*:

1. Sexual abuse of a resident by another resident.

Sexual abuse of a resident by another resident includes any of the following acts, with or without consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

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

I. Sexual abuse of a resident by a staff member, volunteer, visitor, or contractor. Sexual abuse of a resident by a staff member, volunteer, visitor, or contractor. Includes any of the following acts, with or without consent of the resident:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
2. Contact between the mouth and the penis, vulva, or anus.
3. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
4. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, volunteer, visitor, or contractor has the intent to abuse, arouse, or gratify sexual desire.
5. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, volunteer, visitor, or contractor has the intent to abuse, arouse, or gratify sexual desire.
6. Any attempt, threat, or request by a staff member, volunteer, visitor, or contractor to engage in the activities described in paragraphs (a)- (e) of this section.
7. Any display by a staff member, volunteer, visitor, or contractor of his or her uncovered genitalia, buttocks, or breast in the presence of a resident, and
8. Voyeurism by a staff member, volunteer, visitor, or contractor.

I. *Sexual Contact*: Sexual contact between residents is prohibited, deemed to be non-consensual since they are persons in custody and therefore, deemed to be sexual abuse.

J. *Sexual Harassment*:

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 resident directed toward another;

and

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

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

L. Volunteer: An individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

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

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Procedure A. General

1. Resident Sexual Contact

a. Residents are prohibited from engaging in any sexual contact with each other. Any sexual contact between residents is deemed to be non-consensual and is deemed to be sexual abuse. Sexual contact between residents shall subject them to appropriate discipline.

b. Sexual contact between staff and residents is also strictly forbidden and is governed by Maine law and this policy.

(1) Staff Reporting Allegations of Resident Sexual Abuse or Sexual Harassment:

Pharos House staff who learn of alleged sexual abuse, sexual harassment or sexual contact between residents must immediately report the allegations to a supervisor.

2. Staff Sexual Contact

a. Staff are strictly prohibited from engaging in any type of sexual contact with residents.

(1) Any sexual contact between staff and residents is deemed to be non-consensual and is sexual abuse.

(2) Sexual abuse, sexual harassment or sexual contact with residents shall subject staff to appropriate discipline, up to and including termination.

(3) Information of an alleged incident will also be forwarded to local law enforcement for investigation to determine if a crime has been committed.

b. Staff Reporting allegations of staff sexual abuse or sexual harassment.

(1) Staff who learn of alleged staff sexual abuse or sexual harassment must immediately report the allegations to a supervisor.

(2) The initial report to a Supervisor may be verbal, but it must be followed up with a written incident report, authored by the staff member reporting in the incident, prior to the end of the shift.

(3) The appropriate staff must file a report as required by program procedures (Attachment A).

(4) Staff with knowledge of sexual abuse or sexual harassment who wish to make a confidential report may do so by contacting/calling the Pharos House PREA Coordinator.

(a) All such reports will be kept strictly confidential.

(b) Depending on the circumstances, the contracting agency, local law enforcement or PREA Coordinator shall be assigned to investigate the allegations.

(5) Failure of staff to report allegations of staff sexual abuse or sexual harassment will result in disciplinary action, up to and including termination and/or criminal charges.

3. Resident Reporting Allegations of Staff or Resident Sexual Abuse or Sexual Harassment Violations

a. The program has standardized reporting forms available to residents to fill out. Residents can submit confidential reports of sexual abuse or sexual harassment violations by completing the reporting form, putting it in an envelope and placing the envelope at the front desk or designated locked box (Attachment B).

b. When residents make a disclosure to staff, the staff shall not harass, make fun of, belittle, or condescend to the resident. Every allegation must be taken seriously. Staff shall not disclose this information to any unnecessary party.

c. If there appears to be evidence of sexual abuse between residents, the appropriate staff shall separate them so there is no possibility of further unmonitored contact between them until an investigation is completed.

d. In less serious situations (administrative), the appropriate staff shall consider whether to separate the residents or take other steps for their safety, to prevent intimidation or retaliation.

Procedure B: Administration/Staffing

1. The program has developed a staffing plan that provides for expected levels of program supervision and monitoring, to ensure that the facility is safe and secure.

2. Video monitoring is also used to monitor and supervise residents in common areas and provides additional protection against sexual abuse.

a. All staff are trained in how to use the video monitoring system.

b. The PREA Coordinator or his/her designee is responsible for having all video recorded information that covers the period of 24 hours before and after any alleged sexual assault.

c. Recorded video is kept for 90 days before being written over.

3. Once a year, during the budget preparation period, the staffing plan is reviewed to assess for any necessary adjustments:

a. in the staffing plan,

b. in prevailing staffing patterns,

c. with the deployment of video monitoring systems and

d. with other monitoring practices or the allocation of facility resources to commit to the staffing plan to ensure PREA compliance.

e. if a deviation ever occurs in the staffing plan, it is documented and the reason for noncompliance is justified.

4. Data Collection

a. The PREA Coordinator shall collect accurate, uniform data for every allegation of sexual abuse and sexual harassment at all facilities under its direct control using a standardized instrument and set of definitions (Attachment E).

b. The PREA Coordinator shall aggregate the incident-based sexual abuse data.

c. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. (Attachment D).

