

# Housing & Placement

## Legal Rights and Protections

### Federal Law Overview

Housing law is another area with limited federal protections for persons who identify as LGBTQ. The Fair Housing Act provides protections against discrimination in housing, but sexual orientation is not included as a protected class. There are protections against gender and race discrimination, which may be relevant for clients also facing discrimination based on their LGBTQ identity.

#### **U.S. Code:**

- ◆ [42 U.S.C.A. § 3604](#) (1968). Discrimination in the sale or rental of housing and other prohibited practices.

#### **Federal Regulations:**

- ◆ Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, [77 Fed. Reg. 5661](#) (Feb. 3, 2012) (codified at 24 C.F.R. pt. 5, 200, 203, 400, 570, 574, 882, 891, and 982).
- ◆ Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs, [81 Fed. Reg. 64763](#) (Oct. 21, 2016) (codified at 24 C.F.R. pt. 5).

#### **Case Law:**

- ◆ [Smith v. Avanti](#), 249 F. Supp. 3d 1194 (D. Colo. 2017).

#### **Other Guidance:**

- ◆ [Dept. of Justice: The Fair Housing Act.](#)
- ◆ [U.S. Dept. of Housing & Urban Development: LGBTQ Resources](#)
- ◆ [U.S. Dept. of Housing & Urban Development: Youth Homelessness](#)
- ◆ [U.S. Dept. of Housing & Urban Development: LGBT Discrimination](#)
- ◆ [U.S. Dept. of Housing & Urban Development: LGBTQ Youth Homelessness Prevention Initiative](#)
- ◆ [Questions and Answers on Sexual Harassment under the Fair Housing Act](#)
- ◆ [Fair Housing Review: HUD LGBT Equal Access Rule](#)
- ◆ [Know Your Rights: Fair Housing and Transgender People](#)

### District of Columbia Law Overview

The District provides for specific protections in housing for individuals who identify as LGBTQ. The protections are embodied in the DC Human Rights Act (DCHRA), which is discussed in more detail in Section II of this practice kit. The DCHRA protects prospective tenants from discrimination in seeking housing and from discrimination in their treatment and in the quiet enjoyment of their property once housing has been secured.

#### **D.C. Code:**

- ◆ D.C. Human Rights Law Part C: Prohibited Acts of Discrimination in Housing and Commercial Space
  - [§ 2-1402.21](#). Prohibitions
  - [§ 2-1402.23](#). Acts of Discrimination by broker or salesperson
  - [§ 2-1402.24](#). Exceptions

## **D.C. Regulations:**

- ◆ Housing and Commercial Real Estate
  - D.C. Mun. Regs. [Tit. 4, § 1000](#) (General Provisions: Scope and Purposes)
  - D.C. Mun. Regs. [Tit. 4, § 1001](#) (Prohibited Practices)
  - D.C. Mun. Regs. [Tit. 4, § 1099](#) (Definitions)
- ◆ Foster Homes
  - D.C. Mun. Regs. [Tit. 29, § 6000](#) (Scope)
  - D.C. Mun. Regs. [Tit. 29, § 6001](#) (Foster Parent Requirements)
  - D.C. Mun. Regs. [Tit. 29, § 6002](#) (Foster Parent Responsibilities)
  - D.C. Mun. Regs. [Tit. 29, § 6017](#) (Clothing and Personal Belongings)
  - D.C. Mun. Regs. [Tit. 29, § 6018](#) (Discipline and Control)
  - D.C. Mun. Regs. [Tit. 29, § 6023](#) (Confidentiality)
  - D.C. Mun. Regs. [Tit. 29, § 6025](#) (Violation of this Chapter)
- ◆ Licensing of Youth Shelters, Runaway Shelters, Emergency Care Facilities, and Youth Group Homes
  - D.C. Mun. Regs. [Tit. 29, § 6201](#) (Statement of Purpose)
  - D.C. Mun. Regs. [Tit. 29, § 6205](#) (Grievance Procedures)
- ◆ Independent Living Programs
  - D.C. Mun. Regs. [Tit. 29, § 6301](#) (Statement of Purpose)
  - D.C. Mun. Regs. [Tit. 29, § 6303](#) (Statement of Resident's Rights and Responsibilities)
  - D.C. Mun. Regs. [Tit. 29, § 6305](#) (Grievance Procedure)
  - D.C. Mun. Regs. [Tit. 29, § 6312](#) (Penalties)
  - D.C. Mun. Regs. [Tit. 29, § 6320](#) (Confidentiality)
  - D.C. Mun. Regs. [Tit. 29, § 6322](#) (Privacy)
  - D.C. Mun. Regs. [Tit. 29, § 6347](#) (Behavior Management and Discipline)

## **D.C. Child & Family Services Agency Policies:**

- ◆ [Facility Licensing](#)
- ◆ [In-Home and Out-of-Home Procedural Operations Manual](#)
- ◆ [Placement and Matching](#)
- ◆ [Temporary Licensing of Foster Homes for Kin](#)

