
An Opportunity to Protect LGBTQIA+ Youth and Families

Summary: Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, and Asexual (LGBTQIA+) youth are overrepresented in child welfare system and often have their unique needs ignored, challenged, or unidentified by family members, professionals, peers, and more. Further, potential LGBTQIA+ foster and adoptive families still experience discrimination in the United States' child welfare system. Youth deserve the opportunity to be part of a family that reflects and affirms their identity to help mitigate the risk of further traumatic experiences while involved with the child welfare system. Disjointed state efforts and laws exist to prevent discrimination against LGBTQIA+ youth and prospective foster or adoptive parents, but legislation should be unified at the federal level to ensure that all children and families have equitable experiences throughout the child welfare process and beyond.

LGBTQIA+ Equity in Foster Care and Adoption

Youth

LGBTQIA+ youth enter foster care at higher rates and experience more negative outcomes in the child welfare system compared to non-LGBTQIA+ youth. LGBTQIA+ youth need meaningful representation and advocates to improve their permanency outcomes. Considering the high number of LGBTQIA+ youth in the foster care system, this population needs to be considered under federal legislation.

Inequitable Outcomes

LGBTQIA+ youth experience unequal outcomes, including a higher number of placements, higher likelihood of being placed in a group home, non-affirming placements and longer stays in care.¹ LGBTQIA+ youth are less likely to be adopted and more likely to age out of the foster care system than their non-LGBTQIA+ peers.²

Research shows that sexual orientation, gender, and cultural identity are important factors in determining health and life outcomes.³ LGBTQIA+ youth are more likely to be homeless and have worse educational outcomes than their non-LGBTQIA+ peers.⁴ Lesbian, Gay, Bisexual, Queer, and Questioning (LGBQ) youth are twice as likely to attempt suicide and 15 times more likely to abuse substances than the general youth population,³ likely due to issues such as bullying, harassment, discrimination, and unaccepting peers and family members.

Overrepresentation

A 2019 study found that around 11% of youth identify as LGBTQ nationally, but that over 30% of children in out-of-home care identify as LGBTQ.⁵ Additionally, the study found that 5% of youth in foster care identify as transgender, compared to around 1% of youth not in foster care.⁵ This overrepresentation of LGBTQ youth in the foster care system highlights the importance of paying special attention to these populations to ensure they do not continue to experience inequitable outcomes.

Unfortunately, current child welfare administrative data often excludes sexual and gender minority identities, making it difficult to know exactly how many of these youth are currently affected by the child welfare system. Guidelines for safe identification policies came about in 2013 but have yet to be widely implemented.⁶ Youth deserve safety and privacy, not erasure, regarding their identities.

Prospective Families

Prospective LGBTQIA+ foster and adoptive parents still face discrimination during the foster and adoption process throughout the United States. Federal policy should address this discrimination, and state agencies need to make diligent efforts to recruit LGBTQIA+ families to help represent the youth they serve.

Discrimination in Foster Care and Adoption

A 2020 article estimates there are two million LGBTQIA+ adults in the United States that are

interested in adopting children.⁷ Unfortunately, these adults and families face significant discrimination throughout the foster and adoption process. Anti-LGBTQIA+ legislation increased heavily after the Supreme Court's 2015 Obergefell v Hodges ruling, which legalized same sex marriage across the United States.⁷ Since this ruling, 50 bills have specifically targeted preventing LGBTQIA+ populations from engaging in foster or adoptive parenting.⁷ LGBTQIA+ families have also faced discriminatory practices in adoption agencies, from child welfare professionals, by homophobic lawyers, and even in court.⁷

Research Supports LGBTQIA+ Parents

Extensive literature has documented that children thrive just as well with LGBTQIA+ parents as they do with heterosexual parents.⁷ Additionally, some research suggests LGBTQIA+ parents are more likely than heterosexual parents to take children considered 'harder to place.'⁷ The LGBTQIA+ community has potential to be a positive and strong resource for child welfare agencies and for children in the foster and adoption system. Failing to acknowledge their full identities by treating them the same as heterosexual individuals disregards their lived experiences and their ability to parent children who are also from sexual and gender minorities.

Proposed Solutions & Best Practices

No current federal legislation offers explicit protection for LGBTQIA+ foster youth or any direction on recruiting and training parents that are either LGBTQIA+ themselves or are sufficiently prepared to address the challenges LGBTQIA+ youth face. A disproportionate amount of LGBTQIA+ youth are entering the foster care system and their needs could be addressed by a unified, federal policy.

