

# ***Working with Youth***

## **Guidelines for Affiliates of Parents, Families and Friends of Lesbians and Gays (PFLAG)**

Many PFLAG chapters have expanded their successful safe schools work to create safe spaces for gay, lesbian, bisexual, transgender and questioning youth outside of school buildings and in community programs. These programs are often life saving for youth and provide a haven in a hostile world.

There are many things to think about as we expand our work in areas involving direct services to youth. Attached are some guidelines and suggestions that are important to follow to protect both GLBT youth and PFLAG. This packet is meant to provide an overview of topics to consider in your chapter's discussion of whether or not to start or continue supporting a youth group.

Starting/supporting a youth group is a serious commitment, and requires much research, thought, preparation and on-going work. If your chapter decides they are ready and committed to forming a youth group, contact your field manager for more in-depth resources and for further discussions on this topic.

As David Buckel, an attorney with Lambda Legal Defense and Education Fund reminds us, any hesitancy to reach out to GLBT youth should be based on ensuring a commitment to the hard work involved, not based on the fact that the youth are GLBT. There are many thriving youth groups out there for non-GLBT youth, and they have had to worry about runaways, abuse, exploitation, parental consent and lawsuits, and they have worked it out because supporting young people is so important. Supporting GLBT youth is critical, particularly because of the isolation that they face.

As an organization we have a strong commitment to the health and safety of gay, lesbian, bisexual, and transgender people. It is important that we ensure that commitment is the foundation for all of our youth work.

### **Highlights:**

- ❑ PFLAG Standards for Sponsorship of a Youth Group
- ❑ Legal Guidelines
- ❑ Strategic Approach to Youth Groups
- ❑ Do's and Don'ts for PFLAG Youth Groups
- ❑ Youth and Empowerment

### **PFLAG Standards for Sponsorship of a Youth Group**

*Approved by the PFLAG Board of Directors 7/17/00*

Working with gay, lesbian, bisexual, transgender and questioning youth is an important part of fulfilling PFLAG's mission to promote the health and well-being of gay, lesbian, bisexual and transgender persons, their families and

friends. In some cases, PFLAG is the only group in the community that can offer such support. In doing this work, it is essential that we uphold standards that protect GLBT youth and PFLAG.

These standards are intended for chapters who have legal responsibility (primary financial and decision-making authority) for a youth group. However, these standards also offer important guidance for any chapter that supports a youth group in some way.

PFLAG chapters sponsoring youth groups shall:

- ✓ Complete a community assessment to determine that a PFLAG-sponsored youth group is the best approach
- ✓ Consult with an attorney and ensure that the program is in compliance with the relevant federal, state and local laws
- ✓ Create a strategic plan for the youth group and involve diverse community leaders, including youth
- ✓ Conduct a background check on and train every youth group facilitator
- ✓ Develop clear guidelines for the facilitators and youth group members (see list of guidelines under “Strategic Approach to Youth Groups”)
- ✓ Research and obtain the necessary insurance (PFLAG National’s liability insurance does not cover chapters)
- ✓ Develop a regular monitoring and evaluation plan for the program and facilitators

Note: PFLAG National does not authorize, support, affiliate with or allow the use of the PFLAG name or logo by any chapter sponsoring a youth group that fails to meet the PFLAG Standards for Sponsorship of a Youth Group. Failure to comply with these standards may result in losing chapter affiliation and the right to use the PFLAG name.

### *Legal Guidelines*

There is often much fear and reservation when adults start programs or mentoring projects for youth, particularly programs that are often attended by youth without consent or knowledge of their parents. With some sensible precautions and knowledge of state laws, these fears can be diminished and the important work of helping youth can begin.

Resource:

Lambda Legal Defense and Education Fund offers an intake line that can respond to legal questions regarding working with minors at (212) 809-8585.

This resource is intended to give an overview of some legal issues and some ideas of laws to pay attention to. It is in no way intended to be taken as legal advice for a specific situation. Any organization setting up or supporting a youth group should consult attorneys knowledgeable about state laws governing youth services. It is important that your group operate in accordance with state laws. This document has been paraphrased from Lambda Legal Defense and Education Fund document – “Legal Sketch of the Issues of Parental Consent and Related

Tort Liability in the Context of Youth Service Providers Working with Lesbian, Gay, Bisexual and Transgender Youth,” written by David Buckel.

