



Justice for Youth and Families

Prevention, Detection, Responding to Sexual Misconduct, and Zero Tolerance for Sexual Misconduct Policy

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Table of Contents

STATEMENT OF PURPOSE:	3
SCOPE	3
DEFINITIONS:	3
POLICY:	8
EXPECTED PERFORMANCE:	8
COORDINATION	8
HIRING AND PROMOTION	8
STAFFING PLAN AND MONITORING	10
SEARCHES	11
LIMITS TO CROSS-GENDER VIEWING OF YOUTH	12
COMMUNICATION WITH YOUTH	12
TRAINING OF STAFF	14
TRAINING OF VOLUNTEERS	16
YOUTH EDUCATION	17
YOUTH REPORTS OF ALLEGED SEXUAL MISCONDUCT	20
PROTECTION FROM RETALIATION	29
BEHAVIOR MANAGEMENT GUIDELINES	29
REPORTING TO YOUTH	30
CRIMINAL AND ADMINISTRATIVE AGENCY INVESTIGATIONS	31
STAFF DISCIPLINE	31
DISCIPLINE OF CONTRACTORS, VOLUNTEERS, AND INTERNS	32
SEXUAL ABUSE INCIDENT REVIEWS	32
DATA COLLECTION AND REPORTING	33
DATA REVIEW FOR CORRECTIVE ACTION	34
AUDITS	34

STATEMENT OF PURPOSE

Zero Tolerance Policy - Rising Ground has zero tolerance for sexual abuse and sexual harassment. Every person supported by Rising Ground has the right to be free from sexual abuse, sexual harassment, neglect, exploitation, and retaliation. This includes not being subjected to sexually assaultive, abusive, and or harassing behavior from staff or other persons supported.

This policy sets forth Rising Ground's approach to the prevention, detection, and response to sexual misconduct and sexual misconduct prevention, detection, and response for youth in Limited Secure Placement (LSP) program and the adults who work with them as outlined in the Administration for Children's Service's Policy: Prevention, Detection, and Response to Sexual Misconduct in Limited Secure Juvenile Justice Placement.

SCOPE: This policy is applicable to Rising Ground LSP staff, professionals, volunteers, interns, contractors, federal, state and city partner agency staff in those settings.

DEFINITIONS:

- A. **Body Cavity Search** – A visual, manual, and/or instrument inspection of a youth's anal or vaginal cavity opening. ***Body cavity searches are prohibited.***
- B. **Contact with Youth** – Verbal or physical interactions with LSP youth that are expected to occur based on an individual's role in an LSP program.
- C. **Contractor** – A person or agency that provides services on a recurring basis pursuant to a contractual agreement with Rising Ground, and/or federal, state, and city partner agencies.
- D. **Exigent Circumstances** – Any set of temporary and unforeseeable circumstances that require immediate action in order to combat a serious threat to the security of a facility.
- E. **Gender Expression** – The manner in which a person expresses his or her gender through clothing, appearance, behavior, speech, and other expression. A person's gender expression may vary from the gender norms traditionally associated with that person's biological sex.
- F. **Gender Identity** – Individuals' internal view of their gender; individuals' innermost sense of being male, female, or a different gender. This may include name and pronoun preferences for an individual.
- G. **Gender Non-Conforming** – Having or perceived to have gender characteristics and/or behaviors that do not conform to traditional societal gender expectations.

- H. **Interns** – Students who assist in LSP pursuant to an agreement with the student’s school.
- I. **Intersex** – A person born with sexual anatomy, reproductive organs, or chromosomal pattern that does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.
- J. **Limited Secure Placement (LSP) Facility** – A limited secure residential setting where youth are placed close to home, in the care and custody of the Commissioner of ACS, by the Family Court on juvenile delinquency cases, pursuant to Article 3 of the Family Court Act.
- K. **Limited Secure Placement (LSP) Providers** – ACS-contracted agencies responsible for the care and custody of youth placed with ACS by the Family Court in the limited secure placement setting pursuant to Article 3 of the Family Court Act.
- L. **Limited Secure Placement (LSP) Staff** – Staff of the LSP facility, including medical and mental health professionals, employed by LSP Providers.
- M. **Pat-Frisk Search** – A visual and manual inspection of a youth’s clothed body that consists of physically patting down his or her clothing.
- N. **Prison Rape Elimination Act (PREA)** - A federal law passed by the United States Congress in 2003 to promote the prevention, detection, investigation, and appropriate response to sexual misconduct in certain custodial settings, including juvenile facilities.
- O. **PREA Coordinator** - An upper-level, agencywide PREA coordinator is someone with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.
- P. **PREA Facility Compliance Manager** – A designated program staff member assigned the responsibility of assisting the facility with PREA planning, self- assessment, and serving as the facility liaison the agency Statewide PREA with coordinator
- Q. **Security Search** – An inspection to check for contraband, conducted to maintain the safety and security of staff and youth, that requires the youth to wear a medical gown or robe after removing his or her upper garments, and then subsequently to remove the rest of his or her garments.
- R. **Sexual Abuse** – The definition of sexual abuse for purposes of this policy includes sexual abuse of a youth by another youth and sexual abuse of a youth by an ACS employee, -, Rising Ground employee, professionals, volunteer, intern, contractor, or staff of city partner agencies.

S. Sexual abuse of a youth by another youth:

- a. The victim does not expressly or impliedly acquiesce in the alleged perpetrator's conduct; and/or
- b. The victim is unable to consent or refuse because of being mentally disabled, mentally incapacitated, or physically helpless; and/or
- c. The victim is coerced into such act by overt or implied threats of or actual use of force or violence; and/or
- d. Any of the following acts occur:
 - i. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - ii. Contact between the mouth and the penis, vulva, or anus;
 - iii. Penetration of the vagina, urethra, penis, rectum or anus of another person, however slight, by a hand, finger, object, or other instrument; or
 - iv. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of any person. Sexual abuse does not include contact incidental to non-sexual horseplay or a physical altercation such as a kick in the groin or the accidental touching of someone's breasts while pushing her away.

