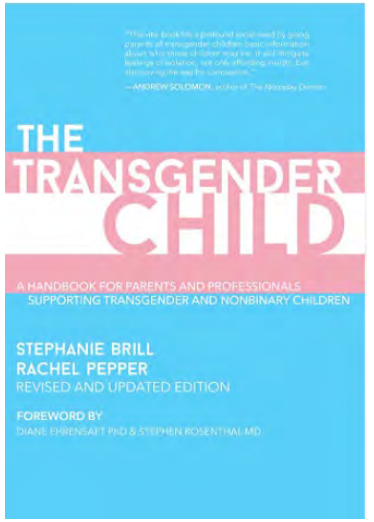
Family Court Experiences of 10 (more) Affirming Mothers of Transgender and Gender Expansive (TGE) Youth Involved in Child Custody Cases

Katherine A. Kuvalanka, PhD (she/her)
Department of Family Science & Social Work, Miami University

Maryland Chapter AFCC Conference
10th Annual Educational Event—October 23, 2024

Transgender/Gender-Expansive (TGE) Children & Adolescents

- Gender identity differs from gender designation at birth
- Many realize TGE gender identity around puberty, but some much younger
- Some assert their gender identities as early as 2-3 years old (Kuvalanka et al., 2014; Riley et al., 2013)
  - Most cisgender (non-TGE) children label their gender identity between 2-3 years old



American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN®

"Research substantiates that children who are prepubertal and assert an identity of [transgender/gender-expansive] know their gender as clearly and as consistently as their developmentally equivalent peers who identify as cisgender and benefit from the same level of social acceptance."

AAP, 2018

TGE Children & Adolescents

Elevated risk for adverse mental health outcomes

(Aitken et al., 2016; Perez-Brumer et al., 2017)

- Due to gender minority stress (Hendricks & Testa, 2012; Toomey, 2021)

- Depression diagnosis [Reisner et al., 2015; *N* = 360; 50% trans youth (*n* = 180)]
  - Trans youth: 51% Cis youth: 21%
- Anxiety diagnosis [Reisner et al., 2015; *N* = 360; 50% trans youth (*n* = 180)]
  - Trans youth: 27% Cis youth: 10%
- Suicide attempts [Toomey et al., 2018; *N* = 120,617; <1% trans youth (*n* = 721)]
  - Trans boys: 51% Cis boys: 10%
  - Nonbinary: 42%
  - Trans girls: 30% Cis girls: 18%

Family as source of rejection

- Many TGE youth experience hostility, rejection (e.g., verbal abuse; physical abuse), and lack of support by family members
  (Grossman et al., 2011, 2021; HRC, 2018; Peng et al., 2019)
- Family members' gender-based rejection related to TGE youth's negative health outcomes (e.g., depression; suicide attempts)
  (Grossman & D'Augelli, 2007; Morrow & McGuire, 2023; Yadegarfard et al., 2014)

Groundbreaking community-based study
(Kristina R. Olson et al., 2016)

- 73 TGD children (age 3-12 yrs; *M* = 7.7 yrs)
- All had **socially transitioned** (i.e., changed names, pronouns, hair, clothes, etc.)
- No elevations in depressive symptoms; marginally higher symptoms of anxiety
- Findings consistent with clinicians' reports that anxiety and distress tend to dissipate after TGD children are supported in their gender identities
  (e.g., Ehrensaft, 2011, 2012)

