

Out-of-State Placement Committee

2017 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 2017 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.

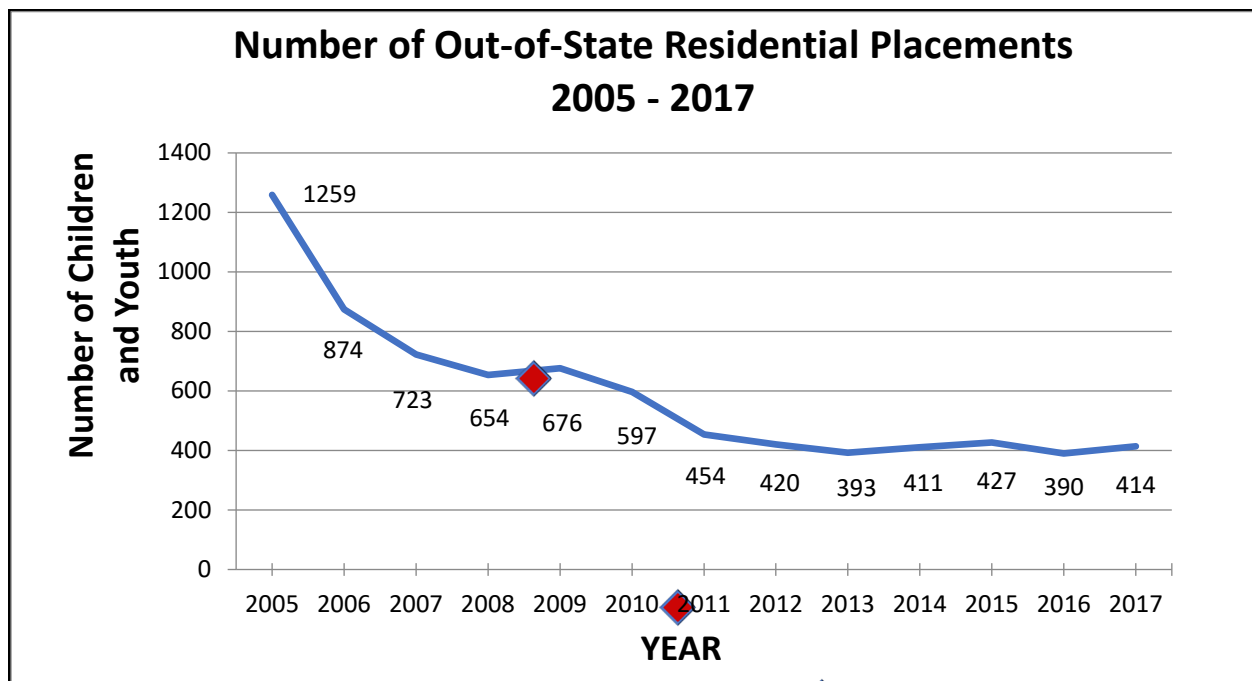
As of December 1, 2017, there were 414 New York children and youth placed in out-of-state residential schools and programs. This represents a 6 percent increase (24 children and youth) from 2016. Since the issuance of the first Out-of-State Placement report in 2005, out-of-state placements have been reduced from 1,259 children and youth to 414 children and youth: a reduction of 67 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 New York State Education Department Non-district Unit (NDU) and the Office of Children and Family Services Out-of-State Placement Oversight Office

From 2016 to 2017, local public school districts increased out-of-state placements by 3 percent and local departments of social services increased out-of-state placements by 26 percent. Specifically, of the 414 children and youth in out-of-state and residential placements, as of December 1, 2017, 352¹ were placed by local school districts and 62 by local departments of social services (LDSS). Overall, as illustrated below, since 2005 there has been a 67 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, 2017 for the 2016-17 school year.



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 Non-district Unit (NDU) is responsible for overseeing all approved in-state and out-of-state residential schools.

