Center
for the
Study
of
Social
Policy

A **Blueprint** for **Progress**

A POLICY GUIDE
FOR ADVOCATES
SUPPORTING LGBTQ YOUTH OF COLOR
IN CHILD WELFARE SYSTEMS

TABLE OF CONTENTS

Acknowledgments

Terminology **Note**

*For the purpose of this guide we use the term **LGBTQ** in a way meant to be expansive and inclusive. There are many other acronyms that reflect the diverse range of sexual orientations, gender identities and gender expressions. However, we use LGBTQ to be uniform and to be brief. Language is constantly evolving, and so is this acronym. Through our work with youth and families we know that these categories are not always the most welcoming or appropriate terms. For example, youth may identify as gender queer or gender fluid. The term gender nonconforming or GNC is also frequently used in the field. Some youth with tribal affiliation identify as two-spirited.*
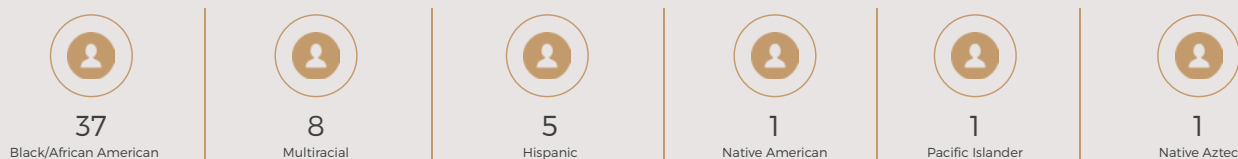
METHODOLOGY

This advocacy guide is driven by recommendations from LGBTQ youth of color from around the country who have had child welfare involvement and is further supported by research and program evidence. In focus groups and individual interviews conducted by the Center for the Study of Social Policy (CSSP) in the spring of 2016, 53 youth shared their experiences with child welfare including (but not limited to) elements related to their placement, ability to participate in affirming and support activities, education, safety and health care.

Focus group and interview protocols were developed through a youth-informed process. Youth participation in either the focus groups or individual interviews was voluntary and contingent upon their understanding that their identity will remain confidential and the de-identified information they shared with CSSP staff and consultants would be used by CSSP in written products and other forms of communication. Youth ranged in age from 18 to 31 and self-identified as black or African American (N=37), multiracial (N=8), Hispanic (N=5), Native American (N=1), Pacific Islander (N=1) and Native Aztec (N=1). About one-fifth of youth involved identified as transgender (N=5) or gender non-conforming (N=6); 13 youth identified as bisexual, 12 identified as gay, 14 identified as lesbian, 2 identified as pansexual, one identified as straight but was questioning and two elected not to disclose their sexual orientation or gender identity. Interviews and focus groups were conducted in 16 states and 20 jurisdictions. Geographical information used in specific quotes in this guide has been removed to protect youth's identity. Focus groups and interviews were conducted for the sole purpose of agency improvement and public policy reform and are not held as a representative study or research.

FOCUS GROUP PARTICIPANT DEMOGRAPHICS

37	8	5	1	1	1
Black/African American	Multiracial	Hispanic	Native American	Pacific Islander	Native Aztec

INTRODUCTION

All youth involved in the child welfare system deserve to feel safe and affirmed as they navigate critical developmental periods in their lives. This is especially important for youth who experience disparate outcomes—specifically those who identify as lesbian, gay, bisexual or questioning (LGBQ) or who are transgender or gender nonconforming and young people of color. These young people are over-represented in child welfare and other intervening public systems when compared to their white and heteronormative peers. A forthcoming study using data from the nationally representative National Survey of Child and Adolescent Well-Being II (NSCAW-II) estimates that approximately **22.8 percent of children in out-of-home care identified as LGBQ**. These numbers are even starker when disaggregated by race, with data indicating that approximately **57 percent of all children in out-of-home care who identify as LGBQ are youth of color**.[1] These estimates underestimate the true prevalence of youth who identify as LGBTQ in out-of-home care as they do not include youth who may identify as transgender or gender nonconforming or who are not comfortable sharing their identity.

