

# **SAMPLE PROPOSED POLICY**

## **Non-Discriminatory, Developmentally-Sound Treatment of Lesbian, Gay, Bisexual and Transgender (LGBT) Youth**

### 1.0 Purpose

To establish operational guidelines for good child care practices and training to respond to the gender identity and sexual orientation of the youth in our care. LGBT youth shall receive fair and equal treatment without bias. LGBT youth shall be safe and accepted and not treated as abnormal or bad. The juvenile facility recognizes that LGBT youth are in the midst of adolescent development and have complex needs that require the sensitivity and awareness of well-trained staff in performing their duties without bias toward or criticism or judgment of LGBT youth.

### 2.0 Policy

Employees of the juvenile facility shall not discriminate against or harass, physically or verbally, any youth in their care because the youth is lesbian, gay, bisexual or transgender or because an employee perceives a youth to be LGBT. State employees must also protect youth from being discriminated against or harassed, physically or verbally, by other youth for being LGBT, or because youth believe another youth is LGBT. All staff will ensure that LGBT youth are safe and accepted and will support LGBT youth with fair and equal treatment, without bias and in a professional and confidential manner.

### 3.0 References and Definitions (references omitted)

LGBT means youth who have identified themselves as lesbian, gay, bisexual or transgender and youth who others perceive as lesbian, gay, bisexual or transgender (it is unacceptable, for example, to use a slur in referring to a young person's sexual orientation because of his/her appearance even when it is acknowledged that the youth is not LGBT).

Harassment includes name-calling, slurs, disrespectful gestures, being joked about, being picked on, being touched or stared at, being labeled abnormal, sinful or sick, being approached for sex, and being told one can or should choose to not be LGBT. Attempting to change a youth's sexual orientation or gender identity is a form of harassment.

Abuse means physical or emotional harm; a youth can be seriously harmed by verbal comments even when there is no physical abuse. During adolescence when young people are gradually developing an identity, many do not have the cognitive maturity or self-confidence to ignore negative comments made about them. As teenagers they value the opinions of peers and adults, and are vulnerable to feeling unacceptable. If they have been rejected by their families, as many LGBT youth have, they do not have strong support to tolerate the hurt of being labeled. If they have been maltreated as a younger child, emotional abuse is likely to make them continue to blame themselves.

Discrimination means any practice that penalizes or disadvantages youth based on their sexual orientation or gender identity.

### 4.0 Procedures

a. The juvenile facility will provide an inclusive organization culture where the dignity of every youth is respected and all youth are safe. When youth arrive at the juvenile facility they

will be told, in intake and on their unit by staff and other youth, that name-calling and other harassment is disrespectful and not accepted. Employees will remind youth that harassment of LGBT youth is not acceptable every time they are aware of an incident of harassment.

b. Employees of the juvenile facility may not in the course of their employment use terms that convey hatred, contempt or prejudice toward LGBT youth, including in their own conversations. LGBT youth must not be made to feel that they are abnormal, bad, or unacceptable or be told that they can or should choose to change their sexual orientation or gender identity. Employees who violate this policy may be sanctioned up to and including termination of employment. Employees must promptly and consistently intervene to stop other youth from using terms that convey hatred, contempt, or prejudice toward LGBT youth, and initiate disciplinary action against youth who harass others.

c. The juvenile facility administration will ensure adequate staffing and supervision of all youth to prevent and intervene in harassment of LGBT youth.

d. Respectful and inclusive terminology that does not make assumptions about sexual orientation or gender identity will be used in interviews with all youth at the juvenile facility. Social workers, medical, mental health and all other employees of the juvenile facility will be trained to be sensitive in questioning LGBT youth without embarrassing them or making them feel judged. Staff will be aware that youth are in various stages of awareness and comfort with their sexual orientation and gender identity. Youth intake interviews will sensitively inquire about fears the youth has of being picked on in the facility.

e. Employees of the juvenile facility will not disclose a youth's sexual orientation or gender identity to family, friends, the court or outside agencies without the youth's permission. This confidentiality restriction should not interfere with individuals working at juvenile facility discussing a youth's needs or services or resolving a grievance.

f. Classification and housing decisions will be individualized, based on the particular youth's physical and emotional well-being. Transgender youth will be placed on the unit where they will feel most safe. Male to female and female to male transgender youth are vulnerable to sexual exploitation and harassment when housed with boys, and consequently transgender youth usually feel safer housed with girls. This placement should occur as soon as a transgender youth arrives at the facility so the youth is not at risk while awaiting an administrative decision regarding placement. The placement of transgender youth will be decided before youth are automatically given a male haircut. A male to female transgender youth will not be treated as a male guest on the girls' unit, but as a girl. Transgender youth will be provided the institutional clothing they prefer, including a bra for male to female transgender youth. If a transgender youth prefers not to be placed on a girls' unit, a multi-disciplinary meeting will occur with the youth to plan how to keep the youth safe on the requested unit. Recognizing that some youth identify as lesbian or gay before they identifying as transgender, during their stay youth will have access to counseling which could lead to a request for a change in housing.

g. Transgender youth will be called by the first name and pronoun they request even if their name has not been legally changed. In court reports and referrals for services, they will be referred to by the first name and pronoun they request, with the name recognized by the court indicated as "Also Known As."

