



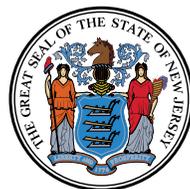
**New Jersey Transgender Equality Task Force  
Report and Recommendations**

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**Addressing Discrimination  
Against Transgender  
New Jerseyans**

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**November 20, 2019**



# The New Jersey Task Force on Transgender Equality

## Chair

### **Aaron Potenza**

Policy and Program Manager  
New Jersey Coalition Against Sexual Assault  
*Representative, Garden State Equality*

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### **Nicole Brown**

Director of Legislative Affairs  
Office of Innovation, Strategic Planning, and  
Policy  
Department of Banking and Insurance

### **Stefani Thachik**

Director of Policy and Outreach  
Office of the Secretary of Higher Education

### **Leslie A. Farber, Esq.**

Law Office of Leslie A. Farber

### **Robyn Gigl, Esq.**

Gluck Walwrath LLP.

### **Representatives**

NJDOC Office of Policy and Planning  
Department of Corrections

### **Dr. Christine Hamlett, Ed.D.**

GSLEN North Jersey

### **Dr. Ian Marshall, M.D.**

Chief of Pediatric Endocrinology  
Robert Wood Johnson Medical Group

### **Jeanne LoCicero, Esq.**

Legal Director  
American Civil Liberties Union of New Jersey

### **Holly Low**

Manager of Strategic Outreach  
Department of Labor and Workforce  
Development

### **Benn Meistrich, Esq.**

Legal Specialist  
New Jersey Division on Civil Rights

### **Christopher Menschner**

Assistant Commissioner  
Division of HIV, STD, and TB Services  
Department of Health

### **Adam Neary**

Director  
Office of Legislative Affairs and Community  
Outreach  
Department of Human Services

### **Linda Steuerwald**

LJS Communications

### **Jessica Trombetta**

Executive Director, Adolescent Services  
Department of Children and Families

### **Dr. A. Charles Wright**

Deputy Assistant Commissioner  
Department of Education

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We are indebted to the late Barbra “Babs” Siperstein, who fought tirelessly for transgender rights in New Jersey, including for passage of the bill establishing this Task Force.

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Finally, we thank the transgender, non-binary, and gender nonconforming New Jerseyans and their loved ones who submitted comment to the Task Force, either via email or by attending one of the Community Conversations held in New Jersey in July and August 2019. Your willingness to share your experiences and ideas have enriched this report tremendously.



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## Executive Summary

New Jersey’s Transgender Equality Task Force was established by an act of the legislature and signed into law by Governor Philip D. Murphy in July of 2018 in recognition of the persistent barriers to social and legal equality faced by transgender people.<sup>1</sup> With representation from nine of the state agencies, including the Department of Banking and Insurance, Department of Corrections, Department of Children and Families, Department of Education, Department of Health, Department of Human Services, Office of the Secretary of Higher Education, Department of Labor and Workforce Development, and the Division on Civil Rights within the Department of Law and Public Safety, the Task Force is the nation’s first statewide interagency task force on transgender equality.

The Task Force convened in March of 2019. Per the legislation establishing the Task Force, we had six months to meet, to engage with the transgender community, and to research issues facing transgender New Jerseyans. Between March and September of 2019, members of the Task Force reviewed relevant research on discrimination and attendant disparities faced by transgender people.

The Transgender Equality Task Force was directed to assess a deeply complicated issue (“the legal and societal barriers to equality for transgender individuals in the State”) and this report follows through on its legislative mandate to make recommendations to “ensure equality and improve the lives of transgender individuals” across at least seven broad policy domains. The Task Force’s recommendations are appropriately comprehensive and include a wide range of approaches to dismantling these barriers. The Task Force acknowledges that the State will not be able to address every recommendation at once, and that funding recommendations will have to be assessed each year in light of the State’s constrained fiscal capacity. In short, we recognize that addressing the barriers facing transgender New Jerseyans will require resources and members of the Task Force will advocate for funding for these reforms.

It is important to note at the outset that there is a serious lack of data collection on sexual orientation, gender identity, and gender expression (SOGI) at the local, state, and federal level, and this lack of data limits our ability to see and address the full spectrum of issues facing the transgender community in New Jersey and to create robust policy recommendations to address those issues. For this reason, one of our

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<sup>1</sup> The Task Force interpreted the term transgender broadly, to be inclusive of a range of identities, including those who are gender nonconforming and those who identify outside the gender binary. While many gender nonconforming and non-binary identified people consider themselves transgender, other gender nonconforming and non-binary individuals do not feel that this term is inclusive of their identities and may not self-identify as transgender. When we felt it was necessitated by the issue being discussed and the recommendations being offered to list out “transgender,” “non-binary,” and “gender nonconforming” we did so. At other times, for brevity, we used the term transgender to be inclusive of non-binary and gender nonconforming people. For a detailed guide to terminology, see Addendum C: Language and Terminology Guide.

It is also important to note that we use the acronym “LGBTQI” throughout the report. While we recognize that persons with intersex conditions (the “I” in “LGBTQI”) have often been marginalized within the larger LGBTQI community, many of the policy recommendations made in this report, particularly in the areas of criminal justice, healthcare, and housing, may also apply to persons with intersex conditions. For this reason we have chosen to use the acronym “LGBTQI” instead of “LGBTQ.”

most significant recommendations to the Governor and the Legislature is for the State of New Jersey to begin collecting SOGI data across the state agencies. This recommendation is detailed in full on page 9.

The legislation establishing this Task Force mandated a close look at a handful of subject areas, including healthcare; long term care; education; higher education; housing; employment; and criminal justice. The New Jersey Law Against Discrimination, enforced by the Division on Civil Rights, prohibits discrimination on the basis of gender identity or expression, including transgender status, in employment, housing, and places of public accommodation (places open to the public, including schools, medical providers, businesses, shelters, government buildings, etc.). Yet transgender, non-binary, and gender nonconforming people still face persistent discrimination in these areas. The members of the Task Force recognize that much of the discrimination against transgender people in our society happens at the level of institutions, and for this reason we recommend that training be mandated across the state agencies whose programs and services touch on the above issues. With comprehensive training for state workers, contractors, and volunteers staffing public programs and services, we believe that transgender people will have greater access to, and face less discrimination within, these systems. For an overview of what trainings should cover, who should be trained, and how often trainings should occur see page 9. We have also included more detailed training recommendations for each subject and the agencies that cover those subject areas in each section of the report.

Recognizing the need to not only review the literature, but to meet with and listen to concerns from the transgender community in New Jersey, the members of the Task Force voted, at our first meeting, to establish a public-facing email address ([transequality@njcivilrights.gov](mailto:transequality@njcivilrights.gov)), to create a website providing information to the public on the work of the Task Force in both English ([www.TransEqualityNJ.com](http://www.TransEqualityNJ.com)) and Spanish ([www.TransEqualityNJ.com/es.html](http://www.TransEqualityNJ.com/es.html)) and to schedule a series of meetings around the State where members of the transgender community could bring issues of concern and recommendations to the Task Force. The conversations held around the State, and the emails we received from community members, inform the recommendations made in the following pages on every subject area, from criminal justice to long term care. Testimony from members of the public can be found under many of the subsections and is covered at greater length in Addendum A: Community Conversations.

One of the issues consistently raised by community members was lack of resources and information, and the need for more sustained engagement with state government. Participants asked for the State to create a resource center that could provide information and other services, such as case management and legal advocacy. Such an office could also help to coordinate LGBTQ-related efforts between various state agencies and serve to communicate and coordinate these efforts within government, while also doing outreach and public education work. We therefore recommend the establishment of an LGBTQI Office within state government.

The Task Force also recommends the establishment of a Commission on Transgender Equality that can take a deeper dive on many of the issues addressed in this report, with more input and involvement from transgender, non-binary, and gender nonconforming New Jerseyans.



Our final top-line recommendation is that all single stall restrooms in government buildings be converted to “All Gender Restrooms.” This could be accomplished simply by removing “Men’s” and “Women’s” room signs on single stall restrooms and replacing them with “All Gender” signage as has been done in many municipalities around the country, and has been done in several municipalities around the State, including: Jersey City, NJ; Hoboken, NJ; Lambertville, NJ; and Princeton, NJ.

# Recommendations

## I. Data Collection

Data are critical to effective policymaking, including to policies that can address the persistent legal, economic, and social barriers to equality facing transgender people. Unfortunately, there is relatively little data collected on sexual orientation and gender identity (SOGI) at the federal or state level.<sup>2</sup> Comprehensive, accurate data about the needs of LGBTQI New Jerseyans is key to ensuring that these needs are understood and met. By collecting, analyzing, and reporting LGBTQI-inclusive data, New Jersey can better adopt evidence- and research-based approaches to programmatic and policy change and use accurate data to improve its delivery of services.

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“One of the things I feel very strongly about is intake forms. It should be standard procedure that a form has questions on it that would cover every citizen in this state. If you have it on the form it becomes normalized.”

– Community Conversations Participant

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Recognizing the importance of data collection to addressing issues facing the transgender community across the areas assigned to the Task Force for investigation, as well as the unique opportunity presented by having state agencies working on a task force dedicated to transgender equality, the Task Force sent a letter to the head of every state agency asking that they conduct an assessment of where and how their agency was already collecting data on SOGI (see Addendum B).<sup>3</sup>

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<sup>2</sup> For more on the lack of SOGI data collection at the federal and state level see Loewy KL. *Erasing LGBT People from Federal Data Collection: A Need for Vigilance*. *Am J Public Health*. 2017;107(8):1217–1218. For best practices in SOGI data collection see Center for American Progress: Fact Sheet on SOGI Data Collection, accessible at: <https://www.americanprogress.org/issues/lgbt/reports/2016/03/15/133223/how-to-collect-data-about-lgbt-communities/>; and Fenway Institute: Do Ask, Do Tell Toolkit, accessible at: <https://doaskdotell.org/>

<sup>3</sup> The SOGI data collection letter was sent to: the Department of Banking and Insurance, the Department of Children and Families, the Department of Corrections, the Department of Education, the Department of Health, the Office of the Secretary of Higher Education, the Department of Human Services, the Department of Labor and Workforce Development, the Office of the Attorney General, the Juvenile Justice Commission, the Department of Military and Veteran Affairs, the Department of Motor Vehicles, and the New Jersey State Police. For a copy of the letter see Addendum B at the end of this report.

Not a single department of state reported that they were collecting SOGI data. Several agencies indicated a desire to begin collecting this data, and the Department of Health indicated an openness to working with experts in this type of data collection to draft guidance on SOGI data collection to be shared across the state agencies. As of September 2019, the Department of Health has commenced SOGI data collection for the Behavioral Risk Factor Surveillance System (BRFSS).

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**“We need better data. If an agency takes state funding, let’s collect data to see what that agency is doing.”**

– Community Conversations Participant

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## Recommendation for Data Collection

- The Governor’s Office should announce a campaign to increase SOGI data collection across state agencies. The campaign should include an assessment of current data collection practices; the development of a best practice guide or guidance to be shared across state agencies (this could be done in consultation with the Department of Health and must be done in consultation with experts in SOGI data collection); and an update to data collection systems across the state agencies.<sup>4</sup>

## II. Training

While training alone cannot address the persistent inequalities and discrimination facing members of the transgender community, education, alongside legal and policy changes and the allocation of resources, is foundational to creating a safer and fairer New Jersey for transgender people to call home.