Youth who identify as LGBTQ are more likely to experience disparities in education,[2] bullying in schools,[3] housing instability,[4] youth probation[5] and homelessness[6] when compared to their heterosexual, gender conforming peers. Moreover, they are more likely to experience family rejection as a result of their sexual orientation or gender identity and face a heightened risk of child welfare involvement.[7] Once involved in the child welfare system, these youth are more likely than their peers to experience placement instability[8] and poor mental and behavioral health outcomes.[9] Throughout their involvement with the child welfare system, youth who identify as LGBTQ, particularly youth of color, must navigate compounding systems of racial, gender and heterosexist oppression.

To meet the specific needs of youth in foster care, it is critical to consider the interconnectedness of factors, including race, ethnicity, ability, class, sexual orientation, gender identity, gender expression and immigration status, and the ways in which systems discriminate based on these overlapping and interdependent identities. Supporting youths' healthy identity formation must occur with these intersecting identities in mind and also take into account the impact of related stigmas.

The following policy recommendations—shaped by system-involved youth of color who identify as LGBTQ and informed by research and evidence—are intended to serve as a blueprint for advocates, leaders and service providers as they collaborate across systems to better support and affirm these youth. In general, these recommendations fall under three categories:

57%

Of Children in Out-of-Home Care Who Identify as LGBQ Are Youth of Color

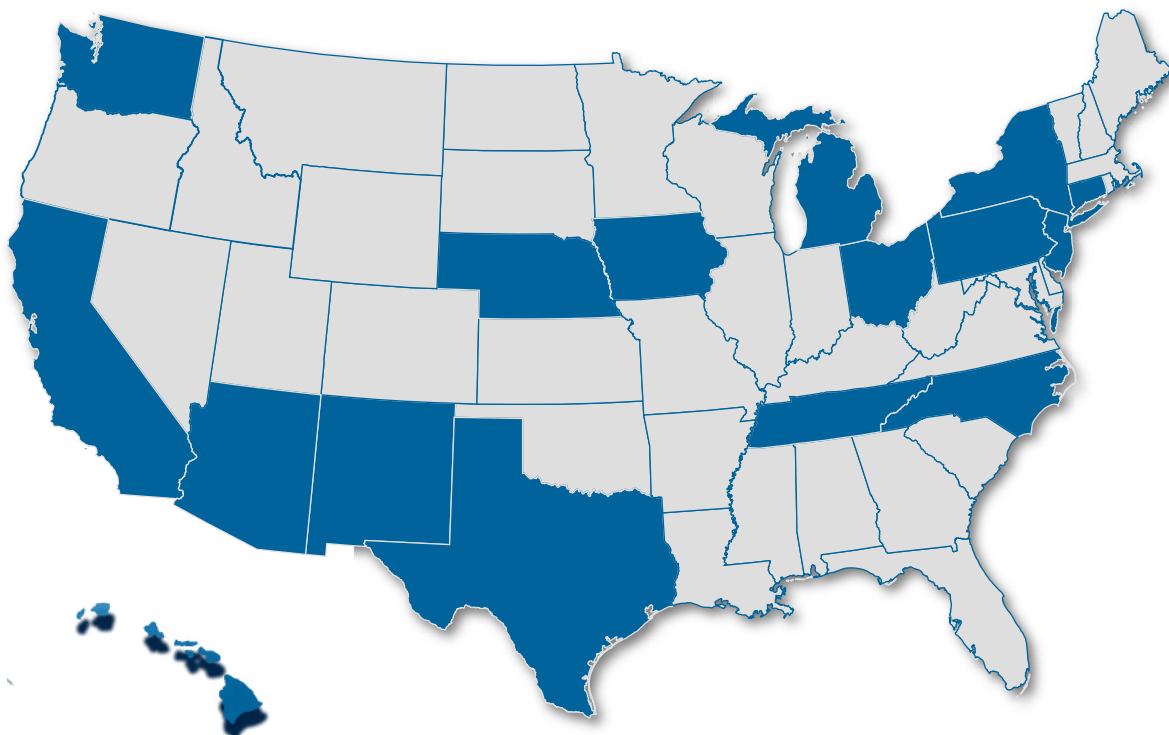| 1 | Ensure all youth are safe and have the resources necessary for healthy development | 2 | Promote the well-being of LGBTQ youth in out-of-home care | 3 | Commit to achieving permanency for LGBTQ youth |