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

e. The Executive Director will be responsible for compiling the number of reports of sexual abuse and sexual harassment at a minimum of once a month.

f. The Executive Director shall provide documentation on the website of his/her review of the most current aggregated incident-based sexual abuse data annually.

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

5. Data Review for Corrective Action

a. Pharos House shall review data collected and aggregated 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

b. Preparing an annual report of its findings and corrective actions for Pharos House.

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

d. Pharos House may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a program but must indicate the nature of the material redacted.

6. Data Storage, Publication, and Destruction

a. Pharos House shall ensure that data collected is securely retained.

b. Pharos House shall make all aggregated sexual abuse data, from programs under its direct control, readily available to the public at least annually (Attachment E).

c. The most current aggregated sexual abuse data shall be posted on the Pharos House website.

d. Before making aggregated sexual abuse data publicly available, Pharos House shall remove all personal identifiers.

e. Pharos House shall maintain sexual abuse data collected for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

7. Hiring and Promotion Decisions

a. Pharos House prohibits hiring or promoting anyone who may have contact with residents, and prohibits enlisting the services of any contractor who may have contact with residents, who:

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

(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. Pharos House 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. Pharos House requires that before any new employee, who may have contact with residents, is hired:

(1) best efforts are made to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse (consistent with federal, state, and local law).

(2) In addition, Pharos House requires that a criminal background record check be completed before enlisting the services of any contractor who may have contact with residents.

(3) Pharos House requires that either criminal background record checks be conducted at least every five years for current employees and contractors who may have contact with residents or that a system is in place for otherwise capturing such information for current employees and contractors.

(4) Any material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

(5) Pharos House will check the backgrounds of all applicants and employees who have contact with residents directly, about previous misconduct described in paragraph a. of this section.

(6) Pharos House also imposes upon employees a continuing affirmative duty to disclose such misconduct.

Procedure C: Prevention

1. All staff and residents will be alert to signs of potential situations in which sexual misconduct might occur. Signs may include:

- a. Staff/resident being overly friendly.
- b. Offering money, gifts, favors, etc., and
- c. Security threat group activity (i.e., gangs, mafia affiliation, religious zealots, etc.).

2. Substantial Risk of Imminent Sexual Abuse - When the program learns by any means of notice listed in this policy or by any other means that a resident is subject to a substantial risk of imminent sexual abuse, staff must take immediate action to protect the resident.

3. The program will identify, assess, and manage residents with special needs, (including those who are potentially vulnerable and those who are potentially dangerous), to provide safe housing, adequate protection, and programmatic resources to meet their needs.

4. Protection against Abuse and Retaliation

a. The program must employ all available measures to protect vulnerable residents from abuse or prevent abusers from having the opportunity to abuse by:

- (1) Consultation with the referral source.
- (2) Removing alleged resident abusers from contact with victims;
- (3) Removing alleged staff abusers from contact with victims.
- (4) Monitoring resident rooms, including by direct observation, if necessary.
- (5) Transferring potential victims/abusers to other facilities, if operationally possible.

(6) Actively monitoring, for at least 90 days, the conduct and treatment of residents or staff who reported abuse or harassment, and, of residents who were reported to have suffered abuse to see if there are changes that may suggest possible retaliation by residents or staff.

(a) The Case Manager or Social Services Coordinator will monitor the conduct and treatment of any client assigned to them who is involved in a PREA incident using the Monitoring against Retaliation form (Attachment P).

(b) The Case Manager or Social Services Coordinator will also monitor the conduct and treatment of any of the residents assigned to them that cooperated with a PREA investigation.

(c) The Case Manager or Social Services Coordinator will contact the PREA Coordinator should they detect any signs of retaliation against any resident involved in any way in a PREA incident.

(d) Should the Case Manager or Social Services Coordinator be unavailable the remaining Case

Manager will monitor the situation.

(e) The Case Manager or Social Service Coordinator will check in with the alleged victim of any PREA incidents at least once per week to ensure that no retaliation is occurring.

(7) Promptly remedying any signs of retaliation detected.

(8) Monitoring any resident disciplinary reports, housing program changes, or negative performance reviews or reassignments of staff.

(9) Continuing monitoring beyond 90 days if the initial monitoring indicates a continuing need.

(10) Providing monitoring that includes periodic status checks for residents; and

(11) Protecting individuals who cooperate in investigations who express fear of retaliation.

(a) The program's obligation to protect against retaliation ends if any allegation is unfounded.

Procedure D: Training

1. Training for Staff

a. Training on staff and resident sexual misconduct, staff and resident boundary violations, and staff response shall be incorporated into New Employee Orientation (NEO) and included in the basic training for all new employees. The training will include, but not be limited to:

(1) Pharos House's zero-tolerance stance for sexual abuse and sexual harassment.

(2) How to fulfill their responsibilities under Pharos House use sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures.

(3) Resident's 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

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

b. Such training shall be tailored to both males and/or female residents (if applicable) at the employee's program.

2. Pharos House documents that employees understand the PREA training they have received (Attachment F).

3. Training for Volunteers and Contractors

a. All volunteers who have contact with residents and contractors with a contractual agreement to provide services on a reoccurring basis to residents shall be trained on their responsibilities under the agency's policies and procedures regarding sexual abuse, harassment prevention, detection, and response (Attachment G).

b. The level and type of training provided to volunteers and contractors is based on the services they provide and level of contact they have with residents.

c. All volunteers and contractors (as stipulated above in Section 1.) shall have *at least* been notified of the agency's zero-tolerance stance regarding sexual abuse and sexual harassment and informed

how to report such incidents.

d. The program shall maintain documentation confirming that volunteers and contractors understand the training they have received.

