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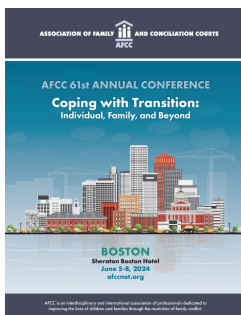
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Early-Bird Deadline approaching for AFCC 61st Annual Conference

Coping with Transition: Individual, Family and Beyond

Sheraton Boston Hotel, Boston, Massachusetts
June 5-8, 2024



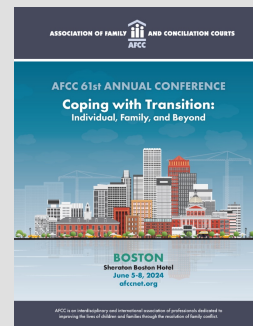
The early-bird registration discount for this conference ends soon! **Register** on or before **March 26, 2024** to get the best rates.

The work of family law, mental health, and dispute resolution professionals is endlessly impacted by transition on an individual, family, and community level. These include the transition

from an intact family to one that lives in two homes; children's transition between developmental stages; transitioning gender; transitioning to new statutes, processes, and professional roles; transitioning in or out of a career; moving, which requires a transition between communities and parenting time plans; and transitioning to new relationships, marriages, and new family forms.

Pre-Conference Institutes

Interested in a more in-depth seminar? Join AFCC on June 5th, for one of our six pre-conference institutes.



AFCC 61st Annual Conference
Boston, MA
June 5-8, 2024

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[See this year's pre-conference institutes.](#)

Plenary Session

Depolarizing by Example: AFCC Peace Talks on Parent-Child Contact Problems

This plenary focuses on an innovative peace talk strategy to break down polarization of issues related to parent-child contact problems (PCCP) by emphasizing collaborative dialogue. This transformative approach will be showcased among experts across the continuum of perspectives, who will examine the many factors to consider in assessing and intervening in PCCP.

Presenters:

- William Bernet, MD
- April Harris-Britt, PhD
- Peter Jaffe, PhD
- Hon. Denise McColley (Ret.)
- Stacey E. Platt, JD

Opening Keynote

In the spirit of this year's conference theme, Coping with Transitions, attendees will be invited into the personal and profound story of a transgender woman, detailing her journey of transition. Transgender activist, author, and speaker, Tina Madison White will share her inspiring personal and familial evolution and the barriers and successes along the way.

Exhibit at or sponsor the conference!

If you have a product or service that could be a benefit for conference attendees, consider exhibiting at this conference to showcase your services. For additional information or to sign up, please see the [exhibitor prospectus](#) and contact Abby Reholz at areholz@afccnet.org. There are only a few spots left and reservations are first-come-first-served.

For a complete list of conference sponsors and exhibitors, [click here](#).

Continuing Education Credit

This program is eligible for up to **20.5 hours** of continuing education. For more details, please visit the [Continuing Education Credits](#) tab on the conference portal.

Reserve Your Hotel Room Today!

The Sheraton Boston Hotel, the conference hotel, and the Marriott Boston Copley Place are both offering AFCC conference attendees a special group rate of \$245/night for single and double occupancy rooms. The Sheraton has very limited availability; the Marriott is a five minute indoor walk from the Sheraton. Reserve your room today to ensure the group rate. [Book online](#) or by calling the Sheraton at 888-627-7054 or the Marriott at 617-236-5800. Be sure to mention the AFCC room block to assure the best rate.

Conference Brochure

For complete conference details, please see the [conference brochure](#).

Gold Sponsors

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[Legal Files Software, Inc.](#)

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[SD Family Services, Inc.](#)

Conference Exhibitors

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[Family Transitions-Programs that Work](#)
[National Responsible](#)
[Fatherhood Clearinghouse](#)
[Divorced Girl Smiling](#)
[Kids First Divorce Education Resources](#)
[Overcoming Barriers](#)

16th Symposium on Child Custody

November 14-16, 2024
Columbus, Ohio

AFCC 62nd Annual Conference

May 28-31, 2025
New Orleans, Louisiana

AFCC Chapter Conferences

AFCC North Carolina Annual Conference

March 22, 2024
Chapel Hill, NC

AFCC Ohio Annual Conference

April 3, 2024
Westerville, OH

AFCC Missouri Annual Conference

April 4-5, 2024
Columbia, MO

AFCC Washington Spring Conference

April 19, 2024

Register Now!

Ten Tips for Gender-Affirming Family Dispute Resolution Practice

Allan Edward Barsky, JD, MSW, PhD



When judges, attorneys, psychologists, social workers, mediators, evaluators, parent educators, and other professionals interact with people involved in divorce, separation, abuse, neglect, and other family dispute situations, it is important that they take factors related to

gender into account (Barsky, in press). Historically, there has been significant misunderstanding or lack of awareness about people who identify as transgender, gender queer, gender expansive, gender fluid, two-spirit, and other gender identities that do not fit neatly within the binary framework consisting solely of male and female identities. This article provides 10 strategies for providing gender-affirming dispute resolution practice. For ease of reference, this article will use “transgender” as an umbrella term that includes people who have gender identities other than “cisgender male” or “cisgender female.” Cisgender people are individuals whose gender identities as male and female match their sex assigned at birth. [Read the Ten Tips!](#)

Seattle, WA

AFCC Oregon Spring Conference

April 19, 2024
Portland, Oregon

AFCC Colorado Spring Conference

April 26, 2024
Denver, CO

AFCC Ontario Annual Conference

October 25, 2024
Toronto, ON

AFCC Texas

January 23-25, 2025
Cancún, Mexico

AFCC Arizona Annual Conference

January 24-26, 2025
Sedona, AZ

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the AFCC
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Fund**

Call for Proposals 16th Symposium on Child Custody

AFCC is accepting proposals for 90-minute workshops for our 16th Symposium on Child Custody. The deadline to submit a proposal is **May 3, 2024**.

