

**Out-of-State Placement Committee
2021 Annual Report to the Governor and
Legislature**

**Submitted pursuant to
New York State Social Services Law § 483-d**



**Council on Children
and Families**

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Introduction

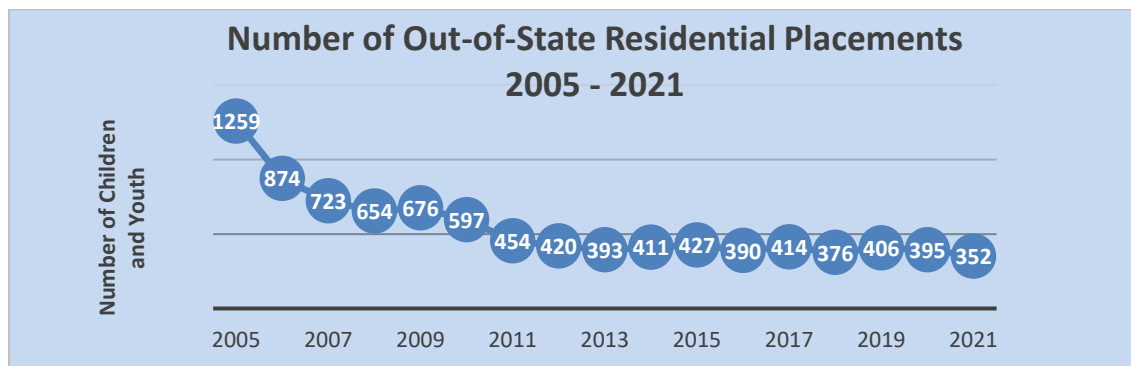
New York State Social Services Law § 483-d requires the New York State Council on Children and Families to submit an annual report on “out-of-state placements” of children and youth. “Out-of-state placements” refer to the practice of children and youth with special and complex, multi-systemic needs being placed by local departments of social services (LDSSs) or Committees on Special Education (CSE) through a local school district in residential programs or residential schools outside of New York State. State agencies involved with placement planning and decisions continue to work diligently with LDSSs and local school districts to maintain New York State children and youth at home with supports and services, and if residential placement is necessary to place them in schools and programs within the state. In certain circumstances, however, out-of-state placements are needed.

Since the issuance of the first Out-of-State Placement report in 2005, out-of-state placements of New York State children and youth have been reduced from 1,259 to 352: a decrease of 71 percent. From 2020 to 2021, 43 fewer children and youth were placed in out-of-state residential placements. Specifically, local school districts, as of December 1, 2021, decreased out-of-state placements by nine percent (from 340 to 308 students) and LDSSs decreased out-of-state placements by 20 percent (from 55 to 44 children and youth). It should be noted, however, that services and placements were impacted by the COVID-19 pandemic, with admissions to many residential programs, both in and out-of-state being restricted.

A. Overview of Out-of-State Placements

Activities of the New York State Education Department (NYSED) Office of Special Education Non-District Unit and the Office of Children and Family Services Out-of-State Placement Oversight Office

Since 2005, as illustrated below, there has been a 71 percent reduction in out-of-state residential placements of New York State children and youth by LDSSs and CSEs.



B. Monitoring and Quality Assurance of Out-of-State Residential Schools and Programs Serving New York Children and Youth

New York State Education Department (NYSED)

The NYSED Office of Special Education Non-District Unit is responsible for overseeing all approved in-state and out-of-state residential schools and providing all New York State approved private in-state and out-of-state residential programs with the review protocol that schools can use to evaluate their policies, procedures and practices. Several compliance items in the review protocol are specific to an out-of-state approved school's responsibility to protect students from abuse and neglect, consistent with the provisions of the *Protection of People with Special Needs Act* (Chapter 501 of the 2012 Laws of the State of New York).

Summary of Actions Impacting Individual Approved Out-of-State Schools

NYSED continued with regular monthly calls with all New York State approved out-of-state schools to ensure that continuity of learning was provided to all New York State enrolled students. All schools continued to provide in-person instruction.

In 2021, NYSED resumed conducting program reviews, focusing on areas of the comprehensive residential review protocol conducive to a desk audit format. Specifically, NYSED conducted five focus reviews that addressed two areas:

1. Behavioral Interventions. The review of a program's policies, procedures and practices to ensure students with disabilities receive appropriate behavioral supports and services to address behaviors that impede learning, including the use of time-out rooms and emergency interventions, if applicable.
2. Standards for the Protection of Students in Residential Programs. The review of a program's policies, procedures, and practices to ensure that both day and residential students who attend a residential school are protected against abuse, neglect and other conduct that may jeopardize their health, safety, and welfare, consistent with the provisions of Protection of People with Special Needs Act.

