

City of New York  
Administration for Children's Services

Policy and Procedure  
2025/xx

**Promoting a Safe and Respectful Environment for Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Asexual/Agender (LGBTQIA+) Youth and Families Involved in the Child Welfare, Detention, and Juvenile Justice Systems**

<b>Approved By:</b>  Jess Dannhauser, Commissioner	<b>Date Issued:</b>  _____	<b>Number of Pages:</b> 43	<b>Number of Attachments:</b> 2
<b>Related Laws:</b> Civil Rights Law § 40-c SSL § 372 SSL § 373-a SSL § 383-c SSL § 384 SSL §§ 409-a, 409-e, 409-f SSL § 422(4) – (7) SSL § 422-a SSL § 4224(4) SSL § 427-a SSL § 459-g FCA § 355.4 PHL Article 27-F Title 8 of the New York City Charter	<b>ACS Divisions:</b> Division of Child Protection; Division of Family Permanency Services; Division of Prevention Services; Division of Youth and Family Justice; Division of Administration; Office of the First Deputy Commissioner; and provider agency staff	<b>Contact Office/Unit:</b> Office of Equity Strategies, Office of the First Deputy Commissioner <a href="mailto:LGBTQ@acs.nyc.gov">LGBTQ@acs.nyc.gov</a>	
<b>Supporting Regulations:</b> 9 NYCRR § 180-3.4 (d) 9 NYCRR § 180-3.10 9 NYCRR § 180-3.18 (e) 9 NYCRR § 180-3.27 (a) (5) 9 NYCRR § 180-1.5 (a) (6) 18 NYCRR § 357.3 18 NYCRR § 421.3(d) 18 NYCRR § 423.4(m)(7) 18 NYCRR § 431.7 18 NYCRR § 441.24 18 NYCRR § 441.22 18 NYCRR § 441.19(d) 18 NYCRR § 423.7 18 NYCRR § 430.12 18 NYCRR § 450.5 18 NYCRR § 450.8 18 NYCRR § 457.16	<b>Supporting Case Law:</b> N/A	<b>Bulletins &amp; Directives:</b> <ul style="list-style-type: none"> <li>• 09-OCFS-INF-06 <i>Promoting a Safe and Respectful Environment for Lesbian, Gay, Bisexual, Transgender, and Questioning Children and Youth in Out-of-Home Placement</i>; released December 30, 2009.</li> <li>• 16-OCFS-ADM-02 <i>Regulations Prohibiting Discrimination and Harassment in Child Welfare and Youth Programs</i>; released February 8, 2016.</li> <li>• 16-OCFS-INF-04 <i>Substance Abuse and Mental Health Services Administration and</i></li> </ul>	

<p style="text-align: center; font-size: 100px; opacity: 0.1;">DRAFT</p>	<p style="text-align: center; font-size: 100px; opacity: 0.1;">DRAFT</p>	<p><i>Family Acceptance Project Release: A Practitioner's Resource Guide: Helping Families to Support Their LGBT Children</i>; released March 25, 2016.</p> <ul style="list-style-type: none"> <li>• 20-OCFS-ADM-03 <i>Runaway and Homeless Youth Provider Training on Lesbian, Gay, Bisexual, Transgender, Questioning, and Queer Cultural Competency</i>; released January 23, 2020.</li> <li>• 20-OCFS-INF-10 <i>Child Welfare League of America and Lambda Legal Toolkit: Getting Down to Basics: Tools to Support LGBTQ Youth in Care</i>; released July 14, 2020.</li> <li>• 21-OCFS-ADM-05 <i>Regulatory Changes and Standards of Care for Youth in Congregate Care Settings</i>; released April 6, 2021.</li> <li>• 21-OCFS-INF-06 <i>Introduction of the LGBTQ+ Community Practice Model</i>; released July 23, 2021. OCFS PPM 3442.00 <i>Lesbian, Gay, Bisexual, Transgender, and Questioning Youth: Promoting Dignity and Respect</i>; released May 30, 2023.</li> </ul>
<p><b>Keywords:</b> LGBT, LGBTQ, LGTBQIA+, lesbian, gay, bisexual, transgender, queer, intersex, asexual, non-binary, gender, gender identity, sexual orientation, LGBTQIA+ Point Person Network, questioning, chosen name, pronouns, gender affirming, gender-</p>	<p><b>Related Policies:</b></p> <ul style="list-style-type: none"> <li>• ACS Guidance #2008/01: <i>Sharing Child Case Record Information between Children's Services, Foster Care and Preventive Provider Agencies</i></li> <li>• ACS Guidance #2009/04: <i>Children's Services Case Record Management</i></li> </ul>	<p><b>Supersedes:</b></p> <ul style="list-style-type: none"> <li>• Division of Child Protection Policy: <i>Assessing Safety of LGBTQ Children and Youth</i>, dated May 22, 2009;</li> <li>• ACS Policy #2011/05: <i>Promoting a Safe and Respectable Environment for Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth</i></li> </ul>

<p>affirming care, gender-affirming healthcare, affirming, hormone therapy, prosthetics, binders, advocacy, discrimination; 2S; two-spirit</p>	<p>Information Sharing Guidelines;</p> <ul style="list-style-type: none"> <li>• ACS Foster Care Quality Assurance Standards 2011;</li> <li>• ACS Policy #2011/02 Flexibility in Sleeping Arrangement Requirements for Sibling Foster Care Placements;</li> <li>• ACS Policy #2014/08: <i>Medical Consents for Children in Foster Care</i>, issued September 16, 2014;</li> <li>• <i>ACS Interim Policy In Effect Policy #2014/xx: Provision of Non-Medicaid Reimbursable Treatment or Services for Youth in Foster Care</i>, dated December 16, 2014</li> <li>• ACS Prevention Standards and Indicators 2021.</li> <li>• ACS Policy #2022/03: <i>Incident Review in Secure and Specialized Secure Detention</i>, issued September 7, 2022;</li> <li>• ACS Policy #2024/03: <i>Prevention, Detection and Response to Sexual Misconduct in SD/SSD</i>, issued March 21, 2023;</li> <li>• DJJ Operations Order # 06/03 entitled <i>Resident Personal Property and Grooming Paraphernalia</i>;</li> <li>• DYFJ Directive # 17.1 entitled <i>Continuity of Care Policy and Procedures</i></li> </ul>	<p><i>and their Families Involved in the Child Welfare System Policy</i> dated July 27, 2011; and</p> <ul style="list-style-type: none"> <li>• Directive #01-2011: <i>Guidelines for Promoting a Safe and Respectable Environment for Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and their Families Involved with DYFJ</i>, dated July 27, 2011.</li> </ul>
<p><b>Related Forms and Links:</b></p> <ul style="list-style-type: none"> <li>• <b>Attachment A</b> – ACS LBGBTQIA+ Discrimination Report/Inquiry Form</li> <li>• <b>Attachment B</b> – Medical Consent and Health Coverage for Gender-Affirming Medical Care (Non-Routine Medical Services) for Youth in Placement</li> <li>• NYC Children LGBTQ Resources Page - <a href="https://www.nyc.gov/site/acs/about/lgbtq-resources.page">https://www.nyc.gov/site/acs/about/lgbtq-resources.page</a></li> <li>• World Professional Association for Transgender Health – Standards of Care Version 8: <a href="https://www.wpath.org/publications/soc">https://www.wpath.org/publications/soc</a></li> <li>• Gender Dysphoria/Gender Incongruence Guideline Resources - <a href="https://www.endocrine.org/clinical-practice-guidelines/gender-dysphoria-gender-incongruence">https://www.endocrine.org/clinical-practice-guidelines/gender-dysphoria-gender-incongruence</a></li> </ul>		

**SUMMARY:**

The Administration for Children's Services (ACS) is committed to providing all youth and families served by ACS and our contracted provider agencies a safe, healthy, inclusive, affirming, equitable and discrimination-free environment. This includes any child, youth or family member receiving services from ACS and provider agencies, who self-identifies as or is perceived to be Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Asexual/Agender (LGBTQIA+). This policy provides guidelines to both ACS and provider agency staff on sensitive, respectful, and culturally competent practice, as well as strategies to address bias and meet the unique needs of youth and their families.

**SCOPE:**

This policy applies to all ACS and provider agency staff responsible for providing services to youth and families within the purview of Administration for Children's Services. All references to staff in this policy include volunteer staff where applicable.

DRAFT

## I. General Information About LGBTQIA+ Youth and ACS

Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Asexual/Agender (LGBTQIA+) youth<sup>1</sup> involved with ACS have unique needs that child welfare, juvenile justice, prevention, and foster care providers are obligated to meet. LGBTQIA+ youth are overrepresented within the child welfare and juvenile justice systems, and are more vulnerable to negative outcomes.<sup>2</sup> Understanding and supporting youth experiences and how their experiences are shaped by intersecting identities, including gender, sexuality, race ethnicity, socio-economic status, immigration status, indigenous heritage, language, and religion improves care and overall outcomes.

Staff should be aware that many LGBTQIA+ youth have had prior involvement with the child welfare system, and those experiences may inform their current involvement within the child welfare or the juvenile justice system. This knowledge can support staff's culturally responsive engagement and solution focused planning with the youth centering on their needs.

### A. ACS Office of Equity Strategies (OES)

#### 1. Overarching Responsibilities:

- a. The LGBTQIA+ Equity Team within the ACS Office of Equity Strategies (OES) is responsible for assessing LGBTQIA+ needs within the child welfare system.
- b. The LGBTQIA+ Equity Team develops and maintains relationships with community based LGBTQIA+ programs to improve access to services for youth involved with protective, prevention, and foster care services. OES also develops training curricula for child welfare staff and works alongside other ACS divisions to inform policies, programs, and services that address specific needs of LGBTQIA+ children/youth and their families.
- c. Also, OES advocates for affirming practices, policies, and laws to protect LGBTQIA+ youth involved in child welfare and/or juvenile justice systems at the local, state, and federal levels.

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<sup>1</sup> For this policy all references to "youth" will apply to youth/children receiving custodial and/or community-based services from ACS. This includes children and youth receiving some or all child protective and preventive services, youth in alternative-to-detention/placement programs, youth in foster care placements, youth in juvenile justice placement, and youth in detention facilities.

<sup>2</sup> See Conron, Kerith J. (2020, September) LGBT Youth Population in the United States, UCLA Williams Institute; New York State Department of Health: In Recognition of Pride Month, State Department of Health Releases Health Disparities Report On LGBTQ+ New Yorkers; Sandfort, Theo G.M. (2020, November) [\*Experiences and Well-Being of Sexual and Gender Diverse Youth in Foster Care in New York City\*](#); LGBTQ+ Youth in the Foster System Fact Sheet (January 2023), Children's Rights: <https://www.childrensrights.org/wp-content/uploads/2023/12/CR-LGBTQ-Youth-in-Foster-Care-2023-Fact-Sheet.pdf>.

2. Monitoring Responsibilities:

OES shall track and monitor the following:

- a. All submitted *ACS LGBTQIA+ Discrimination Report/Inquiry Forms*;
- b. Compliance with standards and expectations when working with LGBTQIA+ youth and their families, while providing technical assistance where needed;<sup>3</sup>
- c. The LGBTQIA+ Point Person Network; and
- d. The integration of LGBTQIA+ policies into practice.

