CWLA
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RECOMMENDED PRACTICES

To Promote the Safety and Well-Being of Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and Youth at Risk of or Living with HIV in Child Welfare Settings

This publication consolidates and summarizes recommended practices derived from previous publications of the Child Welfare League of America, the American Bar Association Center on Children and the Law: Opening Doors for LGBTQ Youth in Foster Care Project, Diane E. Elze, the Family Acceptance Project, Lambda Legal, Legal Services for Children, Gerald P. Mallon, Robin McHaelen, the National Alliance to End Homelessness, the National Center for Lesbian Rights, the National Center for Transgender Equality, the National Network for Youth and the Sylvia Rivera Law Project, among others. We encourage agencies to refer to the original publications for additional contextual information about LGBTQ youth in foster care as well as detailed commentary supporting the practices recommended in the following pages.

Additional resources include:

A Place of Respect: A Guide for Group Care Facilities Serving Transgender and Gender Non-Conforming Youth
http://www.nclrights.org/site/DocServer/A_Place_Of_Respect.pdf?docID=8301

A Practical Guide for Youth Workers Serving Lesbian, Gay, Bisexual, Transgender, and Questioning Youth
http://www.cwla.org/pubs/pubdetails.asp?PUBID=1385

Child Welfare League of America Best Practice Guidelines: Serving LGBT Youth in Out-of-Home Care
http://www.nclrights.org/site/DocServer/bestpracticeslgbtyouth.pdf?docID=1322

Getting Down to Basics: Tools to Support LGBTQ Youth in Care
http://www.lambdalegal.org/publications/getting-down-to-basics

It's Your Life
http://www.americanbar.org/tools/digitalassetabstract.SIGNIN.html/content/dam/aba/migrated/child/PublicDocuments/its_your_life.pdf

Moving the Margins: Curriculum for Child Welfare Services with Lesbian, Gay, Bisexual, Transgender, and Questioning Youth in Out-of-Home Care
http://www.lambdalegal.org/publications/moving-the-margins

National Recommended Best Practices for Serving LGBT Homeless Youth
http://www.nclrights.org/site/DocServer/national-recommended-best-practices-for-lgbt-homeless-yo.pdf?docID=5821

Opening Doors for LGBTQ Youth in Foster Care: A Guide for Lawyers and Judges
http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/lgbtq_book.authcheckdam.pdf

Out of the Margins: A Report on Regional Listening Forums Highlighting the Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth in Care
http://www.lambdalegal.org/publications/out-of-the-margins

Publications of Gerald P. Mallon regarding this population
http://www.garymallon.com/publications.htm

Understanding Transgender: Frequently Asked Questions About Transgender People
http://www.transequality.org/Resources/NCTE_UnderstandingTrans.pdf

Youth in the Margins: A Report on the Unmet Needs of Lesbian, Gay, Bisexual, and Transgender Adolescents in Foster Care
http://www.lambdalegal.org/publications/youth-in-the-margins

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PURPOSE

Through these Recommended Practices, the Child Welfare League of America (CWLA)[1] and co-authors[2] seek to provide guidance to the Administration on Children, Youth and Families (ACYF), state and local child welfare agencies and their contract providers on how to fulfill their professional and legal obligations to ensure safe and proper care consistent with the best interest and special needs of each and every lesbian, gay, bisexual, transgender or questioning (LGBTQ) child in the child welfare system.[3] On April 6, 2011, the ACYF Commissioner, Bryan Samuels, issued a memorandum encouraging protection and support of LGBTQ youth in foster care.[4] These Recommended Practices elaborate on the provision of services to LGBTQ youth in the areas of foster care, child protection, family preservation, adoption and youth development. They aim to assist state child welfare agencies to meet the needs of this particularly vulnerable and underserved population by promoting safe, competent and supportive settings for LGBTQ youth.

1 Established in 1920, and headquartered in Washington, DC, CWLA strives to advance sound public policy on behalf of the more than 3 million abused, neglected and vulnerable children served by its nearly 560 member agencies. CWLA's mission is to engage people everywhere in promoting the well-being of all children, youth, and their families, and protecting every child from harm.

2 American Bar Association Center on Children and the Law: Opening Doors for LGBTQ Youth in Foster Care Project; Diane E. Elze, Associate Professor and Director of the M.S.W. Program, University at Buffalo School of Social Work; Family Acceptance Project; Lambda Legal; Legal Services for Children; Gerald P. Mallon, Julia Lathrop Professor of Child Welfare, Silberman School of Social Work at Hunter College of the City University of New York; Robin McHaelen, Executive Director, True Colors; National Alliance to End Homelessness; National Center for Lesbian Rights; National Center for Transgender Equality; National Network for Youth; and Sylvia Rivera Law Project.

3 The federally mandated State Plan for Foster Care and Adoption Assistance requires that there be a case plan for each child placed in the child welfare system. The plan must be designed such that "the child's health and safety shall be the paramount concern[.]" 42 USC § 671(a)(15)(A)(2011); *see also* § 671(a)(22)(2011). The plan must include "a discussion of the safety and appropriateness of the placement[,]" 42 USC § 675(1)(A)(2011), and "address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan." § 675(1)(B)(2011). Additionally, a procedure must be in place for review of the case plan on a regular basis, to ensure that the plan remains "consistent with the best interest and special needs of the child[.]" § 675(5)(A)(2011).

4 U.S. Dep't of Health & Human Servs., Admin. on Children, Youth & Families, Information Memorandum ACYF-CB-IM-11-03, *Lesbian, Gay, Bisexual, Transgender and Questioning Youth in Foster Care* (Apr. 6, 2011).