Tie non-discrimination policy to federal funding

Youth placements, service referrals and case plans should not be based on a youth's sexual orientation or gender identity, nor should an institution treat an LGBTQ youth differently in its provision of care and services. Tying comprehensive non-discrimination policies to receipt of federal funding is a strategy used by the Departments of Justice and Health and Human Services to ensure enactment of protections in state law. Recently, these Departments issued technical assistance guidance[10] regarding nondiscrimination on basis of race, color, or national origin in child welfare under Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations. The guidance clarifies what types of child welfare programs and activities are covered by Title VI; whom Title VI protects in child welfare programs and activities; factors a federal agency will consider to determine whether a recipient has engaged in intentional or disparate impact discrimination prohibited under Title VI; and, how Title VI protects individuals who do not speak, read, write or understand English. Advocates should work to ensure the inclusion of sexual orientation and gender identity and expression in these protected classes.

FOCUS GROUP & INTERVIEW LOCATIONS

■ = Completed interview/focus group site

1 ENSURE **ALL YOUTH** ARE SAFE AND HAVE THE RESOURCES NECESSARY FOR HEALTHY DEVELOPMENT

Policies and programs must be implemented in ways that respect and value all youth and support and affirm their sexual orientation, gender identity or gender expression (SOGIE). They must also highlight the importance of acceptance and cultural responsiveness throughout services and agencies.

Advocates must work to ensure that all youth are connected with appropriate services and that an integrated framework is in place to support all youth's sexual orientation, gender identity and expression throughout systems.

Promote safe schools.
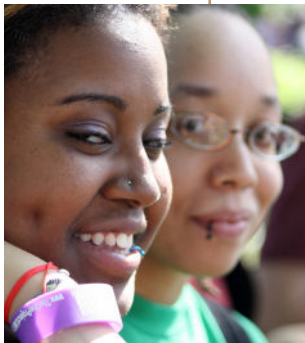
Promote comprehensive anti-bullying policies in schools.

More than half of all LGBTQ youth experience verbal or physical harassment in schools,[11] and as many as one in five LGBTQ youth have reported bullying due to race, ethnicity or national origin.[12] Anti-bullying regulations in schools must include harassment based on sexual orientation, gender identity and expression, and they must be accompanied by clear enforcement and accountability measures.

The Illinois Prevent School Violence Act

The **Illinois Prevent School Violence Act**[13] defines and explicitly prohibits bullying based on actual or perceived sexual orientation and gender identity or expression, as well as other personal characteristics. Bullying is defined within the act as "any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student." The law also establishes the Illinois School Bullying Prevention Task Force to act as an ongoing monitor for the state. Bullying is prohibited in school, on school property, in school vehicles, at bus stops, during any school-sponsored or school sanctioned education program, event, or activity and through the use of a school computer or computer network.
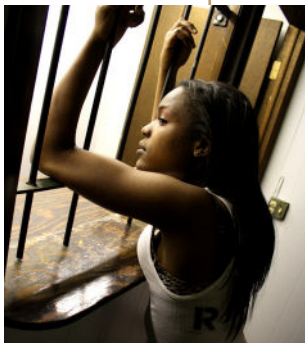
End zero tolerance policies and promote restorative justice practices.