Procedure E: Resident Intake/Orientation and Education

1. Resident Intake/Orientation

a. As part of orientation for residents during intake, staff will communicate PREA information verbally and in writing, in a manner that is clearly understood by residents (Attachment H) Information will include but is not limited to:

- (1) Presentation of this policy
- (2) Resident Grievance process
- (3) Pharos House zero tolerance stance
- (4) Self-protection methods
- (5) Prevention and intervention
- (6) Treatment and counseling
- (7) Reporting incidents
- (8) Protection against retaliation
- (9) Consequences of false allegations (Attachment I)

b. Staff shall make every resident aware of PREA and the program's zero tolerance stance prohibiting sexual contact, sexual abuse, and sexual harassment between residents or between residents and staff while at the program.

c. Staff shall communicate to residents the definitions of sexual abuse and Sexual Harassment violations, and information on the various reporting mechanisms for residents who believe they are a victim of or witness to this behavior.

(1) Residents will be informed about the multiple ways to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting such behavior and staff neglect or violation of responsibilities that may have contributed to such incidents (Attachment H and I).

d. Staff shall distribute to each resident a *Resident Handbook* which includes the above information in language easily understood by residents. Staff shall also orient the residents to the section of the Handbook which discusses disciplinary sanctions for residents who intentionally make false allegations.

e. The Case Manager shall also address this information with the new residents as part of their resident orientation.

f. Staff will document verification of resident orientation and education on PREA by completing the *Resident Acknowledgment of Prohibition on Sexual Misconduct* (Attachment

I). Staff will maintain the original signed acknowledgment form in the resident's case file.

g. The program provides residents with PREA education in formats accessible to all residents, including those who are limited English proficient (LEP), deaf, visually impaired, or otherwise disabled as well as residents who have limited reading skills.

h. The program documents resident participation in PREA education sessions (Attachment J).

i. In addition to providing such education, the program ensures that key information is continuously and readily available and visible to residents through posters, resident handbooks, and brochures.

2. Residents with Disabilities and/or Limited English Proficiency

a. Residents under this category include:

- (1) Limited English proficient
- (2) Deaf

- (3) Visually impaired
- (4) Otherwise disabled
- (5) Limited in their reading skills

b. These residents are provided equal opportunities to participate in or benefit from all aspects of Pharos Houses' efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

c. To ensure effective communications, all efforts will be made to bring interpreters or other skilled professionals into the program as soon as staff discover any residents with disabilities and/or has limited English proficiency.

d. The use of resident interpreters, resident readers, or other types of resident. Assistants will not be used, except in limited circumstances, where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-responder duties or the investigation of the resident's allegations.

e. Those exceptions or limited circumstances shall be clearly documented.

f. When a potential resident whose primary language is not English is accepted to Pharos House then Pharos House shall provide the house PREA policy, the Pharos House PREA Booklet, the Resident Acknowledgment of Prohibition of Sexual Misconduct/PREA Orientation form, and the Resident agreement in said resident's language by the end of the first day of the resident's arrival to the Pharos House.

g. When a resident whose primary language is not English arrives at the Pharos House, they will be provided an "ESL Resident PREA Information form" (Attachment O1) in their primary language immediately upon arrival. Instructions regarding how to make this transfer are readily available (Attachment O2).

h. Pharos House will provide additional information and forms to residents whose primary language is not English regarding other PREA related material as needed.

i. The Executive Director or their staff designee will read out loud the PREA policy for Pharos House to any resident who is blind or visually impaired. This staff member will also read the Pharos House PREA booklet, the Resident Acknowledgment of Prohibition of Sexual Misconduct/PREA Orientation form, and the Resident Agreement to said resident by the end of the first day of the resident's arrival to the Pharos House.

j. The Executive Director or their staff designee will read out loud the "Initial Arrival Information Sheet" to any resident who is blind or visually impaired immediately upon their arrival to Pharos House.

k. Assigned Pharos House Staff will provide additional information and forms to residents who are blind or visually impaired regarding other PREA related material as needed.

3. Screening for Risk of Sexual Victimization and Abusiveness

a. All residents arriving at the program shall be assessed during an intake screening (and upon transfer to another facility) for their risk of being sexually abused by other residents or sexually abusive toward other residents, using the *PREA Victim and/or Predator Screening Instrument Checklist* (Attachment C).

(1) Intake screening shall ordinarily take place within 72 hours of arrival at the program.

(2) Such assessments shall be conducted using an objective screening instrument.

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

- (a) Whether the resident has a mental, physical, or developmental disability;
- (b) The age of the resident.
- (c) The physical build of the resident.
- (d) Whether the resident has previously been incarcerated.
- (e) Whether the resident's criminal history is exclusively nonviolent.