In the Spring of 2022, NYSED will resume conducting reviews on-site or hybrid (on-site/desk audits) in addition to desk audits. The following sites were reviewed in 2021:

May Center for Autism and Developmental Disabilities in Massachusetts: From September through October 2021, NYSED conducted a focused review in the area of Standards for the Protections of Students in Residential Programs. On October 5, 2021, NYSED issued a report and Compliance Assurance Plan that identified two areas of non-compliance related to: 1) policies, practices and procedures related to the protection of students in residential programs in the areas of instruction to students to enable them to advocate for and protect themselves from a reportable incident; and 2) the requirement of offering instruction at different times throughout the year. The May Center for Autism and Developmental Disabilities addressed concerns and, as of December 2, 2021, was in full compliance with the regulatory items cited.

Frederick L. Chamberlain in Massachusetts: From August through September 2021, NYSED conducted a focused review in the area of Behavioral Interventions. On October 6, 2021, NYSED issued a report which indicated that the compliance items associated with the area of Behavioral Interventions were in compliance at that time. Therefore, NYSED did not issue a Compliance Assurance Plan for the focus area reviewed.

Melmark in Pennsylvania: From July through September 2021, NYSED conducted a focus review in two areas: Behavioral Interventions and Standards for the Protections of Students in Residential Programs. On September 24, 2021, NYSED issued a report and Compliance Assurance Plan that identified the following areas of non-compliance: functional behavioral assessment; behavioral intervention plans; and policies, practices and procedures related to the protection of students in residential programs in the areas of instruction to students to enable them to advocate for and protect themselves from reportable incidents, staff training in child development, and reporting policies. Melmark addressed all concerns and was in full compliance with the regulatory items cited as of December 15, 2021.

Woods Services in Pennsylvania: From September through October 2021, NYSED conducted a focus review in the area of Standards for the Protections of Students in Residential Programs. On October 8, 2021, NYSED issued a report about the compliance items associated with the area of Standards for the Protections of Students in Residential Programs and found Woods to be in compliance at that time. Therefore, NYSED did not issue a Compliance Assurance Plan for the focus area reviewed.

Judge Rotenberg Center in Massachusetts: From October through November 2021, NYSED conducted a focus review in the area of Standards for the Protections of Students in Residential Programs. On November 19, 2021, NYSED issued a report and Compliance Assurance Plan that identified the following areas of noncompliance: policies, practices and procedures related to the protection of students in residential programs in the areas of staffing patterns, dissemination of supervisory guidelines to staff and reporting policies. The Judge Rotenberg Center addressed all concerns and was in full compliance with the regulatory items cited as of January 18, 2022.

New York State Office of Children and Family Services (OCFS)

In 2021, the New York State Office of Children and Family Services (OCFS) announced that New York State had successfully implemented provisions of a sweeping federal law called the Family First Prevention Services Act (FFPSA) that significantly transforms the foster care system by supporting interventions that promote foster placement with family or close friends (kin) rather than in group homes or institutions. In addition, the law overhauls the use of federal child welfare funds to allow for investment in more preventative, evidence-based programs such as mental health, substance abuse and parenting programs to be provided to families to prevent the removal of the child from the home.

The FFPSA provisions also create financial disincentives for placing children in settings that are not family-based. As of October 2021, 136 programs statewide were

approved to be “qualified residential treatment programs” (QRTP) offering trauma-informed care so they can qualify to receive federal reimbursement. States, territories and tribes may now also use funding for in-home prevention services to keep families together when safely possible.

With respect to out-of-state residential program, five programs were reviewed by OCFS: one was designated as a QRTP (Whitney Academy, MA) by the state of location; three are “in the process” of becoming licensed QRTP programs (Crotched Mountain Rehabilitation Center, NH; Hillcrest, MA; and Woods Services, PA); and one agency that has been certified by an accrediting organization for QRTPs has not applied to be licensed as a QRTP (Stetson School, MA).

Due to the COVID-19 pandemic, OCFS conducted desk reviews of all programs during 2021. These reviews assessed out-of-state residential program compliance with good standards of practice to best support achieving positive outcomes for children and their families. OCFS reviewed policies related to staff training, use of restraints, investigations and reporting of restraints and abuse or significant incidents, and case records of all LDSS youth placed at each program, as well as reviews of physical plant fire safety documents, interviews with administration, staff and all LDSS-placed youth. Recommendations were made, as warranted.

