

**Out-of-State Placement Committee  
2022 Annual Report (Revised) to the Governor and Legislature**

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



**Council on Children  
and Families**

KATHY HOCHUL  
Governor

VANESSA THREATTE  
Executive Director

# 2022 Out-of-State Placements Annual Report

## Introduction

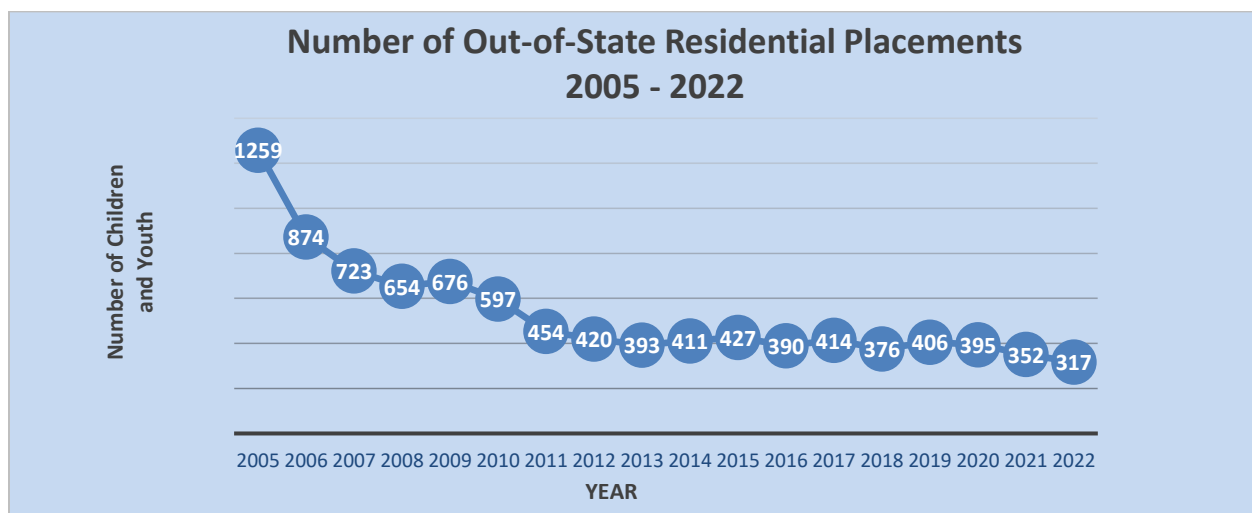
Annually, the New York State Council on Children and Families (CCF) submits a report on “out-of-state placements” of children and youth pursuant to New York State Social Services Law section 483-d. “Out-of-state placements” refer to the practice of children and youth with special and complex, multi-systemic needs being placed by local departments of social services (LDSSs) or by a Committee on Special Education (CSE) through local school districts in residential programs or residential schools outside of New York State. State agencies involved with placement planning and decisions work closely 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 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 by CCF, the number of New York children and youth placed out-of-state has been reduced dramatically: from 1,259 in 2005 to 317 in 2022. The trend of fewer children and youth being placed out-of-state continued over the last year, with 35 fewer children and youth placed in out-of-state residential placements (a reduction of 10 percent). Specifically, as of December 1, 2022, school districts decreased out-of-state placements by four percent (from 308 to 297 students) and LDSSs decreased out-of-state placements by 44 percent (from 55 to 31 students).

## 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 75 percent reduction in out-of-state residential placements of New York State children and youth by CSEs and LDSSs.



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

### **New York State Education Department (NYSED)**

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

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

In 2022, NYSED completed hybrid (on-site/desk audit) focused area program reviews (initiated in 2021) of two New York State approved out-of-state residential schools: The Perkins School (Massachusetts) and Whitney Academy (Massachusetts). NYSED also conducted a focused program review of one additional New York State approved out-of-state residential school in 2022: Legacy by Gersh at Crotched Mountain (New Hampshire). As described below, in response to the program reviews and identification of required corrective actions by NYSED, the programs addressed all concerns and were in full compliance with the regulatory items cited.

Perkins School in Massachusetts: From October 2021 through January 2022, NYSED conducted a focused review of the Standards for the Protection of Students in Residential Programs to review the program's policies, procedures, and practices to ensure the protection of New York State students from abuse, neglect, and other conduct that may jeopardize their health, safety, and welfare (consistent with the Protection of People with Special Needs Act of 2012). On January 25, 2022, NYSED issued a report which indicated the program's compliance based on this focused review.

