



# NYCLU

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Currently on Assembly  
Health Committee Agenda  
2-27-07

## 2007 LEGISLATIVE MEMORANDUM #1

**Subject: A.2856/ Gottfried et al.  
S.1342/ Winner et al.**

(AN ACT to amend the public health law in relation to establishing the age-appropriate sex education grant program, to be referred to as the Healthy Teens Act)

**Position: SUPPORT**

### The Healthy Teens Act

This bill, the Healthy Teens Act, would award funding for school districts, boards of cooperative education services and community-based organizations to provide comprehensive sex education programs for young people. The NYCLU strongly supports this legislation.

Numerous studies demonstrate that comprehensive sex education -- health programs that are medically accurate, age-appropriate, and include information about contraception in addition to abstinence -- is the most effective way to help young people postpone intercourse and reduce their number of sexual partners. Comprehensive sex education also helps to increase the use of condoms and other forms of contraception among young people who are sexually active.<sup>1</sup> In New York State, where rates of unintended teen pregnancy and sexually transmitted infections are among the highest in the country, comprehensive sex education is essential to reducing these rates. The NYCLU, therefore, strongly supports the passage of this bill to ensure that more young people have access to the information they need to protect themselves and to make responsible decisions about their sexual and reproductive health.

Recent statistics demonstrate the overwhelming need for comprehensive sex education in New York. In 2005, more than 4 in 10 teenagers across the state reported having sex. There were nearly 40,000 teen pregnancies in New York in 2005.<sup>2</sup> New York's abortion rate for teenagers between the ages of 15 and 19 is nearly twice the

<sup>1</sup> Douglas Kirby, The National Campaign to Prevent Teen Pregnancy, *Emerging Answers: Research Findings on Programs to Reduce Teen Pregnancy (Summary)* (May 2001), available at [www.teenpregnancy.org/resources/data/pdf/emerswsum.pdf](http://www.teenpregnancy.org/resources/data/pdf/emerswsum.pdf).

<sup>2</sup> Get the Facts New York, available at <http://www.getthefactsny.org/index.html>.

nationwide average and the second highest in the country.<sup>3</sup> The highest rates of gonorrhea in New York are among 15-24 year olds, more than 4 times the average rate within the entire population.<sup>4</sup> New York City alone accounts for 15.5% of all AIDS cases in the nation, more than the entire state of California.<sup>5</sup> In fact, the Center for Disease Control estimates that at least 50% of all new HIV infections nationwide are among young people under the age of 25, and that two Americans between the ages of 13 and 24 become infected with HIV every hour.<sup>6</sup>

Nonetheless, the only dedicated funding for sex education comes from federal and state matching programs<sup>7</sup> that prohibit the teaching of any methods to reduce the risk of pregnancy other than abstinence from sexual activity until marriage. Many “abstinence-only-until-marriage” programs permit mention of contraceptives only to highlight their failure rates.<sup>8</sup> In fiscal year 2005, New York State received \$10.6 million in federal funds and spent \$2.6 million in state funds for such programs.<sup>9</sup> No federal or state money was specifically earmarked for other sex education programming. Under existing law, the only sex education curriculum the state mandates is instruction on HIV/AIDS transmission and prevention.<sup>10</sup> It is up to local schools districts to decide whether to provide students additional sex education instruction. However, without funding or a legal mandate, school districts currently have no incentive to implement comprehensive sex education.<sup>11</sup>

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<sup>3</sup> Alan Guttmacher Institute, *U.S. Teenage Pregnancy Statistics 8* (updated 2004) available at [http://www.guttmacher.org/pubs/state\\_pregnancy\\_trends.pdf](http://www.guttmacher.org/pubs/state_pregnancy_trends.pdf).

<sup>4</sup> Get the Facts New York, available at <http://www.getthefactsny.org/index.html>.

