



OREGON YOUTH AUTHORITY
Policy Statement
Part I – Administrative Services



Subject:

Meeting LGBTQQI and Gender Nonconforming Youth Needs

Section – Policy Number:

A: General Administration – 10.1

Supersedes:

N/A

Effective Date:

07/16/2018

Date of Last Review/Revision:

None

Related Standards and References:

- ORS [659A.006](#) Declaration of policy against unlawful discrimination
- ORS [174.100](#) (7) Definitions
- ORS [179.750](#) Equal care and services for persons in state institution
- [Public Law 108-79](#) Prison Rape Elimination Act (PREA) of 2003
- [28 CFR Part 115](#) National Standards to Prevent, Detect, and Respond to Prison Rape Under PREA
- [OAR 416-435](#) OYA Transgender, Gender Nonconforming, and Intersex Youth
- DAS Policy [50.010.03](#): Maintaining a Professional Workplace
- [OYA policy](#): II-A-2.0 Searches of Youth and Youth Property in Facilities
- III-A-4.0 Searches of Youth and Areas; Processing Contraband in Community Placements
- I-A-10.0 Preventing, Detecting, and Responding to Youth Sexual Abuse and Sexual Harassment
- II-D-1.0 Facility Health Services
- II-D-1.1 Therapeutic Levels of Physical Health Care in OYA Facilities
- II-E-8.0 Youth Dress Standards in OYA Facilities
- OYA form: [YA 1504](#) OYA Gender Identity Committee Request
- [YA 1505](#) Transgender and Intersex Youth Safety and Risk Assessment
- [JJIS policy](#): Youth Name/Legal Name
- Attachment A: Acceptable Personal Items for Transgender Youth
- [Oregon LGBTQQI Resources](#)


Related Procedures:

- None

Policy Owner:

Office of Inclusion and Intercultural Relations Manager

Approved:



 Joseph O'Leary, Director

I. PURPOSE:

This policy establishes standards for OYA staff to follow when responding to LGBTQQI and gender nonconforming youth needs.

II. POLICY DEFINITIONS:

Bisexual: A person who is romantically or sexually attracted to more than one gender or sexual category.

Discrimination: Any act, policy or practice that penalizes or disadvantages youth or subjects them to harassment based on actual or perceived race, ethnicity, religious belief, national origin, gender, physical or mental disability, sexual orientation or gender identity.

Exigent circumstances: Any set of temporary or unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility, community program, or the community.

Gay: The adjective used to describe people whose enduring physical, romantic, and/or emotional attractions are to people of the same sex (e.g., gay man, gay people). Sometimes lesbian (n. or adj.) is the preferred term for women.

Gender: The socially constructed roles, behaviors, activities, and attributes that a given society typically or historically assigns to men and women.

Gender expression: The manner in which a person expresses gender through clothing, appearance, behavior speech, etc. Gender expression is distinct from sexual orientation and gender identity.

Gender identity: Refers to a person's internal, deeply-felt sense of being male, female, or non-binary; distinct from sexual orientation.

Gender nonconforming: A person's physical appearance and characteristics or behaviors that do not conform to those typically associated with the person's assigned sex at birth or traditional societal gender expectations.

Informed consent: The agreement by a patient (age 14 and over for mental health treatment, and age 15 and over for medical treatment) to treatment, examination or procedure after the patient receives facts regarding the nature, consequences, and risks of the proposed treatment, examination or procedure. Informed consent requires that the person giving the consent understand the facts, implications, and potential consequences of an action.

Intersex: A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

Lesbian: A woman whose enduring physical, romantic, and/or emotional attraction is to other women. Some lesbians may prefer to identify as gay (adj.) or as gay women.

LGBTQQI: People who have identified themselves or may be perceived as lesbian, gay, bisexual, transgender, queer, questioning, or intersex.