No health or safety concerns were found at any of these out-of-state residential programs. Throughout 2021, the agencies were found to have taken necessary precautions to address health and safety issues on campus related to the COVID-19 pandemic to protect the youth. Specifically, all programs continued COVID-19 protocols as well as updating them, as necessary to address the spread of the virus on campus with testing for both staff and youth and quarantine sites on campus. Youth visitation was impacted by COVID-19. New York State youth were not able to return home for visits and, depending on COVID-19 restrictions, visitors sometimes were not allowed on site. Youth were able to have virtual video calls, as well as telephone calls with family members and LDSS workers. To control the spread of the virus, one agency remained a closed campus all year.

New York State Justice Center for the Protection of People with Special Needs: Protection of Children and Youth Placed Out-of-State

The Justice Center provides New York State with the strongest standards and practices in the nation for protecting the safety of adults and children with special needs. In addition to its authority to investigate allegations of abuse and neglect involving individuals receiving services in certain New York State-operated, certified or licensed facilities and programs, the Justice Center investigates allegations of abuse and neglect in approved or contracted out-of-state residential schools and programs in which a New York State child or youth is placed. Further, the Justice Center, in partnership with the relevant state oversight agency, monitors corrective action plans created by the in- or out-of-state program in response to the investigation findings, and the Justice Center’s Individual and Family Support Unit (IFSU) provides support to victims and families impacted by abuse or neglect.

The Justice Center’s Vulnerable Persons Central Register Hotline Number is: 1-855-373- 2122. To learn more about the Justice Center, visit its website at: <https://www.justicecenter.ny.gov>.

Development of a Registry of Out-of-State Residential Schools and Programs Where New York Children and Youth are Placed

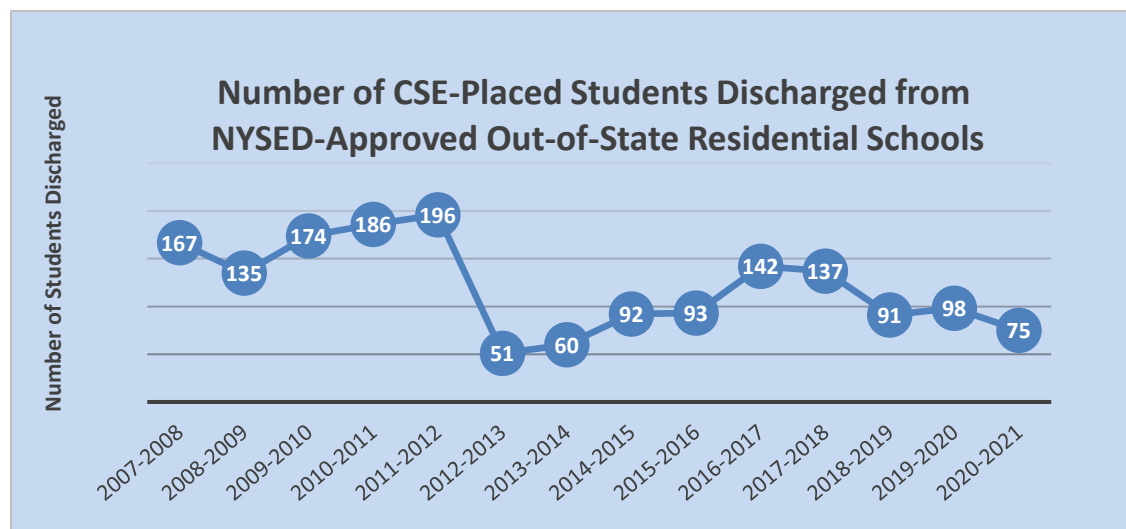
NYSED has an approved out-of-state school registry that it regularly updates and can be found here: <http://www.p12.nysed.gov/specialed/privateschools/os.htm>.

The OCFS Out-of-State Placement Oversight Office maintains a database, which contains a list of all LDSS youth placed out-of-state. OCFS does not maintain a list of approved out-of-state residential programs; it is the responsibility of the LDSS to determine if the out-of-state residential program is licensed by the state where the program is located.

C. Data Collection and Surveys

Youth Discharged from Out-of-State Residential Schools and Programs

NYSED collects data from approved out-of-state residential schools for students returning from out-of-state who were placed by their local school district CSE. The chart below illustrates the total number of CSE-placed students discharged from NYSED-approved out-of-state residential schools for the 2020-2021 school year (75 students) and previous school years, followed by a breakdown of where the youth went upon discharge from their out-of-state residential schools, as reported to NYSED by out-of-state residential schools.



