



May 2019

To: District Superintendents
Superintendents of Public Schools
Public School Administrators
Executive Directors of Approved Private Schools
Directors of Special Education
Chairpersons of Committees on Special Education
Organizations, Parents and Individuals Concerned with Special Education

From: Christopher Suriano

Subject: Placements of Students with Disabilities in Approved Out-of-State Residential Schools

The purpose of this memorandum is to provide updated policy, procedures, and forms relating to a public school district's responsibility to submit timely and complete applications, as prescribed in section 200.6(j) of the Regulations of the Commissioner of Education (8 NYCRR¹), for approval of State reimbursement of tuition costs for placements of students with disabilities in out-of-State approved residential programs. **This memorandum supersedes the June 2018 guidance issued on this topic.**

In accordance with these procedures, the Commissioner or a designee must make a determination of approval of State assistance for instruction of all public school students placed in approved private schools, including out-of-State programs. Approval of the System to Track and Account for Children (STAC) form is necessary to ensure timely State reimbursement of tuition costs to the public school and to provide the necessary authorization to municipalities to pay their portion of maintenance costs for a student's placement in a residential school. Failure to follow the procedures outlined in this memo may result in denial of all or a portion of State reimbursement of tuition costs.

Important policy and procedural information on the following topics is included in this memorandum:

- I. Interagency Services for Students at Risk of Placement or Placed in a Residential School
 - Students at Risk of Residential Placement
 - Transition Services and Adult Service Planning
- II. Initial Applications for Private School Residential Placements
- III. Reapplication Process for Placement of Students in Out-of-State Residential Schools
 - Out-of-State Residential Placement Reapplication Requirements
 - Application Submission Information

¹ 8 NYCRR refers to Title 8 of the New York Code of Rules and Regulations

- IV. Notification of Approval or Denial of State Reimbursement of Tuition Costs
- V. Referral and Placement Processes
- VI. Sharing of Student Records
- VII. Placement of Students with Disabilities in Children's Residential Project (CRP) Programs
- VIII. Technical Assistance

Please share this memorandum with staff responsible for the residential placements of students and others responsible for preparing application materials for State reimbursement of tuition costs.

I. Interagency Services for Students at Risk of Placement or Placed in a Residential School

Students at Risk of Residential Placement:

The decision that a student needs an educational placement in a residential school, either in or out of State, must be based on the committee on special education's (CSE) determination that there is no appropriate nonresidential school available to meet the educational needs of the student. Pursuant to Chapter 600 of the Laws of 1994, the New York State Education Department (NYSED) developed considerations for determining that a student is at risk of a residential school placement. State law and regulations require the school district to identify needed support services that may help families maintain children in their own homes and communities, and avoid placement in residential care, for as long as possible. School districts have an important role in working with other child care systems to collaboratively address the needs of children and their families. For additional information, see Attachment 1, Question 1 and Attachment 2.

For each student at risk of a residential school placement, the CSE must:

- provide information to the parent on community support services that may be available to the family; and
- with the consent of the parent (or consent of a student 18 years of age or older), invite the appropriate county or State agency to participate in CSE meetings concerning the appropriateness of a residential placement and other programs and placement alternatives.

Each application for private school tuition reimbursement for the 2019-20 school year requires the school district to provide, for each student recommended for initial placement in residential care, written assurance² that it has:

- sought parental consent (or consent of a student 18 years of age or older) to invite county or State agency representatives to the CSE meeting to make recommendations concerning the appropriateness of a residential placement and other programs and placement alternatives. (For students in a foster care placement, the local social services district must be notified when a student is determined to be at risk of a residential placement.)

² See [Guide to Online Entry of Private Placement Certification Data](http://www.oms.nysed.gov/stac/stac_online_system/online_instructions/guide_DCERT.pdf) (http://www.oms.nysed.gov/stac/stac_online_system/online_instructions/guide_DCERT.pdf).

- written assurance that it has, upon receipt of parental consent (or consent of a student 18 years of age or older), invited other agency representative(s) to participate in the CSE meeting.

