



Name Change Project Attorney Handbook

Transgender Legal Defense & Education Fund

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Thank you for choosing to participate in Transgender Legal Defense & Education Fund's Name Change Project. This project provides transgender community members with free legal representation during the name change process. Since the Project's inception in Spring 2007, over 900 attorneys have participated in the program. Over 1800 people have sought assistance from the project, and at any given time, we have roughly 100 clients working with attorneys. This project would not be possible without the generous support of firms and attorneys like you. Thank you!

I. INTRODUCTION TO TLDEF AND THE NAME CHANGE PROJECT

A. ABOUT TLDEF

Transgender Legal Defense & Education Fund (TLDEF) is committed to ending discrimination based upon gender identity and expression and to achieving equality for transgender people through public education, test-case litigation, direct legal services, community organizing and public policy efforts. You can learn more about our work at <http://www.transgenderlegal.org>.

B. WHY THE NAME CHANGE PROJECT?

The Name Change Project (NCP) came about because a great deal of the discrimination that transgender individuals face is due to a perceived mismatch between their birth names and their current appearance. A lack of appropriate identity documents can deter people from applying for jobs, school, benefits, or even a library card. Having to present an ID that does not match one's appearance can, at best, be embarrassing or worse – subject the person to harassment or violence. In one of TLDEF's cases, a 17-year-old transgender woman applied for a job at a fast food restaurant. Despite having previous experience, the manager refused to hire her when he saw that she had written a male name on the application and left her a voicemail stating, "You will not get hired," and using anti-LGBT slurs. Helping people obtain legal documents that match their lived sex goes a long way toward removing discriminatory barriers to obtaining basic things like employment, housing, and public benefits.

Securing a legal name change can be an intimidating experience because it involves interaction with judges and the court system. It can also involve a serious commitment of time and effort in an arena (the legal system) that is unfamiliar to many people. By ensuring that

transgender people have adequate legal representation when seeking name changes, the Name Change Project ensures that they can successfully negotiate the legal process and move forward with their lives.

Unlike typical adversarial proceedings, name changes are voluntarily undertaken, and are usually happy occasions. As one client put it, shedding his birth name "felt like giving away, say, an ugly Christmas sweater."¹

C. HOW THE PROJECT HELPS

The process of transitioning can be enormously stressful, and simply living as a transgender person can mean constantly experiencing or being exposed to harassment and discrimination. Transgender people are all too frequently placed in the position of having to advocate for themselves – at work, at school, with doctors, family members, religious communities, government agencies, and so on.

In contrast, the Name Change Project was founded on the principle that everyone who wants a lawyer deserves to have one in order to make the name change process as simple as possible. For many people, the Name Change Project is a vital way to obtain a name change that they would be unable to complete on their own. For a group of people that is widely marginalized, simply being represented by a respectful attorney at a prominent law firm can be an empowering experience.

D. OVERVIEW OF HOW IT WORKS

The Name Change Project provides legal name change services to transgender New York City residents and in other cities throughout the country (See http://transgenderlegal.org/work_show.php?id=7 for an up to date list of the cities where we have participating firms). When a participant joins the project, TLDEF performs an initial in-person or telephonic intake. Clients sign a letter (see **Error! Reference source not found.**, Appendix A, pg. **Error! Bookmark not defined.**) agreeing to provide their attorney(s) with complete and accurate information and to keep all scheduled appointments. When an attorney or *pro bono* coordinator requests a client, TLDEF forwards the client's intake form (see TLDEF

¹ William Glaberson, *For Transgender People, Name Is a Message*, N.Y. TIMES, January 25, 2010, <http://www.nytimes.com/2010/01/25/nyregion/25namechange.html> (featuring four Name Change Project clients).

Client Intake Form, Appendix A, pg. **Error! Bookmark not defined.**). The form contains the client's contact information, as well as the basic elements that will comprise the name change petition. The attorney will then establish contact with the client, draft the name change petition and set up an initial interview with the client. If, as a result of the interview process, the attorney becomes aware of the need for additional documentation, *e.g.*, the client's birth certificate or criminal disposition report, the attorney will obtain such documents.

