

# Out-of-State Placement Committee

2012 Annual Report to the Governor and Legislature

**Submitted by: The New York State Council on Children and Families  
Deborah Benson, Executive Director**

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## Introduction

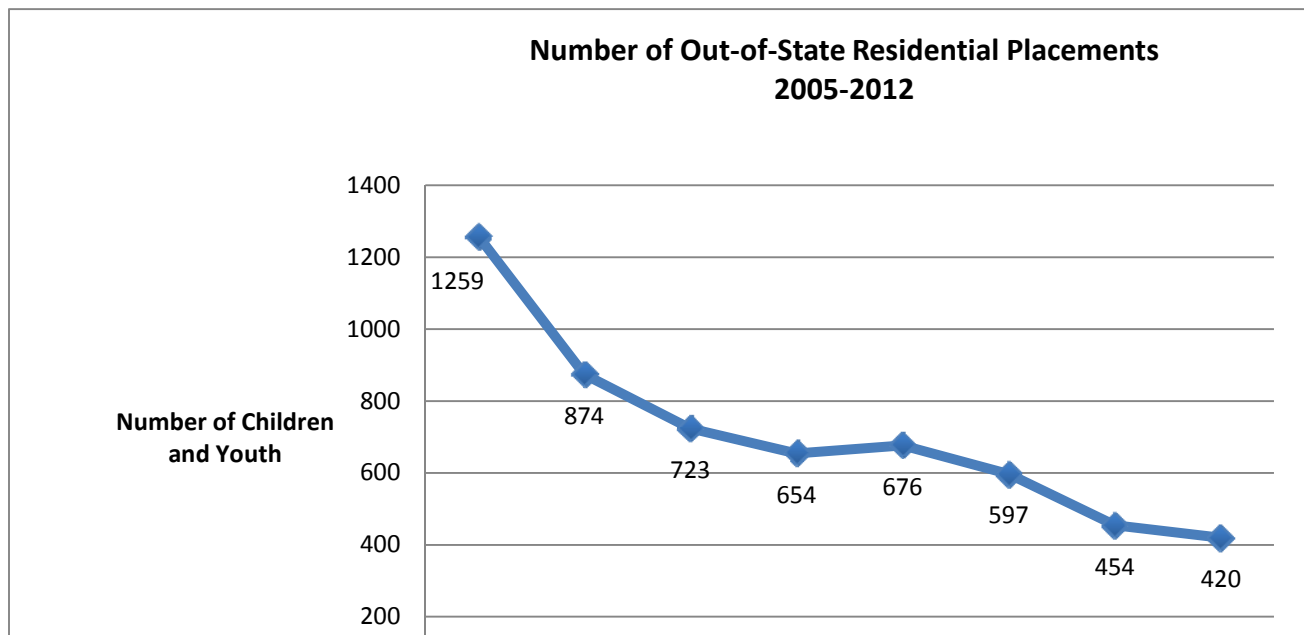
This is the seventh annual report submitted by the Council on Children and Families on behalf of the Out-of-State Placement Committee (hereinafter referred to as the *Committee*) to the Governor and the Legislature. This year's report describes the status of in-state and out-of-state residential placements by the New York State Education Department (SED) and the New York State Office of Children and Family Services (OCFS).

## Activities of SED Non-District Unit (NDU) and OCFS Out-of-State Placement Oversight Office

### A. Reduction in Out-of-State Placements

*Activities of SED Non-district Unit (NDU) and OCFS Out-of-State Placement Oversight Office*

As of December 1, 2012, there were 420 children and youth placed in out-of-state residential schools and facilities, an 8 percent decrease from the previous year. Of these 420 children and youth, 336 were placed by local school districts and 84 by local departments of social services (LDSS). From 2011 to 2012, local school districts decreased out-of-state placements by 5 percent and LDSS placements decreased by 15 percent. Overall, since 2005, there has been a 67 percent reduction in out-of-state placements.



As in past years, SED provides ongoing monitoring of requests for out-of-state placements by Committees on Special Education (CSEs), along with administrative review and approval of Emergency Interim Placements (EIP's). An EIP school is not a private school approved by SED's Commissioner of Education for the education of students with disabilities. Rather, these residential placements are approved for student-specific placements

when a CSE provides justification that there are no available placements in private in-state and out-of-state residential schools that are approved by New York State.

