

RECOGNIZING AND ADDRESSING LGBTQ ISSUES IN YOUR CHILDREN'S LAW CASELOAD

Presented by
The American Bar Association
Section of Litigation,
Center on Children and the Law,
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and the ABA Center for Continuing Legal Education



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TABLE OF CONTENTS

1. **When Bullying Takes a Life: Advocacy Tips to Protect LGBTQ Youth**
Andrea Khoury
2. **Securing Permanency for Children in Foster Care: The Detroit Center for Family Advocacy's Approach**
Aeran N. Baskin
3. **Administration for Children and Families Information Memorandum**
4. **Department of Education Dear Colleague Letter: Harassment and Bullying**
5. **It's Your Life— Opening Doors: Improving the Legal System's Approach to LGBTQ Youth in Foster Care**
6. **Opening Doors for LGBTQ Youth in Foster Care:
A Guide for Lawyers and Judges**
Mimi Laver and Andrea Khoury
7. **Making a Difference for LGBT Youth**
8. **Part 1: LGBTQ Youth in the Juvenile Justice System**
Amanda Valentino
9. **Part 2: LGBTQ Youth in the Juvenile Justice System**
Amanda Valentino
10. **A National Approach to Meeting the Needs of LGBTQ Homeless Youth**
11. **Incidence and Vulnerability of LGBTQ Homeless Youth**
12. **Terminology Match-up**
13. **National Recommended Best Practices for Serving LGBT Homeless Youth**
14. **A Report on Regional Listening Forums Highlighting the Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth in Care**
15. **Getting Down to Basics: Tools to Support LGBTQ Youth in Care—Online Resources**
16. **Presentation Slides**

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When Bullying Takes a Life: Advocacy Tips to Protect LGBTQ Youth

by Andrea Houry

Recent news headlines drew attention to the suicide deaths of three youth who were bullied because of their real or perceived sexual orientation and gender identity.

- **Seth Walsh**, 13 years old, hung himself after years of relentless bullying because he was gay.

“He started getting teased by the fourth and fifth grade,” his mother, Judy Walsh, reported. “By sixth grade, the kids were starting to get mean. By the seventh grade, he was afraid to walk home from school because he was afraid he would get harassed. As he was walking by a classroom, a kid yelled out, ‘Queer.’ Stuff like that.”

The bullying took every form. “It was eye to eye, over the telephone, personal, over the Internet,” says Judy. “He spent a lot of his life frightened.”¹

- **Asher Brown**, 13 years old, shot himself after being bullied at school for being gay.

Asher’s parents say that their son was bullied at school for countless reasons. In addition to being gay, their son was bullied for being small, not wearing name-brand clothing, not using iPods and choosing to read instead of listening to music.²

- **Billy Lucas**, 15 years old, hung himself after being tormented for years because his peers perceived Lucas to be gay.

All three of these youth showed signs of bullying well before their suicides. Their parents or peers observed teasing, name-calling, physical abuse, online harassment, and other forms of bullying. While no one could have predicted the youth would take their lives, that outcome emphasizes the need to carefully watch for signs of bullying

and to intervene to help youth who are in danger.

President Obama, Secretary of State Hillary Rodham Clinton, and the United States Department of Health and Human Services Secretary Kathleen Sebelius are calling more attention to the problem of bullying. They created YouTube clips in support of the “It Gets Better” Campaign started by the Trevor project.³ The clips encourage lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth to not give up and lets them know things will change when they get older and that there is help they can receive now.⁴

Signs of Bullying

Recent studies find that over 85% of LGBTQ students report being harassed because of their sexual orientation or gender identity and over 20% report being physically attacked.⁵ Students regularly hear antigay slurs like “faggot” and “sissy.” In fact, one study reported 97% of students hear gay or gender slurs on a daily basis.⁶

Children’s attorneys should be aware of signs that young clients are being harassed or bullied at school. Although not always signs of bullying, the following red flags should call for further investigation.

- **Skipping school.** Most youth who are being bullied in school will try to avoid their attackers by not going to school.⁷
- **Dropping out of school.**⁸
- **Substance abuse.** Some youth use alcohol and drugs to cope with the harassment they experience at school. There are higher rates of substance abuse among LGBTQ

youth than their peers.⁹

- **Poor academic performance.**¹⁰
- **School discipline issues.** If LGBTQ students are being bullied and harassed, it’s likely they will at some point retaliate and may be punished.

Investigating these red flags is easier if advocates have first established a trusting relationship with their clients and allow them to feel safe disclosing their sexual identities and any school problems. Advocates should also regularly check in with their clients about school, grades, and extracurricular activities. Advocates can also find information from social workers, foster parents, and school personnel and talk with their clients if any red flags are raised.

Advocates for parents and the child welfare agency should also look for warning signs. If the parent or foster parent notes a change in the child’s behavior or if the child exhibits any of the red flags, the advocates should immediately investigate further.

Intervening for Youth

If a child client is being bullied in school, the advocate has several options:

Let the school know. After getting consent from the client, the advocate should let the school know. Insist the school take immediate steps to stop the bullying. The United States Department of Education, Office for Civil Rights issued a letter to schools, colleges, and universities advising them on when student misconduct, sometimes characterized as bullying, “triggers responsibilities under one or more of the federal antidiscrimination laws enforced by the Department’s Office for Civil Rights.”¹¹ Although Title IX does not prohibit discrimination based solely on sexual orientation it does

protect all youth (including LGBTQ youth) from sex discrimination. If the harassment or bullying is based on the client's lack of gender conformity, it falls within the protections of Title IX.¹² The school is obligated to protect the client and depending on the level of bullying may have the obligations to prevent the continued hostile environment.¹³ These can include:

- reprimanding the perpetrators;
- notifying teachers and staff so they can protect the client and other similarly situated people;
- enhancing monitoring of places where harassment occurs;
- increasing staff training; and
- educating the school community on gender discrimination and harassment.¹⁴

Find out what actions the school will take to address the bullying. Ensure any action taken disrupts the client's schedule as little as possible. The intervention should not penalize the victim.

Identify school programs or activities that address bullying prevention. In most cases schools have a duty to address harassment on a systemic level.¹⁵ Ask the school to establish policies that protect victims of bullying.¹⁶

Pursue counseling. Encourage the client to participate in counseling to address his feelings about being a target. The school may provide counseling for the student being bullied. If not, request counseling by the child welfare agency. Bullying can have long-term impacts that are not easily recognizable (e.g., self-esteem, depression, substance abuse, etc). The counselor should have experience with LGBTQ youth.

Prevent retaliation. Insist that the school not allow any retaliatory action by the bully or the bully's peers on the client. Follow up with the client to ensure this does not happen and take

action with the school if it does.

Seek support. Bullying can result in the child feeling alone and isolated. Advocates should refer the client to the school's gay-straight alliance or other community organizations that support youth who identify as LGBT or Q.¹⁷ Other LGBTQ youth can offer support and help the client handle shame that often accompanies the coming-out process. Youth will develop a support structure and not feel so alone.

Intervening when your client is the offender

Child advocates should also be aware when a young person they serve is the person who is bullying other children. Some research shows that bullies are victims of abuse and neglect by their parents.¹⁸ Bullies usually lack parental involvement and supervision and suffer from harsh corporal discipline.¹⁹

If the client is perpetrating the bullying, the client should get counseling to address the underlying causes. If the school takes action against the client for bullying behavior, make sure counseling is part of any punishment. If the bullying is severe and the school attempts to suspend or expel the client from school, ensure the client is evaluated for mental health issues that may explain his behavior. The evaluations and subsequent treatment can be used to prevent the client from harsh penalties.

The advocate can also seek support from parents or caregivers. Ensure that they are aware of the bullying behavior and are taking steps to prevent it from continuing. They should explore extracurricular activities, sports, mentoring, or other activities that help the client recognize the negative effects of bullying.

Conclusion

Bullying based on LGBTQ identity or perceived identity has resulted in kids attempting and committing suicide. Simple interventions by professionals

who are sensitive to gender stereotypes can help stop this trend. A child welfare advocate who suspects a client is being harassed or bullied should take immediate action.

Andrea Khoury, JD, is director of the ABA Center on Children and the Law's Bar Youth Empowerment Project, which examines the needs of youth aging out of foster care. She is also a staff attorney for the Center's Opening Doors Project, which addresses the needs of LGBTQ youth in foster care.

Endnotes

¹ Alexander, Brian. "The Bullying of Seth Walsh: Requiem for a Small Town Boy." *Time*, 10/2/2010. <www.time.com/time/nation/article/0,8599,2023083,00.html#ixzz12oOLJWlr>

² AAyles. "Asher Brown Suicide: Parents Speak Out Against Bullying." *Kid Glue*, 9/30/2010. <www.kidglue.com/2010/09/30/asher-brown-suicide-parents-speak-out-against-bullying-watch/>

³ Visit www.thetrevorproject.org/

⁴Trevor Project clips can be found at www.findyouthinfo.gov/topic_bullying.shtml?utm_source=BullyingInfo.org&utm_medium=Redirect&utm_campaign=BullyingSummitt

⁵ Biegel, Stuart and Sheila James Kuehl. *Safe at School: Addressing the School Environment and LGBT Safety through Policy and Legislation*, October 2010. <www.law.ucla.edu/williamsinstitute/home.html>

⁶ *Making Schools Safe for Gay and Lesbian Youth: Report of the Massachusetts Governor's Commission on Gay and Lesbian Youth*, 1993. <www.mass.gov/cgly/Education_Report.pdf>

⁷ American Psychological Association. *Bullying*, March 2005. <www.apa.org/about/gr/issues/cyf/bullying-briefing.aspx>

⁸ Ibid.

⁹ Youth Pride, Inc. "Statistics." <www.youthprideri.org/Resources/Statistics/tabid/227/Default.aspx>

¹⁰ American Psychological Association, 2005.

¹¹United States Department of Education, Office of Civil Rights. "Letter to Schools, Colleges, and Universities Nationwide" from Russlynn Ali, Assistant Secretary for Civil Rights, October 26, 2010. <<http://kstp.com/article/stories/S1808383.shtml?cat=0>>

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ See a list of school antidiscrimination policies across the country and sample policies and laws at www.safeschoolscoalition.org/lawpolicy-models.html

¹⁷ <www.glsen.org>, <www.safeschoolscoalition.org>

¹⁸ American Psychological Association, 2005.

¹⁹ Ibid.



Child Law Practice

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Helping Lawyers Help Kids

IN PRACTICE

Securing Permanency for Children in Foster Care: The Detroit Center for Family Advocacy’s Approach

by Aeran N. Baskin

The public foster care system protects children and provides permanency. However, the number of children in the foster care system is staggering. Many of these children enter the system unnecessarily, and many stay far too long. These outcomes are contrary to the purpose and the goals of the public foster care system.

The Detroit Center for Family Advocacy (“DCFA”) is a new program at the University of Michigan Law School. One of DCFA’s missions is to reduce the number of children in the public foster care system by removing any barriers to permanency and thereby speeding the exit of children from the foster care system. This initiative is part of DCFA’s Permanency Project, which provides zealous representation to families and caregivers by providing each family the advocacy and special training of an attorney, social worker, and parent advocate.

This article discusses the permanency barriers that DCFA clients encounter when attempting to provide permanency for a child and how DCFA staff have addressed each barrier. The barriers are:

- Inaccessibility of the System
- Professionals’ Practices
- Poverty
- Previous Actions/Debts
- Marital Status

Inaccessibility of the System

The most persistent barrier for DCFA clients is the lack of understanding of the systems that drive their lives, i.e. public benefits, child protection, family court. It is shocking how many families are broken by simple ignorance of the very programs designed to ensure they remain together. Ignorance ultimately translates into reunification barriers for parents and caregivers: the mother that does not know about Department of Human Services-sponsored emergency funds is unable to pay a security deposit for housing. Or, the grandmother who does not know about the availability of food stamps for her grandchild cannot afford to feed him properly.

In these situations, DCFA clients often must choose between “fight or flight” to ensure their present survival. Unfortunately, their lack of knowledge of what is available and having to make short-term decisions often create unforeseen consequences that further stall a child’s permanency.

Case Example: Mrs. A was unable to proceed with an adoption of two children in her care because she did not understand that her child support obligation did not end when she resumed caring for the children for whom she was obligated to pay support. Because Mrs. A lacked the

money to pay her child support in full, she did not want to go to the Friend of the Court to get information. Mrs. A’s child support arrears accumulated into the several thousands due to her mistaken belief that she was no longer required to pay and her hesitation to seek information. If Mrs. A knew she had to notify the court that her children were in her care, the decision to discontinue paying support would not have ultimately affected her ability to adopt.

DCFA staff confront this issue in two ways:

(1) **Client-centered education** is critical in ensuring families are able to navigate their way out of a crisis, and able to withstand later crises. The DCFA staff attorney educates the client on the system that is acting as a barrier to permanency

Continued on page 166

What’s Inside:

162 CASE LAW UPDATE

169 BETTER LAWYERING

Representing Transgender Youth: Learning from Mae’s Journey

175 ETHICAL DILEMMAS

Ethical Consideration: Model Rule 1.14 – Diminished Capacity

ABA Child Law PRACTICE

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CASE LAW UPDATE

Local Governments May be Liable Under § 1983 for Prospective Relief When Their Own Policies or Customs Violate a Constitutional Right

Los Angeles County v. Humphries, 2010 WL 4823681 (S. Ct.).

Local governments may be sued under § 1983 for monetary, declaratory, or injunctive relief when the alleged unconstitutional action implements or executes an official policy, practice, or custom of the local government. They type of relief sought, monetary or prospective, does not affect the potential liability under § 1983.

Parents were arrested on charges of alleged child abuse. They were exonerated but their names continued to be listed in California's Child Abuse Central Index (CANI). California's Child Abuse and Neglect Reporting Act requires police and state agencies to report all child abuse reports that are deemed "unfounded" to the California Department of Justice. The statute requires the department to include these reports in the CANI and make them available to state agencies for at least 10 years.

The parents sought to have their names removed from the index, but the Los Angeles sheriff's department denied their request. The parents then filed a § 1983 action against the attorney general of California, L.A. county sheriff and detectives, and L.A. county. They requested damages and an injunction, and claimed defendants deprived them of their constitutional rights by failing to create a procedure to challenge the listing of their names in the index.

The District Court for the Central District of California granted summary judgment to defendants after finding California had not deprived the parents of a constitutionally protected liberty interest.

The Ninth Circuit held the Fourteenth Amendment requires the state to give individuals listed in the index notice and a hearing. It ruled the parents were entitled to relief and that they might be able to prove damages. It also found the parents were entitled to \$600,000 in attorney's fees and ordered

L.A. County to pay \$60,000 of those fees.

The county claimed it was not responsible for attorney's fees since it was a municipal county and could only be liable under § 1983 if a municipal "policy or custom" caused the plaintiff to be deprived of a federal right, as established by *Monell v. New York City Dep't of Soc. Servs.*, 436 U.S. 658 (S. Ct. 1978). The county claimed it was a *state* policy, not a *county* policy, which caused a deprivation in this case.

The Ninth Circuit responded that the county may be responsible for the deprivation, explaining that by failing to create a procedure to allow individuals to challenge their index listing, it adopted a custom or policy that violated the plaintiffs' constitutional rights. Since this issue was not clear, the circuit court remanded to the district court to determine the county's liability under *Monell*.

The Ninth Circuit found it unnecessary to remand on the issue of the county's obligation to pay a portion of the attorney's fees because *Monell's* limitations on liability do not apply to claims for prospective relief, but only to claims for damages. The county sought review of this holding by the U.S. Supreme Court.

The Supreme Court held that *Monell* applies to § 1983 claims against municipalities for prospective relief *and* for damages. *Monell* found that a municipality can be held liable under § 1983 only for its own violations of federal law, not solely for the acts of others. It explained that local governing bodies may be sued directly under § 1983 for monetary, declaratory, or injunctive relief when the alleged unconstitutional action implements or executes an official policy, practice, or custom of the governing body.

The Court found that § 1983 does not suggest that the causation requirement in the statute is not affected by the form of relief sought. Actually, it

provides the opposite by stating that “a person who meets § 1983’s elements ‘shall be liable ... in an action at law, suit in equity, or other proper proceeding for redress.’” Therefore, as stated in *Monell*, a local governing body may be sued for monetary, declaratory, or injunctive relief, when the alleged action implements or executes a policy or custom.

The Court explained that nothing in *Monell* suggested any type of relief-based bifurcation. Rather, *Monell’s* determination that potential § 1983 liability could arise when a municipality’s own violations are at issue, not the violations of others, argued against such relief-based bifurcation. The Court explained that the policy or custom requirement rests on this distinction and

that finding the requirement does not apply when prospective relief is sought would undermine *Monell*.

The Court concluded that “*Monell’s* ‘policy or custom’ requirement applies in § 1983 cases irrespective of whether the relief sought is monetary or prospective.” It therefore reversed the Ninth Circuit’s ruling on this issue and remanded for further proceedings.

Open Adoption in Child’s Best Interests to Give Child Permanency and Maintain Ties to Father

Adoption of Cadence B., 2010 WL 4704298 (Md. Ct. App.).

Changing permanency plan of three-year-old child, who had been in foster care since birth, to open adoption was in child’s best interests to give child permanency while still allowing her to maintain a relationship with her father. Father’s choice to live in another state and his infrequent visits and length of time child was in care were factors that weighed against continuing reunification as the permanency plan.

A four-month-old child was adjudicated dependent based on her parents’ drug use. The child was first placed in her mother’s custody under a protective supervision order. When the mother violated that order, the child was placed with a foster family with reunification as the permanency plan. The child developed a close bond and thrived in her foster family’s care and they desired to adopt her.

The child’s parents were known to child welfare officials. In 2001, the father’s two oldest children were removed from his care based on neglect and drug use and placed with their grandmother. In 2008, the father and mother’s parental rights to three other children were terminated based on neglect and substance abuse.

While the four-month-old child was in care, the father was incarcerated in Maryland for writing a bad check. He was later extradited to Pennsylvania to satisfy an arrest warrant for welfare fraud. He remained in Pennsylvania after his release from jail and lived with his girlfriend, securing a home and a job and managing to stay drug free.

From the time of his release in Pennsylvania to the permanency

hearing, the father had limited contact with his daughter. The child welfare agency encouraged frequent visits, and even offered transportation vouchers to facilitate them, yet he visited her only 11 times in 19 months. The visits that did occur were reported to be positive and nurturing, with the child responding well to the father. The father also wrote letters and e-mails, sent gifts, and communicated regularly with the child’s foster mother.

At a permanency plan review hearing, the juvenile court changed the permanency plan from reunification to open adoption. The child was three years old at this point. The court based its decision on the father’s decision to live in Maryland away from his children and his limited contact with his daughter. It found open adoption would permit the child’s relationship with her father to continue while giving her the permanency that adoption offered.

The father appealed the juvenile court’s order. The court of special appeals affirmed and the father sought review by the Maryland Court of Appeals.

The Maryland Court of Appeals affirmed. The father claimed the juvenile court improperly focused on the child’s time in foster care in its decision and failed to consider all of the statutory factors in determining his child’s best interests at the permanency hearing. He further claimed there was no evidence that the child would suffer abuse and neglect if she lived with him.

The father cited two Maryland decisions to support his claim that the court improperly based its decision on the length of time in care. Both cases involved fathers whose parental rights were terminated because their

circumstances prevented them from being involved with their children for lengthy periods that were outside their control. In this case, the father chose to be absent from his daughter’s life by moving to Pennsylvania and not availing himself of more frequent opportunities to visit her. This choice was a barrier to reunification.

While the juvenile court did consider the length of time the daughter spent in care, it also considered the other statutory factors. It had found that the child could not safely return to her parents’ care and that they could not properly care for her welfare. It considered the child’s attachment to her foster parents. In considering her attachment and emotional ties to her father, the juvenile court had found he was like a close uncle to her more than a father. It found that open adoption would allow the child to continue benefitting from her relationship with her father while maintaining the safety and stability of her current placement with her foster parents.

The juvenile court also weighed the potential harm to the child if her placement were changed, finding a change and separation from her foster parents would harm her well-being because they were the only family she had known and she had developed a deep bond with them. It also determined that continuing the reunification plan would cause the child to remain in foster care limbo indefinitely, which was contrary to her best interests.

Changing the permanency plan to open adoption would provide the permanence the child needed while allowing her to maintain her relationship with her father.

STATE CASES**Arkansas**

Welch v. Dep't of Human Servs., 2010 WL 4870099 (Ark. Ct. App.). TERMINATION OF PARENTAL RIGHTS, BEST INTERESTS
 Trial court properly conducted best interests analysis in termination of parental rights case where child had been in care for over two years and mother's progress with substance abuse treatment and other needs was uneven; extended time in care without a permanent family is a type of harm and can be a factor when determining child's best interests.

California

In re Bailey J., 117 Cal. Rptr. 3d 568 (Ct. App. 2010). TERMINATION OF PARENTAL RIGHTS, SIBLINGS
 Trial court did not err in finding child's sibling relationship insufficient to warrant denying termination of parental rights; while older sibling presented evidence that she had a strong bond with the younger child who was the focus of the petition, there was little to support claim that the child had a similar strong bond with the older sibling since he had limited contact with her over his life.

In re Pedro Z., 117 Cal. Rptr. 3d 605 (Ct. App. 2010). DEPENDENCY, NONCUSTODIAL PARENT
 Reunification services for father were not required under statute section governing dependent children where child was removed from both parents and placed in mother's custody; child was not placed in out-of-home care or with a noncustodial parent to make section applicable.

Colorado

In re A.J.L., 2010 WL 4840418 (Colo.). TERMINATION OF PARENTAL RIGHTS, FAILURE TO IMPROVE
 Trial court was not required to put more weight on mother's recent signs of progress in termination of parental rights case; though a judge may find that recent evidence is highly probative in determining that return in a reasonable time is not feasible, the judge is not required to do so and mother persisted in actions that made the children unsafe, including living with an individual who refused to comply with services.

Connecticut

In re Brian W., 6 A.3d 136 (Conn. App. Ct. 2010). GUARDIANSHIP, REUNIFICATION
 Returning children to mother's care was proper where she had left children with her parents, who received guardianship and cared for children for several years, because she resolved the problems that originally justified the guardianship, including securing stable employment and housing, and therapists supported child's return.

Delaware

Ogden v. Collins, 2010 WL 4816059 (Del.). DEPENDENCY, GUARDIANSHIP
 Trial court did not err in denying petition by mother's cousin for guardianship in dependency case; though both the cousin and foster parents were found to be appropriate caregivers, holding was supported by the facts because the foster parent, as a nurse, was better able to care for child's special medical needs, birth parents supported the foster parent adopting, and the child had a strong bond with the foster parent.

Georgia

In re D.Q., 2010 WL 4751756 (Ga. Ct. App.). DEPENDENCY, MENTAL HEALTH
 Order finding children dependent was proper based on mother's neglect of children's mental health; although both children had serious mental health diagnoses and behaviors that were disrupting their educations, mother refused help from the child welfare agency to get the children counseling and her refusal to sign releases caused problems coordinating services and medication.

Florida

C.R. v. Dep't of Children & Families, 45 So. 3d 988 (Fla. Dist. Ct. App. 2010). DEPENDENCY, DOMESTIC VIOLENCE
 Conclusion that child was dependent based on father's history of domestic violence was incorrect since prior conflict between the parents had been resolved by their separation and there was no evidence of current domestic violence that would put the child at risk of harm.

Iowa

In re D.T.D.J., 2010 WL 4140589 (Iowa Ct. App.). TERMINATION OF PARENTAL RIGHTS, RELATIVE PLACEMENT

Juvenile court adequately considered placement with out-of-state relatives before terminating parental rights; because relatives had not made efforts to establish a relationship with the children, such as by contacting them or their foster parents or involving themselves in legal proceedings, court could conclude these potential placements were unlikely to succeed.

Maryland

In re Ta'Niya C., 2010 WL 4722197 (Md.). TERMINATION OF PARENTAL RIGHTS, BEST INTERESTS
 Where state sought termination of parental rights of one child, though another child had been returned home to the mother, trial court erred in denying petition because it relied on mother's circumstances rather than the best interests of the child; an individual analysis of whether continuing the parent-child relationship is necessary because there may be different factors such as bonding, visitation, and special needs of each child.

Nebraska

In re David C., 790 N.W.2d 205 (Neb. 2010). ABANDONMENT, ADOPTION
 In a stepparent adoption where the birth father had not visited the child in over three years and paid no support, trial judge did not abuse discretion by bifurcating the consent and best interests phases of the hearing; bifurcation is proper where a dispositive issue may eliminate trying unnecessary issues.

New Jersey

Div. of Youth & Family Servs. v. J.D., 2010 WL 4700759 (N.J.). DEPENDENCY, RELITIGATION
 Trial court could not reopen dependency case on its own motion to apply holding of state supreme court because appellate case did not depart from existing law and did not trigger retroactive application; further, mother was not prejudiced as it was unlikely under the circumstances that a different result would have occurred since even after the time lapse, facts still supported placing child with father.

In re J.W., 2010 WL 4740204 (N.J. Super. Ct. App. Div.). TERMINATION OF PARENTAL RIGHTS, FAILURE TO IMPROVE
 Clear and convincing evidence existed to

terminate father's parental rights; father's visits with child and compliance with services were inconsistent, he lacked stable housing, employment, and child care, no emotional bond or attachment with child existed, and delaying permanency would further harm child.

New York

Allen v. Ciannamea, 2010 WL 4117579 (N.Y. App. Div.). CONFIDENTIALITY, FOSTER CARE RECORDS

Defendant's request for child welfare agency records was improperly denied; agency files are not automatically subject to confidentiality laws and some information may be properly disclosed.

In re Nikita W., 77 A.3d 1209 (N.Y. App. Div. 2010). DEPENDENCY, EXPERT WITNESSES

Trial court properly admitted expert testimony to corroborate child's out-of-court statements about sexual abuse; testimony described child's statements as detailed and spontaneous and indicated she was recalling an actual personal experience.

In re Tashia "R", 909 N.Y.S.2d 345 (N.Y. Fam. Ct. 2010). FOSTER CARE, CONSENT

Eighteen-year-old child did not consent to continued placement in foster care under statute that requires consent of child before continuing child's placement beyond age 18; child lacked intellectual ability to understand concept of foster care because of her disabilities and so could not knowingly consent to continued placement, and temporary guardian's consent on behalf of child five months after she turned 18 had no effect since child's placement had already been terminated.

North Carolina

Hunter v. Transylvania County Dep't Soc. Servs., 2010 WL 4293976 (N.C. Ct. App.). LIABILITY, WRONGFUL DEATH

In wrongful death claim, plaintiff did not allege child welfare agency caseworker's actions were corrupt or malicious and caseworker exercised sufficient discretion in handling case, including decision-making authority during assessment and investigation of family, to qualify as public official, therefore immunity applied.

In re K.U.-S.G., 2010 WL 4608733 (N.C. Ct. App.). TERMINATION OF PARENTAL RIGHTS, UCCJEA

In termination hearing, Uniform Child Custody Jurisdiction and Enforcement Act barred subject-matter jurisdiction since initial custody determination was entered in Pennsylvania where mother was incarcerated and there was no order stating that Pennsylvania was giving up jurisdiction or determining North Carolina would be a more convenient forum.

Oklahoma

In re BTW, 2010 WL 3862715 (Okla.). VISITATION, SUPERVISED

Supervised visitation order for mother in dependency proceedings was not an abuse of discretion; child expressed wishes to end visits and feared mother who frequently exhibited anger, mother could not handle child, year-long counseling efforts did not help relationship, and child's therapist recommended ending reunification.

Oregon

In re C.D.T., 2010 WL 4746209 (Or. Ct. App.). TERMINATION OF PARENTAL RIGHTS, CHILD SEXUAL ABUSE

Trial court properly terminated father's parental rights based on unfitness due to child sexual abuse conviction resulting in condition prohibiting contact with minors; as a result, father could not offer home to child for at least two years, an unreasonable wait for developmentally delayed child who suffered from disorders and needed permanency.

Pennsylvania

In re N.W., 2010 WL 4867610 (Pa. Commw. Ct.). ABUSE, REGISTRIES

Trial court improperly denied petitioners' appeals of child abuse filings on ChildLine Registry; presumption of abuse was not at issue since it was not raised at

hearing, did not apply in this case where abuse occurred when child was cared for by many people, and petitioners were responsible for child during only part of time when abuse happened, which did not amount to "substantial evidence" of abuse.

Tennessee

In re Keri C., 2010 WL 4739706 (Tenn. Ct. App.). TERMINATION OF PARENTAL RIGHTS, ABANDONMENT

It was in child's best interests to terminate mother's parental rights based on abandonment; mother's visits with child were sporadic, short, and meaningless and mother testified she knew of her obligation to support child, was able to, but did not and social security check child received did not discharge mother's financial obligations.

In re Logan A.S., 2010 WL 3984712 (Tenn. Ct. App.). TERMINATION OF PARENTAL RIGHTS, ABANDONMENT

It was in child's best interests to terminate father's parental rights based on admitted ongoing drug addiction, meaningless relationship with child, repeated incarcerations during most of child's life which exhibited "a wanton disregard for the welfare of the child," and grandparents cared for child since he was eleven months and wanted to adopt.

Vermont

In re M.G., 2010 WL 438083 (Vt.). ABUSE, REGISTRIES

Reversal and remand was required when Human Services Board overturned agency's decision to include on its' registry record of investigation and determination that children were a risk of harm since decision to overturn was not supported by any written findings of fact, as required by statute.

President Signs CAPTA Reauthorization Act of 2010

On Monday, December 20, 2010, President Obama signed legislation reauthorizing the Child Abuse Prevention and Treatment Act (CAPTA), which works to prevent child abuse and neglect and support families experiencing maltreatment. CAPTA is a source of funding for many court programs and the primary source of funding for child welfare agencies. The CAPTA reauthorization includes the *Family Violence Prevention and Services Act*, which funds domestic violence shelters and services that help women and children facing domestic violence. See next month's CLP for an analysis.

Quick Facts:

The Detroit Center for Family Advocacy

Main Office:

3031 W. Grand Blvd, Ste 440
Detroit, MI 48202

Osborn Satellite Office:

13560 E. McNichols
Detroit, MI 48205
Started: July 6, 2009

Staff: Seven full-time staff members

Four staff attorneys

One MSW social worker

One parent advocate

One office manager

Projects: *Prevention Project* (“Type A Cases”)—preventing the entry of children into the foster care system.

Prevention Project (“Type B Cases”)—expediting the exit of children out of the foster care system.

Population Served: Families in Wayne County, Michigan (the metro Detroit area) with a focus on the Osborn community in Detroit

Learn More: Visit www.law.umich.edu/centersandprograms/ccl/cfa/Pages/default.aspx

(Continued from front page)

and explains why one course of action may be best. The staff attorney provides information to the client to ensure that representation is client-centered or client-driven; the ultimate goal is to empower clients by giving them the tools to advocate for themselves when DCFA is no longer involved. Throughout DCFA representation, the staff attorney encourages clients to be proactive and to make changes in their lives. DCFA staff has also developed educational tools that help clients understand the nature of a specific legal issue and DCFA’s role.

(2) Emotional support is a vital component in lifting barriers to permanency, particularly when representing parents in child abuse and neglect proceedings. Although all DCFA staff offer emotional support, the parent advocate takes the lead giving parents the emotional support they need when reunification is the permanency goal. (See the Dec.

2009 & Jan. 2010 *CLP* issues for articles on parent partners.) The parent advocate has personally experienced the child abuse and neglect system and coaches parents on how to talk to service providers and attorneys and how to satisfactorily complete court-ordered service plans. She hosts a support group for those involved with the child welfare system—including parents, relative caregivers, foster and adoptive parents, and concerned individuals—to educate participants on the law, share tips, and celebrate successes.

The social worker provides clients emotional support by serving as a broker between the client and community resources. For example, if the child welfare agency requires that a client obtain suitable housing or they will place the client’s children in foster care, the social worker will provide the client with housing referrals. The social worker’s advocacy has assisted several DCFA clients obtain low-cost housing or housing assistance through community partners. The social worker also serves as an advocate on the client’s behalf to

other child welfare professionals before an attorney becomes involved to ensure the client is receiving mandated services.

Professionals’ Practices

Although one goal of child welfare professionals and attorneys is to help families stay together, these same professionals may unintentionally block permanency. DCFA clients have experienced this as a barrier in two ways:

(1) Lack of knowledge of policies and laws that can create permanency for clients. This is a recurring issue in DCFA cases. Sometimes child welfare professionals do not have a complete understanding of the policies and laws that guide their work with families. Children are lost to the system when their representatives fail to challenge child welfare professionals’, particularly social workers, knowledge of policies or laws. DCFA staff gently, or otherwise, remind professionals of the policies they must follow. Simply letting a professional know an attorney is involved will set a professional level of accountability that forces individuals to follow the letter and the spirit of the law and their policies, allowing a family to achieve permanency.

Case example: Mrs. B sought to adopt the children in her care through a private agency but she could not afford the adoption filing fees. Michigan adoption policy requires an agency to pay filing fees if a family is unable. Michigan then reimburses the agency. The private agency that Mrs. B was working with insisted that she must find the money to pay her fees. When DCFA became involved, Mrs. B informed her adoption worker that DCFA was working with her to get her fees subsidized. Upon learning of DCFA’s involvement, the private agency recalled the existence of the adoption policy requiring the agency to post adoption fees.

(2) Lack of creative solutions to achieve permanency. Without creative permanency options, many DCFA families are unable to achieve permanency on their own. DCFA can assist these families by becoming their advocates in and, most importantly, outside court. The child welfare system typically favors adoption over other permanency options. Each family is different; adoption does not fit every family's needs and goals. A "one-size-fits-all" permanency plan for each family may not accurately reflect what is best for a particular family.

DCFA staff pushes practitioners to account for an individual family's personal culture and to work with the family to form creative solutions to achieve permanency for a child. DCFA staff also makes it a routine practice to challenge "one-size-fits-all" policies in court, forcing other professionals to find a basis for their actions. DCFA typically does not represent parents in abuse and neglect proceedings, but rather in other proceedings (landlord/tenant, family, public benefits, etc.) that affect permanency. However, DCFA will substitute for an attorney in a child abuse and neglect proceeding to ensure a client has the zealous representation that will help a child achieve permanency.

Case examples: (1) Ms. C worked with a private agency to adopt her younger brother. The private agency supervisor "informally" denied Ms. C's adoption application and threatened to formally deny the adoption without first giving Ms. C the legally required informal hearing. DCFA informed the private agency of their unlawfulness and terminated the adoption. DCFA then worked with the foster care worker to change the permanency plan to supervised independent living ("SIL") or long-term foster care. This option was best for the family's needs; the child did not want to be adopted and needed educational and other services that SIL provided.

(2) Ms. D had a guardianship over her grandchildren when child protective services ("CPS") became involved for a sibling who was tragically murdered in a separate household. CPS filed a petition against the mother, hoping to terminate her parental rights and force Ms. D to adopt her grandchildren. Although Ms. D loved her grandchildren and would always be there for them, she did not want to be their legal mother. DCFA represented Ms. D in the termination of parental rights trial and advocated to maintain the guardianship. The court terminated the mother's parental rights but maintained the children's guardianship with Ms. D.

Poverty

Poverty is always a barrier for DCFA clients. The DCFA social worker and parent advocate take the lead helping clients address poverty-based social needs that may be a future barrier to achieving permanency. The social worker serves as a broker between the client and community resources. The social worker builds partnerships with other community organizations and screens services for quality and appropriateness for DCFA clients. Although the social worker takes the lead finding resources for clients, all social work initiatives are client-centered. This allows the client to lead his or her advocacy and to become empowered and self-determined.

Case example: Ms. F and her seven children were living in a cramped one-bedroom apartment with other relatives because an unscrupulous landlord rented her dilapidated housing and walked away with her security deposit, leaving her and her children homeless. CPS threatened to remove Ms. F's children if she did not find suitable housing. While DCFA staff attorney fought to ensure the return of Ms. F's security deposit, the DCFA social worker talked with community housing organizations to find low-

cost housing for Ms. F and her children. The social worker was able to find an organization that provided Ms. F with a beautiful three-story brick home for a low monthly rent; the organization also assisted with utilities.

Previous Actions or Debts

Many families are referred to DCFA because of previous actions or debts that are acting as a barrier to a child's permanency. Specifically, DCFA has served clients that have outstanding warrants due to unresolved traffic tickets, extensive child support arrears, or are listed on the CPS child abuse and neglect registry. Michigan adoption policy precludes finalizing an adoption if a prospective adoptive parent has an outstanding criminal history or is listed on the CPS registry.

Most clients with outstanding warrants fear arrest if they walk into court to resolve these matters. The staff attorney's first task is to assure the client they will not be arrested for matters such as warrants for traffic tickets and to encourage the client to resolve these matters quickly.

DCFA staff attorneys support the client by explaining the process for posting bond and/or accompanying them to court to post bond and schedule a court date. The staff attorney tries to get a complete client history to resolve any issues the agency is unaware of before they are discovered. By doing this, the staff attorney attempts to ensure the client presents well for consent to an adoption application or other form of permanency.

When the agency becomes aware of the debts or actions, the staff attorney advocates that the client is attempting to account for previous debts or outstanding warrants; these actions show the client is an appropriate caregiver and placement and that the outstanding debts are like other debts any parent would face.

Case example: Ms. G's adoption

was stalled because she owed over \$18,000 in child support. The adoption worker discussed with the DCFA staff attorney the possibility of removing the children if consent for the adoption was not given. The staff attorney drafted a letter supporting Ms. G, emphasizing that she was now making child support payments and that her arrears did not change the fact that she was an appropriate adoptive parent for the children and the only parent they had ever known.

Marital Status

Many of DCFA's cases are divorces. Although divorce does not fit neatly into the issues that affect permanency, a caregiver's inability to afford a divorce is a barrier for many DCFA clients. Marital status as a barrier occurs in two ways: (1) a nonoffending parent needs a divorce from an offending parent; or (2) a caregiver, who has been separated from a spouse for several years, needs a divorce to complete their adoption.

In cases involving marital status, DCFA streamlines the process for clients. Divorces can be expensive and confusing. Many clients have attempted to file or have filed once before on their own, but the court ultimately dismisses their cases for lack of progress. DCFA becomes an invaluable resource for clients because it provides free legal representation to families at all stages of the divorce proceedings.

Case example: Mr. H and his wife separated over 15 years ago. Mr. H and Ms. H shared a minor child, but maintained separate households. Mr. H wanted to adopt his niece and nephew but was unable to because Michigan law requires married couples to jointly file an adoption application. Mr. H was unable to afford a divorce. The DCFA staff attorney filed a Complaint of Divorce on Mr. H's behalf in family court. The staff attorney was able to petition the court to

waive the six-month statutory waiting period given the length of time that Mr. H and Ms. H were separated. The parties also negotiated a child support arrangement that Mr. H and Ms. H found satisfactory. After the divorce finalized, Mr. H was able to adopt his niece and nephew.

Conclusion

Children should not wait indefinitely in foster care because of lack of awareness of policies and programs or unresolved traffic tickets. DCFA's existence is evidence that these issues create barriers to permanency for many children. When determining what is blocking a child's permanency, child welfare professionals should look beyond the

usual issues to uncover the barriers that prevent a child from having a permanent home. This requires professionals to think and advocate creatively for their clients. By confronting these issues in new ways, child welfare professionals can create solutions that ensure children exit the foster care system and find permanency.

Aeran N. Baskin, JD, is a recent graduate of the University of Michigan Law School. She is currently working as an attorney advisor in the federal government. Previously, Aeran served as a staff attorney at the Detroit Center for Family Advocacy in Detroit, Michigan.

New in Print



Child-Centered Practices for the Courtroom & Community: A Guide to Working Effectively with Young Children & Their Families in the Child Welfare System

by *Lynne F. Katz, Cindy S. Lederman, and Joy D. Osofsky*

Adding to the resources for practitioners who advocate for infants and toddlers in the child welfare system, this new book shares the knowledge of a juvenile dependency court judge, a psychologist, and an expert on early intervention/education. All three have worked intensively in child welfare and juvenile court systems to improve the response to infants and toddlers who enter care.

The authors' work in Miami's juvenile dependency court showed that babies have distinct needs and that restoring their relationships with their caregivers calls for a careful and coordinated response by all involved professionals. The authors detail a child-centered approach to intervening with very young children and their families in the child welfare system. It calls for:

- understanding the science about early childhood attachments and the impact of maltreatment on very young children
- implementing evidence-based parenting programs
- repairing the infant-parent relationship through proven interventions
- supporting very young children's development through early intervention systems and services
- promoting child development and school readiness through early care and early childhood education
- developing an integrated system of care for young children and their parents

Case studies, checklists, court report templates, a Healthy Start referral form, and a sample order for a Part C evaluation are among the tools included in the book.

\$31.46. ISBN 978-1-598-57-073-1. Order from Brookes Publishing Co., www.brookespublishing.com

Representing Transgender Youth: Learning from Mae’s Journey

by Garry Bevel

Mae is the life of the party. She sings and dances at parties and excels in school. When she comes to court hearings people notice how alive and talkative she is. At age eight, it is like she is a new person. In many ways, she is.

Flash back to a few months ago. Kyle was shuffled between placements—11 total. His mother had two other children in the child welfare system and was struggling to manage her responsibilities while in substance abuse rehab. Kyle’s older brother routinely burst into fits of anger and performed poorly in school. This family had a long history of mental health problems. It seemed Kyle might follow his mother and brother’s path. However, an attentive foster mother, child welfare agency, child’s attorney, and judge made it possible for us to learn Kyle was really Mae, and that Mae had a much better life ahead.

If a youth on your caseload behaves or presents in ways that do not conform to expected gender norms, showing understanding and becoming aware of the underlying issues will protect that youth’s safety and well-being. The most important thing you can do for transgender youth (or youth you believe may identify as transgender) is be aware of local resources and apply the law and relevant social and medical science to your advocacy so the youth feels accepted and empowered.

This article explores the efforts that made a difference for Mae during her journey through the child

welfare system, including advocacy tips and best practices for legal practitioners when working with transgender youth.

Rights of Transgender Youth in Foster Care

The Equal Protection Clause, Due Process Clause, First Amendment, and Title IX protect transgender youths’ rights to safety in schools (freedom from harassment), expression (freedom of dress), equal access, and opportunity to participate in activities.¹ Transgender youth also enjoy freedom of religion (including the right not to practice a

religion). The Hate Crimes Bill (now the Matthew Shepard Act)² was recently expanded to include crimes motivated by a victim’s actual or perceived gender, sexual orientation, gender identity, or disability. The Fostering Connections Act provides additional avenues to protect and support transgender youth (see box).

State protections for transgender youth vary. The National Center for Lesbian Rights has a state-by-state guide³ to laws protecting transgender people.

Placement

Mae’s placement promoted her safety, well-being, and permanency. The child welfare agency trained its staff and recruited and trained foster parents on the needs of lesbian, gay, bisexual, transgender and questioning (LGBTQ) youth in foster care. Mae’s preadoptive foster parent was accepting and actively participated in Mae’s services. Allowing Kyle (later Mae) to explore questions of gender identity and expression alleviated previous maladaptive behaviors. Mae did not require medications to control her behavior, she showed appropriate social interaction, and improved in school. “Adequate resources and a relationship characterized by warmth, closeness, parental sensitivity, and commitment that promotes healthy adjustment”⁴ reinforce a child’s long-term well-being.

How to approach a young person’s gender identity when considering placement is controversial. Experts agree that forcing a child to conform to strict gender roles or reparative therapy is harmful.⁵ Instead, a safe placement takes a holistic view of the young person’s environment, gender identity, and

Building Relationships with Transgender Youth

- Use gender-neutral language (“Are you seeing anyone special?” vs. “Do you have a girlfriend?”).
- Ask which pronoun/name the youth prefers.
- Display posters of LGBT role models or LGBTQ-friendly signs and antidiscrimination policies.
- Share stories that demonstrate your openness and acceptance.
- Take action if you witness or hear anti-LGBTQ discrimination or harassment.
- Judges can make nondiscrimination the standard in their courtrooms and with court personnel.
- Maintain confidentiality, but make it clear that your role as an advocate does not always *guarantee* confidentiality.
- Be sensitive to practical needs like name changes on important government and personal documents.

Understanding Terms

Biological sex is a male or female classification assigned at birth based on anatomy and genitalia. Gender and gender expression are distinct from biological sex.

Gender is a term that is often used to refer to ways that people act, interact, or feel about themselves, which are associated with boys/men and girls/women. While aspects of biological sex are the same across different cultures, aspects of gender may not be¹ (i.e., expected gender expression in one culture or society may be different from expected gender expression in a different culture or society).

Gender nonconforming (or gender variant) children behave, dress or play, or express feelings about themselves that differ from what is expected for their gender. It could be a boy playing with dolls instead of trucks, or a girl who says she wants to be a boy, or is a boy. This is best understood to be a natural, albeit uncommon, variation in human development.²

Sexual orientation refers to an enduring pattern of emotional, romantic, and/or sexual attractions to men, women, or both sexes. Sexual orientation also refers to a person's sense of identity based on those attractions, related behaviors, and membership in a community of others who share those attractions. Research shows that sexual orientation ranges along a continuum, from exclusive attraction to the other sex to exclusive attraction to the same sex. Sexual orientation is distinct from other components of sex and gender, including biological sex, gender identity, and social gender role³ (e.g., being transgender is separate from the individual's sexual orientation).

Transgender is an umbrella term used to describe people whose gender identity (sense of themselves as male or female) or gender expression differs from that usually associated with their birth sex.⁴ When used broadly, being transgender is not *per se* a mental illness.⁵ Being transgender does not imply that the individual desires or intends to undergo sexual reassignment. There is a difference between being transgender, being transgender and seeking to live as the opposite gender, and being gender nonconforming (and otherwise satisfied with physiological and anatomical features).

Visit www.abanet.org/child/lgbtq.shtml for definitions of lesbian, gay, bisexual, transgender, and questioning.

Sources

¹ American Psychological Association Task Force on Gender Identity, Gender Variation, and Intersex Conditions. "Answers to Your Questions about Transgender Individuals," 2006, accessed October 18, 2010. <www.apa.org/topics/sexuality/transgender.aspx>

² Gender Identity Research and Education Society (GIRES). "Medical Care for Gender Variant Children and Young People: Answering Families' Questions," 2008, 4. www.gires.org.uk/assets/DOH-Assets/pdf/doh-children-and-adolescents.pdf

³ Ibid.

⁴ American Psychological Association, 2006.

⁵ National Center for Transgender Equality. "Frequently Asked Questions About Transgender People." 2009. Retrieved from http://transequality.org/Resources/NCTE_UnderstandingTrans.pdf.

presenting issues. The World Professional Association for Transgender Health's (WPATH) *Standards of Care for Gender Identity Disorders* recommends:

The child and family should be supported in making difficult decisions regarding the extent to which to allow the child to assume a gender role consistent with his or her gender identity. This includes issues of whether to inform others of the child's situation, and how others in the child's life should respond; for example, whether the child should attend school using a name and clothing opposite to his or her sex of assignment. They should also be supported in tolerating uncertainty and anxiety in relation to the child's gender expression and how best to manage it. Professional network meetings can be very useful in finding appropriate solutions to these problems.⁶

Practice tips:

- Be prepared to rebut anecdotal or opinion arguments with social science research that makes clear that lack of acceptance, reparative therapy, physical or emotional violence, and discrimination based on gender identity is harmful.⁷
- In cases where youth are not in a supportive placement, ask for findings that reasonable efforts have not been made to secure a safe, stable placement.
- Hallmarks of LGBTQ-friendly placements include unambiguous nondiscrimination and antiharassment policies, evidence of training on LGBTQ issues, and placements that hold themselves out as being LGBTQ-friendly.

Medical/Therapeutic Services

Mae was participating in therapy with an LGBTQ-friendly clinician at

her agency. The clinician supported Mae and her foster parent by offering guidance and tips for integrating Mae's identity into daily life. For example, the clinician suggested when and how to allow Mae to dress in female clothing and how to handle questions and comments from peers. Additionally, the agency was linked with community resources that offered assistance to Mae and her foster mother, including education on gender and sexual orientation, and provision of social programming and activities for LGBTQ youth.

Some transgender children and youth meet criteria for gender identity disorder. Youth diagnosed with gender identity disorder should be considered for treatment when deemed necessary by a qualified physician or clinician.

Gender identity disorder is characterized in the DSM-IV-TR as a persistent discomfort with one's assigned sex and with one's primary and secondary sex characteristics, which causes intense emotional pain and suffering⁸ and if left untreated, can result in clinically significant psychological distress, dysfunction, debilitating depression and, for some people without access to appropriate medical care and treatment, suicidality and death.⁹

Transgender youth without a gender identity disorder diagnosis should also receive medical and mental health assessments. These assessments may suggest medical interventions like hormone treatments and surgery. The appropriateness of these interventions will be considered on an individual basis, taking age and psychological factors into account.

The Fostering Connections Act requires states to develop plans with Medicaid for ongoing oversight and coordination of health care services for *any* child in foster care,¹⁰ and

those services should be specific to the needs of the transgender youth.

Practice tips:

- Seek out medical and therapeutic experts in the field. For instance, search HealthCommunities.com, LGBTHealthcare.com, WPATH.org, or GMLA.org (Gay and Lesbian Medical Association).
- Create a resource list in your jurisdiction of LGBTQ-competent services/medical providers.
- Be careful that transgender people are not denied coverage for medically necessary procedures because their documented gender does not correspond to the "gender-specific" service,¹¹ (e.g., gynecology, prostate/breast cancer screening, etc.) or if gender identity disorder has been diagnosed.

School

Mae's foster parent spoke to school administrators in advance about Mae's gender identity. The school agreed to allow Mae to use a unisex bathroom. School administrators also sat down with Mae's foster parent, caseworkers, and teachers to discuss Mae's experience and how to appropriately address it. Though issues related to social activities and sports would present themselves later, opening a dialogue and engaging all the stakeholders created an environment to discuss solutions.

Youth have a right to a public education, and to be safe at school. The Fostering Connections Act requires states to improve educational stability for children in care.¹² "In addition to prohibiting harassment, the law also prohibits discrimination against transgender and gender-nonconforming youth. This means that school officials have to let a student wear clothing that matches the student's gender identity, and cannot refuse to call the student by the name and pronoun the student

prefers. The school also has to provide transgender and gender non-conforming students with access to a safe and appropriate restroom and locker room or an appropriate alternative place to change for gym class."¹³ Discrimination at schools can lead to higher rates of emotional distress, suicide attempts, and substance abuse.¹⁴

Practice tips:

- Know the school's discrimination and antiharassment policies.
- Prepare by reviewing and understanding relevant school laws and policies (e.g., Safe Schools Coalition School Law and Policy Guide).¹⁵
- Ensure youth are not isolated or removed from a school solely because of their gender identity without appropriate efforts and intervention by the school.
- If inadequate facilities or harassment make a school an unfit environment for any of your youth, advocate for a different school placement.
- Locate schools with Gay-Straight Alliances (GSAs) and policies that support transgender youth and nondiscrimination.
- Look for warning signs that a youth may be experiencing bullying or harassment or is bullying others in response to discrimination or harassment.

Mae's Family

Kyle and his mother had a close bond that was tested when Kyle began to live as Mae. Mae's mother was heartbroken when the transition occurred. Many parents of transgender children and youth say the experience is like losing a child. The American Psychological Association suggests that parents and caregivers:

Get support in processing reactions. Having someone close to you transition will be an

Legal Tools

Discrimination—Title VII - Sex Discrimination – Supreme Court language suggests protection for LGBT people based on “gender stereotypes.” (*Price Waterhouse v. Hopkins*, 490 U.S. 228 (1998).)

Privacy—Constitutional right to privacy/autonomy (*Lawrence v. Texas*, 539 U.S. 558 (2003).)

Confidentiality—Explain your role to your client, if your role as an advocate does not include attorney-client privilege and what that means about the information your client may disclose.

Documents—Understand your state’s law about what is required to change driver’s licenses/IDs, birth certificates, social security cards.

Detention—Do not isolate LGBT youth. Federal case counted isolation of LGBT youth among other detention center abuses (*R.G., et al. v. Koller*, 415 F. Supp. 2d 1129 (D. Hawaii 2006).)

Facilities—Understand your city, state, or county’s position on restroom use. “Reasonable accommodations” are required of employers under the Occupational Health and Safety Act (OHSA).

Schools—Encourage schools to seek technical assistance from the Department of Education. Schools have a duty to protect students from bullying and harassment.

Medical—Per se exclusions under Medicaid have been found unconstitutional (*Doe v. State Dep’t. of Public Welfare*, 257 N.W.2d 816 (Minn. 1977)). Each case must be assessed individually.

See also, New York appellate court finding that the court lacks authority to order agency to pay for sex reassignment surgery. (*Mariah L. v. Administration for Children’s Services*, 820 N.Y.S.2d 257 (App. Div. 2006).)

How the Fostering Connections Act Supports Your Practice and Advocacy

Section 101 provides support for locating and assisting relative caregivers.

Section 102 provides support to kinship or relative caregivers in learning about, finding, and using programs and services to meet the needs of the children they are raising and their own needs as well as working to reestablish relationships.

Section 103 requires due diligence locating relatives and to inform adult relatives of additional services and supports available to the child.

Section 202 ensures an individualized transitional plan for older youth.

Section 203 provides short-term training dollars for child welfare agencies, staff and court personnel.

Section 204 ensures the educational stability of youth in foster care

Section 205 requires the state to develop a plan for the ongoing oversight and coordination of health care services for any child in care.

adjustment and can be challenging, and takes time. Mental health professionals and support groups for family, friends, and significant others of transgender people can be useful resources.¹⁶

Working with the agency, Mae’s therapist, and the foster parent, Mae’s mother continued to spend time educating herself about Mae’s life and experience. “LGBT young adults whose parents and foster parents support them have better overall health, and mental health. They also have higher self-esteem. They are also much less likely to be depressed, use illegal drugs, or think about killing themselves or attempt suicide”¹⁷ Meanwhile, LGBT young people who were rejected by their families because of their identity have “much lower self-esteem and have fewer people they can turn to for help, are more than 8 times as likely to have attempted suicide, nearly 6 times as likely to report high levels of depression, more than 3 times as likely to use illegal drugs; and more than 3 times as likely to be at high risk for HIV and STDs.”¹⁸

Support for the family should consider ways to integrate the youth’s identity into the family and offer education and strategies for addressing the needs of transgender youth, while honoring any discomfort or unfamiliarity family members may have. Any mental health assessments should include a family evaluation, because other emotional and behavioral problems within the family are very common, and unresolved issues in the child’s environment are common.¹⁹

Use the Fostering Connections Act to argue for notifying grandparents and adult relatives who may be (or may become) suitable and supportive placements. The Act also encourages reasonable efforts to place youth with siblings and provide visitation when they are not placed together. If you are successful in

working with the family to provide permanency, Family Connections grants are available to provide resources for family group decision-making meetings.²⁰

Practice tips:

- Advocate for mental health and family therapy services that support acceptance when a continuing relationship with a parent is likely and appropriate.
- Ensure mental health professionals and service providers recognize and accept the gender identity experience. Acceptance and removal of secrecy can bring much relief.²¹
- Avoid assuming that a parent or family will not accept the youth. An LGBT young person is 24% more likely to be a happy adult if his or her family is “a little accepting” versus “not accepting at all.”²²

In Court

Mae’s transition was not without problems. Before and after court, there were often disparaging, insensitive, and uninformed comments made about Mae, her foster mother, and the professionals who supported allowing Kyle to live as Mae. This included court clerks, parents’ attorneys, and bailiffs. It is important that any courtroom be free of harassment and discrimination. If you hear or see behaviors that are inappropriate in the courtroom, consider these steps:

- Speak to the judge directly.
- Speak to the employee’s supervisor.
- Offer education and speak to the individual directly if you feel comfortable.
- If the behaviors or comments are made in front of the youth, ask the youth what he or she would like done.
- Remind the youth that the comments and behaviors are not a

Training Resources:

ABA Center on Children and the Law Opening Doors Project for LGBTQ Youth in Foster Care: Project that improves outcomes for LGBTQ youth in foster care through training, practice and advocacy tips for the legal community and child welfare professionals. www.abanet.org/child/lgbtq.shtml

Child Welfare League of America/Lambda Legal: Back to Basics: Toolkit that addresses LGBTQ disproportionately in the foster care and juvenile justice systems. www.lambdalegal.org/take-action/tool-kits/getting-down-to-basics/

Human Rights Campaign: All Children All Families Initiative: Project that improves LGBT competence and LGBT awareness of foster care and adoption opportunities. www.hrc.org/issues/12111.htm

The Downs Group LLC: Organization that improves services and outcomes for older youth. www.downsconsultinggroup.com.

The Equity Project (juvenile justice): Project that ensures LGBT youth in delinquency courts are treated with dignity, respect and fairness. www.equityproject.org

reflection of him or her, but the other person’s lack of understanding and fear.

- The Model Code of Judicial Conduct and the Model Rules of Professional Conduct apply a standard for judges and lawyers to act in nonbiased ways when addressing the needs of LGBTQ and all youth. This means personal opinions and beliefs about gender expression and transgender people may not influence legal representation and decision making in a case.

Avoiding Labels

Experts agree it is not helpful to force a child to act in a more gender-conforming way.²³ Gender variance is a natural part of human development (see “Understanding Terms” box) and may take many forms, including:

Boys

- wanting to dress as a girl
- wanting to wear long hair (e.g.,

with a towel, braiding yarn or string into hair)

- wanting to paint toenails or fingernails
- preferring to play with dolls or participate in activities typical for girls
- wanting a nongendered nickname (AJ, Pat, Grey, Blake, Terry, etc)

Girls

- wanting to dress as a boy
- wanting short, cropped hair
- preferring not to wear make-up
- preferring baggy clothes and pants to dresses and skirts
- wanting to reduce or eliminate the appearance of breasts
- wanting a nongendered nickname

Gender variance alone is not a sign a youth is gay, lesbian, transgender or has a disorder. For children who are gender nonconforming, and do not seek to live or dress as the opposite gender, not being allowed to participate in the gender nonconforming play can be

harmful. If the feelings or behaviors persist, an environment where it is safe for the child to explore his or her identity and/or orientation is best for healthy development. If youth demonstrate persistent physical, mental, or social discomfort, then the family should be linked with medical providers with experience serving transgender youth. Either way, it is important that the youth and her caretakers receive appropriate and affirming services. The APA states:

... some children express a great deal of distress about their assigned gender roles or the sex of their bodies and experience difficult social interactions with peers and adults because of their gender expression. Parents may become concerned when what they believed to be a “phase” does not seem to pass. It is often helpful to consult with a mental health professional familiar with gender issues in children to decide how to best address these concerns. Peer support from other parents of gender variant children may also be helpful.²⁴

Abuse and rejection often lead youth to runaway behavior, truancy, substance abuse, prostitution, and theft as means of survival and coping. Additionally, normal adolescent sexual behavior by transgender youth is often stigmatized and criminalized. Be careful that these behaviors are not mischaracterized as criminal when a safe placement, affirmative therapeutic intervention, and a harassment-free environment might eliminate them.²⁵

Conclusion

Transgender children and youth present novel issues for ensuring the well-being of youth in care. Personal opinions must yield to our responsibilities as child welfare professionals to provide safe and healthy outcomes for all our youth.

The experts agree that children raised in loving, supportive environments who are linked to appropriate resources thrive. A transgender youth is no more likely to have maladaptive outcomes as any other youth given timely, appropriate, and affirmative responses to his or her needs.

If there is a conflict between your feelings and the needs of transgender youth ask yourself, “what is more important: my personal beliefs or ensuring that every child is safe and happy, like Mae?”

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This article was supported by the ABA’s Opening Doors: Improving the Legal System’s Approach to LGBTQ Youth in Foster Care Project. Learn more by visiting www.abanet.org/child/lgbtq.shtml.

Endnotes

¹ Gay-Straight Alliance Network, Transgender Law Center, and the National Center for Lesbian Rights. *Beyond the Binary: A Tool Kit for Gender Identity Activism in Schools*, 2004, 32. <www.nclrights.org/site/DocServer/beyond_the_binary.pdf?docID=741>

² Matthew Shepard Local Law Enforcement Hate Crimes Prevention Act of 2007, § 1105, 10th Cong., 1st Sess. (2009). <<http://thomas.loc.gov/cgi-bin/query/z?c110:S.1105:we>>

³ “State by State Guide to Laws That Prohibit Discrimination Against Transgender People,” 2010. <www.nclrights.org/site/DocServer/StateLawsThatProhibitDiscriminationAgainstTransPeople.pdf?docID=7821>

⁴ American Civil Liberties Union. *In re: Gill - Summary of Scientific Evidence*. New York, NY, 2008. November 25, 2008. <www.aclu.org/lgbt-rights_hiv-aids/re-gill-summary-scientific-evidence>

⁵ “Such efforts have serious potential to harm young people because they present the view that the sexual orientation of lesbian, gay and bisexual youth is a mental illness or disorder, and they often frame the inability to change one’s sexual orientation as a personal and moral

failure.” Additionally, the coalition notes that those whose appearance and behavior are perceived as inconsistent with gender norms and roles are often targeted for sexual orientation discrimination and violence. Just the Facts Coalition. *Just the Facts about Sexual Orientation and Youth: A Primer for Principals, Educators, and School Personnel*. Washington, DC: American Psychological Association, 2008. <www.apa.org/pi/lgbc/publications/justthefacts.html>

⁶ World Professional Association for Transgender Health. *Standards Of Care For Gender Identity Disorders, Sixth Version*, February 2001. <<http://www.wpath.org/documents2/socv6.pdf>>

⁷ Just the Facts Coalition. 2008.

⁸ DSM-IV-TR, 575-79, from AMA Resolution. <www.gires.org.uk/assets/Medpro-Assets/AMA122.pdf>

⁹ *Ibid.*, 578-79.

¹⁰ Fostering Connections to Success and Increasing Adoptions Act §205.

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¹² Fostering Connections Act § 204.

¹³ Gay-Straight Alliance Network, 2004, 2.

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¹⁷ Ryan, Caitlyn. *Helping Families Support Their Lesbian, Gay, Bisexual, and Transgender (LGBT) Children*. Washington, DC: National Center for Cultural Competence, Georgetown University Center for Child and Human Development, Fall/Winter 2009, 7.

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¹⁹ World Professional Association for Transgender Health, 2001.

²⁰ Fostering Connections Act § 206

²¹ World Professional Association for Transgender Health, 2001.

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²³ American Psychological Association, 2006.

²⁴ *Ibid.*

²⁵ Majd, Katayoon, Jody Marksamer, and Carolyn Reyes. *Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts*. Berkeley: Autumn Press, 2009.

²⁶ National Center for Transgender Equality.

“Frequently Asked Questions About Transgender People,” 2009. <http://transequality.org/Resources/NCTE_UnderstandingTrans.pdf>

Ethical Consideration: Model Rule 1.14 – Diminished Capacity¹

by Candice L. Maze with Jennifer Renne

Representing infants, toddlers, and preschoolers in child welfare proceedings raises an ethical minefield.

- How should an attorney determine the interests of an infant, toddler, or preschooler?
- How can an attorney develop and maintain the attorney-client relationship with a very young child?
- How will an attorney avoid becoming a witness when representing a baby?

This and future CLP issues will walk readers through case scenarios that raise ethical challenges in six areas.

These scenarios are adapted from: *Practice & Policy Brief: Advocating for Very Young Children in Dependency Proceedings: The Hallmarks of Effective, Ethical Representation*, October 2010, by Candice L. Maze, JD. Visit <http://new.abanet.org/child/Pages/baby-health.aspx>

You represent a bright and verbal 3 1/2 year-old girl who has been living with her father for six months. She has been having consistent weekly unsupervised visitation with her mother for about a month. The mother attends a substance abuse treatment outpatient program and has been clean for three months.

The father tells you and the caseworker that after each visit the child's behavior deteriorates for a day or so with uncharacteristic temper tantrums, bedwetting, and a change in eating and sleeping behaviors. He is concerned the mother is acting inappropriately or doing something to upset the child.

The father and the agency file a joint motion to modify visitation so it can be supervised by the agency caseworker. You meet with the child who tells you she really likes seeing her mother, but sometimes her mom says bad things about her father during the visits. She says she wants to keep visiting her mother and is not afraid. How will you proceed?

Model Rule 1.14 states that:
“(a) When a client’s capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.
(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client’s own interest, the lawyer may take reasonably necessary protective action....”²

The attorney must first determine whether the child’s capacity to make decisions is diminished. Attorneys should consider the following factors in reaching this determination:

- the child’s cognitive ability;
- emotional and mental development, and stability;
- ability to communicate;
- ability to understand consequences;

- consistency of decisions;
- strengths of wishes; and
- opinions of others (while guarding for potential bias). (Comment 6)

When representing children birth to five years old, the first response to the question of diminished capacity is usually, “Of course they have diminished capacity – they aren’t even in Kindergarten yet!” However, the commentary to MR 1.14 explains, “children as young as five or six years of age, and certainly those of 10 or 12, are regarded as having opinions that are entitled to weight in legal proceedings concerning their custody.” (Comment 1).

Knowledge of child development (informed advocacy) and your unique client (child-centered advocacy) are essential when determining whether the girl in this scenario has the capacity to guide your advocacy regarding visitation with her mother. Moreover, as the commentary to the rules explains, capacity is a continuum (Comment 1). A very young child’s capacity to direct representation will change as she develops. Since most cases last at least a year,

you will likely still be representing the young girl in the scenario above when she is 4½ or 5 years old. Barring any cognitive delays, she will be a very different child cognitively and emotionally than she is now at 3½ years old. Knowing about basic child development and your client's special physical, emotional, and developmental needs is essential to effectively explaining the legal and practical situation now and as she gets older.

In the case above, you must walk through this analysis to determine how much weight to give the child's statement that she is not afraid and wants to continue visiting as she has been. Much of your ability to undertake this analysis will depend on how well you know your child client. Is she cognitively on target or is she delayed? Do her feelings towards her mother fluctuate or are they consistent? Is she a strong communicator who uses detail in her descriptions or does she communicate on a very basic level? Is she adamant about visiting with her mother? Could she have been influenced by a foster parent or the father?

On a practical level, irrespective of the answers to these questions,

you must independently assess the situation through communicating with the child's therapist, if she has one, teachers, and other primary caregivers. In this case, consulting an IMH clinician who is experienced in working with very young abused and neglected children can help determine potential causes for the post-visit behavior. The clinician can recommend modifications, if necessary, to the visitation arrangement to better support the child's mental health and developmental needs.³

Sometimes in very young children, reactions that are perceived as "negative" (bedwetting and tantrums) will actually decrease with increased contact between the child and noncustodial parent.⁴ It is possible that the child in this scenario is not afraid of her mother and may need more time with her to cope with the current separation. Assessing the child's capacity to guide your advocacy on an issue determines how much weight you can give her input and how much outside expertise you must seek when identifying the child's position.

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Sources:

¹ Note that ABA Model Rule (MR) of Professional Conduct 1.14 applies more directly to attorneys representing children under the 'traditional' attorney model. However, it is good practice for GAL attorneys to consider the child's expressed wishes when developing their analysis and recommendations. The concepts outlined by MR 1.14 and Standard B-3 of the ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases and commentary offer sound guidance in that regard for GAL attorneys.

² MR 1.14 was amended in 2002 providing some additional guidance. To view the redlined version of MR 1.14 with changes shown visit: www.abanet.org/cpr/e2k-rule114.html. An explanation of the changes is at www.abanet.org/cpr/e2k-rule114rem.html.

³ For more on mental health assessments for very young children see Hill, Sheri and Joanne Solchany. "Mental Health Assessments for Infants and Toddlers." *ABA Child Law Practice* 24(9), November 2005, available at http://new.abanet.org/child/PublicDocuments/Hill_Solchany_Infant_Mental_Health_Assessments_for_court.pdf.

⁴ Cohen, Jillian and Michele Cortese. "Cornerstone Advocacy in the First 60 Days: Achieving Safe and Lasting Reunification for Families." *ABA Child Law Practice* 28(3), May 2009, 39.



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<p>ACF Administration for Children and Families</p>	<p>U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families</p>	
	<p>1. Log No.: ACYF-CB-IM-11-03</p>	<p>2. Issuance Date: 04-06-2011</p>
	<p>3. Originating Office: Children's Bureau</p>	
	<p>4. Key Words: LGBTQ; Sexual Orientation; Training; Foster Care</p>	

INFORMATION MEMORANDUM

To: State, Tribal and Territorial Agencies Administering or Supervising the Administration of Titles IV-B and IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations

Subject: Lesbian, Gay, Bisexual, Transgender and Questioning Youth in Foster Care

Purpose: To encourage child welfare agencies, foster and adoptive parents and others who work with young people in foster care to ensure that children are protected and supported while they are in foster care.

Legal and Related References: Titles IV-B and IV-E of the Social Security Act; 45 C.F.R. §1356.60

Information:

This Information Memorandum (IM) confirms and reiterates my fundamental belief that every child and youth who is unable to live with his or her parents is entitled to a safe, loving and affirming foster care placement, irrespective of the young person's sexual orientation, gender identity or gender expression. I encourage child welfare agencies, foster and adoptive parents and others who work with young people in foster care to ensure that their physical and emotional well-being are protected and supported while they are in foster care in order to thrive as adults.

Lesbian, gay, bisexual, transgender and questioning (LGBTQ) youth are often overrepresented in the population of youth served by the child welfare system and in the population of youth living on the streets. Approximately 5-10 percent of the general population is estimated to be gay¹ yet in comparison, one study of youth aging out of the child welfare system in three Midwestern states found 23.8 percent of female respondents and 10.2 percent of male respondents reported a sexual orientation in a category other than completely heterosexual.² Similarly, the National Network of Runaway and Youth Services has estimated that between 20 and 40 percent of youth who become homeless each year are lesbian, gay or bisexual;³ these youth often cycle through foster homes, group homes, and the streets. One study found that 65 percent of LGBTQ youth had lived in a foster or group home and 39 percent were forced to leave their home because of their sexual orientation or gender identity.⁴ Though it is often difficult to identify these youth because they are unwilling, unable or not ready to disclose their sexual orientation or gender identity to service providers,⁵ the data demonstrate that efforts to support these youth are warranted.

I am encouraged that increasingly title IV-E agencies and other stakeholders who are responsible for caring for and protecting all young people are creatively and actively addressing the unique and sometimes challenging needs of young people in foster care who are LGBTQ. For example, I am pleased to see that one State recently advised its counties about the importance of serving young people who are in foster care and are LGBTQ. The State reiterated the need to recruit prospective parents who can provide supportive care in a connected, nurturing environment to LGBTQ young people. Additionally, the U.S. Department of Health and Human Services (HHS) funded entities such as AdoptUSKids and the National Resource Center for Family and Permanency Connections (NRCFPC) have developed resources that are available to child welfare agencies that can provide useful information about serving and caring for young people who are LGBTQ and in foster care (see the section entitled "Resources" on the [next page](#)). I urge child welfare agencies to continue to explore the ways in which they may improve daily life and outcomes for young people who are involved in the foster care system and who are LGBTQ.

Workforce Development

Once a young person who is LGBTQ enters the foster care system, his or her caseworker is an important link to support and safety. It is therefore critical that a young person's caseworker has the capacity, understanding and willingness to support the child's social and emotional development while in foster care. It is the caseworker's

responsibility to assess and serve the needs of each child without bias and to ensure the safety of all children in foster care. I encourage title IV-E agencies to assess their training needs, and where appropriate, claim available title IV-E reimbursement for costs associated with training staff to increase their capacity to serve young people who identify as LGBTQ and to consider how the title IV-E agency can best serve young people and keep them safe.

Biological, Relative Legal Guardian, Foster and Adoptive Parent Training, Support and Recruitment

All children need loving and supportive care when they are not able to live with their families of origin. While young people who are LGBTQ have many of the same needs as other young people who are in foster care, they also may have specialized needs that relate specifically to their sexual orientation, gender identity or gender expression. As such, title IV-E agencies must be particularly attuned to placing young people who identify as LGBTQ with foster families who are committed to providing a safe, supportive and affirming environment for the young person while in care. Agencies that have not already done so should develop mechanisms to recruit, train and provide ongoing support to families, including LGBT individuals and families, who are able to provide a safe, loving family placement for young people who are LGBTQ and are involved with the child welfare system. LGBT foster and adoptive parents can provide a loving, stable home, responsive to the needs of LGBTQ youth in care, and are a largely untapped resource- an estimated 2 million LGB individuals are interested in adopting.⁵ Similarly, where reunification is part of a child's case plan, title IV-E agencies should support the families of young people to ensure that the parents or guardians develop the capacity to address the young person's needs in a healthy, understanding manner when the family is reunified. I note that Federal financial participation under the title IV-E program is available for many such training activities for foster and adoptive parents and relative legal guardians, and encourage agencies to avail themselves of it.

Safety of young people in foster care who are LGBTQ

I am aware and concerned that physical safety is a heightened concern for many young people who are LGBTQ and are in foster care, regardless of the setting in which they are placed. President Obama, Secretary Sebelius and I are clear that bullying based on an individual's actual or perceived sexual orientation, gender identity or gender expression is not acceptable under any circumstances. As such, the Administration is making active efforts to improve life for all American children, and particularly for the children and youth who are served by our programs in the HHS. As part of the "It Gets Better Project," the Secretary explained to children and youth in a video-taped message (<http://youtu.be/yXC-tc97XXA#>) that America needs the talents of each individual, now and in the future. I reiterate the Secretary's message of support for all LGBTQ young people, and particularly for LGBTQ young people who are served by the child welfare system.

Children and youth who are in foster care are at a particularly vulnerable and inherently unstable time in their lives. I, therefore, urge every title IV-E agency to develop procedures that ascertain that young people in foster care who are LGBTQ are physically safe from harm and bullying whether they are placed in a foster family home or a congregate care setting with other children.

Resources

LGBT parents should be considered among the available options for States and jurisdictions to provide timely and safe placement of children in need of foster or adoptive homes. To support States, the NRCFPC has developed multiple, downloadable print resources on LGBTQ issues and child welfare that are available on the NRCFPC website: <http://www.hunter.cuny.edu/socwork/nrcfpc/>.

The NRCFPC also provides training and technical assistance to States and Indian Tribes on a wide variety of LGBTQ-related issues, including, but not limited to such topics as:

- Engaging foster and adoptive families who are LGBTQ;
- How to develop support for foster and adoptive families who are LGBTQ;
- Working with family support and preservation workers to support young people who are LGBTQ and remaining in their families of origin;
- Working to facilitate all forms of permanency (reunification, kinship, guardianship and adoption) for young people who are LGBTQ and
- Working with States and Tribes to develop LGBTQ affirming policies and practices.

Additionally, the NRCFPC has developed multiple resources on recruiting, engaging and working with LGBTQ foster and adoptive parents. These materials include, but are not limited to such topics as:

- Promoting the practice of family search and engagement strategies to identify all family members including LGBTQ family members for children and youth separated from their birth families;
- Retention and support of resource families and dual licensure issues for LGBTQ -headed foster and adoptive families;
- How to develop support for LGBTQ foster and adoptive families; and
- Materials from a participatory leadership symposium held in October 2010 that brought together LGBTQ foster and adoptive parents to discuss policies and best practices in adoption, fostering and kinship care for LGBTQ parents and families. The PowerPoints and proceedings from this event are posted on the NRCFPC website: http://www.hunter.cuny.edu/socwork/nrcfpc/info_services/download/LGBT.Symposium.Program.10.29.30.Final.r

Similarly, AdoptUsKids has collaborated with other entities to develop a number of valuable resources to support the efforts of States, Tribes and Territories in recruiting and retaining LGBTQ foster and adoptive parents. Additionally,

AdoptUsKids provides services aimed at reducing the barriers encountered by prospective and current foster and adoptive individuals and couples who are LGBTQ. These services include, but are not limited to:

- Information, referral and support services for prospective LGBTQ families; and
- Providing mini-grants to LGBTQ parent support groups.

Publications and additional information on supporting LGBTQ foster and adoptive families can be located at AdoptUsKids' website:

<http://adoptuskids.org/content.aspx?k=LGBT-Resources>.

I look forward to continuing to work with title IV-E agencies to improve the daily lives and long-term outcomes for young people who are LGBTQ and who are involved with the foster care system, as well as for LGBTQ prospective foster and adoptive families. I encourage States, Tribes and child welfare agencies to take advantage of the resources that are available through our National Resource Centers and elsewhere. Working alongside our title IV-E partners and other stakeholders, we all can demonstrate to young people that things will be better in the future, and that we in the Administration for Children and Families are working to make that future better now.

/s/

Bryan Samuels
Commissioner

¹ John C. Gonsiorek & James D. Weinrich, *The Definition and Scope of Sexual Orientation*, in *Homosexuality: Research Implications for Public Policy*, at 3-4 (John C. Gonsiorek & James D. Weinrich eds.), 1991. [Back](#)

² Courtney, M., Dworsky, A., Lee, J., & Raap, M. (2009) *Midwest evaluation of the adult functioning of former foster youth: Outcomes at age 23 and 24*. Chicago: Chapin Hall at the University of Chicago. [Back](#)

³ Tremblay, P.J. (1994). *The gay, lesbian and bisexual factor in the youth suicide problem*. Retrieved from <http://www.youth-suicide.com/gay-bisexual/book.htm>. [Back](#)

⁴ Berberet, H.M. (2006). Putting the pieces together for queer youth: A model of integrated assessment of need and program planning. *Child Welfare*, 85, 361-384. [Back](#)

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⁶ Gates, G., Badgett, M.V.L., Macomber, J.E., Chambers, J. (2007). *Adoption and foster care by lesbian and gay parents in the United States*. Retrieved from <http://www.urban.org/publications/411437.html>. [Back](#)



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

October 26, 2010

Dear Colleague:

In recent years, many state departments of education and local school districts have taken steps to reduce bullying in schools. The U.S. Department of Education (Department) fully supports these efforts. Bullying fosters a climate of fear and disrespect that can seriously impair the physical and psychological health of its victims and create conditions that negatively affect learning, thereby undermining the ability of students to achieve their full potential. The movement to adopt anti-bullying policies reflects schools' appreciation of their important responsibility to maintain a safe learning environment for all students. I am writing to remind you, however, that some student misconduct that falls under a school's anti-bullying policy also may trigger responsibilities under one or more of the federal antidiscrimination laws enforced by the Department's Office for Civil Rights (OCR). As discussed in more detail below, by limiting its response to a specific application of its anti-bullying disciplinary policy, a school may fail to properly consider whether the student misconduct also results in discriminatory harassment.

The statutes that OCR enforces include Title VI of the Civil Rights Act of 1964¹ (Title VI), which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972² (Title IX), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973³ (Section 504); and Title II of the Americans with Disabilities Act of 1990⁴ (Title II). Section 504 and Title II prohibit discrimination on the basis of disability.⁵ School districts may violate these civil rights statutes and the Department's implementing regulations when peer harassment based on race, color, national origin, sex, or disability is sufficiently serious that it creates a hostile environment and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees.⁶ School personnel who understand their legal obligations to address harassment under these laws are in the best position to prevent it from occurring and to respond appropriately when it does. Although this letter focuses on the elementary and secondary school context, the legal principles also apply to postsecondary institutions covered by the laws and regulations enforced by OCR.

Some school anti-bullying policies already may list classes or traits on which bases bullying or harassment is specifically prohibited. Indeed, many schools have adopted anti-bullying policies that go beyond prohibiting bullying on the basis of traits expressly protected by the federal civil

¹ 42 U.S.C. § 2000d *et seq.*

² 20 U.S.C. § 1681 *et seq.*

³ 29 U.S.C. § 794.

⁴ 42 U.S.C. § 12131 *et seq.*

⁵ OCR also enforces the Age Discrimination Act of 1975, 42 U.S.C. § 6101 *et seq.*, and the Boy Scouts of America Equal Access Act, 20 U.S.C. § 7905. This letter does not specifically address those statutes.

⁶ The Department's regulations implementing these statutes are in 34 C.F.R. parts 100, 104, and 106. Under these federal civil rights laws and regulations, students are protected from harassment by school employees, other students, and third parties. This guidance focuses on peer harassment, and articulates the legal standards that apply in administrative enforcement and in court cases where plaintiffs are seeking injunctive relief.

rights laws enforced by OCR—race, color, national origin, sex, and disability—to include such bases as sexual orientation and religion. While this letter concerns your legal obligations under the laws enforced by OCR, other federal, state, and local laws impose additional obligations on schools.⁷ And, of course, even when bullying or harassment is not a civil rights violation, schools should still seek to prevent it in order to protect students from the physical and emotional harms that it may cause.

Harassing conduct may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by a school. When such harassment is based on race, color, national origin, sex, or disability, it violates the civil rights laws that OCR enforces.⁸

A school is responsible for addressing harassment incidents about which it knows or reasonably should have known.⁹ In some situations, harassment may be in plain sight, widespread, or well-known to students and staff, such as harassment occurring in hallways, during academic or physical education classes, during extracurricular activities, at recess, on a school bus, or through graffiti in public areas. In these cases, the obvious signs of the harassment are sufficient to put the school on notice. In other situations, the school may become aware of misconduct, triggering an investigation that could lead to the discovery of additional incidents that, taken together, may constitute a hostile environment. In all cases, schools should have well-publicized policies prohibiting harassment and procedures for reporting and resolving complaints that will alert the school to incidents of harassment.¹⁰

When responding to harassment, a school must take immediate and appropriate action to investigate or otherwise determine what occurred. The specific steps in a school's investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved, the size and administrative structure of the school, and other factors. In all cases, however, the inquiry should be prompt, thorough, and impartial.

If an investigation reveals that discriminatory harassment has occurred, a school must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile

⁷ For instance, the U.S. Department of Justice (DOJ) has jurisdiction over Title IV of the Civil Rights Act of 1964, 42 U.S.C. § 2000c (Title IV), which prohibits discrimination on the basis of race, color, sex, religion, or national origin by public elementary and secondary schools and public institutions of higher learning. State laws also provide additional civil rights protections, so districts should review these statutes to determine what protections they afford (e.g., some state laws specifically prohibit discrimination on the basis of sexual orientation).

