



**New York State Education Department**

**Annual Performance Report for  
2008-09**

**IDEA PART B STATE PERFORMANCE PLAN  
2005-2010**

**Office Of Vocational And Educational Services  
For Individuals With Disabilities**

**February 2010**

**(Revised April 12, 2010)**



# THE UNIVERSITY OF THE STATE OF NEW YORK

## Regents of The University

MERRYL H. TISCH, <i>Chancellor</i> , B.A., M.A., Ed.D. ....	New York
MILTON L. COFIELD, <i>Vice Chancellor</i> , B.S., M.B.A., Ph.D. ....	Rochester
ROBERT M. BENNETT, <i>Chancellor Emeritus</i> , B.A., M.S. ....	Tonawanda
SAUL B. COHEN, B.A., M.A., Ph.D. ....	Larchmont
JAMES C. DAWSON, A.A., B.A., M.S., Ph.D. ....	Plattsburgh
ANTHONY S. BOTTAR, B.A., J.D. ....	Syracuse
GERALDINE D. CHAPEY, B.A., M.A., Ed.D. ....	Belle Harbor
HARRY PHILLIPS, 3rd, B.A., M.S.F.S. ....	Hartsdale
JOSEPH E. BOWMAN, JR., B.A., M.L.S., M.A., M.Ed., Ed.D. ....	Albany
JAMES R. TALLON, JR., B.A., M.A. ....	New York
ROGER B. TILLES, B.A., J.D. ....	Woodbury
KAREN BROOKS HOPKINS, B.A., M.F.A. ....	Brooklyn
CHARLES R. BENDIT, B.A. ....	New York
BETTY A. ROSA, B.A., M.S. in Ed., M.S. in Ed, M.Ed., Ed.D. ....	Bronx
LESTER W. YOUNG, JR., B.S., M.S., Ed.D. ....	Brooklyn
CHRISTINE D. CEA, B.A., M.A., Ph.D. ....	Staten Island
WADE S. NORWOOD, B.A. ....	Rochester

### Commissioner of Education

#### PRESIDENT OF THE UNIVERSITY OF THE STATE OF NEW YORK

DAVID M. STEINER

### Deputy Commissioner

#### Office of Vocational and Educational Services for Individuals with Disabilities

REBECCA H. CORT

### Statewide Coordinator for Special Education

JAMES P. DELORENZO

---

The State Education Department does not discriminate on the basis of age, color, religion, creed, disability, marital status, veteran status, national origin, race, gender, genetic predisposition or carrier status, or sexual orientation in its educational programs, services and activities. Portions of this publication can be made available in a variety of formats, including Braille, large print or audio tape, upon request. Inquiries concerning this policy of nondiscrimination should be directed to the Department's Office for Diversity, Ethics, and Access, Room 530, Education Building, Albany, NY 12234.

## ***Table of Contents***

	<u>Page</u>
Overview of Development of the Annual Performance Report.....	1
<b>Indicator 1:</b> Graduation Rates. ....	5
<b>Indicator 2:</b> Dropout Rates. ....	11
<b>Indicator 3:</b> Assessment (revised 4/10) .....	16
<b>Indicator 4:</b> Suspension/Expulsion .....	23
<b>Indicator 5:</b> Least Restrictive Environment – School age .....	31
<b>Indicator 6:</b> Least Restrictive Environment – Preschool .....	37
<b>Indicator 7:</b> Preschool Outcomes .....	38
<b>Indicator 8:</b> Parental Involvement.....	41
<b>Indicator 9:</b> Disproportionality in Special Education by Race/Ethnicity (rev. 4/10)..	45
<b>Indicator 10:</b> Disproportionality in Identification by Specific Disability by Race/Ethnicity (rev. 4/10) .....	52
<b>Indicator 11:</b> Child Find (Timely Completion of Initial Evaluations) (rev. 4/10). ....	59
<b>Indicator 12:</b> Early Childhood Transition (rev. 4/10). ....	66
<b>Indicator 13:</b> Secondary Transition.....	74
<b>Indicator 14:</b> Post-school Outcomes .....	81
<b>Indicator 15:</b> Identification and Correction of Noncompliance (rev. 4/10).....	83
<b>Indicator 16:</b> Complaint Timelines .....	99
<b>Indicator 17:</b> Due Process Timelines.....	101
<b>Indicator 18:</b> Hearing Requests Resolved by Resolution Session.....	105
<b>Indicator 19:</b> Mediation Agreements.....	107
<b>Indicator 20:</b> State Reported Data .....	109
<b>Attachment:</b> State Performance Plan Indicator 7 – Preschool Outcomes (rev. 4/10)	

## OVERVIEW

Public Law 108-446, the Individuals with Disabilities Education Act (IDEA) 2004, required the New York State Education Department (NYSED) to develop and submit a six-year State Performance Plan (SPP) to the Office of Special Education Programs (OSEP) at the U.S. Education Department (USED), spanning the years 2005-2010. OSEP identified three monitoring priorities and 20 indicators relating to the priority areas that must be tracked and reported. The Annual Performance Report (APR) is required to be submitted every year as a report to the Secretary of Education and to the public on the State's performance under the SPP, describing overall progress and slippage in meeting the targets found in the SPP. This APR is the fourth report, due February 1, 2010. It references the SPP dated December 2005, as amended in February 2010. It covers the academic year 2008-09, referenced in the report as "FFY 2008."

As required under section 616 of IDEA, the State is making available a public report of each school district's performance on indicators 1 through 14 against the State's targets. This report is found at <http://eservices.nysed.gov/sepubrep/>. Data in the individual school district report will be updated annually, following the submission and acceptance of each year's APR.

The three priority areas and their corresponding indicators are as follows:

### Priority: Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE)

1. Percent of youth with individualized education programs (IEPs) graduating from high school with a regular diploma.
2. Percent of youth with IEPs dropping out of high school.
3. Participation and performance of students with disabilities on statewide assessments:
  - Percent of districts meeting the State's Adequate Yearly Progress (AYP) objectives for progress for the disability subgroup.
  - Participation rate for students with IEPs.
  - Proficiency rate for students with IEPs against grade level, modified and alternate achievement standards.
4. Rates of suspension and expulsion:
  - Percent of districts identified by the State as having a significant discrepancy in the rate of suspensions and expulsions of children with disabilities for greater than 10 days in a school year, and
  - Percent of districts identified by the State as having a significant discrepancy in the rates of suspensions and expulsions of greater than 10 days in a school year of children with disabilities by race and ethnicity, and policies, procedures or practices that contribute to the significant discrepancy and do not comply with requirements relating to the development and implementation of IEPs, the

- use of positive behavioral interventions and supports, and procedural safeguards.
5. Percent of students with IEPs ages 6 through 21:
    - Inside the regular class 80% or more of the day;
    - Inside the regular class less than 40% of the day; and
    - In separate schools, residential facilities or homebound/hospital placements.
  6. Percent of preschool children (aged 3 through 5) with IEPs attending a:
    - Regular early childhood program and receiving the majority of special education and related services in the regular early childhood program; and
    - Separate special education class, separate school or residential facility.
  7. Percent of preschool children with IEPs who demonstrate improved:
    - positive social-emotional skills (including social relationships);
    - acquisition and use of knowledge and skills (including early language/communication and early literacy); and
    - use of appropriate behaviors to meet their needs.
  8. Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities.