It is critical that those working in systems and positions that serve the public understand how to serve transgender, non-binary, and gender nonconforming people without bias or discrimination and with an understanding of the unique needs of these populations. That includes those working in the public sector and state government. We therefore recommend the Governor mandate training of all state employees,

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<sup>4</sup> The State of New York announced a similar campaign in 2014, including the establishment of an LGBT Task Force dedicated to increasing SOGI data collection across state agencies. For Governor Cuomo’s announcement see: <https://www.governor.ny.gov/news/governor-cuomo-announces-multi-agency-state-effort-address-lgbt-disparities>. For the New York Interagency LGBT Task Force report on SOGI data collection see: [https://www.governor.ny.gov/sites/governor.ny.gov/files/archive/governor\\_files/StandingUpForAllNYers.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/archive/governor_files/StandingUpForAllNYers.pdf)

from executive staff to front line staff and including, but not limited to full-time staff, part-time staff, and volunteers. Each agency should also consider how best to disseminate training to contractors, recipients of funds, and other entities over which that department or agency has regulatory and/or oversight authority.

Trainings should cover implicit bias; cultural humility; the basics of gender identity, gender expression, sexual orientation, and intersex status and conditions; issues affecting the transgender community with respect to the particular agency; the general rights and protections afforded by federal and New Jersey law to transgender individuals; as well as on any relevant guidelines, directive or policy.

Trainings should be done for new hires within 60 days of being hired and should be conducted every two years thereafter. State agencies should work with members of the transgender community to develop trainings, and in particular with transgender people of color who are disproportionately affected by discrimination and bias at the individual and institutional levels.

Detailed training recommendations for various state agencies and programs can be found in each of the subsections of this report.

### III. Criminal Justice

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“I have been through the [criminal justice] system and it’s like you are an alien from another world, and the mental, how it plays on your mind, it’s horrible.”

– Community Conversations Participant

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Transgender people can experience high levels of discrimination in various settings across their lifespan. Many face family rejection and abandonment; legal and economic barriers to changing identity documents; and discrimination in education, employment, healthcare, and housing. Pervasive discrimination across these settings can and often does lead to poverty and economic instability. In 2015, nearly one-third (29%) of respondents to the United States Transgender Survey (USTS) were living in poverty, compared to 12% of the overall the U.S. population.<sup>5</sup> When looking at respondents from New

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<sup>5</sup> James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality, p. 5.

Jersey, that number was 20%,<sup>6</sup> as compared to 10% of the overall population of New Jersey.<sup>7</sup> The USTS found that high unemployment rates were “a major contributor to the high rate of poverty,” with 15% of respondents nationwide, and 13% of New Jersey respondents, unemployed at a time when the unemployment rate was 5% nationally and 5.8% in New Jersey.<sup>89</sup>

High levels of discrimination in hiring, and attendant unemployment, poverty, and economic instability contribute to a situation in which many transgender people come to rely on underground economies. This reality, combined with discrimination within the criminal justice system, results in higher rates of police contact and incarceration, particularly for transgender women of color. Additionally, transgender people report experiencing high levels of mistreatment at multiple points of contact with the criminal justice system. Nationwide, more than half of transgender people (58%) who report having interacted with police or law enforcement in the past year state they were mistreated, with reports ranging from verbal harassment and persistent misgendering by officers, to physical and sexual assault. Transgender women of color cite frequent profiling as sex workers by law enforcement, with 33% of black transgender women and 30% of multiracial transgender women who interacted with law enforcement saying officers assumed they were engaged in prostitution.<sup>10</sup> In New Jersey, two-thirds (66%) of transgender people cited mistreatment by law enforcement, and over half (55%) stated they would not feel comfortable going to the police for help.<sup>11</sup>

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“There should be an internal LGBTQ resource for prisoners.”

– Community Conversations Participant

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Within prisons and jails, transgender people report high rates of discrimination and abuse from other incarcerated people, as well as from staff. According to federal data, transgender people are nearly ten times more likely to be sexually assaulted than the general prison population, with an estimated 40% of

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<sup>6</sup> 2015 U.S. Transgender Survey: New Jersey State Report. (2017). Washington, DC: National Center for Transgender Equality, p. 1.

<sup>7</sup> 2010 United States Census. Retrieved from: <https://www.census.gov/quickfacts/fact/table/NJ/PST120218>

<sup>8</sup> U.S. Transgender Survey, p. 5.

<sup>9</sup> U.S. Transgender Survey: NJSR, p. 1.

<sup>10</sup> U.S. Transgender Survey, p. 184.

<sup>11</sup> U.S. Transgender Survey: NJSR, p. 2.

transgender people in state and federal prisons reporting a sexual assault in the previous year.<sup>12</sup> Across the country, many transgender people in prisons and jails have been housed on the basis of genital anatomy, have been denied access to gender-appropriate clothing, and have faced harassment and physical abuse from prisoners and staff.

To address these disparities, the Task Force offers the following recommendations, while noting that people who are transgender can experience discrimination throughout the criminal justice system, and that the below recommendations may not reach every entity that plays a part in New Jersey's system of criminal justice. Therefore, we recommend that at every level, and within every criminal justice organization in the state, there should be a review to ensure that appropriate policies are developed and that staff members are trained on respectful communications and their obligations not to discriminate.

## Recommendations for Criminal Justice

### Office of the Attorney General (OAG)

- OAG should develop and issue guidelines covering respectful, non-discriminatory treatment of transgender people by all state law enforcement agencies, including appropriate search procedures, respectful communication including proper use of pronouns, and prohibiting profiling based on transgender status. The guidelines should require law enforcement agencies to update any applicable forms to ensure that they recognize people who may not identify within the gender binary.
- OAG should require training for all law enforcement officers and civilian staff on the guidelines and on cultural humility, which should be developed in consultation with transgender people, and in particular transgender people of color, who are disproportionately impacted by the criminal justice system. In addition to cultural humility, these trainings should include issues affecting the transgender community within the criminal justice system, including discrimination within that system, and the general rights and protections afforded by federal and New Jersey law to transgender individuals.
- Every two years, OAG should conduct a review to assess challenges and barriers faced by transgender people in the criminal justice system, and revise policies and training considering those assessments.

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<sup>12</sup> Beck, A. J. (2014). Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12: Supplemental Tables: Prevalence of Sexual Victimization Among Transgender Adult Inmates. Washington, DC: Bureau of Justice Statistics, available at [https://www.bjs.gov/content/pub/pdf/svpjri1112\\_st.pdf](https://www.bjs.gov/content/pub/pdf/svpjri1112_st.pdf); Beck, A. J., Berzofsky, M., Caspar, R., & Krebs, C. (2013). Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12. Washington, DC: Bureau of Justice Statistics. Available at: <https://www.bjs.gov/content/pub/pdf/svpjri1112.pdf>.

## Department of Corrections (DOC)

- While the New Jersey DOC implemented a transgender policy in 2016, the Task Force recommends that DOC review and modernize the policy. The updated policies should include intake and screening, housing based on gender identity, a prohibition on automatic or prolonged segregation, search procedures, privacy including during showers, access to appropriate clothing and grooming items, provision of all medically necessary health care in a timely manner, initial assessment and regular re-assessment of the person's risk of and experience of sexual harassment and assault that includes taking into account the person's own sense of their safety, and staff training. Policies should be crafted to ensure that they extend to how individuals identify themselves, and not only to those who have been formally diagnosed with gender dysphoria. These policies should be developed in consultation with experts on transgender issues, transgender prisoners and their families, and LGBTQI advocates. DOC also should provide periodic training to all DOC employees on these policies, on cultural humility, and on the unique vulnerability of transgender people in prisons and jails.
- The Task Force recognizes that there are some documents DOC receives from the courts that they do not have the ability to change. The Task Force recommends that DOC implement practices to ensure that all of the records DOC does have the ability to alter accurately reflect the prisoner's pronouns and gender identity. Additionally, DOC should develop policies and practices to ensure that transgender people are not subject to more invasive or frequent protocols than cisgender prisoners.
- DOC should draft and implement regulations that reflect the policies developed above so that they are applicable in both state prisons and county jails. DOC's Office of County Services should be responsible for ensuring that county jail facilities have implemented such policies through its annual inspection process.
- DOC should ensure that its contracts for medical services provides for the staffing of qualified medical and mental health professionals who have training and experience to diagnose and/or treat transgender people in line with the World Professional Association for Transgender Health (WPATH) standards of care and ensure that all medically necessary health care services are provided to transgender patients in a nondiscriminatory and timely manner.
- DOC should support and staff the development of support groups for transgender prisoners, available to prisoners at their own election. Its reentry services should offer support regarding identification documents, including information and assistance for transgender prisoners who need to obtain legal name or gender marker changes.
- DOC should ensure that its Office of Community Services is requiring all its contractors to certify that they are aware of their obligations to respect the rights of transgender people and comply

with the Law Against Discrimination and that all contractor employees receive cultural humility and nondiscrimination training.

### New Jersey State Parole Board

- The New Jersey State Parole Board and its staff should have periodic training on cultural humility, delivered in consultation with transgender people, and in particular transgender people of color, who are disproportionately impacted by the criminal justice system. In addition to cultural humility, these trainings should include issues affecting the transgender community within the criminal justice system, the general rights and protections afforded by federal and New Jersey law to transgender individuals, and the ways in which the criminal justice system has systematically discriminated against transgender people.
- The Parole Board should implement practices to ensure that all records accurately reflect the person's pronouns and gender identity, and it should develop policies and practices to ensure that transgender people are not subject to more invasive or frequent protocols than cisgender people.
- The Parole Board should implement practices, and if necessary, change policies, to ensure that the fact that someone is transgender in no way negatively impacts a decision as to their release on parole. These practices and/or policy changes should explicitly state that discrimination by any member of the Board based on gender identity, gender expression, or transgender status constitutes impermissible bias and/or prejudice and is a violation of the professional code of conduct, as contemplated by the regulations.

### Juvenile Justice Commission (JJC)

- The Juvenile Justice Commission, with oversight from the Office of the Attorney General, should further develop comprehensive policies for dealing appropriately with transgender youth in the juvenile justice system. JJC should provide periodic training to all employees on these policies, on cultural humility, and on the unique vulnerability of transgender youth. The comprehensive policies should include intake and screening, housing by gender identity, prohibiting automatic or prolonged segregation, search procedures, privacy, access to appropriate clothing and grooming items, provision of all medically necessary health care, and staff training – and, indeed a number of these items are already covered by current JJC policies. Policies should be crafted to ensure that they extend to how youth identify themselves, as they do now, and not only to those who have been formally diagnosed with gender dysphoria. These policies should be developed in consultation with experts on transgender issues, transgender prisoners and their families, and LGBTQI advocates.
- JJC should ensure that its contracts for medical services provides for the staffing of medical and mental health professionals who have training and experience to diagnose and/or treat

transgender people and ensure that all medically necessary health care services are provided to transgender youth in a nondiscriminatory and timely manner.

### Ensuring Support for Victims of Crime

- In addition to the training recommendation for law enforcement agencies above, County Prosecutors' offices should ensure that its staff who serve transgender victims of crimes are receiving at least annual training on best practices to ensure that victims do not suffer any additional trauma as a result of interacting with law enforcement agencies. They should also ensure that law enforcement agencies within their county include transgender-related and/or gender options that allow people to self-identify as transgender when reporting or being surveyed as victims of crimes; and provide gender identity-related hate crimes data to the FBI.
- The Victims of Crime Compensation Office (VCCO) should ensure that its forms are gender neutral and explicitly include non-discrimination language and it should make clear that victims of gender-based violence are eligible for assistance.

### Courts & Probation

While the Task Force understands that it was not asked to provide recommendations for the New Jersey Judiciary, it would be remiss if it did not mention that New Jersey's courts and the Office of Probation Services are significant parts of the state's criminal justice system and would benefit from many of the recommendations described above, including training and an audit of its policies and forms to ensure that gender identity and expression are appropriately considered.