## **Organizations and Websites**

| <b>Name</b>  | <b>Location or Area of Operation</b> | <b>Type(s)</b> | <b>Description</b>  |
|--|--------------------------------------|----------------|---|
| <a href="#">Dept. of Housing &amp; Urban Development</a><br><a href="#">Office of Fair Housing and Equal Opportunity</a> | Federal                              | Government     | The Fair Housing Act protects people from discrimination when they are renting, buying, or securing financing for any housing. Complaints filed with HUD are investigated by the Office of Fair Housing and Equal Opportunity (FHEO). |
| <a href="#">True Colors Fund</a>   | National, Online                     | Advocacy       | Through a broad continuum of advocacy, training & education, and youth collaboration programs, the True Colors Fund works to end homelessness among lesbian, gay, bisexual, and transgender youth by creating systemic change.        |

# Housing and Placement

## LGBTQ Affirming Placements & Permanency

### Overview

LGBTQ youth are at an increased risk of placement instability,<sup>1</sup> are more likely to face housing insecurity and homelessness,<sup>2</sup> and are generally less likely to achieve permanency than their non-LGBTQ identifying peers.<sup>3</sup> One of the biggest issues facing LGBTQ youth in out-of-home care is the lack of affirming foster placements.<sup>4</sup> Even “the most LGBTQ-inclusive agencies can struggle to find qualified foster parents who are ready and willing to welcome LGBTQ youth into their homes.”<sup>5</sup>

When working with this population, try to keep the following in mind:

- ◆ Higher rates of placement changes and the reduced likelihood of achieving permanency often contribute to negative mental health outcomes and poor long-term prospects for LGBTQ youth.<sup>6</sup>
- ◆ An LGBTQ identifying youth might be afraid to disclose their identity to their foster family. This means it is especially important for any placement to “signal their openness and affirmation of [a] youth’s race, ethnicity, sexual orientation, gender identity and expression.”<sup>7</sup>
- ◆ LGBTQ youth who have an affirming foster care placement are less likely to run away from those placements.<sup>8</sup>

In order to support this population, LGBTQ youth should be placed in affirming foster homes. An affirming home is one where foster parents “welcome all LGBTQ children and youth into their homes, and encourage them to live authentically in all aspects of family life.”<sup>9</sup> It also is “a place where all children and youth are treated with respect and dignity, and foster parents diligently work to meet their children’s specific needs.”<sup>10</sup>

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<sup>1</sup> CENTER FOR THE STUDY OF SOCIAL POLICY, OUT OF THE SHADOWS: SUPPORTING LGBTQ YOUTH IN CHILD WELFARE THROUGH CROSS-SYSTEM COLLABORATION 8 (2016), <https://bit.ly/2uFrZOh>.

<sup>2</sup> SHANNAN WILBER ET AL., CHILD WELFARE LEAGUE OF AMERICA, SERVING LGBT YOUTH IN OUT-OF-HOME CARE: CWLA BEST PRACTICE GUIDELINES 41 (2006), <https://familyproject.sfsu.edu/sites/default/files/bestpracticeslgbtyouth.pdf>.

<sup>3</sup> THE ANNIE E. CASEY FOUNDATION, LGBTQ IN CHILD WELFARE: A SYSTEMIC REVIEW OF THE LITERATURE 3 (2016), <https://bit.ly/2JfJE23>.

<sup>4</sup> Human Rights Campaign, *LGBTQ Youth in the Foster System*, <https://bit.ly/2Gv8RUy>.

<sup>5</sup> *Id.*

<sup>6</sup> CENTER FOR THE STUDY OF SOCIAL POLICY, *supra* note 1, at 8.

<sup>7</sup> *Id.* at 17

<sup>8</sup> ANGELA WEEKS ET AL., LOS ANGELES LGBT CENTER, 2016 RISE PROJECT OUTREACH AND RELATIONSHIP BUILDING PROGRAM MANUAL, Volume 2, at 41 (2016), [https://www.acf.hhs.gov/sites/default/files/cb/pii\\_rise\\_orb\\_program\\_manual\\_vol2.pdf](https://www.acf.hhs.gov/sites/default/files/cb/pii_rise_orb_program_manual_vol2.pdf).

<sup>9</sup> NYC ADMINISTRATION FOR CHILDREN AND FAMILIES, LGBTQ AFFIRMING FOSTER AND ADOPTIVE PARENTS NEEDED, [https://www1.nyc.gov/assets/acs/pdf/lgbtq/ACS\\_AffirmingFamiliesBrochure.pdf](https://www1.nyc.gov/assets/acs/pdf/lgbtq/ACS_AffirmingFamiliesBrochure.pdf).

