



# NACC ADVANCING JUSTICE: OUR POLICY FRAMEWORK

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## NACC

National Association  
of Counsel for Children

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Through legislative processes, amicus curiae briefs, and other efforts, NACC advocates for equitable, antiracist laws and policies that further children's rights. Our 2023 policy agenda reaffirms NACC's founding beliefs in high-quality legal representation and access to justice in child protection court proceedings. It also reflects our ongoing commitments to youth voice, race equity, and family integrity, and the urgent need for change in a system that has too often caused harm in the name of protection. The document's key principles and advocacy topics include both areas where NACC will actively lead efforts and also areas where we will remain a strong ally to partners aligned with our policy framework.

Approved and adopted by NACC's Board of Directors on August 12, 2023, this policy agenda guides our work to advance justice on the local, state, and national levels in partnership with our members and lived experience experts.



## CHAMPION RIGHT TO COUNSEL IN CHILD PROTECTION COURT PROCEEDINGS

### Key Principles:

- Children and youth in child protection court proceedings must have party status.
- All parties in a child protection court proceeding must have high-quality legal representation at all stages of the case.
- Legal counsel must be duly licensed, competent, well-trained, and resourced, consistent with the 2021 NACC Recommendations.

### NACC Will Advocate for:

- Federal and state legal representation statutes;
- Federal and state right to counsel case laws;
- State court rules that ensure right to counsel;
- Adequate federal and state funding for, and oversight of, legal representation;
- Legal representation practice standards that are consistent with the 2021 NACC Recommendations;
- Legal service delivery systems designed to ensure high-quality legal representation through training, supervision, multidisciplinary teams, reasonable pay and caseloads, and a centralized law office structure;
- Client-directed representation as the preferred delivery model for children's legal representation; and
- National and state recognition of Child Welfare Law Specialist (CWLS) Certification.



## ENSURE ACCESS TO JUSTICE

### Key Principles:

- Children, youth, and parents are entitled to full access to courts, including notice and opportunity to be heard and meaningfully participate during both in-person and also virtual hearings.
- Child protection court proceedings should be presumptively closed to the general public, with specific exceptions (including youth request).
- Children, youth, and parents must have access to civil legal aid attorneys for issues that implicate their legal rights.
- Children and youth subject to federal immigration systems must have guaranteed access to legal counsel.

### NACC Will Advocate for:

- Law and policy requiring children and youth to receive notice and opportunity to participate in all court hearings (virtual or in-person);
- Funding and delivery systems to ensure children, youth, and parents have access to civil legal aid to address preventative/pre-petition civil legal needs and post-petition collateral legal proceedings;
- Transparent and accountable rulemaking by child protection agencies;
- Child protection courts to be presumptively closed, with specific exceptions available for access (including youth request);
- A private right of action in federal legislation to preserve access to courts, as well as clear timelines and fiscal consequences for state non-compliance; and
- Federal courts to remain an available venue for litigating individual deprivations of rights and systemic failures.



## PRIORITIZE FAMILY INTEGRITY

### Key Principles:

- Children and youth are best raised in their families (parents, kin), tribes, and communities of origin.
- Children and youth must have a say whenever family separation is considered.
- Poverty and race must never be the basis for foster care entry or deepen system involvement.
- There is a role for the child protection system to address risks and harms to children and youth, consistent with principles of family integrity and due process.
- Child protection agencies must provide equitable, family-centered, and culturally responsive supports and services to promote safety, prevent family separation, and promote reunification.
- Institutional/congregate care should be avoided.

### NACC Will Advocate for:

- Narrowed legal definitions of neglect, and increased evidentiary burdens for findings of neglect and abuse;
- Clarified and strengthened legal definitions of reasonable and active efforts to address safety concerns and keep families together that include both services and material/financial supports;
- Transparent tracking and reporting of state-facilitated family separation (a.k.a. “diversion,” “safety plans,” “hidden foster care”);
- Enactment, preservation, and enforcement of federal and state ICWA laws;
- Poverty alleviation measures, such as child tax credits, housing and food supports, and other concrete supports, which can narrow reports to and removals by child protection agencies;
- Heightened burdens of proof for removal and adjudications of neglect and abuses;
- Enhanced “contrary to the welfare of the child” findings that include health and safety analysis of out-of-home placements; and
- Attorney practice standards and other policies that encompass the key principles of family integrity, including attorneys’ obligation to address and mitigate bias.



