

Out-of-State Placement Committee

2016 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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Out-of-State Placement Committee 2016 Annual Report to the Governor and the Legislature

Introduction

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 social service districts (LDSS) or local education agencies (public school districts) in residential programs or residential schools outside of New York State. Although out-of-state placements are necessary in certain circumstances, New York State has a policy of minimizing these placements and, as much as possible, placing children who need residential support programs within New York State.

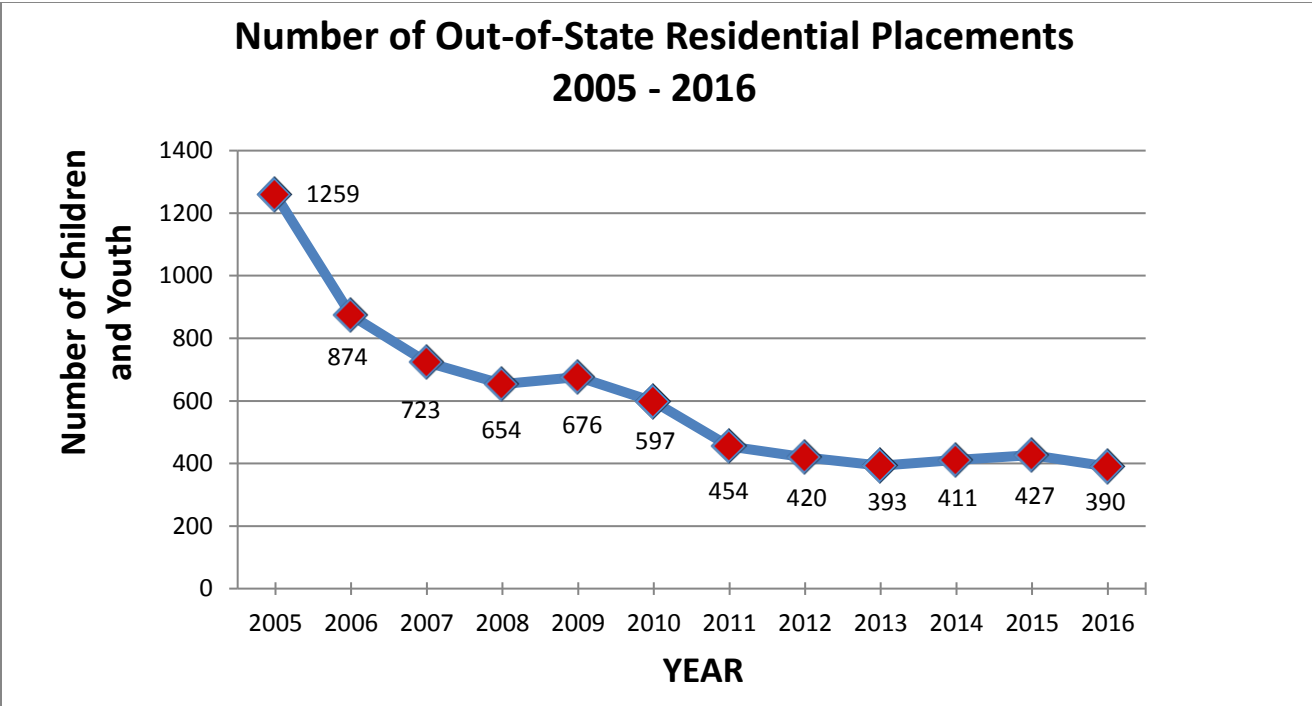
As of December 1, 2016, there were 390 New York children and youth placed in out-of-state residential schools and programs. This represents a 9 percent decrease (37 children and youth) from 2015. Since the issuance of the first Out-of-State Placement report in 2005, out-of-state placements have been reduced from 1,259 children and youth to 390 children and youth: a reduction of 69 percent. State agencies involved with placement planning and decisions and local education agencies and local departments of social services all have been working diligently to place New York children and youth in residential schools and programs within the state. The New York State Justice Center for the Protection of People with Special Needs continues to work on protecting the safety and well-being of New York State children and youth both in and outside of New York.

A. Overview of Out-of-State Placements

Activities of the State Education Department Non-district Unit (NDU) and the Office of Children and Family Services Out-of-State Placement Oversight Office

From 2015 to 2016, local public school districts decreased out-of-state placements by 4 percent and local departments of social services decreased out-of-state placements by 31 percent. Specifically, of the 390 children and youth in out-of-state and residential placements, as of December 1, 2016, 341¹ were placed by local school districts and 49 by local departments of social services (LDSS). Overall, as illustrated below, since 2005 there has been a 69 percent reduction in out-of-state placements.