⁸ Some conduct alleged to be harassment may implicate the First Amendment rights to free speech or expression. For more information on the First Amendment's application to harassment, see the discussions in OCR's Dear Colleague Letter: First Amendment (July 28, 2003), available at <http://www.ed.gov/about/offices/list/ocr/firstamend.html>, and OCR's *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* (Jan. 19, 2001) (*Sexual Harassment Guidance*), available at <http://www.ed.gov/about/offices/list/ocr/docs/shguide.html>.

⁹ A school has notice of harassment if a responsible employee knew, or in the exercise of reasonable care should have known, about the harassment. For a discussion of what a "responsible employee" is, see OCR's *Sexual Harassment Guidance*.

¹⁰ Districts must adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee sex and disability discrimination complaints, and must notify students, parents, employees, applicants, and other interested parties that the district does not discriminate on the basis of sex or disability. See 28 C.F.R. § 35.106; 28 C.F.R. § 35.107(b); 34 C.F.R. § 104.7(b); 34 C.F.R. § 104.8; 34 C.F.R. § 106.8(b); 34 C.F.R. § 106.9.

environment and its effects, and prevent the harassment from recurring. These duties are a school's responsibility even if the misconduct also is covered by an anti-bullying policy, and regardless of whether a student has complained, asked the school to take action, or identified the harassment as a form of discrimination.

Appropriate steps to end harassment may include separating the accused harasser and the target, providing counseling for the target and/or harasser, or taking disciplinary action against the harasser. These steps should not penalize the student who was harassed. For example, any separation of the target from an alleged harasser should be designed to minimize the burden on the target's educational program (*e.g.*, not requiring the target to change his or her class schedule).

In addition, depending on the extent of the harassment, the school may need to provide training or other interventions not only for the perpetrators, but also for the larger school community, to ensure that all students, their families, and school staff can recognize harassment if it recurs and know how to respond. A school also may be required to provide additional services to the student who was harassed in order to address the effects of the harassment, particularly if the school initially delays in responding or responds inappropriately or inadequately to information about harassment. An effective response also may need to include the issuance of new policies against harassment and new procedures by which students, parents, and employees may report allegations of harassment (or wide dissemination of existing policies and procedures), as well as wide distribution of the contact information for the district's Title IX and Section 504/Title II coordinators.¹¹

Finally, a school should take steps to stop further harassment and prevent any retaliation against the person who made the complaint (or was the subject of the harassment) or against those who provided information as witnesses. At a minimum, the school's responsibilities include making sure that the harassed students and their families know how to report any subsequent problems, conducting follow-up inquiries to see if there have been any new incidents or any instances of retaliation, and responding promptly and appropriately to address continuing or new problems.

When responding to incidents of misconduct, schools should keep in mind the following:

- The label used to describe an incident (*e.g.*, bullying, hazing, teasing) does not determine how a school is obligated to respond. Rather, the nature of the conduct itself must be assessed for civil rights implications. So, for example, if the abusive behavior is on the basis of race, color, national origin, sex, or disability, and creates a hostile environment, a school is obligated to respond in accordance with the applicable federal civil rights statutes and regulations enforced by OCR.
- When the behavior implicates the civil rights laws, school administrators should look beyond simply disciplining the perpetrators. While disciplining the perpetrators is likely a necessary step, it often is insufficient. A school's responsibility is to eliminate the

¹¹ Districts must designate persons responsible for coordinating compliance with Title IX, Section 504, and Title II, including the investigation of any complaints of sexual, gender-based, or disability harassment. See 28 C.F.R. § 35.107(a); 34 C.F.R. § 104.7(a); 34 C.F.R. § 106.8(a).

hostile environment created by the harassment, address its effects, and take steps to ensure that harassment does not recur. Put differently, the unique effects of discriminatory harassment may demand a different response than would other types of bullying.

Below, I provide hypothetical examples of how a school's failure to recognize student misconduct as discriminatory harassment violates students' civil rights.¹² In each of the examples, the school was on notice of the harassment because either the school or a responsible employee knew or should have known of misconduct that constituted harassment. The examples describe how the school should have responded in each circumstance.

Title VI: Race, Color, or National Origin Harassment

- *Some students anonymously inserted offensive notes into African-American students' lockers and notebooks, used racial slurs, and threatened African-American students who tried to sit near them in the cafeteria. Some African-American students told school officials that they did not feel safe at school. The school investigated and responded to individual instances of misconduct by assigning detention to the few student perpetrators it could identify. However, racial tensions in the school continued to escalate to the point that several fights broke out between the school's racial groups.*

In this example, school officials failed to acknowledge the pattern of harassment as indicative of a racially hostile environment in violation of Title VI. Misconduct need not be directed at a particular student to constitute discriminatory harassment and foster a racially hostile environment. Here, the harassing conduct included overtly racist behavior (*e.g.*, racial slurs) and also targeted students on the basis of their race (*e.g.*, notes directed at African-American students). The nature of the harassment, the number of incidents, and the students' safety concerns demonstrate that there was a racially hostile environment that interfered with the students' ability to participate in the school's education programs and activities.

Had the school recognized that a racially hostile environment had been created, it would have realized that it needed to do more than just discipline the few individuals whom it could identify as having been involved. By failing to acknowledge the racially hostile environment, the school failed to meet its obligation to implement a more systemic response to address the unique effect that the misconduct had on the school climate. A more effective response would have included, in addition to punishing the perpetrators, such steps as reaffirming the school's policy against discrimination (including racial harassment), publicizing the means to report allegations of racial harassment, training faculty on constructive responses to racial conflict, hosting class discussions about racial harassment and sensitivity to students of other races, and conducting outreach to involve parents and students in an effort to identify problems and improve the school climate. Finally, had school officials responded appropriately

¹² Each of these hypothetical examples contains elements taken from actual cases.

and aggressively to the racial harassment when they first became aware of it, the school might have prevented the escalation of violence that occurred.¹³

- *Over the course of a school year, school employees at a junior high school received reports of several incidents of anti-Semitic conduct at the school. Anti-Semitic graffiti, including swastikas, was scrawled on the stalls of the school bathroom. When custodians discovered the graffiti and reported it to school administrators, the administrators ordered the graffiti removed but took no further action. At the same school, a teacher caught two ninth-graders trying to force two seventh-graders to give them money. The ninth-graders told the seventh-graders, “You Jews have all of the money, give us some.” When school administrators investigated the incident, they determined that the seventh-graders were not actually Jewish. The school suspended the perpetrators for a week because of the serious nature of their misconduct. After that incident, younger Jewish students started avoiding the school library and computer lab because they were located in the corridor housing the lockers of the ninth-graders. At the same school, a group of eighth-grade students repeatedly called a Jewish student “Drew the dirty Jew.” The responsible eighth-graders were reprimanded for teasing the Jewish student.*

The school administrators failed to recognize that anti-Semitic harassment can trigger responsibilities under Title VI. While Title VI does not cover discrimination based solely on religion,¹⁴ groups that face discrimination on the basis of actual or perceived shared ancestry or ethnic characteristics may not be denied protection under Title VI on the ground that they also share a common faith. These principles apply not just to Jewish students, but also to students from any discrete religious group that shares, or is perceived to share, ancestry or ethnic characteristics (e.g., Muslims or Sikhs). Thus, harassment against students who are members of any religious group triggers a school’s Title VI responsibilities when the harassment is based on the group’s actual or perceived shared ancestry or ethnic characteristics, rather than solely on its members’ religious practices. A school also has responsibilities under Title VI when its students are harassed based on their actual or perceived citizenship or residency in a country whose residents share a dominant religion or a distinct religious identity.¹⁵

In this example, school administrators should have recognized that the harassment was based on the students’ actual or perceived shared ancestry or ethnic identity as Jews (rather than on the students’ religious practices). The school was not relieved of its responsibilities under Title VI because the targets of one of the incidents were not actually Jewish. The harassment was still based on the perceived ancestry or ethnic characteristics of the targeted students. Furthermore, the harassment negatively affected the ability and willingness of Jewish students to participate fully in the school’s

¹³ More information about the applicable legal standards and OCR’s approach to investigating allegations of harassment on the basis of race, color, or national origin is included in *Racial Incidents and Harassment Against Students at Educational Institutions: Investigative Guidance*, 59 Fed. Reg. 11,448 (Mar. 10, 1994), available at <http://www.ed.gov/about/offices/list/ocr/docs/race394.html>.

¹⁴ As noted in footnote seven, DOJ has the authority to remedy discrimination based solely on religion under Title IV.

¹⁵ More information about the applicable legal standards and OCR’s approach to investigating complaints of discrimination against members of religious groups is included in OCR’s Dear Colleague Letter: Title VI and Title IX Religious Discrimination in Schools and Colleges (Sept. 13, 2004), available at <http://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>.

education programs and activities (e.g., by causing some Jewish students to avoid the library and computer lab). Therefore, although the discipline that the school imposed on the perpetrators was an important part of the school's response, discipline alone was likely insufficient to remedy a hostile environment. Similarly, removing the graffiti, while a necessary and important step, did not fully satisfy the school's responsibilities. As discussed above, misconduct that is not directed at a particular student, like the graffiti in the bathroom, can still constitute discriminatory harassment and foster a hostile environment. Finally, the fact that school officials considered one of the incidents "teasing" is irrelevant for determining whether it contributed to a hostile environment.

Because the school failed to recognize that the incidents created a hostile environment, it addressed each only in isolation, and therefore failed to take prompt and effective steps reasonably calculated to end the harassment and prevent its recurrence. In addition to disciplining the perpetrators, remedial steps could have included counseling the perpetrators about the hurtful effect of their conduct, publicly labeling the incidents as anti-Semitic, reaffirming the school's policy against discrimination, and publicizing the means by which students may report harassment. Providing teachers with training to recognize and address anti-Semitic incidents also would have increased the effectiveness of the school's response. The school could also have created an age-appropriate program to educate its students about the history and dangers of anti-Semitism, and could have conducted outreach to involve parents and community groups in preventing future anti-Semitic harassment.

Title IX: Sexual Harassment

- *Shortly after enrolling at a new high school, a female student had a brief romance with another student. After the couple broke up, other male and female students began routinely calling the new student sexually charged names, spreading rumors about her sexual behavior, and sending her threatening text messages and e-mails. One of the student's teachers and an athletic coach witnessed the name calling and heard the rumors, but identified it as "hazing" that new students often experience. They also noticed the new student's anxiety and declining class participation. The school attempted to resolve the situation by requiring the student to work the problem out directly with her harassers.*

Sexual harassment is unwelcome conduct of a sexual nature, which can include unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature. Thus, sexual harassment prohibited by Title IX can include conduct such as touching of a sexual nature; making sexual comments, jokes, or gestures; writing graffiti or displaying or distributing sexually explicit drawings, pictures, or written materials; calling students sexually charged names; spreading sexual rumors; rating students on sexual activity or performance; or circulating, showing, or creating e-mails or Web sites of a sexual nature.

In this example, the school employees failed to recognize that the “hazing” constituted sexual harassment. The school did not comply with its Title IX obligations when it failed to investigate or remedy the sexual harassment. The conduct was clearly unwelcome, sexual (e.g., sexual rumors and name calling), and sufficiently serious that it limited the student’s ability to participate in and benefit from the school’s education program (e.g., anxiety and declining class participation).

The school should have trained its employees on the type of misconduct that constitutes sexual harassment. The school also should have made clear to its employees that they could not require the student to confront her harassers. Schools may use informal mechanisms for addressing harassment, but only if the parties agree to do so on a voluntary basis. Had the school addressed the harassment consistent with Title IX, the school would have, for example, conducted a thorough investigation and taken interim measures to separate the student from the accused harassers. An effective response also might have included training students and employees on the school’s policies related to harassment, instituting new procedures by which employees should report allegations of harassment, and more widely distributing the contact information for the district’s Title IX coordinator. The school also might have offered the targeted student tutoring, other academic assistance, or counseling as necessary to remedy the effects of the harassment.¹⁶

Title IX: Gender-Based Harassment

- *Over the course of a school year, a gay high school student was called names (including anti-gay slurs and sexual comments) both to his face and on social networking sites, physically assaulted, threatened, and ridiculed because he did not conform to stereotypical notions of how teenage boys are expected to act and appear (e.g., effeminate mannerisms, nontraditional choice of extracurricular activities, apparel, and personal grooming choices). As a result, the student dropped out of the drama club to avoid further harassment. Based on the student’s self-identification as gay and the homophobic nature of some of the harassment, the school did not recognize that the misconduct included discrimination covered by Title IX. The school responded to complaints from the student by reprimanding the perpetrators consistent with its anti-bullying policy. The reprimands of the identified perpetrators stopped the harassment by those individuals. It did not, however, stop others from undertaking similar harassment of the student.*

As noted in the example, the school failed to recognize the pattern of misconduct as a form of sex discrimination under Title IX. Title IX prohibits harassment of both male and female students regardless of the sex of the harasser—i.e., even if the harasser and target are members of the same sex. It also prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping. Thus, it can be sex discrimination if students are harassed either for exhibiting what is perceived as a stereotypical characteristic for their

¹⁶ More information about the applicable legal standards and OCR’s approach to investigating allegations of sexual harassment is included in OCR’s *Sexual Harassment Guidance*, available at <http://www.ed.gov/about/offices/list/ocr/docs/shguide.html>.

sex, or for failing to conform to stereotypical notions of masculinity and femininity. Title IX also prohibits sexual harassment and gender-based harassment of all students, regardless of the actual or perceived sexual orientation or gender identity of the harasser or target.

Although Title IX does not prohibit discrimination based solely on sexual orientation, Title IX does protect all students, including lesbian, gay, bisexual, and transgender (LGBT) students, from sex discrimination. When students are subjected to harassment on the basis of their LGBT status, they may also, as this example illustrates, be subjected to forms of sex discrimination prohibited under Title IX. The fact that the harassment includes anti-LGBT comments or is partly based on the target's actual or perceived sexual orientation does not relieve a school of its obligation under Title IX to investigate and remedy overlapping sexual harassment or gender-based harassment. In this example, the harassing conduct was based in part on the student's failure to act as some of his peers believed a boy should act. The harassment created a hostile environment that limited the student's ability to participate in the school's education program (e.g., access to the drama club). Finally, even though the student did not identify the harassment as sex discrimination, the school should have recognized that the student had been subjected to gender-based harassment covered by Title IX.

In this example, the school had an obligation to take immediate and effective action to eliminate the hostile environment. By responding to individual incidents of misconduct on an *ad hoc* basis only, the school failed to confront and prevent a hostile environment from continuing. Had the school recognized the conduct as a form of sex discrimination, it could have employed the full range of sanctions (including progressive discipline) and remedies designed to eliminate the hostile environment. For example, this approach would have included a more comprehensive response to the situation that involved notice to the student's teachers so that they could ensure the student was not subjected to any further harassment, more aggressive monitoring by staff of the places where harassment occurred, increased training on the scope of the school's harassment and discrimination policies, notice to the target and harassers of available counseling services and resources, and educating the entire school community on civil rights and expectations of tolerance, specifically as they apply to gender stereotypes. The school also should have taken steps to clearly communicate the message that the school does not tolerate harassment and will be responsive to any information about such conduct.¹⁷

Section 504 and Title II: Disability Harassment

- *Several classmates repeatedly called a student with a learning disability "stupid," "idiot," and "retard" while in school and on the school bus. On one occasion, these students tackled him, hit him with a school binder, and threw his personal items into the garbage. The student complained to his teachers and guidance counselor that he was continually being taunted and teased. School officials offered him counseling services and a*

¹⁷ Guidance on gender-based harassment is also included in OCR's *Sexual Harassment Guidance*, available at <http://www.ed.gov/about/offices/list/ocr/docs/shguide.html>.

psychiatric evaluation, but did not discipline the offending students. As a result, the harassment continued. The student, who had been performing well academically, became angry, frustrated, and depressed, and often refused to go to school to avoid the harassment.

In this example, the school failed to recognize the misconduct as disability harassment under Section 504 and Title II. The harassing conduct included behavior based on the student's disability, and limited the student's ability to benefit fully from the school's education program (e.g., absenteeism). In failing to investigate and remedy the misconduct, the school did not comply with its obligations under Section 504 and Title II.

Counseling may be a helpful component of a remedy for harassment. In this example, however, since the school failed to recognize the behavior as disability harassment, the school did not adopt a comprehensive approach to eliminating the hostile environment. Such steps should have at least included disciplinary action against the harassers, consultation with the district's Section 504/Title II coordinator to ensure a comprehensive and effective response, special training for staff on recognizing and effectively responding to harassment of students with disabilities, and monitoring to ensure that the harassment did not resume.¹⁸

I encourage you to reevaluate the policies and practices your school uses to address bullying¹⁹ and harassment to ensure that they comply with the mandates of the federal civil rights laws. For your convenience, the following is a list of online resources that further discuss the obligations of districts to respond to harassment prohibited under the federal antidiscrimination laws enforced by OCR:

- *Sexual Harassment: It's Not Academic* (Revised 2008):
<http://www.ed.gov/about/offices/list/ocr/docs/ocrshpam.html>
- *Dear Colleague Letter: Sexual Harassment Issues* (2006):
<http://www2.ed.gov/about/offices/list/ocr/letters/sexhar-2006.html>
- *Dear Colleague Letter: Religious Discrimination* (2004):
<http://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>
- *Dear Colleague Letter: First Amendment* (2003):
<http://www.ed.gov/about/offices/list/ocr/firstamend.html>

¹⁸ More information about the applicable legal standards and OCR's approach to investigating allegations of disability harassment is included in OCR's Dear Colleague Letter: Prohibited Disability Harassment (July 25, 2000), available at <http://www2.ed.gov/about/offices/list/ocr/docs/disabharassltr.html>.

¹⁹ For resources on preventing and addressing bullying, please visit <http://www.bullyinginfo.org>, a Web site established by a federal Interagency Working Group on Youth Programs. For information on the Department's bullying prevention resources, please visit the Office of Safe and Drug-Free Schools' Web site at <http://www.ed.gov/offices/OESE/SDFS>. For information on regional Equity Assistance Centers that assist schools in developing and implementing policies and practices to address issues regarding race, sex, or national origin discrimination, please visit <http://www.ed.gov/programs/equitycenters>.

- *Sexual Harassment Guidance* (Revised 2001):
<http://www.ed.gov/about/offices/list/ocr/docs/shguide.html>
- *Dear Colleague Letter: Prohibited Disability Harassment* (2000):
<http://www.ed.gov/about/offices/list/ocr/docs/disabharassltr.html>
- *Racial Incidents and Harassment Against Students* (1994):
<http://www.ed.gov/about/offices/list/ocr/docs/race394.html>

Please also note that OCR has added new data items to be collected through its Civil Rights Data Collection (CRDC), which surveys school districts in a variety of areas related to civil rights in education. The CRDC now requires districts to collect and report information on allegations of harassment, policies regarding harassment, and discipline imposed for harassment. In 2009-10, the CRDC covered nearly 7,000 school districts, including all districts with more than 3,000 students. For more information about the CRDC data items, please visit <http://www2.ed.gov/about/offices/list/ocr/whatsnew.html>.

OCR is committed to working with schools, students, students' families, community and advocacy organizations, and other interested parties to ensure that students are not subjected to harassment. Please do not hesitate to contact OCR if we can provide assistance in your efforts to address harassment or if you have other civil rights concerns.

For the OCR regional office serving your state, please visit: <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>, or call OCR's Customer Service Team at 1-800-421-3481.

I look forward to continuing our work together to ensure equal access to education, and to promote safe and respectful school climates for America's students.

Sincerely,

/s/

Russlynn Ali
Assistant Secretary for Civil Rights

What to Expect

Coming Out?

Communicate

Permanency

IT'S

YOUR

LIFE

Your Rights

Equal Treatment

Safety

RESPECT

LGBTQ

Identity

IT'S YOUR LIFE

OPENING DOORS: IMPROVING THE LEGAL SYSTEM'S
APPROACH TO LGBTQ YOUTH IN FOSTER CARE

Contents



<i>Introduction</i>	3
<i>An Overview of Your Child Welfare Case</i>	4
<i>Your Placement</i>	8
<i>Your Rights While in Placement</i>	13
<i>Your Permanency Plan</i>	19
<i>Your Life After Foster Care</i>	22

IT'S YOUR LIFE

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You have the right to remain silent, and that anything you say may be used against you in court; you have the right to consult with an attorney and to have that attorney present during questioning, and that, if you cannot afford one, an attorney will be provided at no cost to represent you.

I bet you know that set of rights, you have seen them on TV, the movies, and maybe even had them read to you. You must now also learn about another set of rights that you have as a young person, who happens to be LGBTQ and in foster care. You should understand what to expect while in the child welfare system and how you should be treated. It is important for you to know you are not alone.

As a foster kid in care, I never felt more alone. I was placed in the system, away from my family support network,

no matter how dysfunctional. I was told I was different, even sick, because I was confused about my sexuality. Even among friends who knew I was a gay, it was not discussed. If it was discussed, it was done in hushed tones and vague language. In foster care, I needed to know I was ok.

We rainbow foster kids need to know we are not broken. In foster care, they tried to cure me. What a simple thing it would have been to understand then what I do now—I'm not alone, I'm ok, and it's ok to be different. If you have not heard it yet, you are not alone, you are ok.

The pages that follow empower you to take control of your life. Pursue your happiness, but know your rights.

H. J. David Ambroz, Esq.

Executive Director

Los Angeles City College Foundation

Support

YOUR NEEDS

LGBTQ

Protection

INTRODUCTION

If you are a young adult in foster care, your parents may not be able to take care of you right now or you may have had a breakdown in your relationship. This may not be a permanent problem. During your time in the child welfare system, you and your parents will work on repairing your relationship. In time you may leave the system and reunite with your family. Sometimes you may spend a longer time in care or you may exit the system through adoption, guardianship, or emancipation.

The child welfare system provides one thing to all young adults: a safe place to live, learn, and grow. This is true for all young adults, including lesbian, gay, bisexual, transgender or questioning (LGBTQ) young adults. Child welfare professionals have the same goal for all young adults: providing the best care and education possible for as long as it is needed.

If you identify as LGBTQ, your identity may or may not have played a role in bringing you into the child welfare system. LGBTQ rights are increasingly being recognized and people who identify as LGBTQ are experiencing greater acceptance and support. However, homophobia, sexism, and transphobia can still create friction in your personal relationships and this friction may result in your placement in the child welfare system.

Even if your identity as LGBTQ is unrelated to your placement, biases and attitudes may affect your experience in the child welfare system and complicate the process of locating a safe and nurturing placement. However, locating such a placement remains the top goal for every child welfare professional.

Figuring out the best way to reach this goal may be hard for the adults in charge of you. This may discourage you. The foster care system can be overwhelming or confusing at first, especially if you are trying to integrate your identity as LGBTQ into your daily life. No one expects you to know what you want and exactly how to get it. But if you understand the process better, you can help your child welfare team figure out what is best for you.



This handbook:

- gives you the **tools and support** to make the best of your experience in the child welfare system;
- explains **your rights**, not only as a young adult but also as a LGBTQ individual;
- explains **what you can expect** from the child welfare professionals you meet;
- helps you **determine if child welfare professionals are meeting your needs and respecting you**; and
- helps you **protect your rights** by explaining who you can turn to if your rights are violated and what steps to take.

The next section overviews the child welfare system, introduces the people you may meet while in out-of-home care, and explains the possible outcomes of this process. Later sections include information on your placement, your rights to personal freedom and safety in your placement, and tools and strategies for enforcing those rights. The last section provides guidance on life after foster care.

AN OVERVIEW OF YOUR CHILD WELFARE CASE

Step One: Primary Contact

You probably have many questions right now. What is happening? Where am I going? Who are these people? What happens next? The answers vary depending on where you live, your age, and your personal circumstances. Although each child welfare agency has its own practices, procedures, and terms, they all follow the same general steps. Here's a look at the key phases of the process and the people you will meet.

When someone in the community reports that you may have been abused, neglected, or abandoned by someone responsible for your health or welfare, a caseworker from your state's child welfare agency will start an investigation. This person will interview various people in your life to understand the situation and then make a recommendation. This investigation may last one day or many weeks depending on the agency's schedule, the number of people involved, and the seriousness of the claim. You will meet many new people.

PEOPLE YOU MAY MEET

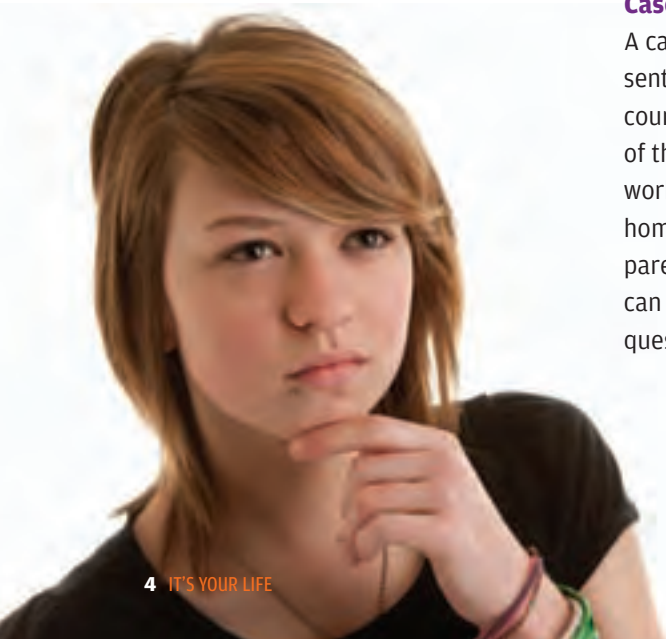
Caseworker/Social Worker

A caseworker or social worker represents the child welfare agency in your county or state. This person is in charge of the initial investigation. The caseworker will ask you about your life at home and your relationship with your parents. Throughout this process, you can contact this person with any questions or concerns.

Court/Judge

The judge decides what is best for you and your well-being. The judge will listen to all sides of the story at the court hearing and then pick the best course of action. If you are not brought to court, find out why and ask to be present at the hearings. To get the full story, the judge will also want to hear from you and understand what you think is best for you. This does not mean the judge will do exactly what you want, but it is important for you to tell the judge what you want.

If you are uncomfortable telling the judge what you want in the courtroom, try to write your thoughts down and read them or simply give them to the judge. This can be scary at first, especially in a courtroom. But after a few times, you will become more familiar with each other and the situation. In most cases, you will have an advocate who will help you talk with the judge. Some of these advocates are described next.



Advocates

Throughout the process you may meet many types of advocates. It is important to know what kind of advocate you have because this may affect whether your conversations are private. It also impacts whether your advocate pursues what *you* want or what the *advocate* thinks is best for you. If you are not sure, ask your advocate or caseworker to explain her role in your case.

Advocates include:

Lawyer: A lawyer is a professional legal advocate. This person's job varies from state to state and county to county. In many states your lawyer will represent what you want to the court and the child welfare agency. Your lawyer will make sure the judge and the child welfare professionals know what you want to happen. Conversations you have with your lawyer are *privileged*. That means anything you discuss with your lawyer is confidential and may not be shared without your permission.

Guardian ad Litem (GAL): In some places, instead of a lawyer you will have a GAL. A GAL evaluates your situation and reports to the court what *the GAL* believes is in your best interest. Sometimes this person is also a lawyer. Conversations with your GAL may not be kept confidential. Discuss this with your GAL before you share any information you do not want repeated.

Court Appointed Special Advocate (CASA): A CASA is a volunteer from the community, appointed by a judge. A CASA helps the court make decisions in your case. Even though CASAs are usually not trained as lawyers, they receive training from a state program or agency and have experience helping young adults go through the child welfare system and out-of-home care.

TIPS

How can I best work with my advocate?

- ▶ Get your advocate's name, number, and e-mail address.
- ▶ Contact your advocate within the first two weeks if he doesn't contact you.
- ▶ Ask your advocate what her role is—whether she'll keep your conversations private, and whether she will advocate for what you want or what she thinks is best for you.
- ▶ Contact your advocate whenever you have a question about your case.
- ▶ If your advocate doesn't call you back, call again. If your advocate still doesn't call you, tell your social worker that you want to ask the judge for another advocate.
- ▶ Be honest with your advocate.
- ▶ If you feel comfortable, disclose your LGBTQ identity.
- ▶ Tell your advocate what you want in a placement, school, social supports, and anything else you want.
- ▶ If you have problems with school or in your placement, call your advocate.
- ▶ Always go to court with your advocate.

Step Two: Initial Placement

If the caseworker determines that your life or well-being is in danger, then the agency will ask a judge for help. The judge will hold a hearing and everyone involved in your case will explain their point of view. At the hearing the judge decides whether you will stay in your current living situation or be placed into foster care. This is called a **court-ordered placement**. Sometimes agencies also offer **voluntary placements**. This is a service for families only when they agree they cannot care for their children for a period of time. For example, a parent may ask for a voluntary placement if the parent is in the hospital and no one else can care for their child.

PEOPLE YOU MAY MEET

Foster Parents or Family

These are the people you will live with while your family gets help to fix the problem that led the child welfare agency to get involved. The child

welfare agency generally conducts background checks on these people and requires them to attend special trainings about being foster parents. They will participate in your case planning and help you achieve any goals you may set. They will also work with the agency to help you adjust to life in their home.

Each foster family is unique. You may have a single foster parent or you may live with a family with children of their own. You may meet these people right away if there is an opening or it may take time to find a good fit.

Residential/Group Home Staff

A group home is a place where several young people live. You may have your own room or share a room with other young adults. Some states have group homes specifically for LGBTQ young adults. If you are placed in a residential facility, the staff at the facility will be responsible for your safety and well-being.

Step Three: Case Plan

To best meet your needs throughout your time in foster care, your caseworker will develop a plan for you and your family. The case plan will outline the goals for you and your parents. It should identify a primary goal and a secondary goal in case the first one is not met. This is called *concurrent planning*. The case plan helps everyone understand the goals and the best way to meet them. It also includes steps your caretakers must take to show the agency they can care for you. The plan may include counseling for you, your parents, or all of you together. It may also involve drug and alcohol counseling or rehabilitation, and parenting classes.

This plan is not set in stone and will be revised as each person learns more about you and your family, and as your parents work towards changing the current situation. The agency or judge will

hold regular hearings to help update everyone on your case's progress and status while you are in foster care.

If everything goes according to plan and the situation gets better you might return to your family. However, if you cannot return home, the caseworker, court, and other professionals will identify a permanent placement for you. This may include adoption, guardianship, placement with a relative, or another planned permanent living arrangement within the child welfare system. Each option will involve additional court hearings and formal proceedings.

PEOPLE YOU MAY MEET

Service Providers

These professionals provide services and supports required in the case plan. They may have attended a meeting

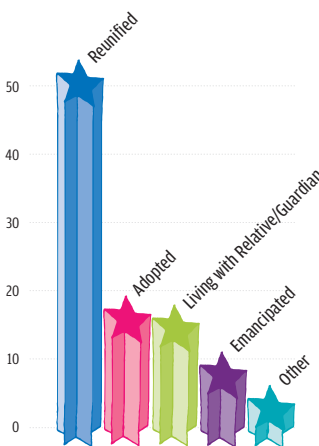
about your situation and can help you or your parents achieve the case plan goals. These professionals have attended college or some other educational program that qualifies them to deal with specific issues. Each professional has her own skill set. If she cannot assist with a specific problem, she can help identify someone who can. Some service providers specialize in LGBTQ-friendly practices. If you feel comfortable asking to work with such a provider, ask your caseworker.

Service providers include:

- *Therapists/counselors*
- *Medical professionals*
- *Independent living counselors*
- *Drug and alcohol rehabilitation counselors*

Step Four: Permanent Placement or Emancipation

Every case is different and so is every outcome. This makes it hard to predict exactly what will happen in your case. You may reunite with your family. You may go on to live with relatives or in a residential facility. If you are emancipated, you will live on your own and be treated as an adult under the law. Sometimes you may become frustrated with the system or your placement. When this happens, you must speak up to avoid falling off the radar. The following chart shows possible outcomes and how often they occur:



Possible Outcomes

for Youth in Foster Care 2006 in percentages

Source: Child Welfare Information Gateway, "Foster Care Statistics, Series: Numbers and Trends," 2009, available at www.childwelfare.gov/pubs/factsheets/foster.cfm.

Foster care can be challenging, especially if you are also beginning to explore your LGBTQ identity. No matter how hard these processes may be, both young adults in foster care and LGBTQ young adults go on to live rich and exciting lives. These Web sites offer more information on foster care and LGBTQ young adults in foster care. Your lawyer and caseworker can help you envision your life both during and after foster care. With their help you can begin working towards that life today.



www.FosterClub.com

www.ChildWelfare.gov



www.glsen.org

Step Five: Case Closure

Foster care is not permanent. At some point you will no longer need to be in foster care. Your caseworker will evaluate if your case plan has been successfully implemented. At all times, your safety and well-being remain the most important goal. To ensure this goal is met your caseworker will evaluate if the problems that brought you into foster care have been solved. The caseworker will make sure you are no longer in danger and that all solutions will be permanent.

If your caregivers have proven they can resume taking care of you, you will go back to your original home. Your case may also be closed because you are being adopted or have found some other permanent living arrangement as an adult. Even in these situations, your caseworker and advocate will make sure you will be safe and well-adjusted in your new placement. In some states, even after you are too old for foster care, there may be added resources to help you transition to adulthood. Discuss these options with your caseworker.

Regardless of how you exit care, you should have a stable, safe adult in your life that you trust. This person may be a family member, friend, mentor, coach, teacher or someone else. This person will be there for you to celebrate when things are good and help you when things are not so good. This person must also support your sexual orientation and gender identity. These relationships are the key to a successful transition to adulthood.



For more resources on issues discussed in the book:

ABA Opening Doors Project Web Site
<http://new.abanet.org/child/Pages/lgbtq.youth.aspx>

Explore the online version of **It's Your Life**. Here you will find the tools and resources to help you make sense of your journey through the child welfare system:

- what to expect while you are in the child welfare system
- who can help you – the judge, your lawyer, your social worker and others
- the stages of your child welfare case, from the time you enter care through placement or life on your own
- how to advocate for yourself
- where to turn for help, whether you've left home, are being harassed at school, or are not being valued for who you are



YOUR PLACEMENT

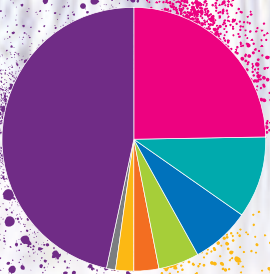
Protection

Before Placement

Your stay in foster care may last a few weeks or a few years. This will depend on what the agency and court determine is in your best interest. This is the point of the whole process – identifying your best interest, then working to achieve that goal. This includes providing you with physical and emotional support as well as limits and boundaries. If you have concerns about your placement, tell your social worker or lawyer.

PICKING THE BEST PLACEMENT

Child welfare agencies place young adults in many different settings. In special circumstances, placements include emergency shelters, child care institutions, or residential care. The graph to the left shows how many young adults were living in each type of placement across the nation in 2006:



Placement Settings

for Youth in Foster Care 2006 in percentages

- Non-Relative Foster Family Homes **46%**
- Relative Foster Homes **24%**
- Institutions **10%**
- Group Homes **7%**
- Trial Home Visits **5%**
- Preadoptive Homes **3%**
- Runaway **2%**
- Supervised Independent Living **1%**

Source: Child Welfare Information Gateway, "Foster Care Statistics, Series: Numbers and Trends," 2009, available at www.childwelfare.gov/pubs/factsheets/foster.cfm.

Child welfare professionals consider many things when determining the best fit for each young adult. If you have strong preferences or opinions on your placement, tell your caseworker or advocate. The checklist below shows the criteria the Michigan Department of Human Services considers when deciding the best placement for each young adult.

TALKING WITH YOUR ADVOCATE OR CASEWORKER

Tell your caseworker or advocate what you think would be a good placement. This part of the process often happens quickly, so be prepared to communicate your concerns and preferences, even if your caseworker or advocate forgets to ask you. Are there family members or adults with whom you feel comfortable? Your relationship with these adults may make one of them an ideal placement. Where you live often determines where you attend school; so be sure to share any concerns about staying in the same school and continuing your involvement in any extracurricular activities.

Unlike your family or school history, your caseworker may not think to ask about your LGBTQ identity. However, this part of your identity is important in evaluating your placement. So, if it is not already clear from your reasons for coming into foster care, you may choose to disclose your LGBTQ identity.

How do they determine your placement?

- ▶ *Stability for you*
- ▶ *Your safety, and physical and emotional needs*
- ▶ *Availability of your close relatives and extended family*
- ▶ *Distance from your family*
- ▶ *Your siblings' placement*
- ▶ *Your religious preference*
- ▶ *Allowing the most freedom*
- ▶ *Protecting the continuity of your relationships with friends, teachers, etc.*

Source: Michigan Department of Human Services

TIPS

Should you disclose your LGBTQ identity?

Disclosing your LGBTQ status is your choice. Your sexual orientation is private information even as you rely on public resources for support. If you feel comfortable discussing your LGBTQ status with your caseworker or advocate it may help them find a good fit for you. You may also discuss it with either person and ask that they try to find a suitable placement without disclosing your LGBTQ identity. Note that while the law may not require all of these people to keep this information private, it does require your lawyer to.

If you do not feel comfortable talking about your LGBTQ identity, no one can make you disclose it. But you may still be able to find an acceptable placement by asking the questions in the next section and looking for signs of open and nurturing placements for LGBTQ young adults.

THINGS TO LOOK FOR IN A PLACEMENT

When searching for an appropriate placement remember the state is responsible for your health and well-being while you are in the child welfare system. Child welfare professionals are legally responsible for protecting you from emotional, psychological, and physical harm while in out-of-home care. This includes protecting you from abuse based on your LGBTQ identity.

In addition to being safe, your placement should be comfortable.

While child welfare professionals can ensure your safety, your comfort is more subjective. You should help decide where you will feel most comfortable. Ask the child welfare professionals questions and evaluate the potential placement on your own. To understand how the group home views LGBTQ young adults, look at its history, the caretaker's attitudes, and any official policies. In group home settings, staff attitudes tell a lot because the young adults who live there often follow the staff's lead.

TIPS

What questions should you ask about your placement?

You may ask the following questions of your lawyer or advocate, caseworker, potential caretakers, or residential facility staff. Ask them in person, or if you feel you may forget some concerns, take a written list to your next meeting. These questions come from actual experiences of LGBTQ young adults in foster care.

1. Does the placement have any experience with LGBTQ young adults?
2. Are there currently any other LGBTQ young adults in the placement?
3. Do the caretakers, staff, or other young adults in the home receive training or instruction on LGBTQ inclusiveness?
4. Are there any LGBTQ-inclusive signs or posters displayed in the common areas such as rainbow flags or hate-free zone stickers?
5. How many staff members identify as LGBTQ?
6. Does the agency use LGBTQ-friendly service providers?
7. Does the placement have a nondiscrimination or bullying policy? (See *Nondiscrimination Policy* and *Anti-Harassment Policy or Bullying Policy* boxes for more detail.)
8. Does the residential placement restrict a young adult's clothing choices or discussions about sexual orientation?
9. What is the official policy on religious beliefs and practices?
10. Are there any social functions or support groups specifically for LGBTQ young adults?

NONDISCRIMINATION POLICY

One way to determine how much support you will receive in an organization or placement is to look at its nondiscrimination policy. If the organization has a policy of nondiscrimination for its employees, then it is likely it will treat you fairly.

- ▶ Ask your caseworker if the child welfare agency has a nondiscrimination policy for foster parents.
- ▶ If you are being placed in a residential facility or group home, ask your caseworker if the home has a nondiscrimination policy. If not, ask for a different placement.

ANTI-HARASSMENT POLICY OR BULLYING POLICY

Bullying is repeated behavior that harms or disturbs the victim. It includes physical (hitting, shoving), verbal (threats, teasing, insults) or psychological (spreading rumors) abuse.

70% of LGBTQ young adults in group homes reported experiencing some form of violence based on their sexuality.

Many states have policies against such behavior in schools or require schools to pass such policies. Depending on where you go to school you may enjoy this protection. Ask your advocate or caseworker if your potential placement has a policy like that. Ask if the policy includes sexual orientation or other issues you find important to your safety.

Source: Susan Daugherty, *Bullying and Children in the Child Welfare System*, 2007, 1. Available at www.hunter.cuny.edu/socwork/nrcfcpp/downloads/bullying.pdf

If you are experiencing harassment, discrimination or violence

Lambda Legal Defense and Education Fund

Provides legal advice and support for people experiencing sexual orientation-based harassment and other discrimination.

120 Wall Street, Suite 1500
New York, NY 10005-3904
212/809-8585
www.lambdalegal.org

National Center for Lesbian Rights

Protects the rights and safety of lesbians and their families through litigation, public policy advocacy, free legal advice, and public education. Its **Youth Project** advocates for lesbian youth in schools, foster care, juvenile justice settings, and the mental health system.

870 Market Street, Suite 570
San Francisco, CA 94102
415/392-6257
www.nclrights.org

National Coalition of Anti-Violence Programs

Works to end violence against and within the LGBT and HIV-affected communities.

240 West 35th Street, Suite 200
New York, NY 10001
212/714-1184
<http://ncavp.org>

Transgender Law and Policy Institute

Advocates for transgender equality through law and policy reforms.
www.transgenderlaw.org

HOTLINE



Foster Care Helpline 866-LGBTTeen (542-8336)

Call this hotline if you have questions about LGBTQ-related discrimination or abuse.

It is staffed Monday-Friday,
6:00 a.m.-2:30 p.m. (Pacific Standard Time),
9 a.m.-5:30 p.m. (Eastern Standard Time).
You may leave messages 24-hours a day.



Being in Care as a LGBTQ Young Adult

There are various reasons you may be in foster care. These include threats to your physical or emotional safety due to abuse or neglect by your caregivers. This abuse or neglect may or may not have anything to do with your LGBTQ identity. You may have been thrown out of your home, or you may have decided to leave your home because of this abuse. You may already be in care and are beginning to embrace your LGBTQ identity. This section discusses the avenues into care and how they may affect your experience in the foster care system.

THE ROLE OF YOUR LGBTQ IDENTITY IN ENTERING CARE

Abuse and Neglect

There are various stages in the coming-out process ranging from initial personal discovery to complete acceptance and integration. The further you travel through these stages the more open you will become with your friends and family. No matter what stage you are in, it is important to understand that you are not responsible for any negative actions taken against you when you share your LGBTQ identity.

Many parents, siblings, and family members have difficulty accepting or supporting a young adult's LGBTQ identity at

first. The level of nurturance and support you first experience is not final; your family's attitude may improve with time.

Your family's culture, heritage, and religious background may play a role when they are learning to accept you as LGBTQ. Young adults from traditional families and conservative cultures have reported social pressure to conform to stereotypes based on both sexual and racial identity. Cultures that expect boys to be macho may view homosexuality as rejecting heterosexuality and racial identity. This can be difficult for some families to process. No matter what is at the root of their bias, as your family works through its issues, they must continue to adequately care for and support you and are not allowed to hurt you for being honest about your identity. When they are unable to provide you this basic care, foster care will provide a safe place while your family learns to treat you with the love and respect you deserve.

LEAVING OR BEING KICKED OUT DUE TO YOUR LGBTQ IDENTITY

As an LGBTQ young adult, disclosing your sexual orientation to your family can be challenging. In addition to possible violence and harassment at home, you may also face multiple placements

and discrimination while in foster care. This may cause you to want to leave your family or the child welfare system. Many LGBTQ young adults end up homeless after leaving their families or the child welfare system.

LGBTQ YOUNG ADULTS AND HOMELESSNESS

LGBTQ young adults represent approximately 20-40% of all homeless young adults, even though they make up a much smaller percentage of the young adult population.

Homeless LGBTQ young adults face a much more challenging and dangerous life than young adults in care. They experience higher rates of substance abuse and mental health issues, and are seven times more likely to be victims of crimes than their heterosexual peers.

For more information, see:
www.NationalTaskForce.org

Although your frustration is understandable, patience with the system and child welfare professionals will help you. While you may not find the perfect placement the first time, leaving the system without a permanent home significantly reduces the resources available to you and hurts your chances of finding a safe, nurturing environment.

COMING OUT WHILE IN CARE

You may enter the child welfare system first and then begin discovering your LGBTQ identity. This is not surprising since many young adults enter the system at a younger age and may not consider their sexual identity until later in life. If this is the case, when you feel comfortable you could share this discovery with your lawyer or your caseworker. The main reason coming out is such a personal decision is because you have to be prepared to deal with the consequences, both positive and negative. If you feel your current placement is either hostile or is not accepting and nurturing of your identity, tell your lawyer and caseworker right away. They may have a more suitable option for you and may be able to provide you additional support and resources.

WHAT TO READ

Homeless & Runaway LGBTQ Youth

Being Safe, Being Out: Helping LGBTQ Youth in Crisis

A brochure describing how the National Runaway Switchboard can help LGBTQ youth who are in crisis.

www.1800runaway.org/pub_mat/documents/LGBTQ.pdf

Challenges Faced by Homeless Sexual Minorities: Comparison of Gay, Lesbian, Bisexual, and Transgender Homeless Adolescents with Their Heterosexual Counterparts

A study in the American Journal of Public Health focusing on how LGBT youth differ from heterosexual youth in terms of their physical and mental health. Homeless youth who identified themselves as members of sexual minority groups were found to be at increased risk for negative outcomes. Recommendations for treatment programs and implications for public health are discussed.

www.ajph.org/cgi/reprint/92/5/773.pdf

Let's Talk – The Runaway Prevention Curriculum

Module 12 – Sexuality and Sexual Orientation

Part of a curriculum by the National Runaway Switchboard, this lesson plan looks at the link between sexual orientation and running away, raises sensitivity to issues of sexuality and sexual orientation, and explores challenges experienced by LGBT youth on the streets.

www.1800runaway.org/rpc/pdf/Module_12_SexualOrientation.pdf

Lesbian, Gay, Bisexual and Transgender Youth: An Epidemic of Homelessness

A 2007 report from the National Gay and Lesbian Task Force and the National Coalition for the Homeless that explores why LGBT youth become homeless and how they are threatened, belittled and abused at shelters by staff as well as other residents.

www.thetaskforce.org/downloads/reports/reports/HomelessYouth.pdf

LGBTQ12-S Homeless Youth (from the Homelessness Resource Center of SAMSHA)

Shares research and tips for working with lesbian, gay, bisexual, transgender, questioning, intersex, or two-spirited (LGBTQ12-S) youth.

- **Who are LGBTQ12-S Homeless Youth?:** focuses on how service providers can best serve LGBTQ12-S youth.
- **Quick Tips: Working with LGBTQ12-S Youth who are Homeless:** focuses on how agencies can help LGBTQ12-S youth feel welcome and safe.
- **Research Notes: Sexual Health Risks Among Youth Who are Homeless:** Explains the histories, risks and needs of LGBTQ12-S youth and shares research findings.

Find these and other publications at

[http://homeless.samhsa.gov/\(X\(1\)S\(id5c2su22dvnu0553h03cm45\)\)/Organization/LGBTQ12-S-Youth-153.aspx](http://homeless.samhsa.gov/(X(1)S(id5c2su22dvnu0553h03cm45))/Organization/LGBTQ12-S-Youth-153.aspx)

WHAT TO READ (continued)

Homeless & Runaway LGBTQ Youth

LGBTQ Homeless Youth Fact Sheet

A one-page fact sheet summarizing trends among LGBTQ homeless youth, including underlying reasons for homelessness, risk factors, age, ethnic background, and interventions.

www.safeschoolscoalition.org/LGBTQhomelessFactSheetbyNAEH.pdf

The National Alliance to End Homelessness

National Advisory Council on LGBTQ Homeless Youth

This coalition of local nonprofit groups advocates for increased support for LGBTQ homeless youth. Publications include:

- **National Recommended Best Practices for Servicing LGBT Homeless Youth**
www.nyacyouth.org/docs/uploads/Recommended-Best-Practices-for-LGBT-Homeless-Youth-040909.pdf
- **Incidence and Vulnerability of LGBTQ Homeless Youth – Research Brief**
www.nyacyouth.org/docs/uploads/LGBTQ-Homeless-Youth-Incidence-and-Vulnerability-2009.pdf
- **A National Approach to Meeting the Needs of LGBTQ Homeless Youth**
www.nyacyouth.org/docs/uploads/LGBTQ-Homeless-Youth-Factsheet-4909.pdf

Resources on LGBTQ Youth in the Foster Care and Juvenile Justice Systems

A tool kit that educates people about the experiences of LGBTQ youth in the foster care and juvenile justice systems. Some information is California-specific.

www.nclrights.org/site/PageServer?pagename=issue_youth_docsDownloads

Working with Homeless LGBTQ Youth: Getting Down to Basics Tool Kit

Offers practical tips and information to ensure LGBTQ youth in care receive the support and services they deserve.

www.lambdalegal.org/take-action/tool-kits/getting-down-to-basics/homeless-youth.html

Youth in the Margins: A Report on the Unmet Needs of Lesbian, Gay, Bisexual, and Transgender Adolescents in Foster Care

Examines the foster care programs of 14 states. Highlights the shortfalls of each program in addressing LGBT youth and provides recommendations for reforms.

www.lambdalegal.org/our-work/publications/youth-in-the-margins.html



VIDEOS

Out in the Cold

A documentary about homeless gay and lesbian youth.

www.imdb.com/title/tt0328227/

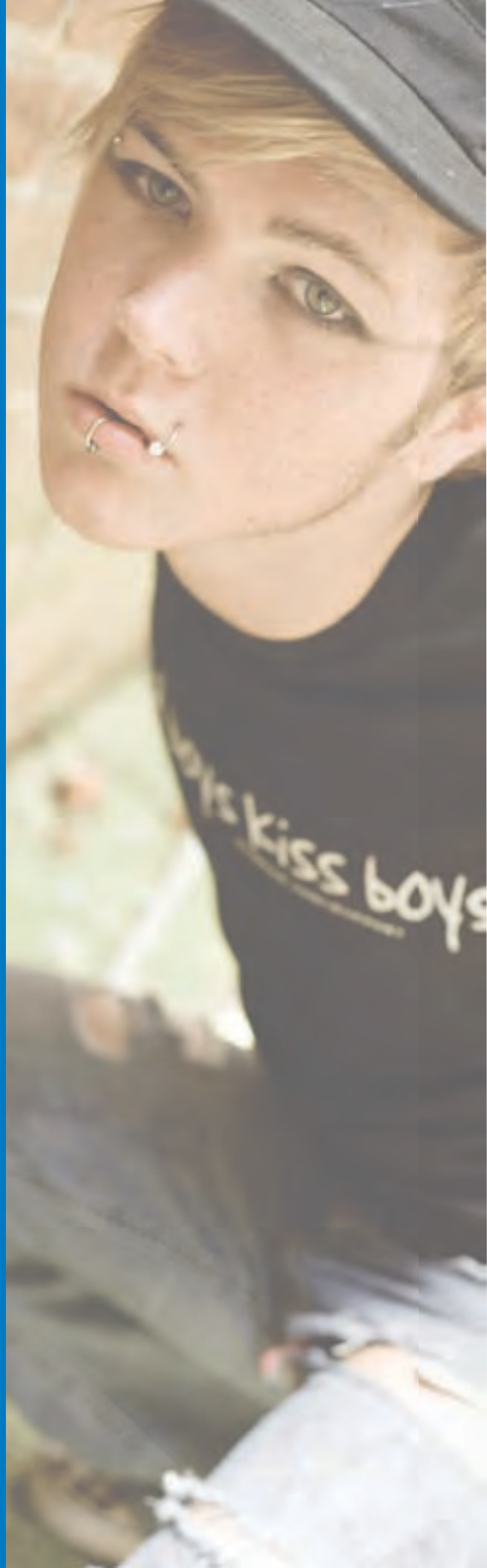
We Are ... GBLTQ

A video about LGBTQ youth in foster care, featuring diverse voices of LGBTQ current and former foster kids, with guest appearances by adult experts.

View video online: www.dshs.wa.gov/video/ca/New_GBLTQ.aspx

Download video discussion guide:

www.dshs.wa.gov/pdf/ca/We%20Are%20GLBTQ%20Discussion%20and%20Resource%20Guide.pdf



Safety

Freedom of Expression

NO HARASSMENT

HEALTH CARE

RELIGIOUS FREEDOM

YOUR RIGHTS WHILE IN PLACEMENT

What to Expect from Your Lawyer

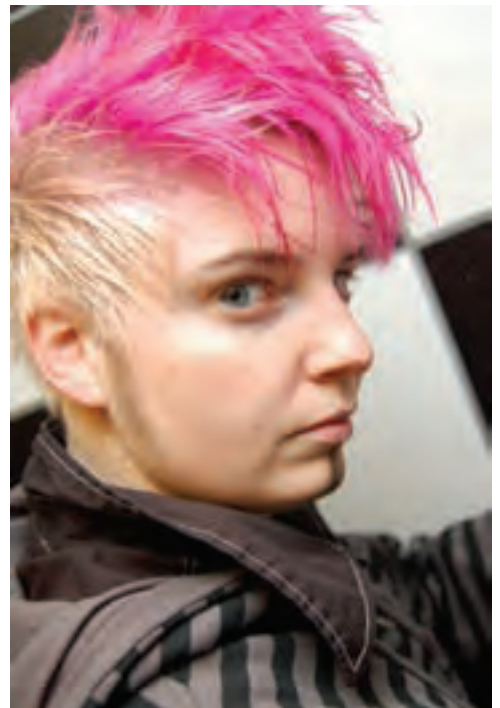
You have many legal rights while you are in care. The most important is the right to safety. You also have the right to be treated equally, express your gender identity, and be open about your sexual orientation. While in care, your caseworker, lawyer, and judge should help you protect those rights. They should have the same standards and goals for your case when creating a case plan or selecting a placement as they do for cases involving any other young adult. They should have the same goals of reunification with your family, make the same effort to fix any problems, and try to find you the most appropriate placement, not just place you in a group home.

You may be given a lawyer as your advocate. Throughout this process your lawyer is your advocate and represents your interests. You have many rights when you are in out-of-home care and may enjoy some protection based on your LGBTQ identity. If you do not feel safe in the child welfare system, your lawyer can use several tools to enforce your rights.

To protect your legal rights you must tell your lawyer about your experience in out-of-home care. This may include disclosing your LGBTQ identity. You may ask your lawyer not to disclose this to anyone else. Unlike other professionals and advocates, your lawyer must respect your wish to keep this information private under almost any circumstances. Your lawyer must also know the laws that protect your rights and must follow strict ethics rules. If you feel your lawyer is not doing her job as your advocate, tell your caseworker or the judge right away. You can also write to the judge about this problem.

In addition to helping you identify your legal rights, your lawyer can help you distinguish guaranteed rights from

privileges. For example, you may not be able to receive phone calls from your partner after a certain time at night. If that policy applies equally to all young adults in the home, it only restricts a privilege and is probably not discriminatory. The following section describes some rights you may have while in care and shows you how your caseworker or lawyer can help protect those rights.



If you are interested in national and international organizations that protect the rights of all LGBTQ people:

**American Friends Service Committee
LGBT Rights & Recognition**

International Quaker organization that promotes peace and social justice for LGBT people.

1501 Cherry Street
Philadelphia, PA 19102
215/241-7000
www.afsc.org/lgbt/

Anti-Defamation League

International organization that fights all forms of bigotry and hatred.

To locate your regional office, visit www.adl.org

**Child Welfare League of America
Sexual Orientation/LGBTQ Youth
Issues Project**

Builds the child welfare system's capacity to deal fairly and constructively with young people, family members, and employees who are LGBTQ, with an emphasis on making the transition to adulthood.

2345 Crystal Drive, Suite 250
Arlington, VA 22202
703/412-2400
www.cwla.org

Human Rights Campaign

A civil rights organization working to achieve LGBT equality.

919 18th Street, NW, Suite 800
Washington, DC 20006
202/628-4160
www.hrc.org/

**National Gay and Lesbian Task Force,
Youth Program**

Protects the civil rights of LGBT youth through policy advocacy, research, and safe school and youth empowerment programs.

1700 Kalorama Road, NW
Washington, DC 20009-2624
202/332-6483
<http://thetaskforce.org/issues/youth>

Your Rights While in Foster Care

QUICK OVERVIEW: YOUR RIGHTS

Not all of these rights are absolute. If you feel your rights have been violated, you should speak to your social worker and advocate. The following rights are explored in the stories below.

- ▶ **Freedom of expression** – right to express yourself through speech and dress
- ▶ **Personal safety** – right to be safe in placement and school
- ▶ **Access to health care** – right to have access to physical and mental health care
- ▶ **Maintain relationships with siblings** – right to be placed with siblings, if appropriate; right to contact with siblings if not placed together
- ▶ **Religious freedom** – right to practice your desired religion

PERSONAL SAFETY AND APPEARANCE

M.J.'s Story

M.J. is a lesbian who takes great pride in her appearance. Most of her friends and family appreciate M.J.'s creativity and gender-bending fashion sense. But there are a few kids at school who make fun of her and her sense of style. Last week, M.J. wore a tie and a polyester suit to school and was teased all day based on her sexuality. By the end of the day, M.J. and her friend got into a physical fight with a bully. All three students were punished for fighting. When M.J.'s foster parents found out, they told her she could not wear men's clothes anymore because it was affecting discipline at the school.

The Rights:

There are three rights in this story:

- freedom of expression
- personal safety
- fair chance to defend one's actions

As a young person you have the right to express yourself through your physical appearance. The **right to express yourself** comes from the freedom of speech guaranteed by the U.S. Constitution. While you are in foster care, your freedom of speech cannot be restricted for trivial reasons.

You also have **rights to a good education and personal safety** both in and out of foster care. If you are being repeatedly teased or harassed at school based on your appearance or your sexuality it could hurt your ability to learn and socialize at school. You have **the right to feel safe at school** regardless of your sexuality. In many states, the school and the child welfare agency are legally responsible for making sure you are not harassed based on your sexual orientation. To find out if your state or school has a nondiscrimination policy, see www.familyequality.org. In some states, foster care providers must protect foster young adults from harms outside the home. This duty includes ensuring school officials address any harassment or discrimination.

Some states have laws about the disciplinary proceedings within a school district. If you commit a serious offense you could be suspended or expelled. In that case, you may be **entitled to "due process."** This means the school may have to use a formal proceeding and ensure the process is fair. In this type of proceeding you might also have the right to have a lawyer present to represent you.



The Plan:

At School:

- Talk to your school's guidance counselor or a teacher you trust. Tell him about the harassment and ask if he can help you.
- Find out if the school or educational facility has a formal complaint procedure. If so, file a complaint.
- If you are facing serious consequences, such as suspension or expulsion, tell your advocate right away.
- Tell the school that you would like your social worker or advocate present during any meetings discussing the harassment/suspension/expulsion.
- Recognize that, while it is tempting, violence will not solve your problem.

At Home:

- Communicate with your placement staff or foster family and explain the situation.
- If you are still having difficulty getting your point across, ask your advocate or caseworker to help.
- Should nothing else work, your advocate may be able to get a court order asking your school and your foster family to not interfere with your self-expression through your clothes.



TIPS

How can harassment policies protect me?

All school harassment policies are not created equal. Certain school districts have more protections in place for LGBTQ youth than others. For example, in Berkeley, CA schools encourage curriculum, instruction, and activities that are inclusive of all types of students and their families, and prohibit harassment in any form. This is not typical. Although many districts strive to be inclusive, few provide lessons in inclusiveness. This is a great policy because it helps prevent discrimination and harassment before they happen. If your school district does not have one, you can work with your administration and any gay-straight alliance groups to implement a similar policy.

If you are experiencing harassment or discrimination at school:

American Civil Liberties Union

Lesbian, Gay, Bisexual & Transgender Project
Promotes school equality and antigay harassment.

125 Broad Street, 18th Floor
New York, NY 10004.
212/549-2673
www.aclu.org/lgbt-rights

Gay, Lesbian and Straight Education Network

Works to end harassment and discrimination against students based on sexual orientation or gender identity.

121 W. 27th Street, Suite 804
New York, NY 10001
212/727-0135
www.glsen.org/splash/index.html

Gay-Straight Alliance Network

A youth leadership organization that supports school-based Gay-Straight Alliances.

1550 Bryant Street, Suite 800
San Francisco, CA 94103
415/552-4229
www.gsanetwork.org

Matthew Shepard Foundation

Supports diversity programs in schools and helps youth organizations establish environments where youth can feel safe and be themselves.

301 Thelma, #512
Casper, WY 82609
307/237-6167

1580 Lincoln Street, Suite 1150
Denver, CO 80203
303/830-7400
www.matthewshepard.org

Safe Schools Coalition

Works to reduce bias-based bullying and violence in schools.

1002 East Seneca
Seattle, WA 98122-4203

877/SAFE-SAFE (877-723-3723)
www.safeschoolscoalition.org

U.S. Department of Education Office for Civil Rights

Enforces five federal civil rights laws that prohibit discrimination based on race, color, national origin, sex, disability and age by public schools.

U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202
800/421-3481
www.ed.gov/ocr

Jasmine's Story:

Jasmine is a transgender young adult in foster care. She was born Jacob, but a couple years ago she told her family that she identified as transgender. A few months ago, Jasmine decided to begin transitioning. Now in care, Jasmine hopes to continue with her transition; however, the staff at her residential facility do not support her identity and have forbidden her from wearing girl's clothing. They insist on calling her Jacob and only address her with male pronouns. Last week Jasmine had her

first appointment with a counselor, who tried to convince her to reject her identity as transgender and embrace being a boy. Her friend takes hormones she gets on the street. She offers those hormones to Jasmine, who is considering taking them.

The Rights:

When you are in the foster care system you have a **right to health care**. This includes doctor visits and therapy sessions to ensure you are in good physical and mental health. It also requires the state to address any other health-related needs you may have. Protecting this right is especially important for transgender young adults in care and includes respecting your gender identity and using the name and pronouns you prefer. Child welfare agencies may not ignore the treatment plan created by a transgender young adult's doctor.

As a LGBTQ young adult, you have a **right to be treated equally** with your heterosexual peers. This right may translate to age-appropriate sex education and STD/HIV awareness. In some states, such as California, this means state agencies must take an open, nondiscriminatory approach to the standard sex education most young adults get in high school. For some examples, see www.cde.ca.gov/ls/he/se/.

The **right to equal health care options** also requires equal treatment when addressing your mental health.

Child welfare agencies and caregivers may not make you participate in unethical, discriminatory, or harmful therapy sessions. Specifically, they cannot make you attend "conversion therapy" or any other programs designed to "cure" your LGBTQ identity.

The Plan:

- If you feel your physical or mental health is in immediate danger, alert your advocate and your caseworker right away (conversion therapy counts as an immediate danger).
- Your lawyer can ask for an emergency hearing with the judge to address this issue. If your advocate does not respect your gender identity or use the name and pronouns you prefer, you can ask the judge for another advocate.
- If you receive discriminatory health care from a state agency or caregiver, your advocate can find out why and either informally request that you be treated equally or ask for a formal court order. This is also true for the name you would like to be called and the pronoun you would like others to use when referring to you.
- If the caregivers cannot guarantee that this will not happen again, ask to be moved to a different placement.
- Street hormones can be dangerous. If you want to consider hormone treatment, ask your caseworker to set up an appointment with a health care provider who specializes in transgender health. You can find doctors in your area on the Internet.



If you have questions about your health:

Advocates for Youth

Helps youth make informed, responsible decisions about sexual health.

1025 Vermont Avenue, NW, #200
Washington, DC 20005
202/347-5700
www.advocatesforyouth.org

Gay and Lesbian Medical Association

Promotes quality health care for LGBT people.

459 Fulton Street, Suite 107
San Francisco, CA 94102
415/255-4547
www.glma.org

Sex Information and Education Council of the United States

Promotes comprehensive sexuality education and sexual health promotion.

130 West 42nd Street, Suite 350
New York, NY 10036-7802
212/819-9770
www.siecus.org

TIPS

What if I am on hormone treatment?

If you have begun a doctor-prescribed hormone treatment, you have a right to continue that treatment. Make sure that your social worker and advocate know who your doctor is and that your treatment is included in your case plan. Also, ensure that any placement will respect and support your treatment. If it does not, tell your caseworker and advocate that you want another placement.

VISITATION

Eli & Megan's Story:

Eli and Megan have been in foster care for two months. They are sisters. When Eli came out as a lesbian Megan's foster parents would not allow Eli to visit Megan because they were afraid Eli would convince Megan to be a lesbian. Eli attempted to call Megan, but Megan's foster parents would not allow her to talk to Eli on the phone. Eli felt like she had no way to see Megan, so she decided to skip school just to see her sister. She got in trouble with her foster family and her school. She felt as though she was out of options.

The Right:

It is important to **maintain relationships with your family** while you are in foster care. Federal law now requires the child welfare agency to try to place siblings together. If the agency cannot, it must arrange contact between siblings unless it is not best for them. In some states the social service agency must develop a plan for regular and ongoing visits between siblings in foster care. Even if your siblings are not in care with you, your advocate can ask the court to help you stay in contact with them.

The Plan:

Talk to your caseworker if:

- your siblings are in foster care and you would like to see them but cannot contact them
- your foster family will not allow you to see your siblings

Talk to your lawyer if:

- your caseworker is not arranging visits and regular contact with your siblings
- your parents will not allow you to see your siblings

RELIGIOUS FREEDOM

Jordan's Story:

Jordan is a gay young adult in foster care. He has attended the same temple with his family his whole life. He is a part of the temple community and until recently attended services every Sunday. When he first came out, the congregation was very supportive of him. Jordan's foster family refuses to allow Jordan to attend services at his temple because their religion does not accept homosexuality. Jordan misses the supportive environment and the nurturance he received from his temple and is upset by the foster family's religious rejection of his LGBTQ identity. He asks his advocate about his options. His advocate talks to the caseworker who persuades the family that while they may not agree with the temple's teachings, it is in Jordan's best interest to attend services there. The next Sunday Jordan returns to his regular services.

The Right:

The First Amendment of the U.S. Constitution guarantees your **religious freedom**. While you are in foster care, neither the child welfare agency nor your foster parents may require you to participate in any religious activity. Service providers, such as counselors, cannot tell you they think you are a sinner based on their religious beliefs. You can practice any religion or choose not to believe in any religion at all. You also have the right to not attend any religious ceremonies or services that make you uncomfortable, including those that may put down LGBTQ people.

If you have questions or concerns about how religious groups treat LGBTQ people:

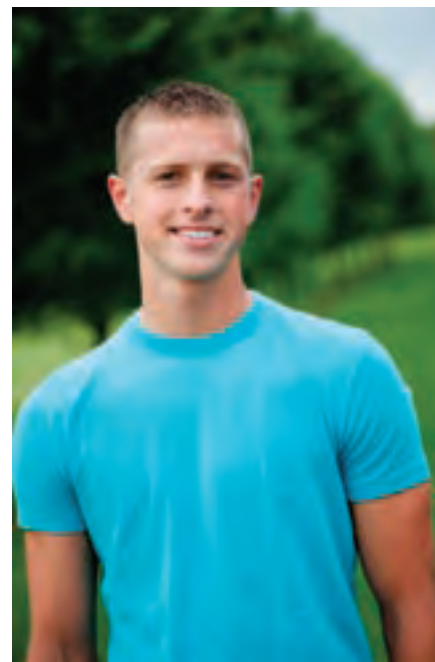
Soulforce

Seeks justice within religious communities for LGBT people.

PO Box 4467
Laguna Beach, CA 92652
1-877/705-6393
www.soulforce.org

The Plan:

- Tell your caseworker or advocate about your religious beliefs or preferences before placement.
- Ask about your potential placement's take on religion in the home.
- If you feel uncomfortable with any religious activity, tell your foster family or placement staff.
- If things do not change, tell your caseworker and your advocate. They might be able to end your involvement or ask a judge to protect your rights.
- If you wish to participate in religious services or ceremonies at a particular house of worship, talk to your foster family, caseworker, advocate, and if necessary, the judge to make it happen.



Carson and Allison's Story:

Carson and Allison met in a group home and immediately became best friends. When Carson came out to Allison as bisexual, Allison took it in stride. Other young adults at the residential facility and at their school did not. To combat their ignorance and hate, Carson and Allison started a gay-straight alliance (GSA). Carson asked a boy to the next dance at school and began preparing for their big night. A week later the residential staff told Carson he could not attend the dance if he took a boy as a date but could still go if he took a girl. The next morning the principal told them the GSA could no longer meet at the school and suggested they join the weekly bible study for the betterment of their souls.

The Rights:

There are two rights here. First, LGBTQ young adults in foster care are entitled to be treated the same way as all young adults in care. This includes being able to socialize with and date other young adults their age. Unless dating is generally prohibited, LGBTQ young adults cannot be singled out. Second, you may participate in extracurricular groups, like GSAs. These groups may not be banned by schools if they allow other noneducation-related groups, such as a bible study group.

The Plan:

- If residential staff members refuse to let you participate in an activity, ask them why?
- Also see if any other residents are similarly prohibited from participating.
- If a school official insists on prohibiting your GSA, ask them why and if other groups can meet at school.
- Tell your advocate if you feel you are being discriminated against and ask about your options.

TIPS

Am I safe on Facebook and other social networking sites?

In recent years some concerns have popped up about using internet social networking sites such as Facebook, MySpace, and Twitter. Your LGBTQ identity should not affect your use of these services. For many youth, social networking can be an effective way to keep in touch with friends and family, providing an important support system. However, many of the concerns are legitimate when it comes to your personal safety online. Follow these tips to stay safe online.

- Do not post anything you would not want to share with the whole world; this includes photographs, status updates, and comments on your page or a friend's page.
- Never exchange personal information with a person you do not know in real life.
- Be aware of cyber-bullying. Cyber-bullying is like physical bullying except instead of harassing someone to their face, bullies use the Internet or cell phones to hurt their victims. If you are being bullied online tell your case-worker, your foster parents, or your lawyer. They can help keep you safe.



Options

Guardianship

ADOPTION

YOUR PERMANENCY

PLAN

What is Permanency Planning?

Permanency planning focuses on finding a **permanent** living arrangement, preferably one that includes a lasting and nurturing parental relationship. The placement options are:

- **Reunification:** return to parent(s)/ guardian(s)
- **Adoption:** ending current parents' rights and creating a bond and new legal rights with another adult(s)
- **Guardianship or placement with a relative:** custody and legal rights to an adult(s) who is not your current parent
- **Another planned permanent living arrangement:** a placement that is planned and permanent with a strong connection to stable adult role models

Sometimes your identity as LGBTQ may cause child welfare professionals to overlook important permanency options, such as reunification or adoption. However, these are generally the best outcomes for young adults and you deserve an equal opportunity to explore them. Your permanency plan is not final; it will change as your situation and your needs change. Through open and honest communication with your caseworker and your lawyer, you can create the most appropriate permanency plan for you.

Permanency hearings will be held at least every 12 months while you are in foster care. At these hearings, the judge, your advocate, and your caseworker will evaluate the agency's effort to locate a permanent living situation for you. You have a legal right to be included in this process, so brainstorm with your advocate about how to make the most of this right. The agency must make "reasonable efforts" to create and implement the permanency plan. If it has not, the judge will issue an order requiring the agency to implement the permanency plan.

Like the case plan review hearings that are held every six months, permanency hearings let you share what you think is best for you. The law requires the judge to ask you what you want. It is very important that you attend these hearings and actively participate so you can have a say in your permanent living arrangement.

Talk to your advocate about the best way to talk to the judge. Tell your advocate that you want to ask the judge questions about your permanency plan. Talk to your advocate about disclosing your LGBTQ identity to the judge so the judge can help you get appropriate services, if necessary, and refer you to social networks that can support you. Make a list of things you want to talk to the judge about so you don't forget when you go into court. If you don't want to talk to the judge, ask your advocate to give your list to the judge.

TIPS

The judge and my advocate sometimes talk about "reasonable efforts." What is that?

"Reasonable efforts" is a term you may hear. The child welfare agency is required to make "reasonable efforts" to finalize your permanency plan. Reasonable efforts refers to what the agency has to do to make sure you have a stable and permanent home before you leave foster care. Examples of reasonable efforts are included under each permanency option in the next section.



If your family needs support from other LGBT families, contact:

Family Equality Council
Offers peer support, newsletters, conferences, and literature for LGBT parents and family groups.

PO Box 65327
Washington, DC 20035-5327
202/331-5015
www.familyequality.org

Families United Against Hate
A national network providing support and technical assistance for families and survivors of hate-motivated violence.

PO Box 6396
Olympia, WA 98507
360/888-5291
www.fuah.org

Parents, Families and Friends of Lesbians and Gays
Promotes the health and well-being of LGBT people through support, education, and advocacy.

1726 M Street, NW, Suite 400
Washington, DC 20036
202/467-8180
www.pflag.org

Permanency Options

REUNIFICATION

Most young adults who enter the foster care system reunite with their families. Visitation with parents, siblings, and other family members can improve your chances of reunification if it goes well. For this option to work, you and your family must follow the case plan and resolve the issues that led to your placement with child welfare services. If your LGBTQ identity played a role in your placement, then your family must show it can support you and provide you a safe and healthy home regardless of your sexuality. Your family may not have reacted well at first, but through education and support groups, like Parents and Families of Lesbians and Gays (PFLAG), they can show they are able to care for you. They may also need therapy, parenting courses, or drug and alcohol counseling. If you return home before these steps are taken, reunification will probably not work and your health and safety will be in danger. However, if you are reunified after these steps are taken, a positive outcome is likely.

Best situation for reunification:

- The agency has provided necessary services and your family has taken the recommended steps towards resolving issues.
- You feel comfortable returning home.
- Child welfare professionals do not believe reunification will endanger your physical or mental safety.
- You have the number of someone to call, such as a counselor, caseworker, advocate or CASA if things are not going well once you return home.

ADOPTION

If it is clear that reunification is unlikely, the child welfare agency must present a different plan at the permanency hearing. Adoption requires ending your current parents' rights and creating a new bond and new legal rights with another adult(s). Either you or the agency can identify adults who may want to adopt you. If this is your permanency plan, the agency should explain the steps they are taking to facilitate your adoption at the permanency hearing. This may include finding adoptive parents who identify as LGBTQ or who are friends of the LGBTQ community. If you are out to the agency or your caseworker, they should make sure any potential adoptive parents will support your LGBTQ identity.

Best situation for adoption

- Reunification is not an option.
- The agency has identified an able and willing adult to adopt you.
- The adult is comfortable with you and your LGBTQ identity and will protect you from those who may not be as comfortable (even if they are members of the adult's extended family).
- You feel comfortable with your potential adoptive family.
- You've been to adoption counseling, if necessary.
- You have worked through any feelings you have about your parents' rights being terminated and you are comfortable with that.

GUARDIANSHIP OR PLACEMENT WITH A RELATIVE

If neither reunification nor adoption is a viable option, then the agency may consider guardianship or placement with a relative. Tell your caseworker or advocate if you know of an aunt, a grandparent, or some other adult who would support and care for you. Relatives who may not be able to adopt you may still serve as legal guardians and provide a permanent home and connection to your family.

Best situation for guardianship

- Your relative or guardian is comfortable with you and your LGBTQ identity and will protect you from those who may not be as comfortable (even if they are members of the adult's extended family).
- The agency searched extensively for relatives.
- The caseworker included you when considering who your guardian should be and was willing to do home evaluations of the people you suggested.
- You feel safe in the home of this relative and do not feel pressure to return to your parents or act in a way your parents would like.
- The relative or guardian is willing to commit to caring for you for the long term.

ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT

If none of the above are options for you, then the agency may pursue another planned permanent living arrangement (APPLA). These planned permanent living arrangements include group homes. Even if you have an APPLA, the caseworker should still try to help you maintain a relationship with your siblings and other family members. Also, emergency shelters or multiple group homes do not count as an APPLA. Your caseworker should work with you to be sure you have at least one adult with whom you feel connected.

Best situation for APPLA

- The other plans have been ruled out.
- Your living situation is stable.
- You are receiving services to help you transition into adulthood.
- You have at least one adult with whom you have a good relationship that will last after you leave foster care.
- The law requires that you have a transition plan before you leave foster care. Refer to the next section for more detail. Talk to your advocate and caseworker about your transition plan.

GENERAL TIPS AND ADVICE

- All of these permanency options can be effective; any one of them may be right for you.
- Having the right permanency plan is important to your development while you are in care.
- Your LGBTQ identity may not be central to crafting the permanency plan, but any effective plan will ensure a placement that nurtures and supports you and your identity.
- Your permanency plan is not set in stone and can change to a more permanent option.
- Make sure you are getting the most out of your plan by maintaining good communication with your caseworker and your advocate.



YOUR LIFE

AFTER FOSTER CARE

Exiting Foster Care

If you do not exit the foster care system through reunification or adoption, you will remain in foster care at least until your eighteenth birthday. In most states, after you turn 18 you will no longer be legally required to be in foster care. This can be exciting, overwhelming, or both. At 18 you are a legal adult and have the same legal rights and responsibilities as all other adults. This means you will have to learn to take care of yourself physically, emotionally, and financially. However, this does not mean you have to do these things by yourself. This section discusses your options as you leave foster care and the tools and resources to make a smooth transition.

TRANSITION PLANNING

Federal law now requires a transition plan to be included in your case file at least 90 days before you exit care. A transition plan explains how you are going to get out of foster care and be successful. The law requires that you be the driving force behind that plan. Talk to your advocate and caseworker to assist you in creating this plan. The plan should include:

Housing

- How will you find it?
- How will you pay for it?
- Who will live with you?
- Is the placement LGBTQ friendly?

Education

- Will you graduate from high school or get a GED?
- Will you go to college or a vocational training program?
- How will you pay for it?
- Are there any extra tutoring or support services you need?

Health Care

- How will you get insurance?
- If you have special health issues, how will those be addressed?
- If you are transgender, is your doctor supporting your transition? Who is your doctor?
- Does your prescription health care insurance cover hormones?
- Do you know how to make an appointment and pay for doctor and hospital visits?

Employment

- How will you financially support yourself?
- Do you have a job?
- Is this job temporary?
- Do you have plans for changing jobs?
- Have you had any issues with LGBTQ discrimination at your job?
- Do you know how to address those issues?

Social Structure

- Who are your lifetime support people?
- Are those people aware that you are LGBTQ?
- Do they support your identity?
- How often do you see them?
- Can you rely on them for help?



As stated earlier, attend your court hearings. Talk to the judge about the transition plan. Tell the judge if you are unsure about anything in the plan. The judge can order your caseworker or advocate to help you secure housing, a job, health care, or other needed services through the transition plan.

TIPS How do I pay for college?

College can be expensive. There are many resources available to former foster youth. Visit these Web sites for more information on scholarships and financial aid.

www.finaid.org
www.pointfoundation.org
www.leaguefoundation.org

Possible Destinations

HIGHER EDUCATION AND COLLEGE

A college education is important to your development as an adult and your future career prospects. As an LGBTQ young adult in foster care there are many resources to help you explore higher education. You may be eligible for grants and scholarships. Ask your teachers, caseworker, school counselor, or advocate about your options. The adults in your life and the listed Web sites may provide guidance while you make this educational transition.

In addition to traditional four-year colleges, many young adults begin their higher education at community colleges and technical schools. These schools are often easier to enroll in and provide a quality education without a large financial commitment. Community colleges also offer GED programs for young adults who may not have completed high school but would like to earn a high school diploma. Explore these options in addition to four-year colleges to find a good fit.

RESOURCES FOR YOUR COLLEGE SEARCH

www.CampusPride.org

www.CampusClimateIndex.org

The Advocate College Guide for LGBTQ Students by Shane Windmeyer

PUBLIC SERVICE

You may not feel ready for college right after finishing high school or getting your GED. Programs like AmeriCorps, City Year, or the National Conservation Corps offer meaningful experiences. These programs allow you to develop professional skills by helping people in need. Typical projects include working at a food bank, helping victims of domestic violence, or organizing relief efforts for the American Red Cross. In return you get a monthly stipend, money for college, and sometimes housing during the program. Visit their Web sites or ask your caseworker or advocate for more information on these and similar projects.

WORKING WORLD

For some young adults, life after foster care leads to the working world. As an adult you are entitled to legal protections while at work. Federal law makes it illegal to discriminate against lesbian or gay employees. Employers also may not discriminate against people based on gender or gender expression. If you feel you have been discriminated against, contact a lawyer, the Equal Employment Opportunity Commission (eoc.gov), or the American Civil Liberties Union (aclu.org).

EMANCIPATION

Young adults under age 18 may be emancipated from their legal guardians. An emancipated minor has many of the same rights as an adult but must still follow the same laws as other young adults. For example, an emancipated minor may sign a contract as an adult but may not vote. Depending on where you live, you will have to fulfill different requirements. Emancipation is a major decision and requires careful consideration. Discuss this option with your caseworker and advocate before taking any major steps. The three common avenues to emancipation are discussed below.

Court Order In most cases a judge can emancipate you from your legal guardians if you can show it is in your best interest. Most states have a minimum age for emancipation, require that you manage your own finances, and that you live away from your parents or guardian. The court will notify your legal guardians of any proceedings and they will have an opportunity to present their case to the court.

Marriage Young adults can be legally emancipated upon marriage with parental consent. Depending on where you live, this may be an option. Most states continue to deny LGBTQ individuals the right to marry. However, more and more states do not. If you want to get married, discuss your options with your advocate and your caseworker.

Armed Forces Young adults under age 18 may be emancipated if they join the armed forces with parental consent. If you wish to join the military it is important that you learn about the military's Don't Ask Don't Tell (DADT) policy. Under this policy you can serve in the military if you identify as LGBTQ, but you may not disclose your identity to the military. If you do disclose your identity either directly or indirectly, you will be dismissed from the military and this may affect your ability to find a job in the future. The armed forces are currently reviewing this policy and many elected officials are considering repealing it. For more information on this policy visit www.sldn.org.

If you are interested in programs that support LGBTQ youth:

Youth Guardian Services

A youth-run organization that provides support services on the Internet to LGBTQ youth.

