

NORTH CAROLINA

While North Carolina’s Division of Social Services, Children’s Services (“DSSCS”) has a policy acknowledging the importance of sensitivity to sexual orientation, it does not expressly prohibit sexual orientation discrimination. In addition, DSSCS offers no training or services to address the needs of LGBT youth in its care.*

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*The following recommendations are modeled on and should be read in conjunction with the “Basic Reforms to Address the Unmet Needs of LGBT Foster Youth” described at pages 22-28 of this Report. “LGBT” is an acronym for lesbian, gay, bisexual, and transgender.

I. NON-DISCRIMINATION POLICIES

A. SEXUAL ORIENTATION OF YOUTH

Assessment: DSSCS does not have a policy expressly prohibiting discrimination on the basis of the sexual orientation of foster care youth. However, DSSCS’s Policy and Planning Team Manual directs that social workers should be sensitive to sexual orientation as a source of family conflict, and notes that LGBT teens are more likely to attempt suicide and to be runaways than non-LGBT teens.¹ The Manual also acknowledges that a youth’s sexual orientation will not be readily apparent or quickly and easily disclosed, and calls for a high degree of social worker sensitivity.²

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| Recommendation: | DSSCS’s policy statements on LGBT issues are an important acknowledgment of the problems facing LGBT youth and of the need for sensitivity to sexual orientation. These statements do not, however, go far enough. DSSCS should adopt policies expressly prohibiting discrimination in the provision of foster care services based on the sexual orientation of youth. |
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B. SEXUAL ORIENTATION OF FOSTER PARENTS AND OTHER FOSTER HOUSEHOLD MEMBERS

Assessment: The North Carolina Administrative Code (“NCAC”) provides that “[f]oster parents shall be persons... who have worked out between themselves a satisfactory and stable marital relationship, without severe problems in their sexual identification...”³ We have been told informally by a representative of DSSCS’s Policy Division that this provision does not refer to lesbians and gay men; however, the representative was unable to offer any explanation for its purpose. Furthermore, the NCAC additionally requires that foster parents “have been married for a minimum of one year before a foster home license will be issued,” absent documentation that the family should be exempted from this standard.⁴ The NCAC does not, however, offer criteria for exemption. Despite these references to marriage in the NCAC, we have been told informally that North Carolina has licensed single persons and unmarried heterosexual cohabiting couples. The state has only rarely licensed same-sex couples.

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| Recommendation: | The DSSCS Policy Manual should expressly prohibit discrimination on the basis of the sexual orientation of foster parents and other foster household members, not only in licensing and placement decisions but in all interactions with DSSCS and its agents. Because the NCAC’s reference to “severe problems in sexual identification” could be applied inappropriately by some staff to bar qualified lesbian or gay adults from serving as foster parents, this provision should be eliminated or clarified. Likewise, the marital requirement for foster care licensing no doubt has prevented some otherwise qualified lesbian, gay, and unmarried heterosexual couples from serving as foster parents and should be rescinded. |
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C. SEXUAL ORIENTATION OF FOSTER CARE STAFF

Assessment: Although the NCAC prohibits employment discrimination against DSSCS agency employees on other grounds,⁵ no statute, regulation, or written policy expressly prohibits discrimination against DSSCS employees on the basis of sexual orientation.

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| Recommendation: | DSSCS should adopt express written policies prohibiting sexual orientation as a basis for discriminating against foster care staff. |
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D. HIV/AIDS STATUS OF YOUTH

Assessment: Neither the DSSCS Policy Manual nor the NCAC expressly prohibits discrimination based on the HIV/AIDS status of foster youth.

North Carolina provides by statute that it is unlawful “to discriminate against any person having AIDS virus or HIV infection on account of that infection in determining suitability for... public services.”⁶

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| Recommendation: | DSSCS should adopt express written policies prohibiting discrimination on the basis of the HIV/AIDS status of foster youth. |
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E. HIV/AIDS STATUS OF FOSTER PARENTS AND OTHER FOSTER HOUSEHOLD MEMBERS

Assessment: Neither the DSSCS Policy Manual nor the NCAC expressly prohibits discrimination based on the HIV/AIDS status of foster parents or foster family members.