Queer: An adjective used by some people, particularly younger people, whose sexual orientation is not exclusively heterosexual (e.g., queer person, queer woman). Typically, for those who identify as queer, the terms lesbian, gay, and bisexual are perceived to be too limiting or fraught with cultural connotations they feel don't apply to them. Some people may use queer, or more commonly genderqueer, to describe their gender identity or gender expression.

Questioning: An active process in which a person explores their own sexual orientation or gender identity and questions the cultural assumptions that they are heterosexual or gender conforming.

Transgender: A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

III. POLICY:

OYA provides an inclusive, safe and positive human development environment for all youth in its custody, including youth who identify as lesbian, gay, bisexual, transgender, queer, questioning, or intersex (LGBTQQI). OYA collaborates with its youth and community members to create opportunities for emotional growth and community awareness. OYA supports and fosters an environment where LGBTQQI youth may develop and explore their self-identities by offering access to the following:

1. Health and wellness information;
2. Apparel and appearance resources;
3. Cultural events; and
4. Youth development activities.

OYA provides services for LGBTQQI youth in a fair, respectful, and culturally competent manner recognizing and addressing the individual needs of youth as prescribed in this policy.

OYA staff must treat all youth respectfully and without harassment and discrimination with consideration of each youth's individual circumstances, including race, ethnicity, religious beliefs, national origin, sex, physical or mental disabilities, sexual orientation, gender identity, gender expression, or intersex status.

IV. GENERAL STANDARDS:

A. Training

In order to raise the awareness of and capacity for staff to respond to gender identity, gender expression, sexual orientation and intersex youth needs in all OYA locations, Office of Inclusion and Intercultural Relations (OIIR) staff must deliver or coordinate LGBTQQI awareness training –

1. During each new employee orientation cohort; and
2. When determined necessary by OYA.

B. Staff must report any alleged discriminatory or harassing behavior by another staff member or youth against a youth that may be in violation of this policy, or OYA policy I-A-10.0 Preventing, Detecting, and Responding to Youth Sexual Abuse and Sexual Harassment.

C. Youth disclosure

Staff must attempt to create an environment that is safe and welcoming for all youth.

1. In OYA facilities, designated staff must provide the opportunity for youth to identify as LGBTQQI or gender nonconforming during the intake process described in OYA policy I-A-10.0 Preventing, Detecting, Responding to Youth Sexual Abuse and Sexual Harassment.
2. If a youth discloses an LGBTQQI or gender nonconforming status, staff must ask the youth to what extent they want to share this information and with whom. The youth's response must be documented in a JJIS restricted case note.
3. Staff must inform the youth that in order to provide needed accommodations or services, the youth's status as LGBTQQI or gender nonconforming may be shared with other staff or providers as needed.
4. Staff disclosure of information related to a youth's LGBTQQI status must be limited to information necessary to achieve a specific purpose.

D. OYA Gender Identity Committee (GIC)

1. The GIC may review and make decisions on the appropriate placement, care, and management of transgender, gender nonconforming, and intersex youth upon intake to an OYA facility, and in response to transgender, gender nonconforming, and intersex youth requests for accommodations or needs. The GIC may also give recommendations to Community Services staff regarding OYA community transgender and gender nonconforming youth needs upon request.
2. The GIC must have a charter approved by the OYA Cabinet.
3. GIC members must complete LGBTQQI awareness training.
4. Form YA 1504 OYA Gender Identity Committee Request
 - a) Staff must inform youth of an option to request accommodations or needs by completing a YA 1504 form.
 - b) Staff must inform youth to request mental health or physical health specific accommodations or needs on a YA 1504.

E. Youth placement and housing

Housing and programming decisions are made on a case-by-case basis based on a youth's health and safety, and if the placement would present management or security problems.

1. Specialized placement

The OYA GIC may recommend placing a youth who identifies as transgender or intersex in a location consistent with the youth's stated gender identity. The OYA GIC will evaluate the youth's need and safety to determine whether a specialized placement is reasonable and possible.