The comprehensive review protocol that NYSED developed in 2015 for approved private day and residential programs continued in 2017. 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”). The program initiative to develop a self-assessment protocol for schools to assess their status with Part 200.15 of the Justice Center requirements has been modified. Rather, the existing comprehensive day and residential review protocol includes an in-depth component on Part 200.15 requirements. The Non-district Unit has provided all NYS 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.

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

In 2017, NYSED conducted monitoring reviews of three out-of-state residential schools: Woods Services (Pennsylvania), Hillcrest Highpoint (Massachusetts) and Latham Center (Massachusetts). Noncompliance issues for each residential school are summarized. In all cases, the out-of-state residential schools corrected all areas of noncompliance and concern.

In January-February 2017, NYSED conducted a monitoring review of Woods Services in Pennsylvania as a result of information brought to the attention of NYSED by Disability Rights New York. NYSED issued a report and Compliance Assurance Plan on March 24, 2017 regarding the

areas of noncompliance: behavioral intervention plans, time out rooms, documentation of emergency interventions, and policies, practices and procedures related to the protection of students in residential programs. ***Woods Services was in full compliance for the regulatory items cited as of August 18, 2017.***

In March 2017, NYSED conducted a comprehensive review of Hillcrest's Highpoint site in Massachusetts. NYSED issued a report and Compliance Assurance Plan on March 12, 2018 regarding the areas of noncompliance: behavioral intervention plan components and progress monitoring, documentation of emergency interventions and written procedures for the protection of students. ***Hillcrest Highpoint was in full compliance for the regulatory items cited as of July 6, 2018.***

In July-August 2017, NYSED conducted a comprehensive review of Latham Center in Massachusetts. NYSED issued a report and Compliance Assurance Plan on January 26, 2018 regarding the areas of noncompliance: behavioral intervention plan components and progress monitoring, policies and procedures for the use of a time out room, documentation of emergency interventions and code of conduct components. ***Latham Center was in full compliance for the regulatory items cited as of September 19, 2018.***

In November 2017, NYSED conducted a multi-state agency visit to Woods Services in Pennsylvania as a result of a report issued by Disability Rights New York in October 2017 regarding the school. NYSED issued a report and Compliance Assurance Plan on December 13, 2017 regarding documentation of emergency interventions. The due date to resolve noncompliance was July 28, 2018 and the corrective action required Woods to submit monthly documentation of emergency interventions for all New York State students enrolled at the school through June 2018. ***Woods Services was in full compliance for the regulatory item cited as of July 20, 2018.***

In addition to the regulatory noncompliance, NYSED also issued to Woods Services a letter of findings on December 12, 2017 for the following 6 areas of concern: teacher aides not engaging with the students; lack of school-wide positive behavioral intervention and supports system; some residences continuing a past practice of residents remaining in bedrooms during the 3:00-4:00 pm shift change; physical plant issues (which were addressed while NYSED was on site or immediately following); some staff not recalling information they received during orientation on the Justice Center reporting requirements; and need for a contingency plan when its bus/van drivers are absent. ***Woods Services satisfactorily addressed all 6 areas of concern as of March 30, 2018.***

Note: On May 30, 2018, NYSED hosted an interagency meeting with Woods' President and CEO and other Woods administrative leaders. Woods provided an overview of its Quality Improvement and Compliance Plan to address the issues NYSED identified in November 2017 and its long-term Strategic Directions and Transformation Plan. NYSED conducted a site visit on July 17-19, 2018 to verify correction of noncompliance of documentation of emergency interventions and to ensure that the 6 areas of concern continued to be satisfactorily addressed. For the 6 areas of concern, the area specific to staff training on the Justice Center reporting requirements was identified as a continued area of need since some "front-line" staff interviewed were not clear in the reporting requirements for New York State students. All supervisors interviewed were clear in the reporting requirements. Woods revised its orientation materials for use beginning August 2018 to provide greater clarity in reporting requirements for New York State students.

In September-October of 2018, NYSED will conduct a comprehensive program review of Woods Services.

