



# **Advocating for Transgender, Nonbinary, and Gender Diverse Youth in Foster Care**

*A Guide for Attorneys and  
Advocates for Youth*

## **Introduction**

You represent a transgender, nonbinary, or gender diverse (TNGD) client in foster care. What do you need to know? What do you need to do? This toolkit provides information that attorneys need to be a zealous advocate for their TNGD clients.

While this guide is short, it includes links to detailed resources about LGBTQ+ identity and the needs and experiences of TNGD youth in foster care. If you are unfamiliar with LGBTQ+ identity, key terms are linked so you can access more information. This comprehensive resource connects you with the knowledge, strategies, and legal pathways to protect the rights and safety, permanency, and wellbeing of TNGD youth.



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## A Guide for Attorneys and Advocates for Youth

### Step One: Learn what TNGD Youth Face in Foster Care

- About 30% of youth in foster care are LGBTQ+, and about 5% are transgender, which means queer and transgender, nonbinary, and gender-diverse (TNGD) youth are vastly overrepresented in foster systems. If you represent youth in this system, you are very likely to work with an LGBTQ+ young person.
- TNGD youth experience high rates of suicide, suicidal ideation, depression, and anxiety due to societal inequities, discrimination and bias. However, TNGD youth who are supported and affirmed as they express their identity experience improved wellbeing and similar mental health outcomes to their cisgender peers.
- TNGD youth may need health care to help them live comfortably and authentically in their bodies and ensure their mental and physical wellbeing. This care may include mental health care or medical care such as puberty blockers or hormone therapy from a qualified, affirming provider. Very rarely, doctors recommend chest surgery for older adolescents. Like other health care for minors, this care generally requires consent from a parent, legal guardian, or permission from a court. Gender affirming care is safe and supported by major medical associations.
- TNGD youth are placed in congregate care at a disproportionately high rate, experience more placements overall, and are less likely to achieve permanency than their cisgender peers. Therefore, these youth need your informed and proactive advocacy to ensure their placement is affirming and supportive of their identity and expression, an explicit requirement under many states' laws and policies, and as overarching requirements under federal law and the U.S. Constitution.
- You are responsible for zealously advocating on behalf of your client, which includes understanding their life experiences and identities, and of course, acting in a non-discriminatory manner consistent with rules of professional conduct.

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### Step Two: Build Trust and Ask the Right Questions

- Youth may feel unsafe coming out to adults, especially if they are unsure how their identities will be received. However, there are many things you can do to indicate that you are a safe and affirming adult from your first meeting. Subtle signals can help youth feel comfortable coming out to you.
  - Share your pronouns when introducing yourself.
  - Ask if the name on their paperwork is the name they would like to use.
  - Place a rainbow sticker or rainbow flag somewhere where a youth could see it during an initial interview (ex. phone case, laptop, I.D. badge, virtual background).
  - Use inclusive language that does not assume a client is heterosexual or cisgender (ex. “Are you dating anyone?” not “Do you have a boyfriend?”).
  - If you make a mistake with pronouns – whether you are referring to the client or to a third person – correct yourself, apologize briefly, and move on.
- Ask your client about identity, including sexual orientation and gender identity, during your initial meeting or soon thereafter (assuming the location and time available permit). While this may seem awkward, most intake meetings include difficult questions – it's better to respectfully ask questions about all aspects of identity, such as race, religion, ability, tribal affiliation, sexual orientation, and gender identity instead of making assumptions. Framing the discussion around your client's rights while in care is a helpful connection. Keep in mind that transgender youth are often aware of their gender identity at a young age – nearly 60% of transgender participants in one study reported realizing they were TNGD by age 10. Approaching gender identity discussions from a trauma-informed lens is crucial, especially for youth who may have experienced religiously motivated rejection, so-called conversion therapy, or abuse.
- Always clarify your confidentiality policy and ask for your client's permission to disclose their LGBTQ+ identity to anyone, even if you think they've already come out. Who is aware of your client's LGBTQ+ identity already? What pronouns should you use with the client's caseworker? With the judge? With parents or foster parents? Note their boundaries and priorities regarding disclosure of their identity.