### Trainings

The above state agencies and programs should require periodic training for staff on cultural humility, developed in consultation with the Division on Civil Rights and with transgender people, and in particular transgender people of color, who are disproportionately impacted by the criminal justice system. In addition to cultural humility, these trainings should include issues affecting the transgender community within the criminal justice system, including discrimination within that system, and the general rights and protections afforded by federal and New Jersey law to transgender individuals.

### Conclusion

The Task Force notes that people who are transgender can experience discrimination throughout the criminal justice system. The above recommendations may not reach every entity that plays a part in New Jersey's system of criminal justice. Overall, we recommend that at every level, and within every organization, there should be a review to ensure that appropriate policies are developed and that staff members are trained on respectful communications and their obligations not to discriminate.

## IV. Education

There are several legal protections in place for transgender students in New Jersey public schools. The New Jersey Anti-Bullying Bill of Rights, one of the strongest anti-bullying laws in the country, protects students from harassment, bullying, and intimidation on the basis of gender identity, gender expression, and sexual orientation, among other protected categories (P.L. 2010, Chapter 122 (P.L. 2010, c.122)). The New Jersey Law Against Discrimination prohibits discrimination in places of public accommodation, including public schools, on the basis of gender identity, gender expression, and sexual orientation (N.J.S.A. 10:1 *et seq.*).

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**“It would be great if there was a mandate to have a gender-neutral bathroom available for children in every single school.”**

– Community Conversations Participant

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In September 2018, the New Jersey Department of Education (DOE) issued “Transgender Student Guidance for School Districts.”<sup>13</sup> The guidance document was developed in consultation with advocates, several of whom serve on this Task Force, and clearly outlines expectations for school administration, teachers, and staff, in interactions with transgender students.

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**“Policy and law in New Jersey are progressive, but it’s basically unenforced down here (southern New Jersey).”**

– Community Conversations Participant

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In January 2019, Governor Phil Murphy signed legislation directing local school boards to include instruction, and adopt instructional materials, that accurately portray political, economic, and social

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<sup>13</sup> New Jersey Transgender Student Guidance for School Districts. Retrieved from: <https://nj.gov/education/students/safety/sandp/transgender/Guidance.pdf>

contributions of persons with disabilities and LGBTQ people, for middle and high school students.<sup>14</sup> This was an important step forward, as historians have long contended that one cannot understand important changes in American history without reflecting on the histories of sexuality and gender,<sup>15</sup> while advocates and research on LGBTQ youth have demonstrated that seeing oneself reflected in the curriculum is critical to academic achievement, and that schools with LGBTQI-inclusive curriculum have less reported harassment, intimidation, and bullying than schools without LGBTQI-inclusive curriculum.<sup>16</sup>

We know that many districts around the state have implemented the Transgender Student Guidance. However, the Task Force has also heard from students and their loved ones who report being denied access to the protections afforded by the Transgender Student Guidance, the New Jersey Law Against Discrimination, and the Anti-Bullying Bill of Rights. The Task Force also heard concerns from transgender students and their parents about the implementation of the LGBTQI-inclusive curriculum, namely, that teachers who harbor bias would be tasked with teaching a curriculum they are ill prepared to deliver, and in the process, would end up doing harm.

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**“Curriculum needs to be developed and it cannot be whitewashed history, it has to be at the intersection.”**

– Community Conversations Participant

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To ensure that the laws and guidance protecting transgender, non-binary, and gender nonconforming students are implemented across the State, we offer the following recommendations.

## Recommendations for Education

- The Division on Civil Rights (DCR) should take a proactive approach to ensure that state guidance on transgender students is being implemented in all K-12 districts around the state, and that youth and parents/guardians know their rights under the law, and understand how to file a complaint with DCR should they feel they, or, in the case of parents/guardians, their child, are

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<sup>14</sup> A copy of the LGBTQ-inclusive curriculum bill is available at: [https://www.njleg.state.nj.us/2018/Bills/PL19/6\\_.PDF](https://www.njleg.state.nj.us/2018/Bills/PL19/6_.PDF)

<sup>15</sup> Romesburg, D., Rupp, L.J., Donahue, D.M. (2014). *Making the Framework FAIR: California History-Social Science Framework Proposed LGBT Revisions Related to the FAIR Education Act*. San Francisco, CA: Committee on Lesbian, Gay, Bisexual, and Transgender History.

<sup>16</sup> Kosciw, J. G., Greytak, E. A., Zongrone, A. D., Clark, C. M., & Truong, N. L. (2018). *The 2017 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation's schools*. New York: GLSEN.

facing discrimination at school on the basis of gender identity, gender expression, or transgender status.

- The Legislature should explore the feasibility of establishing a Commission on LGBTQI issues in schools. The Commission could consider curriculum and inclusive policies and should include a representative or representatives from the Department of Education, the Division on Civil Rights, the New Jersey School Board Association, the New Jersey Education Association, the LGBTQ section of the New Jersey State Bar Association, Garden State Equality, New Jersey chapters of the Gay Lesbian Straight Education Network (GLSEN), Make it Better for Youth, Bayard Rustin Center for Social Justice, Hetrick Martin Institute (HMI NJ), ACLU NJ, and other advocates, along with student and parent representatives. If the Commission is tasked with looking at LGBTQI inclusive health education curriculum, as it should be, representatives from the New Jersey Coalition Against Sexual Assault and Planned Parenthood New Jersey should also be included.
- The State should require that all school staff, faculty, and administration have periodic cultural humility trainings. These trainings should include discrimination against and experiences of LGBTQI youth in K-12 schools; discrimination against and experiences of LGBTQI youth of color in K-12 schools; and the general rights and protections afforded by federal and New Jersey law to LGBTQI individuals and students. In addition to these general trainings, educators tasked with delivering LGBTQI-inclusive curriculum should have workshops and professional development on teaching LGBTQI-inclusive curriculum, with emphasis on their subject area. Trainings should be conducted by professionals with expertise in education, issues facing LGBTQI youth, and intersectionality.
- Schools should have all gender inclusive restrooms in each building and should include all gender inclusive restrooms in plans for any new buildings.
- The Department of Education shall review and update the Transgender Student Guidance issued in September of 2018 to school districts on a tri-annual basis or as deemed appropriate by the Department.

## V. Employment

National and regional surveys of transgender individuals, as well as resume testing studies for employment discrimination have consistently found high rates of employment discrimination against transgender individuals as well as high rates of unemployment among transgender people. Rates of employment discrimination and unemployment are even higher for transgender people of color, and highest for black transgender people.

For instance, in 2015, the USTS found the national unemployment rate among transgender people was three times the national average: 15% compared to 5% in the general population.<sup>17</sup> The unemployment rate among transgender people of color (20%) was four times higher than the U.S. unemployment rate (5%). The rates in New Jersey were similarly high, with 13% of New Jersey respondents unemployed at a time when the overall unemployment rate in the state was 5.8%.<sup>18</sup>

Participants in the Community Conversations held by the Task Force identified unemployment, work in underground economies, and employment discrimination (sometimes further compounded by lack of work history and/or a criminal record) as significant barriers. One woman spoke about how this was common among transgender women she knew, and that it not only led to further employment discrimination, but to issues with housing as well: “[w]hat I see with the transgender women in this area is that they have lots of problems with jobs and housing. One of the base things that people have to do is be under the radar doing illegal things and it was hard for me to get housing, it was hard for me to get a job.”

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**“I get an interview; I don’t hear anything back. I know I interview well, and I just have this feeling. What else can I do before I become a statistic? I can’t pretend that discrimination against trans people isn’t affecting me.”**

– Community Conversations Participant

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Another participant shared that despite holding an advanced degree they were unemployed, which they believed resulted from being “clocked” as transgender when interviewing: “I get an interview, I don’t hear anything back. I know I interview well, and I just have this feeling. What else can I do before I become a statistic? I can’t pretend that discrimination against trans people isn’t affecting me.”

These experiences are supported by data from the USTS, which found that, in New Jersey, 16% of transgender people had lost a job because of their gender identity or expression, 26% reported that in the past year they had either been fired, denied a promotion, or not hired because of their gender identity or expression, while 18% reported discrimination and harassment at the workplace such as being forced to

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<sup>17</sup> U.S. Transgender Survey, p. 5.

<sup>18</sup> U.S. Transgender Survey: NJSR, p. 1.

use the wrong restroom, being told to present in the wrong gender, or having a supervisor or co-worker share their transgender status without their permission.<sup>19</sup>

To address employment discrimination and the high rates of unemployment and poverty faced by transgender people, the Transgender Equality Task Force offers the following recommendations.

## Recommendations for Employment

- The New Jersey Department of Labor and Workforce Development (NJDOLE) should recommend that the State Employment and Training Commission (SETC) amend the list of targeted groups in its Workforce Innovation and Opportunity Act (WIOA) State Plan to include transgender and/or LGBTQI populations. WIOA provides federal funding to states to aid targeted groups that face barriers to employment including veterans and individuals with disabilities.<sup>20</sup> With transgender and/or LGBTQI populations included as a target group in the State Plan, New Jersey can incentivize local workforce development boards to develop employment programs to serve these populations. Given the high unemployment rate for the transgender population, with greater disparities among transgender people of color, workforce development programs should be targeting these populations.
- NJDOLE should support the specialized employment programs for transgender and/or LGBTQI populations. NJDOLE could identify funding and incentivize local workforce development boards to develop programs similar to those in other cities and states, which assist transgender individuals with securing meaningful employment, job referrals, career coaching, resume reviewing, and legal services.<sup>21</sup>
- There should be transgender (and LGBTQI) representation on the State Employment and Training Commission (SETC) and local Workforce Development Boards to ensure that strategies to enhance employment opportunities also serve transgender populations. NJ lawmakers should consider legislation that would require one member of the SETC to specialize in serving

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<sup>19</sup> *U.S. Transgender Survey: NJSR*, p. 2.

<sup>20</sup> <http://www.wtb.wa.gov/Documents/StatisticalModel-SpecialPopulationsFactsheetHandout.pdf>

<sup>21</sup> For example, the City of San Francisco funds the Trans Employment Program, which provides transgender and gender nonconforming individuals with job referrals, career coaching, resume reviewing, and legal services: <https://transemploymentprogram.org/about/>; The California Workforce Development Board funds a partnership between the TransLatin@ Coalition, the California Restaurant Association, and community-based LGBT centers to raise awareness about discriminatory hiring practices, strengthen job search assistance, and explore ways the workforce system can partner with community-based organizations to better serve transgender communities: <https://cwdb.ca.gov/wp-content/uploads/sites/43/2016/08/New-Bus-as-Usual-Big-Idea.pdf>; and New York State released funds in 2017 to individual service providers who assist homeless LGBTQ+ individuals with securing meaningful employment: <https://www2.ed.gov/about/offices/list/osers/rsa/wioa/state-plans/2016/ny.pdf>

transgender communities.<sup>22</sup> NJDOL should consider recommending that the SETC undertake similar guidance for local Workforce Development Boards, which have a community-based organization membership requirement.<sup>23</sup>

- The State should mandate periodic cultural humility trainings for One-Stop Career Center staff. In addition to cultural humility, trainings should include discrimination facing transgender people in employment, and the general rights and protections afforded by federal and New Jersey law to transgender individuals. Providing annual cultural humility training to the One-Stop staff who interface with the public will help ensure that transgender individuals are receiving respectful and affirming service from employment specialists. The SETC could require or request county workforce development boards to undertake this, with recommended trainers that have experience and expertise in transgender issues.
- NJDOL's Temporary Disability & Family Leave Insurance (TDI-FLI) program should take steps to improve the data collection process concerning claims for gender-affirming medical treatment. Transgender individuals may need to take leave from work following surgery or other gender-affirming medical treatments. A family member may also need to take leave to care for a transgender person following gender-affirming medical treatment. TDI-FLI should coordinate with medical providers to improve data collection in claims processing for such medical treatments, ensure the ICD (International Classification of Diseases) codes being used by providers and TDI-FLI are aligned, and make any necessary changes in the claims process. In addition, NJDOL's Office of Strategic Planning and Outreach could coordinate with medical providers who specialize in gender affirmation treatments and surgeries, to ensure these providers are aware of TDI-FLI; can inform their patients about its benefits; and know how to complete the form's medical certificate.
- NJDOL and DCR should engage in strategic outreach to transgender communities. The Office of Strategic Planning and Outreach at NJDOL could include transgender communities as a targeted population in their outreach efforts. NJDOL could develop specific Earned Sick and TDI-FLI communication materials that meet the needs of various LGBTQI communities, including transgender communities. In addition, Strategic Planning and Outreach could continue to strengthen relationships with advocacy organizations in order to establish a feedback loop on marketing materials and a conduit for sharing information with LGBTQI communities, including transgender communities, and to offer trainings and presentations on NJDOL programs.
- Refusal to allow an individual to use a restroom consistent with his, her, or their gender identity or expression is unlawful under New Jersey's Law Against Discrimination. To help assure that public employers provide a safe and healthy working environment for all employees, the Public

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<sup>22</sup> <https://www.nj.gov/njsetc/about/documents/2.0%20NJSA%2034-15C.pdf>

<sup>23</sup> <http://www.njsetc.net/njsetc/policy/wibhandbook/documents/WIB%20HandbookDecember2009.pdf>

Employees Occupational Safety and Health (PEOSH) program, within NJDOL, should issue a guidance regarding restroom access for transgender workers. The guidance can share best practices on restroom access, like the Federal Department of Labor’s 2015 OSHA guidance, including that no employee should be required to use a segregated facility apart from other employees because of their gender identity or transgender status. The guidance should be jointly issued with the Division on Civil Rights, which enforces the New Jersey Law Against Discrimination.

