

# State of Alabama Department of Corrections

Alabama Criminal Justice Center 301 South Ripley Street P. O. Box 301501 Montgomery, AL 36130-1501 (334) 353-3883



**OPR: OPERATIONS** 

January 25, 2016

EMPLOYEE/INMATE RELATIONSHIPS

# **ADMINISTRATIVE REGULATION NUMBER**318

# I. GENERAL

This Alabama Department of Corrections (ADOC) Administrative Regulation (AR) establishes responsibilities, policies, and procedures for employee and inmate relationships.

# II. POLICY

It is the policy of the ADOC that relationships between employees and inmates shall be only of a professional nature. All inmates shall be treated equally in a non-discriminatory manner.

## III. <u>DEFINITION(S) AND ACRONYM(S)</u>

- A. Custodial Misconduct: As defined in Alabama Code Section 14-11-31:
  - 1. It shall be unlawful for any employee to engage in sexual conduct with a person who is in the custody of the Department of Corrections, the Department of Youth Services, a sheriff, a county, or a municipality.
  - 2. It shall be unlawful for any probation or parole officer to engage in sexual conduct with a person who is under the supervisory, disciplinary, or custodial authority of the officer engaging in the sexual conduct with the person.
  - 3. Any person violating subsection (a) or (b) shall, upon conviction, be guilty of custodial sexual misconduct.
  - 4. Custodial sexual misconduct is a Class C felony.
  - 5. For purposes of this article, the consent of the person in custody of the Department of Corrections, the Department of Youth Services, a sheriff, a

county, or a municipality, or a person who is on probation or on parole, shall not be a defense to a prosecution under this article.

- B. <u>Employee/Staff</u>: Any person employed by the ADOC as a full-time, part-time, conditional or temporary employee, and all other persons such as contractors, authorized service providers, vendors, and volunteers in the classified and unclassified service.
- C. <u>Inmate</u>: Any person currently incarcerated or under the custody of the ADOC, or under the supervision of the Alabama Board of Pardons and Paroles (ABPP).
- D. <u>Prison Rape Elimination Act (PREA) of 2003</u>: A federal statute enacted in September of 2003 to provide for the analysis of the incidences and effects of sexual abuse in federal, state, and local institutions and to provide information, resources, recommendations and funding to enable reviews of facility practice in order to protect individuals from sexual abuse in confinement.
- E. <u>Sexual Abuse</u>: Unlawful sexual relations with a person of the same or opposite sex, done forcibly and/or against the person's will or done with a person incapable of consenting as a result of being drugged, drunk, unconscious, mentally abnormal, physically helpless, or legally incapable of giving consent.

Sexual abuse (as defined in PREA Standard §115.6) includes:

Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- 1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- 2. Contact between the mouth and the penis, vulva, or anus;
- 3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- 4. Any 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.

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

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

- 2. Contact between the mouth and the penis, vulva, or anus;
- 3. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- 4. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- 5. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- 6. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section; and
- 7. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
- 8. Voyeurism by a staff member, contractor, or volunteer.
- F. <u>Sexual Contact</u>: Any touching of the sexual or other intimate parts of a person not married to the actor, done for the purpose of gratifying the sexual desire of either party. (Code of Alabama, Section 13A-6-60)
- G. Sexual Harassment: As defined in PREA Standard §115.6:
  - 1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; or
  - 2. Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
- H. <u>Sexual Misconduct</u>: As defined in Code of Alabama, Section 13A-6-65:
  - 1. A person commits the crime of sexual misconduct if:
    - a. Being a male, he engages in sexual intercourse with a female without her consent, under circumstances other than those covered by Sections