T. Sexual abuse of a youth by Rising Ground staff, professionals, volunteers, interns, contractors, or staff of federal, state, or city partner agencies includes any of the following acts conducted by these parties, with or without the consent of the youth:

- a. Sexual touching, including any of the following:
 - i. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; and/or
 - ii. Penetration of the vagina, urethra, penis, rectum or anus of another person, however slight, by a hand, finger, object, or other instrument, except when conducted by a medical professional as part of a medical examination or medical treatment; and/or

- iii. Contact between the mouth and the penis, vulva, or anus; and/or
 - iv. The emission or ejaculation upon any part of a youth, clothed or unclothed;
 - v. Any other intentional touching not required by official duties, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of any person. Sexual abuse does not include conduct required by or incidental to official duties (e.g., it would not be sexual misconduct for a staff member to touch a youth's body as required in order to conduct a proper pat-frisk search, or if a staff member's hand slips unavoidably while he or she is breaking up a fight); and/or
 - vi. Any other contact where the individual has the intent to degrade or abuse the youth or to arouse or gratify a sexual desire.
- b. Any attempt, threat, or request to engage in sexual touching.
 - c. Indecent exposure, which means the display of his or her uncovered genitalia, buttocks, or breast in the presence of a youth.
 - d. Voyeurism, which means an invasion of a youth's privacy for reasons that do not involve the performance of official duties. Voyeurism may include peering at a youth who is using a toilet, changing in his or her room, or bathing, except when staff are required to maintain constant visual supervision of a youth, requiring a youth to expose his or her buttocks, genitals, or breasts for reasons other than a properly administered strip search or medical examination; or taking images of all or part of a youth's naked body or of a youth performing bodily functions, except in circumstances where images of a youth are captured by the facility's video monitoring system.
 - e. Any conduct or communication that advances, profits from, uses, patronizes, or encourages a youth's engagement in any act of sexual exploitation, sex trafficking, or prostitution as defined in Article 230 of the Penal Law.
 - f. Any conduct or communication that allows, permits, promotes, produces, uses, or encourages a youth's engagement in any sexual performance as defined in Article 263 of the Penal Law; having such material involving a youth in his or her possession

or control; or having accessed such material with the intent to view it.

- g. Any conduct that subjects a youth to incest as defined by Article 255 of the Penal Law.
- h. Commission of any other sex offense as defined by Article 130 of the Penal Law.

U. **Sexual Harassment** – The definition of 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 youth toward another youth in placement; and
2. Any verbal or written (e.g., text, email, social media writings) comments or gestures of a sexual nature to a youth by Rising Ground employees, provider staff, professionals, contractors, volunteers, staff of city partner agencies, or interns, including demeaning references to gender, sexual orientation, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures directed at a youth.

V. **Sexual Misconduct** – Actions constituting either sexual harassment or sexual abuse.

W. **Strip Search** – A fully unclothed inspection to check for contraband believed capable of inflicting harm on the youth, staff, or others, conducted to maintain the safety and security of youth and staff. A strip search requires individualized reasonable suspicion that the youth is in possession of potentially dangerous contraband and may only occur after a security search has been conducted.

X. **Substantiated** – An allegation that was investigated and determined to have occurred.

Y. **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.

Z. **Unfounded** – An allegation that was investigated and determined not to have occurred.

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

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

CC. **Vulnerable Persons Central Register (VPCR)** – An office within the New York State Justice Center for the Protection of People with Special Needs (Justice Center) that is designated to receive reports of abuse, neglect, and other significant incidents involving youth in residential settings.

DD. **Youth** – Any child in LSP under ACS or OCFS supervision.

Note: Definitions denoted with an asterisk (*) are derived from the regulations (28 CFR Part 115) implementing PREA as it applies to Juvenile Facilities. The definitions only apply to this policy. They are not interchangeable with the definitions of the same words as used in New York Social Services Law.

Note: Youth in facilities are unable to consent regardless of age. Youth are prohibited from engaging in sexual activity with other youth, staff, volunteers, or contractors. However, for such activity to constitute sexual abuse between youth, it must be determined that the activity was coerced.

POLICY:

Rising Ground employees, - professionals, volunteers, interns, contractors, staff of federal, state, and city partner agencies, and youth may not engage in sexual abuse or sexual harassment of youth. Individuals covered by this policy must report allegations of sexual abuse and sexual harassment of youth as required by this policy. Those personnel responsible for the provision of services for youth must engage in appropriate follow-up with respect to allegations of sexual abuse and sexual harassment of youth, and must provide alleged victims and youth perpetrators with needed services and supports. Rising Ground employees must use supervision and search practices that are consistent with federal and state law, regulation, and policy and must minimize the possibility of harm to youth in their care. Rising Ground must also educate youth and staff about their rights and responsibilities under this policy.

EXPECTED PERFORMANCE:

COORDINATION

1. Rising Ground will have a designated **PREA Coordinator** to oversee the agency's implementation of PREA and compliance with ACS, OCFS, and federal policies on preventing, detecting and responding to sexual misconduct.
2. Each LSP facility will have a designated existing staff member as the **PREA Facility Compliance Manager** to oversee agency's implementation of PREA and compliance with ACS, OCFS and federal policies on preventing, detecting, and responding to sexual misconduct within the assigned program.

HIRING AND PROMOTION

1. Rising Ground will not hire or promote any employees who may have contact with youth, and shall not hire any contractor who may have contact with youth, if the prospective employee or contractor:
 - a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution as defined in 42 U.S.C. 1997.
 - b. Has been convicted of engaging in 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
 - c. Has been civilly or administratively adjudicated to have engaged in the activity described above.
2. Rising Ground considers any incidents of sexual harassment in determining whether to hire or promote any employee or to hire any contractor who may have contact with youth.
3. Before hiring new employees who may have contact with youth Rising Ground will:
 - a. Perform a criminal background check
 - b. Consult the State Central Register and the New York State Justice Center for the Protection of People with Special Needs (Justice Center) Staff Exclusion List (SEL); and
 - c. Make 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.
4. Rising Ground performs criminal background record checks and consults the State Central Register and the Justice Center SEL before enlisting the services of any contractor, volunteer, or intern who may have contact with youth.
5. Rising Ground has a system in place for ensuring criminal background records are obtained at least every five (5) years of current employees and contractors who may have contact with youth. If any new information related to the categories below is obtained by Human Resources, they will immediately notify the LSP Program Director/PREA Facility Compliance Manager via email and the staff will be placed on administrative leave.
 - a. State Central Register (SCR) – Every five (5) years designated Rising Ground Human Resources staff will contact LSP staff to resubmit SCR clearance documentation and file a report.
 - b. Criminal Background/Activity – the New York State Justice Center sends email notification to the Rising Ground authorized person(s) of any new arrests, including those related to sexual abuse, assault, and harassment.
 - c. Staff Exclusion List– the New York State Justice Center sends email notification to the Rising Ground authorized person(s) of any substantiated allegations of institutional abuse and/or neglect, including those related to sexual abuse, assault, and harassment.

6. Rising Ground will ask all applicants and employees who have contact with youth about previous misconduct described above in written applications or interviews for hiring or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees. Employees will have a continuing affirmative duty to disclose any such misconduct to Rising Ground.
7. Material omissions regarding such misconduct or the provision of materially false information shall be grounds for termination.
8. Unless prohibited by law, Rising Ground Human Resources will 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.

