



Office for People With Developmental Disabilities

KATHY HOCHUL
Governor

KERRI E. NEIFELD
Commissioner

WILLOW BAER
Executive Deputy Commissioner

December 4, 2023

Patrick Paul
Executive Director/CEO
Anderson Center for Autism
PO Box 367
Staatsburg, NY 12580

Dear Patrick Paul:

The Office for People With Developmental Disabilities (OPWDD) is the New York State agency responsible for the provision of adult services to eligible individuals once they complete their free and appropriate public education. A student's education is completed when they receive their Regents or local high school diploma, or the day before their 22nd birthday, whichever comes first. OPWDD is committed to assisting people to successfully transition from the educational and childcare systems to appropriate adult services opportunities in New York State. Included with this letter is a listing of individuals who completed their education by August 31, 2023, for whom adult services are not/will not be ready.

OPWDD will reimburse your agency for the identified individuals until each person can be transitioned to an appropriate OPWDD adult service opportunity in New York, or until OPWDD has offered appropriate adult services and the individual or their representative has declined the offer. For these individuals, OPWDD will begin paying at the end of the school year in which the student completes their education – after June 30th or August 31st of 2023, as applicable.

Additionally, as you may be aware, the Second Circuit Court of Appeals issued a decision in 2021 in the case of *A.R. v. Connecticut State Board of Education*, 5 F.4th 155 (2d Cir 2021) which has impacts for New York students with disabilities. Specifically, the Court's decision interpreted the federal Individuals with Disabilities in Education Act (IDEA) as requiring a state to provide students with disabilities a free and appropriate education (FAPE) until the day before the student turns 22, instead of through the end of the school year in which the student turns 21, which was current practice. Because New York's practice has been to provide a student with a disability FAPE through the end of the school year in which the student turns 21, the New York State Education Department (SED) issued an opinion of counsel to all New York school districts in July 2023 advising them of the A.R. decision and further advising that

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school districts must allow a student with disabilities to continue their education until the day before they turn 22. SED also recommends that school districts fund students through the end of the school year in which they turn 22.

In light of the A.R. decision and SED memo, beginning with the 2023-2024 school year, OPWDD will no longer begin funding eligible individuals at the end of the school year in which they turn 21. Instead, OPWDD will begin funding adults for whom an opportunity for OPWDD services is not yet available when a) the student has graduated with a Regents or local high school diploma; b) the end of the school year in which the student turns 22 when the school district funds education through the end of that school year; or c) on the person's 22nd birthday when the school district chooses not to fund the student's education through the end of the school year in which they turn 22.

Note that New York State law establishes limitations on the level of reimbursement OPWDD can provide. Specifically, reimbursement for "maintenance" costs, or room and board, for individuals in private residential school programs is required to be paid net of any Supplemental Security Income (SSI) benefits for which the individual is eligible. To that end, enclosed is the SSI offset levels for those individuals at your school who will be funded by OPWDD as of July 1st or September 1st of 2023. These SSI benefits will be deducted from the room and board components of payments to your agency. For individuals for whom OPWDD did not identify as having an SSI benefit, please promptly provide parent/guardian contact information to OPWDD, so that we may review benefit eligibility.

New York State law also limits reimbursement for an individual's day services, and it is no longer based on the level of "tuition" payments for which your school had been approved by the New York State Education Department. Instead, this law limits OPWDD reimbursement for day services to individuals who have aged out of residential school programs to the amount paid to provide similar services to adults with highly complex needs in the OPWDD system. Currently, this equates to \$56,145.10 on an annual basis. The law, however, recognizes that people's needs vary and provides for a process to enable residential schools to request supplemental funding for day services, based on appropriate clinical or financial justification.

To request supplemental funding for day services only, your school can provide appropriate clinical or cost-based justification to OPWDD by completing and submitting the enclosed Request for Supplemental Funding for each individual for whom supplemental funding is being requested ¹.

Please return the completed Request for Supplemental Funding form to:

- By secure email, only if available, to: residential.school@opwdd.ny.gov
- Or mail to: NYS OPWDD
Community Transitions Unit
Attention: Kate Maunz
44 Holland Avenue - 5th Floor
Albany, NY 12229

¹ The supplemental funding request applies exclusively to day services; no requests can be made related to the room and board offset.

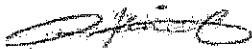
If your school submits a Request for Supplemental Funding form for an individual that is received by OPWDD by January 12, 2024, OPWDD will fund day services for that individual at your school's current rate, until a decision is made on the request. If no supplemental funding request is received by OPWDD by January 12, 2024, OPWDD will reimburse your school at your current day services rate or the equivalent of \$56,145.10 per year, whichever is lower.

Should a request for supplemental funding for day services in residential schools be denied or not submitted, OPWDD reserves the right to adjust the rate accordingly, back to July 1st or September 1st, as applicable, and work with your school to develop a plan for implementing the new rate that will not disrupt services to the individual.

If an individual for whom you are receiving funding no longer receives services from your agency, please immediately notify OPWDD's Residential School Transition Coordinator. A list of coordinators is attached.

Thank you for your continued cooperation in supporting individuals who have aged out of your educational program, while we work to develop appropriate adult services opportunities in New York State. If you have any questions regarding this letter, please e-mail residential.school@opwdd.ny.gov.

Sincerely,



Abiba Kindo
Deputy Commissioner
Division of Service Delivery, Regional Offices



Kevin M. Valenchis
Deputy Commissioner
Division of Fiscal Policy and Management

Encl: 1. Listing of Individuals Expected to Complete Educational Program
2. Request for Supplemental Funding for Day Services in Residential Schools
3. Residential School Transition Coordinator Contact List

cc: Ms. Harrington
Ms. Peterson
Ms. Pettinger
Ms. Carey
Ms. Maunz
RFO Residential School Transition Coordinator
RFO Director