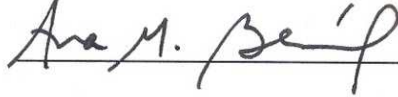


**THE CITY OF NEW YORK
DEPARTMENT OF PROBATION**

Approved by:



Ana M. Bermúdez, Commissioner

New York City Department of Probation Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex Anti-Discrimination Policy

SCOPE

This policy is effective immediately and applies to all New York City Department of Probation (the Department) staff, volunteers, interns, and contract providers (hereinafter referred to as staff) responsible for providing services to all clients serviced by the Department.

GENERAL POLICY

In accordance with the New York City Human Rights Law: N.Y.C. Administrative Code Title 8, the Department 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, military status, veteran status, alienage, immigration or citizenship status, predisposing genetic characteristics, prior record of arrest or conviction, status as a victim of domestic violence, sex offenses and stalking and employment status. No person in the Department shall unlawfully discriminate against clients in the course of their work. The Department is committed to respecting the dignity of all clients receiving services, and keeping them safe and secure, respecting everyone's individuality.

It shall be the policy of the Department to maintain and promote a safe environment for Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex (LGBTQI) youth, adults, and families in Department offices and programs. Staff shall recognize and address the individual needs of the client and shall apply Department policies and practices fairly to all clients with whom they come into contact. All staff are prohibited from engaging in any form of discrimination against or harassment of clients on the basis of actual or perceived sexual orientation, gender identity, and/or gender expression. Any discrimination and/or harassment against a client by staff or by other clients shall not be tolerated. Staff shall not impose personal or religious beliefs on LGBTQI clients. In no way shall such beliefs impact the manner in which individual clients and families are served.

As mandated by this policy, LGBTQI clients shall include youth and adults who have self-identified or are perceived by others as LGBTQI. For an expansive list of terms, see “Attachment A – Glossary of Terms.”

GUIDELINES

What is LGBTQI?

LGBTQI is an acronym commonly used to refer to lesbian, gay, bisexual, transgender, questioning, and intersex individuals. The following is an explanation of each of the terms used to define LGBTQI:

Lesbian – generally refers to a female who is emotionally, romantically, and sexually attracted to other females.

Gay – generally refers to a person who is emotionally, romantically, and sexually attracted to people of the same gender. It is preferred over the term “homosexual.”

Bisexual – generally refers to a person who is emotionally, romantically, and sexually attracted to, and may form sexual and romantic relationships with, males and females.

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 have received a diagnosis of Gender Dysphoria.

Questioning¹ – generally refers to a person, often an adolescent, who is exploring or questioning issues of sexual orientation or gender identity or expression in their life. Some questioning people will ultimately identify as gay, lesbian, bisexual, or transgender or gender nonconforming; others will ultimately self-identify as heterosexual and not transgender.

Intersex/Differences of Sex Development (DSD) - General terminology for a variety of conditions in which a person is born with reproductive or sexual anatomy that does not seem to fit the typical definitions of female or male.

Sexual orientation and gender identity refer to different aspects of a person's identity. If someone identifies as transgender or gender nonconforming they may also identify as straight, gay, lesbian, or bisexual, because sexual orientation is separate from gender identity. See "Glossary of Terms" (Attachment A). Youth may also identify differently on different days, as they work through their identities as part of their normal adolescent development process.

Language

Staff is required to use the words gay, lesbian, bisexual, sexual orientation, gender identity, transgender, gender nonconforming, and intersex/DSD in an appropriate context when talking with clients and writing case management notes or records, as well as court documents if staff has the client's permission (see below regarding "Names and Pronouns"). Some terms may be acceptable and preferable to one person and offensive to another. Staff shall utilize best practices when working with clients and reflect the language and terminology employed by a particular client in individual interactions with that client, provided that the language and terminology are appropriate. It is the responsibility of staff to help all clients use respectful language that will not cause harm in group and shared spaces. Staff shall use gender-neutral language, such as "involved with someone" or "partner" as opposed to "boyfriend" or "girlfriend" with all clients regardless of sexual orientation or gender identity. If a staff member does not know which term a person prefers to describe their² sexual orientation or gender identity, the staff member should ask the individual.

¹ Used by some LGBTQI persons to refer to themselves, LGBTQI communities, a person who is LGBTQI, or even someone who is supportive of LGBTQI communities. Some people who prefer "queer" feel it is more inclusive, allowing for the diversity of race, class, ability, and gender that is represented within LGBTQI communities. Use of the term "queer" is often viewed as a political statement as well as an identity or label. Because the term has historically been used in a negative way against the LGBTQI community, some people feel empowered by using it and reclaiming it as their own, though other LGBTQI individuals dislike this word and view it as pejorative.

