CDSS

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ACTING DIRECTOR

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March 13, 2019

ALL COUNTY LETTER (ACL) NO. 19-20

TO: ALL COUNTY WELFARE DIRECTORS
              ALL CHIEF PROBATION OFFICERS
              ALL INDEPENDENT LIVING PROGRAM MANAGERS
              ALL INDEPENDENT LIVING PROGRAM COORDINATORS
              ALL FOSTER CARE MANAGERS
              ALL TITLE IV-E AGREEMENT TRIBES
              ALL TRANSITIONAL HOUSING COORDINATORS

SUBJECT: DOCUMENTATION OF SEXUAL ORIENTATION AND GENDER
              IDENTITY (SOGIE) IN THE CHILD WELFARE SERVICES/CASE
              MANAGEMENT SYSTEM (CWS/CMS)

REFERENCE: ASSEMBLY BILL (AB) 959 (CHAPTER 565, STATUTUES OF 2015) ;
              GOVERNMENT CODE, SECTION 8310.8; WELFARE AND
              INSTITUTIONS CODE (WIC) 827

The purpose of this ACL is to provide county child welfare and probation departments with guidance and instructions regarding how to document SOGIE information in CWS/CMS.

Background

In 2015, the Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act was passed and required 11 state entities, including four specific state departments of the California Health and Human Services Agency (i.e. Department of Aging, Department of Health Care Services, Department of Public Health, and the Department of Social Services (CDSS), in the course of collecting demographic data directly or by contract as to the ancestry or ethnic origin of Californians, to collect voluntary self-identification information pertaining to sexual orientation and gender identity, except as specified.

As such, the CDSS has initiated changes to CWS/CMS by creating additional data fields to gather the requisite information and renaming some existing fields to more accurately describe the data that is being captured. Note, the sharing of SOGIE information by the minor/ Non-Minor Dependent (NMD) is voluntary and the minor/NMD may decline to disclose any of their SOGIE information. Only what the minor/NMD reports should be documented in CWS/CMS and it should be updated as changes are reported by the minor/NMD.

New Data Fields
The CWS/CMS currently has a field for "Gender," on the Client ID Page which is used to fulfill the Adoption and Foster Care Analysis and Reporting System (AFCARS) reporting requirement of "Child's Sex." This field has been renamed to "Sex at Birth" to more accurately portray the data that is captured here and to be inclusive of all possible sexes at birth. The "Sex at Birth" field captures the sex designated on the original birth certificate issued at the time of birth. Additionally, the "Sex at Birth" drop down has been updated to display the new value of 'Intersex'.

To collect the voluntarily shared information on sexual orientation, gender identity, and gender expression, as mandated by the Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act, a SOGIE data frame has been added to the ID page of the client notebook and client page in Zippy notebook. The SOGIE data frame includes a Sexual Orientation drop down list, Reason Unable to Determine drop down list, Description fields, Gender Identity drop down list and Description fields, and Gender Expression drop down list.

Note, the selection of 'Unable to Determine' for Sexual Orientation requires the entry of a reason why the Sexual Orientation cannot be determined (e.g. "Did not Ask" and "Client Does Not Know"). A selection of 'Not Listed' requires the entry of a description of the client's Sexual Orientation. The selection of 'Not Listed' for Gender Identity also requires the entry of a description of the client's Gender Identity. Changing these values to any other value clears their respective required fields.

The dropdown lists are as follow:

Sexual Orientation
- Asexual
- Bisexual
- Gay
- Lesbian
- Pansexual
- Straight or Heterosexual
- Declines to State
- Not Listed- if the 'Not Listed' field is selected the "Description" field will be enabled.
- Unable to Determine (If chosen, must choose from the following sub-options)

- Did Not Ask
- Client Does Not Know

Gender Identity

- Female
- Gender Queer/ Gender Non-Binary
- Male
- Transgender Female
- Transgender Male
- Not Listed - if the 'Not Listed' field is selected the 'Description' field will be enabled.
- Unsure
- Declines to State
- Did Not Ask

Gender Expression

- Androgynous/Gender Non-Conforming
- Both Masculine and Feminine
- Feminine
- Masculine
- Declines to State
- Did Not Ask

Definitions

A Glossary of SOGIE Terms[1] has been compiled to provide Social Workers/Probation Officers accurate definitions to ensure consistent usage and unified understanding of SOGIE terms.