STAFFING PLAN AND MONITORING

1. Each Rising Ground LSP facility will develop, implement upon ACS approval, and document a staffing plan that provides for adequate levels of staffing and video monitoring to protect youth against sexual abuse. Rising Ground LSP provider facilities will comply with the staffing plan, except during limited and discrete exigent circumstances, and document any deviation from the plan.
2. In consultation with the PREA Coordinator, Rising Ground will review the current staffing plan on an annual basis and update accordingly, where applicable. This review shall be conducted with consideration to the following factors:
 - a. Any minimum staffing levels required by law, regulation, or policy;
 - b. Generally accepted juvenile residential practices;
 - c. Any judicial findings of inadequacy;
 - d. Any findings of inadequacy from federal investigative agencies;
 - e. Any findings of inadequacy from internal or external oversight bodies;
 - f. All components of the facility's physical plant including "blind spots" or areas where staff or youth may be isolated;
 - g. The composition of the youth population in facilities operated or overseen by ACS, OCFS and ORR;
 - h. The number, assignment, and coverage of supervisory staff;
 - i. The use, maintenance, and clarity of video monitoring;
 - j. Programs occurring during a particular shift;
 - k. The prevalence of substantiated and unsubstantiated incidents of sexual abuse;
 - l. Whether additional resources or adjustments to video monitoring or staffing patterns are needed;
 - m. Any applicable state or local laws; and
 - n. Any other relevant factors.

3. At each facility, the facility director will designate staff who will conduct and document regular unannounced rounds on all shifts to identify and deter staff sexual abuse and sexual harassment. Staff may not alert other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

SEARCHES

1. No youth shall be subject to a body cavity search by Rising Ground staff, employees, or contractors.
2. No youth shall be subject to a strip search by non-medical staff of the opposite gender under any circumstances. Note: Transgender and intersex youth are afforded their preference to which gender they want to be searched by as outlined in this policy.
3. Youth shall be subject to a pat-frisk or security search by staff of the opposite gender only in exigent circumstances and with approval by the program director or designee. Note: Transgender and intersex youth are afforded their preference to which gender they want to be searched by as outlined in this policy.
4. All cross-gender pat-frisk or security searches of youth will be approved by the program director or designee, and the justification for those searches, will be documented in the appropriate unit log book or paper file. Note: Transgender and intersex youth are afforded their preference to which gender they want to be searched by as outlined in this policy.
5. No transgender or intersex youth shall be searched for the purpose of determining genital status.
6. Upon admission, all Rising Ground intake staff will offer transgender or intersex youth the opportunity to request that staff of a particular gender conduct any pat-frisk, security search, or necessary strip search of the youth.
 - a. Rising Ground staff will offer youth the opportunity to complete Attachment A: Search Request Form for Transgender and Intersex Youth. Staff will comply with that request, absent exigent circumstances, and document any deviation from the youth's documented preference and document it in the communication log.
 - b. If a youth does not indicate a preference, the staff member of the youth's self-identified gender will perform the search.
 - c. Any staff to whom youth disclose that they are transgender or intersex will thereafter arrange for the youth to be offered the

opportunity to complete the form if the youth has not already done so.

- d. Staff will also offer the youth the opportunity to complete a new form if he or she indicates that his or her preference has changed.
7. Rising Ground will maintain the original Search Request Form for Transgender and Intersex Youth in the case file and will make the document available for governing bodies review and approval as required and/or requested. The youth's preference for staff's gender will be documented on the Behavior Support Plan as a way to communicate the youth's preference to staff. The youth will be notified upon admission that they can change his or her preference at any time by notifying the case planner.

LIMITS TO CROSS-GENDER VIEWING OF YOUTH

1. Staff will help youth understand and abide by the expectation that youth will be clothed or cover themselves when they may be viewed by others, except as appropriate for medical care.
2. Youth shall have access to a bathroom to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances.
3. Staff will maintain an environment in which youth are not viewed in a state of undress, except as required for security or medical reasons outlined in this and other relevant policies. All staff will announce their presence in areas and during times when youth may be performing bodily functions, showering, or changing clothing, and will allow sufficient time for youth to cover themselves before entering those areas, except in exigent circumstances.

COMMUNICATION WITH YOUTH

1. Employees and staff who come into contact with youth who may have disabilities or limited English proficiency (LEP) will inform supervisors so that supervisors may make appropriate referrals for assessment and services.
2. All employees and staff shall provide youth with disabilities and LEP youth an equal opportunity to participate in and receive the benefits of the programs and services available in facilities, including efforts to prevent, detect, and respond to sexual misconduct.
3. In order to make appropriate accommodations for youth with disabilities Rising Ground will do the following:

- a. Identify youth with disabilities upon admission to an LSP facility and work with each youth's family and medical, mental health, psychiatric, and other staff as necessary;
 - b. Provide access to professional interpreters who can interpret effectively, accurately, and impartially, using any necessary specialized vocabulary;
 - c. Provide written materials in formats or through methods that achieve effective communication with youth with disabilities, including youth who have intellectual disabilities, limited reading skills, or who are blind or have low vision;
 - d. The case planner will document the youth's special needs in Connections and, in consultation with the PREA Coordinator, develop a PREA-compliant case plan in accordance with the youth's needs. The case plan will include arrangements for providing youth with disabilities with explanations in a manner and form that the youth can understand. Among others, such explanations will include how to report if they are feeling unsafe, how to access medical and mental health care, and strategies for effective communication; and
 - e. Implement the case plan described above, consulting with the treatment team members, youth and family, and others, as necessary.
4. Each facility will post and make readily available information for telephone interpretation and translation services for all individuals who work with youth. Staff will be trained on how to use available resources to communicate with Limited English Proficient youth and their families, and will arrange for staff to provide such youth with meaningful access to programs and services.
 5. All Rising Ground staff, professionals, volunteers, interns, contractors, and city partner agency staff will use interpretation resources to communicate with youth at all stages of a youth's stay at an LSP facility unless the staff, volunteer, intern, or contractor speaks the youth's native language and the youth has been advised that he or she is entitled to free interpretation services and has refused such services.
 6. All Rising Ground staff, professionals, volunteers, interns, contractors and city partner agency staff will not rely on youth, family, friends or neighbors to provide translation or interpretation, except in limited circumstances where an extended delay in obtaining an interpreter could compromise the following:
 - a. The youth's safety;
 - b. The performance of first responder duties following an allegation that a youth was sexually abused; or
 - c. The investigation of the youth's allegations.

7. The case planner will communicate with the language/translation contracting entity to convey the needs of the youth so that interpreters can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary pertaining to placement.

TRAINING OF STAFF

1. Staff who may have contact with youth at the facility will receive a comprehensive training upon hire and refresher training every two years on the following:
 - a. The agency's zero tolerance for sexual misconduct and retaliation;
 - b. How to fulfill responsibilities regarding prevention, detection, reporting and response to sexual misconduct;
 - c. A youth's right to be free from sexual abuse and sexual harassment;
 - d. The right of youth and employees to be free from retaliation for reporting sexual misconduct;
 - e. The dynamics of sexual abuse and sexual harassment in juvenile facilities;
 - f. The factors that make youth vulnerable to sexual abuse and sexual harassment;
 - g. Adolescent development for girls and boys that includes developmentally normative sexual behavior for adolescents, how to distinguish between developmentally normative adolescent behavior and sexually aggressive and dangerous behaviors, and the ways in which sexual victimization can affect healthy development. The training must be informed by the extent to which cultural, social, and family influences interfere with a youth's functioning;
 - h. The prevalence of trauma and abuse histories among youth in juvenile justice facilities, possible behaviors of youth with trauma and abuse histories, and appropriate gender-specific ways of responding to those behaviors;
 - i. The common reactions of youth victims of sexual abuse and sexual harassment;
 - j. How to detect and respond to signs of threatened and actual sexual abuse and sexual harassment, and how to distinguish between consensual sexual contact and sexual abuse between youth;
 - k. How to communicate effectively and professionally with youth, including lesbian, gay, bisexual, transgender, intersex, and gender non-conforming youth;
 - l. How to handle disclosures of victimization by youth in a sensitive manner;
 - m. How to preserve evidence associated with instances of sexual abuse;