## VI. Family Support

While the legislation establishing the Transgender Equality Task Force did not specifically identify family support as an issue area for investigation, the Task Force members voted at the first meeting to explore how the State of New Jersey might assist families in coming to accept and support their transgender children.

We did so as we recognize the critical role of families and caregivers in reducing risk, promoting well-being, and saving the lives of transgender youth. Currently, there are few programs, beyond community support groups, that proactively educate parents and caregivers of transgender youth and engage them as partners in the well-being of their child.

Research shows that higher levels of family acceptance are related to higher levels of well-being among LGBTQI youth, while rejection is linked to negative health outcomes.<sup>24</sup> Empirically established programs demonstrate that parents from all backgrounds can learn to support their LGBTQI child and reduce harmful behaviors when they receive information within the context of a wellness model, in which the well-being of their child depends on their support, but not necessarily their acceptance.<sup>25</sup>

The Transgender Equality Task Force believes public policy should support the well-being of all youth, including transgender and gender diverse youth, through the implementation of the following family support education and intervention recommendations. In doing so, New Jersey can decrease and prevent many of the documented outcomes that result from family rejection, such as suicide, depression, substance abuse, HIV, homelessness, and family violence.

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<sup>24</sup> Ryan, C., Russell, S., Huebner, D., Diaz, R., and Sanchez, J. “Family Acceptance in Adolescence and the Health of LGBT Young Adults,” *Journal of Child and Adolescent Psychiatric Nursing*, Volume 23, Number 4, p. 205-213.

<sup>25</sup> Ryan, C. “Generating a Revolution in Prevention, Wellness & Care for LGBT Children & Youth,” *Temple Political & Civil Rights Law Review*, 23(2), p. 331-334.

## Recommendations for Family Support

- The State should support a statewide public education campaign to educate the public on how family acceptance and support of transgender children promotes well-being, reduces risk, and can save lives. Research has found that most rejecting behaviors are motivated by care and concern to help their child “fit in,” have “a good life,” and be accepted by others.<sup>26</sup> When we teach that those behaviors are harmful and engage parents as allies in their child’s well-being, positive outcomes for their child result. This campaign must use evidence-based language and messaging to educate the general public on the high impact and cost of harmful versus supportive behaviors towards transgender individuals in our society.
- The State should help approved 501(c)(3) nonprofit organizations, located in New Jersey, to create family-based support services. Programs will connect with families and caregivers in their communities, as well as those systems within the community that intersect with children, such as healthcare practitioners, schools, and religious organizations. Programs must utilize evidence-based research and culturally relevant materials (existing or to be developed) congruent with socio-cultural, language, and geographic backgrounds of the community, to help families accept and manage community and family reaction to their transgender child.
- The State should create and run a “Trans-families In Crisis” hotline or warmline, staffed by individuals trained in family acceptance research approaches. Research shows that family reaction to a child’s transgender status can greatly vary and that access to accurate information is an effective tool in helping rejecting families reduce harmful behaviors. A hotline (or warmline) can serve as a critical first step for these families.
- State Agencies that serve youth and families should encourage the dissemination of family education materials on best practices for transgender family members to help diverse families learn to support their transgender child. Materials should be available in all settings where children, youth, and families are served including clinics; schools; family service agencies; health and mental health services; prevention programs; child abuse programs; suicide prevention services; early childhood programs; hotlines; child welfare, juvenile justice, homeless and other out-of-home programs; community centers and congregations. Materials should be presented in multiple languages. In addition to hard copies, materials should be housed on-line as a free resource to families and community organizations. Materials can be developed or procured from reliable third-party sources; whose materials are evidence based. Materials may include, but are not limited to, family education booklets and posters.
- The Department of Children and Families (DCF) should mandate that contracted treatment homes that house foster and out-of-home youth have written policies concerning equal access for

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<sup>26</sup> *Ibid.*

transgender youth and that treatment home staff have training in LGBTQI cultural humility within 60 days of hire and biennially thereafter. In addition to cultural humility trainings should cover high rates of family rejection faced by transgender youth, New Jersey's ban on conversion therapy for LGBTQI youth, and the general rights and protections afforded to LGBTQI youth under federal and New Jersey law.

## VII. Healthcare

Accessing healthcare for the transgender community, generally speaking, is a multi-faceted problem. Specifically, based on community meetings held around New Jersey, as well as data from the USTS (national and New Jersey breakout survey), the Task Force has identified the following access to treatment barriers for transgender individuals: 1) Provider and healthcare barriers, which account for 30% of individuals; 2) Cost and finances, which account for 26.1% of individuals; 3) Fear and discomfort, which account for 21.7% of individuals; 4) and lack of insurance, which accounts for 13% of individuals.<sup>27</sup>

Specifically, according to the USTS, in New Jersey, 21% of respondents experienced a problem accessing healthcare, including being denied coverage for transition-related care as well as for routine medical care. Of those respondents, 31% who saw a healthcare provider stated they had at least one negative experience specifically related to being transgender. In fact, 25% stated that they refused to visit a doctor because of this fear.<sup>28</sup> Participants in community conversations echoed these fears, describing concern and anxiety about outing themselves or their children after having negative experiences when seeking care for conditions like rashes or broken bones.

Transgender people also face barriers to care because insurance companies have historically excluded coverage for transition-related care. In New Jersey, a 2017 law required that insurers in most of the New Jersey marketplace – including those plans regulated by the Department of Banking and Insurance, Medicaid, the State Health Benefits Plan, the School Employees Health Benefits Program, and the University Correctional Health Plan covering patients in state prisons, but not including those plans that are self-funded by employers under the Employee Retirement Income Security Act (ERISA) – remove exclusions to transition-related care from their health plans and policies. Additionally, under Section 1557 of the Affordable Care Act (ACA) insurers receiving federal funding cannot deny or limit coverage simply because the treatment a person is receiving is related to gender identity. Despite these changes going into effect in January of 2017 (ACA) and January of 2018 (P.L. 2017, c. 176), transgender New Jerseyans voiced consistent concern across the community conversations held by the Task Force that they are still getting denials from insurers for procedures related to gender transition. Doctors and health professionals working with transgender patients shared that this was their experience as well, and both

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<sup>27</sup> Reisner, S. Meeting the Health Care Needs of Transgender People. Retrieved from [https://www.lgbthealtheducation.org/wp-content/uploads/Sari-slides\\_final1.pdf](https://www.lgbthealtheducation.org/wp-content/uploads/Sari-slides_final1.pdf).

<sup>28</sup> U.S. Transgender Survey: NJSR, p. 2.

doctors and patients expressed that lack of uniform coding, or lack of coding at all, was a frequently expressed reasons for the denial on the part of insurance companies. For example, doctors and patients both report that insurance companies initially agree to provide coverage for gender affirmation surgeries and then later withdraw the coverage stating there is no proper code or coverage for such procedures.

In order to address access to healthcare issues, and health disparities, facing the transgender community, the Task Force offers the following recommendations.

## Recommendations for Access to Affirming Health Care

- Creation of an LGBTQI Patient Bill of Rights that aligns with a Transgender Patient Bill of Rights with clear expectations for the patient and obligations of the provider.
- The State should mandate training for all hospital and clinic staff, from front desk to administration. Training should cover implicit bias; cultural humility in working with transgender patients; systemic discrimination in healthcare against transgender individuals; health disparities in the transgender community; and transgender patient rights under federal and New Jersey law. Further study is warranted as to whether this can be included as part of the licensing process.
- Medical licensing boards in New Jersey should require continuing education (CE) on transgender health issues. This has been done by medical and other licensing boards in other states.<sup>29</sup> Rolling out Human Resources and statewide agency training, especially concerning the New Jersey Medical and Health boards, is crucial to addressing the health disparities faced by the transgender population in New Jersey.
- State agencies should partner with stakeholders who can propose and host a symposium or state-wide workshops on transgender health care to help inform patients and providers of their legal rights and responsibilities to access affirming health care and insurance coverage. All levels of those in health care should be involved, from administrators, physicians, paraprofessionals, service staff and EMT's - anyone having any form of interactions with patients. A symposium should include all healthcare practice areas of medicine - i.e. psychology, infectious disease, general medicine, pediatrics - in order to educate the entire medical community on providing care to transgender patients.

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<sup>29</sup> The New Mexico Board of Social Work Examiners, for example, is one of a few state agencies that require practitioners take CE courses in cultural humility training. Many state agencies also contract out to private contractors to require appropriate training focusing on member services staff, contract providers, primary care physicians, care coordinators and case managers for ongoing training. Additionally, California passed the B.I.A.S (Breaking Implicit Attitudes & Stereotypes) bill, which address systemic bias and disparities and how to overcome those barriers. "The three bills in [the] B.I.A.S. package make implicit bias training and testing mandatory for all law enforcement officers (AB 243), medical professionals (AB 241), judges and court personnel in the state (AB 242)." Updated: Implicit Bias Bill Package Advances in the California Legislature, Equal Justice Today, July 8, 2019. Retrieved from <https://equaljusticesociety.org/2019/07/08/implicit-bias-bill-package-passes-policy-committees-in-the-california-assembly/>

- The State should encourage grassroots programs that provide “Transbuddy” assistance in accessing health care for those that are afraid of attending appointments for fear of encountering discrimination.<sup>30</sup> This is essentially a mentor program where transgender individuals attend a doctor/physician appointment with a transgender individual who is fearful or hesitant to accessing medical care. This could also be done within hospital systems, with a “transbuddy” or “trans-mentor” hospital rounds system to assist transgender patients.

## Recommendations for Nondiscriminatory Health Insurance

- The Department of Banking and Insurance ( DOBI) should issue guidance to clarify insurance companies’ obligation to provide nondiscriminatory coverage for transgender patients. The New Jersey legislature passed a 2017 law prohibiting discrimination against transgender beneficiaries. New Jersey Department of Banking and Insurance should implement this law by issuing guidance on what insurers must do to ensure uniform access to medically necessary treatment for transgender patients.<sup>31</sup>
- The State should create uniform coverage rules and coding for insurance-related coverage of transition-related care from all private insurance companies in New Jersey. Coverage rules and coding should be updated regularly to reflect the latest medical evidence and research.

