

## LGBTQI Youth under Custodial Supervision

Following are questions to ask regarding an agency's nondiscrimination policy:

Nondiscrimination Policy Checklist	YES	NO
Does the agency have a nondiscrimination policy for youth, employees, and/or volunteers?		
Does the agency policy require that all individuals who enter the agency are treated with fairness, dignity, and respect regardless of real or perceived sexual orientation?		
Does the agency policy explicitly list sexual orientation and gender identity or expression as prohibited bases for discrimination?		
Does the agency policy prohibit attempts by staff to ridicule or change a youth's sexual orientation or gender identity?		
Does the agency policy define staff duty to provide safe and healthy environments in which all individuals are treated with respect and dignity?		
Does the agency policy define staff responsibility for protecting the civil rights of LGBTQI youth while in custody, and for ensuring their physical and emotional well-being and safety in juvenile facilities?		
Does the agency policy define the elements of incident reporting to include complaints of harassment, discrimination, and abuse?		
Does the agency policy provide training and resources regarding the societal, familial, and developmental challenges confronting LGBTQI youth?		
Does the agency policy address the collection and analysis of data regarding the needs of LGBTQI youth in its custody?		

Following are questions to ask regarding an agency's intake and risk assessment policy and practice:

Intake and Risk Assessment Policy Checklist	YES	NO
During intake and initial classification, does the agency ascertain information about the youth's sexual orientation and/or gender identity?		
During the course of the youth's confinement, does the agency periodically update information regarding the youth's sexual orientation and gender identity?		
Do the agency employees who conduct initial screening and classification receive training regarding sensitivity in conducting interviews with LGBTQI youth?		
Does the agency policy require that a youth's sexual orientation and/or gender identity be verified by multiple sources prior to classification?		
Are medical health practitioners the only staff permitted to physically examine youth to gather information about gender identity?*		
Does the agency policy have a process to document and accommodate the concerns of LGBTQI youth in terms of safety, name, pronoun, showering, and searches?		
Do the agency medical and mental health staff use screening tools that are developed specifically for LGBTQI youth?		
Does the agency provide youth orientation that discusses diversity and describes the harms that result from name-calling, bullying, and harassment?		

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\* Although PREA permits medical examiners to physically examine youth to ascertain information about their gender identity, pediatric physicians question whether subjecting a youth to such an examination is medically safe practice. See THE PROJECT ON ADDRESSING PRISON RAPE, *PREA Standards and Policy Development Guidelines for Lesbian, Gay, Bisexual and Transgender Youth in Custody*, Nov. 13, 2012, available at <http://www.wcl.american.edu/endsilence/webinars.cfm>.

Following are questions to ask regarding an agency's classification policy:

Classification Policy Checklist	YES	NO
Is the agency classification policy based on individualized needs that balance the youth's physical and emotional well-being with the safety of all other youth?		
Is the agency classification process objective and free of individual biases?		
Is the agency classification process defined in written policies and procedures?		
Does the agency prohibit blanket policies regarding the classification of LGBTQI youth or those perceived to be LGBTQI?		
Does the agency classification policy govern the placement of youth into sex offender programs/units based on articulated criteria, including orders of the court?		
Do the agency classification and housing protocols consider physical layout and privacy issues when determining the location for LGBTQI youth?		
Does the agency place vulnerable youth in the least restrictive environment necessary to ensure safety and provide the youth with equal access to facility services?		
Do the agency classification protocols address how youth in various classifications are housed if the facility is crowded?		
Do the agency classification and housing protocols consider privacy concerns when assigning housing for LGBTQI youth?		
Does the agency develop responses to abuse or harassment (or threat of abuse or harassment) of LGBTQI youth that do not rely on the isolation or segregation of these youth?		

Following are questions to ask regarding an agency's classification policy for transgender and intersex youth:

<b>Classification for Transgender and Intersex Youth Policy Checklist</b>	<b>YES</b>	<b>NO</b>
Do the agency classification and housing policies include evaluation of a person's current genital status in making placement decisions?		
Does the agency make individualized housing determinations based on other factors in addition to a person's current genital status?		
Do the agency classification and housing policies include factors relating to the youth's emotional and physical well-being and that prioritize the youth's evaluation of his/her safety?		
Do the agency classification and housing policies include a review of youth's privacy concerns, available housing options, and recommendations from the youth's mental health providers regarding appropriate housing or classification?		
Does/can the agency provide access to private shower facilities, when necessary, or a single room for sleeping, while allowing youth to have full access to the facility's daily programming?		
Does/can the agency house transgender youth according to gender identity rather than birth sex?		
When it is necessary, can the agency place transgender youth safely according to birth sex and protect their physical and emotional well-being?		
Can the agency house transgender youth in a mixed-gender unit or program?		
Does the agency determine reclassification needs based on requests by youth or based on victimization?		