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LGBTQ YOUTH ARE OFTEN UNDERSERVED AND UNSAFE IN CHILD WELFARE SYSTEMS

LGBTQ youth are over-represented in child welfare systems across the country.[5] For some LGBTQ adolescents in care, their sexual orientation or gender identity and/or expression is the reason they may be living out of the home. Families hostile to their children's LGBTQ identities may have rejected, abused or neglected them, causing them to enter the child welfare system in the first place.[6] Case workers may believe that young LGBTQ people in the system are harder to place in permanent settings or reunify with families, which results in many LGBTQ youth emancipating from care without these important lifelong connections. If given appropriate support, acceptance and access to coping strategies, young LGBTQ people demonstrate high levels of resilience and positive outcomes.[7] Conversely, if LGBTQ youth in the child welfare system are given little or no support by caregivers and child welfare professionals, they face poor prospects of successfully transitioning to adult living and face elevated health and behavioral risks compared to their non-LGBTQ peers.[8] Research has shown that LGB youth are more likely than their heterosexual peers to be at risk for substance use, sexual behaviors that can lead to HIV infection and other sexually transmitted infections, attempted suicide and violence.[9] Community reports show high levels of victimization among LGBTQ adolescents[10] related to the social stigma and harassment they face from their peers and adults in their lives.[11] LGBTQ youth who experience the highest levels of family and caregiver rejection are most at risk for serious health problems in adulthood.[12]

LGBTQ youth routinely experience harassment and abuse in the child welfare system. This includes harassment and victimization from peers, and may also include sexual abuse. Moreover, many report discrimination, harassment and abusive reactions from child welfare staff and foster parents. They may be subjected to coercive and harmful conversion or reparative therapies attempting to change their sexual orientation or gender identity,[13] put in isolation from other young people in congregate care settings, or cycled through multiple foster homes when one after another unsuitable placement turns out to be a poor fit.[14] Blatant hostility and verbal abuse are often an accepted aspect of institutional culture. Because of such treatment, many LGBTQ youth feel forced to hide their sexual orientation or gender identity in

5 *See id. See also* Shannan Wilber, Caitlin Ryan & Jody Marksamer, *CWLA Best Practice Guidelines for Serving LGBT Youth in Out-of-Home Care* 1 (2006) [hereinafter *CWLA Best Practice Guidelines*]; Child Welfare League of Am. & Lambda Legal Def. & Educ. Fund, *Getting Down to Basics: Tools to Support LGBTQ Youth in Care* (2010) [hereinafter *Getting Down to Basics*], LGBTQ Youth Risk Data.

6 *See Getting Down to Basics, supra* note 5, LGBTQ Youth Risk Data.

7 *See* Nat'l Gay & Lesbian Task Force Policy Inst. & Nat'l Coal. for the Homeless, *Lesbian, Gay, Bisexual and Transgender Youth: An Epidemic of Homelessness* 84-85 (2006) (crediting "programs established to work specifically with LGBT homeless youth" with helping clients "feel good about [their] emerging identit[ies]" and saving clients' lives, "getting [them] off drugs, into safe housing and reconnected with [their] famil[ies]") [hereinafter *LGBT Youth: An Epidemic of Homelessness*]; Caitlin Ryan et al., *Family Acceptance in Adolescence and the Health of LGBT Young Adults*, 23 J. Child Adolescent Psychiatric Nursing 205, 213 (2010) ("Family acceptance predicts greater self-esteem, social support, and general health status; it also protects against depression, substance abuse, and suicidal ideation and behaviors.").

8 *See LGBT Youth: An Epidemic of Homelessness, supra* note 7, at 41-82.

9 Ctrs. for Disease Control & Prevention, *Sexual Identity, Sex of Sexual Contacts, and Health-Risk Behaviors Among Students in Grades 9-12 – Youth Risk Behavior Surveillance, Selected Sites, United States 2001-2009*, 60 MMWR Early Release (June 6, 2011); Caitlin Ryan et al., *Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults*, 123 Pediatrics 346 (2009).

10 *See LGBT Youth: An Epidemic of Homelessness, supra* note 7, at 41-46.

11 *See* Child Welfare League of Am. & Lambda Legal Def. & Educ. Fund, *Out of the Margins: A Report on Regional Listening Forums Highlighting the Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth in Care* 2-3 (2006) [hereinafter *Out of the Margins*].

12 Ryan et al., *supra* note 7.

13 Nat'l Ass'n of Soc. Workers, *"Reparative" and "Conversion" Therapies for Lesbians and Gay Men* (2000); Am. Psychological Ass'n, *Appropriate Therapeutic Responses to Sexual Orientation* (2009).

14 At listening forums for LGBTQ youth in out-of-home care, one teenager shared a story of being beaten by other residents and then told by group home staff that it was his own fault for being a "faggot." Another youth told of a foster family that took away her clothes and called her a "dyke." *Out of the Margins, supra* [illegible]

order to survive. Others, unable to hide, may run away from their placements and end up on the streets.[15]

Transgender youth, whose circumstances and needs are particularly misunderstood, often suffer especially poor treatment in child welfare systems.[16] They are regularly targeted for harassment and assault, denied necessary medical treatment for Gender Identity Disorder (GID), given sex-segregated rooming assignments inconsistent with their gender identities, called by their names assigned at birth rather than their preferred names and forced to dress in ways that allow no room for their gender expression.[17]

15 *LGBT Youth: An Epidemic of Homelessness, supra* note 7, at 11-23.
16 *Getting Down to Basics, supra* note 5, Working with Transgender Youth.
17 *See id.*; Jody Marksamer et al., *A Place of Respect: A Guide for Group Care Facilities Serving Transgender and Gender Non-Conforming Youth* (Spring 2011) [hereinafter *A Place of Respect*].

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"LGBTQ YOUTH WHO EXPERIENCE FAMILY AND CAREGIVER REJECTION ARE MOST AT RISK FOR SERIOUS HEALTH PROBLEMS IN ADULTHOOD."

