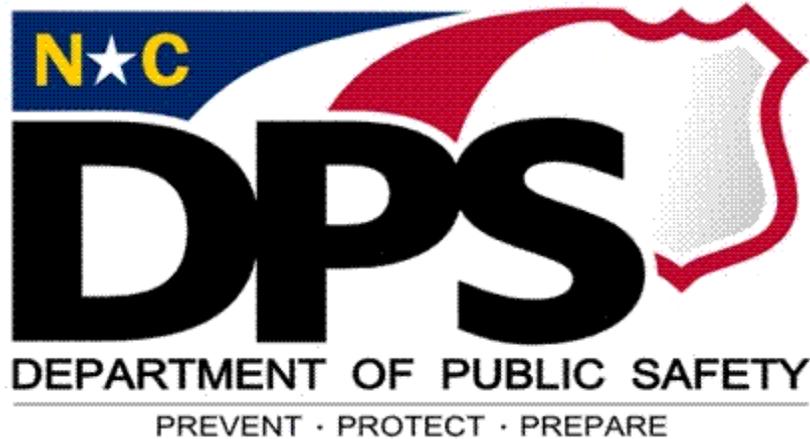


**North Carolina  
Department of Public Safety**



***JUVENILE JUSTICE FACILITIES  
YD 12 Housing LGBTQI Juveniles  
POLICY  
AND  
REQUIREMENTS and PROCEDURES  
(R&P)  
Document***

**Prepared: April 2019**

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## Document and Signature History

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Document and Signature History

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Action	Date
YD 12, JJ Housing LGBTQI	4/16/19

Approved by:

 _____ William Lassiter, Deputy Secretary	4/16/19 _____ Date
 _____ James Speight, Director of Juvenile Facility Operations	4/16/19 _____ Date



**Related Standards, Citation, and/or Legislation**

Standards (S), Citation (C), Legislation (L), Other (O)

Type	Number	Name
<b>L</b>	28 C.F.R. §§ 115.341-342	<i>Prison Rape Elimination Act (PREA), Juvenile Facility Standards: Screening for Risk of Sexual Victimization and Abusiveness</i>
<b>O</b>	28 C.F.R. §§ 115.341	<i>PREA Frequently Asked Questions, October 21, 2016: Does standard §115.41 (§ 115.241, § 115.341) require facilities to affirmatively inquire of the inmates/residents about their lesbian, gay, bisexual, transgender, or intersex (LGBTI) status, in addition to making a subjective determination about perceived status?</i>

# 1 Housing LGBTQI Juveniles

The North Carolina Department of Public Safety, Division of [Adult Correction and] Juvenile Justice is committed to providing quality services to all juveniles in its care, custody and control.

Juvenile Justice strongly adheres to the belief that all people have the right to be free from discrimination by staff or youth on the basis of race, creed, color, age, sex, national origin, religion, marital status, mental or physical disability. Any such discrimination is prohibited. No person shall unlawfully discriminate against another individual in the course of performing their duties. Juvenile Justice is committed to respecting the dignity of all juveniles, and keeping them safe and secure as required by law and policy.

1. All employees have the right to work in an environment free from discrimination and harassing conduct. No State employee shall engage in conduct that falls under the definition of unlawful workplace harassment, including sexual harassment discrimination, or retaliation, and no employment decisions shall be made on the basis of race, sex, religion, national origin, age, color, disability, genetic information, or political affiliation.
2. Juvenile Justice follows all DPS policies pertaining to discrimination and expands protection to juveniles from any form of discrimination against or harassment on the basis of actual or perceived gender identity, gender expression, intersex condition, or sexual orientation. In conjunction with the above referenced Policy, the following operational guidelines and glossary of terms establish good practices with lesbian, gay, bisexual, transgender, questioning and intersex (LGBTQI) and gender nonconforming (GNC) juveniles in order to provide services in a respectful and culturally competent manner.