¹ These data are the number of out-of-state residential applications that local public school districts submitted to the NYS Education Department seeking reimbursement of tuition costs and approved as of December 1, 2016 for the 2016-17 school year.



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

New York State Education Department (SED)

The State Education Department Non-district Unit (NDU) is responsible for ensuring quality and overseeing all approved in-state and out-of-state residential schools.

The comprehensive review protocol that SED developed in 2015 for approved private day and residential programs continued in 2016. 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 Chapter 501 of 2012 (“Protection of People with Special Needs Act”).

In 2016, 47 NYS approved schools, including all 19 out-of-State approved schools, were identified to receive 1:1 on-site training by SED’s Special Education Quality Assurance Incident Management Unit specific to the regulatory requirements for protection standards for students in residential care and appropriate use of emergency interventions (§§200.15 and 200.22(d)). The training covered the following nine areas specific to out-of-State schools: (1) Personnel Screening Procedures; (2) Staff Supervision; (3) Procedures for the Protection of Students; (4) out-of-State requirements for reporting and complying with investigations by the Justice Center; (5) Staff Training; (6) Staff Orientation; (7) Instruction of Students in advocating for and protecting themselves; (8) Access to Records; and (9) Appropriate use of Emergency Interventions, Staffing Training, Documentation and parental notification.

In October 2016, SED conducted a monitoring review of the F.L. Chamberlain Residential School in Massachusetts following the August 2016 report issued by the Massachusetts Disability Law Center. SED issued a Compliance Assurance Plan in December 2016 regarding the lack of current Individual Education Programs (IEPs) for New York students placed at the F.L. Chamberlain School, lack of a policy for contacting the NYS Justice Center for reportable incidents involving New York students, and insufficient documentation of the use of emergency interventions. As of March 7, 2017, F.L. Chamberlain was in full compliance with the regulatory issues cited in the monitoring review by SED.

In 2017, SED plans to assess 47 residential schools, including 19 out-of-State schools, about their compliance with regulatory requirements. SED will conduct desk audits, and follow-up site visits or additional training as necessary.

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

On January 31, 2016, fifty local state and federal law enforcement agents carried out a search of The Eagleton School in Great Barrington, Massachusetts in response to reported student abuse by employees on the campus. This search led to five employees being arraigned on charges in connection with incidents in which students were allegedly abused. Four of the employees were charged with assault and battery of a disabled person, and one of these employees was charged with assault and battery with a dangerous weapon. A fifth employee faced charges of intimidating a witness and obstruction of justice. At the time of the search, there were five LDSS-placed youth at Eagleton.

On February 10, 2016, OCFS staff conducted a site visit to Eagleton School to receive an update on the current situation and check on the welfare of LDSS youth placed at Eagleton. Since OCFS' site visit, four of the staff involved have been fired, while one remained on suspension from Eagleton. After reviewing case records, interviewing youth and staff and meeting with Eagleton administration, OCFS staff determined that Eagleton School remains a safe environment for LDSS youth receiving placement services there. One of the recommendations made after the site visit was to receive regular updates from Eagleton School and the Massachusetts Department of Children and Families on the status of the investigation as this may dictate the future operation of Eagleton School.

In early March, OCFS was notified by the Massachusetts Department of Early Education and Care of sanctions and enforcement actions against Eagleton School. Based on this information, OCFS advised the LDSSs to locate alternative placements for youth placed at Eagleton. By April 2016, all LDSS youth placed at Eagleton had either been discharged or transferred to other residential programs.

During 2016, no desk reviews were conducted by OCFS of out-of-state residential facilities.

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 for the Protection of People with Special Needs provides New York with the strongest standards and practices in the nation for protecting the safety of adults and children with special needs. In addition to the Justice Center overseeing the care provided to vulnerable individuals in New York state-operated, certified or licensed facilities and programs, the Justice Center investigates allegations of abuse or neglect in out-of-state residential schools and programs in which a New York child or youth with a disability is placed. In response to such allegations, the Justice Center may conduct an independent investigation into a report of abuse or neglect and report its findings to the out-of-state facility, the placing entity and the funding agency.