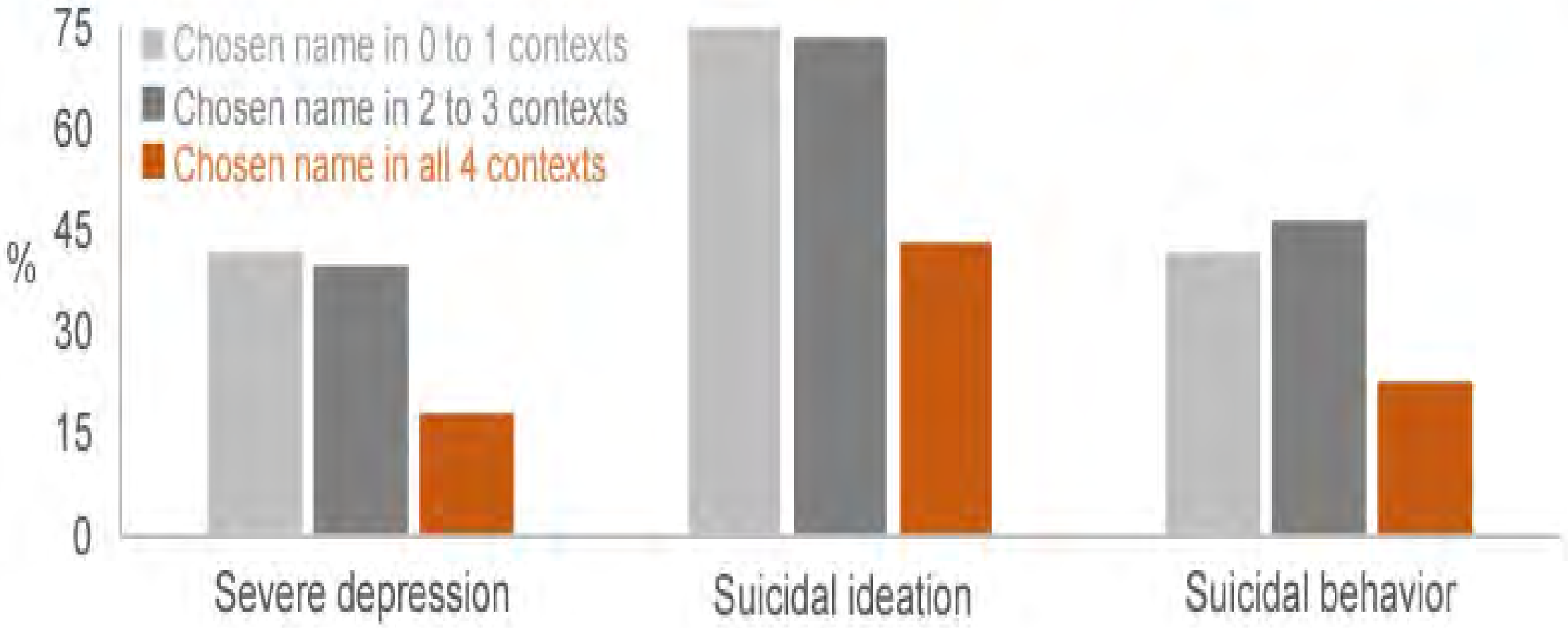
Family Acceptance & Affirmation critically important

- Health disparities greatly reduced when TGE youth:
  - Are supported in their social transition (e.g., change hair style, clothes, pronouns, name) (Durwood et al., 2023; Kuvalanka et al., 2017; Olson et al., 2016; Pollitt et al., 2021)
  - Receive gender affirming medical intervention (e.g., puberty suppression and/or cross-sex hormones), as appropriate

    (de Vries et al., 2014; Toomey et al., 2021; Turban et al., 2020; Turban, 2022)
  - Have community (peer, school, etc.) support too

    (Durwood et al., 2021, 2023; Pollitt et al., 2021; Russell et al., 2018)

Transgender Youth Who Could Use Their Chosen Name at Home, School, Work, and with Friends Had the Lowest Levels of Mental Health Problems



Russell, Pollitt, & Grossman (2018)

Gender Affirming Care

American Academy of Pediatrics
DEDICATED TO THE HEALTH OF ALL CHILDREN®

"Providers work together to destigmatize gender variance, promote the child's self-worth, facilitate access to care, educate families, & advocate for safer community spaces where children are free to develop & explore their gender"

GROUNDING…

- Trans identities and diverse gender expressions do not constitute a mental disorder;
- Variations in gender identity and expression are normal aspects of human diversity;
- If mental health issue exists, it most often stems from stigma and negative experiences rather than being intrinsic to the child.

AAP (2018): "Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents" *Pediatrics*

The Role of Family Courts

- "Family court remains an unpredictable and terrifying realm for affirming parents of TGE youth, especially for those with pre-adolescent children" (Sloan, Kuvalanka, Johnson, Bellis, & Davis, in press)
  - George, M. (2021). Exploring identity. *Family Law Quarterly, 55*, 1-66.
  - Pociask, C. (2023). In the best interests of whom?: An analysis of judicial bias in custody disputes involving transgender children. *Indiana Law Journal, 98*(4), 1275-1306.
- (more) "Affirming parent":
  - "Parent who is supportive and facilitative of the child's TGE gender identity, seeking gender-related care for the child and/or supporting the child's ability to express their gender identity" (Sloan et al., in press)

FAMILY COURT REVIEW
An Interdisciplinary Journal
AFCC

AN EXPLORATORY STUDY OF CUSTODY CHALLENGES EXPERIENCED BY AFFIRMING MOTHERS OF TRANSGENDER AND GENDER-NONCONFORMING CHILDREN