Zero tolerance policies often result in youth referrals to juvenile or criminal justice systems for behavior symptomatic of trauma, such as fighting with peers or talking back to teachers. Zero tolerance policies disproportionately result in the suspension and expulsion of youth of color. These policies should be replaced with ones that promote restorative justice,[14] which encourages young people to come up with meaningful reparations for their actions while challenging them to develop empathy for one another.

Ensure LGBTQ youth are safe and affirmed in their placements.

Recruit placements that are affirming of all aspects of a youth's identity, including sexual orientation, gender identity, gender expression, race, ethnicity and ability.

Potential foster parents must be able to demonstrate their ability to promote the physical, mental and socio-emotional well-being of a child placed in their care, including supporting and respecting all aspects of a child's identity. Advocates should encourage agencies to reassess foster parent recruitment strategies to ensure they fully support all LGBTQ youth. They should also recruit families who may not be currently sought after but who are willing and able to provide safe, stable and affirming placements for LBGTQ youth.

San Francisco

In collaboration with the **City and County of San Francisco Human Services Agency**,[15] Family Builders launched a public service campaign featuring posters that encourage all types of families to consider adopting a child from foster care. The organization collaborates with community leaders and organizations to ensure that recruitment efforts are culturally appropriate and effective, noting that "we need everybody—gay or straight—to step up to provide safe and stable care in an accepting and welcoming family environment for our LGBTQ youth."

What Does It Mean To Be Affirming?

For youth, safety extends beyond physical safety to a more holistic need for emotional and social support. When youth were asked to define safety and affirmation in focus groups and interviews, they consistently highlighted the need for foster placements to acknowledge their multiple identities –including race, ethnicity, sexual orientation and gender identity and expression – and encourage their development and exploration of these identities. Many youth noted that their feelings of rejection because of their race or ethnicity while in foster care made them feel that they could not disclose their SOGIE. In creating safe and affirming environments, systems must address these overlapping and complicated issues in comprehensive ways to truly meet the needs of children and youth.

Work with foster parents and relative caregivers to be supportive of LGBTQ youth.

Foster parents (both current and prospective) should have access to ongoing training, coaching and best practice resources to better support and affirm the sexual orientation, gender identity and expression of youth in their care. Advocates should urge agencies to continue to reassess and revise foster parent and relative caregiver training curriculum as new knowledge and best practices emerge.
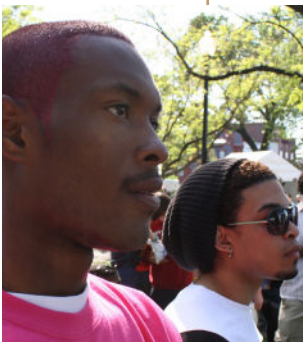
Ensure youth in all out-of-home placements have the ability to express their gender identity.

This includes ensuring youth have the ability to choose their own clothing, hairstyles, facial hair, makeup and decoration of personal space while in care.

Promoting Gender Expression through Clothing Choice

Fifteen states and the District of Columbia ensure children in child welfare have the right to participate in choosing their own clothing while in foster care, when age appropriate. Two states, **California and Ohio**, require children and youth to be provided clothing in accordance with their gender identity.[16]

Encourage foster parents and staff in congregate care settings to signal that the environment is safe and affirming of youth's sexual orientation, gender identity and expression.

Many youth fear coming out in a foster care setting to avoid negative consequences or retribution. Providers can better signify to youth that they are affirming through their actions and words but also through simple or symbolic means, like displaying a rainbow magnet on the refrigerator.

One youth who moved from different foster homes in different states said that he did not feel that he could disclose his sexuality because he did not know how his foster parents would react.

" I think it would have helped me if I would have known that my foster mom or my foster dad were ok with [my sexuality]. I never knew if I could disclose it, and I never did. And I think that's where a lot of my outlashing, my attitude, my anger, my depression and my rebellion came from. I felt like nobody understood me. If there was some sort of way for me to know that they were conscious of me and my sexuality and what I'm dealing with, they wouldn't even have had to sit there and say it, but even just providing the environment and that thought process, I think that would have helped me. (West)

Integrate support for youth's sexual orientation, gender identity and expression (SOGIE) throughout child welfare regulations.