## 1.1 Rationale

*In order to adequately train staff to respond to issues related to sexual orientation, gender identity, gender expression (SOGIE), and intersex traits in all Juvenile Justice youth development centers and detention centers, all facility staff shall attend LGBTQI and GNC training as required by Juvenile Justice. All state and contract provider employees shall create an environment that is safe and welcoming for LGBTQI and GNC juveniles.*

## 1.2 Measuring Success of Housing LGBTQI Juveniles

**Figure 1-1. Compliance Measures and Success Determined by Table**

Compliance Measures	Success Determined
Facility staff demonstrate knowledge of respectful and equitable language and treatment of LGBTQI juveniles.	<ul style="list-style-type: none"> <li>• Housing placement and services are offered to self-identified juveniles within all facilities</li> <li>• Training post-test</li> </ul>
PREA data collection	Numbers of self-identified juveniles are reported

## 1.3 Disclosure

- A. All juveniles in the care, custody or control of the Department of Public Safety will be provided an opportunity to disclose their sexual orientation, gender identity, or gender expression (SOGIE). However, no juvenile will be forced to discuss their SOGIE and will not be punished or penalized for declining to respond to questions about their SOGIE. Juveniles may disclose their SOGIE when, and if:
1. they feel ready; and
  2. a safe environment and trusting relationship has been established. Facility staff shall be trained in the use of the *Admission and Placement Screening for Detention Centers and Youth Development Centers (YD 011)* on the expected way to interact with juveniles to assist in collecting this type of sensitive information and providing services to self-identified juveniles.
  3. If a juvenile discloses that they are lesbian, gay, bisexual, transgender, intersex, questioning, queer, or gender nonconforming, the staff member shall acknowledge the juvenile’s wishes and provide for the juvenile’s level of informed consent regarding the status of their identity. Juveniles shall be informed that, under certain circumstances, the juvenile’s identification or status as LGBTQI or GNC may need to be shared with other employees (for example, in connection with a placement/transfer request, treatment, etc.), but that this information shall not be disclosed without the juvenile’s informed consent. Juveniles shall be told that information regarding their identification or status as LGBTQI or GNC shall not be disclosed to their parent or legal guardian without the juvenile’s consent and/or knowledge whenever possible. In addition, Juvenile Justice shall not disclose this information to outside third parties such as, but not limited to, courts, schools, and service referrals without the juvenile’s consent and knowledge, or unless disclosure is ordered by the court.
  4. In order to better understand and help the population that Juvenile Justice serves, Juvenile Justice will collect statistics on the number of self-identified LGBTQI and GNC youth and report monthly to the Director of Facility Operations. Grievances filed shall be reviewed monthly by each Facility Director to monitor for violations of this policy. *REFERENCE: YD 6 Non-Disciplinary Grievance Process*

- B. At orientation, staff will provide both a written and verbal explanation of this policy to all youth in a manner they can understand, paying attention to language and literacy needs, and inform them of their rights under the policy and the procedures for reporting violations.

## **1.4 Juvenile Placement**

- A. Juvenile Justice facility staff shall receive training on providing services for LGBTQI and GNC juveniles, including how to develop trust and rapport with the juveniles and accommodate the needs of the juvenile within reason. LGBTQI and GNC youth shall not collectively be placed in one location and shall not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status. The Department shall assess the health and safety needs and risks of each juvenile and place them appropriately. LGBTQI youth shall be provided access to all spaces ordinarily accessible to other youth, including restrooms, unless the youth asserts a safety concern regarding use of a particular space. *REFERENCE: 28 C.F.R. §§ 115.331(a)(9); 115.341-342.*
- B. Staff shall not consider LGBTQI and GNC identification or status as an indicator of likelihood of being sexually abusive. LGBTQI and GNC youth shall not be placed in sex offender treatment programs solely because of their SOGIE.
- C. Intake Assessment at Detention Programs and Residential Programs: Upon conducting an intake of a juvenile, staff shall ask the juvenile in accordance with the provided intake questions how they identify by gender and sexual orientation. As stated above, no juvenile will be required to disclose their SOGIE. Juveniles who self-identify as transgender or intersex shall be placed in a location that is consistent with their view of their own safety, absent a safety-based objection by staff made in consultation with the Director of Facility Operations and the Director of Behavioral Health. Such safety-based objection by staff shall have a specific, documented credible basis that weighs the safety risks and benefits to the juvenile and shall not be solely based on the stated gender identity. If the juvenile is not currently at a location compatible with their stated gender identity and/or stated housing preference, they will be moved to a location consistent with their stated gender identity and/or housing preference at the most reasonable time; again, in consultation with the Director of Facility Operations and the Director of Behavioral Health, and a safety plan shall be considered until such move is possible. All placements of a transgender or intersex youth shall be done in consultation with the Director of Facility Operations and the Director of Behavioral Health.
- D. Housing decisions shall be made prior to the juvenile's placement in a Youth Development Center whenever feasible. Juvenile Detention Center staff will notify the Director of Facility Operations or his or her designee upon a juvenile's self-identification as transgender or intersex so the process of assessment and housing planning can initiate. Housing decisions will be made by a multi-disciplinary team including but not limited to the Director of Facility Operations or his or her designee and representatives from clinical and medical sections. Each juvenile shall be assessed and assigned housing on an individual basis in consideration of their individual needs.
- E. Placement decisions and general adjustment concerns for juveniles shall be re-assessed at the weekly treatment team meeting to review any threats to safety experienced by the juvenile. Juveniles shall be re-assessed 14 days after admission by a licensed mental health clinician to ensure appropriate adjustment, to evaluate risk of victimization, and to provide the juvenile the opportunity to clarify any information shared upon intake and share their own assessment of