2. The OYA PREA coordinator must reassess transgender and intersex youth close-custody placements at least twice a year to review any threats to safety experienced by the youth. Each reassessment must be documented on a [YA 1505](#) (Transgender and Intersex Youth Safety and Risk Assessment) form and retained by the PREA coordinator.

3. Sleep quarters in OYA facilities

a) Staff must not require youth to sleep in individual quarters or be placed in specific housing based solely on their sexual orientation, gender identity, or intersex status.

b) Staff may only require a youth to sleep in individual quarters when there is a perceived or actual threat of safety to the individual youth or the other youth on the living unit if they sleep in the same quarters. The youth may be placed on a sleep program, in compliance with OYA policy II-B-1.2 Use of Time-out, Room-lock Other, Isolation, and Safety Programs.

c) Staff may allow a youth who reports feeling safer sleeping in an individual room to do so when a room is available for such purpose. If an individual sleeping room is not available, staff must discuss alternative safety planning with the youth. The youth may be placed on a sleep program, in compliance with OYA policy II-B-1.2 Use of Time-out, Room-lock Other, Isolation, and Safety Programs.

4. Release planning

Staff must review whether or not a community resource supports LGBTQQI and gender nonconforming youth needs before a referral is made to that specific community resource for such youth.

F. Medical and mental health services

1. Youth in OYA facilities

a) Health Services staff must provide appropriate medical information and health services for all youth inclusive of LGBTQQI and gender nonconforming issues. (See OYA policies II-D-1.0 Facility Health Services, and II-D-1.1 Therapeutic Levels of Physical Health Care in OYA Facilities.)

b) Qualified mental health professionals (QMHP) must offer appropriate counseling and information to LGBTQQI and gender nonconforming youth related to the youth's identity, gender expression, sexual orientation, or intersex condition, if needed.

2. JPPOs must ensure transgender youth who receive Oregon Health Plan benefits are aware of the plan's guidelines for gender identity treatment. JPPOs will also collaborate with substitute care providers of these youth to ensure the providers are aware of OHP guidelines.

G. Language and name

1. A youth's primary case manager must note a transgender or intersex youth's consistently-preferred name and pronouns in the youth's JJIS "Youth Info" tab, in the "Notes" field (e.g., Preferred Name: Samantha. Preferred pronouns: her, she).
2. Staff must use a transgender or intersex youth's preferred name and pronouns (including gender-neutral pronouns) when referring to the youth, except as indicated below.
3. Staff must use the youth's legal name for all written records including court documents, medical records, clinical or other service referrals, demographical JJIS entries, and when requested by the youth.

If a youth legally changes their name while in OYA custody, staff will use the new legal name on the above-listed documents beginning when OYA receives the court order for the name change (not retroactively).

H. Clothing, grooming, and personal items

1. In OYA facilities, staff may respond to requests by transgender and intersex youth for clothing, undergarments, grooming items, and other personal items that are consistent with the youth's gender identity, or may forward such requests to the GIC for consideration.

Items listed in Attachment A: Acceptable Personal Items for Transgender Youth may be approved without GIC consultation.

2. In community placements, OYA staff must collaborate with community placement staff when responding to requests by transgender and intersex youth for clothing, undergarments, grooming items, and other personal items that are consistent with the youth's gender identity, or may forward such requests to the GIC for consideration.
3. Each request must be considered and evaluated on a case-by-case basis.

4. In responding to such requests, staff or the GIC must consider the youth's individual circumstances, including but not limited to the youth's gender identification, gender expression, behavior and programming needs, safety, mental health, and medical needs and diagnosis.
5. In responding to such requests of OYA facility youth, facility staff or the GIC must also consider the safety and security of the facility, staff, and other youth.
6. Any clothing, grooming items or other personal items provided to youth in OYA facilities following approval of such a request must be consistent with:
 - a) OYA rules and policies pertaining to male/female programs; and
 - b) The youth's case plan.

