


<b>Policy Number:</b>	SSA/CW #23-05
<b>Policy Title:</b>	Working with Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Asexual/Allied, and Two-Spirit (LGBTQIA2S+) Youth and Families
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<b>Supersedes:</b>	SSA/CW #18-13 Working with LGBTQ youth
<b>Originating Office:</b>	Tanisha Sanders, PhD Director of Permanency Social Services Administration
<b>Required Actions:</b>	Prioritize the health and safety of LGBTQIA2S+ youth in out-of-home placements.
<b>Key Words:</b>	LGBTQIA2S+, LGBTQIA2S+ placement, LGBTQIA2S+youth, Transgender, Gender Non-conforming
<b>Related Federal Law</b>	<a href="#">Title IV-B and IV-E of the Social Security Act</a> ; <a href="#">the Child Abuse Prevention and Treatment Act</a>
<b>Related State Laws</b>	Executive Order <a href="#">01.01.2023.08</a> Protecting the Right to Seek Gender-Affirming Care in Maryland (Effective 1/1/24); Md. Code Ann., Health Gen. <a href="#">§ 19-355</a> ;
<b>COMAR</b>	COMAR <a href="#">07.01.03.03</a> ; COMAR <a href="#">07.02.11.08</a> ; COMAR <a href="#">07.02.10</a> ;
<b>Title IV-E State Plan Implications?</b>	No



## PURPOSE AND SUMMARY

The Department of Human Services (DHS) is committed to ensuring the safety and well-being of lesbian, gay, bisexual, transgender, queer/questioning, intersex, asexual/allied, two-spirit (LGBTQIA2S+) youth in out-of-home placement regardless of whether they have disclosed their gender identity or sexual orientation. All youth have the right to affirming placements that actively promote their well-being, respect their identities, and are sensitive to their individual needs. Local Departments must ensure that youth welfare staff provide affirming care to LGBTQIA2S+ youth involved with DHS and their families.

Numerous studies indicate that LGBTQIA2S+ youth, particularly LGBTQIA2S+ youth of color, are disproportionately represented in foster care. LGBTQIA2S+ youth in care report experiencing significant discrimination related to their sexual orientation, gender identity, or gender expression. These youth are particularly vulnerable and often do not feel safe in the foster care system due to significant societal, familial, and institutional barriers and biases. Research on LGBTQIA2S+ youth reveals several troubling themes, including a high incidence of rejection, bullying, and housing instability, as well as an increased risk for depression, anxiety, suicidality, substance abuse, truancy, family violence, homelessness, and more.<sup>1</sup>

## RELATED LAWS AND REGULATIONS

In September 2014, Congress passed the “Preventing Sex Trafficking and Strengthening Families” Act.<sup>2</sup> In addition to other provisions, the Act establishes the “reasonable and prudent parent” standard for decision-making. This standard comprises decision-making that maintains youth health, safety, and best interests of children in care while at the same time encouraging their emotional and developmental growth. Local departments must ensure resource parents know and have the skills to make “reasonable and prudent parent” decisions regarding LGBTQIA2S+ foster youth. Title IVB and IVE of the Social Security Act provide guidance to local, state, and tribal agencies that provide services to LGBTQIA2S+ youth.<sup>3</sup>

In 2023, Maryland Governor Wes Moore signed an executive order, “Protecting the Right to Seek Gender-Affirming Care in Maryland,”<sup>4</sup> which among other provisions, expanded medicaid coverage for gender affirming services. Maryland law ensures equal rights and access to services free from prejudice to all Maryland residents regardless of race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability of the individual.

## DEFINITIONS

**Affirming** - The demonstration of recognizing, accepting, and expressing a person’s identity.

**Asexual** - A person lacking sexual attraction to others or having a low or nonexistent interest in or desire for sexual activity or romantic partnership.

**Conversion therapy** - Conversion therapy is the practice of attempting to change an individual's sexual orientation, gender identity, or gender expression to align with heterosexual and cisgender norms.

**Gender affirming** - Recognizing and accepting an individual’s gender identity and expression.

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<sup>1</sup> [Sexual and Gender Minority Youth in Foster Care: Assessing Disproportionality and Disparities in Los Angeles, Exploring the Experiences of Lesbian, Gay, Bisexual, and Questioning Adolescents in Foster Care](#)

<sup>2</sup> P.L.113-183

<sup>3</sup> [Administration for Child and Youth Information Memorandum - ACYF-CB-IM-22-01](#)

<sup>4</sup> [MD Executive Order 01.01.2023.08](#)

Gender expression - A person's manifestation of gender identity through characteristics and behaviors such as appearance, dress, mannerisms, speech patterns, and social interactions.

