



**Written Testimony Presented to the
New York City Administration for Children's Services
On Close to Home: Draft Plan for Non-Secure Placement**

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My name is Adrian Guzman and I am with The Center for HIV Law and Policy. I am pleased to offer this testimony on behalf of my organization and on behalf of Dr. Jeffrey M. Birnbaum, Director of the HEAT Program of SUNY Downstate Medical Center in Brooklyn, New York.

The Center for HIV Law and Policy (The Center) is the only national legal and policy resource and strategy center for people with HIV and their advocates. The Center works to reduce the impact of HIV on vulnerable and marginalized communities and to secure the human rights of people most affected by HIV. Our Teen SENSE program is a multidisciplinary initiative specifically designed to work with and on behalf of youth in out-of-home care. It is a national movement that includes health care providers, young people, corrections professionals, and others working together to advance the rights of youth in state custody and improve access to comprehensive, LGBTQ-inclusive health services. In fact, Teen SENSE has benefitted greatly from the participation and support of ACS.

The HEAT Program is the only comprehensive care program of its kind in Brooklyn that provides age and developmentally appropriate, culturally competent HIV testing, treatment, medical care, and supportive services for heterosexual, lesbian, gay, bisexual, and transgender youth, ages 13 to 24 years who are living with or at very high risk for HIV/AIDS. The HEAT Program is directed by Dr. Jeffrey M. Birnbaum, Associate Professor of Pediatrics and Public Health at SUNY Downstate Medical Center. Dr. Birnbaum has been treating HIV positive and high-risk youth for the past 20 years.

The Center and the HEAT Program commend ACS for a comprehensive, detailed draft plan regarding the introduction of adjudicated youth placed in non-secure placement to the custody of ACS. We focus our comments and concerns on ACS's plans for LGBTQ youth and youth living with or at significant risk of HIV/AIDS who are in non-secure placement.

Most children and adolescents in state custody settings are from the vulnerable communities and populations most affected by HIV/AIDS. LGBTQ youth are significantly more likely to have lived in foster and group homes than their non-gay counterparts, and youth of color, low-income youth, and survivors of gender-based and other forms of violence are also overrepresented. They have higher rates of sexually transmitted infections (STIs), unintended pregnancy, substance abuse, and HIV/AIDS. Still, they are more likely to lack access to basic sexual health care and disease prevention services while confined, a missed public health opportunity of huge proportion. While the New York State Office of Children and Family Services and ACS have made considerable efforts to address this, LGBTQ and HIV-positive New York City youth continue to suffer poorer health outcomes.

The Close to Home initiative is a vital opportunity to reassess ACS policies regarding LGBTQ and HIV-positive youth in its care and to enhance these efforts to achieve real, measurable improvement in their health and well-being. The Center offers its expertise and resources to facilitate this improvement in four keys areas:

- 1.) We request the opportunity to access and help refine the content of the current ACS sexual health care and sexual health education policies using our Teen SENSE Model Policies and Standards;
- 2.) We request the opportunity to access and help refine the content of the ACS James Satterwhite Academy for Child Welfare Training using our Teen SENSE

Model Policies and Standards;

- 3.) We request the opportunity to access and help refine the current ACS quality assurance systems that assess placements and provider agency performance; and
- 4.) We request the opportunity to work closely with the Juvenile Justice Planning and Measurement Unit under the Division of Policy, Planning, and Measurement to ensure implementation and enforcement of the draft plan's finalized policies.

Our requests focus on ACS programs and services related to LGBTQ youth and youth living with or at significant risk of HIV/AIDS.

1.) Sexual Health Care and Sexual Health Education Services

The draft plan's Quality Assurance Standards require the provision of health services and sexual health education for youth in non-secure placement, and the ACS Guidelines for Promoting a Safe and Respectable Environment for LGBTQ Youth and their Families Involved with DYJF (LGBTQ Guidelines) briefly mention that medical providers shall receive LGBTQ cultural competency training. The Center believes that medical care, education, and environment are all essential components in improving the sexual health and well-being of young people. Pairing quality sexual health care and resources with comprehensive sexual health education not only improves overall health outcomes, but also routinizes positive discussions of sex. By making sex and sexuality central components of overall health, we rightly acknowledge and support young people's capacity for sound decision-making and help them to pursue healthy, robust interpersonal relationships. We appreciate that ACS adheres to this principle by positioning sexual health care and sexual health education alongside one another in conversations about the sexual health needs of young people.

ACS identifies the need for comprehensive sexual health information and services covering contraception, pregnancy, STIs, and HIV. However, ACS policies stop short of establishing detailed written standards outlining these services. There are several benefits to written standards: they are easily distributed by email or hard copy, they can be included in reference lists and resource banks, and most importantly, they promote institutional accountability. Uniform written standards will ensure that consistent, accurate services be provided to all youth in care – a crucial element given the vast number of agency providers with which ACS contracts.

ACS should make the content of its sexual health care and sexual health education policies available to the public. The Center suggests this content be reviewed alongside the Teen SENSE Model Policies and Model Standards (<http://hivlawandpolicy.org/public/initiatives/teensense>). A team of experts in adolescent medicine, sexuality education, LGBTQ issues, child welfare, and juvenile justice (including ACS) partnered with youth and community members to develop these resources. ACS is one of over 20 agencies, non-profit organizations, and universities from across the United States that have endorsed the Model Standards.

