

JUDICIAL BEST PRACTICES AND GUIDELINES

LGBT Youth in the Juvenile Justice System American Judges Association 51st Annual Conference

Juvenile court judges are the gatekeepers for a youth's safety and well-being and must protect the youth's due process and other constitutional rights at every stage of the court process. Bench officers have a responsibility to "maintain strict courtroom decorum and behavioral expectations for all participants...[and] ensure that the juvenile delinquency court is a place where all...participants are treated with respect, dignity, and courtesy."¹

Positive Attitudes and Environment

- Analyze your attitude towards LGBT youth. Recognize any negative attitudes you may have and ensure that those thoughts do not affect the treatment youth and their families receive.
- Learn LGBT terminology and become comfortable using it.
- If you ask youth if they are dating or sexually active, use terms that do not assume gender. (E.g., say "Are you dating someone?" rather than asking girls if they have "boyfriends" or boys if they have "girlfriends") When you ask about youths' families, use gender-neutral terms like "parents" rather than "mom and dad."
- Use the youth's name and pronoun of choice in the courtroom, regardless of what is listed in the youth's file. Allow youth to dress in clothing appropriate for their gender identity. (E.g., masculine lesbians and transgender boys may wear boys clothing and haircuts; transgender girls may wear skirts, dresses, long hair, and makeup, etc.)
- If a youth wears gender nonconforming clothing or otherwise appears stereotypically LGBT and the youth's file or defense attorney do not mention the youth is LGBT, do not assume anything about sexual orientation or gender identity. Instead ask the youth at sidebar, if you think this information is relevant.
- Avoid defining LGBT youth by their sexual orientation or gender identity. Like other youth, this is only one aspect of who they are. LGBT youth have many other aspects of their lives and other defining personal characteristics.
- Do not discuss the youth's sexual orientation or gender identity without his or her permission. If you need to include this information in a youth's file, safeguard the youth's privacy and confidentiality. Inform the youth that this information is in his or her file and who will have access to it.
- Learn about sexual developmental needs and healthy sexual development of all young people, including LGBT youth.
- Learn about current evidence-based social science data on LGBT youth, their families, and same-sex couples to ensure that your decisions reflect accurate data and not preconceptions.

¹ National Council of Juvenile and Family Court Judges, Publication Development Committee, Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases 123 (2005).

Fair and Impartial Treatment in Court

- Become familiar with laws and policies protecting LGBT youth in your jurisdiction, as well as canons of judicial ethics regarding bias-free courtrooms.
- Enforce nondiscrimination policies from state civil rights laws, court rules, canons of judicial ethics, representation standards, and school, placement, and agency policies. Where such non-discrimination laws and policies do not yet exist, encourage their development.
- Ensure that court staff, prosecutors, probation officers, and defense attorneys are respectful to all individuals in the courthouse, including LGBT youth. Immediately respond to any homophobic or inappropriate anti-LGBT comments made in your court.
- Encourage bench officer and court staff education on the treatment of LGBT youth.
- Make sure lawyers appointed to defend an LGBT youth can competently represent the youth and are not biased against him or her.

Appropriate Placements, Services and Support

- Review materials and websites of juvenile justice service providers to determine if they provide appropriate services in an LGBT supportive manner.
- Ensure that LGBT youth have access to the same programs as their heterosexual peers. Make sure that LGBT youth are not placed in higher security facilities than necessary because other placements will not accept the youth because of their sexual orientation and/or gender identity.
- Be certain that detained LGBT youth are not inappropriately segregated or isolated. If necessary, issue orders to prohibit detention facilities and other services from treating LGBT youth differently than their heterosexual peers.
- Use qualified mental health practitioners who are knowledgeable about LGBTQ youth for court-ordered evaluations and treatments.
- Ensure that transgender youth receive medical services from qualified health care practitioners who are knowledgeable about Gender Identity Disorder (GID) and medical care for transgender youth. Make any necessary orders to allow transgender youth to receive medically necessary treatment.
- Encourage probation officers to recommend opportunities for social support for LGBT youth on probation.
- Encourage or require parents and family members to participate in counseling and parent support groups if they need help to become more accepting and supportive of their LGBT child.
- Have resources available to share with LGBT youth, their families, probation, defense attorneys, detention facilities, and other disposition services.
- Enforce procedures that assure the safety of LGBT youth in detention, treatment and other areas of the juvenile justice system. Where such procedures do not yet exist, encourage their development.