

	HAWAII YOUTH CORRECTIONAL FACILITY	EFFECTIVE DATE: 04/11/07	POLICY NO.: 1.43.03
	CHAPTER: 43 Youth Rights and Remedies	SUPERSEDES: (Policy No. & Date): N/A	
	SUBJECT: Non-Discriminatory, Developmentally-Sound Treatment of Lesbian, Gay, Bi-Sexual and Transgender (LGBT) Youth		Page: 1 of 7

1.0 Purpose:

To establish operational guidelines for good child care practices and training to respond to the gender identity and sexual orientation of the youth in our care. Lesbian, Gay, Bi-Sexual, Transgender (LGBT) youth shall receive fair and equal treatment without bias. LGBT youth shall feel safe and accepted and not treated as abnormal or bad. The Hawaii Youth Correctional Facility (HYCF) recognizes that LGBT youth are in the midst of adolescent development and have complex needs that require the sensitivity and awareness of well-trained staff in performing their duties without bias toward or criticism or judgment of LGBT youth.

2.0 Policy:

Employees, volunteers and contract providers that offer services to youth confined at the HYCF shall not discriminate against or harass, physically or verbally, any youth in their care because the youth is LGBT or because an employee perceives a youth to be LGBT. State employees must also protect youth from being discriminated against or harassed, physically or verbally by other youth for being LGBT, or because youth believe another youth is LGBT. All staff shall ensure that LGBT youth feel safe and accepted and will support LGBT youth with fair and equal treatment, without bias and in a professional and confidential manner.

3.0 References and Definitions:

.1 References:

- a. American Corrections Association Standard(s): 3-JTS-1A-19, 3D-03, 3D-04, 3D-06, 3D-07, 5B-02-1, 5D-02, 5D-15-2, 5H-01, 5H-07, 5H-11, 5H-12, 5H-13, 5H-14
- b. Administrative Rules of the Department of Human Services Chapter 17-1512, Civil Rights of Wards.
- c. Section 352-4, Hawaii Revised Statutes, Rules and Regulations
- d. Hawaii Youth Correctional Facility Policy, 1.43.01, Basic Youth Rights
- e. Hawaii Youth Correctional Facility Policy, 1.43.81, Youth Grievances
- f. Hawaii Youth Correctional Facility Policy, 1.43.35, Alleged Mistreatment, Abuse, and Exploitation



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- g. Hawaii Youth Correctional Facility Policy, 1.47.25, Initial Security Classification Assessment, Community Risk Assessment, and Community Placement Eligibility Requirements.
- h. Hawaii Youth Correctional Facility Policy, 1.55.01, Rules of Conduct
- i. Hawaii youth Correctional Facility Policy, 1.55.25, On-Site Disciplinary Consequences.
- j. Hawaii youth Correctional Facility Policy, 1.63.95, Security Admission, Extension and Release.

.2 Definitions:

a. **Lesbian:**

A woman who has emotional, physical, spiritual, and sexual attractions to other women.

b. **Gay:**

Usually, but not always, refers to homosexual men. Also used as an umbrella term for the LGBT community.

c. **Bisexual:**

A person who is emotionally, physically, and sexually attracted to members of more than one gender. Also can be referred to as omni sexual.

d. **Transgender:**

An umbrella term for people who contravene society's view of gender and biological sex as necessarily fixed, unmoving, and following from one's biological sex. They view gender on a spectrum, rather than a polarized, either/or construct. This can range from identification to cross dressing, to undergoing hormone therapy, to sex reassignment surgery and/or to other forms of dress/presentation. Transgender people can include transsexuals, cross-dressers, drag kings/queens, masculine women, feminine men, and all those who defy what society tells them is appropriate for their "gender".

e. **Harassment**

Harassment includes name-calling, slurs, disrespectful gestures, being joked about, being picked on, being inappropriately touched, being labeled abnormal, sinful or sick, being approached for sex or being told that one can or should choose not to be LGBT, where such conduct would adversely affect



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a ward's physical or psychological well-being or contribute to a climate of hostility or intimidation

f. Gender Identity

Includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self image, gender-related appearance, or gender-related expression, regardless of whether that gender identity, gender related self image, gender-related appearance, or gender-related expression is different from that traditionally associated with the person's sex at birth.

g. Homosexual

A term used to refer to a person based on his or her-same sexual orientation, identity or relationships.

h. Sexual Orientation

A term describing a person's emotional, romantic, and sexual attractions, whether it is for members of the same sex or a different sex.

4.0 Procedures:

- 1 The HYCF will provide an inclusive organizational culture where the dignity of every youth is respected and all youth feel safe. When youth arrive at the HYCF they will be told verbally, *and in writing*, in intake and on the module/cottage by staff and other youth, that name-calling and other harassment is hurtful and not accepted.
- 2 Respectful and inclusive terminologies that do not make assumptions about sexual orientation or gender identity will be used in interviews with all youth at the HYCF. Social workers, medical, mental health and all other employees of the HYCF will be trained to be sensitive in questioning LGBT youth without embarrassing them or making them feel judged. Staff will be aware that youth are in various stages of awareness and comfort with their sexual orientation and gender identity. Youth intake interviews will sensitively inquire about fears the youth has of being picked on in the facility. Youth pertinent sheets and intake forms will include information indicating LGBT youth who self identify.