Model Policy: Sexual Health Care for Youth in State Custody (Appendix A) outlines the minimum requirements for sexual health care services, including health screenings and

comprehensive sexual histories; universal offers of HIV and STI counseling and testing; written information, counseling, and treatment related to pregnancy, HIV and STIs, and sexual abuse; written information and counseling on HIV and STI transmission and prevention; and ongoing care and discharge planning related to sexual and reproductive health. These services should be conducted in a confidential, culturally competent, and inclusive manner, particularly for youth who are pregnant, gender nonconforming, or LGBTQI. *Model Sexual Health Care Standards for Youth in State Custody* (Appendix B) sets forth in more detail the specific health services essential to an adequate care program.

Model Policy: Sexual Health Education for Youth in State Custody (Appendix C) outlines the minimum requirements for a sexual health education program, including basic information on HIV and STI transmission; resources related to pregnancy, HIV and STIs, sexual violence, and LGBTQ discrimination; and information and discussion on sexual abuse and harassment, including reporting procedures. Access to these topics should increase in proportion to a youth's time in state custody. Classroom environments and teachers should create a comfortable space for all youth to engage in this learning process. *Model Sexual Health Education Standards for Youth in State Custody* (Appendix D) sets forth in more detail the essential content goals and instructional elements of a comprehensive, LGBTQ-inclusive sexual health education program.

These publications were released earlier this year and are available to the public.

The Center recommends that ACS use our Model Standards and Policies to update and streamline existing sexual health care and sexual health education policies.

2.) Staff Training Content Goals

The draft plan clearly shows ACS's commitment to ensuring the cultural competence of its staff and agency providers. It mentions a number of ACS staff trainings by the James Sattlewite Academy for Child Welfare Training (JSA) and trainings by agency providers. However, the content of this training is rarely discussed, making it difficult to assess whether staff are receiving appropriate, accurate information regarding LGBTQ and HIV-positive youth in care. The draft plan repeatedly refers to the LGBTQ Guidelines, but it is unclear whether this policy serves as an instructional tool.

JSA should make the content of its LGBTQ staff training available to the public. The Center suggests this content be reviewed alongside the Teen SENSE *Model Policy: Training for Youth Facility Staff: Ensuring Competence that Includes the Rights and Needs of LGBTQ Youth* (Appendix E). This Model Policy, designed for use by agencies and jurisdictions that provide services for youth in state custody, outlines the basic requirements for ensuring staff competence, including on the rights and needs of LGBTQ youth. *Model Staff Training Standards: Focusing on the Needs of LGBTQ Youth* (Appendix F) in turn delineates specific training goals; the effects of stigma and discrimination on LGBTQ and HIV-positive youth; understanding the need for comprehensive health services and activities consistent with youth's interests and communities with which they identify; maintaining confidential, safe environments; and abiding by relevant laws and policies established to support all youth. The Model Standards were developed explicitly for staff of juvenile detention and foster care facilities; there is no need to recreate the wheel.

These publications were released earlier this year and are available to the public.

The Center recommends that ACS use these resources to update and streamline existing

LGBTQ and HIV-related staff training.

3.) Quality Assurance System

The draft plan includes as Appendix F plans for Quality Assurance Standards for youth in non-secure placement. Since quality assurance of non-secure placements will be premised upon ACS's current system, we must critically assess both in the context of LGBTQ and HIV-positive youth. ACS's Agency Program Assistance team currently evaluates placements and agency performance using case record, site, and data reviews; the Quality Assurance Standards describe in much greater detail the systems planned for non-secure placement evaluations. However, neither system features quality assurance programming that targets placements and agency performance in the areas of LGBTQ and HIV competence. Reliance on the LGBTQ Guidelines will not suffice; these guidelines, while essential as an operational policy, should not substitute for a quality assurance mechanism.

The Division of Policy, Planning, and Measurement should develop a quality assurance mechanism that produces quantifiable performance data on the health and well-being of LGBTQ and HIV-positive youth in ACS custody. This mechanism may build on the ACS Scorecard model, but should by design evaluate placements and agency performance using youth's sexual orientation, sexual identity, gender, and other sexual health matters. Outcome data should be regularly collected, analyzed, and disseminated to agencies – particularly those that underperform. Consistently underperforming or uncooperative agencies should be appropriately sanctioned. Granted, identifying systemic measures of LGBTQ and HIV-related competence is not easy. What makes a foster placement “successful” for LGBTQ and HIV-positive youth? What does it mean to be “gay-friendly”? How can a caseworker ensure quality, LGBTQ-inclusive care for a young person if this young person has not yet disclosed his sexual orientation to her? How can staff affirm the cultural identities of LGBTQ youth while simultaneously discouraging a culture of separate-but-equal? ACS quality assurance systems should account for these challenges.

The Center offers to participate in the development of a quality assurance mechanism that is sensitive to the rights and needs of LGBTQ and HIV-positive youth in ACS custody.

4.) Juvenile Justice Planning and Measurement Unit Partnership

The Center's recommendations seem to fit best within the province of the newly created Juvenile Justice Planning and Measurement Unit under the Division of Policy, Planning, and Measurement. We have already reached out to Lisa Crook, the Unit Director, and look forward to working with her and other LGBTQ advocates at ACS as this juvenile justice reform continues to take shape.

The Center is confident that our expertise and resources regarding LGBTQ and HIV-positive youth will be of service to ACS as it plans for the introduction of non-secure placement youth to its custody. Thank you for the opportunity to present this testimony on these important issues.