<sup>5</sup> National Centers for Disease Control, *CDC Year-End HIV/AIDS Surveillance Report for 2002* (2003), cited in National Youth Advocacy Coalition, *Press Release: National Youth Advocacy Coalition Calls Impact of AIDS on America's Urban Centers 'Devastating,' Government Response Inadequate* (2003).

<sup>6</sup> CDC National Center for HIV, STD, and TB Prevention, Division of HIV/AIDS Prevention. “Young People at Risk: HIV/AIDS Among America's Youth.” Fact Sheet. 11 March 2002 (available at [www.cdc.gov/HIV/pubs/facts/youth.htm](http://www.cdc.gov/HIV/pubs/facts/youth.htm))

<sup>7</sup> Three federal programs are currently dedicated to funding abstinence-until-marriage education: Section 510 of the Social Security Act (42 U.S.C. § 710), created by the 1996 welfare reform law; the Adolescent Family Life Act (AFLA) (*see* H.R. Conf. Rep. No. 107-347, at 113 (2002)); and Special Projects of Regional and National Significance (SPRANS) (*see* Military Construction Appropriations Act of 2001, Pub. L. No. 106-246, 114 Stat. 511 (2000)). Cumulative funding for these federal programs topped \$1 billion at the end of the 2004 fiscal year. *See* ACLU, “Coalition Sign-On Letter Asking Members of Congress to Oppose New Funding Through Appropriations Committee for Abstinence-Unless-Married Programs in FY 2005,” March 17, 2004.

<sup>8</sup> Henry A. Waxman, U.S. House of Representatives Committee on Government Reform—Minority Staff, *The Content of Federally Funded Abstinence-Only Education Programs 8* (Dec. 2004).

<sup>9</sup> *See* Sexuality Information and Education Council of the United States, (SIECUS), *State Profile: New York*. Title V of the Social Security Act—which accounts for \$3.7 million of New York State's federal abstinence-only money—requires states to provide \$3 of state funds or services for every \$4 of federal money. *Id.*

<sup>10</sup> Age-appropriate HIV/AIDS instruction is required for students in grades K-12 under the State Education Commissioner's Regulations. N.Y. Comp. Codes R. & Regs., tit. 8 §135.3. A report released last year by Assembly member Scott Stringer, however, revealed that despite the mandated curriculum, many students in New York City public schools were receiving inadequate instruction. *See* Scott Stringer, *Failing Grade: Health Education in NYC Schools*, June 2003.

<sup>11</sup> The NYCLU would strongly support legislation requiring sexuality education as part of the mandatory health education curriculum as well as regulations insuring that such instruction be provided in a manner that is comprehensive, age-appropriate, and medically accurate.

## “Abstinence-Only” Sex Education

Abstinence-only-until-marriage programs (“abstinence-only”) often present medically inaccurate or incomplete information about contraception and safer sex practices.<sup>12</sup> For example, programs receiving federal abstinence-only funding are required to instruct young people that sexual activity outside of marriage is “likely to have harmful psychological and physical effects.”<sup>13</sup> These programs put young people at a greater risk for unintended pregnancy and sexually transmitted infections. By ignoring the reality of teen sexual activity, the abstinence-only model fails to protect sexually active young people from pregnancy and disease.

In addition to endangering young people’s health, abstinence-only programs raise serious civil liberties concerns. Sex education programs that focus exclusively on abstinence inhibit free expression by prohibiting the discussion of essential information about reproduction and human sexuality. Many abstinence-only programs also violate the Constitution’s Establishment Clause by using religious doctrine to define “appropriate” sexual behavior and values. The Constitution forbids the promotion or preference of any religious perspective in public schools. Although federal funding guidelines prohibit abstinence-only programs from imposing religious viewpoints, in practice this is exactly what many programs do.<sup>14</sup>

Furthermore, by teaching about sex only in the context of marriage, such programs serve to marginalize gay and lesbian students and stigmatize homosexuality, creating a hostile learning environment for lesbian and gay students. According to one federal funding statute, abstinence-only education should teach students that “a mutually faithful monogamous relationship in the context of marriage is the expected standard of human sexual activity.”<sup>15</sup> Moreover, specific abstinence-only programs have spoken out against homosexuality explicitly, claiming that “one of the best ways to avoid AIDS is to ‘avoid homosexual behavior.’”<sup>16</sup> Instead of addressing the health interests of all students, these curricula simply reinforce negative stereotypes and portray homosexuality as dangerous and immoral.

