

**DEPARTMENT OF HUMAN RESOURCES  
SOCIAL SERVICES ADMINISTRATION  
311 W. SARATOGA STREET  
BALTIMORE, MARYLAND 21201**

**DATE:** August 1, 2016

**POLICY #:** SSA-CW #17-08

**TO:** Directors, Local Departments of Social Services  
Assistant Directors, Services

**FROM:** Rebecca Jones Gaston, MSW   
Executive Director  
Social Services Administration

**RE:** Working with Lesbian, Gay, Bisexual, Transgender,  
and Questioning (LGBTQ) Youth and Families

**PROGRAMS AFFECTED:** Out-of-Home Placement Services

**ORIGINATING OFFICE:** Out-of-Home Placement Services

**ACTION REQUIRED OF:** All Local Departments

**REQUIRED ACTION:** Implementation of Policy

**ACTION DUE DATE:** August 1, 2016

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**PURPOSE:**

The Department of Human Resources (DHR) is committed to ensuring the safety and well being of lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth in out-of-home placement. All child welfare staff shall provide affirming care to LGBTQ youth and families involved with DHR.

**BACKGROUND:**

There are increasing numbers of youth who openly identify as LGBTQ, and they are coming out at earlier ages.<sup>1</sup> While no tracking mechanism exists to document the number of LGBTQ youth in the out-of-home placement, numerous studies indicate that LGBTQ youth, particularly LGBTQ youth of color, are disproportionately represented within foster care. LGBTQ youth in care report experiencing significant discrimination related to their sexual orientation, gender identity and/or gender presentation.

All youth have the right to affirming placements, that actively promote their well-being, respect their identities, and are sensitive to their individual needs. LGBTQ youth in foster care are a particularly vulnerable population, who often times do not feel safe within the foster care system due to significant societal, familial and institutional barriers. Research on LGBTQ youth in care reveals several troubling themes, including high risk of familial rejection, bullying and housing instability.

In September 2014, Congress passed the “Preventing Sex Trafficking and Strengthening Families” Act, Pubic Law (P.L.113-183). In addition to other provisions, the Act establishes the “reasonable and prudent parent” standard for decision making. This standard is characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a youth while at the same time encouraging the emotional and developmental growth of the youth. It is the responsibility of the local department to ensure resource parents are knowledgeable about and have the skills to make “reasonable and prudent parent” decisions regarding their foster youth.

**DEFINITIONS/COMMONLY USED TERMS:**

- Gender expression: a person’s expression of gender identity (see below), including characteristics and behaviors such as appearance, dress, mannerisms, speech patterns, and social interactions.
- Gender identity: a person’s internal, deeply felt sense of being male, female, something other, or in-between. Everyone has a gender identity. Note: sexual orientation and gender identity are separate and distinct aspects of a person’s identity.
- Gender Non-Conforming: Describes a person whose behaviors or gender expression fall outside what is generally considered typical for their sex assigned at birth.

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<sup>1</sup> Kennedy, N. & Hellen M. (2010). Transgender Children: More Than a Theoretical Challenge. *Graduate Student Journal of Social Science*, 7(2), 25 – 43.

- **LGBTQ:** a common acronym for Lesbian, Gay, Bisexual, Transgender, and Questioning.
- **Sexual orientation:** a person's romantic or sexual attraction to people of a specific gender or genders. "Lesbian," "gay," "bisexual" and "straight" are examples of sexual orientations. Everyone has a sexual orientation. Note: sexual orientation and gender identity are separate and distinct aspects of a person's identity.
- **Transgender:** A term that describes people whose gender identity is different from their sex assigned at birth.

## **ACTION:**

### **Caseworkers' Responsibilities**

Being in foster care can be difficult, and caseworkers shall do everything they can to make sure children and youth feel safe and respected. For lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth, life may be even more complex. DHR/SSA is committed to all young people living in spaces where they can be open and honest about their identities.

- Caseworkers shall evaluate every youth's overall safety as it relates to their sexual orientation, gender identity and gender presentation in terms of placement, emotional, and physical wellbeing.
- Caseworkers will not disclose a youth's sexual orientation, gender identity, or gender expression to other individuals or agencies, without the youth's permission.
- Caseworkers shall connect youth and families with local LGBTQ resources.
- Caseworkers, when requested by youth or caregiver, shall meet with school officials to discuss steps the school needs to take to ensure safety for an LGBTQ youth at school.
- Caseworkers are encouraged to consult with their supervisors with any questions or concerns when they are unsure about steps to take for the well-being and safety of LGBTQ youth.

### **Placements**

LGBTQ youth in out-of-home placement may not be placed in housing situations where their identities are not respected. In some cases, this happens because staff and/or resource families are unaware about the specific needs of LGBTQ youth. In other cases, it is because there is active hostility towards youth who identify as LGBTQ, or who are perceived to violate traditional gender roles. In either situation, this creates an emotionally and physically unsafe living space and directly increases negative outcomes for LGBTQ youth in care. LGBTQ youth shall be consulted during the placement process to ensure that the team can work cohesively to identify a safe and affirming placement that will achieve permanency. When making the decision to place a youth in any placement, the caseworker should first look into relatives when determining placement.