OES monitors compliance with this policy through reviewing Discrimination Report/Inquiry forms, working with the Point Person Network, and working with ACS divisions and stakeholders on LGBTQIA+ issues. OES will collaborate with other program areas that provide oversight of ACS' staff and contracted providers to hold all pertinent staff accountable for their performance with respect to this policy.

**For additional information on training resources and questions on LGBTQIA+ matters, please contact the OES at [LGBTQ@acs.nyc.gov](mailto:LGBTQ@acs.nyc.gov).**

**For a list of updated LGBTQIA+ affirming resources, staff trainings, Discrimination Report/Inquiry forms, LGBTQIA+ Action Plan, and the LGBTQ Youth in Foster Care and Juvenile Justice Systems "Know Your Rights" brochure, please visit:**  
<https://www.nyc.gov/site/acs/about/lgbtq-support.page>

**B. Definitions<sup>4</sup>**

ACS staff and provider agency staff should recognize that LGBTQIA+ vocabulary and definitions have and may evolve over time. Some terms may be used differently or mean different things to youth.<sup>5</sup>

1. Affirming – Creating a safe environment that intentionally and purposefully supports members of the LGBTQIA+ community. Affirming practices include using affirming

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<sup>3</sup> Provider agencies are responsible for gathering tracking information and submitting it to the ACS OES for an assessment of their progress.

<sup>4</sup> Definitions have been adapted from the following resources: Breaking the Silence, National Center for Lesbian Rights Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts, The Equity Project, The Human Rights Campaign Glossary of Terms LGBTQIA+ Glossary, University of California, Davis, Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual Resource Center; Know Your Rights: A Guide for Trans and Gender Nonconforming Students, Gay Lesbian Straight Educational Network; and 21-OCFS-INF-06 Attachment B: LGBTQ+ Terms, Concepts, and Definitions.

<sup>5</sup> Definitions may be added or changed in the successor versions of this policy.

language, providing affirming placements and services, while modeling supportive behavior and holding those engaging in discriminatory behaviors accountable.

2. Agender – Not having a gender or a “lack of gender.” Agender identified people often identify as gender free, gender neutral, or genderless.
3. Aromantic – Sometimes called “aro” for short, an aromantic person refers to a person who experiences little to no romantic attraction. Aromanticism exists along a spectrum, and a person could be aromantic and experience sexual attraction.
4. Asexual – Often called “ace” for short, asexual refers to a complete or partial lack of sexual attraction or lack of interest in sexual activity with others. Asexuality exists on a spectrum, and asexual people may experience little to no sexual attraction or conditional sexual attraction, and may experience romantic or emotional attraction.
5. Biphobia – The fear and hatred of, or discomfort with, people who love and/or are sexually attracted to more than one gender.
6. Bisexual – A person whose primary sexual and/or affectional orientation is toward people of the more than one gender though not necessarily simultaneously, in the same way or to the same degree.
7. Chosen Gender Pronouns – Are words an individual chooses to use to refer to themselves, and how they should be referred to by others. Some examples of chosen gender pronouns include:
  - a. She/her/hers
    - i. Example: “She forgot her wallet. She thinks that she left it in her car.”
  - b. He/him/his
    - i. Example: “He forgot his wallet. He thinks that he left it in his car.”
  - c. Ze/Zir/Zirs
    - i. Example: “Ze forgot zir wallet. Ze thinks ze left it in zir car.
  - d. They/them/theirs
    - i. Example: They forgot their wallet. They think that they left it in their car.
8. Cisgender – A term used to describe a person whose gender identity aligns with those typically associated with the sex assigned to them at birth.
9. Cisnormativity – Cisnormativity is the assumption that gender is binary, and that everyone will or should align with the gender they were assigned at birth, and those who do not are considered “abnormal” or should be heterosexual. The practice that prioritizes cisgender behaviors and experiences as normative, *see also Heteronormativity*.

10. Coming out – The process in which an LGBTQIA+ person first acknowledges, accepts, and appreciates their sexual orientation or gender identity and begins to share that with others.
11. Deadname – The use of someone’s former name without the person’s consent. In the trans community, deadnaming specifically refers to the harmful, accidental, or intentional dismissal, denial, or rejection of a person’s gender identity by use of a name other than their chosen. A legal name may be someone’s deadname.
12. Gay – A person who is primarily emotionally, romantically, or sexually attracted to members of the same gender. Men, women, and non-binary people may use this term to describe themselves.
13. Gender-Affirming Care – The process of recognizing Transgender and Gender Diverse (TGD) people in their gender identity – whether socially, medically, legally, behaviorally, or some combination of these.<sup>6</sup> Healthcare that is gender-affirming, or trans-competent, utilizes culturally specific language in caring for TGD people. Gender-affirming care is not synonymous with transition-related care. Transition-related care, such as hormone therapy or surgery alone, is not gender-affirming care. Gender affirmation for each person is unique and based on what is personally affirming.
14. Gender binary – A societal system or belief in which gender is constructed into two strict categories of male or female. Under the gender binary, gender identity and expression are expected to align with sex assigned at birth.
15. Gender dysphoria – Used to describe discomfort or distress caused when a person’s assigned birth gender is not the same as the one with which they identify. This is also a clinical diagnosis.
16. Gender-expansive – A person with a wider, more flexible range of gender identity and/or expression than typically associated with gender binary. Often used as an umbrella term when referring to youth still exploring the possibilities of their gender expression and/or gender identity.
17. Gender expression – External expression of one’s gender identity through behavior, clothing, appearance, speech, or other means which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.

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<sup>6</sup> World Professional Association for Transgender Health (WPATH) Standards of Care for the Health of Transgender and Gender Diverse People, Version 8 (2022); Reisner, S. L., Poteat, T., Keatley, J., Cabral, M., Mothopeng, T., Dunham, E., Holland, C. E., Max, R., & Baral, S. D. (2016). *Global health burden and needs of transgender populations: A review*. The Lancet, 388(10042), 412–436.

18. Gender fluid – A person who does not identify with a single fixed gender or has a fluid or unfixed gender identity. See also D. below.
19. Gender Identity – One’s innermost concept as self and how individuals perceive themselves and what that call themselves. This can be man, woman, other genders, a blend of genders or neither. One’s gender identity can be the same or different from their assigned sex at birth. Gender identity can be fluid. See also C. below.
20. Gender non-conforming – A broad term referring to people who do not behave in a way that conforms to the traditional expectations of their gender or whose gender expression does not fit neatly into a category. This may include those who express themselves as “feminine” boys, “masculine” girls, and those perceived as androgynous. Other terms like gender non-conforming include gender diverse or gender expansive.
21. Genderqueer – Genderqueer people typically reject notions of static categories of gender and embrace a fluidity of gender identity and often, though not always, sexual orientation. People who identify as “genderqueer” may see themselves as being a combination of all or multiple genders (e.g., man, woman, non-binary, etc.) and/or genderless. Gender identity can be fluid.
22. Heteronormativity – The assumption that all people are or should be heterosexual and should or will align with conventional expectations of society for sexual and romantic attraction. Heteronormativity excludes the needs, concerns, and life experiences of lesbian, gay, and bisexual, and transgender people, while granting advantages to heterosexual people, behaviors, and experiences. It is often a subtle form of oppression which reinforces realities of silence and invisibility.
23. Heterosexual – Persons who experience sexual, emotional, and/or romantic attraction towards persons of a gender other than their own. People who are heterosexual often refer to themselves as “straight.”
24. Homophobia – The fear and hatred of or discomfort with people who are attracted to members of the same gender. In recent decades, the broadened term includes oppression or prejudice against LGBTQIA+ people. Sometimes also referred to as “homonegativity.”
25. Internalized homophobia – The fear and self-hate of one’s own sexual orientation that occurs for many individuals who have learned negative ideas about sexual orientation throughout childhood. One form of internalized oppression is the acceptance of the myths and stereotypes applied to the oppressed group.

26. Intersectionality – A term established by Kimberlé Crenshaw, originally to identify the barriers black women face in society – specifically marginalization due to both sexism and racism. It has become a term used in social justice work to highlight the compounded effects of how two or more social and political identities intersect to create unique combinations of privilege and/or oppression.
27. Intersex – An umbrella term to describe a wide range of natural body variations that do not fit neatly into conventional definitions of male or female. There is a wide variety of difference among intersex variations, including differences in genitalia, chromosomes, gonads, internal sex organs, hormone production, hormone response, and/or secondary sex traits.
28. Legal Name – A name appearing on legal or official government documents (e.g., financial aid, payroll, bills for payment, medical identification and records, federal immigration, and tax forms). A legal name may be someone's deadname.
29. Lesbian – Usually a woman who is emotionally, romantically, or sexually attracted to other women. Some non-binary people may use this term to describe themselves.
30. LGBTQIA+ – An acronym commonly used to refer to lesbian, gay, bisexual, transgender, queer/questioning, intersex, asexual, and agender individuals. The "+" stands for all other identities not encompassed in the acronym.
31. Non-binary/nonbinary – Refers to a person who does not identify exclusively as a man or woman, moving beyond the gender binary. Non-binary people may identify as being both a man and a woman, somewhere in between, or as falling completely outside these categories. While many also identify as transgender, not all non-binary people do. Non-binary can also be used as an umbrella term encompassing identities such as agender, bigender, genderqueer or gender-fluid. Often abbreviated as "NB" or "enby."
32. Non-Medical Gender-affirming Intervention Items – These items include binders, padding, undergarments, and prosthetics that support the user's gender expression.
33. Outing – Exposing someone's lesbian, gay, bisexual, transgender, or gender non-binary identity to others without their permission. Outing someone can have serious repercussions on employment, economic stability, personal safety, and religious or family situations.
34. Pansexual – Describes someone who has the potential for emotional, romantic, or sexual attraction to people of any gender, though not necessarily simultaneously, in the same way or to the same degree.

35. Queer – An umbrella term used to describe a spectrum of identities and orientations that fall outside of societal norms. Queer is often used as a catch-all to include many people, including those who do not identify as exclusively straight and/or those who have non-binary or gender-expansive identities. This term was historically used in a derogatory or violent way, but has been reclaimed by many parts of the LGBTQIA+ community. Do not assume that all LGBTQIA+ people use the term “queer,” especially those from earlier generations who may still have an adverse reaction to the term.
36. Questioning – A term used to describe the internal exploration of sexual orientation, gender identity, or gender expression. Some people may use this term to identify themselves within the LGBTQIA+ community.
37. Same-gender loving – A term some prefer to use instead of lesbian, gay, or bisexual to express attraction to and love of people of the same gender.<sup>7</sup>
38. Sexual Fluidity – The process of understanding and expressing one’s sexual orientation is unique to everyone. Fluid sexualities should be respected and not considered as merely a phase. See also D. below.
39. Sex/Sex assigned at birth – The sex – male, female or intersex – that a doctor or midwife uses to describe a child at birth based on their external anatomy. Sex is not always binary, *see also Intersex*.
40. Sexual orientation – An emotional, romantic, or sexual attraction to a particular gender or genders. An individual’s sexual orientation is independent of their gender identity and can be fluid. See also C. below
41. Transgender – An umbrella term for people whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply any specific sexual orientation. Therefore, transgender people may identify as heterosexual, gay, lesbian, bisexual, etc. Often abbreviated to “trans.”
42. Transphobia – A reaction of fear, loathing, and discriminatory treatment of transgender, non-binary, and gender expansive people. Sometimes also referred to as “transnegativity.”
43. Transitioning – The process that some transgender people may undergo to live more fully as their true gender identity. This process is different for each individual and may include changing one’s appearance, such as clothing or hair. Transitioning may include social transitions, such as changing name and pronouns, medical transitions, such as

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<sup>7</sup> This term was created by activist Cleo Manago as an Afrocentric alternative that recognizes the histories and cultures of people of African descent.

hormone therapy or gender-affirming surgeries, and legal transition, such as changing their legal name and sex on government identity documents. Transgender people may choose to undergo some, all, or none of these processes.