In April 2011, SED issued a memorandum notifying school districts that SED will no longer approve out-of-state schools on a student-specific basis for EIP's on a day basis beginning July 2, 2011 and thereafter, or on a residential basis beginning with the 2013-14 school year (i.e., July 1, 2013). In March 2012, SED provided notice again of ceasing its practice of approving EIP residential placements for the 2013-14 school year, and thereafter.

The OCFS policy communicated to LDSS requiring them to make every effort to identify appropriate in-state placement options before referring a child or youth in foster care to out-of-state residential programs continues to result in declining numbers of out-of-state placements each year since 2005.

## **B. Development of Monitoring and Accountability Structure**

The SED Non-district Unit (NDU), created in 2005, has responsibility for quality assurance and oversight functions for all SED approved in-state and out-of-state residential schools.

In December 2012, SED provided notice to six NYS-approved out-of-state schools that, pursuant to SED's authority under Article 89 of NYS Education Law and in accordance with 8 NYCRR 200.7 (a) (3) (i), they would be removed from the State's list of approved private schools to receive public funds for the education of students with disabilities because the school's enrollment at that time, and enrollment in the two prior school years was two or fewer students placed by NYS school districts.

In 2011-12, SED invited nine out-of-state providers that accept NYS students on an emergency residential basis to submit an initial application to become a NYS-approved provider. Schools were invited based on the current population served at the school which matched those NYS students remaining out-of-state and the number of NYS students placed at the school at that time. As part of the application review process, NDU staff conducted on-site visits to each program. SED approved eight of the nine applications (one application was not approved due to the lack of need for the program).

In 2012, NDU staff followed up with the following out-of-state schools that had unresolved non-compliance, and they are now in full compliance: Devereux Connecticut, Devereux Pennsylvania, Easter Seals of New Hampshire, Hillcrest Education Centers and New England Center for Children. Kolburne had unresolved non-compliance in 2011, but voluntarily closed on June 30, 2012.

Since June 2010, SED has implemented utilization of a self-review protocol, Behavior Management and Support for School-age Students in Residential Schools, for all in-state approved residential schools. The protocol includes regulatory requirements for managing student behavior and preventing abuse and neglect, essential for meeting the educational needs of students returning from out-of-state placements. In 2012, NDU staff conducted 37 verification reviews for compliance with the regulatory requirements of the protocol. The remaining seven verification reviews are scheduled for 2012-13.

During 2012, OCFS did not conduct any site visits to out-of-state residential facilities due to fiscal restraints and travel restrictions. Desk reviews were sent by OCFS to 24 out-of-state residential programs in nine states, and OCFS received responses from 17 programs. The desk reviews request documentation and information on residential and school licensure; policies and procedures on room isolation and confinement; last six months of restraint reports on NYS youth (discipline and restraint methods as well as reasons for restraints); resident

rights, grievances and complaint procedures; resident handbooks and procedures that are given upon admission; and agency accreditation.

The OCFS review of responses and information collected from the out-of-state residential programs reflected no major health and safety concerns. One out-of-state agency reported an increased number of restraint reports for six LDSS youth in their care. OCFS communicated this information to the placing LDSS' and requested additional information from the out-of-state agency regarding changes to the behavior modification plans of the youth involved.