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| Recommendation: | DSSCS should adopt express written policies prohibiting discrimination on the basis of the HIV/AIDS status of foster parents able to perform foster care responsibilities or of other foster family members. |
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F. HIV/AIDS STATUS OF FOSTER CARE STAFF

Assessment: The DSSCS Policy Manual does not address discrimination based on the HIV/AIDS status of foster care staff. The NCAC prohibits discrimination against employees based on “handicapping condition.”⁷

North Carolina provides by statute that it is unlawful “to discriminate against any person having AIDS virus or HIV

infection on account of that infection in determining suitability for... continued employment.”⁸

Recommendation: DSSCS should adopt express written policies prohibiting discrimination on the basis of the HIV/AIDS status of foster care staff.

II. FOSTER PARENT TRAINING

A. EXPLAINING NON-DISCRIMINATION POLICIES REGARDING SEXUAL ORIENTATION AND HIV/AIDS STATUS

Assessment: DSSCS did not respond to our requests for written manuals or curricula describing the specific training administered to foster parents, but did inform us that there is no mandatory instruction provided to foster parents on any issues relating to LGBT youth.

Recommendation: In addition to adopting sexual orientation and HIV/AIDS non-discrimination policies in the first instance, make training about such principles mandatory for all foster parents.

B. SENSITIVITY TO SEXUAL ORIENTATION

Assessment: The NCAC requires “cultural sensitivity” training for foster parents.⁹ However, we are informed by DSSCS that this does not include training in sensitivity to sexual orientation.

Recommendation: Provide mandatory training to all foster parents on sensitivity to sexual orientation and the challenges faced by LGBT youth.

C. SUPPORTING A FOSTER CARE YOUTH COMING OUT AS LGBT

Assessment: According to DSSCS, this topic is not addressed in training for foster parents.

Recommendation: Provide mandatory training to all foster parents on supporting a foster care youth coming out as LGBT.

D. SEXUAL HEALTH EDUCATION, INCLUDING HIV/AIDS AND OTHER STD PREVENTION EDUCATION AND SERVICES

Assessment: Although the NCAC mandates medical training for foster parents caring for youth with HIV or AIDS,¹⁰ there is no training required for foster parents on educating LGBT foster care youth about their sexuality and sexual health, including prevention of HIV/AIDS and other STDs.

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| Recommendation: | Require mandatory training for all foster parents on educating LGBT foster care youth about their sexuality and sexual health, including prevention of HIV/AIDS and other STDs. |
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III. FOSTER CARE STAFF TRAINING

A. EXPLAINING NON-DISCRIMINATION POLICIES REGARDING SEXUAL ORIENTATION AND HIV/AIDS STATUS

Assessment: Other than several general paragraphs in the DSSCS Policy Manual (*see* Section I. A. *above*), this topic is not addressed in foster care staff training.

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| Recommendation: | In addition to adopting sexual orientation and HIV/AIDS non-discrimination policies in the first instance, make training on such principles mandatory for all foster care staff. |
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B. SENSITIVITY TO SEXUAL ORIENTATION

Assessment: Other than several general paragraphs in the DSSCS Policy Manual (*see* Section I. A. *above*), this topic is not addressed in foster care staff training.

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| Recommendation: | Provide mandatory training to all foster care staff on sensitivity to sexual orientation and the challenges faced by LGBT youth. |
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C. SUPPORTING A FOSTER CARE YOUTH COMING OUT AS LGBT

Assessment: This topic is not addressed in foster care staff training.

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| Recommendation: | Provide mandatory training to all foster care staff about supporting a foster care youth coming out as LGBT. |
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D. SEXUAL HEALTH EDUCATION, INCLUDING HIV/AIDS AND OTHER STD PREVENTION EDUCATION AND SERVICES

Assessment: There is no formal instruction to foster care staff on educating LGBT youth about their sexuality and sexual health, including prevention of HIV/AIDS and other STDs.

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| Recommendation: | DSSCS should require mandatory training for all foster care staff on educating LGBT foster care youth about their sexuality and sexual health, including prevention of HIV/AIDS and other STDs. |
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IV. LGBT YOUTH PROGRAMS AND SERVICES

A. SAFE GROUP HOMES

Assessment: Although North Carolina maintains group homes, none is geared specifically to LGBT youth. Furthermore, given the lack of training and services offered on LGBT issues by DSSCS, existing group homes are ill-equipped to address the needs of LGBT youth.

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| Recommendation: | <p>DSSCS should consider whether, in the short term, the pressing needs of LGBT youth in group home settings would best be addressed by designating specific group facilities as safe havens for LGBT youth.</p> <p>It should, however, be a priority to make every group facility in the state a safe, supportive environment for LGBT and questioning youth through strict enforcement of non-discrimination policies, staff training, sensitivity education for non-LGBT residents, and services and resources for LGBT youth.</p> |
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B. IDENTIFY FOSTER PARENTS TO CARE FOR LGBT YOUTH

Assessment: There are no specific efforts to identify and train foster parents to care for LGBT youth.