Layers of complicated issues often confound the transitions experienced by families navigating separation and divorce. Some issues are relatively straightforward. Others are truly perplexing, as family court professionals endeavor to consider allegations, review supporting evidence, and untangle the “he said, she said.” Polarizing concerns have given rise to heated debate over presenting risks, and the potential for interventions that integrate safety and the preservation of parent-child relationships whenever possible.

16th Symposium on Child Custody

Shaping the Future: Screening and Assessing for Safety and Wellbeing of Parent-Child Relationships

November 14-16, 2024
Columbus, Ohio

Proposals can draw on a topic related to the conference theme or from a topic below:

- Parenting Coordination
- Mediation with IPV Dynamics
- Online Dispute Resolution
- Impact of Emerging Practice Legislation

- Litigation Abuse
- Cross-Allegations of IPV and PCCP
- Ethics and Professionalism
- Legal Representation and Courtroom Practices
- Psychometric Testing
- Diversity/Culture and Parenting Time
- Screening/Assessment for IPV
- Screening/Assessment of PCCP Dynamics.
- Services for Self-Represented Parties
- Court-Involved Therapy
- Multidisciplinary Teamwork
- Cost-Effective Evaluations
- Conducting Virtual Evaluations
- Voice of the Child in High Conflict Cases
- Parent Education



ASOCIATION OF FAMILY AND CONCILIATION COURTS
AFCC

AFCC 16th Symposium on Child Custody

Shaping the Future:
Screening and Assessing for Safety
and Wellbeing of Parent-Child Relationships

November 14-16, 2024
COLUMBUS, OHIO
Hilton Columbus Downtown

Layers of complicated issues often confound the transitions experienced by families navigating separation and divorce. Some issues are relatively straightforward. Others are truly perplexing, as family court professionals endeavor to consider allegations, review supporting evidence, and untangle the "he said, she said." Polarizing concerns have given rise to heated debates over parenting risks, and the potential for interventions that integrate safety and the preservation of parent-child relationships whenever possible. Join AFCC in Columbus, Ohio to continue transformative dialogue shaping the future of assessment, parenting plan evaluations and family-focused interventions.

AFCC is accepting proposals for 90-minute in-person workshops. All proposals must be submitted using the online form by May 3, 2024. See the reverse side for submission instructions. Topics may include, but are not limited to:

• Parenting Coordination	• Diversity/Culture and Parenting Time
• Mediation with IPV Dynamics	• Screening/Assessment for IPV
• Online Dispute Resolution	• Screening/Assessment of PCCP Dynamics
• Impact of Emerging Practice Legislation	• Services for Self-Represented Parties
• Interventions for Parent-Child Contact Problems	• Court-Involved Therapy
• Coercive Control	• Multidisciplinary Teamwork
• Litigation Abuse	• Cost-Effective Evaluations
• Cross-Allegations of IPV and PCCP	• Conducting Virtual Evaluations
• Ethics and Professionalism	• Voice of the Child in High Conflict Cases
• Legal Representation and Courtroom Practices	• Parent Education
• Psychometric Testing	

AFCC is committed to diversity, equity and inclusion (DEI) and encourages attendees to experience discussion of diversity and/or culture as it relates to the presented program. Diversity topics are encouraged to include but are not limited to race/ethnicity. AFCC encourages attendees to provide feedback on their experience.

For more information, please see the [Call for Proposals](#). All proposals must be submitted using the [online form](#).

Perspective

A Client-Directed Attorney for Children: Giving Weight to Children’s Voices

Suzanne Chester, PhD, JD



Based on ten years of providing client-directed representation to children embroiled in contested custody proceedings between their parents and the prior ten years representing parents in litigation, this writer proposes that in contentious cases (e.g., domestic violence, child maltreatment/abuse, allegations of “parental alienation,” children with special needs, one parent’s rejection of a child’s sexual orientation, relocation, etc.), the appointment of a client-directed attorney is the optimal way of ensuring the judge and other family court professionals hear, listen and heed the voice of the child.

(Chester 2021). This author will show how 1) allegations of parental alienation can unjustifiably discredit and distort the child’s voice; 2) a client-directed attorney is necessary for the court to receive reliable evidence about a child’s experiences, views, and preferences; and 3) a client-directed attorney is in the child’s best interests. [Continue Reading](#).

Webinar Corner

The "Good Enough" Parenting Plan Evaluation

Leslie M. Drozd, PhD

April 9, 2024

1:00pm – 2:00pm Eastern Time (US/Canada)

Registration will close on April 8, 2024, at 9:00am Eastern Time US/Canada.

Parenting Plan Evaluations (PPEs) have become increasingly expensive and take longer to complete. As a result, PPEs are no longer a viable option for those who cannot afford the cost of these reports and/or cannot wait for the evaluators to write their reports. To improve access to justice, this webinar will explore approaches to streamline PPEs to provide parents, counsel, and the courts with a product beyond a brief focused evaluation, yet not the full



extended version. The decision to engage in a “good enough PPE is not without risks and must be consistent with guidelines for practice. This webinar will explore approaches and methods to consider: Does it help on the front end for the issues to be explored to be clearly defined? How much history is enough? How many interviews/observations is enough? Is testing required in every case? Does the evaluator need to speak with every collateral? How can reports be written in less than 40 hours while meeting standards and guidelines? What parameters can be put around the methodology? What limitations are acceptable and not fatal flaws? How can this all be accomplished while avoiding preventable errors and managing bias? Implications will be considered for applying streamlined approaches to PPE, including the risks and benefits.

Leslie Drozd, PhD, is a psychologist in independent practice in Newport Beach, California in clinical and forensic psychology with expertise in family violence, alienation, gatekeeping, child abuse, and substance abuse. She has co-authored a myriad of peer-reviewed articles and chapters in these areas of expertise. She serves as a forensic consultant, expert witness, reviewing expert, and child custody evaluator and as a clinician working with families with resist refuse dynamics. She has served as the editor Journal of Child Custody, AFCC task forces that created the Model Standards of Practice for conducting child custody evaluations and the supplement to those model standards for dealing with intimate partner violence in child custody cases. She has co-written or co-edited books for the National Council of Juvenile and Family Court Judges, Oxford University Press, and Professional Resources Press. She has taught judges, attorneys, and mental health professionals across the country, in Canada, and Europe. She has received AFCC’s John E. Van Duzer Distinguished Service Award for her outstanding contributions and achievements.



