

**West
Virginia
Students
with
Disabilities
in
Out-of-
State
Facilities
Report
FY12**

Office of Special Programs

October 2012

West Virginia Students with Disabilities in Out-of-State Residential Facilities Annual Report

Purpose

The purpose of this report is to provide basic information regarding students with disabilities who have been placed by the West Virginia Department of Health and Human Resources (WVDHHR) or by local education agencies (LEAs) in out-of-state residential facilities. This information is the compilation of financial reports by the Office of Special Programs (OSP) and the Office of Internal Operations (OIO).

Introduction

The information in this report is organized into two sections: 1. Students placed by WVDHHR in out-of-state facilities for non-educational purposes, and were eligible for special education services prior to their placement and are continuing to receive special education services under a current Individualized Education Program (IEP) and 2. Students placed by LEAs in out-of-state facilities when a free appropriate public education (FAPE) cannot be provided within the county, the region or the state.

Report

Students Placed by WVDHHR in Out-Of-State Facilities for Non-Educational Purposes

West Virginia Code Chapter 49 Child Welfare provides a coordinated system of child welfare and juvenile justice for the children of West Virginia. It provides for removing the child from the custody of his parents and to secure custody, care and discipline for the child consistent with the child's best interests. The WVDHHR is designated as the agency that administers child welfare services in West Virginia.

The WVDHHR is authorized by West Virginia Code §49-2-16 to provide care, support and protective services for children who are in need of public service. The WVDHHR is also authorized to accept custody of children committed to its care by the courts. A child committed to the WVDHHR for custody remains in the care of the Department until he reaches eighteen years of age or is discharged because he is no longer in need of care.

As the agency administering the care and custody of children, WVDHHR has the authority to place children in a suitable environment and with persons or facilities having the appropriate qualifications to provide a necessary and desirable degree and type of care. As the "sending agency" or placer, WVDHHR has the financial responsibility for support and maintenance of the child during the continuance of the placement.

Any costs, including educational costs, that are involved in this out-of-state placement are properly regarded as part of "financial support and maintenance." In 1993, the WVDHHR and the West Virginia Department of Education (WVDE) entered into an interagency agreement with the provision that the WVDE fund the special education costs of eligible students with

disabilities in accordance with federal and state statutes and regulations. This agreement was continued with a new document signed in September 2012. Eligible students are those who were placed by WVDHHR in an out-of-state facility for non-educational purposes, who were eligible for special education services according to the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) and WV Board Policy 2419: *Regulations for the Education of Exceptional Students and The West Virginia Procedures Manual for the Education of Students with Exceptionalities* prior to WVDHHR placement and who are receiving special education services under a current IEP.

Until 1998, in accordance with the terms of the interagency agreement, WVDHHR paid the total costs of the out-of-state placement and was reimbursed by WVDE for the special education costs. In 1998, WVDHHR notified the out-of-state agencies to invoice WVDE separately for special education costs. WVDE began contracting directly with the out-of-state facilities in agreements separate from WVDHHR. The WVDE, OSP now receives invoices for special education services, verifies the student eligibility, assures that the facility developed a new IEP with collaboration from the LEA and approves the invoices for payment. Finally, payment is made through the WV Auditor's Office under the authority of the contract.

The IDEA assigns to each state educational agency (SEA) the general supervisory authority for ensuring educational services are provided to all eligible students with disabilities in accordance with federal and state statutes and regulations. The process of monitoring out-of-state facilities was began in April 2002 by the WVDE. In an effort to meet this requirement, the OSP conducted on-site monitoring reviews of out-of-state facilities serving West Virginia special education eligible students.

However, through the work of the collaborative team from the WVDE and DHHR and to strengthen the interagency monitoring efforts, the two agencies the WVDE and the WVDHHR, developed an Interagency Consolidated Monitoring Manual effective 2012 describing the procedures to thoroughly and consistently monitor facilities serving WV students to ensure appropriate treatment and educational services are being provided in a safe environment.

