

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF JUVENILE JUSTICE SERVICES  
POLICY AND PROCEDURES

Policy No: 04-09	Effective Date: 7-30-15	Revision Date: 07-30-15
Subject: Lesbian, Gay, Bi Sexual, Transgender, Questioning, Intersex (LGBTQI) and Gender Non-Conforming (GNC) Juveniles		

**I. Policy Statement**

The Division shall provide a safe, healthy and accepting environment for juveniles placed in our care, custody, and control, who identify as Lesbian, Gay, Bisexual, Transgender, Questioning, Intersex, (LGBTQI) and/or Gender Non-Conforming (GNC).

**II. Rationale**

The purpose of this policy is to establish operational practices that reinforce the Division's commitment to creating an environment for juveniles that is safe, and free of sexual orientation-related abuse, harassment and discrimination. All juveniles in the Division's care will be treated with dignity and respect and have equal access to all available services.

**III. Definitions**

- A. "Abuse" for purposes of this policy, is any emotional, physical, psychological or sexual conduct directed at a juvenile, because of the juvenile's sexual orientation that is illegal as defined by law or violates a DHS or JJS policy.
- B. "Bisexual" is a person who is attracted to, and may form sexual and romantic relationships with both or either male and female.
- C. "Cisgender" refers to someone's gender identity being the same as the sex assigned at birth.
- D. "Discrimination" for purposes of this policy, is any act, policy or practice that, regardless of intent, has the effect of subjecting a juvenile to differential treatment, because of the juvenile's sexual orientation.
- E. "Gay" refers to a person who is romantically and sexually attracted to people of the same gender. Sometimes the term may be used to refer to gay males only, but can also refer to females who are attracted to people of their same gender.
- F. "Gender Expression" refers to gender-related characteristics, appearance, mannerisms, whether or not stereotypically associated with one's assigned sex at birth. It is the way a person acts to communicate his or her gender.
- G. "Gender Identity" refers to "one's sense of self as male, female, or transgender." Gender identity is not necessarily consistent with biological sex.

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- H. “Gender Non-Conforming” refers to people whose gender expression is 1) neither masculine nor feminine, or 2) different from traditional or typical expectations of how a male or female should appear or behave.
- I. “Harassment” for purposes of this policy, is unwelcome, offensive or intimidating behavior directed toward a juvenile, because of the juvenile’s sexual orientation. Such harassment may take many forms including but not limited to:
1. Verbal Conduct that is directed at an individual or group of individuals. Examples include, but are not limited to, epithets, derogatory comments, unwelcome jokes or stories, slurs, unwelcome verbal advances or invitations, requests for sexual favors, or harassing telephone calls.
  2. Visual Conduct that is directed at an individual or group of individuals. Examples include, but are not limited to, derogatory or offensive posters, cartoons, bulletins, drawings, photographs, magazines, written articles or stories, screen savers, or electronic communications.
  3. Physical Conduct that is directed at an individual or group of individuals. Examples include, but are not limited to, touching, patting, pinching, grabbing, staring, leering, lewd gestures, invading personal space, assault, blocking normal movement, or other physical interference.
  4. Sexual Conduct that is directed at a juvenile by a staff, provider, volunteer, or by another juvenile. Examples include sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature.
- J. “Intersex” refers to a spectrum of conditions involving anomalies of the sex chromosomes, reproductive ducts, and/or genitalia. The most traditional definition of intersex refers to individuals born with components of both male and female biological sex characteristics (genital, chromosomes, hormones, and secondary sex characteristics), or genitalia that are not clearly male or female.
- K. “LGBTQI and GNC juveniles” refers to juveniles who identify as Lesbian, Gay, Bisexual, Transgender, Questioning, Intersex, or Gender Non-Conforming.
- L. “Lesbian” refers to a female who is romantically and sexually attracted to other females.

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- M. "Questioning" 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 self-identify as gay, lesbian, bisexual or transgender; others will self-identify as heterosexual and/or cisgender.
- N. "Retaliation" is any adverse action taken against a person for filing, reporting, participating, or cooperating with a complaint, grievance, or investigation of sexual-orientation-related abuse, harassment or discrimination.
- O. "Transgender" refers to someone's gender identity being different from the sex assigned at birth.