- n. How to avoid inappropriate relationships with youth, and how to maintain professional relationships and boundaries with youth;
 - o. Relevant laws and policies related to age of consent, with a clear directive that no youth in care can consent to sexual conduct with any adult, and mandatory reporting of sexual abuse to outside authorities; and
 - p. How to conduct professional, respectful, and minimally intrusive cross-gender pat- frisk searches and searches of transgender and intersex youth.
2. All staff will receive additional gender-responsive training if the employee or staff member is reassigned from a facility that houses only male youth to a facility that houses only female youth, or vice versa.
 3. During the time in which employees do not receive the two year refresher trainings outlined above, Rising Ground will provide information on the agency's current sexual misconduct policies to its employees, and will provide this information to Rising Ground staff. Rising Ground may provide this information in person, in writing, or through some other means.
 4. In addition to the initial comprehensive and the refresher trainings every two years, all full- and part-time medical, mental health, and psychiatric employees and contractors who work with youth in facilities will be trained on these topics:
 - a. How to detect and assess signs of sexual abuse;
 - b. How to determine when youth require protection from sexual abuse;
 - c. How to preserve physical evidence of sexual abuse;
 - d. How to respond effectively and professionally to youth victims and alleged perpetrators of sexual abuse, both in terms of the procedures to follow and the treatment to administer; and
 - e. How and to whom to report allegations or suspicions of sexual abuse.
 5. Rising Ground will submit their facility's staff training materials, adapted to their facilities, for ACS, OCFS or ORR approval.
 6. All training participants are required to sign a written statement indicating they understand the training they have received, including but not limited to their responsibilities as a mandated reporter; the signs of sexual abuse; how to appropriately respond to allegations of sexual abuse and sexual harassment and avenues to report if sexual abuse or sexual harassment is suspected. Rising Ground will retain records of the trainings described above, including the above signed documentation.

7. Administrative staff or contractors who will not have contact with youth will receive the training for volunteers described in the Training of Volunteers section of this policy.
8. The Facility Director will require that intake staff in facilities be trained to provide the information provided below on Youth Education in an age-appropriate, trauma-informed, and sensitive manner.
9. Rising Ground requires that, as new contracts for medical, mental health, psychiatric, and other services are developed, they include requirements that contractors whose jobs will include contact with youth receive the training required under this policy and the United State Department of Justice PREA regulations in their most current form.

TRAINING OF VOLUNTEERS

1. Each volunteer working with youth in an LSP facility will receive a written document providing information about the Rising Ground sexual misconduct prevention policy including how to report suspected sexual abuse and sexual harassment, the facility's zero tolerance for sexual abuse and sexual harassment, and rules about confidentiality. Volunteers will sign a document acknowledging receipt and understanding of this information.
2. Any volunteer working with youth at the facility will have brief verbal contact with a program manager to introduce the document described above, and each volunteer will sign it prior to contact with youth at the facility. The signed document will be maintained in a folder on site as well as scanned and maintained in the PREA shared folder.
3. Each facility will require that volunteer groups that collaborate with the agency about sexual misconduct prevention and reporting. It is not required that every member of the volunteer group receive the annual, in-person training prior to having contact with youth, as long as they sign the document, receive the brief verbal introduction described above, and attend the first available volunteer training.
4. Individuals who volunteer once, rather than on a recurring basis, will sign the document and receive the brief verbal introduction described above. However, such volunteers will be supervised by Rising Ground staff at all times.

TRAINING OF CONTRACTORS, INTERNS, PROFESSIONALS, AND INDIVIDUALS FROM CITY PARTNER AGENCIES

1. Contractors, interns, professionals, and individuals from city partner agencies who will have unsupervised interactions with youth will receive a

training, prior to beginning work with Rising Ground, that includes information about the Rising Ground policy on preventing, detecting, and responding to sexual misconduct, including the agency's zero-tolerance policy for sexual abuse and sexual harassment and how to report such incidents.

2. Contractors, interns, professionals, and individuals from city partner agencies who will only have supervised interactions with youth will receive the training for volunteers described above in "Training of Volunteers" section prior to beginning work in a Rising Ground facility.

Rising Ground Human Resources will retain records of the trainings conducted according to this section, including documentation that individuals understood the training they received.

YOUTH EDUCATION

1. Upon admission, intake staff in facilities will provide age-appropriate information to youth explaining - Rising Ground's zero tolerance policy regarding sexual abuse and sexual harassment, a youth's right to be free from any form of sexual abuse and sexual harassment, and how to report incidents or suspicions of sexual abuse and sexual harassment or situations where a youth does not feel safe.
2. As part of the intake process Rising Ground case planning staff will require that youth sign a form confirming receipt and understanding of the information described in above. In the event a youth refuses to sign, staff will note the youth's refusal on the form, and initial and date the note.
3. If not completed during initial intake, within seven (7) days of a youth's arrival at the facility, Rising Ground staff will present more in-depth information about a youth's rights to be free from sexual abuse and sexual harassment and misconduct and free from retaliation for reporting incidents, the importance of and avenues for reporting, policies for responding to incidents including the youth's right to medical, mental health, and psychiatric care regardless of the status of an investigation, and where to go if he or she has questions.
 - a. The case planner or designee will deliver the youth education and Rising Ground will document this in Connections.
 - b. The case planner or designee will document a youth's receipt and understanding of this information using the Youth Acknowledgement Form and file it in the youth's case record and document the completion of the form in Connections.
4. The PREA Facility Compliance Manager, in consultation with the PREA Coordinator, will oversee development and posting of informational posters regarding the sexual abuse and sexual harassment prevention

and response policies. Such posters will include key information and be continuously and readily visible to youth.

5. LSP facilities will develop and implement the youth education materials described above, submitting such materials for review and approval by the PREA Coordinator. The PREA Compliance manager will verify that youth education materials are updated to reflect any changes to policies and practices.

LSP will work with the PREA Coordinator to provide youth with disabilities, youth with low reading skills, with the information outlined in Section XIII. in formats that they can understand and within the required seven-day time frame.

OBTAINING INFORMATION FROM YOUTH AND PLACEMENT OF YOUTH IN HOUSING AND PROGRAMMING ASSIGNMENTS

Using the Rising Ground Decision Tree (Attachment B) LSP clinical and management staff will attempt to obtain and use the following information to make housing and programming decisions that will reduce the risk of sexual abuse and sexual harassment by or upon youth in:

1. Prior sexual victimization or abusiveness;
2. Any gender non-conforming appearance, manner, or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the youth may therefore be vulnerable to sexual abuse;
3. Current charges and offense history;
4. Age;
5. Level of emotional and cognitive development;
6. Physical size and stature;
7. Mental illness or mental disabilities;
8. Intellectual or developmental disabilities;
9. Physical disabilities;
10. The youth's own perception of vulnerability; and
11. Any other specific information that may indicate a heightened need for supervision, additional safety precautions, or separation from certain other youth.