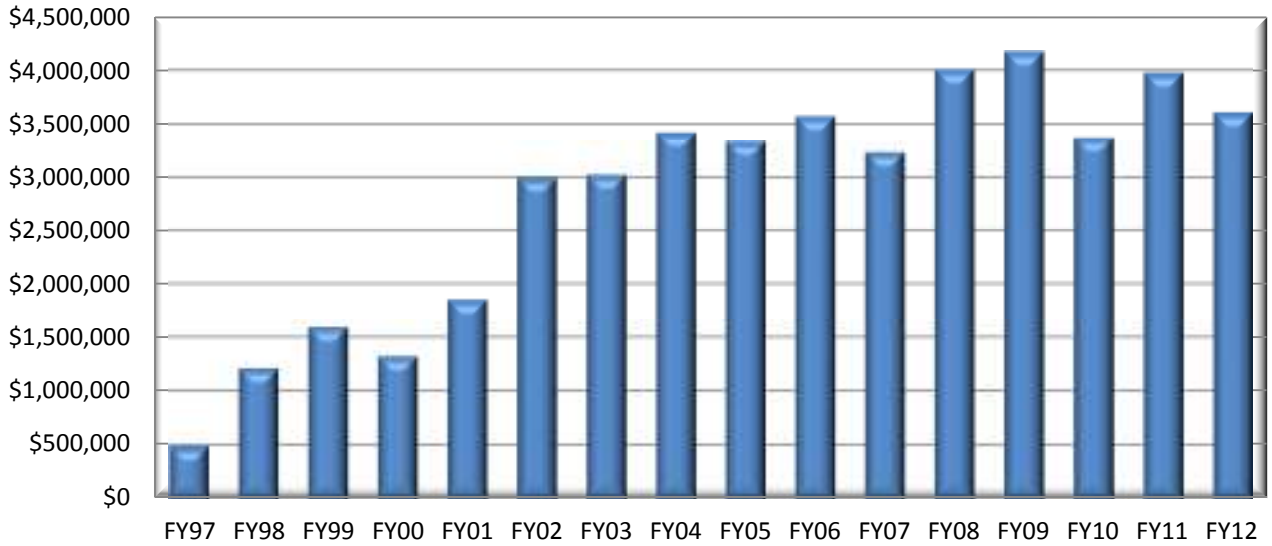
The Out-of-State Certification Team representing the WVDE and WVDHHR conducts on-site reviews of facilities out-of-state that are providing services for West Virginia students. Focus is on all West Virginia Medicaid members. WV's ultimate goal is to solicit services from only facilities having demonstrated success in promoting positive growth and expected outcomes for students as defined within the West Virginia Out-of-State Facilities Standards. If WVDE and/or WVDHHR identifies deficiencies that would cause sanctions to be imposed, either agency will honor those sanction. A collaborative monitoring report is issued within 30 days from the on-site visit.

West Virginia Students with Disabilities in Residential Facilities Expenditures 2012

The chart below includes information on the current out-of-state facilities which are serving WV eligible students with disabilities placed by WVDHHR. The number of eligible students served varies depending on several factors such as the availability of foster care, completion of treatment, age of student and length of court sentencing.

Facility	Cost (as of 10-25-12)
Adelphoi Village	\$ 65,956.25
Barry Robinson	21,909.00
Childhelp	172,405.00
Cornell Abraxas	122,520.33
Cottonwood	19,560.00
Devereux	353,244.92
Necco Center	37,268.00
Fairfield Academy	41,731.00
George Jr. Republic	485,005.50
Grafton	481,632.00
Kids Peace	112,752.78
Leary	861,659.19
Liberty Point	74,250.00
National Deaf Academy	60,300.00
New Hope Carolinas	18,338.45
North Spring	82,130.00
Southwood	52,545.00
The Bradley Center	181,461.03
UHS-Alabama Clinical	6,450.00
UHS-Cedar Grove	27,450.00
UHS-Hermitage Hall	136,950.00
UHS-Natchez Trace	33,150.00
UHS of Savannah-Coastal Harbor	160,380.00
Total	\$3,609,048.45

**WV Department of Education
Invoices Paid for Students Placed in Out-of-State
Fiscal Year 1997 through 2012**



Invoices Paid by Fiscal Year

FY97	\$491,323.08
FY98	\$1,210,837.31
FY99	\$1,593,688.64
FY00	\$1,321,605.40
FY01	\$1,854,138.50
FY02	\$2,994,093.06
FY03	\$3,021,642.61
FY04	\$3,421,851.09
FY05	\$3,338,084.36
FY06	\$3,573,157.95
FY07	\$3,232,936.53
FY08	\$4,008,369.83
FY09	\$4,176,464.00
FY10	\$3,372,000.00
FY11	\$3,977,000.00
FY12	\$3,609,048.45
Total	\$45,196,240.81