their current placement. All changes in placements of a transgender or intersex youth shall be done in consultation with the Director of Facility Operations and the Director of Behavioral Health. Complaints from youth against other youth based solely on a youth's actual or perceived SOGIE shall not be considered valid.

- F. Appeals of placement decisions shall be conducted pursuant to *YD 6 Non-Disciplinary Grievance Policy*.

## **1.5 Counseling, Mental Health and Substance Abuse**

- A. Clinical services are available for all juveniles in the custody of Juvenile Justice.
- B. Clinicians shall offer appropriate counseling and information to support all juveniles through any issues, questions, or needs they are having related to their gender identity, gender expression, sexual orientation and/or intersex status, if needed. Clinicians will not engage in corrective, conversion or reparative "therapy" with juveniles and Juvenile Justice prohibits such practices.
- C. Clinicians should be aware of possible barriers for LGBTQI and GNC juveniles in seeking mental health care and make efforts to reduce these barriers by being open, non-judgmental, and empathic. Clinical staff should help juveniles reduce co-occurring problems or distress related to their gender identity, gender expression, sexual orientation and/or intersex traits and help develop their strengths, coping skills, and resiliency through proper treatment and services.
- D. Clinicians shall not assume the existence of mental health problems with a juvenile simply because the juvenile expresses a particular gender identity, gender expression, sexual orientation and/or intersex trait. Because LGBTQI and GNC juveniles frequently face additional pressures based on their gender identity, gender expression, sexual orientation and/or intersex trait, clinicians should be prepared to assess and treat mental health and behavioral problems that may be associated with these issues.
- E. Counseling sessions for juveniles should include group and individual opportunities to discuss any mental health concerns should the juvenile seek those resources.

## **1.6 Medical and Health Services**

- A. Health Services should provide appropriate medical information and health services education for all juveniles, including those who identify as LGBTQI or GNC.
- B. As a component of medical screening provided to all juveniles who enter Juvenile Justice, staff shall identify medications that are currently prescribed to the juvenile through both medical and psychiatric history and records, direct reports from juveniles and third-party reports. Those juveniles who report receiving or using hormone treatments shall be referred to the center's medical provider. The medical provider will conduct an assessment and gather the youth's medical history to determine appropriate steps, which may include a referral to a specialist.

## **1.7 LGBTQI and GNC Literature and Resources**

- A. Programs should support and encourage the diversity and cultural identity of each juvenile and try to ensure that the environment in which the juvenile is being housed is conducive to this support. It is important that educational books and other reading materials are available for juveniles interested in learning more about LGBTQI and GNC issues. Materials should be made available in languages other than English, as needed and as funding is available.
- B. LGBTQI and GNC literature and other visible signs should be available in the common areas, office, etc., that indicate staff are knowledgeable and open to communication on these topics.
- C. Juveniles should have access to supportive resources with age appropriate LGBTQI and GNC information, including a book list, website list of community resource supports, and advocacy groups.

## **1.8 General Program Operations**

All juveniles are accountable for their behavior, and for being respectful of others and the setting in which they are placed. No harassment, assaultive behavior, or abuse will be tolerated by juveniles or staff.

