



**Administrative Policies and Procedures: 20.20**

<b>Subject:</b>	<b>Guidelines for Managing Children/Youth in DCS Custody Related to Sexual Orientation, Gender Identity and Expression</b>
<b>Authority:</b>	37-5-105 (3); 37-5-106; Prison Rape Elimination Act of 2003 ( <b>PREA</b> , P.L. 108-79); The Fourteenth Amendment (Amendment XIV), Preventing Sex Trafficking and Strengthening Families Act of 2014 (HR 4980).
<b>Standards:</b>	<b>DCS Practice Standard:</b> 8-306; <b>PREA</b> Standards.
<b>Application:</b>	To All Department of Children's Services Employees and Contract Agency Employees
<b>Policy Statement:</b>	
DCS is committed to providing all youth and families served a safe, healthy, inclusive, and affirming environment. ALL DCS employees and persons are prohibited from discrimination on the basis of race, ethnicity, creed, color, age, sex, national origin, religion, mental or physical disability, gender identity, gender expression, sexual orientation, and alien/citizenship status. DCS shall provide services to all children/youth to ensure safety and well-being, to promote dignity and respect for all children/youth and families inclusive of their gender identity, gender expression, and sexual orientation, and to protect their civil rights consistent with State and Federal laws including youth who identify as lesbian, gay, bisexual, transgender, and intersex.	
<b>Purpose:</b>	
To provide guidelines and operational practices for employees and providers who work with LGBTI children/youth to ensure appropriate and equal treatment is provided to protect the safety and well-being of all children/youth in their care.	
<b>Procedures:</b>	
<b>A. Assessment of LGBTI children/youth</b>	<ol style="list-style-type: none"> <li>1. Intake screenings (<b>CS-0946, Assessment, Checklist and Protocol for Behavior and Risk for Victimization</b> and <b>CS-0727, Initial Intake, Placement and Well-Being Information and History</b>) and other assessments, as applicable, will be used to make inquiries about sexual activity, sexual orientation, gender identity and gender expression to determine appropriate services to meet the unique needs of LGBTI children/youth placed in resource homes, a Youth Development Center (YDC) or contracted facilities.</li> <li>2. Transgender or intersex youth will not be searched or physically examined for the sole purpose of determining genital status. If the child/youth's genital status is unknown, this information may be determined through an interview, review of medical records or as part of the child/youth's medical check-up with a medical practitioner.</li> </ol>

<p><b>B. Placement of LGBTI children/youth</b></p>	<ol style="list-style-type: none"> <li>1. DCS will use all pertinent information gathered during the assessment process and subsequently, including the child/youth's stated preference to make housing, bed, program, education and work assignments for youth with the goal of keeping all residents safe and free from sexual abuse, physical abuse, psychological harm and harassment, and whether the placement would present management or security problems.</li> <li>2. With respect to his or her own safety, a LGBTI child/youth's own views will be given serious consideration</li> <li>3. Transgender youth shall not automatically be placed according to their birth sex. DCS, contract providers (as applicable) and other professionals working with the youth will discuss the placement needs in an internal discussion to determine what placement is the best interest placement based on the needs of the youth and available placement options. The most appropriate placement should be based on the child/youth's gender identity taking into consideration any management or security barriers associated with the proposed placement. Each placement shall be made on an individualized basis to best meet the needs of the child/youth.</li> <li>4. Youth must not be prohibited from having a roommate based on a youth's actual or perceived sexual orientation. If a youth is fearful of rooming with another person, he or she will be provided a single room, if available. This assignment will be made in accordance with classification procedure and facility safety and security needs.</li> <li>5. Transgender youth must be given the opportunity to shower separately from other youth and they must be provided safety and privacy when dressing and undressing and using the bathroom.</li> <li>6. Placement and programming assignments for transgender or intersex child/youth will be reassessed at least twice each year to review any threats to safety experienced by the child/youth and appropriateness of services.</li> <li>7. LGBTI youth must not be placed in isolation or segregation as a means of keeping them safe from discrimination, harassment, or abuse.</li> <li>8. LGBTI youth shall not be treated or classified as sex offenders unless required by a court regardless of actual or perceived sexual orientation, gender identity and/or gender expression.</li> </ol>
<p><b>C. Names, Language and Presentation</b></p>	<ol style="list-style-type: none"> <li>1. When working with youth, employees, volunteers, and contractors must use respectful language and terminology that does not further stereotypes about LGBTI people.</li> <li>2. In the course of their work, employees, volunteers, and contractors must not refer to youth by using derogatory language in a manner that conveys bias towards or hatred of LGBTI people. In particular, employees, volunteers or contractors must not imply to or tell LGBTI youth that they are abnormal, deviant, or sinful, or that they can or should change their sexual orientation or gender identity.</li> </ol>