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<sup>30</sup> Wallace, L. How Transgender People in the South are Helping Each Other Get Health Care. Retrieved from <https://www.scalawagmagazine.org/2018/10/how-transgender-people-in-the-south-are-helping-each-other-get-health-care/>

<sup>31</sup> Insurance regulators in 18 states, the District of Columbia, and the federal government have already acted to protect transgender consumers. New Jersey should do the same. See: 10 Cal. Code Reg. § 2561.2 (2012); Cal. Dep’t of Managed Health Care, Letter No. 12-K, Gender Nondiscrimination Requirements (2013); Div. of Ins., Colo. Dep’t of Regulatory Agencies, Bull. No. B-4.49, Insurance Unfair Practices Act Prohibitions on Discrimination Based upon Sexual Orientation (2013); Conn. Ins. Dep’t, Bulletin No. IC-37, Gender Identity Nondiscrimination Requirements (2013); Hawaii. H.B. 2084 (2016); Md. Maryland Insurance Administration, Bulletin 15-33 (December 10, 2015); Ill. Dep’t of Ins., Company Bulletin No. 2014-10, Healthcare for Transgender Individuals (2014); Mass. Office of Consumer Affairs & Bus. Regulation, Div. of Ins. Bulletin No. 2014-03, Guidance Regarding Prohibited Discrimination on the Basis of Gender Identity or Gender Dysphoria Including Medically Necessary Transgender Surgery and Related Health Care Services (2014); Minn. Dep’t of Commerce & Dep’t of Health, Administrative Bulletin 2015-5 (November 24, 2015); Montana, Commissioner of Security & Insurance, 2017 Requirements for Health Plan Form Filings and Qualified Health Plan Certification (2016); Nev. Div. of Ins., Bulletin No. 15-002 (June 25, 2015); N.M. Office of Superintendent of Insurance, Bulletin No. 2018-013 (2018); N.Y. Department of Financial Services, Insurance Circular Letter No. 7 (2014), N.Y. Department of Financial Services, Insurance Circular Letter No. 7 (2014); Or. Ins. Div., Bulletin No. INS 2012-1, Application of Senate Bill 2 (2007 Legislative Session) to Gender Identity Issues in the Transaction & Regulation of Insurance in Oregon (2012); Penn. The Pennsylvania Bulletin, Notice Regarding Nondiscrimination; Notice 2016-05 (2016); R.I. Health Ins. Comm’n, Health Bulletin 2015-3 (Nov. 23, 2015); Dep’t of Fin. Regulation, Div. of Ins., Bulletin No. 174, Guidance Regarding Prohibited Discrimination on the Basis of Gender Identity Including Medically Necessary Gender Dysphoria Surgery and Related Health Care (2013); Wash. Comm’r of Ins., Letter to Health Insurance Carriers in Washington State (June 25, 2014); D.C. Dep’t of Ins., Sec., & Banking, Bulletin No. 13-IB-01-30/15 (Revised), Prohibition of Discrimination in Health Insurance Based on Gender Identity or Expression (2014).

## Recommendations for Other Health-Related Priorities

- As per the Task Force’s recommendation that the Governor’s office mandate the collection of SOGI data across the state agencies, the DOH should develop uniform SOGI data collection practices in consultation with experts in the field of SOGI data collection and then implement these best practices throughout its data collection tools. Collection of SOGI data by the DOH will be critical to informing evidence-based policies and programs.
- The State should work with LGBTQI grassroots organizations and allow agencies to partner up with stakeholders to develop and disseminate public health campaigns directly to LGBTQI community members. Such campaigns could focus on key health disparities, such as an LGBTQI anti-smoking campaign, or substance abuse prevention and outreach or an HIV/AIDS awareness and resource campaign. By working directly with LGBTQI organizations, the State can ensure that these messages are targeted, destigmatizing, and focused on positive cessation/health messages.
- DCR should engage in strategic outreach with LGBTQI community members regarding the right to be free from discrimination on the basis of gender identity, gender expression and transgender status in places of public accommodation, including places that offer or provide healthcare. This should specifically include creating and disseminating Know Your Rights materials regarding the rights of transgender people to be free from discrimination in places of public accommodation, including places that offer or provide healthcare, and the process for filing a complaint with the Division if they believe they have been the victim of such discrimination.

## VIII. Higher Education

In a campus environment, the feeling of belonging is crucial to the success of any student. This is especially true for members of marginalized groups, including transgender students. National surveys have found that discrimination on the basis of gender identity or transgender status is a common experience for transgender, non-binary, and gender nonconforming students in higher education. For instance, the USTS found that 24% of respondents who were out as or perceived as transgender in college or vocational school reported being verbally, physically, or sexually harassed. 16% of those who experienced harassment reported having left college or vocational school because of the harassment.<sup>32</sup>

In looking at campus climate, researchers have identified sex-segregated restrooms and the lack of all gender inclusive restrooms; sex-segregated housing and the lack of all gender inclusive housing options; restrictions on using one’s chosen name for school ID’s, email addresses, and student records; lack of

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<sup>32</sup> U.S. Transgender Survey, p. 136.

financial support; and poor interactions with school faculty, school counseling centers and professionals, and other students as barriers to safety and belonging facing transgender students.<sup>33</sup>

In 2017, the Tyler Clementi Center at Rutgers University undertook a review of the National Survey of Student Engagement (NSSE) in order to assess the college and university experiences reported by trans-spectrum respondents (i.e. those students who, in taking the NSSE, identified themselves as transgender, non-binary, gender nonconforming, or another gender that was not their gender assigned at birth). Trans-spectrum students reported a lower quality of interactions with students, academic advisors, faculty, student services, staff, and other administrative staff and offices than their cisgender peers. For example, 41.3% of trans-spectrum students perceived having high-quality interactions with other students and 30.4% perceived having high quality interactions with other administrative staff and offices, compared to 54.9% and 41.3% of cisgender students, respectively. Less than half (48.9%) of trans-spectrum students frequently worked with other students on course projects or assignments compared to three in five (61.4%) cisgender students. Similarly, only 35.7% of trans-spectrum students frequently talked about career plans with a faculty member compared to 41.7% of their cisgender peers. Generally, trans-spectrum students perceived less substantive emphasis on support from their institutions than their cisgender peers.<sup>34</sup>

It is important to note that transgender people of color reported more discrimination in college and vocational schools than white transgender students. The USTS found that American Indian (23%), Latinx (23%) Black (21%), and multiracial (20%) respondents were more likely to have left college or vocational school because of harassment than their white (13%) and Asian (9%) peers.

Transgender students need to feel safe and included in higher education in the State. Gender identity and expression should not interfere with their education, as all students deserve an equitable education free from violence, harassment, and bias. The Task Force feel is it important to not only collect an inventory of the current supports available to transgender people on college campuses, but also establish practices that will provide continuous, on-going opportunities to review, assess and address the experiences and needs of transgender New Jerseyans. We offer the following recommendations.

## Recommendations for Higher Education

- The Office of the Secretary of Higher Education should create an inventory of support resources and interventions available to transgender students, faculty and staff at each NJ college and university. By surveying each campus, the state will be able to assess where additional supports are needed and also be able to determine which supports are the most effective. Further research

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<sup>33</sup> Goldberg, Abbie, E. *Transgender Students in Higher Education* (2018). Los Angeles, CA: The Williams Institute, UCLA School of Law.

<sup>34</sup> Greathouse, Maren, et al., *Queer-Spectrum and Trans-Spectrum Student Experiences in American Higher Education: The Analyses of National Survey Findings*. Rutgers University, 2018.

can be conducted to cross-examine the availability of resources (and types of resources) against the number of incidences of bias/violence or transgender population satisfaction.

- The State should require that state colleges and universities conduct annual campus climate surveys to all students, faculty, staff and administrators. Institutions will submit this data to the Office of the Secretary of Higher Education to aggregate and provide a publicly available report of findings.
- University staff should receive periodic cultural humility and bias intervention training. In addition to cultural humility, training should include instruction on how to identify and prevent discrimination against transgender individuals and students in higher education, and the general rights and protections afforded by federal and New Jersey law to LGBTQI individuals and students. University/colleges should offer cultural humility and bias intervention training to students, faculty, and staff.
- Colleges and universities should allow students to list a name other than their legal first name on campus records, including student ID cards, class rosters, email addresses, and diplomas.
- Colleges and universities should have all gender inclusive restrooms in each building and should include all gender inclusive restrooms in plans for any new buildings.
- Colleges and universities should create all gender inclusive housing options and students should be made aware of the option to elect an all gender inclusive housing assignment.

## IX. Housing

According to the 2015 USTS, approximately 30% of transgender people have experienced homelessness.<sup>35</sup> Of New Jersey respondents, 24% had experienced homelessness at some point in their lives and 13% had experienced homelessness in the year prior to completing the survey. Of those who had experienced homelessness in the year prior to completing the survey, 33% avoided staying in a shelter in New Jersey because they feared being mistreated as a transgender person.<sup>36</sup> This number is significantly higher than the percentage of transgender people experiencing homelessness nationwide who avoided staying in a shelter for fear of mistreatment (25%).<sup>37</sup> Additionally, another 24% of New Jersey respondents expressed having experienced some form of housing discrimination in the year prior to completing the survey, such as being evicted from their home or denied a home or apartment because of being transgender.

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<sup>35</sup> *U.S. Transgender Survey*, p. 176.

<sup>36</sup> *U.S. Transgender Survey: NJSR*, p. 2.

<sup>37</sup> *U.S. Transgender Survey*, p. 176.

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“Based on my experience, and with other trans women, the only reason we were denied housing was our past or our identity. And it’s deplorable.”

– Community Conversations Participant

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Transgender individuals experience barriers to accessing housing and receiving homelessness intervention services due to discrimination, uninformed practices, and lack of safety and protection within emergency and transitional housing programs.<sup>38 39</sup> New Jersey must strive to ensure that transgender individuals receive fair, equitable, and safe access to housing and homelessness services. The below recommendations outline strategies to improve access and practice for transgender individuals and focus on four broad areas: 1) intervening in homelessness for/with transgender youth, 2) intervening in homelessness for with transgender adults, 3) ensuring that transgender individuals understand their housing rights, including their right to be free from discrimination in housing, and 4) ensuring that landlords and property owners know the rights of transgender individuals. Through partnering with the community and implementing these strategies New Jersey can safeguard and protect the rights of transgender individuals while meeting their housing needs.

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“What we see with our clients, especially young trans women of color, they are kicked out of their home, they are doing all sorts of things to survive and there is only one LGBTQ housing center in NJ and there is clearly a need for non-faith-based LGBTQ shelter in the state.”

– Community Conversations Participant

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<sup>38</sup> <https://transequality.org/issues/housing-homelessness>

<sup>39</sup> Massachusetts Transgender Political Coalition (2013). Shelter for All Genders: Best Practices for Homeless Shelters, Services, and Programs in Massachusetts in Serving Transgender Adults and Gender Nonconforming Guests.