Terms used in the SOGIE data frame are defined below:

- **Androgynous**: A gender expression that has both masculine and feminine elements.
- **Asexual**: A term used to describe a person who does not experience sexual attraction.
- **Bisexual**: A person emotionally, romantically or sexually attracted to more than one gender though not necessarily simultaneously, in the same way or to the same degree.
- **Both masculine and feminine**: A term used to describe a person having both masculine and feminine characteristics and traits.
- **Female**: Of, relating to, or being the sex that typically has the capacity to bear young or produce eggs. This sex is assigned at birth.

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[1] Glossary of SOGIE Terms Sources: https://www.merriam-webster.com; Human Rights Campaign Foundation- SOGIE Data Collection; http://www.dictionary.com; RISE LGBTQ Glossary http://files.lalgbtcenter.org/pdf/rise/Los-Angeles-LGBT-Center-RISE-Glossary.pdf.

- **Feminine**: A term used to describe the socially constructed and culturally specific gender behaviors expected of females.
- **Gay**: A term used to describe a person who is emotionally, romantically or sexually attracted to people of the same gender.
- **Gender Expression**: External appearance of one's gender, usually shown through behavior, clothing, haircut or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.
- **Gender Identity**: One's internal sense of being male, female, and a blend of both or neither - how individuals perceive themselves and what they call themselves. One's gender identity can be the same or different from their sex assigned at birth.
- **Gender Non-binary**: A term used to describe someone whose gender identity is not exclusively male or female. Some people who are non-binary experience their gender as both male and female, and others experience their gender as neither male nor female. If someone tells you they are non-binary, it's always important to ask what being non-binary means to them.
- **Gender Non-conforming**: A broad term referring to people who do not behave in a way that aligns to the traditional expectations of their gender (male or female), or whose gender expression does not fit neatly into a category.
- **Gender Queer**: Gender queer people typically reject static categories of gender and often, though not always, sexual orientation. People who identify as "gender queer" may see themselves as being both male and female, neither male nor female, or as falling completely outside these categories.
- **Heterosexual**: A term used to describe people whose emotional, romantic or sexual attractions are to people of another gender. Also: straight.
- **Intersex**: An individual having the condition of intersexuality; the condition (such as that occurring in congenital adrenal hyperplasia or androgen insensitivity syndrome) of either having both male and female gonadal tissue in one individual or of having the gonads of one sex and external genitalia that is of the other sex or is ambiguous
- **Lesbian**: A term used to describe a woman who is emotionally, romantically or sexually attracted primarily to other women.
- **LGBQ**: An abbreviation for lesbian, gay, bisexual, queer and questioning.
- **Male**: An individual of the sex that is typically capable of producing small, usually motile gametes (such as sperm or spermatozoa) which fertilize the eggs of a female. This sex is assigned at birth.
- **Masculine**: A term used to describe the socially constructed and culturally specific gender behaviors expected of males.

- **Pansexual**: A term which describes someone who has the potential for sexual attraction to people of any gender.
- **Sexual Orientation**: A person's emotional, romantic and sexual attraction to other people.
- **SOGIE**: An acronym that stands for sexual orientation, gender identity and expression.
- **TGNB**: An acronym that stands for transgender and gender non-binary.
- **Transgender**: A term used to describe people whose gender identity does not match expectations based on the sex they were assigned at birth. A transgender experience does not imply any specific sexual orientation. Therefore, trans people may be straight, gay, lesbian, bisexual, queer, etc.
- **Transgender female**: A person who was assigned male at birth but whose gender identity is female.
- **Transgender male**: A person who was assigned female at birth and whose gender identity is male.

The Glossary can be accessed from the "Help" screen by pressing (F1) in CWS/CMS while hovering over a specific field.