There are 2 main topics that need to be addressed: parental consent and the possibility of lawsuits without parental consent.

## **I. Parental Consent**

The need for parental consent is based on the legal concept that children, until they turn 18, are not legally able to make decisions for themselves. Parents (or a court-appointed guardian) retain the right to make decisions for the youth and control their ability to participate in certain activities, receive medical care and a host of other decisions. It is important to investigate what kind of consent requirements your state has, and whether the consent of more than one parent is necessary. If youth participate in your group without parental consent and your state requires it, your group could be leaving itself open to a lawsuit.

The question of parental consent relating to youth programs generally turns on three principal questions: who is the youth, who is the service provider and what is the service.

### **A. Who is the youth?**

**When talking about the needs of parental consent, whether the youth is identified as a legal minor, as a runaway or as an abused child will produce different answers.**

#### **Runaways**

If the minor is a runaway, then state statutes will likely govern the issue of disclosure to parents. For an excellent resource in this area, consult *Runaway and Homeless Youth: A Survey of State Law* prepared by the American Bar Association’s Center on Children and the Law. One major concern is that statutes involving runaways may include not only the state where the minor is currently, but also the state from which the minor ran or came from. State laws about parental notification, again, vary widely. Check with your state department of youth services.

### **B. Who is the Service Provider?**

If the youth service provider is a professional or an entity that employs professionals, then ethical codes and licensing statutes apply to the disclosure of information to parents and reporting cases where abuse is suspected. If your chapter is hiring a staff person to run or work with your youth group, make sure to ask this person about the ethical codes of their profession and the validity of their license with the state.

#### **State funding**

If a youth service provider receives state or federal funding, the provider may be subject to limitations similar to those imposed on state and federal governments themselves. There is a legal precedent of trying to balance the right of parents to

direct the upbringing of their children and the right to privacy of the children themselves. Any PFLAG chapter whose youth program receives money from the state or federal government should get legal advice and know your limitations.

### **C. What is the Service?**

#### **State Statutes**

State statutes provide the bulk of the law relating to parental consent. If your chapter employs a licensed health care professional to provide mental health services or other health care to youth, multiple statutes apply in each state. For an excellent resource, consult *State Minor Consent Statutes: a Summary* (April 1995) prepared by the National Center for Youth Law, (415) 543-3307. This summary includes statutes dealing with all types of health care including sexually transmitted disease education, HIV/AIDS and outpatient and inpatient mental health services. The laws on these services vary widely from state to state. As of the writing of this legal sketch, in Colorado a minor must be 15 or older before they can consent to receive mental health services, while in the District of Columbia, a minor of any age can consent to health services. Check with your state department of health.

If your chapter does not employ a licensed health care professional, you should make it clear to everyone that you are not providing mental or other health services.

### **II. Lawsuits**

Lawsuits against youth service providers are either those that are specific to GLBT youth providers or the type of lawsuits that could apply to any youth service provider. The lawsuits discussed in this section deal with tort cases or civil lawsuits. Most lawsuits, such as “slip and fall” cases or van transportation can be addressed by insurance. If your chapter sponsors a youth group, you would be responsible and liable for any actions brought against the group. You need to check with several local youth service providers or an attorney to establish what basic insurance or lawsuits you need to worry about. PFLAG national does not provide insurance that protects individual chapters.

#### **GLBT Youth Service Provider in Particular**

Lack of consent of parents and the potential of homophobic parents to attack a GLBT supportive group may seem to lead to a higher likelihood of a lawsuit occurring. The possibility of such lawsuits underlines the need for careful screening of those working with or counseling youth. However, there have been no reported cases where a parent has sued counseling or support groups. The following legal precedents are seen by many legal analysts to provide some protection to service providers.

#### **There Must Be Harm**

The most important element of a tort lawsuit is that there has in fact been harm to an individual. The two types of lawsuits most likely to be filed would be intentional infliction of mental distress and negligence.

