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Informational Letter

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To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Division of Child Welfare and Community Services
Date:	June 11, 2008
Subject:	Educational Considerations When Making Out-of-State Facility Placements
Suggested Distribution:	Directors of Social Services Child Welfare Supervisors Case Workers
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Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
			SSL§374-a		

I. Purpose

The purpose of this Informational Letter (INF) is to provide social services districts and applicable voluntary foster care agencies with a set of recommended questions pertaining to education when making out-of-state facility placements. The State Education Department (SED) is statutorily required to approve private out-of-state schools that serve children with disabilities referred for placements by local school district committees on special education (CSEs). A registry of these approved schools is available at www.vesid.nysed.gov/sedcar/schoollsts/outofstate.htm. This list does not cover the education programs of some out-of-state residential foster care or mental health facilities. Ideally, SED, local school districts or their CSEs would be available to assist social services districts in the process of evaluating the quality of the educational programs of such out-of-state facilities. However, such assistance is often limited. To help address this issue, the Office of Children and Family Services (OCFS) has worked collaboratively with SED to obtain a list of questions that can be used as an assessment tool when determining if the educational needs of children will likely be met in a facility licensed by another state.

II. Background

New York State (NYS) provides a broad array of residential services to children and families. However, some children have complex needs that may require placements in programs located outside New York when the necessary resources are not available within the state. In 2007, approximately 66 foster children were placed in out-of-state facilities by social services districts. These referrals for placement are made through the Interstate Compact on the Placement of Children (ICPC). Each out-of-state placement must be approved by the ICPC in the receiving state, i.e. the state where the facility is located. While the receiving state approves the placement based on a best interest test, as reflected in 08-LCM-01, the placing social services district needs to obtain a copy of the facility's license. In addition, the approval process by the receiving state does not include an individualized assessment of the compatibility of the facilities' programs with NYS foster care or education requirements or the individual needs of the referred child. The social services district is responsible for determining whether the placement is appropriate to meet the individual child's programmatic and educational needs.

Some children may stay in out-of-state facilities for a quite a while depending on their specific service needs. Upon discharge from the facilities, these children usually return to their home social services and school districts of origin in New York. Under SED regulations, it is within the discretion of the principal of the local school that such a child is seeking to enter to determine which credits earned at an out-of-state facility meet comparable NYS standards and will be accepted. It has been reported that in some cases, when

a child has returned to his or her home school district, the principal of the local school has determined that there were some educational deficits at the out-of-state facility that resulted in the child losing credits and having to redo a significant amount of work to catch up to grade level. These difficulties may have resulted from the out-of-state facility's educational program not complying with NYS standards in meeting the child's educational needs. In an attempt to reduce the cases where this occurs, OCFS asked SED to compile a list of education-related questions that social services district caseworkers could ask out-of-state facilities being considered as placement resources for a NYS child.

III. Program Implications

Before a decision is made to place a child in a facility that is licensed by another state, it is suggested that the social services district inquire about the facility's ability to provide educational services that are comparable to NYS standards. To assist caseworkers in this assessment, following is a list of questions, based on suggestions by SED, that may be discussed with a prospective out-of-state agency/facility:

1. What is your intake process for determining a student's current educational status (earned credit, courses taken, assessments completed, etc.)? Are you aware of the NYS Learning Standards and 8 NYCRR Part 100 (general education) course requirements? How does your program meet these standards and course requirements?
2. Do you offer 5½ hours of instruction at the secondary level (grades 7-12) and 5 hours at the elementary level?
3. What are the diploma opportunities for students placed at your agency? Can NYS students earn a state or Individual Education Plan (IEP) diploma from your state?
4. Does your program provide a way for NYS students to take the required NY State assessments, including Regents examinations if the student is pursuing a NYS diploma?
5. How do students complete all necessary coursework in order to be granted credits by their NYS school district? Are all of the credits your facility grants ordinarily accepted by NYS local public schools when the children return to NYS? If not, what types of credits were denied and what were some of the issues that have precluded the credits from being accepted?
6. What are your procedures for providing information to local school districts of residence on credits students have earned?
7. Are special education teachers and administrators certified?

8. In what manner and how often do you communicate with each child's local school district of residence?
9. For students with disabilities, how do you:
 - a. Obtain copies of the student's current Individualized Education Plans (IEPs) and any updates from the home school district;
 - b. Fully implement the IEPs including providing any related services; and/or
 - c. Refer the student back to the home school district if the IEP is not current?
10. How are students with disabilities in your program educated in the least restrictive environment to the maximum extent possible with students who do not have disabilities?
11. Does the license you have from your state education department authorize you to educate students with disabilities? (If so, please provide a copy of the license.)
12. What positive behavior management systems do you have in place as alternatives to physical restraint, suspension, and other punitive responses to negative behavior that are coordinated across the school and residential components of your facility?

These questions are intended as a guide to social services districts and voluntary foster care agencies in doing basic evaluations of the educational programs of out-of-state residential facilities to try to determine the adequacy of the programs and the likelihood that credits earned at those facilities will be transferable to NYS when children return home. Whenever practicable, social services districts and voluntary agencies should attempt to enlist the assistance of local school districts and CSEs in performing such evaluations, as the local school authorities most likely will have a higher level of expertise in reviewing and evaluating whether the educational programs meet NYS standards. They also will determine whether any credits from the out-of-state facility will be accepted when the children return home.

Any questions related to this INF should be directed to the OCFS Regional Directors listed as contact persons on the cover page.

/s/ Laura Velez

Issued By:

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