LEADING CHILD WELFARE PROFESSIONAL ORGANIZATIONS CALL FOR SUPPORTING LGBTQ YOUTH IN CARE

The overwhelming consensus among the country's leading and most respected child welfare, social science and medical health organizations is that LGBTQ youth and adults deserve respect and support from professional service providers. The National Association of Social Workers (NASW), the American Psychological Association (APA), the American Academy of Pediatrics (AAP) and the American Academy of Child and Adolescent Psychiatry (AACAP) oppose discrimination against LGBTQ youth.[18] These professional organizations agree that all youth should be afforded the same treatment and respect regardless of sexual orientation or gender identity.[19] Specifically, the major professional associations caution against use of therapies to attempt to change sexual orientation. For example, the American Psychiatric Association "opposes any psychiatric treatment, such as reparative or conversion therapy, which is based upon the assumption that homosexuality per se is a mental disorder or based upon the a priori assumption that the patient should change his/her homosexual orientation."[20] The American Psychological Association advises parents, guardians, young people and their families to avoid sexual orientation treatments that portray homosexuality as a mental illness or developmental disorder and instead to seek psychotherapy and supportive services for LGBTQ youth that provide accurate information on sexual orientation, decrease rejection and increase family and school support.[21]

Consistent with the professional standards governing this field, LGBTQ youth should receive culturally competent child welfare services, including: positive youth development programs; LGBTQ-affirming preventive services; foster care services focused on permanency; safe foster placements where an LGBTQ youth's sexual orientation, gender identity and gender expression are respected; referrals to LGBTQ-competent physical and mental health care providers; LGBTQ-affirming mentors and role models who can provide long-term sources of support in their lives; and transitional services that help establish independent life skills, taking into account the specific challenges faced by LGBTQ people

18 *Getting Down to Basics, supra* note 5, What the Experts Say: Position & Policy Statements on LGBTQ Issues from Leading Professional Associations.

19 "NASW recognizes that there is considerable diversity in gender expression and identity among our population and believes that people of diverse gender—including those sometimes called 'transgender'—should be afforded the same respect and rights as any other person." Nat'l Ass'n of Soc. Workers, Abstract, *Transgender and Gender Identity Issues, Social Work Speaks* (2009) [hereinafter *NASW Transgender*]. NASW also states "that same-gender sexual orientation should be afforded the same respect and rights as other-gender sexual orientation." Nat'l Ass'n of Soc. Workers, Abstract, *Lesbian, Gay and Bisexual Issues, Social Work Speaks* (2009).

20 Am. Psychiatric Ass'n, *Psychiatric Treatment and Sexual Orientation. Position Statement* (1998). *See generally* Am. Psychological Ass'n, Abstract, *Resolution on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts* [hereinafter *Appropriate Affirmative Responses*]; *Am. Psychoanalytic Ass'n Position Statement on Reparative Therapy* (1999) ("Psychoanalytic technique does not encompass purposeful efforts to 'convert' or 'repair' an individual's sexual orientation. Such directed efforts are against fundamental principles of psychoanalytic treatment and often result in substantial psychological pain by reinforcing damaging internalized homophobic attitudes."); Am. Psychiatric Ass'n, *Therapies Focused on Attempts to Change Sexual Orientation (Reparative or Conversion Therapies)* (2011) ("APA recommends that ethical practitioners refrain from attempts to change individuals' sexual orientation[.]").

21 *Appropriate Affirmative Responses, supra* note 20.

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because of pervasive discrimination.[22] By implementing these Recommended Practices, state child welfare agencies will help remedy neglect suffered by LGBTQ youth, as well as prevent abuse and improve outcomes for these vulnerable young people, consistent with professionally accepted standards of care.

"LGBTQ YOUTH AND ADULTS DESERVE RESPECT AND SUPPORT FROM PROFESSIONAL SERVICE PROVIDERS."

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22 *CWLA Best Practice Guidelines*, *supra* note 5.

THE HISTORICAL DEVELOPMENT OF STANDARDS OF CARE FOR LGBTQ YOUTH IN CHILD WELFARE SYSTEMS

In the 1990s, Lambda Legal began a national initiative to focus on the needs of LGBTQ youth experiencing discrimination in foster care and juvenile justice systems. In 2001, Lambda Legal published *Youth in the Margins: A Report on the Unmet Needs of Lesbian, Gay, Bisexual and Transgender Adolescents in Foster Care*.[23] The report surveyed policies and practices in 14 states and found that LGBTQ youth were neglected and marginalized by the state child welfare systems charged with safeguarding them. While many child welfare professionals recognized and endeavored to address the plight of these young people, they lacked best practice guidelines, training and resources to provide competent services to the LGBTQ young people in their care. Many of these gaps have been filled in the ensuing years with the following resources.

In 1991, CWLA published *Serving Gay and Lesbian Youths: The Role of Child Welfare Agencies, Recommendations of a Colloquium*, one of the first publications addressing obstacles to providing quality services to LGBT youth in foster care and making recommendations for policy, practice and advocacy to better meet their needs.[24] In subsequent years, Gerald P. Mallon, Julia Lathrop Professor of Child Welfare at the Silberman School of Social Work at Hunter College and Executive Director of the National Resource Center for Permanency and Family Connections, published multiple books and articles on issues faced by LGBTQ youth in the child welfare system and suggestions for improving agency environments and establishing LGBT-affirming child welfare services.[25] In 1998, Mallon published *We Don't Exactly Get the Welcome Wagon: The Experiences of Gay and Lesbian Adolescents in New York City's Child Welfare Systems*,[26] the first comprehensive research on the experiences of gay and lesbian youth in the child welfare system, with recommendations to social work practitioners and policymakers on providing competent child welfare services to LGBTQ youth. In 2002, Mallon co-authored *There's No Place Like Home: Safety, Permanency, and Well-being for Lesbian and Gay Adolescents in Out-of-Home Care*, a publication examining the challenges of ensuring permanency, safety and well-being for LGBT youth.[27] Mallon has also written extensively about social work practice with transgender and gender-variant children.[28]

In 2002, Legal Services for Children and the National Center for Lesbian Rights (NCLR) launched the Model Standards Project to develop and disseminate model professional standards governing services to LGBTQ youth in out-of-home care. The Model Standards Project, in partnership with CWLA, published a resource entitled *Best Practice Guidelines: Serving LGBT Youth in Out-of-Home Care* (*CWLA Best Practice Guidelines*) in 2006, the first set of comprehensive professional guidelines for how child welfare and juvenile justice professionals can best serve LGBTQ youth in state care. The *CWLA Best Practice Guidelines* include accurate, up-to-date information about the best practices for supporting positive youth development; meeting the health and educational needs of LGBTQ youth; managing confidential information; and creating safe, respectful and nurturing home and social environments for LGBTQ youth in care.[29]

In 2002, social work experts Caitlin Ryan and Rafael Díaz developed the Family Acceptance Project, a community research, intervention, education and policy initiative to decrease major

23 Lambda Legal Def. & Educ. Fund, *Youth in the Margins: A Report on the Unmet Needs of Lesbian, Gay, Bisexual and Transgender Youth in Foster Care* (2001).