Out-of-State Facility Student Enrollment Table

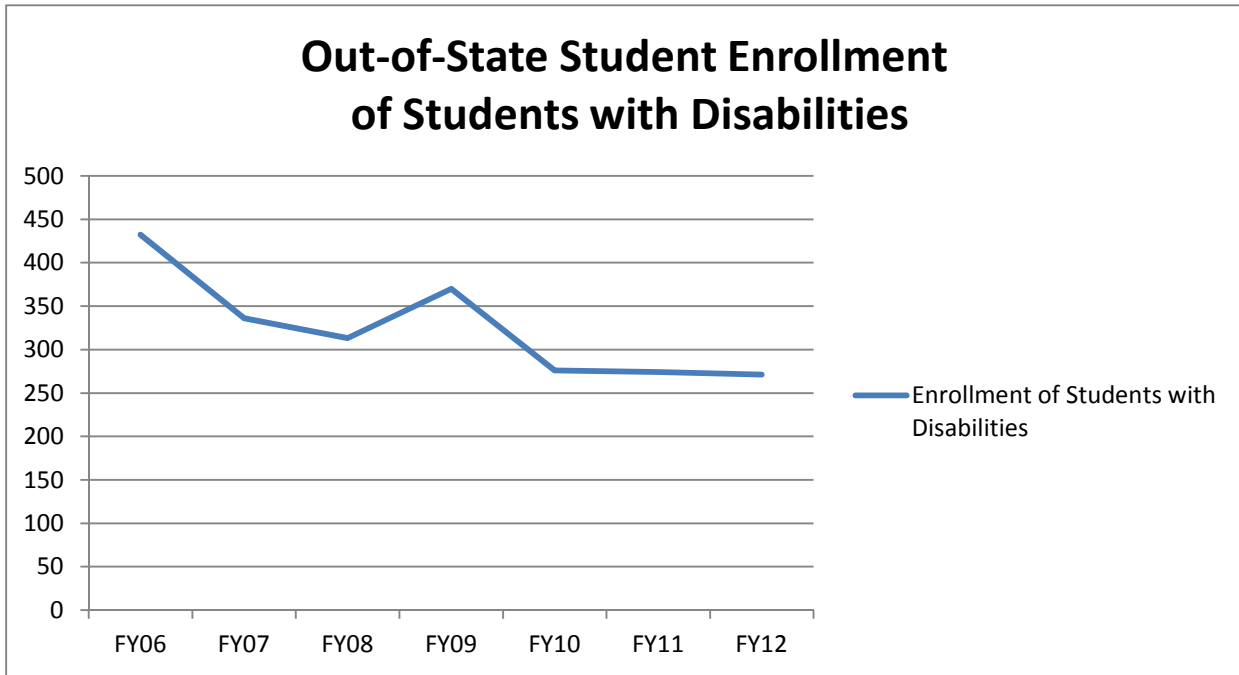
The following table illustrates the number of students with disabilities who have been placed by the WVDHHR over the last six (6) years. These students were receiving special education and related services prior to their placement for non-educational purposes and continued to receive special education services under an IEP in the out-of-state facility.

Facility	State	Daily Educational Rate FY12	Daily Educational Rate FY13	Number of Students FY12	Additional Expenditures
Adelphoi Village	PA	76.25		13	
Barry Robinson	VA	109.00	109.00	2	
Bradley Center	PA	147.89	*	24	
Childhelp	VA	145.00	145/160.00	11	ex. Therap.
Cleveland Hts./ University Hts.	OH	322.47	NC	0	
Cornell Abraxas	PA	74.39	79.24	15	GE 55.00-59.93
Cottonwood	UT	120.00	*	1	
Devereux	PA	124-231.00	155-236.00	15	
Necco Center (ENA, Inc.)	OH	133/242.00	133/242.00	4	
Fairfield Academy	OH	50.30	63.00	3	
George Jr. Republic	PA	97.50/113.25	98.50/114.25	57	178 day
Grafton	VA	225.00	225.00	14	ex. Therap.
KidsPeace	PA	189.78/245.1 9	245.19	6	
Leary	VA	171.00	173.57	35	ex. Therapy
Liberty Point	VA	250.00	250.00	2	
National Deaf Academy	FL	225.00	*	3	
New Hope Carolinas	SC	184.93- 207.00	184-207.00	2	3 sites
North Spring	VA	155/215.00	215.00	6	
Southwood	PA	135/140.00	135/140.00	8	
Summit Academy	PA	50.57/98.14	*	4	F/M rates
UHS of Delaware	TN	150.00	150.00	31	Multiple sites
UHS of Savannah (Coastal Harbor)	GA	165.00	*	11	
Village Network	OH	150.00	*	0	
Woods	PA	166.00	166.00	0	
Youth Educational Services of PA	PA		*	2	
TOTAL				269	

The total number of students in each facility will not be reflected in the total number of students placed. Some students are moved from one facility to another whereby they are counted more than once. Other students may be in a facility temporarily or for a short term placement for evaluation where they may not be receiving special education services.

