



NATIONAL CENTER FOR LESBIAN RIGHTS

Model Policy & Practice Guidelines for Providing Non-Discriminatory Services to Lesbian, Gay, Bisexual, and Transgender (LGBT) Youth in Juvenile Justice Facilities

I. Purpose

In accordance with state and federal laws, each youth under the jurisdiction of [facility] has the right to live in an environment free of harassment and discrimination. [This facility] is committed to providing a healthy and accepting setting for all youth placed in its care by training staff, instituting policies, and educating youth to respect each other. [This facility] does not tolerate discrimination or harassment by employees, volunteers, contract providers, or youth.

The purpose of these Policy and Practice Guidelines is to establish operational practices that reinforce [this facility's] commitment to respect the dignity of lesbian, gay, bisexual, and transgender (LGBT) youth, create a safe environment for all members of the [facility] community, and ensure that all youth have equal access to all available services, placement, care, treatment, and benefits provided by [this facility].

II. Policy

- It shall be the policy of [facility] to maintain and promote a facility that provides the highest quality of services to youth regardless of their actual or perceived sexual orientation or gender identity. LGBT youth confined at [facility] shall receive fair and equal treatment, without bias and in a professional and confidential manner based on principles of sound professional practice.
- Employees, volunteers, and contractors that offer services to youth confined at [facility] shall not discriminate against or harass any youth in their care based on a youth's actual or perceived sexual orientation or gender identity.
- [Facility] employees shall protect youth from discrimination, physical and sexual harassment or assault, and verbal harassment by other youth, based on a youth's actual or perceived sexual orientation or gender identity.
- [Facility] will take all reasonable steps within its control to meet the diverse needs of all confined youth and provide an environment in which all individuals are treated with respect and dignity, regardless of sexual orientation or gender identity.

III. Practice Guidelines for Providing Services to LGBT Youth

A. General Facility Operations

- All youth, regardless of sexual orientation or gender identity, need to feel safe in their surroundings in order to fully benefit from facility programming. [Facility] shall establish and maintain a culture where the dignity of every youth is respected and all youth feel safe. Employees shall create opportunities for dialogue with youth and staff about all forms of diversity to increase tolerance and respect.
- [Facility] will promote the positive adolescent development of all youth in its care. Actions that support positive adolescent development include: modeling desired behavior such as demonstrating respect for all youth; reinforcing respect for differences amongst youth, encouraging the development of healthy self-esteem in youth, and helping youth manage the stigma sometimes associated with difference.
- Employees should model positive behavior when interacting with LGBT youth and remind all youth that anti-LGBT threats of violence, actual violence, or disrespectful or suggestive comments or gestures, will not be tolerated.
- [Facility] intends to provide a safe and non-discriminatory environment where youth can learn and grow. Employees of [facility] shall not prohibit or discourage communication or interaction between youth of the same sex that is not also prohibited or discouraged between youth of different sexes. Expressions of romantic or emotional attraction between youth of the same sex that do not include sexual activity are not prohibited and shall not result in punishment.
- [Facility] shall include LGBT-affirming books, magazines, movies, and other materials in [facility] library. All youth shall be made aware of these materials and shall have access to them when requested. Where possible, employees shall display materials, such as “safe zone” or “hate-free zone” posters that convey to youth that the facility maintains an LGBT-friendly environment. [Facility] shall ensure that employees are made aware of local LGBT resources and reach out to the LGBT community to find organizations the facility can contract with to provide supportive services to LGBT youth.
- [Facility] shall provide LGBT youth with access to educational, rehabilitative, recreational, and other programming on the same bases as other youth. Youth shall not be denied qualification for or access to programming based on sexual orientation or gender identity.

B. Confidentiality

- Employees shall not disclose a youth’s sexual orientation or gender identity to other youth at the facility or to outside parties, individuals, or agencies, such as health care or social service providers or a youth’s family and friends, without the youth’s permission, unless such disclosure is necessary to comply with state or federal law.

- Any disclosure of confidential information related to a youth's LGBT identity shall be limited to information necessary to achieve the specific beneficial purpose.
- This confidentiality restriction does not prevent individuals working at [facility] from discussing a youth's needs or services with other staff members or when resolving a grievance.

C. Intake

- Staff should be aware that LGBT youth are in various stages of awareness and comfort with their sexual orientation and gender identity. Youth intake interviewers shall sensitively inquire about fears the youth may have of being harassed in the facility, but intake workers should not directly ask youth if they are LGBT. Some youth will disclose that they are LGBT. If a youth discloses their sexual orientation or gender identity, the intake worker should talk with the youth about it in an open and non-judgmental fashion and determine if the youth has particular concerns or needs related to being LGBT.