Priority: Disproportionality

9. Percent of districts identified with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.
10. Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.

Priority: Effective General Supervision Part B

*Child Find and Effective Transitions (district-level indicators)*

11. Percent of children with parental consent to evaluate, who were evaluated within State required timelines.
12. Percent of children referred by Part C (Early Intervention services) prior to age three (3), who are found eligible for Part B (preschool special education), and who have an IEP developed and implemented by their third birthdays.
13. Percent of youth aged 15 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition services needs. Evidence that the student was invited to the Committee on Special Education (CSE) meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency was invited to the CSE meeting with the prior consent of the parent or student who has reached the age of majority.

14. Percent of youth who are no longer in secondary school, had IEPs in effect at the time they left school, and within one year of leaving high school were:
  - Enrolled in higher education;
  - Enrolled in higher education or competitively employed; or
  - Enrolled in higher education or in some other postsecondary education or training program; or competitively employed or in some other employment.

*General Supervision (state-level indicators)*

15. General supervision system (including monitoring, complaints, hearings, etc.) identifies and corrects noncompliance as soon as possible but in no case later than one year from identification.
16. Percent of signed written complaints with reports issued that were resolved within 60-day timeline or a timeline extended for exceptional circumstances with respect to a particular complaint or because the parent (or individual or organization) and the public agency agree to extend the time to engage in mediation or other alternative means of dispute resolution.
17. Percent of adjudicated due process hearing requests that were fully adjudicated within the 45-day timeline (or 30-day timeline for preschool students) or a timeline that is properly extended by the hearing officer at the request of either party, or in the case of an expedited hearing, within the required timelines.
18. Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements.
19. Percent of mediations held that resulted in mediation agreements.
20. State reported data (618) and State Performance Plan (SPP) and Annual Performance Report (APR) are timely and accurate.

## **Overview of February 2010 Annual Performance Report Development**

The process for developing New York State's (NYS) Part B SPP can be found at <http://www.vesid.nysed.gov/specialed/spp/partb1106.html>. The APR was developed by a workgroup formed in 2005 from among managers and staff of the Office of Vocational and Educational Services for Individuals with Disabilities (VESID). This group included representatives from the Special Education Offices of Policy, Quality Assurance, Program Development and Data Collection and Reporting, and serves as the Cabinet to guide the development of the SPP and APR. Regular monthly meetings are held of this group to continuously address issues relating to the State's SPP and APR and the development of the APR.

Stakeholder input from the Commissioner's Advisory Panel (CAP) for Special Education Services, which is comprised of educators, parents, administrators and individuals with disabilities, was sought regarding creation of the SPP in baseline measures, targets and improvement strategies. CAP is kept continuously apprised regarding progress and issues reflected in the SPP in order to obtain their insights and input in determining implementation strategies, establishing targets and need for revisions. At the October

2009 meeting, data results from this year's APR were presented and recommendations for revisions to improvement activities were discussed.

The development of the APR is an ongoing process throughout the year. Annually, the results of the APR are shared with VESID's technical assistance centers (including, but not limited to: Early Childhood Direction Centers (ECDCs); Special Education Parent Centers; Regional Special Education-Technical Assistance Support Centers (RSE-TASC); RSE-TASC personnel with specialist expertise, including the Transition Specialists, Special Education School Improvement Specialists, regional Special Education Trainers, Behavior Specialists, Bilingual Special Education Specialists; and the Technical Assistance Center on Disproportionality (TAC-D)). The technical assistance providers discuss the results to further inform their work and provide recommendations to the State for revisions to its improvement activities to improve results. Results and improvement activities are discussed with the New York State Board of Regents annually. The State's Special Education Quality Assurance (SEQA) Regional Offices consider APR results in their work with individual school districts and approved private schools. The APR is also considered by the Special Education Policy and Program Development Support Services Units to make recommendations for targeted changes in State policy and improvement activities to promote improved results.

The SPP and APR are posted on NYSED's website at <http://www.vesid.nysed.gov/specialed/spp/home.html>, along with additional guidance information that explains the criteria for monitoring indicators. Announcements of the availability of these and related documents are provided through the list serve and through memoranda to school district administrators, school boards, parent organizations and others interested in the education of students with disabilities. Press announcements are released to newspapers regarding the availability of information, as new information is added. Questions regarding the SPP and APR may be directed to NYSED, VESID, Special Education Services at 518-473-2878. For more information on the federal requirements see [www.ed.gov/policy/speced/guid/idea/bapr/index.html](http://www.ed.gov/policy/speced/guid/idea/bapr/index.html).

## **Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

### **Monitoring Priority: FAPE in the LRE**

**Indicator 1:** Percent of youth with individualized education programs (IEPs) graduating from high school with a regular diploma.  
(20 U.S.C. 1416 (a)(3)(A))

#### **Measurement:**

Measurement for youth with IEPs is the same measurement as for all youth. The calculation is explained below.

#### **New York State's (NYS) Measurement:**

Percent of "total cohort" of students with disabilities who graduate with a high school diploma (Regents or local diploma) as of August after four years of first entering 9<sup>th</sup> grade or for ungraded students with disabilities, after four years of becoming 17 years of age.

Please note, the above measurement represents a change from the data provided in the Federal Fiscal Year (FFY) 2007, FFY 2006, and FFY 2005 APRs. In these earlier documents, the State reported results of the total cohort after four years as of June (or for ungraded students with disabilities, after four years from becoming 17 years of age). Based on a change in federal requirements for FFY2008, which required the State to use the same data as are used under Title I of the Elementary and Secondary Education Act (ESEA), the change has been made to report results of the total cohort, four years later, as of August (or for ungraded students with disabilities, after four years from becoming 17 years of age).

#### **Data Source:**

NYS uses the same graduation rate calculation and timeline established by the United States Education Department for accountability reporting under Title I of ESEA. At the beginning of the SPP in 2004-05, this was the percent of "graduation-rate cohort" of students with disabilities who graduate with a high school diploma (Regents or local diploma) as of August 31 of the fourth year after first entering 9<sup>th</sup> grade or for ungraded students with disabilities, after four years from becoming 17 years of age. In order to maintain consistency with ESEA in defining this measure, the definition for the graduation percent changed during school year 2005-06 to reference the "Total Cohort," as described below.

Consistent with federal directions to report data from the 2007-08 school year for the FFY 2008 APR, NYS is reporting the performance of the 2004 total cohort as is used for accountability under ESEA.

**New York State's Calculation for the 2008-09 School Year:**

NYS baseline and targets were adjusted in FFY 2007, when the federal ESEA measure used by the State to determine graduation rate changed to being based on the performance of the "total cohort."

The **denominator** is now the total cohort. See below for the definition of the 2004 total district cohort.

**The 2004 district total cohort consists of all students, regardless of their current grade level, who met one of the following conditions:**

- First entered grade 9 at any time during the 2004-05 school year (July 1, 2004 through June 30, 2005); or in the case of ungraded students with disabilities, reached their seventeenth birthday during the 2004-05 school year.
- Ungraded students are included in the 2004 cohort if their birth date is between July 1, 1987 and June 30, 1988 (inclusive).