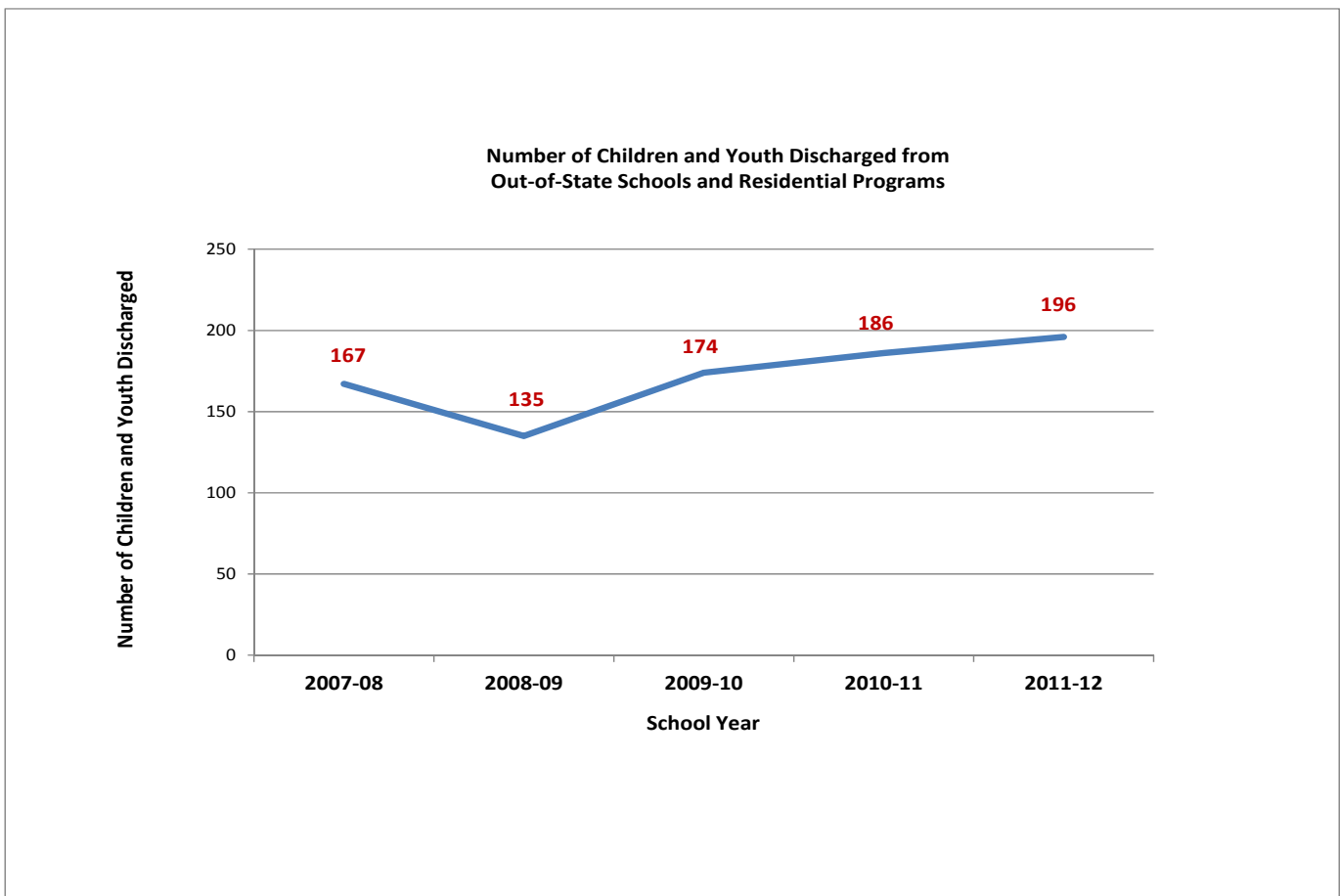
### *Development of Out-of-State Registry*

SED has operated its registry of approved out-of-state schools since July 2005. The OCFS residential care registry became operational in 2009, with access available only via OCFS' internal website. In 2010, the registry was on the internet, with access available only to approved users.

## **C. Data Collection and Surveys**

### ***Children and Youth Discharged from Out-of-State Schools and Residential Programs***

SED reports that, at the conclusion of the 2011-12 school year, a total of 196 children and youth were discharged from out-of-State residential schools. In previous school years, these numbers were as follows: 2010-2011:186; 2009-2010:174; 2008-2009:135 and 2007-2008:167.



The following data is reported by SED for all children and youth returning from out-of-state local school district CSE placements during the 2011-12 school year.

## All NYS Students Discharged from Out-of-State Schools

June 30, 2012

(where they went upon return)

<i>In-State Public</i> -----	18
<i>In-State Private</i> -----	69
<i>Aged Out</i> (students who reached 21 years of age without a diploma) -----	58
<i>Graduated</i> (students between the ages of 18 - 21, who received their diploma) -----	14
<i>Home Instruction – (Medical)</i> -----	2
<i>Institution</i> (psychiatric or developmental center, correctional facility) -----	0
<i>Other: Referred to Administration of Children’s Services</i> -----	1
<i>Dropped Out</i> -----	15
<i>Moved</i> -----	3
<i>Unknown</i> -----	16
<i>Total</i> -----	196

The following data is reported by OCFS for LDSS youth discharged from out-of-state residential placements during 2012.