D. Youth Placement

- Placement decisions for LGBT youth shall occur as soon as possible after intake so the youth is not at risk while awaiting a decision regarding placement. All classification and placement decisions for youth confined at [facility] shall be individualized, based on good juvenile correctional practices, and shall prioritize the youth's physical and emotional well-being.
- Youth shall not be prohibited from having a roommate based on a youth's actual or perceived sexual orientation. If a youth is fearful of rooming with a particular youth, he or she will be provided a different roommate or a single room, if available. This assignment will be made in accordance with classification procedures and facility safety and security needs.
- LGBT youth shall not be placed in isolation or segregation as a means of keeping them safe from discrimination, harassment, or abuse. LGBT youth shall not be treated or classified as sex offenders unless required by a court.
- Transgender youth shall not automatically be housed according to their birth sex. [Facility] staff shall make housing decisions for transgender youth based on the youth's individualized needs and should prioritize the youth's emotional and physical safety taking into account the youth's perception of where he or she will be most secure, as well as any recommendations from the youth's health care provider. Generally, it is most appropriate to house transgender youth based on their gender identity. If necessary to ensure their privacy and safety, transgender youth shall be provided a single room, if available.

E. Names and Language

- Employees, volunteers, and contractors, when working with youth at [facility] shall use respectful language and terminology that does not further stereotypes about LGBT people.

- Employees, volunteers, and contractors of [facility], in the course of their work, shall not refer to youth by using derogatory language in a manner that conveys bias towards or hatred of LGBT people. In particular, employees of [facility] shall not imply to or tell LGBT youth that they are abnormal, deviant, or sinful, or that they can or should change their sexual orientation or gender identity
- Transgender youth shall be referred to by their preferred name and the pronoun that reflects the youth's gender identity, even if their name has not been legally changed. All written documentation about a transgender youth shall utilize the youth's preferred name as well noting the youth's legal name recognized by the court.

F. Clothing and Gender Presentation

- Youth shall be allowed to dress and present themselves in a manner consistent with their gender identity. [Facility] shall provide youth with institutional clothing, including undergarments, appropriate for the youth's gender identity and gender presentation.
- Grooming rules and restrictions, including rules regarding hair, make-up, shaving, etc., shall be the same in male and female units. Transgender girls shall not be required to have a male haircut, or to wear masculine clothing. Transgender boys shall not be required to maintain a female hairstyle, to wear make-up, or to wear feminine clothing.

G. Bathrooms and Showers

- Consistent with the facility's reasonable and necessary security policies, [facility] shall provide transgender youth with safety and privacy when using the shower and bathroom and when dressing and undressing. Transgender youth shall not be required to shower or undress in front of other youth and shall be permitted to use single occupancy bathrooms and showers, if available. Such accommodation shall be provided in a sensitive manner.

H. Medical and Mental Health Care

- [Facility] shall provide transgender youth with access to medical and mental health care providers who are knowledgeable about the health care needs of transgender youth, if the youth requests assessment or treatment. [Facility] will provide all recommended transition-related treatments in accordance with the medical and mental health assessments performed by the youth's health care provider and will provide transportation for the youth to receive such treatments, if necessary.
- If prior to arriving at the facility a transgender youth has been receiving transgender-related medical care, such as hormone therapy or supportive counseling, [facility] medical staff shall consult with the youth's medical providers and shall continue to provide the youth with all transition related treatments that are medically necessary according to the youth's provider and accepted professional standards. Hormone therapy shall continue at current levels pending this consultation.
- [Facility's] health care providers shall facilitate exploration of gender or sexuality issues with LGBT youth in the same manner as with other youth: by being open and non-judgmental.

- In accordance with accepted health care practices which recognize that attempting to change a person’s sexual orientation or gender identity is harmful, [facility] shall not employ or contract with mental health providers who attempt to change a youth’s sexual orientation or gender identity.
- LGBT youth shall not participate in sex offender treatment or counseling unless required to do so by a court. All sex offender treatment shall not discriminate based on sexual orientation and gender identity and shall not criminalize or pathologize LGBT identity.

I. Search Issues

- LGBT youth shall not be physically searched in a manner that is humiliating or degrading or for the purpose of determining the youth’s physical anatomy.
- Transgender youth may request that either a male or female staff member conduct a strip search, if such search is required. [Facility] shall accommodate this request when possible and consistent with maintaining the security of the facility.

IV. Procedures

A. Training of Employees, Volunteers, & Contractors

- In order for employees, volunteers, and contractors to have the awareness and capacity to effectively work with LGBT youth in this facility, all facility administrators, employees, volunteers, and contractors are required to attend training on working with LGBT youth. This training should teach participants: 1) the goals and requirements of the facilities Nondiscrimination Policy and Practice Guidelines Regarding LGBT Youth; 2) how to work with LGBT youth in a respectful and nondiscriminatory manner; and 3) how to recognize, prevent, and respond to harassment against LGBT youth.
- All employees and administrators of [facility] shall receive training about LGBT youth during their orientation and as part of their continuing education requirements. These trainings shall be taught by a qualified trainer with expertise in working with LGBT youth.
- All new facility administrators, employees, volunteers, and contractors shall receive a copy of the Policy and Practice Guidelines with their orientation materials. Current administrators, employees, volunteers, and contractors shall receive a copy of the Policy and Practice Guidelines before it is to go into effect.