Transition Services and Adult Service Planning:

To ensure appropriate transition planning and timely adult service planning for students who are at risk of or who are placed in residential schools, the school district must also:

- with the consent of the parent (or consent of a student 18 years of age or older), invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services to a CSE meeting when the purpose of the meeting is to consider postsecondary goals and transition services [see 8 NYCRR section 200.4(d)(4)(i)(c)];
- notify and invite a representative from the [Office of Mental Health](http://www.omh.ny.gov) (www.omh.ny.gov), [Office for People with Developmental Disabilities](http://www.opwdd.ny.gov) (OPWDD) (www.opwdd.ny.gov), or NYSED's [Office of Adult Career and Continuing Education Services-Vocational Rehabilitation](http://www.acces.nysed.gov) (ACCES-VR) (www.acces.nysed.gov), with the consent of the parent (or a student 18 years of age or older), to participate in the development of adult service recommendations no later than the first annual review prior to the 18th birthday of a student with a disability who is placed by the CSE in a residential program or day program, and the CSE has determined is likely to require adult residential services;
- release the student's name and other relevant student information, with the consent of the parent (or a student 18 years of age or older), in a report to the appropriate public agency(ies), upon the request of such agency(ies), for purposes of determining appropriateness of an adult program for the student. For those students who are eligible for services from OPWDD, information about adult service planning is available on [OPWDD's website](https://opwdd.ny.gov/opwdd_services_supports/children/transition-students-developmental-disabilities) (https://opwdd.ny.gov/opwdd_services_supports/children/transition-students-developmental-disabilities). Resources on adult career and continuing education services is available on [ACCES-VR's](http://www.acces.nysed.gov) website (www.acces.nysed.gov);
- provide parents with prior written notice before the student's graduation with a local high school or Regents diploma which indicates that the student is no longer eligible to receive a free appropriate public education after graduation with the receipt of a local high school or Regents diploma; and
- provide parents with prior written notice before the student's exit with a skills and achievement commencement credential or a career development and occupational studies commencement credential which indicates that the student continues to be eligible for a free appropriate public education until the end of the school year in which the student turns age 21 or until the receipt of a Regents or local high school diploma.

II. Initial Applications for Approved Private School Residential Placements

Applications approved after April 1, 2019 for initial placements in approved private residential schools will include approval of the time period on or after April 1, 2019 through June 30, 2020. Any initial applications approved prior to April 1, 2019 require that the school district reapply and submit a new application no later than June 1, 2019 for the 2019-20 school year (July 1, 2019 through June 30, 2020) [see 8 NYCRR section 200.6(j)(3)(i)].

To obtain a timely determination of approval for State reimbursement of tuition costs for the initial placement of a student in an approved private residential school, the application for State reimbursement must be received by NYSED's Special Education Quality Assurance Nondistrict Unit within six business days of the student's start date in the approved private residential school. State regulations require NYSED to conduct a review of the student's application to ensure that it meets the criteria for approval of State reimbursement of tuition costs, including documentation that the CSE's proposed placement offers the instruction and services recommended in the student's individualized education program (IEP) and that such placement is in the least restrictive environment to meet the student's needs.

Regardless of NYSED's determination regarding approval of State reimbursement of tuition costs, the school district is responsible to implement the CSE's recommendation for timely placement in an approved private school.

For any initial or change in placement of a student with a disability under the age of 18 to an out-of-State residential school, a school district must submit an *Interstate Compact on the Placement of Children (ICPC) Referral Packet* to the New York State (NYS) Office of Children and Family Services (OCFS). Attachment 3 provides information on the Interstate Compact requirements.

III. Reapplication Process for Placement of Students in Out-of-State Residential Schools

NYSED is required to make a determination of approval of State assistance for instruction of public school students with disabilities placed in approved out-of-State private residential schools on a year-by-year basis. Therefore, school districts must reapply annually for State reimbursement of a student in a private residential school. **Reapplications must be submitted prior to June 1 of the year preceding the school year for which funding is sought.** Initial approval of State reimbursement of tuition costs for a private school placement does not automatically mean that the application will be approved for subsequent years.

Reapplications to NYSED for a student who is currently placed in an out-of-State approved private residential school must include annual documentation that there are no appropriate public or approved private facilities for instruction available within NYS.

