

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 224
(A-24)

Introduced by: Medical Student Section

Subject: Antidiscrimination Protections for LGBTQ+ Youth in Foster Care

Referred to: Reference Committee B

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- 1 Whereas, 30% of youth in foster care are LGBTQ+, triple the rate of those not in care¹⁻⁴; and
2
3 Whereas, in the foster care system, LGBTQ+ identifying youth encounter unique and significant
4 threats associated with their identity including rejection, harassment, violence, and discrimination
5 from social workers, foster parents, residential staff, and peers in addition to poorer health
6 outcomes compared to their non-LGBTQ+ counterparts including worse physical, mental, and
7 sexual health alongside higher prevalence of trauma, substance use, survival sex, sexual
8 victimization, and unintended pregnancy¹⁻¹⁹; and
9
10 Whereas, studies demonstrate LGBTQ+ youth are twice as likely to enter foster care, more likely
11 to spend longer time in care, be removed from placements due to hostility based on LGBTQ+
12 identity, and to age out of care without adequate preparation for higher education, employment,
13 and housing^{6,7,20-26}; and
14
15 Whereas, in 2016, the United States Children's Bureau confidentially collected data on foster
16 youth's sexual orientation as well as family conflicts related to a child's gender identity, sexual
17 orientation, and or gender expression, demonstrating the ability of the system to obtain
18 demographic information confidentially to improve the system for LGBTQ+ youth²⁷; and
19
20 Whereas, in 2020, the United States Children's Bureau eliminated requirements for collection of
21 demographics on sexual orientation in the Foster Care Analysis and Reporting System, which
22 limited child welfare agencies' ability to analyze LGBTQ+ youth in foster care and increase
23 programs, laws, and funds protecting LGBTQ+ foster youth²⁷⁻³⁰; and
24
25 Whereas, social care professionals at religiously-affiliated foster care facilities in the United States
26 were found to propagate negative stereotypes about same-sex relationships³¹; and
27
28 Whereas, in recent years, New Jersey child welfare officials successfully recruited and licensed
29 120 new foster homes that affirm and support LGBTQ+ youth, demonstrating through local
30 LGBTQ+ community organization, home studies, and training sessions that child services can
31 successfully recruit inclusive families for the foster care system³²; and
32
33 Whereas, the Children's Bureau and Child Welfare League of America provide fact sheets and
34 brochures with passive guidance on supporting LGBTQ+ youth in foster care as an accessible
35 and feasible means of improving care for LGBTQ+ youth³³⁻³⁸; and
36
37 Whereas, implementation of the *RISE Care Coordination Team Program* in Los Angeles helped
38 LGBTQ+ youth in the Los Angeles foster care system feel supported in their identities and
39 demonstrated an accessible model by which other programs can support LGBTQ+ youth³⁹; and

1 Whereas, the Civil Rights Act of 1964 does not protect against discrimination of LGBTQ+
2 individuals in federally-funded programs, including adoption and foster care, with recent attempts
3 to expand nondiscrimination protections failing to pass⁴⁰⁻⁴⁶; and
4

5 Whereas, the lack of inclusive protections for LGBTQ+ individuals in federal legislation, such as
6 the Civil Rights Act of 1964, the Fair Housing Act, and the Affordable Care Act, has enabled rule
7 changes and proposals that permit discrimination against LGBTQ+ individuals⁴⁷⁻⁴⁹; and
8

9 Whereas, only 28 states and the District of Columbia have specific laws and policies in place to
10 protect LGBTQ+ foster youth from discrimination based on both sexual orientation and gender
11 identity, six other states include sexual orientation but not gender identity as a protected class in
12 child welfare, and some states have no protections at all^{21,33,50}; and
13

14 Whereas, only four states had regulatory guidance regarding placement of transgender youth in
15 out-of-home care in alignment with gender identity as of 2016, and child welfare agency officials
16 from three states reported placing transgender youth in gender-segregated residential facilities
17 by their sex assigned at birth rather than their gender identity^{32,51}; and
18