Forbid discrimination and harassment based on sex, sexual orientation, gender identity and expression.

These policies must be accompanied by clear definitions of these terms and clear enforcement and accountability measures.

New York State Regulations

New York child welfare licensing regulations define gender identity or expression as "having or being perceived as having a gender identity, self-image, appearance, behavior or expression whether or not that gender, identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth." They define gender identity as "a person's internal sense of self as male, female, no gender, or another gender" and gender expression as "the manner in which a person expresses his or her gender through clothing, appearance, behavior, speech, or other like."[17]

Promote inclusive written and verbal communications, ongoing diversity training and comprehensive employment guidelines for child welfare agencies.

An understanding of and respect for issues that arise at the intersection of a youth's multiple identities, including race, ethnicity, class, ability, sexual orientation, gender identity and gender expression, must be central to these resources. Resources and trainings should cover such topics as

❑ language use
❑ lived experiences of LGBTQ youth in and aging out of foster care
❑ implicit biases and the ways in which an institution can mitigate their impact through welcoming and affirming environments, messaging and space for workers to reflect upon and consider their bias in decision-making

Promote youth's healthy sexual orientation and gender identity development.


Ensure the practice framework and basic competency training and coaching that child welfare and other social service agencies use will promote children and youth's healthy development.

Pre-service and ongoing trainings should include human sexuality, SOGIE development, issues specific to LGBTQ youth, responsiveness to racial and gender disparities and the ways in which these issues overlap and intersect with each other. Additionally, agencies should support ongoing coaching, assistance and guidance for workers, supervisors and staff outside of training workshops. These trainings must emphasize early intervention with families to promote family unity, intensive family reunification and prevent placement in foster care.

Ensure sex education that is inclusive of LGBTQ relationships is provided by publicly funded sexual education courses.

Comprehensive sexual education should include healthy relationship building; understanding sexuality and sexual development; sexual orientation and gender identity; and preventing pregnancy, sexually transmitted infections and HIV as they relate to all sexual orientations and gender identities and expressions.

22.8% OF ALL CHILDREN IN OUT-OF-HOME CARE IDENTIFIED AS LGBQ IN A FORTHCOMING STUDY.
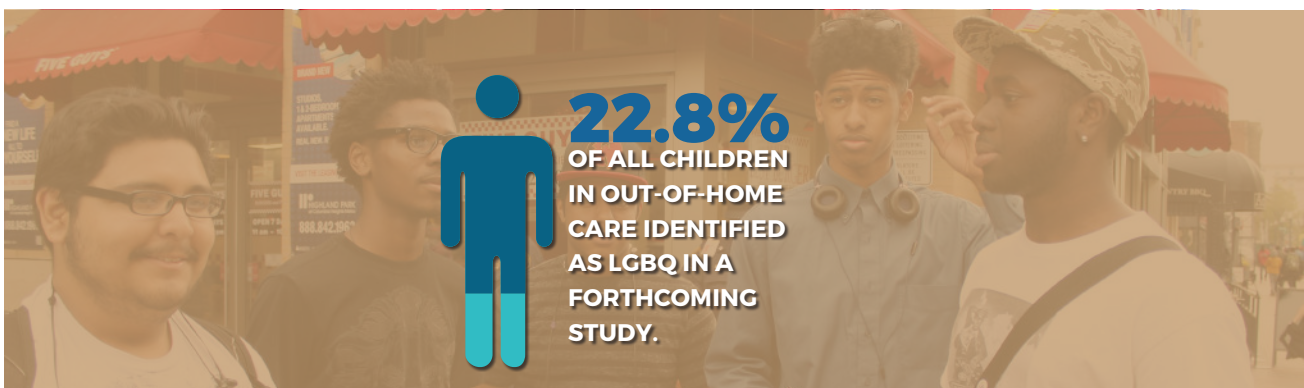
2 | PROMOTE THE **WELL-BEING** OF LGBTQ YOUTH IN OUT-OF-HOME CARE