44. Two-Spirit (2S) – Used by some Indigenous Native American communities to refer to LGBTQIA+ identities. It may refer to the embodiment of masculinity and femininity but it is not the only significance of the term. Often abbreviated as “2S.”

### **C. Sexual Orientation vs. Gender Identity**

1. Sexual orientation is about who you’re attracted to and who you feel drawn to romantically, emotionally, and sexually. Sexual orientation is about who you want to be with.
2. Gender identity isn’t about who you’re attracted to, but about who you ARE — male, female, genderqueer, etc. This means that being transgender (feeling like your assigned sex is very different from the gender you identify with) isn’t the same thing as being gay, lesbian, or bisexual. Gender identity is about who you are. Everybody has a gender identity.

### **D. Sexual and Gender Fluidity**

Youth may also identify differently on different days, particularly as they continue to develop their identities. Some youth may not want to put labels on their identities. It is important for staff to understand that children/youth and adults whose identity is fluid may be exploring their identity and/or may simply be expressing their sexual orientation or gender identity. Fluid identities should be respected and not considered as merely a phase.

## **II. General Policy**

### **A. Applicability of General Requirements and Guidelines**

The following requirements and guidelines apply to all ACS and provider agency staff, including but not limited to staff within child protective services, prevention services, alternative-to-detention/placement programs, foster care, congregate care, the Nicholas Scoppetta Children’s Center (NSCC) and Division of Youth and Family Justice (DYFJ) secure, specialized secure, and non-secure facilities.

### **B. Staff Conduct and Addressing Discrimination**

ACS and its provider agencies are committed to respecting the dignity of all youth and families, and in keeping youth and families safe while meeting their unique needs, regardless

of their sexual orientation, gender identity and gender expression (SOGIE). No ACS or provider agency staff shall unlawfully discriminate against anyone in the course of their work. ACS prohibits discrimination on the basis of race, ethnicity, creed, color, age, sex, national origin, religion, marital status or partnership, mental or physical ability, gender identity, gender expression, sexual orientation, veteran status, alienage, citizenship status, or another protected category.<sup>8</sup>

ACS and provider agency staff must model appropriate and affirming behavior. Bias, discrimination, bullying, or harassment by staff, or by other youth in care, and/or youth's families against youth in care will not be tolerated. All staff are expected to take immediate action to intervene in these situations. A failure to act may subject staff to disciplinary action, which may include termination, as well as sanctions and penalties imposed by the courts and regulatory agencies such as the New York City Commission on Human Rights (NYCCHR) and the New York State Division of Human Rights (NYSDHR).<sup>9</sup>

**NOTE:** ACS and provider agency staff are under an affirmative obligation to report any conduct that violates the rights and well-being of youth, including those mentioned within this and the ACS Employee Code of Conduct.<sup>10</sup> Staff may report this behavior to their supervisors, managers, the Office of Equal Employment Opportunity (OEEEO), and OES. For reporting LGBTQIA+-related misconduct, discrimination, or harassment, see Section III (O) *Advocacy and Reporting Procedures*.

### **C. Coercion and Imposition of Beliefs**

1. Under no circumstance should any ACS or provider agency staff attempt to convince a youth to reject or modify their SOGIE. Medical and mental health professional organizations, including the National Association of Social Workers, American Psychiatric Association, American Academy of Pediatrics, American Medical Association, and the American School Counselor Association strongly condemn any attempt to “correct” or change youths’ SOGIE through conversion, corrective, or reparative therapy.<sup>11</sup>
2. Additionally, staff are prohibited from attempting to convince or coerce youth to disclose or reveal their sexual orientation, gender identity, or intersex status only

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<sup>8</sup> 18 NYCRR 441.18, 18 NYCRR 441.21, 18 NYCRR 421.3(d), 18 NYCRR 423.4(m)(7); Title 8 of the New York City Charter. See also *ACS Employee Code of Conduct*, revised January 1, 2021. New York State Division of Human Rights (DHR) Hate & Bias Unit can be reached at (844) NO-2-HATE (1-844-662-4283), and to report an incident of discrimination to the New York City Commission on Human Rights call 1-212-416-0197.

<sup>9</sup> *ACS Employee Code of Conduct*, revised 2021.

<sup>10</sup> ACS Memo: *LGBTQ Policy & Practice Initiative*, issued April 16, 2014.

<sup>11</sup> *United States Joint Statement Against Conversion Efforts* (August 23, 2023).

<https://d3dkdvqff0zqx.cloudfront.net/groups/apaadvocacy/attachments/USJS-Final-Version.pdf>

out of curiosity, or for any other reason not listed as permissible in Section II (G) *Disclosure by Youth and/or Family Members*.

3. ACS and provider agency staff are prohibited from imposing their personal, organizational and/or religious beliefs on any youth or families, including LGBTQIA+ youth or families. Personal beliefs of ACS and provider agency staff must not under any circumstances impact the way the individual needs of youth and families are met.
4. ACS and provider agency staff are prohibited from employing, contracting with, or making referrals to mental health providers and/or other service providers who are not affirming of LGBTQIA+ youth or who attempt to change a youth's SOGIE.<sup>12</sup>

#### **D. Guidelines for Staff Interaction with Youth**

1. Safety and security, along with good childcare practices, are paramount for all youth in care. ACS and provider agency staff shall establish and maintain a culture where the dignity of every youth is respected and all youth feel safe. All youth, regardless of their SOGIE, need safety in their surroundings to support positive outcomes.
2. All ACS and provider agency staff must support positive adolescent development of all youth in care by demonstrating and reinforcing respect for differences, encouraging the development of healthy self-esteem, and helping youth manage the stigma often associated with differences.
3. Staff are expected to set a good example of affirming culture and make youth and their families aware that any anti-LGBTQIA+ language, threats of violence, disrespectful or suggestive comments, and/or obscene gestures towards any youth will not be tolerated. Staff are not permitted to engage in these behaviors. If staff are found to be engaging in such behaviors, ACS and/or the provider agency shall hold the staff person accountable which may result in disciplinary action.<sup>13</sup>
4. A youth's history in child welfare may be a result of a youth's SOGIE. Staff should be aware that family responses to a youth's SOGIE can vary widely and likely will intersect with other aspects of youth and families' identities including race, class, gender, immigration status, etc. Awareness of the varying responses and factors promotes empathetic, culturally responsive engagement, and solution-focused planning with youth centered on their needs.

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<sup>12</sup> See <https://www.nyc.gov/site/acs/about/lgbtq-resources.page> for a list of recommended LGBTQIA+ affirming providers.

<sup>13</sup> See *ACS Employee Code of Conduct*, revised January 1, 2021, and any successor or amended guidance.

5. All direct care staff must obtain training on the stress associated with explicit and implicit homophobia, heteronormativity, transphobia, and the stigma associated with being an LGBTQIA+ youth.<sup>14</sup> Further, they will be made aware of how these stressors may contribute to anxiety, depression, substance misuse/abuse, truancy, dropping out of school, absences without leave (AWOLs), and increased risk of suicide in LGBTQIA+ youth people.
6. Staff shall be sensitive to the experiences of trauma (e.g., violence, sexual abuse, verbal harassment, etc.) related to a youth's SOGIE experienced by many LGBTQIA+ youth.<sup>15</sup> To better support these youth, staff will receive ongoing trauma-informed clinical training specific to these unique forms of trauma. Staff are expected to apply this trauma-informed care when working with this population.
7. **When the LGBTQIA+ youth are involved in the juvenile justice system**, staff should be aware that the youth may have child welfare history that led to or affects their current involvement in the juvenile justice system.
8. **For youth in congregate care facilities**, staff must also be aware that LGBTQIA+ youth are particularly susceptible to trauma, discrimination, and abuse. Staff must be able to recognize signs of distress, support disclosure when appropriate, and follow appropriate protocols for reporting.
9. **When assessing the safety and risk of an LGBTQIA+ youth**, staff shall assess whether a parent's attitude about the youth's actual or perceived SOGIE is contributing to the parents' behavior, and in turn, whether the parents' behavior impacts the youths' safety or places the youth at risk.
10. While adhering to the above stated guidelines, staff should also not over-emphasize or focus solely on gender identity, gender expression, intersex status, sexual orientation issues, or other LGBTQIA+ specific issues with youth, to avoid having youth feeling singled out. For additional guidance on staff interaction with youth, please refer to the OCFS LGBTQ+ Community practice model.<sup>16</sup>

#### **E. LGBTQIA+ Identities, Language and Terminology**

1. All ACS and provider agency staff are required to use respectful, inclusive, and, until an individual's gender and/or pronouns are known, gender-neutral language. Do not assume a person's gender identity, pronouns, or sexuality. Examples of respectful

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<sup>14</sup> See Section II (M) on training.

<sup>15</sup> Direct service staff working for ACS, provider agencies, and juvenile justice programs can access the *Tending the Roots: Recognizing Trauma & Cultivating Wellness* training, or any subsequent trainings, on Workforce Institute's Cornerstone training module.

<sup>16</sup> See OCFS 21-OCFS-INF-06 Attachment A: *LGBTQ+ Community Practice Model*, issued July 23, 2021.

language include, but are not limited to lesbian, gay, bisexual, transgender, intersex, gender expansive, sexual orientation, gender identity, gender non-binary. In cases where the gender of an individual's romantic partner is not known, staff should use gender neutral language such as "partner."

2. Staff are required to use a person's chosen name and gender pronouns. People can be fluid and may change their chosen names and pronouns. As a best practice, when introducing themselves, staff should share their own pronouns, such as: He/Him/His, She/Her/Hers, They/Them/Theirs, Ze/Zir/Zirs.
  - a. Staff are prohibited from using offensive and outdated terms, including but not limited to: "hermaphrodite," "homo," "homosexual," "sexual preference," "alternative lifestyle," "trannie," "transvestite," and "sex change." See Section I (B) for a list of acceptable terms.
  - b. Since some terms may be acceptable and/or preferable to one person and offensive to another, staff should use the language and terminology employed by that youth or family member (when appropriate) during one-on-one interaction. Staff must support all youth and family members with using language that is respectful to all parties.<sup>17</sup> Staff should share affirming resources, such as those found on the [OES LGBTQ Support page](#), when the family needs support on respectful language.<sup>18</sup>

## **F. Confidentiality**

1. LGBTQIA+ youth face a greater risk of abuse when their SOGIE are disclosed to a parent or primary caregiver who could be homophobic, transphobic, and/or non-affirming, particularly when the disclosure occurs without the youth's consent and/or in an inappropriate manner.<sup>19</sup> The following information concerning confidentiality and disclosure must be followed carefully when staff are working with all youth including LGBTQIA+ youth. All staff are required to protect and/or maintain the confidentiality of the youth and families they serve.
2. CONNECTIONS (CNNX), JDAS, GOALS, and other databases used by staff support the confidentiality of an individual and a family's case record. Federal statutes and numerous sections of the Social Services Law (SSL), the Public Health Law (PHL) and

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<sup>17</sup> For an explanation of LGBTQIA+-related terms, see Section I (B) *Definitions*.