Registration

Members: \$15

Non-Members: \$50

Certificate of Attendance

Members: \$15

Non-members: \$20

[Register Now!](#)

DE&I Series

Disrupting Anti-Black Racism in the Judicial System: A Focus on Child Rearing and African American Parents

Carla Adkison-Johnson, PhD and Trae Bell, MA

Wednesday, April 17, 2024

4:00pm-6:00pm Eastern Time (US & Canada)

Registration closes April 16, 2024, at 9am Eastern Time US

The American Bar Association (ABA), American Psychological Association (APA) and the American Counseling Association (ACA) recommend that court officials and mental health clinicians are educated about anti-Black racism and its impact on the integrity of African American families. It is well documented that the child rearing practices of African American mothers and fathers have been scrutinized and pathologized by helping professionals which has led to the overrepresentation of African Americans in the child welfare system.

This webinar is free to attend, but you must register to receive the link to join.

Carla Adkison-Johnson, PhD, has been a licensed professional clinical counselor for over 25 years and is committed to meeting the counseling needs of adults, families, and children. She is currently a professor

(tenured) with the Department of Counselor Education and Counseling Psychology, at Western Michigan University. She received her doctorate in counseling and human development from Kent State University and is nationally known for her research on culturally competent counseling and African American child rearing practices. She has served as a child discipline expert witness in civil and criminal courts. In 2017, she received the WMU College of Education and Human Development Distinguished Scholar Award. Dr. Adkison-Johnson is also the recipient of the Kent State University Outstanding Alumnus Award. She is a past member of the Board of Directors for the Council for Counseling and Educational Related Programs (CACREP), the national and international accrediting body for the counseling profession. In this capacity, she served as Chair of CACREP's Training Committee.



Trae Bell, MA is a third-year doctoral student in the Counseling Psychology program at Western Michigan University. He works on various research teams assisting Dr. Carla Adkison-Johnson and her work in child rearing in African-American families. He was born and raised in Teague, TX, and is proud to be a Black man. He graduated with a Bachelor of Arts in Psychology and a Masters of Arts from an CACREP accredited Clinical Mental Health Counseling program from the University of Mary Hardin-Baylor in Belton, TX. His dissertation research focuses on somebodiness and how the concept is intertwined in the lives of African-American children. His master's internship experience involved counseling children ages three to eighteen.



Trae Bell has presented at the 2023 American Psychological Association (APA) Annual Convention, 2023 Association of Family and Conciliation Courts (AFFC) Conference, and the 2022 Great Lakes Regional Counseling Psychology Conference.

[Register Now!](#)

More Upcoming Webinars!

Grappling with No: Children Declining Treatment in the Age of Consent

Barbara Jo Fidler, PhD, CPsych & Stacey E. Platt, JD

May 8, 2024

The Hats We Wear as Court Experts: Roles, Conflicts, and Helpfulness

Jeffrey P. Wittmann, PhD

June 18, 2024

AFCC Member News



Susan Yates, AFCC member from Illinois has been selected to receive the American Bar Association Section of Dispute Resolution's D'Alemberte Raven Award. This prestigious award in dispute resolution honors individuals who have made significant contributions to the field through innovative programs, service improvements, research, or educational initiatives. Congratulations, Susan!

Dianna Gould-Saltman, AFCC member from California and former



AFCC President has retired from the bench after serving the Los Angeles Superior Court since 2010. She has embarked on a new chapter of her career at Signature Resolution, assuming the role of a private judge and family law mediator. Watch this [video](#) to hear her detail her thoughts on the transition. Congratulations, Dianna!



Darren Mort, AFCC member from Australia recently published his latest novel, [Isla's Song](#). Based on true events, this emotionally intelligent and richly detailed novel is a suspenseful family drama about a child who is abducted by her depressed mother from her home in Melbourne, Australia and relocated overseas while her anguished father spends years trying to find her. Congratulations, Darren!

AFCC eNEWS

The *AFCC eNEWS* is the monthly e-newsletter of the Association of Family and Conciliation Courts. The *eNEWS* provides up-to-date information for professionals including practice tips, international news, and the latest initiatives in family law and conflict resolution. The *AFCC eNEWS* is provided at no charge to you; anyone can [subscribe](#).

AFCC members are free to share eNEWS content.

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Ten Tips for Gender-Affirming Family Dispute Resolution Practice

Allan Edward Barsky, JD, MSW, PhD

March 2024
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When judges, attorneys, psychologists, social workers, mediators, evaluators, parent educators, and other professionals interact with people involved in divorce, separation, abuse, neglect, and other family dispute situations, it is important that they take factors related to gender into account (Barsky, in press). Historically, there has been significant misunderstanding or lack of awareness about people who identify as transgender, gender queer, gender expansive, gender fluid, two-spirit, and other gender identities that do not fit neatly within the binary framework consisting solely of male and female identities. This article provides 10 strategies for providing gender-affirming dispute resolution practice. For ease of reference, this article will use “transgender” as an umbrella term that includes people who have gender identities other than “cisgender male” or “cisgender female.” Cisgender people are individuals whose gender identities as male and female match their sex assigned at birth.

1. Demonstrate respect for the dignity and worth of transgender individuals as you would demonstrate respect for the dignity and worth of all people.