² We use "their" in this policy to include and acknowledge people who use gender neutral pronouns such as "they/their/them" and do not feel comfortable being addressed with masculine or feminine pronouns.

Names and Pronouns

The ability to choose a preferred name and/or pronoun that is consistent with identified gender, rather than assigned sex at birth, is important to transgender or gender nonconforming individuals. Therefore, staff must inform clients that they may choose to designate a preferred first name and gender pronoun (names affiliated with gangs or that include an inciting word or term shall not be an option under this policy). Should a client designate a preferred name after being provided with this explanation, this name, with the client's approval, shall be used in all internal Department case management notes and communications. A client shall also be referred to by the pronoun that the client states reflects the client's identified gender and/or expression; this pronoun shall be used in all internal Department case management notes and communications. Preferred names and pronouns shall also be used in addressing clients.

The client must be informed that staff shall be required to use the client's legal name on all court documents and certain official documents (for example, school-related documentation).

Furthermore, the client must be advised that information regarding their chosen name/gender identity is subject to being revealed in the event that internal Department documents are requested by the court or other lawful request. Consequently, it is imperative that internal documentation be consistent with the client's self-identification AFTER the client has been advised of the above and consents to such documentation.

When a client under supervision requests the use of a preferred first name or gender pronoun – including a Family Court client or Adult client under the age of 18 - staff must ask which name (legal or preferred) and gender pronouns staff shall use to refer to the client in conversations with the client's family and in conversations with other service providers and, when possible, the courts. It is imperative that staff abide by the client's requests because the client may not have disclosed the reason for the preferred name (including gender identity) to family members, including parent(s) or guardian(s) or others.

Disclosure

Consistent with Department's policy and after appropriate training has been received, staff within the regular course of business should ask every client their gender identity and sexual orientation. These questions are best asked when staff members ask other demographic information of a client. Clients must be informed that the Department asks all clients their sexual orientation and gender identity in order to meet their individual needs and that answering sexual orientation and gender identity questions is voluntary.

A client shall not be forced by any staff to disclose their sexual orientation or gender identity. The only way that anyone is to know a client's sexual orientation or gender identity is if the client voluntarily discloses it, and even then, such identities can be fluid and may change over time. There are no tools or instruments to assess a person's sexual orientation or gender identity. Clients will disclose their sexual orientation and/or gender identity to staff when and if they feel ready, and when and if a safe environment and trusting relationships have been created for such disclosure. If a client discloses that they are LGBTQI, the staff member shall talk with the client about it in an open and non-judgmental fashion and determine whether the client has particular concerns or needs related to being LGBTQI.

Confidentiality

It is important for all staff to respect each client and family member's right to confidentiality. When a client or family member discloses their LGBTQI status, it shall be considered sensitive information and kept confidential. If staff is not in a position to keep information that a person discloses confidential, particularly information relating to safety issues or information needed for referral and/or provision of services, they shall inform the client or family member that such information may need to be shared, prior to disclosure. Staff shall also inform the client or family member with whom the information will be shared and why. Staff shall give the client the option to be referred to a program that is not explicitly LGBTQI focused should the client wish to keep their sexual orientation or gender identity confidential. Staff shall not disclose a client's stated or perceived sexual orientation or gender identity to other individuals or agencies without the client's permission, unless such disclosure is consistent with state or federal law or regulation.

Assessing and Addressing Family Issues for DOP Clients

Due to the documented high levels of family rejection and abuse suffered by LGBTQI clients, all staff shall be mindful of the client's family history, dynamics, and context when assessing and addressing behaviors. All assessments that influence and inform decisions about interventions shall also involve careful consideration and assessment of the family environment and dynamics, and such assessments should be consistent with standards and guidelines set by training. Furthermore, any assessments of a client's family must adhere to the confidentiality policy in regard to the client's sexual orientation, gender identity or expression, and implementation of such assessments must always prioritize the safety and well-being of the client. This is

particularly crucial when working with LGBTQI clients due to the additional risk of family rejection.

Clothing/Hair and Other Personal Grooming

Staff shall affirm and support clients who wear clothing and/or choose to groom consistent with their gender identity and/or expression regardless of their assigned sex at birth. It may be necessary for staff to discuss clothing and grooming with some clients for the purpose of court appearances or other significant appointments. However, staff shall not suggest or insist on clothing changes based on stereotypes of gender identity and/or gender expression.