Once the petition is completed, it will be filed with the NYC Civil Court, which will assign a court date for a name change hearing. At the hearing, the judge will grant the petition subject to compliance with publication and any notification requirements. On rare occasions, the petition may be denied pending submission of additional information. The attorney will arrange for publication and notification of parties as specified in the order. Once all of the proof of notification and publication is submitted to the court, the name change is complete and the clerk will make available certified copies of the name change order. We ask that the participating law firm provide the client with three to four certified copies of the name change order to be used later to change legal documents such as a birth certificate, Social Security card, and driver's license or NY state ID. The whole process generally takes 6 to 8 weeks if there are no complicating factors. Expect from about 15 to 40 hours of total work for each client.

To request a client, contact our Intake Coordinator, Patricia Harrington **pharrington@transgenderlegal.org**. TLDEF Staff Attorney Ethan Rice is available to answer questions throughout the name change process. Please contact him with any legal questions: **646-862-9396**, **erice@transgenderlegal.org**. If your firm has other attorneys who have worked with the Name Change Project, they are also a great resource.

If you are not comfortable taking on a case by yourself, many attorneys choose to pair up with another attorney. Working with an attorney familiar with the process is another option for a first case. You must be admitted to practice in your respective jurisdiction (or have a colleague who is admitted to practice and can attend court with the client) to represent a client through the Name Change Project.

E. APPELLATE WORK

On occasion, issues arise that necessitate appellate work. For example, in 2009, a judge refused to grant a name change to one of our clients unless he produced a note from a doctor substantiating the need for a name change. TLDEF partnered with the name change attorneys in a successful appeal to the Appellate Term, First Department. The court noted, "[t]here is no sound basis in law or policy to engraft upon the statutory provisions an additional requirement that a transgendered-petitioner present medical substantiation for the desired name change." *In re Winn-Ritzenberg*, 26 Misc.3d 1 (App Term, 1st Dep't 2009) (see Appendix B, pg. **Error! Bookmark not defined.**).

We ask that you keep us apprised of any unusual development in your client's proceedings so that we may determine whether appellate or other action is necessary. Appellate work is a separate engagement, and there is no requirement that anyone participating in the Name Change Project agree to engage in appellate work.

F. ABOUT THIS HANDBOOK

This handbook is only current as of the date on the front page. We are constantly incorporating updated information as new questions arise and court procedures change. We encourage you to let us know if you experience something that differs from the procedures outlined here so that we can update the handbook.

II. WHO ARE NAME CHANGE PROJECT CLIENTS?

A. A DIVERSE GROUP OF INDIVIDUALS

Our clients are a diverse group in terms of race, education, and socioeconomic status. Since each client is an individual, it is not possible to generalize about one client based on experiences with another. Some may be in college, many are unemployed, and a disproportionate number live in shelters or supervised residences. Some will make all of their appointments on time, and others will not show up and become unreachable.

NCP clients are in all stages of transition. Some are just starting their transitions, and others have transitioned over a decade ago but were never able to pursue a legal name change on their own. Two-thirds are transgender women. Roughly 4% of our clients have nonbinary or genderqueer identities (neither a woman or a man, or both) and are not transitioning sexes.

B. SOCIOECONOMIC STATUS

Because transgender individuals face widespread discrimination in housing, employment, and education, they are disproportionately poor, unemployed, and homeless. Many Name Change Project participants have criminal records. Most are poor and working class. Most receive public assistance.

III. INTERACTING WITH CLIENTS

A. RESPECTING GENDER IDENTITIES

Providing a safe space for transgender people requires using proper names, pronouns, and gendered terms. One of the most frustrating aspects of being transgender is being gendered incorrectly by others. Clients will usually be much more comfortable if you refer to them by their preferred name and pronouns. Feel free to use gender-affirming language such as Mr. or Ms. when emailing the client or referring to them in the presence of others, including the judge. If the client asks to use the restroom, direct them to the restroom that accords with their gender identity and appearance.

Please be aware that some client's appearances may not match their gender identity. This is particularly true for clients who lack economic access to items and medical procedures that would allow them to conform their bodies and appearance more to their affirmed sex. Additionally, not everyone can live full-time as their affirmed sex. A transsexual woman, for example, may still present as male at her job, so she may come to your appointment wearing male clothes.

