



Testimony of Lawyers For Children  
to the New York City Council  
Committees on Children and Youth and Women and Gender Equity

*Addressing the Needs of LGBTQ Youth in the City's Child Welfare System*

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Thank you to the members of the Committees on Children and Youth and Women and Gender Equity for giving us the opportunity to provide testimony regarding *Addressing the Needs of LGBTQ Youth in the City's Child Welfare System*. The Administration for Children's Services (ACS) has publicly recognized the need to improve its provision of services to LGBTQ Youth in foster care, and has identified the steps that need to be taken in order to achieve that goal. And yet, ACS has, for too many years, failed to implement those steps. Int.056-2024 would help to ensure ACS accountability with respect to the care of LGBTQIA+ youth in the child welfare system, but, as already recognized by ACS, more needs to be done to ensure that ACS meets the needs of those youth.

Founded in 1984, Lawyers For Children (LFC) is a not-for-profit legal corporation that represents children in voluntary foster care, abuse, neglect, termination of parental rights, adoption, custody, guardianship, paternity, and youth justice<sup>1</sup> proceedings in family court. This year, we will represent children and youth in more than 3,000 court proceedings. In addition to representing children in individual cases, LFC works to effectuate child welfare reform through impact litigation and legislative advocacy. The director of LFC's LGBTQIA Rights Project collaborates with LFC's attorneys and social workers to: 1) assess the needs of LGBTQ and gender expansive and non-binary (GNB) youth in foster care; 2) develop and implement advocacy plans for individual young people and for system-wide improvements; and 3) inform LGBTQ and GNB youth in foster care of their rights through workshops and distribution of our You Are Not Alone handbook for LGBTQ and GNB youth in foster care, which includes a resource guide of programs and services specifically for LGBTQ youth.

This testimony reflects the experiences of our clients living in the child welfare system, the experiences of our staff representing those clients, and the experiences of the Director of LFC's LGBTQIA+ project working with ACS to effectuate systemic change on behalf of LGBTQIA+ youth in foster care.

### **ACS Must Be Required to Account for Its Failure to Implement the LGBTQIA+ Action Plan Announced in November 2020**

Nearly four years ago (in November 2020), ACS announced that it had commissioned a survey "in order to better understand the needs of LGBTQAI+ youth and develop action steps to address those needs."<sup>2</sup> According to ACS, "the survey provides new and powerful data on the representation of LGBTQAI+ young people in foster care."<sup>3</sup> The agency used that data to develop a multi-pronged Action Plan designed to strengthen its policies and practices to improve the well-being, experiences and outcomes of LGBTQAI+ youth in care.<sup>4</sup> The Action Plan identified seven steps for ACS to take. These included:

- Updating the current LGBTQIA+ Youth in Care Policy;
- Revising and strengthening staff training on LGBTQIA+ Issues;
- Increasing services and supports for LGBTQIA+ youth in foster care;

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<sup>1</sup> Also known as "delinquency".

<sup>2</sup> ACS's press release, announcing the results of the survey is attached to this testimony, and also available at: <https://www.nyc.gov/assets/acs/pdf/PressReleases/2020/LGBTQAISurvey.pdf>

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*; The ACS LGBTQIA+ Youth in Care Action Plan (Action Plan) is attached to this testimony and also, available at <https://www.nyc.gov/assets/acs/pdf/about/2020/LGBTQActionPlan.pdf>

- Forming a dedicated LGBTQIA+ committee as part of the ACS Youth Leadership Council;
- Working with foster care providers to expand recruitment targeting foster parents who would be interested in fostering the LGBTQAI+ youth population and to expand foster parent training for serving these young people;
- Conducting further studies (including adding questions pertaining to Sexual orientation and Gender identity and Expression to its annual Youth experience Survey and conducting a needs assessment for LGBTQIA+ youth in foster care; and,
- Advocating for, support, and protect the implementation of LGBTQIA+ affirming policies and practices.<sup>5</sup>

Although four years has passed, ACS has fallen far short of taking the steps laid out in that action plan.