<i>Reunification</i> -----	3
<i>Exit to Relative</i> -----	1
<i>Reach Majority</i> -----	10
<i>Permanency Resource</i> -----	1
<i>AWOL</i> -----	1
<i>Other</i> -----	5
<i>Transfer to another Agency</i> -----	13
<i>Total</i> -----	34

### *Children and Youth Profiles and Surveys*

SED continues to use student profiles as part of the process for districts to apply to SED for approval of State reimbursement of tuition costs for each student publicly placed in an out-of-state residential school. Aggregate data from the student profiles allows SED to describe and quantify information on students placed out-of-state. Along with other evaluation documents, school districts can share the individual student profiles with in-state private schools that may be able to serve students returning to New York. The following data is reported by SED regarding disabilities for all out-of-state placements made by local school districts from 2007 to 2012.

# Students with Disabilities Going Out-of-State

(2007/08, 2008/09, 2009/10, 2010/11, 2011/12, 2012-13)

<i>Disability</i>	<b>2007-08</b> <small>(as of 12/1/07)</small>	<b>2008-09</b> <small>(as of 12/1/08)</small>	<b>2009-10</b> <small>(as of 12/1/09)</small>	<b>2010-11</b> <small>(as of 12/01/10)</small>	<b>2011-12</b> <small>(as of 12/01/11)</small>	<b>2012-13</b> <small>(as of 12/01/12)</small>
Autism	152	142	162	138	119	115
Deafness	20	26	31	25	20	17
Emotional Disturbance	187	146	136	137	88	110
Learning Disability	26	6	6	7	3	2
Intellectual Disability *	48	51	42	59	44	23
Multiple Disabilities	85	85	102	77	58	48
Speech Impairment	16	0	0	0	0	0
Traumatic Brain Injury	11	6	6	3	2	2
Visual Impairment	2	1	0	2	2	1
Other Health Impaired	19	15	33	4	16	16
Deaf/Blind	0	0	1	0	2	2
Orthopedically Impaired	0	0	1	3	0	0
Hearing Impaired	0	0	0	2	1	0
<b>Total</b>	<b>566</b>	<b>478</b>	<b>521</b>	<b>477</b>	<b>355</b>	<b>336</b>

SED analyzed data from student profiles submitted with the applications for Emergency Interim Placements (EIP) and placements in Approved Out-of-State Residential Schools (OOS). The data below is based on 13 residential student profiles for EIP and 323 residential student profiles for OOS (as of 12-1-12). In addition, the majority of students in out-of-state placements are classified with autism, multiple disabilities and emotional disturbance.

EMERGENCY INTERIM PLACEMENTS (EIPs) – TOTAL 13		
GENDER	NUMBER	PERCENTAGES
MALE	8	61.5%
FEMALE	5	38.5%

AGE RANGE	NUMBER	PERCENTAGES
18 – 21 YEARS	8	61.5%
16 – 17 YEARS	5	38.5%
15 YEARS AND YOUNGER	0	0%

COUNTY REGIONS	NUMBER	PERCENTAGES
NEW YORK CITY	8	61.5%
LONG ISLAND	1	7.75%
HUDSON VALLEY/ ROCKLAND	3	23%
CAPITAL REGION	0	0%
CENTRAL/WESTERN NEW YORK	1	7.75%

APPROVED OUT-OF-STATE RESIDENTIAL SCHOOLS (OOS) – TOTAL 323		
GENDER	NUMBER	PERCENTAGES
MALE	221	68%
FEMALE	102	32%

AGE RANGE	NUMBER	PERCENTAGES
18 – 21 YEARS	150	46.5%
16 – 17 YEARS	90	28%
15 YEARS AND YOUNGER	83	25.5%

COUNTY REGIONS	NUMBER	PERCENTAGES
NEW YORK CITY	212	65.5%
LONG ISLAND	41	13%
HUDSON VALLEY/ ROCKLAND	43	13.25%
CAPITAL REGION	17	5.25%
CENTRAL/WESTERN NEW YORK	10	3%

TOTAL EIP AND OOS PLACEMENTS – TOTAL 336		
GENDER	NUMBER	PERCENTAGES
MALE	229	68%
FEMALE	107	32%

AGE RANGE	NUMBER	PERCENTAGES
18 – 21 YEARS	158	47%
16 – 17 YEARS	95	28%
15 YEARS AND YOUNGER	83	25%

COUNTY REGIONS	NUMBER	PERCENTAGES
NEW YORK CITY	220	65.5%
LONG ISLAND	42	12.5%
HUDSON VALLEY/ ROCKLAND	46	13.75%
CAPITAL REGION	17	5%
CENTRAL/WESTERN NEW YORK	11	3.25%

In November 2012, OCFS sent Youth Profile Surveys to all out-of-state programs where New York State LDSS youth were placed. As of June 2013, OCFS has received profile responses for 70 of the 84 LDSS youth in out-of-state residential programs. OCFS is following-up with the out-of-state agencies that have not responded and will provide an update when they are all compiled.