Out-of-State Student Enrollment

Fiscal Year	Student Enrollment
FY06	432
FY07	336
FY08	313
FY09	370
FY10	276
FY11	274
FY12	271



An out-of-state facility is any residential child care facility not within the borders of West Virginia. The districts within the northern and eastern panhandles of West Virginia have out-of-state facilities close to the West Virginia borders. The chart below represents the percentage of placement of students with disabilities from the two panhandles placed in out-of-state facilities.

Northern Panhandle				
Point in Time Child Count	Brooke	Hancock	Marshall	Ohio
2011-2012	2	5	2	11
2010-2011	3	3	2	10
2009-2010	2	2	3	9

Eastern Panhandle					
Point in Time Child Count	Berkeley	Hampshire	Jefferson	Mineral	Morgan
2011-2012	21	6	6	4	8
2010-2011	22	9	5	2	8
2009-2010	19	7	11	3	3

Percentage of Out-of-State Placements from the Northern and Eastern Panhandles

- **2011-2012: 65/125=52%**
- **2010-2011: 64/126=51%**
- **2009-2010: 59/163=36%**

Available Funding Sources for Students Placed in Out-of-State Facilities by WVDHHR

LEAs have been paying a significant portion of the expense to education students who are placed by WVDHHR (the courts) in out-of-state facilities for non-educational reasons. Beginning with FY12, LEAs were instructed to enroll the students placed out of state in WVEIS in order to access the state aid funds. LEAs could access additional funds for these students through the High Cost and High Acuity Reimbursement Grant process.

Costs assessed to LEAs were based on the number of students in out-of-state placements who were listed on the August 2011 Facts Report from WVDHHR. This provided a point-in-time child count. The following is a summary of the final cost to LEAs, provided they enrolled students and applied for reimbursement:

LEA assessed cost per OOS student affecting FY12 special education state aid.	\$21,200.00
State aid received per enrolled student.	4,200.00
High Cost/High Acuity Reimbursement received per application.	8,434.00
Actual cost to LEAs per OOS student	\$ 8,566.00

The out-of-state child count affecting FY12 state aid was 125 as reported March 30, 2011 Point in Time Child Count. Funds totaling \$ 2,650,000.00 were deducted from LEA state aid. Given that five LEAs lost the entire special education state aid monies, which did not cover the total amount owed, these LEAs paid an additional \$505,460.00 from other state and local funds to cover the amount owed to the WVDE for out-of-state placements.

Cost for OOS Students with Disabilities		Reimbursement Available	
LEA state aid funds (based on OOS enrollment 3-30-11 125 X \$21,200.00 = 650,000.00)	\$2,144,540.00 (available)	State aid (based on OOS students enrolled at 2 nd month on 10-1-11, 118 X \$4200.00)	\$495,600.00
Other LEA state/local funds paid by 5 LEAs to cover cost of OOS	\$505,460.00 (LEAs added)		
WVDE federal/state funds	\$959,048.45	High Cost/High Acuity Reimbursement Grant (federal/state funds)	\$903,521
Total expenses paid in FY12	\$3,609,048.45	Total reimbursement available to LEAs	\$1,399,121

From October 1, 2011, the second month point-in-time has been used to assess cost to LEAs for the next fiscal year. The second month child count will reduce the following year's special education state aid.

Students Placed by LEA in Out-Of-State Facilities by the IEP Team

West Virginia Board Policy 2419 provides that the LEA may place a student with a disability in a private school or facility outside of West Virginia through the IEP process after determining that FAPE cannot be provided within the county, within the region or within the state. The LEA must develop an IEP for the student, investigate more than one private school or facility, assure the selected private school or facility has approved status in the state in which it is located, meets the requirements of the IDEA and has a current signed contract between the LEA and the private school or facility.

