

Supporting Procedural Fairness for LGBTQ Persons in Your Courtroom

A guide for Oregon Judges

Use your role as a leader in the courtroom and the community to model respectful and fair treatment of LGBTQ people.

- Know and enforce nondiscrimination policies— state civil rights laws; court rules; representation standards; school, placement, and agency policies; and canons of ethics.
- Do not make assumptions about a person's sexual orientation or gender identity based on that person's appearance or name.
- If uncertain about someone's sexual orientation or gender identity, and knowing is necessary to the Court's ability to conduct court proceedings or for adjudication, ask respectfully and with consideration for privacy, if possible.
- Use gender-neutral language whenever possible (i.e., use name or role in proceedings rather than a pronoun).
- If the person has indicated a preferred name or gender pronoun, use the person's name and pronoun of choice, and ensure Court records include the person's preferred name as well as the legal name, if requested.
- Never discuss a person's sexual orientation or gender identity unless doing so is necessary to the court's adjudication, and, if so, do so with respect.
- If a person is under the authority of the Court and asks to dress in a manner different than that typically associated with the person's assigned sex, allow the person to dress as requested.
- Avoid defining LGBTQ people by their sexual orientation and gender identity. Realize all persons' sexual orientation and gender identity are just aspects of their lives.
- Ensure that all court staff and court partners are respectful to all individuals, regardless of sexual orientation and gender identity. Speak out when you hear anyone make anti-LGBTQ comments.



Supporting LGBTQ Youth

LGBT youth are overrepresented in the juvenile justice system; they make up just 5–7% of the overall youth population, but represent 20% of those in the juvenile justice system.

Compared with straight youth, LGBTQ youth are at least twice as likely to:

- Be removed from their home because someone is hurting them
- Run away
- Be homeless

LGBTQ youth represent up to 40 % of the homeless youth population ... and 39 % of homeless LGBTQ youth report being involved in the juvenile justice or child welfare systems.

Everything on the other side, plus:

- Insist the agency care for the youth in an affirming way. If they do not, consider making a “no reasonable efforts” finding against the agency.
- Have resources available to share with LGBTQ youth, their families, and lawyers.
- If negative responses by the family to the child’s sexual orientation and/or gender identity led to or were related to placement:
 - Require the child welfare agency provide services to the family to work towards a safe and emotionally healthy reunification;
 - Require parents and family members participate in counseling and parent support groups to help them accept and support the youth.
 - Require that discharge plans identify local programs and services available for LGBTQ youth and their families.
- Identify appropriate school placements to maintain LGBTQ youth in the community or successfully transition back to the community at the end of placement.
- Require the child welfare agency to find social support opportunities for LGBTQ youth and identify other trans-affirming services.
- Eliminate segregation, isolation, or juvenile sex offender treatment of LGBTQ youth as a punishment for having same-sex relationships.
- Do not make housing decisions solely on assigned sex or genitalia.
- Ensure transgender youth receive medical services from qualified health care practitioners specifically knowledgeable about healthcare for transgender youth.
- Require the child welfare agency to locate LGBTQ-friendly foster and adoptive placements.