

Lesbian, Gay, Bisexual, Transgender and Questioning Youth (PPM 3442.00)

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SUMMARY:

The New York State Office of Children and Family Services is committed to providing lesbian, gay, bisexual, transgender and questioning youth in residential and after-care programs it operates with a safe and discrimination-free environment.

I. POLICY

It shall be the policy of the New York State Office of Children and Family Services (OCFS) to maintain and promote a safe environment for lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth in OCFS operated residential and after-care programs. All OCFS staff, volunteers and contract providers are prohibited from engaging in any form of discrimination against or harassment of youth on the basis of actual or perceived sexual orientation, gender identity, and gender expression. OCFS is committed to providing a healthy and accepting setting for all youth placed in its facilities and after-care programs by training staff and educating youth to respect each individual. Any discrimination against or harassment of youth, including by other youth, will not be tolerated. The provision of services within OCFS facilities and programs shall be based on professional standards as found in the New York State Office of Children and Family Services Guidelines for Good Childcare Practices with Lesbian, Gay, Bisexual, Transgender and Questioning Youth (LGBTQ Youth Guidelines) and shall be free of institutional and personal bias. OCFS staff shall recognize and address the individual needs of the youth and shall apply OCFS policies and practices fairly to all youth in our facilities and after-care programs.

II. DEFINITIONS

LGBTQ youth – For purposes of the protections of this policy, LGBTQ youth shall include youth who have self-identified or are perceived by others as lesbian, gay, bisexual, transgender or questioning their sexual orientation or gender identity.

For an explanation of other terms, see the Glossary used with the LGBTQ Youth Guidelines.

III. PROCEDURES

- A. Training of Staff** - OCFS shall provide strength-based training to all Division of Juvenile Justice and Opportunities for Youth (DJJOY) staff, the Ombudsmen, and other appropriate OCFS staff regarding the goals and requirements of this policy, including what behavior constitutes discrimination and harassment and the procedures for preventing and reporting such behavior. Facility and after-care staff, the Ombudsmen, and other appropriate OCFS staff shall also receive training on the LGBTQ Youth Guidelines.
- B. Resource and Policy Dissemination to Youth** – OCFS will provide written and verbal information to all youth in OCFS facilities and after-care programs regarding this policy, including their rights and responsibilities under this policy and the procedures for reporting complaints. OCFS will provide LGBTQ resources for youth, including a booklist, website list of community resource supports, and other appropriate books and materials. OCFS will strive to provide these resources in languages other than English, as needed.
- C. Reporting Responsibilities and Procedures for Staff** - OCFS staff has an obligation to report conduct by other staff that may be in violation of this policy. All reports shall be made according to current OCFS protocols. OCFS staff shall not tolerate discriminatory or harassing behavior by youth towards other youth and shall take immediate action to intervene in any such situations.
- D. Incident Reporting Procedures for Youth** – The Resident Grievance Program and Ombudsman shall be available for youth to express and resolve concerns regarding their care and treatment.

E. Enforcement – Supervisory and management staff shall treat all incidents of discrimination and harassment as serious and follow up promptly. In accordance with OCFS policy and procedures, and consistent with current collective bargaining agreements, alleged violations of this policy by staff or youth will be investigated promptly and, if determined to have occurred, will result in corrective or disciplinary action

F. Childcare Practices for LGBTQ Youth - OCFS has developed LGBTQ Youth Guidelines to assist staff in providing services in a respectful and culturally competent manner.

IV. APPENDIX

New York State Office of Children and Family Services Guidelines for Good Childcare Practices with Lesbian, Gay, Bisexual, Transgender and Questioning Youth.

NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES **GUIDELINES FOR GOOD CHILDCARE PRACTICES WITH LESBIAN,** **GAY, BISEXUAL, TRANSGENDER, AND QUESTIONING YOUTH**

The New York State Office of Children and Family Services (OCFS) is committed to providing quality services to all youth in our care. OCFS prohibits discrimination on the basis of race, creed, color, age, sex, national origin, religion, marital status, mental or physical disability, gender identity, gender expression, sexual orientation, veteran status and criminal record. No person in the agency shall unlawfully discriminate against other persons in the course of their work. OCFS is committed to respecting the dignity of all youth, and keeping them safe and secure, regardless of individual differences. The agency does not tolerate discrimination by staff, volunteers, contract providers or youth.

The OCFS Lesbian, Gay, Bisexual, Transgender and Questioning Youth Policy protects from discrimination both youth who self-identify as lesbian, gay, bisexual, transgender, or questioning (LGBTQ) and those who are perceived by others as LGBTQ.

