



INFORMATION PACKET

TRANSGENDER YOUTH IN CHILD WELFARE SETTINGS

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Introduction: Transgender Youth in Child Welfare Settings

What does the term “transgender” mean?

Gender identity is the way people think of themselves in terms of gender. The term transgender is an umbrella term for individuals whose gender identity and gender expression differ from that typically associated with the sex they were assigned at birth. People under the transgender umbrella may describe themselves with one or more of a variety of terms. Some people who identify as transgender meet criteria for the DSM-V diagnosis of Gender Dysphoria.

What issues do transgender youth face in the child welfare system?

Multiple studies have indicated that transgender youth are disproportionately represented in child welfare settings and are often victims of prejudice, discrimination, and mistreatment. Transgender youth enter the child welfare system for some of the same reasons as non-transgender youth: parental abuse and neglect. However, an aspect that is unique to transgender youth entering child welfare settings is that they are often kicked out of their homes by their parents and families after revealing their gender identity. As a result, transgender youth have been identified as an especially vulnerable population in the already high-risk population of youth in child welfare settings.

Currently, there are very few explicit protections for transgender youth in child welfare settings. Most of the existing cases on gender identity discrimination concern sexual harassment or employment discrimination of transgender people on the basis of their gender identity. Few cases specifically address the discrimination of transgender youth in child welfare settings. In particular, transgender youth in child welfare settings experience challenges in three primary areas: safety, gender expression, and access to gender-affirming medical care.

Transgender youth are often placed in housing situations where their gender identity and their gender expression are not respected. Consequently, they are at higher risk for physical, emotional, and sexual harassment, as well as bullying. For example, staff may force transgender youth to wear traditionally gender-conforming clothing and to use sex-segregated facilities (such as restrooms, living quarters, locker rooms, etc.) that do not match their gender identity. Additionally, staff may intentionally not use their transgender clients' preferred pronouns and names. Transgender youth may also be denied medical care such as hormone therapy, prescribed by physicians and mental health professionals. Gender-affirming medical care may also be delayed, interrupted, or terminated for these youth. This creates an emotionally and physically unsafe space, which is harmful to their development.

Some transgender youth who feel unsafe in care may choose to live on the streets as opposed to in child welfare settings. Living on the streets puts transgender youth at risk for becoming involved in sex work, being exposed to HIV, rape, and incarceration. Additionally, living on the streets disposes transgender youth to homelessness, an incomplete education, and employment and housing discrimination. Some transgender youth resort to self-medicating with “black market” hormone treatments and self-mutilation. This puts their lives at great risk.

Fact Sheet

There are increasing numbers of youth identifying as transgender or gender non-conforming. While an overrepresentation of transgender youth in child welfare settings has been documented, concrete statistics are unavailable. There are a number of reasons for the lack of statistics representing transgender youth in child welfare settings:

- Transgender youth are often lumped together in the LGBTQ category in statistical surveys. This makes it difficult to determine how much of the data is representative specifically of transgender youth.
- Transgender people may not identify themselves as transgender until a later age.

There is limited research on the specific experiences of transgender youth in child welfare settings, but their overall vulnerabilities have been documented and include the following:

- 57% of transgender youth reported experiencing family rejection.
- 87% of transgender youth report facing verbal harassment frequently.
- 44% of transgender youth had been denied service due to their gender identity.
- 76.6% of transgender youth reported feeling unsafe in public on a regular basis.
- 42% of transgender youth reported that they had been physically harassed in school by their peers due to their gender identity.
- 46% of transgender youth report missing school because of harassment.
- Among transgender youth who are “out” in schools:
 - 12% experience sexual assault
 - 35% experience physical assault; 17% report that they were physically harassed often or frequently.
 - Bathrooms, locker rooms, and showers are places where transgender youth are particularly vulnerable to assault.
- Transgender youth of color experience higher levels of prejudice and discrimination.
- 20% of homeless youth identify as transgender.
- 13.5 is the average age that transgender youth in New York become homeless.

