

# CHAPTER 16: LGBTQIA PROTECTIONS

Introduction: All youth in the foster care system deserve to be treated with respect, to be safe, to have their needs met, and to be supported in achieving their goals. Youth who identify as Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, or Asexual (LGBTQIA) deserve the same protections and support as all young people. Like all youth, they also have the right to be accepted and affirmed. This chapter provides information on some of the specific laws and requirements that exist to protect LGBTQIA individuals specifically, as well as how laws that apply to all youth may be useful to you.

## Are youth in foster care who identify as LGBTQIA protected from discrimination and bad treatment?

- Yes. While Pennsylvania does not have one law that prevents discrimination for young people in the foster care system based on their LGBTQIA status, the following laws protect you from discrimination and bad treatment and can be used to help ensure that the identity you choose is supported.
  - **Protection under the Children in Foster Care Act:** This law requires that all youth in care:
    - Be treated with fairness, dignity, and respect;
    - Be free from harassment;
    - Be free from discrimination because of gender; and
    - Have the ability to live in the least restrictive, most family-like setting that is safe, healthy, and comfortable and meets the child's needs.<sup>1</sup>
  - **Protection under the Juvenile Act:** This law requires that all youth in the foster care system be provided with services that provide them safety, protection, and meet their physical and emotional needs.<sup>2</sup>
  - **State regulations for group care:** State regulations that cover all group homes, institutions, and transitional living placements prohibit discrimination based on sexual orientation.<sup>3</sup>
  - **Municipal/City Ordinances of Laws:** Some counties and cities in Pennsylvania have enacted local laws that do prohibit discrimination based on sexual orientation. For example, Philadelphia<sup>4</sup> and Pittsburgh<sup>5</sup> have protections against discrimination based on sexual orientation. You can check out [https://www.lgbtmap.org/equality\\_maps/profile\\_state/PA](https://www.lgbtmap.org/equality_maps/profile_state/PA) to find out which other counties or cities in Pennsylvania have similar protections.

## What should I do if I am being harassed, discriminated against, or treated badly because of my sexual orientation or gender identity?

- You deserve to be safe, and if you ever feel unsafe or are being harmed, you should get help immediately by calling your caseworker or his or her supervisor. If it is an emergency, you should call 911.
- If you are being treated badly or differently than other youth because of your LGBTQIA status, you should:
  - **Talk to your case worker, and go up their chain of command** if you are not getting a response.
  - **Talk to your lawyer.** Your lawyer’s job is to advocate for you and protect your interests. If you tell your lawyer about your concerns, they can help you file a grievance, advocate on your behalf to the county agency, raise the issue at your next court hearing, or ask for an earlier hearing. For more information about attorneys and court hearings, see Chapter 18: Lawyers, Court, and Case Planning.
  - **File a grievance.** Each county’s children and youth agency, as well as private providers of child welfare services, must have a grievance policy in place and must inform youth of the policy and how to file a grievance. The agency must assist youth with filing a grievance. For more information about grievances, see Chapter 17: Getting Your Voice Heard—Self-Advocacy/Grievance.
  - **If you live in a city or county with additional discrimination protections, you may also be able to file a complaint with your local government.** For example, youth in Philadelphia can file a complaint with the Philadelphia Commission on Human Relations for violations of the local nondiscrimination ordinance.

## Where can I go for more information or resources for LGBTQIA youth in foster care?

- Call your lawyer to ask for help.
- Call Lambda Legal at 212-809-8585.

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<sup>1</sup> 11 P.S. § 2633(1)–(3).

<sup>2</sup> 42 Pa.C.S.A. § 6351(a) (the court must order a disposition for all dependent youth that is “best suited to the safety, protection and physical, mental, and moral welfare of the child”).

<sup>3</sup> 55 Pa. Code § 3800.32(a) (“A child may not be discriminated against because of race, color, religious creed, disability, handicap, ancestry, sexual orientation, national origin, age or sex.”).

<sup>4</sup> Philadelphia, Pa., Code §§ 9-1102 to -1105.

<sup>5</sup> Allegheny Cty., Pa., Code § 215-32.