

FLORIDA

Florida, despite currently having no LGBT non-discrimination policies or services, is taking crucial first steps to address the needs of LGBT youth in foster care. The Florida Department of Children and Families (“DCF”) has acknowledged that LGBT youth are in its care and that non-judgmental information and services are required to serve them. Furthermore, DCF is developing a new foster parent training program that incorporates substantial and important information on LGBT issues and HIV/AIDS and other STD prevention education.*

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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: DCF does not maintain an express policy prohibiting discrimination on the basis of the sexual orientation of foster youth.

Recommendation:	Adopt express written policies prohibiting discrimination on the basis of the sexual orientation of foster youth.
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B. SEXUAL ORIENTATION OF FOSTER PARENTS AND OTHER FOSTER HOUSEHOLD MEMBERS

Assessment: DCF does not expressly prohibit discrimination on the basis of the sexual orientation of foster parents and other foster household members.

Recommendation:	Adopt express written policies 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 DCF and its agents.
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C. SEXUAL ORIENTATION OF FOSTER CARE STAFF

Assessment: DCF does not expressly prohibit discrimination on the basis of the sexual orientation of foster care staff.

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

Assessment: DCF does not have an express written policy prohibiting discrimination on the basis of the HIV/AIDS status of foster youth.



The Florida Administrative Code (“FAC”), however, provides that every foster care youth, regardless of physical health, is entitled to a continuous relationship intended to be permanent.¹

Recommendation: Adopt an express written policy in the DCF Policy Manual prohibiting discrimination based on the HIV/AIDS status of foster care youth.

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

Assessment: DCF does not prohibit discrimination on the basis of the HIV/AIDS status of foster parents and other foster household members.

Recommendation: Adopt express written policies prohibiting discrimination based on 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: DCF does not prohibit discrimination on the basis of the HIV/AIDS status of foster care staff.

Recommendation: Adopt express written policies in the DCF Policy Manual prohibiting discrimination based on 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 DCF that although LGBT issues are not currently covered in foster parent training, it is in the process of redesigning its program and will include training on LGBT youth issues in the future. The



proposed curriculum will teach the importance of sensitivity to LGBT discrimination, that homosexuality is normal and natural, and about the added challenges for LGBT youth in a homophobic environment.

Recommendation:	DCF's plans to train foster parents on LGBT issues, including the importance of non-discrimination, is a commendable step. This training should be mandatory for current and new foster parents.
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B. SENSITIVITY TO SEXUAL ORIENTATION

Assessment: Although DCF does not currently offer instruction to foster parents on LGBT issues, as described above, it has plans underway to incorporate such training into its program. *See Section II. A above.*

Recommendation:	Implement plans to incorporate LGBT issues into foster parent training, and make the training mandatory for current and new foster parents.
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C. SUPPORTING A FOSTER CARE YOUTH COMING OUT AS LGBT

Assessment: Although DCF does not currently offer instruction to foster parents on LGBT issues, it has plans underway to incorporate such training into its program. *See Section II. A above.*

Recommendation:	Implement plans to incorporate LGBT issues into foster parent training, and make the training mandatory for current and new foster parents.
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D. SEXUAL HEALTH EDUCATION, INCLUDING HIV/AIDS AND OTHER STD PREVENTION EDUCATION AND SERVICES

Assessment: We are informed by DCF that it does not provide mandatory instruction to foster parents on educating LGBT youth about their sexuality and sexual health, including prevention of HIV/AIDS and other STDs. Although the new training program in development is to include significant information on HIV/AIDS and other STD prevention, it is unclear whether it will train foster parents specifically on how to educate LGBT youth in their care on sexual health issues.



The FAC provides that prior to foster parent license renewal, each foster parent must complete eight hours of in-service training, which may include the subject of HIV infection.²

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: We are informed by DCF that LGBT issues, including non-discrimination principles, are not currently covered in foster care staff training. The DCF division responsible for staff training did not respond to our inquiries about whether the curriculum for staff training would be supplemented on LGBT issues, as is planned for foster parent training.

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.

B. SENSITIVITY TO SEXUAL ORIENTATION

Assessment: DCF 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: DCF 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 DCF that social workers and caseworkers are encouraged to attend a three-hour training about HIV issues. However, there is no mandatory training for foster care staff on educating LGBT youth about their sexuality and sexual health, including HIV/AIDS and other STD prevention.

Recommendation: Require mandatory training for all foster care staff on educating LGBT foster 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 Florida maintains numerous group homes, none is geared specifically to LGBT youth. Furthermore, given the current lack of training and services offered on LGBT issues by DCF, existing group homes are presently ill-equipped to address the needs of these youth.