The above information as well as information ascertained through conversations with the youth during the intake process and medical and mental health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the youth's files will be used by LSP management to make housing and programming determinations.

1. When youth are admitted to LSP, staff will attempt to obtain the information from previous detention assessments. Within 72 hours, Rising Ground staff will use this information and the Decision Tree (Appendix A) to make housing, programming, education, and other

- supervision arrangements with the goal of keeping all youth safe and free from sexual abuse and sexual harassment.
2. Management and clinical staff will review a youth's housing and programming assignments periodically, and at a minimum of twice annually, and work to adjust them, as necessary, based on information that becomes available that affects the ability to keep all youth safe and free from sexual abuse and sexual harassment.
 3. Lesbian, gay, bisexual, transgender, gender non-conforming, or intersex youth will not be placed in any particular housing or other programming assignments solely on the basis of such identification or status.
 - a. Staff shall not consider lesbian, gay, bisexual, transgender, gender non-conforming, or intersex identification or status as an indicator or likelihood of being sexually abusive.
 - b. Staff will follow the provisions outlined in Policy #2012/01 *Promoting a Safe and Respectful Environment for Lesbian, Gay, Bisexual, Transgender, and Questioning Youth (LGBTQ) and Their Families Involved with the Child Welfare, Detention, and Juvenile Justice System.*
 4. LSP staff shall not automatically house transgender and intersex youth according to the sex they were assigned at birth.
 - a. The LSP Program Director will make housing decisions for transgender and intersex youth based on each youth's individualized needs and will prioritize the youth's emotional and physical safety.
 - b. The LSP Program Director will give serious consideration to the youth's own views with respect to his or her own safety, as well as any recommendations provided by the youth's medical, mental health, or psychiatric care provider.
 - c. The presumed default housing for transgender and intersex youth will be according to their gender identity, unless there is a compelling reason that this would be inappropriate or unsafe.
 - d. For transgender or intersex youth admitted to LSP the LSP Program Director, using the Decision Tree and any other pertinent information shall make the ultimate decision about a youth's room/bed assignment.
 - e. When a youth is not housed according to his or her identified gender, the Facility Director or designee will contact ACS to alert them of the youth's specific housing need and request that ACS review their placement decision to be more in line with youth's gender. Rising Ground case planner will document all follow up in Connections.
 5. All youth will shower individually.
 6. If a youth is experiencing trouble with his or her housing or programming assignment, facility administrative staff will assess the youth's current assignments and explore supports and alternatives. Facility

administrative staff will review housing and programming assignments for transgender and intersex youth at least every six (6) months even if they are not experiencing trouble with those assignments, or sooner if requested by the youth or if the safety of the youth becomes a concern.

7. The youth's Behavior Support Plan will indicate if a youth is high/low risk for perpetration or victimization and note any specific things staff need to be aware of to protect youth. Confidential details will remain in case record and not be disclosed on the Behavior Support Plan.

YOUTH REPORTS OF ALLEGED SEXUAL MISCONDUCT

1. Rising Ground provides youth with multiple ways to report sexual abuse and sexual harassment, retaliation, and staff neglect or violation of responsibilities that may have led to such incidents.
 - a. Youth may report concerns, either anonymously or by name, verbally and/or in writing (Rising Ground Complaint Form – Attachment C)
 - b. Youth may also speak to a third party, such as a family member, staff member, or any other adult, and indicate that they have a complaint or otherwise want to report an incident. LSP staff will document any report received from a third party and take action just as they would document a report received from a youth.
 - c. Staff will provide youth with at least one method to report sexual abuse and sexual harassment, retaliation, and staff neglect that may have led to such incidents to an entity that is operationally autonomous of ACS or OCFS. Youth may do so by contacting the Justice Center VPCR, the Office of the OCFS Ombudsman, or by asking a staff member for access to a telephone to call the Justice Center VPCR. Youth do not need to explain why they wish to call the Justice Center VPCR. Phone numbers for the OCFS Ombudsman and the VPCR are posted conspicuously throughout the facility and are provided in the youth handbook.
 - d. Requirements for Reporting Mechanisms
 - i. There is no time limit on when a youth may submit a report regarding an allegation of sexual abuse or sexual harassment.
 - ii. During intake all youth are informed how they can file an emergency report of sexual misconduct if they are subject to substantial risk of imminent sexual abuse. In situations that involve imminent safety risk, the PREA Coordinator will provide an initial response to the youth no later than 48 hours after the emergency grievance is filed by the youth or

staff. The PREA Coordinator will secure approval for this process from ACS.

- iii. Youth are not required to use any informal grievance process or attempt to resolve with staff an alleged incident of sexual abuse.
- iv. The PREA Coordinator will make sure that:
 1. A youth who alleges sexual abuse or sexual harassment may submit a report of sexual misconduct without submitting it to a staff member who is the subject of the complaint.
 2. Such a report is not referred to a staff member who is the subject of the complaint.
 3. No youth is punished for making a false allegation, rather it is addressed within the treatment milieu.

COORDINATED RESPONSE TO ALLEGED SEXUAL ABUSE AND SEXUAL HARASSMENT

1. LSP staff will take immediate action to protect a youth when informed or discovers that youth is subject to a substantial risk of imminent sexual abuse or that a youth has been sexually abused. This includes the following, and is further outlined in the Rising Ground LSP Coordinated Response protocols:
 - a. Separating the youth from the alleged perpetrator;
 - b. Preserving and protecting any crime scene until appropriate steps can be taken to collect any evidence by law enforcement;
 - c. Requesting that the alleged **victim** not take any actions that could destroy physical evidence if the alleged incident occurred in the last five (5) days, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating;
 - d. Requesting that the alleged **perpetrator** not take any actions that could destroy physical evidence if the alleged incident occurred in the last five (5) days, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating; and
 - e. Reporting the incident to his or her immediate supervisor and documenting the incident as required.
2. If the first responder to an allegation of sexual abuse is not a Rising Ground employee or staff member but is subject to this policy, the

responder will request that the alleged victim not take any actions that could destroy physical evidence and then notify the Facility Director.

