Comments Guide on CDC’s Proposed Guidelines
On HIV Prevention Program Content Review

Suggestions for Stakeholders

The AIDS Foundation of Chicago (AFC) has created this guide to help HIV prevention stakeholders understand the implications of the proposed guidelines and assist them in developing their own comments to the Centers for Disease Control and Prevention (CDC).

Introduction: On June 16, 2004, the CDC published in the Federal Register Interim HIV Content Guidelines for HIV-related Materials. CDC invites public comments through Monday, August 16, 2004. Public comments should be sent via email to HIVComments@cdc.gov or faxed to 404-639-3125. Comments may also be mailed to HIV Content Guidelines Comments, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Mailstop E56, Atlanta, GA 30333. CDC intends to publish final rules by mid-November 2004.

View a copy of the announcement: www.cdc.gov/nchstp/od/content_guidelines/default.htm
View a summary of the announcement: www.aidschicago.org
View comments submitted: www.cdc.gov/nchstp/od/content_guidelines/submitted_comments.htm

Below is a summary of the proposed changes and AFC’s recommendations for comments:

1. Website Materials: CDC proposes expanding the types of materials requiring independent review to include the website materials related to HIV prevention created or obtained by CDC-funded health departments, CBOs, and other funded entities. The rule would apply to all of the HIV-prevention-related content of CDC-funded entities, regardless of the funding source used to create specific pieces of information. Funded entities are already required by CDC, as a condition of their grant awards, to post warnings on their homepages advising visitors that the website includes sensitive AIDS information that may be considered offensive to some audiences.

AFC’s comments:

- Community-based organizations have already met stringent CDC criteria to qualify for funding. CDC should trust that the agencies it funds, directly and indirectly, abide by current applicable laws and regulations.
- PRPs may censure scientifically sound HIV prevention messages, which must be frank and culturally/linguistically appropriate to reach at-risk audiences, for fear of breaching ambiguous local standards of obscenity.
- The requirement that funded entities display homepage warning about HIV prevention content makes this rule unnecessary.

2. Condom Effectiveness and Lack-of-Effectiveness: Information contained in educational materials specifically designed to address sexually transmitted diseases (STD) should contain medically accurate information regarding the “effectiveness or lack of effectiveness” of condoms in preventing transmission of the specific disease in question.

AFC’s comments:
• We agree that all public health programs must be medically accurate. However, this provision as stated broadly addresses all STDs whereupon the subject of these interim guidelines is specific to HIV prevention.
• This provision should be recast to reflect current science, which concludes that the correct and consistent use of condoms remains the most effective HIV prevention method among individuals who are sexually active with known HIV-positive individuals or those of unknown HIV serostatus.

3. Review Panel Composition: The make-up of the Program Review Panel should be no less than five individuals who represent a reasonable cross-section of the “jurisdiction in which the program is based.” The current guidelines require PRPs to be comprised of no less than five individuals who “represent a reasonable cross-section of the general population.” According to CDC, the clarification will “ensure better representation of the community to be served.”

AFC’s comments:

• The proposed guidelines fail to adequately explain the distinction between PRP representation that reflects a reasonable cross-section “of the jurisdiction” versus the current requirement that PRPs represent a reasonable cross-section of the “general population.” We believe instead that PRP composition should reflect the demographics of the jurisdiction’s HIV/AIDS epidemic in order to ensure that messages and materials are relevant to their target populations.
• At a minimum, CDC should clarify how it expects PRPs to achieve a “reasonable cross-section of the jurisdiction” in their composition.

4. Accurate Titles: PRPs must ensure that materials submitted for review contain titles that “reflect the content and activity or program.” According to CDC, “this revision will ensure that materials and their contents are clearly stated to the audience.”

AFC’s comments:

• Funded CBOs must have the ability to create marketing materials that utilize concepts and language that interest target populations and encourage service utilization.
• By not allowing CBOs to market their services in ways that appeal to the target population, this provision could result in missed opportunities to reach those who need HIV prevention services the most.

5. Health Department Certification: Local and state health officials will be required to independently review materials submitted to their health department’s PRP and certify to CDC that approved educational materials cannot be viewed as obscene to the “average person.” CDC cites a 1973 judicial ruling that defines obscenity “by looking to the average person, applying contemporary community standards, as a way to ensure that material would be judged by its impact on an average person, rather than a particularly susceptible or sensitive person, or a totally insensitive one.”

AFC’s comments:

• This provision will be cumbersome, costly, and time-consuming for health departments to implement and will duplicate (and potentially invalidate) the work of PRPs.
• By placing certification powers in the hands of political appointees, this provision will undermine the integrity of PRPs to make decisions based on sound public health science. As a result, health department officials may, based on political pressure, rule as obscene medically accurate and appropriate HIV prevention materials.
• The cost of implementing this provision, which will be born entirely by health departments, would be better spent providing HIV prevention programs.
6. **Separate School-Based Review Panels:** Health departments will be required to establish separate PRP for school-based programs.

AFC’s comments:

- This provision would be strengthened by requiring school-based PRPs to include young people representative of the demographics of the epidemic in their jurisdiction.

7. **Health Department Must Constitute Review Panels:** Only health departments will be allowed to constitute program review panels, eliminating the option for CBOs to create and utilize review panels for their and other CBOs’ programs. Health departments must create at least one PRP to provide review for the HIV prevention content of their jurisdiction. Health departments may, however, create multiple PRPs to review materials developed for different target populations. No single intended audience may dominate the composition of the review panels, unless the group has been created specifically to review materials for a racial and ethnic minority population, in which case members representing the target population may constitute the majority of the panel’s members.

AFC’s comments:

- We do not oppose external review requirements.
- This provision should be broadened to allow and encourage health departments to create special review panels for programs targeting high-risk groups. Such panels should be comprised of representatives of the high-risk groups as well as entities that serve them.

8. **Discourage Promiscuous Sex, Drug-Use:** Reiterating federal law and standing regulations, all programs that receive CDC funds should include information about the harmful effects of promiscuous sexual activity and intravenous substance abuse, and the benefits of abstaining from such activities.

AFC’s comments:

- This provision could have the unintended consequence of discouraging individuals who engage in high-risk behaviors from seeking the very services that could assist them in reducing their high-risk behaviors. In particular, this provision could inhibit education and outreach at such settings as bathhouses, sex clubs, and shooting galleries where the need for HIV prevention interventions is greatest.
- Funded CBOs, which have been selected because of their influence in and understanding of the communities they serve, are best prepared to determine effective strategies to communicate CDC’s core HIV prevention philosophy with their service recipients.
- PRPs should not be required to determine program strategies to communicate CDC’s core HIV prevention philosophy as doing so puts the PRPs in the inappropriate role of program/grants officer.

9. **No Suggestive Physical Contact or Sexual Activity:** As part of their review, PRPs should ensure that no educational activities include suggestive physical contact or sexual activity.

AFC’s comments:

- We support this rule. Federal funds should not be used to pay for suggestive physical or sexual contact.

Prepared in July 2004