

Supporting Transgender Children and Youth Involved in the Court System



Capacity Building
CENTER FOR STATES

“Hey, I am not my hair, I am not this skin, I am not your expectations, no, no ... I am not my hair, I am not this skin, I am a soul that lives within.” – India.Arie, *I Am Not My Hair*

Supporting Transgender Children and Youth in Court

Court can be an intimidating setting for anyone—children, youth, and adults alike. It has a structure unlike any other, with court proceedings following specific protocols for interaction and authority resting with one individual. Vulnerable teens have the potential to experience an especially difficult time in the court setting, particularly transgender children and youth. These tips may help child welfare professionals, caregivers, judges, and court staff prepare and support transgender children and youth participating in court proceedings.

Preparing for Court

Names and Pronouns. Ask the child or youth which names and pronouns to use and when they would like to use their preferred name versus their legal name (if different). The “correct” or best practice names and pronouns are those the child or youth wants us to use. Anticipate that others in the courtroom may use the wrong name or pronouns. Stand up for the child or youth and recommend others use the correct name whenever possible.

Disclosure of Gender Identity. Talk with the young person about what is likely to be discussed in court and who will be present. If a child or youth has not disclosed their gender identity to all stakeholders, explore their thoughts and concerns about sharing this information given its relevancy to the issues before the court.

Take the young person’s lead in any decisions to disclose information about their identity within the court report or in open court. Disclosure should only be made against the youth’s wishes if it is directly related to a safety concern.

Defining Transgender

Transgender is an umbrella term used to describe individuals whose gender identity—one’s inner sense of being male or female—differs from the sex assigned to them at birth.

“Trans” is an abbreviation used for transgender.

Other Important Terms

Gender identity is an individual’s internal sense of their gender.

Gender pronouns are the words people use to refer to someone instead of their name—commonly used pronouns include he/him/his, she/her/hers, they/them/theirs, e/em/eirs, and ze/hir/hirs.

Sex assigned at birth is the designation assigned to a child at birth, often based strictly on anatomy.

Impact on the Case. Discuss with the young person how their gender identity and expression impacts the information presented in court, including their placement, educational, medical, developmental, and permanency needs. Explore any potential barriers to appropriate placement that might exist due to foster home licensing requirements that could affect transgender and gender expansive.

In the Courtroom

Names and Pronouns. Model supportive and affirming interactions by utilizing the name and pronouns the child or youth wants us to use when talking to or about the youth during court proceedings.

Disclosure of Gender Identity. When information related to the child's or youth's gender identity cannot be safely shared in open court, an in-chambers or closed court hearing should be requested in which the information is shared only to the extent it is relevant. A protective order should also be requested which prohibits re-disclosure of the information.

Courtroom Environment. Request that the court permit you to place an affirming symbol or picture in the courtroom as a signal to children and youth that the court is accepting; this helps create a nondiscrimination standard in the courtroom. Ensure the safety of transgender children and youth by promoting the young person's mental and physical well-being and reducing the risk of self-harm.

Frequently Asked Questions

When is a young person's gender identity relevant?

Regardless of whether a child's identity is disclosed to the court, it is relevant to all areas of their life. Consider and discuss with the young person how their experience as a transgender individual impacts their situation, including:

- ▶ Placement situation and needs
- ▶ Relationship with family and other important people in their lives
- ▶ Educational needs
- ▶ Medical needs
- ▶ Developmental/behavioral needs
- ▶ Permanency needs
- ▶ Normalcy
- ▶ What if the parents do not want me to use the child's preferred name and pronouns?

It is critical to an individual's well-being that we affirm their identity by using their chosen name and pronouns. If a young person asks an advocate to use their preferred name in conversation with their parents, workers and/or advocates should follow the child's wishes.

A young person who came out as transgender now says they are not. What should I do?

Young people may change how they identify for different reasons. They may develop a different sense of their true identity, or they may feel the need to hide their identity to be safe or accepted by their family. When this happens, it is appropriate to follow the young person's lead and use the name and pronouns the child wishes you to use. Yet, recognize that they may still need ongoing support, and continue to communicate to that child that you support them, no matter how they identify.

For more information, visit
<https://capacity.childwelfare.gov>