<sup>18</sup> ACS LGBTQIA+ Equity Strategies <https://www.nyc.gov/site/acs/about/lgbtq-support.page>, last visited on April 23, 2025.

<sup>19</sup> This often results in, but is not limited to, serious physical harm, homelessness, substance use and mental health conditions such as depression.

the New York Codes, Rules and Regulations (NYCRR) address the topics of confidentiality.<sup>20</sup>

3. When appropriate, ACS and provider agency staff must inform youth during engagement of services of the need for their case record information to be shared with other legally authorized individuals, including but not limited to, the courts, school, medical services, agency staff, and all other legally authorized persons.<sup>21</sup> These people/entities may be provided with specific information, pursuant to state and federal laws governing confidentiality, so they may fulfill their responsibilities; provide services; and plan for the health, safety, permanency and well-being of youth and their families. Additionally, parents may request a copy of a case record, which may contain information related to the youth's SOGIE. Staff should address any concerns a youth may have around disclosing confidential information. Staff are expected to create a follow-up plan to address these concerns when necessary.<sup>22</sup>
  - a. If a foster care youth is concerned about revealing sensitive SOGIE-related information in Court, the assigned ACS Family Court Legal Services (FCLS) attorney must make efforts to redact this information prior to turning over information to the Court or opposing counsel.<sup>23</sup>
  - b. If a youth in detention is concerned about revealing sensitive SOGIE-related information in Court, DYFJ/provider agency staff should support by elevating this concern to the youth's attorney.
4. Staff are prohibited from disclosing a youth's SOGIE to other individuals or agencies, without the youth's permission, unless such disclosure is consistent with state or federal law or regulation and necessary to obtain affirming services.<sup>24</sup>
  - a. Some examples of permissible disclosure include: if the information is necessary to determine safety or if a judge orders the disclosure.
  - b. If staff, youth, or other individuals involved in a case believe a youth's SOGIE has been disclosed against their wishes, they may file a report to OES via the **ACS LGBTQIA+ Discrimination Report/Inquiry Form**.

#### **G. Disclosure by Youth and/or Family Members**

<sup>20</sup> E.g. Foster Care - SSL §372, 373-a, 409-e, 409-f; 18 NYCRR §357.3, 430.12; Prevention Services - SSL409-a, 409-e, 409-f, 18 NYCRR §423.7; CPS - SSL §§422(4), (5), (6), (7); 422-a, and 427-a; 18 NYCRR § 457.16; Adoption - DRL §114; SSL §373-a; 18 NYCRR §§357.3, 421.2 (d), 421.18(m); HIV- Public Health Law §2782; 18 NYCRR §§421.2 (d), 431.7; Domestic Violence - SSL §459-g; 18 NYCRR §452.10.

<sup>21</sup> SSL §422, SSL § 422-a, SSL § 427-a, SSL 409-a, SSL 372, DRL 114, 18 NYCRR 423.7.

<sup>22</sup> See ACS Policy #2010/07: *Security of Confidential, Case Specific and/or Personally Identifiable Information*, issued December 6, 2010.

<sup>23</sup> New York City Executive Order No. 41 of 2003.

<sup>24</sup> See 05-OCFS-ADM-02 relating to confidentiality of records.

1. A person may disclose their sexual orientation, intersex status, and/or gender identity to staff when, and if, they feel ready. Usually, youth or family members will disclose when they are in a safe, trusting environment. If a youth or family member discloses that they are LGBTQIA+, staff must discuss this topic by utilizing appropriate, inclusive and gender-affirming language.
2. There are some circumstances when it is appropriate for staff to affirmatively provide an opportunity for youth to disclose that they are LGBTQIA+. Often, this will be raised when discussing the need for residential or foster care placement options, healthcare services, and other community supports. This information is also relevant to decisions regarding educational services, out of home placement, Persons in Need of Supervision (PINS) and delinquency diversion processes, disposition, reunification, and permanency.
3. If a youth discloses that they are LGBTQIA+, staff should discuss the youth's comfort levels and who they do or do not want to know about their SOGIE. For example, a youth that is openly gay and "out" to their family and community will have different comfort levels of disclosure compared to a youth who is not "out."
4. If staff are unsure about how best to raise these topics with a youth or family member, staff are encouraged to contact OES for guidance and support.<sup>25</sup> Provider agency staff may also reach out to their supervisors and/or their agency's LGBTQIA+ Point Person.<sup>26</sup>

#### **H. Use of Chosen Name and Pronoun**

1. Staff must ask a person for their chosen first name and the gender with which they identify, and may need to ask for their legal name or sex assigned at birth. Staff must refer to a person by their pronouns which reflect their gender identity and/or expression. Staff should not assume a person's gender and pronouns; it is best practice to use they/them pronouns until informed of their pronouns. All staff are required to use a person's chosen name and pronouns and avoid using their deadname when speaking with them. Staff must make efforts to keep documentation updated and make sure spelling is consistently accurate for both legal and chosen names.
2. When working with young children ages 7 and younger<sup>27</sup>, the term "pronoun" may be too advanced. Staff should ask the question as simplistically as possible and model the question using their own name and pronouns. For example:

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<sup>25</sup> Staff should send any LGBTQIA+ related inquiries to [LGBTQ@acs.nyc.gov](mailto:LGBTQ@acs.nyc.gov).

<sup>26</sup> See Section III (N) *LGBTQIA+ Point Person Expectations* for additional guidance.

<sup>27</sup> See 21-OCFS-INF-06 Attachment A for more recommendations based on the age of the LGBTQIA+ youth.

- a. “My name is Jordan. I am a woman/girl, and I like it when people call me ‘she or her’ or by my name. What would you like me to call you? He or him, she or her, or maybe just by your name?”
  - b. Other examples of appropriate questions:
    - i. What name do you like to go by?
    - ii. What would you like me to call you? An example of a pronoun is he/him, she/her, and they/them.
  - c. Examples of inappropriate questions:
    - i. What’s your real name?
    - ii. But aren’t you really a girl/boy?
3. When a youth requests the use of a chosen first name and/or gender pronouns, ACS and provider agency staff must discuss with the youth their comfort level when it comes to using their chosen name and pronouns. This discussion may include which name (legal name or chosen name) and gender pronouns can be used to refer to the youth in conversations with their family, and which name (legal or chosen) and gender pronouns staff should use to refer to the youth in conversations with other service providers (e.g. community-based service providers, Board of Education, or other related agencies, etc.) and in Court.<sup>28</sup> Use of their chosen name or pronoun may pose safety risks to youth who have not disclosed their gender identity to family members, friends, other service providers, or in Court. Staff must always comply with the youth’s requests regarding name and pronouns.
4. There may be circumstances where staff must explain to youth the reasons why a youth may be called by their legal name and incorrect pronouns, including in conferencing, case documents and in Court. These circumstances may include legal processes, safety concerns, and other limitations.
5. Staff must regularly check in with youth to see what name and pronouns are safe to use when speaking with parents/guardians and family. The following questions can be used to assist these discussions:
  - a. Which name should I use when I speak with your family?
  - b. When I talk to your family about you, should I call you he or him, she or her, or maybe just your name?

## **I. Documentation**

1. When first recording personal information in systems of record like CNNX and JDAS, it is important to document the legal name, along with the affirming name, and pronouns (when legally required or necessary), and the circumstances under which

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<sup>28</sup> See Section II (I) *Documentation* on requirements for documenting these issues in Connections (CNNX) and other systems.

- the individual would like each used, if applicable. After this initial documentation, The youth's chosen name and pronouns must be used thereafter, unless the youth wishes to use other names or pronouns in particular environments due to safety or disclosure concerns. The consistent and affirming use of a youth's gender identity, chosen name, and pronouns can help build trust during the youth's time in care. For additional information on confidentiality, see Section II (F) of this policy.
2. There should be appropriate and respectful communication to other staff that the chosen name and pronouns are to be used in lieu of the name of legal record and under what circumstances the individual has asked that their legal name or other pronouns be used.
  3. ACS and provider agency staff must reach out to the assigned FCLS attorney if records are being produced or subpoenaed for use in a court proceeding and the youth's different names are noted in the records. If the youth is requesting that certain names be kept confidential from the Court, this issue must be raised with the FCLS attorney as soon as the issue arises and before each court date. The FCLS attorney should request that the Court permit FCLS to produce a redacted record to the other parties (e.g. the parent[s]) involved in the court case. However, it's possible that the Court may direct ACS to produce unredacted reports, or a party may subpoena records for use in a court proceeding.
  4. **For justice-involved youth:** If the youth requests certain names be kept confidential from the Court, staff must inform the youth's attorney of these requests and if different names are noted in records. Any notation of chosen names for court purposes must be submitted by the youth's attorney.
  5. All pertinent documentation maintained by ACS and provider agency staff must note the legal and chosen name of the youth, and clearly indicate which name is chosen and which name is the legal name. Where staff can, staff should update documents and update the assigned FCLS attorney/youth's attorney within a reasonable amount of time when a youth's chosen name and gender pronoun changes.

#### **J. LGBTQIA+-Affirming Resources, Materials, and Events**

1. ACS and provider agency staff must make LGBTQIA+ affirming literature and resources available to all youth and families served by the agencies, and facilities, and programs. LGBTQIA+ affirming literature includes but is not limited to:
  - a. Written and verbal information regarding respect for, and supports available to LGBTQIA+ youth including safe space signs and "Know Your Rights" literature;

- b. List of websites with supportive community resources;<sup>29</sup>
- c. Other appropriate books and materials;
- d. The youth's rights and responsibilities and the procedures for reporting and filing complaints; and
- e. A copy of this policy where age appropriate.

Additionally, OES staff should conduct regular outreach to LGBTQIA+ point people, divisions, and provider agencies to make sure staff have enough distribution materials and updated information on affirming resources.

2. Know Your Rights literature should be thoroughly and completely explained to each youth upon admission to detention, juvenile justice placement, and foster care, including the Nicholas Scoppetta Children's Center, foster homes, and congregate care settings.
3. Any ACS funded program that works directly with youth and families must affirm the identity of each youth by creating supportive environments (e.g., incorporating LGBTQIA+ culturally specific art or social events, such as "LGBTQIA+ Pride" into the general schedule or curriculum). This will indicate that staff and foster parents are knowledgeable of and open to communication on this topic. Educational books, appropriate websites, and other reading materials for youth interested in learning more about LGBTQIA+ issues must be made available to youth in foster care and facilities. Materials must be made available in languages other than English, as needed, and as funding is available.<sup>30</sup>
4. ACS and provider agencies should display LGBTQIA+ literature and visible signage providing information about the contact information for OES and the provider agency's or ACS division's designated LGBTQIA+ Point Person<sup>31</sup> in common areas that are visible to all staff, youth, and families. Some examples of affirming signage include, but are not limited to: upside down triangle, rainbow flag, equal sign, etc.

