



**DEPARTMENT OF CORRECTIONS
PROGRAMS AND FACILITIES BUREAU
FACILITY OPERATIONAL REQUIREMENT**

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| Requirement: | PFB 6.2.404 PREA COMPLIANCE AND REPORTING |
| Effective Date: | 10/01/2020 Page 1 of 4 |
| Revision Date(s): | 09/13/2021 |
| Reference(s): | DOC 1.1.17; 41-3-201, MCA; 45-5-501, MCA; 45-5-502, MCA; 45-5-503, MCA; 52-3-811, MCA; 28 CFR Part 115 |
| Signature / Title: | /s/ Megan Coy, Programs and Facilities Bureau Chief |

This requirement is referenced as ACCD 1.3.1400 PREA in Section 1.J.1.a. Standard Contract Terms; Compliance with Laws; State, federal, and local laws; Prison Rape Elimination Act, in the following contracts: Alternatives, Inc., Butte Prerelease, Gallatin County Reentry Program, Helena Prerelease, Passages, Elkhorn, Nexus, and START.

This requirement is referenced as ACCD 1.1.1700 PREA in Section 13.1 Compliance with Laws in the following contracts: Connections Corrections Program (CCP) and WATCH.

I. PURPOSE:

The Programs and Facilities Bureau’s contracted facilities will comply with requirements established by the Prison Rape Elimination Act of 2003 by following established requirements for the prevention, intervention, reporting, and investigation of any sexual abuse or sexual harassment against offenders.

II. DEFINITIONS:

DOC PREA Coordinator – The Department position responsible for administration and management of the Department-wide PREA program including, but not limited to, compliance, policy and procedure development, staff training, offender education, and records and statistical tracking.

LEAJ-Law Enforcement Agency of Jurisdiction – The government agency, i.e. sheriff’s office or local police department, operating within their defined area of responsibility.

Office of Investigations – The office that oversees all criminal investigations for the Department.

PFB-Programs and Facilities Bureau – The Bureau oversees the facilities providing assessments and sanctions, prerelease, and treatment services.

Programs and Facilities Contract Manager – The Department’s employee(s) who acts as the liaison for services and monitors the contractual agreements between the Department and PFB contract facilities.

Service Provider – This term includes contracted persons or other vendors providing service whose assignment is primarily on Department premises, e.g. facility or program office.

Sexual abuse of an offender by another offender – Sexual acts, sexual contact or any other intentional touching, either directly, through the clothing, or with an object, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation, in which the victim does not consent, is coerced by overt or implied threats of violence, or is unable to consent or refuse.

Sexual abuse of an offender by an employee or service provider – Sexual acts, sexual contact or any other intentional contact, either directly, through the clothing, or with an object, of or with the

Subject: PREA COMPLIANCE AND REPORTING

genitalia, anus, groin, breast, inner thigh, or the buttocks; any attempt, threat, or request by an employee or service provider to engage in these activities; any display by an employee or service provider of his or her uncovered genitalia, buttocks, or breast in the presence of an offender; or voyeurism by an employee or service provider, when these acts are unrelated to official duties or where the employee or service provider has the intent to abuse, arouse, or gratify sexual desire.

Sexual Harassment – Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender directed toward another offender or repeated verbal comments or gestures of a sexual nature to an offender by an employee or service provider.

Substantiated Allegation – An event was investigated and determined to have occurred based upon preponderance of the evidence.

Unfounded Allegation – An event was determined not to have occurred.

Unsubstantiated Allegation – Evidence was insufficient to meet the preponderance of the evidence to make a final determination as to whether or not the event occurred.

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

Voyeurism – An invasion of privacy of an offender by a staff member or service provider for reasons unrelated to official duties.

III. REQUIREMENTS:

A. GENERAL PROVISIONS:

1. The Department of Corrections has zero tolerance for all forms of sexual abuse and sexual harassment against offenders. These offenders will be recognized as crime victims and victim services will be made available to them.
2. PFB contract facilities will be compliant with all applicable standards under 28 CFR Part 115 Prison Rape Elimination Act of 2003 (PREA) Subpart A or Subpart C, maintain documentation of compliance, have an appropriate PREA policy and/or procedure in place, conduct appropriate screening assessments for offender victimization or abusiveness, and report PREA incidents to the PFB as outlined in this requirement and *PFB 6.2.403 Incident Reporting Requirements*.
3. The facility administrator will assign a PREA compliance manager responsible for:
 - a. coordinating PREA-related activities with the DOC PREA coordinator;
 - b. ensuring staff compliance with PREA training requirement; and
 - c. tracking and reporting PREA allegations.
4. All facility staff must be alert to situations in which sexual abuse or sexual harassment might occur and be capable of identifying indicators of sexual abuse and sexual harassment.
5. Department employees in a PFB contract facility must read, understand, and comply with this requirement and the training requirements outlined in *PPD 1.1.1700 PREA Disclosure Reporting*.

