

**STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES**

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance with Rhode Island General Law (RIGL) 42-35 and 42-72-5, notice is hereby given that the Department of Children, Youth and Families proposes to adopt the following Department rule:

Sexual Orientation, Gender Identity and Expression

The proposed rule, Sexual Orientation, Gender Identity and Expression, sets standards which strictly prohibits discrimination on the basis of actual or perceived race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, socioeconomic status or disability or by association with an individual or group who has or is perceived to have one or more of such characteristics. The proposed rule requires staff and service providers to respect the dignity of lesbian, gay, bisexual, transgender, queer, questioning and intersex (hereinafter, LGBTQQI) youth and ensure LGBTQQI youth are protected from verbal, physical and/or sexual harassment or assault based on actual or perceived sexual orientation, gender identity or expression. In the development of this rule, consideration was given to: (1) alternative approaches and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This proposed rule is accessible on the DCYF website (<http://www.dcyf.ri.gov>) and the R.I. Secretary of State website (<http://www.sec.state.ri.us/ProposedRules/>) or available in hard copy upon request. If requesting a hard copy, please contact Sarah St. Jacques at 401-528-3793.

There will be a public hearing to consider the proposed rule on February 5, 2015 in the community room at the DaVinci Center for Community Progress, located at 470 Charles St, Providence, RI 02904. Persons wishing to testify may do so by signing up at the Hearing or by submitting written testimony by February 16, 2015 to Sarah St. Jacques, Principal Human Services Policy & Systems Specialist, Department of Children, Youth and Families, 101 Friendship Street, Providence, RI 02903, or via email: sarah.stjacques@dcyf.ri.gov. The Hearing will begin at 2:00 P.M. and will conclude when the last speaker finishes testimony or at 4:00 P.M., whichever occurs first. The seating capacity of the DaVinci Center will be enforced and, therefore, the number of persons participating in the Hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The DaVinci Center is accessible to the handicapped. Individuals with hearing impairments may request an interpreter's presence. Requests for this service must be made to the Department at least 72 hours in advance of the Hearing date.

The Department of Children, Youth, and Families does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap. The prohibition against discriminatory practices extends to the agencies, organizations and institutions the Department licenses.

Sexual Orientation, Gender Identity and Expression

Rhode Island Department of Children, Youth and Families

Policy: 100.0141

Effective Date: 2015

Version: 1

The Rhode Island Department of Children, Youth and Families (hereinafter, the Department) strictly prohibits discrimination on the basis of actual or perceived race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, socioeconomic status or disability or by association with an individual or group who has or is perceived to have one or more of such characteristics. The Department requires staff and service providers to respect the dignity of lesbian, gay, bisexual, transgender, queer, questioning and intersex (hereinafter, LGBTQQI) youth. The Department, its staff, providers, interns and/or volunteers offer services and interventions to youth without regard to actual or perceived sexual orientation, gender identity or expression. LGBTQQI youth receive fair and equal treatment in a professional and confidential manner based on Department policy, state and federal law and regulation and principles of sound professional practice, including culturally competent mental health and medical care. LGBTQQI youth are protected from verbal, physical and/or sexual harassment or assault based on actual or perceived sexual orientation, gender identity or expression.

Sexual Orientation, Gender Identity and Expression

Procedure from Policy 700.0085: Sexual Orientation, Gender Identity and Expression

- A. Department and service provider policies and practices require and reflect equity in the treatment of all youth.
- B. Department staff and service providers create a safe and welcoming environment for lesbian, gay, bisexual, transgender, queer, questioning and intersex (hereinafter, LGBTQQI) youth.
Department staff and providers:
 1. Utilize definitions of terms within this policy as follows:
 - a. Gay – A term of self-identification for people who are emotionally, romantically and/or physically attracted to people of the same gender. It is preferred over the term "homosexual," which is an outdated term and is considered derogatory and offensive to many LGBTQQI people. A person need not have had any sexual experience at all to identify as gay.
 - b. Gender Expression - The manner in which a person expresses their gender identity to the outside world through clothing and accessories, hair style, behavior, speech or other forms of presentation.
 - c. Gender Identity - A person's internal, deeply felt sense of their gender.
 - d. Intersex - A general term used to refer to a variety of conditions in which a person is born with a reproductive or sexual anatomy that does not fit the typical definitions of male and female chromosomes, external genitalia, internal reproductive organs, hormones and/or secondary sex characteristics.
 - e. Lesbian - a term of self-identification for women who are emotionally, romantically, and/or physically attracted to other women. A person need not have had any sexual experience at all to identify as a lesbian.
 - f. Queer – is used as a term of self-identification by people who do not identify with more restrictive and binary terms that have traditionally described sexual orientation. Historically a derogatory term for LGBTQQI or gender non-conforming person, the term has been widely reclaimed, especially by youth, as a positive social and political identity. Queer may be used as an inclusive, or umbrella term for all LGBTQQI people.
 - g. Questioning – A term of self-identification for people who are exploring or questioning their sexual orientation or gender identity or expression.
 - h. Sexual orientation - refers to a person's emotional, romantic, and physical attraction to persons of the same and/or different gender.
 - i. Transgender - A term of self-identification for people whose gender identity or expression is different from that which is typically associated with their assigned sex at birth. Transgender is a broad term which includes a variety of gender identities and refers to both those who are, or perceived to be, transgender.
 - j. Transphobia - A reaction of fear, loathing, and/or discriminatory treatment of people whose actual or perceived gender identity or expression does not match, in the socially-accepted way, the sex they were assigned at birth.
 2. Establish and maintain a culture that respects the dignity of every youth.
 3. Provide opportunities for dialogue about diversity in care planning and service delivery.
 4. Do not make assumptions regarding any youth's sexual orientation and gender identity.
 5. Use gender neutral language when discussing dating relationships until a youth has confirmed their sexual orientation.
 6. Speak in an open and non-judgmental manner with all youth, including any youth who discloses that self identification as LGBTQQI.
 7. Recognize that youth are in various stages of awareness and comfort with their sexual orientation, gender identity or expression.
 8. Provide each youth with an opportunity to discuss the meaning of self-identification as LGBTQQI in care planning and service provision.
 9. Utilize principles of positive youth development in all interactions and settings by:

