LGBTQI+ Policy

STATE of Maine
OFFICE OF CHILD AND FAMILY SERVICES POLICY

Section	Subsection
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Approved by: _____
Director, OCFS

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I. SUBJECT

LGBTQI+ Policy.

II. STATUTORY AUTHORITY

5 M.R.S. Chapter 337, 20-A M.R.S. 22 M.R.S. §4003, §4004, §3174-DDD, 32 M.R.S. §59-C.

P.L. 113-183, Preventing Sex Trafficking and Strengthening Families Act (2014).

III. DEFINITIONS

For a complete list of OCFS Policy definitions, see the OCFS Policy Manual Glossary. In this document, the first reference to any word that is defined is hyperlinked to the glossary. In addition, please see Glossary of Terms (Appendix A) for additional terminology related to the LGBTQI+ community.

IV. POLICY

The Office of Children and Family Services (OCFS) recognizes and respects all affirmed gender identities and gender expressions of the children, youth, young adults, and families involved with OCFS. OCFS staff promote the self-worth of all children involved with OCFS and facilitate access to affirming services and working with and educating families when appropriate.

The LBGTQI+ Policy is intended to guide OCFS staff to support and affirm the children and young adults we serve in experiencing normalcy. Decisions regarding social, medical, and mental health treatments and procedures, are to be made in a timely manner utilizing the best practices based on the World Professional Association for Transgender Health Standards of Care (WPATH SOC), 8th ed. and the DSM-V, or their successors, as outlined in this policy.

The LGBTQI+ Policy is intended to comply with State, Federal, and Tribal Laws and to facilitate inclusion so that all children are provided a safe, supportive, and nurturing environment as they affirm or explore their LGBTQI+ identity. Pursuant to the Maine Human Rights Act, protected characteristics include race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, or national origin.

Youth who identify as LGBTQI+ and who age out of the foster care system are more likely to experience homelessness and other adverse outcomes than youth who do not identify as LGBTQI+. The needs of youth who identify as LGBTQI+ need to be fully understood, accepted, and appreciated by caseworkers and resource families to prevent these adverse outcomes. OCFS is committed to ensuring youth in foster care who identify as LGBTQI+ have the support, services, and resources needed to thrive.

V. PROCEDURES

Caseworker Responsibilities. OCFS staff will honor and support a child's assertion of their LGBTQI+ identity, including assertion of gender identity. When a caseworker is working with a child who expresses that they are, or may be, LGBTQI+ the caseworker will assure the child that they will support the child in their feelings and self-identification.

a. The caseworker will:

   i. Discuss with the child who the child has shared this information with and whether and how the child wants it shared with others, such as their parent(s), resource parent(s), service providers, etc.

Note: If the youth want to lead this conversation, they should be allowed to do so with support from their caseworker, if needed.

ii. Not share the information without the child's consent, aside from with the child's caregiver (see 'Out of Home Placement' section of this policy), unless it is to ensure the child's safety. In situations where the caseworker believes disclosure is necessary to ensure child safety over the child's objection, the caseworker will consult with their supervisor as well as with the child about whether there are alternatives to disclosure. If there are none, they will first inform the child to whom the information will be disclosed, what will be disclosed, and why the information needs to be disclosed.

iii. Respect the child's confidentiality and involve the child in planning when the information needs to be shared or when the child chooses to share the information.

iv. Allow the child to use their expressed name and pronouns. To demonstrate respect and support for the child, the caseworker will also use the child's expressed names and pronouns.

v. Connect and provide the child who identifies as LGBTQI+ with resources for support and community, such as access to social support groups, books, apps, and other resources as available.

Documentation and Discovery.

a. OCFS staff will be mindful when documenting information about what is required and necessary for case planning to support the child's health, safety, and wellbeing. It is important to document the child's request for confidentiality when documenting information regarding the child's gender identity and gender expression.
b. The caseworker will ensure that discovery does not disclose information that may place the child in physical or emotional harm. **Note:** The caseworker will consult with their supervisor and the Child Protection Assistant Attorney General (AAG) assigned to the case to help determine what to include in discovery as it may be necessary for a court to direct what goes out in discovery to ensure the child's safety and well-being.