24 Child Welfare League of Am., *Serving Gay and Lesbian Youths: The Role of Child Welfare Agencies, Recommendations of a Colloquium* (1991).

25 *See* http://www.garymallon.com/publications.htm.

26 Gerald P. Mallon, *We Don't Exactly Get the Welcome Wagon: The Experiences of Gay and Lesbian Adolescents in Child Welfare Systems* (1998); *see also* Gerald P. Mallon, *Let's Get This Straight: A Gay and Lesbian Affirming Approach to Child Welfare* (2000).

27 Gerald P. Mallon et al., *There's No Place Like Home: Safety, Permanency and Well-Being For Lesbian and Gay Adolescents in Out-of-Home Care*, 80 Child Welfare 78 (2000).

28 *See Social Services With Transgendered Youth*, Gerald P. Mallon ed. (1999); Teresa DeCrescenzo & Gerald P. Mallon, *Transgender Children and Youth: A Child Welfare Practice Perspective*, 85(2) Child Welfare 215 (2006); *Social Work Practice with Lesbian, Gay, Bisexual and Transgender People*, Gerald P. Mallon ed. (2d ed. 2008).

29 *CWLA Best Practice Guidelines, supra* note 5.

health and related risks for LGBTQ youth, such as suicide, substance abuse, HIV and homelessness by emphasizing the need for familial support.[30] The Family Acceptance Project has delivered the first major serial studies of parents' and caregivers' reactions and adjustment to adolescents' coming out processes and LGBTQ identities, and is advancing a family-related intervention approach to help families increase support and promote the well-being of their LGBTQ children. The Family Acceptance Project's intervention model uses a behavioral approach to help ethnically and religiously diverse families reduce their LGBTQ children's risk of suicide, depression, substance abuse, HIV, homelessness and placement in custodial care, while respecting each family's individual values. This work is being conducted in English, Spanish and Chinese with families from all ethnic backgrounds, including immigrant and very low income families, and those whose children are in foster care and juvenile justice facilities.

In 2006, CWLA, with partner organization Lambda Legal, released *Out of the Margins: A Report on Regional Listening Forums Highlighting the Experiences of Lesbian, Gay, Bisexual, Transgender and Questioning Youth in Care.*[31] This report summarized the findings of listening forums held around the nation, attended by representatives from state and private child welfare agencies, mental health experts, lawyers, judges and LGBTQ youth in care, on the experiences of LGBTQ youth and gaps they experienced in care and services. That same year, CWLA and Lambda Legal also released *Getting Down to Basics: Tools to Support LGBTQ Youth in Care*,[32] a toolkit that offers practical information and resources for youth in care, foster and adoptive parents, professionals and agencies in child welfare and juvenile justice systems.

In 2008, the American Bar Association (ABA) Center on Children and the Law: Opening Doors for LGBTQ Youth in Foster Care Project published *Opening Doors for LGBTQ Youth in Foster Care*, intended to provide the legal and child welfare community with tools, resources and support for improving outcomes for LGBTQ youth in foster care.[33] In 2010, ABA Opening Doors for LGBTQ Youth in Foster Care Project published *It's Your Life*, a guide to help LGBTQ youth understand what to expect in the child welfare legal system.[34]

NASW and Lambda Legal partnered in 2009 to create *Moving the Margins: Training Curriculum for Child Welfare Services with LGBTQ Youth in Out-of-Home Care.*[35] This train-the-trainer manual leads participants through a series of learning labs, discussion sessions and role-playing activities to help them better understand the challenges faced by LGBTQ youth in out-of-home care systems and to learn strategies to provide services to this population.

In 2009, the National Alliance to End Homelessness, Lambda Legal, the National Network for Youth and NCLR co-authored the *National Recommended Best Practices for Serving LGBT Homeless Youth,*[36] a policy brief that provides an overview of homelessness among LGBTQ youth and makes recommendations to service providers about how to improve practice, organizational culture and residential services.

In 2010, CWLA also released a new, revised edition of *LGBTQ Youth Issues: A Practical Guide for Youth Workers,* bringing recent research and clinical practice regarding LGBTQ youth into focus for all kinds of youth-serving professionals. This book, by Gerald P. Mallon, provides a combination of practical tips, research findings and personal vignettes (where the youth are able to speak for themselves) to guide workers who want to help LGBTQ youth confront challenges with their families, at school, in out-of-home care or in the wider

30 The Family Acceptance Project, http://familyproject.sfsu.edu/ (last updated Dec. 1, 2010).
31 *Out of the Margins, supra* note 11.
32 *Getting Down to Basics, supra* note 5.
33 Mimi Laver & Andrea Khoury, Am. Bar Ass'n. Ctr. on Children & the Law, *Opening Doors for LGBTQ Youth in Foster Care* (Claire Chiamulera ed., 2008).
34 Krishna Desai, Mimi Laver & Andrea Khoury, Am. Bar Ass'n. Ctr. on Children & the Law, *It's Your Life* (2010).
35 Diane Elze & Robin McHaelen, Nat'l Ass'n of Soc. Workers & Lambda Legal, *Moving the Margins: Training Curriculum for Child Welfare Services with LGBTQ Youth in Out-of-Home Care* (2009).
36 Nat'l Alliance to End Homelessness, Lambda Legal, Nat'l Network for Youth & Nat'l Ctr. for Lesbian Rights, *National Recommended Best Practices for Serving LGBT Homeless Youth* (2009).

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community. New in this edition are a chapter on transgender youth issues, a chapter on other special populations of LGBTQ youth and specially highlighted sections in each chapter that answer the question, "What Can Youth Workers Do?"

Most recently, in 2011, the Sylvia Rivera Law Project and NCLR created *A Place of Respect: A Guide for Group Care Facilities Serving Transgender and Gender Non-Conforming Youth*.[37] This compilation provides comprehensive guidance and model policies for the treatment of transgender and gender non-conforming youth in detention centers, correctional facilities, group homes and other group care facilities.

Additionally, the U.S. Department of Health and Human Services, through the Children's Bureau of the Administration for Children and Families (ACF), established several Training and Technical Assistance Networks (T&TA Networks) to provide assistance to states and tribes in improving child welfare systems.[38] These T&TA Networks also work to ensure the safety, permanency and well-being of children and families by offering training, technical assistance, research and consultation.

