

MISSISSIPPI DEPARTMENT OF HUMAN SERVICES DIVISION OF YOUTH SERVICES JUVENILE INSTITUTIONS	
Subject: LESBIAN, GAY, BISEXUAL, TRANSGENDER, QUESTIONING, INTERSEX, 2-SPIRIT (LGBTQI2-S)	Policy Number: 24
Number of Pages: 9	Section: XIII
Attachments	Related Standards & References
A. SOGIE Intake Form B. Intersex Preference Form C. Transgender Preference Form D. Two-Spirit Preference Form E. Employee/Contractor/Visitor/Volunteer Preference Form	ACA JDF-3D-02, ACA 3-JDF-3D-03, ACA 3-JDF-3D-04, ACA 3-JDF-3D-06, ACA-3-JDF-4C-22, ACA 3-JDF-5B-01, OYDC Policies: XV.7, PREA and III.9, Sexual Harassment
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I. POLICY

It is the policy of the Mississippi Department of Human Services (MDHS), Division of Youth Services (DYS), to treat all persons in a respectful, courteous, and professional manner while maintaining safety and security. Discrimination or harassment of any kind based on sexual orientation or gender identity is strictly prohibited (See Mississippi State Employee Handbook, Policy 5.6, Division of Youth Services Policies XV.7-PREA and III.9-Sexual Harassment).

II. DEFINITIONS

- A. **Bisexual / Bi:** Sexually and emotionally attracted to both sexes/genders.
- B. **Gay:** Males who are sexually and emotionally attracted to males.
- C. **Gender Classification Committee:** A committee established by OYDC comprised of the Facility Administrator or his/her designee, the Chief Nurse or his/her designee, a licensed Mental Health Practitioner, and a Gender Classification Specialist.
- D. **Gender Classification Specialist:** An employee of the OYDC who has been specially trained and identified by the Gender Classification Committee as qualified to conduct interviews with youth to discuss gender issues.
- E. **Intersex:** A person who is born with genitalia and/or secondary sex characteristics determined as neither exclusively male, female, or combined male and female features. A person with an intersex condition is born with sex chromosomes, external genitalia.

or an internal reproductive system that is not considered “standard” for either male or female.

- F. **Intersex Preference Form:** A form provided to youth whom have been self-identified or otherwise identified as Transgender in which the youth are given the opportunity to privately disclose their gender, name, housing, and search preferences.
- G. **LGBTQI2-S:** An acronym that refers to lesbian, gay, bisexual, transgender, questioning, intersex, and 2-Spirit individuals.
- H. **Lesbian:** Females who are sexually and emotionally attracted to females.
- I. **Pat-Down Search:** A search of an individual conducted with the individual fully clothed, by using the searcher’s hands to perform a quick but thorough search for a weapon or contraband by rubbing, patting, and/or brushing the outer layer of clothing, and avoiding direct contact with the individual’s skin. The individual may be asked to empty out their pockets and/or turn their pockets inside out, remove any exterior/additional clothing (i.e. jacket.), and/or expose the interior of their mouth for the purpose of a Pat Down Search. The individual shall be wearing at least one outer layer of clothing.
- J. **Questioning:** An individual who is currently questioning his or her gender or sexual identity.
- K. **SOGIE Form:** A form provided to youth during intake in which youth are given the opportunity to privately disclose their sexual orientation, gender identity, and gender expression (SOGIE).
- L. **Strip Search:** A search of an individual in which the youth is required to remove all their clothing and expose all parts of their body to a *visual* search for contraband. The searcher conducts a careful *visual* examination of the nude youth, and a thorough visual and hand search of the youth's removed clothing. During a Strip Search, the youth may be required to bend over, squat, turn around, raise their arms, cough, lift the genitals, lift up skin overlays, and/or lift the breasts. Staff shall not touch the youth during a strip search. All Strip Searches must be conducted in the presence of a member of the medical staff. All Strip Searches require prior approval by the Facility Administrator.
- M. **Transgender:** Means a person whose gender identity (i.e. internal sense of feeling male or female) is different from the person’s assigned sex at birth.
- N. **Transgender Preference Form:** A form provided to youth whom have been self-identified or otherwise identified as Transgender in which the youth are given the opportunity to privately disclose their gender, name, housing, and search preferences.

