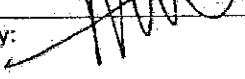


**Promoting a Safe and Respectful Environment for Lesbian, Gay, Bisexual, Transgender
and Questioning (LGBTQ) Youth and their Families Involved in the Child Welfare, Detention
and Juvenile Justice System**

Approved By:  Ronald E. Richter, Commissioner	Date Issued: 11/21/12	Number of Pages: 29	Number of Appendices: 5
Related Laws: N/A	Children's Services Divisions/Provider Agency: Children's Services Divisions of Child Protection; Family Support Services; Family Permanency Services; Youth and Family Justice; and Provider Agency Staff	Contact Office/Unit: For additional information on this policy please contact LGBTQ@dfa.state.ny.us	
Supporting Statutes and Regulations: <ul style="list-style-type: none"> • Foster Care - SSL 372, 373-a, 409-e, 409-f; 18 NYCRR 357.3, 430.12; • Preventive Services - SSL 409-a, 409-e, 409-f, 18 NYCRR 423.7 • CPS - SSL 422(4), (5), (6), (7); 422-a, and 424(4), (5); 18 NYCRR; • Adoption - DRL 114; SSL 373-a; 18 NYCRR 357.3, 421.2 (d), 421.18 • HIV- Public Health Law Article 27; • Domestic Violence - SSL 459-g; 18 NYCRR 452.10 	Supporting Standards: ACS Foster Care Quality Assurance Standards 2011		
Bulletins & Directives: <ul style="list-style-type: none"> • OCFS PPM 3442.00 entitled <i>Lesbian Gay Bisexual and Transgender Youth</i> dated 3/17/08; • 09-OCFS-INF-06 entitled <i>Promoting a Safe and Respectful Environment for Lesbian, Gay, Bisexual, Transgender, and Questioning Children and Youth in Out-of-Home Placement</i>, dated 12/30/09. 	Related Policies: <ul style="list-style-type: none"> • <i>Provision of Non-Medicaid Reimbursable Treatment or Services for Youth in Foster Care</i> – Policy 2010/04 dated 6/7/10; • Policy # 2011/02 entitled <i>Flexibility in Sleeping Arrangement Requirements for Sibling Foster Care Placements</i>; • <i>ACS Non-Discrimination – Youth and Families Policy # 2008/05</i>; • DJJ Operations Order # 06/03 entitled <i>Resident Personal Property and Grooming Paraphernalia</i>; DYFJ Directive # 17.1 entitled <i>Continuity of Care Policy and Procedures</i> • Children's Services Case Record Management Information Sharing Guidelines Guidance 	Supersedes: This policy incorporates language from the following documents and hereby renders them obsolete: <ul style="list-style-type: none"> • Division of Child Protection Policy entitled <i>Assessing Safety of LGBTQ Children and Youth</i> dated 5/22/2009; • <i>Promoting a Safe and Respectable Environment for Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and their Families Involved in the Child Welfare System Policy #2011/05</i> dated 7/27/2011; and • <i>Guidelines for Promoting a Safe and Respectable Environment for Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and their Families Involved with DYFJ Directive #01-</i> 	

	2009/04; • <i>Sharing Child Case Record Information between Children's Services, Foster Care and Preventive Provider Agencies – Guidance 2008/01</i>	2011 dated 7/27/2011.
Related Forms/Links/Sources: <ul style="list-style-type: none"> • FSS-009- ACS LGBTQ Senior Advisor Form • DYFJ- Resident Request for Ombudsman Services Form • http://10.239.3.195:8080/docushare/dsweb/Get/Document-137906/ACS LGBTQ Youth Community Resource Guide - August 2010.pdf • Caitlin Ryan's Family Acceptance Project • http://www.wpath.org/publications_standards.cfm • http://www.endo-society.org/guidelines/final/upload/Endocrine-Treatment-of-Transsexual-Persons.pdf • Teen SENSE Model Policies and Standards • GLAAD Media Reference Guide: http://www.glaad.org/reference/lgb; and http://www.glaad.org/reference/transgender 		
SUMMARY: Children's Services is committed to providing all youth ¹ and families served by Children's Services and our contracted provider agencies a safe, healthy, inclusive, affirming and discrimination-free environment. This includes any child, youth or family member receiving services from Children's Services Protective, Preventive, Foster Care, Juvenile Justice Placement, Detention, or Alternative to Detention (ATD) and Alternative to Placement (ATP) settings; who self-identifies as or is perceived to be lesbian, gay, bisexual, transgender and questioning (LGBTQ). This LGBTQ policy provides best practice guidelines to both Children's Services and provider agency staff on sensitive, respectful and culturally competent practice as well as strategies to address bias and meet the unique needs of youth and their families.		
SCOPE: This Policy applies to all Children's Services staff, as well as provider agency staff responsible for providing services to youth and families within the purview of Children's Services. ² The provision of services within Children's Services' facilities and programs shall be based on professional standards as found in the New York State Office of Children and Family Services (OCFS) Guidelines for Good Childcare Practices with Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth, ³ and the OCFS policy entitled <i>Promoting a Safe and Respectful Environment for Lesbian, Gay, Bisexual, Transgender, and Questioning Children and Youth in Out-of-Home Placement</i> (09-OCFS-INF-06, 12/30/09). Additionally, this policy incorporates language from the Division of Child Protection Policy entitled <i>Assessing Safety of LGBTQ Children and Youth</i> , 5/22/2009; <i>Promoting a Safe and Respectable Environment for Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and their Families Involved in the Child Welfare System</i> , 7/27/2011; and <i>Guidelines for Promoting a Safe and Respectable Environment for Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and their Families Involved with DYFJ Directive 01-2011</i> , 7/27/11. All three policies are hereby rendered obsolete.		