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

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

OCFS is responsible for providing oversight and support to agencies providing foster care services to children and their families. As required by Social Services Law section 483-d, which calls for increased oversight of out-of-state residential facilities, the OCFS Division of Child Welfare and Community Services (CWCS), conducts periodic reviews of out-of-state agencies where New York State foster care youth are placed by local departments of social services (LDSSs).

In response to a report generated by Disability Rights New York in October 2017, which alleged abuse and neglect of youth placed at Woods Services located in Pennsylvania, OCFS mandated immediate on-site visits to all out-of-state residential programs where OCFS youth were placed. The purpose of the on-site visits was to assess the safety and well-being of youth placed in the out-of-state residential programs.

In November 2017, OCFS conducted site visits to determine out-of-state residential programs compliance with NYS regulations and good standards of practice towards achieving positive outcomes for children and their families. While on site, OCFS reviewed policies related to staff training, use of restraints, investigations and reporting of restraints/abuse or significant incidents, and case records of all LDSS youth placed at each facility. The review also included a walk-through of the physical plant, interviews with administration, staff, and all LDSS placed youth, along with observation of the school and residential facilities. Recommendations were made as warranted.

OCFS conducted on-site visits to the following out-of-state residential programs:

- Woods Services – Langhorne, PA
- Foundations Behavioral Health – Doylestown, PA
- KidsPeace – Orefield, PA
- Hillcrest Educational Center – Great Barrington, MA
- Adelphoi Village – Latrobe, PA
- Harbor Creek Youth Svs. Residential Treatment Program – Harbor Creek, PA
- Stetson School – Barre, MA
- Whitney Academy – East Freetown, MA
- Glen Mills School, Glen Mills, PA

Overall, there were no health or safety concerns noted at any of these out-of-state residential programs.

During the month of December 2017, OCFS staff conducted desk reviews of all LDSS out-of-state placed youth. OCFS assessed the activity and progress notes in CONNECTIONS (OCFS system of record). LDSS caseworkers were contacted to confirm youth placement in the out-of-state residential programs.

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 its website at www.justicecenter.ny.gov.

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

Since 2005, when NYSED developed a registry of approved out-of-state schools, it has regularly updated this registry.

The OCFS Oversight and Monitoring Unit maintains a database which contains a list of all LDSS out-of-state youth. 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 out-of-state residential program is located.

C. Data Collection and Surveys

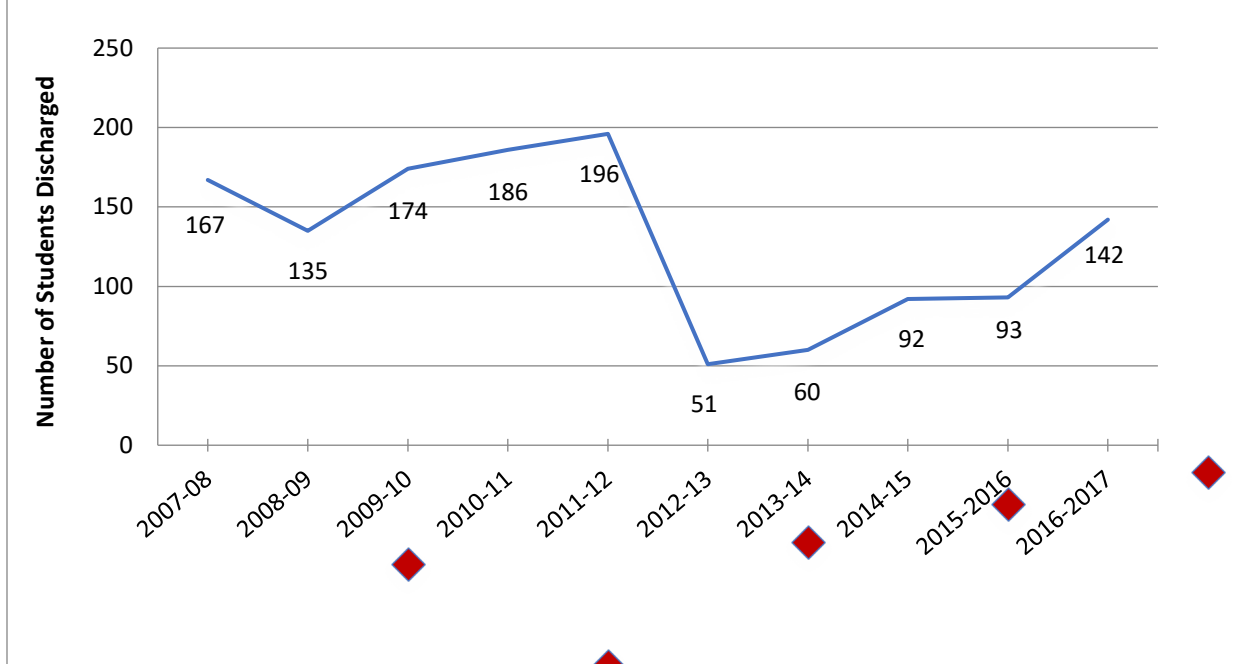
Children and Youth Discharged from Out-of-State Residential Schools and Programs