Katherine A. Kuvalanka, Camellia Bellis, Abbie E. Goldberg, and Jenifer K. McGuire

First published: 20 January 2019

Family courts have lacked familiarity with evidence-based recommendations regarding the best interests of transgender and gender-nonconforming (TGNC) children, resulting in some affirming parents losing physical and/or legal custody. This exploratory, qualitative study with 10 affirming mothers of TGNC children who had experienced custody-related challenges reported on salient themes, including "blame" for causing children's gender nonconformity, coercion by ex-partners, bias in the courts, negative impact on children, emotional and financial toll on participants, and the critical importance of adequate resources. Findings indicate the need for better-educated family court professionals, as well as socioemotional support and financial and legal assistance for affirming parents of TGNC children.

Summary of Participant Custody Context.

Custody situation	*Child age, assigned sex at birth*, and asserted gender*	*Summary of custody situation*
"Sole"	10 years; AMAB; girl	Had sole physical and legal custody; ex-spouse threatened to challenge custody but did not
	12 years; AFAB; boy	Had sole physical and legal custody; ex-spouse temporarily had joint custody
"Lost"	6 years; AMAB; girl	Lost physical and legal custody
	8 years; AMAB; girl	Lost physical and legal custody
	9 years; AMAB; girl	Shared physical custody but had lost legal custody
	10 years; AFAB; boy	Lost physical custody; retained 50% legal custody.
"Shared"	5 years; AMAB; girl	Shared physical and legal custody
	5 years; AMAB; girl	Shared physical and legal custody
	13 years; AFAB; boy	Shared physical and legal custody
	15 years; AMAB; girl	Shared physical and legal custody

*AFAB = Assigned female at birth; AMAB = Assigned male at birth.

Activate

10 Affirming Mothers (Kuvalanka et al., 2019)

- 7 of the 10 mothers went to court because ex-partners sued for custody
- Many different family court professionals involved, such as custody evaluators and expert witnesses
  - "Hit or miss" regarding these professionals' level of competence and bias regarding the needs of TGE youth
- **Of the 7 cases that went to a judge, 4 resulted in lost or reduced custody**
- *All participants had been primary caregivers of their children prior to their court cases*
  - Echoes George's (2021) analysis that "custody disputes involving gender expansive children...all arose in the context of petitions to modify custody, rather than initial custody decisions that determine what arrangement best meets the child's interests" (p. 6)

10 Affirming Mothers (Kuvalanka et al., 2019)

- 1) Ex-partners argued the court shouldn't allow affirmation of child's gender identity, because…
  - Affirming parent was "pushing" / "forcing" / "encouraging" child to be TGE for some ulterior motive/cause
    - For attention
    - Desire to have child of different gender
    - Trauma or "sickness"
  - Child is "not really transgender"

10 Affirming Mothers (Kuvalanka et al., 2019)

- 2) Courts were complicit in blocking/restricting/punishing affirming parent's affirmation of TGE youth's gender
  - Clothing, chosen name & pronouns, discussions about gender, associating with other TGE youth
    - *"I am not to refer to [my child] with female pronouns…I am not allowed to allow [my child] to have any girl items in the house…I cannot discuss gender with [my child]. So…I had to take away all of [my child's] favorite toys. I had to take away all of the clothes, the books…So [my child] came home and there was nothing there. Like, all of [my child's] favorite things were gone."*
    - Mother's legal decision-making authority taken away because she *"let [child] wear a skirt to school"* and *"play with another gender-nonconforming child."*

American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN®

Efforts “used to prevent children and adolescents from identifying as transgender or to dissuade them from exhibiting gender-diverse expressions…have been proven to be not only unsuccessful but also deleterious…” (AAP, 2018)

Follow up study*…

- 2020: phone interviews with all 10 mothers
- *Did things change? Get better or worse, and why?*
- **5 cases now better** from custody standpoint
  - (Some) custody restored & visits no longer supervised
  - Better, but not perfect

Why did custody status improve?

- Severe deterioration of child's mental health (*n* = 3)

  Two children attempted suicide
- Change in judge or other influential family court professional (*n* = 3)

*DRAFT—findings not yet published

Follow up study*…

2 cases now worse

- Shared custody ⟹ lost legal custody (*n* = 1)
- Constant threat of litigation (*n* = 2)

Why worse?