**We urge the City Council to require ACS to implement each of the seven steps outlined in the Action Plan, to report to the City Council regarding the status of implementation of each step, and to publish that report on its website.** ACS must be held to account for its failure to address the critical needs identified four years ago. Requiring ACS to publish data, as suggested below, is critical to demonstrating whether ACS is successfully achieving each of the goals.

1. Updating the ACS LGBTQIA+ Policy:

The very first item on ACS’s action plan asserted “ACS is updating the current LGBTQAI+ Youth in Care Policy.” Although ACS purported to have begun updating that policy nearly four years ago, the revised/updated policy has yet to be released. The delay is simply inexcusable. While foster care case planners generally have a fundamental understanding of the issues that LGB youth encounter and how to address those issues, the draft Revised Policy is long overdue in setting forth expectations and policy with respect to transgender and non-binary youth. Accordingly, we urge the City Council to require that ACS update its LGBTQIA+ policy by a specified date and to publish that policy on its website.

2. Revising and Strengthening Staff Training on LGBTQIA+ Issues

When the Director of LFC’s LGBTQIA+ Project attended an ACS LGBTQIA+ training, she was struck by the differing levels of LGBTQIA+ cultural competency among staff. However, she noted that staff benefitted greatly from having an *in person* training. Staff with a higher degree of cultural competency were able to effectively address the questions and concerns of their colleagues who demonstrated a lower level of cultural competency. That sort of collaborative learning is greatly diminished in virtual trainings, which should be discouraged in this area. This training must be required for all new hires at ACS and at the voluntary foster care agencies. In order to ensure that ACS is effectively training its staff and voluntary foster care agency staff with respect to the most up-to-date information regarding the care and support of LGBTQIA+ youth, the City Council should require ACS to report on the ways in which it has revised and strengthened its training, the number of trainings provided, and the number and job titles of staff

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<sup>5</sup> Action Plan pp. 7-8

who have participated in the trainings from each division of ACS and each of the provider agencies.

3. Increasing services and supports for LGBTQIA+ youth in foster care:

It is of critical importance that services and supports be provided for LGBTQIA+ youth within ACS and the voluntary foster care agencies, and also that ACS establish partnerships with community-based organizations serving LGBTQIA+ youth and their families. Engaging youth and their families in services in the communities in which they reside is essential to reducing the number of youth who enter foster care, and also to ensuring that youth can transition from foster care back home with appropriate supports. Of course, community-based supports are effective only in so far as their availability is known to the ACS and voluntary agency staff who are working with youth and their families. For this reason, ACS must be required to develop a resource guide for that staff, to publish that guide on its website, and to update that guide on a regular basis.

4. Working with foster care providers to expand recruitment targeting foster parents who would be interested in fostering the LGBTQIA+ youth population and to expand foster parent training for serving these young people;

There is a dire shortage of foster parents who are willing to provide a home for children in New York City – as evidenced by ACS reports indicating that, on average, more than seventy children sleep in the Children’s Center every night. Unfortunately, over the last several years, we have seen too many foster parents refuse to provide an affirming home for LGBTQIA+ youth.

Targeted outreach to foster parents who would be interested in serving these youth should certainly be done. However, ACS must also commit to ensuring that each and every foster care placement is safe and affirming for LGBTQIA+ youth. As youth begin to explore, understand, and express their sexuality and gender identity, they should never be concerned that their foster care placement will not accept them or that they will have to move to a specially designated setting for LGBTQIA+ youth. Accordingly, we urge the City Council to require ACS to develop and report on a plan to recruit additional foster parents who are interested in providing a home for LGBTQIA+ youth, to ensure that all homes are safe and affirming, and to decertify any home in which the foster parent refuses to welcome LGBTQIA+ youth.