Students who have spent at least five months in district schools or out-of-district placements during year 1, 2, 3, or 4 of high school are included in the district total cohort unless they transferred to another diploma-granting program outside the district. For the 2004 Total Cohort, Year 1, 2, 3, and 4 are the 2004-05, 2005-06, 2006-07, and 2007-08 school years, respectively.

A student will be included in the district total cohort if the student's enrollment record in the district shows that the student was enrolled for:

- at least five continuous (not including July and August) months *and* the Reason for Ending Enrollment in the district was not one of the following: transferred to a school in another district, a nonpublic school, or a school outside New York; died; transferred by court order; or left the US; or
- less than five months *and* has an ending reason indicating that the student dropped out or transferred to an Alternative High School Education Preparation Program (AHSEPP) or High School Equivalency Preparation Program (HSEPP) program *and* the student's previous enrollment record in that district (assuming one exists) indicates that the student:
  - a) was enrolled in the district for at least five months (not including July and August); and
  - b) dropped out or transferred to a AHSEPP or HSEPP program.

The **numerator** for the calculation of graduation rate is the number of students with disabilities in the total cohort who graduate with a high school diploma (Regents or local diploma) as of August 2008 after four years of first entering 9<sup>th</sup> grade or for ungraded students with disabilities, after four years of becoming 17 years of age.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
<b>FFY 2008</b> (2008-09 school year) (2004 total cohort, as of August, four years later)*	The percent of youth with IEPs graduating from high school with a regular high school diploma within four years as of August will be 44 percent.
**Note: In FFY 2008, the language in this target chart was adjusted to be consistent with March 2009 federal requirements for the lag in reporting year for this indicator using ESEA definitions and timelines.	

**Actual Target Data for FFY 2008:**

The percent of youth with IEPs graduating from high school with a regular high school diploma within four years, as of August 2008, was **44** percent (rounded) , which met the target. This rate also represents almost a three percentage point increase over last year.

Total Cohort, As of August, Four Years Later				
Cohort Year	All Students		Students with Disabilities	
	# in Cohort	Graduation Rate Number & Rate	# in Cohort	Graduation Number & Rate
2003	220,332	n=156,498 71.0%	28,528	n=11,742 41.2%
2004	223,726	n=164,744 73.6%	31,252	n=13,611 43.6%

Need/ Resource Capacity Category	2003 Total Cohort of SWD, Four Years Later as of August		2004 Total Cohort of SWD, Four Years Later as of August	
	# in Cohort	Grad Rate	# in Cohort	Grad Rate
New York City	8,407	21.8%	10,117	25.0%
Large Four Cities	1,536	23.4%	1,612	27.5%
Urban/Suburban High Need Districts	2,778	34.2%	2,633	37.6%
Rural High Need Districts	2,323	36.6%	2,382	38.2%
Average Need Districts	9,563	50.8%	10,216	53.8%
Low Need Districts	3,873	74.6%	4,165	76.7%
Charter Schools	48	10.4%	127	39.4%
Total State	28,528	41.2%	31,252	43.6%

Group of School Districts	2003 Total Cohort of SWD, Four Years Later as of August		2004 Total Cohort of SWD, Four Years Later as of August	
	# in Cohort	Grad Rate	# in Cohort	Grad Rate
Big Five Cities	9,943	22.0%	11,729	25.3%
Rest of State	18,585	51.4%	19,523	54.5%
Total State	28,528	41.2%	31,252	43.6%

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress or Slippage*

- In FFY 2008, there was progress in the State’s graduation rate of students with disabilities. The graduation rate of students with disabilities for the 2004 total cohort after four years as of August, 2008 improved by almost three percentage points compared to the 2003 total cohort rate, from 41.2 percent to 43.6 percent.
- The State’s progress is more significant given that the total number of students with disabilities in the total cohort has continued to increase each year, in part as a result of improved accuracy in data reporting. There were 2,724 more students with disabilities in the 2004 total cohort compared to the previous cohort.
- The graduation rate for the 2004 total cohort improved in every Need/Resource category of school districts.
- The range of graduation rates for the 2004 total cohort by Need/Resource Category of school districts was between 25 percent in NYC to 77 percent in the low need school districts.

The Office of Vocational and Educational Services for Individuals with Disabilities (VESID), Special Education Quality Assurance (SEQA) Reviews conducted in 2007-08 in districts that were designated as in Need of Assistance or Intervention because of graduation rate resulted in a significant improvement in performance in 2008-09 over districts that were designated in 2007-08, but who did not receive SEQA Reviews. One hundred percent of schools receiving SEQA reviews improved in 2008-09, versus only 66 percent of districts not receiving SEQA reviews. These districts also received technical assistance to address their low graduation rates from the State’s technical assistance providers.

*Improvement Activities Completed during 2008-09*

VESID accessed technical assistance to further inform their activities to improve the graduation rates of students with disabilities. This included a review of Information and resources, including but not limited to information available through the Federal

Resource Center for Special Education (FRC), Academy for Educational Development, Northeast Regional Resource Center (NERRC), Learning Innovations at WestEd, National Center for Culturally Responsive Educational Systems (NCCRESt), and the Access Center: Improving Outcomes for All Students K-8. In addition, VESID staff participated in various State and national meetings, conferences and webinars.

**Activities Completed:**

1. NYS' criteria for identifying school districts as needing assistance or intervention under the Individuals with Disabilities Education Act (IDEA) includes a measure of graduation rates for students with disabilities in relation to the State's graduation target for that school year.
  - In September 2008, based on 2006-07 data, 57 school districts were identified as needing assistance and 26 districts were identified as needing intervention. Of the 83 school districts identified as needing assistance or intervention based on 2006-07 data, 56 were identified as a direct result of their graduation rates for students with disabilities (38 as needing assistance and 18 as needing intervention). Directed work with these school districts was initiated in the fall of 2008.
  - In June 2009, based on 2007-08 data, 41 school districts were identified as needing assistance and 31 were identified as needing intervention. Twenty-six (26) out of the 72 identified districts were identified based on low graduation rates. Technical assistance resources have been directed to these schools.
2. VESID substantially increased the amount of its IDEA discretionary funds available for Quality Improvement Implementation grant awards to school districts identified as needing assistance or intervention. In January 2009, VESID provided approximately 65 school districts with grant awards to implement improvement activities. Many of the activities were directed to improve instructional practices leading to low graduation rates of students with disabilities.
3. Through a regional planning process, resources were directed to school districts identified as needing assistance or intervention. This included focused reviews by SEQA and/or quality improvement technical assistance provided by technical assistance networks funded with IDEA Discretionary funds.
  - SEQA monitoring staff conducted seven reviews in identified districts targeting those policies, practices and procedures impacting on students with disabilities' access to and participation in the general education curriculum. SEQA also conducted 12 reviews in identified districts that focused on policies, practices and procedures affecting special education delivery, access to the general education curriculum, educational benefit and instructional outcomes at the high school level and four with the same focus district-wide.

