

ARIZONA

Arizona has not begun to address the needs of LGBT youth. The Division of Children, Youth, and Families (“DCYF”) has no statewide policies, training, or programs addressing discrimination against LGBT foster care youth.*

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*The following recommendations are modeled on and should be read in conjunction with the “Basic Reforms to Address the Unmet Needs of LGBT Foster Youth” described at pages 22-28 of this Report. “LGBT” is an acronym for lesbian, gay, bisexual, and transgender.

I. NON-DISCRIMINATION POLICIES

A. SEXUAL ORIENTATION OF YOUTH

Assessment: The DCYF Policy Manual does not include provisions prohibiting discrimination on the basis of the sexual orientation of youth. However, DCYF policy does provide that when the information is available, the care provider should be made aware of the youth's sexual orientation.¹

The Arizona Administrative Code ("Administrative Code") provides that child welfare agencies operating residential group care facilities "shall not refuse admission to any child on the grounds of race, religion, or ethnic origin" but does not include sexual orientation as an expressly prohibited basis for discrimination.²

Recommendation:	DCYF should adopt express written policies prohibiting discrimination based on the sexual orientation of youth.
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B. SEXUAL ORIENTATION OF FOSTER PARENTS AND OTHER FOSTER HOUSEHOLD MEMBERS

Assessment: There is no provision in the DCYF Policy Manual prohibiting discrimination on the basis of the sexual orientation of foster parents and other foster household members.

The Administrative Code provides that "the presence of both a foster father and a foster mother is considered desirable."³ This requirement may be waived at the discretion of DCYF.⁴ The Administrative Code further provides that single parents may apply for licensing if they can demonstrate the ability to care for children adequately.⁵ As a practical matter, these provisions, in conjunction with the lack of a sexual orientation non-discrimination statement, may be preventing qualified lesbian and gay adults from serving as foster parents.

Recommendation:	Adopt express written policies prohibiting discrimination on the basis of the sexual orientation of foster parents and other foster household members, not only in licensing and placement decisions, but in all interactions with DCYF and its agents. Rescind the preference in the Administrative Code for opposite-sex couples, and adopt a regulation expressly prohibiting discrimination based on the sexual orientation of foster parents and other foster household members.
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C. SEXUAL ORIENTATION OF FOSTER CARE STAFF

Assessment: There is no provision in the DCYF Policy Manual prohibiting discrimination on the basis of the sexual orientation of foster care staff.

Recommendation:	Adopt express written policies prohibiting discrimination on the basis of the sexual orientation of foster care staff.
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D. HIV/AIDS STATUS OF YOUTH

Assessment: The DCYF Policy Manual contains several statements prohibiting discrimination on the basis of the HIV/AIDS status of youth, including that “[s]ervices shall not be denied to any child on the basis of HIV status.”⁶ DCYF’s policy is to ensure that all HIV-positive children under its care receive appropriate medical treatment and that their rights not be abridged.⁷

The Administrative Code provides that “group foster homes should not accept for care a foster child who has any evidence of a communicable disease, or accept for care any foster child where there is evidence of a communicable disease in the group foster home.”⁸

Recommendation:	The Administrative Code should be amended to eliminate the per se exclusion from group homes of youth with HIV.
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E. HIV/AIDS STATUS OF FOSTER PARENTS AND OTHER FOSTER HOUSEHOLD MEMBERS

Assessment: We have been informed by DCYF that HIV-positive status does not preclude a person from becoming a foster parent; however, the DCYF Policy Manual does not contain a non-discrimination policy to that effect.⁹

Recommendation:	Adopt express written policies prohibiting discrimination on the basis of the HIV/AIDS status of foster parents able to perform foster care responsibilities and of other foster household members.
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F. HIV/AIDS STATUS OF FOSTER CARE STAFF

Assessment: There is no provision in the DCYF Policy Manual prohibiting discrimination on the basis of the HIV/AIDS status of foster care staff.

Recommendation: Adopt express written policies prohibiting discrimination on the basis of the HIV/AIDS status of foster care staff.

II. FOSTER PARENT TRAINING

A. EXPLAINING NON-DISCRIMINATION POLICIES REGARDING SEXUAL ORIENTATION AND HIV/AIDS STATUS

Assessment: We are informed by DCYF that there is no mandatory instruction provided to foster parents on non-discrimination principles regarding sexual orientation and HIV/AIDS status.