5. Conducting further studies (including adding questions pertaining to sexual orientation and gender identity and expression to its annual Youth Experience Survey and conducting a needs assessment for LGBTQIA+ youth in foster care. ACS has recognized the importance of gathering additional information regarding youth in care, and has even identified the information to be gathered. However, ACS has simply failed to implement this action item. For this reason, the City Council should require ACS to expand the questions in its annual Youth Experience Survey to include sexual orientation, gender identity and expression, to conduct a needs assessment for LGBTQIA+ youth in foster care, and to report the results of the survey and the needs assessment to the City Council and on the ACS website.

6. Advocate for, support, and protect the implementation of LGBTQIA+ affirming policies and practices.

For many years, ACS has had a framework for reporting and investigation of incidents involving the violation of its affirming policies and practices. That framework provided for complaints to

be made either through the designated LGBTQ Point Person at each foster care agency, or directly to the ACS LGBTQIA+ Policy and Practice Director. We were disappointed to learn that ACS intends to revise this procedure, so that all complaints flow to the ACS Office of Equity Strategies. Rather than being directed to the office within ACS that is focused on addressing LGBTQIA+ issues, reports of bias and non-compliance with the LGBTQIA+ policy will now be investigated and handled by the office that generally handles all bias complaints.

There was a great advantage to keeping those complaints within the office of LGBTQIA+ Policy and Practice. Reviewing and analyzing information regarding bias complaints and reports of non-compliance can help ACS further its understanding of the state of practice within ACS and its provider agencies. Information regarding the types of complaints being received, the individuals who are charged with violating the policies, and the resolution of the complaints can be used to help target training, support, and practice modifications in order to improve implementation of the affirming practices. In order to use the information most effectively, it should remain within the office that has expertise in providing services to LGBTQIA+ youth.

To date, information regarding reports of bias and discrimination have remained confidential within ACS and it is unknown whether ACS conducts any systematic review of the complaints received to determine what steps can be taken – other than with respect to the individual case – to reduce reports of bias. For this reason, we urge the City Council to require that ACS report annually on the number of LGBTQIA+ bias incident reports received, the amount of time taken to investigate those reports, the steps taken to address any substantiated reports, and any trends that can be identified in substantiated reports (e.g., whether a disproportionate number stem from a particular foster care agency or ACS unit).

### **We Urge the City Council to Further Require ACS to Account for Its Failure to Provide Timely Medical Care to LGBTQIA+ Youth**

While not mentioned in ACS's survey or Action Plan, too many of our clients have failed to receive appropriate gender-affirming health care in a timely manner. "As per ACS policy, LGBTQIA+ identified youth entering New York City's foster care system are educated about their rights in care. This includes the ACS Non-Medicaid Reimbursable Policy which states all youth are entitled to health care that Medicaid will not pay for that includes hormone therapy and gender affirming surgeries."<sup>6</sup> Although ACS recognizes the need for youth to receive gender affirming medical care it takes far too long for clients who are under age 18 to receive the care and treatment they need. For this reason, we urge the City Council to require ACS to provide data regarding the number of requests received for gender affirming hormone treatments and surgery, the number granted by ACS (both with parental consent and without) and the length of time between receipt of a request and determination.

### **Conclusion**

ACS has long been aware that more needs to be done to address the needs of LGBTQIA+ youth in foster care. It has, for nearly four years, had the blueprint for addressing those needs and for ensuring that it has accurate information regarding the LGBTQIA+ population that it serves. Its failure to implementing that blueprint has been a tremendous source of frustration for youth in the child welfare system and the advocates working with them. We hope the City Council will

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<sup>6</sup> Action Plan p. 5

require ACS to finally take action to ensure that the needs of LGBTQIA+ youth in care are met, and to hold ACS to account for its inaction. We would welcome the opportunity to work with you to strengthen Int.056-2024 and/or develop any other legislation that will achieve these goals.

Respectfully Submitted,  
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