



Tip of the Month February 2019

Working with Gender-Diverse Clients

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When we say “gender-diverse clients,” we generally mean people who do not conform to traditional ideas about gender and sex, such as people who are gender non-conforming, agender, non-binary, intersex, transgender, Two-Spirit and many more identities and life experiences. Some individuals make medical changes to help their bodies conform to their gender, and many do not. There are many reasons impacting these intensely personal decisions, ranging from external and impersonal, like cost and access, to very personal, like values, safety, and priorities. An individual’s current combination of choices is not related in any way to the existence or validity of their identity—for example, a transgender individual is transgender regardless of their current medical, legal, or social presentation.

Despite being only 1% of the population, transgender people disproportionately face violence, discrimination and other harms. For example, one study found 20% of transgender people have experienced housing discrimination and more than 10% have been evicted because of their gender identity (research details and citations available in the below link). Knowing about these additional barriers, how can we, as lawyers, most effectively and respectfully help our clients?

TIP #1: Use the correct terminology for your client and ensure that all others interacting with your client will too, even if that involves hard conversations with the Court.

Gender non-conforming people make medical, legal, and social choices about how they want to live their life, such as how to dress, what names to use, and what medical interventions or changes are desired. These choices do not tell you anything about that person’s actual identity or legal needs, and asking about them when they aren’t strictly relevant will put your client on high alert and cue to them that you are not culturally competent.

The reality is, there isn’t a list of “right” or “wrong” language or behaviors. The only “right” language is what your client uses. The only “wrong” language is intentionally using words or language that the client does not use. How do you get it right? Keep calm and listen carefully. Ask clarifying questions if you need to, and softly and quickly apologize, correct yourself, and move on if you make a mistake – do not dwell on your error or seek validation from your client.

How do I ask for my client’s correct name and pronouns?

Attorney: “Hi, my name is CB Baga, I use she/her and they/them pronouns. Thanks for coming in to the legal clinic today. What name and pronouns do you use?”

Client: “I’m Jamie, he/him.”

Attorney: “It’s nice to meet you, Jamie.”

How do I get enough information about my client’s situation when I see how complicated gender and sex and transition can be?

Attorney: “The legal form requires that I put the name that is on your legal identity documents here. Would you write it in for me?”

TIP #2: Spend more time listening than you do talking, and don’t start talking until you fully understand your client’s situation.

If a client shares a concern, resist the urge to reassure them right away. Listen first. The client needs to feel heard and validated in order to know that you will respect the boundaries that they share with you. You can give them more information later about what each option they have looks like, so they can think through their fears and concerns in context.

How can I respectfully learn how to help my client?

Client: “I am a nonbinary transfeminine person, so it’s really hard to get my landlord to take me seriously. I think she is just trying to evict me to get me out of her hair, but the whole place is falling apart.”

Attorney: “That must be so tough to deal with. At this point, what would be the best outcome for you? What would a ‘win’ look like?” (Then go on to determine if a discrimination claim, housing habitability actions, or perhaps just seeking new housing is most appropriate for the client.)

TIP #3: Show empathy and awareness for your client’s individual needs and create space for those needs to potentially be different than you have ever heard of before.

How do I ask for my client’s unique concerns in accessing legal help?

Attorney: “I see from your intake form that you are here to talk about a housing issue today. Before we dive into that, is there any information you would like me to have on how I can best support you, any particular concerns you have, or something you want to discuss right away?”

Client: “I am really uncomfortable going to the courthouse. I do not want to have to go in front of a judge if I can help it.”

Attorney: “Okay, thanks for sharing that. I can see how that would be really scary. It’s hard to know how safe a particular judge or courthouse will feel. We can definitely talk through all your options and help figure out what the best next steps are for you.”

TIP #4: Overcome bias:

One psychological effect of perceiving a client to be gender-diverse (or have another diverse identity) is a tendency to assume that the demographic category is more significant than other aspects of the individual’s background, behavior, or experience. This is called “master status thinking.” Master status thinking puts the diverse identity the primary issue and focus of the meeting instead of the issue that the client prioritizes.

In order to prevent this cognitive bias that all of us tend towards, try to set aside the fact that your client is gender diverse and listen to the many different factors that comprise your client’s experience. Start by showing empathy and understanding of the experience as a marginalized person, and then move on to focus on your client’s options for solving the problem based on their personal situation. Allow the client to direct the conversation, and gradually focus your questions to explore the client’s goals and the legal parameters applicable to the situation.

This tip is an abbreviated version of “Working with Gender Diverse Clients,” a guide written by Minnesota attorney C.B. Baga. [Click here to read the full guide, and please share widely.](#)