3. LSP staff will take immediate and appropriate action to house any youth who is alleged to have suffered sexual abuse in a safe environment. Appropriate actions may include transferring the youth to a different housing area within the same facility or transferring the youth to another facility. All actions will be communicated to ACS and/or OCFS and reviewed by the Placement and Permanency Specialist (PPS). Requests to move youth to a different Close to Home facility will be made by the Facility Director to the ACS PPS and PPS Director. While a request is pending the youth will be housed in a safe location within the LSP
4. Mental health staff will offer youth who have reported sexual abuse or are believed to have been sexually abused appropriate access to a sexual assault advocate and emergency and ongoing medical, mental health, counseling, and crisis intervention services, free of charge, and regardless of whether the youth names the alleged abuser or cooperates with any investigation.
 - a. Such services will be made available both to youth who report victimization that occurred while in placement and to youth who report victimization that occurred prior to the youth's entrance into placement.
 - b. Staff will also offer youth who are actual or alleged perpetrators of sexual abuse a mental health evaluation within 60 days of learning of the abuse and offer appropriate treatment where appropriate, so long as such services do not conflict with ongoing investigations or jeopardize a youth's Fifth Amendment right against self-incrimination.
 - c. Staff will also offer youth who are actual or alleged perpetrators of sexual abuse access to a medical exam.

REPORTING RESPONSIBILITIES STAFF, PROFESSIONALS, CONTRACTORS, VOLUNTEERS, STAFF OF CITY PARTNER AGENCIES, AND INTERNS

1. The individual making the report will follow the ACS policy *Incident Reporting for Juvenile Justice Placement and Aftercare* and *Vulnerable Persons Central Register (VPCR) Reportable Incidents and Notification*.
2. Any employee, staff member, professional, contractor, volunteer, staff of city partner agencies, or intern who has any knowledge of, suspicion of, or information about any of the following will make a report to the Justice Center VPCR:

- a. Sexual abuse of a youth in placement by an employee, LSP staff member, professional, contractor, volunteer, staff of city partner agencies, or intern;
 - b. Sexual harassment of a youth in placement by an employee or staff member, professional, contractor, volunteer, staff of city partner agencies, or intern;
 - c. Retaliation against youth or staff who reported abuse by an employee, staff member, professional, contractor, volunteer, staff of city partner agencies, or intern; or
 - d. Neglect or violation of responsibilities by an employee, staff member, professional, contractor, volunteer, staff of city partner agencies, or intern that may have contributed to an incident of sexual abuse or retaliation.
3. Employees, staff members, professionals, contractors, volunteers, staff of city partner agencies, and interns will report incidents involving sexual misconduct to the Justice Center VPCR when required to do so by OCFS, the ACS reporting policy, and/or applicable New York State statutes and regulations.
4. Staff will contact the New York City Police Department (NYPD) or other appropriate law enforcement agency as follows:
- a. Any time an incident of sexual abuse is discovered in progress or a report is made soon after an incident, the staff member observing the incident or receiving the report will immediately call the Director of the facility or designee.
 - b. The Facility Director or designee will immediately contact the Special Victims Division of the NYPD through that unit's hotline at 646-610-7272, or the designated contact at the law enforcement agency with jurisdiction over the facility.
 - c. However, if staff encounter a situation where there is an immediate need to protect life and/or prevent a crime from occurring, staff will call 911 to report the incident prior to calling the Facility Director or designee.
 - d. Any time a report is received of prior sexual abuse, the Facility Director or designee will contact the Special Victims Division of the NYPD through that unit's hotline at 646-610-7272, or the designated contact at the law enforcement agency with jurisdiction over the facility.

- e. Program Directors and other administrative managers will be trained in techniques for interviewing youth so that they can determine whether sexual activity with another youth is alleged to have been consensual. These interviews will be solely for the purpose of deciding whether or not a referral will be made to law enforcement.
- f. Upon receiving an allegation that a youth in placement was sexually abused or sexually harassed in placement or while in another facility, the director of the facility currently housing the youth will, immediately upon discovery:
 - i. Report the alleged misconduct to the Justice Center VPCR pursuant to OCFS guidance, ACS policies *Incident Reporting for Juvenile Justice Placement and Aftercare* and *Vulnerable Persons Central Register (VPCR) Reportable Incidents and Notification*, ORR and any applicable New York State statutes and regulations;
 - ii. Report the alleged misconduct to the Facility Director where the alleged abuse occurred and, if the abuse occurred outside of New York State, to the appropriate investigating agency for that facility;
 - iii. Document that these notifications were made in an incident report; and
 - iv. Notify ACS of all steps taken.
- g. Upon receipt of information about or an allegation of sexual abuse by an employee, staff member, professional, contractor, volunteer, staff of city partner agencies, or intern, the Facility Director or designee will prohibit the individual alleged to have engaged in the conduct from having contact with any youth in placement pending any investigation by OCFS Internal Abuse staff, the Justice Center, or the Department of Investigation (DOI).
- h. During the pendency of any investigation by OCFS, the Justice Center, or DOI of alleged sexual harassment by an employee, staff member, professional, contractor, volunteer, staff of city partner agencies, or intern, the Human Resources and the Program Director or designee will determine whether the individual alleged to have engaged in the conduct should be suspended or reassigned until completion of the investigation, depending on the nature of the allegation, in consultation with the PREA Coordinator.
- i. Beyond reporting to designated supervisors or officials and ACS staff will be prohibited from revealing any information related to a

sexual abuse report to anyone other than to the extent necessary as specified in this policy to make treatment, investigation, and other security and management decisions.

- j. Medical and mental health practitioners are required to inform youth at the beginning of services of their duty to report and the limitations of confidentiality.

YOUTH ACCESS TO OUTSIDE SUPPORT SERVICES AND LEGAL REPRESENTATION

1. Rising Ground will provide youth with access to outside victim advocates for emotional support services related to sexual abuse by providing, posting, or otherwise making accessible mailing addresses and telephone numbers, including toll-free hotline numbers, where available, of local, state, or national victim advocacy or rape crisis organizations. Rising Ground facility staff will enable reasonable communication between youth and these organizations and agencies in as confidential a manner as possible, similar to contacting their lawyer, the Justice Center, and the OCFS Ombudsman.
2. Rising Ground staff will inform youth, 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. Rising Ground maintains a Memorandum of Understanding (MOU) with a community service provider that is able to provide youth with confidential emotional support services related to sexual abuse. Rising Ground maintains a copy of the agreement.
4. Rising Ground will also provide youth with reasonable and confidential access to their attorneys or other legal representation, and reasonable access to parents/legal guardians.

NOTIFICATION OF YOUTH'S PARENT, GUARDIAN, ATTORNEY, AND/OR CASEWORKER

Within 24 hours of receipt of information of an allegation of sexual abuse against a youth in placement, the case planner will attempt to notify the parties listed below by telephone that a child abuse allegation was made to the Justice Center VPCR. The case planner will make this notification regardless of whether the Justice Center VPCR accepts the allegation, will document in the youth's case file the date and time of each call to the following parties, and will notify ACS that such notifications have been made or attempted:

1. The youth's parent/guardian, unless the case manager has documentation indicating that the parent/guardian should not be notified;
2. The youth's attorney of record; and
3. The youth's child welfare planner, if the youth is involved with the child welfare system.

Aside from fulfilling reporting responsibilities and cooperating with investigations and supervisory reviews, staff will keep confidential any information they learn regarding an allegation of sexual misconduct, consistent with Policy #2010/07, *Security of Confidential, Case Specific and/or Personally Identifiable Information and Confidentiality Policy* dated February 20, 2004.