NYSED collects data from approved out-of-state residential schools for all students returning from out-of-state who were placed by the local public school district Committee on Special Education (CSE). All out-of-state residential schools responded to NYSED for end of school year 2017 data.

During the 2016-17 school year, as reported to NYSED by out-of-state residential schools, a total of 142 children and youth were discharged from out-of-state residential schools.

As illustrated below, in previous school years these numbers were as follows: 2015-16: 93; 2014-2015: 92; 2013-14: 60; 2012-2013: 51; 2011-2012: 196; 2010-2011: 186; 2009-2010: 174; and 2008-2009: 135. and 2007-2008: 167.

Number of CSE-Placed Students Discharged from SED-Approved Out-of-State Residential Schools



All New York State Students Discharged from Out-of-State Residential Schools June 30, 2017

NYSED collects data from approved out-of-state residential schools for all students returning from out-of-state who were placed by local public school district CSE's. All out-of-state residential schools responded to NYSED for end of school year 2017 data.

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

| | |
|---|------------|
| In-State Public School | 24 |
| In-State Private School..... | 26 |
| Aged Out of School (students who reached 21 years of age without a diploma) | 29 |
| Graduated from School (students between the ages of 18 - 21, who received their diploma)..... | 28 |
| Home Instruction – (medical) | 2 |
| Psychiatric Center, Developmental Center, Correctional Facility | 3 |
| Other Out-of-State Program (e.g., wilderness program) | 7 |
| Dropped Out of School | 11 |
| Moved | 12 |
| Total | 142 |

The following data are reported by OCFS for all LDSS children and youth discharged from out-of-state residential placements from January 1, 2017 through December 31, 2017. In 2017, there were a total of 21 children and youth discharged from Out-of-State Residential Placements.

**All New York State Local Departments of Social Services
Children and Youth Discharged from Out-of-State Residential Placements
January 1, 2017 through December 31, 2017**

| Discharges | 2017 |
|--|-------------|
| Reunification with Family | 13 |
| Exit to Relative | 1 |
| Reach Age of Majority | 1 |
| 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 | 6 |
| Total | 21 |

Children and Youth Profiles and Surveys

NYSED continues to use student profiles as part of the application process for local public school districts to apply 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 NYSED 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 NYSED regarding students with disabilities for all out-of-state student placements made by local public school districts from 2009 to 2017.