Following are questions to ask regarding an agency's respectful communication policy for youth:

<b>Respectful Communication with Youth Policy Checklist</b>	<b>YES</b>	<b>NO</b>
Does the agency have a zero-tolerance policy for sexual harassment, including harassment by staff and youth-on-youth harassment?		
Does the agency policy include direction to staff on how to address LGBTQI youth using respectful and appropriate language?		
If the agency policy permits youth to wear clothing other than issued clothing, does the agency policy permit youth to express themselves through clothing or grooming (within the bounds of safety for all youth)?		
Does the agency policy address confidentiality of information, including staff disclosure relating to the privacy and confidentiality of LGBTQI youth?		
Does the agency policy adhere to all confidentiality and privacy protections afforded LGBTQI youth under applicable state law?		
Does the agency policy allow for sharing of information necessary to achieve a particular purpose, such as identifying an appropriate placement in another facility?		
Does the agency policy provide for eligible LGBTQI youth to access programming and services within facilities?		

Following are questions to ask regarding an agency's medical and mental health care policy for LGBTI youth:

Medical and Mental Health Care Policy Checklist	YES	NO
Do the agency medical and mental health protocols include opportunities for LGBTI youth to access services that address self-acceptance and validation, concerns about disclosure of sexual orientation or gender identity, family relationships, healthy intimate relationships, and sexual decision-making?		
Does the agency policy promote the hiring of medical and mental health professionals who have expertise and/or experience in working with LGBTI youth?		
In assessing a youth's medical and/or mental health status, does the agency policy direct medical staff to include an assessment of the youth's safety?		
Do the agency medical and mental health protocols direct those conducting medical screening to inquire about the inmate's sexual activity, sexual orientation, and gender identity, both before and during confinement?		
Do the agency medical protocols provide for gynecological and obstetrical care?		
Do the agency medical protocols provide for HIV and STD testing, care, and confidentiality?		
Do the agency medical and mental health protocols provide for counseling for sexual trauma that occurred either before or during confinement?		
Do the agency medical and mental health protocols provide for mental health evaluations that include assessment of an array of mental health diagnoses, including gender dysphoria?		
Do the agency medical protocols address medical care for transgender youth, including evaluation of their care prior to incarceration?		

Following are questions to ask regarding an agency’s privacy and safety policy for youth:

<b>Privacy and Safety Policy Checklist</b>	<b>YES</b>	<b>NO</b>
Does the agency practice cross-gender supervision of youth? If the answer is “yes” or “no,” explain what that means.		
Does the agency policy address levels of staffing and supervision?		
Does the agency policy address the safety and privacy needs of LGBTI youth in regard to toileting, showering, and sleeping?		
Do transgender or intersex youth have the option of choosing to be strip-searched by staff members of either gender?		
Does the agency policy address search procedures and privacy needs of LGBTI youth?		
Does the agency policy require that youth grievances be tracked, and does the agency collect and analyze information on grievances related to searches?		

Following are questions to ask regarding an agency’s sexual abuse policy for youth:

<b>Sexual Abuse Policy Checklist</b>	<b>YES</b>	<b>NO</b>
Does the agency policy prohibit the sexual abuse of youth in custody?		
Does the agency policy stipulate that staff must receive training regarding the sexuality and sexual behaviors of youth?		
Does the agency policy require the investigation of all reports of violations of policy regarding sexual abuse?		
Does the agency have multiple methods for youth to report sexual abuse, including avenues for third-party, independent reporting?		
Does the agency policy address the treatment and management of youth who report allegations of sexual abuse?		
Does the agency policy define acceptable sexual behavior for youth and sanctions for violations?		
Does the agency policy define the roles and responsibilities of the investigative process into allegations of sexual abuse?		
Does the agency policy (or the investigative entity’s policy) require referral of allegations of potential criminal activity for review by the prosecutor?		
Does the agency policy require a review of reports and investigations of sexual abuse?		
Does the agency policy establish a sexual assault response team?		
Do the agency protocols provide for ongoing medical and mental health care for youth who have been sexually victimized while in custody?		
Does the agency policy recognize particularly vulnerable populations, such as LGBTQI youth, and identify their need for treatment?		