

January 13, 2020

Mary Lou Sudders  
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Dear Secretary Sudders:

Our organizations write with urgent concern about LGBTQ youth in the care and custody of the Department of Children and Families, particularly the lack of meaningful action by DCF leadership to ensure that LGBTQ youth are supported and affirmed on a systemic level. At a time when every child-serving agency should be proactively working to protect LGBTQ youth, DCF appears to be moving backward. Despite the efforts of many to sound the alarm and to collaborate on possible solutions, DCF refuses to act. Notably, DCF was the only state agency that declined to meet with the Massachusetts Commission on LGBTQ Youth last year, and DCF refuses to implement a comprehensive policy affirming LGBTQ youth. As described below, DCF also recently released a new Diversity Plan – without consultation from LGBTQ communities, organizations or partners in government – that drastically reduced its goals with respect to LGBTQ diversity and inclusion. We write to inform you of these urgent concerns, detailed below, and to request a meeting to learn how you will act to protect LGBTQ youth in the care and custody of DCF and to ensure accountability and oversight of the agency.

LGBTQ youth represent a significant percentage of Massachusetts youth. According to a 2018 study by the Boston Foundation, 16% of youth ages 18-24 identify as LGBTQ.<sup>1</sup> According to the Massachusetts Youth Risk Behavior Survey, 12.5% of Massachusetts high school students identify as LGBTQ, and of those youth, 18% identify as Latinx, 13% identify as Multiracial, 12% identify as White, 10% identify as Black, and 10% identify as Asian. Nationally, LGBTQ youth, and particularly LGBTQ youth of color, are overrepresented in child welfare systems. In general, 5-7% of youth identify as LGBTQ, but LGBTQ youth represent 25% of youth in care.<sup>2</sup> This disparity is due to many factors, including family rejection. Given the high population of LGBTQ youth in Massachusetts and the overrepresentation of LGBTQ youth in care nationally, it is imperative that we understand systematically the numbers and needs of LGBTQ youth in care and custody in Massachusetts. Due to a lack of data collection or a lack of transparency in data collection, however, we do not know the numbers of LGBTQ youth in DCF care or custody.

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<sup>1</sup> Boston Indicators & Fenway Inst., Equality and Equity: Advancing the LGBT Community in Massachusetts (2018).

<sup>2</sup> Center for the Study of Social Policy, 2016.

What we do know, by DCF's own admission, is that **LGBTQ youth represent the most vulnerable population of youth in the child welfare system.**<sup>3</sup>

As advocates for youth, we witness substantial challenges and vulnerabilities facing LGBTQ youth in DCF care or custody. We witness youth placed according to their birth sex rather than their gender, youth enduring long waits for medically-necessary care, and youth experiencing violence and discrimination in placements, among other issues. We also witness DCF leadership unable or unwilling to act to address these problems, signaling a lack of respect, affirmation and care for LGBTQ youth. After years of inaction, we write to urge action on behalf of some of Massachusetts' most vulnerable youth.

### **Data:**

DCF is not collecting demographic data on sexual orientation and gender identity of the youth in care and custody despite a commitment to do so in the Diversity Plan and an articulated goal by the Commissioner to collect this data. Data collection is critical to understanding the needs of youth and ensuring their connection to culturally competent resources to meet those needs. In October 2016, new demographic data collection went live, but the data fields were wrong in some places, particularly in screening, and inconsistent in others. We understand that there is no field to collect sexual orientation demographic data and no reporting of sexual orientation data in the DCF Quarterly Reports or Annual Profiles. For the data field of gender, we understand that the drop-down choices are male, female and intersex, which wrongly conflates birth sex with gender and means that youth are not able to self-identify as transgender, nonbinary or another gender. This error in the gender field leads to workers misidentifying transgender youth as intersex, which is erroneous and renders invisible and misunderstood both transgender and youth who identify as intersex. In its reports, DCF reports only birth sex of youth and not their gender. Further, fields that should have gender neutral labels such as parent or caregiver have gendered labels that do not allow appropriate tracking of adult caregivers. We understand that these inconsistencies and errors to the attention of leadership on many occasions, beginning in 2016, but the errors have not been fixed. In the agency's recently issued Diversity Plan, the agency identifies a goal of a 10% increase in demographic data collection. However, this goal ignores core problems that need to be addressed as soon as possible: (1) the demographic fields are wrong and/or inconsistent, and erroneous and inconsistent fields lead to the collection of erroneous data and (2) the demographic fields are not mandatory, which means that that demographic data is not consistently collected.