The National Resource Center for Permanency and Family Connections (NRCPFC) offers onsite technical assistance and in-depth information services in collaboration with family partners to assist in the implementation of new strategies, expanding knowledge, increasing competencies and expanding commitment to family-centered practice by child welfare professionals at all levels. The NRCPFC has incorporated LGBTQ issues into the core of its work as it strives to increase the capacity of child welfare systems to enhance child and family outcomes in this area, offering an array of resources for LGBTQ youth and those who work with them.[39] Child welfare systems across the country are encouraged to utilize these resources to assist in permanency achievement, placement stability and a wide range of other foster care and well-being issues.

A growing number of state and local agencies have adopted comprehensive policies to address appropriate delivery of services to LGBTQ youth in care.[40] The Recommended Practices that follow consolidate and summarize recommended practices developed by experts in the field, offering guidance to state and local agencies nationwide on competently serving LGBTQ youth in the child welfare system.

37 *See A Place of Respect, supra* note 17.

38 U.S. Dep't of Health & Human Servs., Admin. for Children & Families, *Training and Technical Assistance*, http://www.acf.hhs.gov/programs/cb/tta/ (last updated July 29, 2011).

39 Nat'l Res. Ctr. for Permanency & Family Connections, *LGBTQ Issues & Child Welfare*, http://www.hunter.cuny.edu/socwork/nrcfcpp/info_services/lgbtq-issues-and-child-welfare.html (last updated Aug. 24, 2011).

40 City of New Orleans, Human Servs. Dep't, Youth Study Ctr., Policy No. 12.3, *Non-Discriminatory, Developmentally-Sound Treatment of Lesbian, Gay, Bisexual and Transgender (LGBT) Youth* (2011); N.Y.C. Admin. for Children's Servs., Policy No. 2011/05, *Promoting a Safe and Respectable Environment for Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and their Families Involved in the Child Welfare System*; and *Guidelines Promoting a Safe and Respectable Environment for Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and their Families Involved with DYFJ* (2011); State of Cal. Health & Human Servs. Agency, Dep't of Social Servs., All County Information Notice I-81-10, *Serving Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth, LGBTQ Caregivers and LGBT Prospective Foster and Adoptive Parents* (2010); State of Ill., Dep't of Children & Family Servs., Procedures 302. Appendix K, *Support and Well-Being of Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youths* (2009); State of N.Y., Office of Children & Family Servs., PPM 3442.00, *Lesbian, Gay, Bisexual, Transgender and Questioning Youth* (2008); S.B. 518, 2007 Leg., Reg. Sess. (Cal. 2007); State of Haw., Dep't of Human Servs., Office of Youth Servs., Haw. Youth Correctional Facility, Policy No. 1.43.03, *Non-Discriminatory, Developmentally-Sound Treatment of Lesbian, Gay, Bi-Sexual and Transgender (LGBT) Youth* (2007); State of Conn., Dep't of Children & Families, Policy No. 30-9, *Non-Discrimination of LGBTQI Individuals* (2004); A.B. 458, 2003 Leg., Reg. Sess. (Cal. 2003).

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RECOMMENDED PRACTICES TO PROMOTE THE SAFETY AND WELL-BEING OF LGBTQ YOUTH AND YOUTH AT RISK OF OR LIVING WITH HIV IN CHILD WELFARE SETTINGS

The primary goal of these Recommended Practices is to improve the safety, permanency and well-being of LGBTQ youth and their families who receive services through the child welfare system.

Federally funded state and local child welfare agencies should ensure that state-run child welfare programs and contracting direct service private providers adhere to the following standards.

Adopt and Implement Written Policies Prohibiting Discrimination on the Basis of Sexual Orientation, Gender Identity, Gender Expression and HIV Status

- All child welfare agencies should adopt and implement written policies that prohibit discrimination against and harassment of youth, staff and foster and adoptive families, ranging from physical violence to denial of services to the use of slurs, on the basis of actual or perceived sexual orientation, gender identity, gender expression or HIV status.
- The nondiscrimination policies should be included in agency manuals and posted prominently and distributed to all staff, foster families and youth in the system. Contracting agencies should be required to adhere to them as well. Every agency should offer a formal grievance procedure for confidential reporting of violations of the nondiscrimination policy, and should provide prompt, neutral third-party investigations.

Treat LGBTQ Youth with Respect and Competence

- Child welfare staff should not assume that all children in care are heterosexual, non-transgender or gender-conforming. They should examine their own beliefs and attitudes that might negatively impact their professional responsibilities to LGBTQ youth. Child welfare staff owe a professional duty of competent care to LGBTQ youth.
- State child welfare agencies and direct service providers should use intake forms that include questions about a youth's sexual orientation and gender identity in demographic sections, but should not make it a requirement that youth answer these questions. This recommendation is directed to agencies that already have some competence with LGBTQ youth. The information must be kept private, should not be shared with anyone without the youth's express consent and should be updated appropriately.
- Child welfare staff should not characterize an LGBTQ or gender non-conforming identity as deviant or pathological.
- Child welfare staff should be aware of their language and eliminate anti-LGBTQ slurs. They should understand the difference between the concepts "sexual orientation" and "gender identity," and use such terms as "gay," "lesbian," "bisexual," "transgender" and "questioning" in appropriate contexts.
- Child welfare staff should not assume that LGBTQ people are identifiable by stereotypical mannerisms or characteristics. They should also avoid the assumption that all LGBTQ people have similar life experiences or share a common sense of community.
- Child welfare staff should create a positive environment in their work spaces that welcomes and affirms LGBTQ people. Displaying recognizable symbols of support, such as rainbow flags, lets LGBTQ young people know that they are in a safe, welcoming setting.

- If a youth discloses that he or she is LGBTQ, child welfare staff should use the disclosure as an opportunity to show unconditional support for the youth, find the resources that the youth and his or her caregivers need and assist the youth in deciding to whom, where, when and how to come out in order to ensure safety while maintaining privacy.

- Child welfare staff should be prepared to work effectively with transgender youth and affirm their gender identities in ways that are most appropriate for the youth, including referring to them by the names and pronouns they prefer and by allowing them to dress, groom and express mannerisms consistent with their gender identities.