¹For the purpose of this policy all references to "youth" and/or "children" will apply to youth/children receiving custodial and/or community-based services from Children's Services, including children and youth receiving any and all child protective and preventive services, youth in alternative-to-detention/placement programs, youth in foster care placements, youth in juvenile justice placement, and youth in detention facilities.

² All references to staff in this policy include volunteer staff where applicable.

³ These guidelines are listed in the OCFS PPM 3442.00 entitled *Lesbian Gay Bisexual and Transgender and Questioning Youth*, dated 3/17/08.

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I. General Information About The Term "LGBTQ"

A. Definitions⁴

LGBTQ⁵ is an acronym commonly used to refer to lesbian, gay, bisexual, transgender, and questioning individuals. In order to ensure the broadest levels of protection under this policy, LGBTQ youth shall include youth who have self-identified or are perceived by others as LGBTQ. The following is an explanation of each of the terms used to define LGBTQ:

1. Lesbian - refers to a woman who is emotionally, romantically, and/or physically attracted to other women. Some lesbians may prefer to identify as gay to describe themselves or as gay women.
2. Gay - refers to a person who is emotionally, romantically, and/or physically attracted to people of the same gender. Sometimes, it may be used to refer to gay men and boys only. It is preferred over the term "homosexual," which is an outdated term considered derogatory and offensive to many LGBTQ people.
3. Bisexual - refers to a person who is emotionally, romantically, and/or physically attracted to men and women. Bisexual people do not need to have had sexual experiences with both men and women; in fact, they do not need to have had any sexual experience at all to identify as bisexual.
4. Transgender - may be used as an umbrella term to include all persons whose gender identity or gender expression does not correspond with their sex assigned at birth. For purposes of protection from discrimination and harassment, transgender refers to both self-identified transgender individuals and individuals perceived as transgender without regard to whether they qualify for a diagnosis of Gender Identity Disorder.
5. Questioning - refers to a person, often an adolescent, who is exploring or questioning issues of sexual orientation or gender identity or expression in his or her life. Some questioning people will ultimately identify as lesbian, gay, bisexual and/or transgender; others will ultimately self-identify as straight and/or non-transgender.

B. Sexual Orientation vs. Gender Identity

Sexual orientation and gender identity are two different constructs because sexual orientation is separate from gender identity. If someone identifies as

⁴ A more comprehensive definition section is included in Attachment A: Glossary of Terms.

⁵ For some youth the Q can represent "queer" and at times is used interchangeably with "Questioning."

transgender he/she may also identify his/her sexual orientation as straight, gay, lesbian, or bisexual. Youth may also identify differently on different days, as they continue to develop their identities. It is important for staff to understand that children and adults whose identity is fluid may be exploring their identity and/or may simply be expressing their sexual orientation or gender identity. Please refer to Attachment A for a glossary of other LGBTQ related terms.

II. General Policy

A. Applicability of General Requirements and Guidelines

It is ACS policy that all LGBTQ youth shall be in LGBTQ-affirming homes and LGBTQ-affirming congregate facilities. The following requirements and guidelines apply to all Children's Services and contracted provider agency staff involved in any way with custodial and/or community-based services provided directly by Children's Services staff or under contract with Children's Services, including child protective and preventive services, alternative-to-detention/placement programs, foster care, congregate care, juvenile justice placements, and detention facilities.

