



Advocates for Children of New York

Protecting every child's right to learn

April 23, 2013

Ronald E. Richter, Commissioner
New York City Administration for Children's Services
Close to Home
C/O Division of Policy, Planning and Measurement
150 William Street, 17th Floor
New York, NY 10028
closetohome@acs.nyc.gov

Re: Comments on Education Components of New York City Administration for Children's Services Close to Home Draft Plan for Limited Secure Placement

Dear Commissioner Richter:

Advocates for Children of New York (AFC) appreciates the opportunity to provide written comments concerning the education components of the New York City Administration for Children's Services' (ACS) proposed plan for limited secure placement of youth as part of phase two of the Close to Home juvenile justice reform initiative. Our comments address concerns that this plan proceed smoothly: transitioning youth from OCFS to ACS limited secure placements; educating youth in ACS limited secure placements; and transitioning youth from court-ordered settings back to schools in the community.

At AFC, we work to protect every youth's right to an education, with a focus on students of color and students from low-income backgrounds. AFC's School Justice Project works to secure appropriate school placements and educational services for youth involved with the juvenile and criminal justice systems and those in danger of court-involvement. Through legal representation, training, and systemic advocacy, we help students tackle their education-related issues to prevent future court-involvement, increase their academic achievement, and pursue broader life goals.

We are encouraged that ACS's plan for limited secure placement builds on lessons learned and feedback from the non-secure placement planning and implementation process. We are also pleased that ACS plans to work closely with OCFS, the Department of Probation (DOP), and the Department of Education (DOE) throughout the limited secure placement planning and implementation process. We respectfully outline our concerns and specific recommendations below with the goal of working with stakeholders to produce the best outcomes possible for New York City youth.

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Transitioning Youth from OCFS to ACS Limited Secure Placements or Aftercare

We commend ACS's intention to begin planning for the transition in spring 2013 and intensively collaborate with OCFS to plan to prepare for the transition of youth from OCFS limited secure placement to ACS limited secure placement and aftercare. We realize that transferring youth from OCFS facilities to ACS custody for placement in limited secure facilities or aftercare is a substantial effort requiring careful coordination among ACS, OCFS, ACS limited secure placements, youth, youth's families, youth's attorneys, family court, community organizations, and other stakeholders. Towards that end, AFC urges ACS and OCFS to transition youth in a manner that poses the least disruption possible to youth's education.

We understand and are concerned that ACS and OCFS intend to transition youth to limited secure placements starting in October 2013 – a month after the 2013 school semester begins – and continue transferring custody of all youth by the end of February 2014 – a month after the 2014 school semester begins. We are particularly concerned given the significant educational needs of youth in custody, as well as the problems we have seen with transferring youth's academic records (i.e., transcripts, report cards, education plans) from OCFS facilities to ACS and DOE.

AFC strongly recommends that youth get transferred from OCFS to ACS custody prior to the beginning of a school semester to ensure that youth may start school with their peers and receive the best chance of improving their circumstances, both while in placement and upon their return to their home schools. Transferring youth to ACS placements and aftercare in the middle of a semester would increase the likelihood that these students would fail to receive appropriate education and earn academic credits.

Given the substantial difficulties ACS, OCFS, and DOE have encountered sharing information and transferring academic records of youth moving between certain court-ordered settings and youth released from court-ordered settings to schools in the community, AFC is encouraged by the plan to improve cross-agency collaboration and appropriate information-sharing. We are pleased that ACS plans to ensure that academic credits earned in OCFS placement will be transferred with students to ACS placement and count toward a high school diploma.

However, AFC's experience advocating for the education rights of youth in certain court-ordered settings and upon release from court-ordered settings tempers our optimism. Indeed, the educational issues facing court-involved youth are not new to the city, but rather compounded by the transition of large numbers of youth at the



same time.¹ Therefore, AFC urges ACS, OCFS, DOE, and ACS limited secure placement providers to work closely with those responsible for implementing the plan throughout the planning and implementation process to ensure its effectiveness on the ground.

Educating Youth in ACS Limited Secure Placements

We commend ACS and DOE's asserted commitment to providing every youth in limited secure placement with meaningful and appropriate full-time education to help each youth achieve his or her full academic potential. We are encouraged by the plan to embed DOE Passages Academy teachers certified in core content and special education in ACS limited secure placements to meet the individual needs of youth in these placements since all educational services for youth in placements will be provided onsite at the facilities. We hope that having DOE staff at each limited secure placement will ensure appropriate instruction, assessments, and transfer of credits. We are pleased with the plan to involve staff from the former school of each student with a disability when developing special education plans with youth and the youth's parent. Furthermore, we commend the plan to require limited secure placement providers to maintain school-wide and classroom environments conducive to learning by using positive behavioral interventions and maintaining a 1:6 teacher to youth ratio with additional push-in or push-out services when appropriate.