## PREVENT CROSSOVER INTO THE CRIMINAL-LEGAL SYSTEM

### Key Principles:

- Counsel for youth must actively work to prevent the arrest, detention, adjudication, and incarceration of child and youth clients.
- Child protection stakeholders must actively prevent crossover into the criminal-legal system, especially for BIPOC & LGBTQIA+ youth.
- Children and youth must have access to legal counsel prior to police questioning.
- Normative adolescent behavior must never result in crossover between systems or the prosecution of children as adults.
- Children and youth must never be burdened with court levied fines and fees or placed in solitary confinement.

### NACC Will Advocate for:

- Strengthened federal and state laws to reduce pathways to crossover – including access to legal counsel prior to questioning and “raise the age” reforms;
- Enhanced federal and state resources for crossover youth, especially to prevent crossover and address trauma;
- Continued interagency coordination between federal agencies (ex. DOJ and DHHS) to address the needs of crossover youth;
- Improved agency and court collaboration and accountability for preventing the “crossover” pipeline;
- Court models that promote unified judicial oversight for crossover youth; and
- Attorney practice standards and other policies that emphasize the role of children’s counsel in preventing and addressing crossover between systems, especially for BIPOC & LGBTQIA+ youth.



## PROMOTE TAILORED, CHILD-CENTERED COURT DECISIONS

### Key Principles:

- Child protection decisions must center children and youth – not bureaucratic barriers, timelines, or “one size fits all” policies.
- Children do not exist in a vacuum. Therefore, child-centered policies, practices, and court decisions necessarily include honoring the rights of and providing supports to their parents, siblings, kin, and tribes.
- If family separation must happen, kin – defined expansively – is the next best placement option.
- Sibling relationships are sacred and must be prioritized in placement and other court decisions.
- Cultural identity and humility are necessary elements of all placement and permanency decisions.
- Foster care presents inherent and extrinsic harms, so agencies and courts must conduct ongoing health and safety assessments of youth in these placements.
- Child protection agencies must provide equitable, family-centered, and culturally responsive supports and services to children, youth, parents, and kin.
- Best-interest analyses and recommendations conducted by attorney guardians ad litem, lay volunteers, and judicial officers must center youth voice and prioritize well-being, culture, and family integrity.

### NACC Will Advocate for:

- Federal and state laws that promote individualized decision-making, ensure children are reunified as soon as safely possible, preserve sibling connections, and deter unnecessary terminations of the child-parent relationship;
- Federal and state policies to provide for expansive definitions of kin, as defined by the child and family, and prioritize ongoing search for, placement with, and resources for kin;
- Policies that value and prioritize the well-being of children and youth in foster care;
- Permanency goal determinations that are scrutinized and appealable;
- Reasonable efforts definitions that protect sibling connections, encompass material/financial supports, and ensure high-quality family time and culturally responsive supports and services;
- Defined standards of “best interest” that are driven by research, youth voice, and cultural humility;
- Interstate Compact on the Placement of Children (ICPC) reform; and
- Attorney practice standards and other policies that emphasize the responsibility of children’s counsel to zealously advocate for tailored, child-centered court decisions.



## SAFEGUARD CHILDREN’S RIGHTS

### Key Principles:

- Children and youth have a right to safety.
- Placement in foster care must never infringe on a young person’s legal and civil rights, such as their rights to bodily integrity, privacy, relationships, and the least restrictive environment.
- Children, youth, and parents must not be discriminated against based on race, LGBTQIA+ status, religion, disability status, national origin, language, or other identities and classifications.
- Children and youth experiencing infringement of their civil rights must have access to legal counsel.
- Children have rights to family integrity, least restrictive placement, and meaningful contact with family and peers.
- Children’s civil rights to access education must be protected, including the rights of students with disabilities.
- Youth impacted by the child welfare system are entitled to access high-quality medical care, including gender-affirming care.
- Youth impacted by the child welfare system are entitled to access high-quality mental/behavioral health care.
- Youth impacted by the child welfare system are entitled to access reproductive and sexual health care, including abortion.
- Youth and their parents and kin – not agencies – should make decisions about children’s health.

### NACC Will Advocate for:

- Federal and state laws that protect against discrimination based on race, LGBTQIA+ status, religion, disability status, national origin, language, or other identities and classifications;
- Laws and policies that protect access to reproductive and sexual health care for children and youth in foster care;
- Children and youth to obtain and preserve access to their social security payments and other assets and public benefits;
- Expanded access to community-based mental health resources;
- Foster care bills of rights and related rights for children and youth experiencing foster care that are enforceable through a private right of action;
- Children and youth to have opportunities for normative, culturally responsive, pro-social activities;
- Reliable and effective state and local ombuds offices;
- Abolition of the use of physical and chemical restraints, isolation, and unnecessary psychotropic drugs; and
- Attorney practice standards and other policies that mandate and shape the fundamental responsibilities of children’s counsel to safeguard their clients’ civil rights.