101 East State Street, # 299
Ithaca, NY 14850
877/270-5152
www.youth-guard.org/

Youth Resource – a project of Advocates for Youth

Supports youth who are questioning their sexual orientation through online support groups.

1025 Vermont Avenue, NW, Suite 200
Washington, DC 20005
202/347-5700
www.youthresource.com/

Pongo Publishing Teen Writing Project

Provides opportunities for LGBT youth to write and publish poetry about their lives.

2701 California Avenue, SW
Seattle, WA 98116
www.pongopublishing.org

LGBT Local Support Groups

A state-by-state list of LGBT support groups developed by The Legal Aid Society – Juvenile Rights Practice Special Litigation and Law Reform Unit, New York, NY. Available at <http://new.abanet.org/child/Pages/lgbtq.youth.aspx>



What to Take With You

Regardless of how you leave the foster care system or where you go after foster care, you will need certain information to join society upon your exit.

These include:

- your foster care records or case file;
- personal documents: state-issued I.D., birth certificate, social security card, and medical and school records;
- information on any siblings who are still in care;

- information on your options should you choose to re-enter foster care;
- contact information for your lawyer and your caseworker.

You may need to work with your caseworker or advocate to get these documents. Do not wait until you are about to leave foster care before you start the process because sometimes there are hold-ups.

Life After Care: Personal Stories

How young adults experience foster care varies depending on what supports and services they receive. The following stories share the experiences of two LGBTQ youth who have been in the foster care system. They have very different stories with different results. Lessons learned are offered after each story to highlight what went well and what could have been done differently.

James's Story

James spent his time in a respite care home, and most of his system involvement took place in residential treatment centers and independent living homes. He is currently attending school in Texas.

What do you wish you knew at the beginning of your foster care experience?

I think my biggest concern when I entered the system was, "What next?" I had no idea what this change in my life meant for my future, my education, even my friends.

What was the best thing about your experience?

The help I received that I would not have otherwise. I was given the opportunity to engage in therapy to work out my issues. Also, prior to emancipation I was taught an entire range of skills, from how to create a budget to how to apply for scholarships.

What was most challenging?

The most challenging aspect of being in the system was living with a wide and diverse group of young adults. I lived in close quarters with people of different religions, cultural backgrounds, rocky pasts, and outlooks on life. It was very challenging for me at first, as I encountered people I never would have chosen to interact with before my time in the system. I am grateful though, my interpersonal skills are excellent and some of those "scary" people are now my best friends.

Who helped you during your time in foster care?

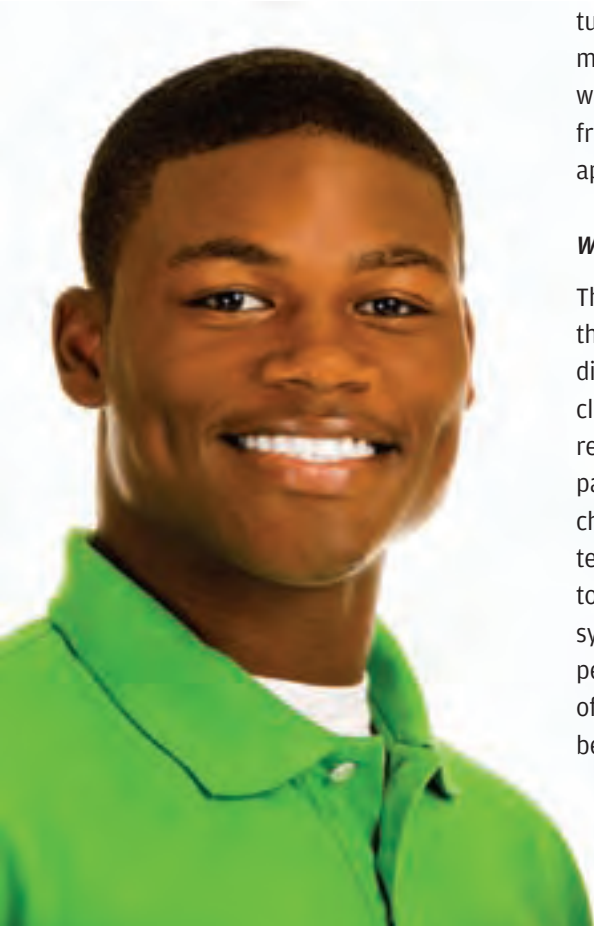
A woman named Whitney Bell. She was the residential supervisor of the independent living home I emancipated from. She was, with every young adult she worked with, always firm, fair, and consistent. Beyond that, it was obvious that she cared about our outcomes, I never once thought that she was just there for the job, as I did with so many professionals I encountered.

What was the most confusing or frustrating aspect of foster care?

The fact that I couldn't be like other young adults in my age group. I couldn't go on dates, or try to get my driver's permit, or even go for a walk whenever I felt like it. I felt like I was less than my non-system involved peer group, and I didn't know why that had to be the case.

What's the best advice you've gotten about navigating the foster care system?

I was told to respect the red tape and the hoops that I had to jump through, recognize them as steps I had to take to achieve my goals and make it successfully through the system. This advice was given to me by the above woman, Whitney Bell.



James's Story

How was your educational experience? What could have made it better?

My educational experience was horrendous. My credits didn't transfer. The special school I was sent to offered no challenge to me whatsoever and the teachers were overwhelmed by the sheer number of young adults they had to deal with and the number of behavioral problems present in each and every one of us. Some of these problems could have been solved if my past and present schools could have communicated with each other a bit more. Also, the opportunity to seek out more challenging educational opportunities, such as online college classes, would have made me feel as if I wasn't wasting my time.

Describe your experience with the legal system.

I attended no hearings in reference to my becoming or staying a ward of the state. I have no idea what happened at these hearings, I was never invited, and I don't know how I was represented.

Do you think your identity as LGBTQ affected your experience?

I don't think that any of the technical aspects of my experience were affected by the fact that I'm gay. My therapy and the support groups were affected by my sexual orientation however, with a focus on coming to terms with my identity and building a support network in the greater community that consisted of young adults like me.

How did being in care affect your coming-out process?

I feel that it was slowed down by my being in care. I was just starting to come to terms with my sexuality and sharing it with friends at my high school

when I was taken out of the home and put into the system. Being surrounded by new people, many of whom were intimidating or alien to me, took me back to the closet for a much longer time than was necessary.

How did coming out affect your home life or treatment in the system?

It allowed me to explore the feelings that I had in a safe therapeutic environment, and connected me to organizations such as InsideOut, a community support group of LGBTQ young adults in Colorado Springs. It was scary to start to come out in the independent living home, but seeing a group of ex-gang members, criminals, and other hardened and discarded young adults accept me, despite my orientation, showed me that I could come out to anybody.

Were any of your needs as an LGBTQ young adult ignored by professionals in the system or your family? Were any addressed well?

I struggled with my bio family, and still do to some extent when it comes to discussing my sexual identity, even making remarks about my boyfriend can make them uncomfortable. If I had the opportunity to, I would have liked it to be a topic of family therapy. I also had no idea how to build a healthy homosexual relationship upon leaving the system. There were various resources available to my heterosexual counterparts on how to build stable relationships, but none specific to LGBTQ young adults.

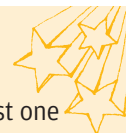
Do you have any advice for LGBTQ young adults currently in the foster care system?

Don't be afraid. In my experience it always turns out better than you think it will, and there are probably one or two people around you who are just as scared to be themselves. Lead by example.

How did your sexuality most significantly affect your life in foster care?

The shame I felt for so many things, the crimes I had committed, the people I had hurt, the ways I had been victimized was crushing for so many years. When I began to deal with the shame of being gay and dealing with it successfully, I was able to work on the shame from everything else.

LESSONS LEARNED



- Don't be afraid. Find at least one person you trust so when you are confused you can ask questions.
- Do communicate. No one can help you unless they know something is wrong and what you want to happen instead.
- Don't give up. Foster care is run by human beings, who are not perfect. Sometimes things can go wrong. If you hang in there, like James did, you will find a solution.
- You'll need to prepare before leaving foster care. Your advocate and caseworker should tell you about services and supports that can help you gain the knowledge and skills to make this transition to life on your own.
- Supportive people are all around you. For James, the youth living in his placement proved to be people he relied on and formed lasting relationships with. The supervisor at his independent living program also played a key role in his life.
- You are not alone. Many organizations support the needs of LGBTQ young adults. Ask your caseworker or advocate for help finding them in your community.
- Sometimes getting others to accept you requires learning to accept them. James grew to respect the "scary" youth in his group home, and in turn they grew to respect him. We are all different and getting along and respecting one another works both ways.

“I would say never lose sight of who you are. Being LGBTQ is NOT a choice, but choosing how you live your life is.”

— QUENTIN

Quentin's Story

Quentin entered foster care at age six and went through 11 foster homes, two group homes, and a Children's Home. He was allowed to live on his own through an independent living program at age 16. He aged out of the system after graduating from high school in 2002 at age 18.

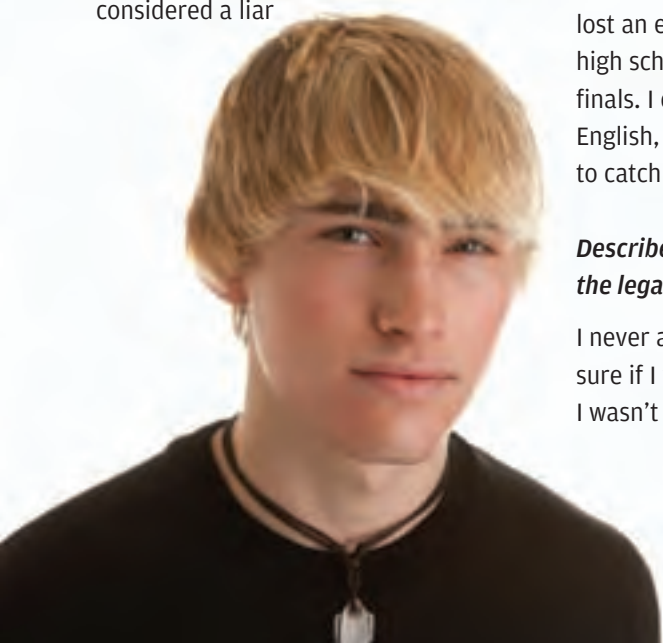
What do you wish you knew at the beginning of your foster care experience?

This is a hard question because I wish I knew everything. I guess what I wish I knew from the beginning was to hide my sexual orientation – it would have saved me many years of tears and “disciplining.”

What was the best thing about your experience? What was the most challenging?

Unfortunately, the best thing about my experience was living on my own. I successfully proved that I could take care of myself without the system.

The most challenging thing I faced was repetitive abuse while in care. It seemed that I was automatically considered a liar



or a bad kid because I was in therapeutic foster care. When I cried for help and reported abuse the only thing that got me attention was acting out or running away—when in fact I always tried asking for help first.

Who was most helpful during your time in foster care?

The most helpful person I met in foster care was my sixth grade music teacher who offered me voice and acting lessons in trade for lawn and housework. He is soon to adopt me.

What is the best advice you have gotten about navigating the foster care system? Who gave it to you?

The best advice I got was from another older foster kid who said just survive until you age out. It gets better once you have control of your own life.

How was your educational experience? What could have made it better?

I switched high schools three times and elementary schools five times. I actually lost an entire semester because I moved high schools/homes the week before finals. I ended up taking double math, English, and science my junior year to catch up.

Describe your experience with the legal system?

I never attended a hearing and am not sure if I was adequately represented. I wasn't notified of hearings.

Were you “out” to your social worker or your attorney?

I wasn't out, but I was out-ed by a foster parent. My last foster home I was in with a single mother who was incredibly religious. I had my first breakup and like anyone who loses their first connection was devastated. She jokingly said, “What did you break up with your boyfriend?” I said, “Actually, yes.” She smacked me and said that no one would believe a lying little faggot. After I was out-ed in care I ran away and then lived on my own.

Do you think your identity as LGBTQ affected your experience in your residential placement or at your educational placement?

No, I wasn't out in college, and in care I was out-ed right before I moved out.

How did being in care affect your coming-out process?

It was rough. My first experience was learning that it wasn't ok to be gay. What hurt most is that the foster mother I was with, I really cared about. My being gay turned our relationship upside down and I lost someone I cared about and started caring for myself less.

Quentin's Story

Were there any needs that were not addressed by professionals in the system or your family? Were there any that were addressed well?

The only need that was met, was when they found out I was gay they made me go to therapy and get an HIV test. No joke that was it.

Can you describe how your sexuality most affected your life in foster care?

My negative experience was when I came out my foster mom smacked me and called me a fag.

Do you have any advice for LGBTQ young adults currently in the foster care system?

It depends on their situation. I would say never lose sight of who you are. Being LGBTQ is NOT a choice, but choosing how you live your life is. Know that if you're under 18 and in a bad situation that it is only temporary and will get better after you age out. But if you have a good relationship and support, use that assistance because you are honestly lucky!

LESSONS LEARNED

- A bad situation, no matter how difficult, is only temporary.
- Even if a situation seems unmanageable, there may be a solution you don't know about. Give the system a chance to help you.
- Just because a foster care placement is not right for you, does not mean foster care cannot help you.
- Education instability is a common problem for young adults in foster care. The law ensures that you stay in the same school, when possible, or that efforts are made to help you transition to your new school so your learning is not delayed. Speak with your advocate about your education rights if your placement changes.
- You have a right to be safe and to be treated equally in your placement. If you ever experience abuse or unfair treatment, contact your advocate or caseworker.
- Supportive people are all around you (e.g., teachers, coaches). These people can help you during your time in care and beyond. They may even be placement resources if you cannot return home.
- Be involved in your legal proceedings. Ask your advocate about upcoming hearings and make it clear you want to participate.
- Relationships sometimes change when you share your LGBTQ identity. Don't assume the worst. With time and understanding, important people in your life can come to value this part of who you are. Ask your caseworker or advocate about services and supports to help rebuild relationships.



If you have questions or concerns about how the media portrays LGBTQ people:

**Gay and Lesbian Alliance
Against Defamation**

Works to end homophobia and discrimination by promoting fair, accurate, and inclusive representation of individuals and events in the media.

800-GAY-MEDIA
www.glaad.org



Identity

RESPECT

No Harassment

No Discrimination

LGBTQ

Equal Treatment

Long-term Relationships

COURT INVOLVEMENT





OPENING DOORS FOR LGBTQ YOUTH IN FOSTER CARE

A Guide for Lawyers and Judges

MIMI LAVER AND ANDREA KHOURY



American Bar Association



OPENING DOORS FOR LGBTQ YOUTH IN FOSTER CARE

A Guide for Lawyers and Judges

MIMI LAVER AND ANDREA KHOURY

Edited by Claire Chiamulera

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TABLE OF CONTENTS

- Introduction 1
- Acknowledgments 3
- Defining Terms..... 5
- Chapter One*
- Your Role in Protecting LGBTQ Youth 7
- BY ANDREA KHOURY
 - *Raising Awareness of LGBTQ Issues: An Interview with Judge William Pocan* 15
 - *Making it In and Out of Foster Care: An Interview with David Ambroz* 17
- Chapter Two*
- Examining Your Attitudes and Beliefs 19
- BY MIMI LAVER
 - *Representing LGBTQ Youth: Challenging Assumptions: An Interview with Krista Predagovich* 29
- Chapter Three*
- Building Strong Client Relationships..... 33
- BY ANDREA KHOURY
 - *Creating a Safe Environment for LGBTQ Youth: An Interview with Kristin Kimmel* 41
 - *Meeting LGBTQ Youth Where They Are: An Interview with Shawndelle* 45
- Chapter Four*
- Improving Your Legal Advocacy and Decision Making 47
- BY MIMI LAVER
 - *Courtroom Strategies for Supporting LGBTQ Youth: An Interview with Judge Janet Albert* 57
 - *Listening to and Learning from LGBTQ Youth: An Interview with Dominick MaGee* 59
- Appendices
- A: Resources 61
- B: Legal System’s Approach to LGBTQ Youth in Foster Care:
Select Findings from Attorney/Judge Survey 70
- C: Case Law on LGBTQ Youth Rights and Protections 75

INTRODUCTION

The Opening Doors Project started with the idea that lesbian, gay, bisexual, transgender and questioning (LGBTQ) youth in foster care are disadvantaged for many reasons and judges and lawyers can help them. We knew that a number of child welfare agencies and national organizations that work with agencies were improving the situation for LGBTQ youth in foster care, but little was being done to help judges and attorneys do their jobs better. We've created this book, and the trainings that go with it, to help judges and lawyers.

As we started our research, we learned some statistics like:

- 70% of LGBTQ youth in group homes reported violence based on LGBTQ status.
- 100% of LGBTQ youth in group homes reported verbal harassment.
- 78% of youth were removed or ran away from placement because of hostility to LGBTQ status.
- More than 4–10% of youth in state care identified as LGBTQ.
- 30% of LGBTQ youth reported physical violence by their family after coming out.
- 80% of LGBTQ students reported verbal harassment at school (70% feel unsafe; 28% dropped out).

LGBTQ youth are:

- Punished for expressing LGBTQ status
- Not allowed to participate in programming
- Told “you are going to hell”
- Not allowed to dress or groom as they prefer

We were moved by those numbers and convinced our project was going to make a difference for real kids. It was not until we met some of those “real kids” that we truly understood what happens for LGBTQ youth. One of the first steps we took in this project was to travel to five cities (Denver, Colorado; Jacksonville, Florida; Nashville, Tennessee; New York, New York; and Seattle, Washington) to conduct listening forums with LGBTQ youth who were in or recently out of foster care, and judges and lawyers from those cities. We talked with the participants for a couple of hours and heard some upsetting and inspirational things:

- We met a transgender young woman who felt safer at school than in her “temporary” shelter that she had been in for months.
- We talked to a young man who had been in 37 homes and was told he was gay before he even knew what the word meant.
- We met young people who felt disrespected by the judges who heard their cases, and youth who questioned why professionals in the child welfare system did not treat kids well.

- We also met a lesbian young woman whose lawyer was her best friend and the person she trusted the most.

You'll learn more about these and other young people we met later in the book.

During these forums we also met lawyers and judges who cared deeply about the youth on their caseloads. In every forum the professionals had honest questions for the youth and us, and they struggled with how to do their best for the LGBTQ kids with whom they worked. Some lawyers and judges already followed best practices and shared them with their colleagues. In each forum, we left feeling the people in the room had learned from each other — and taught us — and would make changes to their practices.

The results of the forums mirrored the results of a national survey we conducted with lawyers and judges. (See appendix B.) While our return rate was low, we learned that judges and lawyers across the country do not have the knowledge or resources they want to help the LGBTQ youth they serve.

We also conducted a “snowball survey” of people who are leaders in providing assistance for LGBTQ youth. We spoke to a state legislator, some judges, some provider agency staff from progressive state and private agencies, and others to learn about best practices. We've passed on some of their ideas throughout the book.

Finally, we conducted in-depth interviews with some youth, lawyers, and judges we met during the listening forums. They are included throughout this book and we think their experiences will help you better represent LGBTQ youth and make decisions about their lives.

After gathering this information, as well as information from books already written about LGBTQ youth in foster care, we wrote four articles for the ABA Center on Children and the Law's *Child Law Practice*, which are collected in this guide. They focus on improving practice and outcomes for LGBTQ youth. The first provides background and context for the issue. The second addresses negative attitudes professionals may have, and how they can overcome those attitudes to benefit youth. The third discusses building a strong lawyer–client relationship to provide the best possible representation. The last builds on the third and provides practice tools for judges and lawyers throughout the life of a case. Each article emphasizes improving practice to help youth overcome the statistics above.

We know this can be a difficult topic. Some judges and lawyers are uncomfortable thinking about LGBTQ issues. Others feel they have so many kids on their caseloads, and they are unable to pay special attention to a few. Some people we've talked to don't want to know anything about the sex lives of the young people on their caseloads, whether they are straight or LGBTQ. What we learned, though, is it is essential to consider whether a youth identifies as LGBTQ and if so, how that status is impacting his experience in foster care. LGBTQ youth are less safe in care than other kids. They have less of a chance of being reunified with their families or getting adopted, and their health, emotional health and educational needs are not being met. They need your help. We hope this book helps you offer that help in a meaningful way.

ACKNOWLEDGMENTS

We want to thank a number of people who helped make this project and this book a reality. First we wish to acknowledge our generous anonymous donor who made this project happen.

Thanks to our advisory board for all your help. You provided input on the project overall as well had helpful insights on the survey, article content, and the nitty-gritty details requiring clarification. An especially huge thanks to Rob Woronoff and Rudy Estrada who believed in us from the beginning and supported us every step of the way. Your warmth, enthusiasm, knowledge and energy have been an inspiration.

We want to acknowledge all of the people who made the listening forums a reality including those of you who organized and everyone who participated. We found the soul of our project in your generous sharing.

We also want to thank everyone who spent time filling out our survey, talking to us during the snowball survey and sharing your stories during interviews. The depth of our knowledge increased greatly because of you.

To Sarah Caverly and Sharon Elstein — thank you very much. You helped design the survey, made sense of the numbers, and then made sense of the information so we could understand it all. As far as we can tell, you are magical.

Thanks to Shante Bullock for your help in so many ways from accomplishing administrative tasks to sharing your artistic talent in designing our beautiful brochure. We appreciate your excitement about the project and your willingness to help whenever we needed it.

Melissa Colangelo, what can we say? You were the intern extraordinaire who we wouldn't let leave! We appreciate your upbeat personality, shining smile and most importantly, incredible work. You helped us think through ideas and made them stronger, did our research, designed some presentations and conducted interviews. Congratulations on your graduation, you will make an excellent lawyer who we know will change the lives of many.

There are no satisfactory words to thank Claire Chiamulera, our wonderful editor. She joined our small team enthusiastically and provided much of the project's creative energy. She is organized and focused and was able to keep us on task. She assisted us in conducting a web cast, knowing neither of us had a clue about the technology involved. Claire is kind, calm and unflappable. She has an amazing way with language and truly brought out the best in each of us.

Finally, we want to thank each other. We learned a lot and had tons of fun on this journey. Creating this book together was a pleasure.

We dedicate this book to all the LGBTQ youth in foster care and hope you can use this book to help them have positive experiences.

MIMI LAVER | ANDREA KHOURY

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DEFINING TERMS

Lesbian, gay, bisexual, transgender, and questioning (LGBTQ) people are a diverse group who have struggled with issues of sexuality and gender identity, and may therefore feel a sense of kinship. LGBTQ people are diverse in terms of race, ethnicity, age, education, political affiliation, income, and the degree to which they identify with other LGBTQ people.

Lesbian

A lesbian is a female whose primary sexual and romantic attractions are to other females. Some lesbians have romantic attractions to males and some don't. It is important to note that some females who have sexual or romantic attractions with other females, sometimes exclusively, may not call themselves lesbians.

Gay

A gay male is a male whose primary sexual and romantic attraction is to other males. He may have sexual and romantic attractions to males currently or in the past. Some gay males may never have had sexual or romantic attractions to other males for a host of reasons (age, societal pressures, lack of opportunity, fear of discrimination), but nonetheless realize that their sexual and romantic attraction is mainly to other males. Some gay males have sexual and romantic attractions with females and some don't. Note that some males who have sexual and romantic attractions with other males, sometimes exclusively, may not call themselves gay.

“Gay” is also used as an inclusive term encompassing gay males, lesbians, bisexual people, and sometimes even transgender people. In the last 20 years, this has become less and less common and “gay” is usually used currently to refer only to gay males. The term is still often used in the broader sense in spoken shorthand, as in “The Gay Pride Parade is at the end of June.”

Bisexual

Bisexual males and females have sexual and romantic attractions to both males and females. Depending upon the person, his or her attraction may be stronger to females or to males, or they may be equal. Some people who have sexual and romantic attractions to both males and females do not consider themselves bisexual. Bisexuals are also referred to as “bi.”

Transgender

People who identify more strongly with the other gender than the one to which they were assigned (e.g., females who feel like males, or males who feel like females) are called “transgendered.” Some transgendered people may “cross-dress” or “do drag” regularly or for fun (and many of these people are comfortable in their assigned gender). Other transgendered people may take hormones of the opposite gender and/or have surgery in order to change their bodies to reflect how they feel

inside. These people are also called “transsexual.” Transgendered people may identify as heterosexual, homosexual, or bisexual.

Questioning

Refers to a person for whom a fixed sexual orientation and/or gender identity is not clear. Some questioning individuals may ultimately “come out” as LGBT, whereas others may be seeking additional resources to help address their internal questions. It is not developmentally uncommon for adolescents to question their sexual orientation or gender identity.

Heterosexual

A heterosexual male or female’s primary sexual and romantic attraction is to people of the other sex. She or he may or may not have had romantic contact with another person, but still realize that his/her sexual and romantic attraction is mainly to people of the other sex. Some people who consider themselves heterosexual have or have had romantic contact with people of the same sex. Heterosexual people are also referred to as “straight.”

Gender Identity

At birth, we are assigned one of two genders, usually based on our visible genitals. For many people this gender assignment fits and feels comfortable and they never think about it further. Others do not feel as comfortable with their assigned gender, either because they find the two-gender system too limiting or because they feel more identification with the gender opposite that to which they were assigned at birth. People deal with this discomfort in many ways, sometimes only in personal ways, and sometimes in ways visible to others.

Sexual Orientation

Sexual orientation refers to one’s sexual and romantic attraction. Those whose sexual orientation is to people of the opposite sex are called “heterosexual,” those whose sexual orientation is to people of the same sex are called “homosexual” (or lesbian or gay), and those whose sexual orientation is to people of both sexes are called “bisexual.” The term “sexual preference” is misleading because it implies that this attraction is a choice rather than an intrinsic personal characteristic. Sexual orientation is not necessarily the same as sexual behavior.

Queer

Some LGBT people, particularly young people living in the coastal U.S., use the term “queer” to encompass the entire LGBT community. For these people, the term “queer” is positive and empowering. Other LGBT people find this term degrading.

Source: These definitions were adapted from definitions prepared by the Seattle & King County, WA Public Health Department, and the Child Welfare League of America.



Chapter One

YOUR ROLE IN PROTECTING LGBTQ YOUTH

BY ANDREA KHOURY

- Some studies suggest lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth are two times more likely to attempt suicide than their heterosexual peers.¹
- Between 11% and 40% of homeless youth are LGBTQ.² Over half of homeless youth have spent some time in foster care.³
- LGBTQ youth are two times as likely to be threatened or injured with a weapon at school and two times as likely to skip school because they feel unsafe.⁴ 69% of LGBTQ youth reported experiencing some form of harassment or violence.⁵

The reality is the statistics and stories are mostly grim for LGBTQ youth in foster care. Whether they enter foster care because their parents reject them due to their LGBTQ status or they disclose their LGBTQ status while in foster care, these youth face discrimination, harassment, and violence because of their sexuality or gender identity.

“Ignorance can only be remedied with knowledge. The system is broken; the only way to change it is through advocacy.”⁶

“I use gender-neutral language when asking my clients about their dating life.”⁷

“I have a folder on my bench with resources for different issues (e.g., domestic violence). If I had resources for LGBTQ youth, I would include them and give them to people that need it.”⁸

Lawyers and judges can help change these statistics. Lawyers who develop relationships with LGBTQ clients and provide appropriate representation can make a difference for these youth. Judges who ask the right questions and insist on appropriate services and fair and respectful treatment can protect this vulnerable population and help them become successful adults. This chapter discusses the risks facing LGBTQ youth in foster care. It also describes the roles judges and lawyers must play in these young people’s lives to protect them from these risks and help them succeed.

A Life of Risks

LGBTQ youth have special risks related to their sexual orientation and gender identity that set them apart from non-LGBTQ youth in foster care. The social stigma attached to LGBTQ people causes these youth to hide their identities, fear for their safety, and often turn to drugs to cope. Higher suicide rates and violence in schools are two of the many risk factors to be aware of when working with LGBTQ youth in foster care.

Suicide

Studies show LGBTQ youth are twice as likely as non-LGBTQ youth to attempt suicide. Others put the number closer to four times as likely.⁹ Aside from typical adolescent turmoil, LGBTQ youth face significantly greater conflict due to their sexual orientation or gender identity. They don't have the same feelings as their peers about sexual attraction or sense of identity. During adolescence, youth explore their identities and find where they fit. LGBTQ youth struggle with loneliness and feeling different: *"I knew that I was different, no one ever told me, but I just knew."*¹⁰ This feeling, coupled with being in foster care and having limited support, makes some youth think they have no way out. One youth explains it: *"As I got older through high school, it started to get even worse because I attempted suicide many times. It was too much. It was like at first I did it because I wanted people to say hey look, you know, look at me, pay attention to me. But after that I was placed at St. Jude's, and that's when I started to realize and accept that I was gay."*¹¹

Homelessness

When youth disclose their LGBTQ status to their parents or foster parents, the result is sometimes devastating. They are often rejected by people they rely upon for housing, food, and unconditional love and acceptance. Some youth voluntarily leave to escape the harassment or violence they experience at home. Some youth are forced to leave because the family does not accept their LGBTQ status: *"One day my father heard me talking on the telephone to a guy who I had met. When I got off the phone he just went crazy on me.... He told me to get out and literally threw me out the front door. I was devastated and didn't know where to go."*¹² Some youth travel from sofa to shelter to street corner. They often have no permanent place to call home. On the streets they are more susceptible to violence and crime.

School

Youth spend the majority of time at school. It is supposed to be a place to feel safe and accepted: *"Safety holds different meaning for LGBTQ kids: School is hard. Any situation can mean danger. Just because they are in stable placement doesn't mean they are safe. We are quick to assume that the world likes gay people. [The] simple fact of being queer puts people at risk (physically and mentally). Judges and lawyers should start with these understandings and then take the step to question safety."*¹³

School is the place where youth learn to interact with peers and form trusting relationships that often last into adulthood. LGBTQ youth in foster care have the added burden of moving from placement to placement and changing schools. They experience harassment and rejection through multiple school placements. They often do not

have supportive teachers or counselors to turn to for help. Many end up dropping out or doing poorly in their studies.

Prejudicial Treatment

Seventy-four percent of LGBTQ youth in foster care believe they experience prejudicial treatment by service providers because of their sexual orientation or gender identity.¹⁴ Youth often believe professionals accept people regardless of their differences. Sometimes they are wrong. Many youth in foster care find the professionals who work with them are just as harmful as the parents who abused them or the peers who harassed them. This realization is harmful because youth feel they have no where to go for support. The people who are supposed to support, care for, and provide treatment are often the perpetrators of the harassment, intolerance, and sometimes violence.

One LGBTQ youth reported that he was in a religious foster home where it was not OK for him to be gay: *“I had my own lock box with my stuff in it. They broke into it one day while I was at school. When I got home, they had me all packed up, because I was gay. I left town.”*¹⁵ Another youth reported: *“When I was in a group home, I was assaulted because I’m gay. I didn’t appreciate that I had to take it. The staff knew what was going on but they didn’t try to stop it.”*¹⁶

Still another youth reported that although most staff did not say anything to his face he overheard staff saying things like: *“That new fag kid that just came in. Why do they make us put up with these gay children? Why do they ship them here? No wonder their parents get rid of them.”*¹⁷

Substance Abuse

LGBTQ youth are twice as likely as heterosexual youth to abuse alcohol, and eight times as likely to use cocaine/crack.¹⁸ Using and abusing illegal substances is a common way that youth escape their troubles. LGBTQ youth in foster care have especially high rates of substance abuse due to their circumstances. Isolation, rejection, harassment, and violence can all be forgotten by getting high. *“...pot, acid, ecstasy, speed...I did it all. I just wanted to kill the loneliness I felt inside. I really didn’t care if I lived or died. Trying to deal with my identity was a really difficult time for me.”*¹⁹ They have limited exposure to positive coping tools and turn to substances to deal with the problems in their life.

By becoming aware of the risks associated with LGBTQ youth in foster care, lawyers and judges can take steps to address these issues. The fact that a youth is LGBTQ will factor into placement, permanency, services, advocacy, and court rulings.

Legal Roles

Youth in foster care interact with social workers, foster parents, mentors, court appointed special advocates (CASAs), therapists, teachers, and other professionals. These

A NATIONAL CALL TO END DISCRIMINATION

The following child welfare and mental health organizations condemn discrimination against LGBTQ youth and reject efforts to change their sexual orientation:

- American Psychiatric Association
- American Psychological Association
- National Association of Social Workers
- American Medical Association
- American Academy of Pediatrics
- American Counseling Association

professionals try to do what is in the child's best interests. Lawyers and judges have unique roles when the sexual orientation or gender identity of a client is an issue in a case. Judges and lawyers should not leave this issue up to the child welfare agency and other professionals to address.

Judges

The judge is the gatekeeper for a youth's safety, permanency, and well-being. Everyone follows the judge's lead. The judge is unbiased and objective and decides what is in the child's best interests. The judge decides whether the child comes into care, services for the child, visitation with parents and relatives, the child's permanency plan, and whether the agency has made reasonable efforts to prevent removal and finalize a permanency plan. If the judge creates an open and supportive courtroom for all youth (including LGBTQ youth), insists the agency keep the youth safe, finds an appropriate placement, and asks all parties to respect the youth, then other professionals will follow the judge's lead.

Lawyers

Lawyers or guardians ad litem (GAL) who represent children in dependency cases provide the voice of the child. The youth depends on the lawyer's ability to know the system and advocate for her. Lawyers meet with the child, establish a lawyer-client relationship, request services from the child welfare agency, negotiate with parents, and advocate for the youth in court proceedings.

Sometimes youth only disclose their LGBTQ status to their lawyers because they are the only ones whom youth trust. Lawyers can help normalize the youth's feelings, request LGBTQ-specific services, and address any unfair treatment. If the agency is not placing youth in supportive homes or getting appropriate services, lawyers can make reasonable efforts and cultural competency arguments. Finally, the lawyer can appeal unjust rulings. Lawyers need the tools to successfully address all issues that a youth may face. The youth must depend on the lawyer to have this knowledge and experience.

There is a problem when youth say: "*I never got to go to court, I never even saw my lawyer*" and "*I wanted to speak on my own behalf...but I did not get to go [to court]. If I'm not there, present, my words can get twisted...I felt I was in care for longer because of this woman (GAL).*" These youth need to be confident that their lawyers will advocate for them and that they will be involved in the process. One youth felt this way and revealed she had her lawyer's cell phone number and could call and rely on her for anything. Because of the trusting relationship with her lawyer, this youth could tell her she was a lesbian. She felt heard and supported.²⁰

LGBTQ youth endure out-of-home placement in foster care and the stigma of being LGBTQ. They cannot always rely on the agency to make things better. Judges and lawyers can make a difference in their lives.

Interacting With Youth

Judges and lawyers need to closely watch how they interact with LGBTQ youth. The following list is not exhaustive and should be supplemented based on your comfort level and knowledge of LGBTQ issues.

Attitudes

Whether known or not, lawyers and judges have preconceived notions when representing a child client or presiding over a dependency case. Some are appropriate, for example:

- Children shouldn't live in unsafe homes.
- Youth are generally better off in family-like settings.
- Children need stability and permanency in their lives.

These notions are based on knowledge of the child welfare field, child development, and the best interests of children.

“If a youth feels she is being judged based on her sexual orientation, or her advocate has negative beliefs about homosexuality, she is likely to withhold information that may jeopardize her safety and permanency.”

Some preconceived notions, however, can harm a youth and/or family. Some can be based on a lack of understanding and information. Judges must understand their own beliefs about sexual orientation and gender identity when presiding over dependency cases. They must learn the issues facing LGBTQ youth in foster care. Remaining objective does not require a judge to be free of these beliefs; it requires a judge to recognize them and to make rulings without imposing them on children and families. For example, a judge may feel uncomfortable with gender nonconforming behavior but have to remain objective when determining how to keep a transgender girl safe in a group home.

When interviewing and representing youth, lawyers should recognize their beliefs about sexual orientation and gender identity and not allow them to impact their representation. Developing a trusting relationship with a client is critical. If a youth feels she is being judged based on her sexual orientation, or her advocate has negative beliefs about homosexuality, she is likely to withhold information that may jeopardize her safety or permanency. For example, a youth who is being physically assaulted in her placement because she is a lesbian may not disclose the abuse to her lawyer if she thinks her lawyer has negative beliefs about homosexuality. She may become depressed and attempt suicide or run away to live on the streets instead of seeking a supportive environment with help from her lawyer. (See Chapter 2)

Language (verbal and nonverbal)

One way a youth decides whether to trust a person is by observing that person (and his surroundings) and listening to his words.

- Is he polite?
- Does he explain who he is and why he is here?
- Does he take time to ask the youth questions to get to know the youth?
- Does he encourage the youth to talk?
- Does he have pictures of children and family around?

- Does he have books and posters around his office that signal inclusion and respect?

Lawyers have the ability within the first several minutes to establish the base for a trusting relationship.

Judges often have the opportunity to speak with youth during court hearings. Like lawyers, they can quickly show a youth whether the courtroom is safe.

- Does the judge address the youth?
- Does the judge speak with the youth respectfully and understand what the youth has had to endure?
- Does the judge let the youth speak?

Lawyers and judges must tailor their language so youth will feel comfortable opening up and disclosing their LGBTQ status. Knowing a youth's LGBTQ status may help advocate for services and safety measures. (See Chapter 3 for more guidance on building trusting relationships).

Confidentiality

Children's lives in dependency cases are often publicized for many to examine. The social worker knows about the youth's home life, school progress, doctor appointments, test results, friends and social activities, and frequency of therapy appointments. Foster parents get reports about youth before they come into their homes. These reports are filled with details about the youth and the birth family. *One youth reported that his foster parents were given a report when he was placed in their home at age six stating that he was gay. He expressed dismay because at six years old he did not know what being "gay" meant.*²¹ The lawyers know most things that the social worker knows and have read and discussed the results of health professionals' reports. The judge hears it all. Although hearings may be closed, inevitably people who don't know the youth hear the most intimate details.

Sexual orientation and gender identity are intimate issues. Heterosexual youth have trouble discussing these issues. For LGBTQ youth, the situation is worse. Because stigma is often attached to LGBTQ people, youth may not disclose their status for fear of others finding out. Constantly living under this fear can spiral into any number of common risks facing LGBTQ youth. Lawyers and judges can help lift the fear and stigma by keeping communications confidential.

When representing a youth, the lawyer should explain that all communications (except a few circumstances) between the youth and lawyer are confidential and that the youth should feel comfortable telling the lawyer anything. The lawyer must stick to that promise. Many times lawyers with good intentions disclose information to social workers, foster parents, the judge, and others because they think it is in the best interests of the child. If youth are promised confidentiality, they may be more likely to disclose their LGBTQ status. The lawyer and the youth can then work together to decide if and when the youth should tell others.

If a youth is represented by a GAL or CASA, there is no confidentiality requirement. The GAL or CASA must discuss confidentiality with the youth and explain what communications will and will not be shared.

Conclusion

“I think foster care is hard enough in the best cases. LGBTQ youth already feel estranged and foster care does nothing to make them feel like they belong.”²²

LGBTQ youth experience harassment, violence, homelessness, and rejection. Lawyers and judges can ensure this does not continue by using the legal system to make LGBTQ clients safe, give them permanency, and ensure their well-being.

¹ Russell, Stephen T. and Kara Joyner. “Adolescent Sexual Orientation and Suicide Risk: Evidence From a National Study.” *American Journal of Public Health* 91(8), August 2001, 1276–1281.

² Wardenski, Joseph J. “A Minor Exception?: The Impact of Lawrence v. Texas on LGBT Youth.” *Journal of Criminal Law and Criminology* 95, Summer 2005, 1363.

³ Mallon, Gerald P. *We Don’t Exactly Get the Welcome Wagon: The Experience of Gay and Lesbian Adolescents in Child Welfare Systems*. New York: Columbia University Press, June 1998.

⁴ Massachusetts Department of Education. *2001 Massachusetts Youth Risk Behavior Survey Results*, September 2002. Available at www.doe.mass.edu

⁵ GLSEN National. *The 2003 National School Climate Survey: The School Related Experiences of Our Nation’s Lesbian, Gay, Bisexual, and Transgendered Youth*, 2003. Available at www.glsen.org

⁶ Judge statement, Opening Doors Project listening forum, Jacksonville FL, October 12, 2006.

⁷ Lawyer statement, Opening Doors Project listening forum, Denver, CO, July 28, 2006.

⁸ *Ibid.*

⁹ Healy, P. “Suicides in State Top Homicides.” *Boston Globe*, February 28, 2001, citing Massachusetts Department of Public Health study, *cited above*.

¹⁰ Youth quoted in Mallon, Gerald P., 1998, 22.

¹¹ *Ibid.*, 28.

¹² *Ibid.*, 50.

¹³ Scheyd, Karey, Deputy Director of Parent Recruitment, New York Administration for Children’s Services.

¹⁴ Wilbur, Shannon, Caitlin Ryan, and Jody Marksamer. *CWLA Best Practices Guidelines: Serving LGBT Youth in Out of Home Care*. Washington, DC: Child Welfare League of America, 2006, 6. Available online at www.cwla.org/pubs/

¹⁵ Youth statement, Opening Doors Project listening forum, Jacksonville, FL, October 12, 2006.

¹⁶ Youth quoted in *Out of the Margins: A Report on Regional Listening Forums Highlighting the Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth in Care*. Washington, DC: Child Welfare League of America and Lambda Legal Defense and Education Fund, 2006, 22.

¹⁷ Youth quoted in Mallon, Gerald P., 1998, 62.

¹⁸ CWLA/Lambda Joint Initiative. “LGBTQ Youth Risk Data.” Available online at <http://www.lambdalegal.org/take-action/tool-kits/getting-down-to-basics/risk-data.html> (citing Garofalo, R., Wolf, R., Kessel, S., Palfrey, J., DuRant, R. “The Association Between Health Risk Behaviors and Sexual Orientation Among a School-based Sample of Adolescents.” *Pediatrics* 101(5), 1998).

¹⁹ Youth quoted in Mallon, Gerald P., 1998, 30.

²⁰ Youth statement, Opening Doors Project listening forum, New York, NY, November 29, 2006.

²¹ Youth statement, Opening Doors Project listening forum, Denver, CO, July 28, 2006.

²² Lawyer’s quote from ABA Opening Doors Project National Attorney Survey, Fall 2006.

Raising Awareness of LGBTQ Issues

AN INTERVIEW WITH JUDGE WILLIAM POCAN

Judge William Pocan was appointed to the Milwaukee County Circuit Court in 2006. Although state law requires judges to rotate through different divisions, Judge Pocan has been inspired by his time in children's court. He now works on termination of parental rights (TPR) cases. Before his appointment, Judge Pocan spent more than 20 years in trial and appellate practice at a private firm, specializing in consumer and family law. Judge Pocan is also a founding board member of the Milwaukee LGBT Community Center.

How many child welfare cases do you carry that involve LGBTQ youth?

In TPR cases, there are none. Most of the children are just too young and sexuality is not an issue. However, I am aware that there is a higher percentage of LGBTQ youth represented in the child welfare system because these children have family difficulties more frequently.

What is your impression about the needs related to serving LGBTQ foster youth compared to their peers in foster care?

I can't pick up a publication and not hear that despite all the positive movement, the suicide level is higher for this segment of the population. I think Milwaukee is an urban island in a rural state. I can't imagine what it must be like in a northern Wisconsin town. I'm well aware that LGBTQ youth have additional difficulties, and that few services can be provided there. Community centers across the state are just beginning to develop services for these youth. One positive thing is that with any element of diversity, we help educate each other. Colleagues can really help each other raise the level of understanding and should be doing that.

What are some possible roadblocks to providing effective advocacy for LGBTQ youth? Have you observed any positive changes in the legal community's handling of LGBTQ foster youth?

We never hear about the positives — that needs more attention. So often, people doing good lack the resources or PR talents for photo ops or publishing positive stories that could be an inspiration to other advocates. The negative is that the system relies heavily on social workers. These social workers need to be trained because often

there's a limit to what judges do and therefore they rely on everyone else. The greater community needs to be aware of what services are out there and then advocate for what should be out there. One critical missing piece is the recruitment of LGBTQ families for adoptive and foster parents.

Are you aware of LGBTQ-friendly placements or service providers in your area? Do judges and other advocates know about them? How did you find out about them?

I'm lucky to work in Milwaukee. Wisconsin in general is an enlightened area. The entire process is LGBTQ-friendly for the most part. One does not see a great deal of discrimination. People work hard for the best interest of the kids.

What advice do you have for other adults working with LGBTQ youth?

Listen to the kids. Listen to what their needs are. When in the courtroom, we all need to work hard for the best interest of the child. Even in 2007, people have strong feelings about this. You have to set aside your personal politics. Whether you're happy they're gay or not, we want happy kids. We need to have people keeping an eye on what the real issue is: *How can we create a system that cultivates well-adjusted, educated, and happy kids.* If we can just stay out of the political fray and consider what is good for real live breathing kids in our community, we'll all be better off. These youth are out there and they need their legal advocates to help them by providing information about mentors, gay-friendly organizations, and gay-friendly community centers.

Interview conducted by Melissa Fay Colangelo

Making It In and Out of Foster Care

AN INTERVIEW WITH DAVID AMBROZ

After graduating with honors in political science from Vassar College, David Ambroz studied for a year at Oxford, England, then to UCLA School of Law. As a practicing attorney in California, he worked on one of the largest child welfare class action lawsuits ever brought in California.

Mr. Ambroz has also served as Managing Director of EPG Inc., a consulting firm concerned with land use in Hollywood, and as Director of Public Policy for the Hollywood Chamber of Commerce. He is currently the Executive Director of the Los Angeles City College Foundation and continues to advocate for the welfare of foster care youth. Mr. Ambroz was in the foster care system from age 11 to 17. He has written about living on the streets with his mother and siblings, transitioning to life in foster care, and life after leaving the system.

Has your sexual orientation affected your foster care experience?

The nonexistence of something is powerful: homosexuality doesn't exist in foster care. There was never a box to check; I was never asked; I was never given support; I was never spoken of as a gay youth and my homosexuality was never discussed even though I knew I was gay. I was 11 years old when I entered foster care. Eventually, after a series of tests as part of my foster care therapy, I was diagnosed with gender identity disorder. They knew I was gay, but no one ever brought up the word gay. (I got my file when I was emancipated in 1997 and that is how I saw the diagnosis.) It was obviously an 'off' diagnosis, because it is usually reserved for transsexuals, but most foster care psychotherapists paint with a broad brush. They're underpaid, and if they last at all, it's for one to three years.

I've learned that in all foster group homes, sexuality is stifled. I saw many youth in same-sex relationships who weren't gay. Foster care forces people to grow up in homes where they can't express their sexual identity. You get a broad spectrum of sexuality in foster group homes, but we're not allowing these kids any privacy or any time to develop their own sexual identity at a time when their hormones are changing. This is an at-risk population, some of them coming from violent or sexually abusive homes. Then they enter a system in which they do not receive any sexual education that is age-appropriate or any opportunity to date in a normal setting. Sexuality in foster care is an issue for all youth. No one wants to talk about youth and sexuality, regardless of

whether it's same-sex relationships or not. This is a non-starter. No one wants to deal with this topic and it's not politically popular. (I wish I could offer a solution, but I think doctors and therapists would have to work together on this issue.)

Did you feel your sexual orientation should have affected your interaction with lawyers who represented you and gave you legal information?

We still live in a homophobic, racist society. Differences are differences and people do not feel comfortable facing them. Do best practices even really exist? Maybe, but many foster parents aren't well equipped to deal with this issue and don't want to deal with sexuality of the children in their homes. Ultimately, they don't have to deal with it, they just have to be good people.

We need to question if we really want the teen's lawyer to know everything about a kid, or just work with the social worker. We don't want attorneys pressuring kids to come out in court. It's too much to ask them to do that on the record. Attorneys need to support any kid who is willing to do it. That youth needs to be directly connected to support services and the lawyer needs to follow up with a placement that is gay-friendly. The youth must immediately connect with other resources. If they're willing to come out, you need to honor and respect their dignity and privacy. Remember, you don't accompany these youths home at the end of the day. These kids are going to a largely inhospitable world. Any issues of difference create conflict, and so attorneys should tread carefully in this arena.

What advice can you give on improving legal representation for LGBTQ youth?

The best skill you can give these youth is the ability to advocate for themselves. Adults should be empowering these youth. Teach them to advocate and that skill will have tentacles that bleed out into other subjects, although you don't have to start with such a sensitive subject as sexuality.

Don't endanger them. Best practices and reality are mine fields apart. I have heard social workers say out loud, without fear of reproach, that they wouldn't place a kid because he was gay. I know that I felt outing myself in foster care would be suicide. The bottom line is no one wants to project differences in an inhospitable space. Remember, the road to hell is paved with good intentions: outing someone, thinking you're helping them, could be dangerous. Attorneys should be cautious and remember that half the time, at age 11, 12, even 16, teens really aren't sure what they are or where they are on the spectrum of sexuality. Once a youth is labeled as gay, that is a tough label to shake, and of course, no one ever has a hearing about heterosexuality! Sexual identity may not even be appropriate to discuss in an open courtroom, but *it should* have a place for safe discussions and it needs to be dealt with.

This problem is going to take a long time to fix: homophobia will pass as time passes. One can parallel this struggle with integrated schools and racism. We'll get there, but this will take time. Let the youth have safe spaces now. Organizations such as Green Chimneys are great for right now and there are far too few of them. It takes people continually asking for space in those homes to start the conversation about *why* these separate places are desperately needed.

Interview conducted by Melissa Fay Colangelo



Chapter Two

EXAMINING YOUR ATTITUDES AND BELIEFS

BY MIMI LAVER

We come to our jobs with ideas and attitudes about many topics. We reach these ideas based on how we were raised, religious beliefs, politics, interactions with people, and books we've read. As child welfare professionals, we bring these ideas and attitudes to our relationships with children, youth, and their families. Young people know when the adults who are working with them don't like them or are uncomfortable with them, and they react to those negative feelings. It is important to explore our attitudes about people who differ from us based on race, gender, socioeconomic class, sexual orientation or gender identity. Once we identify those attitudes, we must consider whether they have a negative impact on our relationships with children and youth.

When speaking about staff at his group home, Maurice said:

*"The best staff are those that respect you for who you are, rather than judge you for what you do. They don't have to be gay, they don't have to be straight, they just have to listen without judging. People who are nasty and have nasty attitudes make me feel uncomfortable, you know the people who just work for the money, not to help the kids."*¹

This chapter explores the attitudes child welfare lawyers and judges expressed about LGBTQ youth during five listening forums held around the country. It discusses how attitudes and words can impact LGBTQ youth and suggests ways we can all try to be the people who work to help the kids, not make them feel uncomfortable.

Acknowledging Attitudes

You've heard the terms "we're only human" and "no one is perfect." These are so true. Everyone makes mistakes, does or says things they feel sorry for after, forgets things, or holds beliefs that others find troubling. Being human may explain certain attitudes, but it cannot excuse actions or words that hurt others, especially if the others are children. LGBTQ youth report a high level of verbal and physical abuse. They are often belittled by the adults around them, including parents, foster parents, caseworkers, group home staff, judges and lawyers. All of these adults are human and many believe being gay is "wrong,"² but they may not want to harm the youth. Even those who don't share that belief can learn to be more caring of the LGBTQ youth.

ON POINT

Lawrence v. Texas Prohibits Judicial Bias Based on Sexual Orientation

In 2003, the United States Supreme Court decided *Lawrence v. Texas*,¹ a landmark case that should make judges more aware of their attitudes and actions towards LGBTQ people. *Lawrence* overturned a Texas sodomy law because it infringed on a homosexual individual's constitutional right to make personal choices. It overturned *Bowers v. Hardwick*,² which framed the issue as one of public morality. Its tone and language differed from *Bowers* and its effect was to permit judicial decision making on the basis of a party's sexual orientation. *Lawrence* took the issue away from public morality and reframed it to one of individual choice and privacy.³

Lawrence should result in less biased decisions by judges. Tobin Sparling writes, *Lawrence*: Amends the Code of Judicial Conduct of every state that does not already plainly enumerate sexual orientation bias as a violation of a judge's ethical duties. No longer can any judge lawfully brand a homosexual person as a criminal because of that person's sexual orientation alone. No longer can any judge lawfully treat a homosexual litigant any less respectfully than he or she would treat a heterosexual person standing in the same shoes. No longer is there any excuse for a judge to demean or slur homosexual persons by his or her out-of-court actions or words...⁴

There are still cases in which LGBTQ individuals suffer discrimination by judges. In family cases, such as custody and adoption, LGBTQ parties continue to lose rights to children because of their LGBTQ status.⁵ The *Lawrence* case, though, can help when bringing a judicial bias claim and can be used when discussing attitudes toward LGBTQ youth with judges and lawyers.

¹ 539 U.S. 558 (2003).

² 478 U.S. 186 (1986).

³ Sparling, 2004.

⁴ *Ibid.*, 307.

⁵ See Fedders, Barbara. "Coming Out for Kids: Recognizing Respecting and Representing LGBTQ Youth." *Nevada Law Journal* 6, Spring 2006, 774, 799- 801 for discussion of post-*Lawrence* cases.

From our Listening Forums

This project involved five listening forums with LGBTQ youth, children's lawyers, and child welfare judges.³ At a forum in one southern state, a group of child welfare professionals explained the reasons that LGBTQ youth were having difficulties. One lawyer said, "*Honey, you are in the buckle of the bible belt.*" She explained she was not surprised that a foster parent refused to adopt a child once she came out as a lesbian or that other youth did not want to reveal their LGBTQ status to the adults in their lives. Putting the common attitude "on the table" was useful and helped the group address the issues honestly. A first step in any group discussion about working with LGBTQ youth in foster care is sharing attitudes held generally by the community and by individuals.

This is not an isolated example. During another listening forum we heard that a judge told a lesbian youth that he was surprised that both the youth's birth parents and adoptive parents were interested in her given her lesbian identity. A different judge belittled a gay young man by implying in open court that the youth's identity was just "a fad" by saying "*So you're gay now.*" More typically, our listening forums revealed lawyers and judges lack enough information to adequately address the needs of

LGBTQ youth and wanted to learn more about working with them. Some participants had questions about how they should interact with these youth, and were open to learning.

Impact of Negative Attitudes

When talking about the adults in his life during foster care, Carl said, “*Do you know how it feels? I mean I couldn’t live at home with my own family because of who I am and then to get treated like that by people who are suppose[d] to be professional and deal with kids. I just don’t think it’s fair. It’s just not right.*”⁴

We heard similar outrage by youth at our listening forums. They were confused and hurt that the lawyers and judges who they viewed as experts in dealing with kids either ignored them, or worse, were disrespectful. LGBTQ youth often feel beaten down. They try different strategies to cope, but outcomes for these youth are poor compared to heterosexual youth in foster care. Many of them have been verbally harassed by enough adults and peers that they hide their sexual orientation or identity. But hiding one’s identity can only go on for so long and often leads to low self-esteem or low self-worth. For many, this leads to increased drug abuse, prostitution, aggressive behaviors, or suicide attempts. Many LGBTQ youth leave their foster or group homes and live on the streets. They report feeling safer on the streets than in their placements.⁵

GROUND RULES FOR DISCUSSION

This listening forum is a **SAFE** place to be whoever and or whatever you want to be. The forum offers a **NONJUDGMENTAL** environment.

All participants have the **OPPORTUNITY** to talk in the forum. Whether a person chooses to talk or not to talk is okay.

Complete **CONFIDENTIALITY** is kept by everyone. No names, words, or stories are told to anyone outside the group.

Members show **RESPECT** for each other and for what is said in the forum.

Personal information is shared **VOLUNTARILY** without pressure from other members.

Members use **“I”** statements, taking **RESPONSIBILITY** for their own feelings, actions, thoughts, and words.

And Remember...

THE OUCH RULE – If you are upset by something someone says, say “ouch” and explain.

STEP UP AND STEP BACK – If you talk a lot, step back and give others a chance to speak. If you have not spoken, step up and let your voice be heard!

AGREE TO DISAGREE

Source: Adapted from the Jacksonville Area Sexual Minority Youth Network, Inc. (JASMYN, Inc).

THE GLBT YOUTH SUPPORT PROJECT PERSONAL COMFORT ASSESSMENT TOOL

	AGREE	DISAGREE	NOT SURE
I am comfortable using the words "gay," "lesbian," "bisexual," and "transgender."			
I am comfortable addressing and talking about GLBT issues in general.			
I address homophobic behavior/language exhibited by colleagues.			
I address homophobic behavior/language exhibited by youth/clients.			
I make an effort to use GLBT-inclusive language in conversation.			
I would be comfortable having a GLBT co-worker.			
I would be comfortable having a close friend who is GLBT.			
I would be comfortable if my child, niece, or nephew "came out" to me as GLBT.			
I ask GLBT co-workers or clients about their partners or families just as I ask heterosexual co-workers or clients about their partners or families.			
I do not assume that a gay, lesbian, or bisexual client or co-worker is attracted to me.			
I would be comfortable if a client came out to me as GLBT or questioning.			
I make an effort to use a person's preferred gender pronoun and name, even if I previously knew him or her by a different pronoun or name.			
I would be comfortable displaying a GLBT Safe Space sticker or other visible sign of support for GLBT people.			
I would be comfortable if someone thought I was GLBT.			
I feel that being GLBT is a healthy expression of human sexuality.			
I am willing to put aside my personal beliefs to help a client find the best solution for his or her own life.			

Source: The GLBT Youth Support (GLYS) Project, a program of Health Care of Southeastern Massachusetts, Inc. www.hcsm.org/glys.htm
Ph.: 800/530-2770; E-mail: glys@hcsm.org

When describing the harassment he endured at a group home, Angelo said, “*That’s when I decided to leave. They had me to the point where I was crying inside, but I wouldn’t let them see it.*”⁶ No child in the foster care system should be crying inside, and it is the professional’s job to end not cause it.

Youth hope child welfare lawyers and judges will be open to hearing their wishes and accepting them for who they are. At our listening forums we heard about the good and the not so good. The latter was expressed by a youth who said, “*The judges aren’t welcoming if they know you’re gay. No one seemed interested in working with me.*”⁷ Even if a judge has negative feelings for LGBTQ youth, it is the judge’s duty to welcome the youth and find out what services or assistance the youth needs. “*Judges and attorneys are in positions of power. They need to communicate with kids in a way that will allow kids to be honest so the judges and lawyers can do their work.*”⁸

Projecting Positive Attitudes

In responding to a question about the unique needs of LGBTQ youth, one lawyer said: “*Their sexual identity has to be nurtured, not suppressed and they should never be made to feel ashamed of their orientation in foster care.*”⁹ Another lawyer, in answering a question about why LGBTQ youth have more placements than other youth answered: “*Youth often experience rejection or mere tolerance instead of nurturance and celebration from foster care family members and sometimes parents and sometimes their sibs.*”¹⁰ What can you as judges and lawyers do to nurture and celebrate a LGBTQ youth’s identity?

Examining our attitudes, deciding to change those attitudes, and actually changing them takes time. It takes courage and honesty to admit to ourselves and others that there are things we want to change. Sometimes, changing attitudes is not as important as changing behavior and working more closely with LGBTQ youth and their families.

Two studies of counselors in training show how analyzing attitudes leads to change. In the first study, a student moved from never wanting to work with a gay or lesbian couple to understanding her feelings and being more open to counseling such a couple.¹¹ Through written dialogue with her professor, the student realized her beliefs conflicted with her professional ethics and discriminated against LGBT families.¹² Once she realized this, she was able to find ways to treat gay couples. The study concluded that dialogue, while requiring patience and continuous effort, helps challenge biases.¹³

In the second study, 10 heterosexual counselors-in-training joined a year-long course in which they heard speakers, discussed readings, and shared their beliefs about sexuality, homophobia, and gay and lesbian development.¹⁴ By studying their own sexuality and sexual differences, many of the students came to value LGB people and understand their struggles. The study concluded that creating a safe and trusting environment for self reflection about biases and sexual identity promotes change.¹⁵

Identifying and Changing Attitudes

To promote positive attitudes, the child welfare community must create a setting where child welfare professionals examine their views of LGBTQ youth and how they

can become more affirming. At first, this may be difficult and feel uncomfortable, especially for lawyers and judges who may not want to acknowledge that feelings can affect their job performance. Several tools are available to help this process.

Before using these tools or other approaches such as training, creating task forces or having brown bag lunches on this topic, it helps to establish rules for discussion. The Jacksonville Area Sexual Minority Youth Network (JASMYN) read several statements at the start of each meeting to remind participants to respect and listen to one another. As you engage in group discussions about your attitudes about LGBTQ youth, consider reviewing the statements in the box on page 21, or creating your own set of “norms” to guide your way.

The following three tools may help you identify and discuss your views with others as you start to explore and improve your attitudes and actions toward LGBTQ youth:

ABA Codes of Conduct

In drafting the Model Code of Judicial Conduct and the Model Rules of Professional Conduct, the ABA has acknowledged that judges and lawyers are human, but they may not let their attitudes impact their cases. Discussing these sections of the codes may assist judges and lawyers understand that improved practice toward LGBTQ youth is rooted in their ethical responsibilities.

Canon 3 of the Model Code of Judicial Conduct is entitled **A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently** and in part reads:

Judicial Duties in General. The judicial duties of a judge take precedence over all the judge’s other activities. . . . In the performance of these duties, the following standards apply.

Adjudicative Responsibilities

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based on race, sex, . . . sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to the judge’s direction and control to do so.

Similarly, Rule 8.4 Misconduct, Model Rules of Professional Conduct, reads in part:

It is professional misconduct for a lawyer to:

(d) engage in conduct that is prejudicial to the administration of justice;

The comment to this section says:

[3] A lawyer who, in the course of representing a client, knowingly manifests by words or conduct, bias or prejudice based upon race, sex, . . . sexual orientation . . . violates paragraph (d) when such actions are prejudicial to the administration of justice.

While states must enact specific rules to make the model rules enforceable, most jurisdictions have incorporated at least the general language about prohibiting bias and prejudicial words or conduct.¹⁶ Lawyers and judges may think and believe what they want, but those thoughts may affect their treatment of clients and litigants.

ATTITUDE CHECKLIST

Read the statements below and respond according to how you personally feel about the suggested situations. Circle the letter under the description of the response you feel most closely represents your current attitude – or in some situations, your projected future attitude.

For Me Personally

	ACCEPTABLE	NOT SURE	UNACCEPTABLE
1 To have an openly gay, lesbian, bisexual or transgender person as a close friend would be:	A	NS	U
2 To allow an openly gay, lesbian, bisexual or transgender person to serve in the military is:	A	NS	U
3 A constitutional amendment banning gay marriage is:	A	NS	U
4 To have gay, lesbian, bisexual and transgender people be encouraged to be parents or to adopt is:	A	NS	U
5 To have an openly gay, lesbian, bisexual or transgender teacher or bus driver for my child would be:	A	NS	U
6 Supporting gay, lesbian, bisexual and transgender people who “come out at work is:	A	NS	U
7 Confirming an openly gay, lesbian, bisexual or transgender person to serve as a leader in my church mosque or synagogue would be:	A	NS	U
8 To have an openly gay, lesbian, bisexual or transgender child is:	A	NS	U
9 To share a room overnight with an openly gay, lesbian, bisexual or transgender person would be:	A	NS	U
10 To have an openly gay, lesbian, bisexual or transgender person as a physician would be:	A	NS	U
11 To have an openly gay, lesbian, bisexual or transgender person serve as President would be:	A	NS	U
12 To have an openly gay, lesbian, bisexual or transgender supervisor or boss would be:	A	NS	U

Riddle Scale

One useful tool to guide this exploration is the *Riddle Homophobia Scale about Lesbian/Gay/Bisexual Identity*.¹⁷ The scale involves four homophobic levels and four positive levels of attitudes about LGB people. (See box, p. 27) As you review and discuss the scale, you could identify actions to take at each level to improve outreach toward LGBTQ youth in your system. As you continue your discussions, perhaps you

and others would move up the scale, and take more steps toward nurturance. For example, for someone at the following levels:

Repulsion or Pity — The youth will know. They will see you rolling your eyes, moving away, refusing to shake hands, using derogatory labels and language, ignoring their basic needs and showing other signs of disrespect. Recognize the limits these attitudes place on your advocacy and decisions. Despite these attitudes, try to represent your client competently as a lawyer and make impartial decisions as a judge. If you cannot, refer clients/cases to others without expressed bias.

Tolerance — Learn about the joys and struggles LGBTQ youth face and acknowledge there are LGBTQ youth on your caseload. They may be hiding because they are uncomfortable discussing their identities with you, but LGBTQ youth live in your jurisdiction. Think about the Model Rules of Professional Conduct and the Model Code of Judicial Conduct and be sure personal attitudes do not compromise representation of LGBTQ clients, or impartial decision making if you are the judge. Resist attempts to make those youth invisible, and do not ignore their needs for safety, caring environments, and due process.

Acceptance — Let your clients, or the youth appearing before you, know you are interested in them. Be open to talking about any part of their life that is important to them and respond without bias. Learn the difference between sexual identity/homosexuality and sexual molestation (pedophilia).

Support — *Lawyers:* Develop trusting relationships with your clients. Advocate for your client to be in a safe setting, even if that means going against the recommendation of the child welfare agency. Know who in your community provides services in an LGBTQ-affirming manner and advocate with the agency and the court to have your client receive services from these providers.

Judges: Have resources ready to share with LGBTQ youth, their families, and their lawyers. Insist the agency care for the youth in an affirming way and if it does not, consider making a “no reasonable efforts” finding against the agency. Challenge the tendency to label age-appropriate sexual activity as predatory. Avoid the double standard for behavior between LGBTQ youth and heterosexual sexually active youth.

Admiration — Use gender-neutral language when talking with the youth. For example, ask about the youth’s partners or important relationships in the youth’s life, romantic and otherwise. Use the youth’s name and pronoun of choice. Encourage the youth to dress as he or she wishes.

Appreciation — Display hate-free zone, rainbow flag or triangle signs in your courtroom or office.¹⁸ Speak out when you hear colleagues, youth, family members, court officers, and others make homophobic or inappropriate anti-gay comments, especially in front of kids. Learn about gender identity and gender expression. Learn about the developmental needs of all young people, including sexual development, and integrate LGBTQ youth into this understanding.

Nurturance — *Lawyers:* Visit your clients in their placements including in LGBTQ group homes or get to know their friends. Be available by cell phone or by quickly returning calls for anything your client wants to discuss. Help them through crises and celebrate positive events with them. Work with their birth families to accept their

RIDDLE HOMOPHOBIA SCALE ABOUT LESBIAN/GAY/BISEXUAL INDENTITY

In a clinical sense, homophobia is defined as an intense, irrational fear of same-sex relations that becomes overwhelming to the person. In common usage, homophobia is the fear of intimate relationships with persons of the same sex. Below are four negative homophobic levels and four positive levels of attitudes towards lesbian and gay relationships/people. They were developed by Dr. Dorothy Riddle, a psychologist from Tucson, Arizona.

HOMOPHOBIC LEVELS OF ATTITUDE

Repulsion: Homosexuality is seen as a “crime against nature.” Gay/lesbians are sick, crazy, immoral, sinful, wicked, etc. Anything is justified to change them: prison, hospitalization, negative behavior therapy, electroshock therapy, etc.

Pity: Heterosexual chauvinism. Heterosexuality is more mature and certainly to be preferred. Any possibility of “becoming straight” should be reinforced, and those who seem to be born “that way” should be pitied, “the poor dears.”

Tolerance: Homosexuality is just a phase of adolescent development that many people go through and most people “grow out of.” Thus, lesbians/gays are less mature than “straights” and should be treated with the protectiveness and indulgence one uses with a child. Lesbians/gays should not be given positions of authority because they are still working through their adolescent behavior.

Acceptance: Still implies there is something to accept. Characterized by such statements as “You’re not a lesbian to me, you’re a person!” or “What you do in bed is your own business,” or “That’s fine with me as long as you don’t flaunt it!”

POSITIVE LEVELS OF ATTITUDES

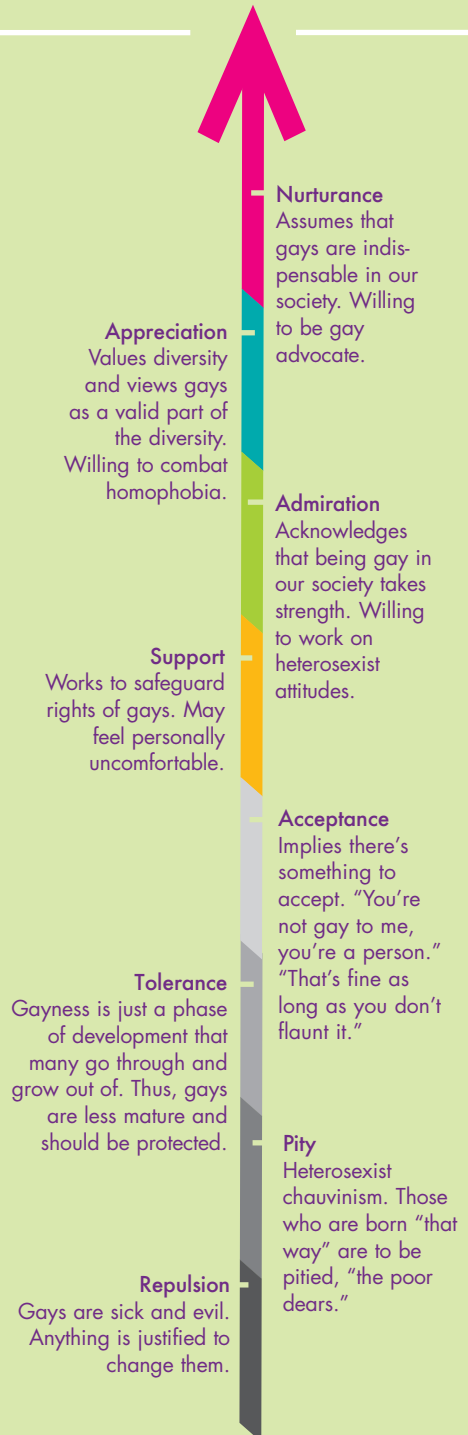
Support: Work to safeguard the rights of lesbians and gays. People at this level may be uncomfortable themselves, but they are aware of the homophobic climate and the irrational unfairness.

Admiration: Acknowledges that being lesbian/gay in our society takes strength. People at this level are willing to truly examine their homophobic attitudes, values, and behaviors.

Appreciation: Value the diversity of people and see lesbians/gays as a valid part of that diversity. These people are willing to combat homophobia in themselves and others.

Nurturance: Assumes that gay/lesbian people are indispensable in our society. They view lesbians/gays with genuine affection and delight, and are willing to be allies and advocates.

CONTINUUM OF ATTITUDES REGARDING LESBIAN, GAY, BISEXUAL AND TRANSGENDER PEOPLE



children back into their homes, rather than assuming the youth will finish his or her childhood in foster care. Work to understand and advocate for safe and healthy services for transgender youth.

Judges: Support the youth and his or her family. Ensure the youth knows when you are proud of accomplishments and show understanding when there are problems. Talk to colleagues about the importance of nurturing all young people, including those who identify as LGBTQ.

Checklists

Use the *Attitude Checklist*, p. 25, and the *Personal Comfort Assessment Tool*, p. 22, to examine your attitudes and start discussions with others. These checklists can be used to determine your own comfort with LGBTQ issues. You might identify some topics, such as gay marriage, adoption by LGBT adults, or gays in the military, that you are interested in, and then follow up by reading books and articles on the topic or talking to LGBT individuals for their assessment. They may also be used to identify where you fall on the Riddle Scale (discussed above) and suggest actions to take. You don't need to agree with all statements in the tools to support LGBTQ youth, but rather use the lists to identify your comfort with LGBTQ youth and how you might increase your ability to effectively represent them and make unbiased decisions about their care.

Conclusion

As Jill Jacobs, executive director of Family Builders said, "*Judges should be especially active at letting the youth that come before them know that their courtrooms and chambers are hate-free zones To do this, judges need to be more culturally competent.*"¹⁹

Understanding and advocating for youth whose culture differs from your own is essential to being an effective child's lawyer or child welfare judge. LGBTQ youth live in your community and need your understanding. There is plenty to celebrate about their lives, but many of them have challenges to overcome. They need you to understand and nurture them so they feel comfortable trusting and relying upon you. They need you to set aside any negative attitudes about LGBTQ people and focus on their needs. You can make a difference for a young person if you can see them for who they are.

¹ Mallon, Gerald P. *We Don't Exactly Get the Welcome Wagon: The Experiences of Gay and Lesbian Adolescents in the Child Welfare Systems*. New York: Columbia University Press, 1998, 59.

² Response to ABA Opening Doors Project National Lawyer Survey, Fall 2006.

³ These listening forums included Denver, CO, July 28, 2006; Jacksonville, FL, October 12, 2006; Nashville, TN, November 14, 2006; New York, NY, November 29, 2006; and Seattle, WA, December, 14, 2006.

⁴ Mallon, Gerald P., 1998, 82.

⁵ *Ibid.*, 110-118.

⁶ *Ibid.*, 96.

⁷ Youth comment, Jacksonville, FL Listening Forum, October 12, 2006.

⁸ Interview with Marisa Howard-Karp, Program Director, The GLBT Youth Support (GLYS) Project, April 10, 2007.

⁹ Opening Doors Survey, Fall 2006.

¹⁰ *Ibid.*

¹¹ Charles, Laurie L., Dina Thomas, and Matthew L. Thornton. "Overcoming Bias Toward Same-Sex Couples: A Case Study From Inside an MFT Ethics Classroom." *Journal of Marital and Family Therapy*, July 2005, 239.

¹² *Ibid.*, 247.

¹³ *Ibid.*, 248.

¹⁴ Dillon, Frank R., et al. "On Becoming Allies: A Qualitative Study of Lesbian-, Gay-, and Bisexual-Affirmative Counselor Training." *Counselor Education & Supervision*, March 2004, 162, 164.

¹⁵ *Ibid.*, 176.

¹⁶ Sparling, Tobin A. "Judicial Bias Claims of Homosexual Persons in the Wake of Lawrence v. Texas." *South Texas Law Review*, Winter 2004, 266.

¹⁷ Riddle, Dorothy Ph.D., Tucson, AZ.

¹⁸ The rainbow flag and triangle signs are demonstrations of LGBT pride.

¹⁹ Interview with Jill Jacobs, Executive Director Family Builders, Fall 2006.

Representing LGBTQ Youth: Challenging Assumptions

AN INTERVIEW WITH KRISTA PREDAGOVICH

Krista Predragovich is a trained licensed mental health counselor and recently became a volunteer GAL. She has been appointed to represent children in the dependency system, advocating for their best interests. She has also worked with the Department of Children and Families and volunteers at JASMYN, a shelter for LGBTQ youth.

How many child welfare cases do you carry? How many involve LGBTQ youth?

I generally have two cases at a time. Millie is the only LGBTQ youth I have worked with and she is transgender. I observed Millie attempting to access resources and gain support in our rural county (a county that is not very liberal and where it was really a challenge for adults to even conceptualize what transgender meant). The staff at the shelter where she was living did not allow her to dress in female clothing or express her sexual identity. In a desire to support Millie, I connected Millie with JASMYN, which helped a great deal. Millie has been attending drop-in there for a number of months and is now more involved at JASMYN. I consulted with the staff there and I've become more involved at their drop-in center.

When working with a LGBTQ youth, how do you balance needs related to LGBTQ status with needs that most youth in out-of-home placement have (emotional, health, education, medical, developing relationship with family)?

The LGBTQ youth stand out in that, although all youth in the dependency system have greater needs than the average child, usually child welfare agency staff members are in consensus about how a child might be helped. With Millie, there was no consensus on what her needs might be.

My experience has been that the staff who have come into contact with Millie operate under a broad continuum of acceptance and even conceptualization of what her issues and challenges are. In her case, there was infighting, heated discussions, and staunch position-taking about homosexuality. People were allowing their own beliefs and values, rather than objectivity, to dictate how they handled Millie.

How were you made aware of this tension?

When Millie first came in, I specifically heard a supervisor on her case say, "Biologically this child is a boy, and that is how I will address him, refer to him, and

those are my expectations for his appearance and dress, etc.” For me, that was a clear statement of value and belief.

Do you have a LGBTQ specialty? Did you look for these kids or are judges seeking you out for appointments?

Millie had been in the foster care system for about eight months when a GAL was assigned. My case coordinator approached me about the case because of my background and training, thinking I might be more open and accepting than some other guardians.

Describe a situation or two in which you’ve worked with LGBTQ youth. What are some highlights and frustrations?

Right now, the frustrations stand out more. When Millie wanted to attend JASMYN’s alternative prom last year, she needed to request financial assistance to buy a dress. The supervisor of JASMYN was not willing to even put that request through because he did not want the record to show that he bought a prom dress for a boy. So even the LGBTQ shelters are not willing to give the higher-ups the opportunity to say yay or nay, or really challenge their conceptions. I understand that at times we’re already pushing the envelope, so not rocking the boat too much can be important to maintaining the support we do have.

Also, placement has been an incredible challenge. Millie burnt some bridges early on with her extended family members, and so what we continually hear is that there is no available placement for her. I still have a hard time believing there is no foster parent in this network that would be willing to raise this child.

How much attention is given to foster parent training regarding LGBTQ youth is a serious issue. There needs to be top-down training. Foster parents need to be made aware that this is the kind of child you could have come into your home: medically fragile, LGBTQ, or a different race.

How have you made a positive difference for an LGBTQ youth? Have you faced any roadblocks?

Lack of awareness about these issues and about available resources is a huge burden. There is an extreme lack of resources in our area. I know of no resources in Clay County for these youth, let alone for a GAL. Duval County is a half hour drive, but it’s too easy for staff to say “We can’t do that; too far away; someone would have to stay late.” We now have JASMYN as a fantastic resource for future LGBTQ kids coming through the system. Transportation and communication could make using that facility even easier. Millie would have had a different experience had she been in a different county. If, for example, she lived in New York City or Los Angeles she may have had a different experience. Geography seems to make a big difference in what kind of care these youth can receive and that is very troubling.

Are you aware of LGBTQ-friendly placements or service providers in your area? Do judges and other advocates know about them? How did you find out about them?

The first time we went in front of the magistrate for judicial review of a case, the judge said, “Well if the father doesn’t want the child to dress as a female in the house, then the youth is breaking the rules of the house.” What got lost in there was the reason the child came into system. He had been in a physical fight with his father over dressing as a female. They were calling the child defiant rather than addressing or acknowledging the underlying issues. Never in the case was there a plan that directed the father to attend a PFLAG meeting or get some support around the fact that child was transgender. That was a huge hole in their case planning. If the goal is to reunify, which it should be, then you need to support the father in learning about special needs of the child. Millie’s family did not want her back and 18 months later, Millie came back in front of that magistrate dressed as a female. Although the magistrate did not address Millie’s choice of clothing, he wasn’t any more sympathetic or helpful. It was clear the judge had never had a transgender youth in front of him before and it was crucial for him to see a distinction between a boy in a dress and the strong young woman that Millie is.

What advice do you have for other adults working with LGBTQ youth?

All adults working in the legal system need to challenge their assumptions. We need to be willing to get some education and learn about new resources so we can address our own prejudices and biases. People were frustrated with me early on because I had never encountered a transgender youth before. And so I am a little embarrassed to admit I was not necessarily breaking down the door saying “Okay we need to meet this child’s needs!” It took me a while to embrace that this was not Millie’s choice, and that I needed to support her. I really grew personally throughout this process. It’s not simple; it’s not easy; and if a child does not want to open up fully right away, even though you may be doing everything right, give them time. Now I’m so glad to be a part of her case, as another adult who loves and supports her. She’s 17 now, and I look forward to watching her progress.

Interview conducted by Melissa Fay Colangelo

Chapter Three

BUILDING STRONG CLIENT RELATIONSHIPS

BY ANDREA KHOURY

Knowing a youth's LGBTQ status is key to strong advocacy on behalf of LGBTQ youth in the child welfare system. As the child's lawyer, you won't know the youth's status unless you have built a solid relationship. The youth must trust you to share such personal information. She won't make an appointment, come to your office, explain why she needs a lawyer, and provide supporting documents. You must forge a relationship with your client for trust to develop so communication occurs. This chapter explains how to build solid relationships that lead to strong advocacy for LGBTQ youth.

Knowing the Client's LGBTQ Status

"I don't care who they are sleeping with, I'm just concerned with their safety and permanency."

"I don't talk to my straight clients about their love life."¹

Sound familiar? Legal advocates may be reluctant to explore sexuality and gender identity. They aren't normally considered when representing youth in foster care and they may seem irrelevant to the court's focus on safety and permanency.



Why does knowing a client's LGBTQ status matter for good representation?

In some cases, a client's sexual orientation or gender identity will have little impact on the lawyer's relationship with the child or advocacy. Consider a gay youth who has been out for a number of years and comes into foster care because his stepfather beat him because of his bad grades. His parents and extended family accept his sexuality. He attends a progressive school that has a policy against sexual orientation and gender identity discrimination. He is placed with supportive relatives and the family is working on reunification. Although the lawyer may want to ask a few questions to ensure his parents are supportive, the focus of the advocacy will be on reunification

efforts, such as parenting and anger management classes for the parents, and whether the youth feels safe returning to the home.

In most cases, however, the fact that a child has identified or thinks they may be LGBTQ will play a major role in their well-being. Consider a gay youth who is beginning to experiment with his sexuality and comes into foster care because his mother beat him for hanging out with the wrong crowd. He is only out to some of his close friends and he is scared of what his parents will think. He is placed in a group home where the other boys pick on him because they think he is gay. The social worker does not know of any LGBTQ-friendly placements or counseling services. His grades are starting to fall because he can't concentrate in school. The youth's LGBTQ status impacts his placement, reunification services provided to him and his family, his school situation, and his over all well-being. A lawyer who does not establish a relationship where the youth is comfortable enough to talk about his sexuality can not zealously advocate for her client.

As stated in the first chapter, and shown in this example, the child may have suffered discrimination, harassment, or confusion about why they differ from their friends. These issues and feelings affect the child's services, placement, and safety. Service providers, foster parents, social workers, and the legal community may have strong beliefs about sexual orientation and gender identity. Their feelings may impact the provision of services.