EMERGENCY AND ONGOING MEDICAL, MENTAL HEALTH, AND CRISIS INTERVENTION SERVICES FOLLOWING AN ACTUAL OR ALLEGED INCIDENT OF SEXUAL ABUSE

Employees will follow the procedures below depending on the nature of the alleged sexual abuse:

For youth who are actual or alleged victims of sexual abuse while housed in a LSP facility or that occurred within 96 hours prior to the youth's admission to a LSP facility:

1. After following the procedures outlined above, staff will provide the youth with an opportunity to speak with a sexual assault advocate. If the youth wants to meet with an advocate, the advocate will be allowed to meet with the youth in as confidential a setting as possible.
2. Staff will immediately make arrangements to transport the youth to the hospital to be offered a forensic medical examination and emergency medical services if the youth agrees to such an examination.
 - a. Youth will be transported in the least restrictive means possible to a designated hospital, depending on where the youth is currently housed. If there are multiple youth to transport at the same time, staff will transport each youth in separate vans and keep youth apart at the hospital.
 - b. At the time of a youth's transport to the hospital, staff will provide the youth with the opportunity to have her or his sexual assault advocate go to the hospital as well or to meet only with a social worker or volunteer community sexual assault advocate, when one is available, at the hospital. At the hospital, staff shall make every effort to provide the youth with an opportunity to speak with her or his advocate or social worker in a manner that is as confidential as possible.

- c. Staff must allow the victim advocate to sit in on the forensic interviewing if requested by the victim.
3. Staff shall also give the youth the opportunity to place a phone call to his or her parent/guardian and attorney of record.
4. Upon the youth's return from the hospital, Rising Ground's medical and mental health staff will offer the youth timely follow-up medical and mental health care determined necessary by them or by hospital staff. This may include the following:
 - a. Information about and timely access to emergency contraception and sexually transmitted infections prophylaxis;
 - b. Pregnancy tests;
 - c. Information about and timely access to all lawful pregnancy-related medical services;
 - d. Treatment plans;
 - e. Other follow-up medical and mental health services;
 - f. Referrals to rape crisis centers or other organizations that can provide emotional support services; and
 - g. Referrals for continued care following the youth's release or transfer to another facility.
5. Rising Ground's medical, mental health, and psychiatric staff will also offer youth any services that they deem necessary during follow-up consultations with youth. Prior to the youth's release from placement, case planners will provide youth with referrals to a rape crisis center or similar organization that is located in the area where the youth will live upon discharge from the facility.

For youth who are or alleged to be victims of sexual abuse that occurred more than 96 hours prior to the youth's admission to the Rising Ground facility:

1. After following the procedures outlined in this policy, case planning staff will provide the youth with an opportunity to meet with a sexual assault advocate. If the youth wants to meet with an advocate, the advocate will be allowed to meet with the youth in as confidential a setting as possible.
2. Staff will immediately telephone the Sexual Assault Response Team hotline at a designated hospital, depending on where the youth is currently housed, to determine whether the youth should be transported to the hospital to receive services. If the Sexual Assault Response Team indicates that the youth can benefit from services at the hospital, staff will transport the youth to the hospital, following the procedures outlined

in “YOUTH ACCESS TO OUTSIDE SUPPORT SERVICES AND LEGAL REPRESENTATION” above.

3. Rising Ground staff will also offer the youth a referral to medical, mental health, and psychiatric staff within 24 hours of receipt of the information.
4. If the youth accepts the referral, Rising Ground’s medical, mental health, and psychiatric staff will meet with the youth within two (2) business days of receipt of this information to offer the youth immediate, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which will be determined by medical, mental health, and psychiatry practitioners according to their professional judgment. This may include the following:
 - a. Information about and immediate access to emergency contraception and sexually transmitted infections prophylaxis;
 - b. Pregnancy tests;
 - c. Information about and immediate access to all lawful pregnancy-related medical services;
 - d. Treatment plans;
 - e. Other follow-up medical and mental health services;
 - f. Referrals to rape crisis centers or other organizations that can provide emotional support services; and
 - g. Referrals for continued care following the youth’s release or transfer to another facility.
5. If no qualified facility-based medical, mental health, or psychiatry professional is available at the time that such services are needed, Rising Ground staff will within 24 hours transport youth to the appropriate medical facility in the least restrictive means possible.
6. Prior to the youth’s release from placement, case planners will provide youth with referrals to a rape crisis center or similar organization that is located in the area where the youth will live upon discharge from the facility.

For youth who are alleged perpetrators of sexual abuse:

1. Rising Ground staff will offer the youth a referral to mental health and psychiatric staff within 24 hours of receipt of the information.
2. If the youth accepts the referral, the Rising Ground ’s mental health and psychiatric staff will meet with the youth within seven (7) days of receipt of this information to offer the youth a mental health evaluation and, as appropriate, mental health treatment. Mental health and psychiatry staff will not offer youth interventions that conflict with ongoing investigations or that jeopardize a youth’s Fifth Amendment right against self-incrimination.

PROTECTION FROM RETALIATION

1. The individuals governed by this policy will not retaliate against youth or other individuals who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations.
2. The PREA Coordinator and the PREA Facility Compliance Manager will coordinate to protect from retaliation all youth, staff, and others governed by this policy who make such reports or who cooperate in such investigations.
3. Staff will protect all youth and staff who report sexual abuse or sexual harassment or who cooperate with sexual abuse or harassment investigations from retaliation by youth or staff. Protection measures will include the following:
 - a. Housing changes or transfers for youth victims;
 - b. Removal of alleged staff or youth abusers from contact with victims; and/or Provision of emotional support services.
4. The PREA Facility Compliance Manager will designate which staff members will monitor retaliation at Rising Ground facilities.
5. For at least 90 days following a report of sexual abuse, the individual(s) designated above will monitor the conduct and treatment of youth and staff who reported sexual abuse and youth who were reported to have suffered sexual abuse to see if there are changes that suggest possible retaliation by youth and/or staff. Monitoring will continue beyond 90 days if the initial monitoring indicates an ongoing need. Monitoring will include the following:
 - a. Periodic in-person status checks with youth, ACS or staff, and individuals governed by this policy;
 - b. Review of disciplinary incidents involving youth;
 - c. Review of housing or program changes; and
 - d. Review of negative performance reviews or reassignments of staff and individuals governed by this policy.

BEHAVIOR MANAGEMENT GUIDELINES

In addition to following the reporting and response requirements LSP staff will take the following actions in cases involving youth who engage in sexual abuse or sexual harassment.

1. Staff will refer youth alleged to have engaged in sexual abuse of another youth to NYPD's Special Victims Division or the other appropriate law enforcement agency pursuant to this policy, and the youth shall receive consequences pursuant to the court process.
2. **For youth who are alleged to have engaged in sexual misconduct other than sexual abuse**, staff will determine whether any action is appropriate as part of the facility's behavior management system. Staff will consider whether a youth's mental disabilities or mental illness contributed to his or her behavior when determining whether any action is appropriate.
3. Staff will not impose behavior management consequences upon youth for sexual contact with staff unless the agency makes a finding that the staff member did not consent to such contact.
4. Staff will not impose behavior management consequences upon youth for making a report of sexual misconduct, even if an investigation does not establish sufficient evidence to substantiate the allegation.
5. If a youth files a false report in bad faith, staff will take appropriate steps to address the underlying reasons for the filing of the false report.