- LGBTQ youth should have the same rights and privileges as other youth who receive child welfare services. They should not be subjected to harsher or more restrictive standards of behavior because of their sexual orientation or gender identity. Child welfare staff should establish ground rules for the behavior of all youth, including standards for acceptable sexual behavior that are the same for all youth regardless of sexual orientation or gender identity.

Ensure Effective Child Protection Practices that Correctly Identify Abuse and Neglect of LGBTQ Youth

- When performing initial assessments of the safety of and risks for youth who may identify as or be perceived to be LGBTQ, child protection staff should assess whether the parents' or caregivers' attitudes towards the child's sexual orientation and gender identity are impacting the immediate safety of the youth or putting the youth at risk of emotional or physical harm.

- Child protection staff should be trained and prepared to perform family assessments that promote an understanding of the effects of family rejection and acceptance on the well-being of LGBTQ youth.

- Child protection staff should consider whether the youth is at risk of maltreatment and rejecting behaviors, such as physical punishment because of the youth's sexual orientation or gender identity or expression; verbal harassment or name-calling because of the youth's LGBTQ identity; being required to be "straight" as a condition of remaining in the home; being forbidden from dressing or grooming consistent with the youth's gender identity; being subjected to psychologically-damaging reparative therapy or religious conversions designed to change sexual orientation or gender identity; or pressure to be more masculine or feminine.[41]

- Caseworkers should continue to assess the risk to and safety of LGBTQ youth once placed in foster or kinship care settings.

41 *See* Caitlin Ryan et al., *Supportive Families, Healthy Children: Helping Families with Lesbian, Gay, Bisexual & Transgender Children* (Family Acceptance Project, San Francisco State University, San Francisco, CA) (2009) (for information on empirically derived family rejecting and accepting behaviors). *See generally* Family Acceptance Project, FAPrisk Screener for Assessing Family Rejection & Related Health Risks in LGBT Youth, http://familyproject.sfsu.edu/ (for research-derived risk assessment tools to identify levels of family rejection for LGBT youth).

Ensure Effective Services That Address Family Rejection of LGBTQ Youth and Help Reunification

- Child welfare agencies should engage families of LGBTQ youth in identifying and achieving family-level outcomes that reduce parents' and caregivers' rejecting behaviors toward youth who may identify as or be perceived to be LGBTQ.

- Child welfare agencies should provide families with services and support to help parents and caregivers make the connections between their specific reactions to a youth's actual or perceived sexual orientation and gender identity and the youth's emotional and physical well-being.

- For those families of LGBTQ youth who are already affirming and accepting, child welfare agencies should provide effective services to alleviate the circumstances that led to the removal of the child.

Provide Mandatory LGBTQ Competency Training to All Agency Employees and Volunteers

- Child welfare agencies should mandate that all staff, including administrators, managers, supervisors, social workers, case workers, direct service staff, support staff, facilities maintenance personnel, volunteers and mental and medical health providers with whom the agency contracts, receive mandatory initial and ongoing comprehensive LGBTQ competency training.

"CHILD WELFARE STAFF SHOULD HELP FOSTER AND ADOPTIVE PARENTS UNDERSTAND THAT BEING LGBTQ IS A CORE PART OF SOMEONE'S IDENTITY."

Ensure Safe and Supportive Foster or Adoptive Placements for LGBTQ Youth

- When seeking a foster or adoptive home placement for an LGBTQ young person, child welfare staff should be sure that the home is accepting of LGBTQ people.
- All foster and adoptive parents should receive training on caring for an LGBTQ young person, as any child may be LGBTQ.
- Child welfare agencies should engage in outreach to LGBTQ adults and non-LGBTQ adults who are supportive, in order to be able to provide a range of homes that are safe and nurturing for LGBTQ youth.
- Child welfare agencies should not discriminate against prospective or present foster and adoptive parents based on their sexual orientation or gender identity.
- Child welfare staff should not put LGBTQ youth into placements, services, schools or programs where they will be unsafe or unsupported.
- Child welfare agencies should actively recruit and support prospective LGBTQ foster parents. Every national professional child welfare organization strongly supports licensing LGBTQ foster and adoptive parents according to the same standards applied to non-LGBTQ applicants. Child welfare staff should support awareness that LGBTQ people can be good foster and adoptive parents.

Require Mandatory Training for Staff and Foster and Adoptive Parents in Caring for an LGBTQ Child

- Child welfare agencies should require mandatory training for staff and foster and adoptive parents on nondiscrimination policies regarding sexual orientation, gender identity and expression and HIV status; sensitivity to sexual orientation and gender identity and the challenges facing LGBTQ youth; supporting a youth coming out as LGBTQ; and educating LGBTQ youth about their sexuality and sexual health, including prevention of HIV and other sexually transmitted infections.
- Child welfare staff should help foster and adoptive parents understand that being LGBT is a core part of someone's identity and not a choice or something the foster or adoptive parents are permitted to try to change in a young person in their care. The leading mental health and child welfare associations have long recognized that a same-sex sexual orientation is a normal variation of human sexuality and no more susceptible to change than a heterosexual sexual orientation. Similarly, gender identity is an innate, immutable part of one's self that is deep-seated and unchangeable.
- Child welfare staff should ensure that caregivers understand that their acceptance or rejection of a youth's sexual orientation and gender identity affects the health and well-being of the LGBTQ youth in their care.

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Ensure the Safety and Emotional Development of LGBTQ Youth in Congregate Care

- Child welfare staff have an obligation to protect the physical and psychological well-being of LGBTQ youth in their care, whether these young people are placed in group homes, residential treatment centers or other congregate care facilities, as well as in the schools associated with those placements. Congregate care providers should take immediate steps to address anti-LGBTQ harassment within their facilities. Child welfare staff should send a clear message that anti-LGBTQ harassment will not be tolerated, and they should not blame LGBTQ youth who are open about their identities when others subject them to harassment or violence.