B. Non-Discrimination

Children's Services is committed to being respectful of the dignity of all youth and families, and to keeping children and youth (hereinafter referred to as "youth") safe while meeting their unique needs, regardless of their sexual orientation, gender identity and/or gender expression. No Children's Services or provider agency staff shall unlawfully discriminate against other persons in the course of their work. The Children's Services policy entitled *Non-Discrimination - Youth and Families Guidance 2008/05 (6/20/08)* prohibits discrimination on the basis of race, ethnicity, creed, color, age, sex, national origin, religion, marital status or partnership, mental or physical disability, gender identity, gender expression, sexual orientation, veteran status, alienage and citizenship status.

C. Coercion and Imposition of Beliefs

1. Under no circumstance is any staff member of Children's Services or its provider agencies to attempt to convince an LGBTQ youth to reject or modify his/her sexual orientation or gender identity. Medical and mental health professional organizations, including the National Association of Social Workers, the American Psychiatric Association, the American Academy of Pediatrics, the American Medical Association, and the American School Counselor Association strongly condemn any attempt to "correct" or change youths' sexual orientation or gender identity through corrective or reparative therapy. Additionally, staff are prohibited from attempting to convince or coerce an LGBTQ youth to disclose or reveal his/her sexual orientation or gender identity only out of

curiosity, or for any other reason not listed as permissible in the section below entitled, "*Disclosure by youth and/or family members*" [see Section II (H)].

2. Children's Services and provider agency staff are prohibited from imposing their personal, organizational and/or religious beliefs on all families, including LGBTQ youth or families. Personal beliefs of Children's Services and provider agency staff shall not under any circumstances impact the way individual needs of youth or families are met.
3. Children's Services and provider agency staff are prohibited from employing, contracting with, or making referrals to, mental health providers and/or other service providers who attempt to change a youth's sexual orientation or gender identity. (Attachment C provides a list of recommended LGBTQ affirming providers).

D. Staff Conduct

1. Children's Services and provider agency staff must model appropriate and affirming behavior at all times. This means that bias, discrimination, bullying or harassment by staff or by youth towards youth and/or families is not tolerated, and immediate action to intervene in any such situations must be taken by staff. Children's Services and provider agency staff are obligated to report staff conduct that violates the Non-Discrimination Policy and/or this policy. If an issue arises, the staff member must confer with his/her supervisor and, if unresolved, contact the Children's Services LGBTQ Senior Advisor. (See section on *Expectations for the ACS LGBTQ Senior Advisor* for additional information).

E. Addressing Incidents

1. Supervisory and management staff must treat all incidents of discrimination and harassment as serious and follow up promptly. In accordance with Children's Services' policy and procedures, alleged violations of this policy by staff or youth will be investigated promptly and, if determined to have occurred, will result in the enforcement of corrective and/or disciplinary action.

F. Guidelines for Staff Interaction with Youth

1. Safety and security, as well as good childcare practices, remain paramount for all youth in care. Children's Services and provider agency staff shall establish and maintain a culture where the dignity of every youth is respected and all youth feel safe. All youth, regardless of gender identity, gender expression, and/or sexual orientation, need to feel safe in their surroundings in order for positive programming and outcomes to occur.

- a. Policies must be established and enforced to promote dignity and respect for all youth and families regardless of their gender identity, gender expression, sexual orientation, or family association.
- b. All Children's Services and provider agency staff must promote the positive adolescent development of all youth by demonstrating respect for all youth, reinforcing respect for differences among youth, encouraging the development of healthy self-esteem in youth, and helping youth manage the stigma often associated with difference.
- c. Staff must not over-emphasize or focus specifically on gender identity, gender expression, and sexual orientation issues with youth.
- d. Staff must set a good example and make youth and families aware that any anti-LGBTQ threats of violence, and/or disrespectful, suggestive comments or gestures towards any youth will not be tolerated. Staff also shall not engage in these behaviors.
- e. Staff shall be aware that the psychosocial stress associated with explicit and implicit homophobia, heterosexism, and transphobia, and the stigma associated with being LGBTQ youth, may contribute to depression and anxiety, increased suicide risk, substance use, and truancy or dropping out of school.
- f. Staff must be familiar with the unique family dynamics that emerge for LGBTQ youth in general, and LGBTQ youth involved with the child welfare and/or juvenile justice systems in particular, and recognize that many LGBTQ youth involved in the juvenile justice system have child welfare histories that precede or have resulted from recognition of sexual orientation and/or gender identity by self and others. All staff must recognize that family responses to youth sexual orientation and/or gender identity may vary widely and interact with other aspects of youth and families' identities including race, class, gender, citizenship, etc.
- g. All staff must be aware that many LGBTQ youth, particularly those involved with the child welfare and/or juvenile justice systems, have had experiences of trauma (e.g. violence, sexual abuse, verbal harassment, etc.) related to their sexual orientation and/or gender identity and should receive ongoing clinical training specific to these unique forms of trauma. Staff must also be aware that LGBTQ youth are particularly susceptible to trauma, discrimination and abuse, especially within congregate care facilities. Staff must be able to recognize signs of distress, support disclosure when appropriate, and follow appropriate protocols for reporting.