- In four of the five largest school districts in NYS, SEQA monitoring staff conducted reviews to determine if the district's policies, practices and procedures offered the foundation for students with disabilities to receive programs that are reasonably calculated to result in educational benefit and improved outcomes. The reviews focused on the areas of individual initial evaluations/reevaluations; Committee on Special Education annual review and progress monitoring processes; and the delivery of special education programs and services. As a result of these reviews, district-wide systemic Compliance Assurance Plans were implemented in each of the Big 4 City Districts.
4. The State's special education staff and technical assistance providers received ongoing professional development to enhance their knowledge and expertise with a focus on:
- small group and intensive behavioral interventions for students with serious social-emotional/behavioral difficulties;
  - explicit strategy instruction – research based strategies in special education;
  - formative assessment, including data and progress monitoring; and
  - school quality improvement strategies.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008:**

During 2008-09, VESID comprehensively redesigned its technical assistance system to expand its technical assistance resources statewide and to create teams of specialists within each region of NYS which include special education school improvement specialists, regional special education trainers, secondary transition specialists, bilingual special education specialists, behavior specialists and individuals directly targeted to provide training and school improvement technical assistance to nondistrict programs such as school-age approved private schools. This redesign resulted in ten Regional Special Education Technical Assistance Support Centers (RSE-TASC). For further information on this new technical assistance network, see <http://www.vesid.nysed.gov/specialed/techassist/rsetasc/>. In addition, a revised regional planning process was developed to ensure the State's technical assistance and monitoring resources are strategically deployed to school districts most in need of improvement.

### **Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

#### **Monitoring Priority: FAPE in the LRE**

**Indicator 2:** Percent of youth with individualized education programs (IEPs) dropping out of high school.  
(20 U.S.C. 1416 (a)(3)(A))

#### **Measurement:**

Measurement for youth with IEPs is the same measurement as for all youth. The calculation is explained below.

#### **New York State's (NYS) Measurement:**

Percent of "total cohort" of students with disabilities who dropout as of August after four years of first entering 9<sup>th</sup> grade or for ungraded students with disabilities, after four years of becoming 17 years of age.

Please note, the above measurement represents a change from the data provided in the Federal Fiscal Year (FFY) 2007, FFY 2006, and FFY 2005 APRs. In these earlier documents, the State reported results of the total cohort after four years as of June (or for ungraded students with disabilities, after four years from becoming 17 years of age). Based on a change in federal requirements for FFY 2008, which required the State to use the same data as are used under Title I of the Elementary and Secondary Education Act (ESEA), the change has been made to report results of the total cohort, four years later, as of August (or for ungraded students with disabilities, after four years from becoming 17 years of age).

#### **Data Source:**

NYS uses the same total cohort data for dropout rate calculation as are used in the ESEA graduation rate calculation and follows the timeline established by the Department under Title I of ESEA. At the beginning of the State Performance Plan (SPP) in 2004-05, this was the percent of the "graduation-rate cohort\*" of students with disabilities who dropped out of school. To remain consistent with ESEA changes, beginning with school year 2005-06, the reference group changed to the "total cohort."

#### **NYS' Calculation for Drop Out Rate for School Year 2008-09:**

For FFY 2008, the 2004 district total cohort is the **denominator**.

The 2004 district total cohort consists of all students, regardless of their current grade level, who met one of the following conditions:

- First entered grade 9 at any time during the 2004-05 school year (July 1, 2004 through June 30, 2005); or in the case of ungraded students with disabilities, reached their seventeenth birthday during the 2004–05 school year; or
- Ungraded students are included in the 2004 cohort if their birth date is between July 1, 1987 and June 30, 1988 (inclusive).

Students who have spent at least five months in district schools or out-of-district placements during year 1, 2, 3, or 4 of high school are included in the district total cohort unless they transferred to another diploma-granting program outside the district. For the 2004 Total Cohort, Year 1, 2, 3, and 4 are the 2004-05, 2005-06, 2006-07, and 2007-08 school years, respectively.

A student will be included in the district total cohort if the student's enrollment record in the district shows that the student was enrolled for:

- at least five continuous (not including July and August) months *and* the Reason for Ending Enrollment in the district was not one of the following: transferred to a school in another district, a nonpublic school, or a school outside New York; died; transferred by court order; or left the US; or
- less than five months *and* has an ending reason indicating that the student dropped out or transferred to an Alternative High School Education Preparation Program (AHSEPP) or High School Equivalency Preparation Program (HSEPP) program *and* the student's previous enrollment record in that district (assuming one exists) indicates that the student:
  - a) was enrolled in the district for at least five months (not including July and August); and
  - b) dropped out or transferred to an AHSEPP or HSEPP program.

The **numerator** for the computation of the rate of dropping out is the number of total cohort students with disabilities who drop out as of August after four years of first entering 9<sup>th</sup> grade or for ungraded students with disabilities, after four years of becoming 17 years of age.

#### **Definition of Drop Out:**

Information pertaining to the rules for reporting dropout data can be found throughout the Student Information Repository System (SIRS) Manual at: <http://www.emsc.nysed.gov/irts/sirs/2009-10/2009-10SIRSManual5-0.pdf>. The definition of "dropout" may be found on page 280 of the SIRS Manual in the Glossary of Terms - Appendix 22:

*"A dropout is any student, regardless of age, who left school prior to graduation for any reason except death or leaving the country and has not been documented to have entered another program leading to a high school diploma or an approved program leading to a high school equivalency diploma. The NYSED reports an*

*annual and cohort dropout rate. A student who leaves during the school year without documentation of a transfer to another program leading to a high school diploma or to an approved high school equivalency program or to a high school equivalency preparation program is counted as a dropout unless the student resumes school attendance before the end of the school year. The student's registration for the next school year does not exempt him or her from dropout status in the current school year. Students who resume and continue enrollment until graduation are not counted as dropouts in the cohort dropout calculation. In computing annual dropout rates, students who are reported as having been counted by the same school as a dropout in a previous school year are not counted as a dropout in the current school year."*

*"When the Department computes the total number of dropouts and drop-out rate, any student who was reported as a dropout in a previous year is not counted again as a dropout."*

*"Schools with grade seven or higher who do not grant diplomas are responsible for ensuring that students completing their programs enroll in a diploma-granting school to complete their secondary education. They must report students who complete their program and who do not enroll in and attend a diploma-granting secondary school as dropouts. These students are reported in the school year in which they fail to enroll and to attend the diploma-granting program."*

For further information about cohorts used in the past, see SPP Indicator 1 for the definitions of Graduation-Rate Cohort and School and District Accountability Cohort, and the history of changing the definition of Graduation-Rate Cohort in 2006-07.

Note: NYS baseline and targets were adjusted in FFY 2007, when the ESEA measure used by the State to determine graduation rate changed to being based on the performance of the "total cohort."

FFY	Measurable and Rigorous Target
<b>FFY 2008</b> (2008-09 school year) (2004 total cohort as of August 2008)*	No more than 18 percent of students with disabilities will drop out of school.
*Note: In FFY 2008, the language in this target chart was adjusted to be consistent with March 2009 federal requirements for the lag in reporting for this indicator using ESEA definitions and timelines.	