Out of Home Placements.

a. The caseworker will ensure that out of home placements are consistent with and supportive of the child's expressed sexual orientation, gender identity, and expression. Prior to placement in a resource home, the caseworker will have a discussion with the resource parent(s) regarding their ability to support the child in their sexual orientation, gender identity, or exploration of those aspects of themselves. Prior to placement the caseworker will provide the resource parent(s) with information regarding the child's gender identity. The caseworker will provide the resource family with resources, as needed, to help them support the child. If the child doesn't want their caregiver to know they are LGBTQI+, the caseworker will have conversations with the child regarding the importance of the caregiver having this knowledge in order to assure the child's safety, permanency, and well-being needs and to work on a plan for disclosure.
b. For a child placed in a sex segregated placement, such as a residential facility, hospital setting, etc. the child will be placed based on their gender identity whenever safe and possible. The caseworker will assure that the placement is affirming of the child's sexual orientation and gender identity.

c. Prior to placing the child identifying as LGBTQI+, the caseworker will have a conversation with the resource parent(s) or facility staff to ensure they will accept and support, not undermine, the child's sexual orientation, gender identity, and gender expression including:

   i. Appearance: Allowing the child to express their LGBTQI+ identity in a manner in which they feel comfortable including clothing, accessories, and hair styling.
   ii. Names and Pronouns: Allowing the child to use their expressed names and pronouns.
   iii. Extra-Curricular Activities: Allowing the child to participate in educational or extra-curricular activities offered by an educational institution in accordance with their gender identity. The child will also be allowed to learn about LGBTQI+ people and to attend age appropriate LGBTQI+ support groups.

d. When a child, already in placement, asserts their LGBTQI+ identity the caseworker will honor and support the child in their feelings and self-identification. The caseworker will actively work with the child's resource parent(s)/caregiver(s) providing support, information, and resources regarding the caregiver's ability to support the child in their sexual orientation, gender identity, and exploration of these aspects of themselves. If the child does not want their resource parent(s)/caregiver(s) to know they are LGBTQI+, the caseworker will have conversations with the child regarding the importance of the resource parent/caregiver having this knowledge in order to assure the child's safety, permanency, and well-being needs and to work on a plan for disclosure. If the resource parent(s)/caregiver(s) are not supportive of the child's identity, the caseworker will seek a placement change.

Legal Considerations.

a. Children who have stated their preferred gender identity as different from their sex assigned at birth or who are transgender may want to use a different name than that on their birth certificate. If the child wants to legally change their name to match their expressed gender identity or have their expressed names and pronouns used in court documents, the caseworker will inform the child of the following:

   i. Legal Name Change: If the child requests to change their first and/or middle names due to a gender transition, 3.15 Legal Change of Name for Minor Children in DHHS Custody Policy will be followed. Legal last name changes are not considered for a child remaining in state custody who requests to take the last name of the resource parent(s) as foster care does not assure permanency for the child.
   Note: If there is a legal name change, the caseworker will need to ensure that the appropriate legal documents, such as court orders, Social Security card, state ID, and MaineCare are updated to reflect the change.
   ii. Legal and Court Documents: Legal names should be used where the legal or court documents require the child's name, however expressed names and corresponding pronouns may be referenced in the body of the documents. The caseworker will inform the child of this necessity.
   iii. In all other situations the caseworker will support the child in, and advocate for, the child to be able to use their preferred name and pronouns.

Children's Rights. If the child feels that their rights are not being upheld or that they are being mistreated, or treated differently from others, they can talk to their caseworker, supervisor

Assistant Program Administrator or Program Administrator, resource parent, or Guardian ad Litem. They can also visit https://www.ylat.org/rights-resources/advocating-for-yourself/ for more information on how to advocate for their rights. The child may also contact Maine's Child Welfare Ombudsman who acts as a neutral resource focused on assisting people related to concerns with Child Protective Services of DHHS. The Ombudsman can be reached by phone: 1-866-621-0758 or email: ombudsman@cwombudsman.com.

LGBTQI+ Affirming Health Care. A child who is LGBTQI+ should receive culturally affirming and informed health care. The child should receive any assessments, evaluations, psychosocial assessment, medical treatment, and interventions from a medical or mental health provider who has specific knowledge of, or training in, affirming work with LGBTQI+ people. The caseworker will follow these steps regarding gender affirming health care for the child:

a. Mental Health Services: The caseworker will refer the child to a licensed mental health provider who has training and experience working with LGBTQI+ children and adolescents.

    i. The caseworker will consult with the gender clinic to obtain a list of recommended mental health providers who have experience and training related to working with LGBTQI+ children and adolescents.
    Note: If the child reports to their caseworker, or resource parent who informs the caseworker, that the child is not comfortable with the provider, this will be explored. If after addressing the issue, the child is still not comfortable with the provider, a new provider will be located.
    ii. Mental health services may include assessment, evaluation, individual therapy, family therapy, group therapy, psychoeducation, and medication management.
    iii. Identity exploration (for sexual orientation and/or gender identity) and assessment of gender dysphoria may be part of mental health services.