The CSE must adhere to all reapplication requirements as follows:

1. The school district must seek placement of a student in an in-State residential school early enough in the school year in order to submit its application for State reimbursement of tuition costs to NYSED prior to June 1 of the year preceding the school year for which funding is sought. Therefore, the CSE must make **timely** referrals to appropriate in-State programs to ensure that documentation of acceptances and/or declinations from the in-State programs may be provided to NYSED prior to June 1 preceding the school year for which funding is sought.
2. At each student's annual review, the CSE must consider placement of the student in the least restrictive environment. State law requires that school districts annually seek

placement in appropriate in-State programs prior to placement in out-of-State programs, and for each student, there must be a proposed plan and timetable for enabling the student to return to a less restrictive environment. State reimbursement of tuition costs for out-of-State placements is contingent upon documentation that there are no appropriate public or approved private facilities for instruction within NYS available for the student.

3. The school district must submit written documentation to NYSED, in the form of acceptance and declination letters, from all approved in-State schools that are potentially appropriate to implement the student's IEP.
4. In those cases where the CSE does not recommend a placement for the student in a particular school that has accepted the student because the in-State school is unable to meet the student's IEP needs, the school district must provide NYSED with information and documentation which support the CSE's actions based on sound educational reasons consistent with the student's IEP. While the concerns of the parent for the education of their child must be considered, a parent's disagreement with a placement or preference for another school is not, in and of itself, justification for the CSE not recommending an approved in-State program that has accepted the student.
5. For students who were placed out-of-State and for whom the CSE recommends a change in placement to an in-State school, the school district must notify NYSED's Nondistrict Unit (see page 6 for address) in writing prior to June 1, specifying the entry date, name of the new placement (e.g., XYZ School), and type of placement (e.g., in-State public or approved private school).
6. The following documentation must accompany the school district's application for State reimbursement of tuition costs for out-of-State residential placements. Forms necessary to provide this documentation are available on the [Office of Special Education's website](http://www.p12.nysed.gov/specialed/applications/) (<http://www.p12.nysed.gov/specialed/applications/>).
 - CSE cover letter³.
 - Application checklist.
 - A proposed plan and timetable for enabling the student to return to a less restrictive environment or a statement of reasons why such a plan is currently not appropriate.
 - Statement of Assurance for Out-of-State Residential Placement, including the listing of the in-State schools that are unable to meet the student's educational needs (referral chart and copies of all acceptance and rejection letters from the in-State private schools must be submitted; letters older than six months of the date of application submission will not be accepted).
 - For initial residential placement applications, Statement of Assurance that the school district sought parental consent (or consent of a student 18 years of age or older) to invite county or State agency representatives to the CSE meeting.
 - Student Profile.
 - Signed STAC-1 form with the date of placement. A separate STAC-1 form is required for July/August placements.

³ At a minimum, the cover letter should include the reason for the application to a residential school and the steps the CSE took to ensure that the screening and referral process was completed.

- DCERT screen shot (Online STAC screen where school districts enter their private placement certifications).

For students turning age 21 during July or August, the only required documentation is a cover letter, application checklist and summer STAC-1 form.

Out-of-State Application Submission Information

In order to obtain a timely determination, the school district's submission of an *initial application* for State reimbursement for placement of a student in an out-of-State residential school must be received by the Nondistrict Unit **within six business days of the date the student enrolled in a particular NYS approved out-of-State residential school** based on the recommendation of the CSE.

The school district can reapply for State reimbursement to the Nondistrict Unit anytime following a student's annual review but prior to **June 1 of the year preceding the school year for which placement is sought (i.e., June 1, 2019 for the 2019-20 school year)**.

While electronic submissions to the Nondistrict Unit are preferred, NYSED's email server cannot guarantee secure transmittal of email messages at this time. Please consult with your information technology staff, and if your email server allows for transmitting electronic messages securely via [Transport Layer Security](https://www.checktls.com/) (https://www.checktls.com/) (TLS) protocols, you can submit applications electronically. If you cannot send an email securely via TLS, in order to protect student confidential information, you must mail the application. Select **one** method for submission (email or standard mail).

Email **or** standard mail initial and reapplications for residential placements to:

Email: OOSAPP@nysed.gov

OR

New York State Education Department
Office of Special Education
Nondistrict Unit
89 Washington Avenue, Room 309 EB
Albany, NY 12234

Attn: 2019-20 Out-of-State Residential Application

IV. Notification of Approval or Denial of State Reimbursement of Tuition Costs

Upon receipt of the initial application or reapplication, NYSED will notify the CSE of its determination within 15 business days. If State reimbursement of tuition costs for the placement is approved, the school district will receive a copy of the approved STAC-1 form from NYSED. It is the school district's responsibility to forward a copy of the signed STAC-1 form to the approved private school confirming funding approval of tuition costs for the 2019-20 school year. If NYSED denies State reimbursement of tuition costs for the placement, the school district will have 20 business days to correct the deficiencies identified in NYSED's initial denial letter.