19 Whereas, the relationship between LGBTQ+ protections and availability of foster families is
20 unclear, but court cases in states challenging those protections are pending^{52,53}; and
21

22 Whereas, because youth may begin to identify as LGBTQ+ after being placed with a family not
23 supportive of those identities, screening for unsupportive families is necessary to reduce harm
24 toward LGBTQ+ youth⁵⁴⁻⁵⁶; and
25

26 Whereas, though AMA policies H-60.910 and H-160.991 separately address the healthcare needs
27 of youth in foster care and of LGBTQ+ individuals, the AMA has only written one letter to the
28 Department of Housing and Urban Development opposing the removal of protections for housing
29 allocation based on gender identity⁵⁷; therefore be it
30

31 RESOLVED, that our American Medical Association collaborate with state medical societies and
32 other appropriate stakeholders to support policies on the federal and state levels that establish
33 nondiscrimination protections within the foster care system on the basis of sexual orientation and
34 gender identity (New HOD Policy); and be it further
35

36 RESOLVED, that our AMA support efforts by the Department of Health and Human Services and
37 other appropriate stakeholders to establish a reporting mechanism for the collection of
38 anonymized and aggregated sexual orientation and gender identity data in the Foster Care
39 Analysis and Reporting System only when strong privacy protections exist (New HOD Policy);
40 and be it further
41

42 RESOLVED, that our AMA encourage child welfare agencies to implement practices, policies,
43 and regulations that: (a) provide training to child welfare professionals, social workers, and foster
44 caregivers on how to establish safe, stable, and affirming care placements for LGBTQ+ youth; (b)
45 adopt programs to prevent and reduce violence against LGBTQ+ youth in foster care; (c) improve
46 recruitment of foster families that are affirming of LGBTQ+ youth; and (d) allow gender diverse
47 youth to be placed in residential foster homes that are willing to accept their gender identity.
48 (New HOD Policy)