- O. **Two-Spirit:** A culturally distinct gender that describes Indigenous North Americans who fulfil one of many mixed gender roles found traditionally among many Native Americans and Canadian First Nations indigenous groups.
- P. **Two-Spirit Preference Form:** A form provided to youth whom have been self-identified or otherwise identified as Two-Spirit in which the youth are given the opportunity to privately disclose their gender, name, housing, and search preferences.
- Q. **Employee/Contractor/Volunteer/Visitor Preference Form:** A form provided to the listed parties who have been self-identified or otherwise identified as Transgender, Intersex, or Two-Spirit in which they are given the opportunity to privately disclose their gender, name, and search preferences.

III. PROCEDURE

A. Employee Conduct

1. OYDC has zero tolerance for any staff sexual misconduct or sexual harassment directed towards LGBTQI2-S Youth or staff. Any substantiated claim of sexual conduct, sexual contact, or sexual harassment by a staff member towards Youth or staff may result in termination of the staff member's employment, referral for criminal charges, civil penalties, or other punitive actions as deemed appropriate (See Mississippi State Employee Handbook Policy 5.6, Division of Youth Services Policies XV.7-PREA and III.9-Sexual Harassment).
2. Staff will address LGBTQI2-S persons by their chosen name (including corresponding pronouns) or as "Mr./Miss last name." A notation of the proper name and pronoun shall be made on each Transgender, Intersex, and/or 2-Spirit youth's intake record. At all times, staff will use the proper pronoun corresponding to the individual's gender identity.
3. OYDC has zero tolerance for derogatory terms used towards members of the LGBTQI2-S community including LGBTQI2-S Youth or staff. The use of derogatory terms towards LGBTQI2-S persons is a violation of this policy, the Mississippi State Employee Handbook Policy 5.6, and Division of Youth Services Policies XV.7 and III.9.
4. Questions relating to an individual's anatomy and/or surgical status shall only be asked by Gender Classification Specialists or authorized medical personnel as necessary for ensuring proper medical treatment.

B. Notification

1. If known, the transporting/referring agency shall notify OYDC staff as to a youth's LGBTQI2-S status.

2. The LGBTQI2-S status of Youth will be confirmed by a Gender Classification Specialist. All OYDC parties involved in the processing of Youth shall ensure that whichever person/department they escort an LGBTQI2-S youth to is advised of that status for the protection of the youth.

3. All notifications shall be done in a respectful, professional, and confidential manner.

C. Identification

The following shall be used as identifiers:

1. Youth's appearance or behavior – it shall be an identification indicator if a Youth's appearance or behavior does not match the name or gender marker on the Youth's paperwork or identification.

2. Youth self-reporting.

3. Any questioning done by personnel shall be conducted in a private and respectful manner.

D. Searches

1. All strip searches shall be conducted and documented according to OYDC Policy XV.7, PREA and VII.14, Youth Searches.

2. At no time shall any search be conducted solely for the purpose of determining a Youth's biological sex or gender. Any questions regarding a Youth's gender or sex shall be referred to a Gender Classification Specialist.

3. LGBTQI2-S individuals shall not be subject to more invasive searches than non-LGBTQI2-S individuals. Additional searches require supervisor approval.

4. If a Pat-Down search is required and a youth has been identified as Transgender, Intersex, or 2-Spirit, the youth shall be asked to indicate their preference as to the gender of the officer that will perform the pat-down search on a Transgender (XIII.24.B), Intersex (XIII.24.C), or 2-Spirit (XIII.24.D) Preference Form. This form shall be made available and signed by the youth if they wish to have a Cross-Gender Pat-Down Search. This request will be honored, unless exigent circumstances dictate the need for an immediate pat-down search by available personnel as determined by a supervisor.

5. In all other instances, searches shall be conducted by persons of the same sex as the youth.

6. Requests to remove appearance related items such as prosthetics, clothing that conveys gender identity, wigs and cosmetics shall be consistent with the requirements for the removal of similar items for non-LGBTQI2-S individuals.