Respect is a core value among various legal and mental health professions. Although it is important to understand the particular dynamics and concerns experienced by transgender parents and children, it is also important to remember that transgender parents are parents and transgender children are children. As parents and children, they are worthy of the same respect as all other parents and children. Demonstrating respect includes relatively simple strategies such as using their preferred names and pronouns, using inclusive language, and providing safe environments for them to communicate their concerns without fear of belittling, harassment, or other forms of disrespect ([American Psychological Association, 2015](#); [University of Southern California, 2019](#)). Know that language is evolving and will continue to evolve. Terms that are viewed as respectful and inclusive today may be replaced by other terms in the near future. Further, language is context specific. Clients from one culture and location may prefer different terms than

clients from another culture or location. Rather than using the Golden Rule, “Treat others you would want them to treat you,” use the Platinum Rule, “Treat others as they wish to be treated.”

2. Approach practice with transgender individuals with humility, respecting individuals as experts in their own lives.

The concepts of cultural humility and a person-centered approach suggest that professionals should not assume that they know everything about their clients’ culture, religion, ethnicity, sexuality, gender, or other aspects of diversity (Barsky, in press). To avoid imposing values and beliefs on people, be aware of your own biases, stereotypes, and assumptions. To learn about the unique needs, strengths, concerns, and goals of clients, invite them to share their stories, perspectives, and preferences for help or support. Understand that even people with similar gender identities may have very different life experiences, personalities, and ways of expressing their gender. Support transgender people in their journeys to be their authentic selves rather than trying to change them or impose your values and beliefs (Bermea et al., 2020).

3. Respecting the privacy of transgender clients not only includes protecting the confidentiality of personal information that the client shares you, but also not asking clients to disclose private information about their gender, medical care, coming-out processes, experiences of transphobia, or transitions in their gender expression without consent of the client.

Note that questions such as “Have you had top or bottom surgery?” and “What was your coming-out process like?” can be experienced as very intrusive. Before asking personal and potentially embarrassing questions, consider whether it is professionally necessary to gather such information. In some situations, the person’s need for services may have little to do with issues such as their history of gender-affirming medical care, their experiences of transphobia, or past traumas related to discrimination. Provide clients with information about their assessment and information gathering processes. This enables clients to provide informed consent, including consent about which types of information will be gathered in relation to their gender. If it is important to ask about potentially difficult issues for the client, engage, demonstrate empathy, and build trust before asking whether it is okay to ask about such matters. Note that some clients may be “in the closet” about their gender. Respect client choices about whether and what to disclose in relation to their gender. Provide a safe environment for clients to disclose information about their gender, without pressuring them to do so. To convey openness and acceptance about gender diversity, disclose your own pronouns and invite clients to share what names or pronouns that they would like you to use for them (“Good day. My name is Alex. My pronouns are they/them. How would you like me to refer to you?”).

4. Be knowledgeable about common experiences for transgender individuals, including coming out processes, experiences of transphobia, intimate partner abuse, and various forms of legal and systemic discrimination that they may be experiencing.

As a family dispute resolution professional, you may never know when you are about to engage with a client who identifies as transgender or who is questioning their gender. Ensure that you are aware of current professional literature and research on how to serve transgender clients in respectful, ethical manners. Know how to screen for concerns such as discrimination, depression, self-harmful behavior, and other safety risks. Use reliable sources of information, particularly since many issues about transgender people have been politicized and since there is so much misinformation in both traditional media and online social media. In terms of criteria for gender-affirming medical care, for instance, refer to the work of well-respected organizations such as the [World Professional Association for Transgender Health](#) (n.d.). The information in this “10 Tips” article provides useful guidance about gender-affirming practice; however, it is not sufficient. Please commit to learning more about gender-affirming practice through additional readings, trainings, conferences, supervision/consultation, critical self-reflection, and interactions with transgender individuals and communities. Note that when a transgender person comes out and expresses their gender identity, they are not saying that they are changing their gender. They are saying that they want to live authentically as their true gender. Note also that some people may be questioning or exploring their gender. It is important to support people in these stages, allowing them to question or explore, rather than stifling these processes by insisting on conformity to social, cultural, or religious gender norms.

5. Engage transgender individuals and their family members in discussion about the advantages and disadvantages of private dispute resolution processes rather than public ones.

Some transgender clients and family members may prefer the privacy of dispute resolution processes such as mediation, arbitration, and parenting-plan evaluations. They may want to avoid court or other public processes, not only to avoid embarrassment, but to avoid harassment, death threats, and other forms of homophobia. In a recent situation in Florida, a transgender teenager was outed by the government when it was discovered that she was participating in her high school’s volleyball team, in purported violation of a law that prohibits transgender girls from participating in female sports teams in public schools ([Lavietes, 2023](#)). The girl and her family have been subjected to threats that have endangered her mental health and her life. Although transgender clients should not be barred from access to public dispute resolution systems such as courts, they may prefer to engage in alternative systems that offer greater provisions for privacy, confidentiality, and safety. Even within court processes, there may be procedures such as confidential settlement conferences and in-camera meetings with judges to keep certain information private (Barsky, 2024).

6. Do not be neutral about processes, policies, or behaviors that are harmful to people who identify as transgender.

Although judges, mediators, and certain other types of family dispute resolution professionals are supposed to be impartial in their decision making and facilitation practices, they should not be neutral about processes, policies, or behaviors that are harmful to transgender individuals. Just as these professionals would not allow anyone to denigrate or harass people because of their race, ethnicity, or religion, they should not allow anyone to denigrate or harass people because of their gender identity. Be aware of power dynamics in families with a transgender family member. Do not condone threats to out this family member or discriminate against them if they do not acquiesce to particular solutions for child support, spousal support, or parenting plans. Do not support the use of psychosocial interventions such as “conversion therapy” or “reparative therapy.” These interventions are purported to change a person’s gender from transgender to cisgender. They are not only ineffective; they are psychologically harmful, potentially leading to extreme distress, depression, substance abuse, and suicide ([American Bar Association, 2019](#)). Avoid referring transgender clients to agencies or organizations that are not supportive, inclusive, and knowledgeable about serving transgender clients. Ensure that clients have access to appropriate services, avoiding service providers that may reject or discriminate against them.