Youth of color who identify as LGBTQ often experience differing rates of family rejection and parental support compared to their cisgendered peers, which contributes to stark disparities in educational, mental and behavioral health outcomes.[18] To reduce these disparities and ensure the same entitlement afforded to all children in care, systems must address past trauma and ensure the safety, permanency and well-being of LGBTQ youth, particularly LGBTQ youth of color. Strategies should include reducing over-reliance on congregate care, using placement procedures that are supported by research and evidence, appropriately implementing reasonable and prudent parenting standards and promoting access to external supports.

Promote the least restrictive, most family-like setting possible for all youth in foster care.

Reduce over-reliance on congregate care.

Youth of color are more likely to be placed in congregate care settings, and as many as one out of every four LGBTQ youth in a congregate care setting will exit care without achieving permanency. To reduce this disparity, advocates should promote strategies to develop appropriate family-based alternatives to congregate placements with thorough consideration of the characteristics of those most at risk for placement in congregate care settings, including race, sexual orientation, gender identity and expression.

Ensure youth who are transgender or gender nonconforming are placed in housing according to their gender identity.

Without explicit regulations governing placement procedures, administrators often place youth by their sex assigned at birth or in "protective" administrative segregation. Regulations that require administrators to consider a youth's vulnerability to sexual victimization or likelihood toward sexual aggression* also often result in transgender or gender nonconforming youth being placed in isolation. Placing a youth in this type of protective isolation can be particularly harmful, especially for a young person who is just beginning to navigate identity development.

* Note: "Sexual aggression" is a harmful classification term in detention settings that often perpetuates bias and discrimination faced by transgender and gender nonconforming youth outside intervening public systems.

California Senate Bill 731

California Senate Bill 731[19] gives critical guidance to child welfare workers regarding the placement of transgender youth in out-of-home care. The bill specifies that foster youth have the right to be placed according to their gender identity, regardless of the sex listed in their court or child welfare records.

Ensure access to timely and appropriate health care services.
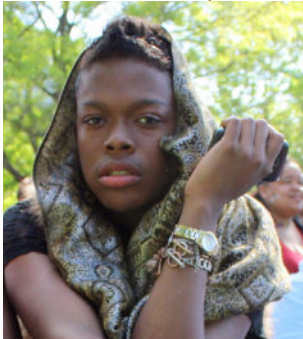
Promote access to basic health care benefits and health services related to gender transition.

The U.S. Department of Health and Human Services Office of Civil Rights issued a final rule, "Non-Discrimination in Health Programs and Activities"[20] that prohibits a state Medicaid program from having or implementing any categorical coverage exclusions for health services related to gender transition. However, the rule does not restrict state Medicaid programs from determining whether any particular service meets medical necessity requirements. State policymakers should eliminate categorical prohibitions for state Medicaid dollars to be used for services related to sex reassignment.

Pennsylvania Department of Human Services

The Pennsylvania Department of Human Services recently issued guidance[21] related to implementing this final rule ensuring that services covering gender transition will be compensable under the Medical Assistance (MA) Program when medically necessary. The services are covered as long as they are within a beneficiary's scope of covered MA benefits, such as physician's services, inpatient and outpatient care and prescribed medications. Under this guidance, all department agencies and managed care Organizations will use the World Professional Association for Transgender Health (WPATH) Standards of Care as guidelines for determining medical necessity for gender transition services.

Prohibit the use of conversion therapy.

Conversion therapy—sometimes known as "reparative" or "sexual reorientation" therapy—is a dangerous practice that purports to change a person's sexual orientation. This practice has been discredited by virtually all major American medical, psychiatric, psychological and professional counseling organizations. Advocates must work to end its use.

