

WASHINGTON

Washington does not have any express non-discrimination policies applying to its foster care system. The Department of Social and Health Services Children’s Administration (“DSHS”) has taken initial steps in offering training to foster parents on the development of sexual identity, but did not inform us to what extent this training addresses LGBT concerns.*

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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: DSHS does not maintain a policy prohibiting discrimination based on the sexual orientation of youth.

Recommendation:	Adopt express written policies prohibiting discrimination based on the sexual orientation of youth.
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B. SEXUAL ORIENTATION OF FOSTER PARENTS AND OTHER FOSTER HOUSEHOLD MEMBERS

Assessment: There is no express provision in the DSHS Policy Manual prohibiting sexual orientation discrimination in the licensing of foster parents.

Recommendation:	Adopt policies expressly prohibiting discrimination based on the sexual orientation of foster parents and other foster household members, not only in licensing and placement decisions but in all interactions with DSHS and its agents.
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C. SEXUAL ORIENTATION OF FOSTER CARE STAFF

Assessment: Although there is no express provision in the DSHS Policy Manual prohibiting sexual orientation discrimination in employment, an executive order prohibits state agencies from discriminating in employment solely on the basis of an individual's sexual orientation.¹

Recommendation:	DSHS should adopt express written policies consistent with the executive order prohibiting discrimination on the basis of the sexual orientation of foster care staff.
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D. HIV/AIDS STATUS OF YOUTH

Assessment: The DSHS Policy Manual provides that all state and federal non-discrimination laws must be followed in providing services to youth in care.² However, there is no express prohibition against discrimination based on HIV/AIDS status.

Recommendation: Adopt express written policies prohibiting discrimination on the basis of the HIV/AIDS status of foster care youth.

E. HIV/AIDS STATUS OF FOSTER PARENTS AND OTHER FOSTER HOUSEHOLD MEMBERS

Assessment: There is no express provision in the DSHS Policy Manual prohibiting discrimination against foster parents and foster household members on the basis of HIV/AIDS status.

Recommendation: Adopt express written policies prohibiting discrimination on the basis of the HIV/AIDS status of foster parents able to perform foster care responsibilities and of other foster household members.

F. HIV/AIDS STATUS OF FOSTER CARE STAFF

Assessment: Although there is no express provision in the DSHS Policy Manual prohibiting HIV/AIDS status discrimination in employment, an executive order directs that “barriers to the employment of... persons of disability continue to be eliminated and that reasonable accommodation continue to be made to ensure the inclusion of handicapped individuals in the work force.”³

Recommendation: 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: DSHS did not respond to our requests for information on this topic.

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.
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B. SENSITIVITY TO SEXUAL ORIENTATION

Assessment: DSHS did not respond to our requests for materials on this topic. However, DSHS's Web site reflects that foster parent training texts address assisting youth in developing a healthy gender identity and being comfortable with their own sexual identity.⁴ It is not clear from the Web site, however, to what extent this training includes nonjudgmental information about LGBT concerns.

Recommendation:	Require mandatory training for all foster parents 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: DSHS did not respond to our requests for information on this topic.

Recommendation:	Require mandatory training for all foster parents on 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: DSHS did not respond to our requests for materials on this topic. However, DSS's Web site indicates

that foster parent training texts address the importance of providing accurate information to youth about HIV/AIDS and other STDs.⁵

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.

III. FOSTER CARE STAFF TRAINING

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

Assessment: DSHS informed us that LGBT issues are incorporated into training for some foster care staff, but did not provide more specific information.

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 care staff.

B. SENSITIVITY TO SEXUAL ORIENTATION

Assessment: DSHS did not respond to our requests for information on this topic.

Recommendation: Require mandatory training for all foster care staff on sensitivity to sexual orientation and the challenges faced by LGBT youth.

C. SUPPORTING A FOSTER CARE YOUTH COMING OUT AS LGBT

Assessment: DSHS did not respond to our requests for information on this topic.

Recommendation: Require mandatory training for all foster care staff 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: DSHS did not respond to our requests for information on this topic.

Recommendation:	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 DSHS maintains group homes and youth shelters, none is geared specifically to LGBT youth. Furthermore, given the lack of training and services offered on LGBT issues by DSHS, existing group facilities are under-equipped to address the needs of LGBT youth.

Recommendation:	<p>DSHS 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 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: DSHS did not respond to our requests for information on this topic.

Recommendation:	DSHS, as well as contract 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: DSHS did not respond to our requests for information on this topic.

Recommendation:	DSHS 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: DSHS did not respond to our requests for information on this topic.

Recommendation:	DSHS should distribute to DSHS 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: The text used by some independent living programs to provide life-skills training for older adolescents in state care includes information about prevention and transmission of HIV and other STDs. We were not informed whether DSHS provides developmentally appropriate education on these issues for all foster care youth.

A Washington statute provides that any information about STDs distributed to children in the state by any public entity “shall give emphasis to the importance of sexual abstinence outside lawful marriage.”⁶

Recommendation:	Washington should mandate that all foster care youth be provided developmentally appropriate, nonjudgmental information about sexuality and sexual health, including about LGBT issues and prevention of HIV/AIDS and other STDs. The curricula should take into account that “abstinence-only” programs have not proven effective in deterring adolescents from engaging in unsafe behaviors.
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F. ACCESS TO HIV TESTING WITHOUT GUARDIAN CONSENT OR NOTIFICATION

Assessment: DSHS did not respond to our requests for information on this topic.

Washington statutorily provides for the availability, without parent or guardian consent, of hospital, surgical, and medical care related to the diagnosis or treatment of an STD for a minor age 14 years or older.⁷

Recommendation:	Adopt express written policies, consistent with state law, providing foster care youth access to free and confidential HIV testing without consent or notification of a parent or guardian.
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G. CONFIDENTIALITY OF HIV TESTING AND TEST RESULTS

Assessment: DSHS did not respond to our requests for information on this topic.

Washington statutorily provides for the confidentiality of HIV testing status, results, and treatment for competent minors over the age of 14.⁸

Recommendation:	DSHS should adopt express written policies, consistent with state law, requiring confidentiality of foster care youth's 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 Washington

1. Wash. Executive Order No. 85-09 (Dec. 24, 1985).
2. Wash. Admin. Code § 388-148-0395.
3. Wash. Executive Order, *supra* note 1.
4. SUNY Research Foundation/Center for Development of Human Services, *Fosterparentscape Training*, at <http://www.wa.gov/dshs/fosterparents/training/index.htm> (last visited April 24, 2001).
5. *Id.*
6. Wash. Rev. Code Ann. § 70.24.210 (West 1992).
7. Wash. Rev. Code Ann. § 70.24.110 (West 1992).
8. Wash. Rev. Code Ann. §§ 70.24.105(2)(a) and (b).