        1. The child should not be expected to engage in mental health services for exploration of their gender identity or sexual orientation unless they are experiencing distress related to LGBTQI+ identity and/or they are seeking related medically necessary services.
        2. 'Conversion therapy' for a minor child (a coercive 'therapy' with the purpose of changing a child's sexual orientation or gender identity) is not legal in Maine and is against the best practices of every major mental health and medical organization. The caseworker will not knowingly have the child work with a mental health provider who has ever engaged in or supported this kind of therapy.

b. Medical Health Care Services: The caseworker will assist the child and caregiver in obtaining a Primary Care Physician (PCP) and other medical providers who will work collaboratively, explore all options, and provide supportive and affirming medical care. The caseworker may need to ask questions of the medical providers to find out their experience and training related to working with LGBTQI+ children and adolescents.
c. Request Process for Medical Evaluation and Care for Gender Dysphoria.

If the child, parent, caseworker, or healthcare provider request an evaluation to consider whether the child may require gender affirming medical care, the caseworker will request that the PCP make a referral to a multidisciplinary pediatric gender program or work with the PCP to establish a multidisciplinary team to address the child's medical needs. The OCFS Director does not need to approve this referral unless the parent(s) objects.
Note: There are two medical, multidisciplinary, gender-related programs in Maine. They are located at Northern Light Eastern Maine Medical Center in Bangor, and the Maine Medical Center, Barbara Bush Children's Hospital in Portland.

i. These programs follow the World Professional Association for Transgender Health, Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People (WPATH SOC) and Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline. These guidelines are periodically updated and can both be found online for review.
ii. The initial evaluation within the multidisciplinary program will be with a qualified mental health provider (as defined by the WPATH SOC). A full evaluation within a multidisciplinary program may involve multiple appointments with a mental health provider as well as a medical appointment/evaluation. **Note:** A referral and initial evaluation does not indicate that medical treatment is necessary and/or will be provided.
iii. The caseworker will inform the parent(s) of the request for the referral/evaluation. Consent from the parent, unless parental rights have been terminated, will be sought, and documented in the child welfare information system. If the parent objects to the child receiving a referral/evaluation with a gender program, the caseworker will:

1. Arrange for each parent to consult with the child's current medical and mental health providers to address the concerns. This may include the parent participating in medical appointments, coordinating a time for them to speak with the PCP or child's medical specialist, or discussing their concerns in a Family Team Meeting (FTM) with medical providers. The caseworker will support families in ways that can help families increase their accepting behaviors toward their LGBTQI+ youth and help the parent(s) connect with resources. **Note:** If there is more than one legal parent and they have differing positions, the determination process shall be applied individually to each parent.
2. In pre-jeopardy cases, if after the consultation, the parent refuses to consent, the caseworker will document the conversation in the case record. The caseworker will then consult with the PCP and/or the child's medical specialist, current mental health providers, the OCFS Medical Director, and the Child Protective AAG to determine whether a court order may be necessary to authorize the OCFS Director to act on the medical recommendations and consent to a referral for evaluation by a specialty service.
3. In cases where a Jeopardy Order has been signed with custody granted to DHHS, if the parent objects to their child receiving this medical service, and all applicable steps above have been completed, the OCFS Director has the legal

authority to consent for the medical referral/evaluation of the child in DHHS custody. In these situations, the following will occur:

a) *Timeframe*: Within fourteen (14) days of a parent's refusal to consent to the medical referral/evaluation, the caseworker will consult with the PCP and/or the child's medical specialist to determine if the referral/evaluation is medically indicated for the child's medical or mental health needs. The caseworker will report this information to the Program Administrator.
b) When a medical referral/evaluation is medically indicated, the Program Administrator will consult with the OCFS Medical Director prior to submitting a memo (Appendix B) outlining the recommendation for the referral/evaluation to the Associate Director of Child Welfare for review, who will submit the memo and a recommendation to the OCFS Director for consideration.
Note: If the jeopardy order is pending appeal, the OCFS caseworker should consult with the Child Protection AAG regarding the status of the appeal.

iv. After the medical evaluation, the gender program will send written notification to the caseworker regarding the gender affirming medical treatment plan for the child. The caseworker will acquire consent for the child to move forward with treatment, following the steps in the 'Consent for Treatment Procedure' section of this policy.

d. Gender Affirming Medical Care
Medically necessary gender affirming medical care can be used to refer to several different medical treatment/medication options. There are no medical interventions for a child who has not yet started puberty. The most common treatments that may be considered medically necessary for gender affirming care for minor patients are:

i. Puberty Blocking Medication: Prescribed for the child at the very beginning of puberty. In many cases the child is not fully aware of puberty until later signs of puberty are noted. If this intervention is being considered, it is important to have a medical evaluation to determine the stage of puberty that the child is in. This medication is considered reversible. This medication should be recommended, prescribed, and managed within a multidisciplinary pediatric gender program.