## Recommendations for Housing

- The State should work to invest in funding for programs that address transgender homelessness and the lack of safe and supportive services, such as wrap-around services and housing for LGBTQI youth and adults.
- The State should take action to ensure that homeless shelters receiving state funds have written policies concerning equal access for transgender people and that shelter staff have training in LGBTQI cultural humility within 60 days of hire and biennially thereafter. In addition to cultural humility, trainings should include systemic discrimination against transgender individuals in housing and shelter systems, the high rates of homelessness faced by transgender youth and adults, and the general rights and protections afforded to transgender individuals under federal and New Jersey law.
- The Department of Children and Families (DCF) should mandate that contracted treatment homes that house foster and out-of-home youth have written policies concerning equal access for transgender youth and that treatment home staff have training in LGBTQI cultural humility within 60 days of hire and biennially thereafter. In addition to cultural humility trainings should cover high rates of family rejection faced by transgender youth, New Jersey's ban on conversion therapy for LGBTQI youth, and the general rights and protections afforded to LGBTQI youth under federal and New Jersey law.
- The State should include questions related to transgender status, gender identity, gender expression, and sexual orientation on surveys related to homelessness, including shelter intake forms, Point-in-Time Counts; Youth-Point-in-Time Counts; and any other survey or intake form related to homelessness.
- The State should require state contracted housing prevention and intervention supports and services to post information in public areas regarding protections under New Jersey's Law Against Discrimination (LAD) and to train their staff and leadership biennially on cultural humility. In addition to cultural humility, training should cover systemic discrimination against transgender individuals in housing and shelter systems, the high rates of homelessness faced by transgender youth and adults, and the general rights and protections afforded to transgender individuals under federal and New Jersey law.
- The State should take action to ensure that landlords and property owners know the rights of transgender people and require that any state contracted housing providers provide information to tenants regarding New Jersey's Law Against Discrimination and train their leadership biennially on cultural humility. In addition to cultural humility, training should cover systemic discrimination against transgender individuals in housing and shelter systems, the high rates of

homelessness faced by transgender youth and adults, and the general rights and protections afforded to transgender individuals under federal and New Jersey law.

- The State should take action to ensure that transgender individuals understand their housing rights and know how to manage discrimination by providing “Know Your Rights materials and trainings and posting information related to non-discrimination law and the rights of transgender people on shelter websites, on the website of the New Jersey Division on Civil Rights (DCR), on the website of the New Jersey Civil Relations Council, and at local Public Housing Agencies (PHAs).
- DCR should engage in strategic outreach to landlords, property owners, and LGBTQI New Jerseyans regarding the right to be free from discrimination on the basis of gender identity, gender expression and transgender status in housing, including the process for filing a complaint with the Division if they believe they have been the victim of such discrimination. DCR should create and disseminate Know Your Rights materials regarding the rights of transgender people to be free from discrimination in housing.

## X. Long-Term Care

Transgender seniors face significant barriers in each of the areas explored by the Task Force. Transgender older adults are more likely to have experienced discrimination, as well as to have experienced more extreme forms of discrimination, in education, employment, healthcare, housing, interactions with law enforcement, and family support, than younger transgender people.<sup>40</sup> Many LGBTQI seniors came out at a time when there were fewer legal protections, and greater societal stigma than there is today, and this is particularly true for transgender individuals, many of whom report delaying transitioning, and hiding their identity, in order to keep their families and their jobs.<sup>41</sup>

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“We don’t have any senior housing for LGBTQI people here. I don’t think it’s beyond a reasonable question to ask that the state of New Jersey assist with these issues.”

– Community Conversations Participant

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<sup>40</sup> Aldridge, Alison, Ames, E., Kennedy, S., and Tobin, H.J., *Improving the Lives of Transgender Older Adults: Recommendations for Policy and Practice*. Washington, DC: SAGE & National Center for Transgender Equality (2012).

<sup>41</sup> *Ibid.*

There is limited data on transgender seniors, but the research that has been done indicates that seniors who identify as transgender have less financial security, are more likely to live alone, are less likely to have had children and are more likely to be estranged from family (both immediate and extended) and thus more likely to have to rely on long-term care, than their cisgender counterparts. Studies have also shown that transgender seniors are greatly concerned that they will face continued discrimination in healthcare as they age, with 65% of transgender seniors saying their access to healthcare will be limited, and 55% saying they will be denied access to healthcare as they age.<sup>42</sup>

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“What happens when I go in a nursing home? All my identity is female, but I never had bottom surgery. It’s scary. How will people treat me?”

– Community Conversations Participant

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To address disparities and discrimination faced by transgender older adults, the Transgender Equality Task Force offers the following recommendations.

## Recommendations for Long-Term Care

- The Governor’s Office or Legislature should designate LGBTQI seniors, and seniors living with HIV as falling under the “category of greatest need” for the purposes of administering the Older Americans Act of 1965 (OAA). Despite the disparities and discrimination facing LGBTQI seniors and pending legislation in Congress (Ruth and Connie LGBT Older Americans Act), the federal government has never added LGBTQI seniors to the category of greatest need. However, states can designate their own categories for the purposes of administering and allocating funding, and in New Jersey the Department of Human Services (DHS) could recognize these seniors as falling under the category of greatest need. This would allow the State to direct resources, outreach, and funding to these seniors, and could be accomplished through passage of legislation.
- The State should mandate cultural humility training for long-term care facility administrators, staff, and contractors. In addition to cultural humility, trainings should cover systemic discrimination against transgender individuals in long-term care facilities; health disparities faced by transgender seniors; healthcare needs of transgender seniors; and the general rights and

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<sup>42</sup> SAGE: *Out and Visible: The Experiences and Attitudes of Lesbian, Gay, Bisexual and Transgender Older Adults, Ages 45-75* (2014).

protections afforded to transgender seniors under federal and New Jersey law. This could be accomplished through passage of legislation.

- Long-term care facilities should be required to post an “LGBTQI Patient Bill of Rights” alongside its current posted non-discrimination policies, and clarifying that the facility does not discriminate on the basis of gender identity, gender expression, sexual orientation, transgender status, or HIV status; informing patrons/patients of their general rights and protections under federal and New Jersey law; and explaining how to file a complaint with the State Long-Term Care Ombudsman or with the Division on Civil Rights if they experience discrimination in a long-term care facility. This could be accomplished, in part, through passage of legislation.
- The State, either through DHS or the DOH should support patient-centered medical homes for LGBTQI individuals.
- The State, either through DHS or the DOH should provide outreach programming targeted to transgender seniors on issues such as, and access to services regarding counseling and mental health; violence and abuse; primary prevention; and advance directives.
- The State should determine how to best support LGBTQI senior housing projects.

## **XI. Additional Recommendations**

### **Access to Information**

Across the community conversations held by the Task Force, transgender New Jerseyans consistently voiced concern and frustration that information regarding access to services is difficult to find. The idea that the State should have a resource page, and that this page should provide New Jersey specific information so that people are not having to travel long distances to New York and Philadelphia, was a consistent theme at the meetings. We therefore recommend that the State develop a website in order to streamline access to information about gender identity, gender expression, and transgender status, the role of family acceptance, and a variety of services for transgender individuals and families, including but not limited to affirming healthcare providers, providers that specialize in transition-related care, information about insurance coverage, legal protections under the New Jersey Law Against Discrimination, support groups, and links to resources. If the State were to create an LGBTQI Office, as recommended in the Executive Summary, that office could develop and host this resource.

### **Driver’s Licenses**

New Jersey’s Motor Vehicles Commission (MVC) is working on modernizing the process that allows transgender and non-binary residents to change the gender marker on their driver’s license to accurately

reflect their identities and lived experiences. The Task Force commends the MVC for taking this step, as transgender, non-binary, and intersex New Jerseyans need access to identity documents that accurately reflect the gender they live every day, which is not necessarily the gender they were assigned at birth. We all use identity documents for important tasks such as enrolling ourselves or our children in school and college, applying for a job, opening a bank account, and applying for an apartment or mortgage. At other times we are compelled to show our identity documents, such as at a routine traffic stop or boarding an airplane. Having documentation that matches one's gender is vitally important, as mismatches between a person's gender identity and their identity documents can and does result in discrimination and harassment. The 2015 U.S. Transgender Survey showed that almost one third (32%) of transgender people who have shown ID's that do not match their gender presentation had negative experiences, including verbal harassment (25%), denial of services or benefits (16%), being asked to leave (9%), and being assaulted or attacked (2%).

In order to modernize the process for changing gender marker on a driver's license and eliminate barriers to self-identification and accurate identity documents currently faced by transgender and non-binary New Jerseyans, as indeed we understand is currently being undertaken, the MVC should:

- Allow applicants to sign an affidavit affirming their identity, rather than requiring a letter from a therapist or other medical professional. Requiring letters from medical professionals presents a significant barrier to obtaining accurate identification, particularly for people who may not have insurance or cannot afford medical fees and people who may not have access to supportive providers. Transitioning is a very individualized process, and individuals themselves know best what gender marker is appropriate and safest for them in interactions where they must show official identification.
- Provide a third gender option on New Jersey drivers' licenses. Like everyone else, people whose gender identity is neither male nor female need access to documentation that matches their presentation and affirms that their experiences and lives are valid and recognized.

Making these changes will also bring the process for changing gender marker on a New Jersey driver's license into line with the process for changing gender marker on a New Jersey birth certificate.

## Legal Name Changes

At every Community Meeting held by the Task Force, transgender, non-binary and gender nonconforming individuals expressed frustration at the cumbersome, expensive and burdensome procedures that a person must go through to legally change their name. In connection with the current procedures in place to legally change one's name in New Jersey, the Task Force recognizes that there is a major limitation on what it can recommend. This limitation is the result of a separation of powers issue caused by the fact that many of the current procedural requirements for a name change are not statutory in nature but required by the New Jersey Rules of Court issued by the New Jersey Supreme Court. Pursuant to Winberry v.

Salisbury, 5 N.J. 240 (1950), these Rules cannot be changed by legislative action. Nonetheless, the Task Force believes it is important to identify the issues encountered by community members when seeking a legal name change so that a dialogue can be opened with the Administrative Office of the Courts to try and address these concerns.

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**“I had to put name in the paper up here. It went viral. People sent me hate mail.”**

– Community Conversations Participant

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Name changes in New Jersey are governed by N.J.S.A 2A 52-1. Statutorily all that is required is the filing of a Complaint for Name Change and “a sworn affidavit stating the applicant’s name, date of birth, social security number, whether or not the applicant has ever been convicted of a crime, and whether any criminal charges are pending against him and, if such convictions or pending charges exist, shall provide such details in connection therewith sufficient to readily identify the matter referred to. The affidavit shall also recite that the action for a change of name is not being instituted for purposes of avoiding or obstructing criminal prosecution or for avoiding creditors or perpetrating a criminal or civil fraud. If criminal charges are pending, the applicant shall serve a copy of the complaint and affidavit upon any State or county prosecuting authority responsible for the prosecution of any pending charges.”

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**“If it is a transition name change there should be an option that publication is waived. My old name and current name are in google and you will get that name change.”**

– Community Conversations Participant

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However, in implementing those statutory requirements the Court Rules, in addition to the Complaint and affidavit (R. 4:72-1), require a petitioner to submit a proposed court order setting a date for a court hearing (R. 4:72-3); have that proposed order published in a newspaper in the county where the Complaint is filed (R. 4:72-3); attend a hearing in person (R. 4:72-4); and then have the final judgment published in the same newspaper in the county (R. 4:72-4). While the Administrative Office of the Courts

has available on the Judiciary website the forms necessary for a self-represented litigant to use, many individuals who spoke at the Community Meeting stated that the forms were hard to follow; the costs of filing a Complaint (\$250) and then having the order and final judgment published (which can range from \$50 each time to over \$100 each, depending on the newspaper) made the procedure cost prohibitive; physically appearing in court and having their case name called (i.e. In the Matter of John Doe to assume the name Jane Doe) outed them and was embarrassing; and the fact that there appeared to be no uniformity in how judges handled name changes, had lead many community members to simply not legally change their names. This in turn causes many trans individuals to have to continual out themselves when looking for employment, seeking health care or trying to find housing because their appearance and documents do not match. This in turn can, and often does, lead to discrimination.

