

COLORADO

Although several representatives of the Colorado Department of Human Services (“DHS”) concurred in conversation that sexual orientation discrimination should not be tolerated, DHS has no statewide policies, training, or programs to prevent discrimination against LGBT youth or otherwise address their needs.*

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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 DHS Policy Manual prohibits discrimination in service “solely because of age, race, color, religion, sex, national origin, political beliefs, or disability,” but not on the basis of sexual orientation.¹

Recommendation: Adopt express written policies prohibiting discrimination based on the sexual orientation of youth.

B. SEXUAL ORIENTATION OF FOSTER PARENTS AND OTHER FOSTER HOUSEHOLD MEMBERS

Assessment: There is no express provision in the DHS Policy Manual prohibiting sexual orientation discrimination in the licensing of foster parents. DHS does, however, maintain a policy of licensing all adults based on an objective set of criteria,² which are unrelated to sexual orientation or marital status. The policy further provides that when placing children in homes, decisions are to be based strictly on an assessment of the best interests of the child.³

Recommendation: Include policies in the DHS Policy Manual expressly prohibiting discrimination based on the sexual orientation of foster parents and other foster household members, not only in licensing and placement decisions but in all interactions with DHS and its agents.

C. SEXUAL ORIENTATION OF FOSTER CARE STAFF

Assessment: The DHS Policy Manual does not expressly prohibit discrimination based on the sexual orientation of foster care staff.

A Colorado executive order prohibits discrimination based on sexual orientation in public employment.⁴

Recommendation: DHS should adopt express written policies prohibiting discrimination on the basis of the sexual orientation of foster care staff.

D. HIV/AIDS STATUS OF YOUTH

Assessment: DHS policy prohibits discrimination in the provision of services on the basis of disability.⁵ DHS policy also provides that “the status of being at risk for HIV exposure or being diagnosed with HIV/AIDS shall not be a cause for denial of services.”⁶

Recommendation: None.

E. HIV/AIDS STATUS OF FOSTER PARENTS AND OTHER FOSTER HOUSEHOLD MEMBERS

Assessment: There are no provisions in the DHS Policy Manual that expressly prohibit discrimination based on the HIV/AIDS status of foster parents or foster household members.

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.

F. HIV/AIDS STATUS OF FOSTER CARE STAFF

Assessment: There are no provisions in the DHS Policy Manual that expressly prohibit discrimination based on 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: DHS does not offer or require instruction to foster parents on any issues relating to LGBT youth, including non-discrimination principles.

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

B. SENSITIVITY TO SEXUAL ORIENTATION

Assessment: DHS 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: DHS 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 foster care youth coming out as LGBT.

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

Assessment: DHS does not require training for foster parents on educating LGBT foster care youth about their sexuality and sexual health, including prevention of HIV/AIDS and other STDs.

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

III. FOSTER CARE STAFF TRAINING

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

Assessment: There is no mandatory instruction provided to staff on any issues relating to LGBT youth, including on non-discrimination principles.

Recommendation: In addition to adopting sexual orientation non-discrimination policies in the first instance, make training about such policies mandatory for all foster care staff.

B. SENSITIVITY TO SEXUAL ORIENTATION

Assessment: DHS 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.

C. SUPPORTING A FOSTER CARE YOUTH COMING OUT AS LGBT

Assessment: DHS 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: We are informed by DHS that there is no training required for foster care staff on educating LGBT foster care youth about their sexuality and sexual health, including 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 Colorado maintains numerous group homes, none is geared specifically to or designated as a safe haven for LGBT youth. Furthermore, given the complete lack of training and services offered on LGBT issues by DHS, existing group homes are ill-equipped to address the needs of LGBT youth.

Recommendation:

DHS 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 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: We are informed by DHS that its Boulder County department has advertised for foster parents in a local lesbian and gay publication, although not in recent months. There have been no other specific efforts to identify and train qualified foster parents interested in caring for LGBT youth.

Recommendation:

DHS should make efforts statewide to identify and train qualified foster parents, including lesbian and gay adults, interested in caring for LGBT youth.

C. COUNSELING PROGRAMS

Assessment: DHS did not inform us of any counseling services specifically for LGBT youth.

Recommendation:

DHS should ensure that one-on-one and group counseling services are available for LGBT youth.

D. RESOURCES AND COMMUNITY CONTACTS FOR FOSTER CARE STAFF, FOSTER PARENTS, AND LGBT YOUTH

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

Recommendation:	DHS should distribute to DHS offices, group facilities, and youth and their foster families, LGBT 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: There is no mandated programming to educate LGBT youth about their sexual health, including prevention of HIV/AIDS and other STDs.

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: The DHS Policy Manual allows for testing of youth in DHS care when certain risk criteria are met or when the youth, or someone authorized to make medical decisions on behalf of the youth, provides informed consent for a test.⁷ It further provides for re-testing based on exhibition of risk behaviors.⁸

Colorado also statutorily provides for youth to have access to HIV testing and treatment without the consent of a parent or guardian.⁹ However, if the minor is less than sixteen years of age or not emancipated, “the minor’s parents or legal guardian may be informed by the facility or physician of the consultation, examination, and treatment.”¹⁰

Recommendation:	Adopt express written policies providing foster care youth access to free and confidential HIV testing without guardian consent or notification.
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G. CONFIDENTIALITY OF HIV TESTING AND TEST RESULTS

Assessment: Minors in DHS care may be examined and treated for HIV infection without the consent of a parent or guardian.¹¹ Although DHS policy is unclear on the subject, it appears that the results of the examination or treatment will be divulged to the parent or guardian of a minor under age 16, and may be divulged if the minor is 16 or older.¹²

The DHS Policy Manual provides that DHS county departments should develop confidentiality plans where a youth tests HIV-positive, which “may limit access to the test results on a need-to-know basis.”¹³ DHS policy further provides that disclosure may be made to biological parents if their parental rights have not been terminated.¹⁴

A Colorado statute provides for the confidentiality of HIV-related information and enumerates specific circumstances under which release of information is allowed.¹⁵

Recommendation:

DHS policy should mandate, not merely permit, all county departments to require confidentiality of a foster care youth’s HIV status, with disclosure permitted on only a limited, need-to-know basis to provide for a youth’s well-being.

Notes to Colorado

1. Colo. DHS, Volume of General Information and Policies § 7.0.71(A).
2. Agency letter from Colo. DHS (June 21, 1995) (No. CW-95-32-I on file with Lambda Legal Defense).
3. *Id.*
4. Colo. Executive Order 90-13-98 (1990).
5. Colo. DHS, Volume of General Information and Policies § 7.0.71(B).
6. Colo. DHS, Volume of Overview of Child Welfare Services § 7.200.231.
7. Colo. DHS, Volume of Overview of Child Welfare Services § 7.200.22.
8. Colo. DHS, Volume of Overview of Child Welfare Services § 7.200.232.
9. Colo. Rev. Stat. Ann. § 25-4-1405(6) (West 1990).
10. *Id.*
11. Colo. DHS, Volume of Overview of Child Welfare Services § 7.200.22(B).
12. *Id.*
13. Colo. DHS, Volume of Overview of Child Welfare Services § 7.200.22(B).
14. Colo. DHS, Volume of Overview of Child Welfare Services § 7.200.22(B)(3).
15. Colo. Rev. Stat. Ann. § 25-4-1404 (West 1990).