- (f) Whether the resident has prior convictions for sex offenses against an adult or child.
 - (g) Whether the resident is or is perceived to be (by staff or residents) gay, lesbian, bisexual, transgender, intersex, or gender nonconforming.
 - (h) Whether the resident has previously experienced sexual victimization; and
 - (i) The residents' own perception of vulnerability.
- (4) In assessing residents for risk of being sexually abusive, the intake screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency.
- (5) Each completed *PREA Victim and/or Predator Screening Instrument* will be stored in the residents' confidential file which is kept in a locked filing cabinet.
- (6) Within a set time period, not to exceed 30 days from the resident's arrival at the program, staff will reassess the resident's risk of victimization or abusiveness based upon any additional, relevant information received by the program since the intake screening.
- (a) A resident's risk level shall also be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness.
 - (b) Using the *PREA Victim and/or Predator Screening Instrument* the Program Director, or designee, will conduct the 30-day reassessment of the resident's risk level of victimization or abusiveness.
 - (c) The case manager or Social Services Coordinator supervisor managing the case will track the date of the assessment and reassessment for each resident in the program.
- (7) Residents may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to:
- (a) Whether the resident has a mental, physical, or developmental disability.
 - (b) Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming.
 - (c) Whether the resident has previously experienced sexual victimization.
 - (d) The resident's own perception of vulnerability.
- (8) Program staff shall implement appropriate controls on the dissemination within the program of responses to questions asked pursuant to the intake screening in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents.
- (9) The program makes individualized determinations about how to ensure the safety of each resident.
- b. Use of Screening Information
- (1) The program uses information from the *PREA Victim and/or Predator Screening Instrument* to inform housing, bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive.
- (2) The program makes individualized determinations about how to ensure the safety of each resident.
- (3) The program makes housing and program assignments for transgender or intersex residents in the facility on a case-by-case basis considering whether a placement would ensure the residents health and safety, and whether the placement would present management or security problems.
- (4) A transgender or intersex resident's own view with respect to his or her (if applicable) own safety shall be given serious consideration.
- (5) Transgender and intersex residents shall be given the opportunity to shower separately from other residents.
- (6) The placement of lesbian, gay, bisexual, trans gender, or intersex residents in dedicated units,

or wings solely based on such identification or status, (unless such placement is in a dedicated unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such residents) is prohibited.

c. Roommate and Room Assignments

(1) Supervisory staff shall be proactive in the prevention of sexual abuse and sexual harassment when making roommate and room selections for residents. Staff will use the results of the *PREA Victim and/or Predator Screening Instrument* and will consider the following factors:

- (a) Compatibility of resident's chronological age
- (b) Maturity
- (c) Gang affiliation
- (d) Level of sophistication
- (e) Functioning level
- (f) Size and strength
- (g) Disabilities
- (h) Infirmities
- (i) Behavioral history
- (j) Detaining or committing offenses.

(2) If a resident has a known history of being a sexual predator, as evidenced through detaining or committing offenses, reports from prior placements, or other credible information, that resident shall be placed in a single room, if space allows.

(3) Staff shall take seriously a resident's request for a room change and discreetly inquire whether the resident is feeling unsafe. If the resident answers yes, the staff member should bring this to the attention of a Supervisor and Program Director for investigation.

d. Limits to Cross-Gender Viewing

(1) Residents at the program are able to shower, perform bodily functions, and change clothing without staff of the opposite gender viewing their buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine room checks. Staff of the opposite gender announce their presence when entering a resident room or bathroom where residents are likely to be showering, performing bodily functions, or changing clothes.

(2) Staff of the opposite gender announce their presence when entering a resident room or bathroom where residents are likely to be showering, performing bodily functions, or changing clothes.

e. Staff Searches of Residents

(1) Pharos House authorizes only one type of body search, a pat frisk.

(a) A pat frisk may be conducted randomly by staff on residents at any time.

(b) The employee conducting this type of search shall be thorough yet must not offend the dignity of the resident being searched.

(c) Pat frisk searches will be conducted by gender, male staff to male resident and female staff to female resident.

(2) Transgender or Intersex Residents

(a) Staff are prohibited from searching or physically examining a transgender or intersex resident for the sole purpose of determining the resident's genital status.

(b) When gender is unknown, it may be determined:

(aa) during conversations with the resident,

(bb) by reviewing medical records or prior custody situation.

(cc) If necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

(3) Strip searches and body cavity searches are prohibited.

Procedure F: Resident Reporting/ Investigations

1. The program shall provide multiple internal ways for residents to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

2. The program has standardized reporting forms (Attachment B) available to residents to fill out. Residents can submit confidential reports of sexual abuse.

3. Residents can submit confidential reports of sexual abuse or sexual harassment violations by completing the reporting form, putting it in an envelope and placing the envelope at the front desk or designated locked box.

4. The program also shall inform residents of at least one way to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials, allowing the resident to remain anonymous upon request.

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

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

7. Third Party Reporting

a. The program shall allow for third parties to report sexual abuse or sexual harassment for any resident and distributes information explaining how to report sexual abuse and sexual harassment on behalf of a resident.

(1) The *PREA Third Party Reporting Form* (Attachment K) is available for individuals to report sexual abuse or sexual harassment on behalf of an offender.

(2) Copies of the form can be found in the PREA manual.

(a) All reports of sexual abuse and sexual harassment received from third parties shall be responded to according to Pharos House policy by agency staff.

(b) Any staff receiving a third-party report of sexual abuse or sexual harassment shall forward such report to their immediate supervisor who will in turn forward it to the Executive Director and the PREA Coordinator who will follow the proper PREA reporting guidelines.