B. Policy Dissemination to Youth

- At the time of intake, [facility staff] shall verbally inform all youth about the facility’s Policy and Practice Guidelines, including the youth’s rights and responsibilities under this policy and the procedures for reporting violations. Each youth shall receive a copy of the Policy and Practice Guidelines [and all other policies related to grievance procedures] during intake. Additional copies of the policy shall also be provided to youth when requested.

C. Responsibilities of Employees and Contractors to Respond to and Report Harassment

- Employees of [facility] shall promptly and appropriately intervene when a youth physically, verbally, or sexually abuses or harasses another youth based on the youth's actual or perceived sexual orientation or gender identity.
- All employees and contractors shall be required to report all incidents in violation of this policy in accordance with facility operating procedures. Failure to report an incident may result in disciplinary or other consequences.
- [Facility] employees have an obligation to report conduct by other employees and contractors that may be in violation of this policy to the other individual's supervisor and the [facility] administration.

D. Reporting Procedures for Youth

- Youth shall be able to report violations of this policy following established facility grievance procedures. Grievance procedures shall protect confidentiality of youth and contain other measures to prevent retaliation.

E. Enforcement

- Supervisory and management staff shall treat all reports of violations of this policy seriously. The [facility] administration shall promptly and effectively respond to grievances filed by youth and shall take swift action according to established procedures when employees or contractors report violations.

F. Scope

- This policy shall apply to all employees and volunteers of [facility], to employees or representatives of any agency providing services on behalf of youth at [facility], including but not limited to the Department of Health, Department of Education, their contractors, volunteers, and any other relevant agencies or departments which have contact with youth confined at [facility].

V. Definitions

For purposes of the Policy and Practice Guidelines, the following definitions apply:

Bisexual

A person who is emotionally, romantically, and sexually attracted to both males and females.

Contractor

Any person who is employed directly by an agency or organization that has a contract or Memorandum of Understanding with the [facility].

Discrimination

Any act, policy, or practice that, regardless of intent, has the effect of subjecting any youth to differential treatment as a result of that youth's actual or perceived sexual orientation or gender identity.

Employee

Any person who is employed directly by [facility].

Gay

A person who primarily is emotionally, romantically, and sexually attracted to individuals of the same sex, typically in reference to boys or men.

Gender Expression

The manner in which a person expresses his or her gender through clothing, appearance, behavior, speech, etc. Gender expression is a separate concept from sexual orientation and gender identity. For example, a female may have a very masculine appearance, but may identify as a heterosexual female.

Gender Identity

A person's internal, deeply felt sense of being male or female, regardless of the person's sex at birth.

Gender Identity Disorder (GID)

A diagnosable medical condition for individuals who are experiencing high levels of distress because they have a strong and persistent desire to be a different sex and a persistent discomfort with their birth sex. According to accepted professional standards, treatments, such as supportive counseling, hormone therapy, and sex reassignment surgery are medically necessary for many youth or adults who have GID.

Harassment

Includes, but is not limited to, name-calling; disrespectful gestures, jokes, or comments; inappropriate touching; threats of physical or emotional acts or negative consequences (including religious condemnation); physical abuse; sexual abuse, including unwanted sex acts, touching, pantomime, and threats; and emotional abuse, such as shunning or isolation. Attempting to change a youth's sexual orientation or gender identity is also a form of harassment.

Lesbian

A girl or woman who primarily is emotionally, romantically, and sexually attracted to girls or women.

Sexual Orientation

A person's emotional, romantic, and sexual attraction, to individuals of the same sex or of a different sex.

Transgender

A person whose gender identity (their understanding of themselves as male or female) does not correspond with their birth sex. A transgender girl is a girl whose birth sex was male but who understands herself to be female. A transgender boy is a boy whose birth sex was female but who understands himself to be male.

Volunteer

Any person who provides services free of charge to [facility].

Youth

Any person committed to the custody and care of [facility], any person who is subject to supervision by [facility], or any person who is in the custody of the state who receives services from the [facility].

VI. Severability

The provisions of the Policy and Practice Guidelines shall be severable. If any provision or portion of this policy or its application to any person or circumstance is held invalid, the remainder of this policy or the application of the provision to other persons or circumstances is not affected.

NCLR's youth project has been advocating for LGBTQ youth in schools, foster care, juvenile justice settings, and the mental health system since 1993. The Project provides direct, free legal information to youth, legal advocates, and activists through a toll-free line; advocates for policies that protect and support LGBTQ youth in these different arenas; and litigates cases that are creating new legal protections for youth in schools, foster care, juvenile justice, and other settings.

For more information, contact:

Jody Marksamer, Youth Project Director & Staff Attorney
415.392.6257 x308
jmarksamer@nclrights.org

National Center for Lesbian Rights
870 Market Street, Suite 370
San Francisco, CA 94102
info@nclrights.org
Toll-free Legal Helpline: 1.800.528.6257
www.nclrights.org



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