Whitney Academy in Massachusetts: From June 2022 through October 2022, NYSED conducted a focused review in two areas (Behavioral Interventions and Suspensions) to review the program's policies, procedures, and practices to ensure students with disabilities receive appropriate behavioral supports and services to address behaviors that impede learning. On October 11, 2022, NYSED issued a report and a compliance assurance plan that identified the following areas of non-compliance: behavioral intervention plans and emergency interventions. In response, Whitney Academy took required actions to address and resolve identified areas of noncompliance and was in full compliance with the regulatory items cited as of December 18, 2022.

Legacy by Gersh at Crotched Mountain in New Hampshire: From July 2022 through August 2022, NYSED conducted a focused review, in the areas of Delivery of Special Education Programs and Services, to review the program's policies, procedures, and practices to ensure students with disabilities receive instruction to address their unique needs and access to the general education curriculum. On August 10, 2022, NYSED issued a report indicating that

the items associated with the focused review were in compliance.

In November 2022, New Hampshire's Department of Health and Human Services revoked Legacy by Gersh at Crotched Mountain's licensure due to health and safety violations in its residential program. As a result, Legacy by Gersh was removed from the list of New York State approved out-of-state school, and New York State students were placed in other approved private schools or remained (with NYSED approval) at Seven Hills Foundation, which acquired the Crotched Mountain school and filed an application with NYSED to become an approved out-of-state residential school. On November 18, 2022, NYSED issued an interim temporary conditional approval to Seven Hills Foundation and is finalizing review for conditional approval for the 2022-2023 school year.

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

Since 2021, the New York State Office of Children and Family Services (OCFS) has been implementing the Family First Prevention Services Act (FFPSA). This sweeping law is transforming New York State's foster care system by supporting interventions that promote foster placement with family or close friends (kin) rather than in group homes or institutions. The law also is reforming federal financing with the intention of keeping children safely at home, by allowing for investment in more preventative, evidence-based programs such as mental health, substance abuse, and parenting programs.

The FFPSA provisions also prioritize family-based family care over residential care by creating financial disincentives for placing children and youth in settings that are not family-based. Since October 2021, 154 programs statewide have been approved to be a "qualified residential treatment program" (QRTP). Among other services, QRTPs offer trauma-informed care and require family participation in treatment and family-based aftercare support for at least six months after discharge.

With respect to out-of-state residential programs, in 2022, OCFS reviewed the following programs:

- One program was designated as a QRTP by the state of location (Whitney Academy, Massachusetts).
- One program is "in the process" of becoming a licensed QRTP (Hillcrest, Massachusetts).
- Four agencies are not QRTPs. Three programs in Pennsylvania (Devereux, Kids Peace, and Universal Foundation Behavioral Health) and one program in New Hampshire (Legacy by Gersh at Crotched Mountain).

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

No health or safety concerns were found at any of these out-of-state residential programs. All agencies were found to have taken necessary precautions to address health and safety issues on campus related to the COVID-19 pandemic. The only issue noted by OCFS was

that one agency was not posting the required Justice Center for the Protection of People with Special Needs' posters. In response, OCFS provided new posters to the agency.

### **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 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**

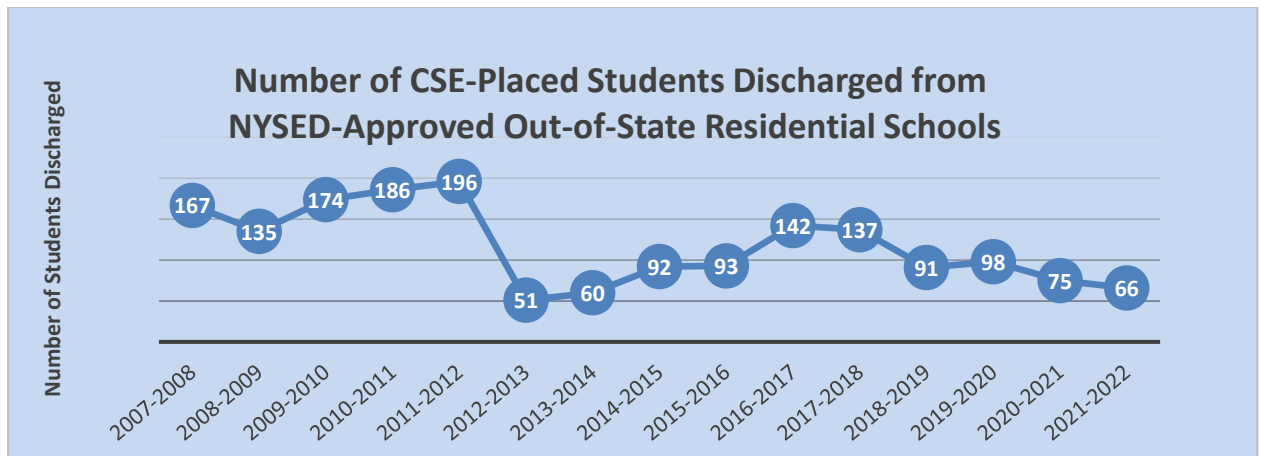
NYSED has a list of approved out-of-state schools published on its website, along with contacts for additional information: <https://www.nysed.gov/special-education/approved-out-state-programs>.