Regardless of NYSED's determination to approve or deny State reimbursement of tuition costs, the school district is responsible to implement the CSE's recommendation for placement in an approved private school. Therefore, the school district cannot use State denial of State reimbursement of tuition costs as a reason not to secure a timely placement of a student in a NYS approved private school. Regardless of NYSED's approval of reimbursement of tuition costs, NYSED will process the STAC-1 form that authorizes municipalities to fund their portion of the maintenance costs.

A school district may submit a request to NYSED for an administrative review of a denial of an application for State reimbursement of tuition costs no later than 40 days after written notice of the initial denial of the school district's application [8 NYCRR section 200.6(j)(3)(iv)]. If school districts do not follow the administrative review timelines, NYSED will dismiss the review as untimely.

V. Referral and Placement Process

The school district's CSE is responsible for the placement of a student with a disability in his/her least restrictive environment. However, each NYS approved out-of-State residential school serving students from NYS must fully cooperate with the efforts of school districts seeking to place students in approved private schools within NYS. Out-of-State schools must make students available for screening and intake procedures, provide access to educational records, and facilitate observation of the student in his/her current educational setting at the request of the school district.

Parents are integral partners in the referral process and are expected to cooperate fully in the intake interview and screening process for the residential school. While the CSE must consider the concerns of the parents in the placement process, the school district must take responsibility to secure an appropriate placement for the student in the least restrictive environment, even in the instance where a parent does not fully engage with the referral and placement process. In-State and out-of-State schools should notify school districts if this is occurring.

VI. Sharing of Student Records

Pursuant to 34 CFR section 99.31 implementing the Family Educational Rights and Privacy Act (FERPA), an agency or institution subject to these requirements, such as a local educational agency, may disclose educational records of a student receiving services under Part B of the Individuals with Disabilities Education Act to a school in which the student seeks or intends to enroll, provided that (1) the agency makes a reasonable attempt to notify the parent (unless the disclosure is initiated by the parent or a student 18 years of age or older) or (2) the agency's annual notification to parents of their rights under FERPA includes a notice that it is the policy of the agency to forward education records to other agencies or institutions that have requested records and in which the student seeks or intends to enroll.

VII. Placement of Students with Disabilities in Children's Residential Project (CRP) Programs by Committees on Special Education

Placement of students by CSEs in CRP⁴ programs requires special procedures⁵. Documents to request a CRP placement may be obtained by contacting the Nondistrict Unit via email: OOSAPP@nysed.gov.

CRP programs are interagency education and residential programs approved by NYSED and OPWDD to provide in-State educational and residential programs for students with severe developmental disabilities currently in out-of-State residential schools or at risk of placement in out-of-State schools. Admission to CRP programs is limited to those students identified by the CSE as needing educational and residential services who also meet the residential eligibility criteria for the Intermediate Care Facility for the Developmentally Disabled (ICFDD) as established by OPWDD. The placement of students in such programs is contingent upon NYSED's and OPWDD's approval of the student's eligibility for CRP placement.

If a CSE is considering a residential placement for a student in a CRP program, the school district must discuss this option with the parent and obtain parental consent to participate in the CRP. The school district then contacts the local OPWDD Developmental Disabilities Regional Office concerning the referral of the student to the CRP program. The school district should assist the parent in the application process to OPWDD to determine eligibility for services (see [ICF/MR Level of Care Eligibility Determination \(LCED\) Form Instructions](https://opwdd.ny.gov/sites/default/files/documents/LCED_Instructions.pdf) (https://opwdd.ny.gov/sites/default/files/documents/LCED_Instructions.pdf)). The school district can email OOSAPP@nysed.gov to request the form for placement in a CRP. To ensure timely review of this request, electronic submissions are preferred but only permitted if your email server can transmit secure messages (see page 6 for further explanation). Select **one** method for submission (email or standard mail).