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| Recommendation: | Agencies should identify and train qualified foster parents, including lesbian and gay adults, interested in caring for LGBT youth. |
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C. COUNSELING PROGRAMS

Assessment: DSSCS did not inform us of any counseling services for LGBT youth.

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| Recommendation: | DSSCS should ensure that one-on-one and group counseling services are available for LGBT youth. |
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D. RESOURCES AND COMMUNITY CONTACTS FOR FOSTER CARE STAFF, FOSTER PARENTS, AND LGBT YOUTH

Assessment: DSSCS cited no resources for foster care staff, foster parents caring for LGBT youth, or LGBT youths themselves.

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| Recommendation: | DSSCS should distribute to DSSCS offices, group facilities, and LGBT youth and their foster families, resource guides that include community contacts, support groups, reading lists and materials, hotlines, LGBT advocates in the foster care system, and other resources. These resources should also be available to biological families. All youth in foster care should have direct, ready, and confidential access to developmentally appropriate resources about LGBT issues. |
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E. SEXUAL HEALTH EDUCATION, INCLUDING HIV/AIDS AND OTHER STD PREVENTION EDUCATION AND SERVICES

Assessment: DSSCS did not respond to our requests for information about sexual health education for LGBT foster care youth.

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| Recommendation: | Provide all foster care youth with developmentally appropriate information and resources about sexuality and sexual health, including about LGBT issues and prevention of HIV/AIDS and other STDs. |
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F. ACCESS TO HIV TESTING WITHOUT GUARDIAN CONSENT OR NOTIFICATION

Assessment: Neither the DSSCS Policy Manual nor the NCAC specifically provides for access by foster care youth to HIV testing.

North Carolina provides by statute that a physician may order that an unemancipated minor be tested for AIDS virus infection without the consent of the parent or legal guardian “when the parent or guardian has refused to consent to such testing and there is reasonable suspicion that the minor has AIDS virus or HIV infection...”¹¹ This provision nonetheless requires notification to the parent or legal guardian to attempt to gain consent. However, North Carolina provides by statute that any minor may consent to medical health services for the “prevention, diagnosis and treatment of venereal disease and other diseases reportable under G.S. § 130A-135.”¹²

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| Recommendation: | DSSCS should adopt express written policies providing foster care youth access to free and confidential HIV testing without guardian consent or notification. |
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G. CONFIDENTIALITY OF HIV TESTING AND TEST RESULTS

Assessment: By statute, records identifying a person as having HIV/AIDS are “strictly confidential” and may be released only under specific circumstances.¹³ However, there are no provisions in either the DSSCS Policy Manual or the NCAC related to confidentiality of foster care youths’ HIV/AIDS status.

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| Recommendation: | DSSCS should adopt express written policies, consistent with state law, requiring confidentiality of foster care youths’ HIV status, with disclosure permitted on only a limited, need-to-know basis to provide for a youth’s well-being. |
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Notes to North Carolina

1. N.C. DSSCS Policy and Planning Team Manual, Chapter VIII, § 1440 (X.D.4.), *available at* http://childrensservices.dhhs.state.nc.us/policy_and_planning/manuals/sec-1440.html (last visited June 15, 2001).
2. *Id.*
3. N.C. Admin. Code tit. 10, r. 41F0702(a)(5) (July 1982).
4. N.C. Admin. Code tit. 10, r. 41F0702(c) (July 1982).
5. N.C. Admin. Code tit. 10 r. 1K.0205 (July 1980).
6. N.C. Gen. Stat. § 130A-148(i) (WESTLAW through 2000 Regular Session).
7. N.C. Admin. Code tit. 10, r. 1K.0205 (July 1980).
8. N.C. Gen. Stat. § 130A-148(i) (WESTLAW through 2000 Regular Session).
9. N.C. Admin. Code tit. 10, r. 41F0814(b)(13) (April 1997).
10. N.C. Admin. Code tit. 10, r. 41F0814(d) (April 1997).
11. N.C. Gen. Stat. § 130A-148(h) (WESTLAW through 2000 Regular Session).
12. N.C. Gen Stat. § 90-21.5(a) (WESTLAW through 2000 Regular Session). Pursuant to N.C. Gen. Stat. § 130A-135, confirmed HIV infection is a reportable communicable condition.
13. N.C. Gen. Stat. § 130A-143 (WESTLAW through 2000 Regular Session).