

Ensuring Equity for LGBTQ Youth in Juvenile Court Best Practices

Best practices can help you focus on what court partners can do to better support all youth in juvenile court proceedings.

Best practice #1: Consider that the youth in your courtroom may be LGBTQ.

Do not assume a youth's sexual orientation or gender identity based on how the youth looks or acts. Ask the youth or youth's attorney their sexual orientation or gender identity at sidebar, or before a case is called.

- * Be careful not to "out" a youth unnecessarily. Doing so may cause harm to young people who may not be out to family members, friends, or court partners.
- * Do not discuss a youth's sexual orientation or gender identity in open court without the youth's permission. Obtain permission through counsel who can discuss with you and the youth ahead of time how they'd like information regarding their sexual orientation and gender identity to be shared in court.
- * Orders for services, placements, and schools should promote and facilitate communication and overall health of LGBTQ youth and their families.

Best practice #2: Ask and use the name and pronoun the youth prefers in court and court documents.

- * Set an expectation with youths' attorneys, social workers, probation officers, that if there is a different name or pronoun that the youth would like to have used, that they notify the court off the record or at sidebar before the case is called.
- * Ensure that court reports and documents also reflect the youths' preferred name and pronoun. Explain to the youth that their legal name and sex assigned at birth may still have to be reflected in court documents.
- * Be open to a petition by the youth's attorney for a legal name change.

Best practice #3: Ensure that LGBTQ youth are safe and respected in their placement or at home.

Upon drafting and review of the court documents, court partners should discuss whether:

*The youth has been placed based on their safety needs and not solely on the basis of their actual or perceived LGBTQ status. Information about a youth's sexual orientation, gender identity or expression may be relevant to determine whether the youth is at risk of harassment or assault by others, but is not evidence that the youth presents a safety risk to others. Staff must not consider a youth's LGBTQ identity or gender nonconformity as an indication that the youth is likely to be predatory. Nor should staff house LGBTQ youth in units reserved for "sexual offenders" unless they have a documented history of sexual assault or have been adjudicated delinquent of a sexual offense.

*A transgender youth has been placed according to their sex assigned at birth, rather than determining the appropriate placement after consideration of the youth's health and safety, potential management or

security problems, the youth's perception of which placement will be safe and any recommendations from the youth's health care provider.

*The placement allows transgender and gender nonconforming youth to wear clothing and hairstyles that are consistent with their present gender identity or gender expression.

*Staff at the juvenile facility is accommodating transgender youth whose physical or emotional condition justifies privacy while showering, performing bodily functions or changing clothing.

*The juvenile facility has a policy and procedure manual that creates a safe environment for and equal access to all available services by LGBTQ youth.

*The placement explicitly prohibits discrimination and mistreatment of youth on the basis of actual or perceived sexual orientation, gender identity and gender expression.

*The youth has a history of running away from placements due to lack of safety or harassment. Obtain information from youths' CASAs, foster parents, friends, siblings, etc. to evaluate.

*The youth is encouraged and permitted to participate in activities consistent with their interests and identified communities. Provide information regarding local resources

Best practice #4: Ensure that LGBTQ youth are safe at school and are not facing harassment, violence, or discrimination."

* Determine if the youth is safe in school and en route to and from school. Enquire if anyone within the school is connected with the youth and may be aware of this.

* Is the school the best fit or supportive for the youth and engage Parents/Educational Rights Holders to discuss.

Best practice #5: Services in LGBTQ youths' case plans are appropriate, affirming and delivered by staff competent in serving LGBTQ youth. Inquire if services:

* Are provided by agencies that ensure staff, contractors, and volunteers receive ongoing training on best practices in working with LGBTQ youth.

* Are provided by agencies that have written policies prohibiting physical, sexual or verbal harassment or abuse of youth on the basis of SOGIE and requiring fair and respectful treatment of LGBTQ youth, as well as accessible grievance procedures

* Are provided by qualified medical personnel who adhere to the relevant medical standards of care for transgender youth. This includes the provision of medically necessary transition-related health care.

* Do not include attempts to change an LGBTQ youth's sexual orientation, gender identity or expression, or communicate to the youth that they can and should change their SOGIE.

* Actively engage the parents and families of LGBTQ youth to help them decrease rejection and increase support of their LGBTQ children