SOGIE Data Collection
Child welfare and probation departments routinely collect and analyze information about the minors/NMDs in their care for the purposes of creating individualized case plans, monitoring agency trends and performance, and reporting to government agencies, etc. To date, only standard demographic data fields such as gender, race, ethnicity, and age have been used for reporting purposes. Additionally, most assessments and case management systems do not require or accommodate collection of data related to minor's/NMD's sexual orientation, gender identity, or gender expression. However, research has established that lesbian, gay, bisexual and gender nonconforming children, confront significant external threats to their health and well-being due to societal stigma, rejection, and discrimination. Therefore, to protect against those risk factors, it is imperative to child safety, permanency and well-being, for social workers and probation officers to discuss and document sensitive demographics, such as SOGIE, with their clients.

There is no right or wrong age to ask a minor/NMD about their sexual orientation and gender identity and expression. Some lesbian, gay, bisexual, transgender, or queer or questioning (LGBTQ) people report having been aware of their sexual orientation as young as at five years old, while others were much older before they realized it. Research shows children as young as two years old may begin expressing their gender in ways that are not consistent with societal expectations based on their sex assigned at birth. There will also be instances in which a minor/NMD may not be able to understand or answer SOGIE questions due to age or developmental disability. In these instances, it is appropriate to select 'Unable to Determine' in the 'Sexual Orientation' drop-down

and "Client Does Not Know" for the sub-category reason. It is important to acknowledge the private and sensitive nature of information related to sexual orientation and gender identity may make workers feel uncomfortable when having to directly ask a minor/NMD about their SOGIE. Social Workers/Probation officers (SW/PO) should engage children who are developmentally and cognitively capable of understanding and discussing gender, in an age-appropriate discussion of their preferred gender expression and the gender with which they identify. A minor/NMD's SOGIE is not static and may change during the duration of the case. Only what the minor/NMD reports should be documented in CWS/CMS and updated as changes are reported by the minor/NMD. Subjective opinions or assumptions on the minor/NMD's SOGIE should neither be made nor documented in CWS/CMS.

As previously stated, the sharing of SOGIE information by the minor/NMD is voluntary and the minor/NMD may decline to disclose any of their SOGIE information. There are many factors LGBTQ youth consider before disclosing their sexual orientation and gender identity, including that they may be exposing themselves to discrimination and harassment by revealing this information to others. Labeling the minor/NMD in a manner that is inconsistent with how they see themselves may cause unnecessary harm.

In general, SWs/POs are prohibited from disclosing minor/NMD's sexual orientation and/or gender identity to other individuals or agencies, without the child or youth's permission (WIC 827). The most important message the SW/PO must convey is that, like most case information, the information shared by the minor/NMD, including their sexual orientation and gender identity, is confidential, unless the minor/NMD gives permission to disclose or otherwise authorized/required by law. The SW/PO should explain to the youth the sharing of information is essential to advancing the objectives of minor/NMDs case plan, which includes safety, and permanency and well-being. The SW/PO should inform the minor/NMD during engagement of services, and when age-appropriate, of the need for their case record information to be shared with other legally authorized individuals, including but not limited to, the courts, school, medical services, agency staff, and all other legally authorized persons.

The skills and knowledge necessary to sensitively and appropriately ascertain of sexual orientation and gender identity and expression should be integrated into existing training, policies and procedures. Training and policy should also cover skills and knowledge required to further explore risks or needs if a minor/NMD states they are LGBTQ as a part of demographic data collection. When developing or updating policies and procedures, counties should consult existing resources such as "Best Practices for Asking Questions to Identify Transgender and Other Gender Minority Respondents on Population-Based Surveys" by the Williams Institute, "Guidelines for Managing Information Related to the Sexual Orientation & Gender Identity and Expression of Children in Child Welfare Systems" by Family Builders by Adoption, or "SOGIE Data collection" by the Human Rights Campaign Foundation. Another useful resource is other California counties who have already updated their policy and procedures to be inclusive of SOGIE youth.

<u>ADDITIONAL INFORMATION</u>
Questions concerning the gender identity placement policy should be directed to the Placement Support Services Unit at (916) 651-9774. Counties needing additional assistance with CWS/CMS should contact their System Support Consultant at the Office of Systems Integration.

Sincerely,

Document Signed By

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

Attachment

CWS/CMS SOGIE Data Entry Instructions

Client Notebook - ID page

Sex at Birth
- The Gender field has been renamed to "Sex at Birth".
- The value of "Intersex" has been added to the Sex at Birth drop down menu.

