



Legislature Clarified Responsibility for Educating Exceptional Students in Residential Facilities

at a glance

Subsequent to our 2008 report, the Legislature amended state law to clarify school district responsibility for providing educational services to exceptional students placed in residential facilities outside their home district. In addition, statutes now require residential facilities to notify the school district where the facility is located within 10 days of student arrival. School districts generally report that these statutory changes have clarified their responsibilities, although they had limited experience with cross-district placements since the changes took effect. Because statutes do not define the legal county of residence for students who are in the state's dependency system, the Legislature may wish to further amend the law to clarify these students' legal residence.

Scope

In accordance with state law, this progress report informs the Legislature of actions taken in response to a 2008 OPPAGA report that reviewed the provision of exceptional student education services in residential facilities.^{1, 2}

¹ *Responsibility for the Education of Exceptional Students in Residential Treatment Facilities Needs Clarification*, OPPAGA [Report No. 08-27](#), April 2008.

² Section 11.51(6), *F.S.*

Background

Federal and state law require Florida's Exceptional Student Education Program to provide students with disabilities a free appropriate education in the least restrictive environment possible. While most exceptional students are served in regular schools, some are served in residential facilities due to behavior problems or physical or mental conditions. Students can be placed in residential facilities by their parents, a state agency, a school district, or a court order as a result of mental health, substance abuse, dependency, or delinquency issues.

Exceptional students often are placed in residential facilities outside their home districts. Our 2008 review found that approximately 2,850 exceptional students were served in residential facilities as of October 2007. We reported that there was confusion and inconsistency regarding which school district was responsible for providing and paying for educational services when a student from one district was placed in another district's residential facility. We also reported that school districts often had limited involvement in placement decisions and were not notified when a student arrived in a facility and the district became responsible for meeting their educational needs.

Current Status

The Legislature clarified school district responsibilities and required an interagency agreement. The 2009 Legislature amended state law to clarify responsibility for providing educational services to exceptional students placed in residential facilities outside their home district. The law specified that the school district where a facility is located must review the student's Individual Educational Plan and determine whether the district will provide or contract for services. If the district where the facility is located declines to provide services, the district in which the student legally resides must provide services. The amended statute also requires a residential facility to notify the school district where the facility is located as well as the district where the student legally resides within 10 days of a student's arrival at the facility.

The amended statute also requires the Department of Education, Department of Children and Families, Agency for Persons with Disabilities, and Agency for Health Care Administration to enter into an interagency agreement; the agreement identifies each party's responsibilities and establishes procedures for resolving interagency disputes. On July 21, 2010, the agencies executed an agreement describing how they will cooperate to provide educational services to exceptional students in residential facilities. The agreement provides that agency representatives will meet at least quarterly and make efforts to ensure timely and appropriate services for exceptional students placed in private residential care facilities, including developing placement notification procedures, making policy and procedure recommendations, and facilitating information sharing.

Statutory changes have clarified district responsibilities, although districts have had limited

experience with the new notice requirements. School districts generally report that the amendments have successfully clarified responsibilities for student placements. We surveyed Exceptional Student Education directors in all 67 school districts, and more than two-thirds (32 of 46) of the responding districts reported that the amendments had better defined responsibility for providing educational services. In addition, 12 districts reported that the amendments had improved notification provisions, although most responding districts (29) indicated that they have not had enough placements since the statutory changes to judge whether notice has improved. Only 10 districts reported that they had at least one student from another district arrive in a residential facility in their district since July 1, 2009; of these, 8 indicated that the notice they received met statutory requirements.

Legal residence of students involved in dependency cases may need to be further clarified. The amended statute uses the term "legal residence of the student" in addressing district responsibilities for serving exceptional students but does not define this term, which is also not defined in Ch. 39, *Florida Statutes*, Proceedings Relating to Children. Consequently, there have been and may continue to be disputes among districts over the responsibility for educating students in foster care, due to uncertainty regarding whether the legal residence of the parents is the same as the child's when the state has physical custody due to a dependency proceeding. For example, one district reported that it has an ongoing dispute with another district over responsibility for such a student. Because some children in residential facilities were placed there by the Department of Children and Families and/or are the subject of a pending dependency case, the Legislature may wish to clarify legal residence for these students.

OPPAGA supports the Florida Legislature by providing evaluative research and objective analyses to promote government accountability and the efficient and effective use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021 or 800/531-2477), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

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