#### **K. Advocacy**

1. The OES and Office of Advocacy can be used as a resource for LGBTQIA+ youth and families receiving any services – community-based or ACS specific – that have questions. Information about the Office of Advocacy may be accessed at [http://www.nyc.gov/html/acs/html/advocacy/office\\_advocacy.shtml](http://www.nyc.gov/html/acs/html/advocacy/office_advocacy.shtml) or at the Parents and Children's Rights Helpline at (212) 676-9421.

<sup>29</sup> See the Office of Equity Strategies' website for resources: <https://www.nyc.gov/site/acs/about/lgbtq-support.page>

<sup>30</sup> See Executive Order 120 entitled *Citywide Policy on Language Access to Ensure the Effective Delivery of City Services* dated July 22, 2008; see also ACS Policy #2021/08: *Language Access Policy*, issued July 21, 2021

<sup>31</sup> See Section III (N) *LGBTQIA+ Point Person Expectations* for additional guidance.

2. If LGBTQIA+ youth or family member feels they have been treated in a biased manner or discriminated against because of their SOGIE, they can file a report with OES', see also Section III (O) *Advocacy and Reporting Procedures*.
3. If OES reaches out to any ACS programmatic division or ACS funded provider regarding advocating for a LGBTQIA+ individual receiving ACS services, said ACS programmatic division or ACS funding provider agency must respond to OES within seventy-two (72) hours.

#### **L. Service Referrals**

1. All ACS and provider agency staff are responsible for referring youth and families to appropriate affirming health, mental health, or other needed services, regardless of their SOGIE. If a youth discloses that they are LGBTQIA+, the youth must be provided with the appropriate community-based services with affirming care. If a youth discloses that they are LGBTQIA+, the youth must be offered the opportunity for counseling and information regarding LGBTQIA+ appropriate health, mental health, or other services. Referrals to community-based providers who can supplement ACS and/or provider agency services, must be made when appropriate. Staff may reach out to the OES at [LGBTQ@acs.nyc.gov](mailto:LGBTQ@acs.nyc.gov) for an updated list of service providers.
2. When planning to discharge or transition youth in care, staff must refer youth who identify as LGBTQIA+ to community-based providers who have demonstrated that they are culturally competent in working with LGBTQIA+ youth. If the youth's SOGIE is known to the family or other caregivers to whom the youth is returning to/residing with, they must be provided with information for appropriate and affirming resources and providers.
3. When making these referrals, staff must confirm that all referrals are safe and appropriate. Staff should remember that many youths are exploring their SOGIE, and that youths may not know all relevant terminology, or may be questioning their own sexual orientation and/or gender identity.

#### **M. Training**

1. All ACS, provider agency staff, and foster parents that have direct contact with children and families are required to be trained on the goals and expectations of this policy. Training shall be provided to staff within the first six months of employment (LGBTQIA+ Foundational), and at least every two years thereafter (LGBTQIA+

Refresher).<sup>32</sup> These trainings can be accessed by staff via the ACS' Workforce Institute.<sup>33</sup>

2. The ACS' and provider agencies' curriculum shall include but not be limited to:
  - a. Assessing, identifying, and addressing the specific needs of LGBTQIA+ youth and their families;
  - b. Recognizing the difference between personal values and their professional responsibilities;
  - c. Implementing this policy and other related policies or guidance;
  - d. Developing the skills needed to assist families in negotiating the difficulties that may emerge when an adolescent self-identifies as LGBTQIA+ or has a diagnosed intersex condition; and
  - e. Demonstrating empathy when addressing this issue with parents, and helping parents sustain a positive and healthy relationship with their child; and
  - f. For supervisory staff, monitoring the implementation of this policy and related services.
3. Training may be provided in a classroom setting, or using various online platforms (e.g., e-learning, webinars, or teleconference).
4. All LGBTQIA+ training curriculums must be vetted by ACS and approved by the OES.

### III. Requirements and Guidelines for Specific Divisions and/or Program Areas

#### A. Applicability of Special Requirements and Guidelines

While the general requirements and guidelines above apply to all ACS and provider programs, there are additional requirements and guidelines that are unique to specific ACS and provider program areas. The following provides expectations of all ACS and provider agency staff within the stated program areas.

#### B. ACS Division of Child Protection (DCP) and Conducting Child Protective Investigations

1. Safety and Risk Assessments

<sup>32</sup> The supervisor has discretion to require their staff to complete this training sooner, as appropriate.

<sup>33</sup> While ACS staff are required to complete the DCAS *LGBTQ: The Power of Inclusion Training*, this training is specific to employee discrimination and employment law. Workforce Institute trainings are updated frequently by OES and are specific to child welfare, and working with youth and families.

- a. When assessing the safety and risk of an LGBTQIA+ youth, DCP<sup>34</sup> staff, including Child Protective Specialists (CPS), managers and supervisors must, in addition to assessing the required safety factors<sup>35</sup>, assess whether a parent's attitude about the youth's actual or perceived SOGIE, is contributing to the parents' behavior, and in turn, whether the parents' behavior impacts the youths' safety or places the youth at risk.
- b. Youth may experience abuse or maltreatment based on the *perception* of the youth being LGBTQIA+, regardless how the youth identify. Occasionally, youth who are not LGBTQIA+ may be perceived by others to be LGBTQIA+ and are abused and/or neglected as a result. This may even be true for very young children and toddlers who behave in gender atypical ways (e.g., boys who play with dolls or girls who play with trucks) but are too young to identify as LGBTQIA+. Youth may also experience abuse or maltreatment based on their intersex condition.

## 2. Interviewing an LGBTQIA+ Youth

- a. LGBTQIA+ youth may experience hostility and rejection in their home (or other places where their families might not be able to protect them) based upon their actual or perceived sexual orientation and/or gender identity. This hostile atmosphere might not be apparent to the CPS team, so appropriate measures must be taken to speak privately with all youth during child protective investigations. The CPS team should use sensitive and inclusive language that signals to the youth that they will be treated with respect and dignity, regardless of how they identify. Information about a youth's SOGIE should remain confidential and maintained in CNX Progress Notes.

## 3. Interviewing the Parent/Caregiver of an LGBTQIA+ Youth

- a. As noted above, LGBTQIA+ youth face a greater risk of abuse or maltreatment when their sexual orientation, gender identity, and/or intersex status are disclosed to a parent or primary caregiver that is homophobic, transphobic, or not affirming, particularly when the disclosure occurs without the youth's consent and/or in an inappropriate manner. CPS team interviews with parents or caregivers) may include a discussion of the youth's actual or perceived SOGIE only

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<sup>34</sup> Although this refers only to ACS staff within the Division of Child Protection, safety assessments of this nature, and the proscriptions and requirements contained within this policy with respect to such assessments, also apply to mandated reporter staff throughout ACS when they are conducting safety and risk assessments.

<sup>35</sup> SSL § 427-a, 18 NYCRR 432.13, 18 NYCRR 432.1(aa), 18 NYCRR 432.2(b)(3). See also [New York State Child Protective Services Manual](#).

when the youth has already identified openly as LGBTQIA+ to the parents (or other primary caregiver) and the alleged abuse or maltreatment are directly related to the youth's perceived or actual sexual orientation, gender expression, gender identity, or intersex status. In this instance:

- i. CPS teams must focus the investigation on eliciting from the parent/caregiver their attitudes and beliefs about LGBTQIA+ people.
- ii. CPS teams may not divulge to the parent/caregiver any personal details the youth may have told them about their sexual orientation, intersex status, or gender identity, without the express consent of the youth.
- iii. If the parent/caregiver displays negative attitudes about LGBTQIA+ people, even when deeply rooted in religious beliefs and cultural values, and the alleged abuse or maltreatment are related to the youth's perceived or actual SOGIE, the CPS team must determine whether those attitudes are impacting the youth's immediate safety and well-being, and whether those attitudes may put the youth at risk for future physical or emotional harm.

#### 4. Completing the Safety Assessment of an LGBTQIA+ Youth in CONNECTIONS (CNNX)

- a. The parent/caregiver's attitude about the youth's actual or perceived SOGIE, as well as the behaviors that stem from that attitude, must be carefully considered when identifying safety factors in cases involving LGBTQIA+ youth. When documenting the youth's safety assessment in CNNX, the CPS must select the applicable safety factors.
- b. The safety assessment must focus on the behaviors, conditions, and circumstances the parent/caregiver displays or experiences, and how it impacts the safety of the youth and/or place the youth at risk of physical and/or emotional harm. Neither a youth's actual or perceived SOGIE, nor the parent's/caregiver's cultural and/or religious beliefs, excuses their abusive or neglectful behavior.
- c. Safety planning should be SMART, (specific, measurable, actional/attainable/achievable, relevant/realistic, timebound), affirming, and customized to youth's needs and must include interventions that will cause the youth to be physically, mentally, and emotionally safe.

### C. Division of Prevention Services

1. When ACS and provider agency prevention services staff encounter LGBTQIA+ youth and their families, the following guidelines shall be followed:

- a. Staff involved with prevention services shall help stabilize and promote safety for LGBTQIA+ youth in their homes to prevent out-of-home placement for LGBTQIA+ youth whenever possible. This work shall include providing LGBTQIA+ specific community resources to youth and families for support, which can be found on ACS' LGBTQIA+ Resources page: <https://www.nyc.gov/site/acs/about/lgbtq-resources.page>
- b. Staff shall carefully consider the parent/caregiver's attitude towards the youth's actual or perceived sexual orientation, intersex status, gender identity, gender expression, and other related behaviors throughout the life of the case when identifying possible safety factors in a family receiving, or being recommended for, prevention services. This shall be done on an ongoing basis by engaging parents/caregivers and informing them that family rejection is a strong predictor of negative health outcomes (e.g., mental health, substance abuse and sexual risk).
- c. It is also essential to emphasize to the family that a continued relationship with some level of acceptance and understanding is critical to the health of the youth. Families should not be asked to reject their cultural and/or religious beliefs but to find ways to accept and affirm their child(ren). For additional resources to mental health, supportive services, and cultural supports, please review: <https://www.nyc.gov/site/acs/about/lgbtq-resources.page>
- d. If a prevention provider agency needs additional support related to LGBTQIA+ youth and families, the provider may seek additional support from OES.
- e. As in all prevention cases, when eliciting information from a youth's parent or other caregiver, staff must take the necessary steps and actions to verify that a child is not left in neglectful circumstances. Once the conversation has occurred, the prevention staff shall make strong efforts to interview the youth, apart from the parents/caregivers, because youth are in the best position to determine whether they feel comfortable in their home. If prevention staff have reasonable cause to suspect that a youth is an abused or maltreated child, the worker must make a report to the Statewide Central Register of Child Abuse and Maltreatment, consistent with their mandated reporter responsibility.<sup>36</sup>
- f. The prevention provider agency must report every instance of LGBTQIA+ related bias, harassment and/or abuse directed towards those receiving services to OES via the **ACS LGBTQIA+ Discrimination Report/Inquiry Form**. OES will keep track of reports and how they are handled.