Gender identity - Distinct from sexual orientation, a person's internal, deeply-felt sense of being male, female, or something else.

Gender Non-Conforming - Behaviors or gender expression that fall outside what is generally considered typical for the sex assigned at birth.

Intersex - An umbrella term used to describe a number of natural variations in chromosomal makeup, reproductive organs, genitals, or other sexual anatomy that do not develop according to traditional expectations for females or males.

LGBTQIA2S+ - A common acronym for Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Asexual/Allied, and Two-Spirit (this term also includes pansexual, non-binary, and others who do not subscribe to a heteronormative lifestyle).

Preferred pronouns - Terms individuals prefer others to use to refer to them so as to express their gender identity, e.g., she/her/hers, he/him/his, and they/them/theirs or as defined by the individual.

Queer - An umbrella term describing people who think of their sexual orientation or gender identity as outside of societal norms. Some people view the term queer as more fluid and inclusive than traditional categories for sexual orientation and gender identity (*Queer* was historically used as a slur, but has been reclaimed by many as a term of empowerment)..

Questioning - An individual who is unsure about, or is exploring their sexual orientation, gender identity, or both.

Sex assigned at birth - The biological sex (male, female, or intersex) assigned to an infant, most often based on the infant's anatomical and other biological characteristics (Sometimes referred to as birth sex, natal sex, biological sex, or sex; however, sex assigned at birth is the recommended term).

Sexual orientation - An individual's romantic or sexual attraction to individuals of a specific gender or genders, e.g., "lesbian," "gay," "bisexual," or "straight."

Transgender - Individuals whose gender identity differs from their sex assigned at birth.

Two -Spirit (TS) - An Individual who embodies both a masculine and a feminine spirit. This is a culture-specific term used among some Native American, American Indian, and First Nations people.

## **PROCEDURES AND TIMEFRAMES**

### Workers' Responsibilities

Support safe and respectful placements for all youth, including LGBTQIA2S+ youth. LDSSs must provide placements for youth where they may be open and honest about their gender identity and sexual orientation or not feel judged if they choose not to disclose their identity or orientation. To achieve this:

- Continually re-evaluate every youth's overall safety and well-being related to their sexual orientation, gender identity, or gender expression and take appropriate action if a youth is experiencing psychological or physical harm.
- Because a youth may be questioning or may not have disclosed their sexual orientation or gender identity, be responsive to any issues a youth may want to discuss, whether expressly

related to sexual orientation, gender identity, or any other related concern. For transition-aged youth, ensuring they are aware of and understand their *Youth Bill of Rights* (See [Attachment A](#)), as described in the Youth Matter - Out-of-Home Program Handbook for Foster Youth (See [Attachment B](#)), can help to empower youth in out-of-home placements

- Whether a youth initiates a conversation about sexual orientation or gender identity, explain that confidentiality prevents the worker from redisclosing personal information, including information about sexual orientation or gender identity, except to a supervisor or other worker unless the youth gives express permission or disclosure is necessary to protect the youth.
- Connect youth and families with culturally competent local LGBTQIA2S+ resources.
- If a youth has given consent and a youth or caregiver requests it, meet with school officials to discuss how the school will ensure the safety of an LGBTQIA2S+ student.
- Consult with a supervisor with any questions or concerns and about the steps to ensure the well-being and safety of LGBTQIA2S+ youth.
- Create no barriers for the youth in accessing gender-affirming services and care per the Office of Health Services guidelines (See [Attachment C](#)).
- Ensure that no youth in care receives conversion therapy, whether by a local department or another entity, and take appropriate action if it learns that a child is being subjected to this therapy.

#### Selective Placement

Do not place LGBTQIA2S+ youth in care in a housing situation where someone may not respect their identity. A seeming lack of understanding of LGBTQIA2S+ needs and resources and any hostility expressed about a youth's orientation, identity, or apparent violation of traditional gender roles can affect a youth's perceived safety or acceptance in a placement.