Lawyers are stronger advocates for their clients if they have essential information about their clients.

- Why is the court system involved?
- What happened in their home of origin?
- What negative school experiences have they had?
- Where do they want to live?
- Who is important in their lives?
- Where is the best placement that will keep the youth safe?

For LGBTQ youth, sexual orientation and gender identity play a large role in answering these questions. The youth will be better protected and achieve permanency sooner if they share their LGBTQ status and any effects it has had on the youth's life with the lawyer. The way to get a youth to answer these questions, including those about sexual orientation and gender identity, is to be diligent, communicate effectively, keep confidences, advise properly, and advocate without bias.



Do I ask the youth straight out whether she is LGBTQ or Q?

In several listening forums for this project, professionals wanted to know how they would find out their client's LGBTQ status. Should they ask their client? Most youth responded that the lawyer needs to build a trusting relationship before raising sexual orientation and gender identity issues. Sometimes it is obvious and the child client is

out and everyone knows. When that's not the case, lawyers must build the relationship and get the child to trust enough to disclose this potentially sensitive aspect of their life.

It's also important to realize that LGBTQ status does not define the child and other areas of the child's life should also take priority. Most LGBTQ youth in foster care just want to be treated like everyone else.

Relationship-Building Skills for Lawyers

The ABA Model Rules of Conduct discuss skills that lawyers must have when representing clients. These skills are especially important when the child is or may be LGBTQ.

Competent Representation²

In addition to basic federal and state abuse and neglect laws, including the Adoption and Safe Families Act and the Foster Care Independence Act, lawyers who represent youth in the child welfare system should also be familiar with laws, regulations, and policies related to LGBTQ youth. For example, a child's lawyer should know if:

- a state has a law against discrimination or harassment on school property for sexual orientation or gender identity;³
- a child welfare agency has a policy prohibiting discrimination by foster parents based on LGBTQ status of the youth;⁴
- a child welfare agency has a specific policy on training social workers to address LGBTQ youth's needs;⁵
- a child is going to be placed in a group setting, whether the setting has a nondiscrimination policy and whether they have restrictions on clothing or discussions about sexual orientation; and
- there are group care settings exclusively for LGBTQ youth.⁶

Beyond laws and regulations lawyers should know whether there are:

- mental health services aimed at youth dealing with and disclosing their LGBTQ status;
- service providers that are sensitive to LGBTQ youth;
- foster homes that have a reputation for being open and sensitive to LGBTQ issues;
- family counseling services that address reunification when the youth is LGBTQ;
- Parents and Friends of Lesbians and Gays (PFLAG) organizations.⁷

Knowing about issues that are likely to develop in the life of a child who is LGBTQ is key to developing a relationship with the LGBTQ child client.

Diligence⁸

For lawyers to adequately represent a client, the client has to trust the lawyer enough to share very personal information. A lawyer cannot represent someone he

doesn't know well. Diligence and consistency helps establish that trust. A child will not initially trust the lawyer; the lawyer's job is gain that trust. One way to do that is to show commitment and dedication when advocating for the child regardless of sexual orientation or gender identity. When a child sees her lawyer working hard to give her a voice, the child is more likely to trust the lawyer.

An LGBTQ client is in a unique situation because she likely has not disclosed her LGBTQ status to her lawyer. Sometimes she will not have disclosed it to anyone. When the lawyer is aware of a client's LGBTQ status, trust is still important to learn whether her safety or well-being has been harmed by her LGBTQ status. This information may be embarrassing or difficult for a child client to disclose. If the child is in the process of coming out to her family, friends, and those around her, her situation may change and she may be able to discuss her options with her lawyer. Trust is essential.

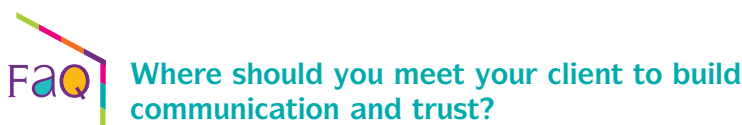
Communication⁹

Communication is also essential for a child to trust her lawyer. Lawyers must meet with every child to discuss the case in a safe, private environment, preferably not in the court hallway before a hearing. Meeting in a private place shows that the lawyer considers this case important and aids open communication.

Depending on the jurisdiction, the lawyer's initial meeting with a client may happen before or after the removal hearing. During the first meeting (and later meetings) the lawyer should show his openness by:

- Displaying materials or signs that signal it is safe to discuss LGBTQ issues (e.g., hate-free zone sticker, LGBTQ pride flag, and LGBTQ ally button).
- Using neutral (nongender-specific) language when asking about the child's social life.
- Avoiding assumptions about LGBTQ status based on dress.
- If your client discloses LGBTQ status, assure her that you will keep her confidences (see section below) and thank her for trusting you with that information.

The lawyer should meet (or otherwise communicate) consistently with his client throughout the case. Most children who are not out are not likely to disclose their LGBTQ status after the first meeting. Ongoing contact and communication are essential in creating the trust necessary for a child to disclose her LGBTQ status. Even if the child doesn't explicitly come out to her lawyer, if there is continued contact and discussions about the child's life, school issues, weekend plans, social life, friends with whom she associates, the child may imply her LGBTQ status. Some lawyers may feel comfortable sharing a little about their own private life to demonstrate familiarity and build mutual trust.



The *ABA Standards of Practice for Lawyers who Represent Children in Abuse and Neglect Cases* advise lawyers to meet with their clients in a safe environment that is most

conducive to developing a good relationship.¹⁰ Most lawyers with high caseloads and little time choose to meet their clients in the courthouse, their offices, or a foster home. Although lawyers should engage their clients in these environments, establishing trust and a relationship is more likely if the meeting is in a location where the child can speak openly.

If your client is LGBTQ, investigate whether there is a LGBTQ-friendly environment to meet. Not only may this make your client comfortable but it shows you are comfortable discussing sexuality and gender identity with your client. Discuss this option with your client and call the location in advance to ensure you can meet somewhere private. Some examples of places where LGBTQ youth congregate are:

- JASMYN¹¹
- Tennessee Youth Advisory Council Oasis Center¹²
- Seattle's LGBTQ Community Center¹³

There are places like these in most jurisdictions where youth will feel comfortable discussing these sensitive issues.

Another way to pick a place to meet is to give your client options that include one LGBTQ-friendly environment, one neutral place, and your office. This gives your client some control over where to meet and also shows your willingness to meet in an LGBTQ-friendly place.

Confidentiality

Protecting your child client's confidences is one of the most important ways to establish trust. Youth often state that the lawyer should not disclose the youth's LGBTQ status without their permission.¹⁴ If you are the child's guardian ad litem, be clear about your role and whether your client can expect you to keep what she says confidential. If you are the child's lawyer, not only do you have an ethical duty to maintain your client's confidences but your client will be more likely to give you information that will assist your advocacy if she trusts you to keep her confidences.

A child's LGBTQ status can be sensitive. Talk with your client about who you can talk to about her status. Do not disclose this status unless your client gives you permission. However, use your advisor role to help your client feel comfortable coming out if it would lead to a positive result in her case.

Do I disclose my client's LGBTQ status if it presents safety concerns?

If you have a traditional attorney-client relationship with your client you must adhere to Model Rule 1.6 and not disclose your client's status if she opposes absent several exceptions. Ideally, there are other ways to address the safety concerns.

- If your client is being harassed in her placement, you could talk to the social worker about a change of placement and not be specific about your concerns.
- If your client's peers at school are causing her harm, you could speak with the principal about the harassment.

- You could also ask the court to change your client's placement.

If alternative strategies do not rectify the safety concerns, the best course of action to maintain the integrity of your relationship with your client is to counsel her about consequences of not disclosing her status and what she may gain if she does disclose. Let her know that she may be able to change placements or get help at school if she shares her status and the negative treatment she is receiving. Discuss ways to limit the disclosure and allow your client to control how the information is disclosed.

If your client is unwilling to disclose and you feel strongly that she is at risk of physical harm, one exception to maintaining confidentiality is to protect your client against substantial bodily harm. You should disclose this exception at the beginning of your representation so your client is aware of the possibility. You must make it clear to her why you are disclosing and attempt to minimize the number of people who know.

Lawyer as Advisor¹⁵

Beyond advocating to a social worker or in a courtroom for a client, a lawyer representing a child must take on the role of advisor. The child lawyer's sole professional responsibility is to the child. The lawyer must provide advice on placement options, permanency plans, services, and visitation. The lawyer must base the advice on all the information and without bias.

“If the youth is out to you as the lawyer, but not to the preadoptive parents, help your client become comfortable coming out to the family.”

For example, consider a 15-year-old girl is going to be placed in a home that is not accepting of lesbians. She tells her lawyer that she is attracted to girls in her class but she has not told anyone else. Her lawyer advises her that she may have a chance to be placed with a family that accepts her sexual orientation if they tell the social worker. After fully discussing options, the lawyer receives the youth's permission to disclose her sexuality and she is placed with a more accepting family.

Sometimes what the child wants and what actually happens in the courtroom or with the social worker are not the same. It's the lawyer's job to make the child understand that although she should voice her opinion and share her experiences with her lawyer, she might not get exactly what she wants. For example, consider a teenager who comes out while in foster care. She wants to go home. Her mom, who physically abused her, has been taking parenting and anger management classes and also wants to have her daughter come home. But when she learns about her daughter's sexual orientation, she reacts with anger, and now isn't sure she wants her daughter home. The lawyer should argue for return home but should tell his client that the judge may not order reunification if her mom isn't ready or until counseling is in place to ensure the child will be safe.

Misconduct and Prejudice¹⁶

Comment three of the ABA Model Rules states that a lawyer violates the rules of professional conduct when, in the course of representation, he “knowingly manifests by

words or conduct a prejudice based upon...sexual orientation...when such actions are prejudicial to the administration of justice.”¹⁷

Lawyers are going to have their own prejudices; however, in developing a relationship with a client who may be LGBTQ, a lawyer is restricted from allowing LGBTQ prejudice to impact that relationship. The lawyer should realize personal prejudices and ensure they do not interfere with developing relationships with clients.

Relationship-Building Skills for Judges

Unlike a lawyer, the judge has limited time and ability to develop a strong, personal relationship with a child. However, judges can take steps to promote a positive relationship between the court system and LGBTQ youth.

Quality Representation

One option is specialized lawyers. If the case involves a complex special education issue, the judge can appoint a lawyer who specializes or has knowledge of special education. If a child has a concurrent delinquency case, the judge can appoint a lawyer experienced in juvenile justice law. The same applies to LGBTQ clients. If the judge knows the child is LGBTQ, the judge should have a list of lawyers who have experience with LGBTQ clients and ask one of those lawyers to represent the child.

Open, Nonjudgemental Courtroom

The judge should discuss sexual orientation and gender identity openly and know about placement and counseling options. If the child does not want everyone to know about her sexual orientation, the judge should respect that and not announce it in open court. The child will respect and like the judge if the judge respects her privacy and wishes. The judge sets the tone in the courtroom and should require everyone to respect the child and not allow bias to impact the outcome.

Conclusion

Establishing a relationship with a child client is the foundation for successful advocacy. LGBTQ clients may require more time and energy when establishing that relationship because of their past experiences. The child’s lawyer must be willing to put in extra effort to relate to these youth and build trust so that they feel comfortable communicating. This improves the representation of LGBTQ clients.

¹ Opening Doors project listening forums, 2006; ABA Opening Doors National Attorney Survey, Fall 2006.

² A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. American Bar Association Model Rules of Professional Conduct Rule 1.1

³ For example, California passed the California Student Safety and Violence Prevention Act, A.B. 537, in 2000. This act protects students from harassment based on, among other things, sexual orientation and gender identity. S.B. 770, the Students Civil Rights

Act, became law on January 1, 2008. It standardizes all student discrimination protection laws in the California education system including discrimination based on sexual orientation and gender identity.

⁴ See, e.g., Cal. A.B. 458 § 1(f) (2003) (prohibiting foster parents from discriminating against children in their care on the basis of sexual orientation); Connecticut Department of Children and Families. “Ch. 30-9: Nondiscrimination of LGBTQ Individuals.” *Connecticut Policy Manual*, May 2004 (prohibiting discrimination against LGBTQ youth by foster parents).

⁵ See, e.g., Illinois Department of Children and Family Services.

“Policy Guide 2003.02: Assessment and Treatment of Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) Youths,” February 3, 2003.

⁶ Green Chimneys, New York, NY <www.greenchimneys.org>

⁷ Parents and Friends of Lesbians and Gays <www.pflag.org>

⁸ A lawyer shall act with reasonable diligence and promptness in representing a client. Model Rule 1.3.

“Reasonable care or attention to a matter.”

<www.dictionary.law.com>

⁹ A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client’s informed consent is required by these Rules;

(2) reasonably consult with the client about the means by which the client’s objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer’s conduct when the lawyer knows that the client expects assistance not permitted by the Rules or other law.

A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. Model Rule 1.4

¹⁰ Approved by the American Bar Association House of Delegates, February 5, 1996, available online at www.abanet.org/child/rep-standwhole.pdf

¹¹ Jacksonville Area Sexual Minority Youth Network

¹² Nashville, Tennessee

¹³ Pike Street, Seattle, Washington.

¹⁴ (a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) to prevent reasonably certain death or substantial bodily harm;

(2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherances of which the client has used or is using the lawyer’s services;

(3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client’s commission of a crime or fraud in furtherance of which the client has used the lawyer’s services;

(4) to secure legal advice about the lawyer’s compliance with these Rules;

(5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer’s representation of the client; or

(6) to comply with other law or a court order.

Model Rule 1.6

¹⁵ Youth opinions expressed at ABA Opening Doors project listening forums, 2006.

¹⁶ In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors that may be relevant to the client’s situation. Model Rule 2.1

¹⁷ It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

(e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional conduct or other law; or

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

¹⁸ ABA Model Rule 8.4

Creating a Safe Environment for LGBTQ Youth

AN INTERVIEW WITH KRISTIN KIMMEL

Kristin Kimmel has worked at Lawyers for Children in New York City for 11 years. She began her career at Lawyers for Children through a Skadden Fellowship and Equal Justice Works fellowship. As a law guardian, Kristin represents children in voluntary foster care and abuse and neglect cases.

What advice do you have for other adults working with LGBTQ youth in out-of-home care?

It doesn't occur to most people that sexuality could be a struggle for a youth; advocates and judges simply assume the youth is straight. Legal advocates need to force themselves to think about these issues. Use posters or provide materials that indicate this is a safe space to come out. Don't assume a youth is straight or gay, but if a teen does come out, meet them where they are. Don't force them to go to a gay placement. Don't put a label on them which they haven't chosen for themselves. Some youth are outspoken about their sexuality and some are reserved. It's your job as the adult to help them at the point where they are. Also, the words that youth currently use are not always used by adults, nor do adults feel comfortable using them. (For example, these youth call themselves "queer.") It's important to keep a checklist: if you have a queer client, you have certain things you know you want to address with them. Finally, special attention needs to be paid to queer kids and safety.

How many child welfare cases do you carry? How many LGBTQ youth do you represent?

I carry 110-120 cases at a time. This number is about average. A bill recently passed the state legislature that will limit how many cases law guardians can have at a time. This number would be restricted to between 60-75 cases. Our caseload often has about 25-30 clients at a time who have at some point identified themselves as queer.

How did you make those youth feel comfortable?

I hand out the book *You are Not Alone* to LGBTQ youth. In cases where we suspect a youth might be queer, but he or she has not offered such information, we do not directly ask. Instead, we hand them a packet of books that we provide all youth and say: "Some of these books may be relevant to you, some may not, let us know if you

have questions.” We also have rainbow flag stickers on our laptops and posters in the office which were disseminated by Green Chimneys and Lambda that advertise the environment as one that is a safe LGBTQ space. We also have stickers that provide queer support hotline information. Lambda also distributed magnetic queer poetry which a colleague and I display on our file cabinets.

When working with an LGBTQ youth, how do you balance needs related to LGBTQ status with needs that most youth in out-of-home placement have (emotional, health, education, medical, developing relationship with family)?

Medical care and education is an issue for all youth, but especially queer youth. These teens do not feel safe at the doctor’s office or at school. LGBTQ youth just want to be safe in schools where they are, and can be referred for offsite counseling. All issues for youth are personal; those for gay youth are not any more urgent, or more important, but for them, safety is an issue everywhere. They have to worry about not being safe in placements where staff and peers harass or beat them up. Safety and mental health services are paramount.

Foster care recruitment and training needs to be revamped to let foster parents know what they could be dealing with. The messages of acceptance we send our youth often conflict with those they receive from potential foster parents. For example, one youth finally found a foster mother and they seemed to get along extremely well in the first meetings. However, upon exiting the agency, when the teen felt comfortable enough to say to the foster mother, “I’m gay. Is that a problem?” the woman walked out. The agency empathized with the foster mother. Perhaps that is because one fundamental problem is that foster care providers’ religious views often shape their views of LGBTQ youth. The point is that if you work with youth, you are no longer a private person that can act solely on the basis of your own belief system. You’re state-certified and you need to hold yourself to a higher level when dealing with children.

All agencies are in dire need of more information about queer-friendly placements. It’s dangerous for youth to come out in most foster homes. I’ve known several youth who have been beaten up or kicked out. For years, foster care training has not included a section on LGBTQ issues. Just recently, the ACS commissioner said we need to change the training program regarding LGBTQ youth. We have been repeating that training for staff and foster parents is critical for years so this is a major achievement for us! The commissioner has finally said every foster parent has to be open to this and that ACS should be mandating the training.

How have your colleagues reacted to your efforts and have any of them altered their behavior?

We have a very gay-friendly staff at my office. Individually, some people are homophobic. It’s difficult when directors and supervisors make heterosexist comments, but in general my office receives these efforts very positively. Now, trainers come in to talk to staff about LGBTQ issues and the executive director has never said no to these opportunities.

Describe a situation in which you've worked with a LGBTQ youth. What are some highlights and frustrations?

It's hard to say "queer" or "lesbian" in an open courtroom on the record. You're met with stunned silence by judges and attorneys. A few years ago in court I said, "My client is a lesbian." You'd think I had used a swear word. Judges need to know they're not curse words, they're not sex words. It needs to be okay to say my client is a lesbian and doesn't feel safe. One judge in particular was problematic. If you had to discuss sexuality, she would get flushed, embarrassed, and harsh. Finally, we met with her to discuss this, and gave her another set of booklets to review. Queer youth are treated differently because people are afraid in court and talk around it, yet it's really important to find out what kids want. If a youth has come out to me, but does not want their sexuality to be discussed in court or to be part of their record, I just ask for a placement order at certain residences and everyone knows what that means.

I've had many LGBTQ clients who have succeeded in their lives, but it has been a struggle, nothing has magically fallen into place. The highlight is that things are improving! LGBTQ-friendly placements exist now and residential treatment centers (RTC) have been made gay-friendly. It's an agency success story. A social worker stepped up and decided the organization needed to address those issues and now there are meetings on the RTC campus. This year they even had a gay pride celebration. Sadly, I still recently allowed a young man, who attended a lot of these new meetings, stay with me because it was a struggle for him to find an appropriate placement. He finally aged out of care. However, now he attends college and is a consistent contributor at ACS LGBTQ support groups. He comes to all the meetings and even speaks on panels.

Are you aware of LGBTQ-friendly placements or service providers in your area? Do judges and other advocates know about them? How did you find out about them?

Green Chimneys has the Gramercy Residence which has 25 beds for biological males. The Foundling's Agency Operated Boarding Homes are smaller homes with maybe eight beds and a supervised independent living program for 18-21 year olds. St. Christopher-Ottolie Family Services has 18 beds and accepts biological females. These service providers are always packed.

Interview conducted by Melissa Fay Colangelo

Meeting LGBTQ Youth Where They Are

AN INTERVIEW WITH SHAWNDELLE

Shawndelle identifies as a lesbian and spent several years in the foster care system. She aged out of the system and now lives in Seattle, Washington. Shawndelle was eventually adopted by her foster parents and advocates for gay youth in foster care. She is an inspiration to youth and adults alike in the child welfare system.

What advice do you have for legal advocates who are working with LGBTQ youth?

I would say a lot of the work to make a youth comfortable can be done ahead of time by advocates and social workers. Attorneys or judges can put up hate-free posters that specifically address homosexuality (not just a picture of a black and white person together). They can put up equality signs or rainbow stickers or pink triangles. They can offer youth lots of different packets of information with something about queer services. I think a lot of adults think, “I know that doesn’t apply to me” so they are reluctant to put these symbols out there for the sake of the youth. But it would be helpful if people were willing to put up some sort of sign of acceptance of any sexuality. I know that is a lot to ask, but all diverse backgrounds should be welcomed.

To be honest, even if attorneys or judges did make these efforts, I still wouldn’t have been comfortable coming out, because that is just me. Advocates should know that even if they do all this, some youth still won’t feel comfortable sharing such personal information. They shouldn’t push kids to say it. Instead, the attorney or caseworker could interview the placement providers and ask discretely about how LGBTQ-friendly the home was. When to come out, who to tell, and how is an extremely personal decision.

Before making *any specific* requirement for placement, talk to the youth. My feeling is that a lot of youth would not want an adult to place *any* type of limit on possible placements. Unless that youth is at risk (physically or mentally) in a certain place, I believe that adults should not cut off their chances to remain in one place, to go to a school (the same school!) for a few years, to make friends who might stick around, or to live in a family’s home.

Do you feel being gay affected your experience in foster care?

Because I was in the system, I didn’t come out. Coming out affects your placement from what I can tell. I just wanted to *be placed* and didn’t want to have any possible extra complication that could further delay my eligibility to get some parents. I so

desperately wanted to end the stream of group homes. I would have dealt with anything, even homophobic foster parents to get out of the group homes.

I remember having a hard time in some interviews with various advocates and caseworkers because some of them in the court system still asked me, “Do you have a boyfriend?” I don’t know if they were trying to identify with me or make nice, but as soon as they asked that, I would shut down. Kids want to fit in and match the assumptions people have about them, especially when you want to get placed. I also had to let adults tell me many religious stories and share their religious views that I couldn’t identify with (and often actually feared was a direct comment about my being gay) because I just wanted to get placed. Attorneys, judges, and caseworkers should not share those kind of personal views with youth unless they already know *for sure* that the youth can identify with those feelings or conversations. Otherwise, youth feel they can’t live up to your ideal. That’s a lot of pressure for kids who are already under a great deal of strain.

What advice do you have for an attorney or judge who strongly suspects a youth is LGBTQ but the youth is not comfortable discussing the topic?

The attorney or judge should go ahead and try to make sure that wherever they put the youth will be a liberal, accepting home. They need not necessarily tell the youth they have checked into that aspect of the potential home. (In general, parents, adults, and mentors do things for kids that the teen doesn’t realize has been done for them until much later, and then when the kid finds out, he or she is really thankful. The same scenario applies here.) It’s much easier for adults, as opposed to a scared kid, to step up in court or challenge other adults and help these youth by advocating for a hate-free, accepting, and stable placement.

I had many different legal advocates throughout my years in foster care and never discussed being gay with them. I was told later that almost everyone knew. It was a relief that I found wonderful adoptive parents who knew already and were accepting of me when I eventually came out. That love and unconditional support made all the difference in the world in my life. I am extremely grateful to all those adults who helped me get to the independent and happy point I’m at today!

Interview conducted by Melissa Fay Colangelo



Chapter Four

IMPROVING YOUR LEGAL ADVOCACY AND DECISION MAKING

BY MIMI LAVER

LGBTQ youth rarely feel safe, no matter where they are. Some LGBTQ youth feel safer on the streets than at home or school. They are harassed and physically harmed by other youth, foster parents, and group home staff. As the child's advocate or judge, you must ensure the safety, permanency, and well-being of LGBTQ youth in foster care.

Finding permanent homes for teens is a challenge. Agency workers and other professionals often give up on helping LGBTQ youth achieve permanency. Like other teens, these youth can and should go home with appropriate supports. If not, they should be placed in adoptive homes or with guardians. They should also have at least one positive adult connection that will continue after they leave foster care. As the judge or lawyer, you can make this happen.

LGBTQ youth may feel abandoned by families and friends because of their identity. Like other youth, they may have questions about their sexuality or health-related concerns. They may be bullied in school or feel left out of activities or conversations in class. If they need counseling or other health services, the provider must be LGBTQ-friendly and have experience with LGBTQ youth. They need to be in schools that are supportive and academically appropriate. You can help get these services for the LGBTQ youth on your caseload.

This chapter discusses: factors judges and lawyers should consider to assure safety, permanency, and positive well-being for LGBTQ youth; tools for involving youth in their case planning, including court appearances; and tips to help LGBTQ youth find their voices in the dependency court process. This chapter assumes the lawyer has established a strong relationship with the youth and focuses on in- and out-of-court advocacy.

Role of Youth in Court

Including youth in their court hearings helps them feel valued and empowers them. Youth benefit from appearing in court in the following ways:¹

Sense of control (e.g., youth can tell the judge he would like to be in an LGBTQ group home rather than his current placement)

Understanding the process (e.g., youth hears: caseworker recommend services, youth's lawyer discuss need for LGBTQ-friendly services, and then judge's decision)

Seeing that adults care about them and their futures (e.g., judge asks about safety in the foster home and at school and why the youth's grades have improved since entering care and supports youth's LGBTQ status)

The court also benefits since the youth can answer questions about her life more

QUESTIONS EVERY LAWYER AND JUDGE SHOULD ASK

As the judge or lawyer in a case involving an LGBTQ youth, ask the following questions throughout the youth's case. Ask them of the agency, service providers, and the youth to help keep the young person safe, healthy, and in a permanent home.

Safety Concerns:

Where is the youth placed?

- Is it a foster home that is open to working with an LGBTQ youth, or one in which the foster parents may not be open?
- Is it an emergency shelter?
- Is the youth transgender and placed with other youth who are the same gender with which she identifies?
- Is it a group home? If so, what are the staff like?

Is the young person free from harassment by staff and peers? Are staff attuned to this issue? Is the youth being separated rather than included in the home?

Has the youth been evaluated to see if he is in danger of harming himself or attempting suicide?

Are there signs that the youth is abusing drugs or alcohol?

Permanency:

Is the agency frontloading services from an LGBTQ-friendly provider?

Are all professionals in the case working with the child and family on permanency issues at the beginning and throughout the case?

Has the entire family been engaged in the planning process?

Are the professionals engaged in concurrent planning?

How is the family reacting to the youth based on the reason for entry into foster care and LGBTQ status?

What does the youth want as a permanency plan?

Has the youth received counseling about his permanency options including returning home and adoption?

Well-being:

Education: Has the youth had to change schools? If so, is she safe in her new school? Is she enrolled in proper classes? Is there a Gay Straight Alliance (GSA) in the school and is the youth aware of it?

Medical issues: Is the youth being treated like other youth in getting evaluated? Have service needs been identified and is the youth receiving the necessary medical care?

Emotional health: Does the youth appear to need immediate counseling? Is there a protocol for getting youth evaluations and is it being followed? If the youth is open about his sexual identity, is there an LGBTQ-friendly counselor in the jurisdiction to refer the child to? Has the referral been made?

accurately than anyone else in the case. Youth can be included by attending court proceedings and speaking in court or in the judge's chambers, writing a letter that is read in court, or just being present and speaking through the lawyer.

Having your LGBTQ client in court helps the judge see that your client appears like other youth. The youth can explain what is going well, and not well, in foster care. You will need to prepare your client for the court experience though. A courtroom can be intimidating and not what the youth has "seen on TV."² Some judges and lawyers may not respect the youth, and may make disparaging comments about the youth's identity.³ Discuss this concern and let the youth decide whether she wants to talk to the judge, or whether she has something she'd like you to read. Let her know that even if she plans to talk but changes her mind, there is still value in appearing in court. Let her share any concerns she has about the experience before you enter the courtroom and after.

As the judge, you must welcome those who enter your courtroom, especially youth. They can provide insights and information you need to make the best decision in their cases, but will not if they do not trust you, or believe you value what they offer. (See Chapter 3)

The Life of a Case

Once a child enters foster care, the case follows a familiar pattern: regular hearings, case planning meetings, and services for the child and family to help them work through the issues leading to the child's placement. At each point in a case, the judge or lawyer can affect the youth by addressing the issues unique to the case. Whether this is issuing a no reasonable efforts order against the child welfare agency because it was not providing family therapy by an LGBTQ-friendly therapist or advocating for an LGBTQ group home that the youth would like to move into, your actions will change the youth's experience in foster care.

Initial Removal

An LGBTQ youth may enter care for a reason related to his LGBTQ status or something else. The youth may be out and open about his LGBTQ status with family and child welfare professionals, or he may not be ready to talk. If you are in a jurisdiction where you get to meet your client before the first hearing, jump on that opportunity. This is a good chance to start building a trusting relationship with your client. Discuss what information you plan to relay to the court and agency to ensure your client is safe and getting needed services at the start of her case.

Early Hearings

While not ideal, in many places, the shelter care, detention, or adjudicatory hearing is the first time you as the lawyer or judge will meet the youth. For lawyers, if this is true in your jurisdiction, talk to your client and try to establish a relationship.

During the hearing, focus on the questions in the box on p. 48, paying attention to safety issues such as where the youth is placed, how she is being treated, if staff are appropriate, and if she has concerns. Watch for red flags that could give you clues

about the youth's LGBTQ status. These could come from the petition, the caseworker's testimony, or comments from the parents or the youth. These include:

- The youth was kicked out of home when no prior problems were reported;
- The youth ran away or was living on the streets;
- The youth was using substances and the parent was not able to handle the situation (this may or may not indicate LGBTQ);
- The youth attempted suicide;
- The youth started skipping school even though he was doing well before (could show child feels unsafe at school).

If there are signs that the youth is LGBTQ, decide how to use what you've learned in your advocacy and decision making. For example, if the youth came out to you as her lawyer, but did not want you to disclose her LGBTQ status in court, you may need to figure out how to convey some concerns. As one youth put it, "If we tell our attorney, it's because we feel comfortable, not because we want the judge and everyone else to know...or we would announce it over a loudspeaker."⁴

For example, if your client told you that she is frightened in her new school because people are bullying her because she prefers to dress in boys' clothing, the judge and agency need to know this because it is a safety concern. You could discuss why the judge needs the information and agree on a way for you to communicate it. You could say she is being bullied and not say why, for example. That should be enough of a message for the worker and judge to get involved. You could also talk to the school counselor on your client's behalf.

As the judge, the child's lawyer may ask you to change a youth's placement. The lawyer may be able to disclose that the young person feels unsafe because of LGBTQ status, or the lawyer may just say the young person feels her safety is not guaranteed and she is unhappy. Even if the agency wants to keep the youth in the same placement, you are in a position to order the placement change and ask the agency to find an appropriate placement.

Remember the youth is more than just her LGBTQ status. For example, she may have special learning needs, a desire to be near family, or religious beliefs that should be accommodated. All youth in foster care should be treated as individuals. A youth who identifies as LGBTQ is no different than other youth in foster care, but there are identity issues to consider.

In Between Hearings — Throughout the Entire Case

Advocating outside court

As the child's lawyer, you play a key role in between hearings as the case progresses. You should participate in important meetings with your client and talk to your client regularly. This is essential for your LGBTQ clients who may be dealing with difficult relationships with their families, foster parents, old friends, schoolmates and others. Your role is to look out for what is best for them and to advocate for what they want.

ON POINT

Must the Agency Provide Medical Services to Transgender Youth?

Mariah L. v. Administration for Children's Services considers whether the child welfare agency must pay for sexual reassignment surgery (SRS) for a male-to-female transgender youth who is a foster child in the custody of the New York Administration for Children's Services (ACS). Despite all of her medical providers agreeing the surgery is medically necessary for Mariah, ACS refuses to pay for the surgery because they say it is not medically necessary and is not covered by Medicaid. Mariah filed a petition with the court asking for an order requiring ACS to provide the surgery. The Family Court granted her petition in January 2006 and ACS appealed.

On August 24, 2006, the appellate court held that SRS is the generally recognized and successful treatment for gender identity disorder, but remanded the case to ACS to give a specific reason for their denial of Mariah's request. On February 21, 2007, Judge Sheldon Rand of the New York Family Court ordered ACS to provide Mariah with SRS. Judge Rand dismissed ACS's unsubstantiated arguments that SRS is not medically necessary. ACS appealed this decision. Oral arguments took place in May 2007 and there is no opinion yet. (*Based on summary from the National Center for Lesbian Rights.*)

Impact on Practice

Advocates should be aware of this case and watch for the outcome. If the family court's order is upheld, it could impact what services you can advocate for on behalf of your transgender clients. Such services might include hormone treatment, sex realignment counseling, sex realignment surgery, and other supportive services. You may also be able to use this case to ask the court for specialized services for your LGBTQ clients that you may not have pursued in the past.

While your client is in foster care, she will have contact with other systems and providers. For LGBTQ youth, these interactions are often not smooth. Examples include:

- *School system.* Your client may be struggling in school, either academically or socially. She may be getting harassed or physically harmed. If she has changed schools many times, she may be having a hard time adjusting. You should make an appointment to see the school counselor with your client to arrange help by a tutor or someone who can protect her safety. If your client has an Individualized Education Plan (IEP), attend the IEP meeting and advocate for the educational services she needs.
- *Juvenile justice system.* If your client gets arrested and is having a delinquency hearing, you should appear or talk with the defense lawyer before the hearing. The police are often not sensitive to the issues facing LGBTQ youth. Many LGBTQ youth get arrested for sexual behavior that is labeled "predatory" when it is really behavior that would not rise to a criminal level for heterosexual youth. Other LGBTQ youth get arrested for prostitution because they are on the streets and need money. Ensure that whoever is representing your client in the delinquency proceeding is aware of your client's LGBTQ status and any relevant concerns.⁵
- *Health care system.* Your client may have health needs but have trouble accessing a doctor who is LGBTQ-friendly and treats youth in foster care.

JUDGE HEPNER'S PLACEMENT TIPS

In training programs for judges, attorneys and agency personnel conducted by Judge Paula Hepner from New York, she suggests that before placing an LGBT youth in a detention or foster care facility, judges might want to know:

- what the facility's policies are regarding treatment of LGBT youth
- what the facility's staff training on LGBT issues is
- what the facility's policies are regarding segregating LGBT youth
- whether the facility provides equal access to programs and services
- whether and under what circumstances a facility engages in differential treatment of LGBT youth

If your client is transgender, there may be medical issues to address, such as whether the youth should be on hormones (See box, p. 51). If your client has a substance abuse problem, help the client access appropriate treatment.

If your client needs counseling, be sure the provider is committed to supporting the youth, not trying to change the youth's sexual orientation or gender identity. Some mental health practitioners practice reparative therapy techniques designed to change the youth. The American Academy of Pediatrics and the American Psychiatric Association oppose this type of therapy and believe it can harm the client. Child welfare agencies, attorneys and judges should never allow LGBTQ youth to be seen by a therapist who uses reparative therapy.⁶

If your client is sexually active, provide information about HIV and HIV prevention. Note that lesbian and gay youth are no more at risk for HIV infection than their heterosexual counterparts who engage in unprotected sex, therefore it is important that all youth in foster care have access to information about HIV prevention.

As the lawyer of a client dealing with any of these systems, you should be on top of the issue and help the youth and caseworker find assistance. If advocating with the agency and providers does not work, you may need to ask the judge to hear the case early to resolve the problem and issue an order.

Advocating at case planning meetings

LGBTQ-friendly services. During case planning meetings, lawyers must work with the agency to get services for clients and their families by taking the following steps:

- Determine if the service provider is open to working on LGBTQ issues in a respectful and nonjudgmental way. Review websites of service providers to see if they list LGBTQ youth as a specialty. If not, work with the agency to decide if the provider can provide the necessary services or help find another provider.
- If your client is willing to engage in family counseling, advocate for services to work on the relationship with the client's parents, if appropriate.
- Monitor the agency's permanency planning efforts. Consider:

Is the agency working towards having your client return home? If so, how?

Has the agency or counselor directly addressed the youth's LGBTQ status and the parents' feelings before recommending your client return home?

Does the agency have a concurrent plan of adoption or guardianship by an LGBTQ-friendly individual or family? If so, what steps have been taken to ensure those outcomes?

Has the agency reached out to other family members who are open to the youth's LGBTQ status?

Has the agency found the youth a mentor or other positive adult role model who is LGBTQ-friendly?

Getting answers to these questions, and others in the box on p. 48, should be part of your advocacy throughout the entire case.

Permanency plan changes. As circumstances change, it may be necessary to revise the permanency plan. Sometimes when LGBTQ youth come out to the people in their lives, changes occur. For example, a young woman at one of the Opening Doors project's listening forums was in foster care for many years living with a preadoptive parent. When she came out to this parent, the parent would not adopt her.⁷ If you were her lawyer, you would want to help her find another permanent placement. More immediately, you would need to help her with any emotional issues related to coming out and be abandoned by her preadoptive mother. This might involve working with the agency, at case planning meetings and through conversations, to find counseling by an LGBTQ-friendly provider. If the agency is unwilling to work with you and your client, consider taking the case to court and asking for an order.

Permanency Hearings (and Reviews)

Every case must be in court at least every six months for a review hearing and every 12 months for a permanency hearing. These hearings should never be just rubber stamps of what the agency says. Judges and lawyers can ensure meaningful hearings happen for all young people, remembering that a meaningful hearing may look different for each family.

As the lawyer, by communicating with your client and her caseworker regularly, and attending the case planning meetings, you should know how your client is doing in care, her long-term goals, the agency's goals for her, and her progress in school. You should know whether she needs any services, and whether she is receiving them from LGBTQ-friendly providers. You will know whether she is involved in a Gay Straight Alliance (GSA) group at school. You may also have concerns that you think the judge needs to hear, either from your client or from you. Prepare your client to be in court and to share these concerns, or talk to your client about how she would like you to express the issues.

Reunification

When LGBTQ youth enter foster care, especially for reasons related to their LGBTQ status, professionals in the case often bypass reunification as the first choice permanency goal.⁸ This is unfair to the youth and the youth's family. Many youth in care return to their biological families. If a LGBTQ youth returns home without first working with the family about the issues leading to the placement, the chance of this working is poor. However, research shows that even families who are angry when a family member comes out, can work through that anger and learn to become supportive and nurturing. (See Chapter 2) When this happens, outcomes for LGBTQ youth can be positive.⁹

“. . . in developing a relationship with a client who may be LGBTQ, a lawyer is restricted from allowing LGBTQ prejudice to impact that relationship.”

Based on this research, the agency should provide the services your client and his family agree are needed to work towards a safe, and emotionally healthy reunification. This could involve family therapy, enrolling in Parents, Families and Friends of Lesbians and Gays (PFLAG) or other support groups, or education on issues common to LGBTQ youth and their families.

During the review, let the judge know whether this is happening. If not, ask the judge to order immediate services. The judge should order services unless there is strong evidence to the contrary. When working toward reunification, you might have to look beyond the youth's LGBTQ status to determine the reasons why the youth entered care and focus services on these issues. If the child was not being supervised at home, was using substances, had mental health concerns, or was physically harmed, the kinds of services offered may go beyond basic family therapy and PFLAG membership.

Remember that a youth's family may include people other than parents. The youth may have siblings who entered foster care, or remained at home, depending on the reasons for the placement. No matter where the siblings are, the youth should maintain contact with them, and you should help ensure that.¹⁰ Visitation increases the chance of reunification and maintains sibling relationships. Ask the court to order sibling visitation in the most natural setting possible. The siblings could see each other during visits with the parents, or separate visits with the youth could be arranged. Advocate for whichever is best for your client. Additionally, including siblings in counseling and other family-centered services may maintain the relationship and help the siblings understand the youth's LGBTQ status. If the sibling has heard bad things about the youth from the parents, having the chance to talk to your client, and ideally the sibling, in a safe place about that may help the youth and the sibling.

Termination of parental rights/adoption

If reunification is unlikely at the permanency hearing, the judge should require the agency to provide information about a viable permanency plan with clear steps for achieving this plan. If this does not happen, the judge should issue a no reasonable efforts order and ask that the case be brought back to court soon. This plan should include information about adults in the youth's life who can serve as lifetime resources for the youth upon leaving care. These people should welcome the youth into their homes for holidays and when the youth needs help. While they do not have to be LGBTQ themselves, they should be open to the youth's identity and ready to support him throughout his life. The youth should help identify these people, just like the youth can help find his own permanent placement resources.

If the agency says the goal is adoption, they should discuss specific recruitment efforts to find an adoptive resource for the youth. These efforts could include outreach to the gay community. If the youth will be adopted by current foster parents, find out if the youth is out to these parents. If the youth is out to you as the lawyer, but not to the preadoptive parents, help your client become comfortable coming out to the family. Talk with your client about her concerns about coming out

to these parents. Counsel her about the danger that the adoption would disrupt in the future when she does come out, or when the parents find out from another source. Suggest that your client and the preadoptive parents see a counselor together to discuss this issue in a comfortable, supportive setting.

The adoptive parents must understand and be comfortable with the youth's LGBTQ status. Many people say they are comfortable, but the adoptive parents must understand what this means. For example, would the parents be comfortable when the youth brings his same-sex partner home for a holiday and the two are holding hands in the living room? Will they treat the couple the same way they would if the couple were heterosexual and holding hands on the couch?

Also, the adoptive parents must be comfortable as advocates for the youth on a systemic (e.g., school) and a personal (e.g., with extended family) level. If the adopted grandparent is not comfortable with the youth's partner, will the adoptive parent support the youth? The adoptive parents must be comfortable with their relationship with the youth so when people from outside the family make unpleasant comments, they can respond in an affirming way. The main focus must be on the youth and supporting him so he can become a well-adjusted adult.¹¹

Remember that youth may be able to identify adults in their lives — mentors, teachers, coaches, friends' parents — who may be interested in adoption. Do not forget to include youth in planning their lives.

The TPR hearing is its own step in the case. If the goal at a permanency hearing is adoption, some decisions must be made before terminating the youth's parents' rights. These include whether the youth is ready to end the relationship with her biological family or whether the adoptive parents are open to those relationships continuing. Talk to the youth about these issues before and during the TPR hearing.

Guardianship/relative placement

If adoption is also not possible, discuss guardianship and then relative placement with the youth. The youth can often locate a suitable guardian. When this happens, the caseworker should ensure the proposed adult would provide a safe home.¹²

The caseworker should have reached out to relatives when the case started, but if not, should be ordered to do so if other permanency options are not likely. A relative, who is open to LGBTQ issues, may be interested in adopting, being a guardian, or providing a permanent home and connection for the youth. This relative may also be willing to help the youth improve relationships with his parents if that is a concern, and maintain a relationship with his siblings. A relative may know the family history and whether other family members are LGBTQ or who in the family would be open to supporting this youth.¹³

APPLA

The final permanency option is another planned permanent living arrangement (APPLA). APPLA is not:

- living in an emergency shelter for a year;
- moving from group home to group home; or

- staying in a residential treatment facility indefinitely unless the youth’s diagnosis requires that setting.

Some youth do well in group homes, especially group homes created for LGBTQ youth. This placement might work for some or all of the youth’s stay in foster care. However, since most youth need family connections, the caseworker should be trying to find LGBTQ youth family placements. APPLA should be planned and permanent. This means that if the youth will remain in care until he turns 18 or 21, services should be established to help with the transition, and a plan should be in place so the youth does not end up homeless, incarcerated, or without adult connections. If the agency suggests APPLA as the permanent plan, the judge should ask questions to ensure the transition is occurring and the youth has access to resources.

Appeals

If judges are not making appropriate orders or holding the agency accountable, the attorneys have a duty to appeal.¹⁴ While appealing a trial judge raises concerns about the judge’s treatment of you and your client in future cases, it is not acceptable for a judge to make derogatory or prejudicial comments and then disregard your requests on behalf of an LGBTQ client. If your case is heard before a hearing officer or master, remember you can file exceptions and have the case heard by a judge. The right to appeal is a legal tool when you are dissatisfied with the order or treatment by a judicial officer.

When deciding to appeal, first talk to your client. Explain that appeals involving minors only identify the youth with initials, but the youth may feel that personal information about his life would be broadcasted to even more people. This should be a decision that you make together.

Conclusion

To be an effective advocate or decision maker for a young person who identifies as LGBTQ you must get to know the youth. Earn his respect and trust by including him in his case. Find answers to the key questions that will help to ensure his safety, permanency, and well-being. Then, as the attorney advocate, get what your client needs. And, as the judge, make difficult decisions for the sake of the youth. This is not easy, but it is essential to improving outcomes for LGBTQ youth in foster care.

¹ Khoury, Andrea. “Seen and Heard: Involving Children in Dependency Court.” *ABA Child Law Practice* 25(10), December 2006, 150.

² Youth statement, Opening Doors Project listening forum, New York, NY, November 29, 2006.

³ Youth statement, Opening Doors Project listening forum, Jacksonville, FL, October 12, 2006. See also Chapter 2 for quotes from youth about court experience.

⁴ Youth statement, Opening Doors Project listening forum, New York, NY, November 29, 2006.

⁵ Fedders, Barbara. “Coming Out for Kids: Recognizing Respecting and Representing LGBTQ Youth.” *Nevada Law Journal* 6, Spring 2006, 774, 796–798 (for discussion of LGBTQ youth being arrested and detained longer than heterosexual youth for “sexual predatory behavior” and sexual crimes).

⁶ Wilber, Shannan, Caitlin Ryan and Jody Marksamer. *CWLA Best Practice Guidelines*. Washington, DC: Child Welfare League of America, 2006 at 55–56, 64 (discussion of reparative therapy and

the opposition to its use).

⁷ Youth statement, Opening Doors Project listening forum, Nashville, TN, November 14, 2006.

⁸ This is a common theme expressed during listening forums and trainings.

⁹ Wilber, Ryan & Marksamer, 2006, 12 (discussion of the Family Acceptance Project, “family and caregiver acceptance is an important protective factor and family and caregiver rejection has serious negative health outcomes for LGBTQ youth.”)

¹⁰ See Viner, Elana. “Understanding Siblings’ Rights in the Child Welfare System.” *Child Law Practice*, November 2006, 129, 134–138.

¹¹ Interview with Gary Mallon, PhD, July 26, 2007.

¹² Ibid.

¹³ Ibid.

¹⁴ Judge statement, Opening Doors Project listening forum, Jacksonville, FL, October 12, 2006.

Courtroom Strategies for Supporting LGBTQ Youth

AN INTERVIEW WITH JUDGE JANET ALBERT

Judge Janet E. Albert is a magistrate judge in the District of Columbia Superior Court. She has taken creative steps to make sure LGBTQ issues are addressed sensitively in her courtroom and youth feel safe and comfortable. In this interview, Judge Albert shares ideas on ways courts can support and meet the needs of LGBTQ youth.

How many child welfare cases do you carry? How many involve LGBTQ youth?

My caseload includes about 250 youth. I'm unsure how many have identified as LGBTQ, but there is at least a handful. I find that most youth are not open in the courtroom about their LGBTQ status.

How do you make LGBTQ youth feel comfortable in court?

I try not to label these youth because I don't believe labels are important and I never want to out a youth in the courtroom. Usually I will ask a youth if there is anything they would like to discuss privately.

When working with LGBTQ youth, how do you balance needs related to LGBTQ status with needs that most youth in out-of-home placement have (emotional health, education, medical, developing relationship with family)?

LGBTQ youth have many more risk factors than other youth in foster care. It's critical to find a good placement that will provide proper mental health care and substance abuse counseling. Gay youth also experience extra harassment at school. So keeping them in school is important, but that requires that social workers, foster parents, and CASAs improve their communication with the school system.

How have your colleagues reacted to your efforts and have any of them altered their behavior?

I believe there has been a significant change in the last several years. Now, adults involved in family court affairs are primarily doing the right thing or trying to. That said, there are still pockets of homophobia in the court system.

Do colleagues or advocates seek you out in cases involving LGBTQ youth? When you interact with colleagues, advocates, or a youth you believe to be LGBTQ, what kind of information do you share?

Although I have no particular training in this area, I have done some research about local organizations so I can inform others about available services. I have printed information to hand to parties about these issues because we lack these resources in readily available forms and they're needed. I'm also now chairing an LGBTQ working group that works with child welfare representatives in the community to share best practices. Currently the group is attempting to link community organizations with group homes for juveniles. The group is encouraging mental health care personnel to make themselves available for these meetings so we can troubleshoot with them as well.

Are you aware of LGBTQ-friendly placements or service providers in your area? Do judges and other advocates know about them? How did you find out about them?

I'm aware of general organizations that support LGBTQ youth such as PFLAG, SMILE, and there are certain CASAs in the DC area who are gay-friendly. Judges and CASAs are now largely aware of the *homophobic placements*, but more information is needed on where the *gay-friendly placements* are. I find information from articles, journals, and mental health studies, and then I print my own materials.

Describe a situation or two in which you've worked with a LGBTQ youth. What are some highlights and frustrations?

The frustration is that the foster care system needs to actively recruit foster families that are gay friendly and train all new foster parents (or re-train those currently serving as foster parents) about these issues. Training should be mandatory. The organization as a whole is extremely religious but needs to remain open to these youth. Those in the system who statistically tend to be the most homophobic (the foster parents or even some social workers) are on the front lines.

A highlight is that I'm now aware that the Child & Family Services Agency has a LGBTQ working group that is developing training for social workers. I'm optimistic about this because I believe that working with social workers and foster parents (in addition to judges, GALs, or CASAs) is critical to the systemwide buy-in that needs to occur.

What advice do you have for other adults working with LGBTQ youth?

Be open. Do not be afraid to talk about these issues with the youth if they raise them. No one is comfortable discussing sexuality in general, or pregnancy, or STDs. If these issues are not addressed, then risk factors associated with sexual activity will not be addressed. In general, all advocates need to be open to discussing sexuality because we need a complete picture of the youth. Although this may be more difficult or uncomfortable when dealing with a gay youth, it is critical because of the many risk factors (drug and alcohol abuse, mental health issues, safety, and truancy) that could be overlooked if that initial piece of information is not known.

Interview conducted by Melissa Fay Colangelo

Listening to and Learning from LGBTQ Youth

AN INTERVIEW WITH DOMINICK MAGEE

Dominick is 18 years old and has spent 10 years in foster care. He is currently in a community college program, but will transfer soon to a local four-year college and focus his studies on paralegal work.

What advice do you have for advocates in the legal system who are working with LGBTQ youth?

Don't ask, "Why are you this way?" Don't bring your personal beliefs and values about how it's wrong or right into your work. The placement of this child is not about you. It's about them and their life.

Do you feel being gay affected your experience in foster care?

Foster care has its ups and downs. I do think sexual orientation played a part in my experience. I had no male role model as a young child, so I always acted like my mom. My foster care mother accepts that kind of attitude for the most part. I'm close with my foster mom, but I still can't have company over here unless I ask. I told her about my sexual preference about two or three years ago. I've been here four years now, and we have our disagreements. Some of the stuff does seem to be about who comes over. Right now I'm living on my own, but renting a bottom floor from my foster mom. I can't bring anyone over here; I am still severely restricted in what I can do. I feel as if: *"I'm renting my place from you, but you think because of my sexual orientation I can't bring anyone over here."* My foster brother also said he's tired of all these gay people coming through this house. So now I don't want to bring people over anymore. I think they assume if I have any friends over that those people are gay and that I will engage in some sort of homosexual activity with anyone who walks through the door. Yes, my sexual orientation plays a big role in this house even though I'm most comfortable here.

If an attorney or judge strongly suspected a youth was LGBTQ but the youth did not feel comfortable discussing the topic, what would you want your attorney/judge to do?

It was hard for me to talk about most of my life. I knew that people knew or had an idea, but no one wanted to talk to me about it. I need an attorney to be open-minded, understanding. If possible, agencies should try to recruit openly gay or gay-friendly attorneys. If an attorney was gay-friendly, openly gay, or was just willing to have a non-judgmental one-on-one conversation with me, saying something like, "I've experienced

that, I'm that way," or "I understand," or "I'm sorry that's so hard," or just asking what I wanted to do, that would be really helpful. Most of the time though, attorneys see any kind of sexual orientation issue as an increase in drama; more issues to deal with. I just wanted to make sure I would get into a home.

I would also recommend that foster parents, social workers and attorneys go through a careful screening process and thorough background checks, because research needs to be done to see if they are violent or have a history of abuse, and of course, if they're homophobic. We're a vulnerable group and you add in people who could potentially abuse youth in conjunction with their sexual orientation, it's traumatic. When I told social workers that my former foster parents and staff at a residential treatment center abused me, no one believed me. Attorneys and judges need to respect youth in disputes with foster parents and respect youth when they feel threatened. Basically, I have a deep belief that juveniles who are prosecuted for status offenses and adults who violate basic decency to youth, particularly on the basis of their sexual orientation, should all be handled similarly and equally.

Interview conducted by Melissa Fay Colangelo

APPENDIX A

Resources

These resources provide further information for advocates about LGBTQ youth. You may find them useful to give to others involved in the process (caseworkers, residential staff, parents, teachers, psychologists, colleagues) or youth themselves. This list is not exhaustive. For more state-specific services, please contact the ABA Center on Children and the Law, Opening Doors project, directly or visit the National CASA website at www.NationalCasa.org

LEGAL ADVOCACY ORGANIZATIONS

ABA Center on Children and the Law, Opening Doors Project

740 15th St., NW
Washington, DC 20005
202/662-1736

www.abanet.org/child/lgbtq.shtml

This project improves legal advocacy and judicial decisions on behalf of LGBTQ youth in dependency cases. In addition to its manual for attorneys and judges, the Opening Doors project provides legal training to jurisdictions on request. A web cast discussing legal roles in LGBTQ cases, and attitudes and beliefs about LGBTQ youth can be accessed on the project's website.

Court Appointed Special Advocates (CASA)

100 West Harrison St., North Tower, Suite 500
Seattle, WA 98119
800/628-3222

www.nationalcasa.org

The National CASA Association, with its state and local members, supports and promotes court-appointed volunteer advocacy for abused and neglected children in the court system so they can thrive in safe, permanent homes.

Publication:

Annotated Bibliography: Resources for Working with Lesbian, Gay, Bisexual, and Transgender and Questioning Youth and Families in the Foster Care System

http://www.casenet.org/download/diversity/0612_lgbtq_0032.pdf

Equity Project

<http://www.equityproject.org/>

This national collaboration between Legal Services for Children (San Francisco), the National Center for Lesbian Rights, and the National Juvenile Defender Center ensures LGBT youth in juvenile delinquency courts are treated with dignity, respect, and fairness. The Equity Project examines issues that impact LGBT youth during the delinquency process.

Lambda Legal Defense

120 Wall Street, Suite 1500
New York, NY 10005
212/809-8585

www.lambdalegal.org/

This national organization pursues high-impact litigation, public education, and advocacy on

behalf of equality and civil rights for LGBT people. It supports people who need legal help through its phone help desks and educational publications. It has four locations throughout the country, in addition to its New York City headquarters.

Publications:

Youth in the Margins: A Report on the Unmet Needs of Lesbian, Gay, Bisexual, and Transgender Adolescents in Foster Care

Current state foster care programs neglect LGBT youth and, in many cases, promote a homophobic atmosphere that undermines their welfare. This report from Lambda Legal examines foster care programs in 14 states, highlighting the shortfalls of each in addressing LGBT youth and providing recommendations to address them.

<http://www.lambdalegal.org/our-work/publications/page.jsp?itemID=32009148>

Legal Services for Children/National Center for Lesbian Rights Model Standards Project

Legal Services for Children
254 Market St., 3rd Floor
San Francisco, CA 94102
415/863-3762, ext. 310
www.lsc-sf.org

National Center for Lesbian Rights National Office

870 Market St., Suite 370
San Francisco, CA 94102
415/392-6257
www.nclrights.org

This partnership has produced the *Model Standards Project LGBTQ Practice Guide*, published by the Child Welfare League of America in 2006 and available through www.lsc-sf.org, info@nclrights.org, and www.cwla.org

National Center for Lesbian Rights

870 Market St., Suite 370
San Francisco CA 94102
415/392-6257
www.nclrights.org

NCLR is a national legal organization committed to advancing the civil and human rights of LGBT people and their families through litigation, public policy advocacy, and public education. In addition to its San Francisco headquarters, it has offices in Florida and Washington, DC.

Publications:

Breaking the Silence: LGBTQ Foster Youth Tell Their Stories

This 45-minute DVD/CD includes 10 digital short stories by LGBTQ foster youth, training tools, and resources. The stories describe what it's like to be an LGBTQ foster youth and what advocates and providers can do to improve how child welfare and juvenile justice systems serve these youth. Available for \$25. To order, call or email Jody Marksamer, NCLR Staff Attorney, 415/392-6257, ext. 308; jmarksamer@nclrights.org

LGBTQ Youth in Foster Care System Fact Sheet

www.nclrights.org/site/DocServer/LGBTQ_Youth_In_Foster_Care_System.pdf?docID=1341

LGBTQ Youth in the Juvenile Justice System Fact Sheet

www.nclrights.org/site/DocServer/LGBTQ_Youth_Juvenile_Justice_Factsheet.pdf?docID=1343

Sylvia Rivera Law Project

322 8th Ave., 3rd Fl.

New York, NY 10001

212/337-8550

www.srlp.org

SRLP works to guarantee all people are free to self-determine gender identity and expression, regardless of income or race, and without facing harassment, discrimination or violence.

NONLEGAL ADVOCACY ORGANIZATIONS

Advocates for Youth

2000 M Street NW, Suite 750

Washington, DC 20036 USA

202/419-3420

www.advocatesforyouth.org

Advocates for Youth helps young people make informed and responsible decisions about their reproductive and sexual health.

Publications:

“Respecting the Rights of LGBTQ Youth, A Responsibility of Youth-Serving Professionals,”
Transitions 14, June 2002.

A special issue of Advocates for Youth’s journal, *Transitions*, dedicated to LGBTQ issues.

www.advocatesforyouth.org/publications/transitions/transitions1404.pdf

Creating Safe Space for GLBTQ Youth: A Toolkit

This manual includes sections on supporting youth of color and transgender youth.

www.advocatesforyouth.org/publications/safespace/safespace.pdf

GLBTQ Youth

Fact sheet providing information on challenges, risk factors, and trends among GLBTQ youth.

www.advocatesforyouth.org/publications/factsheet/fsglbt.pdf

Pamphlets for Youth:

I Think I Might Be Bisexual, Now What Do I Do?

www.advocatesforyouth.org/youth/health/pamphlets/bisexual.pdf

I Think I Might Be Gay, Now What Do I Do?

www.advocatesforyouth.org/youth/health/pamphlets/gay.pdf

I Think I Might Be Lesbian, Now What Do I Do?

www.advocatesforyouth.org/youth/health/pamphlets/lesbian.pdf

I Think I Might Be Transgender, Now What Do I Do?

www.advocatesforyouth.org/youth/health/pamphlets/transgender.pdf

Child Welfare League of America (CWLA)

440 First St. NW, 3rd Floor

Washington, DC 20001

202/638-2952

www.cwla.org/programs/culture/glbtc.htm

CWLA and partner Lambda Legal Defense and Education Fund are working together to build the child welfare system's capacity to deal fairly and constructively with young people, family members, and employees who are LGBTQ, with particular emphasis on those making the transition to adulthood.

Publications

Out of the Margins: A Report on Regional Listening Forums Highlighting the Experiences of LGBTQ Youth in Care. Available free online.

“Addressing the Needs of Gay, Lesbian, Bisexual, Transgender and Questioning (GLBTQ) Children, Youth, and Families Within Child Welfare Systems,” Special Edition, *Child Welfare Journal*, CWLA, 2006. Available for purchase online.

www.cwla.org or www.cwla.org/programs/culture/glbtc.htm

Families United Against Hate

P.O. Box 6396

Olympia, WA 98507

360/888-5291

Contact: Lisa Weiner-Mahfuz of PFLAG, 202/467-8180, ext. 217

www.fuah.org

A national network by and for families and survivors of hate-motivated violence which operates in conjunction with Parents, Families, and Friends of Lesbians and Gays (PFLAG) and other organizations and individuals. It focuses on providing long-term emotional support and technical assistance to families.

Gay, Lesbian, Bisexual, and Transgender (GLBT) Health Access Project

Justice Resource Institute

130 Boylston St.

Boston, MA 02116

617/457-8150

www.jri.org/jrihealth.htm#glbt

This project is a collaborative, community-based program funded by the Massachusetts Department of Public Health, offering provider trainings, technical assistance, and support aimed at eliminating barriers to health care access for LGBT individuals and their families.

Human Rights Campaign (HRC)

1640 Rhode Island Avenue, NW

Washington, DC 20036-3278

202/628-4160

www.hrc.org

As the largest civil rights organization working to achieve equality for LGBT Americans, the Human Rights Campaign represents a grassroots force of more than 700,000 members and supporters nationwide. HRC envisions an America where LGBT people are ensured equality and embraced as full members of the American family at home, work and in every community.

National Youth Advocacy Coalition (NYAC)

638 R. St., N.W., Suite 300

Washington, DC 20009

202/319-7596, ext. 12

www.nyacyouth.org

A social justice organization that advocates for LGBTQ youth to end discrimination and ensure their physical and emotional well-being. NYAC publishes a news magazine about sexual minority youth concerns.

DIRECT SERVICES FOR LGBTQ YOUTH

California AIDS Clearinghouse (CAC)

443 N. Martel Ave

Los Angeles, CA 90046

323/845-4180

www.hivinfo.org/

The Clearinghouse partners with state-funded education and prevention programs and HIV testing programs to create support services and educational materials that are culturally sensitive, language appropriate, and meet educational needs of these programs.

Gay, Lesbian, Bisexual, and Transgender Youth Support Project

942 W. Chestnut St.

Brockton, MA 02301

800/530-2770

www.hcsm.org/glys/glys.htm

Provides training and technical assistance for providers and educators who support LGBT youth.

Gay and Lesbian Adolescent Social Services, Inc. (GLASS)

650 N. Robertson Blvd.

West Hollywood, CA 90069

310/358-8727

www.glassla.org

Private, nonprofit social services agency aimed at gay and lesbian youth who are in foster care, on probation, or are homeless.

Hetrick-Martin Institute (HMI)

www.hmi.org/

The Hetrick-Martin Institute, Home of The Harvey Milk High School, believes all young people, regardless of sexual orientation or identity, deserve a safe and supportive environment in which to achieve their full potential. HMI creates this environment for LGBTQ youth between the ages of 12 and 21 and their families. Through a comprehensive package of direct services and referrals, HMI seeks to foster healthy youth development. HMI's staff promotes excellence in the delivery of youth services and uses its expertise to create innovative programs.

Locations:

Manhattan: Ali Forney Center

Wednesday, 10:30-11:30 a.m.

527 West 22nd St., 1st floor

Take the E train to West 23rd St.

Youth must be a member of the Ali Forney Center to attend.
Call 212/206-0574 to join.

Manhattan: Streetwork Project

Thursdays, 3:00-5:00 p.m.
165 W. 131st street, 3rd floor New York, NY 10027
Take the # 2, 3 trains to 135th St.
Youth must be a member of Streetwork to attend.
Call 212/695-2220 to join.

Manhattan: Hetrick Martin Institute

1st and 3rd Wednesday of the month, 5-6 p.m.
2 Astor Pl.
Take R or W to 8th St. or 6 to Astor Pl.
Youth must be a member of Hetrick Martin Institute to attend.
Call 212/674-2400 to join.

Jacksonville Area Sexual Minority Youth Network (JASMYN)

P.O. Box 380103
Jacksonville, FL 32205
904/389-3857
Gay Youth Information Line: 904/389-0089
JASMYN is a safe place where sexual minority youth are accepted, no questions asked. It offers a place for these youth to talk about LGBTQ issues and thoughts

L.A. Gay and Lesbian Center

The L.A. Gay & Lesbian Center provides services for the LGBT community, welcoming nearly a quarter-million client visits from ethnically diverse youth and adults each year. Through its Jeffrey Goodman Special Care Clinic and onsite pharmacy, the Center offers free and low-cost health, mental health, HIV/AIDS medical care and HIV/STD testing and prevention. The Center also offers legal, social, cultural, and educational services, with unique programs for families and youth, including a 24-bed transitional living program for homeless youth.
www.laglc.org

Locations:

McDonald/Wright Building

1625 N. Schrader Blvd.
Los Angeles, CA 90028-6213
323/993-7400

The Village at Ed Gould Plaza

1125 N. McCadden Pl.
Los Angeles, CA 90038
323/860-7302

Jeff Griffith Youth Center

7051 Santa Monica Blvd.
Los Angeles, CA 90038
323/993-7501

The Spot

745 N. San Vicente Blvd.
West Hollywood, CA 90069
323/993-7440

One-in-Teen Youth Services Nashville

109 29th Avenue North
Nashville, TN 37203
615/321.7288
877/ONE-IN-TN (877/663-4686)

www.one-in-teen.org

Since 1989, One-In-Teen Youth Services (OIT) has provided a safe space for LGBTQ youth, between the ages of 14 and 21, to be themselves. Basic services are free and events are alcohol and drug-free.

Sexual Minority Youth Assistance League (SMYAL)

410 7th St. SE
Washington DC 20003-2707
202/546-5940

www.smyal.org

SMYAL assists LGBTQ youth in Washington, DC. It promotes self-confident, healthy, productive lives for LGBTQ youth as they journey from adolescence into adulthood. It concentrates five areas: (1) life skills & leadership development, (2) counseling & support, (3) health & wellness education, (4) safe social activities, and (5) community outreach and education.

Urban Justice Center: Peter Cicchino Youth Project

123 William St, 16th Fl.
New York, NY 10038
646/602-5600

www.urbanjustice.org/ujc/projects/peter.html

This project helps LGBTQ youth stabilize their lives by helping them obtain government benefits, access permanent housing, and continue their educations. Legal clinics are conducted weekly at drop-in centers for runaways and LGBT youth. In addition, the project engages in systemic advocacy and impact litigation around issues such as mistreatment of LGBT youth in New York City's foster care and juvenile detention systems. The project also helps LGBT youth who are "aging" out of foster care.

CAREGIVER SUPPORT PROGRAMS

Family Builders

3953 24th St., Suite C-2
San Francisco, CA 94114
www.familybuilders.org

Family Builders provides a full range of services to families who wish to adopt a waiting child. In addition to an orientation and preadoption training, it offers ongoing support services, postadoption training, groups, community building events, and an extensive library for families.

Family Equality Council

P.O. Box 206
Boston, MA 02133
3953 24th Street, Suite C-2
San Francisco, CA 94114
510/272-0204
www.familyequality.org

A national advocacy organization that works to secure family equality for LGBTQ parents, guardians, and allies. Promotes legislation, policies, and initiatives that support LGBTQ-headed families.

Parents, Families, and Friends of Lesbians and Gays (PFLAG)

1726 M St., NW, Suite 400
Washington, DC 20036
202/467-8180
www.pflag.org

Provides support, education, and advocacy for parents, siblings, and friends of LGBTQ youth. Local chapters meet monthly. If no chapter is listed under “Local Organization” for your town, contact National PFLAG.

Publications:

Be Yourself: Questions and Answers for Gay, Lesbian, Bisexual, and Transgender Youth
www.pflag.org/fileadmin/user_upload/Be_Yourself_TT.pdf

SCHOOL-BASED SUPPORT PROGRAMS**Gay, Lesbian, and Straight Education Network (GLSEN)**

1012 14th St. N.W., Suite 1105
Washington, DC 20007
202/347-7780
www.glsen.org

This national education organization focuses on ensuring safe schools for all students.

Gay Straight Alliance Network

1550 Bryant St., Suite 800
San Francisco, CA 94103
415/552-4229
www.gsanetwork.org

This youth-led organization empowers youth activists fighting homophobia in schools. It advises on starting GSAs in schools and how to keep them going.

Note: The National Center for Lesbian Rights offers a fact sheet that explains the legal rights of students to form GSAs and to have the same privileges as other clubs.

www.nclrights.org/publications/pubs/gsaqa.pdf

Safe Schools Coalition

Public Health—Seattle & King County, MS: NTH-PH-0100
10501 Meridian Ave., N.
Seattle, WA 98133
206/632-0662, ext. 49
Intervention Help: (WA State only): 888/307-9275

www.safeschoolscoalition.org

A public-private partnership that works to reduce bias-based bullying and violence in schools and to help schools better meet the needs of sexual minority youth and children with sexual minority parents.

Note: Three useful resources addressing bullying in school are:

Bullying, It's Not Okay

This brochure for parents contains sections on “When Your Child Is the Victim,” “When Your Child Is the Bully,” and “When Your Child Is a Bystander.” It was jointly produced by the Washington State Medical Association, the Washington State Chapter of the American Academy of Pediatrics, and the Washington State Attorney General’s Office.

www.atg.wa.gov/bullying/BullyingBrochure8_05.pdf

Responding to Hate at School

A guide for teachers, counselors, and administrators from Teaching Tolerance.

www.tolerance.org/pdf/rthas.pdf

Safe Passage: Voices from the Middle School

A web page for parents and educators on bullying from the Family Education Network.

<http://familyeducation.com/topic/front/0,1156,24-18106,00.html>

WEB SITES FOR LGBTQ YOUTH

Youth Guardian Services

www.youth-guard.org

A youth-run organization that provides support services on the Internet to LGBTQ and straight youth.

Youth Resource Web Site

www.youthresource.com

This web site was created by and for LGBTQ youth to safely explore sexuality and issues of concern to the LGBTQ community. Created by Advocates for Youth, it offers “web rings,” which are collections of home pages for all LGBTQ youth, and dedicated pages for LGBTQ youth from various ethnic and cultural backgrounds.

National Coalition for Gay, Lesbian, Bisexual, and Transgender Youth (OutProud)

www.outproud.org

A web site community for LGBTQ youth and those who care about them. The site offers publications, personal stories, youth forums, Q&As, recommendations, and other resources.

APPENDIX B

Legal System’s Approach to LGBTQ Youth in Foster Care: Select Findings from Attorney/Judge Surveys

BY SHARON G. ELSTEIN

As part of the Opening Doors project, an exploratory survey was conducted to learn whether child welfare attorneys and judges know about court-involved lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth on their caseloads. It also sought to understand how the legal system responds to the special needs of LGBTQ youth.

This survey was the first of its kind and the sample is small. Its findings highlight the need for awareness education, sensitivity training, resource allocation, and support for youth who identify as LGBTQ and their families. A summary of the survey findings appears below. To view the full research report, visit the Opening Doors web site: www.abanet.org/child/lgbtq.shtml

SUMMARY OF ATTORNEY/JUDGE SURVEY FINDINGS

Attorney/Judge Background

Attorneys

- 71 of 556 attorneys completed and returned the survey.
- Attorney respondents primarily had a dependency caseload.
- Most attorneys had at least seven years of experience in the field; and one-third had more than 15 years’ experience.

Judges

- 18 of 300 judges completed and returned the survey.
- Judges in the sample preside over dependency cases with various levels of experience (i.e., length of time presiding over cases and length of assignment).
- Judges rarely know if a youth in their courtroom identified as LGBTQ.

Identification/Awareness of LGBTQ Status

Attorneys

- More than half of the attorneys often or sometimes know if their client is LGBTQ; two-fifths rarely or never know; and only 3% said they always know.
- Most attorneys believe that LGBTQ clients represent 10% or less of their dependency and delinquency caseload.
- The majority of attorneys reported their awareness of their clients’ sexual identity was based either on the youth’s self-report or on reports from others.

Judges

- Judges rely on others, or on self-report by the youth, to determine if a youth is LGBTQ.
- Judges perceive LGBTQ status as somewhat important in respect to child safety and very important in regards to permanency.
- Judges do not routinely ask social workers or GALs to ask youth about their sexual orientation.

Identification/Awareness of LGBTQ Status *(continued)*

Attorneys

- A majority of attorneys do not ask their young clients about their sexual orientation.
- More than half the respondents believe that social workers ask youth about their sexual orientation; close to one-half do not know whether they ask.
- If the attorney is aware of a youth's LGBTQ status, more than half will share that information with other professionals, but 40% will not.
- More than half of the attorneys believe a client's LGBTQ status is somewhat or very important when considering a child's safety and plans for permanency.
- The majority of attorneys believe LGBTQ youth in foster care have unique needs (safety, sensitivity, and acceptance).

Judges

- Judges do not address a youth's LGBTQ status with others involved in the case, although some share the information if they feel it is important for decision making, and is based upon the wishes of the minor.
- Judges believe that LGBTQ youth in foster care have unique needs compared to heterosexual youth on their caseloads.

Education/Training

Attorneys

- Close to one-half of the attorneys reported LGBTQ educational seminars were available within their jurisdiction, but one-third did not know if such trainings were offered.
- Only a handful of attorneys (16) had taken advantage of training opportunities, and 5 of those reportedly changed their practice based on what they learned.

Judges

- Educational seminars/trainings related to LGBTQ were available in only a few jurisdictions.

LGBTQ-Friendly Efforts

Attorneys

- One-third of responding attorneys report that child welfare professionals demonstrate they are "LGBTQ friendly" (e.g., by displaying rainbow flag or LGBTQ insignia or resource materials); while about one-half do not know of any such efforts.
- While a minority of responding attorneys currently display posters, flags, etc., a majority would consider doing so.

Judges

- A small proportion of judges reported displaying a sign or poster that was supportive of nondiscrimination generally, not specific to LGBTQ. Judges reported they would be willing to display LGBTQ resource material either in or outside of their courtroom.

Delinquency System Involvement

Attorneys

- Forty-five percent of respondents consider fewer than 5% of their LGBTQ clients as both delinquency and dependency (“cross-over”) clients.
- Most attorneys do not know whether their LGBTQ clients are more likely to be adjudicated delinquent for risky behaviors (e.g., prostitution/survival sex, assault, substance abuse) than non-LGBTQ clients.
- When asked specifically about LGBTQ clients with substance abuse problems, more than one-third could not estimate the number; 19% thought between one-quarter and one-half had problems.

Judges

- Most judges were unsure of how many LGBTQ youth were involved in the delinquency system, or how many were involved in both the delinquency and dependency systems.
- Among the few judges who were aware of LGBTQ youth involved in both the delinquency and dependency systems, the sense was that they represented a small proportion of youth.
- Most judges did not know if LGBTQ youth were more likely than heterosexual youth to be adjudicated for risky behaviors, or to have substance abuse problems.

Placement/Safety

Attorneys

- Most attorneys raise specific issues when addressing placement for LGBTQ youth, including foster homes’ safety, sensitivity, and acceptance.
- Few attorneys reported the availability of resources related to LGBTQ-friendly placements.
- 38% said LGBTQ-friendly counseling services were available either through their own offices or their child welfare agency.
- A minority of attorneys reported their local child welfare agency had a resource list of appropriate placements or counseling services; most were unsure if such lists exist.
- Two-thirds of attorneys reported asking social workers to provide information on placement families’ views if the youth identifies as LGBTQ; and about one-half ask at subsequent hearings.
- More than one-half ask social workers to screen placements if the child has identified as LGBTQ.
- Three-quarters of the attorneys will recommend the agency find an accepting placement if the first placement does not accept a youth’s LGBTQ orientation.

Judges

- Judges perceive no specific placement issues for LGBTQ youth.
- Few of the judges reported the availability of resources related to LGBTQ-friendly placements, and counseling services either through their own offices or their child welfare agency.

Mental/Physical Health

Attorneys

- Half of the attorneys' jurisdictions require a medical examination when entering their child welfare system; very few require reproductive health examinations or HIV testing.
- Two-thirds of attorneys say they make sure youth are receiving therapy or services by LGBTQ-sensitive providers.
- Over half the attorneys report their jurisdiction has confidentiality protections for HIV status, but 37% were not sure.
- More than half the attorney respondents stated their judges order all parties not to disclose the youth's HIV status.

Judges

- Medical exams were the most commonly requested exam requested by judges for LGBTQ youth, with over half of respondents requesting one.
- Very few judges request therapy/services by LGBTQ sensitive providers based on the results of medical, psychological, or reproductive exams.
- Most judges' jurisdictions have confidentiality protections in place for HIV status.
- Most judges enforce HIV confidentiality protections by ordering attorneys and parties not to disclose HIV status. Some seal records, close the courtroom, or follow statutes and laws.

Permanency

Attorneys

- All 32 attorneys who responded to the question on whether LGBTQ youth are harder to place in comparison to heterosexual teens said LGBTQ youth are harder to place, primarily due to the lack of tolerance/acceptance at the placements.
- Among 25 responding attorneys, all reported LGBTQ teens experience more placements; and among 33 responding attorneys, all believe LGBTQ youth have more turmoil or trouble with placements, again due to a lack of tolerance by adults and other youth.
- Among 19 responding attorneys, all believe that LGBTQ teens run away from placements more frequently than other teens, due to lack of acceptance, and to maltreatment.
- 69% of attorneys discuss with parents their attitudes towards their child's sexual identity; 61% do the same with relatives with whom the youth will be placed; and 64% discuss this with adoptive parents.
- Most attorneys said they refer families to LGBTQ-friendly counseling if they learn that the youth's status is an issue with parents or relatives.

Judges

- Some judges believe LGBTQ youth are harder to place compared to heterosexual teens, due to lack of tolerance/acceptance associated with placement options. A few judges also reported LGBTQ teens experience more placements, more turmoil or trouble with placements, and more frequently ran away from placements.
- When LGBTQ youth are placed with relatives, judges do not discuss attitudes towards sexual identity with the relatives. Some judges felt this discussion was the responsibility of mental health professionals and social workers.
- Judges indicated that they were not knowledgeable about the ability of LGBTQ couples to be foster parents. However they report LGBTQ couples are allowed to adopt within their jurisdiction.

Permanency *(continued)*

Attorneys

- The majority of respondents are not aware of any LGBTQ group homes in their jurisdictions.
- Three-fourths of respondents said that LGBTQ couples may be foster parents in their jurisdictions; and 69% said they may be adoptive parents.

This summary is based on research compiled by Sarah Caverly.

APPENDIX C

Case Law on LGBTQ Youth Rights and Protections

Case law recognizing the rights of LGBTQ youth is another critical building block in the pursuit of achieving fair representation and treatment in the court system for all minors. The following cases are representative of some of the claims and issues being taken up in jurisdictions around the country. School harassment and discrimination, inequities in access to health-care and medical services, and general institutional persecution are prevalent. However, parents and legal organizations are helping LGBTQ teens fight for equal treatment and complete acknowledgment of their civil rights. These cases also serve to demonstrate the types of issues that LGBTQ youth in foster care may face and the extensive legal measures they must take to preserve and secure basic privacy and liberty interests.

***Brian L. v. Administration for Children's Services*, 32 A.D.3d 325 (N.Y.A.D. 1 Dept. 2006).**

See Chapter 4 for a summary of this case addressing a child welfare agency's responsibility to pay for sex reassignment surgery for a transgender youth in its custody.

***R.G. v. Koller*, 2006 WL 897578 (D. Hawai'i).**

Three youth (a 17-year-old male-to-female transgender girl, an 18-year-old lesbian, and an 18-year-old boy perceived to be gay) accused the Hawai'i Youth Correctional Facility (HYCF) of willful blindness, abuse, and harassment. Doctors and psychologists repeatedly expressed concern over the welfare of LGBT youth in the facility because of the atmosphere of harassment. The ACLU of Hawaii then issued a report in 2003 exposing this pervasive humiliation and abuse. In 2005, the U.S. Department of Justice also reported on the policies and practices at the HYCF and found systematic violations of youths' civil rights. The United States District Court for the District of Hawaii issued a preliminary injunction requiring HYCF to stop harassing LGBT youth. HYCF agreed to several new training procedures, antiharassment policy, and other reforms.

***Nguon v. Wolf*, 517 F. Supp. 2d 1177 (C.D. Cal. 2007).**

Charlene Nguon, a 17-year-old student at Santiago High School in California with no previous disciplinary record, was repeatedly chastised and suspended for one week for engaging in what the school deemed inappropriate public displays of affection (IPDA) with another female student. However, heterosexual students were not disciplined for hugging, holding hands, or kissing. When explaining the suspension to Charlene's parents, the school disclosed her sexual orientation without obtaining Charlene's permission first, resulting in her transfer to another school mid-semester.

The ACLU's national Lesbian Gay Bisexual Transgender Project, the ACLU of Southern California, and the law firm of Latham & Watkins, LLP, brought a lawsuit on behalf of Nguon and the Gay-Straight Alliance Network in September 2005 to clear Charlene's disciplinary record and establish a policy of equal treatment for LGBT students in the district.

The court found that disciplining Charlene for IPDA with her girlfriend did not violate her equal protection or first amendment rights, and the principal did not violate her privacy rights by disclosing her sexual orientation to her parent while explaining the student's suspension without obtaining Charlene's permission.

Davis v. Fleming High School (Florida)*

Kelli Davis, a senior at Fleming High School, was denied the right to appear in her senior yearbook because she wore a tuxedo. After negotiating with NCLR, the school board agreed to change the portrait policy; add 'sexual orientation' to its nondiscrimination policy; distribute a copy of the new policy to all secondary school students; and provide annual training on sexual orientation to faculty, staff, and students.

Pinellas County Juvenile Welfare Board (Florida)*

A member of the Pinellas County Juvenile Welfare Board circulated a memo stating that Gay Lesbian and Straight Education Network (GLSEN) and Parents, Families and Friends of Lesbians and Gays (PFLAG) "endorse unhealthy sexual practices among youth, including sex between underage youth and adults." GLSEN and PFLAG issued a letter insisting the statements be retracted. The executive director of the board issued a public statement clarifying that "neither [GLSEN nor PFLAG] endorse unhealthy sexual practices among youth, including sex between underage youth and adults" in response to the letter.

Ramirez v. Los Angeles Unified School District (California)*

At Washington Preparatory High School in the Los Angeles Unified School District, students and members of the Gay-Straight Alliance Network's It's OK club claimed they had been harassed and discriminated against by teachers, administrators, staff, and other students based on their sexual orientation. The discrimination and harassment took place at school and included anti-gay comments and name calling, threats to out students, and failure to provide safety from anti-gay attacks.

The NCLR and the ACLU of Southern California, joined by Milbank, Tweed, Hadley & McCloy LLP, filed a complaint against the Los Angeles Unified School District and Washington Preparatory High School for discrimination against students based on sexual orientation. A settlement was reached and included among its stipulations, mandatory training for teachers, administrators, staff, and high school and middle school students.

