



Policy Guidance

LGBTQ Youth and Status Offenses

Improving System Responses and Reducing Disproportionality

Lesbian, Gay, Bisexual, and Transgender youth are twice as likely as other youth to be sent to a juvenile detention facility for committing “status offenses” such as truancy or running away from home.ⁱ They are also overrepresented in the juvenile justice system generally, and once in the system are more likely to be the target of abuse and violence, including at the hands of other youth.ⁱⁱ They may also receive overly harsh punishments due to court biases or misguided attempts to keep them “safe” through the use of unnecessary isolated housing.ⁱⁱⁱ

The Coalition for Juvenile Justice’s *National Standards for the Care of Youth Charged with Status Offenses*, which have been endorsed by Human Rights Campaign Foundation and numerous other organizations, include concrete recommendations for limiting or avoiding court involvement and eliminating secure confinement for all status

offenders. The National Standards specifically call for all (LGBTQ)^{iv} youth to “receive fair treatment, equal access to services, and respect and sensitivity from all professionals and other youth in court, agency, service, school and placement.”

Judicial, legal, law enforcement, justice, social service and school professionals all have a role to play in ensuring that diversion programs, courts and (when unavoidable) residential placements and juvenile detention facilities are LGBTQ-affirming. Program staff working with LGBTQ youth in the community should also help identify and provide services and supports that will allow LGBTQ youth to avoid status offense behaviors, as well as helping them avoid court involvement when these behaviors do occur. Engaging youths’ families is essential to this work. Recent research has shown that even families who are not initially supportive of LGBTQ

THE EQUITY PROJECT, ENSURING RESPECT FOR LGBTQ YOUTH

The Equity Project helps ensure that court-involved LGBTQ youth are treated with fairness and respect. They achieve these goals by, among other things, identifying obstacles for the fair treatment of youth, and crafting recommendations for professionals to use in the field. Their work encompasses all phases of a juvenile’s court proceedings, from arrest through post-dispositional matters. The Equity Project provides training and technical assistance to juvenile justice professionals around the country, regarding sexual orientation, gender identity, and gender expression (SOGIE) of youth in the juvenile delinquency system. They seek to increase knowledge and awareness, to provide tools and recommendations for staff to implement best practices, and improve outcomes and experiences for youth.

Practitioners rely on, and benefit from, The Equity Project’s guidance. For example, a public defender in Louisiana reported that they recently had a case in which an 11-year-old boy was being bullied at home and at school. Thanks to training the attorney received from The Equity Project, she was able to recognize that the youth was being teased because he identified as LGBTQ. The training taught the attorney to be aware of, and sensitive to, issues related to juvenile’s sexuality and gender expression. As a result, the attorney was able to raise the issue with the case worker and better address the juvenile’s needs.

youth can change given the right education and intervention, and that even slight improvements in family acceptance can lead to better physical and

mental health outcomes for LGBTQ youth.^v Professionals should also support LGBTQ youth in finding mentors and other positive role models.^{vi}

The National Standards also call for system professionals to take the following steps (Section 1.10):

- Ensure that LGBTQ youth receive **appropriate services**, such as connecting them to affirming social, recreational and spiritual opportunities, and that **confidentiality is respected**.
- Identify when youth are entering the system due to **alienation, exclusion, or persecution at home, in foster care or group homes, in the community or at school**, due to their sexual orientation or gender identity. When this happens, preserving youth's safety and well-being must take precedence over returning them to a hostile environment, but professionals must also take steps to improve the home or school so that youth can return when safe.
- Review nationally available **best practice standards**, to ensure that your organization is doing all it can to meet LGBTQ youths' needs, and follow a **written nondiscrimination and anti-harassment policy**.^{vii}
- Recognize and acknowledge that experiences at home, in placement, in school, the community, and in the juvenile justice system may have been traumatic, and that LGBTQ youth may need **support, intervention, or treatment for trauma**.
- On an individual level, professionals must treat all youth, including those who identify as LGBTQ or non-gender conforming, with **respect and fairness**. Youth should be allowed to **express their identity** through choice of clothing, hairstyle and nicknames without encountering pressure or judgment.

In addition to the above, the National Standards address many issues essential to working with LGBTQ youth in status offenses cases, such as positive youth development, cultural competency, and early intervention and diversion strategies, as well as concrete recommendations relating to girls and minority youth.



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ⁱ Irvine, A. (2010). "We've had three of them": Addressing the invisibility of lesbian, gay, bisexual, and trans-gender youth in the juvenile justice system. *Columbia Journal of Gender and Law*, 19(3), 675-701, accessible at <http://www.nccdglobal.org/sites/default/files/content/weve-had-three-of-them.pdf>

ⁱⁱ Majd, K., Marksamer, J., and Carolyn Reyes. (2009) "Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts." Available at: http://equityproject.org/pdfs/hidden_injustice.pdf.

ⁱⁱⁱ Ibid.

^{iv} Youth may also identify themselves as intersex, two-spirit or in other ways. Although the recommendations in the Standards may still apply, the term LGBTQ is used throughout because the research discussed has focused on lesbian, gay, bisexual, and in some cases transgender or questioning youth.

^v Minter, S. & Jeff Krehely (2011) "Families Matter: New Research Calls for a Revolution in Public Policy for LGBT Children and Youth." Washington DC: Center for American Progress. Available at:

<http://www.americanprogress.org/issues/lgbt/report/2011/02/07/9117/families-matter/>

^{vi} Brown, B. (2013) "OP-ED: 'Those Kinds of Kids': Meeting the Needs of LGBTQ Youth of Color Charged with Status Offenses." Available at <http://jije.org/op-ed-those-kinds-of-kids-meeting-the-needs-of-lgbtq-youth-of-color-charged-with-status-offenses/106043/>.

^{vii} For links to best practice guidelines, model policies, and other resources for professionals and LGBT youth see "The Equity Project" at <http://equityproject.org/resources.html>.