After a student with a disability is placed in a private school or facility by the LEA, the LEA must continue to assure that special education and related services are provided in conformance with an IEP, and the education meets the standards which apply to education provided by the LEA or the private school or facility. The LEA must ensure the parents and an LEA representative remain involved in any decision about the student's IEP and agree to any proposed changes in the IEP before those changes are implemented by the private school or facility.

As the placing agency, the LEA has the financial responsibility for support and maintenance of the student during the continuance of the placement. Funds to support the provision of these services are provided to LEAs through the state's public school support system, state special education entitlement, IDEA Part B entitlement and Medicaid reimbursement. In addition, the WVDE supports the LEAs through the state special education out-of-state funds. This support, however, does not cover the county's total cost for placing a student in an out-of-state facility. The following chart reflects the costs reported by the LEA and the support from WVDE.

OFFICE OF SPECIAL PROGRAMS
Out-of-State Grant Awards to Support IEP Placements FY2012

Awards Issued: Total funds available = \$300,000.00

Funds were divided equally per semester between counties submitting applications for reimbursement, or for amounts of request, whichever was less.

County	1st Semester	2nd Semester	Total
Berkeley	\$ 31,275.00	\$ 30,540.00	\$ 61,815.00
Hancock	\$ 31,275.00	\$ 30,540.00	\$ 61,815.00
Hampshire	\$ 24,900.00	\$ 27,840.00	\$ 52,740.00
Harrison	\$ 31,275.00	\$ 30,540.00	\$ 61,815.00
Jefferson	\$ 31,275.00	\$ 30,540.00	\$ 61,815.00
TOTAL	\$ 150,000.00	\$ 150,000.00	\$ 300,000.00

\$150,000.00	Available for 1st semester	\$150,000.00	Available for 2nd Semester
\$ (24,900.00)	Hampshire	\$ (27,840.00)	Hampshire
\$125,100.00	Balance/ by remaining counties (4)	\$122,160.00	Balance / by remaining counties (4)
/4		/4	
\$ 31,275.00	Each, remaining 4 counties	\$ 30,540.00	Each, remaining 4 counties
\$150,000.00	(Berkeley, Hancock, Harrison , Jefferson)	\$150,000.00	(Berkeley, Hancock, Harrison, Jefferson)

Expenses Reported/Awards Granted

County	SECT. B & C EXPENSES		Total Award Amount		Balance Remaining Unfunded
	1st Semester (Expenses per student)	2nd Semester (Expenses per student)	1st Sem	2nd Sem	
	Berkeley		\$ 18,045.00		
Berkeley	\$ 3,780.00	\$ -			
Berkeley	\$ 29,610.00	\$ 32,160.00			
Berkeley	\$ 44,610.00	\$ 34,080.00			
Berkeley	\$ 12,675.00	\$ 29,640.00			
Berkeley	\$ 3,225.00	\$ 31,440.00			
Berkeley	\$ 6,705.00	\$ -	\$ 31,275.00	\$ 30,540.00	\$ 184,155.00
Hancock	\$ 26,621.50	\$ 24,016.00			
Hancock	\$ 23,616.50	\$ 24,316.50	\$ 31,275.00	\$ 30,540.00	\$ 36,755.50
Hampshire	\$ 24,900.00	\$ 27,840.00	\$ 24,900.00	\$ 27,840.00	\$ -
Harrison	\$ 37,881.54	\$ 37,517.73	\$ 31,275.00	\$ 30,540.00	\$ 13,584.27
Jefferson	\$ 38,495.00	\$ 42,855.00	\$ 31,275.00	\$ 30,540.00	\$ 19,535.00
Totals	\$ 252,119.54	\$ 301,910.23	\$ 150,000.00	\$ 150,000.00	\$ 254,029.77

Summary

The number of students placed in out-of-state facilities by WVDHHR has remained consistent, however, the daily rates for special education services in the contracted out-of-state facilities in FY12 were generally higher than in FY11. Invoices received for educational services for eligible students placed by WVDHHR in out-of-state facilities for non-educational purposes for FY12 totaled \$3,609,048.45*. In addition, the WVDE provided \$300,000.00, at \$150,000.00 per semester, in assistance to districts for the costs incurred for students placed in out-of-state facilities by LEAs through the IEP process. Payments by districts for the remaining balances totaled \$254,029.77. LEA expenditures totaled \$554,029.77. The total cost for educating students with disabilities placed by WVDHHR and LEAs in out-of-state facilities for FY 12 was \$4,163,078.22*.

*Subject to increase with receipt of additional invoices.