The following protocols are operational guidelines for good childcare practices with LGBTQ youth in order to provide services in a respectful and culturally competent manner.

SECTION I: TRAINING

In order to raise awareness and capacity for staff to respond to gender identity, sexual orientation, and gender expression issues in residential settings and after-care programs, all facility and after-care administrators and staff, the Ombudsmen, and other appropriate OCFS staff will be required to attend OCFS LGBTQ training.

SECTION II: DISCLOSURE

- A.** The only way that anyone knows someone's sexual orientation or gender identity is if they tell you. There are no tools or instruments to assess a person's sexual orientation or gender identity.
- B.** Youth will disclose their sexual orientation and/or gender identity to staff when, and if, they feel ready and when, and if, a safe environment and trusting relationship has been created for such disclosure. Staff should not directly ask youth if they are LGBTQ. Direct questioning can make it more difficult for a youth to disclose. Most youth who are directly asked will deny that they are, mostly for reasons related to safety or perceived differential negative treatment. If youth disclose that they are lesbian, gay, bisexual, transgender, or questioning, it is important to talk with them about it in an open and understanding fashion. Staff should never just move on; talk about what it means for this youth to be lesbian, gay, bisexual, transgender, or questioning.

- C. It is important to respect a youth's interest in confidentiality. Consistent with general practice, information must be reported to a supervisor if it involves a danger to self and others. If you are not in a position to keep information that a youth discloses private, you should tell the youth that such information may have to be shared with your supervisor or fellow staff. Also, youth should be informed that under certain circumstances, such as in connection with a preferred name request or placement/transfer request, parents may become aware that a youth has disclosed that he or she is LGBTQ or has raised issues relating to gender identity, gender expression, or sexual orientation.

SECTION III: YOUTH PLACEMENT

OCFS has or will develop designated units within its facilities (both male and female, secure and limited-secure/nonsecure) that have staff trained to provide services for LGBTQ youth. Placement at specialized LGBTQ facilities operated by voluntary agencies will also be considered, when appropriate, for an individual youth. Requests by youth for placement at or transfer to a facility based upon sexual orientation, gender identity, or gender expression can be made during the reception/intake process or at any other time and are to be forwarded to the Bureau of Behavioral Health Services for consideration by the LGBTQ Decision-making Committee.

SECTION IV: LGBTQ DECISION-MAKING COMMITTEE

Certain issues that require consideration of individual circumstances are to be referred to the LGBTQ Decision-making Committee (Decision-making Committee) for determination.

- A. The issues to be referred to the Decision-making Committee include placement of youth in or transfer to a facility based upon sexual orientation, gender identity or gender expression, and the wearing of a uniform (other than undergarments) that is consistent with a youth's identified gender.
- B. When facility staff receive a request from a youth concerning either of these issues, the request should be referred immediately to the Bureau of Behavioral Health Services, along with all relevant reports and facility records. The Bureau of Behavioral Health Services will acknowledge the request and initiate an assessment within one week. The youth will receive a response to his or her or request within two weeks.
- C. The Decision-making Committee is comprised of staff from the Office of the Ombudsman, the Division of Legal Affairs (DLA), and the Division of Juvenile Justice and Opportunities for Youth (DJJOY), including administrative, behavioral health, medical services personnel, and designated facility staff, with assistance from LGBTQ consultants.

- D. An LGBTQ Appellate Review Committee, comprised of the Executive Assistant to the Commissioner, the Deputy Commissioner for DJJOY, and the Deputy Commissioner for DLA and General Counsel, is available, upon request, to review the decision of the Decision-making Committee. The LGBTQ Appellate Review Committee will respond to a youth's appeal from the decision of the Decision-making Committee within one week.

SECTION V: MENTAL HEALTH ASSESSMENTS

- A. Clinicians should not assume any pathology simply because a youth expresses a different gender identity or sexual orientation. All adolescents experience developmental and social challenges during this time. However, LGBTQ youth frequently face additional pressures based on their gender identity or sexual orientation. Clinicians should be aware that difficulties in coping with these challenges frequently result in co-morbid problems including increased suicide risk, depression and anxiety, tobacco/drug/alcohol use, and school drop-out.
- B. It is important that every youth receive a comprehensive bio-psycho-social screening and assessment, so that individual special needs can be identified and a treatment response provided.
- Assessments should include a family evaluation, where possible, and where clinically indicated, a psychiatric assessment to assess fully for any related mental health distress and potential co-morbid problems requiring mental health care and treatment.
- C. Clinicians should help LGBTQ youth explore their feelings about their gender identity or sexual orientation, along with related issues and questions, in a safe, affirming manner. Clinicians should help youth reduce co-occurring problems or distress related to their gender identity or sexual orientation, and develop their strengths, coping skills, and resiliency. Staff working with transgender youth should become familiar with the World Professional Association for Transgender Health's Standards of Care for Gender Identity Disorders (WPATH Standards of Care for GID).
- D. Where clinically indicated, the facility clinical staff working with transgender youth should refer the youth for a diagnostic assessment by or in consultation with specialists in the field of LGBTQ youth or gender identity disorders.