If you make a mistake with a name or pronoun, correct yourself and move on. Apologizing profusely often only prolongs attention to the subject and can make someone more uncomfortable.

B. LOGISTICS OF FIRM CULTURE

Our clients typically do not have experience visiting large law firms and may be nervous doing so. Because many clients have ID that reflects their birth names and gender, showing ID increases the chances that the security staff will refer to the client with inappropriate gendered terms. When arranging a meeting with the client, give them notice about the security

requirements. You may consider offering to meet them in the lobby and accompanying them through security. Educating your security staff is also important.

C. MEETING WITH THE CLIENT

Please reach out to the client as soon as possible after the client has cleared a conflicts check. When assigned, we inform the clients they will hear from their attorney in 7-10 days. Even if you are not prepared to set up a meeting, introducing yourself and letting the client know you are working on their case is extremely reassuring. Clients greatly appreciate knowing their case is moving forward, and there is a reduced likelihood of losing touch with the client if constant contact is maintained.

When scheduling the client meeting, ask them to bring the following information and documentation if they have it:

- Their birth certificate
- Photo ID
- If relevant based on the intake form:
 - Immigration documents
 - Criminal records (*e.g.*, rap sheet, certificates of disposition if available)
 - Bankruptcy-related documents
 - Documentation regarding judgments, liens, or current lawsuits
 - Documents regarding prior name changes
 - Family-related documents, such as a divorce order

When the client comes in, have the client sign your firm's engagement letter. Verify or gather the information necessary for the petition (detailed below). Clients may not have known all of the details or may not have been comfortable disclosing everything to us, but when they arrive at a formal law office, they may disclose additional information, particularly in the areas of criminal or immigration matters.

Arrange to have a notary public available so that the client can sign the verification.

Find out if there are dates your client is unavailable for a hearing (inform the person who will be filing the petition if you will not be doing it yourself). When filing the petition, you will get a hearing date anywhere from a few days to 4 weeks later (typically it is 2 weeks) depending on the court's schedule.

D. MISSED APPOINTMENTS & DROP-OUTS

We emphasize to the clients the importance of keeping appointments with attorneys and calling ahead to reschedule if they cannot make it. You may find it helpful to send a reminder email or make a reminder call the day before a scheduled appointment. Unfortunately, some clients will miss appointments. If you are having trouble reaching a client, please let our intake coordinator **Patricia Harrington** know (pharrington@transgenderlegal.org, 646-862-9396), and she will reach out to them as well.

There are many reasons why a client might miss an appointment. Many are young and may simply be unaccustomed to having to be in a certain place at a certain time. They may lack transportation money or have health issues, including depression. For certain people, particularly visibly transgender people, simply leaving their apartment can, at times, be overwhelming. Oftentimes transgender people do not have the privilege of simply walking out of the house without preparation; they must take steps to ensure that their appearance will allow them to be comfortable and safe in public.

Despite our efforts to screen clients, some who make it past the intake process and are assigned to attorneys do not complete the name change process. Some clients may discover that they are not in a place in their lives where they can complete the name change process. Some clients encounter opposition from family members and do not proceed. Others face interactions with law enforcement or other unforeseen problems that require their full attention. We always do all we can to help clients through, and try to find out why they are unable to proceed. Many return to the project at a later date.

E. TIMELINESS OF NAME CHANGES

Most of our clients are eager to change their names. Some have been waiting for years. While it might be tempting to think that if someone has waited their whole life, they can wait another month, it is often not that simple. In addition to the general factors outlined above, people are often urgently waiting for name changes for specific reasons, such as to assist them in switching to a different shelter or because they are moving to another city where projects like this are not available to assist them. For certain clients, it is essential to complete the name change as quickly as possible.

We ask that if you are unable to give enough attention to a client to promptly complete the process, please hold off until your schedule allows more time. In the meantime, that client can be assigned to another attorney who has time, and there will always be another client waiting when you are ready. If something comes up and you are having difficulty finding time for the case, please just let us know and we are happy to reassign the client.

At the same time, we completely understand that some clients are not always prompt in producing requested documents or in replying to calls and emails. Please let us know if you are in that situation and we will do all we can to get a response from the client.