Email: OOSAPP@nysed.gov

OR

New York State Education Department
Office of Special Education
Nondistrict Unit
89 Washington Avenue, Room 309 EB
Albany, NY 12234
Attn: 2019-20 CRP Request

⁴ NYS CRP Programs: Birch Family Services, AHRC–Nassau Brookville Center for Children's Services, Center for Discovery, Developmental Disabilities Institute, Devereux Red Hook, Easter Seals New York, Heartshare Human Services of New York, Maryhaven, SCO Family of Services-The Christopher School, UCP of Ulster Co., UCP of Greater Suffolk, Upstate Cerebral Palsy.

⁵ [Placement of Students with Disabilities in Children's Residential Project \(CRP\) Programs](http://www.oms.nysed.gov/stac/schoolage/schoolage_placement_summary/opwdd/crp.html)
(http://www.oms.nysed.gov/stac/schoolage/schoolage_placement_summary/opwdd/crp.html)

VIII. Technical Assistance

NYSED does not provide a service by which it matches students to approved private schools for a school district. It is the school district's responsibility to access the [list of in-State and out-of-State approved private schools](http://www.p12.nysed.gov/specialed/privateschools/home.html) (http://www.p12.nysed.gov/specialed/privateschools/home.html) through NYSED's website and to contact each school directly to obtain information to assist in the referral and placement process. However, staff from the Nondistrict Unit are available to provide technical assistance to school districts regarding the residential placement process and may be able to assist school districts to identify potential residential programs for students who may be difficult to place.

Questions concerning these procedures should be directed to the Nondistrict Unit at OOSAPP@nysed.gov. Thank you for your cooperation and attention to this matter.

Attachments

- Attachment 1 – Questions and Answers
- Attachment 2 – School, Home, and Community Factors
- Attachment 3 – Interstate Compact Requirements

Questions and Answers

1. What factors should a committee on special education (CSE) consider prior to recommending a student for a residential placement?

The determination that a residential school placement is the least restrictive environment for a student, thus removing the child from his/her home and community, must come only after a CSE has made the [least restrictive environment considerations](http://www.p12.nysed.gov/specialed/publications/iepguidance/placement.htm) (www.p12.nysed.gov/specialed/publications/iepguidance/placement.htm) required for all placement recommendations. In accordance with State law and regulations, school districts must also consider the availability of community support services where students and families could access additional support, as well as the supports and services that may be available from other State agency resources. Additional information regarding least restrictive environment can be found in the New York State Education Department (NYSED) field memorandum [School Districts' Responsibilities to Provide Students with Disabilities with Specially-Designed Instruction and Related Services in the Least Restrictive Environment](http://www.p12.nysed.gov/specialed/publications/2015-memos/least-restrictive-environment-district-responsibilities.html) (www.p12.nysed.gov/specialed/publications/2015-memos/least-restrictive-environment-district-responsibilities.html). See Attachment 2 for other school, home, and community factors that may indicate that students are at risk of a future residential placement.

2. What information should the school district know about an approved out-of-State residential school prior to making a placement recommendation for a student with a disability?

While the State approves certain schools and provides general supervision of such schools, it is the school district's responsibility to ensure that a particular residential school program is appropriate to implement the student's individualized education program (IEP). School districts should consider information provided by the school which includes, but is not limited to:

- the school's intake process for determining the student's current educational status (e.g., earned credit, courses taken, assessments completed, etc.);
- how the school will provide education consistent with New York State's (NYS) Learning Standards and 8 NYCRR Part 100 (general education) course requirements;
- whether the student will receive the required 5½ hours of instruction at the secondary level (grades 7-12) or 5 hours at the elementary level;
- the school's system of positive behavior management and how the school will provide functional behavioral assessment information and implementation of behavioral intervention plans consistently across residential and school programs;
- how the student can take NYS assessments and the required coursework for credit toward a NYS high school diploma;
- whether the school district of residence must make arrangements for the student to take NYS assessments in a school district closer to the out-of-State school, travel back to the school district of residence to take the NYS assessments, or send a NYS-certified teacher to the out-of-State school to administer the NYS assessments;

- how the student can be awarded a diploma, either from NYS or, when determined appropriate, from the host state;
- how a student can work toward a NYS Career Development and Occupational Studies Commencement Credential, which is recognized by the Board of Regents and certifies a student has the standards-based knowledge and skills necessary for entry-level employment;
- how a student with a severe disability who is eligible to take the New York State Alternate Assessment can earn a Skills and Achievement Commencement Credential;
- how and when the residential school will provide regular student progress reports to the school district and to the student's parent;
- how the student's teacher(s) will participate in the required CSE meetings; and
- how the school district ensures teachers have access to a copy of the student's IEP and are informed of their IEP implementation responsibilities.