SECTION VI: SUBSTANCE ABUSE

Due to the high risk of substance abusing behaviors for youth, a comprehensive assessment of the youth and family history should be incorporated into the overall bio-psycho-social assessment. The majority of LGBTQ youth report alcohol and drug use as common mechanisms for coping with feelings of severe isolation.

SECTION VII: MEDICAL

- A.** All youth arriving at an OCFS facility have an initial health screening, which includes identification of existing medications being taken by the youth. If, during the course of that screening, the continuation of hormone therapy is identified as an issue for the youth, staff should follow OCFS policy and practice for the continuation of medication upon admission. If hormone therapy is discontinued for the youth, the youth should continue to be monitored by medical and behavioral health staff in order to treat any symptoms that may occur as a result.
- B.** Youth who request to begin hormone therapy while in OCFS care should be referred to facility medical and behavioral health staff for an evaluation. Facility medical and behavioral health staff will inform and seek guidance from the Bureau of Behavioral Health Services. OCFS will make a determination regarding the initiation of hormone therapy based on accepted standards of care (see WPATH Standards of Care for GID) and the youth's best interest. Appropriate consent must first be sought and obtained as required by law.
- C.** Facility medical staff should provide appropriate medical information and education for all youth inclusive of LGBTQ issues.

SECTION VIII: COUNSELING

- A.** If a youth discloses that he or she is lesbian, gay, bisexual, transgender or questioning while in placement, the youth should be offered appropriate counseling and information to support individual, family, and health issues.
- B.** The supervisory staff are responsible for referring a youth for counseling, mental health, health, or other program services as appropriate.
- C.** All staff should recognize that many adolescents are still exploring their sexuality, gender identity, and/or gender expression, testing boundaries, confused about the sexual terminology, and/or questioning their own sexuality and/or gender identity. This may be particularly true of youth who have been victims of sexual abuse and have not previously been provided treatment.
- D.** Counselors should facilitate exploration of any gender or sexuality issues with LGBTQ youth by being open, non-judgmental, and empathic.
- E.** Counseling sessions for the entire youth population should include group and individual opportunities to discuss any gender identity questions or feelings that may arise as a result of having youth in the residential setting who may be perceived as "different."

SECTION IX: LGBTQ LITERATURE AND RESOURCES

- A. Programs should affirm the cultural identity of the youth whom they serve with respect to creating supportive environments for them. It is important that educational books and other reading materials for youth interested in learning more about LGBTQ identity are available. Materials should be made available in languages other than English as needed and as funding is available.
- B. LGBTQ literature and other visible signs should be available in the common areas, office, etc., that indicate staff are knowledgeable and open to communication on this topic.
- C. Youth should have access to supportive resources with age appropriate LGBTQ information, including a book list, website list of community resource supports, and advocacy groups.

SECTION X: GENERAL FACILITY OPERATIONS

All OCFS youth must abide by the Resident Manual and are accountable for their behavior, and for being respectful of others and the setting in which they are placed as a result of their adjudication.

- A. Safety and security, as well as OCFS good childcare practices, remain paramount for all youth in OCFS facilities.
- B. All youth, regardless of gender identity, gender expression or sexual orientation, need to feel safe in their surroundings, in order for positive programming and youth outcomes to occur.
- C. Rules must be maintained with dignity and respect for all residents, regardless of their gender identity, gender expression, or sexual orientation.
- D. Staff should help youth to understand the rationale behind their decisions, and youth should be given the appropriate opportunity to express themselves.
- E. Staff should provide youth with information about the Decision-making Committee, and the right to request a uniform or facility change through the Bureau of Behavioral Health Services.
- F. Unless there is reason to the contrary, staff should not over-emphasize gender identity, gender expression, and sexual orientation issues (i.e., youth are placed in OCFS facilities because of their behaviors, not their gender identities, gender expression, or sexual orientations).