(c) Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse and sexual harassment, and shall also be permitted to file such requests on behalf of residents.

(d) If third-party files such a request on behalf of a resident, Pharos House may require as a condition of processing the request, that the alleged victim agrees 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.

(e) If the resident declines to have the request processed on his or her behalf, Pharos House shall document the residents' decision.

8. Reporting to Other Confinement Facilities

a. Upon receiving an allegation that a resident was sexually abused or sexually harassed while confined at another facility, the Executive Director shall notify the head of the facility or appropriate office of the agency where the alleged abuse or harassment occurred.

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

c. Pharos House shall document that it has provided such notification.

d. The agency head that receives such notification shall ensure that the allegation is investigated in accordance with these standards (however, this is outside of Pharos House's control).

9. Exhaustion of Administrative Remedies

a. The program ensures a formal administrative process to address resident grievances regarding sexual abuse and sexual harassment. The program prohibits an informal grievance process or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse or sexual harassment.

b. Residents who wish to file a grievance related to sexual harassment or sexual abuse may contact, either verbally or in writing, the Executive Director to file their grievance.

c. When a grievance is filed the Executive Director will contact the Bureau of Prisons to review the matter.

d. When a grievance is filed the Executive Director will contact the local law enforcement agency to determine whether there could be any criminal charges.

e. Whether a grievance that involves an allegation of sexual abuse or sexual harassment is a crime will be determined by the local law enforcement agency.

f. Filing a grievance does not change the responsibilities of Pharos House to comply with all aspects of the PREA policy.

g. If the allegation involves a behavior that is not considered criminal then the matter may be handled through a formal Administrative process.

h. If the allegation involves a behavior that is determined then the matter will be handled through the local District Attorney's office and the Bureau of Prisons will be informed.

i. The program shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse or sexual harassment.

j. A resident who alleges sexual abuse or sexual harassment may submit a grievance without submitting it to a staff member who is the subject of the complaint.

k. Such grievances will not be referred to a staff member who is the subject of the complaint.

l. Pharos House 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.

m. Computation of the 90-day time period shall not include time consumed by residents in preparing any administrative appeal.

n. Pharos House 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; Pharos House shall notify the resident in writing of any such extension and provide a date by which a decision will be made.

o. At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level.

p. Emergency Grievances

(1) The program shall provide procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse or sexual harassment.

(2) After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse or sexual harassment, the program shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse or sexual harassment) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final decision shall document the program's determination whether the resident is in substantial risk of imminent sexual abuse or sexual harassment and the action taken in response to the emergency grievance.

q. Unsubstantiated Grievances

(1) The program may discipline a resident for filing a grievance related to alleged sexual abuse only where the program demonstrates that the resident filed the grievance in bad faith.

10. Staff and Agency Reporting Duties

a. Reporting Duties

(1) Any staff must immediately report to the Executive Director or designee, any knowledge, suspicion, or information regarding:

(a) An incident of sexual abuse or sexual harassment that occurred in the program.

(b) Retaliation against residents or staff who reported an incident of sexual abuse or sexual harassment.

(c) Any staff neglect or violation of responsibilities that may have contributed to such an incident or retaliation.

b. All reports of sexual abuse and sexual harassment that are received from third parties must be received and responded to according to policy by all staff.

(1) as soon as practical, program staff must report all allegations of sexual abuse or sexual harassment, including third party and anonymous reports, to the Executive Director and/or the PREA Coordinator

(2) The PREA Coordinator will interview the alleged victim as soon as possible but no later than the end of that work shift. The PREA Coordinator may also assign the investigation to the Social Service Coordinator or the Case Manager. The completed report will be provided to the Executive Director by the end of the day that the complaint was received.

(3) If the alleged victim does not wish to file a report, they will be asked to sign a refusal form (Attachment L).

(4) The Executive Director will provide this information to the Bureau of Prisons.

(5) The Executive Director will provide this information to the local law enforcement agency who will determine if the reported activity is a crime.

(6) The Bureau of Prisons will determine whether Pharos House or the Bureau of Prisons is conducting the internal investigation.

(7) If the resident states they have been sexually abused within the last 96 hours, staff must request that the resident not take any action that could destroy physical evidence, including washing, drinking, or eating, unless medically indicated. If toileting needs to take place, the resident should be instructed to not wipe.

(8) If the first responder is not a security staff member, then they are required to request that the alleged victim not take any action that could destroy evidence and then they are to notify a security staff member.

(9) If the report alleges sexual abuse the Executive Director or their supervisory designee must contact the local Rape Crisis Center or similar local agency to arrange for a sexual assault advocate to go to the hospital where the resident is being transported.

(10) Reporting staff must also comply with all BOP requirements regarding resident disciplinary actions including the completion of an incident report (Attachment B) prior to the end of their shift.

c. All allegations of sexual abuse or sexual harassment must be reported as PREA violations.

(1) Allegations of sexual harassment between residents will be reported for investigation by the Executive Director.