3. If a student earns a diploma from an out-of-State school, does this end his/her eligibility for schooling with NYS?

Yes, if the diploma is considered a regular high school diploma by the host state's Department of Education. However, earning a high school equivalency diploma does not terminate a student's entitlement to a free appropriate public education.

4. If a student is eligible for a diploma from an out-of-State school, who makes the arrangements?

These arrangements would be the responsibility of the approved out-of-State school where the student is enrolled.

5. What are the school district's responsibilities to ensure a student placed in an out-of-State residential school takes NYS assessments?

The school district of residence is responsible to arrange for a student to take NYS assessments. They may do so through arrangements in a public school district closer to the out-of-State school, returning the student to the school district of residence to take the NYS assessment, or sending a NYS-certified teacher to the out-of-State school to administer the NYS assessment. Contact NYSED's [Office of State Assessment](http://www.p12.nysed.gov/assessment/) (www.p12.nysed.gov/assessment/) to obtain technical assistance in making such arrangements.

6. What recourse does a school district have if a parent impedes the school district in its effort to secure the placement of a student in an in-State program?

If a parent is impeding the referral process of a student to an approved private school program, the school district should meet with the parent to discuss his/her concerns and explain why the school district is seeking a less restrictive placement for the student. Ultimately, the school district must take affirmative actions to make arrangements for the student to complete the referral process. If an in-State program accepts the student, the CSE must consider the concerns of the parent in making the placement

recommendation. However, a parent's refusal to accept a placement recommended by the CSE cannot be the sole reason to continue a student in an out-of-State placement. Continuing placement of a student in an out-of-State program when there is an appropriate in-State program available is likely to result in the denial of State reimbursement of tuition costs for the placement.

- 7. If a student's placement recommendation changes from an out-of-State program to an in-State program, must the school district provide the parent with prior written notice?**

Yes.

- 8. Must the parent provide written consent for a particular placement?**

Except for placement in a Children's Residential Project (CRP), the school district does not need parental consent for a change in placement. However, as stated above, the school district must provide the parent with prior written notice of its recommendation, and the parent has due process rights to disagree with the CSE's recommended placement.

- 9. In the event a prospective school conducting the intake process does not have all the necessary student records from a student's current school of attendance, should the approved private school make its decision regarding acceptance based on the information available as submitted by the public school district?**

The school district is responsible to ensure that the prospective private school has the appropriate information from the student's record. In the event the application to the private school is incomplete, the approved private school should respond in writing to the school district that it is unable to make a decision based on insufficient student records.

- 10. Which school district is responsible for the CSE functions when a student is placed in an out-of-State child care institution by a local Department of Social Services (DSS)?**

The school district where the student is living at the time he/she is placed in the out-of-State facility is responsible for the provision of education services, including CSE functions, if the student is a student with a disability. Education services for these students may be provided by a tutor, by contract with a school connected with the residential program or by contract with the local public school district in which the facility is located. Fiscal responsibility for the education of the student is a cost to the social services district, except that the school district where the student resided at the time of placement in the care and custody of social services is responsible for a basic contribution deduction for students with disabilities placed in an NYSED-approved out-of-State school. (See page 26 of [Education Responsibilities for School-Age Children in Residential Care](http://www.p12.nysed.gov/specialed/publications/EducResponsSchoolAgeResidence.pdf) (www.p12.nysed.gov/specialed/publications/EducResponsSchoolAgeResidence.pdf)).

School, Home, and Community Factors that May Indicate that a Student is at Risk of a Future Residential School Placement

In determining whether a student's parent/guardian should be provided information on where to obtain a family assessment by a human service agency, the committee on special education (CSE) must determine if the child is at risk of the need for residential placement at some point in the future. Home and community factors alone would not warrant a residential school placement. However, such factors in combination with school factors may indicate that the student is at risk of a residential school placement. In those instances, it is the CSE's responsibility to provide the family or guardian with a list of community support services that may be available, including the name and address where the parent/guardian can obtain an assessment of their support needs.