PRIDE v. White County School District (Georgia)*

In 2005, students at White County High School in Cleveland, Georgia requested permission to form a gay-straight alliance club. The club aimed to fight against anti-gay harassment and bullying at the school. School administrators opposed the club and were slow to respond to the students' request. The ACLU of Georgia then became involved, negotiating for the students. Later in the school year, school administrators granted permission to start the club. The gay-straight alliance club was formed, meetings began, and the club was called PRIDE ("Peers Rising in Diverse Education").

A few days after PRIDE was formed, school officials presented a plan to ban all noncurricular student groups, starting with the following academic school year. During the 2005-2006 school year, PRIDE was not allowed to have meetings on school grounds. However, other clubs such as a dance club and a shooting club did continue meeting on the school campus even though they involved noncurricular activities and no academic credit was given for taking part in such clubs.

The Lesbian Gay Bisexual Transgender Project of the ACLU and the ACLU of Georgia filed a federal lawsuit against the school officials for banning the gay-straight alliance. A preliminary injunction was obtained, ordering the school officials to permit PRIDE and other school clubs to meet.

The ACLU and school officials of White County reached a settlement requiring school officials to institute an antiharassment policy to safeguard LGBT students from bullying, and provide faculty training each year on handling and preventing anti-gay harassment.

Paramo v. Kern High School District (California).*

East Bakersfield High School in the Kern High School District publishes *The Kernal*, a respected school newspaper. In 2005, students at the paper decided to write an article series about difficulties faced by lesbian, gay, bisexual, and transgender students at East Bakersfield High School.

The students were thorough and cautious in securing the consent and cooperation of interviewed students and their parents. Nevertheless, school officials prevented the articles from being published, “claiming unsubstantiated threats” against those students who had been interviewed for these articles.

Representing the newspaper staff and the interviewed students, the ACLU of Southern California and the ACLU Lesbian, Gay, Bisexual, Transgender Project sued the school. Attorneys for the plaintiffs argued that school officials must handle any problems by dealing with those students who are making threats, not by stifling the right to free speech of those students being threatened.

An agreement was reached affirming that “all students have the right to exercise freedom of speech and of the press” and that “school officials may turn to censorship only as a last resort.”

Morrison v. Boyd Co. Board of Education (Kentucky).*

The ACLU filed a lawsuit on behalf of Boyd County High School students who wanted to start a gay-straight alliance club at their school. Upon settlement of this lawsuit, a federal judge in Kentucky ordered the Boyd County public schools to institute antiharassment training and policy. The school district agreed to comply after the judge discovered the extensiveness of anti-gay harassment in the school, “where students in an English class once stated that they needed to ‘take all the fucking faggots out in the back woods and kill them.’”

In February 2005, the Alliance Defense Fund (ADF), a conservative religious legal organization, sued the school district to stop the antiharassment training and policy. Five plaintiffs from the original lawsuit were represented by the ACLU Lesbian Gay Bisexual Transgender Project and the ACLU of Kentucky. The parent of a student from Boyd County also joined in fighting the ADF suit.

A trial court ruled that “there is no religious right to stay out of school trainings aimed at reducing anti-gay harassment.” An issue concerning the constitutionality of the school board’s antiharassment policy (since revised) was also resolved in favor of the school district.

The U.S. Court of Appeals for the Sixth Circuit decided whether the policy was constitutional. In agreeing with the ADF that the initial harassment policy was constitutionally flawed, the ACLU nevertheless argued on appeal that “schools can have antiharassment policies that protect LGBT students from harassment while still respecting the constitutional rights of students opposed to homosexuality on religious (or other) grounds.”

The Sixth Circuit “reversed the district court’s ruling in favor of the Board, but only with respect to the court’s dismissal of Morrison’s claim that his speech had been chilled by the Board’s prior policies.” The case has been remanded to decide if Morrison’s right to free speech was in fact violated.

* These case summaries were adapted from the NCLR website: <http://www.nclrights.org>



Making a Difference for LGBT Youth

Lesbian, Gay, Bisexual, and Transgendered (LGBT) youth face unique challenges. They are more likely than their peers to face bullying, more likely to be homeless, become involved in the juvenile justice system and commit suicide. What can you, as a lawyer, do to make a difference?

Number 1: Get Involved in ABA Efforts for LGBT Youth

- Join the LGBT Litigator and/or Children's Rights Litigation Committees of the Section of Litigation to learn more about the issues facing LGBT youth and join with other lawyers in making a difference for these youth.
- Visit the website, <http://thekidsarelistening.org>, to learn more about the Opening Doors Project a program of the ABA's Center on Children and the Law, which is dedicated to training and supporting the legal and social service professionals on the front lines to ensure that LGBT foster youth have the support they need. This website provides an opportunity for judges, lawyers, and members of the public to sign up and become involved in local efforts for LGBT youth.

Number 2: Volunteer for Pro Bono Work for LGBT Youth

- Check to see if your local or state bar associations have pro bono law projects that serve LGBT youth (for example, name changes for transgendered youth or addressing discrimination in work or school). If not, work with your bar association to determine if such a program is needed.
- Check with your local children's law center or agency to see if it is serving LGBT youth and if there might be a role for pro bono lawyers in that work. To find a children's law center in your area, visit the ABA Directory of Children's Law Programs at <http://apps.americanbar.org/litigation/committees/childrights/directory.html>.

Number 3: Train Your Juvenile Judges and Lawyers

The American Bar Association provides training (at no cost) for lawyers and judges to assist them in their work with LGBT youth. Talk to judges and lawyers in your community and encourage them to request training at http://www.americanbar.org/groups/child_law/projects_initiatives/openingdoors.html. Additionally, the training *What Lawyers Need to Know About Representing LGBTQ Youth* is available for no cost at <http://apps.americanbar.org/litigation/committees/childrights/multimedia.html>

Questions on how to get involved? Need assistance in starting an LGBT pro bono program through your law firm, bar association, or children's law center? Contact the Children's Rights Litigation Committee at Cathy.Krebs@americanbar.org or (202) 547-3060.

American Bar Association: LGBT Policies

Since 1973, the ABA has been a leading LGBT-rights advocate. This list highlights only a few of the significant sexual orientation and gender identity policy actions that affect youth taken by the ABA through its House of Delegates.¹

- Urges federal, state, tribal, territorial and local officials to prevent and remediate the existence and dangers of bullying, including cyberbullying and youth-to-youth sexual and physical harassment, by defining these acts and developing education programs to assist teachers, parents and children in identifying victims and enhancing appropriate interventions. ***Approved as revised and amended February 2011.***
- RESOLVED, That the American Bar Association urges federal, state, territorial, tribal, and local legislatures, government agencies, and courts to adopt and implement laws, regulations, policies, and court rules that promote the safety, well-being, and permanent placement of lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth who are homeless or involved with the foster care system. ***Adopted August 2007.***
- RESOLVED, That the American Bar Association opposes legislation and policies that prohibit, limit, or restrict placement into foster care of any child on the basis of sexual orientation of the proposed foster parent when such foster care placement is otherwise appropriate under the applicable law of the state, territory, or tribe. ***Adopted February 2006.***
- Supports state and territorial laws and court decisions that permit the establishment of legal parent-child relationships through joint adoptions and second-parent adoptions by unmarried persons who are functioning as a child's parents, when such adoptions are in the best interests of the child. ***Approved August 2003.***
- Supports the enactment of legislation and the implementation of public policy providing that adoption shall not be denied on the basis of sexual orientation when it is determined to be in the best interest of the child. ***Approved February 1999.***
- Supports legislation and public policies that do not deny or restrict child custody or visitation on the basis of sexual orientation. ***Approved August 1995.***
- Urges enactment of federal, state, and local legislation prohibiting discrimination on the basis of sexual orientation. ***Approved as Amended February 1989.***
- Condemns crimes of violence, including those based on bias or prejudice of race, religion, sexual orientation or minority status, and urges government officials to focus public attention on this growing national problem. ***Approved August 1987.***

¹ The American Bar Association Commission on Sexual Orientation and Gender Identity maintains a full listing of policies on sexual orientation and gender identity at http://www.americanbar.org/content/dam/aba/migrated/2011_build/sexual_orientation/sexual_orientation_and_gender_identity_policies.authcheckdam.pdf.

Part 1: LGBTQ Youth in the Juvenile Justice System

By Amanda Valentino – January 6, 2011

Lesbian, gay, bisexual, transgender, and questioning/queer (LGBTQ) youth represent at least 13 percent of the total detained population in the juvenile justice system. Katayoon Majd, Jody Marksamer & Carolyn Reyes, *Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts* 10 (2009). Many of these youth experience debilitating harassment, violence, and discriminatory charges while in the juvenile justice system and are not obtaining the services they need because they are “under the radar.” Although defense attorneys and other youth advocates see the increasing numbers of identifiable LGBTQ youth enter into the system, many go unnoticed because they keep their LGBTQ identities a secret. They might not conform to the common LGBTQ stereotypes that one usually encounters in today’s mainstream media; therefore, they are not easily recognized. They might also be abused by close family members and peers because of their orientation and are afraid to ask for help or talk about personal issues while in the juvenile justice system. Although some safeguards are in place to ensure the safety of LGBTQ youth as a whole in detention facilities, more can be done to promote awareness and keep all LGBTQ youth safe.

An Increase in Identified LGBTQ Youth

Adolescence is an important time of social and emotional development. Children struggling with traumatic experiences in detention facilities can develop serious problems: social isolation, behavioral difficulties, and overall issues that can have a negative impact on their current quality of life and future functioning. Ashley Eckes & Heidi Liss Radunovich, *Trauma and Adolescents* 2 (2007). Therefore, more attention needs to be focused on education and awareness for defense attorneys who are representing clients who may not be open about their LGBTQ orientation.

Some may believe that the LGBTQ youth population does not exist, refusing to accept that children are sexually active or sexually identify themselves at a young age. However, this is not the case. Even though estimates of the gay, lesbian, and bisexual population vary in the United States, many researchers believe that between 5 and 6 percent of youth fit into one of these categories. Human Rights Watch, “Young and Queer in America,” in [Hatred in the Hallways: Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Students in U.S. Schools](#) (2001) (last visited Dec. 13, 2010). For example, the estimated number of children currently enrolled in school is 76 million, U.S. Census Bureau, [Back to School: 2010–2011](#), which means that at least 3.8 million school-age children in the United States are dealing with sexual orientation issues.

According to researchers, on average, the age of same-sex attraction awareness is 10, and the average age at which youth disclose their sexual orientation is 14. A. Daugnelli, A. Grossman & M. Starks, “Parents’ Awareness of Lesbian and Bisexual Youth’s Sexual Orientation,” *J. Marriage & Family*, May 2005, at 478. A 1996 study of youth found that generally girls were



aware of their attraction to other girls at age 10 and had their first same-sex experiences at age 15. Human Rights Watch, *supra*. The study also established that boys had their first awareness of same-sex attraction at age 9 and their first same-sex experience at age 13. In addition, in 1998, a group of adults were surveyed about their first realization of their attractions to the same sex. The survey found that the first awareness of an attraction to the same sex occurred at an average age of 13 for men and between 14 and 16 for women. The average age for the first same-sex experience was 15 for men and 20 for women. These studies are evidence that today's youth are recognizing their same-sex attractions at younger ages.

Unfortunately though, there are no clear data regarding the prevalence of people who identify themselves as transgender. *See* Human Rights Watch, *supra*. ("Transgender" is an umbrella term that is used to describe the identities and experiences of people whose gender identity does not conform to society's stereotypical definition of "male" or "female" in some way. This broad definition makes it difficult to compile statistics about this community.) However, some think that there may be about 1.1 million transgender youth and adults in the United States. [One Million Transgender Youth and Young Adults in the United States?](#) (Feb. 13, 2010). This statistic is hypothetical and extrapolated from recent surveys around the country; therefore, it cannot be deemed accurate until transgender status is captured in the census. But there is no argument as to whether these individuals are particularly vulnerable to harassment in and out of the criminal justice system.

Disproportionate Representation

There is a cyclical relationship between the LGBTQ identity and the juvenile justice system: Many youth become caught in the revolving door of the juvenile justice system because they identify as LGBTQ. These youths' first encounters with the criminal justice system usually occur either on the streets or in school. Between 20 percent and 40 percent of homeless youth and runaways in the United States identify themselves as LGBTQ. Rudy Estrada & Jody Marksamer, "Lesbian, Gay, Bisexual, and Transgender Young People in State Custody: Making the Child Welfare and Juvenile Justice Systems Safe for All Youth Through Litigation, Advocacy and Education," 79 *Child Welfare* 2, 4 (2006). This is because many LGBTQ youth leave home to escape hardship or abuse due to their lifestyle. Many others are kicked out because their families do not approve of their homosexuality or sexual identity. As a result, youth become victims of the street and engage in nonviolent "survival crimes" to obtain cash flow and food. Jody Marksamer & Shannan Wilber, *The Model Standards Project* 3 (2002). Typically, these "survival crimes" consist of prostitution, petty theft, or shoplifting. Estrada & Marksamer, *supra*, at 5 n.28.

In addition, LGBTQ youth find themselves in juvenile detention facilities as a result of the horrifying discrimination, abuse, and harassment in their schools. This adversity forces LGBTQ youth to either fight to defend themselves or skip school to escape peer persecution. Marksamer & Wilber, *supra*. Either way, these youths end up in the courtroom on criminal charges because they have engaged in self-defense or because they are chronic truants.

Due to harassment at school, LGBTQ youth sometimes find themselves in the role of the offender in the courtroom and behind bars. One youth, Beth G., who was interviewed for the Human Rights Watch study, spoke of months of repeated verbal threats and abuse in school: “I was so angry that I’d been tolerating this behavior, that I was trying to accept it . . . I realized, it’s affecting me at school; it’s pushing me out of classes.” Human Rights Watch, *supra*, ch. VI., “Coping with Harassment and Violence.” It is evident that this is not an isolated problem because peer abuse can affect many aspects of a child’s life. In turn, the adversity facing LGBTQ youth can drive them into the menacing grip of the juvenile justice system and, when behind bars, into further abuse from their peers and detention employees.

Examples of Abuse

LGBTQ youth in the juvenile justice system may face discrimination and harassment that many other detained youth do not encounter, including verbal, physical, and mental abuse. Much of this inequity occurs in tandem with other issues that youth have to grapple with when incarcerated. These issues are magnified, however, for less visible LGBTQ youth.

In 2006, a groundbreaking legal case brought to light specific issues that many LGBTQ youth face in detention. *R.G. v. Koller*, 415 F. Supp. 2d. 1129 (D. Haw. 2006), focused on three individual plaintiffs: a 17-year-old male-to-female transgender girl, an 18-year-old lesbian, and an 18-year-old male perceived to be gay. These three individuals sued the Hawaii Youth Correctional Facility (HYCF), the state’s juvenile correctional facility, because of the abuse and harassment they received there due to their sexual orientation and gender identity. *R.G.* was a victory for those advocating for the rights of LGBTQ youth in the juvenile justice system. The judge issued a preliminary injunction requiring HYCF to cease the harassment of the LGBTQ wards. HYCF eventually settled the case and agreed to reform its system and institute a new anti-harassment policy to rectify the inherent discrimination.

R.G. highlighted many of the issues that LGBTQ incarcerated youth face throughout the country. There was continual verbal abuse by the staff at HYCF, including the Youth Correctional Officers. Routinely, staff would use the term “butchie” to refer to female wards who identified themselves as gay, expressed romantic feelings for other girls, or failed to conform to sex stereotypes. On other occasions, staff members expressed their own personal feelings that being gay was “wrong” and “disgusting,” and they required the other young wards to develop rules and punishments for LGBTQ wards.

The other two young plaintiffs faced similar verbal abuses and threats. On a regular basis, other wards would call the gay male derogatory names. The young male-to-female transgender girl was called similar names in the presence of staff. Furthermore, the staff would foster this abuse by referring to her as “cupcake” and “fruitcake.” This young girl was not allowed to play with her hair “like the girls,” and the staff often threatened to “cut off her hair and send her ‘over to the boys’ side.”



These comments, especially the latter, are terrifying to transgender wards in the juvenile justice system. To be sent back to the boys' side would mean that the transgender ward would be put in an area where she did not feel comfortable and the other male wards would most likely notice her uneasiness. This transgender ward at HYCF identified herself as female, and assimilating the genders led to more verbal abuse and physical attacks. At one point, this young woman was actually transferred to the boys' unit where she was subjected to escalating harassment and physical abuse from other wards.

Isolation May Exacerbate the Harm

Juvenile detention employees, like the ones in HYCF, have witnessed this verbal and physical abuse and felt that the only solution to protect these individuals was isolation. The use of isolation and solitary confinement for "protection" is sometimes viewed as reasonable and nonpunitive by detention staff, but, in reality, it has the opposite effect. With isolation, the victimized LGBTQ youth ironically is turned into the offender. Isolating an individual acts more as punishment than protection, and these practices have the potential to lead to physical and mental deterioration. Continual harassment and solitary confinement can wear down one's self-confidence and ideation of self-worth, leading to a downward spiral of mental distress.

In the *R.G.* litigation, Robert Bidwell, M.D., an associate professor of pediatrics at the University of Hawaii John A. Burns School of Medicine, whose specialty is adolescent medicine, conducted interviews of the plaintiffs. In his declaration, he noted that it is well known that prolonged periods of isolation may have adverse psychological effects: "With respect to LGBT[Q] youth, isolation may be perceived as punishment for being LGBT[Q], which evokes feelings of rejection and depression and may manifest itself through a variety of physical symptoms ranging from headaches to self-mutilation." Declaration of Robert J. Bidwell, M.D., at 11, *R.G. v. Koller*, 415 F. Supp. 2d 1129 (2006) (Civ. No. 05-566 JMS/LEK) (Sept. 2005). Dr. Bidwell also commented on the extreme conditions of solitary confinement that the staff forced LGBTQ youth to endure for their "protection" in HYCF. This included long-term segregation for 23 hours a day with nothing other than a pillow and blanket in their holding cell. *R.G.*, 415 F. Supp. 2d. at 1148. The young wards would be allowed to leave their cells for only one hour a day to shower and engage in recreation, and they were not permitted letters, writing instruments, radio, television, or any interaction with other wards. This "protection" at HYCF seemed to cross the line into a solely punitive nature for simply identifying as LGBTQ.

Part 2 of this article will appear in the next issue of *LGBT Litigator*.

Keywords: litigation, LGBT, juvenile justice system, awareness

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Part 2: LGBTQ Youth in the Juvenile Justice System

By Amanda Valentino – June 27, 2011

The saying “Never judge a book by its cover” is one of the lessons we were all taught since childhood. It has been used to teach us to look at the whole picture before judging and categorizing an individual. A novel theory, coined “multidimensionality,” embraces this well-known saying. Multidimensionality illustrates that, to understand someone, it is necessary to know where he or she comes from and all of the identities that he or she encompasses before trying to address specific needs. This theory can reveal the diverse material, social, and emotional harms that are caused by the interconnectedness of racism, sexism, poverty, and heterosexism. Darren Leonard Hutchinson, “‘Gay Rights’ for ‘Gay Whites’?: Race, Sexual Identity, and Equal Protection Discourse,” 85 *Cornell L. Rev.* 1358, 1368 (2000).

Because not all young clients will be willing to freely speak about his or her orientation or gender identity, possibly because of past trauma associated with coming out to adult family figures, juvenile advocates need to be attentive to who their young client really is. Multidimensionality is the key to understanding clients; it examines the sexual identity (together with race, gender, and class) and the complex life experiences of young clients. An extreme attentiveness to subtle cues and hints at possible issues is needed when working with all young clients because they are usually the most reluctant to place their trust in adults.

Once an attorney becomes familiar with the specific issues affecting their clients, the attorney needs to be aware of ways to effectively represent the youth throughout all of the proceedings following arraignment. A variety of issues affect lesbian, gay, bisexual, transgender, and questioning/queer (LGBTQ) youth differently from their heterosexual counterparts, while some issues are the same. Advocates for these young clients need to take a multidimensional approach to recognize the particular concerns for LGBTQ clients.

Discriminatory and Inappropriate Charges

Juvenile advocates and defense attorneys should be on alert for the system’s propensity to overcharge youth that engage in same-sex conduct compared to their heterosexual counterparts. Overcharging is typically the result of a frantic parent who finds his or her child engaging in same-sex conduct with another child and subsequently insists that his or her child is the victim, even though the conduct was consensual. The parent may insist on filing charges against the “perpetrator,” potentially resulting in incarceration and the stigmatization of being labeled a sex offender.

Another typical scenario stems from discovered homosexual consensual conduct in schools or group-care homes. Administrators in charge of these locations feel obligated to identify a “perpetrator” in the situation to shield themselves from liability and charges of inadequate supervision. There is a need to pin the blame on someone else so that any charges are that are



filed are against the identified scapegoat. Additionally, charges are sometimes filed by youth who willingly engaged in same-sex conduct at the time but later experience shame or regret because of burdensome familial pressure to reveal the instigator.

One public defender stated in an email interview that she has had a handful of incidents where her lesbian clients were punished in juvenile detention facilities and group homes because of same-sex teenage behavior. These behaviors are described as “problematic,” even though the defender believes that they result from limited sexual opportunities in same-sex group homes, so “lesbians are basically forced into these situations where they live with other girls and then are sanctioned for acting on their normal impulses.”

Awareness of the potential for the overcharging of LGBTQ youth as sex offenders is one step toward eradicating the abuse that these youth face. This is an initial step that can stop discrimination when it begins to take shape during arraignment.

Constitutional Rights

As an attorney, it is important to understand the constitutional rights and claims that are specific to LGBTQ youth. As wards under the care of the state, these young people have a constitutional right to safety and equal protection. Attorneys should be alert for all of these rights; however, the rights to safety and equal protection are imperative. When working with young clients who fall below the LGBTQ visibility level, these two protections are the most important. Safety and due process work to keep LGBTQ youth the most secure from discrimination and harassment. These two rights are the most vital when dealing with less-visible LGBTQ youth because they might not fit into the normal stereotypes and might be dealing with other serious personal issues that keep them silent about their sexual identity and orientation. This silence may make these youth more susceptible to undetected abuse and harassment in the system, which is why juvenile advocates need to have a heightened awareness for the constitutional claims that can be utilized as remedies.

Due to their legal status as wards of the state, all young people in state custody have a constitutional right to safety grounded in the Due Process Clause of the Fourteenth Amendment. Rudy Estrada & Jody Marksamer, “Lesbian, Gay Bisexual and Transgender Young People in State Custody: Making the Child Welfare and Juvenile Justice Systems Safe for All Youth Through Litigation, Advocacy and Education,” 79 *Child Welfare* 6 (2006). In contrast with adult defendants, youth in the custody of the state juvenile justice system have not yet been convicted of crimes per se and are therefore committed to the care of the state. The theory of the juvenile court is rooted in social-welfare philosophy and rehabilitation rather than punishment, which is why the proceedings are deemed civil rather than criminal.

Knowledge of this inherent right is crucial when advocating for incarcerated LGBTQ youth. Defense counsel should familiarize themselves with the available detention facilities and any possible past complaints there might be regarding the treatment of youth. The right to safety encompasses the right to protection from psychological, verbal, and physical abuse. This interest

was recognized in *R.G.*, 415 F. Supp. 2d. at 1156, via the landmark holding of *Youngberg v. Romeo*, 457 U.S. 307 (1982). The court in *Youngberg* made it clear that the Constitution requires state officials to take steps to prevent children in state institutions from physically and psychologically deteriorating. 457 U.S. 307. In *R.G.*, this right was specifically attached to all children, especially the LGBTQ youth in HYCF. 415 F. Supp. 2d.

The right to safety also includes the right to appropriate and necessary medical or mental health care. Estrada, *supra* note 4, at 12. For example, this protection would enforce liability on the agency if correctional employees were aware of a transgender youth's mental or medical health needs regarding a gender identity disorder diagnosis and failed to take appropriate steps to address the issue. This specific awareness of transgender rights in the youth community extends from the medical rights of adult transsexual clients. Courts have held that transsexualism constitutes a "serious medical need," and denying access to a transgender-related health-care issue for prisoners amounts to cruel and unusual punishment under the Eighth Amendment.

In addition, juvenile detention facilities need to employ appropriate policies, treatment options, and supervision for suicidal wards. This includes the right to have mental-health screening for youth who might be a suicide risk. This is highly important for the LGBTQ incarcerated youth community because they are generally more at risk for abuse and harassment, which tends to lead to an increased rate of suicide. *Id.* at 13; See Jody Marksamer & Shannan Wilber, *The Model Standards Project* (2002) at 4. Ironically, LGBTQ youth are subjected to higher levels of inappropriate mental-health treatment, perpetuating their state of decreased psychological well-being. However, even though LGBTQ youth may be at a higher risk for suicide, this alone should not be the main reason to place them on suicide risk. There needs to be additional factors going into a suicidal diagnosis than just an LGBTQ identity. Additionally, heightened surveillance for these youth to prevent suicidal tendencies could also lead to discriminatory practices, so striking a middle ground is essential.

Furthermore, the right to safety means that LGBTQ youth should not be forced to undergo inappropriate or unethical services that can damage their emotional welfare. Unsuitable procedures include the use of conversion therapies and other practices intended to involuntarily change a person's sexual orientation or gender identification. Estrada, *supra*, at 8–9. In general, these practices have been condemned because they can cause serious emotional harm, especially to adolescents. However, as defense counsel, it is imperative to be on guard for these procedures that may be employed in detention and mental-health facilities.

Finally, the right to safety in juvenile detention facilities includes the right to be free from isolation. Adolescents in these facilities should not be placed in conditions amounting to punishment or stigmatization because they have not been convicted of crimes. Even though many staff members feel that they are protecting LGBTQ youth from harm when employing isolation practices, they are actually inflicting psychological distress on them in a punitive way. Isolation deprives people of support systems, friendships, or any other interpersonal connections that can help them avoid abuse. This is especially damaging to LGBTQ youth because many of



them are already feeling isolated as a result of the rejection they have experienced from their families and friends due to their lifestyle. These youth do not need additional barriers to human contact like the “protective” isolation practices that promote mental-health deterioration. In contrast, these youth need the chance to form support systems with peers of their own age and possibly of their own identity and orientation. Allowing these youth to form connections with other LGBTQ adolescents might prove therapeutic and allow them to realize that they are not alone.

The Right to Equal Protection

Another constitutional guard for LGBTQ youth encompassed in many of the other inherent protections is the right to equal protection. Generally, if an LGBTQ youth in state custody is refused access to a program based on his or her sexual orientation or gender identity, his or her constitutional right to equal protection is violated. Similar to the constitutional right to safety, if a juvenile justice professional fails to take action against anti-LGBTQ harassment, the court could extend liability to the agency and its actors and find that they violated the youth’s right to equal protection. The court in *Marisol A. v. Giuliani*, 929 F. Supp. 662 (1996), enforced agency liability, and, as a result, there was a settlement award for damages and important policy changes within the New York City child welfare system to improve the standard of care for LGBT youth. Even though this case involved the failure to protect LGBTQ youth in the child welfare division, all youth in the custody of the state have the inherent right to equal protection, including wards in juvenile detention facilities.

State Nondiscrimination Protections

In addition to legal protections under the Constitution, defense attorneys working with LGBTQ youth should also familiarize themselves with state and local law nondiscrimination statutes and ordinances. Estrada, *supra*, at 15. For example, some states have regulations that specifically protect individuals from discrimination by governmental agencies, and these regulations would extend to juvenile justice detention facilities. Again, if youth advocates are aware and knowledgeable about these applicable laws, they work as important additional tools that can be used to reinforce safety for LGBTQ incarcerated youth.

Nonlitigation Strategies: Education and Awareness

In addition to the litigation strategies mentioned above, there are also nonlitigation techniques that can be employed to help unidentified LGBTQ youth in the juvenile justice system. A main reason why these less-visible LGBTQ youth exist is because many people employed in the juvenile justice system are uneducated about LGBTQ youth issues and are unaware of the techniques used to recognize specific underlying LGBTQ concerns for youth that are reluctant to speak up.

Educational resources and awareness training might be valuable resources that many state facilities, like public defender offices, do not have the luxury of utilizing because of budgetary cuts. However, these are programs that should be integrated as much as possible into training programs. Currently, even in a time of economic turmoil and very few resources, some

jurisdictions are working to develop multidisciplinary approaches for improving the care and outcomes of LGBTQ youth in the juvenile justice system. These programs include education and training on sexual orientation and gender identity issues for employees. LGBTQ-specific training is effective in combating homophobia and transphobia while improving the quality of life and care for LGBTQ children in the juvenile justice system. Estrada, *supra*, at 17 n. 75.

Public defender offices and other state employees may look to the City of San Francisco and the State of Massachusetts for guidance on how to effectively set up LGBTQ training programs and policies. *See* Peter A. Hahn, “The Kids Are Not Alright: Addressing Discriminatory Treatment of Queer Youth in Juvenile Detention and Correctional Facilities,” 14 *B.U. Pub. Int. L.J.* 117, 139 n.171, and 139–140 (2004). The City of San Francisco is the only local department in the county that has implemented a specific, comprehensive antiharassment policy that includes sexual orientation and gender identity awareness. The San Francisco Juvenile Probation Department Anti-Harassment Policy for Youth strictly forbids harassment and discrimination, applies specific procedures for handling complaints from youth, describes the review and appeal process, delineates remedial and disciplinary action, and necessitates age-appropriate training about the policy and issues of diversity for staff and youth. In addition, even though Massachusetts does not have a comprehensive policy regarding LGBTQ youth, it does have a number of regulations that promote diversity and tolerance within the system that include the Department of Youth Services (DYS) Code of Employee Responsibility. This code, enacted in 1999, holds employees accountable for their personal demeanor and prohibits discriminatory conduct based on sexual orientation. Additionally, at the commencement of employment, all DYS staff go through training addressing sexual harassment and diversity regarding sexual identity and orientation.

These two locales provide comprehensive training on sexual orientation and gender identity to caseworkers, foster parents, group-home staff, and direct service providers. Estrada, *supra*, at 17. Additionally, some jurisdictions, including Connecticut, Illinois, the City of Philadelphia, and Santa Clara County in California, have designated an LGBTQ point person to conduct trainings on the specific issues facing this particular population. In these locations, the point person addresses any other concerns that may arise, such as finding safe placement homes and appropriate medical services for LGBTQ youth.

Other sources of educational information are the [Child Welfare League of America](#) (CWLA, a union of private and public organizations that advocate and serve vulnerable children and families worldwide) and the [National Center for Lesbian Rights](#) (NCLR, an organization dedicated to the pursuit of justice, fairness, and legal protections for all LGBT people). Both organizations have published numerous educational pieces to further educate those employed in the juvenile justice system about LGBTQ youth rights. Each association has a vast amount of material that can provide state systems with helpful resources when starting LGBTQ youth training and continuing legal education for their staff. *See also* Majd, *supra*, at 149.



In addition, simple tools, such as learning how to speak gender-neutrally to young clients, can result in a stronger attorney-client relationship and provide understanding regarding a client's background, especially if he or she identifies as LGBTQ. This will help attorneys advocate for the specific needs that certain LGBTQ clients might have and help keep them safe while in the detention halls. Generally, when speaking to young clients, attorneys should avoid language that assumes heterosexuality. Marksamer, *supra*, at 1. Youth usually pick up on subtle adult suggestions, such as asking a young girl client if she has a boyfriend. This can suggest to her that homosexuality is frowned upon and can possibly result in her silence about her sexuality if she is in fact having same-sex attractions. Additionally, attorneys should be tuned into hints that their youth clients give. Adolescents may test whether their attorney will accept them by avoiding the use of gender pronouns when talking about a romantic partner or mentioning that they have LGBTQ friends or family. These subtle hints can provide defense attorneys with a major opportunity to show their clients their open-mindedness and acceptance of their situation and identity.

Conclusion

Numerous issues plague the juvenile justice system, and there are very limited resources for resolving these problems. However, this does not mean we can turn a blind eye to LGBTQ youth. LGBTQ discrimination in the juvenile justice system is a reality, and even a little education can go a long way. With the increasing number of LGBTQ incarcerated youth, the less visible are pushed to the side, and their concerns are not adequately addressed. These are the youth that will most likely face the most discrimination and violence within the system. However, implementing education, knowledge, and awareness today, it is possible that all LGBTQ youth will receive the adequate representation and protection they deserve.

Keywords: litigation, LGBT, multidimensionality, juvenile justice, right to safety, right to equal protection

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Part 1 of this article is available [here](#).

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Explainer



Questions and Answers on Homelessness Policy and Research

A National Approach to Meeting the Needs of LGBTQ Homeless Youth

April 2009

Prevalence and Experiences of LGBTQ Homeless Youth

Various incidence studies of homeless youth in the United States estimate that over 2 million youth experience one night of homelessness each year, with over 100,000 sleeping long-term on the streets. Multiple research studies indicate that a conservative estimate finds 1 in 5 homeless youth self-identify as Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning LGBTQ, twice as prevalent as for LGBTQ youth in the general population. LGBTQ youth experience an alarmingly high rate of homelessness when compared to heterosexual youth. Even more troubling is the fact that homeless LGBTQ youth experience higher rates of physical assaults, sexual exploitation, and mental health deterioration than their heterosexual homeless peers.

Unaccompanied homeless youth are defined as youth ages 12 to 24 with no familial support or permanent residency. Homeless LGBTQ youth typically sleep in shelters, public spaces, abandoned buildings, cars, or outside, or remain doubled-up with friends in temporary, highly unstable housing arrangements. Some will be solicited and exploited by adults and exchange sex for a place to stay.

Causal Factors

Research confirms that one cause of homelessness for LGBTQ youth is rejection and forcible eviction from their homes due to parental condemnation of their sexual orientation or gender identity. However, study of LGBTQ homeless youth also confirms that, for most, homelessness is the result of multiple and overlapping factors, including: severe family conflict, abuse, neglect, abandonment, poverty, and mental health or physical disabilities. Displacement and homelessness occur during critical youth development stages, which may result in

subsequent challenges to healthy and productive adult years.

Risks to LGBTQ Youth While Homeless

Once homeless, LGBTQ youth are at higher risk for victimization and experience higher incidents of mental health problems. A study of lesbian and gay homeless youth found that lesbians were more likely to experience post-traumatic stress syndrome, conduct disorder, and alcohol and substance abuse than heterosexual homeless young women. Gay homeless males are more likely to meet criteria for major depressive episodes. LGB homeless youth are also more likely to attempt suicide (62 percent) than their heterosexual homeless peers (29 percent). Another risk is exposure to sexual abuse and exploitation. LGBTQ homeless youth experience an average of 7.4 more acts of sexual violence toward them than their heterosexual peers. Finally, LGBTQ homeless youth may be at greater risk for drug abuse. One study has noted that amphetamine and injection drug use is more prevalent with LGBTQ youth than their straight peers.

For more information, download *Incidence and Vulnerability of LGBTQ Homeless Youth* at: www.endhomelessness.org/content/article/detail/2141.

Reform Agenda to End Homelessness for LGBTQ Youth

Ending homelessness for LGBTQ youth will require collaborative efforts to:

1. Broaden community awareness of the prevalence and causes of homelessness for LGBTQ youth;
2. Engage LGBTQ adults and allies in building local advocacy networks to expand services, shelter, and housing for LGBTQ homeless youth;
3. Secure increased public investment from local, state, and federal government in services, shelter, and housing for homeless LGBTQ youth; and

4. Improve the cultural competency of local services, shelter, and housing to meet the needs of LGBTQ homeless youth.

Currently, Congress offers \$115 million to the Runaway and Homeless Youth Act programs. These funds support street outreach programs which made over 740,000 contacts in 2008, but federal funding to transitional living programs only provided housing to less than 4,000 homeless youth. The lack of housing resources for homeless youth is appalling.

The support and collaboration of the federal government is critical for reform to end homelessness for LGBTQ youth. Federal advocacy should be focused on three approaches:

- seeking increased federal appropriations to expand youth housing, shelter, and services;
- ensuring federally funded homeless youth services are inclusive and responsive to the needs of LGBTQ homeless youth; and
- seeking cooperation with HUD to expand housing opportunities through the establishment of youth housing models which couple rental assistance with positive youth development services.

Recommendations for Best Practices in Serving LGBTQ Homeless Youth:

The following recommendations were developed by members of the National Advisory Council on LGBTQ Homeless Youth with the purpose of providing a resource for community-based organizations or agencies serving LGBTQ homeless youth. The goal of the recommendations is to ensure that agencies are prepared to offer appropriate support to ensure that the youth are safe and have access to the necessary resources.

1. Recommendations to youth-serving professionals, case workers, and advocates:

In order to best serve LGBTQ homeless youth, youth-serving professionals who have direct contact with LGBTQ youth must ensure their safety and bolster their positive development. Professionals must be able to use common vocabulary and know what to do when a youth self-discloses his or her sexual orientation or gender identity. Intake procedures and initial contact offer opportunities to show competency and familiarity with LGBT issues. Youth-serving professionals must acknowledge that transgendered youth and LGB youth have unique needs from each other and from heterosexual

homeless youth. Staff should advocate for nondiscrimination and harassment policies within their own organizations and should intervene when aware of possible harassment or mistreatment. LGBTQ homeless youth and their families should be encouraged to access educational, medical, mental health care, and social services that are affirming and inclusive.

2. Recommendations to Administrators and Supervisors:

Administrators and supervisors hold an important responsibility for leading in the efforts to maintain a healthy and supportive environment for LGBTQ homeless youth. In order to best achieve this, organizations should collect and evaluate data to better understand LGBT youth, establish an environment where LGBT youth feel welcome by using LGBT supportive images and language on materials that enforce program practices, and adopt nondiscrimination, grievance, and confidentiality policies. Leadership should emulate inclusive and affirming behavior and implement sound recruitment and hiring practices that emphasize core skills. Also, administrators and directors can facilitate relationship building with LGBT organizations and services relevant to supporting LGBTQ youth.

3. Recommendations for Improving Residential Services:

Residential facilities and centers offer emergency and long-term housing options for abused and neglected LGBTQ homeless youth. Agencies offering residential services must ensure that programs are free from violence and harassment. Placing LGBTQ youth in a room with a demeaning or hostile individual should be avoided, and protecting them from emotional isolation should be a priority. There should be equal treatment and integration in shelter placement determination and in use of bathrooms in accordance with an individualized assessment accounting for safety and gender identity. To improve residential services, individually assess each participant and maintain close contact with LGBT youth. It is vital to place each LGBTQ youth in sleeping arrangements based on their identity and provide them with information on their options.

For more information or wish to join our efforts, please contact: **The National Alliance to End Homelessness, National Advisory Council on LGBTQ Homeless Youth** - Rich Hooks Wayman (rhookswayman@naeh.org) or LaKesha Pope (lpope@naeh.org); (202) 638-1526; www.endhomelessness.org



INCIDENCE AND VULNERABILITY OF LGBTQ HOMELESS YOUTH

SPECIAL POINTS OF INTEREST:

- > Incidence and prevalence of homelessness among LGBTQ youth
- > Characteristics and risk elements for LGBTQ homeless youth
- > Causes and experiences of homeless LGBTQ youth

INSIDE THIS BRIEF:

Prevalence of LGBT Youth	2
Research Table	3
Nurturing Environments	5
Youth Crisis Diagram	6
Cultural Proficiency	7
Conclusion	7
Endnotes	8

Introduction

Severe family conflict, abuse, neglect, and abandonment all contribute to family displacement and homelessness for lesbian,¹ gay,² bisexual,³ transgender,⁴ and queer/questioning⁵ (LGBTQ) youth in America. This issue brief offers an overview of research indicating that each year hundreds of thousands of LGBTQ youth will experience homelessness.

LGBTQ youth are over-represented in the homeless youth population, but studies also indicate that this population experiences greater physical and sexual exploitation while homeless than their heterosexual peers. Unfortunately, most U.S. communities lack adequate programs and resources to prevent and end homelessness for LGBTQ youth. Once homeless, LGBTQ youth experience instability, abuse, and exploitation during a critical development stage. Without residential stability, nurturance, and opportunities for positive youth development, LGBTQ homeless youth are susceptible to further challenges as adults.

This brief reviews research concerning LGBTQ homeless youth and offers suggestions for interventions with positive outcomes for homeless adolescents and young adults.

Incidence of homelessness among unaccompanied, homeless youth in America

Homeless youth are typically defined as unaccompanied youth ages 12 to 24 years who do not have familial support and who are living in shelters, on the streets, in places not meant for human habitation (e.g. cars, abandoned buildings), or in others' homes for short periods under circumstances that make the situation highly unstable (also known as "couch surfing").

While most studies and community-based service providers agree that the population is substantial and widespread in every state and across demographic characteristics, there are not accurate figures on its size. The few research studies that quantify the number of homeless youth in America are incomplete. National studies typically focus only on minors (youth under 18 years) and have findings that vary from 575,000⁶ to 1.6 million⁷ or 1.7 million⁸ to 2.8 million.⁹ These estimates do not include 18 to 24 year olds who are homeless. Further, these incidence studies do not record the length of time the youth spent homeless. Some youth will remain homeless for only short periods of time (a few nights) while others will experience long periods of homelessness and become street-dependent.

In 1998, a large study of the adolescent population found that each year 5 percent (1.6 million) experienced one episode of homelessness.¹⁰

Prevalence of homeless LGBTQ youth

Reports, news articles, and anecdotal stories from nonprofit organizations serving homeless youth have long recorded the over-representation of LGBTQ youth among homeless adolescents.¹¹ Increasingly, studies on the demographics of unaccompanied homeless youth indicate alarming rates of over-representation of LGBTQ youth. LGBTQ youth are estimated to be 10 percent of the general youth population.¹² In contrast, research (Table 1) forms a cluster of findings that show 15 to 25 percent of homeless youth self-identify as LGBTQ. A conservative estimate would be that one out of every five (20 percent) of homeless youth are LGBTQ or twice the number of the general youth population. Thus, LGBTQ youth are disproportionately experiencing homelessness.

Extrapolating the cluster of research studies indicating that 15 to 25 percent of homeless youth self identify as LGBTQ to the research findings that 1.6 million youth under the age of 18 experience at least one episode of homelessness each year,³⁰ would result in an estimate that each year between 240,000 and 400,000 LGBTQ youth experience at least one night of homelessness in America.

There are however studies which do not indicate that LGBTQ youth are disproportionately represented among homeless youth (Table 2). One explanation for this variation is that these studies include primarily teenagers and not young adults. Additionally, if studies were shelter-based they might be missing LGBT youth who may not access shelter because they fear the environments are not inclusive or safe.

Causation and pathways to homelessness

Studies show that there are often multiple factors which cause both heterosexual and LGBTQ youth

to become homeless: severe family conflict, physical abuse, sexual abuse, neglect, substance abuse, mental health disabilities, abandonment, and rejection by parents and guardians due to the youth's sexual orientation or gender identity.³⁶ A multiplicity of family dynamics builds up forcing a youth out of her/his home.³⁷ For example, an eight city survey of homeless youth in 2005 found that 75 percent of LGB homeless youth and 63 percent of heterosexual homeless youth reported having family members with severe alcohol and drug problems.³⁸ Youth consistently report severe family conflict as the primary reason for their homelessness but also report multiple barriers to reunification.³⁹ Behavioral issues on the part of the youth may be a source of the conflict, but this is not always the case.

It is certainly true that a significant minority of LGBTQ youth report being thrown out of their homes due to their sexual orientation or gender identity. One survey noted that 25 percent of LGBT homeless youth report family rejection as the primary cause of their homelessness.⁴⁰ Another study of 63 LGB youth in four Midwestern states showed that 39 percent of gay males had left home due to a conflict regarding their sexuality.⁴¹

However, some studies indicate that familial rejection of sexual orientation or gender identity are not the primary cause of homelessness in a majority of case histories for LGBTQ youth.⁴² In a survey of 84 LGB homeless youth in Seattle, 14 percent left home because of conflict with parents over their sexual orientation. And, in a state-wide survey of homeless youth in Minnesota, of the 11 percent of the homeless youth that self-identified as LGBT, 25 percent reported that primary reason they left home was intolerance in response to the youth's sexual orientation or gender identity.⁴³ Beyond the individual and family problems, youth homelessness is also fed by lack of affordable housing, poverty, and child welfare and juvenile correction systems that fail to protect youth from shelters and the streets.

TABLE 1. Research Indicating Over-Representation of LGBTQ Youth in the Homeless Youth Population

STUDY AUTHOR	LOCATION	AGE RANGE	PERCENTAGE OF HOME-LESS YOUTH SELF-REPORTING AS LGBTQ
Adlaf & Zdanowicz, 1999 ¹³	Toronto, Ontario, Canada	13 to 24 years	18 percent LGBTQ
Clatts, 1998 ¹⁴	New York, NY	12 to 17 years	50 percent LGB
Cochran, 2002 ¹⁵	Seattle, WA	13 to 21 years	22 percent LGB
Johnson, 2005 ¹⁶	Illinois statewide	12 to 21 years	14.8 percent LGBTQ City of Chicago: 23.1 percent Cook County: 22.4 percent
Kennedy, 1991 ¹⁷	San Francisco, CA	Does not specify	21 percent LGB
Kruks, 1991 ¹⁸	Los Angeles, CA and Seattle, WA	Does not specify	25 to 45 percent LGB
Milburn, 2006 ¹⁹	Los Angeles, CA Melbourne, Australia	Under 25 years	24 percent LGBT
Owen, 2006 ²⁰	St. Paul, MN	Under 21 years	9-14 percent LGBT
Owen, 2003 ²¹	St. Paul, MN	Under 21 years	12-17 percent LGBTQ
Rew, 2001 ²²	Central Texas	15 to 22 years	36 percent LGB
Solorio, 2006 ²³	Los Angeles, CA	12 to 20 years	25 percent LGBT
Tenner, 1998 ²⁴	Seattle, WA	14 to 21 years	37 percent LGB
Unger, 1997 ²⁵	Hollywood, CA	12 to 23 years	18 percent LGB
Van Leeuwen, 2006 ²⁶	Colorado, Illinois, Minnesota, Missouri, Utah	Under 25 years	22 percent LGB
Wagner, 2001 ²⁷	Seattle, WA	13 to 23 years	39 percent LGBT
Whitbeck, 2004 ²⁸	Iowa, Missouri, and Kansas	16 to 19 years	15 percent LGB
Yates, 1988 ²⁹	Los Angeles, CA	12 to 24 years	16 percent LGB

LGBTQ homeless youth face greater harm than their heterosexual homeless peers

LGBTQ homeless youth run away more frequently and are exposed to greater victimization while on the streets than their heterosexual peers.⁴⁴ One study found that LGBT homeless youth ran away from home an average of twelve times as compared to seven times for heterosexual homeless youth.⁴⁵ Initially, before becoming homeless, LGBTQ homeless youth are exposed to higher levels of physical and sexual abuse from caretakers or family members.⁴⁶ Even if not

homeless, in general, LGBTQ youth are at greater risk for substance abuse and suicide and they are at high risk for being both victims and perpetrators of physical violence compared to the general adolescent population.⁴⁷ Additionally, LGBTQ youth may face stigma, verbal harassment, high rates of sexual coercion, lack of support, homophobia, involvement in sex at an early age, and potential exposure to multiple partners.⁴⁸ Conversely, LGBTQ youth experience barriers to healthcare and mental health counseling.⁴⁹

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TABLE 2. Research Indicating Under-Representation of LGBTQ Youth in the Homeless Youth Population

STUDY AUTHOR	LOCATION	AGE RANGE	PERCENTAGE OF HOME-LESS YOUTH SELF-REPORTING AS LGBTQ
Cauce, 2000 ³¹	Seattle, WA	13 to 21 years	7 percent LGBT
Greenblatt, 1993 ³²	Los Angeles, CA	13 to 17 years	Less than 10 percent
Rotheram-Borus, 1992 ³³	New York, NY	12 to 18 years	6 percent males GB
Rotheram-Borus, 1996 ³⁴	New York, NY	11 to 18 years	7 percent had history of same-sex sexual activity
Whitbeck, 1999 ³⁵	Iowa, Missouri, Nebraska, and Kansas	16 to 20 years	4-5 percent LGB

Mental Health Risk: Once homeless, LGBTQ youth are at higher risk for victimization and experience higher incidence of mental health problems. A study of homeless lesbian and gay youth found that lesbians were more likely to experience post-traumatic stress syndrome, conduct disorder, and alcohol and substance abuse than heterosexual homeless young women. Gay homeless males are less likely to meet criteria for conduct disorder and alcohol abuse than their heterosexual homeless peers but were more likely to meet criteria for major depressive episodes.⁵⁰ LGB homeless youth are also more likely to attempt suicide (62 percent) than their heterosexual homeless peers (29 percent).⁵¹

Sexual Exploitation Risk: Another risk is the youth's exposure to sexual abuse and exploitation. LGBTQ homeless youth experience an average of 7.4 more acts of sexual violence than their heterosexual peers.⁵² LGBTQ youth may have twice the rates of sexual victimization than their heterosexual homeless peers and LGBTQ youth report double the rates of sexual abuse before age 12.⁵³ LGB homeless youth are solicited to exchange sex for money, food, drugs, shelter, and clothing more often than heterosexual homeless youth.⁵⁴ Consequently, more LGB homeless youth than heterosexual homeless youth report engaging in the sex trade to meet their basic needs.⁵⁵

Chemical Abuse Risk: Finally, LGBTQ homeless youth may be at greater risk for drug abuse. A Seattle, Washington study of 84 homeless LGB youth, found that they used substances more frequently than their heterosexual peers, with significant differences noted in the rate of consumption for cocaine, crack, and crystal methamphetamines. However, study results appear to highlight experimental drug usage and not drug dependency among homeless youth. The study revealed that the mean use of these substances by the youth in the preceding six month period was never more than 2 times for each drug.⁵⁶ At least one study has noted that amphetamine and injection drug use is more prevalent among LGBTQ youth than their straight peers.⁵⁷

The role of foster care and juvenile delinquency systems as contributors to LGBTQ youth homelessness

The transition to adulthood for former foster or juvenile delinquency youth is often complicated by their experience with multiple placements and numerous disruptions to their schooling. One study found that more than 30 percent of foster youth experienced eight or more placements with foster families and group homes.⁵⁸ Court-involved youth (foster youth and youth in the juvenile justice system) are often discharged into communities with few resources and numerous challenges.⁵⁹ As a result, former foster care and

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incarcerated youth have difficulty finding employment and affordable housing and are disproportionately represented in the homeless youth population.

Foster Care Youth: Every year, about 20,000 youth ages 16 and older transition from foster care to legal emancipation, or “age out” of the system. There is little research on the number of LGBTQ youth in child welfare systems, but, some studies suggest that these youth make up between 5 and 10 percent of the total foster youth population.⁶⁰ The actual percentage may be higher since LGBTQ youth experience high rates of physical and sexual abuse histories, which puts them at risk for entry into child protective services and foster care.⁶¹ One study found that LGB homeless youth were more likely to have a history of out-of-home placement than heterosexual homeless youth.⁶² Additionally, a 2006 study found that 65 percent of 400 LGB homeless youth reported having been in a child welfare placement in the past.⁶³

A sizable minority of foster youth will experience at least one episode of homelessness after discharge. Studies indicate that from 12 to 36 percent of emancipated foster care youth (heterosexual and LGBTQ) report being homeless at least once after discharge from care.⁶⁴ Most episodes are short in duration. Even if not homeless, however, studies indicate foster youth in transition experience barriers to obtaining independent housing.⁶⁵

Juvenile Justice Involved Youth: Every year, approximately 100,000 juveniles and young adults ages 10 to 24 years are released from secure correctional facilities and reenter their communities.⁶⁶ Studies indicate that close to 25 percent of formerly incarcerated youth will experience homelessness upon discharge from custodial placement.

Ending homelessness for LGBTQ youth through prevention, shelter, family reunification, and youth housing models

While there is a growing body of research on methodologies and services that prevent or end homelessness for youth, there is little research on interventions specifically for LGBTQ homeless youth. Given the absence of research on solutions specific to LGBTQ youth, the following recommendations are based on research for the general youth population. On the positive side, most homeless youth do not experience long-term homelessness. Homeless youth often go home, find relatives, or make it on their own as young adults. In a seven year longitudinal study of 249 homeless youth as compared to a matched sample of 149 housed youth, ages 13 and 17 years, most of the adolescents returned fairly quickly to their families of origin.⁶⁷ Nearly 93 percent were no longer homeless after seven years of study. However, not all were successfully reunified with parents. One third lived with their families, about one fifth lived with relatives or friends, and over a third (34 percent) lived on their own. Therefore, the pathway out of homelessness sometimes

Welcoming and Nurturing Environments as a Best Practice

LGBTQ homeless youth do not simply want to be tolerated. Tolerance is a negative form of acceptance. Youth understand and feel the difference between program services and agencies that tolerate versus nurture and celebrate them as persons. Programs serving LGBTQ homeless youth must recognize the prevalence of abuse, exploitation, neglect, abandonment, and conflict these youth have experienced in their families and communities. Merely tolerating their existence in a program often leads to barriers to building trusting relationships and engaging youth in opportunities for growth and change. Shelters, drop-in centers, housing models, counseling centers, and case advocates must consciously strive to exhibit behaviors, practices, and policies that nurture and celebrate LGBTQ homeless youth.

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focuses on parents, sometimes focuses on kin and extended family, and sometimes focuses on independent living.

Community planners and youth service agencies should design service systems in three modules to have the greatest impact in ending youth homelessness: prevention and family preservation services, crisis emergency shelters with case managers seeking family reunification, and youth housing with positive youth development services.

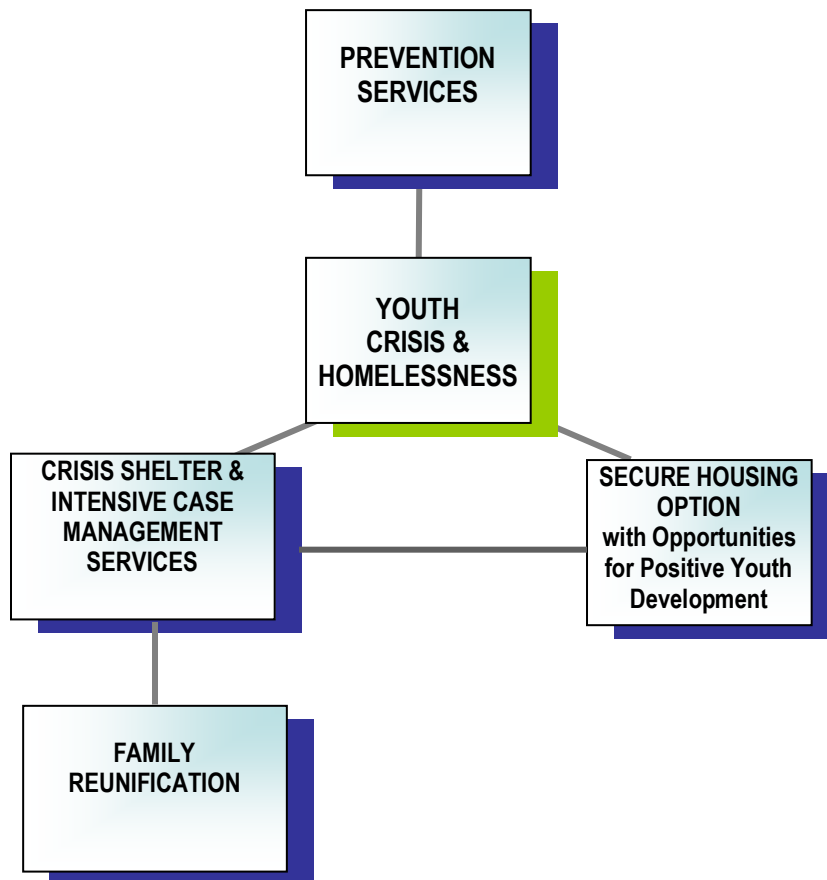
Early Intervention and Prevention Services

Early intervention and prevention services can often meet the crisis needs of a family and prevent homelessness and/or foster care placement. Two forms of mental health services have been identified that show positive results in decreasing youth anti-social behavior and aggression: multi-systemic therapy (MST)⁶⁸ and functional family therapy (FFT).⁶⁹ These are delivered in a family

context and help stabilize the family by dealing with the mental health issues of adults and/or youth. Additionally, youth who are experiencing abuse or neglect at home could be diverted away from costly out-of-home placements and homelessness through Family Group Conferencing or Family Group Decision Making programs. These program models allow extended family, kin, and important people in the life of the youth to come together to implement a plan for the continued safety, nurturance, and permanency of the youth. These programs show remarkable success in stabilizing youth. Research on Family Group Decision Making found reductions in re-abuse, increased family involvement, decreased residential instability, and more extended families accepting care of the youth.⁷⁰

Shelter care coupled with intensive case management services to rapidly reunite homeless youth with their families

Emergency shelter coupled with case management services have proven effective at reuniting homeless youth – even those with troubled histories – with their families. Homeless youth and their families benefit from respite shelter that works to resolve conflict or crisis with counseling and supportive services. Intensive Case Management (ICM) programs work with a family (in conjunction with teachers and other helping professionals) to develop an individualized comprehensive service plan. Case Managers who are professional and specially trained conduct an assessment and assist in coordinating supports and services necessary to help children and adolescents live successfully at home and in the community. The case loads are small (1 to 10 or 1 to 12) and offer round-the-clock access. One study noted that homeless



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Cultural Proficiency to Serve LGBTQ Youth of Color

LGBTQ homeless youth may also disproportionately be youth of color. African American and American Indian youth are disproportionately represented in the homeless youth population. Further, homeless youth tend to come from low-income communities and their families are disproportionately poor or working class. It is recommended, therefore, that shelter, housing, and supportive services for LGBTQ homeless youth be staffed with professionals with skills and proficiencies to support youth from multiple cultures. The ability to identify with youth's ethnic culture and socio-economic culture, in addition to their sexual orientation and gender identity, may offer greater opportunities for relationship building and voluntary agreement by the youth to accept services.

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youth receiving ICM services showed improved psychological well-being, less aggression, and satisfaction with their quality of life.⁷¹ Hopefully, these lead to more stable housing.

Housing programs for youth who will not be able to return to their families

Many LGBTQ homeless youth have been rejected or abandoned by their families. Some experience unresolved family issues that threaten their safety and welfare. When family reunification is not an option, communities must rely on housing programs designed for adolescents to prevent and end youth homelessness. Examples of youth housing models include: host homes, shared housing, community-based group homes, dormitories, scattered site transitional housing, single-site transitional housing, permanent scattered site housing with supportive services, and foyer (employment-focused) housing. At their best, these models incorporate life skills training, connection to caring adults, and opportunities for growth, mistakes, and positive youth development. Many LGBTQ homeless youth rely on such housing options when family members are unwilling or unable to care for them.

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The implication of these three strategies is that the first and best option is to reconnect youth with their families, and only after this fails should independent living options be considered.

CONCLUSION

A growing, but inadequate, body of research finds that between 240,000 and 400,000 LGBTQ youth experience at least one episode of homelessness each year in the United States. A review of research literature finds that not only is there a disproportionate representation of LGBTQ youth among homeless youth populations, but this population experiences greater physical and sexual exploitation while homeless than their heterosexual peers. Unfortunately, a national shortage of youth shelters and housing programs result in many youth being denied meaningful assistance. Local programs funded under the federal Runaway and Homeless Youth Act (Department of Health and Human Services) made contact with over 660,000 youth through street outreach services in 2007, but about 47,000 (less than 10 percent) actually received shelter or housing.⁷² The lack of accessible housing resources is of grave concern for both heterosexual and LGBTQ homeless youth. The experiences of LGBTQ homeless youth with histories of familial abuse, homelessness, and exploitation in street environments occur during a critical human developmental stage – adolescence – setting them up for further challenges as adults.

Several intervention models provide hope: early intervention and prevention services, intensive case management services coupled with shelter centers, and youth housing models with youth development services. Lack of federal, state, and local funding is a primary barrier to communities wishing to address the needs of LGBTQ homeless youth. Broader community recognition of

the problem in the adult LGBTQ community and support for it's solution could make a difference. Homelessness among LGBTQ youth can be abated. Greater understanding of this special population and tailor-made interventions offer American communities the opportunity to dedicate resources that offer promise in preventing and ending youth homelessness.



Endnotes:

1. A lesbian is a woman whose emotional, romantic, and sexual attractions are primarily for other women.
2. A gay person is a person whose emotional, romantic, and sexual attractions are primarily for individuals of the same sex, typically in reference to men. In some contexts, the word gay is used as a general or unifying term for gay men and lesbians.
3. A bisexual is a person who is emotionally, romantically, and sexually attracted to both men and women.
4. Transgender is an umbrella term that can be used to describe people whose gender expression is non-conforming and/or whose gender identity is different from their assigned sex at birth. This term can include transsexuals, gender queers, cross-dressers, and others whose gender expression varies from traditional gender norms.
5. The word queer was a historically derogatory term for a gay man, lesbian, or gender-nonconforming person. The term has been widely reclaimed, especially by younger LGBT people, as a positive social and political identity. It is sometimes used as an inclusive, or umbrella, term for all LGBT people. More recently, *queer* has become common as a term of self-identification for people who do not identify with the restrictive and binary terms that have traditionally described sexual orientation (for instance, gay, lesbian, or bisexual only). Some LGBT community members still find *queer* an offensive or problematic term. The term questioning youth is used for those individuals in an active process of exploring their own sexual orientation and/or gender identity and questions the cultural assumptions that they are heterosexual and/or gender conforming. Many LGBT people go through this process before "coming out." Not all people who question their identities end up self-identifying as LGBT.
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Sex (biological sex)	The biological status of male or female.
Sexual Orientation	Who you are attracted to sexually, emotionally, romantically, and/or intellectually.
Transsexual	People born into one sex but who identify physically psychologically, and emotionally as the opposite sex. Some transsexual people feel the need to alter their bodies and have surgery.
MTF (transwoman)	Male to Female transsexual person
FTM (transman)	Female to Male transsexual person.
Intersex	People who are born with some combination of both male and female genitalia or were born with predominantly male or female genitalia that was deemed by “medical” professionals to be of the “wrong size” (small penis, or large clitoris).
Gender	How others perceive an individual’s social status as either a man (boy) or woman (girl).
Gender Identity	A person’s sense or experience of belonging to a particular gender category as a man (boy) or a woman (girl), and where a person feels they fit in society’s man/woman structure.
Gender Roles/ Gender Expression/ Gender Presentation	The culturally determined behaviors that are labeled as “masculine” or “feminine.” Can refer specifically to which behaviors and traits a person publicly shows, or to the actions themselves
Transgender (TG, Trans)	An umbrella term for people whose gender identity or expression does not match the cultural “norm” for their sex, or whose sex identity does not correspond to their sex.
Androgynes (third gender)	People that believe that they are not feminine or masculine and/or they make up a third alternative completely.
Gender Fluid	People who believe that their gender identity and gender role fluctuate too often or too quickly between male or female to pick just one

Drag Performers (Drag Queens and Kings)	People who dress and act like the “opposite” gender for entertainment purposes. Some drag performers identify as transgender, but most do not.
Cross Dressers (previously known as transvestites)	People who identify as, and are completely comfortable with their assigned birth gender, but take on the clothing and mannerisms of the opposite gender to varying degrees for emotional fulfillment.
Queer	A slang term for the GLBT Community. It is currently used as an all-encompassing label for any person who believes that their gender identity/sex identity/sexual orientation is not reflected by the standard model of Straight or LGBT.
Homophobia	An aversion to gay, lesbian and bisexual people and behavior or an act based on this aversion
Heterosexism	An ideological system that denies, denigrates, and stigmatizes any non-heterosexual form of behavior, identity, relationship, or community
Identity	The set of behavioral or personal characteristics by which an individual is recognizable as a member of a group
Power	Strength or force exerted or capable of being exerted; might; The ability or official capacity to exercise control; authority; A person, group, or nation having great influence or control over others
Privilege	A special advantage, immunity, permission, right, or benefit granted to or enjoyed by an individual, class, or caste; Such an advantage, immunity, or right held as a prerogative of status or rank, and exercised to the exclusion or detriment of others.
Oppression	Keeping down by severe and unjust use of force or authority
Bias	A preference or an inclination, especially one that inhibits impartial judgment. An unfair act or policy stemming from prejudice
Prejudice	An adverse judgment or opinion formed beforehand or without knowledge or examination of the facts. A preconceived preference or idea.

Discrimination	Treatment or consideration based on class or category rather than individual merit; partiality or prejudice
Lesbian	A woman who is attracted to some other women emotionally, physically, spiritually, etc.
Gay	A man who is attracted to some other men emotionally, physically, spiritually, etc.
Bisexual	A person for whom gender is not the first criteria in becoming attracted emotionally, physically, spiritually, etc.
Faggot	A bundle of sticks; slang term for a cigarette; a derogatory term for gay men
Dyke	A derogatory term for a lesbian
Questioning	Examination of oneself; an investigation
Coming Out	Process through which gay, lesbian, bisexual and transgender people reveal their identity to themselves, their families, etc.
Sexual Orientation	One's erotic, romantic, and affectional attraction to the same gender, the opposite gender, or to both
Affectional Orientation	Sometimes used instead of sexual orientation; refers to one's erotic, romantic, and affectional attraction to the same gender, the opposite gender, or to both
Ally	One that is associated with another as a helper and/or advocate
Hate	An intense hostility and aversion usually deriving from fear, anger, or sense of injury
Sexism	Prejudice or discrimination based on sex; especially discrimination against women; behavior, conditions, or attitudes that foster stereotypes of social roles based on sex

Gender conformity	The expectation for individuals to fit into the way society conceives gender roles for men (boys) and women (girls); the extent to which individuals do so
Isolation	from the word "island"; to be set apart or closed off from others
Bullying	Treating others abusively; being habitually cruel to those perceived as weaker
Sexual Prejudice	Refers to all negative attitudes based on sexual orientation, whether the target is homosexual, bisexual, or heterosexual. Given the current social organization of sexuality, however, it is almost always directed at people who engage in homosexual behavior or label themselves gay, lesbian, or bisexual
Intervention	To interrupt; stop
Safety	Being free from harm and/or risk
Respect	The quality or state of being esteemed
Affirmation	Validation; confirmation
Sexual Minority	Refers to a group of people whose sexual orientation is not of the majority

National Recommended Best Practices for Serving



LGBT Homeless Youth



NATIONAL CENTER FOR LESBIAN RIGHTS



LGBT YOUTH AND HOMELESSNESS

Lesbian, gay, bisexual, and transgender (LGBT) youth are overrepresented in the homeless population. According to a growing body of research and study, a conservative estimate is that one out of every five homeless youth (20 percent) is LGBT-identified. This is greatly disproportionate to the estimated percentage of LGBT youth in the general population which is somewhere between 4 and 10 percent.¹ Research indicates that each year, hundreds of thousands of LGBT youth will experience homelessness. Most LGBT youth become homeless because of family abuse, neglect, or conflict over their identity. Many homeless LGBT youth were kicked out of their homes while others ran from foster and group homes because they were mistreated or harassed.

LGBT youth are not only overrepresented in homeless youth populations, but reports indicate that while living on the streets, LGBT youth are at great risk of physical and sexual exploitation—at the hands of adults, police, and other youth. For example, one study concluded that LGBT homeless youth experience an average of 7.4 more acts of sexual violence toward them than their heterosexual peers.² Transgender youth in particular are often harassed, assaulted, and arrested by police because of their gender presentation. Another study found that LGBT youth may have twice the rates of sexual victimization on the streets as non-LGBT homeless youth, and LGBT youth report double the rates of sexual abuse before age 12.³ In addition, LGBT homeless youth are more likely to report being asked by someone on the streets to exchange sex for money, food, drugs, shelter, and clothing than heterosexual homeless youth.⁴ Unfortunately, many LGBT homeless youth resort to trading sex to meet their basic needs.

Further, just trying to survive in street environments or with transitory and unstable housing can increase mental health problems and disabilities. One study found that lesbian homeless youth are more likely to have post-traumatic stress syndrome, conduct disorders, and alcohol and substance abuse problems than heterosexual homeless young women, and gay homeless young men are more likely to meet criteria for major depressive episodes.⁵ Finally, LGBT homeless youth are also more likely to attempt suicide (62 percent) than their heterosexual homeless peers (29 percent).⁶



Unfortunately, some LGBT homeless youth have experienced discriminatory practices and policies when trying to access homeless youth services. Others have been assaulted by peers based on their sexual orientation or gender identity⁷ while participating in programs designed to help homeless youth stabilize their lives. Without access to the residential stability, nurturance, and opportunities for positive youth development provided by homeless youth service providers, LGBT homeless youth are susceptible to further challenges as adults and continued violence and exploitation on the streets, and are at great risk of entering the juvenile or criminal justice system.

All community-based agencies or programs serving adolescents should assume that some of their youth participants are LGBT even if they do not publically disclose their sexual orientation or gender identity. Whether offering shelter, housing, drop-in services, case management services, or street outreach, it is important that inclusive and culturally competent services are offered to enable LGBT homeless youth to stabilize their lives. While the outcomes for LGBT homeless youth—when they lack appropriate support and guidance—can be unsettling, LGBT youth can thrive and succeed if given the opportunity. Despite the stigma and violence that many LGBT youth experience, these youth often demonstrate remarkable courage and resilience. The following recommendations provide direction to agencies and not-for-profit organizations to increase their competency in working with LGBT youth.

Best Practice Recommendations for Homeless Youth Service Providers

These recommendations are broken down into three sections. The first section includes steps intake workers, case managers, social workers, youth supervisors, and others who have regular, direct contact with youth should take to improve the experiences of LGBT youth accessing services. The second section includes steps administrators should take to improve agency-wide culture and effectiveness in serving LGBT youth. The final section includes specific steps both administrators and youth workers should take to improve the experiences of youth in residential settings, whether these settings are emergency shelters or longer term transitional living.

The recommendations are informed by the experiences of service providers and LGBT youth as reported to the Child Welfare League of America and Lambda Legal in 13 listening forums conducted nationwide, and through focus groups conducted by Legal Services for Children and the National Center for Lesbian Rights, as part of the Model Standards Project. During the listening sessions and focus groups, youth spoke on their experiences in out-of-home care, and offered suggestions for reform of practice and policy.

The recommendations are further informed by the legal and child welfare expertise of these respective organizations, as well as by the input of various advocates and service providers who are part of the National Advisory Council on LGBTQ⁸ Homeless Youth. The following list of recommended best practices was reviewed by an advisory panel of professionals from the National Alliance to End Homelessness, Lambda Legal, the National Center for Lesbian Rights, the American Bar Association, and the National Network for Youth. Evaluation and selection were determined through consensus among the organizations and the recommendations were reviewed and edited by the National Advisory Council on LGBTQ Homeless Youth.

Though the recommendations listed here are specific to providing inclusive and culturally competent services to LGBT youth, it is extremely important to remember that many LGBT youth are also youth of color. Service providers, supervisors and administrators, should receive training on, and examine issues related to, race, racism, white privilege, and the intersection with gender and sexuality, in order to effectively respond to the needs of LGBT youth of color who are homeless.

Agencies can use this document to help determine the fundamental issues they need to address to best work with LGBT youth and to evaluate how well they are currently meeting the needs of the LGBT youth they serve. In addition, agencies can use the recommendations as a starting point for creating a broader action plan or as a blueprint for new initiatives. By implementing these recommendations agencies will move toward active affirmation and support for LGBT homeless youth—in stark contrast to the rejection and even brutality too many LGBT youth have experienced at home, in school, and in their communities.

National Alliance to End Homelessness

www.endhomelessness.org

National Network for Youth

www.nn4youth.org

Lambda Legal

www.lambdalegal.org

National Center for Lesbian Rights

www.nclrights.org

1 IMPROVING PRACTICES

Recommendations for Employees Serving LGBT Homeless Youth

The following recommendations address how staff of organizations serving homeless LGBT youth can improve the responsiveness and effectiveness of their assistance.

Treat LGBT Youth Respectfully and Ensure Their Safety

LGBT youth should have the same rights and privileges as other youth who use agency services. They should not be subjected to harsher or more restrictive standards of behavior because of their sexual orientation or gender identity. They should be safe and free of harassment and violence when using agency services. It is crucial that LGBT youth feel safe and respected across the continuum of services provided by an agency. Staff should not tokenize LGBT youth or set them apart from other youth because of their identities, nor should facility staff ignore or dismiss LGBT youths' specific needs and experiences. All employees and volunteers at agencies that serve homeless youth should do the following:

- Examine their own beliefs and attitudes and ensure their ability to professionally and ethically serve their youth participants.
- Understand the common experiences of LGBT homeless youth, the factors that often lead to their homelessness, and the risks they face once they leave home.
- Be able to use the words gay, lesbian, bisexual, and transgender appropriately when talking with youth, other employees, and volunteers.
- Call youth participants by their preferred first name and pronoun in accordance with the youth's gender identity or expression.
- Know what to do when a youth self-discloses his or her sexual or gender identity (e.g., offer support, engage in conversation if youth wants to, maintain privacy, and locate appropriate services and support for the youth).
- Prevent harassment and discrimination by valuing and affirming differences and appropriately responding to

verbal, emotional, and physical threats against any youth.

- Never use anti-gay slurs or jokes, and appropriately intervene if others do.
- Be alert to signs of harassment or abuse that may not be obvious; be approachable for youth to come to with their concerns, and make decisions on how to respond based on the youths' best interests.
- If other agency staff members, volunteers, or youth participants are harassing or mistreating LGBT youth participants, staff must intervene to ensure the harassment stops immediately and take any further action needed.

Appropriately Address LGBT Identity during Intake Process

Youths' perceptions of an agency begin with the initial contact with any worker or volunteer. If an LGBT youth receives the message—implicit or explicit—that he or she is not welcome because of his or her sexual orientation or gender identity, the youth will be less likely to use the agency's services. An initial impression of openness and acceptance can help build the foundation for deepening trust and a more positive, productive experience for both youth and staff. If LGBT youth feel that the agency will accept them for who they are, they are more likely to disclose that they are LGBT, and agency staff will then be better able to offer services that will meet the youths' needs. All employees and volunteers who do intakes for agencies that serve homeless youth should do the following:

- Use intake forms that include questions about a youth's sexual orientation/gender identity in the demographics section, but do not make it a requirement that youth answer these questions.
- Ask questions in a way that avoids implicit assumptions about the sexual orientation or gender identity of youth participants (e.g., asking a youth if he or she is dating someone, rather than asking a girl if she has a boyfriend).

- Educate all incoming youth and staff about the agency’s nondiscrimination and harassment policies, what behaviors are prohibited, and what is expected of the youth. Clearly explain that homophobic comments and jokes as well as harassment based on race, sex, gender identity, sexual orientation, disability, and other differences will not be tolerated.
- Provide all youth participants with information about available local social services for LGBT youth and their families, including health and mental health services, community groups, supportive services for families, and social programs.

Support Access to Education, Medical Care, and Mental Health Care

LGBT youth often face obstacles when accessing two of the most basic services that exist to promote their long-term well-being: education and health care. Health care providers that treat LGBT youth must be trained and educated on the heightened risks some of these youth face. Health care providers should be able to discuss sexual orientation, gender identity, and sexual behaviors openly and comfortably, and health care providers must make no attempts to try to change a youth’s sexual identity. In educational settings, LGBT youth often face relentless bullying and harassment. Because receiving an education is a crucial part of a youth’s transition to adult life, it is essential that LGBT youth have access to educational environments where they can learn without fear of harassment and assault. All employees and volun-



teers at agencies that serve homeless youth should do the following:

- Determine whether LGBT runaway and homeless youth are attending school. If they are, ask whether or not they feel safe at school. If they are not attending school, determine whether harassment and assault are reasons the youth are no longer going to school.
- Address problem behaviors of bullying and harassment at school against LGBT youth participants and work with school staff to address this problem.
- Help connect school staff to training, consultation services, and youth service professionals to train schools on how to create a safe and appropriate school environment for transgender youth. This includes guidance on how to ensure transgender youth have access to safe and gender appropriate bathrooms, how to implement policies that require teachers and other staff to refer to youth using the youth’s preferred name/pronoun, and how to address bullying and harassment aimed at transgender students.
- Contract only with health and mental health providers who have been trained on the specific health needs of LGBT youth and who are open and comfortable with youth of all sexual orientations and gender identities if agencies provide medical and mental health services to homeless youth.
- Avoid clinicians who exhibit homophobic attitudes or who may engage in inappropriate and questionable practices that attempt to alter a person’s sexual orientation, gender identity, or gender expression.
- Help LGBT youth participants find appropriate sexual health services through referrals to inclusive resources in the community.
- Ensure that all materials provided to youth participants about safer-sex are affirming of LGBT people and include information that addresses safer-sex techniques for LGBT youth.

Support Transgender and Gender-Nonconforming Youth Participants

Transgender youth have needs that are distinct from those of LGB youth. For example, they may need transition-related health care or help getting a state identification that includes their chosen name and has the

appropriate gender marker. In addition, because most shelter and other congregate care living programs are segregated by gender, facility staff are often unsure how to classify transgender youth and may simply classify them based on their birth gender without realizing that this negatively affects the youth's physical and emotional safety. In order to serve transgender youth competently and keep them safe, all employees and volunteers at agencies that serve homeless youth should:

- Understand what it means for a youth to be transgender, recognizing that transgender youth will have diverse experiences and ways of talking about their self-identity.
- Use transgender-related terms appropriately.
- Avoid assumptions about the sexual orientation of transgender young people. Understand that a person's sexual orientation relates to who someone is attracted to and a person's gender identity relates to how the person understands his or her gender. Transgender youth can be heterosexual, gay, lesbian, or bisexual.
- Allow transgender youth to express their gender identity through their chosen attire, hairstyle, and mannerisms while using agency services.
- Call transgender youth by the names and pronouns they prefer. It is always OK to politely ask a youth which pronoun he or she prefers if the youth does not volunteer this information. (e.g., "Do you prefer if people refer to you using female pronouns, she and her, or male pronouns, he and him?")
- Have general knowledge about Gender Identity Disorder (GID) and the WPATH⁹ recognized standards for diagnosing and treating youth and adults with GID.
- For agencies providing medical and mental health services to homeless youth, ensure that transgender youth have access to providers who are competent to provide counseling, hormone therapy, and other medical treatment in line with professional (WPATH) standards and can provide transgender youth with individualized medical and psychological assessments.
- Ensure transgender youth receive or are able to access all transition-related treatment recommended by the health care provider's assessment.

- Take appropriate steps to advocate on behalf of the transgender youth participants if they are not safe on the streets or in school.
- Locate resources and programs that can assist transgender youth participants with their unique legal issues such as getting their names changed and obtaining legal identity documents—birth certificate, state identification card, driver's license—that reflect the gender with which they identify.
- Identify resources and programs that provide transgender specific services, including counseling and groups where transgender youth can get support, meet other transgender youth, and learn more about themselves.
- Agencies that provide long-term housing support, such as transitional living programs, should ensure meaningful opportunities for education, job training and employment that help transgender youth successfully transition to independent adulthood.

Inform LGBT Youth Participants about Local LGBT Programs and Services

LGBT youth may be hesitant to access social services and other programs because they are afraid that these services will not be LGBT-friendly. Unfortunately, their reluctance is often based on past negative experiences. Helping homeless LGBT youth access the range of services they need means connecting them to resources they can count on as being LGBT-friendly. Agencies that serve homeless youth should do the following:

- Help LGBT youth participants access LGBT community services and supportive adult mentors.
- Develop and regularly update lists of resources in the community, including services directed to the LGBT community. Distribute them to everyone in the agency, including to youth who may wish to access community resources privately. A Community Resource guide should include:
 - Options for LGBT-friendly long term housing;
 - Information about local LGBT community centers;
 - Locations of LGBT-friendly medical and mental health professional services;
 - Information about laws that protect LGBT people in the jurisdiction;

- Contact information for LGBT civil rights organizations;
 - Locations of recreation centers safe for LGBT youth participants;
 - Employment resources and opportunities helpful to LGBT youth participants.
- Ensure that staff provides LGBT youth participants with information about any agency services available that address individual, family, and health issues around sexual orientation and/or gender identity, once the youth discloses to the agency's staff that he or she is LGBT.
 - Talk to youth one-on-one about resources that might be helpful for meeting specific needs.
 - Encourage agency and program staff to visit other community resources and agencies to experience what will happen when a youth visits the site.



2 IMPROVING ORGANIZATIONAL CULTURE

Recommendations for Administrators and Supervisors

Decisions made by agency administrators about hiring, policy adoption and implementation, training, volunteer recruitment, and other areas significantly affect the day-to-day functioning of the agencies and the experiences of all youth. Administrators' consistent communication that creating an LGBT-friendly and competent agency is a priority can jumpstart and inject momentum into the process of improving agency performance. Directors, managers, and supervisors must demonstrate knowledge on LGBT youth issues and offer support and leadership in implementing competent service to LGBT youth.

Programmatic Culture: Creating a Safe and Inclusive Environment.

Youth participants are keenly aware of their surroundings and often make judgments regarding programs based on a quick assessment of the office structure, visual signs, and culture. Those offering programs should be aware of the appearance of their facilities and strive to create an environment of nonjudgmental acceptance for LGBT youth participants entering the premises for the first time. To create this environment, agencies should do the following:

- Create a positive physical environment in the work place. Display LGBT supportive images such as pink triangles, rainbows, or hate-free/safe zone stickers to send a clear message to all youth and staff that LGBT people are welcome at the agency.
- Demonstrate knowledge on LGBT youth issues and offer support and leadership in implementing LGBT-competent services.
- Use community outreach material that enforces program practices in welcoming LGBT youth and reassures them there is a safe space for the youth in the facility.
- Offer materials and accessible services to parents and guardians to learn about sexual orientation and gender

identity. Facilitate acceptance of the youth's sexual orientation and gender identity and seek improvement in familial communication and nurturing behavior.