(2) Allegations of sexual harassment of residents by staff will be reported for investigation by the Executive Director.

d. Upon receiving an allegation that a resident was sexually abused while residing at the program, the staff receiving this information must immediately notify the Executive Director or designee.

e. The Executive Director, or designee, must then:

- (1) Institute the Incident Report process.
- (2) Call the local authorities to begin a criminal investigation
- (3) Call the Bureau of Prisons
- (4) Notify the PREA Coordinator as soon as possible, but no longer than by the end of the business day of the day the report of the allegation was received.
- (5) Document such report and notification in the facility log.
- (6) The PREA Coordinator, receiving this information, must immediately document such report and notification in the PREA data log.
- (7) If the allegations of sexual abuse are reported to staff after the alleged victim has been transported to a medical facility, staff must:
 - (a) Notify the receiving medical facility of the allegation of sexual abuse and the victim's potential need for medical or social services unless the victim has requested otherwise.
 - (b) Complete an Incident Report in accordance with program procedures no later than the end of their current workday.
- (8) A copy of all Incident Reports regarding sexual abuse and sexual harassment will be sent to the PREA Coordinator.
- (9) If the allegation is made after a resident has left the facility, or right before they are leaving, the Executive Director will interview all parties involved (and available) and document the situation.
- (10) If a crime is determined to have been committed, the Executive Director will notify the local law enforcement agency and the contracting agency and await further guidance.
- (11) The applicable staff (Executive Director, the PREA Coordinator or designee) will keep a record of the details of the notifications, including: (Attachment A).
 - (a) All persons notified
 - (b) Date and time of notification
 - (c) Date and time notice of allegation was received
 - (d) Any details of the allegation
 - (e) Date and time of notification of PREA Manager
 - (f) Confidentiality - Apart from reporting to designated supervisors or agency officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

11. Investigations

a. In allegations of sexual abuse, the Executive Director shall notify the local law enforcement department as soon as possible as well as the Bureau of Prisons.

b. When outside agencies investigate Sexual Abuse, the responsibilities for Pharos House will be limited to:

- (1) Preserve and protect any crime scene until law enforcement personnel arrive and take control of the crime scene.
- (2) Prevent the alleged victim or abuser from taking any actions that could destroy physical evidence until law enforcement personnel arrive and take control of the crime scene.
- (3) Provide law enforcement with information that they request, to include reports, documents and electronic surveillance files; subject to privacy restrictions, until such time as a legal order to produce information is received.
- (4) Periodically contact law enforcement individuals who are assigned to investigate the incident to request updates on the status of the investigation and to ensure that law enforcement has received information that they have requested from the facility.
- (5) The law enforcement agency will be responsible for all other aspects of the investigation,

including but not limited to:

(a) Assume control of the crime scene and any evidence.

(b) Implement the policies and protocols for their agency when responding to and investigating an incident of Sexual Abuse.

c. The Executive Director must ensure that all protocols are followed for crime scene preservation to enable the local authorities to conduct a proper investigation of all allegations of sexual abuse.

d. If the alleged assault occurred in the Pharos House the first responders will ensure that the scene is not disturbed by anyone by closing off the room and eliminating access to it until the police arrive.

e. First responders will ensure that nothing is taken from the scene.

(1) The first responders will also ensure that if the alleged victim removes any clothing or other items, they will be appropriately secured in an evidence bag.

f. The Executive Director or designee shall make all witnesses, the scene, and any evidence immediately available to the police investigators.

g. Qualifications of Investigating Agency

(1) The program shall request that the investigating agency abide by all PREA requirements/standards.

(2) Documentation shall be maintained if this request is unsuccessful.

h. In all other allegations of sexual harassment (boundary violations), the Executive Director will contact the Bureau of Prisons and the local law enforcement agency to have the incident reviewed.

(1) Determination will be made by the local law enforcement agency regarding whether the allegation will be investigated by the local law enforcement agency as a potential crime.

(2) If it is determined that the matter should be investigated internally the Executive Director, in conjunction with the Bureau of Prisons will determine who will conduct the investigation.

(3) If it is determined that Pharos House is the organization that will complete the internal investigation the PREA Coordinator, or their designee will complete the investigation.

(a) Only individuals who have completed the required specialized training for PREA investigators in accordance with standard 115.234 will conduct Administrative PREA investigations.

i. Staff must cooperate fully with the local authorities and any administrative investigators in all facets of any criminal and/or administrative (internal) investigations.

(1) Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse 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.

(3) Evidentiary standard for administrative investigations.

(4) Pharos House shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

(5) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff. No agency shall require a resident who alleges sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an allegation.

12. Incident Report

a. Program staff must complete an Incident Report (Attachment A) in accordance with program procedures for any sexual abuse or sexual harassment incident including any allegations.

(1) Reports should include:

