



Florida Continues to Fund Out-of-State Students Placed in Private Residential Facilities

at a glance

Florida continues to unnecessarily incur costs of serving out-of-state children in residential facilities that should instead be paid by the children's' home states. The Legislature has considered bills to address this problem, but these bills have not passed.

The Department of Education has made limited efforts to improve the accuracy of student residence status as reported by local school districts. However, lacking a clear statutory definition, it is likely that residency requirements will continue to be interpreted locally and Florida school districts will continue to incur costs to serve out-of-state children.

Scope

In accordance with state law, this progress report informs the Legislature of actions taken by the Department of Education (DOE) in response to a 2003 OPPAGA report.^{1,2} This report presents our assessment of the extent to which the department has addressed the findings and recommendations included in our report.

Background

In accordance with federal and state law, Florida's 67 school districts provide educational and related services to children with disabilities through the Exceptional Student Education program (ESE). These services are required under the federal Individuals with Disabilities Education Act (IDEA) and are authorized by s. 1003.57, *Florida Statutes*.

Typically, students with disabilities are served in public school settings, including regular classrooms with support services, placement in special classes, or in some cases instruction in their homes.

¹ Section 11.51(6), *F.S.*

² *Special Review: Florida Could Avoid \$1.5 Million Annually in ESE Costs for Out-of-State Students Who Are Placed in Private Residential Facilities*, [OPPAGA Report No. 03-58](#), October 2003.

Under the MacKay Scholarship Program, students with disabilities also may be served by private schools through tuition vouchers.³ However, some children with severe needs, such as self-injurious and aggressive behavior or complex medical conditions, may require intensive supports and specialized services and may be placed in a residential facility such as a private residential school, a medical or psychiatric hospital, or intermediate care facility.

Local school districts may enter into contractual agreements with private residential facilities to provide educational services to children with severe needs. These services may be provided in several ways: a school district may assign a teacher to a facility, pay the facility to provide a teacher, or provide transportation for the children to attend public school. In some cases, charter schools located on facility campuses may provide education to both local students and facility residents.

Depending on the availability of residential placements, some children may be placed in residential facilities in Florida by other states. Under federal guidelines, the home states of such children are responsible for paying the costs of these services.

Educational services for children in residential placements are often very costly because of the intense and specialized nature of the services required by the children. These services are typically funded at the state's highest ESE funding levels.⁴ For the 2005-06 school year, the state will fund students in the two highest levels the ESE funding at approximately \$14,200 and \$19,300

per full-time equivalent (FTE) student.⁵ Comparatively, individual funding for a non-disabled student will be \$3,700.

DOE has lacked reliable residency information. Our 2003 report concluded that DOE lacked reliable information on the number of children served in residential facilities or whether these students were residents of another state. DOE reported to the federal government in December 2002 that 132 ESE students were receiving education services in a private residential setting within Florida. However, OPPAGA identified 417 such children, of whom, 90 had been placed by other states. Of these 90 students, only 8 had been designated by DOE as being from out-of-state.

Florida incurred unnecessary costs to serve out-of-state children. Our 2003 report concluded that Florida was paying \$1.5 million in annual education costs for out-of-state students being served by residential facilities within this state, although not required to do so by federal law. Florida's practice was to provide ESE services to all children placed in residential facilities. This practice differed from those of other states, which follow the federal guidelines. In addition, Florida's practice may provide an incentive for residential facilities to locate within the state and for parents from other states to place children within Florida, further increasing state costs.

We made several recommendations to address this problem. We recommended that the Florida Legislature consider revising statutes to clarify that, consistent with federal law, residency is a requirement for funding ESE services and that a child's residency is determined by the residency of the parent.

³ In April 2005, DOE's Office of Independent Education and Parental Choice reported 15,910 students participating in the MacKay Scholarship Program.

⁴ Because children with disabilities require varying intensity or frequency of services, a matrix of service is utilized to classify students on a scale of one to five, with one representing the lowest and five the highest level of service with more funding provided for higher level services.

⁵ These amounts reflect dollars provided through the ESE funding matrix and does not include any additional money districts may receive for these students. Total costs of residential placements are much higher.

We also recommended that the Department of Education revise its existing practice to ensure that out-of-state children placed in residential facilities within Florida were no longer counted for FEFP funding, and advise local school districts of the specific limitations of their financial obligation under both federal and state law. We also recommended that the department take steps to improve the accuracy of its statewide student database, by instructing districts to accurately classify students in residential facilities, whose parents do not live in Florida, as out-of-state students.

Current Status ---

The Legislature has considered bills during the 2004 and 2005 sessions to clarify residency requirements but these bills did not reach final passage. For example, (Bill No. SB768/HB849) would have required a student with a disability who resides in a residential facility and receives special instruction or services as an exceptional student to be considered a resident of the state in which the student's parent or guardian is a resident. The bill also would have required the student's state of residence or parent to pay the cost of the instruction, facilities, and services for a nonresident student who receives instruction in Florida. In addition, these nonresident students would not be reported by school districts as FTE for Florida Education Finance Program Funding.

The Florida Department of Education continues to utilize a child's presence in the state to determine residency and it has not altered the information it provides school districts on this issue. The department indicates that it will not change this practice without legislative action. The department also has not disseminated information to school districts on the federal policy

promulgated by the U.S. Department of Education, that the residency of ESE students is determined by the location of their parents' homes.

The department has taken limited steps to improve the accuracy of its residency database. Attendees at the Information Database Workshop held in June 2004 were advised that for students with disabilities, school districts are responsible for "verifying that the student is a resident of the school district," in accordance with Rule 6A-6.0361(6)(d), *Florida Administrative Code*. According to department staff however, without a clear statutory definition, residency will continue to be interpreted locally and usually reflect the address of the in-state facility and not the out-of-state parent(s). Because of this, DOE still lacks reliable data on the number of out-of-state children in residential facilities.

It is likely that Florida continues to pay for the education and related services for students whose parents are residents of other states. At the time of our initial report, seven districts had out-of-state children in residential facilities for whom they were providing educational funding and/or services. As of June 2005, none of these seven districts had changed their practices. Each uses the address of the facility as the students' addresses, identifies them as Florida residents and submits them as FTEs for funding through the Florida Education Finance Program. One district does make a practice of ensuring that the parents or home state of out-of-state students are not also paying the facility for education costs prior to providing funding. However, districts are not routinely provided information, such as the home address of the students' parents, by the facilities that would indicate that the students are not residents of Florida according to federal policy.

The Florida Legislature

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