The general rule - these definitions may vary from state to state- for the tort of intentional infliction of mental distress is that the liability rests on “conduct exceeding all bounds usually tolerated by decent society, of a nature which is especially calculated to cause, and does cause, mental distress of a very serious kind.”

One important key phrase is that the target of the lawsuit not only "caused harm" but also “especially calculated to cause” harm.

For the tort of negligence, the general rule – again it varies from state to state – is that liability rests upon four elements, all of which must be met. They are:

1. A duty or obligation to protect another from unreasonable risk;
2. A failure to observe that duty;
3. A causal connection between the failure and the alleged injury;
4. That resulted in actual loss or damage.

Because no such lawsuit has ever been reported relating to GLBT youth and counseling, lawyers have had to guess what form a lawsuit might take. Some lawyers have looked at lawsuits pertaining to brainwashing and cult behavior, as they believe that some homophobic parents may use these charges. These intentional tort cases turned in large part on whether the defendant’s conduct of systematic deception was “outrageous.” A homophobic parent would have a difficult time equating supportive counseling with systematic deception. It would also be difficult to show that the counselor calculated to cause emotional distress.

### **III. Conclusion**

This is a very limited overview of legal concerns taken from a memo by the Lambda Legal Defense and Education Fund, and is not a substitute for legal advice from an attorney. It is intended to be a starting point for your chapter as you begin to research legal boundaries in your state. This memo is not an attempt to scare your PFLAG chapter from doing needed work with youth; it is an attempt to get your chapter started on working with youth in a productive way with legal issues and concerns settled. While these laws may sound frightening, they also offer protection for volunteers and adults who are making a good faith effort to help youth. Please contact your field manager for more information on this topic.

## **Strategic Approach to Youth Groups**

It is very important that we consider the many different situations that may occur in working with GLBT youth. Your chapter needs to sit down and come up with a solid plan on starting, operating and making a long-term commitment to a youth group.

### **I. Community Overview**

One of the first important steps is to take a look at your community and assess what programs are already in place and what the needs are. Decide whether a PFLAG sponsored youth group is the best solution for youth in your area. Ask yourselves some important questions.

- a. Have youth asked for a group?
- b. Is PFLAG the best local organization to provide the service?  
Sponsoring a youth group is a major responsibility and involves serious time commitments.
- c. Can your chapter work with others on a youth group? Options include:
  - work with an existing area youth group to make them more supportive for GLBT youth or create a service together
  - work with a local Gay-Straight Alliance to form a new after-school program
  - work with other groups to form a separate youth group, with its own tax-exempt status. This has the advantage of protecting your chapter from legal responsibility for the group

Think of ways to make your program the most effective, with as much community and youth support as possible. It is important not to duplicate or take away from other local efforts; PFLAG chapter support of work with other youth-oriented organizations may make the most sense.

## **II. Research**

It is important at this point to contact an attorney or local youth authority familiar with GLBT issues to verify what state and local laws will affect your youth group. This is a very important step to ensure that we set up systems to protect youth, individual facilitators and your PFLAG chapter.

## **III. Strategic Planning**

Create a strategic plan for starting your youth group. Involve youth, mental health professionals, and representatives of other youth programs in the planning and ongoing oversight of the group. Ideally, you should have a 1-year overall plan, as well as a detailed 6-month plan. Be realistic about the amount of time it takes to create a youth group. It is very important that you have youth involved, because it is a group to meet their needs.

Before your youth group actually begins meeting, legal issues should be resolved, member interest established, a meeting place determined (private residences not recommended for issues of responsibility and liability,) insurance investigated and obtained (PFLAG National does not provide insurance coverage for chapters), workers/facilitators identified and trained, a set of community resources, (including trained counselors) compiled, and guidelines for the group developed. This will most likely take at least six months.

As your group develops, you will want to consider tax exemption, particularly if you are seeking donations to finance the youth group. Such exemption brings limitations on what the group can and cannot do. Consult a knowledgeable attorney for advice on how to proceed with applying to the IRS for tax-exempt status.