(a) Description of physical evidence

(b) Testimonial evidence

- (c) Credibility assessments and the reasoning behind them
 - (d) Investigative facts and finding
 - (e) Documentary evidence, if any, should be attached
- b. 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.
- c. 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.
- d. At the end of an investigation, the PREA Coordinator and the Executive Director will be notified.
- e. At the end of the investigation the victim will also be notified of the outcome of the investigation *Resident Notification- Allegation of Sexual Abuse/Harassment Outcome (Attachments Q, R1 and R2)* by the PREA Coordinator.
- f. After an investigation, if a resident or staff have been determined to have intentionally made false allegations, the appropriate sanctions will be imposed.
- g. Victims also have the right to refuse an investigation of an alleged sexual abuse incident. Staff will ensure that this right is documented and have the resident complete the *PREA Victim Refusal to Participate in an Investigation form (Attachment L)*.
- h. If the alleged perpetrator is an employee at Pharos House the Executive Director or their designee will provide the alleged victim information whenever the following occurs:
- (1) The staff member is no longer employed at Pharos House
 - (2) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility. OR
 - (3) The agency learned that the staff member was convicted on a charge related to sexual abuse within the facility.
 - (4) Documentation of said notification will be provided to the PREA Compliance Monitor and will be kept for 5 years after the employee no longer is employed at Pharos House.
- i. Records Retention
- (1) If the alleged abuser is a resident under the custody of a contracting agency, all written reports of the investigation must be retained while the abuser is under custody plus an additional five years.
 - (2) If the alleged abuser is a staff member, all written reports of the investigation must be retained while the staff member remains employed plus an additional five years.
13. Results of Investigation
- a. When an investigation has been completed the PREA Coordinator will inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded (Attachment Q).
- b. If Pharos House did not conduct the investigation the PREA Coordinator shall request that the investigative agency involved provide the relevant information in order to inform the resident involved.
- c. If the resident's allegation involves a staff member the agency shall form the resident whenever the following occurs:
- (1) The staff member is no longer employed at the facility.
 - (2) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility OR
 - (3) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- d. All such notifications or attempted notifications shall be documented by the PREA Coordinator.
- e. Pharos Houses' obligation to report under this standard is terminated when the resident is released from the agency's custody.

Procedure G: Coordinated response

1. Coordinated Response to Alleged Incidents of Sexual Abuse/Staff First Responders.

a. The program will work towards providing a coordinated response to all allegations of sexual abuse, including interventions by first responder staff, medical facility staff, mental health practitioners, local law enforcement, investigators, and program staff. This policy and procedure serves as a written plan for providing coordinated actions taken in response to an incident of sexual abuse.

b. Upon learning that a resident was sexually abused, the first staff member to respond to the scene must:

(1) Separate the alleged victim and alleged abuser (to protect the victim and prevent further violence).

(2) Not leave the alleged victim alone.

(3) Insure no one else enters the area to preserve and protect the crime scene.

(4) Check victim for immediate medical attention and call 911 if warranted.

(5) Contact the Person-in-Charge (Executive Director or designee) to request the assistance (including notifying FBOP of incident).

(6) If the abuse occurred within a time period that would still allow for the collection of physical evidence (up to 96 hours), request that the alleged victim not take any action that could destroy physical evidence, including washing or showering, drinking or eating (unless medically indicated), brushing teeth, changing clothes, or toileting.

(a) If toileting needs to take place, the resident should be instructed to not wipe.

(7) In the event of an allegation of sexual abuse within the last 96 hours, including but not limited to those involving penetration, staff will have resident transported to a local hospital, with the victim's permission, equipped to evaluate and treat sexual abuse/rape victims, where he/she may receive a forensic medical exam by medical personnel not employed by the program.

(a) Staff will request that the resident to wash, shower, toilet, change clothes, brush teeth, eat or drink (unless medically indicated) before examination, as evidence may be destroyed.

(8) Where possible, examinations performed at the community medical facility are performed by Sexual Assault Forensic Examiners (SAFE) and Sexual Assault Nurse Examiners (SANE) nurses.

(a) If SAFEs or SANEs cannot be made available, the examination will be performed by other qualified medical practitioners.

(9) If the victim refuses medical attention following a sexual misconduct incident or allegation, staff will document the refusal on the *PREA Victim Medical Refusal Form (Attachment M)*.

(10) Staff will have the resident transported to the medical facility, ensuring that the resident feels safe with the program staff chosen to accompany him or her.

(11) Staff shall record the medical facility contact information and details of physical injury in a written Incident Report before the end of the shift.

(12) If a disclosure is made of a sexual assault more than 24 hours after the incident, staff should follow the reporting steps and refer the resident to counseling services.

(a) Law enforcement or an ambulance will transport the victim transported to a community medical facility for evidence collection.

(13) If requested by the victim, a victim advocate, qualified program staff member, or qualified staff from a community-based agency shall accompany and support the victim through the forensic medical examination process and investigatory reviews and shall provide emotional support, crisis intervention, information, and referrals.

(14) The Executive Director, or designee, will contact the local rape crisis center (or other similar local agency) to provide follow up support and services to the resident.

(15) The Executive Director, or designee, in consultation with the local mental health provider, shall determine if the resident requires one-to-one observation in accordance with Pharos Houses' Suicide Prevention Policy.

(16) The shift monitor on duty shall take steps to preserve any physical evidence of the alleged sexual abuse. The Executive Director should prevent anyone from entering the area, altering the area, or removing anything from the area, until investigators can arrive and document it.

(17) The staff member who receives an initial report of sexual abuse must separate the victim from the alleged assailant to protect the victim and prevent further violence, and, are required to promptly intervene on the victim's behalf to ensure the victim receives prompt medical and psychological assistance, as appropriate to his or her needs and the circumstances of the alleged offense.

(18) Psychological trauma may also occur to individuals of sexual abuse or sexual harassment. Mental health staff must be available to support and assist those in need.

(19) Pharos House will ensure that all allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations unless the allegation does not involve potential criminal behavior.

(a) Pharos House will document all such referrals.