7. Advocate for changes in policies and laws that are discriminatory or harmful to transgender people.

Since 2020, several states have passed laws that discriminate against transgender individuals. For instance, there have been laws that prohibit the discussion of issues related to gender in public schools, prohibitions against using preferred pronouns of transgender students, bans or restrictions on access to medically necessary gender affirming care (esp. surgery and hormone treatments; [Barsky, 2023](#)), and prohibitions against allowing transgender individuals to use bathroom or locker room facilities that match their genders ([Equality Federation, n.d.](#); [Human Rights Campaign, n.d.](#)). As a family dispute resolution professionals, do not simply abide by these laws: consider ways to change or challenge these laws. Some of these laws may be subject to challenges based on their violation of constitutional principles such as equality treatment and freedom of expression. Other changes may require legislative reform, public education, and community organization. Different dispute resolution professionals may play different roles in promoting equality and respect for transgender people, depending on their professional expertise and mandates. Note that some states have passed laws promoting equality and respect for transgender people. Their laws and processes toward law reform may be used as models for states that have discriminatory laws.

8. Facilitate access to legal, health care, voice, financial, spiritual, and social services that can provide valuable support to transgender individuals and their family members.

Become familiar with various resources that your clients and their family members may access for support for their legal, health, mental health, social, voice, financial, and spiritual needs. For parents who are uncertain about how to care for a child who has recently identified as transgender, for instance, self-help groups such as PFLAG can provide tremendous support. Coming-out groups for youth or adults may be available at local LGBTQ+ community centers. Websites of organizations such as [Human Rights Campaign](#), [The Trevor Project](#), [National Center for Transgender Equality](#), and [EGALE \(Canada\)](#) list many resources online. They can also provide additional resources through email or telephone contact. When referring people to particular agencies or practitioners, enquire about their training and policies to ensure that they are well educated and supportive of transgender individuals. Do not refuse to serve clients simply because they are transgender. Rejecting transgender clients could be perceived as discrimination. If you need support in providing appropriate services to transgender clients, obtain professional consultation or supervision from someone with appropriate expertise.

9. Build on the strengths of transgender individuals and communities, and avoid pathologizing or diminishing them.

Being transgender is not a mental illness and it is not a social deviance. Various gender identities and expressions should be accepted, respected, and nurtured. Although some people who are transgender have gender dysphoria, depression, or other mental health disorders, do not assume that someone has such a disorder simply because they identify as transgender. Some mental health concerns may be caused by exposure to discrimination, stigma, and minority stress. Other mental health concerns may be unrelated to gender or discrimination, just as many cisgender people experience mental health concerns. Rather than focusing on pathologies or challenges, identify and build on client's strengths, including their resilience in the face of transphobia, their sources of social support, their problem-solving and coping abilities, and other protective factors ([American Psychological Association, 2015](#)).

10. Be aware of different ways that transgender people may construct their families and bring children into their lives.

Because of transphobia, stigma, and rejection within some families and communities, be aware that the most important people in a transgender person's life may include people who are not related by blood or by marriage, but rather by the bonds of love, friendship, and support. Many transgender individuals can and do give birth to their children. It is important that they have gender-affirming medical care throughout their pregnancies as well as after giving birth. Some transgender clients may have children through surrogacy, donor insemination, adoption, or fostering. As a family dispute resolution professionals, be open

to and respectful of various ways that children may be brought into the family, as well as different family structures and roles played by parents (Barsky, 2020). When making determinations about parenting arrangements following separation or divorce, ensure that they are truly focusing on the best interests of the children and not making assumptions that privilege a particular parent simply because that parent is the biological parent or because that parent identifies as cisgender.

References and Resources

- Alaattinoğlu, D., & Margaria, A. (2023). Trans parents and the gendered law: Critical reflections on the Swedish regulation. *International Journal of Constitutional Law*, 21(2), 603–624.
- American Bar Association. (2019). ABA conversion therapy legislative guide. https://www.americanbar.org/groups/diversity/sexual_orientation/publications/equalizer/2019-july/aba-conversion-therapy-legislative-guide
- American Psychological Association. (2015). Guidelines for psychological practice with transgender and gender nonconforming people. *American Psychologist*, 70(9), 832–864. <https://www.apa.org/practice/guidelines/transgender.pdf>
- American Civil Liberties Union. (n.d.). <https://www.aclu.org/issues/lgbtq-rights>
- Barsky, A. E. (2024). *Clinicians in court: A guide to subpoenas, depositions, testifying, and everything else you need to know* (3rd ed.). Guilford Press.
- Barsky, A. E. (in press). Gender and sexual orientation matters. In P. Salem & K. Olson (Eds.), *The family dispute resolution handbook*. Oxford University Press.
- Barsky, A. E. (2023, June 16). Ethics alive: Urgent alert – “Some states have banned gender-affirming care for transgender minors. What are our responsibilities?” *The New Social Worker*. <https://www.socialworker.com/feature-articles/ethics-articles/urgent-alert-states-banned-gender-affirming-care-social-workers-responsibilities>
- Barsky, A. E. (2020). Sexuality- and gender-inclusive genograms: Avoiding heteronormativity and cisnormativity. *Journal of Social Work Education*, 56(4), 1-11. <https://doi.org/10.1080/10437797.2020.1852637>
- Bermea, A. M., van Eeden-Moorefield, B., & Bible, J. (2020). Perceived boundary negotiations with former partners among queer stepfamilies. *Psychology of Sexual Orientation and Gender Diversity*, 7(2), 162–175. <https://psycnet.apa.org/doiLanding?doi=10.1037%2Fsgd0000370>
- Belfort, E., & Brown, B. (2023). Individual affirming care: Psychological and social approaches to trans and gender-diverse youth. *Child and Adolescent Psychiatric Clinics of North America*, 32(4), 761-773 <https://doi.org/10.1016/j.chc.2023.05.006>
- Bermea, A., van Eeden-Moorefield, B., & Khaw, L. (2019). Serving queer survivors of intimate partner violence through diversity, inclusion, and social justice. *Journal of Gay & Lesbian Social Services*, 31(4), 521-545.