Negative outcomes as a result of the prejudice and discrimination transgender youth face on a day-to-day basis include the following:

- Homelessness
- Suicidality
- Increased risk of contracting HIV
- Increased drug/alcohol use
- Poor academic performance
- Social isolation
- Negative impact on mental health and emotional well-being

Review of Related Policies and Legislations

Transgender individuals have the right to safety, equal access, equal opportunities to participate in activities, freedom from harassment, privacy/autonomy, and freedom of expression under the following **federal legislations**:

- The First Amendment
- The Equal Protection Clause of the Fourteenth Amendment
- The Due Process Clause of the Fourteenth Amendment
- Title VII: Protects from discrimination based on “gender stereotypes.”
- Title IX: Prohibits discrimination based on sex in schools. Has been applied to protect transgender students from discrimination in schools.
- Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (2009)

Protections for Transgender Individuals at the State Level:

- 19 states have laws that prohibit discrimination against people based on gender identity.
- 7 states include discrimination based on gender identity in their sex discrimination laws.
- California’s disability discrimination laws include coverage for Gender Dysphoria.
- California School Success and Opportunity Act (2013)
 - School districts must provide transgender students with access to restrooms, locker rooms, and other sex-separated activities based on their gender identity.

Specific Protections for Transgender Youth in Child Welfare Settings:

At the State Level

- California Senate Bill 731 (2015)
 - Foster youth have the right to be placed according to their gender identity, regardless of the sex listed in their records. It provides specific guidance on promoting the safety, stability, and well-being of transgender youth in foster care.
- Foster Care Non-Discrimination Act, A.B. 458 (2004)
 - Transgender youth have the right to be safe and respected in their placement, to use restrooms and facilities according to their gender identity and gender expression, to participate and decline participation in religious activities, to use their preferred name and pronouns, and to wear clothing and hairstyles that make sense for their preferred gender identity and gender expression.

At the Agency Level

- Promoting a Safe and Respectful Environment for Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and their Families Involved in the Child Welfare, Detention and Juvenile Justice System (NYC Administration for Children’s Services, 2012)
 - Provides best-practice guidelines for agency staff on “sensitive, respectful, and culturally competent practice” to children and youth who identify or are perceived as LGBTQ.

Best Practice Tips

Transgender youth in child welfare settings deserve to be treated with dignity, respect and equality. Youths' gender identities and expressions should be affirmed and validated. They should be provided with support and equal treatment throughout their involvement in the child welfare system and as they transition into adulthood. Transgender and gender non-conforming youth must be afforded a safe, inclusive, and discrimination-free environment at all times.

Education

- Child welfare staff and foster parents must be educated about the unique needs of transgender youth, and they must develop the skills necessary to provide inclusive care.
- Training and materials on gender-inclusive practices should be provided to all child welfare staff, caregivers, and youth (see web resources and bibliography).

Affirming Environments and Placements

- Every effort must be made to place youth in transgender affirming environments.
- Do not assume that a placement is transgender-inclusive without doing prior research.
- Youth should be consulted about placement decisions.
- Youth's gender expression and preferences should be respected and affirmed.
- Physical, verbal, sexual, and psychological violence, discrimination and bullying on the basis of gender identity or perceived gender identity must be addressed and must not be tolerated. Policies should be in place to protect transgender youth from harassment.
- Staff must model respectful, appropriate, and affirming behaviors at all times.

Gender Segregated Spaces

- Transgender youth should not automatically be placed in housing/living quarters according to their sex assigned at birth. Youth should be placed according to where they feel most comfortable, often (but not always) in accordance with their gender identity.
- Placements should allow transgender youth to use restrooms, locker rooms and other sex-segregated facilities according to their gender identity, if that is the youth's preference.

Privacy

- Youth have the right to keep their transgender identity private.
- Information on a child's biological sex and gender identity should remain confidential.

Language Use

- Many transgender youth prefer names and pronouns (he/him, she/her, ze/zie) that reflect their gender identity. Language should always mirror youth's preferences.
- Documentation should include the youth's legal name with the preferred name in parenthesis or quotations in the beginning of the document. The youth's preferred name and pronouns should be used throughout the rest of the document.

Practices to Avoid

- Youth should not be referred to according to their gender identity (i.e., "the transgender young person"). Derogatory and outdated terms such as "transsexual," "he/she," "transgendered," "it," and "transvestite" should not be used.

Web-Based Resources

Websites

Center of Excellence for Transgender Health

<http://transhealth.ucsf.edu/trans?page=home-00-00>

The Center of Excellence for Transgender Health has a website that contains numerous webpages with information on HIV prevention, routine care, mental health, cultural competency, and policy for transgender individuals.

The Center: Gender Identity Project

<https://gaycenter.org/wellness/gender-identity>

The Center: Gender Identity Project's website consists of resources covering arts and culture and recovery and wellness for transgender and gender non-conforming youth, as well as their partners and families.