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<sup>36</sup> SSL § 413.

#### D. Division of Youth and Family Justice

1. DYFJ staff should use sensitive and inclusive language that signals to the youth that they will be treated with respect and dignity, regardless of how they identify. Additionally, staff should ask the youth if they have any needs or concerns around safety, bedrooms, bathrooms, hall placement, clothing, and personal grooming related to the youth's SOGIE.
2. DYFJ staff must explain the process of pat-frisk and searches in a calm and empathetic tone. DYFJ staff must offer LGBTQIA+ youth the opportunity to request that staff of a particular gender conduct any pat-frisk, gown, and necessary strip searches.<sup>37</sup>
3. Upon admission, intake staff must offer youth the opportunity to complete the **Search Request Form for Transgender and Intersex Youth**. If a youth discloses to staff, they are LGBTQIA+ and they have not completed the Search Request form, staff must give youth an opportunity to complete this form. For additional guidance on working with youth in detention and a printable copy of the Search Request form, see ACS Policy #2024/03: *Prevention, Detection and Response to Sexual Misconduct in SD/SSD*.
4. Non-medical gender-affirming intervention items, including binders, padding, and undergarments that support their gender expression should be made available upon request. Healthcare staff shall provide guidance on how to use/wear non-medical gender-affirming intervention items, as needed.
  - a. Youth in need of prosthetics as a medical necessity will be allowed the device after the prosthetic has been inspected and building facility leadership is made aware. If necessary, the youth may be placed in a Special Needs Unit (formerly Special Housing Unit) for close monitoring of their medical needs. For additional guidance, see ACS Policy #2019/15: *Health Services for Youth in Secure and Specialized Secure Detention*, issued June 25, 2019.

#### E. Nicholas Scoppetta Children's Center (NSCC)

1. Staff assigned to NSCC should use sensitive and inclusive language that signals to youth they will be treated with dignity and respect, regardless of how they identify.

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<sup>37</sup> See ACS Policy #2024/03: *Prevention, Detection, and Response to Sexual Misconducts in SD/SSD*, issued March 31, 2024; ACS Policy #2016/05: *Limited Secure Placement Personal Youth Search Policy*, issued June 10, 2016; ACS Policy #2019/34: *Admissions and Intake Procedures in Specialized Secure Detention*, issued October 28, 2019; see also ACS Policy #2018/06: *Control of and Search of Contraband in Secure and Specialized Secure Detention Facilities*, issued October 1, 2018.

This is required of all staff assigned to NSCC, which includes NSCC staff, ACS healthcare professionals, ACS administration staff (including transportation and police), ACS volunteers, temporary personnel, contracted providers/vendors and/or any other professionals who are employed to work with and serve youth at NSCC. Staff should also ask the youth if they have any needs or concerns around safety, bedrooms, bathrooms, clothing, medical care, and personal grooming related to the youth's SOGIE.

2. Non-medical gender-affirming intervention items, including binders, padding, undergarments, and prosthetics that support their gender expression should be made available upon request. Healthcare staff at the NSCC shall provide guidance on how to use/wear non-medical gender-affirming intervention items, as needed.

3. Searches and Screenings

- a. To promote the safety of all children and youth entering the NSCC, all personal belongings are searched and screened during the intake process. For children ages 13 and older, the screening process includes the use of a magnetometer. The ACS Police will have at least one same gender officer present during the screening process and may request a childcare Administrator of Duty (AOD) of the youth's preferred gender at their request. At no time can NSCC staff pat, frisk, or touch any part of the youth's body during the search process. The ACS Police and child care staff may request that a youth run their finger through their own hair, run their finger under underwires/undergarments, or empty pockets if there is reasonable suspicion of contraband. ACS staff must explain the search and screening processes in a calm and empathetic tone. Staff must offer LGBTQIA+ youth the opportunity to request that staff of a particular gender conduct the searches and screenings.
- b. NSCC staff must explain the process of bedroom searches in a calm and empathetic tone. When conducting bedroom searches, staff should be mindful and respectful of the youth's personal belongings, including any clothing, accessories, and personal grooming products.

F. **LGBTQIA+-Affirming Medical and Mental Health Wraparound Services for Foster Care and Justice-Involved Youth**

1. ACS and contracted staff are expected to make referrals to LGBTQIA+ affirming and culturally competent healthcare providers. Where a referral is medically indicated, healthcare providers must refer youth to an appropriate specialist that is LGBTQIA+ affirming. For a list of LGBTQIA+-affirming healthcare providers, see: <https://www.nyc.gov/site/acs/about/lgbtq-resources.page>

2. ACS and provider agency staff shall refer transgender, intersex, and gender-expansive youth to healthcare providers that adhere to the following standards:
  - a. World Professional Association for Transgender Health (WPATH) Standards of Care for the Health of Transgender and Gender Diverse People, Version 8 (2022);<sup>38</sup>
  - b. The Endocrine Society's Clinical Practice Guideline on the Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons (2017).<sup>39</sup> If a recommendation for healthcare providers is needed, staff can contact the OES at [LGBTQ@acs.nyc.gov](mailto:LGBTQ@acs.nyc.gov) for a list of recommended providers.
3. In preparation for healthcare visits, staff working with youth must inform them that there may be potentially sensitive questions or information that may be discussed with healthcare providers and provide education about their right to privacy.
4. ACS and nearly every professional organization within the mental health and medical fields, including the American Academy of Pediatrics, American Psychological Association, American Medical Association, American Psychiatric Association, Society for Adolescent Health and Medicine, and the National Association of Social Workers, strongly condemn any attempt to "correct" or change youth's sexual orientation or gender identity through corrective or reparative therapy.<sup>40</sup> Attempts to do so are strictly prohibited by this policy. If a youth reports that a healthcare provider recommended this type of therapy or service, staff should immediately assist the youth with finding an affirmative provider.<sup>41</sup>
5. Medically unnecessary and non-consensual surgeries on individuals with intersex conditions have been condemned by the ACS, United Nations, World Health Organization, Amnesty International, and the Gay and Lesbian Medical Association. These entities strongly condemn any attempt to "correct" a child's intersex condition through surgery.<sup>42</sup> Attempts to do so are strictly prohibited by this policy.<sup>43</sup> Any medical condition described in ICD-10<sup>44</sup> under specific diagnostic codes

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<sup>38</sup> See <https://www.wpath.org/publications/soc> for a complete list of updated WPATH Standards.

<sup>39</sup> For complete guidelines, see <https://www.endocrine.org/clinical-practice-guidelines/gender-dysphoria-gender-incongruence>

<sup>40</sup> See *United States Joint Statement Against Conversion Efforts* (August 23, 2023).

<https://d3dkdvqff0zqx.cloudfront.net/groups/apaadvocacy/attachments/USJS-Final-Version.pdf>

<sup>41</sup> See Section III (G) *Gender Affirming Care, Hormone Therapy, Consents, and Healthcare Coverage*.

<sup>42</sup> See United Nations Human Rights Council: [Combating discrimination, violence and harmful practices against intersex persons: Resolution adopted by the Human Rights Council](#), April 4, 2024 (A/HRC/RES/55/14). United Nations Digital Library; Amnesty International: [Policy statement on the rights of intersex individuals](#) (2013) (Index: POL 39/001/2013);

<sup>43</sup> See Section III (G) *Gender Affirming Care, Hormone Therapy, Consents, and Healthcare Coverage*.

<sup>44</sup> International Classification of Diseases, Tenth Revision (ICD-10).

that will require medical intervention will only be done with the informed consent of the individual including a discussion of risks, benefits, and alternatives to any contemplated surgery.

**G. Gender-Affirming Care, Hormone Therapy, Consents, and Healthcare Coverage for Youth in ACS Care**

**1. Gender-Affirming Care and Hormone Therapy**

- a. Pre-pubertal youth: For transgender and non-binary ( youth, transition support for prepubertal youth is typically social in nature and distinct from that of pubertal adolescents. Support for social transition includes using a chosen name and/or pronoun(s) and changing hairstyle and clothes, if desired. Pre-pubertal youth will not receive any medication, as per WPATH recommendations.
- b. Pubertal Youth:<sup>45</sup> Once a child reaches puberty, the hormonal and physical changes that occur during puberty can cause increased gender dysphoria and related negative health outcomes. For many transgender and non-binary youth, once a child reaches puberty, medications may be utilized as part of an adolescent's transition to address the physical changes that occur during puberty. To avoid possible negative outcomes associated with the development of secondary sexual characteristics, an increasing number of youths are engaging in pubertal suppression, which uses puberty blockers to "pause" puberty and temporarily prevent physical changes associated with it.
- c. All youth in ACS custodial care shall receive an initial health screening,<sup>46</sup> which includes identification of existing medications being taken by the youth. During the initial screening, if the youth has a valid prescription for hormones by a licensed medical provider in the community, this medication shall be continued as prescribed while the youth is in care.
- d. ACS and provider agency staff should refer youth to healthcare providers that adhere to WPATH standards when youth are seeking prescribed hormones.
- e. If a youth decides to discontinue gender-affirming hormone therapy, ACS and provider agency staff shall support monitoring a youth's progress by medical and behavioral health staff to treat any symptoms that may occur because of the discontinued use. ACS and provider agency staff shall make every attempt to avoid the interruption of medical treatment and services, except at the request of the youth.
- f. If staff becomes aware of a youth obtaining gender-affirming hormone therapy medication on the street or without a prescription, the youth must be immediately referred to LGBTQIA+ clinically and culturally competent medical and mental health providers for a comprehensive medical evaluation. For a list of

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<sup>45</sup> World Professional Association for Transgender Health (WPATH) Standards of Care for the Health of Transgender and Gender Diverse People, Version 8 (2022).

<sup>46</sup> 18 NYCRR 441.15, 18 NYCRR 441.22(a)(2)(i)

recommended providers, see link here:

<https://www.nyc.gov/site/acs/about/lgbtq-resources.page>. If a recommendation for healthcare providers is needed, staff can contact the OES at [LGBTQ@acs.nyc.gov](mailto:LGBTQ@acs.nyc.gov) for a list of providers.

- g. Non-medical gender-affirming intervention items, including binders, padding, undergarments, and prosthetics that support their gender expression should be made available upon request. If needed, a healthcare provider should provide the youth with guidance on how to properly wear/use the non-medical gender affirming intervention item.

## 2. Medical Consents for Gender-Affirming Healthcare<sup>47</sup>

The following youth<sup>48</sup> may consent for their own medical, dental, and health services (including gender-affirming healthcare):

- Youth who are 18 years of age or older;
- Youth who are parents or pregnant, regardless of their age; or
- Youth who are married.

If a youth under the age of 18 (who do not fall into the categories listed above) makes a request to begin gender-affirming healthcare while in ACS' custodial care, they must be promptly referred to an LGBTQIA+ culturally competent medical and mental health provider for an evaluation. Youth are expected to be active participants in the healthcare decision-making process.