h. LGBT youth will not be placed in isolation as a means of keeping them safe from discrimination, harassment or abuse. Separation from others is harmful for teenagers in custody and LGBT youth should not be kept away from other youth because they are at risk of harassment. Staff will actively intervene in behaviors by other youth that make the youth feel unsafe or disrespected. It should rarely occur that a youth requests temporary emergency protective segregation (the placement of youth in a secure area, away from other youth) because they do not feel adequately protected from harm (e.g., a youth cannot sleep without fear of further harassment or abuse after an incident has occurred). Within 48 hours after a youth is placed in emergency protective segregation, a multi-disciplinary meeting will occur with the youth to plan how to keep the youth safe without segregation. Emergency protective segregation is intended as a short-term measure to prevent harm until housing conditions are rectified and after all other steps to keep the youth safe have been exhausted (including sanctions against or moving the youth doing the harassment). When temporary emergency protective segregation occurs, youth will be entitled to all education programs, specialized services, recreation and any other activities, such as visits, that would normally occur for youth at the juvenile facility. The provision of education programs, specialized services, recreation and any other activities while that youth is in segregation will be documented. Within 4 hours and every 12 hours while the youth is segregated, the youth will be visited by social workers, mental health or health providers who will support the youth.

i. LGBT youth will not be prohibited from having a roommate. If a youth is fearful of rooming with another youth, he or she will be provided a single room or another roommate. Transgender youth will not be required to use the shower or bathroom or dress in front of youth or staff, and staff efforts to ensure privacy will be done in a way that is not humiliating. If a physical search of a youth is necessary, it will be done by two staff of the gender requested by the youth. LGBT youth will not be treated as sex offenders unless they have been found guilty of nonconsenting sexual behavior.

j. The juvenile facility will promote the positive adolescent development of all youth in their care and in support services, education, and community placements. Positive adolescent development includes: making it safe for all youth to develop their identities, encouragement to like self and care for self, learning to manage stigma, helping families become accepting and ensuring a permanent home. Books about being LGBT and LGBT-inclusive magazines will be made available to youth. LGBT youth will be offered counseling by non-judgmental individuals knowledgeable about sexual orientation and gender identity. Mental health and medical staff will be aware of the increased risk of suicide among LGBT youth and emotional difficulties faced by LGBT youth in the process of coming out to family, friends or staff. While at the juvenile facility, youth will receive a comprehensive health assessment from a non-judgmental health provider who can provide counseling, information and guidance about sexual orientation, gender identity and self-care. If a transgender youth has been receiving hormone treatment prior to arriving at the juvenile facility and requests maintenance of the treatment, medical staff will evaluate its continuation and provide authorization for transition-related treatments when they are medically necessary according to accepted professional standards. The juvenile facility will provide referral to programs that are sensitive to and trained in serving LGBT youth.

k. The juvenile facility administration will promptly respond to grievances by youth who allege discrimination, harassment or abuse. The juvenile facility will have an ombudsperson

responsible for responding to any grievance. The ombudsperson will empty grievance boxes every weekday. If a youth wants to make a grievance verbally, the ombudsperson will write what she/he says on the grievance form and read it out loud to the youth for corrections. Youth making grievances will be interviewed by the ombudsperson within 24 hours of making the grievance. The ombudsperson will resolve the grievance and provide a written resolution in writing to the youth and their family within 7 days of making the grievance. The youth or family will be told how they can appeal the resolution of the grievance. If the youth is grieving harassment and the lack of staff intervening to stop the harassment and an incident report was not written, the ombudsperson will write the incident report indicating it comes from a grievance. The ombudsperson will summarize in writing every month the number and nature of grievances and their resolution (without names). The ombudsperson will meet every six months with the administration to discuss additional training and other steps to systemically address the harassment youth have made grievances about and the harassment incident six month summary.

l. The juvenile facility incident reporting form will indicate harassment incidents and the disciplinary actions taken against perpetrators. Once a month, harassment incidents will be anonymously summarized, distinguishing among incidents of youth harassing youth, staff harassing youth, and staff failing to intervene in youth harassing youth. The monthly reports will summarize disciplinary actions taken against youth and staff. A running tally of incidents against staff and youth by name will be shared monthly with the Administrator and summarized every six months.

m. Youth or staff retaliation against youth making grievances or staff filing incident reports will not be tolerated.

n. Employees of the juvenile facility shall not prohibit or discourage communication between youth of the same sex that is not also prohibited or discouraged between youth of different sexes. Employees of the juvenile facility shall not otherwise hold LGBT youth to a different standard than other youth at the facility.

o. All direct care staff and service providers will be trained and affirmatively demonstrate their commitment to creating and maintaining a safe and accepting environment. This commitment will be a condition of being hired and continued employment at juvenile facility. This policy will be provided to all new staff, and new staff training will include understanding and protecting LGBT youth.

p. Incidents of inappropriate employee action must be reported to the employee's supervisor and the youth facility administrator, including both staff harassing youth and staff failing to intervene in youth harassing youth. Failure to report an incident may have disciplinary or other consequences.

#### 5.0 Scope

This policy shall apply to all employees of the juvenile facility, to employees or representatives of any agency providing services on behalf of youth at the juvenile facility, including but not limited to the Department of Health, Department of Education, their contractors and volunteers.

***This proposed policy was developed by Dr. Marty Beyer (martbeyer@aol.com).***