- a. Modeling a respectful demeanor toward all youth;
- b. Reinforcing respect for diversity among youth;
- c. Encouraging the development of healthy self image in all youth;
- d. Treating each youth as a whole person without over emphasis on actual or perceived sexual orientation, gender identity or expression.
- e. Assisting youth in identifying and managing stigma as a part of care planning and service delivery.
- f. Ensuring that LGBTQQI affirming publications and media are included when such resources are utilized in programming.
- g. Displaying visual reminders to convey to staff and service providers that the Department and the program require respect for diversity, including sexual orientation, gender identity and expression.
- h. Making youth aware of local LGBTQQI resources that offer supportive services.

C. Department staff and service providers recognize that each youth must feel safe in care planning and service delivery.

- 1. Department Staff and service providers do not:
 - a. Practice or tolerate discrimination, disrespectful comments or gestures, bullying, harassment, violence or the threat of violence by staff or by youth towards youth and/or families based on sexual orientation, gender identity or expression.
 - b. Utilize derogatory language or language that reinforces stereotypes in referring to individuals who self-identify as LGBTQQI.
 - c. Impose personal beliefs, including religious beliefs on any families, including LGBTQQI youth or families, or allow such beliefs to limit the way individual needs of youth or families are met.
- 2. The Department and/or service providers ensure that all staff, youth and families are aware that these behaviors are not tolerated and take immediate action to intervene when:
 - a. A youth or service provider physically, verbally, or sexually abuses or harasses another individual based on their actual or perceived sexual orientation, gender identity or expression.
 - b. A youth or service provider makes a general statement disparaging any sexual orientation, gender identity or expression.
 - c. Department and service provider staff:
 - i. Report such conduct to supervisory/ administrative staff, as well as the Department's licensing unit and/or Child Protective services as appropriate;
 - ii. Treat any violation of this policy seriously;
 - iii. Take swift action in accordance with policy and procedures; and
 - iv. Include in agency policy the provision that failure to report an incident may result in disciplinary or other consequences.

D. Consent for medical procedure(s) is obtained in conformance with **DCYF Policy 1000.0020, Authorization for Medical Care for Child in Placement.**

E. Department staff or service providers do not disparage or attempt to change a youth's sexual orientation, gender identity or expression.

- 1. Corrective or reparative therapy is not authorized in any programming supported by the Department.
- 2. Service providers neither utilize such an approach nor refer youth to any provider or organization that utilizes such an approach.

F. Department staff and service providers refer to transgender youth by their preferred name and utilize pronouns (including gender neutral pronouns) that reflect the youth's preferences as much as possible even if the youth's name has not been legally changed.

1. Written communication and documentation utilize the youth's legal name only as required by state or federal law or regulation.
 2. When a youth identifies a preferred first name and/or preferred gender pronoun, Department staff and service providers ask the youth which name, legal or preferred, and gender pronouns will be used in conversations with:
 - a. The youth's family and
 - b. Other service providers.
 3. Department staff and service providers periodically discuss name and pronoun preferences with youth.
- G. Department staff and service providers do not disclose a youth's sexual orientation without the youth's permission, unless such disclosure is necessary to comply with state or federal law. Any disclosure related to a youth's LGBTQQI identity is limited to the minimum amount of information necessary to achieve the specific purpose of the disclosure.
- H. Department staff and service providers receive training about LGBTQQI youth during their orientation taught by a qualified trainer with expertise in working with LGBTQQI youth.
1. All service providers are required to attend Department approved training on working with LGBTQQI youth which addresses:
 - a. Establishing and maintaining a culture that respects the dignity of every youth.
 - b. Utilizing principles of positive youth development.
 - c. Psychosocial stress associated with explicit and implicit homophobia, heterosexism and transphobia as well as stigma associated with being LGBTQQI.
 - d. Unique family dynamics that may emerge with LGBTQQI youth and effective care planning.
 2. Approved training informs participants:
 - a. The goals and requirements of this policy and its implementation.
 - b. How to work with LGBTQQI youth in a respectful and nondiscriminatory manner.
 - c. How to recognize, prevent, and respond to harassment against LGBTQQI youth.
 - d. Recognizing the difference between personal values and professional responsibilities.
 - e. For supervisors, the implementation and enforcement of this policy and related services.
- I. The Department's primary Family Services Unit or Juvenile Correctional Services worker discusses this policy with the parents and youth (where age and developmentally appropriate – need discussion on exact parameters) at the initial service plan meeting. The primary worker offers to give the youth and parents a copy of the policy at the initial service plan meeting and informs the youth of their rights, responsibilities and procedures for reporting violations consistent with Paragraph C, above.