REPORTING TO YOUTH

When an investigating entity completes its investigation into an allegation of sexual abuse or sexual harassment, Rising Ground will notify the youth as to whether the investigating entity has referred an allegation for prosecution or decline to proceed with the investigation, or whether the investigating entity determined that the allegation was substantiated, unsubstantiated, or unfounded.

Unless the investigating entity determines that the allegation of staff sexual abuse or sexual harassment is unfounded, the PREA Coordinator will make the following notifications:

1. Within 24 hours of learning the information, notify the youth when the staff member is no longer posted within the youth's unit or when the staff member is no longer employed at the facility.
2. Within 48 hours of learning the information, notify the youth when the staff member has been indicted or convicted on a charge related to sexual abuse within the facility
3. Within 48 hours of learning the information, the governing entity or the PREA Coordinator will notify youth of the following:
 - a. When the alleged youth abuser has been indicted on a charge related to sexual abuse within the facility; or

- b. When the alleged youth abuser has been convicted on a charge related to sexual abuse within the facility.
- c. Staff will document the notifications made according to this section.

CRIMINAL AND ADMINISTRATIVE AGENCY INVESTIGATIONS

The PREA Facility Compliance Manager and the PREA Coordinator will cooperate and coordinate with investigating outside entities and will not impede outside investigations.

1. **All incidents of alleged sexual abuse will be referred to law enforcement.**
2. All **sexual misconduct** allegations will be referred to the Justice Center.
3. Administrative investigations:
 - a. Will include an effort to determine whether staff actions or failures to act contributed to the abuse; and
 - b. Will be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind the credibility assessments, and investigative facts and findings.

Rising Ground will retain all written reports referenced above for as long as the alleged abuser is incarcerated or employed by the agency, plus five (5) years, unless the abuse was committed by a youth and applicable law requires a shorter period of retention.

Administrative investigations will continue even if the alleged abuser or victim leaves the employment or control of the facility or agency.

STAFF DISCIPLINE

Rising Ground staff will be subject to disciplinary sanctions up to and including termination for violating the agency's sexual abuse or sexual harassment policies.

1. Termination will be the presumptive disciplinary sanction for employees and Rising Ground staff who have engaged in sexual abuse.
2. Disciplinary sanctions for violations of policies relating to sexual abuse or sexual harassment, other than actually engaging in sexual abuse, will be commensurate with the nature and circumstances of the acts committed, the employee's disciplinary

history, and the sanctions imposed for comparable offenses by other employees with similar histories.

3. For Rising Ground staff, Human Resources will notify any licensing body responsible for licenses that were required for the employee's position of all terminations for violations of sexual abuse or sexual harassment policies, or resignations by employees who would have been terminated if not for their resignation.

DISCIPLINE OF CONTRACTORS, VOLUNTEERS, AND INTERNS

Rising Ground will prohibit any contractor, volunteer, or intern who engages in sexual abuse from any contact with youth; report the individual to law enforcement agencies; and report the individual to any licensing body responsible for licenses that were required as part of the contractor, volunteer, or intern's job description.

Rising Ground will take appropriate remedial measures, and will consider whether to prohibit further contact with youth, in the case of sexual misconduct other than sexual abuse perpetrated by any contractor, volunteer, or intern.

Termination will be the presumptive disciplinary sanction for interns and contractors who have engaged in sexual abuse. Contractors and interns who have engaged in sexual abuse will also be placed on the Justice Center SEL.

SEXUAL ABUSE INCIDENT REVIEWS

As soon as possible, but no later than 30 days after the completion of any investigation into sexual abuse, the Incident Review Committee will convene to review the incident. The Committee will include the PREA Coordinator, Facility Compliance Manager, and other upper-level management officials from Rising Ground with input from line supervisors, investigators, and medical or mental health practitioners. The Committee will:

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; gender expression; disability; 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;
6. Prepare a preliminary report of its findings, including, but not necessarily limited to, determinations made pursuant to the aforementioned factors, and recommendations for improvement within 30 days of the incident; and
7. Submit the final report of findings and recommendations to the Associate Commissioner of OPPP and ACS PREA Coordinator within 60 days of the post incident investigation determination review.
8. If a Committee was already convened to examine previous investigations of the same incident, the Committee will review its findings to determine whether subsequent investigations have revealed new information or reached different conclusions that would warrant revisiting the Committee's previous findings. The Committee is not required to begin a new full review.

The Committee will follow the procedures outlined in Policy and Procedure, *Safe Intervention Policy for Juvenile Justice Placement* when conducting the review outlined in this policy. The Committee's activities will be distinct from any activities of the Justice Center review committees.

9. The PREA Facility Compliance Manager will maintain and track the status of PREA allegations. On a monthly basis that information will be shared with the ACS PREA Coordinator for data purposes.

DATA COLLECTION AND REPORTING

The Program Director, in collaboration with the Rising Ground Performance, Evaluation and Monitoring department will collect accurate, uniform data for every allegation of sexual misconduct in the LSP facility, using a standardized instrument and set of definitions. The data collection will 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. The Facility Director, in collaboration with the Rising Ground Performance, Evaluation and Monitoring department will collect and maintain data, as needed, from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

The Facility Director, in collaboration with the Rising Ground Performance, Evaluation and Monitoring department will securely retain data collected and

maintain that data for at least 10 years from the date of its initial collection unless federal, state, or local law requires otherwise.

DATA REVIEW FOR CORRECTIVE ACTION

The PREA Coordinator, in collaboration with the Rising Ground Performance, Evaluation and Monitoring department will gather and aggregate data collected in order to assess and improve the effectiveness of Rising Ground's approach to sexual misconduct prevention, detection, and response. The data shall be reviewed and shared with all PREA stakeholders to help identify problem areas and take corrective action on an ongoing basis.

The Rising Ground Performance, Evaluation and Monitoring department will prepare an annual report of the findings and corrective actions for each facility. The report will include a comparison of the current year's data, disaggregated by each LSP facility, and corrective actions with those from prior years and will provide an assessment of progress in addressing sexual misconduct. Performance, Evaluation and Monitoring department will consult with the following individuals when preparing the annual report:

1. The PREA Coordinator;
2. The PREA Facility Compliance Managers/Program Directors;
3. The Vice President of Justice for Youth and Family Programs;
and
4. Any other officials who would be helpful in preparing the report.

Rising Ground will publish the annual report on the Rising Ground website after Rising Ground Chief Executive Office approval.

Note: When writing the report Rising Ground may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of the facility, and will indicate the nature of the material redacted on the report.

AUDITS

The PREA Coordinator, the PREA Facility Compliance Manager, and the auditor will develop a detailed corrective action plan to address deficient areas to be implemented within the six month corrective action period.