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**“The judge put my attorney through the ringer on my name change. I’m so glad I was fortunate to have an attorney because I couldn’t have done that myself.”**

– Community Conversations Participant

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It should also be noted that both name changes for minors, which are heard in the Family Part, and name changes for adults, which are heard in the Civil Part, are public proceedings and there are no uniform provisions in place to either allow for the filing of the necessary pleadings using initials or to allow for the sealing of the court record. Absent these procedures, there will always be a public record which effectively outs an individual as transgender. Except in very limited situations (pending criminal charges, prior criminal records, pending civil lawsuits or civil judgments) there is no public benefit served by publicizing the name changes of transgender adults. Even in those cases, notifying the prosecutor’s office, Attorney General or creditors, can resolve those issues without the need for publication. In the case of transgender minors, there is no public interest whatsoever in publishing a name change.

It is our hope that these issues can be addressed through communications between the legislative, executive and judicial branches to ease the procedural and financial burdens currently imposed on individuals seeking legal name changes.

## **Clarify That the Law Against Discrimination Applies to Health Programs and Activities**

The Legislature should pass legislation which would clarify that the New Jersey Law Against Discrimination explicitly applies to health programs and activities and which would explicitly prohibit



discrimination based on association with individuals in protected classes. Such legislation would also clarify that it constitutes unlawful discrimination for any entity that operates a health program or activity to treat any individual in a manner inconsistent with that individual's gender identity or expression. And it could clarify that health insurers may not have or implement a categorical coverage exclusion or limitation for all health services related to gender transition or otherwise engage in practices that discriminate against any transgender individual.

## Addendum A: Community Conversations

At our initial meeting, the members of the Transgender Equality Task Force discussed the need to gather feedback from transgender, non-binary, and gender nonconforming New Jerseyans. We realized that a report informed only by the available, and as discussed, limited data, could neither accurately reflect nor adequately address the issues facing transgender, non-binary, and gender nonconforming New Jerseyans. We voted to hold a series of community conversations, in northern, central, and southern New Jersey, and to create and publicize an email address ([transequality@njcivilrights.gov](mailto:transequality@njcivilrights.gov)) that would allow the public to submit comment to the Task Force. We also elected to create a website that would host information about the Task Force and serve as an outreach tool to the community. The website was developed by Garden State Equality and the ACLU New Jersey, and was made available in both English (<http://www.transequalitynj.com/>) and Spanish (<http://www.transequalitynj.com/es.html>).

Community conversations were held in Newark (July 16, 2019), Sussex (July 22, 2019), New Brunswick (July 24, 2019), and Atlantic City (August 6, 2019). Across these conversations, several themes were persistent, including safety and violence; discrimination in healthcare, employment, housing, and education; a lack of access to healthcare providers that are affirming of and knowledgeable about treating transgender people; lack of support services, including housing and mental health; lack of information pertaining to the rights of transgender people under New Jersey and federal law; and fear about facing increasing discrimination as seniors.

### **“It’s a safety issue. Physical, mental, and emotional safety.”**

Across the community conversations, transgender New Jerseyans from different racial, socio-economic, geographic and generational backgrounds expressed a consistent fear for personal safety in their communities. They spoke of violence on the streets, in places of public accommodation, and in places of employment. They expressed sentiments such as “it’s a rough world we walk through,” and discussed how in communities both urban and rural, “being transgender is an act of war.” There was fairly uniform agreement that issues of safety and violence could not be brought to law enforcement, as this would be met with more violence.

Despite general knowledge among the community that they have the legal right to access restrooms that match their gender identity, many transgender people, and in particular older transgender women, stated that they continue to avoid restrooms for fear of safety. One woman stated, “I could use the women’s room, but what is that going to do. It’s going to piss people off,” while another expressed, “It’s a safety issue. I’m afraid to use the bathroom, because what if a woman tells her husband and now there are men waiting for me outside.”

## **“There is no uniformity at all among the providers, the insurance companies, the State.”**

Access to healthcare was a significant concern for transgender people across the community conversations. Many participants expressed concerns about the lack of affirming providers in New Jersey, particularly in more rural areas of the state. A constant refrain was the need to go out of state, to New York City or Philadelphia, to access affirming care by providers who are knowledgeable about transgender people and transition-related care. While some participants acknowledged having heard about New Jersey’s two LGBTQI specific healthcare centers (Robert Wood Johnson’s Proud Family Health in Somerset, NJ and the VNACJ LGBTQI+ Health Center in Asbury Park, NJ), and also knew that RWJUH New Brunswick provides all levels of care from therapy to hormones to gender affirming surgeries, many expressed that these centers required travel of over an hour, sometimes two hours for them to reach. The Mazzone Center in Philadelphia was referenced continually as a safe place to go, but one that was out of state, was far from the southern New Jersey communities that many of the participants reside in and was an issue for those on Medicaid. One participant noted: “I was in fear coming out in Atlantic City, so I moved to Philadelphia and went to the Mazzone Center. If someone doesn’t have a car, they can’t get there,” while another remarked, “I’m on NJ Medicaid. It’s taxing for that center in Philadelphia because they can’t take that.”

Participants in the conversations identified three things that would help to address the lack of providers: education (both in medical school and continuing education) so that more providers in New Jersey would know how to treat transgender patients; mandated coverage for transition-related care across all health insurance plans sold in the state; and a State website listing providers that are trained in working with transgender patients.

Education for health professionals was identified as necessary to addressing gaps in both routine care, and transition-related care. Transgender people noted that in accessing routine care, they often face discrimination, or at best ignorance from providers. This is a well-documented issue in the literature, and one that transgender people and communities know well. One participant captured the frustration with having to deal with a provider who had not received training on transgender people and care, by noting: “It was uncomfortable for me to say I’m here for this [to a doctor]. It was like I had to educate them.” Participants at all four meetings agreed that training should begin in medical schools and continue for professionals in the field. “It would be nice if we could get medical schools to be doing training on trans care and get it into medical schools and continuing education so that professionals are learning from the beginning.” Participants shared negative experiences with front-line and emergency room staff and expressed that the state should mandate training for all healthcare workers, not just doctors and nurses, and that special emphasis should be given to emergency room staff. Noting, “[o]ne of my biggest concerns is about emergency rooms, God forbid anything happens,” “[t]here should be a requirement that frontline workers in the ER and other frontline health care workers are receiving training,” and “I just moved back here [and] want a list of emergency rooms that I know I can go to. Even critical care places. List of places with trained staff. I find myself afraid.”

## **“When you are dealing with lack of coverage and you don’t pass then you are dealing with serious safety issues.”**

Participants also identified a lack of clarity as to which insurance plans sold in the state covered transition-related care, and how to get information on what specifically is covered. Generally speaking, insurance plans sold in New Jersey cannot categorically exclude treatment related to gender transition. Pursuant to a state law passed in 2017, New Jersey Individual Health Coverage Program, New Jersey Small Employer Health Benefits Program, State Health Benefits Program, School Employees’ Health Benefits Program, the Medicaid Program, and health care providers who provide health care services to the State’s prison population, such as University Correctional Health Care, and the New Jersey Department of Corrections, the Juvenile Justice Commission, the State Parole Board, or any other State or local entity are prohibited from discriminating in the provision of coverage on the basis of gender identity or expression. The law defines the denial of “health care services related to gender transition if coverage is available for those services under the contract or policy when the services are not related to gender transition, including but not limited to hormone therapy, hysterectomy, mastectomy, and vocal training” as discriminatory, and thus a violation of NJ law. However, there is significant confusion on the ground as to what plans cover, there are issues around uniform coding, and there are concerns about insurers refusing to cover PeP and PreP, as well as more expensive hormone therapies such as gels and patches. In the healthcare section of this report the Task Force addresses these issues with a recommendation that the Department of Banking and Insurance ( DOBI) should issue guidance to clarify insurance companies’ obligation to provide nondiscriminatory coverage for transgender patients, as DHS has already done with regards to Medicaid; and a recommendation that the State should create uniform coverage rules and coding for insurance-related coverage of transition-related care from all private insurance companies in New Jersey. Coverage rules and coding should be updated regularly to reflect the latest medical evidence and research.

## **“We recommend a paid trans liaison to Governor’s Office.”**

Another persistent theme was the desire for greater communication between state government and the transgender community, and a commitment from the State to create a resource center that could provide information and other resources, such as legal advocacy. Participants at the community conversations shared their hope that the state would create a centralized repository of information on a variety of topics, including “Know your Rights” flyers and workshops for transgender people detailing what constitutes discrimination on the basis of gender identity and/or gender expression in a variety of settings including public K-12 schools, colleges and universities, places of public accommodation, employment, healthcare, senior care, and housing; information on affirming health services and insurance coverage for transition-related care; legal advocacy to help community members through the name change process, identity document changes, discrimination complaints, and to answer questions on state and federal law as they apply to gender identity, gender expression, and transgender status; counseling and support groups for community members; and education for family members and the larger public. Participants in

the community conversations articulated the need for these services numerous times, and made the following statements and requests:

- “Meetings between the State and the community need to happen.”
- “We need more outreach from State to community.”
- “There needs to be more education for the public.”
- “Why is there no LGBTQ counseling and support groups available for free?”
- “It would be good if the State of NJ had a resource center that provided information about trans and non-binary resources.”
- “If we had a resource center that had case workers and legal advocates that people could go to that would be amazing.”
- “There should be some sort of a centralized resource center that is updated and verified – there should be somebody reaching out to these places [health care providers] and verifying that they are competent.”
- “There needs to be a trans resource center that helps you through the process.”
- “The State should put money behind this, it’s ridiculous. Why can’t we have that?”
- “Why is this the first time I am seeing the fact sheet on gender identity in New Jersey? Why don’t I see this fact sheet at my work?”

## **“There needs to be a census from students... about what is going on in the schools.”**

Many participants spoke of the uneven enforcement of policies meant to support transgender, gender non-conforming, and non-binary students in K-12 schools. New Jersey and federal law (N.J.S.A. 2C:16-1, N.J.S.A. 10:1 et seq, N.J.S.A. 18A:37-13 through 17, and Title IX, 20 U.S.C. § 1861) require schools to treat transgender students equally and fairly. In 2018, the NJ DOE issued guidance (<https://nj.gov/education/students/safety/sandp/transgender/Guidance.pdf>) on transgender students in compliance with N.J.S.A. 18A:36-41. Yet students and parents at the Task Force meetings noted uneven enforcement of the guidance, particularly in rural areas. One parent in the southern part of the state noted: “Policy and law in New Jersey are progressive, but it’s basically unenforced down here.” Another parent from southern NJ stated that “[the] school district is saying we don’t have any gay people here.” Parents noted that even in districts that are going above and beyond enforcing the guidance and policies, there are issues for non-binary identified students, whose identities and needs are little understood. For instance, a parent at the New Brunswick meeting noted, “My kid is in a great school district, and they are fabulous with the binary trans students, but they have no idea what to do with the non-binary students.”

In addition to having comprehensive guidance, New Jersey recently passed a law mandating the adoption of LGBT-inclusive curriculum. While this was a welcome and necessary step, parents at the meetings expressed concern about implementation, and how the curriculum would be taught in rural areas. One parent in southern New Jersey stated, “We cannot have this taught by teachers who do not know anything about these communities and students and may be hostile.” Another concern around the

adoption and implementation of LGBT-inclusive curriculum was that it be taught at the intersections, that is, that the curriculum should reflect the contributions and experiences of LGBTQI people of color, and explore intersections between histories of sexuality, gender, and race. This was a robust conversation in both communities of color, and in the more rural, predominantly white areas of the state that we visited. In short, as one parent noted the “curriculum cannot be whitewashed history, it has to be at the intersection.”