In any placement where you have reason to believe that anyone, including residents, may not be accepting of individuals with gender non-conformance or a differing sexual orientation, be alert to any effect this may have on youth who have not disclosed their identities or are questioning.

#### Consult with the Youth

An emotionally and physically harmful environment increases adverse outcomes for LGBTQIA2S+ youth in care. Actively involve and seek input from youth throughout the placement process to ensure that the team can identify a safe and affirming placement that will achieve permanency and address any safety issues or other concerns the youth may have.

#### Congregate Care

Make placement decisions involving placing transgender and gender non-conforming youth in congregate care on a case-by-case basis, including, as appropriate, assigning the youth to a facility specifically for male or female residents. Carefully consider the placement's potential impact on the safety and well-being of a LGBTQIA2S+ youth and any management or security issues the placement may pose to the facility.

Do not base congregate care placement decisions for transgender or gender non-conforming youth solely on their sex assigned at birth. Make appropriate efforts to place youth in facilities that can meet their needs. For example, when appropriate, ensure that transgender and gender non-conforming youth can shower and use bathrooms privately.

Because you must safeguard all youth, use your best judgment when placing a youth who has previously been or may be at risk of being stereotyped and targeted as LGBTQIA2S+ youth.

#### Additional guidance for monitoring the safety of LGBTQIA2S+ youth

- Complete the SAFE-C OHP throughout a youth's out-of-home placement and a Safe-C for any trial home visit.
- Whether a youth gives permission for the disclosure of information about sexual orientation or gender identity, workers may use this information to inform decision-making regarding placement, service provision, treatment plans, etc., while maintaining confidentiality as appropriate.
- During visits, check in with LGBTQIA2S+ youth to review the placement and services, ensure they are affirming, and report any mistreatment, including verbal harassment and bullying. Address any concerns with supervisory staff and, in the case of private agencies, with the Office of Licensing and Monitoring.
- As helpful, utilize LGBTQIA2S+ subject matter experts, both in the agency and through community resources, when determining placements for gender non-conforming and transgender youth.
- Ensure that a proposed placement provider has adopted Guidelines for Placement of Transgender or Non-Conforming Youth approved by the Office of Licensing and Monitoring before placement. (See [Attachment D](#))

#### Personal Grooming, Clothing & Use of Name

Insist that, while youth are in placement, they are called or referred to by their preferred names and pronouns. Advise the placement that a youth may change names or preferred pronouns more than once and that the placement must follow the youth's lead to support their identity.

Failing to respect a youth's grooming, clothing, and preferred name and pronoun can endanger the physical and emotional well-being of an LGBTQIA2S+ youth. Ensure that no youth in placement is barred from wearing clothing or accessories, removing facial or body hair, or having a hairstyle consistent with their culture or gender expression.

#### Confidentiality & Disclosure

Disclosing a young person's identity may traumatize a youth or place the youth at risk of harm.

If a youth discloses their sexual orientation or gender identity, consider this to be sensitive and confidential information to avoid placing the youth at risk.

Do not disclose a youth's sexual orientation or gender identity to individuals other than a supervisor or worker who needs to know without the youth's permission. Whether a youth grants permission to share information about sexual orientation or gender identity, the information may be relevant to decisions regarding a youth's placement.

Do not label a youth as LGBTQIA2S+ without the youth's explicit acknowledgment of that identity.

### LGBTQIA2S+ Affirmation

Do not attempt to convince or coerce any youth to disclose, reveal, or change their sexual orientation or gender identity. When an LGBTQIA2S+ youth enters an out-of-home placement, be their link to support and safety; provide an ongoing informal evaluation of the placement's attitude toward the youth and their identities. Demonstrate the capacity, understanding, and willingness to support a youth's social and emotional development while in out-of-home placement.

Youth access to support groups or gender affirming items cannot be used as part of a reward and punishment system for LGBTQIA2S+ youth/young adults. Removing or denying access to such activities and personal items as a form of punishment can negatively affect their mental health, safety, and well-being.

SSA will ensure that all workers, supervisors, and new staff receive LGBTQIA2S+ affirming training, including training for recognizing and working with youth who have not disclosed their sexual orientation or gender identity.

Identify, be familiar with, and refer youth to affirming resources and services<sup>5</sup>, including physical and mental health services. Transgender and gender non-conforming youth have the right to gender-affirming care in accordance with the Office of Health Services guidelines (See [Attachment C](#)).