- When LGBTQ youth express typical age-appropriate romantic behaviors, such as hand-holding or kissing, they should be supported in adhering to the same rules that non-LGBTQ youth are required to follow in congregate care settings. LGBTQ youth in congregate care should be afforded the same rights and privileges that non-LGBTQ youth have regarding dating, displays of affection and romantic relationships. LGBTQ youth should be able to express age-appropriate romantic behavior and to feel validated and worthy. Selective enforcement of rules for LGBTQ youth is unacceptable.

- Child welfare staff in congregate settings should make appropriate, individualized classification and housing decisions. They should not make housing decisions based on myths and stereotypes about LGBTQ people, who are no more likely to engage in sexual behaviors than their non-LGBTQ peers. Rather than isolating or segregating LGBTQ young people or prohibiting them from having roommates as a means of ensuring their safety, child welfare staff should work with all youth to ensure that they adhere to nondiscrimination requirements. LGBTQ youth should not be deprived of opportunities to interact with their peers or made to feel more isolated because of their sexual orientation or gender identity and expression.

- Child welfare staff should help reduce the alienation and isolation often experienced by LGBTQ youth by providing them opportunities to interact positively with their LGBTQ peers and to see that other people their age share their experiences. Such opportunities help foster the development of life skills, including creating and maintaining friendships, developing communication skills and handling interpersonal dynamics. If peer support and social groups for LGBTQ youth are not available locally, child welfare staff should assist in developing them.

Support Access to Appropriate Medical and Mental Health Care Services for LGBTQ Youth and Youth at Risk of or Living with HIV

- Child welfare agencies should ensure that health care providers who treat LGBTQ youth are trained and educated on the heightened risks these youth may face. Health care providers should be able to discuss sexual orientation, gender identity and sexual behaviors openly and comfortably.

- Child welfare agencies should ensure that LGBTQ youth receive developmentally appropriate sexual health education and services. Child welfare staff should provide developmentally appropriate information and resources to all young people about sexuality and sexual health, including LGBTQ issues and prevention of HIV and AIDS and other sexually transmitted infections. If not already in place, child welfare agencies should adopt written policies providing children access to free and confidential HIV testing without parental or guardian consent or notification. Child welfare staff should always protect the privacy of a young person's HIV status, with disclosure only on a need-to-know basis.

- At each stage of HIV-related illness, youth living with HIV who are in care should receive appropriate medical and psychosocial treatment. Medical follow-up and counseling should be available for youth with HIV who are asymptomatic. Group homes, foster parents and caregivers should be encouraged to develop supportive attitudes towards youth in their care affected by HIV or AIDS in order to combat fear and prejudice about people living with HIV or AIDS.

- Child welfare staff should never allow an LGBTQ youth to be subject to conversion or reparative therapy for the purpose of changing the youth's sexual orientation or gender identity. The major national professional associations caution against use of such therapies, which are unsubstantiated and harmful.

Support Access to Safe Educational Services

- It is essential that LGBTQ youth have access to educational environments where they can learn without fear of harassment or assault. School and child welfare staff should work together to make schools safer by helping to implement school safety training on LGBTQ issues. Schools should have policies and training on bullying and nondiscrimination that specifically enumerate and include an LGBTQ focus. School staff should be encouraged to show their support of LGBTQ students by displaying "Safe Zone" stickers or posters and other supportive symbols. If LGBTQ students are able to identify supportive school staff, they are more likely to feel a sense of belonging, develop positive self-esteem, cope with bias and work toward improving school climate.

- Child welfare staff should work with a transgender youth's school to ensure that the youth's gender identity is respected. This includes use of the youth's preferred name and gender pronouns and respecting the choice of age-appropriate attire that matches the youth's gender identity.

- It is essential that transgender youth have access to safe and convenient restroom and locker room facilities. Child welfare staff should make sure that schools make appropriate restroom and locker room facilities available, honoring the child's gender identity, privacy, dignity and safety needs.

- Child welfare staff should take immediate action to protect an LGBTQ youth facing harassment or discrimination at school. This may include informing the school administration of the harassment and ensuring that remedial steps are taken to respond to the offending behavior. If the youth has been injured or threatened with serious bodily harm, child welfare staff should be prepared to contact local law enforcement authorities to file a report and to advocate for fair treatment within an investigation and subsequent prosecution. If appropriate actions are not taken as a result of their advocacy, child welfare staff may need to meet with the school board and local police to file an official complaint, or consult an attorney where the situation calls for legal action or remedy.

"LGBTQ YOUTH IN CONGREGATE CARE SHOULD BE AFFORDED THE SAME RIGHTS AND PRIVILEGES THAT NON-LGBTQ YOUTH HAVE."

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Support Transgender and Gender-Nonconforming Youth

- In order to competently serve and safeguard transgender and gender-nonconforming youth, child welfare staff should understand what it means for a youth to be transgender or gender-nonconforming and should be familiar with and use appropriate terminology.

- Child welfare staff should receive mandatory cultural competency training on gender identity and expression, including education regarding medical treatment for transgender youth diagnosed with GID.

- Child welfare staff have a legal duty to protect the physical and emotional safety of transgender and gender-nonconforming youth. Child welfare staff should take immediate action to end any form of harassment or bullying against transgender and gender-nonconforming youth, whether perpetrated by staff, foster parents or peers.

- Child welfare staff should maintain confidentiality regarding the gender identity of transgender and gender-nonconforming youth in their care and be aware of legal obligations to treat such information confidentially. Staff should not disclose information about a youth's gender identity without first obtaining the youth's permission.

- Child welfare staff should respect a transgender or gender-nonconforming youth's preferred name and gendered pronouns that best reflect the young person's gender identity.

- Child welfare staff should allow transgender and gender-nonconforming youth to express their gender identity through preferred attire, grooming and mannerisms without punishment or ridicule. Child welfare staff should not assume that transgender and gender-nonconforming youth are "acting out" inappropriately when expressing their gender identity.

- Child welfare staff should not consider or classify youth as sexually aggressive simply because they are transgender or gender-nonconforming. These youth are no more likely than any others to be sexually aggressive.

- Child welfare staff should avoid making assumptions about the sexual orientation of transgender and gender-nonconforming youth. Transgender and gender-nonconforming youth may identify as gay, lesbian, bisexual, questioning, queer, heterosexual, etc. Sexual orientation is separate from, and not determined by, one's gender identity and expression.