Equality Federation. (n.d.). Legislation tracker. <https://www.equalityfederation.org/state-legislation>

Equality for Gays and Lesbians Everywhere (EGALE - Canada). (n.d.) <http://www.egale.ca>

Family Pride Coalition. (n.d.). <http://www.familypride.org>

GLBTQ Legal Advocates & Defenders. (n.d.). <http://www.glad.org>

Hatzenbuehler, M. L., Flores, A. R., & Gates, G. J. (2017). Social attitudes regarding same-sex marriage and LGBT health disparities: Results from a national probability sample. *Journal of Social Issues*, 73(3), 508–528.

Human Rights Campaign. (n.d.). <https://hrc.org>

Kavanaugh, S., Taylor, A., Stuhsatz, G., Nepl, T., & Lohman, B. (2020). Family and community support among sexual minorities of color: The role of sexual minority identity prominence and outness on psychological well-being. *Journal of GLBT Family Studies*, 16(1), 1-17.

Kozee, H. B., Tylka, T. L., & Bauerband, L. A. (2012). Measuring transgender individuals' comfort with gender identity and appearance: Development and validation of the Transgender Congruence Scale. *Psychology of Women Quarterly*, 36(2), 179-196. <https://doi.org/10.1177/0361684312442161>

Lambda GLBT Community Services. (n.d.) <http://www.lambda.org> (including domestic violence information and suicide hotlines)

Lambda Legal. (n.d.). <https://lambdalegal.org>

Lavietes, R. (2023, Dec. 3). Florida mother of transgender student athlete suggests teen was outed amid controversy. <https://www.nbcnews.com/nbc-out/out-news/florida-mother-trans-student-athlete-suggests-teen-was-outed-controver-rcna128180>

Nadan, Y. (2019). The ethnographic interview as a method in multicultural social work education. *Journal of Social Work Education*, 55(2), 396-402.

National Association of Lesbian, Gay, Bisexual and Transgender Community Centers. (n.d.). <http://www.lgbtcenters.org> (including links to local centers)

National Center for Transgender Equality. (n.d.). <https://transequality.org>

Transgender Law Center. (n.d.). <https://transgenderlawcenter.org>

The Trevor Project. <https://www.thetrevorproject.org> (including suicide hotline for teens).

University of Southern California, Dvorak School of Social Work. (2019). Four basic guidelines for practicing LGBTQ-affirming social work. <https://dworakpeck.usc.edu/news/four-basic-guidelines-for-practicing-lgbtq-affirming-social-work>

World Professional Association for Transgender Health. (n.d.). <https://www.wpath.org>



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Perspective

A Client-Directed Attorney for Children: Giving Weight to Children’s Voices

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Based on ten years of providing client-directed representation to children embroiled in contested custody proceedings between their parents and the prior ten years representing parents in litigation, this writer proposes that in contentious cases (e.g., domestic violence, child maltreatment/abuse, allegations of “parental alienation,” children with special needs, one parent’s rejection of a child’s sexual orientation, relocation, etc.), the appointment of a client-directed attorney is the optimal way of ensuring the judge and other family court professionals hear, listen and heed the voice of the child. (Chester 2021). This author will show how 1) allegations of parental alienation can unjustifiably discredit and distort the child’s voice; 2) a client-directed attorney is necessary for the court to receive reliable evidence about a child’s experiences, views, and preferences; and 3) a client-directed attorney is in the child’s best interests.

The narrative of parental alienation can destroy children’s credibility.

The concept of parental alienation is rooted in the belief that a child has rejected a relationship with a parent because the other parent has sabotaged the relationship. From this position, the “alienated” child is viewed as “brainwashed and programmed,” and the child’s perception of the rejected parent is viewed as “false, skewed and distorted.” Therefore, the child’s voice is not to be believed. (Joshi 2023). A virtual conference in 2021 on parental alienation and the courts, hosted by Family Access: Children’s Rights, illustrates how parental alienation concepts discount children’s voices. Robert Hoffman, a prominent trial attorney with an international practice litigating parental alienation cases, was categorical: “We are not guided by what children say...they are brainwashed...theirs is the last voice we should listen to...we should rescue them.”

Children are harmed by the misuse of parental alienation concepts

In her recent report to the U.N. (2023), Reem Alsalem, the Special Rapporteur on violence against women and children, points to the growing use of parental alienation to rebut claims of family violence in custody proceedings across the globe. She shows how parental alienation charges against mothers are used to distract from and delegitimize allegations of child and intimate partner abuse, sometimes resulting in courts placing children in the care of abusive parents. Compounding the problem is the failure, on the part of court professionals, to listen and credit children's accounts of being victimized by physical or sexual violence by a parent. She cautions that "children's views are selectively integrated depending on whether they accord with the prevailing trend towards 'pro-contact' for both parents." To counteract the risks posed by parental alienation allegations, the special rapporteur recommends that all member states of the United Nations—including the United States --- provide children with client-directed legal representation in contested custody proceedings to ensure that the views of the child are "sufficiently and independently" represented consistent with their age, maturity, and understanding. (Alsalem, 2023, p. 19). After a two-year investigation by the Irish government into the use of parental alienation in family courts in Ireland, a similar conclusion was reached. Noting "the impact that claims of parental alienation can have on the weight that is attached to children's views in the courts," the government's primary recommendation was to "give priority to children's voices being heard and considered by the court, and support [children] in their journey through the system." (Irish Government Policy Paper on Parental Alienation, p. 32).

What have children in contested proceedings told us they need?

Birnbaum and Saini (2012) conducted the first qualitative syntheses of thirty-five studies exploring children's views about their experiences post-separation and divorce. Based on the narratives of 1325 children in 11 different countries, most children want to be included in the decision-making process regarding parenting plans even if they do not want to make the final decision. Within the distinction of "voice vs choice," children wanted their voices to be heard even if they were not making the ultimate decisions. Birnbaum and Saini conclude that decision-makers need to hear children's voices, "not just what professionals believe is in children's best interests" (p. 408).