<sup>10</sup> *Id.*

## Identifying an Affirming Placement and Achieving Permanency

### [CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-Home Care](#)

- ◆ Chapters Six and Seven of this best practice guide provide information on how to ensure appropriate homes for LGBTQ youth and on working with LGBTQ youth in institutional settings. Topics include making individualized placement decisions, supporting caregivers of LGBTQ youth, and the protecting the safety and well-being of transgender youth.

### [Improving Safety, Permanency, and Well-Being for LGBTQ Youth](#)

- ◆ This webinar is designed for foster parents and advocates to learn more about LGBTQ youth in foster care, the impact of family rejection, the struggle for inclusion and safety in care, and the lack of affirming resource families.

### [Working with Lesbian, Gay, Bisexual, Transgender, and Questioning/Queer Youth](#)

- ◆ Chapter Four of this practice guide contains important information on ensuring the safety of LGBTQ youth in placement. It contains information things to consider in any placement, including a foster parent's attitude toward LGBTQ youth, safety, and confidentiality.

## Resource Highlight

### [Identifying LGBTQ Affirming Families](#)

- ◆ Created by New York City's Administration for Children and Families (ACF), this guide provides an overview of the core competencies of an affirming home. It also includes a list of questions to ask prospective foster parents to determine if they will provide an affirming home, as well as things to assess once a youth has been placed. It also provides a list of concrete examples of incidents or issues in a placement that should be reported.

## Supporting Transgender and Gender Expansive Youth

### [A Place of Respect: A Guide for Group Care Facilities Serving Transgender and Gender Non-Conforming Youth](#)

- ◆ This report helps group home staff understand the experiences and concerns of transgender and gender non-conforming youth, and explains how to respond to their safety, programmatic, and health care needs in an informed, effective manner that meets facilities' legal obligations.

### [A Room of One's Own: Safe Placement for Transgender Youth in Foster Care](#)

- ◆ This law review article argues that New York City's foster care placement policies, similar to [Maryland's requirements](#), violate the substantive due process safety rights of the transgender youth under its care.

### [Safe Havens: Closing the Gap between Recommended Practice and Reality for Transgender and Gender-Expansive Youth in Out-of-Home Care](#)

- ◆ This report identifies barriers to affirming treatment for transgender and gender non-conforming youth in out-of-home care and suggests steps to eliminate these barriers. It includes national maps of specific out-of-home care statutes, policies, and licensing requirements related to sexual orientation, gender identity and gender expression.

## Resources for Foster Parents

### [Helping Families Support Their Lesbian, Gay, Bisexual, and Transgender \(LGBT\) Children](#)

- ◆ This practice brief provides basic information to help families support LGBT children, shares new research from the Family Acceptance Project on the impact families have on LGBT youth's mental health, and discusses acceptance for ethnically, religiously, and socially diverse families.

### [Reaching Higher: A Curriculum for Foster/Adoptive Parents and Kinship Caregivers Caring for LGBTQ Youth](#)

- ◆ This curriculum was developed as a tool to help prepare foster, kinship, adoptive, and guardianship parents to care for LGBTQ youth. Module topics include balancing views that influence a foster parent's perspective; effective engagement strategies for working with LGBTQ youth; and assessing, supporting, and affirming youth during the coming out process.

### [Ten Tips for Parents of a Gay, Lesbian, Bisexual, or Transgender Child](#)

- ◆ This list provides parents and caregivers on how to support their LGBTQ youth. Multiple resources are provided, as well as a brief discussion of common issues and misconceptions.

### [Supporting Your LGBTQ Youth: A Guide for Foster Parents](#)

- ◆ This guide for foster parents provides an introduction to basic terminology, addressing common misconceptions about LGBTQ youth, LGBTQ youth in the child welfare system, and tips on how to create a welcoming, affirming home.

### [Supportive Families, Healthy Children Helping Families with Lesbian, Gay, Bisexual & Transgender Children](#)

- ◆ This guide for parents and caregivers is designed to help foster families with LGBTQ children and to decrease their risk for serious physical and mental health problems in adulthood.

## Organizations and Other Programs

| Name  | Location or Area of Operation | Type(s)          | Description  |
|---|-------------------------------|------------------|--|
| <a href="#">Latin American Youth Center's Transitional Living Program</a> | DC                            | Housing Provider | LAYC's Transitional Living programs provide housing to homeless or unstably housed youth between the ages of 18 and 21 for up to 18 months. LAYC is able to serve the special needs of youth exiting foster care (CFSA referral required) and LGBT-identifying youth |
| <a href="#">SMYAL Housing Program</a>                                     | DC                            | Housing Provider | SMYAL's Youth Housing program provides shelter, food, case management services, crisis intervention, & community support for LGBTQ youth ages 18-24.   |
| <a href="#">The Wanda Alston House</a>                                    | DC                            | Housing Provider | The Wanda Alston House is solely dedicated to offering pre independent living and support services to homeless or at risk LGBTQ youth ages 16-24 in all 8 wards of the District of Columbia.   |