- A. Safety and security for employees and juveniles remain paramount in all Juvenile Justice facilities. Juvenile Justice recognizes that creating safe places for LGBTQI and GNC juveniles provides greater safety and security for all juveniles.  
*Reference: Abuse and Neglect Policy*
- B. All juveniles, regardless of gender identity, gender expression, sexual orientation and/or intersex trait, need to feel safe in their surroundings to achieve effective programming and positive outcomes.  
*Reference: YD 8: Staff Work Standards*
- C. Rules must be maintained with dignity and respect for all juveniles, regardless of their gender identity, gender expression, sexual orientation, and/or intersex trait.
- D. Juveniles shall be placed in Juvenile Justice programs because of identified services and needs, not because of their gender identity, sexual orientation, gender expression and/or intersex trait. All state and contracted provider employees shall not do or say anything to try to change a juvenile's SOGIE.
- E. All facility and contracted provider employees shall make juveniles aware that any threat of violence, actual violence, harassment, or derogatory comments or gestures based on actual or perceived LGBTQI and GNC status will not be tolerated concerning any juvenile, and juveniles shall not be denied the opportunity to complete and submit a grievance form, or utilize the grievance process, for any of these concerns.
- F. It shall be a violation of policy for staff to discipline or punish any LGBTQI and/or GNC juvenile solely based on their SOGIE and/or intersex traits/status or to discipline or punish any LGBTQI and/or GNC juvenile more harshly than any other juvenile based on their status. Any

allegations that staff are improperly disciplining these juveniles or treating them in any way differently than other detained juveniles shall be investigated fully. All disciplinary reports shall be examined by a supervisor to ensure that disciplinary action is distributed fairly and consistently. Should a staff member be found to have discriminated against any LGBTQI and/or GNC juvenile based on their traits or status, including disparate treatment in discipline or punishment, the staff member will be disciplined appropriately, up to and including removal from employment.

- G. All facility and contracted provider employees must maintain personal and professional boundaries for safe and appropriate behavior with all juveniles as trained by NCDPS, Division of Adult Correction and Juvenile Justice and state and federal law. Violations of those boundaries are inappropriate regardless of gender identity, sexual orientation, gender expression, and/or intersex trait.
- H. All juveniles should be included in activities for which they qualify and/or in which they show a positive interest, regardless of their gender identity, gender expression, sexual orientation, and/or intersex trait.

## **1.9 Language and Name**

- A. All juveniles shall be addressed in person by their chosen name that is associated with their gender identity as stated by the juvenile, as well the pronouns that reflect the juvenile's stated gender identity. Such chosen name shall not be used if it is believed to be associated with criminal activity or vulgar connotations. A request by a juvenile to use gender neutral pronouns such as the singular "they", "ze/hir", or other gender-neutral pronouns, should be honored, as well. Chosen names are not to be confused, or used interchangeably, with "alias."
- B. The juvenile's chosen name as described above, if different from his or her legal name, shall be documented in NC-JOIN as an alert with the juvenile's knowledge and with the juvenile's informed consent.
- C. Juvenile Justice shall attempt to accommodate juveniles when feasible and reasonable where the juvenile indicates that notifying the juvenile's family of the chosen name will create an unsafe environment for them. Staff shall notify the juvenile that considerations should be made in the event the chosen name appears where the family may see the name or it is used by staff in the presence of the family.
- D. The juvenile's legal name shall still be used for all written records and documents including court documents. With the juvenile's request and/or consent, staff should use the juvenile's chosen name for service referrals or internal documentation and reports.

## **1.10 Clothing**

- A. If no uniform is required, all juveniles shall wear the clothing provided by the location or according to the clothing allowed by the location. Juveniles shall not be forced, in any setting, to wear clothing that does not match their gender identity or gender expression.

- B. Medical and clinical staff should be included in discussions regarding clothing and personal hygiene products. Orders written by medical regarding clothing and other matters shall be honored.

### **1.11 Hair and Other Personal Grooming**

- A. Personal grooming rules and restrictions, including those regarding hair, make-up, shaving, etc., shall be consistent in all male and female programs. A juvenile should not be prevented from, or disciplined for, a form of personal grooming that does not match typical gender norms.
- B. Some examples of grooming rules and restrictions that may be relevant to LGBTQI and GNC juveniles include, but are not limited to:
  - 1. Long hair may be tied back with a hair tie;
  - 2. Juveniles may receive a basic cut and/or shape haircut;
  - 3. Fingernails must be maintained at a length that adheres to Juvenile Justice safety and security practices.
- C. Juveniles may shave their face and/or body, as permitted by Juvenile Justice safety and security practices.