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

NYSED analyzed data from student profiles submitted with the applications for placements in approved out-of-state residential schools and found that the majority of students in such placements are classified with autism, multiple disabilities and emotional disturbance. Data below are based on 352 residential student profiles for out-of-state residential schools (as of December 1, 2017).

| 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) | 2017-18 (as of 12/1/17) |
|-------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|-------------------------------|
| Autism | 162 | 138 | 119 | 115 | 94 | 106 | 113 | 110 | 124 |
| Deafness | 31 | 25 | 20 | 17 | 9 | 10 | 8 | 9 | 5 |
| Emotional Disturbance | 136 | 137 | 88 | 110 | 111 | 112 | 145 | 125 | 136 |
| Learning Disability | 6 | 7 | 3 | 2 | 2 | 1 | 2 | 2 | 0 |
| Intellectual Disability | 42 | 59 | 44 | 23 | 11 | 10 | 10 | 9 | 10 |
| Multiple Disabilities | 102 | 77 | 58 | 48 | 62 | 54 | 51 | 56 | 57 |
| Speech Impairment | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 1 |
| Traumatic Brain Injury | 6 | 3 | 2 | 2 | 3 | 4 | 2 | 4 | 2 |
| Visual Impairment | 0 | 2 | 2 | 1 | 2 | 1 | 1 | 1 | 0 |
| Other Health Impairment | 33 | 24 | 16 | 16 | 12 | 18 | 18 | 20 | 14 |
| Deaf/Blind | 1 | 0 | 2 | 2 | 5 | 3 | 4 | 4 | 3 |
| Orthopedically Impaired | 1 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Hearing Impaired | 0 | 2 | 1 | 0 | 0 | 2 | 1 | 1 | 0 |
| Total | 520 | 477 | 355 | 336 | 311 | 322 | 356 | 341 | 352 |
| | | | | | | | | | |

² Data as reported by CSE's to NYSED in a student's Out-of-State Placement Application for State Aid Reimbursement of Tuition Costs.

APPROVED OUT-OF-STATE RESIDENTIAL SCHOOLS (Total Number of Youth: 352)

| GENDER | NUMBER | PERCENTAGES |
|---------------|---------------|--------------------|
| Male | 242 | 70% |
| Female | 110 | 30% |

| AGE RANGE | NUMBER | PERCENTAGES |
|----------------------|---------------|--------------------|
| 18 – 21 Years | 174 | 49% |
| 16 – 17 Years | 88 | 25% |
| 15 Years and Younger | 90 | 26% |

| COUNTY REGIONS | NUMBER | PERCENTAGES |
|--------------------------|---------------|--------------------|
| New York City | 214 | 61% |
| Long Island | 42 | 12% |
| Hudson Valley/Rockland | 48 | 14% |
| Capital Region | 39 | 11% |
| Central/Western New York | 9 | 2% |

OCFS collected youth profile information on youth placed out-of-state by local departments of social services. Information was collected on the primary reasons for the need for out-of-state placements, length of time in care and current permanency plans for children and youth.

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 Residential Project opportunities in New York State remains at 492, with no further expansion occurring in 2017. (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 continued in 2017 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 – continued to impede the placement process, creating additional stressors on the in-state systems of care. This was reported in 2016 and continued to be problematic in 2017. This ongoing situation limits the amount of available in-state residential placement options for children and youth and creates fiscal viability concerns for several in-state residential schools and programs.

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

NYSED continues to provide technical assistance to school districts regarding the residential placement process. This is done by issuing annual guidance to the field, providing technical assistance to school districts, and providing information on NYSED's website. In April 2017, NYSED issued annual guidance to the field regarding the responsibility of local 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 application is 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 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. Upon request, NYSED's Non-district Unit provides technical assistance to school district CSE's to identify potential residential programs for students who, because of their needs, are more difficult to place. 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 2017-18, NYSED was part of a multi-state agency initiative to expand the residential programming at Baker Victory Services and Berkshire Union Free School District (UFSD) to serve students with more severe behaviors and mental health profiles. The goal for both programs is to enhance the in-state capacity so that students do not need to be placed out-of-state. For Baker Victory Services, OMH created and certified a new Residential Treatment Facility (RTF) model for 12 students that are also OPWDD eligible. For Berkshire UFSD, working with OMH, the school can serve 20 new students with more significant mental health needs. On May 3, 2018, OCFS certified the residences for Berkshire's new residential model. SED developed rate appeal packages for both programs to enhance staffing for meeting the needs of students in the school.