**Actual Target Data for FFY 2008:**

NYS exceeded its target for this indicator. In the 2008-09 school year, **16** percent of students with disabilities in the 2004 cohort, as of August four years later, dropped out of school. This represents a **0.9%** improvement over last year's performance. It also **exceeds** the target by two percentage points.

Total Cohort, As of August, Four Years Later				
Cohort Year	All Students		Students with Disabilities	
	# in Cohort	Drop-Out # & Rate	# in Cohort	Drop-Out # & Rate
2003	220,332	n=25,415 11.5%	28,528	n=4,829 16.9%
2004	223,726	n=22,253 10%	31,252	n=5,001 16%

Need/ Resource Capacity Category	2003 Total Cohort of SWD, As of August, Four Years Later		2004 Total Cohort of SWD, As of August, Four Years Later	
	# in Cohort	Drop-Out Rate	# in Cohort	Drop-Out Rate
New York City	8,407	22.0%	10,117	21.6%
Large Four Cities	1,536	38.9%	1,612	31.4%
Urban/Suburban High Need Districts	2,778	20.0%	2,633	16.5%
Rural High Need Districts	2,323	19.9%	2,382	19.4%
Average Need Districts	9,563	12.5%	10,216	12.0%
Low Need Districts	3,873	4.0%	4,165	3.8%
Charter Schools	48	31.3%	127	23.6%
Total State	28,528	16.9%	31,252	16.0%

Group of School Districts	2003 Total Cohort of SWD, as of August, Four Years Later		2004 Total Cohort of SWD, As of August, Four Years Later	
	# in Cohort	Drop-Out Rate	# in Cohort	Drop-Out Rate
Big Five Cities	9,943	24.6%	11,729	22.9%
Rest of State	18,585	12.8%	19,523	11.8%
Total State	28,528	16.9%	31,252	16.0%

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress or Slippage*

- FFY 2008 data show progress. The dropout rate of students with disabilities for the 2004 total cohort four years later, as of August, improved by 0.9 percentage points

compared to the 2003 total cohort rate, from 16.9 percent to 16.0 percent. The State exceeded its 2008 target of 18 percent by two percentage points.

- The State's progress is more significant given that the number of students with disabilities in the total cohort has continued to increase each year, in part as a result of improved accuracy in data reporting. There were 2,776 more students with disabilities in the 2004 total cohort compared to the previous year's cohort.
- The dropout rate for the 2004 total cohort improved in every Need/Resource Capacity category of school districts.
- The range of dropout rates for the 2004 total cohort by Need/Resource Capacity category of school districts was between 31.4 percent in the large four cities to 3.8 percent in the low need school districts.

*Improvement Activities Completed during 2008-09*

The Office of Vocational and Educational Services for Individuals with Disabilities (VESID) obtained and utilized technical assistance resources and materials from the National Dropout Prevention Center for Students with Disabilities (NDPC-SD). Also see technical assistance resources accessed as identified for Indicator 1 (improving graduation rates).

For Improvement Activities Completed, see Indicator 1.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

See Indicator 1.

### **Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

#### **Monitoring Priority: FAPE in the LRE**

**Indicator 3:** Participation and performance of children with individualized education programs (IEPs) on statewide assessments:

- A. Percent of the districts with a disability subgroup that meets the State's minimum "n" size that meet the State's adequate yearly progress (AYP) targets for the disability subgroup.
  - B. Participation rate for children with IEPs
  - C. Proficiency rate for children with IEPs against grade level, modified and alternate academic achievement standards.
- (20 U.S.C. 1416 (a)(3)(A))

#### **Measurement:**

- A. AYP percent =  $[(\# \text{ of districts with a disability subgroup that meets the State's minimum "n" size that meet the State's AYP targets for the disability subgroup}) \div (\text{total } \# \text{ of districts that have a disability subgroup that meets the State's minimum "n" size})] \text{ times } 100.$
- B. Participation rate percent =  $[(\# \text{ of children with IEPs participating in the assessment}) \div (\text{total } \# \text{ of children with IEPs enrolled during the testing window, calculated separately for reading and math})].$  The participation rate is based on all children with IEPs, including both children with IEPs enrolled for a full academic year and those not enrolled for a full academic year.
- C. Proficiency rate percent =  $[(\# \text{ of children with IEPs enrolled for a full academic year scoring at or above proficient}) \div (\text{total } \# \text{ of children with IEPs enrolled for a full academic year, calculated separately for reading and math})].$

#### **Notes:**

- New York State (NYS) Public reports of assessment results are available at <http://www.emsc.nysed.gov/irts/reportcard/>.
- NYS administers alternate assessments against alternate achievement standards aligned to grade level content.
- NYS does not administer assessments against modified achievement standards.

#### **Data Source:**

NYS uses AYP data as is used for accountability reporting under Title I of the Elementary and Secondary Education Act (ESEA).

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
<p><b>FFY 2008</b> (2008-09 school year)</p>	<p><b>AYP:</b> 59 percent of school districts that are required to make AYP for the students with disabilities subgroup will make AYP in grades 3-8 English language arts (ELA), grades 3-8 math, high school ELA and high school math.</p> <p><b>Participation:</b> 95 percent in grades 3-8 and high school in ELA and math.</p> <p><b>Performance:</b> The State's average performance on the performance indices (PI) which represent the percent of students with disabilities performing at Level 2 (basic proficiency) and above plus the percent of students with disabilities performing at Level 3 (proficiency) and above will be as follows:            Grades 3-8 ELA: 106            Grades 3-8 Math: 115            High School ELA: 129            High School Math: 139</p>

**Actual Target Data for FFY 2008:**

AYP

In the 2008-09 school year, **82.7** percent of school districts (including Charter Schools) that were required to make AYP did so in every grade and subject in which they had a sufficient number of students with disabilities. This exceeds the target by 23.7 percentage points, and represents more than an 11 percentage point increase over last year.

AYP for Students with Disabilities Subgroup		
FFY	Number of School Districts Required to Make AYP (had minimum of 40 students for participation and 30 students for performance)	Number and Percent of School Districts that made AYP in all Required Subjects
2004 (2004-05)	290	48.3%
2005 (2005-06)	675 (includes 5 Charter Schools)	57.2%
2006 (2006-07)	648 (includes 12 Charter Schools)	75.5%
2007 (2007-08)	655 (includes 19 Charter Schools)	71.3% (n=467)
2008 (2008-09)	665 (includes 25 Charter Schools)	82.7% (n=550)

AYP for Students with Disabilities Subgroup by Need/Resource Capacity Category of School Districts				
Need/Resource Capacity Category of School Districts	2007-08		2008-09	
	Number of School Districts Required to Make AYP (minimum 40 students for participation and 30 students for performance)	Percent of School Districts that made AYP in all Required Subjects	Number of School Districts Required to Make AYP (minimum 40 students for participation and 30 students for performance)	Percent of School Districts that made AYP in all Required Subjects
New York City	32	6.3%	32	9.4%
Large Four Cities	4	0.0%	4	0.0%
Urban-Suburban High Need Districts	43	48.8%	43	48.8%
Rural High Need Districts	123	69.1%	121	91.7%
Average Need Districts	316	74.7%	321	86.0%
Low Need Districts	118	88.1%	119	95.8%
Charter Schools	19	100.0%	25	100.0%