- Court influenced by <u>problematic arguments</u>:
  - *“The child is too young to know their gender.”*
  - *“The affirming mother is pushing child to be transgender.”*
  - *“A ‘gender-neutral’ approach (e.g., not using pronouns; not talking with child about gender) is not harmful.”*

*DRAFT—findings not yet published

American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN®

"Watchful waiting" is an "outdated approach in which a child's gender-diverse assertions are held as 'possibly true' until an arbitrary age (often after pubertal onset)…This outdated approach does not serve the child because critical support is withheld." (2018)

The Role of Family Courts

- NOT to determine whether a child is “really TGE”
  - Courts not equipped to make such a determination
  - Not in the best interests of the child (George, 2021; Pociask, 2023)
- Determine which home environment is most open to child being TGE and most supportive of a child freely expressing their gender, regardless of whether or not they are TGE (George, 2021; Pociask, 2023)
- Facilitate parental education and acceptance given its known importance to the health and well-being of TGE youth (Sloan et al., in press)
  - Family Acceptance Project: https://familyproject.sfsu.edu/

“Robust and current research suggests that, rather than focusing on who a child will become, valuing them for who they are, even at a young age, fosters secure attachment and resilience, not only for the child but also for the whole family.”

American Academy of Pediatrics (2018)

References

- AAP/Rafferty, et al. (2018): "Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents" *Pediatrics, 142*(4), 1–14.
- Aitken, M., VanderLaan, D. P., Wasserman, L., Stojanovski, S., & Zucker, K. J. (2016). Self-harm and suicidality in children referred for gender dysphoria. *Journal of the American Academy of Child and Adolescent Psychiatry, 55*, 513–520.
- Bailey, M. M. (2013). Butch queens up in pumps: Gender, performance, and ballroom culture in Detroit. Ann Arbor, MI: University of Michigan Press.
- Bhattacharya, N., Budge, S. L., Pantalone, D. W., Katz-Wise, S. L. (2021). Conceptualizing relationships among transgender and gender diverse youth and their caregivers. *Journal of Family Psychology, 35*, 595-605.
- Coleman et al. (2022). Standards of Care for the Health of Transgender and Gender Diverse People, Version 8. *International of Transgender Health, 23*, S1-S258.
- Durwood, L., McLaughlin, K. A., & Olson, K. R. (2017). Mental health and self-worth in socially transitioned transgender youth. *Journal of the American Academy of Child & Adolescent Psychiatry*, *56*(2), 116–123
- Durwood, L., Eisner, L., Fladeboe, K., Ji, C. G., Barney, S., McLaughlin, K. A., & Olson, K. R. (2021). Social support and internalizing psychopathology in transgender youth. *Journal of Youth and Adolescence*, 50(5), 841–854.
- Durwood, L. J., Gallagher, N. M., Sifre, R., & Olson, K. (2023, October 11). A Study of Parent-Reported Internalizing Symptoms in Transgender Youth Before and After Childhood Social Transitions. https://doi.org/10.31234/osf.io/5eumb
- Ehrensaft, D. (2011). *Gender born, gender made: Raising healthy gender-nonconforming children.* New York: The Experiment.
- George, M. (2021). Exploring identity. *Family Law Quarterly, 55*, 1-66.
- Gibson, D.J., Glazier, J.J., Olson, K.R. (2021). Evaluation of anxiety and depression in a community sample of transgender youth. *JAMA Network Open*.
- Gill-Peterson, J. (2018). *Histories of the transgender child.* Minneapolis, MN: University of Minnesota Press.
- Gower, A. L., Rider, G. N., Coleman, E., Brown, C., McMorris, B. J., & Eisenberg, M. E. (2018). Perceived gender presentation among transgender and gender diverse youth: Approaches to analysis and associations with bullying victimization and emotional distress. *LGBT Health*, *5*(5), 312–319.
- Grossman, A. H., & D'Augelli, A. R. (2007). Transgender youth and life-threatening behaviors. *Suicide and Life-Threatening Behavior, 37,* 527–537.
- Grossman, A.H., D'augelli, A.R., & Frank, J.A. (2011). Aspects of psychological resilience among transgender Youth. *Journal of LGBT Youth, 8*, 103–115.
- Grossman, A. H., Park, J. Y., Frank, J. A., & Russell, S. T. (2021). Parental responses to transgender and gender nonconforming youth: Associations with parent support, parental abuse, and youths' psychological adjustment. *Journal of Homosexuality*, *68*(8), 1260-1277.
- Hidalgo, M. A., Chen, D., Garofalo, R., & Forbes, C. (2017). Perceived parental attitudes of gender expansiveness: Development and preliminary factor structure of a self-report youth questionnaire. *Transgender Health, 2*.
- Human Rights Campaign, (2018). *Gender expansive youth report*. Human Rights Campaign, US. Retrieved: https://www.hrc.org/resources/2018-gender-expansive-youth-report
- Katz-Wise, S. L., Ehrensaft, D., Vetters, R., Forcier, M., & Austin, S. B. (2018). Family functioning and mental health of transgender and gender nonconforming youth in the trans teen and family narratives project. *Journal of Sex Research, 55,* 582–590.
- Kuvalanka et al. (2017). Trans and gender-nonconforming children and their caregivers: Gender presentations, peer relations, and well-being at baseline. *Journal of Family Psychology, 31,* 889-899.