1. Puberty usually starts between ages eight (8) to twelve (12). A child with sex assigned female usually starts puberty earlier than a child with sex assigned male.
2. Medical evaluation may involve a physical exam (which may include genital exam), labs, bloodwork, and sometimes an x-ray (to assess growth plates). In preparation for a medical evaluation, the caseworker will take steps to ensure that the evaluation occurs in a trauma informed way, promoting safety, choice, collaboration, trustworthiness, and empowerment. The caseworker will:

a) Gather information about how the medical provider will conduct the medical exam so that the caseworker can explain the process to the child.
b) Request that the medical provider explain each part of the examination to the child with care and clarity.
c) Mindfully schedule the appointment at a time that provides the most support and least stress for the child.
d) Discuss with the child whether the caseworker, parent, or care provider will be present during the exam.
e) Encourage the child to speak up, help the child to anticipate what information they want to share and what questions they might ask.

ii. Hormone Medications

Gender Affirming Hormones: Prescribed to adolescents and adults for the purpose of feminizing or masculinizing appearance to align with gender identity and allowing them to resume puberty in accord with their gender identity. This medication will produce desired impacts and is considered partially reversible. The gender affirming hormone medication should be recommended, prescribed, and managed within a multidisciplinary pediatric gender program.

1. Estrogen: The sex hormone that makes certain features appear typically female. It affects fat distribution, softens skin, and causes the development of breasts.
2. Testosterone: The sex hormone that makes certain features appear typically male. It builds muscle and causes the development of facial hair and a deeper voice.

Menstrual Suppression: Prescribed for a sex assigned female child who has already started, is going through, or has completed puberty, for the purpose of reducing/suppressing menstruation. This may be prescribed by a provider in a gender program and/or by the child's PCP. There are several different medical options that are used (these are birth control medications that in some cases are prescribed differently for the purpose of menstrual suppression).

Androgen Blocking Medication: Prescribed for a sex assigned male child who has already started, is going through, or has completed puberty, for the purpose of reducing the impact of testosterone on continued pubertal development. Androgen blockers are medications that block the production or effects of testosterone. Androgen is another term for male sex hormones. Spironolactone is the androgen blocker that is most commonly used in the United States.

Consent for Treatment Procedure. Consent for Puberty Blocking Medications, Androgen Blocking, Menstrual Suppression, and Gender Affirming Hormone treatment will be obtained from the OCFS Director. The caseworker should reference the steps in the 'Gender Affirming Medical Treatment Checklist' (Appendix C) throughout this process. When consent is needed to move forward with gender affirming medical treatment, a FTM should occur within thirty (30) days of the

written notification from the Gender Clinic. Gender Clinic staff will be invited to participate. When creating the plan for the child, the following will be considered:

a. The child's mental health needs;
b. The age of the child and the child's wishes;
c. The parent's consent to such treatment;
d. Types of treatments and recommendations about treatments; and
e. Opinions of each team member.

The caseworker will then obtain approval from the OCFS Medical Director and the OCFS Director. The caseworker, in consultation with their supervisor, will submit the OCFS Consent for Gender Affirming Treatment Memo (Appendix D) to the district Program Administrator (PA) which will then be sent to the OCFS Medical Director, Associate Director of Child Welfare, and OCFS Director.

Once approval has been granted by the OCFS Director, the district PA will sign the clinic's consent forms.

Intersex Procedures. The medical, mental health, gender affirming care, and consent procedures described apply to children with intersex characteristics. Genital surgeries will only be recommended for intersex infants and children for the purpose of resolving significant functional impairment or removing imminent and substantial risk of developing a health- or life-threatening condition.

a. Intersex children and adolescents will be presented with choices about their hormone-related care, considering the child/youth's age, gender identity, and medical needs. Puberty suppression medication, hormonal treatment, and surgeries may all affect the child/youth's hormone functioning and development. Puberty suppressants may help give an intersex child who would go through hormonal puberty more time to explore their gender and determine what type of puberty is consistent with their identity. Children and adolescents will be advised of options for hormones and may receive prescribed hormones if indicated and authorized in accord with the 'Gender Affirming Care' and 'Treatment' procedures in this policy. This may involve a child or adolescent going through a puberty that does not align with their sex assigned at birth.
b. Culturally competent services may be offered to children and adolescents to assist them in making a decision regarding elective surgery.
c. Elective surgery will not be performed for children in DHHS custody without the parent(s)' informed consent and approval by the OCFS Director.

VI. POLICY SUPERSEDES

Not Applicable.

VII. LINKS TO RELATED POLICIES

3.15 Legal Change of Name for Minor Children in DHHS Custody

VIII. APPENDICES

Appendix A: Glossary of Terms
Appendix B: OCFS Consent for Medical Evaluation for Gender Affirming Medical Care Memo
Appendix C: Gender Affirming Medical Treatment Checklist
Appendix D: OCFS Consent for Gender Affirming Treatment Memo

Note: The hyperlinks to these documents only work on DHHS issued computers. If you would like to request a copy of these documents, please email your request to: OCFSPolicyTraining.DHHS@maine.gov