AFC provides the following additional recommendations:

1. Youth should be assessed and placed within a full-day, quality education program as swiftly as possible after transfer of custody to ACS. During the assessment period, we recommend that youth have access to reading and other educational materials—and when possible—pencil and paper, in order to prevent mental stress and encourage learning.
2. In conjunction with school-wide positive behavior intervention and supports that teach youth new skills for resolving conflict and increasing youth success and safety, ACS should ensure that limited secure placement providers

¹ On December 14, 2004, AFC and the Legal Aid Society of New York (Plaintiffs' Counsel) filed a lawsuit in the District Court of the Eastern District of New York on behalf of court-involved students who were denied education in certain court-ordered settings or upon return to New York City schools from detention centers and placements. *J.G. et al. v. Mills, et al.*, 04 CV 5415 (E.D.N.Y.). While the parties entered a settlement to resolve the issues raised in litigation, Plaintiffs' Counsel continues to monitor the city's compliance with the settlement.



educate youth in their custody even when youth are disciplined. ACS should also prohibit the use of shackles or other restraints to discipline youth for behavior in school.

3. ACS placements should create environments that inspire learning and decrease dehumanization and institutionalization. For example, the facilities should employ interactive and experiential learning strategies; teach to all learning styles; exhibit and reward student work and achievements; mount positive and inspiring messages; and decorate classrooms, dorms and other environments.
4. ACS placements should have libraries and provide youth access to books and writing materials as much as possible throughout the facilities.
5. Students should be encouraged to read books and write outside class—including in their living quarters—in order to encourage learning and literacy.

Transitioning Youth from Court-Ordered Settings Back to Schools in the Community

AFC is cautiously optimistic about ACS' stated plan to provide robust transition and aftercare services. We are pleased that ACS plans to involve and regularly communicate with youth's limited secure placement, youth's parents, youth's home school, and the DOE to proactively engage in educational transition planning in anticipation of youth's discharge from the facility. Students would benefit from knowing that staff at their home school care about how they are doing. Furthermore, the home school staff may become less likely to be biased against the student or to treat him or her unfairly when the student eventually returns. Additionally, we are encouraged by ACS's plan to coordinate with the DOE and the ACS placement provider to ensure that necessary evaluations get completed and submitted, meetings and reviews occur, and that appropriate school placements and transportation arrangements are made before the youth's release to the community.

We emphasize the importance of ensuring that the youth and the youth's parents are engaged in planning, decision-making, implementation and evaluation throughout the entire process, from the time the youth enters the facility until his or her release. Parental participation and involvement should be encouraged via continuous communication that is respectful and culturally competent. Indeed, it is critical that the youth and the youth's parents receive appropriate support to make the youth's successful transition to school in the community.



Towards that end, we strongly encourage a coordinated effort between ACS, ACS placement providers and the DOE to ensure that all youth have appropriate school placements ready for them immediately upon discharge. We urge involvement with the youth, the youth's parents, and the Committee on Special Education long before the youth's anticipated discharge date for youth with special education needs to ensure timely development of quality educational assessments and plans and appropriate educational placements with the parents' input. It is essential that youth and the youth's parents receive extensive assistance to ensure the youth's smooth transition to a school in the community, including help with enrollment in school and transfer of all necessary information and documents (i.e., updated and cumulative transcripts with all credits earned; coursework completed and student grades previous to and during ACS placement; test scores and skills levels; reading and math achievement; vocational skills; health and mental health diagnosis; immunizations; treatment needs and prescriptions; and special education status and education plans).

By implementing the recommendations above, AFC believes that educational opportunities for youth in placement and upon their return to schools in the community will dramatically improve. Indeed, intense coordination, collaboration, and communication among stakeholders are critical to ensuring the smoothest transition possible for our youth returning to New York City. We look forward to working with you to plan and implement these recommendations to reduce recidivism and help youth attain better life outcomes.

Thank you for the opportunity to comment. Please do not hesitate to contact me at (212) 822-9542 or dyuster@advocatesforchildren.org with any questions.

Respectfully,

A handwritten signature in black ink, appearing to read 'Dawn L. Yuster'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dawn L. Yuster, Esq.
Project Director,
School Justice Project