

<p>Milwaukee County Department of Health and Human Services Division of Youth and Family Services</p> <p><b>POLICY &amp; PROCEDURE</b></p>	<p>Original Date Issued: 04/01/2020</p> <hr/> <p>Last Revision Date: N/A</p>	<p>Current Review Date: 02/03/2020</p> <hr/> <p>Current Review By: RS/DP</p>	<p>Section: <b>OUT OF HOMME CARE</b></p>	<p>Policy No: <b>067</b></p>	<p>Pages: <b>Page 1 of 5</b></p>
<p><input checked="" type="checkbox"/> Division of Youth and Family Services (DYFS)</p> <p><input checked="" type="checkbox"/> Detention Center</p> <p><input checked="" type="checkbox"/> DYFS Services Network</p> <p><input checked="" type="checkbox"/> Purchase of Service Agencies</p>	<p>Current Effective Date: <b>04/01/2020</b></p>	<p>Subject: <b>DYFS LGBTQ Youth in Placement</b></p>			

### I. Policy

It is the policy of the Division of Youth and Family Services (DYFS) to ensure that respect, dignity and equal access is provided for all youth, including lesbian, gay, bisexual, transgender, queer, and gender nonconforming youth, as it relates to the delivery of services, consideration of placement options, and the general provision of a safe environment.

### II. Scope

This policy applies to all DYFS staff and Contracted Providers in how they manage the care of LGBTQ youth receiving services by DYFS and/or any of its contracted Providers.

### III. Definitions

#### A. Bisexual

A person who is emotionally, romantically, and sexually attracted to both men and women.

#### B. Cisgender

A term for people whose gender identity and gender expression aligns with those typically associated with assigned sex at birth.

#### C. Gay

A person whose emotional, romantic, and sexual attraction is primarily for individuals of the same sex, typically in reference to men.

#### D. Gender Expression

Gender as presented through one's name, pronouns, clothing, haircut, behavior, voice, or other characteristics.

#### E. Gender Identity

Refers to a personal sense of one's own gender. Gender identity can correlate with assigned sex at birth or can differ from it.

**F. Gender Non-Conforming**

A person whose appearance or manner does not conform to mainstream societal gender expectations.

**G. Intersex**

A person whose sexual or reproductive anatomy, or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as a disorder of sex development.

**H. Lesbian**

A woman whose emotional, romantic, and sexual attraction is primarily for other women.

**I. LGBTQ**

Common acronym for Lesbian, Gay, Bisexual, Transgender, and Queer. This term is often used to refer to individuals whose sexual orientation is not heterosexual or whose gender identity is non-conforming.

**J. Preferred Gender Pronoun**

Refers to the pronoun that a person chooses to use for themselves.

**K. Queer**

Historically used as a derogatory term, *queer* has been widely reclaimed, especially by younger LGBTQ people, as a positive social and political identity. It is sometimes used as an umbrella term for all LGBTQ people.

**L. Questioning**

Refers to the active process in which a person explores her/his own sexual orientation, and/or gender identity, and questions the cultural assumptions that they are heterosexual and/or gender conforming.

**M. Sex**

Refers to a person's biological sex.

**N. Single Room Only (SRO)**

Single Room Only (SRO) status is a housing classification for youth signifying that they are not to be housed in the same sleeping room with other youth. Separation reasons may include vulnerability to victimization, sexually aggressive behaviors, other specific information about individual youth that may indicate heightened needs for supervision/safety precautions, or to ensure privacy for transgender youth to dress and perform bodily functions without youth of the opposite gender viewing them.

**O. Transgender**

An umbrella term that can be used to describe people whose gender expression is non-conforming and/or whose gender identity is different from their assigned sex at birth. This term can include transsexuals, gender queers, cross-dressers, and others whose gender expression varies from general norms.

#### IV. Prison Rape Elimination Act (PREA)

The Prison Rape Elimination Act (PREA) is federal law intended to deter sexual assault of prisoners. Those entities subject to PREA standards and reporting requirements shall abide by them.

#### V. Procedure

##### A. Forms and Screening Tools

Entities that place youth have processes for screening and the completion of various forms. All forms and screening tools used shall include language sensitive to the unique needs of the LGBTQ population's self-identification, privacy and confidentiality. These forms shall be administered to all youth entering placement to avoid discriminatory practices and assumptions.