#### **IV. Procedures**

##### **A. Staff Training**

1. The Division shall provide awareness and sensitivity training for staff regarding LGBTQI and GNC juveniles and regarding this policy, including:
  - a. what behavior constitutes sexual orientation-related abuse, discrimination, or harassment,
  - b. the procedures for preventing and reporting such behavior, and
  - c. will teach effective and professional communication with LGBTQI and GNC juveniles.
2. All staff shall complete the Division's LGBTQI and GNC training every two years.
3. LGBTQI and GNC-related training shall include a curriculum and educational materials devoted to the clarification of relevant Division expectations and policy.

##### **B. Guidelines**

1. Safety and security for staff and juveniles remain paramount in all Division facilities and programs. The Division recognizes that creating safe environments for LGBTQI and GNC juveniles provides greater safety and security for all juveniles. Accordingly, Division staff shall ensure that in all Division programs and facilities there is an environment that is safe and accepting of LGBTQI and GNC juveniles.

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2. All juveniles, including LGBTQI and GNC juveniles, need to feel safe in their surroundings to participate in effective programming and achieve positive outcomes.
3. Rules must be maintained that promote dignity and respect for all juveniles, including the LGBTQI and GNC population.
4. Staff shall set a good example and maintain an environment where any sexual orientation-related abuse, discrimination or harassment (as defined for this policy) of a juvenile will not be tolerated.
5. Staff must maintain appropriate and respectful verbal and physical interpersonal boundaries for safe and appropriate behavior with all juveniles as outlined in the Division's Code of Ethics Policy 01-02.
6. Staff shall not single out, nor emphasize a juvenile's LGBTQI or GNC identity, in interactions with other juveniles or staff.
7. Staff shall not do or say anything to try to change a juvenile's sexual orientation or gender identity-
8. All juveniles, regardless of LGBTQI or GNC identity, should be included in activities or jobs which they qualify for and/or show a positive interest in.

C. Disclosure

1. Staff shall provide appropriate opportunity for a juvenile to discuss their sexual orientation or gender identity. If and/or when a juvenile feels safe, and/or ready to disclose and discuss their sexual orientation and/or gender identity, staff shall respond in a neutral, non-judgmental manner, allowing the juvenile to lead the conversation. Staff shall not cursorily dismiss the topic and close off discussion when a juvenile discloses such personal information, as that may send a negative message. Staff may just listen or explore what the disclosure means for this juvenile, and offer to connect them to appropriate resources if needed.
2. A juvenile's disclosure of the juvenile's LGBTQI and GNC identification, to any staff member, is a confidential disclosure, and will only be used by staff as a means to work with the juvenile within the framework of this policy.

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3. Staff shall not disclose a juvenile's LGBTQI and GNC identification to the juvenile's parent/legal guardian or other persons including, but not limited to person's affiliated with allied agencies, courts, providers, and schools, unless such disclosure has been previously specifically approved by the juvenile.

D. Intake

If a juvenile discloses during the intake process that the juvenile identifies as transgender or intersex, staff shall discuss with the juvenile any practical and safety considerations that such identity may present, allowing the juvenile to give input before being assigned to a room and/or unit. Staff may assign a juvenile to a room or unit consistent with the stated gender identity, unless there are safety based reasons that make such placement unreasonable. Staff shall notify the APD or designee as soon as possible to discuss and plan relevant safety considerations.

E. Clothing

1. For facilities or programs for which the Division provides special clothing, all juveniles shall wear the clothing provided by the facility/program. Juveniles shall not be forced to wear a type of outerwear clothing that does not match their gender identity or expression.
2. Where clothing is provided by the Division, the juvenile may receive undergarments of their choice among available agency supply, regardless of gender.

F. Hair and Other Personal Grooming

Personal grooming rules and restrictions, including those regarding hair, make-up, shaving, etc., shall be outlined in the operations manual in each facility/program, and shall be consistent with Division Policy 04-01, Rights and Responsibilities of Juveniles. Juveniles shall not be prevented from, or disciplined for, choosing a form of personal grooming because it does not match typical gender norms.