In court systems across the globe, children describe feeling disempowered and struggling with the lack of confidentiality. (Neale & Smart 1998). In contested cases involving violence, children felt they should be made aware of the option to speak with the decision-maker. (Birnbaum et al. 2011). However, children who spoke with judges felt unprepared for what to expect. (Campbell 2008).

Similarly, in the related field of child protection proceedings, "children who said they were given little if any information or were not asked for their views and did not have the chance to be involved in any important decisions felt frustrated, confused, powerless and angry."

(Cashmore et al. 2023, p.12) By contrast, when children believed their caseworkers considered their views, they reported feeling “a greater sense of empowerment and agency, as well as positive emotional well-being.” (p.12)

Children need client-directed attorneys in “high-conflict” cases to ensure their voices are given appropriate weight

The Child’s Advocate (“TCA”), a project of Legal Aid of North Carolina, offers family court judges in select jurisdictions the opportunity to appoint attorneys to represent children in contentious custody cases. Staff and pro bono attorneys represent children between nine and seventeen. Cases accepted for representation must include concerns related to domestic violence, child abuse or mistreatment, allegations of parental alienation, children avoiding contact with a parent, etc.

Judges typically appoint TCA in these cases to ensure the court receives evidence from an advocate independent of the parents--about the child’s experience, perspective, and preferences. TCA accepts appointments for children from families across the economic spectrum—from low-income, self-represented litigants to high-wealth parents with attorneys from influential law firms. If a case goes to trial (TCA settles two-thirds of its cases when the parents have counsel), TCA can call witnesses, make legal arguments, and test the evidence presented by the parents and their witnesses. Judges consider a child’s preferences---and the reasons for their preferences-- in the context of the totality of the evidence. Parents do not pay for TCA’s services.

Another example of direct legal representation is the Office of the Children’s Lawyer (“OCL”) in Ontario, which provides client-directed lawyers to children in contested custody proceedings request by the court. As in the U.S., most custody cases in Canada involve vulnerable children usually unrepresented non-parties who seldom participate directly in the process. (Martinson & Tempesta 2018). The legal representation provided by OCL is grounded in the legal rights granted to children by the United Nations Convention on the Rights of the Child. In a widely cited decision, former Supreme Court Justice Donna Martinson, summarized these rights as follows:

The Convention... says that children... have the legal right to express [their] views in all matters affecting them, including judicial proceedings. In addition, it provides that children have the legal right to have those views given due weight in accordance with their age and maturity...The Convention is very clear...it does not make an exception for cases involving high-conflict, including those dealing with domestic violence, parental alienation, or both...A key premise of the legal rights to be heard found in the Convention is that hearing from children is in their best interests.

2010 YKSC 44 at paras 3 and 13.

In an article advocating for legal representation for children to ensure their meaningful participation in matters which directly affect them (2018), Tempesta and Martinson, point

to the need for children, through counsel, to “participate in the testing of evidence...address the expertise of proposed experts....and participate in all legal arguments relating to how the child’s views are weighed.”

How client-directed representation refocuses the custody case on the child

In the child welfare field, client-directed representation is strongly supported among children’s advocacy practitioners and the academic research community. (Duquette et al. 2021). The preference for client-directed attorneys over GALs arises from “a growing consensus...that personality, personal opinions, values, and beliefs should play as small a role as possible in carrying out the responsibilities of representing a child in a legal proceeding” (Guggenheim 1998, p. 301).

At TCA, we are proponents of the client-directed role. Our duty as children’s attorneys is to advocate for what our clients believe is in their best interests, not to substitute our judgment. (ABA Standards 2003). However, we do not act with robotic allegiance to our clients’ every wish. Instead, we emphasize the “counselor” in our roles as counselors-at-law. We meet with our child clients on multiple occasions between the time we are appointed, and a final order is entered. We get to know our clients and try to understand their world and point of view thereby reducing the role that race, class, and culture play in our legal representation (Peters 2007). We treat our clients as “experts” about their lives and experiences in each parent’s home. As Haralambie (2006) notes: “Children have a great deal to tell us if we know how to listen... [w]e need to go beyond finding out *what* children want and explore their *reasons* for what they want... children have unique and vitally important expertise about themselves that we need to honor” (pp.1281-1282).

Like all attorneys for children, we investigate the facts of the case and interview parents and other people important to our child client. If child protective services (CPS) has been involved but has not substantiated allegations of abuse, or when the court has not determined child abuse has occurred, we understand that neither is necessarily a reliable indication that no abuse has occurred. (Milchman, 2021). Instead, we work closely with our client and their therapist to determine whether there is evidence of abuse that needs to be presented to the court.

Based on our experience with individual judges, we advise our clients whether a judge is likely to rule the way they want. We explore different parenting plans with our clients and their ramifications. We explain that the court has given them a “voice,” but they do not get to make the ultimate decision. We continually remind ourselves and our clients of the duties of loyalty and confidentiality we owe them. After counseling our clients, they get to decide what they want us to advocate for. After a trial, we explain the judge’s decision, what changes our clients can expect, and the reasons for the court’s ruling.

In cases where a child will need to speak with the judge in chambers, we prepare the child for what to expect by visiting the courtroom in advance, informing the client about the

limits of confidentiality, and helping the child organize in their mind what they want the judge to know.

Occasionally, a child may not want an attorney—usually in cases where we suspect a parent is pressuring a child to take a certain position--or the child does not want to express a preference for fear of hurting or angering a parent. If the child's reluctance continues, and with their consent, we request permission to withdraw from representation. In the extremely rare case where a child wants us to advocate for an outcome that poses a clear danger to them, we request the appointment of a GAL (ABA Standards, 2003).