Fiscal Note: Minimal - less than \$1,000

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REFERENCES

1. Baams L, Wilson BDM, Russell ST. LGBTQ Youth in Unstable Housing and Foster Care. *Pediatrics*. 2019;143(3):e20174211. doi:10.1542/peds.2017-4211
2. Grooms J. No Home and No Acceptance: Exploring the Intersectionality of Sexual/Gender Identities (LGBTQ) and Race in the Foster Care System. *The Review of Black Political Economy*. 2020;47(2):177-193. doi:10.1177/0034644620911381
3. The Cuyahoga Youth Count: A Report on LGBTQ+ Youth Experience in Foster Care, 2021. Accessed March 6, 2023 from: <https://theinstitute.umaryland.edu/media/ssw/institute/Cuyahoga-Youth-Count.6.8.1.pdf>
4. Dettlaff AJ, Washburn M, Carr LC, Vogel AN. Lesbian, gay, and bisexual (LGB) youth within in welfare: Prevalence, risk and outcomes. *Child Abuse Negl*. 2018;80:183-193. doi:10.1016/j.chiabu.2018.03.009
5. Wilson BD, Cooper K, Kastanis A, Nezhad S. Sexual and Gender Minority Youth in Foster Care: Assessing Disproportionality and Disparities in Los Angeles. Published online August 1, 2014. Accessed March 5, 2023 from: <https://escholarship.org/uc/item/6mg3n153>
6. Schaub J, Stander WJ, Montgomery P. LGBTQ+ Young People's Health and Well-being Experiences in Out-of-home Social Care: A scoping review. *Child Youth Serv Rev*. 2022;143:106682. doi:10.1016/j.chilyouth.2022.106682
7. Dank M, Yu L, Yahner J, et al. Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YWSW Engaged in Survival Sex, Urban Institute, 2015. Accessed March 6, 2023 from: <https://www.urban.org/sites/default/files/publication/42186/2000119-Surviving-the-Streets-of-New-York.pdf>
8. 2022 National Survey on LGBTQ Youth Mental Health. The Trevor Project. Published 2022. Accessed March 5, 2023. <https://www.thetrevorproject.org/survey-2022/>
9. Information Memorandum: Lesbian, Gay, Bisexual, Transgender and Questioning Youth in Foster Care, April 2011. Accessed March 6, 2023 from: <https://www.acf.hhs.gov/sites/default/files/documents/cb/im1103.pdf>
10. Craig-Oldsen H, Craig JA, Morton T. Issues of Shared Parenting of LGBTQ Children and Youth in Foster Care: Preparing Foster Parents for New Roles. *Child Welfare*. 2006;85(2):267-280.
11. Feinstein R, Greenblatt A, Hass L, Kohn S, Rana J. Justice for All? A Report on Lesbian, Gay, Bisexual and Transgendered Youth in the New York Juvenile Justice System.; 2001. Accessed March 5, 2023. <https://eric.ed.gov/?id=ED471676>
12. Clements JA, Rosenwald M. Foster Parents' Perspectives on LGB Youth in the Child Welfare System. *J Gay Lesbian Soc Serv*. 2007;19(1):57-69. doi:10.1300/J041v19n01_04
13. Gallegos A, Roller White C, Ryan C, O'Brien K, Pecora PJ, Thomas P. Exploring the Experiences of Lesbian, Gay, Bisexual, and Questioning Adolescents in Foster Care. *J Fam Soc Work*. 2011;14(3):226-236. doi:10.1080/10522158.2011.571547
14. Rosenwald M. A Glimpse Within: An Exploratory Study of Child Welfare Agencies' Practices With LGBTQ Youth. *J Gay Lesbian Soc Serv*. 2009;21(4):343-356. doi:10.1080/10538720802498124
15. Sullivan C, Sommer S, Moff J. Youth in the Margins: A Report on the Unmet Needs of Lesbian, Gay, Bisexual, and Transgender Adolescents in Foster Care. Lambda Legal Defense and Education Fund; 2001. Accessed March 6, 2023 from: <https://www.lambdalegal.org/publications/youth-in-the-margins>