Recommendation: In addition to adopting sexual orientation and HIV/AIDS non-discrimination policies in the first instance, make training about such policies mandatory for all foster parents.

B. SENSITIVITY TO SEXUAL ORIENTATION

Assessment: DCYF does not offer or require instruction to foster parents on sensitivity to sexual orientation.

Recommendation: Require mandatory training for all foster parents on sensitivity to sexual orientation and the challenges facing LGBT youth.

C. SUPPORTING A FOSTER CARE YOUTH COMING OUT AS LGBT

Assessment: DCYF does not offer or require instruction to foster parents on supporting a foster care youth coming out as LGBT.

Recommendation: Require mandatory training for all foster parents on supporting a youth coming out as LGBT.

D. SEXUAL HEALTH EDUCATION, INCLUDING HIV/AIDS AND OTHER STD PREVENTION EDUCATION AND SERVICES

Assessment: Although the DCYF Policy Manual provides that “out-of-home care providers should be involved in the provision to their foster children of family planning information,”¹⁰ DCYF does not provide mandatory instruction to foster parents on how to educate LGBT youth about their sexual health, including prevention of HIV/AIDS and other STDs. Furthermore, the DCYF Policy Manual expressly states that DCYF “supports the promotion of abstinence.”¹¹

Recommendation:	Require mandatory training for all foster parents on how to educate LGBT foster care youth about their sexuality and sexual health, including prevention of HIV/AIDS and other STDs. Ensure that training does not promote abstinence exclusively.
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III. FOSTER CARE STAFF TRAINING

A. EXPLAINING NON-DISCRIMINATION POLICIES REGARDING SEXUAL ORIENTATION AND HIV/AIDS STATUS

Assessment: DCYF did not respond to our requests for written manuals or curricula describing the specific training administered to foster care staff.

Recommendation:	In addition to adopting sexual orientation and HIV/AIDS non-discrimination policies in the first instance, make training about such policies mandatory for all foster care staff.
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B. SENSITIVITY TO SEXUAL ORIENTATION

Assessment: DCYF does not offer or require instruction to foster care staff on sensitivity to sexual orientation.

Recommendation:	Require mandatory training for all foster care staff on sensitivity to sexual orientation and the challenges facing LGBT youth.
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C. SUPPORTING A FOSTER CARE YOUTH COMING OUT AS LGBT

Assessment: DCYF does not offer or require instruction to foster care staff on supporting a foster care youth coming out as LGBT.

Recommendation: Require mandatory training for all foster care staff on supporting a foster care youth coming out as LGBT.

D. SEXUAL HEALTH EDUCATION, INCLUDING HIV/AIDS AND OTHER STD PREVENTION EDUCATION AND SERVICES

Assessment: DCYF does not mandate instruction to foster care staff on educating LGBT youth about their sexual health, including about prevention of HIV/AIDS and other STDs.

Recommendation: Require mandatory training for all foster care staff on educating LGBT foster care youth about their sexuality and sexual health, including prevention of HIV/AIDS and other STDs.

IV. LGBT YOUTH PROGRAMS AND SERVICES

A. SAFE GROUP HOMES

Assessment: Although Arizona maintains group homes, none is geared specifically to LGBT youth. Furthermore, given the complete lack of training and services offered on LGBT youth issues by DCYF, existing group homes are ill-equipped to address the needs of these adolescents.

Recommendation: DCYF should consider whether, in the short term, the pressing needs of LGBT youth in group home settings would best be addressed by designating specific group facilities as safe havens for LGBT youth.

It should, however, be a priority to make every group facility in the state a safe, supportive environment for LGBT and questioning youth through strict enforcement of non-discrimination policies, staff training, sensitivity education for non-LGBT residents, and services and resources for LGBT youth.

B. IDENTIFY FOSTER PARENTS TO CARE FOR LGBT YOUTH

Assessment: There are no specific efforts to identify and train foster parents to foster LGBT youth.

Recommendation:	DCYF, as well as contract agencies, should identify and train qualified foster parents, including lesbian and gay adults, interested in caring for LGBT youth.
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C. COUNSELING PROGRAMS

Assessment: We did not receive, in response to our requests, any information regarding counseling programs specifically for LGBT youth.