The New York State Justice Center for the Protection of People with Special Needs Vulnerable Persons Central Register Hotline Number is: 1-855-373-2122; TTY: 1-855-373-2123. To learn more about the Justice Center, please visit their website at www.justicecenter.ny.gov.

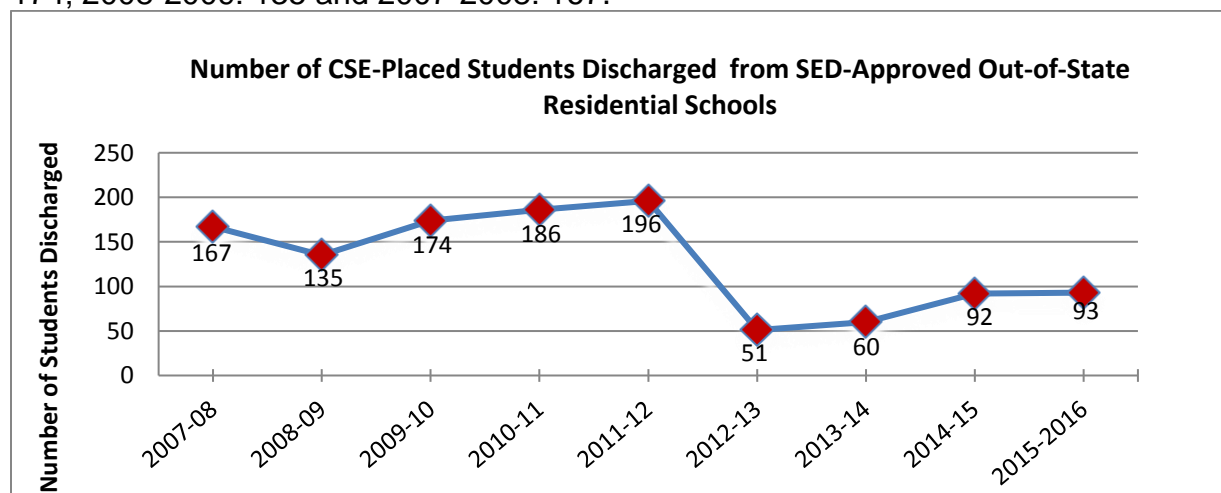
Development of a Registry of Out-of-State Facilities Where New York Children are Placed

Since 2005, when SED developed a registry of approved out-of-state schools, it has regularly updated this list. Similarly, OCFS maintains a list of out-of-state residential programs.

C. Data Collection and Surveys

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

During the 2015-16 school year, as reported to SED by out-of-state residential schools, a total of 93 children and youth were discharged from out-of-state residential schools. As illustrated below, in previous school years these numbers were as follows: 2014-2015: 92; 2013-14: 60; 2012-2013: 51; 2011-2012: 196; 2010-2011: 186; 2009-2010: 174; 2008-2009: 135 and 2007-2008: 167.



The following data are reported by SED for all students returning from out-of-state local public school district Committee on Special Education (CSE) placements during the September 2015 to June 2016 school year. (Note: Two out-of-state schools did not respond to SED for end of school year 2016 data – Crotched Mountain in New Hampshire and Latham School in Massachusetts.)

**All New York State Students Discharged
from Out-of-State Schools
June 30, 2016**

(Where youth went upon discharge as reported by Out-of-State Schools)

In-State Public School	24
In-State Private School.....	12
Aged Out of School (students who reached 21 years of age without a diploma)	10
Graduated from School (students between the ages of 18 - 21, who received their diploma).....	21
Home Instruction – (medical)	1
Psychiatric Center, Developmental Center, Correctional Facility	2
Other Out-of-State Program (e.g., wilderness program)	14
Dropped Out of School	5
Moved	4
Total	93

The following data are reported by OCFS for local departments of social services' youth discharged from out-of-state residential placements from January 1, 2016 through December 31, 2016.

**All New York State Local Departments of Social Services
Youth Discharged from Out-of-State Residential Placements
January 1, 2016 through December 31, 2016**

Discharges	2016
Reunification with Family	15
Exit to Relative	1
Reach Age of Majority	3
Permanency Resource	0
Absent without Leave	0
Other Out-of-State Program (e.g., transfer to a correctional facility)	0
Transfer to Another State Agency	8
Total	27

Children and Youth Profiles and Surveys

The State Education Department continues to use student profiles as part of the process for local public school 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, local public 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 are reported by SED regarding students with disabilities for all out-of-state student placements made by local public school districts from 2009 to 2016.