Recommendation: DCF 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: We have been informed by DCF that it does not make any efforts to identify or train foster parents interested in caring for LGBT youth.

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



C. COUNSELING PROGRAMS

Assessment: DCF did not respond to our requests for information on this topic.

DCF makes no provision for one-on-one or group counseling specifically for LGBT youth. The FAC, in its section entitled “Services for HIV Infected Children,” requires that “[s]exually active gay, bisexual, and heterosexual youth must receive age appropriate counseling, which takes into account their developmental level, regarding their sexual practices.”³ It also requires that “[w]hen selecting a counseling resource for a gay or bisexual child, special care shall be taken to ensure that the resource can meet the special and non-judgmental information needs of that child.”⁴

Recommendation:	These FAC provisions are a positive step in requiring non-judgmental sexual health education counseling for LGBT youth. DCF should in addition support and help form local counseling groups and programs for LGBT youth that are not exclusively focused on sexual practices and STD prevention.
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D. RESOURCES AND COMMUNITY CONTACTS FOR FOSTER CARE STAFF, FOSTER PARENTS, AND LGBT YOUTH

Assessment: DCF did not respond to our requests for information on this topic.

Recommendation:	DCF should distribute to DCF 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: DCF did not respond to our requests for information on this topic. However, as discussed in Section IV.C. above, the FAC mandates counseling and the provision of “non-judgmental” information to sexually active gay, bisexual, and heterosexual youth.⁵

Recommendation:	These FAC provisions are a positive step, but sexual health counseling should not be reserved only for foster care youth identified as sexually active. All foster care youth should receive developmentally appropriate and non-judgmental sexual health information and resources, 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: DCF did not respond to our requests for information on this subject.

The FAC provides that children who meet certain risk criteria, as well as children who request a test, should be tested for HIV and receive counseling.⁶ It provides that, “[a] minor may obtain consultation, examination and treatment for any sexually transmitted disease, including HIV, from an appropriately licensed health care professional. The consent of a parent or guardian is not a prerequisite for examination or treatment of a sexually transmitted disease.”⁷ It further provides that where “the child or youth gives his or her own consent for testing or treatment, the child’s parent is not authorized to receive related information without a signed release by the child.”⁸

Recommendation:	DCF should ensure that its staff are informed of and follow these FAC regulations.
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G. CONFIDENTIALITY OF HIV TESTING AND TEST RESULTS

Assessment: DCF policy provides that the HIV/AIDS status of a foster child shall not be referenced in the case narrative, reported to the child’s school, or reported to substitute care parents until they commit to caring for a child with HIV/AIDS.⁹

The FAC also provides that, “[t]he facts of a consultation, examination and treatment of a minor for a sexually transmitted disease are confidential and shall not be divulged in any direct or indirect manner...”¹⁰ It further provides that the identity of any foster child upon whom an HIV test is performed and the test’s result shall be disclosed to employees of the department or a contract agency only if they are directly involved in placement, care, or custody of



the child and have a need to know.¹¹ Additionally, it lists other persons who are required to be informed, those who are specifically not entitled to be informed, and procedures for maintaining confidentiality in both the case record and among those to whom information is disclosed.¹²

Recommendation:

DCF should ensure that its staff are informed of and follow these FAC regulations.



Notes to Florida

1. Fla. Admin. Code Ann. r. 65C-13.009(1)(d)(1) (current through Feb. 1, 2001).
2. Fla. Admin. Code Ann. r. 65C-13.003(2) (current through Feb. 1, 2001).
3. Fla. Admin. Code Ann. r. 65C-13.017(9) (current through Feb. 1, 2001). The FAC defines counseling as “group and individual counseling, emotional support groups, one-on-one emotional support, HIV education, and information services.” *Id.*
4. *Id.*
5. Fla. Admin. Code Ann., *supra* note 3.
6. Fla. Admin. Code Ann. r. 65C-13.017(7) (current through Feb. 1, 2001).
7. Fla. Admin. Code Ann. r. 65C-13.017(8)(b) (current through Feb. 1, 2001).
8. Fla. Admin. Code Ann. r. 65C-13.017(20) (current through Feb. 1, 2001).
9. Fla. DHRS, HRS Operating Procedure No. 175-26, Confidentiality of Children and Families Record § 7, HIV/AIDS Records (June 3, 1996).
10. Fla. Admin. Code Ann. r. 65C-13.017(8)(c) (current through Feb. 1, 2001).
11. Fla. Admin. Code Ann. r. 65C-13.017(13) (current through Feb. 1, 2001).
12. Fla. Admin. Code Ann. rr. 65C-13.017(14) through 65C-13.017(24) (current through Feb. 1, 2001).