Searches

In instances where a Probation Officer must conduct a search of a client, the search shall be conducted by a Probation Officer of the same gender as the client being searched. In situations where a client's gender is not immediately apparent or the client objects to the gender of the Probation Officer assigned to conduct the search, the Probation Officer's supervisor will assign a Probation Officer of the gender requested by the client, consistent with staff safety and resource availability. Under no circumstances shall staff conduct searches for the purpose of determining gender. See also EPAP No. 20-16-02 Probationer Arrests; and Arrest and Custody Manual: Adult Operations, and Arrest and Custody Manual: Juvenile Operations.

The Department shall ensure that all clients it serves are provided with a condensed version of this policy during intake or assessment. Staff shall affirm its commitment to non-discrimination, including sexual orientation, gender identity, and gender expression, to clients and families verbally. Clients and families shall be referred to the Department's website for the full written policy and provided with a copy of the full policy upon request.

Training

All staff having direct contact with clients and families shall be trained on the goals and expectations of this policy including behavior that constitutes discrimination and harassment. New hires shall be trained on the procedures for preventing and reporting such behavior during their initial orientation. Current staff shall be trained and reoriented as deemed necessary by the Department.

LGBTQI Literature and Resources

The Department shall strive to provide LGBTQI resources to all clients and families as appropriate. The Department shall also strive to provide any resources developed in languages other than English, as needed.

LGBTQI literature and visible signage shall be available in the common areas, offices, and other areas where clients frequent which indicate that staff are knowledgeable and open to communication on this topic.

Outside Service Providers

If a client discloses that they are LGBTQI while working with staff, the client shall be made aware of available services, including mental health and health counseling and other pro-social program services, as appropriate. LGBTQI clients have the right to meet with a service provider that is inclusive and affirming.

Reporting Harassment and Discrimination

Staff shall model appropriate and affirming behavior at all times. This means that bias, discrimination, bullying, or harassment by staff towards clients and families shall not be tolerated, and immediate action to intervene in any such situations must be taken. Staff is obligated to report staff conduct that violates this policy. If an issue arises, staff shall confer with their supervisor. If the matter is not resolved, staff shall continue going through the appropriate chain of command. Once a matter reaches the Associate Commissioner level, DOP's General Counsel is to be notified and will coordinate all further action.

Clients and families can report any violation of this policy by staff to the Branch Chief/Family Court Director of the office to which they are assigned, or by calling 311.

Attachment A

GLOSSARY OF TERMS

Anatomical sex: An individual's sex, male or female, based on the appearance of their sexual organs.

Biological sex: An individual's sex, male or female based on their sex chromosomes.

Birth sex: The sex, male or female, that is noted on an individual's birth certificate issued at birth.

Bisexual: refers to a person who is emotionally, romantically, and sexually attracted to both men and women.

Cisgender: A gender identity that society considers to "match" the biological sex assigned at birth. For example, someone who identifies as a man and his birth certificate states that his sex is male is cisgender.

Gay: refers to a person who is emotionally, romantically, and sexually attracted to people of the same gender. Sometimes, it may be used to refer to gay men and boys only, although in some contexts, it is still used as a general term for gay men and lesbians. It is preferred by some people over the term "homosexual."

Gender: The set of meanings assigned by a culture or society to someone's perceived biological sex. Gender is not static and can shift over time. Gender has at least three parts:

- a) **Gender Identity:** An individual's internal view of their gender; one's own innermost sense of being male or female. This will often influence name and pronoun preference for an individual.
- b) **Physical Markers:** Aspects of the human body that are considered to determine sex and/or gender for a given culture or society, including genitalia, chromosomes, hormones, secondary sex characteristics, and internal reproductive organs.
- c) **Role/Expression:** Aspects of behavior and outward presentation that may (intentionally or unintentionally) communicate gender to others in a given culture of society, including clothing, body language, hairstyles, socialization, relationships, career choices, interests, and presence in gendered spaces (restrooms, places of worship, etc.). Refers to the manner in which a person expresses his or her gender through clothing, appearance, behavior, speech, etc. A person's gender expression may vary from the norms traditionally associated with his or her biological sex. Gender expression is a separate concept from sexual orientation and gender identity.

Gender Dysphoria¹: As defined in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), the distress that may accompany the incongruence between one's gender identity and the sex assigned to them at birth. Gender non-conformity itself is not a mental disorder. The critical element is the presence of clinically significant distress associated with the condition.

Gender non-conforming: having or being perceived to have gender characteristics and/or behaviors that do not conform to traditional or societal expectations. Gender non-conforming people may or may not identify as LGBT.

Gender roles: Social and cultural beliefs about appropriate male or female behavior, which children usually internalize between ages 3 and 7.

Genderqueer: A term of self-identification for people who do not identify with the binary terms that have traditionally described gender identity (for instance, male or female only). Also see *gender non-conforming*, *queer*, and *transgender*.