Many of the factors listed below are indicative that a child may require treatment or support services beyond the supplementary supports and services an education agency can provide. It is the district's responsibility to contact other agencies, when parent permission has been received, in order to engage them in assisting the school and family to provide supports and services in an effort to prevent more restrictive educational placements, including the need for a future residential school placement.

The need for a child to be placed in a residential school program is often precipitated by a combination of the following factors demonstrated in the school, home, and community setting:

School Factors

- Chronic lack of or inconsistent progress in meeting IEP goals and an increasing need for supplementary supports and services; or underachievement in many school settings.
- Frequent and escalating problems with behaviors that are dangerous to the child or others and, even with the use of supplementary supports and services, behaviors that are becoming increasingly difficult to address in less restrictive settings. These behaviors may include self-abusive behavior, violent or aggressive behaviors, frequent unexplained absences, pervasive lack of motivation or effort, substance or alcohol abuse, depression, withdrawal, phobias, suicidal ideation, or suicide attempts.
- Multiple referrals to the CSE to increase the levels of special education services.
- Unique needs which require specialized supports and services and/or medical interventions.

Home Factors

- The primary caregiver spends an inordinate amount of time caring for the child, thus negatively impacting upon the care of the other members of the family.
- Multiple crises that impact upon the stability of the family structure.
- Alleged or documented abuse or neglect in the home.
- Child is unable to take care of himself/herself (i.e., hygiene, eating, avoiding injuries).
- Family does not have the skills or resources to meet the child's specialized or chronic medical or behavioral needs relating to his or her disability.

- Child is showing dangerous behaviors at home, and the safety of family members or the child himself/herself is at risk. High risk behaviors demonstrated at home may include fire setting, sexual acting out toward others, suicidal ideation, self-abuse, and running away.
- Inconsistent care that is detrimental to the child's functioning.

Community Factors

- Child is unable to function in social situations or participate in recreational or after-school programs (i.e., establishing and maintaining friends; interacting with peers, classmates, and neighbors; making appropriate and safe use of leisure time).
- Court involvement, such as a person in need of supervision (PINS) or a juvenile delinquent.
- Violence directed by the child or toward the child in the community, particularly children who are abusing younger children.
- Involvement with a gang or involvement in gang-like activities.
- Lack of a consistent home environment (e.g., homeless or transient).
- Other agency supports have become fragmented or not well coordinated.
- The family expresses a lack of trust in accessing community resources or the family expresses a concern that resources are not available or responsive to the family's needs.
- The community tolerance of the child's differences is creating additional stressors for the child and family.
- Community supports are moving from lesser to more restrictive options.

This list of factors is not exhaustive and is intended only as a guide for districts. There may be additional factors that, in combination, may lead CSEs to determine that a student is at risk of a future residential school placement.

Interstate Compact on the Placement of Children

For any initial or change of placement of students with disabilities under the age of 18 in out-of-State residential schools, a school district must submit an [Interstate Compact on the Placement of Children](https://ocfs.ny.gov/adopt/interstate_compact_Placement_of_Children.asp) (ICPC) Referral Packet to the New York State (NYS) Office of Children and Family Services (OCFS). The referral packet must include:

- Cover letter (3 copies) explaining the reasons for the request;
- Completed ICPC-100A (5 copies) with signatures from an authorized school official AND one of the custodial parents (Section III). **Please note:** As part of the placement process, the committee on special education should discuss with the parent the requirement on the ICPC-100A for a detailed medical plan for the child (i.e., how the child's medical needs will be covered while the student is placed out-of-State);
- Social summary (3 copies), which may be an individualized education program, psychological evaluation, or psychiatric report, as long as it describes the child's current functioning and need for residential placement; and
- Birth certificate and facility acceptance letter (3 copies of each) (this applies only to referrals to Connecticut and Massachusetts).

Submit the ICPC Referral Packet to:

Interstate Compact on the Placement of Children
NYS Office of Children and Family Services
52 Washington Street
Room 331 North Building
Rensselaer, NY 12144

If you have questions or need a copy of the ICPC Referral Packet, contact Carol McCarthy at OCFS at Carol.McCarthy@ocfs.ny.gov or (518) 473-5754.