16. Wilber S, Reyes C, Marksamer J. The model standards project: creating inclusive systems for LGBT youth in out-of-home care. *Child Welfare*. 2006;85(2):133-149.
17. Woronoff R, Estrada R. Regional listening forums: an examination of the methodologies used by the child welfare league of America and lambda legal to highlight the experiences of LGBTQ youth in care. *Child Welfare*. 2006;85(2):341-360.
18. Scannapieco M, Painter KR, Blau G. A comparison of LGBTQ youth and heterosexual youth in the child welfare system: Mental health and substance abuse occurrence and outcomes. *Child Youth Serv Rev*. 2018;91:39-46. doi:10.1016/j.chilyouth.2018.05.016
19. Brandon-Friedman RA, Pierce B, Wahler E, Thigpen J, Fortenberry JD. Sexual identity development and sexual well-being: Differences between sexual minority and non-sexual minority former foster youth. *Child Youth Serv Rev*. 2020;117:105294. doi:10.1016/j.chilyouth.2020.105294
20. Poirier JM, Wilkie S, Sepulveda K, Uruchima T. Jim Casey Youth Opportunities Initiative: Experiences and Outcomes of Youth who are LGBTQ. *Child Welfare*. 2018;96(1):1-26.
21. Child welfare nondiscrimination laws. Movement Advancement Project. Accessed September 21, 2023. https://www.lgbtmap.org/equality-maps/foster_and_adoption_laws.
22. Jacobs J, Freundlich M. Achieving permanency for LGBTQ youth. *Child Welfare*. 2006;85(2):299-316.
23. Mallon GP, Aledort N, Ferrera M. There's no place like home: achieving safety, permanency, and well-being for lesbian and gay adolescents in out-of-home care settings. *Child Welfare*. 2002;81(2):407-439.
24. Capous-Desyllas M, Mountz S. Using Photovoice Methodology to Illuminate the Experiences of LGBTQ Former Foster Youth. *Child Youth Serv*. 2019;40(3):267-307. doi:10.1080/0145935X.2019.1583099
25. Erney R, Weber K. Not all Children are Straight and White: Strategies for Serving Youth of Color in Out-of-Home care who Identify as LGBTQ. *Child Welfare*. 2018;96(2):151-177.
26. Mountz S, Capous-Desyllas M. Exploring the families of origin of LGBTQ former foster youth and their trajectories throughout care. *Children and Youth Services Review*. 2020;109:104622. doi:10.1016/j.chilyouth.2019.104622
27. Adoption and Foster Care Analysis and Reporting System. Federal Register. Published December 14, 2016. Accessed March 6, 2023 from: <https://www.federalregister.gov/documents/2016/12/14/2016-29366/adoption-and-foster-care-analysis-and-reporting-system>
28. Adoption and Foster Care Analysis and Reporting System. Federal Register. Published May 12, 2020. Accessed March 6, 2023 from: <https://www.federalregister.gov/documents/2020/05/12/2020-09817/adoption-and-foster-care-analysis-and-reporting-system>
29. Woods JB. The Regulatory Erasure of LGBTQ+ Foster Youth. *The Regulatory Review*. Published June 22, 2021. Accessed March 6, 2023 from: <https://www.theregview.org/2021/06/22/woods-regulatory-erasure-lgbtq-youth/>
30. Greeno E, Matarese M, Weeks A. Attitudes, beliefs, and behaviors of child welfare workers toward LGBTQ youth. *J Public Child Welf*. 2022;16(5):555-574. doi:10.1080/15548732.2021.1940415
31. Bermea AM, Rueda HA, Toews ML. Queerness and Dating Violence Among Adolescent Mothers in Foster Care. *Affilia*. 2018;33(2):164-176. doi:10.1177/0886109917737880