The 2017-18 enacted State budget provided NYSED with funding to develop a data management system which will be used to track student placement information and enrollment data for students placed in both in-state and out-of-state schools. This system will enable NYSED to have better and more current information for oversight efforts and work to increase in-state program capacity to reduce out-of-state placements. The creation of the data management system is contingent on further funding and NYSED will continue to pursue available opportunities to request State funding for this purpose.

In 2017, NYSED and OPWDD continued to work together, with the shared goal of reducing the need for out-of-state residential placements. OPWDD also continues to work with the local public school districts to identify individuals early who may be at risk of being referred to out-of-state residential schools so that OPWDD can provide wrap-around services to help stabilize the students and prevent the need for such referrals. The NYSTART (Systemic, Therapeutic, Assessment, Resources and Treatment) Program is a crisis intervention service introduced by OPWDD that provides community-based supports for people with developmental disabilities and behavioral health needs. This program has helped families learn more effective means of caring for their children with behavioral challenges, as well as helped 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, that

were approved OPWDD adult service providers, the option to develop day and residential adult service opportunities for the students they serve. With this initiative, OPWDD hoped to ensure that adult service opportunities were available sooner, thus freeing up in-state residential school opportunities for students who need them. In 2017, the in-state residential schools, that were also approved OPWDD adult service providers, identified students who would be aging out over the next few years and who would need adult services. OPWDD regional staff worked with the residential schools to provide technical assistance and to help ensure homes were ready close to the students' graduation dates.

In 2017, four of OPWDD's regional offices participated in a Letter of Intent (LOI) to identify provider agencies to develop adult services for individuals who would be completing their education between 2018 and 2021, and who were not selected by the schools for adult service opportunities. Through this LOI, providers were identified and regional staff worked with the selected providers to find cohorts of individuals for whom the providers would develop adult service opportunities and then assisted the providers in developing these opportunities.

OPWDD continued to provide training to voluntary providers to ensure that they were prepared to serve adults with significant challenges. These trainings 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 in 2015, 2016 and 2017 are as follows:

| Residential Education Programs | Number of Individuals Transitioned to OPWDD Adult Services in 2015 | Number of Individuals Transitioned to OPWDD Adult Services in 2016 | Number of Individuals Transitioned to OPWDD Adult Services in 2017 |
|---|---|---|---|
| In-State (including Children's Residential Project, Residential Treatment Center and Residential Treatment Facility programs) | 139 | 165 | 173 |
| Out-of-State | 32 | 50 | 41 |
| Total | 171 | 215 | 214 |

Note: In 2017, seven individuals who were referred to OPWDD from educational programs were found to be ineligible for OPWDD services, and 12 individuals declined OPWDD supports.

As of December 31, 2017, OPWDD had 260 OPWDD-eligible individuals who remained at residential education programs after completion of their school-age education program. This is an increase of 18 individuals from 2016. 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 remained at residential schools after completing their education programs increased in 2016 and 2017, there were more individuals eligible for OPWDD services that completed their educational programs in these years.

The OPWDD database indicated that 250 individuals completed their educational programs at residential schools in 2017, and 249 completed their education programs 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 (2015) | Number of Individuals who remain after completing their education program (2016) | Number of Individuals who remain after completing their education program (2017) |
|--|---|---|---|
| In-State Residential School | 53 | 73 | 72 |
| Out-of-State Residential School | 99 | 93 | 92 |
| CRP | 54 | 57 | 63 |
| RTF/RTC | 14 | 19 | 33 |
| Total | 220 | 242 | 260 |

Note: the “Number of Individuals who remain” is the net number of individuals from the current and prior years who have completed their education and remain at the school minus the number of students who have left the school for adult service opportunities.

Conclusion

The New York State Council on Children and Families continues 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 collect information on out-of-state residential placements for New York’s children, youth and young adults.

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