I. Bathrooms and showers in OYA facilities

1. Staff must provide transgender and intersex youth the opportunity to shower and dress/undress separately from other youth.
2. Staff must not require LGBTQQI or gender nonconforming youth to shower separately, dress/undress separately, or use different bathrooms based solely on actual or perceived gender identity or sexual orientation.

Staff may only ask a youth to shower separately from other youth when there is a perceived or actual threat to the individual youth's safety, or to the safety of other youth, if they shower together.

3. If LGBTQQI or gender nonconforming youth report safety concerns with using bathrooms or showers designated for all youth use, staff must discuss safety planning with the youth. Any safety-based action must have a specific, documented, credible basis and must not be solely based on a sexual orientation or gender identity reason.

J. Searches and supervision of transgender or intersex youth

1. Upon a transgender or intersex youth's initial commitment to OYA, designated staff must ask the youth whether the youth prefers that a male or female staff conduct the youth's required physical and visual searches; and may ask the youth their preference regarding supervision of showering and toileting, if necessary.
2. If the preferred staff is not the same sex as the youth, staff must ensure the youth documents the request by completing a [YA 1504](#)

- a) A manager from the facility or field supervisor and the Development Services assistant director must review the request for approval or denial, when possible within two hours of receiving the request. The decision is based on a review of intake information and youth history.
 - b) The GIC must also review and approve or deny the youth's preference. An expedited GIC review may be requested by e-mail or by phone. Until the GIC has finished its review, staff must follow the manager and Development Services assistant director's decision.
3. Staff must accommodate the youth's stated preference, except if the initial decision or GIC has denied the accommodation, or during exigent circumstances.
4. If a youth who did not identify as transgender or intersex upon OYA commitment or during initial intake into an OYA close-custody facility later identifies as transgender or intersex, staff must ask the youth about their preferred gender searches; and supervision of showering and toileting, if necessary.
 - a) If the preferred staff is not the same sex as the youth, staff must ensure the youth documents the request by completing a [YA 1504](#).
 - b) The GIC must review the YA 1504 and approve or deny the youth's request. An expedited GIC review may be requested by e-mail or by phone.
 - c) Until the GIC has finished its review, same-sex staff will search the youth.
5. Staff must document the youth's approved request in JJIS "Alert" as "Search – Requires Female/Male (one is selected) staff," for future reference.
6. Staff who are trained in searching youth must perform the search according to OYA policy II-A-2.0 Searches of Youth and Youth Property in Facilities, or OYA III-A-4.0 Searches of Youth and Areas; Processing Contraband in Community Placements.
7. Facility staff must document preferred searches in JJIS Unit Logs.
8. If a preferred staff member is not available or able to perform the search, staff must document that fact in a JJIS Unit Log (OYA facilities) or JJIS case note (community). This includes searches during exigent circumstances.
9. Transgender or intersex youth who have been approved for preferred gender searches and supervision may request to change their preference by completing a YA 1504.

- a) An ad hoc GIC meeting, including representatives from the youth's treatment team, must review the request for approval or denial within two business days of receiving the request.
- b) Staff must document the GIC's decision in JJIS "Alert" as "Search – Requires Female/Male (one is selected) staff," for future reference.

K. Substance use urinalysis testing

1. Staff must ask a transgender or intersex youth whether the youth prefers that a male or female staff conduct the youth's urine collection process when a urine sample is required for substance use testing.
2. If the preferred staff is not the same sex as the youth, the GIC must review and approve or deny the youth's preference.
3. Staff must accommodate the youth's stated preference, except during exigent circumstances, when a preferred staff is not available, or the GIC has denied the accommodation.

V. LOCAL OPERATING PROTOCOL REQUIRED: NO

Attachment A: Acceptable Personal Items for Transgender Youth

The below-listed items have been approved for transgender youth:

1. Underclothes of the youth's identified gender (e.g., sports bra, boxers);
2. Binders.