## **IV. Facilitators and Group Guidelines**

It is important to create guidelines for all facilitators who will work with youth (whether GLBT or not.) It may be helpful to review guidelines of other youth groups – the National Youth Advocacy Coalition (NYAC) is a great resource at (202) 319 -7596. NYAC is currently in the process of reviewing guidelines from

youth groups across the country. If you do form a youth group in your community, consider membership in NYAC.

Create a set of guidelines and rules that all facilitators must sign and agree to before they are allowed to work with youth. Your guidelines should include facilitators agreeing to:

- a background check
- never be alone with a youth
- never socialize with a youth outside of the group, and abide by a timeline for socializing with youth that leave the group, typically after a year or more
- keep confidentiality of those who participate in the group
- never transport a youth without parental consent or alone

It is also important that all facilitators complete a training program before working with youth. Some issues to research and discuss in training include what to do if a facilitator suspects a youth is being abused or is engaged in dangerous activities, when to refer a youth to professional counseling and keeping confidentiality.

Guidelines will need to be created for the youth group itself. The planning committee should set initial guidelines, and then work with youth to expand them. One important issue to discuss is the age range of the group. It is also important to check the ages of youth who participate in the group to ensure they are meeting the guidelines.

## **V. Background Checks**

Any adult working with any youth group (GLBT or non-GLBT) should undergo a background check. Background checks are conducted through the local police bureau and will reveal any type of criminal convictions. However, states vary in the depth of their background checks. For example, Maryland police departments check police records in other states but other states may only cover convictions within their state.

The FBI background check is the most thorough, covering all states. Your chapter would have to apply through your local police department for the FBI background check. It takes longer to do the check because the FBI would have to process it through the state law enforcement bureau.

The particular department that conducts the check also varies by states. Usually the department name would be “criminal justice information system.”

In order to obtain a background check your chapter will have to provide the full name and contact information for the person being checked. The person being evaluated may have to go to the police department to be fingerprinted as well. There may be a small cost involved. For example, Maryland’s background check costs \$18 at the time this was written.

Your chapter should decide whether you would cover the cost of the background checks, or whether you will ask the facilitators to pay for their own background checks. If you decide to ask facilitators to pay for their own background checks,

it is important that you have funds to pay for checks on individuals who cannot afford to pay for their own.

It is essential that your chapter receive permission from the person under review before ordering the background check. The easiest way to accomplish this is to simply include a box in the volunteer application that asks whether they agree to a background check.

Keep in mind that because many states still have sodomy laws, and gay men are the targets of police enforcement of these and other laws seeking to curb consensual, adult gay sex, your background check may turn up a conviction that should not necessarily be held against the applicant.

## **VI. Inclusion**

Be sure that your programs, facilitators and group members reflect your broader community. It is important to address the needs of GLBT youth of color, those of all economic backgrounds, youth with disabilities, bisexual and transgender youth as well as those who are questioning their orientation. Your facilitators should provide support and be role models for these youth. A diverse group of leaders will help attract a diverse array of youth to the group.

## **VII. Peer to Peer Support**

While it is important to have an adult around to assure that rules are kept and that safety is maintained for the youth, youth to youth peer counseling is a very successful and important model. It is important that youth facilitators also be screened, trained and instructed to follow facilitator guidelines. Minimize the role of adults in the program and empower the youth.

## **VIII. Programs**

Create programs that are fun and exciting. However, be careful not to become just a social group. Your programs should include education, self-esteem building, and provide information on a variety of topics as well as a safe place for teens to find support. Let youth set the agenda and create their own programming. Adults should be ready to offer suggestions if the group falls into a rut. Also, make sure that you provide outlets and opportunities for youth that want to do advocacy work. Advocacy work can be empowering for youth and youth activists can make powerful statements about their lives to local and national politicians, media and school officials.

## **IX. Monitoring and Evaluation**

Set up systems for regular monitoring of the program and facilitators. Ask the youth involved to evaluate the facilitators and how well the program meets their needs. Make changes to the program based on youth response. Meet with the facilitators annually (at minimum) to review their work. Visit and participate in the groups as part of your monitoring and evaluation.