Adopt and Implement Written Nondiscrimination Policies

Nondiscrimination and anti-harassment policies provide the minimal standard for work with LGBT homeless youth. Having a nondiscrimination policy that is widely distributed and fully enforced communicates a basic commitment to creating an LGBT-safe environment and also helps make an agency more identifiable as a possible resource for LGBT homeless youth. In order to ensure that LGBT youth participants know that an agency is committed to preventing harassment and discrimination, agencies should do the following:

- Adopt and implement written policies that prohibit both discrimination and harassment against youth and staff on the basis of their actual or perceived sexual orientation, gender identity, gender expression, or HIV status. The policies should apply not only to employees, but also to contractors and volunteers.
- Adopt written policies outlining a grievance procedure for LGBT youth and staff to report discrimination, harassment, or abuse and offer guidance on appropriate responses to discrimination, harassment, or abuse by personnel, youth participants, and volunteers.
- Ensure that all youth participants, employees, contractors, and volunteers receive notice of the nondiscrimination policy, both written and verbal.
- Let all youth participants know they are expected to treat everyone in accordance with this policy.
- Provide initial and ongoing professional training on the policy and its application to all employees and volunteers, as well as to contract service providers like health

and mental health providers to ensure effective implementation of the nondiscrimination policy.

Nondiscrimination policies can only make a true difference in agency culture if mechanisms are in place for policy implementation and accountability. Periodic self-assessments and updated action plans with input from staff, youth, volunteers, administrators, and other stakeholders can help agencies assess overall consistency between policy provisions and agency practice. To give “teeth” to nondiscrimination policies, agencies that serve homeless youth should do the following:

- Ensure grievance procedures allow for confidential complaints and neutral third-party investigations.
- Prohibit retaliation against an individual who files a complaint of discrimination or harassment or participates in an investigation of such a complaint.
- Ensure that supervisory and management staff treat all incidents of discrimination or harassment seriously and follow up promptly by initiating a grievance according to the agency’s grievance procedure.
- Ensure that all youth who access agency services are aware of their rights and are given clear instructions on how to file a complaint of discrimination or harassment.
- Develop accountability standards that assess agency staff performance in supporting LGBT youth participants and that track complaints of policy violations.

Adopt Confidentiality Policies

When youth disclose their sexual orientation or gender identity to service providers, they are sharing private, sensitive information. Even LGBT people who are “out of the closet” are generally not “out” to every person in their lives—even if they have been out for years and are active in LGBT communities. LGBT youth should be able to determine to whom they wish to come out. Agencies should adopt strict policies around managing confidential information about a young person’s sexual orientation and gender identity in addition to other sensitive information like HIV status. Staff should be aware that a misplaced disclosure—to a family member who is not ready to digest this information or to a homophobic

peer—can have deeply negative consequences and may even result in harassment and violence. Agencies offering direct services to LGBT homeless youth should do the following:

- Adopt written policies regarding the management of information about a youth participant’s sexual orientation, gender identity, or HIV status.
- Ensure that staff do not disclose a youth participant’s sexual orientation, gender identity, or HIV status without the young person’s permission, unless limited disclosure is required by law to protect a young person’s safety. When disclosure is legally required, staff should explain, to the youth participant, who is entitled to the information and why.

Provide LGBT Competency Training to All Agency Employees and Volunteers

Older adolescents often grow and change in the context of relationships with others. Professional and volunteer staff or community-based organizations are a crucial link between youth participants and the attainment of individual goals. Staff should be trained to ensure ongoing competence and professionalism in serving LGBT homeless youth and to create professionalism among team members. Agencies that serve homeless youth should do the following:

- Provide initial and ongoing comprehensive LGBT competency training for all staff including administrators, managers, supervisors, social workers, case workers, direct service staff, support staff, facilities maintenance personnel, volunteers, and health and mental health providers with whom the agency contracts.
- Include the following topics in trainings and offer trainings that are tailored to specific service components provided by the agency:
 - A review of vocabulary and definitions relevant to LGBT youth;
 - An exploration of myths and stereotypes regarding LGBT youth and adults;
 - Information about how to communicate sensitively with youth about sexuality, sexual orientation, and gender identity;

- Information on developmental issues and adaptive strategies for LGBT children and youth;
- A review of the coming-out process and how adults can support a young person who is coming out;
- A discussion of how sexual orientation and/or gender identity may relate to the reasons a young person is homeless or has run away, including parental reactions;
- A discussion of the social issues and challenges unique to transgender or gender-nonconforming youth;
- Guidance on how to serve LGBT youth respectfully and equitably;
- Information about community resources available to serve LGBT youth and their families;
- Information about the agency’s nondiscrimination policy and any applicable state nondiscrimination laws;
- Discussion about the importance of confidentiality for LGBT youth and how to comply with state and agency confidentiality rules and policies;
- Discussion about the intersection of race, culture, socioeconomic status, white privilege, and other cultural factors with sexual orientation and gender identity.

Establish Sound Recruitment and Hiring Practices

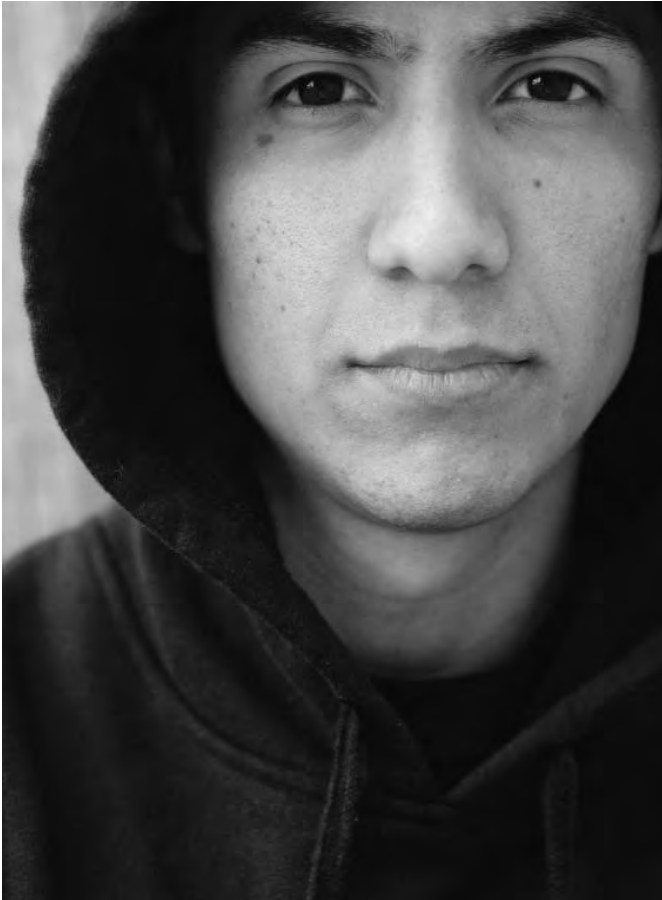
In order to ensure that all youth clients are competently served by agencies that provide homeless youth services, agency administrators should inquire into a potential hire’s past work experience, his or her ability to do the tasks required by the position, and his or her ability to competently work with the diverse population of youth the agency serves, including LGBT youth. Administrators can prevent problems down the line—like cases in which staff are unable to separate their personal biases against LGBT youth from their professional obligations—by informing applicants that the agency is committed to serving all youth in a nondiscriminatory manner and asking about prior experience working with LGBT youth. More specifically, the agency should:

- Ensure that the recruiting and hiring processes are clear about core skills and competencies needed to provide direct services to LGBT homeless youth.
- Create and monitor goals for the hiring and retention of a diverse staff that reflects the diversity of the population served.
- Offer support and leadership in implementing LGBT-competent services.
- Appropriately reprimand and/or remove homophobic or unsupportive staff, contract employees, and volunteers.
- Establish personnel goals which guide staff to celebrate and nurture a youth’s sexual orientation and gender identity and not simply accept or tolerate it.

Develop Agency Connections to LGBT Organizations and the LGBT Community

One of the best ways to stay on top of local LGBT youth resources in the community is to develop connections with local resources and with the LGBT community more generally. In addition, by developing relationships with other providers who serve local LGBT youth, agencies will be better able to determine how to reach out to LGBT youth who are not receiving any services. Administrators should encourage staff members to:

- Get involved with local networks of organizations that are concerned with the welfare of LGBT people generally.
- Develop collaborations with LGBT community groups to support the establishment of services for LGBT run-away and homeless youth.
- Build a stronger network of LGBT people and allies within the agency and agency contractors.
- Commit to outreach in areas where LGBT youth have been known to congregate.
- Regularly review all local resources to find those that are LGBT-friendly.
- Use or refer to health and mental health providers who have been trained on the specific health needs of transgender youth and who understand the professional standards of care for transgender people.



Collect and Evaluate Data

Good data on the numbers of LGBT youth accessing services can help agencies determine whether they need expanded services for this population. Data can also serve as a powerful education tool for board members and other key decision makers when pursuing programmatic expansion. At the same time, accurate data is extremely difficult to obtain because many youth are reluctant to self-identify, especially when data is not collected sensitively. Agencies that serve homeless youth should do the following:

- Incorporate questions about a youth participant's sexual orientation and gender identity status into demographic data elements and evaluation tools to determine accessibility and outcomes specific to LGBT youth.
- Compare data and outcome measures to determine if any disparity of treatment is noted between LGBT youth participants and heterosexual youth participants.
- Ensure that data is collected by individuals trained on how to respectfully ask questions about sexual orientation and gender identity, and on how to maintain confidentiality.

3 IMPROVING RESIDENTIAL SERVICES

Recommendations for Administrators and Youth Workers

Keep LGBT Youth Safe in Shelters and Other Residential Services

There are a handful of facilities across the country that offer specific shelter and residential services to LGBT homeless youth, but these programs only provide a very small fraction of the number of beds needed to house all LGBT homeless youth, and in some cases these facilities are not appropriate for particular LGBT youth. It is important for LGBT youth to feel safe and comfortable in all local emergency shelters and transitional living programs. If LGBT youth do not feel comfortable staying in a shelter because of fear of violence or harassment they will not use these services. There are several steps that agencies can take to better meet the needs of LGBT homeless youth.

Agencies that provide shelter and other residential services to homeless youth should do the following:

- Ensure that LGBT youth participants are not treated differently from heterosexual youth in shelter placement determinations.
- Ensure that staff never automatically isolate or segregate LGBT youth from other participants for the LGBT youths' protection.
- Inform LGBT youth participants of the different types of sleeping arrangements available, including beds close to direct care staff if the youth participant prefers to be in eyeshot/earshot of staff.
- Ensure that transgender or gender-nonconforming youth participants are not automatically placed based on their assigned sex at birth, but rather in accordance with an individualized assessment that takes into account their safety and gender identity.
- Ensure that individual LGBT youth participants are not placed in a room with another youth who is overtly hostile toward or demeaning of LGBT individuals.
- Allow transgender youth to use bathrooms, locker rooms, showers, and dressing areas that keep these youth physically and emotionally safe and provide sufficient privacy.
- Ensure that staff do not prohibit LGBT youth participants from having roommates or isolate these youth from other youth based on the false assumption that LGBT youth are more likely to engage in sexual behaviors.
- Maintain regular contact with youth participants placed in scattered-site housing units (apartments in the community) to protect them from emotional isolation and ensure they are free from harassment and discrimination.
- Create a safety plan for youth placed in scattered-site housing to respond to verbal harassment, physical threats to safety, and sexual exploitation by neighbors and community members.

■ CLOSING

Given the overrepresentation of LGBT youth in homeless populations and their increased levels of abuse and exploitation in street environments, agencies and programs serving homeless youth should adopt competencies to adequately serve the needs of LGBT youth participants. The recommended best practices noted above are the first guidelines in the United States dedicated to building cultural proficiency and positive programmatic practices to meet the needs of LGBT homeless youth. Agencies can use this document to evaluate how well they are currently meeting the needs of LGBT homeless youth or as a starting point for creating a broader action plan for new initiatives.

A significant portion of the recommendations was created by LGBT youth and reviewed by an advisory panel of professionals with the National Advisory Council on LGBTQ Homeless Youth, including representatives from the National Alliance to End Homelessness, Lambda Legal, the National Center for Lesbian Rights, the American Bar Association, and the National Network for Youth. The National Advisory Council on LGBTQ Homeless Youth anticipates these best practice recommendations and comments will be widely circulated, critically studied, improved upon, and implemented to improve the lives of LGBT homeless youth.



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7. Gender identity is a person's internal, deeply felt sense of being male or female, or something other or in-between. A person's gender identity may or may not conform to physical anatomy.
8. See Glossary
9. For information about GID and the World Professional Association for Transgender Health (WPATH) visit their website: www.wpath.org. If you wish to review the WPATH standards of care, please see http://www.wpath.org/publications_standards.cfm.

Glossary of Terms

Bisexual: a person who is emotionally, romantically, and sexually attracted to both men and women.

Coming out: the process of disclosing one's sexual orientation or gender identity to others.

Because most people in our society are presumed to be heterosexual, coming out is not a discrete event, but a lifelong process. Heterosexual family members or allies of LGBT persons also experience “coming out” when they disclose to others that they have friends or relatives who are LGBT.

Gay: a person whose emotional, romantic, and sexual attractions are primarily for individuals of the same sex, typically in reference to men. In some contexts, still used as a general term for gay men and lesbians.

Gender expression: a person's expression of his or her 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 or female, or something other, or in-between. Everyone has a gender identity.

Gender identity disorder (GID): a strong, persistent desire to be the opposite sex, as well as persistent discomfort about one's anatomical sex or a sense of inappropriateness in the gender role corresponding to one's anatomical sex. GID is a diagnosable medical condition found in the *Diagnostic and Statistical Manual (DSM)*.

Gender-nonconforming: having or being perceived to have gender characteristics and/or behaviors that do not conform to traditional or societal expectations. Gender-nonconforming people may or may not identify as LGBT.

Genderqueer: a term of self-identification for people who do not identify with the restrictive and binary terms that have traditionally described gender identity (for instance, male or female only). Also see *gender-nonconforming*, *queer*, and *transgender*.

Heteronormativity: a belief system that assumes heterosexuality is normal and that all people are heterosexual.

Heterosexism: a belief system that assumes that heterosexuality is inherently preferable and superior to other forms of sexual orientation.

Heterosexual: a person whose emotional, romantic, and sexual attractions are primarily for individuals of a different sex. Sometimes referred to as straight.

Homophobia: fear, hatred of, aversion to, or discrimination against: homosexuality, LGBT people, individuals perceived as LGBT, and people associated with LGBT people.

Homosexual: a term used to refer to a person based on his or her same-sex sexual orientation, identity, or behavior. Many LGBT people prefer not to use this term—especially as a noun—because of its historically negative use by the medical establishment.

Intersex: a term used to refer to an individual born with a reproductive or sexual anatomy that does not conform exclusively to male or female norms in terms of physiological sex (this may include variations of genetics, genital or reproductive structures, or hormones). According to the Intersex Society of North America (ISNA)—an organization that advocates and educates about intersex concerns—about one in every 2,000 children is born intersex. Many intersex people prefer this term to the historically negative term *hermaphrodite*. An intersex person may or may not identify as LGBT.

In the closet: keeping one's sexual orientation or gender identity secret.

LGBT: common acronym for Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning—persons who despite their differences are often discriminated against in similar ways. Sometimes written to include I for Intersex, and/or A for Ally. May also be written as LGBTQ or GLBTQ.

Lesbian: a woman whose emotional, romantic, and sexual attractions are primarily for other women.

Queer: an historically derogatory term for a gay man, lesbian, or gender-nonconforming person. The term has been widely re-claimed, especially by younger LGBT people, as a positive social and political identity. It is sometimes used as an inclusive, or umbrella, term for all LGBT people. More recently, *queer* has become common as a term of self-identification for people who do not identify with the restrictive and binary terms that have traditionally described sexual orientation (for instance, gay, lesbian, or bisexual only). Some LGBT community members still find *queer* an offensive or problematic term. Also see *genderqueer*.

Questioning: an active process in which a person explores his or her own sexual orientation and/or gender identity and questions the cultural assumptions that he or she is heterosexual and/or gender-conforming. Many LGBT people go through this process before “coming out.” Not all people who question their identities end up self-identifying as LGBT.

“Reparative” or “Conversion” Therapy: an intervention intended to change an individual's sexual orientation from homosexual to heterosexual, which is not condoned by the American Academy of Pediatrics, the American Psychiatric Association, or other major professional associations.

Sexual orientation: a term describing a person's emotional, romantic, and sexual attraction, whether it is for members of the same sex or a different sex. More appropriate than “sexual preference.” A person's sexual orientation may or may not dictate the person's sexual behavior or actions.

Straight: A term often used to identify a person as heterosexual.

Transgender: an umbrella term that can be used to describe people whose gender expression is nonconforming and/or whose gender identity is different from their assigned sex at birth. This term can include transsexuals, genderqueers, cross-dressers, and others whose gender expression varies from traditional gender norms.

Transition: the time period when a transgender person starts living as the gender he or she identifies as. Often includes a change in style of dress, selection of new name, a request that people use the correct pronoun, and possibly hormone therapy and/or surgery.

Transphobia: fear, hatred of, aversion to, or discrimination against transgender people or people who are gender-nonconforming.

Transsexual: a term for someone who transitions from one physical sex to another in order to bring his or her body more in line with his or her innate sense of gender identity. It includes those who were born male but whose gender identity is female, and those who were born female but whose gender identity is male, as well as people who may not clearly identify as either male or female. Transsexual people have the same range of gender identities and gender expression as non-transsexual people. Many transsexual people refer to themselves as transgender.

**Organizations Supporting the Dissemination of the
National Recommended Best Practices for Serving LGBT Homeless Youth**

Ali Forney Center, New York, NY

The Attic Youth Center, Philadelphia, PA

Avenues for Homeless Youth/GLBT Host Home Program, Minneapolis, MN

Children's Service Society of Wisconsin, Milwaukee, WI

The Gay, Lesbian, Bisexual, and Transgender Youth Support Project of
Health Care of Southeastern Massachusetts, Inc., Brockton, MA

Green Chimneys Children's Services, NYC Programs, New York, NY

Larkin Street Youth Center, San Francisco, CA

Latin American Youth Center, Washington, DC

Metropolitan Community Churches, Global Justice Ministries, New York, NY

Metropolitan Community Churches, Homeless Youth Services, New York, NY

Milwaukee LGBT Community Center, Milwaukee, WI

National Black Justice Coalition, Washington, DC

San Diego Youth Services, San Diego, CA

Sexual Minority Youth Assistance League, Washington, DC

Sylvia Rivera Law Project, New York, NY

Teen Living Programs, Chicago, IL

Transgender Health Empowerment, Inc., Washington, DC

Utah Pride Center, Salt Lake City, UT

Walden Family Services, Inc., San Diego, CA

YouthCare, Seattle, WA

OUT of the **Margins**

A Report on Regional Listening Forums Highlighting the Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth in Care

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The Child Welfare League of America is the nation's oldest and largest membership-based child welfare organization. We are committed to engaging people everywhere in promoting the well-being of children, youth, and their families, and protecting every child from harm. All proceeds from the sale of this book support CWLA's programs on behalf of children and families.

Lambda Legal Defense & Education Fund is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people, and those with HIV through impact litigation, education, and public policy work.

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CONTENTS

Acknowledgments	v
A Letter of Faith.....	ix
Introduction	xi
Chapter 1: Addressing Negative Attitudes About People Who Are LGBTQ	1
Chapter 2: Safe and Supportive Placements	17
Chapter 3: Homeless LGBTQ Youth	33
Chapter 4: Community Resources and Services.....	45
Chapter 5: Issues Facing LGBTQ Youth in Schools.....	53
Chapter 6: Permanency Planning	67
Chapter 7: Transgender Youth.....	79
Chapter 8: Bridging the Rural-Urban Divide.....	103
Chapter 9: Faith-Based Child Welfare Services	111
Chapter 10: Adults Involved with the Child Welfare System.....	121
Chapter 11: The Utility of the Regional Listening Forums for Policy, Practice, and Research: A Tripod by A. Chris Downs, Ph.D.....	133
Conclusion	139
Appendix A-1: Adult Invitation	143
Appendix A-2: Youth Invitation	146
Appendix A-3: Youth Flyer	149
Appendix B: Assent Forms.....	150
Appendix C: Listening Forums Outline	153

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N

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We would also like to thank the members of the CWLA/Lambda National LGBTQ Advisory Network for their support and for their invaluable efforts to improve the lives of LGBTQ young people in child welfare systems around the nation.

Most importantly, we would like to express our sincere gratitude to the hundreds of young people and adults who participated in the Listening Forums. We thank them for their generosity of spirit, their courage and willingness to share their stories and experiences, and their unending commitment to ensuring the safety and well-being of LGBTQ youth in care.

The Andrus Family Fund and the Transition Framework

Fostering Transitions: The CWLA/Lambda Joint Initiative and the Regional Listening Forums were made possible with the generous and visionary support of the Andrus Family Fund (AFF). AFF is a grantmaking foundation that has as a priority funding projects that help young people transition from foster care to adult independence. AFF and its grantees are guided by author William Bridges' Transition framework for achieving lasting change. AFF provides funding to unique projects that apply this framework in working with individual clients, including young people transitioning out of foster care, as well as to projects that address broader social change involving many individuals or organizations. The Transition framework has informed the work of the CWLA/Lambda Joint Initiative and the goals of our Listening Forums.

According to William Bridges, transition is fundamentally different from change. Where change is external and situational (e.g., when a young person ages out of foster care, or when a foster care agency adopts policy changes), transition is internal and psychological and describes the process of responding to the change. Bridges divides this process into three consecutive but overlapping stages: 1) *the ending*; 2) *the neutral zone*; and 3) *the new beginning*. Every transition begins with an *ending*, when old ways of acting consciously end and the loss that results from letting go of the familiar is acknowledged. Second, there is a *neutral zone*, where the old situation no longer exists, but the new situation is not yet comfortable. The *neutral zone* is an in-between time that may be marked by considerable chaos and great creativity. And, finally, if the first two phases are adequately attended to, there can be a *new beginning*, when lasting change truly occurs. Bridges believes that by supporting individuals and organizations in each stage of the transition process, change is most likely to be meaningful and permanent.

The Regional Listening Forums were designed as a key means to initiate the transition toward building the capacity of the nation's child welfare system to meet the needs of LGBTQ people, beginning with an acknowledgement of the *ending* of the ignorance and avoidance of the needs of LGBTQ young people and the old attitudes that have stood in the way of compassionate care. The Listening Forums provided an opportunity to share powerful stories of real-life experiences

and challenges directly from those who have lived them. By engaging participants in considering the points of resistance in creating an LGBTQ-supportive system and the tools and approaches that best support the transition to a new approach, Forum participants also addressed the needs of the child welfare field as it moves through the *neutral zone* of new learning. In many cities where a Listening Forum was held, a local task force was formed afterward to provide ongoing support and assistance to continue the transition toward the *new beginning* of a child welfare system that welcomes and supports LGBTQ youth and adults.

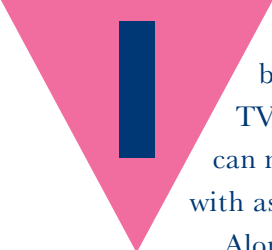
The AFF website (www.affund.org) offers further resources on this framework and how it can be applied to other situations involving change, as well as information about applying for an AFF grant. Several other LGBTQ foster youth-serving organizations are or were AFF grantees, including Gay and Lesbian Adolescent Social Services, Inc. (GLASS) in Los Angeles, California; Green Chimneys Children's Services, Lawyers for Children, and the Urban Justice Center in New York, New York; and True Colors, Inc., in Manchester, Connecticut.

We are profoundly grateful for AFF's support and vision, without which this Joint Initiative and report would not have been possible.

A LETTER OF FAITH

By H.J. David Ambroz, Attorney

Former youth in foster care



I am of the belief that isolation does not come from being alone, because how can we truly be alone? Awash in bodies on the street, on TV, at the store, in school, at church, in any and all public venues, one can never be alone with rare exception. Yet, as a child in care, in homes with as many as 40 youth, I never felt more isolated and alone.

Alone, and removed from the familial support network, no matter how dysfunctional, I was placed in a system and diagnosed as different—sick—simply because I was confused about my sexuality. In those isolating places, in those isolating times, I needed to know that I was okay, that no cure was needed. Even among my friends who knew that I was gay, it was not often discussed. And if it was, it was done in hushed tones and with diffused, opaque language.

Alone, as a gay youth, I was already part of a diaspora, fated to be different, and thrown among a populace that neither understood nor tolerated my divergence. Confused and isolated, I did much damage to my body, if not my soul, as I came to terms with my divergence at a time in adolescence when conforming is paramount.

Alone, away, and lost in the pre-*Will & Grace* days, the pre-Matthew Shepard days, the pre-*Lawrence* days, the pre-*Goodridge* days, the days of DOMA and Don't Ask, Don't Tell—these were my times, and still these are our times. So much has changed, but so much is still the same. LGBTQ youth are often dispersed and lost without a community to cheer and encourage and love and cherish them. These young travelers need to be armed with the knowledge that they are not broken; there is no need for a cure. They need to be made aware of their people's history, their community's proud and strident march towards equality.

Alone, fighting our self-immolation, we need society's love and support. We need not to be isolated and dispersed. In numbers there is power, if only in perception. They tried to cure me, but I was emboldened to fight all my battles with the same fervor they brought to my cure. The cure for the isolation that LGBTQ youth experience is a forum in which youth may gather, to support and nurture our divergence. What a simple thing it would have been to understand what I do now—I'm not alone, and I'm okay.

INTRODUCTION

I got jumped by a bunch of guys in my group home, and when I told the Director he said, “Well, if you weren’t a faggot, they wouldn’t beat you up.”

I realized that being gay is not my problem. It’s their problem. I see homophobia as a social disease. I try not to get involved in negative communities. But I do try to teach them. I’d rather teach them than ignore them. Otherwise, the ignorance will continue and nothing will ever be done about it.



Young people currently in the care of the child welfare system made these statements during events called Regional Listening Forums, organized by the Child Welfare League of America (CWLA) and Lambda Legal Defense and Education Fund (Lambda). The objective of these events, held in 13 different cities around the country between September 2003 and December 2004, was to highlight the experiences of lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth in care. The CWLA/Lambda Regional Listening Forums provided an opportunity for LGBTQ youth in care, and the adults who work with and care for them, to share their experiences and to work together to identify strategies for bringing about lasting change within the child welfare system. More than 500 youth and adult participants from 22 states attended the Forums, offering personal stories of actual experiences and concrete solutions for building the capacity of the child welfare system to better meet the needs of LGBTQ young people in care.

Background

The child welfare system has generally not been a safe and supportive place for LGBTQ youth. As a result, many have learned to hide in order to survive, while

others, unable to hide, turn to the streets in search of more safety than the system provides. Unlike other demographic characteristics such as race, age, or (in most cases) sex, LGBTQ youth may not be readily recognized by child welfare professionals, especially those ill-equipped to engender the trust necessary for a young person to disclose his or her sexual orientation or gender identity.

LGBTQ youth in care experience the same vulnerabilities as other youth. But their vulnerabilities are compounded by the high levels of abuse and rejection they often experience in their families, their placements, among their peers, in their schools, and in their communities. This can have profound consequences for their mental and physical health. For example, a study of high school students in Massachusetts found that gay, lesbian, and bisexual students were three times more likely to report having been threatened or injured with a weapon at school (23.5% of sexual minority students vs. 7.8% of others) and more than five times more likely to have attempted suicide (40.4% of sexual minority students vs. 7.2% of others) (Goodenow, 2003). LGBTQ youth often experience violent abuse, based on their sexual orientation or their gender identity, at the hands of members of their family of origin. Thirty-three percent of gay men and 34% of lesbians report suffering physical violence from family members as a result of their sexual orientation (Gross, Aurand, & Addessa, 2000). Current research shows that rejection of LGBT youth by families and primary caregivers can lead to negative physical and mental health outcomes for these young people (Ryan & Diaz, 2005). In the child welfare system, LGBTQ young people report experiencing incidents of violent abuse, rape, and harassment in their foster and group homes because of their sexual orientation and gender identities (Mallon, 1998).

CWLA/Lambda Joint Initiative

To fundamentally change the way LGBTQ youth are treated in the nation's foster care system, and to build the capacity of the system to support these youth, CWLA and Lambda combined their respective expertise in child welfare and LGBT civil rights and launched a partnership entitled "Fostering Transitions: CWLA/Lambda Joint Initiative to Support LGBTQ Youth and Adults Involved with the Child Welfare System." Based in Washington, DC, with regional offices in six cities, CWLA is the nation's oldest and largest membership-based association

of child welfare organizations. With a membership base of nearly 1,000 private and public child welfare agencies, including nearly every state's department of child welfare services, CWLA and its members attend to the needs of over 3.5 million abused and neglected children and their families each year with a wide range of services. Lambda is the country's oldest and largest advocacy organization dedicated to advancing the civil rights of LGBT people and people with HIV. Headquartered in New York City, Lambda also has four regional offices.

Together, CWLA and Lambda are working with partner organizations across the country to assist the child welfare field to:

- Let go of its previously held beliefs that LGBTQ youth do not exist or are to be shunned;
- Enter into a phase of new learning about LGBTQ youth so that their needs can be better understood; and
- Engage in new approaches to ensure that the needs of LGBTQ youth in care are met.

The Joint Initiative includes the following components:

- **LGBTQ Program Director and Foster Care Attorney:** For the first time in its 85-year history, CWLA hired a full-time LGBTQ Program Director to coordinate its efforts to improve systems of care for LGBTQ youth. Lambda's full-time Foster Care Attorney serves as Lambda's primary representative on the Joint Initiative.
- **National LGBTQ Advisory Network:** The Advisory Network is comprised of nearly 100 child welfare professionals and more than a dozen LGBT young people who guide and inform the Joint Initiative staff in the development of programmatic strategies, materials, and resources. All youth members of the Advisory Network are currently or have been in foster care. Advisory Network members also help disseminate information throughout their communities and regions.
- **Conferences:** Joint Initiative staff have conducted more than 50 workshops and presentations at national and regional conferences throughout the country. CWLA held a preconference institute dedicated entirely to LGBTQ issues prior to its 2005 national conference in Washington, DC. Based on the success of that event, in November 2006, CWLA will dedicate its entire annual three-day best practices conference, "Finding

Better Ways,” to the subject of working with LGBTQ youth in care. This conference, to be held in Nashville, Tennessee, will be the first national conference entirely dedicated to issues affecting LGBTQ youth in the child welfare and juvenile justice systems.

- **Publications:** In addition to this joint publication, CWLA dedicated the entire March/April 2006 special edition of its *Child Welfare* journal exclusively to LGBTQ issues. Furthermore, in 2006 CWLA will publish *Best Practice Guidelines for Working with LGBTQ Youth in Care* to assist child welfare professionals in their efforts to support these young people. These *Best Practice Guidelines* have been developed through a collaboration known as the Model Standards Project (MSP) coordinated by Legal Services for Children and the National Center for Lesbian Rights, both based in San Francisco, California (see Conclusion). Finally, CWLA has updated its website to include, for the first time, information and materials relating to LGBTQ youth issues¹ and lists among its recommended sites the Lambda website² with its many materials geared for LGBTQ youth and families.
- **LGBTQ Toolkit:** In order to provide practical resources to the child welfare field in serving LGBTQ youth, the Joint Initiative is developing a “toolkit” that will contain information and resources to assist child welfare practitioners to support LGBTQ youth and families.
- **Public Policy and Advocacy:** The Joint Initiative staff has provided technical assistance to child welfare officials in a number of locales who are working toward developing competency in caring for LGBTQ youth in care. CWLA and Lambda have worked on policies, training initiatives, local task forces, and legislative matters in states around the country. In 2005, CWLA released and posted on its website a formal public policy statement in support of parenting by gay, lesbian, and bisexual, individuals and same-sex couples.

Regional Listening Forums

Previous publications by both CWLA and Lambda, including Lambda’s *Youth in the Margins: A Report on the Unmet Needs of Lesbian, Gay, Bisexual, and Transgender*

¹ See www.cwla.org/programs/culture/glbtq.htm.

² See www.lambdalegal.org.

*Adolescents in Foster Care*³ (2001) and CWLA's *Serving Gay and Lesbian Youths: The Role of Child Welfare Agencies* and *Serving Transgender Youth: The Role of Child Welfare Systems* (1991 and 2000) contain numerous recommendations for the child welfare field to provide competent care for LGBTQ youth. Nonetheless, LGBTQ youth in the child welfare system have largely remained invisible and marginalized, and their voices have often gone unheard. Indeed, an administrator of one of the state child welfare agencies interviewed for *Youth in the Margins* claimed, "there are no [LGBT] youth in the state's foster care system" (page 103), although others in the state confirmed that this, of course, was not the case. In order to fundamentally change the way the system has treated these youth, CWLA and Lambda decided that a new approach was needed. The Joint Initiative sought to hear firsthand from LGBTQ youth themselves about their experiences in the child welfare system, and to work together with child welfare professionals to find solutions to the gaps and barriers to providing more competent care. This approach can lead to more meaningful and lasting change.

The CWLA/Lambda Listening Forums provided a safe environment for LGBTQ youth and the adults who work with them to share their experiences and devise strategies for a more competent system of care. Participants heard powerful first-person accounts of real-life experiences and challenges directly from those who have lived them, and considered the points of resistance to an LGBTQ-supportive environment and solutions for overcoming obstacles.⁴

Forums were planned through a collaborative process between Joint Initiative staff and local hosts and planners, many of who are members of the CWLA/Lambda National LGBTQ Advisory Network. Several documents were developed to support the recruitment of adults and youth to the Forums, including an invitation letter for adults, a separate invitation for youth containing more youth-friendly language, and colorful flyers for display in target areas (see Appendix A for examples of these materials). A high priority was placed on holding Forums in geographically diverse locations and in every region of the country.

3 This report can be downloaded free of charge at www.lambdalegal.org/cgi-bin/iowa/news/publications.html?record=899.

4 All participants were asked to read and sign a consent or assent form, depending on their age, confirming that they were participating in the Forum willingly and of their own volition. The consent/assent forms noted that the group sessions would be tape recorded for purposes of preparing the subsequent report of the Forums, but that no identifying information would be used. The consent/assent forms were reviewed and approved by CWLA's Institutional Review Board (see Appendix B for examples of these forms).

Forums were held in Hartford, Connecticut; Tucson, Arizona; New York, New York; Bloomington, Indiana; Sacramento and San Diego, California; Augusta, Maine; Jacksonville and Fort Lauderdale, Florida; Minneapolis, Minnesota; Denver, Colorado; Salt Lake City, Utah; and Philadelphia, Pennsylvania. The Forums also drew participants from a number of other states, including Georgia, Wyoming, Washington, Illinois, Ohio, Kentucky, Hawaii, North Carolina, Massachusetts, Rhode Island, South Dakota, and Texas. A large part of what made the Regional Listening Forums unique was their broad geographic scope, the variety of perspectives of the participants, and the consensus across the board that more needs to be done to protect and support LGBTQ youth in care.

Participants serving an array of functions within the child welfare system were invited to each Forum, including state child welfare administrators and policymakers; executives of local nonprofit service providers; clinical, direct care, and administrative staff of residential treatment and group home programs; representatives from the juvenile justice system; judges, lawyers, and Guardians ad litem; school administrators, teachers, and counselors; foster parents and families of youth in care; child welfare advocates; and most importantly, LGBTQ youth themselves.

Strategies for recruiting youth participants varied depending on existing services and resources, knowledge and understanding on the part of the local hosts and planners as to where to locate LGBTQ youth, and levels of trust between LGBTQ youth and local service providers. The overall goal of attracting 20 to 40 participants for each Forum was easily met.

The Joint Initiative held the Listening Forums in a variety of settings: two in local LGBT community centers, one in a private nonprofit community-based service organization, five in state or city offices, three in churches, and two in conjunction with national or regional conferences.

Discussion during the Forums, which typically lasted three to four hours, focused on three primary areas: existing resources for LGBTQ youth, unmet needs of LGBTQ youth in care, and strategies to improve care.

About three dozen questions were posed to the participants to guide the discussion (see Appendix C for a sample agenda and question list.) Participants focused on the following areas of particular concern for LGBTQ young people: anti-LGBTQ attitudes and their effects on the treatment received by LGBTQ youth in care, safety in placements, homelessness, school conditions, permanency planning, transgender youth issues, faith-based services, issues faced by youth in rural areas,

and issues faced by LGBTQ-supportive adults who work in the child welfare system. Consensus emerged at the Forums around three overarching themes:

1. A pressing need exists for comprehensive policies to facilitate open and competent support for LGBTQ youth in care;
2. If LGBTQ youth in care are to be served competently and compassionately, staff and service providers throughout all levels of the child welfare system require comprehensive training on how to do so;
3. To fill serious gaps in care for these young people, LGBTQ youth require services designed with their specific concerns in mind.

Each chapter of this report identifies and summarizes what Forum participants said about the unmet needs of LGBTQ youth and the steps the child welfare system must take to improve its support of them. These future steps contain specific recommendations for child welfare policymakers and practitioners. Each chapter is framed around direct quotes from Forum participants. It is their voices that guide the Forums and the findings of this report.

A more detailed description of the methodologies used in planning and conducting the Regional Listening Forums can be found in the March/April 2006 issue of *Child Welfare*. For more information about the CWLA/Lambda Joint Initiative, including the Regional Listening Forums, or to learn more about conducting a Listening Forum in your community, visit www.cwla.org/programs/culture/glbtc.htm.

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For Further Reading

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CHAPTER 1

ADDRESSING NEGATIVE ATTITUDES ABOUT PEOPLE WHO ARE LGBTQ



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ADDRESSING NEGATIVE ATTITUDES ABOUT PEOPLE WHO ARE LGBTQ

It became real clear to me that my caseworker wouldn't be able to handle it if I came out and told her I was gay. A couple of times I tried to hint around about it, but she just wasn't hearing any of it. And she was always asking me about my "girlfriends." So when she found me a foster home, I knew I couldn't count on her to have made sure they'd be cool with my being gay. I was afraid to tell my foster family too. So, more time in the closet for me.

—Youth participant

Ignorance and homophobia are the two primary barriers to care for LGBTQ youth.

—Adult participant, Jacksonville

We're seeing a national antigay political tone that permeates the child welfare system, hurting LGBTQ young people.

—Adult participant, Denver

Every Forum identified one overarching barrier to supportive services for LGBTQ youth: the negative stereotypes and beliefs about LGBT people still harbored by many involved in the child welfare system. In states ranging from California, where discrimination on the basis of sexual orientation or gender identity is expressly prohibited in the provision of foster care services (California Foster Care Nondiscrimination Act, 2003), to Florida (1977), the only state to ban gay and lesbian adults from serving as adoptive parents, Forum participants recounted story after story describing how ongoing anti-LGBT attitudes undermine young peoples' care.

These attitudes take different forms and stem from different beliefs and misconceptions. On the part of some, they include overt hatred and fear of LGBT people. The term homophobia is often used to refer to such attitudes about lesbian and gay people, while the term transphobia expresses hatred and fear of transgender people. Others, especially those who are uninformed about and have not come to know openly LGBT people, feel a great deal of unease about the subjects of homosexuality and transgender identity. Their attitudes may be based on stereotypes and misinformation that make them uncomfortable dealing with LGBT issues. Our society is rife with unexamined assumptions that heterosexuality and conformity to traditional gender roles are “normal” and therefore superior to others. The dominant thinking in our culture is that it simply is better to be heterosexual than gay or lesbian. This belief, called heterosexism (Herek, 2004), operates to deny and denigrate nonheterosexual forms of behavior, identity, relationships, and community.

The spectrum of negative views about homosexuality and gender variance stems from a variety of sources. For example, some religious denominations condemn homosexuality as immoral and sinful (see Chapter 9). At one time, homosexuality was considered a psychiatric disorder, although since the early 1970s, the leading mental health organizations, including the American Psychiatric Association and the American Psychological Association, have recognized it to be a normal variation in human sexuality. Through laws making consensual sodomy illegal, gay and lesbian people were also long condemned as criminal. In recent decades the great majority of states rejected these prohibitions, however, and in the 2003 decision *Lawrence v. Texas*, the United States Supreme Court declared such laws unconstitutional, holding that gay and lesbian individuals are entitled to government “respect for their private lives” (539 U.S. 558, 578 [2003]). Gender-variant behavior may challenge deeply embedded cultural assumptions and stereotypes about “proper” sex roles (Kite & Whitley, 1996). And negative attitudes may stem from general discomfort with the subject of sexuality, particularly that of young people. This discomfort plays out in ways that especially affect lesbian and gay youth, such as “Abstinence-Only Until Marriage” curricula taught in public schools. Since at the time of this writing, same-sex couples can enter into civil marriage in only one state, Massachusetts, this kind of curriculum sends a very clear signal to lesbian and gay youth that their sexuality can never be condoned. Sexual orientation and gender identity may also be viewed differently within and among ethnic and cultural communities. For example, not

all those who engage in sexual conduct with same-sex partners consider themselves to be “gay” or “lesbian.” In particular, people of color may not identify themselves by these terms, which they may associate with the majority culture.

Negative views about LGBTQ people are, of course, far from universal. With legal shifts like the Supreme Court’s *Lawrence* decision, to positive portrayals of gay, lesbian, and transgender people in the popular media, to increased visibility and openness of LGBTQ people in communities around the country,¹ our society has come to understand and respect its LGBT members more than at any other point in our history.

In a similar vein, all the leading professional and mental health organizations relevant to the provision of child welfare services firmly reject the view that gay people are “deviant” or “abnormal” and condemn discrimination against them or efforts to change their sexual orientation (American Medical Association, 2005; American Psychiatric Association, 1980, 1999, 2002, 2004; American Psychiatric Association Committee on Gay, Lesbian, and Bisexual Issues, 1993; American Psychological Association, 1975, 1997, 2002; Child Welfare League of America, 2005; DeLeon, 1998; Frankowski & American Academy of Pediatrics Committee on Adolescence, 2004; National Association of Social Workers, 1997; Paige, 2005; Patterson, 2004; Perrin & American Academy of Pediatrics Committee on Psychosocial Aspects of Child and Family Health, 2002). Moreover, most adults involved in the child welfare system as professionals or as foster parents no doubt are motivated by the desire to help, not injure, vulnerable children, and do not set out with an intention to harm LGBTQ youth. Many already affirmatively support LGBTQ people, and many more have the capacity to do so once they have greater understanding of what it means to be LGBTQ and of our shared humanity.

The Listening Forums demonstrated, however, that the heterosexism and disapproval still harbored by some in the child welfare system are too often the basis for care that ranges from less than compassionate, to practices and protocols that are outright discriminatory and abusive. The result of societal, institutional, and individual homophobia, transphobia, and heterosexism is that too many child welfare professionals believe that LGBTQ youth are, or should be, invisible, and that their needs are less important than those of youth who are

1 According to the 2000 U.S. Census, same-sex couples live in 99.3% of all counties across America (Gates and Smith, 2001).

heterosexual and gender nonvariant. If LGBTQ young people are not seen as having worth and value by their government, their society, their communities, and the adults who are charged with their care, they will not be afforded an opportunity to develop the self-esteem necessary to support their healthy growth and development and to achieve the positive outcomes sought by those working in the child welfare system. Addressing these negative views and curtailing their impact on the care given to LGBTQ young people must be a priority.

What Are the Needs of LGBTQ Youth in Care?

Child Welfare Systems that Acknowledge Their Existence

There is an institutional desire that LGBTQ youth remain invisible and silent. That way the system can go on ignoring them.

—Adult participant, Jacksonville

Given the pressure for LGBTQ young people to remain invisible and the lack of attention given to this population, few analyses of their prevalence in the child welfare system exist. But there certainly is strong evidence that LGBTQ youth are in the system, and in disproportionate numbers (see, for example, studies cited in Chapter 3). Participants at every Listening Forum were asked to give estimates, based on their experiences, of the percentages of teenagers in foster care who are LGBTQ. The responses were consistently in the range of 20 to 60%. This is not surprising, unfortunately, given the alarming rates of violence and rejection faced by LGBTQ youth from their families of origin because of conflicts over their sexual orientation or gender identity. One of the first steps child welfare systems must take is to acknowledge the LGBTQ youth in their midst and to focus attention on their needs for respect, safety, and services.

Acknowledgement that Anti-LGBTQ Attitudes and Beliefs Have No Place in Child Welfare Practice

Prospective caseworkers and foster and adoptive parents should be screened for anti-LGBTQ bias.

—Adult participant, Minneapolis

Crucial to remedying neglect and abuse of LGBTQ youth in foster care is recognizing that anti-LGBTQ attitudes may play *no* role in child welfare practice. For example, an individual caseworker may hold strong negative religious beliefs or other personal biases against LGBTQ youth, but under no circumstances should those private views be permitted to interfere with that caseworker’s responsibility to provide professional, respectful care to all young people, including those who are or may be perceived to be LGBTQ. The National Association of Social Workers, for example, has made clear that “homophobic or heterosexist views...reduce the effectiveness of support, services and treatment social workers offer to gay and lesbian clients” (1996).

LGBTQ youth in care should not be made to feel by the very professionals who are supposed to help them that they are entitled to anything less than full respect and support. Any child welfare staff whose personal beliefs do not allow them to adhere to sensitive and professional standards of care should not be allowed contact with any youth who could be LGBTQ.

Freedom from Anti-LGBTQ Harassment

It wasn’t just the other kids at my group home who were calling me “faggot.” It was the staff too. I had nowhere to turn for help.

—Youth participant

The prejudice LGBTQ youth face often takes its psychological toll, affecting their core sense of self by forcing them to deny and repress their identities. A number of studies show that stigma and prejudice based on sexual orientation place gay, lesbian, and bisexual people at a higher risk for stress-related mental illness than heterosexual people (Meyer, 2003; Proctor & Groze, 1994; Savin-Williams, 1994). LGBTQ youth need to feel that they are not condemned and stigmatized for something they cannot change and that is an important part of them—their sexual orientation or gender identity. They need to be cared for in an environment that shields them from, not exposes them to, bias and prejudice. They need to be free from anti-LGBTQ slurs and harassments. They need to feel loved, not hated, for who they are. They need to know that the child welfare system and adults who care for them are on their side.

Informed Adults Who Relate to LGBTQ Youth Based on Facts, not Myths

I got a call from a teenage boy on my caseload. He had told his foster parents he thought he was gay. They wanted him to go to a pastor who would make him “straight.”

—Adult participant, New York City

LGBTQ youth should be cared for by adults who are well informed about LGBTQ issues and who do not operate on the basis of bias and misconceptions. For example, LGBTQ young people often find themselves the victims of misguided efforts to change their sexual orientation or gender identity. Such “conversion” efforts or “reparative therapies” are extremely harmful psychologically, causing low self-esteem with no effect on what is essentially an immutable characteristic. For this reason, such efforts have been condemned as unethical by a number of mainstream psychological, medical, and child welfare organizations such as the American Psychological Association (DeLeon, 1998), The American Psychiatric Association (1980, 1999, 2002, 2004; and the American Psychiatric Association Committee on Gay, Lesbian, and Bisexual Issues, 1993), the American Academy of Pediatrics (1993; Frankowski & American Academy of Pediatrics Committee on Adolescence, 2004; Perrin and American Academy of Pediatrics Committee on Psychosocial Aspects of Child and Family Health, 2002), and the National Association of Social Workers (1997). LGBTQ young people may also be the victims of the damaging and unfounded myth that gay and lesbian people are sexual predators (Jenny, Roesler, & Poyer, 1994; Stevenson, 2000). Those caring for LGBTQ young people need to apply professional standards and information, not stereotypes, in their work.

Child Welfare Professionals Who Are Sensitive and Welcoming

My old caseworker changed the subject the one time I tried to let on I was a lesbian. After that he treated me differently, too—like there was a cold wind blowing in the room. Then I got transferred to my new caseworker. The minute I walked in to her office I knew things were going to be better. She had this poster about gay people over her desk and some rainbow beads hanging on her lamp. It was okay to tell her who I am.

—Youth participant

I had only one lady to talk to, but the rest of them weren't even trying to help me out.

—Youth participant

Like the systems in which they operate, child welfare professionals all too often refuse to acknowledge that they may have LGBTQ youth on their case-loads. Whether knowingly or not, they send powerful signals to the LGBTQ young people who are—invariably—in their midst that these youth will not be treated with acceptance or understanding and may not be safe to be “out” about their sexual orientation or gender identity. In his book, *We Don't Exactly Get the Welcome Wagon: The Experiences of Gay and Lesbian Adolescents in the Child Welfare* (1998), Dr. Gerald P. Mallon recounts how one staff member at a New York City social services agency told him, “We don't have any residents who are gay or lesbian. We have over a hundred adolescents in our programs and I know all of them and none of them are gay or lesbian!” (Mallon, 1998, p. 7).

These signals may be sent in countless ways. For example, a child welfare intake worker may ask a lesbian teenager whom he is interviewing if the girl has a boyfriend. By not considering the possibility that the girl may have not a boyfriend but a girlfriend, he has sent a message, however unwittingly, that he is comfortable discussing the child's personal relationships only if those relationships are heterosexual. The young person will be less likely to share any feelings or struggles she might be experiencing with regard to her sexuality. And the intake worker will not have sufficient information about the youth's background and characteristics upon which to make the best, or even an adequate, match with a supportive foster family or programs. For LGBTQ young people, the implications of these kinds of scenes, played out over and over around the country, are clear: that the adults charged with their care would be happier if they were heterosexual and gender-conforming. And thus the rift between adults and LGBTQ youth begins, creating barriers to open and honest communication and undermining youths' self-esteem.

LGBTQ young people need adults who are comfortable acknowledging their existence and sensitive to the cultural beliefs and biases that stand in the way of open and candid interactions.

Respect and Support

I live at an independent living program, and the staff will say things like, “Do you like boys now?” And I’ll say, “No, what are you talking about?” That’s the kind of thing that really bothers me.

—Youth participant

I told everyone that I am a lesbian, and I’m sorry if you have a problem with it. I lost a lot of friends, and the staff was really conscious of me. I was isolated a lot, in many different ways. I would ask to do things, and even if I was being respectful, or if I was doing what I was supposed to, I’d still get a “no.”

—Youth participant

LGBTQ youth in care need what other youth need. They need to feel respected by the adults who work with them. They need to feel as though they are understood by these adults and can communicate with them. They need to know they matter. They need to believe they can rely on the adults who have been charged with tending to their daily lives. They need to know they belong and not made to feel isolated and alone.

When LGBTQ youth are made to feel isolated, as is the case with any youth who is kept apart from friends or other potentially supportive allies, they detach from the very system that has been designed to support them. They do not actively participate in therapy or other forms of supportive services. This can create great tension between service providers who believe they are offering a youth every chance to succeed while in care, and a young person who feels as though it is the system itself that has contributed to their sense of isolation and loneliness.

Next Steps for Child Welfare Policymakers

Combating homophobia and the heterosexist assumptions that pervade the child welfare system should be the number-one priority to improve care.

—Adult participant, Augusta

Acknowledge the Issue

Child welfare policymakers should, first and foremost, acknowledge the existence of LGBTQ youth within their systems and their responsibility to address the needs of these young people.

Become Informed and Aware of Personal Biases

Policymakers should review the social science literature on homosexuality and gender identity, such as the American Psychological Association's *Guidelines for Psychotherapy with Lesbian, Gay and Bisexual People* (2000), and CWLA's *Standards of Excellence for Child Welfare Service for Adoption Services*² (2000), and *Transitional, Independent Living, and Self-Sufficiency Services* (2004) to ensure that they are setting policy on the basis of facts, not myths and prejudices. They should examine their own beliefs and assumptions to ensure that they are not carrying personal biases against LGBTQ people into their professional lives.

Adopt Policies and Protocols to Ensure that LGBTQ Youth Receive Bias-Free Care from Child Welfare Professionals

Child welfare policymakers should establish a professional milieu in which anti-LGBTQ bias and practices are not tolerated. They should develop and disseminate written policies and protocols that outline expectations for the positive support required for LGBTQ youth. These policies and protocols should include clearly articulated consequences for staff should they exhibit anti-LGBTQ attitudes and practices on the job. Similar protocols and consequences should be outlined and enforced for residents of child welfare programs as well.

Adopt Policies and Protocols to Ensure that LGBTQ Youth Receive Bias-Free Care in Foster Family Settings

Policymakers should require screening of foster families to ensure that youth are not placed in homes where foster parents are unequipped to care for them without bias. Policymakers should also develop and disseminate policies that require foster parents to commit to acting without bias or prejudice so long as LGBTQ

² For more information and to purchase CWLA's *Standards of Excellence*, visit <http://www.cwla.org/programs/standards>

youth are in their care. Since a young person may not come out or reach the age when they first identify as LGBTQ until after they have been placed in a foster home, it is imperative that all foster parents, including those with strong negative views about homosexuality, be subject to clear expectations requiring them not to impose their personal beliefs in harmful ways on a young LGBTQ person in their care. Policymakers should establish policies and protocols to allow for changes in placements to move LGBTQ youth from homes that are less than fully supportive.

Mandate Training and Competency on LGBTQ Issues for Child Welfare Staff and Foster Parents

Throughout each of the Forums, the overwhelming need for training on LGBTQ issues was seen as crucial to developing more competent systems of care for LGBTQ youth.

Policymakers should mandate comprehensive staff training on adolescent sexuality, and, specifically, on LGBTQ issues. They should also make competency on LGBTQ issues a required professional qualification for staff. Competence on these issues should be added to staff performance evaluation mechanisms. Policymakers should likewise require all foster parents to have basic training on LGBTQ issues.

Create Welcoming Environments for LGBTQ Youth

Child welfare policymakers should establish a milieu in which LGBTQ youth are made to feel welcome and supported. For example, policymakers should distribute and encourage posting of LGBTQ symbols such as pink triangles,³ rainbow flags,⁴ “LGBT Safe Zone” stickers, and posters in areas of their organizations where all youth might see them.⁵

Advocate Against Bias

Policymakers should be willing to take public stands against anti-LGBTQ attitudes in their communities. They should combat anti-LGBTQ measures by their governments that will negatively impact the youth in their care. In this way, child welfare

3 Pink triangles became a symbol of gay pride following World War II, during which gay men, considered deviants by the Nazis, were forced to wear them in concentration camps so that they could be identified as such.

4 The rainbow is an international symbol of LGBTQ pride.

5 Contact Lambda (www.lambdalegal.org) or the Gay, Lesbian, Straight Education Network (GLSEN) (www.glsen.org) for such materials.

agencies, as respected members of the communities whose children they serve, can set examples that mirror their overall approach to the caring support of all children.

Next Steps for Child Welfare Practitioners

Gain Competency to Work with LGBTQ Youth

Child welfare practitioners should review research materials and obtain training on working with LGBTQ youth. They should examine their own beliefs and assumptions to ensure that they are not carrying personal bias against LGBTQ people into their professional conduct.

Be Sensitive and Welcoming to LGBTQ Youth

Child welfare practitioners should be aware that they may well have LGBTQ youth on their caseloads. They should adjust their approaches to working with all youth accordingly. Practitioners should be sensitive to the cues a young person might be sending about their sexual orientation or gender identity and should make the young person feel safe to be open.

They should display supportive LGBTQ images such as pink triangles, rainbow flags, “LGBT Safe Zone” stickers, and posters in their offices, or if they meet with youth offsite, affix symbols where they can be seen, for example, on their appointment books or briefcases. These images send a clear signal to a youth that the child welfare professional is open to discussing issues of sexuality and will respond with competence and respect if the youth discloses that he or she is LGBTQ.

Child welfare practitioners should learn the skills necessary to engage LGBTQ youth in open, honest, and nonjudgmental discussion about their sexuality. The more child welfare professionals have the trust of and know about the youth they serve, the better equipped they are to address the young person’s needs.

Ensure that Youth Are Not Subjected to Anti-LGBTQ Bias

Child welfare practitioners should not tolerate anti-LGBTQ bias and practices by professional peers or by other youth. They should address the use of anti-LGBTQ language whether or not they currently serve LGBTQ youth. Many LGBTQ youth in care understandably feel a strong need to hide their sexual orientation or gender identity to protect their safety, so many have never made these aspects

of their identities known to staff. Therefore, it is imperative that staff model sensitivity on LGBTQ issues and respectful behavior at all times.

Child welfare practitioners should also screen and monitor placements and attendant schools to ensure that LGBTQ youth are not being sent into settings where they are likely to face bias and discrimination.

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CHAPTER 2

SAFE AND SUPPORTIVE PLACEMENTS



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I was put in a room by myself because I'm gay. I wasn't allowed to be around anyone else.

—Youth participant

I got jumped by a bunch of guys in my group home, and when I told the Director, he said, "Well, if you weren't a faggot, they wouldn't beat you up."


—Youth participant

I knew of a lesbian couple in my hometown who were foster parents. I was too scared to ask my caseworker to introduce me to them, so instead, I dropped lots of hints and signals, but she never picked up on any of them.

—Youth participant

LGBTQ youth need acceptance from their caregivers and to be safe in their placements.

—Adult participant, Sacramento



GBTQ young people are too often subjected to the dual indignities of suffering violence at the hands of their family members, and then, in their child welfare placements, being subjected to further humiliation and mistreatment from the adults charged with their care and protection. Nearly half of the youth in out-of-home care who were interviewed in the Family Acceptance Project, a comprehensive study of LGBT adolescents and their families, were removed from their homes, ran away, or were thrown out of their homes because of their LGBT identities (Ryan & Diaz, 2005). A 2001 study by the Urban Justice Center, a nonprofit organization

providing legal representation and advocacy to poor and homeless people in New York City, found that once placed in a foster care setting, as many as 78% of youth are removed or run away due to anti-LGBT violence and harassment. Fifty-six percent of LGBTQ youth interviewed in the study had spent time living on the streets because they felt safer there than they did living in their group or foster homes (Feinstein, Greenblatt, Hass, Kohn, & Rana, 2001, p. 16). A youth who contributed to the publication *In the System and In the Life* said of his experiences, “I had at least two fights a day. The boys used to do stupid things like throw rocks at me or put bleach in my food because I was gay. Once I was thrown down a flight of stairs, and I’ve had my nose broken twice. They even ripped up the only picture of my mother that I had” (Desetta, 2003, p. 46–47). Another youth quoted in the same publication said, “I left in the morning for school. When I came back to go to my room, somebody had spray painted the word ‘faggot’ on the door. The staff didn’t do nothing much but laugh when I told them” (Desetta, 2003, p. 50).

Some caregivers do not know how to intervene effectively when an LGBTQ foster child is harassed; others actively participate in the mistreatment. First and foremost, LGBTQ youth in care need to feel physically and emotionally safe. No child should ever be forced to remain in a placement where they are humiliated, harassed, and abused.

What Are the Needs of LGBTQ Youth in Their Placements?

Affirming Foster Family Placements

My foster family took away my clothes, called me a “dyke,” and tried to remake me.

—Youth participant

A few of my foster families treated me like a human being; the rest treated me really badly.

—Youth participant

When I was in foster care all my foster mom would do was taunt me.

—Youth participant

It's all about having an open mind. LGBTQ foster youth want foster parents who will support them and treat them like they belong. They're normal. Just because they label themselves as something else doesn't mean anything. They just want somebody to accept that, "I am Mary. This is me. This is how I am."

—Youth participant

Many young people are in care specifically because they are LGBTQ and may not trust a foster family placement.

—Youth participant

The goal of foster family care is to provide a safe, loving, and family-like environment until the family of origin is rehabilitated and reunified, or until another form of permanency is achieved. As with all young people in care, LGBTQ youth need families who will love and care for them and offer the guidance and support they need to grow into productive and healthy adults. Under most circumstances, it is best for foster youth to be placed with a foster family rather than in a congregate care facility. Family foster care is better suited than group home care to teach young people about family relationships and to provide ongoing support even after the young person leaves the system.

For some LGBTQ youth, the primary barrier to placement with a foster family, even an accepting and loving family, is their own history of rejection, abuse, and trauma previously experienced in their family of origin. Unfortunately, LGBTQ youth often find the same rejection, harassment, and abuse from members of their foster families that they experienced within their families of origin. As a result, many of these youth do not want to return to a family setting under any circumstances.

LGBTQ youth need foster families willing to care for and support them. The families, in turn, need assistance from the placement agency to develop the skills to understand and address the issues LGBTQ youth face. They need to understand the distinctions between sexual orientation and gender identity and to help LGBTQ young people safely navigate the developmental process of coming to terms with an LGBTQ identity. Efforts to force or convince these young people to become heterosexual or gender-typical only impair their healthy development. Indeed, it is a violation of the ethical standards of every reputable professional

child welfare, social work, and psychological association to use therapeutic strategies to change the sexual orientation or gender identity of any person (see Chapter 1). Foster parents need training and guidance so that young people are not subjected to such efforts.

Foster families of LGBTQ youth should never compound the rejection these young people may have experienced within their families of origin by exhibiting the same rejecting behaviors.

There are over 500,000 children in America's foster care system and far from enough families to care for them. States do not do enough to recruit families for foster youth, as evidenced by the Child and Family Service Reviews (CFSR), the federal audit of state child welfare performance. LGBTQ youth face added obstacles in finding safe, supportive placements. Congregate care facilities, while appropriate for some youth with high degrees of special needs, can rarely replace the experience of living with a loving family in a home setting. More needs to be done to recruit, train, and support families to care for LGBTQ young people.

I've met a lot of straight people who want to help. Just because they don't know anything doesn't mean they don't want to learn. And some of them know a lot more than some LGBTQ people.

—Youth participant

Having struggled with personal identity issues themselves, lesbian and gay foster parents may offer sensitivity to young people dealing with all sorts of issues, including being LGBTQ, being in foster care, and being marginalized in society. Many lesbian and gay foster parents have dealt with loss and difficult family issues and can therefore be empathetic to foster youth.

—Adult participant, New York City

Just because someone's not queer doesn't mean that you can't match them with someone who is. Placement matching should emphasize pairing queer youth with people who are open minded and accepting, whether they identify as LGBTQ or not.

—Youth participant

LGBTQ youth do not necessarily need to be placed with LGBTQ families in order to be safe and accepted.

—Adult participant, Sacramento

LGBTQ youth need positive and affirming foster parents, regardless of the foster parents' sexual orientation.

—Adult participant, Denver

It is important to avoid the assumption that LGBTQ youth only want gay and lesbian foster parents and vice versa.

—Adult participant, New York City

Whether an LGBTQ foster youth prefers to live with an LGBT family, or whether the sexual orientation and gender identity of the parents do not matter, the essential need is the same. All young people need families who will accept, support, and love them for who they are. While LGBT adults may be especially equipped to foster LGBTQ youth, these young people deserve caring and affirming foster parents whether LGBT or not.

Safe and Supportive Group Homes

When I was in a group home, I was assaulted because I'm gay. I didn't appreciate that I had to take it. The staff knew what was going on but they didn't try to stop it.

—Youth participant

You get jumped and the staff don't do anything, so you start carrying a knife to protect yourself. Then you get in trouble for carrying a weapon.

—Youth participant

There is a need for safety, especially in group homes where the staff can be unfriendly. Rape and other forms of abuse are even tolerated.

—Youth participant

LGBTQ youth whose families of origin have rejected them and who do not feel safe in their placements often experience isolation and a compounding of the original familial rejection. They feel as though there is no one to support and protect them. This can create tremendous tension and conflict between the youth and group home staff. Some staff members may not possess the skills necessary to detect the feelings of isolation that underlie a young person's behaviors. Others may deliberately make LGBTQ youth feel unsafe through negative language or silent complicity with abuse from others. Name-calling, including use of slurs like "faggot" and "dyke," too often is not addressed within child welfare settings. Physical abuse, even at the hands of staff members themselves, is a common experience for LGBTQ youth in many congregate care settings.

Appropriate room assignments within group homes:

I was placed in a co-ed group home. When I was shown to my room, I asked why I was being put on the boys' floor. They said, "You're not a boy? Well, we can't put you on the girls' floor looking like that." So they made me sleep on a couch on a landing in between the two floors.

—Youth participant

Segregation and isolation of LGBTQ young people from one another within residential facilities is based upon a mistaken belief that there will always be sexual behavior between LGBTQ young people, even in nonromantic relationships.

—Adult participant, Hartford

A common approach by group home staff after a young person acknowledges his or her sexual orientation or gender identity is to place the child in a room by him or herself. This is sometimes done under the auspices of protecting the child's safety, yet doing so may further compound the sense of isolation the young person feels.

Respect for normal development in LGBTQ youth:

When LGBTQ young people express normal, age-appropriate behaviors such as handholding and kissing, they need to be supported in adhering to the same rules

that non-LGBTQ youth are required to follow in congregate care and other settings. Heterosexual dating is generally viewed as a healthy part of adolescent development. Although dating and expressing physical affection are not typically condoned among youth living in the same congregate care program, non-LGBTQ youth are encouraged to date others outside the program and receive guidance from program staff as to the kinds of behaviors that are age-appropriate. In contrast, LGBTQ youth are rarely encouraged to date other youth outside their program, and the same romantic behaviors considered appropriate for heterosexual teenagers are often viewed as inappropriate when engaged in by two members of the same sex. This double standard further erodes the sense of validation, worth, and safety LGBTQ youth feel from the adults charged with their care.

Specialized group homes for LGBTQ youth:

Once I got to [the LGBTQ group home], I started to get better. I was really nervous when I first arrived, but I saw that everyone was just like me. I felt safe to be in a place where I could be myself without getting harassed. I've been there for about six or seven months, and I've made so many improvements.

—Youth participant

When I came to [the LGBTQ group home], I had just gotten out of rehab. I made a lot of progress in rehab, but I could have made even more if it had been a more supportive environment. I didn't know that there were programs like this specifically for LGBTQ people. It's a very satisfying feeling to wake up every day and look around knowing that I'm in a supportive environment and staying clean.

—Youth participant

The child welfare system needs to overcome the companion assumptions that LGBTQ youth belong in specialized programs and placements, and that because specialized

placements and services exist, no more is needed to make the rest of the system safer and more supportive.

—Adult participant, New York City

Specialized programs are able to offer the types of safety and security that all LGBTQ youth should be offered in each of their placements, whether or not they have been specially designed for them.

—Adult Participant, Sacramento

In recent years an increasing number of group homes, shelters, and independent-living programs have opened around the country specifically to address the needs of LGBTQ youth. Gay and Lesbian Adolescent Social Services (GLASS) opened the nation's first LGBTQ youth group home in Los Angeles in 1984. A few years later, the New York City branch of Green Chimneys Children's Services opened its first group home for gay, bisexual, and transgender youth (Gramercy Residence). Over the years, both GLASS and Green Chimneys have expanded their residential services for LGBTQ youth, and new LGBTQ youth group homes, independent living programs, and shelters have opened in Boston, San Francisco, Detroit, Atlanta, and Philadelphia. These programs do an excellent job of providing safe and secure living environments where LGBTQ young people can be open about who they are and find affirming support from adults. They are places where visible signs of pride and acceptance are proudly displayed, such as pink triangles, rainbow flags, and "LGBT Safe Zone" posters.

Although they serve an important function, specialized programs cannot be seen as a long-term solution to the challenge of ensuring the safety of all LGBTQ youth in care. Instead, all congregate care facilities should be made safe for all youth, including those who are LGBTQ. There are approximately 10,000 licensed congregate care programs in this country housing tens of thousands of foster youth. The existence of a handful of programs that have been especially designed to address the needs of LGBTQ youth does not absolve the entire child welfare system from meeting its responsibility to ensure the safety, permanency, and well-being of all youth in care. Moreover, a primary goal of the child welfare system is to place children in the least restrictive, most family-like setting possible, which even the best group homes fail to achieve.

Safety in Communities

The system needs to do more to ensure that placements are not in neighborhoods or communities that are known to be hostile to LGBTQ people.

—Adult participant, San Diego

When I was 15, I was walking down the street with my best friend and a group of guys came up to us and asked my friend if he was gay. He said yes, and they killed him right in front of me.

—Youth participant

LGBTQ youth need safe spaces to hang out during the day. Public parks often feel safe, but they're not really safe. There's just nowhere else to go.

—Adult participant, Jacksonville

For LGBTQ youth, there is often a lack of stability in placements because they move from one home, community, and school to another. It's hard to feel safe and attached if no one has reached out to you and you think you might be leaving soon.

—Adult participant, Augusta

The need for safety extends beyond the boundaries of individual placements. LGBTQ young people also have the right to be kept safe within their communities, schools, and neighborhoods. Although some placements may take steps to create a safe and welcoming environment for LGBTQ youth, they may be located in neighborhoods in which LGBTQ people are not safe. LGBTQ young people should be assured that their caregivers and case managers will do all they can to protect them and advocate on their behalf if they encounter harassment or abuse, whether in the placement or out in the community.

Furthermore, it is not uncommon for young people in care to experience frequent changes in placement on the road toward permanency. For LGBTQ youth, this may create barriers to their continued safety because each placement

change brings with it a change in access to resources, relationships, and supports they need to feel safe.

Safety in Juvenile Detention Facilities

LGBTQ young people in foster care who engage in age-appropriate sexual experimentation are often unfairly labeled as sexual predators and transferred to the juvenile justice system.

—Adult participant, Salt Lake City

LGBTQ youth are often accused of sexual assault when engaging in age-appropriate sexual activity.

—Adult participant, Ft. Lauderdale

There was consensus among Forum participants that the juvenile justice system needs to take much better care of LGBTQ youth, and that juvenile detention should never be used under any circumstance to provide a safe placement for an LGBTQ youth who has not been adjudicated a delinquent.

Adults who work in child welfare and juvenile justice need to have a greater understanding of normal, healthy adolescent sexual development, and to be able to distinguish between sexual behavior that is age-appropriate and that which is truly aggressive or predatory. Often, sexual behavior by LGBTQ youth in care that would be considered acceptable if engaged in by heterosexual young people is considered aggressive, predatory, and inappropriate by caregivers and may lead to serious consequences, including a referral to and interaction with the juvenile justice system.

Many child welfare and juvenile justice professionals do not understand or appreciate the distinction between sexual orientation and sexual behavior. While youth who identify as heterosexual are thought to be sexually active only if they are actually engaging in sexual activity, gay or lesbian youth are thought to be sexually active even if they are not. LGBTQ youth need adult caregivers who understand and appreciate that they are not wholly defined by their sexual orientation or gender identity any more than are heterosexual and gender-typical youth.

Organizations such as the American Bar Association's Opening Doors Project; Legal Services for Children, the National Center for Lesbian Rights, and the National Juvenile Defender Center's Equity Project; and the Correctional

Association of New York’s Juvenile Justice Coalition are bringing to light the experiences of LGBTQ youth involved with the juvenile justice system. A growing body of evidence illustrates the experiences of these young people. According to the Correctional Association of New York’s Fall 2005 *Bulletin*:

In jail, LGBT young people regularly face verbal and physical harassment—not only from their peers, but from facility staff as well. And there is usually little they can do about it (p.1).

In the words of one youth:

“[The] harassment continues. I complain but they don’t take it serious. I’m afraid it might get out of hand. Boys are trying to touch me and stuff, but staff does nothing. I feel like I live in hell. This evening was filled with violence... I fear for my safety” (p. 1).

Next Steps for Child Welfare Policymakers

Adopt Policies and Protocols that Ensure the Safety of LGBTQ Youth

Child welfare policymakers should acknowledge that more must be done to ensure the safety of LGBTQ youth within their placements, schools, and communities. Child welfare policymakers should review published studies that document the unsafe living conditions for LGBTQ youth in care. They should affirm that all young people in the child welfare and juvenile justice systems are legally entitled to be kept safe in their placements, and acknowledge that there are direct links between the lack of safety in care and the risk of homelessness. They should support the posting of LGBTQ symbols of pride, including pink triangles, rainbow flags, and “LGBT Safe Zone” stickers and posters, in congregate care facilities.

Develop and Enforce Nondiscrimination Policies

Child welfare policymakers should establish a professional milieu in which anti-LGBTQ attitudes and practices are not tolerated. They should develop explicit written policies and protocols that outline their expectations with regard to positive support for LGBTQ young people, and these policies and

protocols should include clearly articulated consequences for staff should they exhibit anti-LGBTQ attitudes and practices on the job. Child welfare policy-makers should make LGBTQ competence an expectation for the satisfactory attainment of professional goals and add this topic to all staff performance evaluation mechanisms. They should also prohibit the practice of so-called “conversion” therapies that seek to alter a person’s sexual orientation or gender identity and take administrative action against any staff member who advocates for or engages in this unethical and damaging practice, whether directly or indirectly.

It is the responsibility of the program administrators to intervene when staff or residents use anti-LGBTQ slurs. There must be a clear and unambiguous message that such behavior will not be tolerated and that there are consequences for it. It is also the responsibility of each staff member to report such behaviors to supervisors. Protocols and consequences should be outlined for residents of child welfare programs as well as for staff to ensure that anti-LGBTQ harassment is clearly prohibited and effectively addressed.

Child welfare policymakers should develop policies that specifically address the provision of supportive care to LGBTQ youth by their foster parents. These policies should explicitly prohibit foster parents from engaging in discriminatory or abusive conduct towards LGBTQ youth in their care.

Mandate Comprehensive Training on LGBTQ Youth Developmental Issues for Child Welfare Staff and Foster Families

Training is needed for all child welfare staff, especially in group homes where the staff can be more homophobic than the residents.

—Adult participant, Tucson

Safety is the result of greater competence, training, sensitivity, and understanding on the part of the adults working in the system.

—Adult participant, Philadelphia

Training is critical for everyone involved with the juvenile justice system, including probation officers and judges.

—Adult participant, Philadelphia

Child welfare policymakers should support comprehensive training on LGBTQ issues for all staff and foster families. LGBTQ youth in care need the support of caring adults who understand and can address their developmental needs. Child welfare policymakers should make themselves aware of existing training models on LGBTQ issues and make them available to all staff and caregivers.

Designate a Safe Haven

As a short-term measure before all child welfare placements are made safe for LGBTQ youth, designate a specific group home or placement as a “safe haven” for LGBTQ young people. Provide training on sexual orientation and gender identity to the staff, post LGBTQ symbols and posters, and widely announce the existence of the safe haven throughout the state. The safe haven should be located within a safe neighborhood and connected to a school known to be supportive of LGBTQ students.

Next Steps for Child Welfare Practitioners

Adopt Practices that Ensure the Safety of LGBTQ Youth

Child welfare practitioners should affirm that all youth in care are legally entitled to a safe living environment, and that harassment, humiliation, and abuse of any child is not acceptable. Child welfare practitioners should review recent studies that address unsafe living conditions for LGBTQ youth in care. Practitioners should affirm that all youth should feel safe in their living environments and acknowledge that there are direct links between the lack of safety often afforded LGBTQ youth in care and the rates at which they become homeless.

Adopt Practices that Create a Supportive Environment for LGBTQ Youth

Child welfare practitioners should place LGBTQ young people in placements where they will be safe and affirmed. They should help locate and create such

affirming living environments. They should display supportive LGBTQ images such as pink triangles, rainbow flags, and “LGBT Safe Zone” stickers and posters to send the clear signal to youth that the practitioner is open to discussing issues of sexuality and gender.

Child welfare practitioners should examine their own biases and be willing to reflect on how their attitudes and behaviors may contribute to creating an unsafe living environment for LGBTQ youth. They should never use anti-LGBTQ language or slurs and should intervene immediately when an LGBTQ youth is harassed or abused. They should take immediate consequential steps and send a clear message that anti-LGBTQ harassment will never be tolerated and will result in negative consequences for the offender. Child welfare practitioners should not allow LGBTQ youth to be referred for harmful “conversion” therapies that seek to alter a person’s sexual orientation or gender identity.

Gain Competency to Work with LGBTQ Youth

LGBTQ youth need the support of adults who have been adequately trained on sexual orientation and gender identity issues. Child welfare practitioners should learn the skills necessary to engage LGBTQ youth in open and honest discussion about their sexuality. The more child welfare practitioners know about the youth they serve, the better equipped they are to attend to the youths’ needs and to match them with the most appropriate placements available. Practitioners should avail themselves of existing information on adolescent sexual development and develop the capacity to understand the distinction between sexual orientation and sexual behavior. Practitioners should also examine their own biases with regard to sexual behaviors between LGBTQ and non-LGBTQ youth, and address these behaviors in a uniform way.

Recruit, Train, and Support Foster Families for LGBTQ Youth

Child welfare practitioners should actively recruit foster families who will care for LGBTQ youth. They should be willing and able to provide foster parents with the training and ongoing supports they need, including information about existing community services and resources. Practitioners should work with their local LGBT community centers and organizations to develop comprehensive outreach and recruitment strategies. All foster parents should be provided with information regarding adolescent sexuality and gender identity development and the

resources to provide ongoing support. Child welfare practitioners should denounce attempts by foster parents to change a young person's sexual orientation or gender identity. They should engage in discussions of LGBTQ issues with prospective foster parents in order to gauge their views on sexual orientation and gender identity. If a family displays a lack of willingness to support LGBTQ people, an LGBTQ youth should not be placed there. Prospective foster families should be assessed according to their ability to provide a stable, loving home for all young people in care, including LGBTQ youth.

Adopt Practices that Ensure the Safety of LGBTQ Youth in Their Communities

Child welfare practitioners should work with community leaders, including school administrators and local law enforcement officials, to create protocols that support every possible effort to keep LGBTQ youth safe and protected from harassment, abuse, and harm throughout the community.

Adopt Practices that Ensure the Safety of LGBTQ Youth in Juvenile Detention Facilities

Practitioners who work in juvenile detention facilities should adopt the same protocols and procedures as child welfare practitioners in ensuring the safety of LGBTQ youth. They should affirm that all youth in their charge are legally entitled to safety and protection from harm and should have the information and skills to serve LGBTQ youth.

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CHAPTER 3

HOMELESS LGBTQ YOUTH



CHAPTER 3

HOMELESS LGBTQ YOUTH

Right now I'm in a shelter. I don't like it because most people there are very homophobic. I got into a fight just because I'm gay and people don't accept that fact. I've been there for three months. I'm trying to get the heck out.

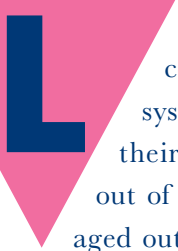
—Youth participant

The child welfare system needs a better understanding of what LGBTQ homeless youth experience on the streets and why they are there in the first place — like fleeing abusive homes and not feeling safe in their placements.

—Youth participant

More than 50% of the LGBTQ young people in the system have been homeless or runaway at some point.

—Adult participant, New York City



LGBTQ youth become homeless at rates that should be of great concern to anyone working in the child welfare and shelter care systems. Many are forced to leave their families or placements after their physical and emotional safety is jeopardized. Others are thrown out of their homes with nowhere to go but the streets. Still others have aged out of the foster care system unprepared to support themselves and without a permanent place to live. According to a June 2004 *New York Times* article addressing the issue of homelessness among LGBTQ youth, “There is no official count of those who are homeless and gay in New York, but Carl Siciliano, who runs the city’s largest shelter for gay young adults, puts their numbers in the thousands. Most national studies estimate that as many as half of all homeless youth are lesbian or gay, many of them tossed out by parents who scorn homosexuality for a variety of reasons” (Jacobs, 2004).

Half of the 54 lesbian and gay youth in the child welfare system profiled in the book, *We Don't Exactly Get the Welcome Wagon: The Experiences of Gay and Lesbian Adolescents in Child Welfare Systems* (Mallon, 1998), reported that they had spent periods of time living on the streets in preference to the hostile environment they found in child welfare settings. Some of the youth had been expelled from their homes when their parents discovered their sexual orientation. Others left their homes because family members subjected them to physical violence. One New York child welfare advocate told author Dr. Gerald P. Mallon, "We just keep seeing kids getting beaten up and thrown out of their houses, kids getting beaten up by their fathers for being gay, or young lesbians getting sexually abused by male relatives trying to change them so they won't be gay" (Mallon, 1998, p. 98). In 2003, Walden Family Services in San Diego conducted a needs assessment and found that more than 66% of the 400 local homeless LGBTQ youth interviewed reported at least one previous placement in the child welfare system (Berberet, 2004). The system proved to be so unsafe for these youth that they opted instead for life on the street.

Listening Forum participants were asked to estimate, based on personal experience, the percentage of homeless young people who are LGBTQ. The responses from young people and adults varied from 20% to 60%, with participants noting that the percentage of homeless young people who engage in same-sex sexual behavior at some point may be much higher. A study of inner-city homeless youth aged 11 to 23 found that one-quarter reported that they were lesbian, gay, or bisexual (Busen & Beech, 1998). Sixteen percent of runaways between the ages of 10 and 24 at one medical clinic in Los Angeles identified themselves as lesbian, gay, or bisexual, compared to 8% of nonrunaway youth at the clinic (Yates, MacKenzie, Pennbridge, & Cohen, 1988). And in a study of homeless young men between the ages of 15 and 20 at Covenant House medical clinic in New York City, 25% reported being gay or bisexual (Stricof, Nattell, Weisfuse, & Novick, 1991). One youth services director suggests, "These cities are places where gay youth believe they will find acceptance and nurturing, but instead they tend to experience exploitation and homelessness" (Kruks, 1991, p. 516). Among homeless youth as a whole, however, approximately 75% remain in their original communities, suggesting that "migration" of LGBT youth to the large cities is less significant than is often assumed (Farrow, Deisher, Brown, Kulig, & Kipke, 1992).

Being homeless further imperils an LGBTQ young person's physical and emotional security. According to a 2002 University of Washington study:

Among adolescents in general, GLBT youths are more vulnerable to health and psychological problems than are heterosexual youths. Many are victims of parental abuse, are substance abusers, and have both mental and general physical health problems. These problems may be amplified for GLBT youths who become homeless (Cochran et al, 2002, page 773).

Homelessness is a complex social problem with economic, social, and psychological implications. In some parts of the country, the problem is truly epidemic. In other places, homeless youth may be less visible as they “couch-surf” from home to home, relying on friends and acquaintances for support. Issues related to homeless LGBTQ youth were of paramount importance to the young people who participated in the Listening Forums as well as to the adults who work with them. There was a clear consensus among participants that the child welfare system is not a safe place for LGBTQ youth, and that as a result LGBTQ youth may be more likely to attempt to forge a life on the street rather than seek services and support from the system.

What Are the Needs of Homeless LGBTQ Youth?

Access to Child Welfare Services

Tapping into the child welfare system is often impossible for homeless or runaway youth.