## Step Two: Build Trust and Ask the Right Questions (continued)

- Disclosure is always voluntary. If a client says they aren't LGBTQ+, take them at their word and let them know you are always a safe person to talk to. Identity exploration is a process, and a young person may be moving at their own pace – a young person may disclose an LGBTQ+ identity in future conversations even if they do not disclose at first.
- As you do with all clients, ask TNGD clients what support they need and jointly plan to address those needs. Be sure to ask about needs in these areas:

- Wellbeing:
  - If they are receiving necessary health care (mental health and medical)
  - Whether adults in their lives are supportive (including placement, therapist, family members, school staff, case manager, etc.)
  - If they would like to connect with LGBTQ+ community spaces
- Safety:
  - If physical or emotional harm is happening in the community, school, placement, or with family or kin
- Permanency:
  - Whether they welcome services for parents, kin (including chosen family), or a placement to become more supportive of their identity
  - Whether they need a different placement, or for their current placement to become more supportive and affirming

### Step Three: Take Action for your Client

This guide goes into more depth on one important advocacy area for many TNGD youth: gender affirming care (GAC). In an ideal world, minimal advocacy or legal intervention would be needed – the client could request a doctor’s appointment and begin receiving care as medically indicated. Whether due to bureaucratic barriers or new laws limiting access to affirming medical care, your client will likely need your informed advocacy to help them access the care they need, where permitted by law. TNGD youth may experience many other bureaucratic or legal barriers to their safety and wellbeing, including issues with identification documents, name changes, access to clothing and grooming supplies, and school inclusion.

- Steps to Getting Health Care
  - Make sure that youth receive a mental health evaluation for gender dysphoria.
  - Youth should also receive a medical evaluation by a pediatric endocrinologist/gender medicine specialist to determine appropriate treatment.
  - Obtain parent or guardian consent for evaluation and treatment, if your client cannot provide their own medical consent (which varies by jurisdiction). This may include ensuring the parent(s) are provided meaningful opportunity to meet with doctors to discuss treatment options. If parents do not consent, you may be able to advocate with the agency or file a motion in court to ensure your client can access necessary medical care.
  - Make sure that your client receives continued medical and mental health follow-up.
- Potential Barriers and Advocacy Strategies
  - GAC Bans
    - About half of all states restrict some form of GAC for minors. The Trump administration released Executive Order 14187, which instructs the Department of Health and Human Services to threaten federal funding for medical institutions providing GAC for minors. As of August 2025, this executive order is currently blocked by PFLAG v. Trump, but the preliminary injunction protecting access to care is being appealed.



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### Step Three: Take Action for your Client (continued)

- Potential Barriers and Advocacy Strategies (continued)
  - GAC Bans (continued)
    - In June 2025, the U.S. Supreme Court decided in *U.S. v. Skrmetti* that Tennessee's ban on GAC for minors does not discriminate based on transgender status, but is a sex- and age-based classification and warrants only a rational basis level of equal protection scrutiny. The court found it survived such review and upheld the reversal of the trial court's preliminary injunction. The decision means Tennessee's and other such bans are likely to persist, harming tens of thousands of young people. The court's decision was limited in many ways and does not mean GAC is now illegal nationwide.
    - Advocacy Strategies
      - Keep up to date with the status of the executive order and state GAC bans, both in your state and in neighboring states. Be clear about precisely what treatments are banned by state law.
      - If a child's appointment is cancelled or they otherwise lose access to care due to the executive order, please contact Lambda Legal's help desk immediately.
      - Identify policies and practices around an agency's obligation to take a child out of state for medically necessary care. Some state bans only focus on providers and do not prohibit an agency from helping youth obtain care out of state. Under Medicaid EPSDT guidance, states must pay for medically necessary care out-of-state if the state "determines that the needed services are more readily available" elsewhere. Medicaid also requires states to pay for transportation for a patient to receive medically necessary screening and treatment.
      - Build a relationship with local LGBTQ+ organizations to understand what local families are doing to get care for their children.
  - Misinformation/Disinformation
    - Agencies, judges, and other adults may be uninformed, believe harmful myths about GAC, or believe youth can't receive such care.