### **Training for workers and providers:**

A critical component of ensuring culturally competent care for LGBTQ youth is training for all staff. DCF leadership has not committed to mandatory training for every worker and

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<sup>3</sup> 2017 Annual Progress and Services Report at 238.

every area office on an ongoing basis. The only training happening is a basic introductory 45-minute training for new workers. This is inadequate. Training is needed on key topics such as LGBTQ 101 (understanding basic terminology), transgender and gender expansive youth 101, how to appropriately collect demographic data, how to affirm LGBTQ youth, and how to support families of origin and foster and pre-adoptive families on affirming LGBTQ youth. DCF has shown some interest in working with the Commission on LGBTQ Youth to implement a training session, and while this represents a promising start, comprehensive training should be provided to every DCF employee and on an annual basis. DCF must ensure that workers receive high-quality, culturally competent training on supporting all youth and families, including LGBTQ youth. DCF also must ensure that there is training and education provided to other key parts of the system that touch LGBTQ youth, particularly older youth, such as congregate care providers and STARR providers.

### **Training for Foster and Pre-Adoptive Families:**

The MAPP training is critical to ensuring that prospective foster and pre-adoptive families get accurate, culturally competent education on caring for all youth, including LGBTQ youth. MAPP training is required and provided extensively throughout Massachusetts. The current MAPP training is outdated and provides erroneous and harmful information to participants about LGBTQ youth. At a legislative hearing in 2017, participants discussed how offensive the MAPP training was and how some MAPP trainers appeared uncomfortable with discussing LGBTQ issues. Although in recent years a new version of MAPP was made available to MAPP trainers, it did not include the updated LGBTQ resource that accompanies Module 7. Additionally, we understand that the MAPP participant manual has not been updated and that participants are still receiving harmful, false and damaging information including, for example, a link between sexual orientation and childhood sexual abuse. The delay in ensuring that education materials appropriately represent LGBTQ youth is unacceptable and means that DCF is purveying outdated and erroneous information about LGBTQ people to foster and pre-adoptive families, to the detriment of youth.

### **Affirming Homes:**

LGBTQ youth are over-represented in child welfare systems nationwide, and this is due to many factors, including rejection from their families of origin. For youth in out of home placements, it is critical that the trauma of family rejection is not compounded by rejection in foster care. For years, DCF had a goal of creating a statewide network of affirming foster homes so that LGBTQ youth would be placed in affirming settings. The LGBTQ liaisons have long had a desire to create and disseminate resources about affirming homes but, until recently, were not able to maintain a list of affirming homes. The liaisons are now able to maintain a list and are aware of only 8 unrestricted homes that are affirming, and they are mostly short-term or full.

DCF leadership had for years stated it was working on a statewide system of affirming homes to provide central support for this important work. For many years, tracking of affirming homes was a goal of the department Diversity Plan. Suddenly, this fall, DCF leadership abandoned this goal of tracking affirming homes for the placement of LGBTQ youth. The abandonment of a commitment to providing affirming placements for LGBTQ youth is likely to create and compound harms for LGBTQ youth, which may then lead to homelessness, trafficking, involvement with DYS or the adult criminal justice system. While DCF leadership may suggest that all DCF foster homes should be affirming, that promise rings hollow as DCF leadership is doing nothing to ensure that this is the case, as evidenced by the lack of a clear LGBTQ policy, the failure to update the MAPP training, and the failure to require foster parents in their agreement to respect and affirm LGBTQ youth. There must be systemic tracking of affirming homes for LGBTQ youth statewide.