Human Rights Campaign: Transgender Children & Youth

<http://www.hrc.org/topics/transgender-children-youth>

This Human Rights Campaign website provides information on understanding the basics around what it means to be transgender, clinical care programs for transgender and gender nonconforming youth, schools that cater to the needs of transgender youth, support groups, and how to effectively address the medical needs of transgender youth.

American Civil Liberties Union (ACLU): Transgender People & The Law

<https://www.aclu.org/lgbt-rights/know-your-rights-transgender-people-and-law>

This ACLU web page contains twenty-nine questions and responses regarding laws and policies designed to protect the rights of transgender people.

NYS Office of Children and Family Services: Policies and Laws Regarding New York's LGBTQ Community

http://ocfs.ny.gov/main/LGBTQ/policies_and_laws.asp

The NYS Office of Children and Family Services lists a series of documents that address policies and laws regarding New York's LGBTQ community.

Transgender Youth Resources

<http://www.nytransguide.org/youth-resources>

This website provides a list of organizations that provide a variety of services for transgender youth in the state of New York.

Lambda Legal - Transgender Rights

<http://www.lambdalegal.org/issues/transgender-rights>

Lambda Legal's mission is to achieve full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education and public policy work.

National Center for Lesbian Rights

<http://www.nclrights.org/explore-the-issues/transgender-law/transgender-youth/>

The National Center for Lesbian Rights provides information regarding court cases and policy and legislation surrounding the rights of transgender youth.

Gender Spectrum

<http://www.genderspectrum.org/>

Gender Spectrum provides education, training, and support designed to help families, educators, professionals, and organizations understand concepts of gender identity and expression, in order to create gender sensitive and inclusive environments for all children and teens.

Transition Youth Family Allies

<http://www.imatyfa.org>

This website provides support for transgender and gender non-conforming (TGNC) youth and their families through online message boards, newsletters, and educational programs. This website also provides resources for educators, health care practitioners, and other service providers in working with TGNC youth.

Additional Resources

Working with Transgender Youth in Foster Care and Runaway and Homeless Youth Programs: A Webcast (May 18, 2011)

<http://www.nrcpfc.org/webcasts/22.html>

Gerald P. Mallon and Inkera Jordan discuss working with transgender youth in foster care and runaway and homeless youth programs.

Know Your Rights: Transgender Youth in Foster Care

<http://srlp.org/files/kyr%20foster%20care%20eng-.pdf>

This pamphlet explains the rights of transgender youth in foster care in New York City. It also includes a list of organizations that can be contacted for assistance.

References

- DeCrescenzo, T., & Mallon, G.P. (2002). *Serving transgendered youth: The role of child welfare systems (Monograph)*. Washington, DC: Child Welfare League of America.
- Mallon, G.P. (2013). Facilitating discussion of transgender issues: A primer. Retrieved from http://www.hunter.cuny.edu/socwork/nrcfcpp/info_services/download/Facilitating%20Discussion%20of%20Transgender%20Issues%2002%2022%202011.pdf
- Mallon, G.P. (Ed.). (1999). *Social services with transgendered youth*. New York, NY: Haworth Press.
- Mallon, G.P. (Ed.). (2009). *Social work practice with transgender and gender variant youth* (2nd ed.). New York, NY: Routledge.
- Mallon, G.P., & Wornoff, R. (2006). Busting out of the child welfare closet: Lesbians, gays, bisexual, and transgender affirming approaches to child welfare. *Child Welfare*, 85(2), 115- 122.
- New York State Office of Children and Services. (2009). Special health care services. In *Working together: Health services for children in foster care* (pp. 3-27). Retrieved from http://ocfs.ny.gov/main/sppd/health_services/manual/Chapter%203%20Special%20HC%20Services.pdf
- Olson, C.L. (2009). Transgender foster youth: A forced identity. *Texas Journal of Women and the Law*, 19(1), 25-57.
- Perry, J.R., & Green, E.R. (2014). *Safe and respected: Policy, best practices and guidance for serving transgender and gender non-conforming children and youth involved in the child welfare, detention, and juvenile justice systems*. New York, NY: New York City's Administration for Children's Services.
- Turner, J.L. (2009). From the inside out: Calling on states to provide medically necessary care to transgender youth in foster care. *Family Court Review*, (47)3, 552-569.
- Wilber, S. (2013). *Guidelines for managing information related to the sexual orientation and gender identity and expression of children in child welfare systems, putting pride into practice project, family builders by adoption*. Oakland, CA.