Current State Laws & Regulations

Many states have laws or regulations prohibiting agencies receiving public funding from discriminating against individuals based on sexual orientation or gender identities.⁸ However, as of 2016, only five states included

screening on acceptance of LGBTQIA+ identities in state foster care licensing regulations.³ LGBTQIA+ have youth highlighted the need for placements that are open and accepting to their race, ethnicity, sexual orientation, gender identity and expression to feel safe.⁴ Recruitment and training of foster and adoptive families must include proper training and reassessment strategies to ensure they are actively meeting LGBTQIA+ youths' needs and helping to mitigate potential negative outcomes.³

California's Foster Care Non-Discrimination Act was passed in 2004 and explicitly protects adults and youth involved in the foster care system from discrimination based on sexual orientation and gender identity.⁸ The California Act also requires initial and continuing training on LGBTQIA+ inclusive training for foster parents.⁸ Additionally, California law mandates that youth in out-of-home care are placed according to their gender identity, regardless of their assigned sex at birth.⁸

The Equality Act, introduced in Congress as of March 2021, provides an opportunity to create explicit, federally unified protection against discrimination for LGBTQIA+ foster and adoptive youth and families. The act prohibits discrimination against transgender and gender-expansive individuals in public facilities, federal funding, housing, and the jury system.⁹ The act does not currently include language specifically addressing foster or adoptive youth and families, leaving room for interpretation at the systems level.⁹

Unfortunately, outlawing discrimination does not guarantee equitable treatment and outcomes for LGBTQIA+ foster youth or recruitment of LGBTQIA+ foster and adoptive parents. Federal legislation should not only explicitly protect these youth but should also address outcome disparities and prepare foster and adoptive families for the unique challenges LGBTQIA+ youth face.

Best Practice Model: The RISE Program

The Los Angeles Gay and Lesbian Community Services Center offers an example of best practice for addressing barriers to permanency for LGBTQIA+ youth. The Center created the RISE (Recognize, Intervene, Support, Empower) Initiative, aiming to reduce heterosexism, anti-gay, and anti-transgender bias.¹⁰ The Center launched the project through a five-year grant from the Children’s Bureau.¹⁰ The Center argued that youth and their families can achieve permanency through acknowledging and appropriately serving youth who are LGBTQIA+.¹⁰

The RISE Initiative contains two main components: Outreach and Relationship Building (ORB) and a Care Coordination Team (CCT).¹¹ The ORB component focuses on delivering training, coaching, and consultation on LGBTQIA+ issues and themes.¹¹ ORB increased training participants’ knowledge in an average of 68% of LGBTQ+ knowledge areas, and 79% of participants reported using the new knowledge in their daily work.¹¹

The CCT component is a team of practitioners, including a facilitator, a youth specialist, a family finder, and a parent partner.¹² The facilitator creates a plan for the youth centering on developing their emotional and legal permanency.¹¹ The youth specialist provides a positive mentor, education, advocacy, and connections to peers in the community.¹² The family finder works to identify supportive adults to increase the youth’s support system.¹² The parent partner works to provide support and education to kin and fictive kin of the youth, with the goal of reducing rejecting behaviors and increasing support behaviors towards the youth.¹² Results for this component showed 89% of adults increased levels of support and 100% of youth experienced support for their LGBTQIA+ identity.¹¹ Additionally, youth reported the RISE initiative had a positive effect on their self-esteem and improved their natural and formal support systems.¹²

LGBTQIA+ identity in youth and prospective parents is something to be educated about, not ignored. Efforts like the RISE initiative should be expanded, especially in areas where LGBTQIA+ acceptance is low. Increasing support for LGBTQIA+ youth involved in the child welfare system will lead to better permanency outcomes and less federal dollars spent on youth languishing in or aging out of care.

Recommendations

To ensure LGBTQIA+ youth and families experience less disproportionality in the child welfare system, we recommend the following changes to federal policy:

1. Revise the Equality Act to explicitly protect LGBTQIA+ youth and families from discrimination in the foster and adoption process
2. Implement data collection protocol to safely and accurately identify LGBTQIA+ youth in the child welfare system
3. Fund further research and practices to reduce heterosexism, anti-gay, and anti-transgender bias in the child welfare system

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