—Adult participant, Augusta

The child welfare system needs to do more outreach so homeless LGBTQ youth do not feel as though they have to hide from the system.

—Adult participant, Tucson

Homeless youth need to know they can seek services and shelter without the threat that they will be detained or sent home.

—Adult participant, Sacramento

Many LGBTQ homeless and runaway youth are on the run from the system because they were not safe in their placements. We need to make the child welfare system safer.

—Adult participant, Fort Lauderdale

Only a small percentage of the LGBTQ young people who become homeless each year end up in the child welfare system. Some seek assistance from the system but are turned away due to a lack of understanding of the serious nature of the family issues they are facing, including the risk of violence, hostility, and outright rejection. Some are even forced to return home to these unsafe environments by social workers and police officers. Many who have spent time in child welfare placements found that they were not safe and fled to the streets instead. The large numbers of homeless LGBTQ youth is in part a reflection that the child welfare system is failing these young people.

Safe Shelters

Homeless LGBTQ youth need safe shelters and housing programs that are welcoming and understanding. Unfortunately, that is not often the case. Instead, LGBTQ homeless youth may find themselves at shelters where physical and verbal attacks are all too common. Transgender homeless youth may be especially unsafe at shelters where beds are assigned according to biological sex and not gender identification (see Chapter 7).

Homeless young people should never be forced to give up their basic safety when availing themselves of a program designed to provide a safe haven. If sleeping on the street is a safer option than seeking support from a shelter or transitional living program, clearly not enough is being done to protect LGBTQ homeless and runaway youth. A more concerted effort is needed to create a system of care with the capacity and will to provide safe, welcoming, and professional support to the members of our society who need it most.

Meeting Basic Life Needs

Homeless LGBTQ youth need basic physical safety and comfort.

—Adult participant, Jacksonville

Homeless LGBTQ youth have basic needs such as food, clothing, a safe place to sleep, education, psychological support, and substance abuse treatment services.

—Adult participant, Bloomington

For anyone attempting to carve out a life on the street, the need for such basic necessities as food, clothing, access to bathing and toilet facilities, and hygiene products takes on great importance. Homeless young people may even take great risks in order to meet their basic needs. They need support from child welfare and shelter care systems to ensure that they have basic necessities like food and clothing.

Access to Community Resources

Service providers need to know what the options are for homeless LGBTQ youth and how to access existing resources and services.

—Adult participant, Philadelphia

The staff people at shelters need to enhance their knowledge of community resources for LGBTQ youth.

—Adult participant, Salt Lake City

Child welfare service providers should assist LGBTQ young people in identifying existing community supportive services so that if they do become homeless they know where to go as an alternative to living and working on the streets.

—Adult participant, New York City

Community resources, such as educational and vocational training, medical and mental health services, and legal services may be difficult for homeless youth to access. Anti-LGBTQ attitudes and behaviors may make tapping into these services even more difficult and uncomfortable for homeless LGBTQ youth.

Among the resources that homeless LGBTQ youth need are competent medical and mental health care. LGBTQ youth who are forced to live on the street may engage in survival behaviors that place them at significantly higher risk for mental health problems, substance abuse, and exposure to sexually transmitted

infections. Many of these youth do not have access to supportive mental and medical health care services or information and other safer sex resources. Furthermore, some of the survival activities in which homeless LGBTQ youth may be involved, such as prostitution, are illegal, causing the youth to interact with the juvenile and criminal justice systems. Therefore, homeless LGBTQ youth also need access to information about their legal rights and support in accessing competent legal services and advocates within the community.

Caring Adults in Their Lives

Homeless LGBTQ young people need adults to trust and provide protection and support.

—Adult participant, Minneapolis

Homeless LGBTQ youth need someone to go to for support.

—Youth participant

Like all young people, homeless LGBTQ youth need the support of adults, whether they are family members, child welfare professionals, or members of the community in which they live. Establishing trust between homeless LGBTQ youth and the adults in their lives might be difficult to accomplish with young people who have been kicked out of their homes for being LGBTQ. For homeless youth wanting to reach out to supportive adults, there may be none to find. More needs to be done to identify and recruit LGBTQ-affirming adults to serve as mentors and caregivers.

Next Steps for Child Welfare and Shelter Care System Policymakers

Adopt Policies and Protocols that Ensure the Safety of LGBTQ Homeless Youth

Child welfare policymakers should take the steps necessary to ensure the safety of LGBTQ youth in all placements so that these young people can safely remain in care and not resort to living on the streets. Moreover, the door through which young people exit the child welfare system has traditionally swung one way. Once a young person leaves the system, it is nearly impossible for them to get back in. Child welfare policymakers should adjust their existing policies to accommodate

the re-entry of youth who become homeless after leaving the system, but who have not yet aged out.

Child welfare and shelter care system policymakers should ensure that all shelters are prepared to keep homeless LGBTQ youth safe. Nondiscrimination policies should be developed that specifically offer protection based on a youth's sexual orientation and gender identity. They should establish a professional milieu in which anti-LGBTQ attitudes and behaviors among staff and residents are not tolerated. For example, policymakers should develop accountability standards that assess child welfare and shelter staff performance in supporting LGBTQ youth.

Develop Safe Shelters for LGBTQ Homeless Youth

This country has a shortage of safe shelters for homeless youth. The demand for beds at shelters far exceeds the supply, and shelters often have long waiting lists to get in. Additional safe shelters should be developed, including facilities specifically designed to house homeless LGBTQ youth who are not safe within existing shelters.

Mandate Training and Competency on LGBTQ Issues for Child Welfare and Shelter Care System Staff

Child welfare and shelter care system policymakers should ensure that all staff and caregivers receive adequate training and education on sexual orientation and gender identity and the underlying reasons why some LGBTQ youth become homeless in the first place. They should develop an understanding of the links between a young person's sense of safety within the child welfare system and the risk of homelessness when their placements prove to be harmful and unsafe. This type of training should be mandatory and provided to everyone.

Policymakers should support the incorporation of components within life skills curricula that address issues of sexual orientation and gender identity. They should encourage a better understanding of the ways in which safety issues impact a young LGBTQ person's ability to develop essential life skills. For example, LGBTQ youth who must be continually concerned for their safety and the levels of respect and support they receive will be less able to concentrate on developing the independent living skills necessary to function in the world as a young adult.

Adopt Policies and Protocols that Foster Community Connections

Enhance the knowledge of existing community resources for LGBTQ youth within shelters and agencies.

—Adult participant, Salt Lake City

Child welfare and shelter care system policymakers should encourage practitioners to develop connections with schools, medical care providers, shelter networks, and other community services so that they can refer LGBTQ youth to the most appropriate supportive services available. They should also develop protocols for conducting outreach to caring adults within the community who may serve as mentors and role models to LGBTQ homeless young people as they transition to adulthood.

Next Steps for Child Welfare and Shelter Care System Practitioners

Adopt Practices that Ensure the Safety of LGBTQ Youth

Child welfare and shelter care system practitioners should ensure that LGBTQ homeless youth are safe within their shelters. Whenever possible, homeless LGBTQ young people should be referred to shelters with nondiscrimination policies that include sexual orientation and gender identity, or to shelters specifically designed for homeless LGBTQ young people. Child welfare and shelter care system practitioners should help create a milieu within all shelters in which anti-LGBTQ attitudes and behaviors among staff and residents are not tolerated.

Gain Competency to Work with LGBTQ Youth

Child welfare and shelter care system practitioners should avail themselves of training and education on sexual orientation and gender identity and the underlying reasons why some LGBTQ youth become homeless in the first place. They should develop an understanding of the links between a young person's sense of safety within the child welfare system and the risk of homelessness when their placements prove to be harmful and unsafe.

Child welfare and shelter care system practitioners should incorporate supports and information within life skills curricula that address issues of sexual

orientation and gender identity. They should develop an understanding of the ways in which safety issues impact a young LGBTQ person's ability to develop essential life skills.

Adopt Practices that Foster Community Connections

Child welfare and shelter care system practitioners should make themselves aware of existing supportive resources and services for homeless LGBTQ youth in their area and be prepared to help these youth access available resources to address their basic living needs. They should be knowledgeable about schools, medical care providers, and mental health care providers that offer services to homeless youth.

Finally, child welfare and shelter care system practitioners should conduct outreach to caring adults within the community to serve as mentors and role models to LGBTQ homeless young people as they transition to adulthood. Whenever possible, the ultimate goal of these relationships should be to foster permanent connections that will help end the youth's homelessness.

Child welfare and shelter care system practitioners should work with homeless LGBTQ youth to locate affordable, safe housing within the community and to develop the independent living skills to maintain it.

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CHAPTER 4

COMMUNITY RESOURCES AND SERVICES



CHAPTER 4

COMMUNITY RESOURCES AND SERVICES

In my high school, when I came out, I didn't know where to go to for help, so I searched online. I found that the school computers had blocked out every website that used the words gay, lesbian, or transgender. I was, however, able to find thousands of websites with detailed instructions on how to commit suicide, and the best way to do it. But I couldn't access even one website with information about where I could go to for help. It's one thing to weed out pornography, and another to weed out life-saving information.

—Youth participant

Child welfare service providers need to be connected with LGBTQ resources and youth-serving organizations in the community.

—Adult participant, New York City

Life in foster care is stressful enough without the added societal pressures faced by LGBTQ youth. It is important that LGBTQ youth receive competent, affirming, and appropriate care from service providers with whom they interact, and that they are able to identify additional sources of support in the community. Participants in the Forums identified many resources available to LGBTQ youth in some cities and regions throughout the country, including youth drop-in and community centers, supportive mental and physical health services, after-school programs, mentoring programs, support groups, family support services, and legal services. Elsewhere, however, few, if any, supportive services exist for LGBTQ youth. There was consensus among Forum participants that many more resources need to be developed for LGBTQ youth so that no matter where they live, they will have access to supportive resources and services (see Chapter 8).

What Are the Needs of LGBTQ Youth in Accessing Community Resources and Services?

Sensitive, Qualified Health Care Professionals

Better coordination is needed between the child welfare system and physical and mental health care providers so that all programs can better identify and serve LGBTQ youth.

—Adult participant, New York City

Most young people in the child welfare system are referred to a variety of professional service providers in the community to address their physical and mental health care needs, including counselors, therapists, doctors, and mentors. The experience of being LGBTQ in and of itself is not an indicator of potential mental or physical health problems. On the other hand, where such concerns exist, foster care systems can be ill-equipped to address them. LGBTQ young people in the child welfare system need access to sensitive and informed health care providers with whom they feel comfortable and affirmed, not judged and misunderstood. If service providers do not meaningfully address an LGBTQ youth’s mental and physical health care needs, problems may manifest in increasingly significant ways over the course of the young person’s adolescence, increasing the chances of a poor outcome upon aging out.

Sexual Health Education and Services

Currently, much of the sexual health education offered to young people in school is geared towards heterosexuals and does not address issues faced by LGBTQ people. In fact, Section 510 of the Social Security Act, created as part of the Personal Responsibility and Work Opportunity Reconciliation Act (1996) (commonly known as the 1996 welfare reform law), expects recipients of federal health education funding to promote an “Abstinence-Only Until Marriage” policy. This policy leaves many LGBTQ young people without any meaningful sexual health education from their schools, and does nothing to stem the growing HIV infection rate among young people.¹ It is the responsibility of the child welfare

¹ According to the June 1, 2001 special issue of the Centers for Disease Control and Prevention’s *Morbidity and Mortality Weekly Report*, both new and overall HIV infection rates among gay men aged 15 to 22 rose dramatically from the mid- to late 1990s.

system to ensure that LGBTQ young people in care receive accurate, nonjudgmental information about safer sex practices and prevention of sexually transmitted diseases (STDs), condoms, and confidential testing for STDs.

Peer Support and Social Groups

Making friends, dating, and developing romantic connections are all a normal part of adolescent development. This is no different for LGBTQ young people who benefit from attending peer support groups and social functions where they are able to meet other LGBTQ young people. Access to safe places to socialize with other LGBTQ young people is often limited, however, and foster parents or group home staff may impose further obstacles. As a result, LGBTQ young people may need assistance to connect with community peer support and social resources.

Affirming Mentors

Some group homes block mentors and other supportive adults from talking to young LGBTQ people.

—Adult participant, Hartford

Adult mentors provide lifetime connections and positive role models for young people. In fact, many young people in the child welfare system are assigned a mentor from the community. LGBTQ young people need access to mentors who will affirm and support them, and help connect them to the larger LGBTQ community.

Community Resource Lists

It is almost impossible for LGBTQ youth to access existing community services if their foster parents or group home staff do not approve.

—Adult participant, Jacksonville

LGBTQ young people in the child welfare system need access to information about existing supportive resources within their communities. Some LGBTQ young people prefer to identify and access community support on their own and confidentially, without relying on their caseworkers or caregivers. In other cases, the caseworkers and caregivers create obstacles preventing an LGBTQ young person from identifying and accessing support within the community. Lists of

supportive community resources, including affirming religious congregations, peer support groups, reading materials, and professional services enable LGBTQ young people to identify and access support on their own if necessary and are important sources of referrals for caseworkers and caregivers.

“Point Person” or Ombudsperson

LGBTQ young people and those who work with them need someone knowledgeable about LGBTQ issues within the system or service area to go to directly for information about community resources, or to address problems when they arise. A designated point person can be a critical link in finding an appropriate placement for an LGBTQ young person.

Next Steps for Child Welfare Policymakers and Practitioners

Identify Appropriate Health Care Professionals

Child welfare policymakers and practitioners should identify and recruit mental and physical health care providers with the skills to provide competent and affirming care for LGBTQ youth. Local LGBT community centers and other organizations serving LGBTQ people are often good sources of information about supportive health care professionals in the community.

Ensure Access to Sexual Health Education

Child welfare policymakers should develop policies that ensure all young people in care have access to accurate, nonjudgmental sexual health education and information. Child welfare practitioners should be prepared to provide access to condoms, information about STDs, and places where confidential STD testing is available in the community.

Find and Help Develop Peer Support and Social Groups

Child welfare policymakers and practitioners should support LGBTQ youth in engaging in appropriate adolescent activities. Where peer support and social groups are available, practitioners should assist LGBTQ young people to access them. Where such resources are not currently available, child welfare policymakers and

practitioners should help develop them. They should support LGBTQ young people to engage in age-appropriate dating at such social events as school proms, and be prepared to advocate for such events to be made safe for LGBTQ youth.

Around the country there are drop-in and community centers that serve LGBTQ young people.² For example, the Attic Youth Center in Philadelphia (www.atticyouthcenter.org) is a comprehensive agency exclusively serving LGBTQ youth with a variety of social and peer support services, including a youth-run community center that serves over 600 young people each month. Rainbow Alley in Denver (www.coloradoglblt.org/rainbow_alley.html), housed within the Colorado Gay, Lesbian, Bisexual, and Transgender Community Center, offers health services, counseling, and referrals to other community resources, and a drop-in center with a variety of youth-led events and activities.

Create Matches Between Mentors and LGBTQ Youth

Child welfare policymakers and practitioners should develop mentoring programs that match LGBTQ youth with safe and supportive adult mentors. All mentors should be provided with mandatory training on sexual orientation and gender identity so that they are prepared to work with LGBTQ youth.

Create and Distribute a List of Community Resources

Child welfare policymakers should support the creation and distribution of LGBTQ community resource lists. Child welfare practitioners should have knowledge of the resources for LGBTQ youth in their community and help young people access them. All young people in the child welfare system should be provided access to the resource list so they can privately access LGBTQ community resources if they prefer to do so on their own.

Appoint an Ombudsperson to Address LGBTQ Issues and Concerns

A statewide LGBTQ point person should be identified, and a network developed of individuals interested in working on LGBTQ issues and sharing resources. State-level leadership

² The National Youth Advocacy Coalition maintains a database of LGBTQ youth services around the country at www.nyacyouth.org.

on LGBTQ issues is needed, as well as more public awareness of the needs of LGBTQ young people.

—Adult participant, Augusta

Identify, train, and support an advocate or “point person” within each agency to act as an informal “go to” person until the entire agency has been trained and is prepared to work with LGBTQ people.

—Adult participant, Philadelphia

Child welfare policymakers should appoint a designated point person or ombudsperson for people to contact with questions or concerns on LGBTQ issues. The point person could be a caseworker, administrator, or person demonstrating leadership on the issues. In those states that already have a statewide ombudsperson to address general foster care concerns, child welfare policymakers should ensure that he or she is prepared and qualified to address LGBTQ-related issues and complaints.

Following the Forum held in Philadelphia, the Department of Human Services created the position of Liaison to the LGBTQ Communities charged with coordinating services and resources for LGBTQ youth in care and the adults who serve them. Cities throughout the country are encouraged to create similar positions.

Build Collaborations Between Child Welfare and LGBTQ Youth-Serving Agencies

In some parts of the country, LGBTQ and non-LGBTQ youth-serving agencies have combined their expertise to develop very successful partnerships to fill gaps in service to this population and to ensure a more comprehensive system of care. For example, the Connecticut Department of Children and Families (DCF) has maintained a successful partnership with a local LGBTQ youth-serving agency, True Colors, Inc. Their partnership, the Safe Harbor Project,³ has resulted in a measurable increase in DCF’s capacity to sensitively address LGBTQ youth issues in both direct services and placements. It has developed,

³ See www.state.ct.us/dcf/SAFE_HARBOR.

for example, the designation of point people dispersed throughout the state child welfare system, a mentoring program for LGBTQ and other youth,⁴ and a comprehensive statewide LGBTQ resource directory.

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⁴ See www.ourtruecolors.org/mentoring/SafeHarborProjectMentoringApplication.doc.

CHAPTER 5

ISSUES FACING LGBTQ YOUTH IN SCHOOLS



CHAPTER 5

ISSUES FACING LGBTQ YOUTH IN SCHOOLS

I came out in high school. The same boys kept jumping me because of it and the school administration didn't do anything about it.

—Youth participant

When I was in school they asked me to leave. They thought I was too much trouble because everyone wanted to kick my butt. When I was in state custody, they didn't care who kicked my butt.

—Youth participant

LGBTQ youth face harassment and violence from other students and unfair treatment by teachers.

—Adult participant, Denver

Foster parents, caseworkers, and Guardians ad Litem all need to advocate more for LGBTQ youth to be safe in school.

—Adult participant, Ft. Lauderdale

Schools cannot simply ignore LGBTQ issues any more.

—Adult participant, Augusta



While it may not be within the direct purview of the child welfare system to make schools safer for LGBTQ youth, it is the responsibility of child welfare professionals to work to ensure the safety of the youth in their charge in their placements and in their communities. All parents should advocate for the needs of their children at school. Child welfare professionals act *in loco parentis* for foster youth. Therefore, advocating for these children's safety and fair treatment at school becomes their responsibility, as it would be for any parent or guardian of a child. And since

youth in care often change schools with great frequency, it becomes even more important for child welfare professionals to help with those transitions. The problems LGBTQ youth commonly face in schools are compounded for those in foster care by the lack of support they often experience in their placements. It comes as no surprise, therefore, that participants in the Regional Listening Forums identified making schools safer for LGBTQ youth in care as a top priority.

America's public school systems have made much progress regarding the safety and support of LGBTQ students, thanks to efforts by organizations such as the Gay, Lesbian, and Straight Education Network (GLSEN), a national educational advocacy organization; Gay/Straight Alliances (GSAs),¹ afterschool clubs where LGBTQ and non-LGBTQ youth can come together to develop strategies for making their schools safer and more affirming of LGBTQ students; and other supportive resources for LGBTQ youth. GLSEN offers an easy-to-negotiate website full of resources for LGBTQ youth, parents, guardians, and educators. It serves as a clearinghouse for thousands of free and low-cost reports, brochures, and posters. It also lists national and international—and many local—organizations that can provide support and everything from spiritual to legal help as well as books, videos, and curricula for classroom and school library use.

While great progress has been made in many school districts throughout the country, data from several studies indicate that much more needs to be done to ensure the safety and well-being of LGBTQ youth in schools.

In its 2001 report, *Hatred in the Hallways*, Human Rights Watch, an international nongovernmental organization dedicated to protecting the rights of people around the world, documents attacks in the U.S. on the human rights of lesbian, gay, bisexual, and transgender youth, who

are subjected to abuse on a daily basis by their peers and in some cases by teachers and school administrators. These violations are compounded by the failure of federal, state, and local governments to enact laws providing students with express protection from discrimination and violence based on their sexual orientation and gender identity, effectively allowing school officials to ignore violations of these students' rights. Gay youth spend an inordinate amount of energy plotting how to get safely to and from school, how to avoid the hallways when other students are present so they can avoid slurs and shoves, how to cut gym class to escape being beaten up—in short, how to

¹ More information on GSAs can be found on the GLSEN website, www.glsen.org.

become invisible so they will not be verbally and physically attacked. Too often, students have little energy left to learn. [The] vast majority of lesbian, gay, bisexual, and transgender youth trying to escape the hostile hallways of their schools confront school officials who refuse to recognize the serious harm inflicted by the attacks and to provide redress for them. In fact, there is not even a token consensus among public school officials that gay youth deserve to be treated with dignity and respect” (Human Rights Watch, 2001, 2–3).

Thirty-eight states administer the Centers for Disease Control and Prevention (CDC) Youth Risk Behavior Survey (YRBS), a biannual survey administered to students in grades 9 to 12. It provides a random sampling of students in a particular state, with information that can be generalized to the school population at large. Since 1995, Massachusetts has included two questions on its YRBS to identify issues relating to gay, lesbian, and bisexual (GLB) youth. The Massachusetts YRBS demonstrates that:

- GLB students were more than twice as likely to report being in a physical fight at school in the prior year (31.5% of GLB students vs. 12.9% of others).
- GLB students were three times likelier to report having been threatened or injured with a weapon at school in the past year (23.5% of GLB students vs. 7.8% of others).
- GLB students more often reported that they had missed school in the past month because they felt unsafe (19.1% of GLB vs. 5.6% of others) (Goodenow, 2003).

In 2003, GLSEN issued findings from its *National School Climate Survey*, which mirrored those of the Massachusetts YRBS. Key findings of this survey include:

- Harassment continues at unacceptable levels and is too often ignored: 84% of LGBT students report being verbally harassed because of their sexual orientation and gender identity; 82.9% of students report that faculty never or rarely intervene when present.
- Unchecked harassment correlates with poor performance and diminished aspirations: LGBT youth who report significant verbal harassment are twice as likely to report they do not intend to go to college and lower GPAs (2.9 vs. 3.3).

- Supportive teachers can make a difference: 24.1% of LGBT students who cannot identify supportive faculty report they have no intention of going to college. That figure drops to just 10.1% when LGBT students can identify supportive staff at their school.
- Policymakers have an opportunity to improve school climates: LGBT students who did not have (or did not know of) a policy protecting them from violence and harassment were nearly 40% more likely to skip school because they were simply too afraid to go (Kosciw, 2004).

What Are the Needs of LGBTQ Foster Youth in Schools?

Safety in their Schools

I had two security guards follow me around school every day because almost every day I got jumped.

—Youth participant

Some LGBTQ students refuse even to go to school at all and eventually drop out because they do not feel safe there.

—Adult participant, Philadelphia

School administrators often deny or minimize anti-LGBTQ bullying and harassment.

—Adult participant, Bloomington

LGBTQ youth face harassment, violence, and lack of safety in their schools, which leads to poor attendance and academic performance, and an increased risk of suicide.

—Adult participant, Sacramento

Caseworkers need to know which schools are safest for their LGBTQ clients.

—Adult participant, Philadelphia

Foremost among the needs of LGBTQ youth who attend school is the need to be safe in their classrooms, hallways, and other school environments. Participants in the Listening Forums expressed many concerns that are underscored by the Massachusetts YRBS and the reports from the Human Rights Watch and GLSEN. If LGBTQ youth are forced to focus their energies on getting safely through the school day without being harassed or beaten up, they are not able to concentrate on their schoolwork. And when LGBTQ youth in foster care do not find support in their placements, the harassment and violence they experience at school leaves them no place in which they can feel safe. High truancy rates among LGBTQ youth due to the high levels of violence they experience at school often result in poor academic achievement, and therefore poor prospects for their future success. Simply put, if schools are not safe for LGBTQ youth, they will not attend. Therefore, there was consensus among participants of the Listening Forums that much more must be done to ensure the safety of LGBTQ foster youth in their schools to further their chances for future success.

Safety Throughout Educational Systems

Moving constantly and changing schools can be especially stressful for LGBTQ foster youth, who may find it hard to make new friends and trust that a new school will be safe.

—Adult participant, Augusta

There is a need for continuity and stability at school, and whenever possible, avoiding multiple moves.

—Adult participant, Minneapolis

LGBTQ youth in care, like many foster youth, may experience multiple placements within the system. This often means that they move frequently from one school district to another. This situation proves to be untenable for many foster youth, but the issues are compounded for those who are LGBTQ, who must also contend with uncertainty whether their new school will be more or less safe than their previous one. Many youth who attended Forums expressed deep frustration because they had found a degree of safety and support at one school, only to be forced to attend a different school as a result of a disrupted placement where they were not offered the same levels of support and safety. Support for LGBTQ youth in school can be very subjective, and can change dramatically from district

to district. One may offer a thriving network of services such as GSAs, while a neighboring school district does not. Support for GSAs can vary within school districts as well. Many youth participants in the Forums talked about how safe and supported they felt at schools where they had an opportunity to join their school's GSA, and about how sad and frustrated they were when they were moved to a new school that offered no such support. Many said that this situation was very distressing and made them much less likely to trust that anyone cared about their safety at school.

Attention to the Particular Issues Faced by Transgender Youth at School

Special attention should be paid to the unique needs of transgender students. They are often at the greatest risk of harassment and violence in school.

—Adult participant, Ft. Lauderdale

Restrooms and changing rooms in schools can be especially unsafe, particularly for transgender students.

—Adult participant, Minneapolis

Zero-tolerance dress-code policies make it more difficult for youth to dress so as to express their gender identities in nonconforming ways.

—Adult participant, Denver

As these statements illustrate, transgender students face challenges in school that are particular to them (see Chapter 7). Many gay, lesbian, and bisexual youth deal with harassment by hiding their identities. But for many transgender youth, their gender identity is expressed through their outward, visible appearance: the clothing they wear, their hairstyles, and so forth. This outward expression of their gender identity makes them more visible, and, therefore, more vulnerable to harassment and violence at school. The Human Rights Watch's 2001 Report, *Hatred in the Hallways*, observes that the treatment transgender youth receive in school settings is just as bad as, and often worse than, the treatment received by GLB students.

Transgender youth may find challenges in finding employment opportunities once they leave care. Therefore, it is doubly important for schools to support transgender students' academic achievement so that they are better suited to find safe and legal employment as adults.

Training to Increase the Capacity of School Staff to Understand the Challenges Facing LGBTQ Youth in Schools

Educators are uneducated on the issues.

—Adult participant, Tucson

Teachers and students need sensitivity training so that they can understand what's going on with these young people.

—Adult participant, Jacksonville

What people need is education. They don't know there's an option. Really what it's about is stepping outside of a culture, and of the assumptions that every student has a mom and a dad and wants to grow up to have that lifestyle, and that every student fits into the gender binaries that we set up. Working outside of that assumption is where a lot of headway could be made.

—Youth participant

Foster youth face isolation and discrimination in school for being both LGBTQ and in foster care.

—Adult participant, San Diego

Across the board and without exception, when Forum participants were asked what should be done to improve services for LGBTQ youth in care, they most often called for comprehensive training on issues facing LGBTQ youth in care. This need extends to issues faced by these youth in their schools so that teachers, administrators, other school staff, and students can have a better understanding of the experiences of LGBTQ foster youth in schools.

While offering comprehensive training on LGBTQ issues to students and school staff would seem like a constructive way to build their capacity and

increase their understanding of the issues that LGBTQ youth face in their schools, this strategy is often met with powerful resistance. Some school districts have chosen to forgo federal health education dollars in an effort to provide comprehensive sexuality education, rather than the “Abstinence-Only Until Marriage” curricula promulgated under federal health education guidelines. But these efforts can be met with opposition, leaving LGBTQ youth to remain invisible and their issues unaddressed within their school settings.

Participants in all of the Forums expressed a strong belief that comprehensive training on LGBTQ issues in schools would have a great impact on the high rates of harassment and violence aimed at LGBTQ students. In fact, results from the Massachusetts YRBS support this belief. Data from that study demonstrates that rates of harassment and violence aimed at LGBTQ students are significantly lower in schools where basic LGBTQ issues are discussed than those where they remain unaddressed. LGBTQ students at schools that supported clubs like GSAs and offered training to staff and students on LGBTQ issues were less likely to be threatened with weapons at school, skip school because they felt unsafe, or attempt suicide.

Access to Supportive Information, Resources, and Peer Support

LGBTQ students face many of the same developmental issues as non-LGBTQ youth, including the need for peer acceptance, support, and validation.

—Adult participant, Hartford

Schools need to have a resource directory of community services for LGBTQ youth.

—Youth participant

In some schools, there is aggressive opposition from the administration to even allowing a GSA to be formed.

—Adult participant, Bloomington

LGBTQ youth need access to supportive resources. They need to be able to learn about who they are with regard to their emerging sexual identities and about where to go to find support. Afterschool clubs such as GSAs offer supportive services and information to LGBTQ youth. They also offer these students an opportunity to find much-needed peer support from other LGBTQ youth as well

as from supportive non-LGBTQ peers. School administrators may establish significant barriers that prevent the development of GSAs in their schools, however. Some Forum participants expressed frustration that efforts to form these groups are often thwarted by school administrations.

Access to resources is particularly important for youth who live in rural areas, where there are typically few supportive organizations for LGBTQ youth (see Chapter 8). The Internet can be a valuable source of information and resources for these youth. Language associated with sexual orientation is often blocked from school computers under the rubric of pornography, however. Even websites that offer nothing more than supportive resources designed to assist young people in understanding their identity may be blocked. If LGBTQ youth do not have access to information designed to help them, they remain isolated, misinformed, and without the supports they need to handle and understand the feelings they are having.

Participants in several of the Forums articulated the need for “LGBT Safe Zone” stickers and other images that serve as indicators to LGBTQ youth that they are not alone and that there are adults who will protect them from the pervasive violence and harassment they often experience at school.

Adult Advocates

LGBTQ foster youth need someone to stand up for them and protect them from violence and harassment, especially at school.

—Adult participant, New York City

LGBTQ youth need people to share the burden with if they do not feel safe at school. Unlike foster youth, most students have families they can go home to and talk about school-related concerns.

—Adult participant, Augusta

If caseworkers do not advocate for LGBTQ students in schools, there may not be anyone else with the legal right to do so.

—Adult participant, Bloomington

Teachers and administrators who support LGBTQ youth need to be protected from harassment.

—Adult participant, Hartford

LGBTQ youth need adults who are willing to advocate on their behalf. For most youth, if there are problems at school either with peers or with school staff, they can find support among parents or other caregivers. For youth in foster care, the role of advocate (if it exists at all) is usually played by child welfare professionals who will meet with school administrators to address issues a student might encounter, such as bullying or academic challenges. But many LGBTQ youth in foster care find themselves without anyone who is willing to support them or to advocate for their safety.

If a youth cannot discuss his or her experiences in school with a child welfare caseworker, the caseworker remains unaware of the challenges the youth is facing at school and is left only to witness the low test scores and other academic benchmarks, or in many circumstances, the truancy of an LGBTQ youth who does not feel safe at school. These challenges often prove to be overwhelming for many LGBTQ foster youth, and so their only alternative is to drop out of school entirely, thereby severely limiting their chances of success once they leave the child welfare system.

For LGBTQ youth to have strong advocates, the school and child welfare systems must be made safe for the adults, LGBT or not, who wish to advocate on their behalf (see Chapter 10). In places where teachers fear that they will be fired if they identify as LGBT, they might refrain from showing support for LGBTQ students. In other cases, adults are not aware of existing resources for LGBTQ youth. School systems will become safer learning environments for LGBTQ students, and safer environments for adults to advocate for LGBTQ students' safety and academic achievement, if steps are taken to increase the capacity to understand and address their issues throughout the entire system. Rather than relying on individual schools, teachers, or administrators, positive change needs to occur at the institutional level.

Next Steps for Child Welfare Policymakers

Adopt Policies and Protocols that Ensure the Safety of LGBTQ Foster Youth in Schools

School and child welfare policymakers should work together to ensure that school environments are safe for LGBTQ students. They should develop policies that seek to support safe learning environments in which anti-LGBTQ harassment and violence is not tolerated so that students can focus their energies on their academic achievement rather than on their personal safety.

Mandate Training and Competency on LGBTQ Issues for Child Welfare and School Staff

School and child welfare policymakers should examine existing research in order to better understand challenges facing LGBTQ youth in school settings. They should develop an understanding of the correlations between LGBTQ student safety and their abilities to achieve academically. They should work together to take the steps necessary to create safer and more supportive learning environments for LGBTQ youth by initiating staff and student training on LGBTQ issues and school policies against bullying. They should adopt policies supporting the display of posters and “LGBT Safe Zone” stickers and other symbols that signal to LGBTQ students they are safe and supported.

Adopt Policies and Protocols that Support Access to Information and Resources for LGBTQ Foster Youth in Schools

School and child welfare policymakers should ensure access to appropriate, supportive resources for LGBTQ students, particularly those in rural areas where services may be scarce. Policymakers should understand the distinction between pornography and resources that offer support and information to LGBTQ youth. For many LGBTQ youth, particularly those without caring adults who are willing to support them in the development of their sexual identity, online and printed resources may be the only reliable information to which they have access.

Adopt Policies and Protocols that Support Adult Advocates

School and child welfare policymakers should work together to create safe and supportive environments for adults to serve as advocates for LGBTQ foster youth. If these adults do not fear their jobs may be in jeopardy by supporting LGBTQ youth, they will be more likely to come forward to offer guidance and to assist the youth in accessing information and resources. And as the research shows, LGBTQ students who have access to supportive adults willing to advocate on their behalf demonstrate higher academic achievement than those without.

Next Steps for School Staff and Child Welfare Practitioners

Adopt Practices that Ensure the Safety of LGBTQ Foster Youth in Schools

School staff and child welfare practitioners should work together to ensure that school environments are safe for LGBTQ students. School staff should intervene any time they hear an anti-LGBTQ epithet or learn of anti-LGBTQ violence or harassment in school, sending a clear message to the harasser that their behavior will not be tolerated. Child welfare practitioners should be prepared to intervene on behalf of an LGBTQ client who is not safe at school.

Gain Competency to Work with LGBTQ Youth

School staff and child welfare practitioners should develop the understanding and competence needed to support LGBTQ students. They should participate in training that will allow them to develop an understanding of adolescent sexuality encompassing issues relating to LGBTQ youth. They should be willing to display posters and “LGBT Safe Zone” stickers in their classrooms and offices, signaling to LGBTQ students that they will find safety and support there.

Adopt Practices that Support Access to Information and Resources for LGBTQ Foster Youth in Schools

School staff and child welfare practitioners should assist LGBTQ students to locate age-appropriate resources that support their development.

Advocate for LGBTQ Foster Youth in Schools

School staff and child welfare practitioners should be advocates for LGBTQ students when they encounter verbal or physical harassment. Child welfare practitioners should determine whether youth in their charge are safe and supported in school. If not, they should work with school staff to improve conditions for LGBTQ students.

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CHAPTER 6

PERMANENCY PLANNING



CHAPTER 6

PERMANENCY PLANNING

LGBTQ youth need permanency—lasting connections and success in life after aging out.

—Adult participant, Bloomington

LGBTQ teens are often in group homes or runaway shelters, and not in the permanency-bound population of foster youth.

—Adult participant, Ft. Lauderdale

The transition to independence can be precarious for any youth; without family support, too many LGBTQ youth in care end up institutionalized or incarcerated.

—Adult participant, Salt Lake City

Young people in care experience so many placement changes that they are left with little hope for permanency.

—Youth participant

Permanency is not just about adoption and guardianship; it is also about having lifelong relationships with caring adults and belonging to a community.

—Adult participant, Sacramento

The system needs a better understanding and respect for the ways in which LGBTQ people build and maintain community and family as part of permanency planning for LGBTQ young people.

—Adult participant, New York City



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ermanency planning is perhaps the most important child welfare service provided to young people in care. Typical permanency goals include: preservation of or reunification with the family of origin, adoption into another family, and independent living. In recent years, there has been a concerted effort to speed up the process by which young people in care are either reunified with their families of origin or provided with permanent families through adoption and guardianship. Only after all diligent efforts to reunify the family have failed, and when another permanent family cannot be found, may the permanency plan shift to independent living. There was a clear consensus among Listening Forum participants that the child welfare system needs to increase its capacity to support LGBTQ youth in securing permanent, safe, and stable living environments for the duration of their time in care and beyond, and in better preparing them for adult independence.

What Are the Permanency Needs of LGBTQ Youth?

Sensitive Preservation and Reunification Services

Reunification is much more difficult and complex in families where there is no acceptance of the LGBTQ youth.

—Adult participant, Salt Lake City

It is vital to offer support and sensitivity when working toward the goal of reunification with the family; some homes of origin are not safe and should not be treated as viable placement options.

—Adult participant, Sacramento

Green Chimneys Gramercy House [a group home for gay, bisexual, and transgender youth], is effective in permanency planning because it starts with a reunification plan for all youth without assuming that a birth family will never accept an LGBTQ youth. They deal head-on with the issues of sexual orientation and gender identity, and work toward a goal of independent living only after ruling out all potential family placements.

—Adult participant, New York City

For many children in the child welfare system, achieving permanence means staying or being reunified with their family of origin. This may not be a viable option for many young people with parents unable to care for them, and even more difficult in cases involving LGBTQ youth when the family environment has proven to be hostile and unsafe, or when the family has expressed a complete and total rejection of their LGBTQ child. More should be done to assist biological families to create safe and supportive home environments that would allow for the successful preservation and reunification of LGBTQ young people with their families of origin. Alternatively, LGBTQ young people should be encouraged to develop healthy connections with those members of their biological family who are supportive of their identities.

Typically, upon entrance into the child welfare system, social workers and service providers trained in addressing family dynamics engage the birthfamily in intensive preservation and reunification services. Few caseworkers and service providers have received any training on working with families to better understand and support a young person's emerging sexual orientation or gender identity, however. As a result, little, if any, support is offered to the family to adopt new and more productive approaches to parenting their LGBTQ child. The family dynamics that caused the LGBTQ youth to come into care in the first place are not resolved, and the home environment is not made safer for the LGBTQ youth. In such a scenario, it may be in the best interest of the LGBTQ young person to remain in care and not be reunified.

Sensitive Adoptive Families

LGBTQ youth are not seen as bound for permanency; the assumption is that no family would want to adopt them.

—Adult participant, Sacramento

There's a lot of stigma and confusion around whether LGBT people can adopt, so not a lot of people are coming forward.

—Youth participant

In my opinion, gay people should be allowed to adopt gay youth because gay parents can relate to us better than straight parents.

—Youth participant

For some youth, it takes the state a very long time to make determinations about the competency of their parents, during which the youth may be harmed and mistreated, leaving the impression that all adults want to hurt them.

—Adult participant, San Diego

Like all young people, LGBTQ youth need stable, loving, and supportive families. The challenge of finding permanent living situations for all youth in care is a significant one. Children in foster care over the age of five who are eligible for adoption are often deemed “special needs” children simply because many prospective families seek an infant to adopt. Self-identified LGBTQ youth are typically adolescents and therefore well above the age when most children are adopted out of foster care. The challenge to find a permanent home for these youth is weighted with additional burdens specifically linked to bias about sexual orientation and gender identity issues.

Florida is the only state in the country that explicitly bans the adoption of children by gay and lesbian people through state statute. This ban figured prominently into the discussions on permanency during the Forums in Jacksonville and Ft. Lauderdale. It was noted that gay and lesbian foster parents are often not considered for placement of younger children in Florida since they are barred from adopting, and the permanency goal for younger foster children is often adoption. In Utah, single individuals and married couples—but not unmarried couples—may foster and adopt children. Since gay and lesbian people cannot legally marry in Utah, they are effectively barred from fostering and adopting children as a couple. In Mississippi, state law explicitly prohibits same-sex couples from adopting children. Only single gay, lesbian, and bisexual individuals can adopt children, although fostering by same-sex couples is allowed.

More often it is the anti-LGBTQ bias of an individual child welfare professional, not a state statute, that impedes the process of achieving permanency for LGBTQ youth. For example, Listening Forum participants from states other than Florida or Utah, where there are no statutory bans on gay and lesbian adults serving as foster and adoptive parents, noted that the professionals responsible for recruiting adoptive families for young people may prevent LGBTQ youth from being “out” during the recruitment process, thereby limiting the chances of finding an LGBTQ-affirming family. Listening Forum participants from these states also noted that prospective foster and adoptive parents

are afraid to come out as supportive of LGBTQ people because they do not want to risk being denied a foster care license by an anti-LGBTQ licensing case-worker. There is little to no discussion of this issue during the screening and placement processes, and no mechanisms in place to facilitate matching based on compatibility on LGBTQ issues. Consequently, some prospective families may fear being viewed by anti-LGBTQ child welfare professionals as “recruiting” youth to be gay if they appear too open, affirming, and embracing of LGBTQ youth issues.

More effort is needed to recruit families from LGBT and non-LGBT communities willing to adopt LGBTQ young people. Outreach programs to recruit prospective adoptive families should acknowledge that there are LGBTQ young people in the system available for adoption and encourage more families to consider adopting older children. Once recruited, training on sexual orientation and gender identity is needed for all prospective adoptive families to prepare them for the possibility that although a child may not be out as LGBTQ at the time of the adoption, he or she may come out afterward or at a later point in the developmental process. It is important to note that the sexual orientation or gender identity of the prospective parents is less important to most young people than the parents’ ability to provide a permanent, stable, and loving home.

Address LGBTQ Issues in Independent Living Services

There is a need for appropriate independent living education and support that address the unique issues faced by LGBTQ people.

—Adult participant, Minneapolis

LGBTQ young people need to learn real-life skills to survive after aging out and transitioning to independence.

—Adult participant, San Diego

Having secure connections to the community helps keep youth off the streets and makes it possible to find permanent living situations.

—Adult participant, San Diego

Under ordinary circumstances, the family unit, however it is configured, provides support, nurturing, protection, guidance, and love to its members. But for many LGBTQ youth, it is within the family that they encounter the most hostility, rejection, humiliation, abuse, and violence. This can be true of biological, foster, and adoptive families alike. Many LGBTQ youth have no choice but to try to live independently after leaving the child welfare system.

Depending on the state, a young person ages out of the child welfare system between the ages of 18 and 21. For LGBTQ youth in care, the system's inability or unwillingness to provide supportive care often serves as a powerful motivation for leaving the system as soon as possible, frequently before they receive adequate independent living support and training. The need for a safe and stable independent living environment and the skills necessary to maintain it are crucial for young people who cannot return to a family environment.

LGBTQ youth face several barriers in finding and maintaining stable independent living situations. First, they are not usually provided with meaningful life skills training, education, and support focused on the real-life issues they may face. LGBTQ youth should be provided with adult mentors and information about existing community resources to help if they are faced with employment or housing discrimination based on their sexual orientation or gender identity. They should be knowledgeable about their legal rights in their state and community, equipped with the skills to advocate for themselves, and able to identify additional mentors and advocates if necessary.

The rejection, harassment, and violence LGBTQ young people experience in care and at school is often another barrier. Such experiences may compel them to be on constant guard for their personal, mental, and emotional safety. Many harbor a constant siege mentality that affects their ability to focus on their education and independent living training and support, leaving them ill-prepared to find employment and housing after aging out of the system.

Next Steps for Child Welfare Policymakers

Adopt Policies and Protocols that Make Permanence for LGBTQ Youth a Priority

More should be done to connect LGBTQ young people to appropriate placements from day one in care.

—Youth participant

Child welfare policymakers should make permanency planning for adolescents in foster care a top priority. Before families of origin enter the child welfare system, they should be offered family preservation services to assist them if they are struggling to come to terms with an LGBTQ young person's identity. All family preservation service providers should be trained to assess a family's acceptance level, give support where needed, and refer families to existing community supports and services.

For LGBTQ young people removed from their families of origin, child welfare policymakers should encourage more diligent efforts to provide reunification services that meaningfully address conflicts and provide support. Reunification service providers should be trained to assess the risk of harm prior to reunifying an LGBTQ young person with a family of origin.

Child welfare policymakers should develop the system's capacity to identify and support families wishing to adopt LGBTQ young people, as well as procedures that make it possible to match LGBTQ young people with appropriate families as soon as possible. There are countless factors contributing to the success or failure of any given placement. By matching LGBTQ youth with affirming families, placement disruptions are less likely to occur and the young person stands a better chance of achieving permanency, even if the family is not a prospective adoptive resource.

Recruit and Support Families for LGBTQ Youth

Child welfare policymakers should implement programs designed to recruit, train, and support families willing to care for LGBTQ youth. As a first step, child welfare policymakers should support recruitment staff in incorporating explicit questions of prospective families regarding their willingness to support an LGBTQ youth, should one be placed in their care. That information could be used in the matching process, which in turn would be useful as a recruitment tool to identify prospective families hoping to care for an LGBTQ young person.

Mandate Training and Competency on LGBTQ Issues for Child Welfare Staff and Caregivers

Child welfare policymakers should require training on LGBTQ issues for all members of the recruitment and licensing staff. Caseworkers and placement

staff should be expected to appropriately address LGBTQ issues and concerns as they arise and have knowledge of existing community resources for LGBTQ young people and their families.

In addition, all caregivers should receive training on sexual orientation and gender identity. Such training should be infused into all preservice training curricula for foster and adoptive parents, and also offered during service as a separate in-depth training.

Develop Life Skills Curricula that Explicitly Address Issues Faced by LGBTQ Youth

Child welfare policymakers should ensure the inclusion of information and support in all independent living skills programs to address the real-life issues faced by LGBTQ youth as they transition to adulthood. For example, the system must offer young people training on handling workplace and housing discrimination, remaining safe in the community, and identifying affirming medical and mental health service providers. Child welfare policymakers should support efforts to assist LGBTQ youth to advocate for themselves and to connect to others within the LGBTQ community. For example, child welfare policymakers are encouraged to promote the use of the LGBTQ Supplement to the Ansell-Casey Life Skills Assessment.¹

Support the Development of Mentoring Services for LGBTQ Youth

Child welfare policymakers should develop mentoring services for LGBTQ youth. All young people need adult connections to foster a smooth transition from childhood to adulthood. LGBTQ youth should be encouraged to come in regular and sustained contact with adult mentors who affirm their identities and support them in making this transition. Child welfare policymakers should support the inclusion of training on sexual orientation and gender identity for all mentors. They should also develop mechanisms for matching LGBTQ youth with LGBTQ-affirming mentors.

¹ See www.caseylifeskills.org.

Next Steps for Child Welfare Practitioners

Gain Competency to Work with LGBTQ Youth

Child welfare practitioners should avail themselves of training on LGBTQ issues and develop the skills necessary to engage a young person in a respectful and supportive discussion regarding sexuality and gender. The goal of such discussions is not to encourage the young person to come out, but rather to express support and a willingness to talk candidly with a young person about these issues. If a young person discloses to the practitioner that he or she identifies as LGBTQ, the practitioner should be prepared to identify existing community resources and supports. The practitioner should keep this information confidential, and only seek prospective adoptive families willing to support an LGBTQ young person.

Safely Preserve or Reunify an LGBTQ Youth With a Family of Origin

Child welfare practitioners should assist families of origin struggling to come to terms with an LGBTQ young person's identity. All family preservation service providers should develop the skills to assess a family's acceptance level, give support where needed, and refer families to existing community supports and services.

Child welfare practitioners should make diligent efforts to provide reunification services that meaningfully address conflicts and provide support. Reunification service providers should assess the risk of harm prior to reunifying an LGBTQ young person with a family of origin.

Assess Whether Prospective Adoptive Families Can Support an LGBTQ Youth

Child welfare practitioners should ask questions of prospective adoptive families that explicitly address LGBTQ issues and concerns. Practitioners should have the skills to engage families in in-depth discussions on their willingness and ability to love and support an LGBTQ young person should one be placed in their care. Families routinely decline caring for certain types of children, such as children of certain ages, or children with certain types of disabilities. LGBTQ youth should only be placed with families willing and able to care for and love them.

Advocate for Fair Treatment of LGBTQ Youth in Their Housing and Places of Employment

Child welfare practitioners should be prepared to advocate for LGBTQ youth in their schools, housing, and places of employment, especially when they experience discrimination and harassment. They should also help LGBTQ youth develop strategies for resolving these conflicts and advocating for themselves in productive ways before problems occur. Too often, LGBTQ youth feel unsupported and as though they have no other choice but to quit their schools or jobs or leave their housing when faced with anti-LGBTQ treatment, leaving them vulnerable to poverty, homelessness, and instability.

Recruit and Support Mentors for LGBTQ Young People

Child welfare practitioners should recruit and train adult mentors for LGBTQ youth who affirm their identities and support them in making connections within the community. LGBTQ youth need adults in their lives who can assist them to access resources, identify support in the community, and transition safely to adulthood. This is especially true for LGBTQ young people who are not returned home or adopted into another family. Mentors often provide the missing link, connecting young people to supportive adults who commit to being in a young person's life for as long as possible.

CHAPTER 7

TRANSGENDER YOUTH



CHAPTER 7

TRANSGENDER YOUTH

My main concern with the social service system is the lack of understanding of transgender issues. As a transgender woman, my experiences and needs are different from gay and lesbian youth in care.


—Youth participant

Agencies often address sexual orientation but not gender identity in programs, policies, training, and services.

—Adult participant, San Diego

The practice of placing transgender youth in group homes according to their biological sex places them at greater risk of violence, including rape.

—Youth participant



hough many common issues relate both to gender identity and sexual orientation within child welfare settings, transgender youth in care face added burdens distinct from those facing lesbian, gay, and bisexual youth. A consensus emerged at the Listening Forums that child welfare systems lag even more dramatically in their understanding and care of transgender young people. These youth are at especially high risk of being targeted for harassment and violence and of finding child welfare systems so inhospitable that they feel safer living on the streets. There is an acute need to educate child welfare practitioners about transgender issues and to treat transgender young people in care with respect, empathy, and competence.

“Transgender” is an umbrella term used to describe those whose self-image of their gender differs from gender norms traditionally associated with the sex assigned to them at birth. The term “sex” generally refers to a person’s physiological characteristics, including genitalia, chromosomes, and hormones. The

term “gender” generally refers to a person’s internal sense and outward expression of self as a man or woman or combination thereof. Conventional thinking supported the belief in a binary system in which only two genders exist, male and female. Many have come to understand, however, with support from medical and social science that gender occurs on a wider continuum that encompasses a broader range of possible gender identities and expressions.

Transgender individuals experience a dissonance between their gender identity—their deeply held, internal sense of themselves as a man or a woman—and their birth sex. For many transgender individuals, this conflict begins at a very early age. Moreover, there is not necessarily any correlation between sexual orientation and gender identity. A transgender person may identify as heterosexual, gay, lesbian, or bisexual. A “male-to-female” transgender person, also known as a transgender woman, was determined at birth to be male but self-identifies as female. A “female-to-male” transgender person, also known as a transgender man, was determined at birth to be female but self-identifies as male. Additional terms used by people whose gender expression falls under the umbrella term of transgender include transvestite, transsexual, transgenderist, gender variant, drag queen or drag king, and genderqueer, among many others.

Transgender young people are often forced to live and act according to traditional gender roles associated with their birth sex. This often feels deeply unnatural and uncomfortable for them. Transgender young people may instead choose to express their gender identities in a variety of ways, including by changing their names and the pronouns to which they answer, dressing in clothing associated with the gender with which they identify, and altering their physical appearance to conform with their gender identity. Such forms of gender expression often provoke resistance from the adults in their lives, who see them as forms of rebellion or pathology, rather than as healthy expressions of a deeply-felt sense of self. In fact, professional standards of care call for recognizing the profound need of transgender people—children and youth included—to express their gender and supporting them to do so (HBIQDA, 2001).

Transgender young people may experience great distress during the tumultuous period of adolescence when secondary sex characteristics begin to develop and become more evident. During this time of bodily growth and change, physical gender differences become more defined, which may cause transgender youth to experience an intense sense of alienation from their own bodies.

The developmental processes through which one develops one's sense of gender and one's sense of sexual orientation and attraction are distinct and may occur at different stages. Yet tremendous ignorance remains among child welfare professionals about these developmental processes, and this ignorance often leads to misunderstanding and mistreatment of youth whose sense of themselves as male or female may not coincide with their birth sex.

As child welfare experts Gerald Mallon and Teresa DeCrescenzo (2002) wrote,

Part of the way our society maintains stereotypes and negative attitudes about transgender people is by refusing to view them as a legitimate topic for discussion in our homes, our child welfare systems, or our educational institutions. Such silence promotes the maintenance of stereotypes, because positive images that reflect the reality of transgender people are extremely limited both in the media, which influences popular opinion, and in the professional literature, which informs the practice of youth [-serving professionals] in child welfare. Many transgender youth cannot comfortably or safely disclose their orientation in such an atmosphere. As a result, students and practitioners are not exposed to the realities or diversities of this population. Given the increasing number of transgender children and adolescents who are now presenting in child welfare and other agencies serving youth, a need clearly exists to provide accurate, relevant, nonpathologizing, and affirming information about these youth (p. vii).

What Are the Needs of Transgender Youth in Care?

Respect for a Transgender Youth's Gender Identity and Expression

Transgender youth need to be treated with care and respect, and not as though they are deviant or pathological.

—Adult participant, San Diego

The child welfare system needs to respect the maturity of transgender young people and the decisions they make.

—Youth participant

Transgender youth must be permitted to honestly and authentically express themselves.

—Adult participant, Jacksonville

The most basic need of transgender young people is for the child welfare system to respect their gender identity and support them in their expression of it. In the words of one Forum participant, the starting point must be “a system of care based on identity and consent, not on pathology and diagnosis.”

Children often form a sense of their gender at a young age, and their expression of that gender through self-identification and presentation should not be viewed as “acting out” behavior, but rather as an outward expression of an inner truth. Yet there remains a great dissonance between those who believe a transgender identity is but a variation on a spectrum of possible gender identities, and those who believe it to be a disorder, albeit one that should be treated by supporting a transgender person’s gender expression. Gender Identity Disorder (GID) is listed as a diagnosable condition in the Diagnostic and Statistical Manual (DSM) IV. Some child welfare and mental health professionals are of the opinion that a transgender identity will one day not be seen as a disorder or diagnosable condition, much the same way that homosexuality once was but is no longer seen as a disorder by any reputable professional medical or mental health association. Others, however, believe there are advantages to having GID codified in the DSM because the diagnosis makes some health care providers more inclined to provide certain forms of care and some service providers more inclined to voluntarily make reasonable accommodations allowing transgender young people to more freely express their gender identities.

Irrespective of ideological discrepancies as to whether children who present with gender identity issues should or should not be diagnosed as having a disorder, the professional consensus remains that transgender youth need to be treated with respect for their identities and the expression of those identities. The foundation for care of transgender young people is to acknowledge and support their gender identity. All programmatic and treatment decisions should be made based on this premise. In other words, a youth who is biologically male but who identifies as female, dresses as female, and wishes to be referred to as female should be considered to *be* female. Likewise, a youth who is biologically female but who identifies as male, dresses as male, and wishes to be referred to as male should be considered to *be* male. Youth who are in the process of questioning and

exploring their gender identity, or who do not express a clearly male or female gender, should be provided support to allow them to do so.

Respect for Choice of Names and Pronouns

Transgender youth deserve basic respect as evidenced through language; refer to a youth using the gender pronouns he or she prefers.

—Adult participant, Augusta

You can't deal sensitively with transgender people if you're not willing to use a young person's preferred name.

—Youth participant

Names are a fundamental defining characteristic for all people. For many transgender youth, their given (or legal) name corresponds with their birth sex but not with their gender identity. For this reason transgender people commonly choose to use a name more reflective of their sense of themselves as male or female. Transgender youth also often prefer to be referred to by the pronoun that best reflects their gender identity, rather than the pronoun that matches their birth sex. In other words, a male-to-female transgender youth often prefers to be referred to as “she,” while a female-to-male transgender youth often prefers to be referred to as “he.” (Using a term like “he-she” is disrespectful of a transgender youth’s identity and is not conducive to forming a productive relationship with the youth.) It is respectful and appropriate to refer to transgender people by their preferred name and pronoun. Yet very few child welfare professionals are willing to even ask a transgender youth whether he or she uses another name or pronouns or acknowledge their chosen gender.

Those who interact with transgender young people must understand the importance of respect for a youth’s name and pronoun preferences. Imagine if everyone around you insisted on referring to you as though you were of a different gender than your own, calling you by a name and pronouns associated with another sex. The importance of being recognized as the gender with which they identify is no different for transgender people than for anyone else.

Respect for Choice of Attire

Some caseworkers refuse to submit purchase orders for clothing that does not conform with gender stereotypes.

—Adult participant, Augusta

Transgender young people need the freedom to dress in ways that express their gender identities.

—Adult participant, San Diego

Allow transgender youth to dress in the manner they feel most comfortable.

—Adult participant, New York City

The clothing an individual chooses to wear is another essential element of self-expression. It is as uncomfortable for a female-to-male transgender youth to be forced to dress in “girls” clothing as it would be for a nontransgender boy. Yet transgender youth commonly meet with severe resistance within child welfare settings when they dress in accordance with their gender identities. While some agencies and staff support young people in their clothing choices, others forbid transgender youth to dress in attire appropriate for the gender with which they identify.

Safe and Supportive Placements

The most important issue is safety, especially in “straight” group homes where the staff can be unfriendly and rape and other forms of abuse are often tolerated.

—Youth participant

Transgender youth should be housed according to the gender with which they identify and not segregated according to their biological sex.

—Adult participant, New York City

Transgender young people may be even more vulnerable to abuse in their placements than lesbian, gay, and bisexual young people, since gender expression is more visible and not as easily hidden as sexual orientation.

—Adult participant, Sacramento

Transgender youth have a pressing need for safe bathrooms and changing facilities in settings such as group homes, residential treatment centers, shelters, and agencies.

—Adult participant, Denver

Transgender youth in care need safety in their placements. Around the country, youth and adult Forum participants alike prioritized this issue. Transgender youth are typically placed in residential care according to their birth sex rather than according to their gender identity, often with serious consequences for their safety and well-being. Consider the example of a young person who is biologically male but who considers herself to be female, who dresses as female, and who wishes to be referred to as female. She is placed on a boys' floor in a residential facility because her birth sex supercedes her gender identity in the eyes of child welfare practitioners, thereby setting up numerous potential conflicts, as well as the potential for great harm to the youth. This signals to the youth that her identity, a core component of who she is, is disregarded by those charged with her care. She will then likely feel disrespected and will tend to be less cooperative and less participatory within the therapeutic milieu. Most significantly, if she is placed on a boys' floor or with a boy as a roommate, her safety may be imperiled. She may be left open to harassment and other forms of abuse.

As is the case with lesbian, gay, bisexual, and questioning youth who do not feel safe in their living and educational environments, transgender youth who are unsafe in their placements are likely to run from those environments and turn to living on the streets.

Transgender youth thus need placements in congregate care facilities that accord with their gender identity and ensure their safety. Child welfare agencies responsible for the safety of these young people must also ensure that bathrooms, locker rooms, and dressing areas within these facilities are appropriate and safe for transgender youth. This is not only a question of common privacy, no different for transgender youth than for anyone else, but may also be a matter of basic safety, the minimum owed to any youth in care.

My dream is to live in a family that will accept me and where I can just be a kid.

—Youth participant

Since gender identity often emerges at a very young age, many transgender youth find themselves from childhood at odds with families and child welfare systems that do not understand and support them. From early on they may have few acceptable placement options. Many Forum participants cited the dearth of appropriate foster and adoptive parents available for these young people. Child welfare systems need to recruit transgender and other supportive foster and adoptive parents for transgender young people and offer them resources, like transgender parenting groups. Transgender youth should not be placed in foster homes where their gender expression will not be understood, supported, and respected. They should have the love and nurturing that all children need.

Sensitive Child Welfare Staff and Foster Parents

Training on sexuality and gender issues should be incorporated into existing foster care staff and parent training.

—Youth participant

Child welfare staff are generally better informed about sexual orientation than gender identity.

—Adult participant, Jacksonville

Sensitivity training on transgender issues is needed for all child welfare staff, across the board.

—Youth participant

Many of the challenges faced by transgender youth stem from the endemic lack of basic understanding and competence about transgender issues on the part of child welfare systems and professionals. As with issues relating to lesbian, gay, and bisexual youth, time and again Listening Forum participants identified training on transgender issues as the principal route toward a more competent and compassionate system of care. Indeed, the “sensitivity gap” in the child welfare system is, if anything, even more pronounced when it comes to transgender issues, given the relatively recent emergence of social science and understanding on gender identity issues. The common theme resonating throughout all the Forums is that “training is key.”

Access to Competent and Informed Medical Care

Transgender youth need better medical services, including adequate and safe distribution of hormones and clinical counseling.

—Youth participant

We need to make sure these young people have transgender-friendly health care providers available.

—Adult participant, Bloomington

Transgender youth need access to safe, supportive, and competent medical care. Medical concerns are paramount for transgender young people, yet it is often difficult or impossible for them to find health care that is safe and supportive or providers who understand their medical needs.

The child welfare system should pay better attention to the medical needs of transgender youth, including access to transgender-specific medical care and access to safe hormones and proper hormone therapy.

—Adult participant, New York City

We need to dispel the perception that if you take hormones, you have mental problems and are unstable.

—Youth participant

We shouldn't have to get the hormones we need from the streets. We should have access to hormones from primary care physicians or friendly doctors who understand our needs.

—Youth participant

Hormone therapy is understood by transgender people and experienced providers to be a major component of physical transition. According to leading experts on transgender health issues, young people age 16 years and older may begin to use cross-sex hormones to initiate physiological changes that bring their bodies more in line with their gender identities. “Cross-sex hormonal treatments play an important role in the anatomical and psychological gender transition

process. [W]hen physicians administer androgens to biologic females and estrogens, progesterone, and testosterone-blocking agents to males, patients feel and appear more like members of their preferred gender” (HBIQDA, 2001, p. 13). Hormone treatment allows transgender people to develop some of the secondary sex characteristics of their target gender, including the growth of facial and body hair for transgender men, or an increase in breast tissue size and shape for transgender women. Some transgender people also undergo one or several forms of sex reassignment surgery, sometimes referred to as sex confirmation surgery, to bring their bodies further into alignment with their gender identities.

Transgender youth need access to safe and monitored hormone therapy under the care of a trained and understanding physician. If not afforded the supportive care they seek, transgender young people will often turn to the streets and the black market for the hormones they need. In so doing, they run the risk of taking hormones in inappropriate doses or that are of poor or unknown quality, with potentially dangerous consequences. Since hormones are commonly taken through injection, they also run the risk of contracting diseases like HIV and hepatitis from needles shared on the street.

Transgender youth need health, medical, and wellness services that are welcoming and appropriate.

—Adult participant, Philadelphia

These young people need safe and appropriate medical care, especially providers that accept Medicaid.

—Adult participant, Jacksonville

Transgender young people often lack information about themselves, and have limited access to resources and information.

—Youth participant

Beyond safe and monitored access to health care, transgender youth also need support to navigate the physical and emotional changes they are experiencing. They need access to medical providers with training in gender identity development and sensitivity in working with transgender young people. Their medical care providers should treat them with respect and competence.

Role Models and Mentors

Foster care agencies should identify and recruit more positive role models and mentors for transgender youth.

—Youth participant

The system needs more openly transgender caregivers and staff members.

—Youth participant

Transgender youth really benefit from having positive role models who offer understanding and nonjudgmental support, whether they are transgender or not.

—Adult participant, New York City

Transgender youth need to feel that child welfare caseworkers can and will be helpful to them.

—Adult participant, Philadelphia

Transgender youth, like all youth, need connections to adult role models and mentors. For transgender young people in child welfare systems, these positive connections can be harder to find but are crucial for their healthy development. This was made dramatically clear by the experience of a transgender teenager in foster care, who, through an innovative program, was matched with a transgender mentor. Only with her mentor was this young teen able to ask the question that had been troubling her—whether transgender females like herself could grow up to find jobs other than the stereotype she feared might be her sole option in life, prostitution. Her mentor, living proof that transgender people can find happiness and professional success as adults, was able to put her fears to rest. Transgender youth in care, commonly cut off from their families of origin and part of a misunderstood minority, can find a sense of family and belonging from mentors and role models in the community.

Community Resources

Transgender youth need help from adults in locating appropriate resources.

—Adult participant, San Diego

Adults in the child welfare system should be able to equip transgender youth with information so that they can better advocate for themselves.

—Adult participant, New York City

Young people need help getting identity documents like driver's licenses and birth certificates that reflect the gender with which they identify.

—Adult participant, Augusta

We need more transgender organizations and services for youth, especially for young transgender men, since many of the existing services are targeted at older people and transgender women.

—Youth participant

There should be day programs for transgender youth.

—Adult participant, Bloomington

There should be a list of existing community resources distributed throughout the state.

—Adult participant, Minneapolis

Transgender youth need special support to navigate the unique issues they face. For example, they may need assistance and advocacy to obtain proper legal identity documents that reflect the gender with which they identify. They may also need help to obtain a legal name change. They need access to safe resources in their communities where they can go for support and to learn more about themselves and the services that are available to them. Transgender young people need social centers where they can gather with others who will accept and support them and share their interests. Child welfare systems have the responsibility to locate and help develop these resources for transgender young people in their care.

Safe and Supportive Schools

There is a need for safe and understanding school settings in order to break the cycle of school failure for many transgender young people.

—Adult participant, New York City

School administrators and teachers need sensitivity training on transgender issues.

—Youth participant

Transgender students are usually referred to by their legal name at school and not their name of choice, which often creates conflict.

—Adult participant, Philadelphia

Special attention should be paid to the unique needs of transgender students because they are often at the greatest risk of harassment and violence in school.

—Adult participant, Ft. Lauderdale

Transgender youth commonly face especially difficult problems in school settings. Although it may not be the direct responsibility of child welfare systems to create safe learning environments for students in school, it is their responsibility to advocate and stand *in loco parentis* for the youth in their care. It is therefore the duty of child welfare professionals to work with schools to ensure the transgender youth in their care have the opportunity to learn in a safe school environment.

Many Forum participants noted the common dilemmas faced by transgender youth at school that mirror the challenges they face in their placements, particularly with regard to their safety, use of their chosen names, dress, and access to appropriate bathroom and locker facilities. All too often, school settings are so intolerable that transgender teenagers feel little choice but to drop out. These youth then lack the skills to find jobs when they age out of child welfare systems.

Be Proactive. It Pays Off!

Participants at one Listening Forum offered this powerful example of how child welfare professionals can and should advocate for the safety of transgender students at school:

We opened a group home for LGBTQ youth a few years ago. We knew that it wasn't enough just to register the transgender youth in our care at a new school and wave goodbye at the door. If those young people were going to be able to succeed in school, we were going to have to advocate for them. Prior to the start of the school year our staff met with school administrators to work out a plan to ensure the safety of the transgender youth who would be attending the school. We brought information about transgender issues and answered questions the administration had. We explained the kinds of school-based problems these young people often confront and discussed strategies for keeping them safe.

The school administration really paid attention to what we had to say. The administration decided to publicly announce a zero-tolerance policy for harassment of any student, including transgender students, either by adults who work at the school or by students. This set a tone of acceptance from the top. The school administration identified a separate changing room and bathroom for the transgender students so that they would feel safe and comfortable. Students were also allowed to attend physical education classes according to their gender identity and not according to their biological sex.

In addition, our group home staff met with members of the school's GSA to let them know that a group home for LGBTQ youth had recently opened in their community and that many of the residents from this program might want to attend the GSA. Students in the GSA took it upon themselves to escort the transgender students from class to class for the first few weeks of school to ensure their comfort and safety.

We were so gratified and proud when the first transgender youth to graduate from our group home was accepted at five universities, and went on to college. There is no question that our advocacy at the school really paid off.

Support in Finding Employment

We need help in identifying employment and career opportunities for transgender youth in order to avoid prostitution.

—Youth participant

Transgender young people need more support from the child welfare system to access educational options, like high school, GED, college, and vocational training, so they can have marketable employment skills.

—Adult participant, Philadelphia

Transgender youth face especially steep barriers to employment. Prospective employers may be uncomfortable with a transgender young person who does not seem to conform to traditional gender norms, and thus may be reluctant to hire or promote transgender youth or may subject them to increased scrutiny on the job. Employment is even more complicated for those transgender youth whose identity documents do not match their chosen names and gender expression. Without adequate educational and job training opportunities, they are at a further disadvantage. The ability of transgender youth to work is often squandered as a result. Transgender young people aging out of child welfare systems can be left with few options other than to engage in illegal and harmful activities in order to survive.

A clear consensus arose among Forum participants that without meaningful opportunities for education, job training, and legal employment, transgender youth in child welfare systems are denied the resources necessary to successfully transition to independent adulthood.

Better Informed Juvenile Justice and Law Enforcement Systems

The juvenile court system needs to be more understanding of transgender issues.

—Youth participant

The system does a bad job addressing hate crimes targeted at transgender people.

—Youth participant

There was follow-up after I after I came out as queer within the court system. The follow-up was the judge sentencing me to “gender therapy,” which sends a really negative message. And without even consulting with me at all! Even the word “therapy” makes me shiver, when it comes to LGBT issues. It’s really important that the court system is supportive both in language and in action.

—Youth participant

It is a sad reality that many transgender youth in the child welfare system frequently come in contact with law enforcement services and juvenile delinquency and detention systems. The cycle of experiencing unsafe placements, fleeing to the streets, and resorting to illegal activities in order to survive exponentially increases the likelihood that these young people will enter the juvenile justice system.

Transgender young people who are accused of crimes and arrested are often put in special cells for people with HIV and other illnesses.

—Youth participant

The system needs services for family court judges and personnel to help them better serve transgender young people.

—Adult participant, Philadelphia

We need more judges to be involved in the system reform effort to ensure that the court system is also improved.

—Adult participant, San Diego

Once in the juvenile justice system, transgender youth confront the same misunderstanding, disrespect for their gender identity, and unsafe conditions that plague the child welfare system. Child welfare and other professionals need to advocate for safe and sensitive treatment of these youth within the juvenile justice system. For example, as is frequently the case with transgender youth placed in residential programs according to their birth sex rather than their gender identity, transgender youth are generally assigned to juvenile detention facilities based on their birth sex. Particularly for transgender girls placed in male facilities, such placements involve great risk of violence and abuse.

Because they are at high risk of being targets of hate crimes, transgender youth may need police and victims' services to help protect them. Unfortunately, juvenile justice and law enforcement systems commonly treat these young people with insensitivity and ignorance. As one youth explained, "transgender people, especially the homeless, need more legal services and protections. Police are insensitive to transgender victims of crime, and so we are often reluctant to report crimes." Many antiviolence projects do not specifically address violence against transgender people or offer them appropriate support. Child welfare professionals need to be advocates for transgender youth who have been victimized by crime and then by the services meant to protect them.

Next Steps for Child Welfare Policymakers

The system, not transgender youth, must change. We should not put pressure on transgender youth to change their identities in order to be protected and to receive help.

—Adult participant, Hartford

Agency directors need to take a visible stand, implement real change, ban discrimination, and hold staff accountable for discriminatory treatment.

—Youth participant

Mandate Training and Competency on Gender Identity Issues

Child welfare policymakers should require comprehensive staff training on adolescent sexuality, and, specifically, on gender identity and gender expression. They should also make basic competency on gender identity issues a required professional qualification for staff. Gender identity competence should be added to all staff performance evaluation mechanisms. Foster parents should also be required to have training on gender identity issues. Those fostering transgender youth should receive advanced training and support.

Child welfare policymakers should also seek out training and review existing research in order to educate themselves on gender identity issues. Given that children often form a sense of themselves as male or female very early in life, policymakers must acknowledge that no child in care is too young to present issues

regarding gender identity and expression. Child welfare systems must be equipped to respond to transgender children of all ages with sensitivity and competence.

Adopt Policies and Protocols Specifically Addressing Transgender Issues

Child welfare policymakers should adopt policies specific to transgender issues that comprehend the distinctions between gender identity and sexual orientation. Many transgender youth identify as heterosexual. For example, a male-to-female transgender youth may feel sexual and emotional attraction toward males. Therefore, since she sees herself as female and she is attracted to males, she may identify as heterosexual. The same holds true for female-to-male transgender youth who are attracted to women. Policies that articulate support for lesbian, gay, and bisexual youth without expressly including transgender youth in their scope may leave these young people without the protection they need to remain safe in care. Child welfare policymakers should explicitly add gender identity to all policy statements, including nondiscrimination policies.

Adopt Policies and Protocols that Support a Transgender Youth's Gender Identity and Expression Through Name, Pronoun, and Attire Choices

Child welfare policymakers should adjust their policies to support a youth's gender identity and expression, including requiring respect for a transgender youth's name and pronoun choices.

Child welfare policymakers should likewise adopt protocols permitting transgender young people to express their gender identities through the clothing they choose. This does not mean allowing a young person to wear clothing that would be inappropriate for someone whose birth sex matches his or her gender identity. Clothing that is not permitted for any youth would not be permitted for a transgender young person either. But transgender youth should be supported in choosing clothing expressive of their gender and acceptable within a child welfare milieu.

Adopt Policies and Protocols Against Antitransgender Practices and Abuse

Child welfare policymakers should establish a safe, professional milieu in which antitransgender attitudes and practices expressed by their employees or residents

are not tolerated. They should develop written policies and protocols that outline expectations for the positive support required for transgender youth. These policies and protocols should include clearly articulated consequences for staff should they exhibit antitransgender attitudes and practices on the job. Similar protocols and consequences should be outlined for residents of child welfare programs as well.

Develop Resources for Safe Placements

Child welfare policymakers should develop policies that support safe placements for transgender youth in accordance with their gender identity rather than their birth sex. For example, policymakers should develop congregate care settings that can be safe havens for transgender young people, with specially trained staff and access to supportive services. They should require designation of safe changing and bathing facilities for transgender youth within their organizations.

They should develop programs to identify, recruit, and train foster and adoptive families for transgender young people. Policymakers should establish clear protocols for families fostering transgender youth to ensure that these young people are treated sensitively and without discrimination.

Adopt Policies and Protocols that Ensure Sensitive and Competent Medical Care of Transgender Youth

Child welfare policymakers should establish policies that allow transgender youth to receive competent specialized medical services, including access to monitored use of hormones, and should facilitate access to those services.

Encourage Staff to Serve as Role Models and Advocates for Transgender Youth

Child welfare policymakers should encourage staff to serve as advocates and role models for transgender youth. Protocols should be established for staff to advocate for the needs and best interests of transgender youth in schools; in juvenile justice and law enforcement systems; and with employers, health care providers, families, and other community resources.

Develop Mentoring Programs and Connections to Community Resources

Child welfare policymakers should encourage staff to develop connections to supportive community resources for transgender youth, including school-based resources, supportive social and educational services, medical and mental health providers, job-training programs, family-centered services, and caring adults who are willing to serve as mentors.

Next Steps for Child Welfare Practitioners

Gain Competency in Working with Transgender Youth

Child welfare practitioners should avail themselves of existing research and training opportunities in order to become better educated on gender identity issues and on the distinctions between gender identity and sexual orientation. They should ensure that they have the information and skills to serve transgender youth in their care with competence and professionalism.

Adopt Practices that Respect a Transgender Youth's Gender Identity and Expression

Child welfare practitioners should acknowledge that transgender youth usually prefer to be called by their chosen name and should honor that preference. Practitioners should develop the skills to engage youth in discussions about their gender identities and pronoun preferences and become accustomed to referring to transgender youth by using the name and pronoun that reflects the youth's gender identity. This can go far towards establishing the trust and mutual respect crucial to a productive relationship with a young person.

Identify and Ensure Safe Placements

Child welfare practitioners should seek out and monitor safe, supportive placements for transgender young people. They should ensure that transgender youth in congregate care settings are placed appropriately to respect their gender identity and safeguard against harassment. Practitioners should educate others involved in the youth's placement, including residential staff, residents, and foster families. Practitioners should seek out supportive foster and adoptive parents for transgender young people.

Develop Connections with Medical and Community Resources

Child welfare practitioners should develop connections to existing community resources for transgender young people and should encourage transgender youth to access those resources. These can include competent medical and mental health care providers, local youth centers, afterschool programs, job and vocational training programs, supportive faith-based services, and legal services. Child welfare practitioners should also understand and help transgender young people overcome barriers to finding employment.

Locate Mentors and Positive Role Models

Child welfare practitioners should identify local adults in their communities who are willing to serve as mentors or in other supportive capacities for transgender youth. As do all youth, transgender young people need adults who will care for, support, and advocate for them.

Adopt Practices that Ensure the Safety of Transgender Youth in Schools and Juvenile Justice Settings

Child welfare practitioners should consider it their responsibility to advocate for transgender youth in their schools. Transgender youth experience high levels of harassment, ridicule, and violence at school, and they are often left without caring adults who to work with the school administration to ensure their safety.

Child welfare practitioners should likewise advocate for safe and fair treatment of transgender young people who come in contact with the juvenile justice system.

They should foster a milieu in which harassment of transgender youth is not tolerated, whether that harassment comes from other youth or from professional peers. Practitioners who provide supportive, competent services can mean all the difference between young people who feel they have no choice but to take their chances living on the streets and those who are secure in the knowledge that they are respected and safe and can rely on the adults charged with their care.

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CHAPTER 8

BRIDGING THE RURAL-URBAN DIVIDE



CHAPTER 8

BRIDGING THE RURAL-URBAN DIVIDE

Supportive resources tend to be in the big cities, and LGBTQ youth in rural areas have difficulty accessing them.

—Adult participant, Bloomington

Young people are often too scared to come out in small towns.

—Adult participant, Augusta

Rural LGBTQ youth may feel especially isolated and alone, which could lead to depression, substance abuse, and other mental health issues.

—Adult participant, Hartford

LGBTQ people have historically flocked to big cities for a number of reasons. Some move after experiencing outright rejection by their families and communities of origin, seeking acceptance and a sense of community in larger cities. Others seek refuge in big cities where there are more resources and supportive services for LGBTQ people, as well as a degree of anonymity that may be especially attractive to young people privately exploring the contours of their sexual orientation or gender identity.

Large urban areas tend to have a wide range of programs, services, and social outlets available for LGBTQ people. The amenities one might typically find in a big city include bookstores, community centers, support groups, mental and physical health-service providers, newspapers, annual festivals, bars, and restaurants—all catering to the LGBTQ community.

LGBTQ people living in rural areas, on the other hand, usually have far fewer resources and community outlets available to them. Rural LGBTQ young people may be completely cut off from any supportive resources, and those that do exist may be impossible to reach without transportation or access to the

Internet. Participants at several Listening Forums explored the unique needs of LGBTQ youth in care in rural areas of our country.

What Are the Needs of LGBTQ Youth in Rural Areas?

Access to Information About Available Resources

Public libraries usually install blocks and filters on their computers that prevent rural youth from being able to use the Internet to access LGBTQ resources and services.

—Adult participant, Bloomington

The Internet presents a quick and easy way for rural LGBTQ youth to connect with one another. It can also be a source of information and a connection to online support services. Not all LGBTQ youth have access to computers in their homes or placements, however, and they often encounter significant barriers to accessing supportive information and resources on the Internet when using computers in the public library or in their schools. Public schools block students' access to websites that contain content deemed "pornographic." Public libraries also usually install software on their computers to prevent users from accessing such material on Internet websites. Unfortunately, websites that even mention words like "gay" or "lesbian" are also blocked, even those that offer age-appropriate professional support and services that could be a lifeline for isolated LGBTQ young people. As a result, LGBTQ youth may be unable to access any supportive resources at all or find any help for themselves.

Transportation Assistance to Access Resources

LGBTQ youth in rural areas need transportation assistance to get to the places where there are resources.

—Adult participant, Augusta

More needs to be done to bridge the geographic distance that often exists between quality services and good placements.

—Adult participant, San Diego

Particularly in rural areas, LGBTQ youth face the challenge of finding transportation and actually getting to the place where resources may exist. Without transportation assistance, rural LGBTQ youth may never have access to the in-person support available to young people in urban areas. Caseworkers and foster parents may need to pitch in and help drive LGBTQ young people to places where they can participate in peer support groups, social events, and other activities that often help ameliorate feelings of isolation.

In some parts of the country, the geographic distance is a serious obstacle that cannot be overcome even with adults willing to transport a young person to attend events and activities. This is particularly problematic for hard-to-place young people who may have a supportive foster family that lives far from any LGBTQ youth services. Young people should not feel torn between a loving family and having access to LGBTQ community supports. Unfortunately, until resources are spread more evenly throughout the country, that dilemma is all too real for many LGBTQ young people in the child welfare system.

Next Steps for Child Welfare Policymakers

Adopt Policies and Protocols to Ensure that Resources Are Developed and Disseminated Throughout the State

The disparity between resource-rich urban areas and resource-deficient rural ones causes many LGBTQ youth to seek refuge in larger cities. Ill-equipped to handle the demands of city life, rural LGBTQ youth may find themselves homeless and on the streets with nowhere to go for basic support. In order to ease the pressure to abandon life in rural areas of the state, child welfare policymakers should take this dynamic into account and try to spread LGBTQ resource more evenly throughout the state. Child welfare policymakers should ensure that services are available to LGBTQ youth no matter where they live.

Remove Obstacles Preventing LGBTQ Youth from Accessing Support

Create a more efficient mechanism for moving LGBTQ young people to other counties within the state to facilitate a match with a permanent, loving, LGBTQ-affirming family. Currently, there are huge obstacles to moving hard-

to-place foster youth across county lines in order to place them in the best homes available in the state.

—Adult participant, Ft. Lauderdale

Child welfare policymakers should remove obstacles preventing LGBTQ youth from being moved to other parts of the state if necessary for placement with the most appropriate, LGBTQ-affirming families. During several Listening Forums, the great hardship involved in moving a young person across county lines within the same state was identified as a key obstacle to providing the best possible care for LGBTQ youth.