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<sup>12</sup> See Lorraine Kenny and Julie Sternberg, *Abstinence-Only Education in the Courts*, Sexuality Information and Education Council of the United States, (SIECUS), Report, Vol. 31, No. 6. (Fall 2003).

<sup>13</sup> See, e.g., 42 U.S.C. § 710(b)(2)(A), (E).

<sup>14</sup> For example, in 2002, the ACLU successfully challenged the use of taxpayer dollars to support religious activities in the Louisiana Governor’s Program (GPA) on Abstinence, a program run on federal and state funds. GPA funded programs that, among other things, presented “Christ-centered” theater skits, held a religious youth revival, and produced radio shows that “share abstinence as part of the gospel message.” The case was on appeal when the parties settled. The GPA agreed to closely monitor the activities of the programs it funds and to stop using GPA dollars to “convey religious messages or otherwise advance religion in any way.” Nonetheless, in 2004 the ACLU discovered that the GPA was violating the agreement and directed the state to correct ongoing problems in the program. See ACLU Reproductive Freedom Project, *Abstinence-Only-Until-Marriage Education Censors Vital Health Care Information, Jeopardizing Teenagers’ Health* (Dec. 2004).

<sup>15</sup> 42 U.S.C. § 710(b)(2)(D).

<sup>16</sup> Sexuality Information and Education Council of the United States, (SIECUS), *In Their Own Words: What Abstinence-Only-Until-Marriage Programs Say* (2004) (citing *Sex Respect*, Student Workbook).

## **A Better Model: Comprehensive Sex Education**

While abstinence is an important component of any educational program about human sexuality, the introduction of funding for comprehensive sex education would allow for much-needed development of state curricula. In order to be eligible for funding, the proposed legislation would require grantees' sex education programs to stress the value of abstinence, but also provide information about the benefits and side effects of all contraceptives and barrier methods in preventing pregnancy and sexually transmitted infections.<sup>17</sup> Such programs serve to delay the onset of sexual activity, increase the use of contraception among young people who are sexually active, and reduce their number of sexual partners.<sup>18</sup> Recognizing that teen sexuality is influenced by a variety of social factors, programs would also be required to encourage parental involvement and family communication about sexuality, and to help students develop healthy attitudes and skills regarding gender roles and sexual decision-making. The proposed legislation would prioritize funding for communities most in need of comprehensive sex education, which would be based in part on the rates of pregnancy and of sexually transmitted infections among adolescents within a particular community.<sup>19</sup>

### **Conclusion**

Young people need accurate information to help them delay sexual activity and to make responsible and safe decisions when they do become sexually active. Sex education programs that focus only on abstinence and ignore the real educational needs of students put the health of young people in New York at risk. The existing piecemeal approach to sex education in New York public schools is simply ineffective. The Healthy Teens Act is an important step in providing more of New York's young people the information and skills they need to protect their sexual and reproductive health. The NYCLU, therefore, strongly urges the passage of A.2856/S.1342.

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<sup>17</sup> §2.

<sup>18</sup> Douglas Kirby, The National Campaign to Prevent Teen Pregnancy, *Emerging Answers: Research Findings on Programs to Reduce Teen Pregnancy (Summary)* (May 2001) (online at [www.teenpregnancy.org/resources/data/pdf/emerswsum.pdf](http://www.teenpregnancy.org/resources/data/pdf/emerswsum.pdf)).

<sup>19</sup> *Id.*