Where CSE-placed Youth Went Upon Discharge (as of June 30, 2021):

In-State Public School.....	9
In-State Private School	4
Aged Out of School (students who reached 21 years of age without a diploma)	18
Graduated from School (students between the ages of 18 - 21, who received their diploma)	26
Home Instruction – (medical)	7
Psychiatric Center, Developmental Center, Correctional Facility	0
Other Out-of-State Program (e.g., wilderness program).....	5
Dropped Out of School.....	3
Moved.....	2
Other.....	1
Total.....	75

OCFS collects data for all LDSS youth discharged from out-of-state residential placements. During 2021, there were a total of eight youth discharged from out-of-state residential placements. Below is a breakdown of where New York State LDSS youth discharged from out-of-state residential placements went upon discharge, as reported by the OCFS Bureau of Research, Evaluation and Performance Analytics (CONNECTIONS database, from January 1, 2021 through December 31, 2021).

Where LDSS Youth Went Upon Discharge (in 2021):

Reunification with Family	0
Exit to Relative	2
Reach Age of Majority	4
Permanency Resource.....	0
Absent without Leave	0
Other Out-of-State Program.....	0
Transfer to Another State Agency.....	2
Total.....	8

New York Student Profiles on Students Placed Out-of-State

NYSED uses student profiles as part of the application process for local school districts to apply for approval of state reimbursement of tuition costs for each student placed in an out-of-state residential school by a local school district CSE.¹ Aggregate data from the student profiles allows NYSED to describe and quantify information on students placed out-of-state. Local school districts can share the individual student profiles with in-state residential schools that may be able to serve students returning to New York State.

The following data are reported by NYSED on students with disabilities for all out-of-state student placements made by local school district CSEs from school years 2016-2017 through 2020-2021 (as of December 1 of each school year).

¹ Data as reported by CSEs to NYSED in a student's Out-of-State Placement Application for State Aid Reimbursement of Tuition Costs.

NEW YORK STATE STUDENTS CLASSIFIED BY DISABILITY, FROM SCHOOL YEARS 2016-2021						
Disability	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
Autism	110	124	103	130	148	159
Deafness	9	5	5	9	9	7
Emotional Disturbance	125	136	134	101	90	67
Learning Disability	2	0	1	1	0	1
Intellectual Disability	9	10	8	11	14	15
Multiple Disabilities	56	57	50	51	52	39
Speech Impairment	0	1	0	0	0	0
Traumatic Brain Injury	4	2	1	1	1	0
Visual Impairment	1	0	0	0	0	0
Other Health Impairment	20	14	18	19	24	17
Deaf/Blind	4	3	2	3	2	3
Orthopedically Impaired	0	0	0	0	0	0
Hearing Impaired	1	0	0	0	0	0
Total	341	352	322	326	340	308

The following data are reported by NYSED on 308 student profiles placed in out-of-state residential schools as of December 1, 2021.

NEW YORK STUDENTS, BROKEN DOWN BY GENDER, AGE AND COUNTY REGIONS		
Gender	Number	Percentage
Male	215	70%
Female	93	30%
Age Range	Number	Percentage
18 – 21 Years	156	50%
16 – 17 Years	79	26%
15 Years and Younger	73	24%
County Regions	Number	Percentage
New York City	174	57%
Long Island	37	12%
Hudson Valley/Rockland	50	16%
Capital Region	41	13%
Central/Western NY	6	2%

D. Reduction of Out-of-State Placements due to New York State Agency Initiatives

NYSED continues to provide technical assistance to school districts regarding the residential placement process. In March 2020, NYSED issued annual guidance to the field about the responsibility of public school districts to submit timely and complete applications, as prescribed in Regulations of the Commissioner of Education (8 NYCRR, section 200.6(j)), for approval of state reimbursement of tuition costs for placements of students with disabilities in out-of-state approved residential schools. The guidance and application are available at: <http://www.p12.nysed.gov/specialed/applications/>.

The guidance document also includes frequently asked questions to assist school districts when considering a student for residential placement. NYSED continues to closely review all appropriate in-state placement options before placing a student out-of-state. Upon request, the NYSED Office of Special Education Non-district Unit provides technical assistance to school district CSEs to identify potential residential programs for students who, because of their needs, require a residential placement. In addition, NYSED's website continues to provide links to each approved private school so that school districts can easily obtain information about potential residential placements to assist in the referral and placement process.

