

**POLICY 4.60 (50) ENSURING THE HEALTH AND SAFETY OF
LGBTQI YOUTH IN JR**

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Approved


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Authorizing Sources

28 CFR Part 115 PREA, Juvenile Facility
Standards, effective August 20, 2012
DSHS Administrative Policy 18.66

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I. PURPOSE AND SCOPE

This policy establishes expectations for fair and unbiased treatment of gender non-conforming youth and lesbian, gay, bisexual, transgender, questioning and intersex youth in JR's care, and provides guidance on management of youth who have special needs related to their sexual orientation or gender identity.

All staff, contractors, volunteers, and interns working in the Division of Institution Programs, Division of Community Programs and Parole, and the Division of Operations and Support Services are responsible for reviewing and complying with JR policies.

II. POLICY

1. JR expects staff and youth to treat individuals with respect and dignity, and to embrace diversity and difference.
2. JR supports an organizational culture where all youth feel safe from discrimination or harassment.
3. Lesbian, Gay, Bisexual, Transgender, Questioning, Intersex (LGBTQI) and gender non-conforming youth will receive fair and equal treatment, without bias, in a professional and confidential manner.
 - 3.1. Staff will not discriminate against or harass any youth in their care based on the youth's actual or perceived sexual orientation, sex, gender, gender identity or gender expression.
 - 3.2. Staff will protect youth from discrimination, physical and sexual harassment or assault, and verbal harassment by other youth, based on a youth's actual or perceived sexual orientation, gender identity or gender expression.

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- 3.3. Staff will model positive behavior when interacting with LGBTQI youth and remind all youth that anti-LGBTQI threats of violence, actual violence, or derogatory or suggestive comments or gestures will not be tolerated.
- 3.4. Staff will use respectful language and terminology that does not further stereotypes about LGBTQI people regardless of gender norms.
 - 3.4.1. Staff will not refer to youth by using derogatory language in a manner that conveys bias or hatred of LGBTQI people.
 - 3.4.2. Staff will not imply or tell LGBTQI youth that they are abnormal, deviant, or sinful or that they can or should change their sexual orientation or gender identity.
- 3.5. Staff should be aware that LGBTQI youth are in various stages of awareness and comfort with their sexual orientation and gender identity.
- 3.6. Superintendents and Regional Administrators or designees will be aware of LGBTQI resources to assist staff in providing support to LGBTQI youth.
- 4. Youth will be provided information about agency policies on non-discrimination and information about their rights to protection from harassment, bullying and violence. If requested, accurate information about sexual orientation and gender identity will be provided.**
- 5. Confidentiality of LGBTQI youth will be maintained by staff.**
 - 5.1. Youth are not required to disclose information about sexual orientation or gender identity (coming out) and may do so when they feel comfortable and have a safe, trusting relationship established.
 - 5.2. Staff will not disclose a youth's sexual orientation or gender identity to other youth, friends, or family members; or to outside individuals or agencies. Disclosure to others (coming out) is the responsibility of the youth.
 - 5.3. The confidentiality restriction does not prevent individuals working at the facility from discussing a youth's needs with other staff members. If staff have questions about how to handle a disclosure, they should consult with their supervisor.
- 6. In order to determine if the youth has particular concerns about being victimized or specific needs related to being LGBTQI or gender non-conforming, health care staff will attempt to ascertain a youth's sexual orientation or gender identity in a respectful manner during the health screening process per Policy 4.30 (14), *Providing Health Care to JR Youth*. (PREA Standard 115.341 (c)(2))**
 - 6.1. If a youth chooses to disclose their sexual orientation or gender identity, staff will talk with the youth about it in an open and non-judgmental manner and will take appropriate steps to address any identified concerns or needs.
- 7. LGBTQI youth must not be placed in particular housing, bed or other assignments solely on the basis of identified or perceived sexual orientation. (PREA Standard 115.342 (c))**
- 8. LGBTQI youth will not be excluded from activities and jobs for which they qualify and show interest because of their sexual orientation or gender identity.**

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- 9. LGBTQI status must not be treated as an indicator of likely sexual abusiveness. (PREA Standard 115.342 (c))**
- 10. LGBTQI youth will not be treated or classified as sex offenders unless the youth has been adjudicated as having committed a sexual offense as defined by DSHS Administrative Policy 8.06.**
- 11. LGBTQI youth must not be placed in isolation as a means of keeping them safe from discrimination, harassment or abuse.**
 - 11.1. Temporary emergency protective segregation may occur; however, it should be utilized as a short-term measure to prevent harm, and be aligned with Policy 5.50 (22), *Assigning Room Confinement and Isolation*.
 - 11.2. LGBTQI youth in community facilities will not be transferred to jails or detention centers as a means of keeping them safe from discrimination, harassment or abuse.
- 12. Specific needs of transgender and intersex youth will be addressed with care and concern.**
 - 12.1. The decision on assignment to a facility for male or female youth will be made on a case-by-case basis to ensure the youth's health and safety and to consider any possible management or security challenges. (PREA Standard 115.342(d))
 - 12.2. Housing decisions for transgender and intersex youth will be based on the youth's individualized needs and will prioritize the youth's emotional and physical safety. Decisions must take into account the youth's perception of where he or she will be most secure (PREA Standard 115.342(f)), as well as any recommendations from the medical staff. If necessary to ensure privacy and safety, transgender youths will be provided a single room.
 - 12.3. Transgender and intersex youth will be referred to by their preferred name and the pronoun that reflects the youth's gender identity, even if their name has not been legally changed. All written documentation about a transgender or intersex youth will utilize the youth's preferred name as well as noting the youth's legal name recognized by the court.
 - 12.4. Staff will provide transgender and intersex youth with institutional clothing, including undergarments, appropriate for the youth's gender identity and gender presentation.
 - 12.5. Staff will provide transgender and intersex youth with safety and privacy when using the shower and bathroom and when dressing and undressing (except as required by Policy 3.30 (24), *Assessing and Treating Youth Suicide and Self-Harm Risk* and Policy 5.50 (22), *Assigning Room Confinement and Isolation*). Transgender and intersex youth will not be required to shower or undress in front of other youth. (PREA Standard 115.342 (g))
 - 12.6. Transgender or intersex youth will not be searched or physically examined in a manner that is humiliating or degrading or for the sole purpose of determining the youth's anatomical sex, in accordance with Policy 5.70 (42), *Conducting Searches*. (PREA Standard 115.315(e))