Gender-affirming healthcare is considered non-routine healthcare and requires informed consent. As in all cases of proposed non-routine medical/care treatment, the foster care agency, case planner or other representative must make reasonable efforts to obtain consent from the child/youth's parent or legal guardian, unless parental rights have been terminated or surrendered.<sup>49</sup> If the child's parent/guardian will not or cannot consent, as with consent for routine medical care, the authority of ACS to provide informed consent is dependent upon the legal authority under which the child was placed into foster care. If the parent's failure to consent endangers the health or safety of the youth, consider filing an Article 10 Petition. For additional guidance, see ACS Policy #2014/08: *Medical Consents for Children in Foster Care*, issued September 16, 2014 or any succeeding policy.

## 3. Healthcare Coverage for Youth in Foster Care

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<sup>47</sup> See OCFS Manual [Working Together: Health Services for Children in Foster Care | Health Services for Children in Foster Care](#), Chapter 2, for more on medical consents for children in care.

<sup>48</sup> PHL §2504

<sup>49</sup> See ACS Policy #2014/08: *Medical Consents for Children in Foster Care*, issued September 16, 2014.

For a youth in foster care to receive coverage for gender-affirming medical care under Medicaid, the youth must have a diagnosis of gender dysphoria and a clinician treating the youth must provide documentation that the treatment is medically necessary.<sup>50</sup> Treatment or procedures not covered by Medicaid, may be covered by the Non-Medicaid Reimbursable (NMR) Policy.<sup>51</sup> The youth must have a diagnosis of gender dysphoria and a clinician treating the youth must provide documentation that the treatment is medically necessary.

#### 4. Healthcare Coverage for Youth in Close to Home and Secure/Specialized Secure/Non-Secure Detention

- a. Youth in Close to Home are eligible for Medicaid. Treatments or procedures not covered by Medicaid may be covered by the NMR Policy.
- b. Youth in secure/specialized secure/non-secure detention are not eligible to receive Medicaid. In the case of youth in secure/specialized secure/non-secure detention ACS will pay for healthcare for these individuals. Since ACS will pay for health care, the NMR process is not necessary.

#### 5. Healthcare Coverage for PINS Youth

In the case of youth placed with ACS on pre-disposition PINS petitions pursuant to Article 7, coverage will be dependent on parent or legal guardian insurance coverage. However, if the youth has a post-dispositional PINS case and is placed into foster care, they are eligible to receive Medicaid.

#### 6. Healthcare Coverage for Undocumented Youth

Undocumented youth seeking gender-affirming hormone therapy and care, may seek coverage by NYC Care and/or Child Health Plus. However, these healthcare plans may not cover 100% of treatments. Treatment or procedures not covered by these health plans may be covered by the NMR Policy. If an undocumented youth has a special immigrant status or is a victim of human trafficking, they may be eligible for Medicaid. See chart here for eligibility: <https://empirejustice.org/wp-content/uploads/2021/08/NYIC-Public-Benefits-Chart-Nov-2021.pdf>

### H. General Responsibilities for LGBTQIA+ Youth in Foster Care, including the NSCC and Residential Care

<sup>50</sup> See ACS Memorandum: *Consent for Gender Affirming and/or Transgender Healthcare Services*, issued September 7, 2022.

<sup>51</sup> See ACS Policy #2014/xx: *Non-Medicaid Reimbursable Treatments and Services for Children in the Custody of the Administration for Children's Services*, issued December 16, 2014 or any succeeding policies.

1. When a youth who identifies as LGBTQIA+ enters foster care, including the NSCC or residential care, staff must make diligent efforts to place the youth in an LGBTQIA+ affirming home or facility, and shall make sure that other needs of the youth are recognized and met, including making sure the youth will not be subjected to mental health or medical services aimed at “correcting” or pathologizing their LGBTQIA+ status.<sup>52</sup> Peer Ally Training will be made available from OES upon request. Peer Ally Training is designed to provide youth in care with education on the LGBTQIA+ community as well as frameworks on how to be a LGBTQIA+ ally.
2. Staff shall also confirm that the families and facilities that are providing an LGBTQIA+ affirming home/environment for youth are given the appropriate support needed to provide optimal care. Youth should have access to non-medical gender-affirming interventions and items, including binders and padding, upon request.
3. All youth shall be held to the same standards of age-appropriate behavior. Standards regarding romantic and sexual behavior shall be applied evenhandedly, regardless of their SOGIE. Staff must maintain boundaries for safe and appropriate behavior with all residents. Staff must not respond in a more punitive or more lenient manner to any inappropriate behavior related to dating or sex that is not permitted in ACS custodial care. The same consequences apply to all youth, including LGBTQIA+ youth, who violate these rules.
4. All youth must be included in all activities for which they are eligible and show a positive interest. Encouraging or discouraging participation in activities based on the sexual orientation and/or gender identity of the youth is prohibited.
5. Staff in congregate care settings, including the NSCC and residential care facilities, should explain facility processes, including room searches and the screening process, in a calm and empathetic tone. Staff must offer LGBTQIA+ youth the opportunity to request that staff of a particular gender conduct these procedures. Staff should be mindful and respectful of the youth’s personal belongings, including any clothing, accessories, and personal grooming products.

#### **I. Bedrooms**

Generally, it is most appropriate to house transgender or intersex youth in ACS residential care based on their gender identity (i.e., their internal, personal sense of gender, including trans/non-binary/gender expansive identities). In considering the appropriate placement for a known transgender or intersex youth, individual sleeping quarters must be considered if available and requested by the youth.

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<sup>52</sup> An LGBTQIA+ affirming home or congregate care setting is one with foster parents and/or staff who welcome LGBTQIA+ youth, treat them with respect and dignity, and diligently work to meet their unique needs.

1. Foster Boarding Homes

- a. Sleeping arrangements in foster boarding homes should be age and developmentally appropriate for all children/youth placed in the home.<sup>53</sup> In sleeping arrangements that involve room sharing, not more than three youth are permitted to share the same bedroom, unless they are siblings or half siblings, and this sleeping arrangement is consistent with the health, safety, and welfare of every child/youth in the home.<sup>54</sup>
- b. For cases where a transgender, non-binary, gender expansive, or intersex youth is residing in a foster boarding home, the agency is expected to make sleeping arrangement decisions on an individualized basis. Decisions on bedrooms for transgender or intersex youth in foster boarding homes must be based on the youth's individualized needs and must prioritize the youth's emotional and physical safety and well-being. Agency staff must consider the youth's perception of where they will be most secure, as well as any recommendations by the youth's health care providers. It is critical to include the transgender or intersex youth and foster parent in the decision-making process.

2. Congregate Care Settings, including the NSCC, Juvenile Detention, and Juvenile Justice Placement

- a. For youth residing in congregate care settings, including the NSCC: ACS shall make every effort so that LGBTQIA+ youth are housed in a facility that can provide individual sleeping quarters (one-person bedroom) to allow for privacy. Transgender, non-binary, gender expansive, or intersex youth must not automatically be housed according to their sex assigned at birth, and instead be housed where the youth feels the safest. In foster care settings, the ACS/provider agency shall make housing decisions for transgender and intersex youth based on the youth's individualized needs and that prioritize the youth's emotional and physical safety. The agency staff shall consider the youth's perception of where they will be most secure, as well as any recommendations by the youth's medical and/or mental health care provider, if any. Staff must explain facility processes in a calm and empathetic tone and be mindful and respectful of the youth's personal belongings (ex: clothing, accessories, personal grooming products).
- b. For youth in a juvenile detention or juvenile justice placement housing decisions for transgender and intersex youth shall be made based on the youth's individualized needs and prioritize the youth's emotional and physical safety. Staff shall consider the youth's needs and be respectful of their personal belongings (ex: clothing, accessories, personal grooming products). When a youth in juvenile detention or a juvenile justice placement

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<sup>53</sup> 18 NYCRR 443.3(4)

<sup>54</sup> 18 NYCRR 443.3(5)

is not housed according to their identified gender, authorization must be provided by the appropriate Associate Commissioner or their designee and documented in the youth's record. This decision and reasons for this decision must be communicated to youth and re-evaluated regularly if the youth continues to request alternative housing arrangements.

**J. Bathroom Facilities**

Bathroom facilities shall consider the safety and privacy needs of transgender, intersex, non-binary, and gender expansive youth. All youth shall be allowed to use individual stalls, within commonly accepted time limits, and be allowed to shower privately. Youth shall not be required to use a single occupancy bathroom on the sole basis that they are LGBTQIA+, gender expansive, nonbinary, or because of another individual's discomfort or concerns with the youth's sexual orientation, gender identity, or gender expression.<sup>55</sup> Youth shall be allowed to use bathroom facilities that align with their gender identity or safety needs.

**K. Hair and Other Personal Grooming**

Grooming rules and restrictions, including rules regarding hair, make-up, and shaving, shall be the same for all youth in ACS custodial care regardless of gender or LGBTQIA+ status. A youth shall not be prevented from using, or disciplined for using, a form of personal grooming because it does not match gender norms. All youth shall be permitted to use approved forms of personal grooming regardless of their gender identity. In keeping with safety and security concerns, youth in detention and juvenile justice placement facilities may, but are not required to, shave their faces and bodies as permitted by ACS Procedure.<sup>56</sup>

**L. Clothing**

Youth in ACS residential care are permitted to wear clothing, consistent with regardless of their gender identity. Youth will be made aware by staff that they are always able to wear undergarments and/or other clothing associated with their gender. When ACS and provider agencies are providing clothing for youth, staff shall make reasonable efforts to make sure that non-medical, gender-affirming intervention items, including but not limited to chest binders, and padding, and other clothing items that support gender expression are available.

**M. Discharge and Permanency Planning**

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<sup>55</sup> New York City Executive Order No. 16 of 2016; New York Executive Law § 296.

<sup>56</sup> See DJJ Operations Order #06/03: *Resident Personal Property and Grooming Paraphernalia*.

1. It is critical to work with youths' families throughout their stay in ACS custodial care to support reunification or other discharge efforts. During discharge and permanency planning, staff shall be mindful that a youth may not want to disclose LGBTQIA+ status to their family/discharge resource. If the youth's LGBTQIA+ status was not a precipitant of the youth's removal from the home, and they wish to keep their LGBTQIA+ status private, during discharge planning, staff shall not disclose the youth's LGBTQIA+ status to the family and/or discharge resource.<sup>57</sup>
2. ACS and provider agency staff working with youth in ACS residential care must identify and become familiar with community resources to support LGBTQIA+ youth. When appropriate, staff must assist families of LGBTQIA+ youth with identifying supportive resources in their area that are culturally competent in LGBTQIA+ issues to help create a seamless transition to permanency with adequate support systems in place. Staff can reach out to OES for support in locating appropriate resources.