7. Searches shall be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

E. Intake Screening

1. During intake, a Gender Classification Specialist shall participate as an active member in the intake screening process so that it complies with this policy.

2. During intake, youth be provided the opportunity to privately disclose their sexual orientation, gender identity, and gender expression (SOGIE Intake Form, XIII.24.A), and this information will be documented by trained intake staff. Information gathered in this form is confidential. Youth have the right to refuse to provide the information on the SOGIE Intake Form (XIII.24.A) and may not be penalized for refusal. If a youth identifies themselves as an LGBTQI2-S youth, that youth is to be referred to the OYDC Gender Classification Specialist (GCS) and/or qualified personnel within 72 hours of completion of the form. All procedures, questioning, and follow-up must be in compliance with this policy (XIII.4) and OYDC Policy XV.7, PREA.

3. The Gender Classification Specialist on duty will be notified when an identified LGBTQI2-S youth is received. The Gender Classification Specialist will be responsible for the initial determination of vulnerability of the youth.

4. LGBTQI2-S youth may not be placed in segregated housing against their will due to the sole purpose of their sexual orientation.

5. The Gender Classification Specialists shall assist in the process upon which the intake committee will base their housing decisions. The mere identification of a youth as LGBTQI2-S is insufficient to warrant an assumption of enhanced risk that the youth will be sexually abusive.

6. All youth, within 72 hours of arrival at OYDC, shall be assessed for their risk of being sexually abused by or sexually abusive towards other youth in compliance with PREA standards (OYDC Policy XV.7).

7. If an indication of need arises, a Gender Classification Specialist shall conduct a screening interview in a private and respectful manner. The Gender Classification Specialist will only ask questions related to sexual orientation, gender identity, or gender expression for the purpose of making intake, housing, and classification assignments. If necessary, the youth will be referred to the OYDC Clinic for screening. Youth at OYDC shall be referred to a Gender Classification Specialist when any of the following occurs:

- a. Self-Reporting – A youth indicates that they are LGBTQI2-S during the intake process or at any time during their residency at OYDC.
- b. Observation - A youth's gender identity, appearance, overt expression, or behavior differs from their apparent birth sex or genitalia.

- c. Complaint - An issue has been raised that focuses on an enhanced risk of a youth being sexually abused or sexually abusive during their residency at OYDC based on LGBTQI2-S identity.
 - d. Error - It is discovered that a gender designation made by the OYDC differs from a gender designation that has previously been made by any public entity, government agency, or law enforcement agency.
8. Screening assessments of all Youth, including LGBTQI2-S Youth, shall be respectfully conducted using department approved screening instruments.
9. Youth may not be disciplined for refusing to answer or for not disclosing complete information in response to screening questions.

F. Gender Classification Committee

The Gender Classification Committee has the final authority in all matters related to the classification of LGBTQI2-S youth.

- 1. Additional Responsibilities
 - a. Gender Classification Specialist identification and assistance
 - b. Housing assignment arbitration
 - c. Required reporting
- 2. Mandatory Review Meetings
 - a. Placement of Transgender, Intersex, and 2-Spirit youth
 - b. Gender Classification Specialist Weekly Documentation Review
 - c. Youth Housing Appeals
 - d. 30-day Placement Reviews
- 3. Monitoring and Reassessment
 - a. The housing and well-being of LGBTQI2-S Youth shall be monitored and reassessed when needed by the Gender Classification Committee. The Committee will document and maintain records of all such monitoring and any reassessment deemed necessary.

G. Reassessment

- 1. The Gender Classification Committee shall reassess all LGBTQI2-S youth within 30 days of the youth's arrival at OYDC. The Gender Classification Committee will

reassess the youth's risk of victimization or abusiveness based upon any additional, relevant information received by OYDC since the intake screening.

2. An LGBTQI2-S youth's risk level shall immediately be reassessed due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the youth's risk of sexual victimization or abusiveness.

3. Youth may not be disciplined for refusing to answer, or for not disclosing complete information in response to screening questions.