	<p>3. DCS and provider staff are prohibited from disclosing a youth’s sexual orientation or gender identity to other individuals or agencies, without the child/youth’s permission unless such disclosure is consistent with State or Federal laws or regulations.</p> <p>4. Transgender youth must be referred to by their preferred names and the pronoun that reflects the youth’s gender identity. The youth does not have to legally change their name. All written documentation should utilize the youth’s preferred names as well as their legal name recognized by the court.</p> <p>5. Youth must be allowed to dress and present themselves in a manner consistent with their gender identity. Grooming rules and restrictions including hair, make-up, shaving, etc., must be the same for both male and female units. Dress should be consistent with appropriate placement dress code requirements for congregate care settings.</p> <p>Note: Youth placed in a YDC are required to wear uniforms.</p>
<p><b>D. Medical and Mental Health Care</b></p>	<p>1. All LGBTI youth must be provided with access to medical and mental health providers who are knowledgeable about the health care needs of this population. These providers should facilitate exploration of any LGBTI issues by being open, non-judgmental and empathetic, and will not participate in corrective or conversion therapy.</p> <p>2. If a transgender youth is receiving transgender-related medical care (both formal and non-formal), such as hormone therapy or supportive counseling, medical staff must consult with the youth’s medical providers and must continue to provide treatment.</p> <p>3. LGBTI youth must not participate in sex offender treatment or counseling unless ordered by the court or deemed appropriate through assessments.</p>
<p><b>E. Searches of LGBTI Youth</b></p>	<p>1. LGBTI youth must not be physically searched in a manner that is humiliating or degrading.</p> <p>2. Transgender youth may request that either male or female staff member conduct a search. Accommodation for this request should be given serious consideration with maintaining the security of the facility. Searches conducted by a person of the opposite sex should be documented, including the reason for utilizing staff of the opposite sex.</p>
<p><b>F. Participation in Activities</b></p>	<p>LGBTI children and youth must be given the opportunity to participate in extracurricular, cultural, enrichment, and social activities with their identified peer groups and be supported in creating their own safe spaces. These activities can be community-based or self-designed. Activities should be developmentally appropriate and should promote the health, safety and best interest of the child/youth and they must be within the placement rules and guidelines.</p>

<p><b>G. Reporting abuse, sexual abuse, harassment, discrimination</b></p>	<p><b><u>Children/Youth</u></b></p> <ol style="list-style-type: none"> <li>1. Children/youth may report abuse or harassment when they legitimately and reasonably believe that he or she:             <ol style="list-style-type: none"> <li>a) Has been subjected to harassment or discrimination based on his or her actual or perceived membership in a protected category or based on his or her association with a person or group; and</li> <li>b) Has first-hand knowledge of what he or she legitimately and reasonably believes to be harassment or discrimination of another youth.</li> </ol> </li> <li>2. Reports may be in the form of verbal or written complaints of harassment or discrimination for themselves or another child/youth and can be made to any DCS employee, contract agency staff and volunteer or professional service provider.</li> <li>3. Any person who receives such a complaint must promptly, and in no case later than twenty-four (24) hours after receiving the complaint from the youth, report the complaint to a supervisor, agency director, Regional Administrator, or YDC Superintendent.</li> <li>4. Staff and educators will respond to any violence or abuse that an LGBTI child/youth experience at school. The FSW, contract agency staff or the Regional Educational Specialist will notify school officials if an LGBTI child/youth experiences discrimination or harassment. Staff may need to follow-up with the school to make sure the school responds appropriately to the incident to establish a safe and non-discriminatory environment. Incidents of school violence or abuse should be reported to the Regional Education Specialist for monitoring.</li> <li>5. Refer to DCS Policies <a href="#">24.5 DOE Youth Grievance Procedures</a>; <a href="#">1.10 Title VI Program and Complaint Process</a>; <a href="#">24.14 Title IX Program and Complaint Process</a> for additional information.</li> <li>6. Any complaints made regarding the subject of this policy will be kept confidential to the extent possible given the need to investigate, act on investigation results and monitor and compile reports about complaints. Complaints will be kept separate from any other individual files maintained on the child/youth.</li> </ol>
<p><b>H. Confidentiality, communication and information management</b></p>	<p>Information regarding sexual orientation or gender identity is very sensitive in nature and may have possible direct repercussions for children/youth if that information becomes general knowledge among staff, youth population and the public.</p> <ol style="list-style-type: none"> <li>1. Staff and caregivers must carefully consider the purpose, nature, and consequences of any contemplated disclosure. When disclosure is required or appropriate, the information disclosed and the means of disclosure will be limited to that which is necessary to achieve the specific beneficial purpose.</li> <li>2. <b><u>Staff Communication:</u></b>              Information will be shared on a need-to-know basis and can include, but is not limited to:             <ul style="list-style-type: none"> <li>◆ Direct care staff</li> <li>◆ Supervisors</li> <li>◆ Contract Agency Director</li> </ul> </li> </ol>