### **1.12 Searches**

- A. All juveniles will be searched in accordance with Juvenile Justice policy and procedure. In conducting the search of a juvenile, all facility and contract provider employees must ensure thoroughness while maintaining the dignity of and respect for the juvenile being searched.
- B. Transgender and intersex juveniles may request that a man or a woman employee conduct a strip search when such a search is required. This request will be accommodated, whenever possible, with consideration to employee and juvenile safety and security and departmental policies and procedures.
- C. A facility or contracted provider employee shall not search nor conduct a physical examination of a juvenile for the sole purpose of determining the juvenile's genitals or genital status.

### **1.13 Release and Discharge Planning**

- A. It is critical to engage and collaborate with the juvenile's parent, legal guardian/custodian and/or family throughout placement to enhance community re-entry efforts. If a juvenile has not disclosed their SOGIE to their parent, guardian/custodian or family then the staff shall refrain from sharing that information when planning re-entry services.
- B. All Juvenile Justice state and contracted provider employees working with LGBTQI and GNC juveniles shall identify and become familiar with community resources that can support a juvenile, parent, legal guardian/custodian and/or family, and assist them with identifying supportive and professional resources when appropriate. Staff shall refer juveniles and their families to such services with the juvenile's involvement and consent.
- C. In identifying resources that may be helpful for juveniles, state and contracted provider employees should review whether or not the specific resource supports LGBTQI and GNC juveniles before a referral is made to that specific resource.

## **1.14 PREA Statement**

The NC Department of Public Safety is committed to a standard of zero-tolerance pertaining to unduly familiar or sexually abusive behavior either by another juvenile or by staff, volunteer, vendor, contractor or party. Staff, volunteers, vendors, contractors or parties are strictly prohibited from engaging in personal dealings or any conduct of a sexual nature with any inmate or juvenile. Conversation and conduct with any inmate or juvenile must be professional at all times. Sexual acts between a juvenile or inmate and staff, volunteer, vendor, contractor or party may violate North Carolina law. Additionally, sexual acts between a juvenile or inmate and staff member will contradict the standards of the federal Prison Rape Elimination Act of 2003 (PREA). Such acts also may be punishable, at a minimum, as a Class E felony in North Carolina. Under North Carolina, consent of the inmate or juvenile may not available as a defense for an individual who is charged criminally based on sexual conduct with the inmate or juvenile. Also, pursuant to PREA standards, no juvenile or inmate can consent to engage in sexual activity with staff, volunteers, vendors, contractors or parties. Any contractual facility will comply with the national standards to prevent, detect, and respond to PREA (115.12, 212, 312) and permit the Department to monitor this aspect of the contract to ensure compliance with the PREA standards.

Additionally, it may violate North Carolina law to sell or give an inmate or juvenile any alcoholic beverages, barbiturate or stimulant drug, or any narcotic, poison or poisonous substance, except upon the prescription of a physician; and it may violate North Carolina law to give an inmate or juvenile any tobacco or tobacco products, alcohol, or cell phones. It may also violate NCDPS policy to convey to or take from any juvenile or inmate any letters, or verbal messages; to convey any weapon or instrument by which to affect an escape, or that will aid in an assault or insurrection; to trade with any inmate for clothing or stolen goods or to sell any inmate any article forbidden by NCDPS policy.

## Definitions

Term	Definition
<b>Bisexual</b>	Refers to a person who is emotionally, romantically, and/or sexually attracted to people of their same gender or another gender.
<b>FtM</b>	Shorthand “female to male,” a spectrum that includes anyone who was assigned female at birth and who identifies as a boy/man, masculine, or a boy/man some or all of the time.
<b>Gay</b>	Refers to a person who is emotionally, romantically, and/or sexually attracted to people of the same gender. Sometimes, it may be used to refer to gay men and boys only, but can also refer to women and girls who are attracted to people of their same gender. It is preferred over the term “homosexual.” Homosexual is disfavored and many people within the LGBTQ community find it offensive because of its historical association with mental illness.
<b>Gender Dysphoria</b>	Refers to a diagnosis listed in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). It is the distress that a person may experience when there is incongruence between one’s experienced or expressed gender and one’s sex assigned at birth. Although not all individuals will experience distress as a result of such incongruence, many are distressed if the desired interventions are not available.
<b>Gender expression</b>	Refers to the manner in which a person expresses their gender through clothing, appearance, behavior, speech, etc. A person’s gender expression may vary from the norms traditionally associated with their sex assigned at birth. Gender expression is a separate concept from sexual orientation and gender identity. For example, a male may exhibit an effeminate manner, but identify as a straight/heterosexual male.
<b>Gender identity</b>	Refers to a person's internal identification or self-image as boy/man, girl/woman, something in between, or outside of the boy/man and girl/woman binary. Everyone has a gender identity. One’s gender identity may or may not be consistent with one’s sex assigned at birth.
<b>Gender nonconforming</b>	Refers to people whose gender expression is (1) neither masculine nor feminine or (2) different from traditional or stereotypic expectations of how a boy/man or girl/woman should appear or behave.
<b>Gender pronouns</b>	There are numerous gender pronouns. The most common are “he/him/his” and “she/her/hers.” However, there are many other pronouns that youth, in particular, may adopt, but are less common, including “ze/hir”; singular use of “they.”