Illinois Youth Mental Health Protection Act

The Illinois Youth Mental Health Protection Act of 2015[22] bans sexual orientation change efforts and conversion therapy. Under this law, "sexual orientation change efforts" or "conversion therapy" means any practices or treatments that seek to change an individual's sexual orientation, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex.

Target efforts to address human trafficking.

Change language related to Commercially and Sexually Exploited Children (CSEC).

The use of overly technical language surrounding sex trafficking and survival sex combined with the pathologizing of youth participation in these activities results in the under-reporting and misidentification of youth victims of sex exploitation and trafficking or youth not recognizing themselves as a victim of CSEC. Many youth engage in survival sex as a means of protecting themselves and avoiding the abuse and potential violence they sometimes face in youth shelters or foster care. Systems must change language in all places where youth may be identified as a CSEC victim including on intake forms, in interviews and other points of contact.
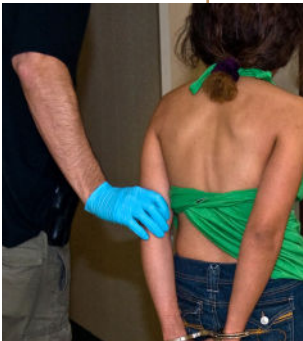
Ensure victims of sexual exploitation are not charged or treated as criminals for participating in sex work.

Efforts to address trafficking directly should not treat victims as criminals for the acts that are a direct consequence of their victimization.

New Jersey

In **New Jersey**,[23] children involved in sexual exploitation are immediately recognized as victims of a crime in need of protection and services, granted immunity from prosecution and diverted from juvenile delinquency proceedings and are directed to child welfare services. Victims receive state services and protection, including counseling, job assistance, housing, continuing education, legal services or a human trafficking caseworker.

Improve cross-system connectivity with non-discriminatory shelters or drop-in centers, housing resources and gender-affirming health care providers.

The agencies and services that are most often relied upon by youth who have been trafficked or engaged in survival sex must prioritize youth safety through coordinated and collaborative service provision and referrals.

Appropriately implement reasonable and prudent parenting standards.

Ensure foster parents and kinship caregivers—who make caregiving and supervisory decisions daily—take into account the developmental needs of the young person in their care.

Youth in care are often denied the opportunity to participate in activities that are otherwise seen as indispensable for social and emotional development. It is critical that the whole identity of a young person is taken into account when determining whether an activity is in their developmental best interest and that a predetermined list of activities is used in making these decisions.

New Mexico

New Mexico[24] child welfare licensing regulations require foster parents, when implementing the reasonable and prudent parenting standard, to consider the desires of the child in their care, including those related to their cultural, spiritual and gender identity and sexual orientation.

Create feedback and accountability measures to determine whether young people are benefiting from policy and practice guidance on implementing reasonable and prudent parenting standards.

These measures should include an external body, like the office of an ombudsman that is accessible to youth, has the ability to respond to both individual and systemic issues and has the authority to hold systems responsible for meeting its recommendations.

ONCE INVOLVED IN THE CHILD WELFARE SYSTEM, LBGTQ YOUTH ARE MORE LIKELY THAN THEIR PEERS TO EXPERIENCE PLACEMENT INSTABILITY AND POOR MENTAL AND BEHAVIORAL HEALTH OUTCOMES.

Promote access to external supports.

Encourage connections to supportive and affirming family relationships where they exist, and to other peer and community LGBTQ support groups.

For all youth, it is critical to feel encouraged, validated and supported in their identity development. While many children in foster care do not disclose their sexual orientation or gender identity before entering the child welfare system, others enter foster care because of familial rejection directly connected to their sexual orientation or gender identity. It is critical to ensure LGBTQ youth in care feel connected and supported by a larger community whenever safe and possible.