In 2021, NYSED and the New York State Office for People with Developmental Disabilities (OPWDD) continued to work together, with the shared goal of reducing the need for out-of-state residential placements, including working on an updated Children's Residential Program (CRP) Memorandum of Understanding. OPWDD and NYSED also continued to explore issuing a Letter of Intent (LOI) to existing CRP providers.

OPWDD also continued to encourage public school districts to identify students early and alert OPWDD about these students, including those who may be at risk of being referred to out-of-state residential schools. Early identification helps OPWDD assess the need for wrap-around services to help stabilize the students and possibly prevent the need for such referrals.

In addition, OPWDD continued to implement the Crisis Services for Individuals with Intellectual and/or Developmental Disabilities (CSIDD) (Systemic, Therapeutic, Assessment, Resources and Treatment) Program. This is a crisis intervention service introduced by OPWDD to provide community-based supports for people with developmental disabilities and behavioral health needs in all five regions of the state: Western New York and the Finger Lakes; Broome, Central New York and Sunmount; the Capital District, Taconic and Hudson Valley; New York City; and Long Island. This program works to help families learn more effective means of caring for their children with behavioral challenges, as well as helps prevent referrals to residential schools.

OPWDD also continued to identify and develop appropriate opportunities for individuals who remain at residential schools and to work with residential schools to provide technical assistance to help ensure homes were prepared close to student graduation dates. Since 2016, OPWDD has been implementing an initiative that allows in-state schools, that were approved OPWDD adult service providers, the option of developing day and residential adult service opportunities for the students they serve. The goal of this initiative is to ensure that adult service opportunities are available sooner, thus freeing up residential school opportunities for students who need them. Each year, the in-state residential schools (that were also approved OPWDD adult service providers) identify students who will be aging out over the next few years and need adult services.

In 2020, a new LOI was issued to identify provider agencies to develop adult services for individuals who would be completing their education between 2022 and 2024 and who were not selected by the schools for adult service opportunities. Through this LOI, providers were identified, and regional staff worked with these providers to find cohorts of individuals for whom the providers will develop adult service opportunities and then assist in developing these opportunities.

During 2021, OPWDD continued to provide technical assistance to voluntary providers to ensure that they were prepared to serve adults with significant challenges. This technical assistance reinforced the expectations and timeframes for service development for this population.

Additionally, OPWDD provided technical assistance and support to its regional offices and voluntary providers to facilitate and expedite the development of appropriate adult service opportunities. Regional offices were trained to closely monitor provider agencies' progress in developing adult service opportunities to ensure that services were developed expediently, and to provide technical assistance, as needed.

The number of individuals who transitioned from residential educational settings to OPWDD services from 2018 through 2021 was as follows:

Residential Education Programs	Number of Individuals Transitioned to OPWDD Adult Services			
	2018	2019	2020	2021
In-State (including CRP, RTF and RTC) programs	198	161	183	188
Out-of-State	36	35	31	38
Total	236	196	214	226

As of December 31, 2021, OPWDD had 281 OPWDD-eligible individuals who remained at residential education programs after completing their school-age education programs. This is a decrease of 19 individuals from 2020 when 300 OPWDD-eligible individuals remained at residential education programs and a decrease of five from 2019 when 286 OPWDD-eligible individuals remained. Residential education programs include: in-state and out-of-state residential school programs, CRPs, RTFs and RTCs.

Type of School-Age Residential Education Programs	Number of OPWDD-eligible Individuals who Remain After Completing their Education Program ²			
	2018	2019	2020	2021
In-State Residential School	73	85	85	75
Out-of-State Residential School	97	105	104	104
CRP	66	73	88	80
RTF/RTC	22	23	23	22
Total	258	286	300	281

Conclusion

Moving forward, the New York State Council on Children and Families will continue to work with its member agencies, including the New York State Education Department, the New York State Office of Children and Family Services, the New York State Office for People With Developmental Disabilities, the New York State Office of Mental Health and the Justice Center for the Protection of People with Special Needs, to monitor out-of-state residential placements for New York State’s children and youth. The Council also will continue its interagency work and focus on exploring and promoting collaborative approaches for delivering services and supports for New York State’s children and families, to help prevent unnecessary residential placements, whether in-state or out-of-state. Additionally, the Council will continue to focus on strengthening the delivery of cross-systems services and supports for children and youth with complex needs, and their families, through ongoing work with regional and local service networks and family and youth partners.

² The “Number of Individuals who remain” is the net number of individuals from the current and prior years who completed their education and remain at the school minus the number of students who left the school for adult service opportunities or who left the school without OPWDD services.