Recommendation:	DCYF should ensure that one-on-one and group counseling services are available for LGBT youth.
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D. RESOURCES AND COMMUNITY CONTACTS FOR FOSTER CARE STAFF, FOSTER PARENTS, AND LGBT YOUTH

Assessment: DCYF cited no support groups, community contacts, or other resources for foster care staff, foster parents caring for LGBT adolescents, or LGBT youth themselves.

Recommendation:	DCYF should distribute to DCYF offices, group facilities, and LGBT youth and their foster families, resource guides that include community contacts, support groups, reading lists and materials, hotlines, LGBT advocates in the foster care system, and other resources. These resources should also be available to biological families. All youth in foster care should have direct, ready, and confidential access to developmentally appropriate resources about LGBT issues.
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E. SEXUAL HEALTH EDUCATION, INCLUDING HIV/AIDS AND OTHER STD PREVENTION EDUCATION AND SERVICES

Assessment: The DCYF Policy Manual requires that “[c]ase managers and out-of-home care providers in collaboration with the child’s own parents, schools, public health and community agencies provide education and training concerning sexual development and sexuality to children in out-of-home care.”¹² It further requires that sexual

development and sexuality learning programs should include information on STDs, including HIV/AIDS.¹³ There is no indication to what extent, if any, these services acknowledge and address the sexuality and sexual health of LGBT youth.

Recommendation:	Provide all foster care youth with developmentally appropriate information and resources about sexuality and sexual health, including about LGBT issues and prevention of HIV/AIDS and other STDs.
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F. ACCESS TO HIV TESTING WITHOUT GUARDIAN CONSENT OR NOTIFICATION

Assessment: DCYF policies provide for testing of a youth in state care depending on a risk assessment, notification to a physician if certain risk criteria are met, ordering of a test by a physician, and notification to and consent from a parent of a child age 12 or younger.¹⁴ In addition, a youth age 13 or older may request a test.¹⁵ However, there are no provisions for access to HIV testing at the initiative of a youth in state care without requesting that a DCYF employee help obtain the test as described above. Furthermore, there is no statutory authority for a youth to obtain a free and confidential HIV test on his or her own initiative.

Recommendation:	DCYF should adopt policies providing foster care youth access to free and confidential HIV testing.
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G. CONFIDENTIALITY OF HIV TESTING AND TEST RESULTS

Assessment: The DCYF Policy Manual provides that DCYF “shall share information regarding the HIV status of clients and other related medical information only on a need-to-know basis.”¹⁶

Arizona statutorily prohibits disclosure of information about whether a person has been tested for HIV, has tested positive for HIV, has HIV-related illness, or has AIDS, or which identifies or reasonably permits identification of that person or the person’s contacts.¹⁷

Recommendation:	None.
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Notes to Arizona

1. Ariz. DCYF Policy Manual § d, Placing Children in Out-of-Home Care.
2. Ariz. Admin. Code r6-5-7438 (current through Dec. 31, 2000).
3. Ariz. Admin. Code r6-5-5909(3)(a) (current through Dec. 31, 2000).
4. *Id.*
5. Ariz. Admin. Code r6-5-5909(3)(c) (current through Dec. 31, 2000).
6. Ariz. DCYF Policy Manual § d, Providing Services for Children Who are HIV-Positive or Who Have Been Diagnosed with AIDS.
7. *Id.*
8. Ariz. Admin. Code r6-5-5909(E)(1)(e). *See* Ariz. Rev. Stat. § 36-661 (1993).
9. The Manual does contain a provision in its section on adoption of HIV-positive children which states, “accept applications for adoption certification from persons who are HIV-positive.” Ariz. DCYF Policy Manual § d, Providing Services for Children Who are HIV-Positive or Who Have Been Diagnosed with AIDS.
10. Ariz. DCYF Policy Manual § k, Providing Family Planning Services.
11. *Id.*
12. Ariz. DCYF Policy Manual § j, Providing Child Sexual Development Education.
13. *Id.*
14. Ariz. DCYF Policy Manual § d, Providing Services for Children Who are HIV-Positive or Who Have Been Diagnosed with AIDS.
15. *Id.*
16. *Id.*
17. Ariz. Rev. Stat. § 36-664(L) and 36-661(6) (1993).