	<ul style="list-style-type: none"> <li>◆ Contract Agency Case Manager</li> <li>◆ YDC Superintendent</li> <li>◆ Medical and mental health providers</li> <li>◆ Family Service Worker</li> </ul> <p>3. <b><u>Communicating with Family:</u></b></p> <p>Children/youth disclosing a non-heterosexual orientation or gender non-conforming identity may not have discussed the issue with their parents/guardians. Children/youth may have good reason for not making that disclosure and staff should avoid accidentally or purposefully disclosing that information to a youth’s parents/guardians without full discussion with the child/youth in order to avoid creating a potentially emotionally or physically dangerous environment for the child/youth at home.</p> <p>4. Refer to DCS Policies <a href="#"><u>9.4 Confidential Child-Specific Information</u></a>; <a href="#"><u>9.5 Access and Release of Confidential Child-Specific Information</u></a>; and <a href="#"><u>9.7 DOE Standardization and Confidentiality of Student Master Files</u></a>.</p>
<b>I. Training of Employees, Volunteers and Contractors</b>	In order for employees, volunteers and contractors to have the awareness and capacity to effectively work with LGBTI youth committed to the Department of Children’s Services, all are required to attend training on working with LGBTI youth.
<b>Forms:</b>	<a href="#"><u>CS-0727, Initial Intake, Placement and Well-Being Information and History</u></a> <a href="#"><u>CS-0946 Assessment, Checklist and Protocol for Behavior and Risk for Victimization in a Youth Development Center</u></a>
<b>Collateral documents:</b>	<a href="#"><u>Guidelines for Managing Children/Youth in DCS Custody Related to Sexual Orientation, Gender Identity and Expression</u></a>
<b>Glossary:</b>	
<b><i>Term</i></b>	<b><i>Definition</i></b>
<b><u>Bisexual:</u></b>	A person who is emotionally, romantically, and/or sexually attracted to both males and females.
<b><u>Contractor:</u></b>	Any person who is employed directly by an agency or organization that has a contract or Memorandum of Understanding with the Department of Children’s Services.
<b><u>Discrimination:</u></b>	Any act, policy or practice that has the effect of subjecting any youth to differential treatment as a result of the youth’s actual or perceived sexual orientation or gender identity.
<b><u>Employee:</u></b>	Any person who is employed directly by the Department of Children’s Services.
<b><u>Gay:</u></b>	A person who primarily is emotionally, romantically, and/or sexually attracted to individuals of the same sex, typically in reference to boys or men.

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<b><u>Gender:</u></b>	The socially constructed roles, behaviors, activities, and attributes that a given society considers appropriate for males and females.
<b><u>Gender Expression:</u></b>	The manner in which a person expresses his or her gender through clothing, appearance, behavior, speech, etc. Gender expression is a separate concept from sexual orientation and gender identity. For example, a female may have a very masculine appearance, but may identify as a heterosexual female.
<b><u>Gender Identity</u></b>	A person's internal, deeply felt sense of being masculine, feminine, or other gendered, regardless of person's birth sex.
<b><u>Gender Nonconforming:</u></b>	A person whose appearance or manner does not conform to traditional societal gender expectations.
<b><u>Harassment:</u></b>	Includes, but is not limited to, name-calling; disrespectful gestures, jokes, or comments; inappropriate touching; threats of physical or emotional acts or negatives consequences, physical abuse; sexual abuse, and emotional abuse. Attempting to change a youth's sexual orientation or gender identity is also a form of harassment.
<b><u>Intersex:</u></b>	A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of boys/men or girls/women. Many medical and some advocacy communities now use the term "Disorder" or "Differences" of Sex Development (DSD) to distinguish between such medical conditions and a person's self-label or identity. Not all people who are born with a DSD identify as intersex.
<b><u>Lesbian:</u></b>	A girl or woman who is primarily emotionally, romantically, and/or sexually attracted to girls or women.
<b><u>Sex:</u></b>	The biological and physiological characteristics that define males and females.
<b><u>Sexual Orientation:</u></b>	A person's emotional, sexual, and/or relational attraction to others. This can include attraction to people of the opposite sex/gender (heterosexual), the same sex/gender (gay/lesbian), multiple sexes/genders (bisexual or pansexual) or even a lack of attraction on a sexual basis (asexual).
<b><u>Transgender:</u></b>	<p>A person whose actual or perceived gender identity or gender expression does not match society's expectations of how an individual should dress or behave in relation to their assigned gender.</p> <p>Transgender is an umbrella term that is used to describe those who transgress socially constructed gender norms. As an umbrella term, transgender can include various communities such as transsexuals, intersex individuals, cross-dressers, drag queens, etc. Most commonly, however, transgender is the preferred term used to refer to someone who identifies as transsexual or a person whose biological sex does not match the person's gender identity. Not all transgender people take steps to alter their physical presentation. Sexual orientation varies and is not dependent on gender identity.</p>
<b><u>Volunteer:</u></b>	Any person who provides services free of charge to the Department of Children's Services or contracted provider.

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<b><u>Youth:</u></b>	Any person committed to the custody and care of the Department of Children's Services and contracted providers.
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