- Child welfare staff should be aware of health care protocols for medical treatment for transgender individuals and should ensure that transgender youth have access to competent and LGBTQ-affirming mental and medical health services, including access to treatment for GID, if deemed medically appropriate. Treatment of GID is focused on providing support, not changing a person's gender identity, and may include services such as individual and family counseling, hormone therapy and surgery to align the physical body with the gender identity of the youth. Staff should ensure that existing transition-related treatment is provided after a youth arrives at an agency or facility.

- In sex-segregated facilities, transgender youth should not be assigned to the girls' or boys' units strictly based on the sex assigned to them at birth. Instead, child welfare staff should make individualized decisions based on the physical and emotional well-being of the youth, taking into account the young person's wishes, the level of comfort and safety, the degree of privacy afforded, the types of housing available and the recommendations of mental health and medical professionals. The safety of transgender and gender-nonconforming youth should be protected without resorting to isolating or segregating the youth from the general population. However, single occupancy rooms, if available in units that correspond with the young person's gender identity, are often appropriate for transgender youth in sex-segregated facilities.

- Transgender youth should be permitted use of bathrooms that correspond to their gender identity. The facility should counsel others that the youth is entitled to use the bathroom corresponding to the youth's gender identity, and can make available private single-person bathrooms as an option. Transgender youth should not be singled out as the only people allowed to use or routed to private single-person bathrooms.

- Child welfare staff should support the academic achievements of transgender and gender-nonconforming youth and ensure that they are safe in schools. The gender expressions of transgender and gender-nonconforming youth make them more visible, and therefore more vulnerable, to harassment and violence at school. Some school dress policies make it more difficult for youth to dress consistently with their gender identities. Child welfare staff should take immediate action to protect transgender youth facing harassment or

discrimination at school, either on-site or off-site, including protection from being disciplined for expressing their gender identity or being denied access to locker rooms, showers and bathrooms that match their gender identity.

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- Child welfare staff should locate and develop resources to help transgender youth with their legal issues. Transgender youth may need assistance and advocacy to obtain proper legal identity documents reflecting gender identification and preferred names, such as birth certificates, state identification cards, driver's licenses, health insurance cards, social security cards, passports and school identification cards.

"TREATMENT OF GID IS FOCUSED ON PROVIDING SUPPORT, NOT CHANGING A PERSON'S GENDER IDENTITY."

Provide Access to LGBTQ Community Programs and Services

- Child welfare agencies should help LGBTQ youth access LGBTQ community services and supportive adult mentors.
- Child welfare agencies should develop an up-to-date list of LGBTQ resources in their local community and distribute it throughout the child welfare agency, including to youth who may wish to contact community resources on their own.

Adopt Confidentiality Policies

- Child welfare agencies should adopt strict policies for managing confidential information about a young person's sexual orientation and gender identity, in addition to other sensitive information, such as HIV status. Child welfare staff should always respect and maintain an LGBTQ young person's privacy and never disclose confidential information about sexual orientation or gender identity without the child's permission. Information related to the past, present or future physical or mental condition of an individual is private medical information that may be protected by state and federal privacy laws. Moreover, members of NASW are bound by a code of ethics requiring a young person's express consent before the release of confidential information.[42]

42 Nat'l Ass'n of Soc. Workers, *Code of Ethics of the National Association of Social Workers* (approved 1996, rev. 2008).

Ensure that Faith-Based Providers Working with LGBTQ Youth Fulfill their Professional and Legal Obligations

- State child welfare agencies should respect federal and state prohibitions against religious discrimination in the provision of governmentally-supported social services. Faith-based agencies that receive government funds to provide social services or that care for children in state custody must adhere to professional and legal standards of care, providing for nondiscriminatory, competent and nonjudgmental services to LGBTQ youth and foster and adoptive parents.

- LGBTQ youth should be placed in homes and facilities that will support them. They should be protected from condemnation based on caregivers' or providers' religious and cultural beliefs related to their LGBTQ identity. Child welfare staff and foster parents should acknowledge and examine any anti-LGBTQ biases they might have. If these personal beliefs might prevent offering nonjudgmental care to an LGBTQ young person, the practitioner or foster parent should seek outside support and make alternative care arrangements. They must put the needs of young people above their own personal beliefs.

- Prior to placing an LGBTQ youth, child welfare staff should consider whether the religious or cultural beliefs of a prospective caregiver could cause the placement to be outside of the child's best interests. Foster families may need guidance to understand the line between their obligations as caregivers and their religious and cultural beliefs. LGBTQ youth should not be placed in settings where caregivers' religious and cultural beliefs might place LGBTQ youth at risk.

- Child welfare staff should locate LGBTQ-affirming religious communities that can be a resource for finding nurturing foster and adoptive families and mentors for LGBTQ young people. LGBTQ-affirming religious communities can also provide a supportive community for LGBTQ young people in care who wish to participate in religious activities.

- Staff of faith-based agencies should not discriminate against prospective or present foster and adoptive parents based on their sexual orientation or gender identity.

Collect and Evaluate Data

- State child welfare agencies should include participants' sexual orientation and gender identity status in demographic data elements and evaluation tools to determine accessibility and outcomes specific to LGBTQ youth. They should ensure that data is collected by individuals trained to respectfully ask questions about sexual orientation and gender identity, and that confidentiality is respected. The data should be aggregated anonymously and updated regularly.

CONCLUSION

CWLA and co-authors hope that state child welfare agencies will use these Recommended Practices to increase their baseline knowledge of LGBTQ issues, influence their programmatic decisions and priorities, and set higher expectations and performance standards for the services provided to LGBTQ young people in care.

In addition, state child welfare agencies can use these LGBTQ competence standards in planning, organizing and administering services; establishing state and local licensing and accreditation requirements; developing recruiting and hiring practices; and developing content for training, in-service and staff development programs. In this way, state child welfare agencies can promote increased public interest, understanding and support for LGBTQ-competent services that will more effectively promote the well-being of LGBTQ youth in care.

Finally, state child welfare agencies may also incorporate LGBTQ cultural competency objectives into federally mandated activities, such as Child and Family Services Reviews and Program Improvement Plans, to maximize LGBTQ-related proficiency, values, principles, policies and practices.

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Together, Making Children and Families a National Priority

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