Participation Rate

The participation rate of students with disabilities in the 2008-09 school year exceeded the target in every category, as follows:

- Grades 3-8 ELA: **98** percent
- Grades 3-8 Math: **98** percent
- High School ELA: **95** percent
- High School Math: **96** percent

Participation Rates for Students with Disabilities Subgroup				
Assessment	2007-08		2008-09	
	Enrollment	Participation Rate	Number Tested/ Enrollment*	Participation Rate
Grade 3-8 ELA	211,495	96.8%	204,652/208,435	98%
Grade 3-8 Math	211,104	96.9%	204,519/208,210	98%
High School ELA (seniors)	19,080	92.7%	18,686/19,659	95%
High School Math (seniors)	19,080	94.0%	18,875/19,659	96%

Performance

The State has four Performance Indices (PI). The PIs represent the percent of students scoring at Levels 3-4, plus the percent of students scoring at Levels 2-4. If 100 percent of students performed at proficient levels, the index score would be 200 (100 Percent at Level 3-4 and 100 percent at Level 2-4).

The chart below provides the numbers of students with disabilities and their performance level in grades 3-8 and high school ELA and math that resulted in the PI calculations that are displayed in the second chart below.

Data Used for Computing PIs for 2008-09					
Assessment	Continuously Enrolled Students with Disabilities in Grades 3-8 and in 2005 Accountability Cohort in High School (HS)	Number by Performance Level on State Assessments			
		Level 1	Level 2	Level 3	Level 4
Grade 3-8 ELA	198,953	17,262	98,709	73,831	9,151
Grade 3-8 Math	197,203	21,381	57,511	99,696	18,615
HS ELA 2005 Accountability Cohort	24,883	6,925	5,211	10,498	2,249
HS Math 2005 Accountability Cohort	24,883	5,582	6,813	10,092	2,396

In the 2008-09 school year, the State's average performance for the students with disabilities subgroup on these indices was as follows:

- Grades 3-8 ELA: **133** (met the target)
- Grades 3-8 Math: **149** (met the target)

- High School ELA: **123** (missed the target by 6 points)
- High School Math: **128** (missed the target by 11 points)

Performance Index for the Students with Disabilities Subgroup							
Assessment	2008-09 Performance		2008-09 Standard			Students with Disabilities Made AYP in 2008-09	2009-10 AMO or Safe-Harbor Target
	Continuously Enrolled Students with Disabilities in Grades 3-8 and in 2005 Accountability Cohort in High School (HS)	NYS PI	Effective AMO*	Safe-Harbor Target	Met Third Indicator for Safe Harbor		
Grades 3-8 ELA	198,953	133	144	124	Yes	Yes	140
Grades 3-8 Math	197,203	149	119	--	Yes	Yes	135
HS ELA 2005 accountability cohort	24,883	123	171	126	No	No	131
HS Math 2005 accountability cohort	24,883	128	166	133	No	No	135

\* Annual measurable objective (AMO)

**Public Reporting of Assessment Information:**

Public reports of assessment results are available at <http://www.emsc.nysed.gov/irts/reportcard/>.

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress or Slippage*

**AYP:**

The State far exceeded its 2008 AYP target for the percentage of school districts that achieved AYP in all of their required subjects. In the 2007-08 school year, 71.3 percent of the required school districts (including Charter Schools) made AYP and in the 2008-09 school year, **82.7** percent of school districts (including Charter Schools) made AYP. The target for the 2008-09 school year was 59 percent.

The data provided in the above charts indicate a significant difference in the percent of school districts that made AYP for the students with disabilities subgroup in the Big Five Cities and the urban-suburban high need school districts compared with other school

districts in the State. For example, three community school districts in New York City (NYC) made AYP, none of the large four cities made AYP, and less than half of the urban-suburban high need districts made AYP compared to 91.7 percent of rural high need districts, 86 percent of average need school districts, 95.8 percent of low need school districts and 100 percent of Charter schools.

**Participation:**

The State met or exceeded the participation rate target of 95 percent in all the required subjects and grades for the first time since assessments began to be administered in each of Grades 3-8 and high school (in the 2005-06 school year). In grades 3-8 ELA and math, the State's rate was 98 percent compared to 97 percent in 2007-08. In high school ELA, for the first time, the State achieved a rate of 95 percent compared to 94 percent in 2007-08. In high school math, the rate improved to 96 percent compared to 95 percent in the 2007-08 school year.

**Performance:**

The State's performance target was to increase each year's PI target by five points. The 2008-09 target for grades 3-8 ELA was a PI of 106, which the State exceeded with a PI of 133. The target for grades 3-8 math was a PI of 115, and the State exceeded this target with a PI of 149. The high school ELA target was 129, and the State achieved a PI of 123 (only six points short of the target). In high school math, the target was 139 but the State's PI was 128 (11 points short of the target).

*Improvement Activities Completed during 2008-09*

The Office of Vocational and Educational Services for Individuals with Disabilities (VESID) obtained technical assistance from the Office of Special Education Programs (OSEP) National Technical Assistance Center on Response to Intervention (RtI), the National Instructional Materials Accessibility Standards (NIMAS) Technical Assistance Center, the National Center on Student Progress Monitoring and the New York Comprehensive Center to further inform and advance the State's initiatives in this area.

- Through a regional planning process, resources were directed to identified school districts. This included focused reviews by VESID, Special Education Quality Assurance (SEQA) and /or quality improvement technical assistance provided by the State's special education technical assistance centers.
- In four of the five largest school districts in NYS, SEQA monitoring staff conducted reviews to determine if the district's policies, practices and procedures offered the foundation for students with disabilities to receive programs that are reasonably calculated to result in educational benefit and improved outcomes. The reviews focused on the areas of individual initial evaluations/reevaluations; Committee on Special Education annual review and progress monitoring processes; and the delivery of special education programs and services. As a result of these reviews,

district-wide systemic Compliance Assurance Plans were implemented in each of the Big 4 City Districts.

- SEQA staff conducted 32 monitoring reviews that focused on special education delivery, access to the general education curriculum and educational benefit. Through the reviews, districts' policies, instructional practices and procedures were targeted to ensure positive outcomes for students with disabilities. Compliance is used to ensure effective and appropriate instruction is delivered.
- VESID funded a State technical assistance center on Rtl and provided 14 grants to school districts to develop high quality Rtl programs.

Also see technical assistance obtained as noted under indicator 1.

See activities reported as completed under Indicator 1.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

As required for this indicator, the State will need to revise its future Performance targets beginning with the 2009-10 school year, to be consistent with those under Title I of ESEA.

## **Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

### **Monitoring Priority: FAPE in the LRE**

**Indicator 4:** Rates of suspension and expulsion:

- A. Percent of districts that have a significant discrepancy in the rate of suspensions and expulsions of greater than 10 days in a school year for children with individualized education programs (IEPs); and
- B. Percent of districts that have (a) a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and (b) policies, procedures or practices that contribute to the significant discrepancy and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards.  
(20 U.S.C. 1416(a)(3)(A); 1412(a)(22))

#### **Measurement 4A:**

- A. Percent = [(# of districts that have a significant discrepancy in the rates of suspensions and expulsions for greater than 10 days in a school year of children with IEPs) divided by the (# of districts in the State)] times 100.