##### B. Housing

1. DYFS staff/contracted providers shall make an individualized assessment of each youth that should be incorporated into the decision-making process when considering housing unit placement.
2. Housing decisions for youth shall be based on the youth's individualized needs and should prioritize the youth's emotional and physical safety while taking into account the youth's perception of where they will be most secure.
  - Youth shall not be separated from the general population or assigned a single occupancy room based solely on the youth's actual or perceived gender, sexual orientation, gender identity, or gender expression.
  - The safety and well-being of the transgender youth should be the primary concern when deciding where to place them within a housing facility.
  - Housing and room assignments for transgender youth will be made after considering all pertinent factors, including the youth's specific request.
  - A single room will allow the youth the ability to dress and perform bodily functions without youth of the opposite gender viewing them.
  - Single accommodations may reduce a transgender youth's vulnerability to violence and/or harassment, avoid some difficulties associated with sharing a bedroom/bathroom facility, and decrease the transgender youth's privacy concerns.
  - All youth should be provided access to private showers.
3. Staff should consider a youth's background, age, developmental status, sophistication, social skills, charges, behavioral history and the factors that may influence their adjustment and/or contribute to an overall safe and successful experience for the youth as well as all other residents on the unit/pod/group.
4. Housing determination for transgender or intersex youth shall consider whether the placement would ensure the youth's health and safety, and whether the placement would present management or security problems.
5. A youth's sexual orientation and/or gender identity is not an indicator of the likelihood of the youth being sexually abusive towards others. Staff shall not consider a youth's LGBTQ status as a reason to isolate or withhold programming options.

6. Privacy accommodations should not prevent transgender youth from full integration into DYFS Detention or DYFS contracted provider's daily programming.
7. Placement and programming assignment of transgender or intersex youth will be periodically assessed by the Unit Supervisor to review any threats to safety. This assessment should take place no less than every three months and will be documented in the youth's record.
8. Youth will only be separated from others as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until alternative means of keeping all residents safe can be arranged.

### **C. Searches**

1. All searches will be conducted in a professional and respectful manner by trained staff. Searches shall, to the extent possible, be performed in a way that preserves the privacy and dignity of the person being searched.
  - a. Youth shall not be physically searched in a manner that is humiliating or degrading, or for the purpose of determining physical anatomy.
  - b. In situations where the biological assigned sex of a youth is unknown, staff will attempt to determine the status through conversations with the youth or through a review conducted by medical personnel of medical records.
  - c. If attempts to determine the youth's biological assigned sex are unsuccessful, placement administrators or their designee may obtain the needed information via a broader medical examination conducted in private by a medical practitioner.
2. It is DYFS's general policy that staff of the same sex as the youth are to conduct searches except under exigent circumstances, or when performed by a medical professional.
  - a. Should a transgender youth request that either a male or female staff conduct a search (pat and/or strip search), the request shall be forwarded to the entity/shift Supervisor to consider alternate arrangements in conducting the search. The request, resolution with rationalization for said decision, and outcome including who ultimately conducted the search, will be documented in the youth's record and/or incident report as determined by the entity/shift Supervisor.

## **VI. Equal Access to All Available Services, Care, and Treatment**

- A. In accordance with state and federal law, every youth has the right to live in an environment free of harassment and discrimination. The 14<sup>th</sup> Amendment to the U.S. Constitution provides for equal protection of the law, prohibiting prejudice. The Amendment also introduced the legal instrument of Due Process; the right of all persons to receive the guarantees and safeguards of the law/judicial process.
- B. Treating LGBTQ youth in an unequal manner is a violation of their Constitutional Rights. For instance, just because a youth is transgender, they should not be separated for their own protection, nor should verbal, physical, or sexual abuse of a transgender youth be ignored.
- C. DYFS staff and contracted providers have a responsibility to ensure that all youth are treated with respect and the rights of transgender youth are upheld particularly with respect to safety,

mental health, service needed and privacy. Staff should be professional in conducting duties and strive to ensure that all youth have equal access to all services, care, and treatment.

- D. DYFS and contracted providers have no tolerance for physical, verbal, emotional, or sexual abuse or harassment/discrimination of any person. (*See DYFS Policy 015, Ethics and Boundaries.*)
1. If DYFS staff and contracted providers act in a discriminatory manner toward any youth, their actions could subject DYFS and themselves to claims of discrimination, as well as intentional or negligent infliction of emotional distress. Such conduct is a violation of *DYFS Policy 015, Ethics and Boundaries*.
  2. DYFS staff and contracted providers shall report incidents of physical, verbal, emotional, sexual abuse or harassment and discrimination of any kind. Contracted providers will follow internal agency policy for reporting procedures. See applicable *DYFS Policy 007 Complaint and Grievance Process, 010 Critical Incident Reporting and/or Milwaukee County Detention Center Policy chapter 16.1* for complaint and/or incident reporting procedures.
  3. DYFS staff shall be subject to disciplinary sanctions, up to and including termination, for violations of agency *Ethics and Boundaries Policy 015* (*See Ethics and Boundaries Policy 015 III. Corrective Action.*)
  4. DYFS staff may be suspended pending outcome of an investigation into allegations of sexual contact and subjected to both internal disciplinary procedures and criminal prosecution.

Reviewed & Approved By:



Mark Mertens, Division Administrator