- G. Staff should set a good example and make residents aware that any anti-LGBTQ threats of violence, actual violence, or disrespectful or suggestive comments or gestures will not be tolerated concerning any OCFS youth.
- H. The treatment team should decide how to approach certain issues, as they would with behavior of any youth (i.e., as a team or in each specific unit). Good childcare practice requires consistency.
- I. Certain behaviors are inappropriate regardless of gender identity, gender expression or sexual orientation (e.g., seductive or sexual behavior, exchanging sexually-suggestive notes). Staff must maintain boundaries for safe and appropriate behavior with all residents.
- J. As with all residents, transgender residents shall be included in all activities or jobs for which they qualify and show a positive interest.
- K. Remember that transgender female youth see themselves as females, not gay males, and that transgender male youth see themselves as males, not lesbians. Sexual orientation and gender identity are two separate things. (See the attached glossary.)

SECTION XI: COMMUNICATION AND DOCUMENTATION

- A. Ongoing communication among staff and between staff and youth is central to good childcare.
- B. Documentation is an essential treatment team communication tool. All staff who interact with a resident should maintain ongoing documentation in the Youth Development Log (YDL) or treatment team notes in the established format, so that critical information is shared, and appropriate care and treatment coordinated and provided.
- C. In keeping with established policy and procedures for all youth, confidentiality must be maintained in all forms of communication, including written documentation.
- D. Documentation protects the resident and facility staff. Any complaints of discrimination or harassment shall be investigated and remediated according to standard operating OCFS policies and procedures, including the OCFS LGBTQ Youth Policy, and consistent with current collective bargaining agreements.

SECTION XII: LANGUAGE AND NAME

- A. Use the words gay, lesbian, bisexual, and transgender in an appropriate context when talking with youth about diversity, and do not use the value-laden, more antiquated terms, “homosexual” or “transvestite.”

- B.** It is OCFS policy to allow residents to request use of a preferred first name rather than their legal name. Consistent with that policy, all youth may designate a preferred first name that they wish to use. Youth will also be referred to by the pronoun that the youth states reflects the youth's identified gender or gender expression. Staff should understand that the ability to choose a preferred name and/or pronoun that is consistent with the youth's identified gender, rather than the youth's sex at birth, is often especially important to transgender youth. Preferred names and pronouns are used in addressing youth and in documentation. Names affiliated with gangs or that otherwise present safety issues will not be permitted. LGBTQ youth requesting use of a preferred name should be informed that it is OCFS policy to discuss preferred name requests with the youth's family. This is important because the youth may not yet have disclosed his or her sexual orientation or gender identity to family members. Youth are permitted to designate a different preferred name no more often than once every six months.
- C.** Although a legal name change is not required for a youth to use a preferred name while in OCFS custody, many transgender youth may be interested in legally changing their names to ones that reflect their gender identity. A transgender youth who is interested in applying to legally change his or her name shall be referred to the Office of the Ombudsman and may also be referred to the Peter Cicchino Youth Project of the Urban Justice Center (1-877 LGBT LAW or 646-602-5636) or the Sylvia Rivera Law Project (212-337-8550). See the LGBTQ Resource List for additional programs that may provide assistance with legal name changes.

SECTION XIII: CLOTHING

- A.** All residents wear uniforms.
- B.** All residents may receive undergarments of their choice among available agency supplies regardless of gender, except where therapeutically not indicated. Other requests by youth for clothing consistent with their identified gender shall be referred to the Decision-making Committee.
- C.** Bras must be removed at night for safety reasons.
- D.** Residents shall not be required to wear skirts or nightgowns and shall be permitted to wear pants or pajamas.

SECTION XIV: INDIVIDUAL BEDROOMS

Transgender youth shall be placed in a facility that can provide individual sleeping quarters (one-person bedroom) to allow for privacy. Any exceptions must be authorized by the Associate Commissioner for Programs and Services and documented in the youth record.

SECTION XV: HAIR AND OTHER PERSONAL GROOMING

Grooming rules and restrictions, including rules regarding hair, make-up, shaving, etc., shall be the same in male and female facilities. A resident should not be prevented from, or disciplined for, a form of personal grooming because it does not match gender norms.

Examples of grooming rules that may be of interest to LGBTQ youth include:

- Long hair can be tied back with a scrunchie.
- Residents with long hair can receive a basic cut and shape.
- Fingernails must be maintained at a length that supports safety and security.
- Residents may, but are not required to, shave their faces and bodies, as permitted by OCFS practice, in keeping with safety and security concerns.
- Jewelry can be worn as permitted by OCFS policy.