32. Foster Care: Further Assistance from HHS Would be Helpful in Supporting Youth's LGBTQ+ Identities and Religious Beliefs. Us. Government Accountability Office. Published April 2022. Accessed September 21, 2023. <https://www.gao.gov/assets/gao-22-104688.pdf>
33. Child Welfare. Lambda Legal. Accessed March 5, 2023 from: <https://www.lambdalegal.org/map/child-welfare>
34. Desano A. Youth and Family Services - RISE. Published April 2, 2019. Accessed March 5, 2023 from: <https://rise.lalgbtcenter.org/youth-and-family-services/>
35. REACHING HIGHER: A Curriculum for Foster/Adoptive Parents and Kinship Caregivers Caring for LGBTQ Youth. Accessed March 6, 2023 from: <http://www.nccwe.org/downloads/LGBTQ-FosterParentFacilitatorGuide.pdf>
36. Training, Consultation & Program Development. San Francisco State University | Family Acceptance Project. Accessed March 5, 2023 from: <https://familyproject.sfsu.edu/training>
37. Paul JC. Exploring support for LGBTQ youth transitioning from foster care to emerging adulthood. *Child Youth Serv Rev.* 2020;119:105481. doi:10.1016/j.chldyouth.2020.105481
38. RECOMMENDED PRACTICES: PRACTICES To Promote the Safety and Well-Being of Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and Youth at Risk of or Living with HIV in Child Welfare Settings, 2012. Accessed March 6, 2023 from: <https://www.lambdalegal.org/sites/default/files/publications/downloads/recommended-practices-youth.pdf>
39. Phillips L, Parrish L, Khavar V, Rodriguez E, Islas A. 2016 RISE Project Care Coordination Team Program Manual, 2016. Accessed March 6, 2023 from: <https://files.lalgbtcenter.org/pdf/rise/Los-Angeles-LGBT-Center-RISE-Care-Coordination-Services-Program-Manual.pdf>
40. Title VI, Civil Rights Act of 1964. U.S. Department of Labor: Office of the Assistant Secretary for Administration & Management. Accessed March 5, 2023 from: <http://www.dol.gov/agencies/oasam/regulatory/statutes/title-vi-civil-rights-act-of-1964>
41. Civil Rights Requirements- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. ("Title VI"). HHS.gov. Published July 26, 2013. Accessed March 5, 2023 from: <https://www.hhs.gov/civil-rights/for-individuals/special-topics/needy-families/civil-rights-requirements/index.html>
42. Greenberg MH, Lopez R, Samuels J. Title VI Child Welfare Guidance. Published online October 19, 2016. Accessed March 6, 2023 from: <https://www.justice.gov/crt/title-vi-child-welfare-guidance>
43. Cicilline D. H.R.5 - Equality Act. Congress.gov. Published March 17, 2021. Accessed March 5, 2023 from: <https://www.congress.gov/bill/117th-congress/house-bill/5>
44. Merkley J. S.393 - Equality Act. Congress.gov. Published February 23, 2021. Accessed March 5, 2023 from: <http://www.congress.gov/>
45. Cicilline D. H.R. 5 (117th): Equality Act. GovTrack.us. Published March 2, 2021. Accessed March 5, 2023 from: <https://www.govtrack.us/congress/bills/117/hr5>
46. Gillibrand K. S.1791 - Every Child Deserves a Family Act. Congress.gov. Published June 11, 2019. Accessed March 5, 2023 from: <https://www.congress.gov/bill/116th-congress/senate-bill/1791>
47. Nondiscrimination in Health and Health Education Programs or Activities, Delegation of Authority. Fed Regist. 2020;85(119). Accessed March 5, 2023 from: <https://www.govinfo.gov/content/pkg/FR-2020-06-19/pdf/2020-11758.pdf>
48. Battle S, Wheeler II TE. Dear Colleague Letter. Published online February 22, 2017. Accessed March 6, 2023 from: <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201702-title-ix.pdf>
49. Carson. Letter to Chairwoman Maxine Waters and Congresswoman Jennifer Wexton. Published online July 13, 2020. Accessed March 6, 2023 from: https://wexton.house.gov/uploadedfiles/hud_response_to_waters-wexton_6.29.20_letter.pdf
50. Remlin C, Cook MC, Erney R. SAFE HAVENS: Closing the Gap Between Recommended Practice and Reality for Transgender and Gender-Expansive Youth in Out-of-Home Care, April 2017. Accessed March 6, 2023 from: https://www.lambdalegal.org/sites/default/files/publications/downloads/tgnc-policy-report_2017_final-web_05-02-17.pdf
51. Erney R. 50 State Survey: Licensing regulations in Child Welfare, Juvenile Justice and systems serving runaway and homeless youth relating to sexual orientation, gender identity and gender expression, 2016. Accessed March 6, 2023 from: <https://cssp.org/wp-content/uploads/2019/01/50-State-Survey-Licensing-regulations-in-Child-Welfare-Juvenile-Justice.pdf>
52. *Burke v. Walsh*. U.S. District Court for the District of Massachusetts. Case 1:23-cv-11798. Filed August 8, 2023. Accessed September 21, 2023. <https://becketnewsite.s3.amazonaws.com/20230808154524/Burke-Complaint-and-Exhibits.pdf>.
53. *Bates v. Pakseresht et al.* U.S. District Court for the District of Oregon. Case 2:2023cv00474. Filed April 3, 2023. Accessed September 21, 2023. <https://dockets.justia.com/docket/oregon/ordce/2:2023cv00474/172578>
54. Livingston NA, Flentje A, Brennan J, Mereish EH, Reed O, Cochran BN. Real-time associations between discrimination and anxious and depressed mood among sexual and gender minorities: The moderating effects of lifetime victimization and identity concealment. *Psychol Sex Orientat Gend Divers.* 2020;7(2):132-141. doi:10.1037/sgd0000371
55. Reisner SL, White Hughto JM, Gamarel KE, Keuroghlian AS, Mizock L, Pachankis JE. Discriminatory experiences associated with posttraumatic stress disorder symptoms among transgender adults. *J Couns Psychol.* 2016;63(5):509-519. doi:10.1037/cou0000143
56. Valentine SE, Livingston NA, Salomaa AC, Shipherd JC. Trauma, Discrimination and PTSD Among LGBTQ+ People. U.S. Department of Veteran Affairs, National Center for PTSD. Accessed September 21, 2023. https://www.ptsd.va.gov/professional/treat/specific/trauma_discrimination_lgbtq.asp.
57. Madara JL. Re: Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs (Docket No. FR—6152—P—01). Published online September 22, 2020. Accessed March 6, 2023 from: <https://searchf.ama-assn.org/letter/documentDownload?uri=%2Funstructured%2Fbinary%2Fletter%2FLETTERS%2F2020-9-22-Letter-to-Carson-on-HUD-NPRM-re-Single-Sex-Housing-Facilities.pdf>