<b>Gender transition</b>	Describes the experience by which a person goes from living and identifying as one gender to living and identifying as another. For most juveniles, and for all young children, the experience of gender transition involves no medical intervention. Rather, most transgender juveniles will undergo gender transition through a process commonly referred to as “social transition,” whereby they begin to live and identify as the gender consistent with their gender identity. Some transgender juveniles who are close to reaching puberty, or after commencing puberty, may complement social transition with medical intervention that may include hormone suppressants, cross-gender hormone therapy, and, for a small number of young people, a range of gender-confirming surgeries (also known as gender affirming surgeries). The decision about whether and how to undergo gender transition is personal and depends on the unique circumstances of each individual. There is no threshold medical or mental health diagnosis or treatment requirement that any juvenile must meet in order to have their gender identity recognized and respected by Juvenile Justice.
<b>Heterosexual (or Straight)</b>	Describes a sexual orientation in which a person feels sexually, romantically, and/or emotionally attracted to individuals of the opposite sex or gender. A common term for this sexual orientation is also “straight.”
<b>Intersex</b>	Refers to people who are born with any of a range of sex characteristics that may not fit a doctor’s notions of binary “male” or “female” bodies. Variations may appear in a person’s chromosomes, genitals, or internal organs like testes or ovaries. Some intersex traits are identified at birth, while others may not be discovered until puberty or later in life.
<b>Lesbian</b>	Refers to a girl/woman who is emotionally, romantically, and/or sexually attracted to other girls/women.
<b>MtF</b>	Shorthand for “male to female,” a spectrum that includes anyone who was assigned male at birth and who identifies as a girl/woman, feminine, or a girl/woman some or all of the time.
<b>Sexual orientation</b>	Refers to a person’s emotional, romantic, and/or sexual attraction to persons of the same or a different gender.
<b>SOGIE</b>	An abbreviation for sexual orientation and gender identity/expression.
<b>Transsexual</b>	A term used by the medical community to refer to individuals who wish to alter their bodies to make their anatomy more in line with their gender identities. Transsexual is not a term you will hear very often among youth or transgender community members.

<b>Transgender</b>	May be used as a term to include all persons whose gender identity and/or gender expression do not match society’s expectations of how an individual of that gender should behave in relation to their gender, and/or whose gender identity does not align with their sex assigned at birth. For purposes of protection from discrimination and harassment, transgender refers to both self-identified transgender juveniles, individuals perceived as transgender and/or gender nonconforming, without regard to whether they qualify for a diagnosis of Gender Dysphoria.
<b>Queer</b>	An historically derogatory term for a gay man, lesbian, or gender non-conforming person. The term has been widely reclaimed, especially by LGBTQI juveniles, as a positive social and political identity. It is sometimes used as an inclusive, or umbrella, term for all LGBTQI people. Queer is also used as a term of self-identification by people who do not identify with more restrictive, binary terms. Some members still find this term offensive. Queer is a term some people may use to self-identify, but should not be ascribed to an individual without this self-identification.
<b>Questioning</b>	Refers to a person, often an adolescent, who is exploring or questioning issues of sexual orientation or gender identity or expression in their life. Some questioning people will ultimately identify as gay, lesbian, bisexual or transgender; others will self-identify as heterosexual/straight; others will not identify as transgender.

## **Appendix A: Associated Form**

*Admission and Placement Screening for Detention Centers and Youth Development Centers (YD 12 001)*