#### **Data Collection and Verification Procedures:**

New York State (NYS) collects data on the number of students with disabilities suspended or expelled out of school for more than 10 days in a school year on the PD-8 report. This report is available at <http://www.vesid.nysed.gov/sedcar/forms/pdfforms/0809/08word/08pd8.doc>. Data for this report are collected through a web-based application. The State verifies the reliability and accuracy of the State's data through automated edit checks and verification procedures.

Section 618 data were used to analyze for discrepancy in the rates of out-of-school suspensions of students with disabilities for greater than 10 days in a school year among school districts. Suspension rates were calculated for all school districts. From 2004-05 through 2007-08, the rates were computed by dividing the number of students with disabilities suspended out of school for more than 10 days, by the December 1 count of school-age students with disabilities and the result expressed as a percent. From 2008-09 onward, the date for determining the count for school-age students changed from December 1 to the first Wednesday in October.

The 2004-05 baseline statewide average suspension rate was 1.34 percent. School districts with at least 75 school-age students with disabilities that had a suspension rate

of 4.0 percent or higher were identified as having significant discrepancy in their rate among school districts. A minimum number of 75 students with disabilities was used since small numbers of students with disabilities may distort percentages.

**Definition of Significant Discrepancy and Methodology:**

In NYS, the rates of suspensions and expulsions of students with disabilities out of school for more than 10 days in a school year are compared among the school districts in the State. School districts with significant discrepancies in their suspension rates as indicated below are identified as having a high rate and must complete a State developed monitoring protocol. This protocol requires them to review specific policies, practices and procedures related to discipline of students with disabilities, including requirements relating to the development and implementation of IEPs, use of positive behavioral interventions and supports and procedural safeguards. The results from this review are reported to the State for follow-up and corrective actions if compliance issues are identified.

- For the baseline year 2004-05 through 2006-07, significant discrepancy was defined as a suspension rate of greater than three times the baseline statewide average (i.e., a rate of 4.0 percent or higher).
- Beginning in 2007-08 through 2010-11, significant discrepancy is defined as a suspension rate of greater than two times the baseline statewide average, (i.e., a rate of more than 2.7 percent or higher).

**Data Source:**

For Indicator 4A, NYS uses data collected for Table 5 of Information Collection 1820-0621 (Report of Children with Disabilities Unilaterally Removed or Suspended/Expelled for More than 10 Days) and reported to the United States Education Department (USED) annually in the 618 report. These data are also provided to USED in the corresponding EDFacts files.

**4B: Significant Discrepancies by Race/Ethnicity in High Suspension Rates**

A new baseline for Measurement 4B will be reported in the State Performance Plan (SPP) to be submitted February 1, 2011, with APRs resuming thereafter. See SPP February 2010 for information about Measurement of 4B.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2008 (2008-09 school year)	<p><b>4A.</b> No more than 2 percent of school districts in the State will suspend students with disabilities for more than 10 days at a rate of 2.7% or higher. (This rate is two times the baseline average.)</p> <p><b>4B.</b> Reporting this indicator by race and ethnicity is not required for the FFY 2008 APR due February 1, 2010. Baseline, targets and improvement activities will be established in the FFY 2009 SPP due February 1, 2011.</p>

**Actual Target Data for FFY 2008 for Indicator 4A:**

In the 2008-09 school year, **40** school districts (5.9% of all school districts) had an out-of-district suspension rate for 10 days or more of 2.7 percent or higher.

2008-09 performance represents a significant improvement over the previous school year, 2007-08, when **64** school districts (9.4 percent of all school districts) had an out-of-district suspension rate for 10 days or more of 2.7 percent or higher.

<b>Indicator 4A. Local Educational Agencies (LEAs) with Significant Discrepancies in Rates for Suspension and Expulsion of Students with Disabilities</b>			
<b>Year</b>	<b>Total Number of LEAs</b>	<b>Number of LEAs that have Significant Discrepancies</b>	<b>Percent</b>
<b>FFY 2007 (2007-08)</b>	683	64	9.4%
<b>FFY 2008 (2008-09)</b>	682	40	5.9%

*Review of Policies, Procedures and Practices (FFY 2008)*

For each school district identified by their data as having a significant discrepancy in the rate of suspensions and expulsions of greater than 10 days in a school year of students with disabilities, the State ensures that a review is conducted of the district’s policies, procedures and practices relating to the development and implementation of IEPs, the uses of positive behavioral interventions and supports, and procedural safeguards among students with disabilities subject to discipline. The monitoring protocol for this review is available at <http://www.vesid.nysed.gov/specialed/spp/4selfreview409.pdf>. A report of the results of this review is submitted by the district to the State. At the time of submission, schools that identify issues of noncompliance are immediately notified that they must correct all issues of noncompliance as soon as possible, but not later than 12 months. Policies, procedures and practices of school districts identified by data for a second consecutive year are reviewed by the State’s special education monitoring staff.

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress or Slippage*

In 2007-08, NYS revised its definition of “significant discrepancy” in suspension rate from a rate that is 4.0% or higher to a rate that is 2.7% or higher, thus identifying 64 districts based on 2007-08 school year data compared to 16 school districts based on 2006-07 school year data.

2008-09 represented the second year of implementing the more rigorous definition of significant discrepancy. The percentage of school districts whose data indicated significant discrepancies in high rates of suspensions of students with disabilities for

more than 10 days decreased from 9.4 percent to 5.9 percent, representing a significant improvement. NYS will report on the review of policies, practices and procedures in the 40 school districts in next year's APR.

**Correction of FFY 2007 Findings of Noncompliance**

Beginning with this APR submission, NYS is reporting on the correction of noncompliance according to the school year in which the finding of noncompliance was issued. This method of reporting is consistent with guidance and format provided by USED. In earlier years, under this indicator, the State only reported on the number of school districts with noncompliance according to the data year (used for identification) and the notification year (the year in which districts were notified to complete a self-review of their practices, policies and procedures). Please note that the number of districts reported in the tables below as having corrected findings within one year or after one year shows that some school districts corrected some of their findings within one year and other findings after one year. For this reason, some of the same school districts are reported in one or more of Lines 1-6 depending on how many of the findings they corrected within one year or after one year.

1. Number of findings of noncompliance the State made during FFY 2007 (the period from July 1, 2007 through June 30, 2008).	161 findings (13 school districts)
2. Number of FFY 2007 findings the State verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding).	102 findings (10 school districts)
3. Number of FFY 2007 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	59 findings (5 school districts)

**Correction of FFY 2007 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):**

4. Number of FFY 2007 findings not timely corrected (same as the number from (3) above)	59 findings (5 school districts)
5. Number of FFY 2007 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	42 findings (5 school districts)
6. Number of FFY 2007 findings <u>not</u> yet verified as corrected [(4) minus (5)]	21 findings (1 school district)

**Actions Taken if Noncompliance from FFY 2007 Not Corrected:**

*For FFY 2007 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

- For each school district with continuing noncompliance, the State required the district to obtain technical assistance and has directed specialists from the Regional

Special Education Technical Assistance Support Centers (RSE-TASC), including behavior specialists, to address root causes of noncompliance and assist the districts in the development of systems of Positive Behavioral Interventions and Supports (PBIS).