Washington State

Washington state[25] requires foster parents to connect a child with resources that meet their needs regarding sexual orientation and gender identity, including cultural, education and spiritual activities in their home or community and provides as¬sistance through their licensor, the child's social worker or case manager to connect foster families with those resources.

Youth who identify as LGBTQ are more likely to experience family rejection as a result of their sexual orientation or gender identity and face a heightened risk of child welfare involvement.

Youth who identify as LGBTQ are more likely to experience disparities in education, bullying in schools, housing instability, youth probation and homelessness when compared with their peers.

3   COMMIT TO ACHIEVING **PERMANENCY** FOR LGBTQ YOUTH

LGBTQ youth, like all youth in the child welfare system, are entitled to system efforts to promote stable permanency and healthy, culturally appropriate and lasting relationships with at least one committed adult. It is important for strategies for older youth to remain focused on achieving permanency and to do so with the young person's identity, experiences and needs in mind. Permanency also involves reliable, continuous and healthy connections with siblings, birthparents, extended family and networks of other supports identified by youth and families. Although reliable data on youth after they have left the system are difficult to find, a study in San Francisco County found 8 percent of youth reported returning to live with their biological families within one to two years of their emancipation.[26] Though not nationally representative, of the youth involved in our focus groups and individual interviews, 19 percent (n=10) were living at home with a parent or with a family member. Advocates should prioritize individualized placement decisions that are in line with each youth's permanency goal, promote supportive networks defined by youth and support older youth with their transition to adulthood and where possible, with maintaining and repairing connections with family.

Support family engagement models and kinship designations as defined by youth.

Incorporate youth-defined supports and maintain family engagement when possible.

Youth are experts in their own experiences and their views should be prioritized when defining family and family supports. Supportive and affirming familial relationships are critical to healthy development and well-being, and it is critical to ensure LGBTQ youth in care feel connected and supported by a their immediate, extended and chosen families whenever safe and possible. Flexibility in promoting family acceptance, placement with youth's chosen family or individualized kinship placements are particularly important to achieving permanency for youth who identify as LGBTQ.

Remove barriers to successful kinship placements.

Family reunification, engagement and kinship placements are necessary priorities in increasing LGBTQ foster youth permanency and overall well-being. However, many states have foster care licensing standards that are not achievable for kin and disproportionately affect minority families, including non-safety related rules such as shared bedrooms or a lack of immigration status. Advocates should target strategies toward reducing barriers to kinship placements, including

- ❑ modifying licensing regulations to waive onerous training, education or physical home requirements for kinship placements
- ❑ promoting broader definitions of kin to include adults who are related to a family by blood, marriage or adoption, and people who have a close "family-like" relationship, even if they are not related by blood

Support older youth as they transition to adulthood.

Promote healthy identity development in aftercare service contracts.

When young people are emancipating from the child welfare system, it is important to provide services and supports that help them make that transition successfully including those that foster community connections and that ensure young people are supported in meeting their basic needs.

> "There's just that one family member that you feel safe around and you never want to leave their side, and I never want to leave my grandma's side. I've been with her since I was a baby. My grandma knew I liked girls, and she never told my mom. (Mid-Atlantic)

Work to connect youth to LGBTQ-friendly employers.

More than half (52 percent) of the adult LGBTQ population lives in a state that does not protect against employment discrimination based on sexual orientation or gender identity.[27] Advocates must work to connect LGBTQ youth with employers who support and affirm sexual orientation, gender identity and expression.

Transgender Economic Empowerment Project

The **LA LGBT Center's Transgender Economic Empowerment Project**[28] works with transgender and gender nonconforming youth to develop professional skills, find employment with trans-friendly employers and thrive in the workplace through one-on-one sessions with a client advocate, assistance in setting and achieving career goals, job interview workshops and assistance in crafting successful resumes. The program also connects youth with name and gender change and other legal assistance, including criminal record expungement.

> **Supporting LGBTQ youths' healthy identity formation must occur with their intersecting identities in mind and also take into account the impact of related stigmas.**

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