### **Policy for LGBTQ Youth:**

A comprehensive policy to affirm and support LGBTQ youth sends a powerful message to youth and creates clarity and accountability for the agency. It is imperative that DCF have a policy<sup>4</sup> affirming youth and outlining the commitments the agency makes to LGBTQ youth. With a policy, agency staff can be trained on and held accountable to clear commitments to LGBTQ youth. A model policy has been drafted by GLAD and informed by input from the LGBTQ Liaisons and the Massachusetts LGBTQ Youth Commission as well as examples from other states. (Our neighbors Connecticut, Rhode Island and Vermont all have child welfare policies supporting LGBTQ youth). Akin to the LGBTQ policy for DYS, the proposed policy is straightforward and translates DCF's legal obligations to LGBTQ youth into policy that is consistent and comprehensible throughout the agency. This model policy has been presented to DCF leadership; however, we have been told that leadership will not consider any comprehensive policy for LGBTQ youth. This refusal to articulate a policy of support and affirmation is baffling and signals an unwillingness to support LGBTQ youth in care and custody.

### **Gender-Affirming Care Guidance:**

For transgender youth, access to gender-affirming behavioral and medical care is essential. Indeed, the American Academy of Pediatrics recommends that transgender youth have access to gender-affirming and developmentally appropriate medical and behavioral care.<sup>5</sup> DCF

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<sup>4</sup> The LGBTQ liaisons created a Guide in 2015 that provides critical practical guidance to workers, families and youth and is a valuable resource. A central policy, however, is a critical tool to ensuring consistent affirmation of LGBTQ youth throughout DCF.

<sup>5</sup> Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents Jason Rafferty, COMMITTEE ON PSYCHOSOCIAL ASPECTS OF CHILD AND

has no consistent policy, guidance or practice for ensuring that transgender youth are able to easily and promptly access medically-necessary care. This is certain to create and compound harms to those youth. As the AAP made clear in its 2018 policy, the standard of care for transgender youth is a gender-affirming model and not a “wait and see” model. Providing care for transgender youth in a timely manner is essential to their health and well-being. Anecdotally, we have heard of barriers to care that inflict harm on transgender youth. In one recent case, a transgender youth diagnosed with gender dysphoria waited for over a year to get medical treatment because of DCF’s refusal to consent to care and failure to champion the needs of the youth in court. This is not an isolated story. We believe that delay of medically-necessary care is the rule, not the exception, for transgender youth in DCF custody. While youth, workers, and lawyers call for a clear and consistent guidance that can be implemented statewide, DCF leadership remains silent. We were hopeful that the guidance being crafted by the DCF Office of Medical Director would be finalized and issued promptly, but that has not yet occurred. While GLAD was able to provide some input into the guidance in summer of 2019 and suggested, among other things, a working group that included the Massachusetts Commission on LGBTQ Youth and LGBTQ liaisons, we understand that DCF leadership has not sought the input of the Commission or of the Liaisons into the drafting of the policy, and the guidance still has not been issued. Without input from stakeholders, particularly those with lived experience and with expertise in transgender youth, we fear that any guidance issued will miss the mark. This guidance must be finalized and issued as soon as possible but with input and engagement of key stakeholders.

Given some promising signs of years’ past, it is utterly inexplicable why LGBTQ youth, who are also disproportionately youth of color, would be effectively rendered invisible in the system that has as its purpose to ensure the welfare of our most vulnerable youth. By refusing to act, DCF undermines its mission of protecting and serving the young people in its care. We write to alert you to these issues and to enlist your help in taking immediate action. Below, we outline some of the steps we think must be urgently taken to begin to address these outstanding issues with DCF.