### **ALIGNMENT WITH PRACTICE MODEL AND DESIRED OUTCOMES**

Maryland's policy on working with LGBTQIA2S+ youth supports the Integrated Practice Model's goals of being culturally and linguistically responsive, outcome-driven and having a trained and professional workforce. This policy dictates a family-centered approach by requiring that LGBTQIA2S+ youth engage in and provide input about potential placements. This policy is culturally and linguistically responsive by acknowledging the challenges LGBTQIA2S+ youth face in foster care, providing guidance for how they should be respected throughout their experience, and providing resources for affirming language. This policy emphasizes physical and emotional safety to ensure the trauma-responsive nature of clinical practice with LGBTQIA2S+ youth. This policy operationalizes IPM values through empowerment, advocacy, respect, and collaboration. Workers will collaborate with LGBTQIA2S+ youth through:

1. [Engagement](#)
2. [Collaborative Assessments](#)
3. [Individual Planning](#)
4. [Intervention](#)
5. [Monitoring and Adapting](#)
6. [Teaming](#)
7. [Transitioning](#)

### **DOCUMENTATION**

Document all contacts, assessments, information, court records, services, and referrals in the electronic system of record for youth, as well as any efforts related to safety and overcoming barriers, including issues related to LGBTQIA2S+ identities, that prevent or make difficult a youth's ability to achieve their goals as they move toward independence and permanency. For transition-aged youth, document all barriers and goals in the Youth Transition Plan<sup>6</sup> (YTP- See [Attachment E](#)).

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<sup>5</sup> For guidance in making referrals, please see [All Children – All Families: LGBTQ+ Competent Referrals](#)

<sup>6</sup> For guidance in creating safety plans, please see [All Children – All Families: LGBTQ+ Considerations for Safety Plans](#)

## FORMS AND ATTACHMENTS

Youth Bill of Rights ([Attachment A](#)) is located on the [MyLife Website](#) under *Initiatives>Youth Bill of Rights*.

Youth Matter - Out-of-Home Program Handbook for Foster Youth ([Attachment B](#)) is located on the [MyLife Website](#) under *Initiatives>Youth Matter*.

Office of Health Services- Gender Transition: Covered Services, Coverage Criteria, Limitations and Exclusions ([Attachment C](#)- issued 3/10/16 )

Office of Licensing and Monitoring -Guidelines for Placement of Transgender or Non-Conforming Youth ([Attachment D](#) issued 1/9/18)

The Youth Transition Plan form ([Attachment E](#) revised 6/28/21) is located on the [MyLife Website](#) under *Initiatives>Maryland Youth Transitional Plan*.

## RELATED INFORMATION

For additional information on the clinical standards of care for gender-affirming treatment, which Maryland adheres to, see The World Professional Association for Transgender Health (WPATH) [Standards of Care for the Health of Transgender and Gender Diverse People, Version 8](#).

For a Glossary of LGBTQIA2S+ terminology, please see the [LGBTQIA2S+ Glossary of Terms for Health Care Teams](#) as supported by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS).

For additional LGBTQIA2S+ youth and families resources, please see the Child Welfare Information Gateway [Updated Resources & Tools to Support LGBTQIA2S+ Communities](#) and the Human Rights Campaign [All Children - All Families: LGBTQ+ Resources for Child Welfare Professionals](#).

For information on terminology and several basic but critical tips on how to best support and care for LGBTQ children and youth, please see the Human Rights Campaign [Caring for LGBTQ Children & Youth Guide](#).

For additional guidance in the placement of transgender, non-binary, and gender non-conforming youth, please see the Human Rights Campaign [Guidance For The Placement Of Transgender, Non-Binary, And Gender Expansive Youth In Congregate Care](#).

For a youth-friendly outline of the YTP and its purpose, DHS has created an [Animated Overview of the YTP](#). Please also see the [IPM Youth Transition Planning Crosswalk](#) and [SSA/CW 21-02 Family Teaming](#).

For additional guidance on CJAMS procedures, please see the [CJAMS Child Welfare How-To-Guides](#).

For additional information on Older Youth, please see [SSA/CW 18-18 Maryland Tuition Waiver and ETV](#), [SSA/CW 15-14 Annual Notice of Resources](#), and [SSA/CW 14-07 Identity Theft, Credit Report and Repair](#).