Accessing supportive services in other parts of the state is also difficult, if not impossible. In order to facilitate the provision of appropriate services, child welfare policymakers should eliminate this barrier, and caseworkers should be encouraged to place LGBTQ youth where the most appropriate resources, placements, and supportive services are located.

Child welfare policymakers should ensure that group homes and child welfare facilities provide access to potentially life-saving information and supportive services on the Internet without blocking information for LGBTQ people.

Provide Transportation Assistance to Access Resources

Not all young people need to be moved to access supportive resources. Some simply need transportation assistance to avail themselves of these resources. Some LGBTQ youth-serving agencies actually offer transportation assistance, while others may have a telephone hotline or website that rural youth may use for support, especially in an emergency. Child welfare policymakers should ensure that all young people have access to available supportive services and transportation assistance when necessary.

Create and Distribute a Statewide Directory of Resources for LGBTQ Youth

The Department of Children and Families (DCF) should create, maintain, and distribute to all youth and youth-serving professionals a statewide resource directory of all existing community services for LGBTQ youth.

—Adult participant, Jacksonville

DCF should identify and distribute a list of all LGBT-friendly placements throughout the state.

—Adult participant, Ft. Lauderdale

Child welfare policymakers should ensure that all practitioners are familiar with existing resources for LGBTQ youth in each community. In addition to spreading resources more evenly throughout the state, child welfare policymakers should ensure that information about existing supportive resources is collected and disseminated throughout the state. Each child welfare division in the state should have on hand a statewide resource directory of LGBTQ youth-serving resources. This type of information would fill the gaps in knowledge that currently exist, especially in rural areas, about where resources and supports are located.

Child welfare policymakers should develop a formal mechanism for matching LGBTQ young people with the most appropriate placements. To do so, child welfare policymakers should develop a directory of LGBTQ-affirming placements throughout the system. This would minimize reliance on an individual caseworker's personal knowledge of available placements. This directory should include both family foster placements known to be supportive of LGBTQ people, as well as group home facilities that have the capacity to affirm and protect them.

Adopt Policies and Protocols that Support Statewide Coalitions Between Rural and Urban LGBTQ Youth-Serving Agencies

Build coalitions between rural and urban agencies and organizations.

—Adult participant, Bloomington

Statewide collaborations are needed to fill geographic gaps in supportive services. Establish a statewide task force, network, or committee that addresses LGBTQ issues. Create opportunities for people to gather, network, and develop appropriate services.

—Adult participant, Sacramento

Child welfare policymakers should support the formation of statewide LGBTQ coalitions that include representatives from youth-serving agencies in both rural and urban areas. Statewide LGBTQ task forces provide an effective mechanism for sharing resources, identifying gaps in services, and working as a group to find solutions. By bringing together a range of service providers, administrators, caregivers, and LGBTQ youth in care, existing LGBTQ task forces have been effective in recommending changes to policy and training, developing strategies and specific goals, and implementing change. Every state is encouraged to develop and support a statewide LGBTQ task force to ensure that all young people in care have the same access to supportive services, regardless of where they live.

Next Steps for Child Welfare Practitioners

Adopt Practices that Support LGBTQ Youth in Accessing Support

Child welfare practitioners should commit to ensuring that LGBTQ young people are able to fully participate in any and all services and supports. Those who work with LGBTQ youth in rural areas should be familiar with existing resources in or near their communities, and they should devise transportation plans so youth can access these resources. They should assist young people to locate information about LGBTQ issues on the Internet, acknowledging that these websites are often not accessible on school or library computers. Finally, they should work with their fellow practitioners to identify other LGBTQ youth in the region and to assist these young people to establish peer support networks.

Build a Statewide Coalition of LGBTQ Youth-Serving Agencies

Child welfare practitioners should build a statewide coalition of LGBTQ youth-serving agencies so that information about supportive placements and services can be shared and a network of supportive individuals can be tapped into additional consultation and support. Where such coalitions already exist, as in Colorado, Wisconsin, and Connecticut, child welfare practitioners report a greater sense of connection across county lines and an increased capacity of the system to address gaps in services for LGBTQ youth in rural areas.

For LGBTQ young people in rural places, feelings of isolation and alienation may be even more pronounced than for those in urban areas. These feelings may contribute to a higher risk of negative outcomes. By spreading resources throughout the state and sharing information about existing resources, LGBTQ youth in rural areas are more likely to feel supported and connected to the larger community.

CHAPTER 9

FAITH-BASED CHILD WELFARE SERVICES



CHAPTER 9

FAITH-BASED CHILD WELFARE SERVICES

The faith-based initiative is bringing more religious and church-affiliated social service providers into the child welfare system, some of which are not at all affirming of LGBTQ people.

—Adult participant, Jacksonville

Religion is an important issue in family foster care. LGBTQ youth placed with fundamentalist foster families often feel they must chose between silence and condemnation.

—Adult participant, Augusta

Support for LGBTQ people is case-by-case; there are supportive caseworkers even at Latter-Day Saints [Mormon] agencies.

—Adult participant, Salt Lake City

The American social service system has historical roots in religious charitable services. The role played by faith-based organizations in providing public social services, including child welfare services, has been greatly expanded in recent years. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), a federal welfare reform law, paved the way for giving states more discretion to decide how to use federal funding to administer and provide necessary services, including contracting with charitable, religious, or private organizations to do so. Since then, the “charitable choice” option has been expanded to include additional federal programs, including child welfare services, in what has been called the “Faith-Based Initiative.” Faith-based child welfare agencies now provide services to children and families through contracts with every state in the country. Faith-based service providers play an integral role in all aspects of the child

welfare service system, including foster home recruitment and licensing, the provision of necessary services, and direct case management responsibility.

Not all religions reject LGBTQ people, and not all faith-based agencies are even tied to the religious tenets of the founding or administering church. In fact, many people are motivated by their faith to help LGBTQ young people, and LGBTQ people report feeling welcomed and affirmed within some religious communities. However, religious beliefs may create ideological barriers that undermine the professional obligation to create a supportive system of care for all young people and families. This may also be true for individuals with strong religious convictions who work for public nondenominational child welfare agencies. Because religious beliefs and LGBTQ acceptance can be at odds with one another, LGBTQ youth in very conservative faith-based placements or agencies may feel conflicted and unwelcome.

At worst, religious caregivers refuse to welcome LGBTQ youth into their homes or subject them to harassment and abuse. LGBTQ youth report being pressured by their foster parents or caseworkers to join religious support groups that claim success in altering a person's sexual orientation or gender identity. More often, LGBTQ foster youth are subjected to subtle cues and signals that let them know they are not respected or understood. In order to fit in and avoid any harm, some LGBTQ youth hide their identities from their caseworkers and caregivers or go along with harmful efforts to “convert” them.

What Are the Needs of LGBTQ Youth Within Faith-Based Agencies and Services?

Nonjudgmental Support

In my first group home, the staff sat me down with a big family Bible and described to me why it was wrong to be gay.

—Youth participant

Like all young people in the child welfare system, LGBTQ youth need nonjudgmental support and acceptance from the professionals and caregivers in their lives. Unfortunately, that is not always the case, and may be especially true when faith-based beliefs come into direct conflict with professional or caregiver obligations. During various Listening Forums, LGBTQ young people in both family

foster care and congregate care identified religion and religious beliefs as potential obstacles toward fair and nondiscriminatory treatment.

Some child welfare professionals and foster parents believe that their religion mandates opposition to civil rights protections for LGBTQ people. While a great deal of controversy surrounds this issue, religious belief should never be used as justification for denying supportive services for LGBTQ youth in care, or failing adequately to monitor and protect them. In order to meet the ethical and legal obligations of child welfare professionals and caregivers, there must be a willingness to put religious ideology and judgment in its proper context and do what is necessary to help a child in need.

Freedom from Religious Indoctrination

After coming out to one of my foster families, I was told I was going to hell and forced to go to church with them. I became very closeted after that and didn't tell any other foster families I was a lesbian. I was in 22 different homes; many of them were very religious.

—Youth participant

Young people in foster care want support to express and explore their spiritual development, but often the adults in their lives attempt to force them into a particular belief system that impedes their personal spiritual growth. LGBTQ young people report feeling forced to hide their identities from their foster parents and caregivers and to join religious organizations that condemn homosexuality. Young people in foster care should never feel as though they must choose between being open and supported in their sexual orientation or gender identity, and feeling welcome in a particular placement.

The First Amendment to the U.S. Constitution guarantees the right to religious freedom, which includes the right to be free from religious indoctrination. The right of young people in state custody to religious freedom is violated if they are subjected to indoctrination into a particular religion without their consent or denied free expression of their religious beliefs. Professional practice standards, such as CWLA's *Standards of Excellence* should guide child welfare practitioners, not religious ideology or a desire to indoctrinate a young person into a particular religious belief system.

Next Steps for Child Welfare Policymakers

Issue Statewide Nondiscrimination Policies and Practice Standards

Given the increasing number of faith-based child welfare service providers, there is a dire need for mandatory education and training for everyone in the system, statewide policies protecting LGBTQ people from discrimination and harassment, and support for resolving conflicts between religious beliefs and professional standards of care.

—Adult participant, Jacksonville

Make acceptance of diversity a licensing standard, and do not license foster homes that are not supportive of all youth, including LGBTQ youth.

—Adult participant, Bloomington

The state Department of Human Services and the counties need to issue clear statements against the use of conversion or reparative therapy intended to change a person's sexual orientation or gender identity.

—Adult participant, Denver

Child welfare policymakers should acknowledge that there may be conflicts between religious beliefs and professional expectations, particularly at faith-based child welfare agencies, and issue explicitly clear written policies and guidelines that mandate nondiscrimination and equal and fair treatment for all young people in care, regardless of sexual orientation and gender identity. LGBTQ youth need systems of care in which professional standards are developed based on the needs of children, and not necessarily on religious beliefs.

Uniformity of policy, practice, training, and education would also address the great disparity that currently exists between accepting and non-accepting child welfare practices depending on the particular agency or caseworker. It should be made explicitly clear that statewide directives and practice standards apply to all agencies, including private faith-based agencies providing child welfare services through contracts with the state. These standards should also be

incorporated into the licensing requirements for all foster and group homes operating in the state and enforced by all public and private licensing agents.

There are a host of specific practice areas that should be addressed to ensure that LGBTQ youth are provided with appropriate services and not subjected to indoctrination into a particular religious belief system. For example, there should be a policy in every state prohibiting the use of any so-called “conversion” or “reparative” therapies or strategies intended to change a young person’s sexual orientation or gender identity. LGBTQ young people in the child welfare system should never be subjected to any form of this unethical and damaging practice, or told that they are “going to hell” for being LGBTQ.

Adopt Policies and Protocols that Facilitate Dialogue and Understanding

Bring faith-based agencies together for dialogue on LGBTQ issues, identify model supportive agencies, and examine the harm caused by failing to support LGBTQ youth.

—Adult participant, Salt Lake City

Resources are needed for addressing conflicts between religious beliefs and professional and legal obligations to provide nondiscriminatory and affirming child welfare services; work with affirming churches such as the Metropolitan Community Church and Dignity, the Roman Catholic LGBT organization.

—Adult participant, San Diego

Child welfare policymakers should facilitate dialogue among faith-based service providers on LGBTQ issues. By encouraging networking and other opportunities to share experiences and resources, faith-based agencies can better support one another to engage on LGBTQ issues and create more accepting and affirming systems of care. A number of churches and faith-based organizations were identified at Listening Forums as supportive of LGBTQ people. These organizations can serve as role models and mentors for agencies struggling with bridging the gap between religious ideologies and professional standards.

Mandate Training and Competency on LGBTQ Issues for Child Welfare Staff and Foster Parents

Training and education is needed for everyone in the system that LGBTQ issues are not moral issues.

—Adult participant, Salt Lake City

Training and education on sexual orientation and gender identity are also critically important. Child welfare policymakers should be sure that it is offered to everyone involved with the child welfare system. In order to dispel ignorance and misunderstanding, and to encourage adherence to existing professional practice standards, information and guidance should be provided throughout the system. Training and support geared specifically for faith-based child welfare service providers should also be made available.

Encourage an Examination of Personal Beliefs

Child welfare policymakers should support practitioners to examine their own anti-LGBTQ biases and religious beliefs, encourage reflection on attitudes and behaviors, and, when necessary, support practitioners to seek outside support and consultation if such biases and beliefs prevent the practitioner from providing equal treatment and protection from harm.

Next Steps for Child Welfare Practitioners

Examine Personal Beliefs

Child welfare practitioners should examine their own anti-LGBTQ biases and religious beliefs and, when necessary, seek outside support and consultation if such biases and beliefs prevent them from providing professional care and protection from harm. Child welfare practitioners should be aware that unexamined anti-LGBTQ beliefs may create barriers to meeting the professional and ethical obligations to young people in the child welfare system. They should affirm that all youth in care deserve safe living environments and that harassment, humiliation, and abuse of any child, even if based upon religious beliefs, are not acceptable practice.

Child welfare professionals should place the needs of their clients above their own spiritual or religious beliefs. By understanding the professional

obligation to provide safe and nondiscriminatory care and what that entails in working with LGBTQ young people, practitioners can put in proper context the role of religious belief.

Adopt Practices that Take Religious Attitudes into Account in Placement Decisions

Child welfare practitioners should consider the religious beliefs of a prospective caregiver prior to placing an LGBTQ youth. Where there are strong religious beliefs against LGBTQ people, practitioners should assess whether conflicts may arise as a result, and the physical or emotional safety of an LGBTQ young person may be jeopardized.

Reach Out to Affirming Religious Communities

Religious communities are often a source of support for young people in the child welfare system. Some actively encourage their members to become foster parents and mentors for young people. Child welfare practitioners should reach out to religious communities that promote acceptance of LGBTQ people to recruit prospective caregivers for LGBTQ young people. Practitioners should also keep in mind that LGBTQ young people themselves may be members of religious communities that may provide a source of support and placement. They should assist LGBTQ youth to access religious and spiritual supports and services in their communities, even if they are different from their own.

Assist Foster Families to Understand the Line Between Their Obligations as Caregivers and Their Personal Religious Beliefs

Child welfare practitioners should offer guidance to foster families in meeting their obligations as caregivers while respecting their religious beliefs. Where there are conflicts, child welfare practitioners should be prepared to assist foster families to navigate this challenge. Practitioners should advocate for LGBTQ youth in their foster placements and ensure that they are safe and welcome.

The Faith-Based Initiative has increased the role religious organizations play in the provision of child welfare services in the United States. The religious

beliefs and tenets of some faith-based organizations regarding sexual orientation and gender identity may be in direct conflict with the professional obligation to provide appropriate, safe, and affirming care to all young people. These conflicts are not insurmountable, however. By adhering to state policy and professional standards, encouraging open dialogue, and participating in training and education, faith-based social services can be effective resources for LGBTQ youth in care.

References

The Personal Responsibility and Work Opportunity Reconciliation Act. (1996) H.R 3734, 104th Congress, 2nd Session, P.L. 104-193.

CHAPTER 10

ADULTS INVOLVED WITH THE CHILD WELFARE SYSTEM



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ADULTS INVOLVED WITH THE CHILD WELFARE SYSTEM

Prospective LGBT foster parents are often afraid to come out because they do not want to risk being denied a foster care license. They fear that they will be seen as “recruiting” youth to be gay if they are open, affirming, and embracing of LGBTQ youth issues.

—Adult participant, Tucson

The first person assigned to do independent living programs in my county was gay, and he really led the way to forming an LGBT association and specific services for LGBT youth. That spoke highly of the administration, because they were quite aware of this situation, and it has helped us work on this issue.

—Adult participant, Denver

The child welfare system is built on the strengths and talents of the adults who work within it. But like LGBTQ youth in care, the adults who identify as lesbian, gay, bisexual, or transgender often encounter discrimination and obstacles to supporting LGBTQ youth. Likewise, there are many non-LGBTQ adult allies who want to provide supportive care for LGBTQ youth but who face similar obstacles. These include a dearth of policies to support their efforts; opposition from employers, policy-makers, community members, or parents of LGBTQ youth; legal restrictions; and a lack of resources.

While constitutional guarantees prohibit discrimination against LGBT people in public employment, currently there is no federal law protecting individuals from job discrimination in private employment. In many states, qualified,

hardworking Americans can be denied job opportunities, fired, or otherwise discriminated against because of their actual or perceived sexual orientation or gender identity. A few examples:

- A married, heterosexual Kansas man was refused a teaching job because a school employee suggested that he might be gay (Human Rights Campaign, 2002).
- A highly regarded child welfare youth counselor in Georgia was fired when the agency she worked for discovered she is a lesbian (Lambda Legal, 2002).
- A lesbian counselor working for a publicly funded child welfare provider in Kentucky was fired because her homosexuality violated the “Christian” values on which the agency was based (American Civil Liberties Union, 2000).

A growing number of states and municipalities have passed legislation prohibiting discrimination in the private workplace against LGBT people. Child welfare systems must acknowledge that one’s sexual orientation or gender identity should never be the basis for discriminating against qualified adults seeking to serve young people.

What Are the Needs of Adults Involved with the Child Welfare System Towards Providing Supportive Care for LGBTQ Youth?

Nondiscrimination in the Workplace

Many individuals and agencies are afraid to call attention to LGBTQ foster care issues because it may cause personal and professional backlash.

—Adult participant, Salt Lake City

There’s a feeling as though it is not safe to be openly gay in foster care. There are fears of being fired or losing a foster care license.

—Adult participant, Ft. Lauderdale

Social workers' attitudes can be terrible. Some make fun of other social workers who support gay youth, saying, "Oh, you must be gay too. Do you have a lot of gay kids on your caseload?"

—Youth participant

The child welfare field is blessed with many caring and competent adults who have a strong desire to support LGBTQ youth in care. But this can be a daunting task if there exists the threat of losing one's job or incurring other forms of harassment or retribution for supporting LGBTQ youth. Many of the responses from adults who participated in the Listening Forums centered on societal anti-LGBTQ attitudes and how they infiltrate child welfare practice. Words such as "fear" and "bias" were spoken with great frequency when participants were asked what prevents more adults from acting as role models or even offering visible support for LGBTQ youth. As a participant in Hartford reported, "Homophobia, and fear on the part of adults of being perceived as LGBTQ simply because you offer sensitivity and support to LGBTQ youth" are significant obstacles to adult involvement on behalf of LGBTQ youth.

Adults who work in the child welfare system need to feel safe from harassment and discrimination from employers and colleagues so that they can be visible advocates for LGBTQ youth. Having adult role models who show support is critical for every youth in care. Yet the fear of retribution or ostracism that many child welfare professionals experience keeps them from serving as the role models and advocates LGBTQ youth in care need. This holds true for those who self-identify as LGBT as well as for non-LGBTQ allies who wish to show support for LGBTQ youth.

Since 2003, California's Foster Care Nondiscrimination Act (2003) specifically protects both youth and adults involved in the child welfare system from discrimination based on sexual orientation and gender identity. While this is a very important law, it is only the beginning of efforts to shape the attitudes of those involved in the child welfare system toward being more supportive of LGBTQ youth. As an adult in Sacramento stated, "Individual biases are more pervasive than the overall bias of the system as a whole." This statement underscores the perception that anti-LGBTQ attitudes are sometimes impervious to legal protections and that these attitudes continue to impede adults' abilities to provide supportive care for LGBTQ youth.

In states without specific nondiscrimination policies or legislation, this perception is magnified. For example, not feeling safe was identified as a serious impediment in Tucson, where a participant noted a “fear of exclusion by colleagues, supervisors, and agency directors.” A “lack of empathy from colleagues” makes it very difficult for those who wish to support LGBTQ youth to do so.

Freedom from False Stereotypes

There is a stereotype that LGBT adults are a risk to kids, and this results in fears of false allegations of abuse against LGBT staff and foster parents.

—Adult participant, Denver

Gay male foster parents and childcare workers may feel especially vulnerable to the risk of false accusations of sexual abuse.

—Adult participant, Jacksonville

I got really close with a staff member who was sensitive about the fact that I was queer, and then her supervisor made it so that I could no longer talk to her because he thought that the relationship was getting inappropriate. There was nothing inappropriate; it's just that I found someone who would support me.

—Youth participant

A lot of people think that offering kids information is going to make them gay or transgender, or whatever. But that's not the way it is. It's about giving them information.

—Youth participant

Another impediment to the support many child welfare professionals would like to offer LGBTQ youth is based on the mythology that LGBT adults are more likely to sexually abuse children than non-LGBTQ adults. While empirical evidence refutes this assertion, the perception that it is true is enough to prevent many adults from offering support to LGBTQ youth. Beyond such false stereotypes, Forum participants expressed concerns that they are seen as trying to

influence a young person's sexual orientation or gender identity if they show support for them. Adults who care for LGBTQ youth need to be able to give these young people nonjudgmental support and age-appropriate information without fear of being accused of acting improperly.

There is a fear that by showing support, adults will be perceived by others as having influenced a young person to become LGBTQ.

—Adult participant, Minneapolis

Freedom from Restrictions on LGBT Foster and Adoptive Parents

Homophobia, ignorance, and misunderstanding are common, making it difficult for LGBT people to become and remain foster parents.

—Adult participant, Hartford

Some LGBT people fear that, even if they are legally allowed to foster and adopt, caseworkers will create obstacles for them based on bias against LGBT parents.

—Adult participant, New York City

There is a need for policies that protect LGBT child welfare employees and foster parents from discrimination and harassment so that they will feel safe showing support for LGBTQ youth.

—Adult participant, Jacksonville

We need to make the necessary regulatory changes to ensure equal and fair treatment of LGBTQ people by DHS and its contract agencies.

—Adult participant, Philadelphia

In order to dispel widespread misinformation, there is a need for an explicit policy statement from the state agency that says approved LGBT adults can serve as foster and adoptive parents. The state should distribute this policy

statement throughout the system and require that all private contract agencies abide by it.

—Adult participant, Tucson

Policymakers in all states recognize the significant challenges faced by child welfare professionals in their efforts to find safe and stable homes for youth in care. Yet many Forum participants reported significant barriers to the recruitment of supportive foster and adoptive families for LGBTQ youth. The result is that an already small pool of prospective foster and adoptive families, not just for LGBTQ youth but for all youth in care, is made even smaller. For example, Florida is the only state that outright bans gay and lesbian adults from adopting children. Utah limits foster and adoptive parenting only to single people and married couples, and since LGBT people cannot marry, same-sex couples cannot serve as foster or adoptive parents. Nebraska's restriction on foster parenting by LGBT adults was put in place via a memorandum written by its former child welfare commissioner, but never formally promulgated in policy or regulation.

Most states, however, have been moving in the opposite direction and have opposed or struck down such bans. For example, in 2006, a trial court judge in Missouri ruled in favor of a Missouri lesbian couple that had been denied a foster care license based on that state's "unwritten rule" excluding LGBT adults from serving as foster parents. The state of Texas tried and failed in its 2003 and 2005 legislative sessions to pass bills that would exclude LGBT adults from becoming foster and adoptive parents. In 2004, a trial court judge in Arkansas struck down a state regulation that banned gay people and anyone living in a household with a gay adult from being foster parents in that state. The state appealed the decision to the state Supreme Court, where CWLA and Lambda submitted amicus briefs, joined by other national and Arkansas-based organizations, in support of permanently overturning the ban. At the time of publication of this report, that case has not been decided.

Statements attesting to the frustration many adults feel about these restrictions were made repeatedly throughout the Forums in Florida. These Forums were attended by gay men and lesbians who are currently serving as foster parents and who would love nothing more than to offer their foster children a permanent home through adoption. Forum participants also mentioned the "perception in the state that gay and lesbian people are not allowed to foster

[due to the adoption ban], and that not enough is being done to dispel that myth.” These policies are seen as primary barriers to bringing more caring adults into the child welfare system. The ban on gay and lesbian adoption in Florida, as well as the desire to make sure child welfare policy is premised on facts and not bias, prompted CWLA to issue a formal policy statement expressing its unequivocal support for gay and lesbian adults who seek to offer homes to children in the custody of the child welfare system (CWLA, 2005). There is a strong need for clearly stated policies that support LGBT adults’ efforts to form families through foster and adoptive parenting. Some states and cities where Forums were held, including California, Connecticut, Arizona, Philadelphia and New York City, have already adopted or are in the process of adopting such policies that clarify the important role that LGBT adults can play in the child welfare system, a role that includes their ability to serve as parents to children in care.

Best Practice Standards and Guidelines

There is a lack of professional standards and supports for navigating professional boundaries while acting as a role model and mentor.

—Adult participant, New York City

We need to develop and distribute national standards, best practice guidelines, and model nondiscrimination policies throughout the system.

—Adult participant, Sacramento

Adults who work in the child welfare system need to have practice standards on which they can rely to guide their care of LGBTQ youth. Child welfare has long been built on the foundation of sound practice standards. Best practice models and standards such as CWLA’s *Standards of Excellence in Child Welfare* have been important guides in the field. The need for sound best practice models and accountability standards specific to working with LGBTQ young people was expressed at nearly every Forum. (See the Conclusion of this report for information on the Model Standards Project’s *Best Practice Guidelines for Serving LGBTQ Youth*, to be published by CWLA in 2006.)

Next Steps for Child Welfare Policymakers

Adopt Nondiscrimination Policies and Protocols to Protect Adults who Wish to Support LGBTQ Youth

Child welfare policymakers should develop new, or adapt existing, nondiscrimination policies to include protection for employees based on their actual or perceived sexual orientation and gender identification. Only when employees feel secure that their desire to support LGBTQ youth will not lead to negative action against them will they feel safe enough to be the role models and mentors LGBTQ youth in care need. Child welfare policymakers should develop policies that expressly support and encourage all staff to provide competent care for LGBTQ youth.

Adopt Accountability Standards

There needs to be someone or someplace to go in order to ensure accountability and that professional standards of care are being followed at private agencies receiving DCF funding.

—Adult participant, Ft. Lauderdale

Child welfare policymakers should adopt accountability standards and zero-tolerance policies prohibiting staff from harassing or abusing other staff members or agency clientele based on their actual or perceived sexual orientation or gender identity. They should establish grievance procedures for when such harassment or abuse occurs, and take corrective action against any staff member who violates these policies.

Advocate for Legal Protections for Child Welfare Professionals

Child welfare policymakers should participate in public policy advocacy to establish legal protections for workers and foster parents based on their actual or perceived sexual orientation and gender identity.

Adopt Policies and Protocols that Support Qualified LGBT Adults who Wish to Become Foster or Adoptive Parents

The system needs to address the institutional ways in which LGBTQ youth and adults are made to feel excluded, such as through foster care license applications that presume heterosexuality. Unlike for other populations, there is a complete absence of formal policies and procedures on this issue, and no accreditation standards that address LGBTQ competency.

—Adult participant, Tucson

Child welfare policymakers should publicly support LGBT foster and adoptive parent applicants and outreach efforts to recruit them. They should take a public stand against restrictive policies or legislation that seek to limit the ability of LGBT adults from becoming foster and adoptive parents.

Child welfare policymakers should review and become familiar with the ample social science research, conducted over the last 30 years, demonstrating the fitness of gay and lesbian parents to raise children, whose outcomes are the same as those of children raised by heterosexual parents. They should base their policies on this substantial body of social science research and not on unproven assumptions.

Child welfare policymakers should review all existing foster and adoptive parent application forms to ensure inclusion of LGBT applicants through the use of gender-neutral language. For example, rather than identifying prospective applicants as “mother” and “father,” application forms should use terms like “parent #1” and “parent #2.”

Follow Best Practice Standards and Models

Child welfare policymakers should adopt existing best practice standards to guide their staffs’ efforts to support LGBTQ youth in care. They should disseminate these best practice standards throughout their programmatic networks and train their staffs to implement them when working with LGBTQ youth. Child welfare policymakers should ensure that nondiscrimination policies and best practice standards are consistently applied throughout their entire network of care.

Next Steps for Child Welfare Practitioners

Adopt Practices that Support Adult Mentors and Role Models for LGBTQ Youth

Child welfare practitioners, whether LGBT or not, should express open willingness to support LGBTQ youth in care and LGBT colleagues and foster and adoptive parents. They should act as role models and mentors for LGBTQ youth in care. Child welfare practitioners should report any harassment or abuse targeted at themselves, other staff, or agency clientele to the agency's administration and encourage the administration to initiate corrective action against the perpetrators.

Adopt Practices that Support Prospective Foster and Adoptive Parents for LGBTQ Youth

Child welfare practitioners should work closely with prospective foster and adoptive families to assess their willingness and competence to care for LGBTQ youth. They should encourage and assist those families willing and qualified to provide care for an LGBTQ youth. They should refuse to place an LGBTQ youth with any family who would seek to try to change the youth's sexual orientation or gender identity. Child welfare practitioners should assure LGBTQ youth that they will work to find a family that is supportive of their sexual orientation or gender identity and will not tolerate mistreatment or attempts by a prospective foster or adoptive family to change their sexual orientation or gender identity.

Adopt Practices that Support Prospective Foster and Adoptive Parents who Are LGBT

Child welfare practitioners should treat LGBT applicants to be foster care or adoptive parents with the same respect and competence they treat non-LGBT applicants. They should make the best possible match between youth and adult, based solely on the prospective parent's ability to provide love and care for a specific child and not on any particular ideology or viewpoint.

Adhere to Best Practices Standards and Models

Child welfare practitioners should adhere to best practice standards for working with LGBTQ youth in care. They should encourage their supervisors and policy-makers to offer the training and technical supports they will need to implement

best practice standards when working with LGBTQ youth. Child welfare practitioners should develop competency to address issues of sexuality and gender identity with their clients and to serve as supportive role models and mentors for youth who are struggling with issues related to their sexual orientation or gender identity.

References

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CHAPTER 11

THE UTILITY OF THE REGIONAL LISTENING FORUMS FOR POLICY, PRACTICE, AND RESEARCH: A TRIPOD




CHAPTER 11

THE UTILITY OF THE REGIONAL LISTENING FORUMS FOR POLICY, PRACTICE, AND RESEARCH: A TRIPOD

By A. Chris Downs, Ph.D.

*Senior Manager, Life Skills Research & Development,
and Developmental Psychologist, Casey Family Programs*



Child welfare research, policy, and practice regularly exist in isolation from each other (Nollan and Downs, 2001). Researchers often develop testable theories and hypotheses about child welfare phenomena, conduct their research, and then publish their findings in academic journals. Unfortunately, results rarely reach audiences most likely to benefit from them, including practitioners or policymakers.

Policymakers are responsible for setting standards of practice and models of excellence. Such standards can be set at local, county, state, and federal levels and impact children throughout the child welfare system. But these standards are often based on speculation, not evidence, and rarely include the voices of youth or practitioners in their development (Nollan and Downs, 2001).

Practitioners deliver child welfare services, and many, such as Child Protective Services (CPS) and direct care workers, often have high caseloads and difficult work circumstances. Yet practitioners, caregivers, and youth best understand the “on-the-ground” experiences of child welfare phenomena. They live the experiences on a daily basis.

The experiences of particular subpopulations of foster youth, such as LGBTQ youth in care, have been documented in a variety of sources ranging from books, articles, and academic papers, to reports of CPS and direct care workers, to testimonials from LGBTQ youth themselves. These experiences rarely become the grist for: (a) researchers’ testable hypotheses about the causes, effects, or commonality of these experiences; or (b) policymakers’ revisions to or creation of models of practice.

Practice, policy, and research are three legs of a tripod. In isolation they serve and inform only their own constituents: researchers inform other researchers and academics; policymakers inform other policymakers, politicians, and public officials; and practitioners inform each other about best practices. Taken together, these three aspects of child welfare form a tripod of knowledge. When practice, research, and policy inform themselves and each other, they jointly create momentum unattainable by any one or two of the three (Nollan and Downs, 2001).

What sets the CWLA/Lambda Regional Listening Forums apart from the other sources of information about the experiences of LGBTQ youth in care is the project's scope. More than a dozen of these Forums were held in every region of the country and were attended by several hundred people, including LGBTQ youth and the child welfare professionals who work most closely with them. Casey Family Programs was instrumental in the planning of two of these Forums, one of which was presented as a preconference institute prior to the 2004 Casey Family Programs "It's My Life" conference in Sacramento, California. It is essential that this report be read, and applied, by researchers (and consequently academics) and by policymakers, as well as by those who provide care to children, youth, and families. This project's findings are compelling and will have obvious practice value because they come from practitioners, youth, and caregivers directly involved with the delivery of services for LGBTQ youth.

Whether your contributions to the child welfare system are as a policymaker, a practitioner, or a researcher, the information contained in this comprehensive report will increase your understanding of the issues facing LGBTQ foster youth. As a research psychologist with a long history in child welfare policy and practice, I can attest that the experiences of LGBTQ youth in care as highlighted in this report will motivate your desire to improve the lives of these historically underserved children.

The authors believe, as do we at Casey Family Programs, that it is the responsibility of all concerned with child welfare to link practice with research and policy so that we can all work together toward a system of care this is more competent in its support of LGBTQ youth. The child welfare community should include researchers, academicians, policymakers, and practitioners, as well as those involved with education, health, and the law.

In my experience as a research psychologist, the fastest way to attract researchers' attention to practice findings is to generate a series of testable

hypotheses. Both students and research professionals appreciate concrete statements emanating from reports from practitioners that can be subjected to empirical, scientific scrutiny. In that spirit, I have generated a series of such statements or hypotheses. They should be seen as statements, derived from some of the commentaries and data, which researchers can use to conduct future empirical investigation.

Examples of Testable Hypotheses

- LGBTQ youth living in environments that are not accepting of their sexual orientation and/or gender identity will have lower self-esteem compared with non-LGBTQ youth or LGBTQ youth living in more accepting environments.
- LGBTQ foster youth reared in conservative faith communities will have lower self-esteem compared with non-LGBTQ youth or youth reared in liberal faith communities.
- Adults with the highest rates of homophobia are more likely to be in:
 - states without any legal protections for LGBTQ people,
 - homes where sexuality information and education are relatively absent.
- LGBTQ foster youth who feel as though they “matter” are less likely to attempt suicide than those who think they do not matter.
- LGBTQ foster youth who have a sense of hope for the future are more likely, than peers who have less hope for the future, to:
 - thrive in school,
 - have stronger friendships,
 - have more developed identities, and
 - achieve independence earlier.
- Foster youth who connect with an LGBTQ school or community organization, such as a GSA, will be better able to combat homophobia and transphobia than those who do not have such connections.

- LGBTQ foster youth do better on functional outcomes when they live with LGBT foster parents compared with LGBTQ youth who live with non-LGBT foster parents.
- LGBTQ youth in foster care do better when they remain in a stable foster care placement compared with youth who are returned to their families of origin, especially if those families are not LGBTQ-affirming.
- LGBTQ foster youth are more likely to engage in “survival sex” than non-LGBTQ foster youth.
- LGBTQ foster youth are less likely than non-LGBTQ foster youth to graduate from high school.
- LGBTQ foster youth are more likely to report incidents of verbal and physical violence and harassment as compared to their non-LGBTQ peers.
- LGBTQ foster youth are stereotyped by their caseworkers.
- Caseworkers who take LGBTQ-sensitivity training will engage in less LGBTQ stereotyping as compared with caseworkers who do not receive this training. This difference will be found both at the conclusion of the training and at a later point post-training.
- LGBTQ youth are less welcome in overnight and temporary shelters than non-LGBTQ peers.
- Foster care placement rates for LGBTQ youth are higher (that is, less stable) than placement rates for non-LGBTQ youth.
- LGBTQ foster youth have fewer opportunities to learn life skills and independent living from child welfare systems than non-LGBTQ youth.
- Stereotypes about LGBTQ people are as prevalent in child welfare systems as they are in general society.
- LGBTQ foster youth have less optimal sex education compared with non-LGBTQ foster youth.

Clearly, there are many more testable research hypotheses than could be listed here. The essential point is that practitioners, policymakers, and researchers must attend to one another’s work. When they do, everyone benefits—especially the youth we hope to jointly serve.

References

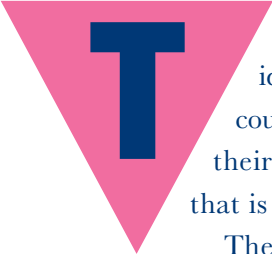
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CONCLUSION



CONCLUSION



The ideas and strategies profiled in this report are those that were identified by the hundreds of individuals from every region of the country who came together at the Regional Listening Forums to offer their experiences, insights, and hopes for creating a child welfare system that is more compassionate and competent in its care of LGBTQ youth.

The Forum participants offered compelling firsthand accounts and practical information about the child welfare system and its treatment of LGBTQ youth. Much has improved over the last several years, but clearly much remains to be done before LGBTQ youth are made to feel safe, affirmed, and respected by the system charged with their care.

More resources that are designed to assist child welfare professionals to meet the needs of LGBTQ youth exist than ever before; some of these have been mentioned in this report. These resources include those developed by the Gay, Lesbian, and Straight Education Network (www.glsen.org) and the Safe Schools Coalition (www.safeschoolscoalition.org), as well as the studies contained in the special LGBTQ edition of the *Child Welfare Journal* (March/April 2006) and the LGBTQ Toolkit that is currently in development by the CWLA/Lambda Joint Initiative. Casey Family Programs has developed an LGBTQ Supplement to its Ansell-Casey Life Skills Assessment, designed to support foster youth as they prepare for independent living (www.caseylifeskills.org).

Policy statements that support LGBTQ youth and families have been issued by such leading national organizations as CWLA, the National Association of Social Workers (www.naswdc.org), the North American Council on Adoptable Children (www.nacac.org), the American Psychological Association (www.apa.org), and the American Academy of Pediatrics (www.aap.org). States and localities have also issued public policy statements and practice guides, including those developed by Connecticut, Illinois, Philadelphia, and New York City. True Colors, Inc. (www.ourtruecolors.org), in Connecticut, and Life Works, Inc. (www.lifeworksmentoring.org), in Los Angeles, have developed mentoring programs for LGBTQ youth. True Colors has also developed comprehensive

training tools on LGBTQ issues, as has the GLBT Youth Support Project in Massachusetts (www.hcsm.org/glys/glys.htm) and Lifespan Education in Washington State (www.lifespaneducation.com).

Residential group homes designed for LGBTQ youth currently operate in Los Angeles through Gay and Lesbian Adolescent Social Services (www.glassla.org), New York City through Green Chimneys (www.greenchimneys.org), Boston through The Home for Little Wanderers (www.thehome.org), Philadelphia through Lutheran Children and Family Services (www.lcfsinpa.org), and Detroit through the Ruth Ellis Center (www.ruthelliscenter.com).

Two projects were developed in 2006 that seek to provide resources and support for those working in the dependency court and juvenile justice systems. The American Bar Association's Center on Children and the Law (<http://www.abanet.org/child/home2.html>) has developed the "Opening Doors Project" to increase awareness and understanding of LGBTQ youth issues among those working within the dependency court system. Legal Services for Children, the National Center for Lesbian Rights and the National Juvenile Defender Center have joined forces to develop "The Equity Project" (www.equityproject.org) in order to assist the juvenile justice system in better attending to the needs of LGBTQ youth.

In 2006, CWLA will publish *Best Practice Guidelines for Working with LGBTQ Youth in Care* to assist child welfare professionals in their efforts to support these young people. The *Best Practice Guidelines* have been developed through a collaboration known as the Model Standards Project (MSP) coordinated by Legal Services for Children and the National Center for Lesbian Rights, both based in San Francisco, California, in consultation with youth, juvenile court advocates, child welfare and juvenile justice professionals, researchers, and providers of health, mental health, and educational services.

The *Best Practice Guidelines* cover a wide range of topics, including creating an inclusive and respectful culture; developing prevention, reunification, permanency, and transition services sensitive to the needs of LGBTQ youth; recruiting and retaining competent caregivers; training and supervision of workers, staff, and caregivers; confidentiality and privacy issues; supporting healthy adolescent development; providing appropriate individualized placements; ensuring the safety and well-being of LGBTQ youth in group care settings; and providing inclusive health, mental health, and educational services. An online version of the *Best Practice Guidelines* will be available through the websites of Legal Services

for Children (www.lsc-sf.org) and the National Center for Lesbian Rights (www.nclr.org). A print version will be available through CWLA. Child welfare professionals are strongly encouraged to avail themselves of this resource to put into practice the sentiments expressed by participants in the Regional Listening Forums and the recommendations contained in this report.

No public or private child welfare agency should feel a need to “reinvent the wheel” with regard to the development of policies, training initiatives, and the provision of competent services for LGBTQ youth. Model policies supporting LGBTQ youth and the adults who serve them already exist in numerous child welfare agencies around the country. Comprehensive training models for increasing understanding of LGBTQ issues are readily available and services designed with the specific needs of LGBTQ youth in mind are now in operation in many states. Child welfare policymakers and practitioners who want to implement the recommendations in this report will find ongoing support from CWLA and Lambda, and from any number of the organizations mentioned in this report.

For more information about the CWLA/Lambda Joint Initiative, or to learn more about existing supportive resources for LGBTQ youth and families, please visit the LGBTQ link within the CWLA website at www.cwla.org/programs/culture/glbqtq.htm or Lambda’s website at www.lambdalegal.org/cgi-bin/iowa/issues/record?record=25.

APPENDIX A-1

ADULT INVITATION, AUGUSTA, ME



September 30, 2004

Re: Invitation to participate in December 2, 2004 Listening Forum in Augusta, Maine addressing the needs of LGBTQ young people and adults involved in the child welfare system

Dear Colleague:

On behalf of the Child Welfare League of America (CWLA) and Lambda Legal Defense and Education Fund we invite you to participate in a Listening Forum on Thursday, December 2, 2004, from 3:00 – 7:00 p.m., addressing the needs of lesbian, gay, bisexual, transgender, and questioning (“LGBTQ”) young people and adults involved in the child welfare system. This event will be hosted at the Unitarian Universalist Community Church, 69 Winthrop Street, Augusta, Maine 04330. The Listening Forum will give you and other professionals and foster and adoptive parents who work with LGBTQ young people in the child welfare system an opportunity to share your experiences, concerns and suggestions for improving care for our underserved LGBTQ youth.

Overview of the CWLA/Lambda Joint Initiative:

CWLA and Lambda have joined together in a project to help child welfare and foster care systems change the way they serve LGBTQ people. For too long, LGBTQ young people have been ignored, misunderstood, or worse yet, victimized

by the systems intended to protect them. Our Joint Initiative assists child welfare agencies to better serve LGBTQ young people as they transition from foster care to adulthood, and to better support LGBTQ adults who care for these young people. CWLA and Lambda are each national leaders in their fields. CWLA is the country's oldest and largest advocate for children and youth, and has a membership of nearly 1,200 public and private agencies, including every state child welfare system. Lambda is the country's oldest and largest civil rights organization for people who are LGBT or living with HIV and AIDS, and has done groundbreaking work on foster care, including in its 2001 publication *YOUTH IN THE MARGINS: A Report on the Unmet Needs of Lesbian, Gay, Bisexual, and Transgender Adolescents in Foster Care* (can be downloaded free-of-charge at www.lambdalegal.org/cgi-bin/iowa/documents/record?record=899). Through our Joint Initiative, CWLA and Lambda have joined forces to improve the situations of LGBTQ young people, family members, and staff involved in child welfare systems.

Our national project engages the range of people involved in the child welfare system, from LGBTQ young people themselves, to child welfare experts, foster and adoptive parents, faith-based providers, caseworkers, and administrators. CWLA and Lambda draw on real life experiences and insights through a National Advisory Network and through Regional Listening Forums that are being held around the country. We are responding to the concerns, gaps and solutions that are identified with resources for child welfare systems to serve LGBTQ youth, including training materials, model programs, practice guidelines, and advocacy tools.

For more information on CWLA and our CWLA/Lambda joint initiative, please visit the website: www.cwla.org/programs/culture/glbqtq.htm.

The Augusta, Maine Listening Forum:

The Listening Forums are designed to provide an opportunity for groups of approximately 20 to 40 LGBTQ youth in care, and the adults who work with them, to share their experiences, concerns and suggestions. The stories we hear and the suggestions we collect at the Listening Forums will be published in a report that will be a resource for understanding, supporting, and advocating for

LGBTQ youth in care. We hope that a blueprint for creating a more LGBTQ-friendly youth service environment in each community will emerge from each Listening Forum. Listening Forums have been held across the country in places like Denver, Minneapolis, Jacksonville, Philadelphia, Salt Lake City and Tucson.

The session will include youth and adults with a range of experiences and perspectives, including foster and adoptive parents, direct congregate care staff, caseworkers, trainers, health care professionals, agency administrators, and those who represent both private and government agencies. We have attached an agenda-in-progress to give you a clearer picture of the issues we ask you to join in addressing. We would be delighted if you would participate and share your experiences and ideas for how to improve services to our young people. We are eager to learn from your work, and to share what we learn with the larger community. We want your voice to be heard. We very much hope you will be able to attend.

If you are able to attend, please RSVP to Peter Karys at Lambda by calling toll-free 866-LGBTeen (866-542-8336), ext. 272 (350 after-hours), or by email at pkarys@lambdalegal.org.

Please help us by distributing the enclosed letter and flyer to LGBT young people that you know, and the adults who work with them.

Please bring your valuable perspective on how our foster care systems can better serve LGBTQ youth. Add your voice to those concerned with addressing the needs of LGBTQ youth and adults involved in the child welfare system.

Very truly yours,

Rudy Estrada
Foster Care Project Attorney
Lambda Legal Defense and Education Fund

Rob Woronoff, MS
LGBTQ Program Director
Child Welfare League of America

APPENDIX A-2

YOUTH INVITATION, SALT LAKE CITY, UT



September 23, 2004

Dear Young Person:

Are you lesbian, gay, bisexual, transgender, or questioning (“LGBTQ”), and involved in the child welfare system? Have you felt ignored, misunderstood, or discriminated against by the adults who were supposed to help you? Have you found allies in the child welfare system who were able to support you for who you are? Do you have ideas how to make life better for LGBTQ youth and adults in the system? We want to hear what you have to say!

On behalf of the Child Welfare League of America (CWLA) and Lambda Legal Defense and Education Fund (Lambda) we invite you to participate in a Salt Lake City-area Listening Forum on the needs of LGBTQ young people and adults involved in the child welfare system. The Listening Forum will give you and other LGBTQ young people and their allies an opportunity to share your experiences, concerns and suggestions for improving foster care and child welfare services for LGBTQ youth. This event is free-of-charge.

Friday, October 22, 2004

3:00 p.m. – 6:00 p.m.

At the Department of Human Services (DHS)

Administrative Building

120 North 200 West, Room 304

Salt Lake City, Utah

If you are able to attend, please RSVP to Melissa Larsen at the Gay and Lesbian Community Center of Utah at 801-706-9168, or by email at melissalarsen2003@yahoo.com.

Overview of the CWLA/Lambda Joint Initiative:

CWLA and Lambda have joined together in a project to help child welfare and foster care systems change the way they serve LGBTQ people. For too long, LGBTQ young people have been ignored, misunderstood, or worse yet, victimized by the systems intended to protect them. Our Joint Initiative assists child welfare agencies to better serve LGBTQ young people as they transition from foster care to adulthood, and to better support LGBTQ adults who care for these young people. CWLA and Lambda are each national leaders in their fields. CWLA is the country's oldest and largest advocate for children and youth, and has a membership of nearly 1,200 public and private agencies, including every state child welfare system. Lambda is the country's oldest and largest civil rights organization for people who are LGBT or living with HIV and AIDS, and has done groundbreaking work on foster care, including in its 2001 publication *YOUTH IN THE MARGINS: A Report on the Unmet Needs of Lesbian, Gay, Bisexual, and Transgender Adolescents in Foster Care*. Through our Joint Initiative, CWLA and Lambda have joined forces to improve the lives of LGBTQ young people, family members, and staff involved in child welfare systems.

The Salt Lake City Listening Forum:

We are holding Listening Forums for groups around the nation of approximately 20 to 40 LGBTQ youth and the adults who work with them to share their experiences, concerns and suggestions. The stories we hear from you and the suggestions you make will be published in a report that will be a resource for understanding, supporting, and advocating for LGBTQ youth in care. We hope that a blueprint for creating a more LGBTQ-friendly youth service environment in each community will emerge from each Listening Forum.

We would like to hear from you what has helped you most, where the system has let you down, and what you would like to see changed. We have attached an agenda-in-progress to give you a clearer picture of the issues we ask you to

join in addressing. We would be delighted if you would participate in the youth session and share your experiences and ideas for how to improve services to our young people. We want your voice to be heard.

We very much hope you will be able to attend. The Listening Forum will include with a free meal and an opportunity to get to know other LGBTQ young people and their allies, followed by group discussions. We would be happy to give you more information about our Joint Initiative and the Listening Forum if you would like to call Lambda's toll-free line at 1-866-LGBTTeen (1-866-542-8336), extension 272. You can read Lambda's foster care report at the website, www.lambdalegal.org. For more information about CWLA and to learn more about our work, please visit the website, www.cwla.org.

Your perspective matters most. Please add your voice to those concerned with making sure that LGBTQ young people involved in the child welfare system receive the respect and the support you deserve.

Very truly yours,

Rudy Estrada
Foster Care Project Attorney
Lambda Legal Defense and Education Fund

Rob Woronoff, MS
LGBTQ Program Director
Child Welfare League of America

APPENDIX A-3

YOUTH FLYER, MINNEAPOLIS, MN

Twin Cities Listening Forum on LGBTQ Youth in the Child Welfare System

Are you lesbian, gay, bisexual, transgender, or questioning (“LGBTQ”), and IN FOSTER CARE?

Have you felt ignored, misunderstood, or discriminated against by the adults who were supposed to help you?

Have you found allies in the Child welfare system who supported you for who you are?

Do you have ideas about how to make life better for LGBTQ youth in the system?

We want to hear what you have to say!



CWLA and Lambda invite you to a
Twin Cities Listening Forum

**Monday, May 17, 2004
2:00 PM - 5:00 PM**

Hosted at **St. Mark's Episcopal Cathedral**,
519 Oak Grove Street
Minneapolis, 55403

(south side of Loring Park across from the Walker Art Center)

Call **Michelle Chalmers** at **Minnesota Adoption Resource Network (MARN)**, **612-746-5121**,
to RSVP or for more information

MEET OTHER LGBTQ YOUTH WHO HAVE BEEN IN THE SYSTEM

ST. MARK'S FREE SUPPER WILL BE SERVED AFTERWARD



APPENDIX B

Sample Adult Consent Form

**FOSTERING TRANSITIONS:
CWLA/Lambda Joint Initiative to Support
LGBTQ Youth and Adults Involved with the Child Welfare System**

A Study Conducted by the Child Welfare League of America in collaboration with Lambda Legal Defense and Education Fund

Adult Consent Form

I, _____, agree to participate in this study on lesbian, gay, bisexual, transgendered and questioning (LGBTQ) youth and adults in the foster care system conducted by the Child Welfare League of America in collaboration with Lambda Legal Defense and Education Fund.

The purpose of the study is to provide an opportunity for LGBTQ youth in care, as well as the adults who work with them, to share their real life experiences.

I understand that this focus group will last three hours or less. I understand that my participation is voluntary and that if I wish to leave I may do so at any time without giving a reason or explanation. If I withdraw from the group I understand that this will have no effect on my relationship with the sponsor. I promise not to repeat anything heard during this group outside of the group.

I understand that the group will be tape-recorded and the facilitators may take notes. These materials will be kept confidential and the names of the people in the focus group will be kept confidential.

I understand that a report summarizing the results of this and other focus groups will be written and that no participant names will be used in the report.

I understand that I might be contacted at a later date for my input concerning the effectiveness of the LGBTQ program. My responses will be confidential and no identifying information will be used in this assessment.

If at any time I have questions about the project or want to talk with someone about my experiences, I may contact: Rob Woronoff, MS
LGBTQ Program Manager, Child Welfare League of America
50 F St. NW, Sixth Floor Washington, DC 20001
Phone: (202) 662-4292 Fax: (202) 737-3687 email: rworonoff@cwla.org

Date

Signature of Participant

I certify that I have explained the statements written above to the adult participant. I believe that he or she fully understands its contents and that he or she has signed this agreement freely and without duress.

Date

Signature of Research Staff

Sample Young Adult Assent Form

FOSTERING TRANSITIONS: CWLA/Lambda Joint Initiative to Support LGBTQ Youth and Adults Involved with the Child Welfare System

A Study Conducted by the Child Welfare League of America in collaboration with Lambda Legal Defense and Education Fund

Young Adult Assent Form

I, _____, agree to participate in a study on lesbian, gay, bisexual, transgendered and questioning (LGBTQ) youth and adults in the foster care system conducted by the Child Welfare League of America in collaboration with Lambda Legal Defense and Education Fund. The purpose of the study is to provide an opportunity for LGBTQ youth in care, as well as the adults who work with them, to share their real life experiences.

I understand that taking part in this study is voluntary. I may choose not to participate at any time. If I choose not to participate, it will not affect any services I may be receiving from any organization. I understand that I might be contacted at a later date for my input concerning the effectiveness of the LGBTQ program. My responses will be confidential and no identifying information will be used in this assessment.

As a participant in this study, my identity will be protected. My answers will be grouped with the responses from other participants in order to ensure confidentiality of my personal information. I understand that this study is designed to protect my privacy and that any information I give, such as information about drug use, alcohol use, or violence not involving a child, will be kept confidential. The only information that will not be kept confidential is any information I give about a child or adolescent who is being abused or harmed or is in serious danger of being abused or harmed. This includes me. I understand that somebody will try to contact me when anyone connected with this project share any information I give regarding serious harm to a child.

If at any time I have questions about the project or want to talk with someone about my experiences, I may contact: Rob Woronoff, MS
LGBTQ Program Manager, Child Welfare League of America
50 F St. NW, Sixth Floor Washington, DC 20001
Phone: (202) 662-4292 Fax: (202) 737-3687 email: rworonoff@cwla.org

Date

Signature of Youth

Date

Signature of Parent/Guardian

I certify that I have explained the statements written above to the participant. I believe that he or she fully understands its contents and that he or she has signed this agreement freely and without duress.

Date

Signature of Project Staff

Sample Youth Assent Form

FOSTERING TRANSITIONS: CWLA/Lambda Joint Initiative to Support LGBTQ Youth and Adults Involved with the Child Welfare System

A Study Conducted by the Child Welfare League of America in collaboration with Lambda Legal Defense and Education Fund

Youth Assent Form

I, _____, agree to participate in a study on lesbian, gay, bisexual, transgendered and questioning (LGBTQ) youth and adults in the foster care system conducted by the Child Welfare League of America in collaboration with Lambda Legal Defense and Education Fund. The purpose of the study is to provide an opportunity for LGBTQ youth in care, as well as the adults who work with them, to share their real life experiences.

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LGBTQ Program Manager, Child Welfare League of America
50 F St. NW, Sixth Floor Washington, DC 20001
Phone: (202) 662-4292 Fax: (202) 737-3687 email: rworonoff@cwla.org

Date

Signature of Youth

Date

Signature of Parent/Guardian

I certify that I have explained the statements written above to the participant. I believe that he or she fully understands its contents and that he or she has signed this agreement freely and without duress.

Date

Signature of Project Staff

APPENDIX C

FOSTERING TRANSITIONS: CWLA/Lambda Joint Initiative to Support LGBTQ Youth and Adults Involved with the Child Welfare System

Joint Initiative Overview and Description of Regional Listening Forums

Joint Initiative Overview

The Child Welfare League of America (CWLA) and Lambda Legal Defense and Education Fund (Lambda) have joined together to help child welfare and foster care systems change the way they serve lesbian, gay, bisexual, transgender, and questioning (LGBTQ) people. For too long, LGBTQ young people in care have been invisible, misunderstood, or worse yet, victimized by the systems intended to protect them. Our Joint Initiative will support child welfare agencies to better serve LGBTQ young people as they transition from foster care to adulthood.

CWLA and Lambda are each national leaders in their fields. CWLA is the country's oldest and largest advocate for children and youth, and has a membership of nearly 1,200 public and private agencies, including every state child welfare system. Lambda is the country's oldest and largest civil rights organization for LGBT people and people with HIV and AIDS. Lambda is known for landmark cases such as the 2003 U.S. Supreme Court decision in *Lawrence v. Texas*, striking down the Texas same-sex sodomy law, and its groundbreaking work on foster care, including its 2001 publication *YOUTH IN THE MARGINS: A Report on the Unmet Needs of Lesbian, Gay, Bisexual, and Transgender Adolescents in Foster Care*. Through our Joint Initiative, CWLA and Lambda will work to make life better for the LGBTQ young people, family members, and staff involved in child welfare systems.

This national project will engage the range of people involved in the child welfare system, from LGBTQ young people themselves, to child welfare experts, foster and adoptive parents, faith-based providers, caseworkers, and administrators. CWLA and Lambda will draw on real life experiences and insights through a National Advisory Network and through Regional Listening Forums that will be held around the country. We will respond to the concerns, gaps and solutions that are identified with resources for child welfare systems to serve LGBTQ youth, including training materials, model programs, practice guidelines, and advocacy tools.

Regional Listening Forums

The purpose of the Regional Listening Forums is to provide an opportunity for LGBTQ youth in care, as well as the adults who work with them, to share their real life experiences. We intend to create a picture of what life is *really* like for these young people in their communities. We hope that a blueprint for creating a more LGBTQ-friendly youth service environment in each community will emerge at each Listening Forum. CWLA and Lambda will hold these Listening Forums in a variety of settings, urban and rural, within each region of the country. Most will focus on the overall issues facing LGBTQ youth in care, while some will focus on a specific population—such as LGBTQ youth of color—or a specific issue—such as working with faith-based child welfare organizations. The stories we hear and the data we collect at the Listening Forums will be published in a report that will be a resource for understanding, supporting, and advocating for LGBTQ youth in care.

Regional Listening Forums

Meeting Length: 3 hours

Agenda

- I. Welcome, Introductions and Initiative Overview (30 Minutes)
- II. Break-out panels (90 Minutes)
- III. Break (15 Minutes)
- IV. Report Back, Next Steps and Wrap Up (45 Minutes)

Breakout Groups

GROUP A — Identify existing services and supports for LGBTQ young people

1. What programs, services and resources are currently available in your community for LGBTQ young people?
2. What individuals, agencies or organizations do you know that are supportive of LGBTQ young people in foster care?

3. What school programs do you know that are supportive of LGBTQ young people in foster care?
4. What is being done and what could be done in your community to locate and train foster families for LGBTQ youth?
5. What is being done for LGBTQ youth in foster care about finding permanent situations, including family reunification, adoption, or, for those preparing for independent living, permanent connections, in your community?
6. What has been most effective in helping LGBTQ young people in foster care?
7. What individuals, agencies or organizations do you know that are supportive of LGBTQ young people who are homeless or runaway?
8. What has been most effective in helping LGBTQ young people who are homeless or runaway?
9. What has been the experience of LGBTQ adults involved with the foster care system?
10. Estimate how many LGBTQ young people are in foster care, based on your experience.
11. Estimate the percentage of homeless or runaway young people who are LGBTQ, based on your experience.
12. What are the three most important items to report back to the entire group?

GROUP B — Identify needs of LGBTQ young people and barriers they face

1. What are the most pressing needs of LGBTQ young people in foster care?

2. What are the most pressing needs of LGBTQ young people who are homeless or runaway?
3. What issues at school are faced by LGBTQ young people who are in foster care, runaway or homeless?
4. How effective are efforts to find permanent situations for LGBTQ young people in foster care, including family reunification, adoption, or, for those preparing for independent living, permanent connections in your community?
5. What are the main barriers to supportive services for LGBTQ young people?
6. What can be done to overcome these barriers?
7. What are the main issues faced by LGBTQ adults involved in foster care?
8. Estimate how many LGBTQ young people are in foster care, based on your experience.
9. Estimate the percentage of homeless or runaway young people who are LGBTQ based on your experience.
10. What are the three most important items to report back to the entire group?

GROUP C — Identify steps for the future to improve services for LGBTQ young people

1. What do you see as areas of expansion for programs and services for LGBTQ youth?
2. What are the most important steps to improve foster care for LGBTQ young people?

3. What could be done to improve finding permanent situations for LGBTQ young people, including family reunification, adoption, or, for those preparing for independent living, permanent connections in your community?
4. What individuals and/or organizations need to become more involved to help LGBTQ young people in foster care?
5. How do you think they could become more involved?
6. What could be done to improve school settings for LGBTQ young people in foster care?
7. What are the most important steps to address the needs of homeless and runaway LGBTQ young people?
8. What do you see as areas of expansion for programs and services for homeless and runaway LGBTQ young people?
9. What are the most important steps to support LGBTQ adults involved in foster care?
10. Estimate how many LGBTQ young people are in foster care, based on your experience.
11. Estimate the percentage of homeless or runaway young people who are LGBTQ, based on your experience?
12. What are the three most important items to report back to the entire group?

"Getting Down to Basics: Tools to Support LGBTQ Youth in Care"

http://data.lambdalegal.org/publications/downloads/gdtb_basic-facts-about-being-lgbtq.pdf

http://data.lambdalegal.org/publications/downloads/gdtb_information-for-lgbtq-youth-in-care.pdf

http://data.lambdalegal.org/publications/downloads/gdtb_attorneys-guardians-ad-litem-advocates.pdf

http://data.lambdalegal.org/publications/downloads/gdtb_working-with-transgender-youth.pdf

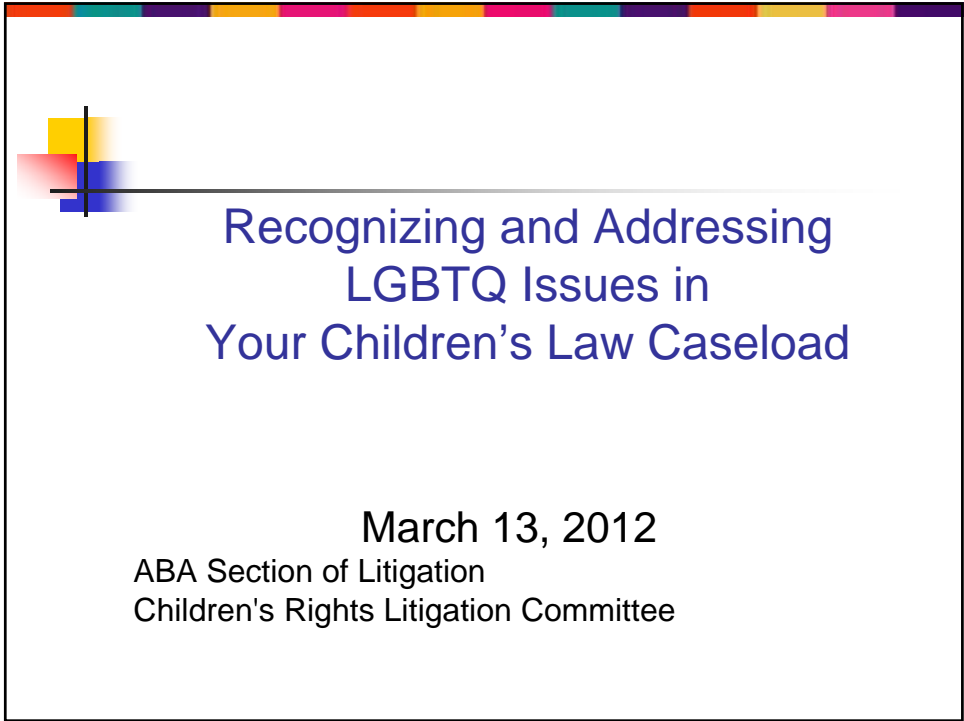
http://data.lambdalegal.org/publications/downloads/gdtb_keeping-lgbtq-youth-safe-in-juvenile-justice.pdf

http://data.lambdalegal.org/publications/downloads/gdtb_working-with-homeless-lgbtq-youth.pdf

http://data.lambdalegal.org/publications/downloads/gdtb_lgbtq-youth-resources.pdf

http://data.lambdalegal.org/publications/downloads/gdtb_lgbtq-youth-risk-data.pdf

The entire toolkit is available here: <http://lambdalegal.org/publications/getting-down-to-basics>



Recognizing and Addressing LGBTQ Issues in Your Children's Law Caseload

March 13, 2012
ABA Section of Litigation
Children's Rights Litigation Committee



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What does LGBTQ mean?

- **L**esbian – A woman (or a girl) who is attracted emotionally, physically, romantically, etc. to some other women (or girls)
- **G**ay – A man (or a boy) who is attracted emotionally, physically, romantically, etc., to some other men (or boys)
- **B**isexual – A person for whom gender is not the first criterion for attraction
- **T**ransgender – An umbrella term for people whose gender identity or expression does not match the cultural “norm” for their sex assigned at birth
- **Q**uestioning – The process by which people examine or consider their sexual orientation or gender identity



Ok, but what does it really mean?

- The acronym LGBTQ often leads to confusion between the concepts of sexual orientation, gender identity and gender expression



Core Concepts

- Sexual Orientation - Who you are attracted to emotionally, sexually, romantically, etc.
 - There are 4 *main* sexual orientations: Lesbian, Gay, Bisexual and Heterosexual (Straight)
- Gender Identity - A person's sense or experience of belonging to a particular gender category as a man (or boy) or a woman (or girl), and where a person feels they fit in society's man/woman structure
 - Cisgender – Gender identity or expression that aligns with the cultural "norm" for one's sex assigned at birth
 - Transgender – Gender identity or expression that does not align the cultural "norm" for one's sex assigned at birth
- Gender Expression - The culturally determined behaviors that are labeled as "masculine" or "feminine"



Breaking the Silence: LGBTQ Foster Youth Tell Their Stories

A video created by the
National Center on Lesbian Rights
in conjunction with the
Y.O.U.T.H Training Project of
San Francisco State's Bay Area Academy




Context

- Who are our LGBTQ youth in the child welfare system, in the juvenile justice system, and in the homeless population?
- How do LGBTQ youth enter these systems?
- What are the experiences of LGBTQ youth in these systems?




Who are LGBTQ youth in the foster care system?

- ❖ Estimated that more than 4-10% of youth in state care are LGBTQ *identified*
- ❖ 25-40% of homeless youth are LGBTQ
 - ❖ Half of gay or bisexual young men forced out of their homes because of sexual orientation engaged in prostitution to survive.
- ❖ High rates of substance abuse due to stigmatization
 - ❖ 60% of gay and bisexual young men are substance abusers, compared with less than 4% of youth population as a whole
- ❖ 30% of LGBTQ youth reported physical violence by family after coming out
- ❖ 80% of LGBTQ students reported verbal harassment at school (70% feel unsafe; 28% dropped out)
 - ❖ LGBTQ high school students three times more likely to report carrying a weapon to school.



Compared with peers reporting no or low levels of rejection, LGBTQ youth who experience high levels of family rejection during adolescence are:

- 8.4 times more likely to have attempted suicide
- 5.9 times more likely to report high levels of depression
- 3.4 times more likely to use illegal drugs
- 3.4 times more likely to report having engaged in unprotected sex



Experiences of LGBTQ youth in care

- ❖ Not allowed to participate in programming
- ❖ Told “you are going to hell”
- ❖ Not allowed to dress or groom as they prefer
- ❖ Gender identify is not respected
- ❖ 70% LGBT youth in group homes reported violence based on LGBTQ status
- ❖ 100% reported verbal harassment
- ❖ They hide their sexual orientation in fear of abuse
- ❖ 78% removed or ran away from placement because of hostility to LGBTQ status
 - ❖ Punished for expressing LGBTQ status



Affects All Youth

“Social worker identified me as gay at age 6. I didn’t even know what gay meant.” - Denver

- ❖ Affects ALL Youth
- ❖ 80% of youth harassed for being perceived as gay identify as heterosexual
 - ❖ 5 times more likely to attempt suicide
- ❖ 97% of students hear gay or gender slurs on a daily basis



Who are LGBTQ youth in the juvenile justice system?

- 15% of youth in detention have a lesbian, gay, or bisexual, sexual orientation or are gender non-conforming
- Results were distributed equally across race/ ethnicity.
- “Invisible youth”
 - Of these, *gender-conforming youth* made up the majority and girls were over-represented.*

*Irvine, Angela. *We've Had Three of Them: Addressing the Invisibility of Lesbian, Gay, Bisexual, and Gender Non-Conforming Youth In the Juvenile Justice System.* Columbia Journal of Gender and Law, Volume 19, 2010.

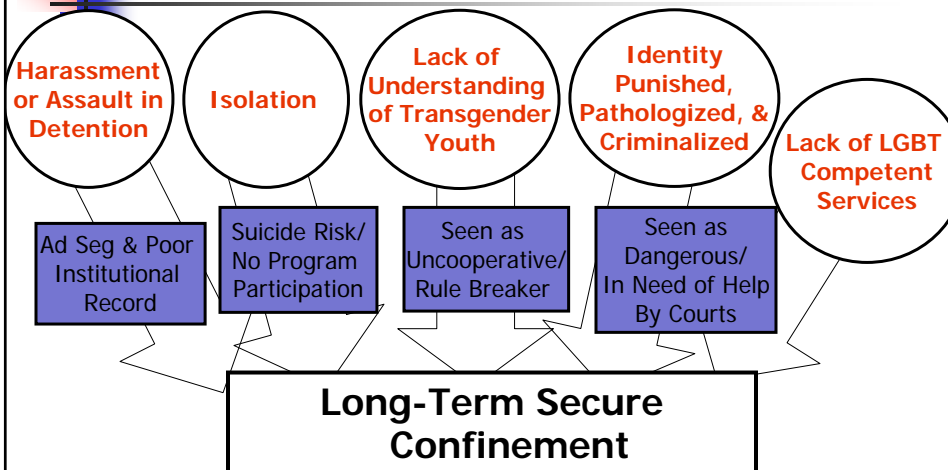
Who are LGBTQ youth in the juvenile justice system? (cont.)

- LGBT youth are *more* likely to be incarcerated for running from home and/ or placements, prostitution, and status offenses.
- Also more likely to commit violent offenses.*
- Lesbian, gay, and bisexual youth are 40% more likely to be arrested and *convicted* in juvenile and criminal court.**

*Ibid.

**Himmelstein and Brückner, *Criminal-Justice and School Sanctions Against Non-heterosexual Youth: A National Longitudinal Study*. Pediatrics, American Academy of Pediatrics, 2010.

What are some experiences of LGBTQ youth in the juvenile justice system?



Awareness: High Risk of Homelessness

LGBTQ youth are at high risk for homeless:



- Multiple research studies indicate that LGBTQ youth comprise 20-25% of the homeless youth population as a conservative estimate;
- This estimate may be higher for youth experiencing long-term homelessness in metropolitan areas;
- Each year about 240,000 to 400,000 LGBTQ youth experience at least one night of homelessness in America.
- LGBTQ homeless youth run away more frequently and are exposed to greater victimization while on the streets than their heterosexual peers

Pathways into Homelessness



- Family abuse and neglect
- Family conflict
- Domestic Violence
- Rejection or abandonment
- Delinquent behavior – failure to follow rules
- Parental addiction issues – alcohol/drugs
- Poverty
- Overcrowded, substandard housing



LGBTQ Homeless Youth are often victimized by sexual exploitation.

Sexual exploitation includes involvement in commercial sexual exploitation, prostitution, stripping, pornography, trading sex for basic needs as adolescents.

- LGBTQ homeless youth experience an average of 7.4 more acts of sexual violence than their heterosexual peers.
- LGBTQ homeless youth are solicited to exchange sex for money, food, drugs, shelter, and clothing more often than heterosexual homeless youth.



LGBTQ homeless youth often have high rates of mental health disabilities



- A study of lesbian and gay homeless youth found that lesbians were more likely to experience post-traumatic stress syndrome, conduct disorder, and alcohol and substance abuse than heterosexual homeless young women.
- Gay homeless males are more likely to meet criteria for major depressive episodes.
- LGB homeless youth are also more likely to attempt suicide (62 percent) than their heterosexual homeless peers (29 percent). Another risk is exposure to sexual abuse and exploitation.
- Finally, LGBTQ homeless youth may be at greater risk for drug abuse. One study has noted that amphetamine and injection drug use is more prevalent with LGBTQ youth than their straight peers.

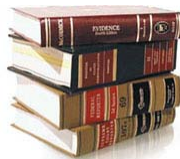


Unmet Legal Needs of Unaccompanied Homeless LGBTQ Youth:


- Dependency
- Paternity
- Custody
- Education
- Disability
- Homelessness
- Immigration
- Emancipation
- Foster Care
- Status Offender
- Truancy
- Access to Benefits
- Guardianship
- Employment
- Runaway
- Civil Rights
- Criminal Law



Complications to Legal Rights Special Legal Status of Youth



- **Quasi Standing** Under Constitutional Rights
- **Legal and Physical Custody** rights of parents - Under care, custody, and control by Parents
- **Wards** of States, under *Parens Patriae* Doctrine
- **Emancipation** – more theory than practice – common law definition



Nuts and Bolts: Attorneys Advocating for LGBTQ Youth

- Advocacy Tips
- Models
- Resources
- Faculty Contacts



Ground Yourself

- ❖ **Acknowledge your own perceptions of gender and orientation and how they may affect your language, behavior, and advocacy**
- ❖ Competent advocates know the developmental needs of all young people, including sexual and gender identity development
- ❖ Approach all young people as though any of them could be LGBTQ. Keep in mind they may also have LGBTQ parents/ guardians. Be inclusive in your language.
- ❖ Don't assume that a client's LGBTQ-identity led to their court-involvement. Be mindful that LGBTQ youth have multiple issues in their lives, just like all of our young clients.



Relationship Building

- ❖ **Use gender neutral language when talking with youth**
 - ❖ Ex. Ask about the youth's "partners" or "important relationships" in the youth's life, romantic and otherwise.
- ❖ Use the youth's name and pronoun of choice and encourage the youth to dress as he or she wishes regardless of gender identity
 - ❖ **There are no laws preventing use of "nicknames" or names of choice**
- ❖ Visit your clients in their placements including in LGBTQ group homes or get to know their friends



Relationship Building

- ❖ Do not prematurely "out" your client
 - ❖ Offer suggestions for disclosing LGBTQ identity
- ❖ **Avoid assumptions based on gender and orientation about extra curricular activities, sports, and school clubs**
- ❖ Avoid labeling youth because of unisex clothing, hairstyles or androgynous appearance



Advocating for LGBTQ Youth System Wide

- ❖ Whenever possible, make a practice of referring to agencies that are LGBTQ-affirming for all of your clients. Safe and welcoming environments are good for all youth.
- ❖ Be a visible and “out” advocate/ ally for LGBTQ youth- even if you don’t think you have any LGBTQ clients and even when it is unpopular to do so.
- ❖ Work with existing agencies that are already doing good work with court-involved youth and encourage them to adopt LGBTQ policies if they haven’t already.
- ❖ Turn to resources in the client’s community- not just resources in the LGBTQ community. *Often, the best resources for LGBTQ youth are in their own backyards.*



Advocacy Post-Disposition

- ❖ If attorneys can’t visit clients in secure care, group homes, or detention facilities, find someone who can act on your behalf. Utilize interns, investigators, and advocates. Call your local Protection & Advocacy group if your client has a disability. Develop relationships with non-profit law agencies and juvenile justice reform advocates whenever possible.
- ❖ Send legal mail and accept phone calls from facilities.
- ❖ Ensure your client is brought back into court regularly to assess their progress and advocate for lesser secure settings.



Advocating for Safe Placements

- ❖ Ask if the placement has experience with LGBTQ youth
- ❖ **Ask if there is a formal anti-discrimination (based on sexual orientation and gender identity) policy**
- ❖ Understand that placements where youth are harassed based on LGBTQ identity or gender non-conformity ***are not safe***.
 - ❖ Speak up if you know the placement is intolerant, even if you go against the recommendation of the child welfare agency.
- ❖ **Judges can make “no reasonable efforts” findings if the young person is not in a safe, affirming placement.**
- ❖ Advocate for the youth’s preference in attending/not attending faith services.



Advocating for Healthcare and Competent Service provision

- ❖ **Understand that LGBTQ youth are not mentally ill**
 - ❖ Ensure that if your client is in therapy (individual or family) that the therapist has experience with LGBTQ youth
 - ❖ Avoid conversion or reparative therapies
- ❖ **Understand and advocate for safe and healthy services for transgender youth**
 - ❖ Research laws and policies that protect transgender youth and check with insurance providers to determine what coverage may be available to transgender youth.
- ❖ **Identify LGBT competent community service providers in your area**
 - ❖ Contact local LGBT centers and community resources for additional support
 - ❖ Visit GLMA (Gay & Lesbian Medical Association)



Advocating for Safe School Environments

- ❖ Know and challenge school policies that do not prohibit discrimination based on sexual orientation/gender identity.
 - ❖ Bullying triggers legal responsibilities
- ❖ **Work with schools to identify appropriate facilities for transgender youth.**
- ❖ Advocate for clients to be able to express themselves through speech, dress, and activities (right to be “out”)
- ❖ **Suggest the development of recreational programs and opportunities for social interaction for LGBTQ youth (GSA)**
- ❖ Avoid assumptions based on gender about extra curricular activities such as sports or school clubs



Advocating for Family Building

- ❖ Federal law requires agencies to try to place siblings together unless it is not in their best interests
- ❖ **Right to reasonable efforts to facilitate sibling visitation**
- ❖ Locate service providers and community resources that provide support for families with LGBTQ youth
 - ❖ Like PFLAG, Family Acceptance Project
- ❖ **Work with birth families to accept their children back in their homes**
 - ❖ Advocate for therapeutic intervention that supports families understanding LGBTQ youth's experiences
 - ❖ Identify resources available to share with LGBTQ youth & their families

Scenarios – Lawyers helping homeless youth

- Youth displaced from parents home finds representation to file an independent child protection petition to receive services;
- Youth thrown out by mother is offered representation to change child support payments to a third party guardian;
- Youth denied shelter bed (on former expulsion list) given appeal and mediation
- Transgender youth denied services due to licensure of sex-assigned bed spaces - discrimination complaint;
- Homeless youth offered assistance in finding new guardian through a written delegation by parent.
- Public assistance benefits



Options for Homeless LGBTQ Youth



LGBTQ Homeless Youth may have options for housing stability that avoid court interaction:

- Many state common laws recognize a ***right of minors to contract for basic necessities*** (minors in some states can sign a lease and be responsible – but you can't force a landlord to rent to a minor – its just a right)
- Some states allow for a ***delegation of custody*** from the partner to a third party person (relative, friend) who can retain physical and legal custody of the minor



Equity Project

The Equity Project is an initiative to ensure that lesbian, gay, bisexual and transgender (LGBT) youth in juvenile delinquency courts are treated with dignity, respect, and fairness. The Equity Project examines issues that impact LGBT youth during the entire delinquency process, ranging from arrest through post-disposition.

Core activities of the Equity Project:

- ❖ Gathering information from stakeholders about LGBT youth in juvenile delinquency courts
- ❖ Identifying obstacles to fair treatment
- ❖ Reporting findings
- ❖ Crafting recommendations for juvenile justice professionals



ABA Opening Doors Project

A Project of the ABA's Center on Children and the Law, Opening Doors started 6 years ago to provide the legal and child welfare community tools, resources and support for improving outcomes for LGBTQ young people in foster care.

http://www.americanbar.org/groups/child_law/projects_initiatives/openingdoors.html



Who is **BREAK** ?

BreakOUT! is building the power of LGBTQ youth who are directly impacted by the juvenile justice system or criminal justice system in New Orleans, LA.

In just under a year, we have:

- Helped implement a model LGBTQ policy at the New Orleans juvenile detention center along with our fiscal sponsor the *Juvenile Justice Project of Louisiana*
- Worked with the Department of Justice to deliver PREA testimony regarding the experiences of LGBTQ youth in Orleans Parish Prison
- Been featured in a video for the Office of Victims of Crimes about LGBTQ youth experiences in secure care and adult jails in Louisiana
- Developed a video for the New Orleans Police Department, titled "We Deserve Better" which is used in law enforcement training
- Conducted weekly workshops with youth members, "Healing Justice" programs, and more!

www.youthbreakout.org



Illinois Court Involved LGBTQ Youth Task Force

The Court Involved LGBTQ Youth Task Force Court Task Force works to meet the needs of lesbian, gay, bisexual, transgender, and/or gender non-conforming youth in the Cook County and Illinois juvenile justice system through the coordinated implementation of competent, relevant policy and training across the system in furtherance of creating and sustaining a system that supports all youth.

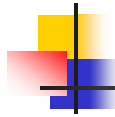
Since 2011, the Task Force has:

- ❖ Developed policies for detention and probation
- ❖ Developed a Court Involved LGBTQ Youth 101 training and piloted it with line staff and supervisors in detention, the inaugural class of Aftercare Specialists in the Department of Juvenile Justice, staff at the Illinois Youth Centers at Kewanee and Warrenville
- ❖ Advocated that issues of sexual orientation, gender identity, and gender expression be integrated throughout existing policy and trainings



Resources for attorneys

- ABA Center on Children and the Law
www.abanet.org/child
- ABA Commission on Homelessness and Poverty
www.abanet.org/homeless
- ABA Commission on Youth at Risk
www.abanet.org/youthatrisk
- National Alliance to End Homelessness
www.endhomelessness.org
- National Law Center for Homelessness and Poverty
www.nlchp.org
- National Association of the Education of Homeless Children and Youth
www.naehcy.org



Resources for Attorneys

National Center for Lesbian Rights

http://www.nclrights.org/site/PageServer?pagename=issue_youth_docs
[Downloads](#)

- Hidden Injustice: LGBT Youth in Juvenile Courts
- A Place of Respect: A Guide for Group Care Facilities Serving Transgender and Gender Non-conforming Youth
- In Defense of LGBT Youth: Strategies to Help Juvenile Defenders Zealously Advocate for their LGBT Clients
- National Recommended Best Practices for Serving LGBT Homeless Youth
- Child Welfare League of America (CWLA) Best Practice Guidelines: Serving LGBT Youth in Out-of-Home Care
- The Model Standards Project: Creating Inclusive Systems for LGBT Youth in Out-of-Home Care
- Breaking the Silence: LGBTQ Foster Youth Tell Their Stories: DVD and Resource CD



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