## DO'S AND DON'T'S FOR PFLAG YOUTH GROUPS

### **DO**

- ◆ **Do** include youth in planning and on the board or decision making body
- ◆ **Do** be realistic about what your chapter can and cannot do for youth
- ◆ **Do** thoroughly research the laws and statutes that apply to working with youth in your state
- ◆ **Do** provide a supportive, empowering environment for gay, lesbian, bisexual, transgender and questioning youth
- ◆ **Do** create a safe space for youth of color, youth of various cultural heritages, economic backgrounds, ethnicities and abilities
- ◆ **Do** protect the privacy and rights of the youth in your program
- ◆ **Do** recognize when a youth needs more help than you can give. Research child services numbers, runaway shelters and other groups that may be able to help the kids you can't
- ◆ **Do** have fun and exciting events to draw youth in
- ◆ **Do** serve food – all teenagers love to eat!
- ◆ **Do** publicize your group to guidance counselors, pediatricians and schools
- ◆ **Do** evaluate your youth program and facilitators regularly
- ◆ **Do** have consistent adult involvement, making sure all leaders are fully committed to the group

### **DON'T**

- ◆ **Don't** allow adult facilitators to EVER be alone with a youth. Two adults should be together at all times
- ◆ **Don't** socialize with youth in your group
- ◆ **Don't** ever allow any alcohol or drugs at any youth events
- ◆ **Don't** transport youth without their parent's consent
- ◆ **Don't** put unreasonable expectations on youth – routine attendance, being spokesperson or “out” in the community
- ◆ **Don't** be paternalistic toward youth. Youth will have great ideas and plans for their group, treat these ideas with respect
- ◆ **Don't** hold meetings in someone's home
- ◆ **Don't** think you can save all GLBT youth
- ◆ **Don't** give out names of youth to anyone
- ◆ **Don't** forget how important this work is! And....
- ◆ **Don't** forget to have fun

## **YOUTH AND EMPOWERMENT**

One of the most important things we can do in our work with youth is to empower. Youth groups are important not only to provide a safe space but also to provide an environment that helps GLBT youth grow and become strong and effective adults. However, a safe space is needed before any of this work can begin.

A great way to empower youth is to give them a say in the running of the organization. By respecting their ideas, program plans and experience, you are helping build their self-esteem, skills base and self worth. You are also building a program that is relevant to their experiences. It is important to remember that the world in which these youth live is very different from the world that most adults live in or the world that you may have grown up in.

An important goal of our youth groups should be to teach youth respect -- respect for themselves, their peers and for their environment. We can put together programs and guidelines to assist this development.

### **TIPS FOR CREATING A SAFE SPACE**

- ◆ Have time for a youth-only space, which will allow GLBT youth to talk without being embarrassed or self-conscious in front of adults.
- ◆ Do whatever it takes to protect the privacy of those that come to the group, including banning all media, refusing to release names and using a first name only policy if necessary.
- ◆ Never force a youth to talk. Always allow them to decide when or where they are comfortable in sharing.
- ◆ Hold your meetings in a safe, neutral and public place. Be aware of adults who are hanging around or of places that will not protect the anonymity of group participants.
- ◆ Be aware of your meeting location and the accessibility to public transportation. Are youth of different economic backgrounds able to attend? Also, be aware of meeting in a predominantly white area where many youth of color will feel intimidated or unwelcome.
- ◆ Encourage parents to attend PFLAG meetings but not to attend the youth groups.

### **SETTING UP GROUND RULES**

- ◆ Encourage the group to discuss the rules and agree to them prior to each meeting.
- ◆ Rules should include a confidentiality agreement, an agreement to disagree respectfully, no substance or alcohol in the group and to discuss with any adult facilitator any overall problems that are occurring.
- ◆ Encourage peer support. Let youth help each other.

## **STRUCTURE**

- ◆ Your group should have a planning committee that is be made up of at least half youth.
- ◆ Form an advisory council; try to have a representative that is a lawyer, a counselor, mental health professional and some adult gay, lesbian, bisexual and transgender people.
- ◆ Add a youth seat or seats to your chapter board. Involve interested youth in the larger work of PFLAG.