Heterosexism: The assumption that all people are or should be heterosexual. Heterosexism excludes the needs, concerns, and life experiences of lesbian, gay, bisexual, and transgender people, while it gives advantages to heterosexual people. It is often a subtle form of oppression which reinforces realities of silence and invisibility.

Heterosexuality: A sexual orientation in which a person feels physically and emotionally attracted to people of the "opposite" sex.

Homophobia: The irrational hatred and fear of homosexuals or homosexuality. Homophobia includes prejudice, discrimination, harassment, and acts of violence brought on by fear and hatred. It occurs on personal, institutional, and societal levels.

Internalized homophobia: The fear and self-hate of one's own homosexuality that occurs for many individuals who have learned negative ideas about homosexuality throughout childhood. One form of internalized oppression is the acceptance of the myths and stereotypes applied to the oppressed group.

¹ This replaces gender identity disorder in the newly released DSM-5

Intersex/Differences of Sex Development (DSD) - General terminology for a variety of conditions in which a person is born with reproductive or sexual anatomy that does not seem to fit the typical definitions of female or male.

Lesbian: refers to a woman or girl whose emotional, romantic, and sexual attractions are primarily for other women or girls.

LGBTQI: an acronym commonly used to refer to lesbian, gay, bisexual, transgender, questioning, and intersex/DSD individuals.

Pansexual: a person who experiences sexual, romantic, physical, and/or spiritual attraction for members of all gender identities/expressions.

Preferred Gender Pronouns (PGP): are the ways people refer to themselves and how they prefer to be referred in terms of gender. The most commonly used PGPs include:

- She – her – hers
 - Example: “She forgot her wallet. She thinks that she left it in her car.”
- He – him – his
 - Example: “He had a lot more energy, once his fever went away.”

Some people do not identify as either male or female and accordingly prefer gender neutral pronouns:

- They – them – their
 - Example: “They studied hard for the test. They want to improve their grade.”
- Zie or Ze – hir – hirs
 - Example: “Zie opened hir door to find a package waiting.”

Some people who do not identify as either male or female may also use their name or “they” as a PGP.

Queer: Used by some LGBTQI persons to refer to themselves, LGBTQI communities, a person who is LGBTQI, or even someone who is supportive of LGBTQI communities. Some people who prefer “queer” feel it is more inclusive, allowing for the diversity of race, class, ability, and gender that is represented within LGBTQI communities. Use of the term “queer” is often viewed as a political statement as well as an identity or label. Because the term has historically been used in a negative way against the LGBTQI community, some people feel empowered by using it and reclaiming it as their own, though other LGBTQI individuals dislike this word and view it as pejorative.” Also see genderqueer.

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 gay, lesbian, bisexual, or transgender; others will self-identify as heterosexual and not transgender.

Sexual orientation: refers to a person’s emotional, romantic, and sexual attraction to persons of the same and/or different gender.

Straight: A person (or adjective to describe a person) whose primary sexual and affectional orientation is toward people of the opposite gender.

Transgender: may be used as an umbrella term to include all persons whose gender identity or gender expression do not match society’s expectations of how an individual should behave in relation to his or her gender. This term can include transsexuals, genderqueers, cross-dressers, and others whose gender expression varies from traditional gender norms. 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* (see above).

Transgender female-to-male people: are people who were assigned the sex of female at birth and who now identify as male. Similarly, the terms *transgender boys* and *trans men* refer to those who now identify as boys or men. Also see *transsexual*.

Transgender male-to-female people: are people who were assigned the sex of male at birth and who now identify as female. Similarly, the terms *transgender girls* and *trans women* refer to those who now identify as girls or women. Also see *transsexual*.

Transition: An individualized process by which a transgender person starts living as the gender she or he identifies as. There are three general aspects to transitioning: social (i.e. selection of a new name, a request that people use the correct pronoun), medical (i.e. possibly hormones, surgery, etc.), and legal (i.e. gender marker and legal name change, etc.). A transgender individual may transition in any combination, or none, of these aspects.

Transphobia: A reaction of fear, loathing, and discriminatory treatment of people whose identity or gender presentation (or perceived gender or gender identity) does not “match,” in the societally accepted way, the sex they were assigned at birth.

Transsexual: A term for someone who transitions from one physical sex to another in order to bring their body more in line with their innate sense of their 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.

Definitions for this glossary have been adapted from the following resources:

Breaking the Silence, National Center for Lesbian Rights

Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts, The Equity Project

LGBTQLA Glossary, University of California, Davis, Lesbian Gay Bisexual Transgender Resource Center

Trans Action Guide, Gay Lesbian Straight Educational Network