- Levin et al (2020). «We just take care of each other:» Navigating 'chosen family' in the context of health, illness, and the mutual provision of care amongst queer and transgender young adults. *International Journal of Environmental Research, 17*(19):7346.
- Malpas, J., Pellicane, M. J., Glaeser, E. (2022). Family-based interventions with transgender and gender-expansive youth: Systematic review and best practice recommendations. *Transgender Health, 7*, 7-29.
- Morrow, Q. J., & McGuire, J. K. (2023). A Qualitative Inquiry of Associations Between Family Environment and Suicidality for Transgender Youth Experiencing Homelessness. *Journal of Adolescent Research.* Retrieved: https://journals.sagepub.com/doi/abs/10.1177/07435584231163191
- Nicolazzo, Z. , Pitcher, E. N., Renn, K., Woodford, M. R. (2017). An exploration of trans* kinship as a strategy for student success. *International Journal of Qualitative Studies in Education, 30*(3), 305-319.
- Olson, K. R., Durwood, L., DeMeules, M., McLaughlin, K. A., 2016. Mental health of transgender children who are supported in their identities. *Pediatrics*, *137*, e20153223.
- Pariseau, E. M., Chevalier, L., Long, K. A., Clapham, R., Edwards-Leeper, L., & Tishelman, A. C. (2019). The relationship between family acceptance-rejection and transgender youth psychosocial functioning. *Clinical Practice in Pediatric Psychology*, *7*(3), 267.
- Peng, K. et al. (2019). Self-reported rates of abuse, neglect, and bullying experienced by transgender and gender-nonbinary adolescents in China. *JAMA Network Open*, *2*(9), e1911058.
- Perez-Brumer, A., Day, J. K., Russell, S. T., & Hatzenbuehler, M. L. (2017). Prevalence and correlates of suicidal ideation among transgender youth in California: Findings from a representative, population-based sample of high school students. *Journal of the American Academy of Child & Adolescent Psychiatry, 56*, 739–746.
- Pociask, C. (2023). In the best interests of whom?: An analysis of judicial bias in custody disputes involving transgender children. *Indiana Law Journal, 98*(4), 1275-1306.
- Reisner et al. (2015). Mental health of transgender youth in care at an adolescent urban community health center: A matched retrospective cohort study. *Journal of Adolescent Health, 56*, 274-279.
- Russell, S. T., Pollitt, A. M., Li, G., & Grossman, A. H. (2018). Chosen name use is linked to reduced depressive symptoms, suicidal ideation, and suicidal behavior among transgender youth. Journal of Adolescent Health, 63, 503–505.
- Ryan, C., Russell, S. T., Huebner, D., Diaz, R., & Sanchez, J. (2010). Family acceptance in adolescence and the health of LGBT young adults. *Journal of Child and Adolescent Psychiatric Nursing, 23*(4), 205-213.
- Simons, L., Schrager, S. M., Clark, L. F., Belzer, M., & Olson, J. (2013). Parental support and mental health among transgender
- adolescents. *Journal of Adolescent Health, 53*, 791–793.
- Toomey, R. B. (2021). Advancing research on minority stress and resilience in trans children and adolescents in the 21st Century. *Child Development Perspectives, 15*(2), 96-102.
- Turban et al. (2020). Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation. *Pediatrics, 145*(2), 1-8.
- Veale, J. F., Peter, T., Travers, R., & Saewyc, E. M. (2017). Enacted stigma, mental health, and protective factors among transgender youth in Canada. *Transgender Health, 2,* 207–216.
- Yadegarfard, M., Meinhold-Bergmann, M. E., & Ho, R. (2014). Family rejection, social isolation, and loneliness as predictors of negative health outcomes (depression, suicidal ideation, and sexual risk behavior) among Thai male-to-female transgender adolescents. *Journal of LGBT Youth*, *11*(4), 347–363.