#### **N. LGBTQIA+ Point Person Expectations**

1. The Point Person Network is maintained by OES. Foster care and juvenile justice placement provider agencies are required to designate LGBTQIA+ Point Person(s). The NSCC will have one LGBTQIA+ designated Point Person. Youth will be notified of the designated Point Person during the intake process. Each designated Point Person is required to receive LGBTQIA+ cultural competency training, attend all ACS LGBTQIA+ Point Person Network Meetings when reasonably able, maintain a record of all LGBTQIA+-related issues that arise within their agency (including, but not limited to reports of harassment or bias and any unmet need for an LGBTQIA+-affirming foster home or juvenile justice placement), and coordinate trainings within the provider agency to make sure that all staff working directly with youth receive cultural competency training related to LGBTQIA+ youth and families. To increase the effectiveness of the Point Person Network, all youth in foster care, congregate care, and/or juvenile justice placement with a provider agency must be notified of the existence and role of the LGBTQIA+ Point Person and must be provided with the means to access the Point Person to report issues, complaints, or concerns. If staff do not know who their Point Person is, staff may inquire with OES at [LGBTQ@acs.nyc.gov](mailto:LGBTQ@acs.nyc.gov) and obtain their Point Person's contact information.
2. ACS programmatic divisions will assign a LGBTQIA+ Point Person whose responsibilities include advocating for LGBTQIA+ youth, supporting staff, and liaising with OES, in relation to LGBTQIA+-related matters.

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<sup>57</sup> Refer to Section II (F) *Confidentiality* for further guidance.

3. The agency or division Point Person will report all incidents reported at their agency or division concerning LGBTQIA+-related matters to OES. To report concerns raised by or relating to individuals concerning their LGBTQIA+ status, Point Persons shall complete the **LGBTQIA+ Discrimination Report/Inquiry Form** and forward it to OES at [LGBTQ@acs.nyc.gov](mailto:LGBTQ@acs.nyc.gov). OES will keep track of incidents and how they are handled. In addition to reporting incidents to OES, the agency or division Point Person must also report the incident to any other appropriate agency (ex: SCR, Justice Center, Division of Family Permanency Services, Office of Shared Response).

#### **O. Advocacy and Reporting Procedures**

ACS is committed to being respectful of the dignity of all youth and families, and to keeping children and youth safe while meeting their unique needs, regardless of their SOGIE. No ACS or provider agency staff shall unlawfully discriminate against other persons in the course of their work. ACS prohibits discrimination on the basis of race, ethnicity, creed, color, age, sex, national origin, religion, marital status or partnership, mental or physical ability, gender identity, gender expression, sexual orientation, veteran status, alienage, and citizenship status.<sup>58</sup>

All LGBTQIA+ discrimination or harassment directed towards youth or their families must be reported appropriately, in accordance with all applicable legal requirements, agency policies, and procedures. Staff must submit a completed **ACS LGBTQIA+ Discrimination Report/Inquiry Form** to [LGBTQ@acs.nyc.gov](mailto:LGBTQ@acs.nyc.gov).<sup>59</sup> The LGBTQIA+ liaison should respond to these reports as soon as reasonably possible, at most one week after receiving the report.

Managers and supervisory staff must treat all discrimination and harassment directed towards youth or their families seriously and follow up immediately. In accordance with ACS' policy and procedures, alleged violations of this policy by staff or youth will be investigated promptly and, if determined to have occurred, will result in the enforcement of corrective and/or disciplinary action.<sup>60</sup> ACS reserves the right to hold ACS staff and provider agencies accountable for not investigating and/or taking action to resolve the discrimination in a timely manner.

#### **1. Foster Care Placements**

- a. The LGBTQIA+ Point Person Network is available for youth in foster care and their families to express and resolve concerns regarding the youth's care and treatment in

<sup>58</sup> 18 NYCRR § 423.4(m)(7), 18 NYCRR § 441.24, 18 NYCRR 421.3(d), 18 NYCRR 441.19(d); New York Executive Law § 296. See also *ACS Employee Code of Conduct*, revised January 1, 2021.

<sup>59</sup> See Section II (B) *Staff Conduct and Addressing Discrimination* for additional guidance. Harassment or discrimination towards staff should be addressed with Human Resources and/or EEO, where appropriate.

<sup>60</sup> See *ACS Employee Code of Conduct*, revised January 1, 2021.

those settings, as it relates to LGBTQIA+ matters. The LGBTQIA+ Point Person Network is convened by ACS' Office of Equity Strategies, the Division of Family Permanency Services, and Office of the First Deputy Commissioner, quarterly to discuss issues related to the implementation of the LGBTQIA+ policy, best practices in working with LGBTQIA+ youth and their families, and other issues related to LGBTQIA+ policy and programs. Each foster care agency is required to have a designated LGBTQIA+ Point Person who can be accessed as a resource to assist when an issue requiring case consultation arises. The LGBTQIA+ Point Person must keep track of all reportable bias, harassment, and bullying issues of LGBTQIA+ youth and their families, and model appropriate and affirming behavior at all times. If the Point Person receives a grievance related to harassment or discrimination directed towards youth or their families based on actual or perceived gender identity, gender expression, sexual orientation, or intersex status, the LGBTQIA+ Point Person must notify OES for assistance to resolve the issue and follow appropriate reporting procedures.

- b. All inquiries from or about foster care youth involving legal matters or concerns must first be brought to the attention of the assigned FCLS attorney. The FCLS attorney will then notify OES and the attorney for the child.
- c. The provider agency shall report each and every incident of LGBTQIA+-related bias, harassment, and/or abuse directed towards youth or their families to OES via the **ACS LGBTQIA+ Discrimination Report/Inquiry Form**, and OES will keep track of incidents and how they are handled, while providing assistance when needed.
- d. Close to Home: Upon witnessing or receiving a report of LGBTQIA+ discrimination/harassment directed towards youth or their families, Close to Home provider agency staff must report the discrimination/harassment to OES by submitting a completed **ACS LGBTQIA+ Discrimination Report/Inquiry Form** to [LGBTQ@acs.nyc.gov](mailto:LGBTQ@acs.nyc.gov). All inquiries from or about youth in a Close to Home placement involving legal matters or concerns must be brought to the attention of the child's attorney.<sup>61</sup>

## 2. Detention Facilities

- a. Upon witnessing or receiving a report of LGBTQIA+-related discrimination or harassment directed towards youth or their families, DYFJ staff must follow the appropriate DYFJ policies and incident reporting procedures.<sup>62</sup> Staff must report this to their immediate supervisor or any supervisor at a facility site. The supervisor must

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<sup>61</sup> If the youth is a crossover youth, their assigned FCLS attorney must also be informed.

<sup>62</sup> See ACS Policy #2022/03: *Incident Review in Secure and Specialized Secure Detention*, issued September 7, 2022; see also ACS Policy #2024/03: *Prevention Detection and Response to Sexual Misconduct in SD/SSD*, issued March 21, 2024.

direct staff to complete the appropriate DYFJ incident report forms and forward the completed incident report form and related documentation to OES at [LGBTQ@acs.nyc.gov](mailto:LGBTQ@acs.nyc.gov). OES will keep track of incidents and how they are handled, while providing assistance when needed.

- b. Youth in detention must be advised upon admission of their right to report discrimination and the procedure to report discrimination. If applicable, youth may also contact the appropriate Ombudsperson to report issues, complaints, or concerns about any issue, including those related to LGBTQIA+ matters.<sup>63</sup>
- c. All inquiries from or about a crossover youth in detention involving legal matters or concerns must be brought to the attention of the child's attorney and their assigned FCLS attorney.

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<sup>63</sup> Horizon - (718) 401-2499; Crossroads - (818) 240-3862; NSD - (718) 597-3431; and OCFS 1-888-219-9818. The Ombudsperson shall be available for youth in detention to resolve concerns regarding care and treatment.

## Attachment A: ACS LGBTQIA+ Discrimination Report/Inquiry Form

Please complete appropriate information and submit to the Office of Equity Strategies mailbox at [LGBTQ@acs.nyc.gov](mailto:LGBTQ@acs.nyc.gov). You do not need to have all information indicated for request to be processed.

**Type of Request:** \_\_\_ Resources \_\_\_ Placement \_\_\_ Discrimination Report \_\_\_ Other

**Date of Incident:** \_\_\_\_\_

Youth Name:	DOB:
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### Source of Report/Referral

Name:	ACS Division/Provider Agency (if applicable):
Relation to Youth:	Telephone #:
	Email Address:

### Provider Agency Contact Information (where applicable)

Contract Agency:	Site/Location:
Worker:	Telephone #:
	Email Address:
Supervisor:	Telephone #:
	Email Address:
Director:	Telephone #:
	Email Address:

### ACS Contact Information

Borough:	Site/Location:
Worker:	Telephone #:
	Email Address:



Supervisor:	Telephone #:
	Email Address:
Manager:	Telephone #:
	Email Address:

**Legal Information (this may include FCLS attorney)**

Attorney Name and Role:	Telephone #:
	Email Address:

**Narrative Description of Presenting Concern and Requested Service:**

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**Attachment B: Medical Consent and Health Coverage for Gender-Affirming Medical Care  
(Non-Routine Medical Services) for Youth in Placement**

<b>Placement Authority</b>	<b>Agency Actions</b>	<b>If Parental Consent is Unavailable</b>	<b>If Parent Affirmatively Objects</b>	<b>Me</b>
FCA Article 10 (Child Protective) and Article 10C (Destitute Child)	Request written consent from the youth's parent/legal guardian.	If the youth has been removed and taken into custody prior to the filing of an Article 10 petition or court ordered to ACS custody pursuant to Article 10/10C, ACS Commissioner or designee may provide consent after reasonable efforts to obtain the parent's informed consent are made.	If a parent/legal guardian affirmatively objects to gender-affirming medical care, a medical consent override can be sought via email to: <a href="mailto:MedicalConsentRequests@acs.nyc.gov">MedicalConsentRequests@acs.nyc.gov</a>	Yes
FCA Article 7 (Persons In Need of Supervision (PINS))	Request written consent from the youth's parent/legal guardian.	Youth's attorney seek a court order	Youth's attorney seek a court order	No, if t pre-dis case, th parent health  Yes, if t post-di case an foster c
FCA Article 3 (Juvenile Delinquents who are remanded to detention)	Request written consent from the youth's parent/legal guardian	Youth's attorney seek a court order	Youth's attorney seek a court order	No, bu care
FCA Article 3 (Juvenile Delinquents placed in Close to Home)	Request written consent from the youth's parent/legal guardian.	Youth's attorney seek a court order	Youth's attorney seek a court order	Yes
Voluntary Placement	Request written consent from the youth's parent/guardian in the Voluntary Placement Agreement.	The ACS Commissioner has no authority to consent to medical services. Seek a court order or initiate an Article 10 petition.	Seek a court order	Yes
Surrender or Termination of Parental Rights	ACS Commissioner or foster care agency to whom the youth was surrendered provides	Consents signed by the parent/guardian are no longer	Not applicable. ACS Commissioner or designee may provide consent.	Yes

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(TPR) (both parents) <sup>64</sup>	written consent for medical services.	valid. ACS Commissioner or designee may provide consent.		
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Adapted from New York State Department of Health/Office of Children and Family Services  
*"Transition of Children Placed in Foster Care and NYS Public Health Law Article 29-I Health Facility Services into Medicaid Managed Care."* Version 3.0. April 1, 2021

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<sup>64</sup> If only one parent surrendered their parental rights or the court terminated one parent's rights, the ACS Commissioner or authorized agency must make reasonable efforts to obtain consent from the second parent (if identity is known). Please refer to ACS Policy #2014/08: *Medical Consents for Children in Foster Care*, for a detailed description of the procedure.