Additional recommendations from community members on the topic of education included:

- “Non-binary should be covered in health education and sex education when the school is teaching about LGBTQ people.”
- “There needs to be a census from students in the schools about what is going on in the schools.”
- “The GSAs should be surveyed and involved in the Task Force.”<sup>43</sup>
- “There should be a mandate that gender-neutral bathrooms must be available for the children. Not in the nurse’s office. One on each floor. No female/male sign on it if a single stall.”
- “[It would be] useful to have a point person at each school for trans issues. Not a person that is designated by the school but must be decided on by various stakeholders. They have some extra training and have resources for teachers and students, and the stakeholders are parents and students. At least mandate one person in the district.”

## **“The Task Force should look through old language to make laws gender neutral.”**

Another persistent theme across the community conversations was the need to adapt law and policy to the reality that not all people identify within the gender binary. Participants suggested expanding options for gender neutral markers on identity documents and noted that it “there is a gender-neutral option for birth certificates but no gender-neutral option for driver’s licenses, which does not make any sense.” The Task Force is aware that the MVC is working on modernize the process for changing gender markers on New Jersey driver’s licenses, part of which is adding a third gender option, and we have outlined the issue and recommended changes on page 35. Participants also called for all gender (sometimes referred to as gender neutral) restrooms in state buildings, and for businesses to remove male and female signage from all single stall restrooms and replace those signs with an all gender, or gender-neutral sign. It is important to note that increasing the number of public restrooms that are all gender is important not only for those who identify outside the binary, but for people whose gender presentation is nonconforming or androgynous, as well as for transgender people who may not feel safe accessing the restroom matching their gender identity. Participants also agreed that trainings should address the gender binary and non-binary identities, with one parent noting the need for this in the healthcare system by relating that, in a hospital setting, “Staff stood outside our room and talked about our child, saying “Is it a he? A she?”

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<sup>43</sup> Due to time constraints, the Task Force was not able to survey GSAs. If the State were to establish a Commission on Transgender Equality this is something that could be explored.

**“There are a fair amount of undocumented trans people in New Jersey. They are not going to come to speak today. They are in fear and hiding right now and it is a challenging time to reach out to them.”**

Finally, the Task Force members, and those community members who attended the community conversations, were cognizant of the fact that the most marginalized community members are the hardest to reach and were not in attendance at the meetings. This is unfortunately true across much legal and policy social justice work, and is a failing of the systems (often non-profit, community, and government) that seek to address the needs of marginalized communities, and of the legal and political system, which marginalized people and communities recognize as not meeting their needs both historically, and in their daily lives. It is increasingly difficult in this political climate to reach immigrant and undocumented communities. It is our hope that all relevant directives or guidance stemming from this work can cross reference the Attorney General’s Immigrant Trust Directive, Directive No. 2018-6, which is already designed to strengthen trust between New Jersey’s law enforcement officers and the state’s diverse immigrant communities. Moreover, if established, a Commission on Transgender Equality should prioritize those who are most marginalized in the transgender community, including the undocumented, those who are homeless, those living with HIV, and those engaged in sex work.

## Addendum B: Letter to Commissioners regarding SOGI Data Collection<sup>44</sup>

To: The Honorable Gurbir Grewal, Attorney General of the State of New Jersey Cc: Kevin M. Brown, Executive Director, Juvenile Justice Commission  
From: Aaron Potenza, Chair, Transgender Equality Task Force  
Date: April 15, 2019  
RE: Assessing LGBTQ Disparities in New Jersey

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Thank you for your efforts to ensure the equality of all New Jerseyans, including lesbian, gay, bisexual, transgender, and queer (LGBTQ) individuals. Although the State of New Jersey has taken many meaningful steps to promote the equality of LGBTQ people, more can be done to ensure that the needs of LGBTQ New Jerseyans are understood and met by improving the collection of data on sexual orientation and gender identity.

A growing body of research indicates that LGBTQ individuals face substantial legal and societal barriers to equality, and attendant health and other disparities. However, more data collection is needed to understand the intersections facing this community and to make robust policy changes to support more equitable access. The limited data available shows that LGBTQ people face disproportionately high rates of poverty, suicide, homelessness, isolation, mental health concerns, and violence, among other disparities. These disparities are more prevalent for youth and seniors, people of color, and bisexual, transgender, nonbinary, and gender nonconforming people, and persist in part due to a lack of systemic LGBTQ- inclusive data collection that would help inform new policies and programs to effectively address these disparities.

In 2018, New Jersey created the Transgender Equality Task Force, the first such in the nation. The Transgender Equality Task Force was established to assess the legal and societal barriers to transgender equality and provide recommendations to the Governor and the Legislature on how to ensure equality and improve the lives of transgender people. To address existing gaps, the Transgender Equality Task Force has established a Subcommittee on Data Collection to survey the data collection practices of all New Jersey agencies. We ask that the Department of Law and Public Safety, and the Juvenile Justice Commission, report to the Task Force on:

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<sup>44</sup> A copy of this letter was addressed and sent to the Commissioners of the following departments: Banking and Insurance, Children and Families, Corrections, Education, Health, Human Services, Labor and Workforce Development, Military and Veteran Affairs, and Motor Vehicles. The letter was also sent to the Office of the Attorney General, the Juvenile Justice Commission, the Office of the Secretary of Higher Education, and the New Jersey State Police.



- Existing efforts to collect data on sexual orientation and gender identity (whether collected directly or by contract, grantee, or partnering organization);
- Current practices used to collect data on sexual orientation and gender identity;
- Opportunities to expand data collection efforts to include questions on sexual orientation and gender identity (whether collected directly or by contract, grantee, or partnering organization); and
- A timeline for the incorporation of questions on sexual orientation and gender identity in agency data systems, intake forms, state survey instruments, needs assessments, and point-in-time analyses.

This information will be summarized in the final report of the Transgender Equality Task Force, and presented to the Governor's office and Legislature, in order to aid the State of New Jersey in developing a systematic approach to sexual orientation and gender identity data collection.

We are available to support your agency in better collecting, analyzing, and reporting of data on sexual orientation and gender identity. On behalf of the Transgender Equality Task Force, and the Subcommittee on Data Collection, I thank you for your attention to these issues, and your continued commitment to LGBTQ equality.

## Addendum C: Language and Terminology Guide

Accurate and respectful language is an important tool in creating a safer society for transgender, non-binary, and gender nonconforming people. To help ensure a basic level of familiarity with terminology around gender identity, gender expression, transition, and transgender status and identity, and to aid in the standardization of language used in state guidelines, guidance, policy, and law, the Transgender Equality Task Force offers the following definitions and notes on language and terminology.

We recommend the wide dissemination of this language guide to public and government agencies and organizations to build a more informed society, promote inclusivity, and increase understanding of transgender, non-binary, and gender nonconforming individuals. We also acknowledge that language and terminology used to describe LGBTQI individuals may differ based on factors such as geographic location, race, ethnicity, age, country of origin, etc. and may also change over time.

### A Note on Sex vs. Gender

It is important to understand that while the terms sex and gender are often culturally understood to have different meanings, sex commonly associated with biology and gender often associated with psychology, medical and legal experts do not have clearly delineated differences between the terms sex and gender, and these two terms are often used interchangeably in professional settings.

According to major medical and health professional associations sex is a complex concept comprised of a variety of factors, including someone's gender identity.

The American Psychological Association states "reliance on the term 'biological sex' ignores the complexity of the spectrum of sex, including natural variation in gender identity and the existence of people with differences in sex development."

The American Medical Association released a statement recognizing the medical spectrum of gender identity and sex and supports modernizing state vital statistics statutes to ensure accurate gender markers on birth certificates.

The American Psychiatric Association says "professional medical and health organizations... have for years confirmed that there is a complex medical spectrum of sex that includes genetic markers, internal and external anatomy, and gender identity, which may itself have a biological component").

The medical and scientific community widely rebuked the federal government's attempts to redefine sex to mean someone's sex assigned at birth, denouncing it as scientifically unsound and harmful to transgender people's health and wellbeing.

## Definitions

**Cisgender** means a person whose gender assigned at birth (sometimes referred to as sex assigned at birth) matches their gender identity. For instance, if a person was assigned female at birth, and self-identifies as a woman or girl, that person is cisgender.

**Gay** is an umbrella term that means a person who is emotionally, spiritually, physically, and/or sexually attracted to those of the same gender.

**Gender** means a person's sex-related or gender-related characteristics, including one's gender identity, and has the same legal meaning as "sex."

**Gender Assigned at Birth** means the gender that someone was thought to be at birth, typically recorded on their original birth certificate. The gender someone was assigned at birth may or may not match their gender identity.

**Gender Binary** means a social system that constructs gender according to two discrete and opposing categories — male or female.

**Gender Expression** means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's assigned gender at birth. It is the manner in which a person represents or expresses their gender to others, such as through their behavior, clothing, hairstyles, activities, voice or mannerisms.

**Gender Identity** means a person's internal, deeply held knowledge of their own gender, regardless of the gender they were assigned at birth. All people have a gender identity, not just transgender people.

**Gender Nonconforming** means a person whose gender expression does not conform to traditional gender expectations. Not all gender nonconforming people identify as transgender.

**Gender Transition** means a process during which a person begins to live according to their gender identity, rather than the gender they were thought to be at birth. Gender transition looks different for every person. Possible steps in a gender transition may or may not include changing one's clothing, appearance, and name, and in some cases, changing identification documents or undergoing medical treatments. The steps each person takes depends on their individual needs and access to resources.

**Intersex** means a person whose sex characteristics may not fit medical definitions of male and female. These characteristics may include, but are not necessarily limited to, internal reproductive organs, external genitalia, and sex chromosomes.

**Lesbian** means a person who identifies as a woman or girl and is emotionally, spiritually, physically, and/or sexually attracted primarily to members of the same gender.

**LGBTQI** is an acronym that stands for lesbian, gay, bisexual, transgender, questioning and intersex. The Q may also stand for queer.

**LGBTQI Harassment** means conduct that is critical or mocking of a person's perceived or actual sexual orientation, gender identity, or gender expression that may include, but is not limited to: name-calling; disrespectful gestures; jokes or comments; inappropriate touching; bullying; shunning or isolation; or attempting to change a person's sexual orientation, gender identity, or gender expression.

**Non-Binary** is a term that is often used by people whose gender is not exclusively male or female, including those who identify with a gender other than male or female, with more than one gender, or with no gender at all. People whose gender is neither male nor female may use other terms to describe themselves, such as gender fluid, agender, bigender, or gender expansive.

**Queer** is a term that, while once pejorative, is increasingly used by members of the LGBTQI community as a broad umbrella under which sexual and gender minorities may identify.

**Questioning** is a term some people use when they are in the process of exploring their sexual orientation or gender identity.

**Sexual Orientation** means a person's romantic or sexual attraction to people of another and/or the same gender. Common terms used to describe sexual orientation include, but are not limited to, straight, lesbian, gay, bisexual, and asexual. Sexual orientation and gender identity are different: gender identity refers to one's internal knowledge of their gender, while sexual orientation refers to whom one is attracted to.

**Transgender** is an umbrella term for people whose gender identity and/or expression is different from cultural expectations based on the gender they were assigned at birth. Being transgender does not imply any specific sexual orientation. Therefore, transgender people may identify as straight, gay, lesbian, bisexual, etc. This term is an adjective. Using this term as a verb (i.e., transgendered) or noun (i.e., transgenders) is offensive and should be avoided.

**Transgender Man** is a term for a transgender person who identifies as a man.

**Transgender Woman** is a term for a transgender person who identifies as a woman.

**Transition** see gender transition.



**Names and Pronouns:** Transgender and non-binary individuals should be referred to by their chosen name and pronouns, regardless of whether a legal name change has occurred. Many non-binary individuals use gender neutral or gender inclusive pronouns, such as “they/them/theirs.” “They/them/theirs” are coming into more common usage as a gender-neutral singular pronouns, though the Oxford English Dictionary traces the use of the singular “they” to at least 1375. Other gender-neutral pronouns include ze (sometimes spelled zie), hir, xe, and xer.