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.

## **B. Data Collection and Surveys**

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

NYSED collects data from approved out-of-state residential schools for students placed by their school district CSE who are returning from out-of-state residential schools. As reported to NYSED by all out-of-state residential schools, as of June 30, 2022, the chart below shows the total number of CSE-placed students discharged from NYSED-approved out-of-state residential schools for the 2021-2022 school year (66 students) and previous school years, followed by a breakdown of where the youth went upon discharge.



Where CSE-placed Youth Went Upon Discharge (as of June 30, 2022):

In-State Public School .....	13
In-State Private School.....	4
Aged Out of School .....	19
Graduated from School (students who received a diploma).....	11
Home Instruction – (medical) .....	7
Psychiatric Center.....	0
Developmental Center.....	0
Correctional Facility.....	0
Other Out-of-State Program (e.g., wilderness program).....	3
Dropped Out of School.....	4
Moved.....	5
Other.....	0
<b>Total.....</b>	<b>66</b>

Like NYSED, OCFS collects data for all LDSS children and youth discharged from out-of-state residential placements, but the total number is far fewer. During 2022, six children and youth were discharged from out-of-state residential placements. Below is a breakdown of where these children and youth went upon discharge from their out-of-state LDSS placements, as reported by the OCFS Bureau of Research, Evaluation and Performance Analytics (CONNECTIONS database, from January 1, 2022 through December 31, 2022).

Where LDSS Youth Went Upon Discharge (in 2022):

Reunification with Family .....	1
Exit to Relative .....	1
Reach Age of Majority .....	4
Permanency Resource .....	0
Absent without Leave .....	0
Other Out-of-State Program .....	0
Transfer to Another State Agency .....	0
<b>Total.....</b>	<b>6</b>

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

NYSED uses student profiles as part of the application process for school districts to apply for approval of state reimbursement of tuition costs for each student placed in an out-of-state residential school by the school district's CSE.<sup>1</sup>

The following data are reported to NYSED on students with disabilities for all out-of-state student placements made by CSEs from school years 2016-2017 through 2022-2023 (as of December 1 of each school year). As indicated, there has been a steady annual increase in the number of students identified with autism who have been placed out of state, while there has been a steady decrease in out-of-state placements of students identified with an emotional disability, and placements out-of-state for students identified with other disability terms have remained relatively unchanged.

<b>NEW YORK STATE STUDENTS CLASSIFIED BY DISABILITY, FROM SCHOOL YEARS 2016-2022</b>							
<b>Disability</b>	<b>2016-2017</b>	<b>2017-2018</b>	<b>2018-2019</b>	<b>2019-2020</b>	<b>2020-2021</b>	<b>2021-2022</b>	<b>2022-2023</b>
Autism	110	124	103	130	148	159	174
Deafness	9	5	5	9	9	7	12
Emotional Disability	125	136	134	101	90	67	42
Learning Disability	2	0	1	1	0	1	1
Intellectual Disability	9	10	8	11	14	15	13
Multiple Disabilities	56	57	50	51	52	39	36
Speech Impairment	0	1	0	0	0	0	0
Traumatic Brain Injury	4	2	1	1	1	0	0
Visual Impairment	1	0	0	0	0	0	1
Other Health Impairment	20	14	18	19	24	17	16
Deaf/Blind	4	3	2	3	2	3	2
Orthopedically Impaired	0	0	0	0	0	0	0
Hearing Impaired	1	0	0	0	0	0	0
<b>Total</b>	<b>341</b>	<b>352</b>	<b>322</b>	<b>326</b>	<b>340</b>	<b>308</b>	<b>297</b>

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

The following data are reported to NYSED on 297 student profiles placed in out-of-state residential schools as of December 1, 2022.