H. Complaints and Grievances

1. Any staff member who is notified of a complaint regarding employee or youth misconduct towards or mistreatment of an LGBTQI2-S individual shall immediately notify their supervisor (see OYDC Policies: III.8, Sexual Harassment and XV.7, PREA).

2. Any supervisor notified of a complaint of abuse towards an LGBTQI2-S individual shall immediately secure the youth and determine, based on the statement of the Youth, if immediate medical attention is needed (see OYDC Policies: XV.2, Youth Grievance, XV.7, PREA, and XVII.1, Serious Incident Reporting).

3. The supervisor shall formally document the incident and follow the OYDC reporting procedures (See Policy XVII.1, Serious Incident Reporting).

4. All complaints and grievances made by or on behalf of LGBTQI2-S detainees/youth shall be tracked.

5. The investigators with the Division of Program Integrity will be notified and they shall determine the necessary investigation to be conducted.

6. A third party reporting avenue shall be provided by the OYDC for LGBTQI2-S related complaints.

I. Youth Services

1. LGBTQI2-S youth shall have equal access to all available services to include mental health services, counseling, and support groups. Specialized LGBTQI2-S services shall be developed based on identified needs.

J. Use of Screening Information / Confidentiality

1. A person's LGBTQI2-S status is considered confidential information. This information, including electronic records, shall have strict dissemination controls. OYDC shall keep LGBTQI2-S screening information confidential except as necessary to conform to required protocols.

2. OYDC shall implement appropriate controls on the dissemination within the facility in response to questions asked in order to ensure that sensitive information is not

exploited to the youth's detriment by staff or other youth. Any media request and/or media notification must be forwarded to the Division Director so it may be forwarded to the agency's communication director.

3. The Gender Classification Committee in coordination with the Intake Staff shall use the information from the risk screening to determine housing, bed, work, education, and program assignments with the goal of keeping separate LGBTQI2-S youths at high risk of being sexually victimized from those at high risk of being sexually abusive

4. The Gender Classification Committee and Intake Staff and shall make individualized determinations on how to ensure the safety of each Youth.

5. In deciding whether to assign a Transgender, Intersex, and/or 2-Spirit Youth to a housing unit for male or female youth, and in making other housing and programming assignments, the Gender Classification Committee shall consider on a case-by-case basis whether a placement would ensure the Youth's health and safety, and whether the placement would present management or security problems.

6. The policy and procedure for and record of placements for Transgender, Intersex, and/or 2-Spirit Youth shall be reassessed at least twice each year to review any threats to safety experienced by the youth. The Gender Classification Committee will record and keep these findings for permanent review and referrals for future training.

7. An LGBTQI2-S youth's own views with respect to his or her own safety shall be given significant consideration and recorded in their youth record.

8. The Gender Classification Committee shall strive not to place LGBTQI2-S youth in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is necessary for their safety, or such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such Youth.

IV. EMPLOYEE TRAINING

The OYDC shall develop LGBTQI2-S related training that all OYDC employees, volunteers, and contractors shall attend.

A. Training Content

1. The mission and core values of OYDC as they relate to the LGBTQI2-S population
2. Basic information about the LGBTQI2-S population
3. OYDC zero tolerance policy for sexual abuse, sexual harassment, the failure to report incidents of sexual abuse, sexual contact, or sexual harassment of youth to youth, or staff and youth and the available sanctions for violations of this policy

4. All LGBTQI2-S-related policies
 - a. How to identify violations of policy
 - b. How to respond to violations of policy
 - c. How policies are enforced
5. Professional boundaries and avoidance of inappropriate relationships
6. How to communicate effectively and professionally with LGBTQI2-S youth in a respectful and non-discriminatory manner
7. Confidentiality responsibilities
8. Legal responsibilities
9. Detection, response, and prevention of sexual abuse, sexual misconduct, and victimization of LGBTQI2-S youth by other youth
10. Resources available to LGBTQI2-S persons

B. Refresher Training

1. OYDC shall provide each employee with refresher training once per year to ensure that all employees know OYDC's current LGBTQI2-S policies and procedures.

All allegations of a violation of this policy shall be formally investigated.