(b) Pharos House's policy on this issue will be made publicly available by requesting a copy from the Pharos House PREA Coordinator.

c. Separating Staff and Residents

(1) If there appears to be evidence of sexual abuse or sexual harassment between staff and resident, supervising staff shall take steps to separate them so there is no possibility of further unmonitored contact between them until an investigation is completed.

(2) The Executive Director shall determine if the staff member should be placed on administrative leave pending the results of an investigation.

(3) In less serious abuse situations (administrative), the appropriate staff shall consider whether to separate the staff and residents or take other steps for safety and to prevent intimidation or retaliation.

(4) The appropriate staff should also consider whether there are any staff or resident witnesses who should be relocated to ensure their safety and protect them from intimidation or retaliation.

d. Sexual Contact with Family Members of Current Residents

(1) Pharos House staff are strictly prohibited from engaging in any sexual contact with family members of current Pharos House residents.

(2) Staff who engage in sexual contact with family members of current Pharos House residents shall be deemed to have engaged in sexual misconduct and will be subject to discipline up to and including termination.

e. Sexual Contact with Former Residents and their Families

(1) Pharos House staff are prohibited from engaging in any sexual contact with former Pharos House residents or their family members for three years.

(2) Staff who engage in sexual contact with former residents or their family members during this time may be subject to possible discipline.

2. Services Provided/Treatment for Victims

a. Pharos House ensures that an administrative (internal) or criminal investigation is completed for all allegations of sexual abuse or sexual harassment. Sexual abuse allegations are referred for investigation to local law enforcement to document criminal investigations unless the allegation does not involve potentially criminal behavior. All such referrals are documented.

b. Victims of sexual misconduct and residents who allege that they are victims have access to the following services:

(1) Medical examination, documentation, and treatment of injuries, including testing for HIV and other sexually transmitted diseases.

(2) Mental health crisis intervention and treatment.

(3) Social, family, and peer support; and

(4) Reasonable measures taken to protect and prevent future assaults such as screening procedures to identify predator and vulnerable offenders and separation needs.

c. Victim services for residents will include crisis intervention and trauma- specific treatment provided by mental health and/or medical professionals.

d. Staff will also attempt to make available to the victim, a victim advocate from a rape crisis center, either in person or by other means.

e. Victim services will be made available to all program residents while they reside at the program, who were victims of sexual abuse or sexual harassment by program staff, contract employees, volunteers, or other residents while in the program or in other community programs.

f. Resident Access to Outside Confidential Support Services:

(1) The program will provide residents with access to outside victim advocates for emotional support including toll-free hot line numbers where available, of local, state, and national victim advocacy or rape crisis organizations, and by enabling reasonable communication between residents and these organizations, in as confidential a manner as possible.

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

(3) The program will maintain or attempt to enter into memoranda of understanding (MOUs) or other agreements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse.

(a)The program maintains copies of agreements or documentation showing attempts to enter into such agreements.

g. Access to Emergency Medical and Mental Health Services

(1) 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.

(a) At the time a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim pursuant to the program's protection duties and shall immediately notify the appropriate medical and mental health practitioners.

(b) Resident victims of sexual abuse while in community confinement shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

(c) 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. Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers

(1) The program shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any criminal justice setting.

(2) 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.

(3) The program shall provide such victims with medical and mental health services consistent with the community level of care.

(4) Female residents who have been victims of sexually abusive vaginal penetration while in the program shall be offered pregnancy testing to be completed by local medical treatment agencies.

(5) If pregnancy results from conduct specified in paragraph (4) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services.

(6) Resident victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.

(7) On-going treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

(8) The program shall attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

Procedure H: Sanctions and Grievances

1. Disciplinary Sanctions for Staff

a. Staff shall be subject to disciplinary sanctions up to and including termination for violating Pharos House sexual abuse or sexual harassment policies.

(1) Termination shall be the presumptive disciplinary sanction for staff that have engaged in sexual abuse.

b. Disciplinary sanctions for violations of Pharos House policies relating to sexual abuse or sexual harassment (other than engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

c. All terminations for violations of Pharos House 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 or sexual harassment shall be prohibited from entry to Pharos House and shall be reported to law enforcement agencies, (unless the activity was clearly not criminal), and to relevant licensing bodies.

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

4. 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.

5. The program may offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse and shall consider whether to require the offending resident to participate in such interventions as a condition of continued access to programming or other benefits.

6. The program may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

7. For disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

8. The program prohibits all consensual sexual activity between residents and will discipline residents for such activity. However, according to PREA, Pharos House may not deem such activity to constitute sexual abuse if it determines that the activity was not coerced.

9. Sexual Abuse Incident Reviews

a. The facility shall conduct a sexual abuse or sexual harassment incident review at the conclusion of every sexual abuse/harassment investigation, including where the allegation has not been substantiated (Attachment N).

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

c. The review team shall include upper-level management officials, with input from line supervisors, investigators, local law enforcement and medical or mental health practitioners.

d. The review team shall:

(1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.

(2) Consider whether the incident or allegation was 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; assess the adequacy of staffing levels in that area during different shifts.

(4) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff and current camera systems; and

(5) Prepare a report of its' findings, including but not necessarily limited to determinations made pursuant to sections a. – e. (above) and any recommendations for improvement, and submit such report to the director and the PREA Coordinator.

e. The facility shall implement the recommendations for improvement or shall document its' reasons for non-compliance.