To select a "Sex at Birth":
1. Click the drop-down menu under "Sex at Birth"
2. Select the sex that corresponds to the child sex at birth, as noted on their birth certificate.

SOGIE Data Frame

A new SOGIE data frame has been added to the Client ID page.

To select a "Sexual Orientation"
1. Click the drop-down menu under "Sexual Orientation"
2. Select the sexual orientation that corresponds the sexual orientation identified by the minor/NMD.

3. If the sexual orientation identified by the minor/NMD is not listed in the drop down, select "Not Listed".
   a. The Description field becomes enabled and the sexual orientation identified by the minor/NMD will be entered in the "Description" field.

   b. *Note: If 'Not Listed' is changed to another value, the user will get the following alert: "Changing Sexual Orientation from 'Not Listed' will clear the previously entered data in the Description field. Do you want to proceed?"*

4. There may be instances in which sexual orientation is unable to be determined (i.e. the SW/PO did not ask because the minor/NMD is nonverbal, due to disability or age, or when asked the minor/NMD does not know). "Unable to Determine" is then selected from the drop down and the "Reason Unable to Determine" field will be enabled.
   a. If chosen, user must choose from the following sub-options:
      i. Did Not Ask
      ii. Client Does Not Know

SOGIE Data

Sexual Orientation

Unable to Determine

Reason Unable to Determine

Did Not Ask

<None>

Did Not Ask

Client Does Not Know

      b. If "Unable to Determine" is changed to another value, the user will get the following alert: *"Changing Sexual Orientation from 'Unable to Determine' will clear the value previously set in the Reason Unable to Determine field. Do you want to proceed?"*

To select a "Gender Identity"
1. Click the drop-down menu under "Gender Identity"
2. Select the gender identity that corresponds the gender identity identified by the minor/NMD.

Gender Identity

Unsure

<None>
Female
Gender Queer/Gender Non-Binary
Male
Transgender Female
Transgender Male
Not Listed
Unsure
Declines to State
Did Not Ask

3. If the gender identity identified by the minor/NMD is not listed in the drop down, select "Not Listed".
      a. The Description field becomes enabled and the gender identity identified by the minor/NMD will be entered in the "Description" field.
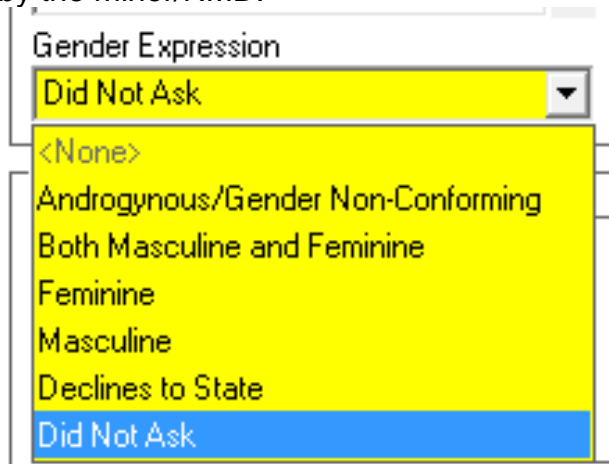
Gender Identity

Not Listed

Description

b. If "Not Listed" is changed to another value, the user will get the following alert: "Changing Gender Identity from 'Not Listed' will clear the value previously Entered in the Description field. Do you want to proceed?"

4. Note: The use of "Did Not Ask" should be limited to those instances in which the minor/NMD was not asked due to disability (i.e. nonverbal) or age (i.e. too young to communicate).

To select a "Gender Expression"
1. Click the drop-down menu under "Gender Expression"
2. Select the gender expression that corresponds the gender expression identified by the minor/NMD.

Gender Expression

| Did Not Ask ▼ |

<None>
Androgynous/Gender Non-Conforming
Both Masculine and Feminine
Feminine
Masculine
Declines to State
Did Not Ask

3. Note: The use of "Did Not Ask" should be limited to those instances in which the minor/NMD was not asked due to disability (i.e. nonverbal) or age (i.e. too young to communicate).