Disability	2009-10 (as of 12/01/09)	2010-11 (as of 12/01/10)	2011-12 (as of 12/01/11)	2012-13 (as of 12/01/12)	2013-14 (as of 12/01/13)	2014-15 (as of 12/01/14)	2015-16 (as of 12/01/15)	2016-17 (as of 12/01/16)
Autism	162	138	119	115	94	106	113	110
Deafness	31	25	20	17	9	10	8	9
Emotional Disturbance	136	137	88	110	111	112	145	125
Learning Disability	6	7	3	2	2	1	2	2
Intellectual Disability	42	59	44	23	11	10	10	9
Multiple Disabilities	102	77	58	48	62	54	51	56
Speech Impairment	0	0	0	0	0	1	1	0
Traumatic Brain Injury	6	3	2	2	3	4	2	4
Visual Impairment	0	2	2	1	2	1	1	1
Other Health Impairment	33	24	16	16	12	18	18	20
Deaf/Blind	1	0	2	2	5	3	4	4
Orthopedically Impaired	1	3	0	0	0	0	0	0
Hearing Impaired	0	2	1	0	0	2	1	1
Total	520	477	355	336	311	322	356	341

The State Education Department analyzed data from student profiles submitted with the applications for placements in Approved Out-of-State Residential Schools (OOS) and found that the majority of students in such placements are classified with autism,

multiple disabilities and emotional disturbance. Data below are based on 341 residential student profiles for OOS (as of December 1, 2016).

Students with Disabilities in Out-of-State Education Programs and Schools²

APPROVED OUT-OF-STATE RESIDENTIAL SCHOOLS

(Total number of youth: 341).

APPROVED OUT-OF-STATE RESIDENTIAL SCHOOLS (Total number of youth: 341)		
GENDER	NUMBER	PERCENTAGES
Male	237	70%
Female	104	30%

AGE RANGE	NUMBER	PERCENTAGES
18 – 21 Years	173	51%
16 – 17 Years	82	24%
15 Years and Younger	86	25%

COUNTY REGIONS	NUMBER	PERCENTAGES
New York City	208	61%
Long Island	41	12%
Hudson Valley/ Rockland	59	17%
Capital Region	21	6%
Central/Western New York	12	4%

OCFS did not send out Youth Profile surveys in 2016 to out-of-state residential programs for New York State youth placed by LDSS.

D. In-State Residential Bed Development

In the past, capacity-building efforts were designed to prevent NYS children and youth from being sent to out-of-state schools and residential programs and to enable those New Yorkers placed out-of-State to return to New York. The number of Children's

²Data as reported by Committees on Special Education (CSE's) to the State Education Department in a student's Out-of-State Placement Application for State Aid Reimbursement of Tuition Costs.

Residential Project opportunities in New York State remains at 492, with no further expansion occurring in 2016. (Children's Residential Projects are residential school programs in which OPWDD funds the residential supports and SED funds the educational component.)

While the Interagency Plan resulted in enhancements to the in-state systems of care for children and youth at-risk of out-of-state placements, shared concerns remain among the State agencies regarding the number of young adults (age 21 and over) who occupy out-of-state and in-state school residential beds that are authorized for school-age children, youth and young adults (up to the age of 21). Specifically, the residential placements of children, youth and young adults with complex multi-systemic needs – including those with educational classifications, behavioral challenges, mental health needs, dual diagnoses (mental health/developmental disabilities) and sexualized behaviors – continues to impede the placement process, creating additional stressors on the in-state systems of care, particularly for the age 21 and over young adult population.

Reduction of Out-of-State Placements due to Several State Agency Initiatives

In March 2015, SED issued annual guidance to the field regarding local public school districts' responsibility to submit timely and complete applications, as prescribed in section 200.6(j) of the Regulations of the Commissioner of Education, for approval of State reimbursement of tuition costs for placements of students with disabilities in out-of-state approved residential schools. SED continues to closely review all out-of-state placement applications for private school tuition to assure that regulatory timelines are met and that school districts consider appropriate in-state placement options before placing a student out-of-state. SED also continues to provide technical assistance to school districts regarding the residential placement process and assists districts, as needed, to identify potential residential programs for students who, because of their needs, are more difficult to place. In addition, SED's website continues to provide links to each approved private school so that school districts can easily obtain information to assist in the referral and placement process.