RELEVANT AMA Policy

Addressing Healthcare Needs of Children in Foster Care, H-60.910

Our AMA advocates for comprehensive and evidence-based care that addresses the specific health care needs of children in foster care. [Res. 907, I-17]

Health Care Needs of Lesbian, Gay, Bisexual, Transgender and Queer Populations, H-160.991

1. Our AMA: (a) believes that the physician's nonjudgmental recognition of patients' sexual orientations, sexual behaviors, and gender identities enhances the ability to render optimal patient care in health as well as in illness. In the case of lesbian, gay, bisexual, transgender, queer/questioning, and other (LGBTQ) patients, this recognition is especially important to address the specific health care needs of people who are or may be LGBTQ; (b) is committed to taking a leadership role in: (i) educating physicians on the current state of research in and knowledge of LGBTQ Health and the need to elicit relevant gender and sexuality information from our patients; these efforts should start in medical school, but must also be a part of continuing medical education; (ii) educating physicians to recognize the physical and psychological needs of LGBTQ patients; (iii) encouraging the development of educational programs in LGBTQ Health; (iv) encouraging physicians to seek out local or national experts in the health care needs of LGBTQ people so that all physicians will achieve a better understanding of the medical needs of these populations; and (v) working with LGBTQ communities to offer physicians the opportunity to better understand the medical needs of LGBTQ patients; and (c) opposes, the use of "reparative" or "conversion" therapy for sexual orientation or gender identity.
2. Our AMA will collaborate with our partner organizations to educate physicians regarding: (i) the need for sexual and gender minority individuals to undergo regular cancer and sexually transmitted infection screenings based on anatomy due to their comparable or elevated risk for these conditions; and (ii) the need for comprehensive screening for sexually transmitted diseases in men who have sex with men; (iii) appropriate safe sex techniques to avoid the risk for sexually transmitted diseases; and (iv) that individuals who identify as a sexual and/or gender minority (lesbian, gay, bisexual, transgender, queer/questioning individuals) experience intimate partner violence, and how sexual and gender minorities present with intimate partner violence differs from their cisgender, heterosexual peers and may have unique complicating factors.
3. Our AMA will continue to work alongside our partner organizations, including GLMA, to increase physician competency on LGBTQ health issues.
4. Our AMA will continue to explore opportunities to collaborate with other organizations, focusing on issues of mutual concern in order to provide the most comprehensive and up-to-date education and information to enable the provision of high quality and culturally competent care to LGBTQ people. [CSA Rep. C, I-81; Reaffirmed: CLRPD Rep. F, I-91; CSA Rep. 8, I-94; Appended: Res. 506, A-00; Modified and Reaffirmed: Res. 501, A-07; Modified: CSAPH Rep. 9, A-08; Reaffirmation A-12; Modified: Res. 08, A-16; Modified: Res. 903, I-17; Modified: Res. 904, I-17; Res. 16, A-18; Reaffirmed: CSAPH Rep. 01, I-18]

Reducing Suicide Risk Among Lesbian, Gay, Bisexual, Transgender, and Questioning Youth Through Collaboration with Allied Organizations, H-60.927

Our AMA will partner with public and private organizations dedicated to public health and public policy to reduce lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth suicide and improve health among LGBTQ youth. [Res. 402, A-12; Reaffirmed: CSAPH Rep. 1, A-22]