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12.6.1. Transgender and intersex youth may request that either a male or female staff member conduct a pat-down or strip search, in accordance with Policy 5.70 (42), *Conducting Searches*.

12.7. Placement and programming assignments for transgender and intersex youth shall be reassessed at least twice a year to identify any threats to safety that the youth has experienced. (PREA Standard 115.342 (e))

13. Staff shall be informed about LGBTQI youth issues.

13.1. All staff will receive training about LGBTQI youth as part of their annual training requirements.

13.2. Staff will not hold LGBTQI youth to a different standard than non-LGBTQI youth regarding communication, physical interactions, or rule violations

13.3. Staff should not make assumptions about any youth's sexual orientation or gender identity, and should use inclusive language in all communications, including but not limited to intake and programming.

13.4. Facility medical and mental health providers will be knowledgeable about the health care needs of LGBTQI youth.

13.4.1. Facility medical and mental health providers should facilitate exploration of gender or sexuality by being open and non-judgmental.

13.4.2. Mental health and medical providers will be aware of the increased risk of suicide for LGBTQI youth and the emotional difficulties faced in the process of coming out to family and friends or staff.

13.5. Parole counselors will be aware of the increased risk of family rejection and homelessness for LGBTQI youth returning home. Parole counselors should facilitate conversations with at-risk youth and their families as needed during home visits.

14. Any anti-LGBTQI threats of violence, actual violence, or disrespectful or suggestive comments or gestures concerning any JR youth will not be tolerated.

14.1. Staff are required to report conduct that violates this policy to a supervisor, program manager or an administrator.

14.2. Youth may submit grievances in accordance with Policy 2.10 (13), *Handling Youth Complaints*.

14.3. Management must take all incidents of discrimination and harassment seriously and will follow up promptly. All reported incidents will be investigated. If incidents are founded, corrective or disciplinary action will follow.

14.3.1. Retaliation against youth making complaints or staff filing incident reports will not be tolerated. If incidents of retaliation are founded, corrective or disciplinary action will follow.

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III. DEFINITIONS

Bisexual: A person who is emotionally, romantically, and sexually attracted to both males and females.

Coming Out: To publicly affirm one's sexual orientation, sometimes to one person in conversation, sometimes by an act that takes place in the public eye. It is not a single event, but a life-long process. In each new situation, a LGBTQI person must decide whether to disclose his or her sexual orientation.

Discrimination: Any act, or practice that, regardless of intent, has the effect of subjecting any youth to differential treatment as a result of that youth's actual or perceived sexual orientation or gender identity.

Gay: A person who primarily is emotionally, romantically, and sexually attracted to individuals of the same sex, typically in reference to boys or men.

Gender: A socially constructed concept classifying behavior as either "masculine" or "feminine", unrelated to one's external genitalia.

Gender Expression: A person's expression of their gender identity, including appearance, dress, mannerisms, speech and social interactions.

Gender Identity: Distinct from sexual orientation, this term refers to a person's internal, deeply felt sense of being male or female, regardless of the person's sex at birth.

Gender Non-Conforming: A youth who exhibits gender characteristics or behaviors that do not conform to those typically associated with a person's biological sex.

Gender "norms": The expectations associated with "masculine" or "feminine" conduct, based on how society commonly believes males and females should behave.

Harassment: Includes, but is not limited to, name-calling; disrespectful gestures, jokes or comments; inappropriate touching; threats of physical or emotional acts or negative consequences; physical abuse; sexual abuse, including unwanted sex acts, touching, pantomime, and threats; and emotional abuse, such as shunning or isolation. Attempting to change a youth's sexual orientation or gender identity is also a form of harassment.

Intersex: A person with a medical condition whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

Lesbian: A girl or woman who primarily is emotionally, romantically, and sexually attracted to girls or women.

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

Questioning: A person who is exploring or curious about issues of sexual orientation or gender identity or expression in his or her life.

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Sex: A person’s anatomical make-up, including external genitalia, chromosomes and reproductive system.

Sexual Orientation: A person’s emotional, romantic, and sexual attraction, to individuals of the same or different sex.

Transgender: A person whose gender identity does not correspond with their birth sex. A transgender girl is a girl whose birth sex was male but who understands herself to be and desires to live as a female. A transgender boy is a boy whose birth sex was female but who understands himself to be and desires to live as a male.

IV. REFERENCES

ACA Standard – Discrimination: 4-JCF-3A-03

National Institute of Corrections. “A Quick Guide for LGBTI Policy Development for Youth Confinement Facilities”.

ACA Standard – Equal Access: 4-JCF-3A-04

V. RELATED JR POLICIES

Policy 2.10 (13) – Handling Youth Complaints

Policy 5.70 (42) – Conducting Searches

Policy 4.30 (14) – Providing Health Care to JR Youth

Policy 5.90 (49) – Applying the PREA Juvenile Standards in JR

Policy 5.50 (22) – Assigning Room Confinement and Isolation