#### **Urgent Actions Needed:**

- **ACCURATE DATA:** By March 1, 2020, (1) correct erroneous demographic data fields, (2) make the collection of demographic data consistent and mandatory, (3) and provide mandatory training to all workers on the collection of demographics - particularly race, gender and sexual orientation. Additionally, a report on the profiles of LGTBQ youth in the care and custody of DCF, including race, ethnicity, geography and CRA

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FAMILY HEALTH, COMMITTEE ON ADOLESCENCE, SECTION ON LESBIAN, GAY, BISEXUAL, AND TRANSGENDER HEALTH AND WELLNESS, Pediatrics Oct 2018, 142 (4) e20182162; DOI: 10.1542/peds.2018-2162. The Massachusetts Foster Child Bill of Rights acknowledges the rights of children to medical care and behavioral health care. See <https://www.mass.gov/files/documents/2016/07/xx/foster-child-rights.pdf>

status, should be generated going forward so as to allow for the best understanding of who and where these young people are in order to improve our services for them.

- **TRAINING FOR WORKERS:** By March 1, 2020, communicate a plan for training all workers on LGBTQ cultural competency as outlined above on an annual basis. By December 31, 2020, certify that all workers have completed a cycle of training.
- **COMPREHENSIVE LGBTQ POLICY:** By February 1, 2020, convene out of your office a working group to review and finalize a comprehensive policy to affirm and protect LGBTQ youth. The working group<sup>6</sup> should include the following representatives: a representative of either the Civil Rights Division or the Child Protection Unit of the Attorney General’s Office, the director of the Massachusetts Commission on LGBTQ Youth, the chair of the DCF LGBTQ liaisons, an attorney from the CAFL unit of CPCS, an attorney from GLBTQ Legal Advocates & Defenders, a representative from Citizens for Juvenile Justice, a representative from the AGLY network, a representative of the Office of the Child Advocate. The working group shall finalize a policy by May 1, 2020, and DCF shall disseminate the policy throughout the agency and on its website by June 1, 2020.
- **GENDER CARE GUIDANCE TO ENSURE TIMELY CARE FOR TRANSGENDER YOUTH:** By February 1, 2020, convene a working group to review the current version of the draft gender care guidance for community and expert input. The working group should include the following representatives: The DCF Medical Director, the Director of the Massachusetts Commission on LGBTQ Youth, the chair of the DCF LGBTQ liaisons, an attorney from the CAFL unit of CPCS, an attorney from GLBTQ Legal Advocates & Defenders, Dr. Michelle Forcier of Hasbro Children’s Hospital or a comparable medical expert on gender-affirming care, a representative from BAGLY, and a parent of a transgender youth. The working group shall finalize a gender care guidance by May 1, 2020. DCF shall disseminate the guidance throughout the agency and on its website by May 15, 2020.
- **AFFIRMING HOMES FOR LGBTQ YOUTH:** By March 1, 2020, revise the DCF Diversity Plan to re-instate the goal of creating a statewide system of affirming homes for LGBTQ Youth with a timeline and plan for oversight and accountability. Also by February 1, the foster parent agreement should be updated to require foster parents to respect and affirm a youth’s sexual orientation and gender identity and expression. DCF must have a policy or plan to ensure that foster homes and group homes sign on to this revised agreement and to address those that refuse to do so.
- **ACCURATE AND CULTURALLY COMPETENT EDUCATION OF PROSPECTIVE FOSTER AND PRE-ADOPTIVE FAMILIES:** The MAPP training contains outdated and erroneous information that promotes harmful stereotypes of

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<sup>6</sup> This policy and the care guidance should also be informed by youth voices. It appears that the DCF Youth Advisory Board is defunct, but there should be a clear mechanism for youth to engage and provide feedback into policies and guidances that so directly impact their lives.

LGBTQ youth and does not ensure that foster and pre-adoptive parents are prepared to meet the needs of this vulnerable population. The updated MAPP training and participant manual must be disseminated to all MAPP training providers, within and outside DCF, by March 1, 2020. We trust there is an electronic solution so that providers can easily access updated MAPP training and materials.

We respectfully request a meeting in February to discuss these issues with you and to learn what steps you will take to address these time-sensitive concerns. We believe that urgent action is required to right the course of the Massachusetts Department of Children and Families with regard to its treatment of LGBTQ youth, and we offer our insights and expertise to assist in that effort. We look forward to hearing from you.

Sincerely yours,

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