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### Step Three: Take Action for your Client (continued)

- Potential Barriers and Advocacy Strategies (continued)
  - Misinformation/Disinformation (continued)
    - Advocacy Strategies
      - Use scientific evidence to show the safety and efficacy of potential treatments. Many recent federal and state lawsuits have compiled this information in their briefing; for instance, plaintiffs' briefing in *Brandt v. Rutledge* and *U.S. v. Skrametti/L.W. v. Skrametti* include thorough analyses of the scientific evidence supporting gender-affirming healthcare.
      - Focus on the ways in which GAC contributes to a child's safety, permanency, and wellbeing.
      - File a complaint with an available Ombudsman/Office of the Child Advocate in your jurisdiction.
  - Limited Resources
    - Lack of Medicaid providers that can diagnose and treat gender dysphoria
    - Advocacy Strategies
      - Be aware of state Medicaid restrictions on GAC coverage, as well as restrictions in neighboring states. Based on Executive Order 14187, Medicaid coverage may be federally limited in the coming months.
      - Follow up consistently with your client's team to get appointments made and transportation arranged for your client.
      - Research and suggest potential medical providers that accept Medicaid. Local LGBTQ+ organizations may have a list available.
      - Be aware of the Medicaid system (fee for service or managed care) your client is enrolled in. Consider filing complaints about the availability of providers with any Medicaid or DHS-specific ombudsman's office in your state.
      - If you file a motion in court, you may wish to cite federal *Early Protection, Screening, Diagnosis, and Treatment* (EPSDT) requirements to make the case for your client's right to medically necessary treatment.

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### Step Three: Take Action for your Client (continued)

- Potential Barriers and Advocacy Strategies (continued)
  - Uncooperative agencies, families, or courts
    - Agencies may not have clear policy or practice guidance about access to gender affirming medical care, so caseworkers may give erroneous or confusing information to youth.
    - Advocacy Strategies
      - Have a frank conversation about the needs of the client and what they are not getting. It may be helpful to review [state](#) and [federal law](#), including [Section 1557](#) of the Affordable Care Act and its accompanying [grievance procedure](#).
      - File a complaint with a state or federal ombudsman. Some states also have a specific [children's ombudsman](#).
      - Become familiar with the [medical consent](#) requirements in your state or county, and the methods by which the agency or a judge can consent to medical care for youth if it is impossible or impractical to get a parent's consent. Advocates may need to file motions and provide evidence to the court about the necessity and efficacy of GAC.
      - View this [sample motion](#) for court authorization of GAC filed on behalf of a transgender foster youth in California.
      - Consult any [foster youth bills of rights](#) that may exist in your state.



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### Conclusion

This toolkit does not address every issue TNGD youth might face while in state custody. However, we hope the toolkit gives you a solid foundation to advocate effectively for your young clients as well as links to organizations, resources, and research you can use in your work. Transgender, nonbinary, and gender-diverse young people deserve to thrive and to be safe, respected, and protected while in foster care.

### Resources

- [Safe Havens 2.0](#)
- [Trans Youth Handbook](#)
- [Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents](#) (American Academy of Pediatrics)
- [All Children - All Families: LGBTQ+ Resources for Child Welfare Professionals](#)
- [National SOGIE Center Resource Library](#)
- [Resources for Professionals Serving LGBT Youth in Out-of-Home Care](#)
- [Let's Talk About You](#)

**If a youth you are advocating for is experiencing discrimination and they would like additional assistance, please contact Lambda Legal's Help Desk.**

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The author thanks Currey Cook (Lambda Legal), Elliott Hinkle (Unicorn Solutions), TJ Fowler, Bethany Munson (Pima County Office of Children's Counsel), and New Jersey Office of the Law Guardian for their helpful feedback while developing this resource. If you have questions about or suggestions for the guide, please contact Luna Isaiah Floyd at [lfloyd@lambdalegal.org](mailto:lfloyd@lambdalegal.org) or Currey Cook at [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org)

**All information current as of August 2025.**



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### **Zealous Advocacy Checklist**

I have centered my client's wishes in all actions I take on their behalf.

I have shared my pronouns and used inclusive language.

I have clarified my confidentiality policy.

I have asked for my client's consent before disclosing their LGBTQ+ identity to others.

I have consulted with my client about whether I should advocate for services to help their family become more affirming and accepting.

I have ensured my TNGD client has access to necessary health care.

I have ensured my TNGD client's placement is appropriate and affirming.

I have identified and addressed any legal barriers to accessing appropriate services.