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- .3 Employees of HYCF will not disclose a ward's sexual orientation or gender identity to outside parties, individuals, entities or agencies, such as health care or social services providers, unless such disclosure is either necessary to comply with state or federal law, or has been deemed to be in the best interest of the ward by the Executive Director *and is related to a legitimate rehabilitative, or therapeutic purpose*. Prior to any disclosure, the Executive Director will solicit input from the ward, and will consider the ward's opinion. This confidentiality restriction will not interfere with the individuals working at HYCF discussing a ward's needs or services or resolving a grievance.
- .4 Employees of HYCF shall not use in the course of their employment, and in a manner intended to convey hatred, contempt, or prejudice, terms or slurs that are commonly used to convey hatred, contempt, or prejudice to LGBT person. such terms include but are not limited to "butch," "butchie," "bull," "faggot," "fag," "wahine," "mahu," "cupcake," or "fruitcake." Employees shall intervene to stop wards from using such terms in a manner intended to convey hatred, contempt, or prejudice towards wards who are perceived to be LGBT.
- .5 Classification and housing decisions will be individualized, based on the particular youth's age, size, current offense, offense history, and initial security classification assessment score (ISCA). Community Risk Assessment, (CRA) and Community Placement Eligibility Requirements, (CPER). This placement should occur as soon as a LGBT youth arrives at the facility, and after the intake process, so the youth is not at risk while awaiting an administrative decision regarding placement. The placement of transgender youth will be decided before youth are automatically given a male haircut. LGBT youth, like all youth sentenced to HYCF are eligible for counseling which could lead to a request for a change in housing. The input of the youth will be solicited and considered. However, the ward's input will not be the only or necessarily the determining factor. A decision as to classification and housing of a ward will be based on good juvenile correctional practices.
- .6 Transgender youth will be called by their *legal name*. All documentation will include their legal name recognized by the court, with their preferred name indicated as "Also Known As (AKA)."



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- .7 The HYCF administration will ensure adequate staffing and supervision of all youth to minimize harassment.
- .8 LGBT youth will not be placed in isolation as a means of keeping them safe from discrimination, harassment or abuse, except for temporary emergency protective segregation. Separation from others is harmful for teenagers in custody and LGBT youth will not be isolated from other youth because they are at risk of harassment unless necessary on a temporary basis to protect the youth from harm. Staff will actively intervene in behaviors by other youth that make the youth feel unsafe or hurt. The environment should be safe so that it rarely occurs that a youth requests temporary emergency protective segregation (the temporary placement of youth in a secure area, away from other youth) because they do not feel adequately protected from harm (e.g., a youth cannot sleep without fear of further harassment or abuse after an incident has occurred).
- .9 Within a reasonable time of a youth being placed in temporary emergency protective segregation, the Administrator, or Administrator's designee will meet with the youth for the purpose of assessing the youth's short-term need for medical care, psychological care, or other social services. The Administrator, or Administrator's designee, will act promptly on that assessment to ensure that the youth's short-term needs are met. The fact that this meeting took place, the results of the initial assessment, and any care or services ordered for the youth will be documented in the youth's legal or ward file. Within 48 hours after a youth is placed in temporary emergency protective segregation, or by the close of business on the next business day should the placement occur on a weekend, a multi-disciplinary meeting will occur with the youth to plan how to keep the youth safe without segregation. "Temporary Emergency Protective Segregation" is defined as a short term measure to prevent harm until the conditions which caused the youth to be placed into temporary emergency protective segregation are rectified and will be used only after all other reasonable steps to keep the youth safe have been exhausted (including sanctions against or moving the youth doing harassment). As is reasonably possible, when temporary emergency protective segregation occurs, the youth will be entitled to continue to receive the same services, recreation, or other activities he or she was receiving before temporary emergency protective segregation, in as close to a normal setting as possible. The provision of services, recreation, or other activities to a youth in Temporary Emergency Protective Segregation will be documented in the



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youth ward or legal file. During the time the youth is in temporary emergency protective segregation, the youth will be visited by the Administrator, or Administrator's designee, at least once every 24 hours. All decisions regarding a youth's placement in temporary emergency protective segregation will take into account the totality of the circumstances surrounding the needs of the youth involved, the other youths at the facility, the safety and security of the facility as a whole, the therapeutic goals of the youth's incarceration, and the correctional and rehabilitative objectives of HYCF.

- .10 LGBT youth will not be prohibited from having a roommate based solely on the youth's LGBT status. If a youth is fearful of rooming with another youth, he or she will be assigned a single room or another roommate provided that facility decisions regarding youth who require to be housed alone in a cell or are assigned a roommate, shall be based on facility safety and security practices, the classification process and a multi-disciplinary team made up of line staff, social workers, mental health staff and medical staff that will present a final recommendation to the YFA or designee.
- .11 The HYCF administration will promptly respond to grievances by youth who allege discrimination, harassment or abuse.
- .12 The HYCF Incident reporting form has been amended to indicate harassment incidents and the disciplinary actions taken against perpetrators.
- .13 Employees of the HYCF shall not prohibit or discourage communication between youth of the same sex that is not also prohibited or discouraged between youth of different sexes. Employees of the HYCF shall not otherwise hold LGBT youth to a different standard than other youth at the HYCF.
- .14 All direct care staff and service providers will be trained and affirmatively demonstrate their commitment to creating and maintaining a safe and accepting environment. This policy will be provided to all new staff, and new staff training will include understanding and protecting LGBT youth.



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.15 Incidents of inappropriate employee action must be reported to the employee's supervisor and the youth facility administrator. Failure to report an incident may have disciplinary consequences leading up to termination

5.0 Scope:

This policy shall apply to all employees of the HYCF, to employees or representatives of any agency providing services on behalf of youth at the HYCF, including but not limited to the Department of Health, Department of Education, the Office of Youth Services, their contractors, volunteers, and any other agency or state department which has contact with HYCF youth.

Approved:

Kalene Tugano 4/12/07

Youth Facility Administrator **Date**
Hawaii Youth Correctional Facility