## D. Residential Bed Development

SED, OCFS and OPWDD continue to coordinate the implementation of a 5-Year Interagency Plan to develop in-state residential capacity. The target for bed development for students with developmental disabilities is 311 [255 in Children’s Residential Projects (CRP’s) and 56 approved in-state private schools (known as 853 schools)].

Students with Emotional Disturbance – Development of 106 beds for students with emotional disturbance were primarily a conversion of existing residential capacity. No further bed development has occurred since 2010, although need continues to be regularly evaluated.



Students with Developmental Disabilities - OPWDD has developed 456 opportunities for children to access services in Children's Residential Projects (CRPs) in the state. This includes 87 opportunities that were developed as part of a 5-year SED-OPWDD Interagency Plan. The original SED-OPWDD Interagency Plan allowed for the development of 165 opportunities, but due to statewide budget action, this number was reduced to 111 opportunities. Twenty-four of these 111 opportunities are still in development, and are expected to be available by July 2014. In addition, in 2012, OPWDD and SED approved 12 new opportunities through a jointly issued Request for Proposals (RFP). These 12 opportunities are expected to be available by January 2014.

SED reports that, since July 2012, an average of six students per month (primarily those with developmental disabilities) are placed out-of-state, which equates to approximately 72 students per year. Current bed development for students with developmental disabilities is designed to reduce the rate of placement of students out-of-state.

On November 15, 2012, OPWDD and SED issued a Request for Proposal (RFP) to fund 12 CRP programs to provide in-state educational and residential programs for children with severe disabilities currently in out-of-state schools, or at risk of placement in out-of-state schools. (One in-state program had converted its 12 CRP beds to approved private school [853 school] beds, so funding for the development of 12 CRP opportunities became available.) The RFP was issued to 13 existing CRP programs in the state. Five of the 13 CRPs submitted proposals (Birch Family Services, Devereux Red Hook, Easter Seals, UCP Ulster and UCP Upstate). Priority was given to proposals that did not require an increase to the existing tuition and maintenance rates, served individuals in the downstate region and had a plan that would complete the project by July 1, 2013. Through a joint State agency review, Easter Seals and Devereux Red Hook were awarded the CRP opportunities. Easter Seals will convert two of its respite beds to CRPs and Devereux will develop 10 CRP beds on its campus (and convert 10 unfilled day program seats to residential seats). On March 19, 2013, OPWDD issued letters to the five schools notifying them of the determinations.

OPWDD continues its statewide initiative to return children who are eligible for OPWDD services and currently living at residential schools (both in-state and out-of-state), back to home and community-based services as they age out of the education system into adult services with OPWDD. The Age Out Initiative aims to assure that children who have been placed in either in-state or out-of-state residential schools have access to person-centered services upon their entrance into the OPWDD service system at the age of 21.

OPWDD reports referrals received for 401 individuals who have aged out, or will age out, of both in-state and out-of-state residential schools to OPWDD's adult services system between January 1, 2012 through December 31, 2013. Of this number, 14 individuals have not established OPWDD eligibility. Of the remaining 387 individuals, 126 have transitioned to OPWDD services in New York State and 7 individuals declined to receive services from OPWDD. There are 254 cases that remain as open cases awaiting placement. Many of the remaining cases are attached to new development projects scheduled to open in 2013 and 2014. As of January 2013, SED reports at least 106 students that have aged out of school-age services and remain in in-state school-age residential programs due to the lack of available adult residential programs. SED and OPWDD continue to problem-solve on how to address this issue.

Additionally, OPWDD has received referrals for 218 individuals who will age out of residential schools to OPWDD's adult services system between January 1, 2014 through December 31, 2014. Of this number, 16 individuals have not established OPWDD eligibility. Of the remaining 202 individuals, 20 have transitioned to OPWDD services in New York State and 2 individuals declined to receive services from OPWDD. There are 180 cases that remain as open cases awaiting placement. These latter cases are being screened and connected to appropriate services through person-centered planning. (This data reflects point-in-time data as of 3-28-13.)