G. Housing-Restroom Facilities

1. Any juvenile who reports feeling safer in individual sleeping quarters shall be allowed to do so when available. If individual sleeping quarters are not available, staff shall make other sleeping arrangements and safety planning methods with the juvenile.

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2. Staff shall take time to consider any request by a juvenile for a sleeping room change and/or for individual sleeping quarters, and shall discreetly inquire whether the juvenile is feeling that the current sleeping arrangements are unsafe.
3. A juvenile who identifies as LGBTQI or GNC shall be provided access to all spaces ordinarily accessible to other juveniles, including restroom facilities, except when the juvenile or staff asserts a safety concern regarding use of a particular space. In such instances, a juvenile may have access to a separate bathroom and/or shower.

H. Searches

When searches of a juvenile's body, room, or property are necessary, all such searches will be conducted with dignity and respect consistent with the Division Search Policy 05-02.

I. Language and Name

1. Staff shall address each juvenile by the juvenile's preferred first name and by using the preferred pronoun (i.e., "he" or "she") that is associated with the juvenile's stated gender identity. A preferred name different from the juvenile's legal name shall not be used if it is believed to be associated with criminal activity or has vulgar connotations.
2. The Division shall always use the legal first name of the juvenile when communicating with his/her family members regarding the juvenile, except when permission is given by the juvenile to use the preferred name (and/or preferred pronoun).

J. Reporting of concerns

1. Juveniles may use multiple ways to report concerns regarding their care, treatment, and/or the conduct of Division staff or another juvenile, related to the LGBTQI and/or GNC identity of the juvenile. Those include:
  - a. Filing a grievance through the Juvenile Grievance Process (in accordance with Division Policy 04-08);
  - b. Reporting about an incident to staff verbally or in writing;
  - c. Reporting about an incident to a third party, who may in turn report the incident to staff, or may assist the juvenile to file a Grievance under Policy

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04-08 (Such a third party may include another juvenile, staff, a volunteer, a family member, an attorney, or an outside advocate.)

d. Reporting an incident by telephone through the JJS Reporting Hotline 1-855-SAFEJJS (1-855-723-3557)

2. Staff shall review and respond to reports of concerns appropriately, according to the nature of the concern.
  - a. Written grievances filed in accord with Policy 04-08 shall be processed according to that policy.
  - b. Complaints of abuse, discrimination, or harassment (as defined above for this policy) shall be reported by facility or program administration to Division administration per DHS policy.
  - c. Complaints may result in referral to the Division's Investigations Bureau and/or the Department of Human Resource Management and/or law enforcement.
  - d. Reports of concerns related to a juvenile's LGBTQI and/or GNC identity shall be kept confidential to the extent possible given the need to investigate, act on investigation results, and monitor and compile reports. Documentation of such reports will be maintained by the APD in a designated file.

K. Disciplinary Action

Staff who participate or permit others to engage in sexual orientation-related abuse, discrimination or harassment of juveniles (as defined for this policy) may be subject to disciplinary action up to and including termination.

L. Interference and/or Retaliation

1. Staff shall not a) refuse to cooperate, b) intimidate, or 3) in any way interfere with the reporting of a concern or investigation of a complaint regarding sexual orientation-related abuse, discrimination, or harassment of a juvenile.
2. Retaliation against an individual for reporting a concern or for participating in an investigation regarding a complaint of sexual orientation-related abuse, discrimination or harassment of a juvenile is a violation of this policy and strictly prohibited.
3. Any staff member who interferes with reporting of a concern or investigation of a complaint under this policy, or retaliates against any person for making such

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a report or participating in any such investigation, will be subject to appropriate action and/or discipline, up to and including termination.

**V. Continuous Renewal**

This policy shall be reviewed every three (3) years determine its effectiveness and appropriateness. This policy may be reviewed before that time, to reflect substantive change.

This policy has been reviewed by the Board of Juvenile Justice Services and is approved upon the signature of the Director.



Russell K. Van Vleet, Chair  
Board of Juvenile Justice Services

07-30-15

Signature Date



Susan Burke, Director  
Division of Juvenile Justice Services

07-30-15

Signature Date