TCA's experience with parental alienation allegations in family court

The concept of parental alienation is highly contested. Warshak (2020) noted the risk of false positives, namely, when evaluators and courts wrongly conclude the child is alienated or fails to recognize that the child's rejection is a justifiable response to a parent's violence, abuse or gross mistreatment. Given the high stakes involved—to be placed in the custody of a parent who has abused them and removed from the care of a nurturing parent -- children deserve no less than to have an advocate throughout the litigation to test the evidence of “alienation” and to present the legitimate reasons a child may be avoiding contact with a parent. Moreover, given the radical remedies ordered by some courts when evaluators or judges determine a child to be “alienated”—an abrupt change of custody to the other parent, extended periods without contact with the primary caregiver, forced attendance at intensive reunification treatments—the support of an advocate is critical to help such children navigate a potentially traumatic and harmful situation. (Mercer 2019).

Unfortunately, from my perspective, litigating cases in family court for over twenty years, it has become increasingly common for parents or their attorneys to raise allegations of parental alienation with little to no credible evidence, knowing that the accusation alone casts suspicion on the other parent, and by extension, undermines the child's credibility. Sometimes, the custodial parent is accused of alienation even when a child is having regular contact with the non-custodial parent but is opposed to a 50/50 schedule. However, in our experience at TCA, when the child has a client-directed attorney to present evidence at trial, judges are more likely to receive evidence related to the many legitimate reasons the child does not want to spend half of their young lives in the care of the supposedly “alienated” parent—grossly inappropriate parenting, failing to spend quality time with the child, harsh discipline, favoring a new partner over the child, a poor relationship with step-siblings, parent's home is far from child's friends, school or important activities, to name a few---*and* the affirmative reasons the child wants to maximize their time with the parent who is their primary caregiver.

A small fraction of TCA cases involves a child who persists in avoiding all contact with a parent. In most of those cases, after the child is appointed legal representation, the court found that the child had legitimate reasons for refusing contact: child sexual or physical abuse, chronic exposure to domestic violence by the non-custodial parent, or a parent's

abandonment of a child during their early years. In the rarest of cases, the court has found that the only plausible explanation for a child rejecting contact is true alienation by the other parent. This is also confirmed by Martinson & Tempesta, who indicate that in many cases where alienation is alleged, children may have legitimate affinities for one parent over the other or may have experiences with the “alienated” parent that justify the estrangement. (Martinson & Tempesta 2018).

Conclusion

Research indicates that “children are more capable than adults give them credit for and that their capacity for decision-making increases in direct proportion to the opportunities offered to them” (Lundy 2013, p. 938). With a client-directed attorney to test the evidence and bring the reasons for children’s preferences and views to the court’s attention, children have the opportunity for meaningful participation in the decision-making process.

References

American Bar Association Section of Family Law Standards of Practice for Lawyers Representing Children in Custody Cases. (2003). 37 Fam. L.Q. 129.

Alsalem, R. (Special rapporteur on violence against women and girls and its causes and consequences), Custody, Violence Against Women and Violence Against Children, U.N. Doc. A/HRC/53/36 (13 Apr. 2023)

Birnbaum R. & Saini, M (2012). A qualitative synthesis of children’s participation in custody disputes. *Research on Social Work Practice* 22: 400-409, 409.

Birnbaum, R., Bala, N., & Cyr, F. (2011). Children’s experiences with family justice professionals and judges in Ontario and Ohio. *Inter-national Journal of Law, Policy, and the Family*, 25, 398–422.

Campbell, A. (2008). The right to be heard: Australian children’s views about their involvement in decision-making following parental separation. *Child Care in Practice*, 14, 237–255.

Cashmore, J., Kong, P., McLaine, M., (2023). Children’s participation in care and protection decision-making matters. *Laws*, 12:49.

Chester, S., (2021). Reunification, alienation, or re-traumatization? Let's start listening to the child, *Journal of Family Trauma, Child Custody and Child Development*.

Duquette, D., Oelerbeek, B, Zinn, A., Pott, R., Skyles, A., Zhou X., (2021). Children’s Justice: How to Improve Legal Representation of Children in the Child Welfare System. NACC E-version.

Guggenheim, M., (1998) Reconsidering the need for counsel in custody, visitation, and child protection proceedings.29 Loy. U. Chi. L. J. 299.

Haralambie, A.M., (2006). Recognizing the expertise of children and families. *Nevada Law Journal*, Vol. 6, Issue 3, 1277-1283.

Department of Justice. www.gov.ie, Irish Government Policy Paper on Parental Alienation, (2022)

Joshi, A. (2023). On a sticky wicket: representing the best interests of brainwashed and programmed children in high conflict child custody cases. *Litigation*, 50:1, 48-53. American Bar Association.

Lundy, L., (2013). The United Nations Convention on the Rights of the Child and child well-being. In *Handbook of Child Well-Being: Theories, Methods, and Policies in Global Perspective*. Edited by Asher Ben-Aryeh, Ferran Casas, Ivar Frønes and Jill E. Korbin. Dordrecht: Springer, 2439–262.

Martinson, D., Tempesta C. (2018) Young People as humans in family court processes: A child's rights approach to legal representation. 31:1 *Can J Fam L* 151.

Mercer, J. (2019). Are intensive parental alienation treatments effective and safe for children and adolescents? *Journal of Child Custody*, 16(1), 67-113.

Milchman, M., (2022). Distinguishing parental alienation from child abuse and adverse parenting. In Jean Mercer and Margaret Drew (Eds.), *Challenging parental alienation: New directions for professionals and parents*. 107-137. Routledge.

Neale, B., & Smart, C. (1998). Agents or dependents? Struggling to listen to children in family law and family research (Centre for Research on Family, Kinship & Childhood, Working Paper, 3).

Peters, J. K., (2007). Representing children in child protective proceedings: ethical and practical dimension (3d ed., LEXUS Law Publishing).

Warshak, R., (2020). When evaluators get it wrong: false positive IDs and parental alienation, *Psychology, Public Policy, and Law*. Vol. 26, No.1, 54-68.



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In December 2023, Suzanne was hired to lead the Child's Voice Project, a new program seeking to elevate the child's voice in family court by replicating TCA's model of client-directed representation in select jurisdictions across the U.S. For additional information, contact Suzanne at schester@childsvoiceproject.onmicrosoft.com.