G. LGBTQ Identities, Language and Terminology

1. All individuals have their own preferences for how they describe themselves, which often evolve over time. All Children's Services and provider agency staff are required to use respectful, inclusive, and gender-neutral language. Examples of such language include, but are not limited to: lesbian, gay, bisexual, transgender, gender non-conforming, sexual orientation, gender identity, "involved with someone," and "partner."
2. Staff are prohibited from using value-laden and outdated terms, including but not limited to: "homo," "homosexual," "sexual preference," "alternative lifestyle," "trannie," "transvestite," and "sex change."
3. Since some terms may be acceptable and/or preferable to one person and offensive to another, staff must reflect/mirror the language and terminology employed by that youth or family member (when appropriate) during one-on-one interaction. Staff must help all youth and family members use language that is respectful to all parties. (For an explanation of LGBTQ-related terms, see the *Glossary of Terms* - Attachment A).

H. Confidentiality

1. LGBTQ youth face great risk of abuse when their sexual orientation and/or gender identity are disclosed to a parent or primary caretaker, particularly when the disclosure occurs without the youth's consent and/or in an inappropriate manner.⁶ As such, the following proscriptions concerning confidentiality and disclosure – which govern all information obtained by staff in the course of their work with all youth and families – must be followed carefully when staff are working with LGBTQ youth.
2. CONNECTIONS has safeguards incorporated into its design to support the confidentiality of the individual and family case record. Federal statutes and numerous sections of the Social Services Law (SSL), the Public Health Law (PHL) and the New York Codes, Rules and Regulations (NYCRR) address the issue of confidentiality.⁷

⁶ This often includes, but is not limited to, serious physical harm, homelessness, substance abuse and mental health conditions such as depression.

⁷ E.g. Foster Care - SSL 372, 373-a, 409-e, 409-f; 18 NYCRR 357.3, 430.12; Preventive Services - SSL 409-a, 409-e, 409-f; 18 NYCRR 423.7; CPS - SSL 422(4), (5), (6), (7); 422-a, and 424(4), (5); 18 NYCRR; Adoption - DRL 114; SSL 373-a; 18 NYCRR 357.3, 421.2 (d), 421.18; HIV - Public Health Law Article 27-F; 18 NYCRR 421.2 (d), 431.7; Domestic Violence - SSL 459-g; 18 NYCRR 452.10.

3. All staff are required to protect and/or maintain the confidentiality of the families they serve.
4. ACS and provider agency staff shall inform youth during engagement of services and when age-appropriate of the need for their case record information to be shared with other legally authorized individuals, including but not limited to, the courts, school, medical services, agency staff, and all other legally authorized persons. These people/entities may be provided with specific information, pursuant to state and federal laws governing confidentiality, so they may fulfill their responsibilities; adequately provide services; and plan for the health, safety, permanency and well-being of youth and their families.
5. Staff are prohibited from disclosing a youth's sexual orientation or gender identity to other individuals or agencies, without the youth's permission, unless such disclosure is consistent with state or federal law or regulation.⁸ Some examples of permissible disclosure include: if the information is necessary to determine safety or if a judge orders the disclosure.

I. Disclosure by Youth and/or Family Members

1. A person may disclose his/her sexual orientation and/or gender identity to staff when, and if, he/she feels ready. Usually, youth and/or family members will disclose in a safe, trusting environment. If a youth or family member discloses that he or she is LGBTQ, staff must speak with him or her about it utilizing appropriate, inclusive and gender-neutral language. Staff must also speak to the youth about circumstances in which the staff member may be required to disclose the LGBTQ status of the youth and whether there may be circumstances where the staff member will ask the youth for permission to disclose his/her sexual orientation and/or gender identity.
2. There are some circumstances when it is appropriate for staff to try affirmatively to provide an opportunity for youth to disclose that they are LGBTQ. Often, this will be raised when discussing the need for residential and/or foster care placement options and medical and/or community supports. This information may also prove relevant to decisions regarding educational services, the PINS and delinquency diversion processes, disposition, reunification and placement. If the staff member is unsure about how best to raise these issues with a youth and/or family member, the staff member must contact for guidance the ACS LGBTQ Senior Advisor. Provider agency staff may also reach out to their supervisors and/or their agency's LGBTQ Point Person (see Section III[L] beginning on page 26 for guidance).

⁸ See 05-OCFS-ADM-02 relating to confidentiality of records.