SECTION XVI: BATHROOM FACILITIES

- A. Transgender youth shall be allowed to use individual stalls, within commonly accepted time limits.
- B. Transgender youth shall be allowed to shower privately, if possible. When individual showers are not available, they should be the first or last in line so they can shower separately.

SECTION XVII: SEARCH ISSUES

- A. All youth will be searched as provided by OCFS policy and procedure. Per OCFS policy, all employees conducting the search must assure its thoroughness while maintaining the dignity of the resident being searched.
- B. Transgender youth may request that male or female staff conduct a strip search when such search is required. This request will be accommodated, whenever possible, considering staffing and safety needs.

SECTION XVIII: TRANSITION/ DISCHARGE PLANNING

- A. Members of the Treatment Team shall collaborate and share information with other facilities to coordinate youth's transitions.

- B.** It is critical to work with the youth's family throughout placement to enhance community re-entry efforts. LGBTQ youth are frequently estranged from family. A large percentage of homeless youth self-identify as LGBTQ.
- C.** Families of LGBTQ youth in OCFS facilities may benefit from additional community resources.
- D.** Staff working with LGBTQ youth shall identify and become familiar with community resources to support LGBTQ youth and their families. Staff should assist families of LGBTQ youth in identifying supportive resources and professionals in appropriate LGBTQ issues in their area. (See the LGBTQ Resource List.)
- E.** Some resources that may be helpful for some youth may not be helpful for LGBTQ youth if they are not accepting and supportive of LGBTQ youth. Staff should investigate resources to determine their appropriateness for LGBTQ youth.
- F.** Staff shall help youth to reintegrate into the community and be safe.
- G.** The OCFS Release Planning Coordinators can provide assistance either directly or through OCFS Regional Coordinators when necessary for housing for LGBTQ youth.

SECTION XIX: REPORTING

As outlined in the OCFS LGBTQ Youth Policy, harassment and discrimination on the basis of actual or perceived gender identity, gender expression and sexual orientation will not be tolerated. OCFS staff has an obligation to report conduct by other staff in violation of the policy. OCFS staff shall not tolerate discriminatory or harassing behavior by residents toward other residents and are to take immediate action to intervene in any such situations.

OCFS GUIDELINES FOR GOOD CHILDCARE PRACTICES WITH LGBTQ YOUTH

GLOSSARY OF TERMS

LGBTQ is an acronym commonly used to refer to lesbian, gay, bisexual, transgender, and questioning individuals.

Gay refers to a person who is emotionally, romantically, and sexually attracted to people of the same gender. Sometimes, it may be used to refer to gay men and boys only. It is preferred over the term “homosexual.”

Lesbian refers to a female who is emotionally, romantically, and sexually attracted to other females.

Bisexual refers to a person who is attracted to, and may form sexual and romantic relationships with, males and females.

Questioning refers to a person, often an adolescent, who is exploring or questioning issues of sexual orientation or gender identity or expression in his or her life. Some questioning people will ultimately identify as gay, lesbian, bisexual or transgender; others will self-identify as heterosexual and not transgender.

Sexual orientation refers to a person’s emotional, romantic, and sexual attraction to persons of the same or different gender.

Gender identity refers to a person’s internal sense of themselves as male, female, no gender, or another gender, regardless of anatomy.

Gender expression refers to the manner in which a person expresses his or her gender through clothing, appearance, behavior, speech, etc. A person’s gender expression may vary from the norms traditionally associated with his or her assigned sex at birth. Gender expression is a separate concept from sexual orientation and gender identity. For example, a male may exhibit an effeminate manner, but identify as a heterosexual male.

Transgender may be used as an umbrella term to include all persons whose gender identity or gender expression do not match society’s expectations of how an individual of that gender should behave in relation to his or her gender. For purposes of protection from discrimination and harassment, transgender refers to both self-identified transgender individuals and individuals perceived as transgender without regard to whether they qualify for a diagnosis of Gender Identity Disorder.

Gender Identity Disorder or GID is a diagnosis listed in the Diagnostic and Statistical Manual of Mental Disorders IV (DSM IV). Some individuals whose gender identity conflicts with the sex assigned to them at birth may be diagnosed with GID. Certain treatments, such as hormone therapy or sex reassignment surgery, may be recommended for individuals diagnosed with GID.

Transgender female youth are young people who were assigned the sex of male at birth and who now identify as female. Similarly, the terms *transgender girls* and *trans women* refer to those who now identify as girls or women.

Transgender male youth are young people who were assigned the sex of female at birth and who now identify as male. Similarly, the terms *transgender boys* and *trans men* refer to those who now identify as boys or men.