- 13A-6-61 and 13A-6-62; or with her consent where consent was obtained by the use of any fraud or artifice; or
- b. Being a female, she engages in sexual intercourse with a male without his consent; or
- c. He or she engages in deviant sexual intercourse with another person under circumstances other than those covered by Sections 13A-6-63 and 13A-6-64. Consent is no defense to a prosecution under this subdivision.
- 2. Sexual misconduct is a Class A misdemeanor.
- I. <u>Social Media</u>: Computer-mediated tools that allow people to create, share or exchange information, ideas, and pictures/videos in virtual communities and networks.
- J. <u>Voyeurism</u>: Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions. (As defined in PREA Standard §115.6, Definitions related to sexual abuse)

# IV. <u>RESPONSIBILITIES</u>

- A. Wardens/Division Directors are responsible for developing their institutional/divisional Standard Operation Procedures (SOPs), as necessary, for the implementation of AR 318, *Employee/Inmate Relationships*.
- B. Wardens responsible for female facilities are expected to include gender responsive and trauma informed principles in institutional SOPs relative to this regulation.
- C. It is the responsibility of all ADOC employees and inmates to comply with the contents of this regulation.

# V. <u>PROCEDURES</u>

- A. Employees shall conduct themselves in a professional manner when interacting with inmates.
- B. It is the duty of each employee to correct any inmate observed in violation of departmental rules and regulations in a fair, consistent, and impartial manner in accordance with AR 403, *Procedures for Inmate Rule Violations*.

- C. Employee's conversation with inmates shall be related to official duty only.
  - 1. Employees shall require inmates to address them by title and name.
  - 2. Inmates shall be addressed by their name.
  - 3. Inmate questions, which cannot be answered, shall be referred to the immediate supervisor.
- D. Social relationships are prohibited, including but not limited to emotional, sexual, or romantic attachments with:
  - 1. ADOC inmates;
  - 2. Inmates on parole or probation;
  - 3. Former inmates who have been discharged from ADOC or Pardon and Parole for less than two (2) years; and
  - 4. Inmates' relatives, family, and/or clearly identifiable close associates unless written approval is obtained from the Warden/Director.
    - a. When an employee is related to an inmate, the employee shall report this fact in writing to the Warden/ Director upon employment or when the relationship becomes known to the employee.
    - b. The Warden/Director shall notify the Institutional Coordinator and determine appropriate action to be taken.
- E. Contact with Pardon and Parole or other agencies on behalf of an inmate is also prohibited unless written approval is obtained as described above in section V. D.
- F. Allegations of employee sexual misconduct, sexual harassment, sexual contact and/or sexual abuse shall be investigated in accordance with the ADOC policies and Alabama statutes.
  - 1. If an allegation is substantiated, the employee shall be subject to disciplinary action and criminal prosecution.
  - 2. Consent on the part of an inmate is not a defense as a response to charges of any form of sexual misconduct.
- G. Employees shall not trade, barter, donate items or enter into any business transaction with inmates or their families except as specified below.

- 1. Employees must abide by the institutional SOP when purchasing hobby craft items from inmates. Hobby craft items may not be purchased for resale.
- 2. Employees shall not communicate with a third party associated with an inmate in an effort to circumvent this policy.
- H. Employees shall not exchange correspondence, engage in telephone conversations or any form of social media or networking with inmates or their families for any purpose other than related to official duty.
- I. Employees who violate or fail to report any violations of this regulation shall be subject to disciplinary action according to AR 208, *Employee Standards of Conduct and Discipline*.

# VI. <u>DISPOSITION</u>

Any forms used will be disposed of and retained according to the Departmental Records Disposition Authority (RDA).

## VII. <u>FORMS</u>

There are no forms prescribed by this regulation.

# VIII. <u>SUPERCEDES</u>

A. This Administrative Regulation supercedes AR 318, *Staff/Inmate Relationships*, dated January 14, 2005 and any changes.

#### IX. <u>PERFORMANCE</u>

- A. Code of Alabama 1975, as amended, Section 14-1-1.1 and 14-1-1.2
- B. Code of Alabama 1975, as amended, Sections13A-6-60 to 13A-6-70
- C. AR 454, Inmate Sexual Abuse and Harassment, (Prison Rape Elimination Act (PREA))

efferson S. Dunn Commissioner