Additional guidance for the LGBTQ youth includes:

- Placements should be discussed with LGBTQ youth before initiating placement to assess their feelings of safeness and to address concerns. Caseworkers must include completion of SAFE-C OHP throughout youth's continuum in out-of-home placement and Safe-C for a trial home visit.
- Caseworkers shall ask all resource providers about their levels of acceptance for LGBTQ individuals and community members, and specifically discuss scenarios around gender presentation, gender identity, sexual orientation, attendance at cultural events, dating, etc.
- If a youth grants permission to a worker to disclose information, workers may use it to inform decision making regarding placement, service provision, treatment plans, etc.
- Caseworkers shall check in with youth at appropriate intervals to review placement and ensure that it is LGBTQ affirming, and report any mistreatment, including verbal harassment and bullying, and report/address any concerns to supervisory staff and, in the case of private agencies, to the Office of Licensing and Monitoring.
- For placement of transgender and gender non-conforming youth in congregate care facilities, assignment to a facility for male or female residents and other housing and programming assignments shall be made based on consideration, on a case-by-case basis, of what placement would best ensure the youth's health and safety, and whether a placement would present management or security problems. A transgender or gender non-conforming youth's own views with respect the kind of placement that would best serve his or her own emotional and physical safety shall be given serious consideration in the assignment decision. The assignment decision shall not be based on the youth's sex assigned at birth or on the youth's external genital anatomy. Every effort will be made to place youth in facilities with individual sleeping quarters (1 person bedrooms) to allow for privacy. Transgender and gender non-conforming youth shall be allowed to shower and use bathrooms privately. Staff may utilize LGBTQ subject matter experts when determining placements for gender non-conforming and transgender youth.

### **Personal Grooming, Clothing & Use of Names**

In order to express a gender identity, and/or gender presentation that is consistent with their identity, LGBTQ youth should be permitted to select and wear clothing that is consistent with their gender expression. As long as a youth is dressed appropriately, they can wear the clothing, accessories, and/or hairstyle that suit their gender identity (i.e. someone born male has a right to wear a dress, someone born female has a right to wear men's clothing). This may include removal of facial or body hair, make-up, jewelry, etc. and modifications of hairstyles (e.g. weaves/extensions, buzz cuts, etc.). Youth should also be called by their preferred names and pronouns. Failure to respect the youth's personal grooming, clothing

and preferred name and pronoun can deny LGBTQ youth their ability to express their identity, and can endanger their physical and emotional well-being.

### **Confidentiality & Disclosure**

Disclosing a young person's identity can be a potentially traumatic experience, and may place that young person at risk for greater harm and/or abuse. These guidelines review steps caseworkers shall take to ensure that young people are engaged throughout the disclosure process as necessary, and that their confidentiality is protected.

- All staff are required to protect the confidentiality of the families they serve. Staff will keep in mind that when a youth discloses their sexual orientation, gender identity, or gender expression, it will be considered sensitive information and be kept confidential, given that such disclosure could pose great risk to the youth.
- Staff will not disclose a youth's sexual orientation, gender identity, or gender expression to other individuals or agencies, without the youth's permission. If a youth grants permission to share information on their sexual orientation, gender identity, or gender expression, this information may also prove relevant to decisions regarding safety in a youth's placement.
- Staff are prohibited from attempting to convince or coerce an LGBTQ youth to disclose or reveal their identity or to change their gender identity or sexual orientation.
- At no time may any staff member label a young person as LGBTQ without the youth explicitly acknowledging that identity.

### **LGBTQ Affirming Services**

Once an LGBTQ youth enters the out-of-home placement, the caseworker is an important link to support and safety. It is critical that a child's caseworker has the capacity, understanding and willingness to support the youth's social and emotional development while in out-of-home placement. It is the caseworker's responsibility to assess and serve the needs of a child without bias, and to ensure the safety of all youth in out-of-home placement.

- Social Services Administration will ensure that LGBTQ-affirming training is included as part of competency training and testing for all new staff as well as mandated for all caseworkers and their supervisors.
- Local departments shall have a familiarity with community resources and services available for LGBTQ youth in their respective jurisdictions. Local departments should assess the needs of their communities to develop targeted outreach to LGBTQ community agencies.

- SSA shall designate one or more out-of-home placement staff members who are knowledgeable about issues relevant to LGBTQ youth and families to be available to staff statewide. Local departments are encouraged to designate a child welfare staff member to be accessible as a local information and referral resource for LGBTQ youth, their families, and other staff members.
- Staff shall identify affirming resources and referrals, including those for physical and mental health, and legal services for LGBTQ youth and make them available as needed. Transgender and gender non-conforming youth have the right to transition related health care. For specific questions regarding health care needs and rights of transgender youth, staff should contact SSA Out-of-Home Placement staff.
- Staff are to make sure that the youth is referred to appropriate services. Foster parents must support youth in accessing appropriate and preferred services.