Subject: PREA COMPLIANCE AND REPORTING

6. Offenders in a PFB facility must be provided information about the Department's zero-tolerance of sexual abuse and sexual harassment; the facility's appropriate policies and/or procedures for PREA and grievances during facility admission; and be given the opportunity to review the information, ask questions, and receive answers. Offender must complete a form acknowledging receipt of the information and form is placed in offender's file.
7. Any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility whether or not it is part of the Department, or retaliation against offenders or employees who reported such an incident or cooperate with an investigation, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation will be reported immediately. Administrators or designees will immediately respond to allegations of sexual abuse and sexual harassment and will take appropriate measures to protect any individual who expresses a fear of retaliation.
8. Additional reporting to the Department of Public Health and Human Services is required when the alleged victim is:
 - a. under the age of 18 (§41-3-201, MCA); or
 - b. at least 60 years old or is a person with a developmental disability (§52-3-811, MCA).
9. Compliance monitoring reviews required by PREA will be completed by Department employees at each facility in years in which a federal audit does not occur.
 - a. Notice will be provided to the facility prior to any reviews; and
 - b. Facilities will participate and provide all information requested during the review.
 - c. Each facility will submit a copy of the final federal audit report to the Department at the conclusion of a federal audit.

B. INVESTIGATION AND REPORTING:

1. Facilities must establish facility-specific protocols and be responsible for the administrative investigations of allegations of sexual misconduct. The Department's Office of Investigations (DOI) will assist with an administrative investigation if requested by the facility.
2. All PREA allegations will be reported to the PFB as soon as possible after staff receives the allegation.
 - a. Required notifications will be made when an offender discloses to facility staff that while at another facility, he/she was sexually abused and/or harassed by staff or another offender; and
 - b. The notifications must be documented in Section B, Part 1 of *PFB 6.2.403(A) Priority Incident Report*.
3. Staff will complete Section B, Part 1, of *PFB 6.2.403(A) Priority Incident Report* and submit it, with "PREA" in the subject line, to:
 - a. the PFB at coraccdreports@mt.gov;
 - b. the DOC PREA Coordinator at CORPREAReporting@mt.gov; and
 - c. the DOI at corie@mt.gov.
4. All PREA allegations of a criminal nature will be reported by the facility to LEAJ as soon as possible.

Subject: PREA COMPLIANCE AND REPORTING

- a. The facility may complete an initial assessment as to whether the allegation is criminal or administrative. If there is any indication that the incident may be criminal, LEAJ is notified by the facility;
 - b. The LEAJ will determine whether it will investigate the incident, coordinate a criminal investigation with the Office of Investigations, or give authority to the Department to investigate.
 - c. Facility staff assigned to investigate administratively will work in cooperation with law enforcement and/or Department investigator to ensure the criminal investigation is not compromised.
5. However, when LEAJ responds to the facility or an offender is taken to a hospital for an examination, the incident is considered a Priority I incident and facility will complete the following reporting requirements:
- a. Immediate [within one (1) hour] notification will be made to the **PFB Bureau Chief at 406-580-7991**; and
 - b. **MSP Command Post at 406-415-6250**.
6. Following the investigation:
- a. facility staff will complete Section B, Part 2 of *PFB 6.2.403(A) Priority Incident Report* and submit to the Contract Manager at corraccdreports@mt.gov with "PREA" in the subject line;
 - b. facility staff will inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded; and
 - c. the investigation including all documentation of the underlying incident being investigated is subject to review by the DOC PREA Coordinator.
7. Annual reporting of PREA allegations will be completed by each facility using *PFB 6.2.404(A) Facility Annual PREA Data*. Allegations made during January 1 through December 31 of each year will be categorized on the form and the facility must report its total population on December 31st.
- a. The annual data must be submitted to the DOC PREA Coordinator at CORPREAReporting@mt.gov and the Contract Manager at corraccdreports@mt.gov by March 1st of the following year; and
 - b. For each substantiated allegation, a federal form SSV-IA must be completed and submitted with *PFB 6.2.404(A)*.

IV. CLOSING:

Questions regarding this requirement will be directed to the Programs and Facilities Bureau or the DOC PREA Coordinator.

V. FORMS:

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| PFB 6.2.404 (A) | Facility Annual PREA Data |
| PFB 6.2.403 (A) | Priority Incident Report |