<b>NEW YORK STUDENTS, BROKEN DOWN BY GENDER, AGE AND COUNTY REGIONS</b>		
<b>Gender</b>	<b>Number</b>	<b>Percentage</b>
Male	215	72%
Female	81	27%
X	1	1%
<b>Age Range</b>	<b>Number</b>	<b>Percentage</b>
18 – 21 Years	127	43%
16 – 17 Years	86	29%
15 Years and Younger	84	28%
<b>County Regions</b>	<b>Number</b>	<b>Percentage</b>
New York City	150	51%
Long Island	38	12%
Hudson Valley/Rockland	47	16%
Capital Region	44	15%
Central/Western NY	18	6%

### **C. 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 April 2022, NYSED issued annual guidance to the field about the responsibility of school districts to submit timely and complete applications as prescribed in the 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: <https://www.p12.nysed.gov/specialed/applications/documents/2022-23-out-of-state-residential-placement-memorandum-and-attachments.pdf>.

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 a student is placed 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 educational needs, require a residential placement. In addition, NYSED’s website provides a link to the approved private out-of-state schools so that school districts can easily obtain information about potential appropriate residential placements to assist in the referral and placement process.

With the shared goal of reducing the need for out-of-state residential placements, in 2022, NYSED and the New York State Office for People with Development Disabilities (OPWDD) continued to work together, with CCF, 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.



In addition, other actions taken by OPWDD in 2022 included:

- Encouraging school districts to identify students early and alert OPWDD about students who may be at risk of being referred to out-of-state residential schools. Early identification enables OPWDD to assess the need for wrap-around services and supports for students to help prevent the need for out-of-home referrals.
- Continuing to implement the New York State Crisis Services for Individuals with Intellectual and/or Developmental Disabilities (CSIDD) 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 OPWDD 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 helps families learn more effective means of caring for their children with behavioral challenges, as well as helps prevent referrals to residential schools.
- Continuing to provide technical assistance to identify and develop appropriate opportunities for individuals who remain at residential schools to help ensure homes are 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 as OPWDD adult service providers) identify students who will be aging out over the next few years and need adult services.
- Issuing a new LOI to identify provider agencies to develop adult services for individuals who will be completing their education between 2025 and 2027 and who were not selected by the schools for adult service opportunities. Through this LOI, providers will be identified, and regional staff will work with these providers to find cohorts of individuals to develop adult service opportunities and assist in developing these opportunities.
- Continuing to provide technical assistance to voluntary providers to ensure that they are prepared to serve adults with significant challenges. This technical assistance reinforced the expectations and timeframes for service development for this population.
- Providing technical assistance and support to OPWDD regional offices and voluntary providers to facilitate and expedite the development of appropriate adult service opportunities. Regional offices have been trained to closely monitor provider agencies' progress in developing adult service opportunities to ensure that services are developed, and to provide technical assistance, as needed.

From 2019 through 2022, the chart below provides the number of individuals who transitioned from residential educational settings to OPWDD adult services.

Residential Education Programs	Number of Individuals Transitioned to OPWDD Adult Services			
	2019	2020	2021	2022
In-State (programs include CRPs, Residential Treatment Facilities, and Residential Treatment Centers)	161	183	188	148
Out-of-State	35	31	38	35
<b>Total</b>	<b>196</b>	<b>214</b>	<b>226</b>	<b>183</b>

As of December 31, 2022, OPWDD had 311 OPWDD-eligible individuals who remained at residential education programs (in- and out-of-state) after completing their school-age education programs. This is an increase of 30 individuals from 2021.

School-Age Residential Education Programs	Number of OPWDD-eligible Individuals who Remain After Completing their Education Program <sup>2</sup>			
	2019	2020	2021	2022
In-State Residential Schools	85	85	75	86
Children’s Residential Project	73	88	80	101
Residential Treatment Facility/Residential Treatment Center	23	23	22	22
Out-of-State Residential Schools	105	104	104	102
<b>Total</b>	<b>286</b>	<b>300</b>	<b>281</b>	<b>311</b>

## Conclusion

In the upcoming year, the New York State Council on Children and Families will continue to actively 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 Persons with Special Needs, to monitor out-of-state residential placements for New York State’s children and youth. CCF also will continue to promote and support collaborative approaches to help prevent unnecessary residential placements, both in-state and out-of-state. During 2023, CCF looks forward to continuing to work with regional and local service networks and family and youth partners to further strengthen the delivery of cross-systems services and supports for children and youth with complex needs, and their families.

<sup>2</sup> 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.