In 2016, SED and OPWDD continue to work together, with the shared goal of reducing the need for out-of-state residential placements. OPWDD continues to work with the local public school districts so that individuals who may be at risk of being referred to out-of-state residential schools can be identified early so that OPWDD can provide wrap-around services that help stabilize the student and prevent a referral. START, a crisis intervention service introduced by OPWDD, has helped families learn more effective means of caring for individuals with behavioral challenges, and thus prevent referrals to residential schools.

OPWDD also continues to identify and develop appropriate opportunities for individuals who remain at residential schools. In 2016, OPWDD implemented a new initiative allowing in-state schools the option to develop adult service opportunities for the students they serve, thereby increasing opportunities for ensuring that adult service opportunities are available sooner, and maintaining New York students in-state while reducing referrals to out-of-state residential schools. In 2017, OPWDD plans to have four regional offices participate in a Letter of Intent (LOI) process with residential school providers. The LOI process will identify residential school providers for developing adult

services for students. OPWDD will issue the LOI to in-state residential school providers for the student graduates they identify for school years 2018 through 2021. This was issued to in-state schools for the 2018 through 2021 student graduates. In-state residential schools are in the process of identifying these individuals.

In addition, OPWDD provides annual trainings to voluntary providers to ensure they are prepared to serve adults with significant challenges. These trainings reinforce the expectations and timeframes for service development for this population.

OPWDD continues to provide 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 monitor closely provider agencies' progress in developing adult service opportunities to ensure services are developed expediently and to provide technical assistance as needed.

The number of individuals who transitioned from residential educational settings to OPWDD services in 2014, 2015 and 2016 are as follows:

Residential Education Programs	Number of Individuals Transitioned to OPWDD Adult Services in 2014	Number of Individuals Transitioned to OPWDD Adult Services in 2015	Number of Individuals Transitioned to OPWDD Adult Services in 2016
In-State (including Children's Residential Project, Residential Treatment Center and Residential Treatment Facility programs)	150	139	165
Out-of-State	53	32	50
Total	203	171	215

Note: In 2016, twenty-two individuals who were referred to OPWDD from educational programs were found to be ineligible for OPWDD services, and 30 individuals declined OPWDD supports.

As of December 31, 2016, OPWDD is aware of 242 OPWDD-eligible individuals who remain at residential education programs after completion of their school-age education program. This is an increase of 22 individuals from 2015. Residential education programs include: in-state and out-of-state residential school programs, Children's Residential Projects, Residential Treatment Facilities and Residential Treatment Centers. While the number of individuals who remain at residential schools after completing their education programs increased in 2016, there were more individuals eligible for OPWDD services that completed their educational program this past year. OPWDD's database shows that 249 individuals completed their educational programs at residential schools in 2016 as compared to 242 in 2015 and 232 in 2014.

The number of individuals who remain at each type of school-age education settings are illustrated below:

Type of School-Age Residential Education Programs	Number of Individuals who remain after completing their education program (2014)	Number of Individuals who remain after completing their education program (2015)	Number of Individuals who remain after completing their education program (2016)
In-State Residential School	47	53	73
Out-of-State Residential School	89	99	93
CRP	40	54	57
RTF/RTC	8	14	19
Total	184	220	242

OPWDD will continue to work with individuals who remain at residential education programs to assist with their transition to adult services. Many of these individuals are connected with new development opportunities that will be available in 2017. Currently, OPWDD is actively planning with students who will end their educational programs in 2017 and 2018.

Conclusion

The New York State Council on Children and Families will continue to work with the State Education Department, the Office of Children and Family Services, the Office for People With Developmental Disabilities and the Justice Center for the Protection of People with Special Needs to monitor out-of-state residential placements for New York's children, youth and young adults.

Working in collaboration with these state agencies, the Council will continue to review the profiles of children, youth and young adults placed in out-of-state residential programs and schools towards the goal of collecting more uniform and comprehensive data regarding the multi-systemic and complex needs of this population. The Council will also work with state agencies and family and youth leaders to explore capacity-building opportunities for in-state services based on the complex and multi-systemic needs of the children, youth and young adults requiring residential services.

As in past years, through the Council's interagency work with state agencies, along with its ongoing work with family and youth partners, the Council will continue to review the trends and patterns of children, youth and young adults with multi-systemic needs requiring residential services to assure that state policy and practices continue for considering and exhausting all in-state placement options and opportunities.