- For the remaining school district in item 6 of the FFY 2007 table above, a follow-up monitoring review was conducted and a Compliance Assurance Plan was issued, specifying the actions the school district is required to take and giving timelines for these actions to be completed. The Special Education Quality Assurance (SEQA) Regional Associate has conducted on-going follow-up and technical assistance activities.

**Verification of Correction of Findings from FFY 2007 (either timely or subsequent):**

*For those findings for which the State has reported correction, describe the process the State used to verify that the LEA is correctly implementing the specific regulatory requirements.*

When the school district reports correction of noncompliance to the State, the Superintendent in the school must submit an assurance that the information reported is accurate. If a school district does not report correction of noncompliance within one year from identification, the State conducts a follow-up monitoring review and issues a Compliance Assurance Plan, specifying the actions the school district is required to take and giving timelines for these actions to be completed. The SEQA Regional Associate follows up with each district to assure that the Compliance Assurance Plan is fully implemented and to verify that noncompliance has been corrected. If a school district's data indicates significant discrepancies for two or more consecutive years, regardless of whether the district reported correction of noncompliance, the State conducts the review of the district's policies, procedures and practices and verifies through review of revised policies and student records that correction of noncompliance has been achieved.

**Correction of Remaining FFY 2006 Findings of Noncompliance (if applicable):**

*For FFY 2006 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

1. Number of findings of noncompliance the State made during FFY 2006 (the period from July 1, 2006 through June 30, 2007).	181 findings (19 districts)
2. Number of FFY 2006 findings the State has verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding).	0 findings (0 districts)
3. Number of FFY 2006 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	181 findings (19 districts)

**Correction of FFY 2006 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):**

4. Number of FFY 2006 findings not timely corrected (same as the number from (3) above)	181 findings (19 districts)
5. Number of FFY 2006 findings the State has verified as corrected beyond	176 findings

the one-year timeline ("subsequent correction")	(19 districts)
6. Number of FFY 2006 findings <u>not</u> yet verified as corrected [(4) minus (5)]	5 findings (2 districts)

Both districts in item 6 of the FFY 2006 table are large urban districts. Both were monitored on site, and then received individualized interventions to address district-specific findings. In both districts, a district-wide systemic Compliance Assurance Plan, specifying the actions the school district is required to take and giving timelines for these actions to be completed, was issued to address the identified areas of noncompliance with the district's policies, practices and procedures relating to the suspension and discipline of students with disabilities. In one, district-wide professional development in the use of Positive Behavioral Strategies (PBS) was conducted with Student Support Teams and Committees on Special Education (CSE). In the other, technical assistance has been provided to support the district's implementation of a school-wide Positive Behavioral Interventions and Supports (PBIS) program.

**Correction of Any Remaining Findings of Noncompliance from FFY 2005 or Earlier (if applicable):**

*For FFY 2005 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

The State issued notifications of noncompliance beginning in the FFY 2006, thus there were no findings in FFY 2005.

**Additional Information Required by the OSEP APR Response Table for this Indicator:**

<b>Statement from the OSEP Response Table</b>	<b>State's Response</b>
The State reported that noncompliance identified in FFY 2005, FFY 2006 and FFY 2007 with the requirements in 34 CFR §300.170(b) was partially corrected. The State must demonstrate, in the FFY 2008 APR, due February 1, 2010, that the remaining noncompliance was corrected, by reporting that it has verified that each LEA with remaining noncompliance identified in FFY 2005, FFY 2006 and FFY 2007 is correctly implementing the specific regulatory requirements. The State must take the steps necessary to ensure that it can report, in the FFY 2008 APR, due February 1, 2010, that it has corrected this noncompliance.	<p>The State has verified the correction of 140 findings (87 percent) of noncompliance from thirteen school districts identified in FFY 2007. One school district has 21 findings of noncompliance beyond one year. The resources of the State's behavior specialists have been directed to work with this district to improve the district's behavioral practices.</p> <p>The State has verified the correction of 176 findings (97 percent) from the FFY 2006 year. Two of NYS' largest school districts have continuing noncompliance (5 findings). The State has provided grant funds to these districts to implement improvement activities and funds school improvement specialists to work exclusively with these two districts. Two of the districts have been identified as districts in need of intervention or assistance.</p>

Statement from the OSEP Response Table	State's Response
<p>As noted in the revised Part B Indicator Measurement Table, in reporting on this indicator in the FFY 2008 APR, due February 1, 2010, the State must again describe the results of the State's examination of data from FFY 2007 (2007-08). In addition, the State must describe the review, and if appropriate, revision of policies, procedures and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure compliance with the IDEA for LEAs identified with significant discrepancies in FFY 2007, as required by 34 CFR §300.170(b).</p>	<p>NYS examines suspension/expulsion data annually and based on established criteria notifies school districts whose suspension rates are significantly higher compared to the rates in other school districts. Each school district that is identified completes a self-review of its policies, procedures and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure compliance with the IDEA. The self-review monitoring protocol used by school districts is developed by the State. The results of the self review are reported to the State and correction of any reported noncompliance is required to be corrected and verified within one year from notification. Policies, procedures and practices of school districts identified by data for a second consecutive year are reviewed by the State's special education monitoring staff.</p>
<p>OSEP looks forward to the State's data demonstrating improvement in performance in the FFY 2008 APR, due February 1, 2010.</p>	<p>Under the more rigorous definition, data improved significantly, compared with the previous year. In FFY 2008, the number of school districts identified by their data went down from 64 to 40, a decrease from 9.4% to 5.9% of school districts.</p>

*Improvement Activities Completed in 2008-09*

The Office of Vocational and Educational Services for Individuals with Disabilities (VESID) developed and implemented the use of electronic notices, sent to districts at 3-month intervals, as a reminder of the noncompliance that needs to be corrected and the next steps that will be taken by VESID should timely correction not occur. The State's monitoring staff also receive copies of the electronic notices and take appropriate follow-up actions.

NYS redesigned its special education technical assistance networks to form teams of specialists in each region of the State. These teams include behavior specialists to provide technical assistance and training on implementation of PBIS and policies, procedures and practices relating to development and implementation of IEPs, the uses of positive behavioral interventions and supports, and procedural safeguards among students with disabilities subject to discipline. The number of behavior specialists funded by the State in these centers has expanded from previous contracts.

The State developed a three-day training program for chairpersons of CSEs and Committees on Preschool Special Education (CPSEs), which includes training on IEP development and positive behavioral supports and interventions.

The State issued a Request for Proposals for a State Technical Assistance Center on PBIS. The winning bidder for this Center will be announced in early winter, 2010.

VESID accessed technical assistance to further inform its activities to address suspension rates of students with disabilities and to promote positive behavioral supports and interventions in NYS' public and private schools from the National Center for Positive Behavioral Interventions and Supports. This national technical assistance and support is critical for assisting NYS to improve its performance on this indicator. One of NYS' behavior specialists serves on the Board of Directors for the national technical assistance center. The State supports attendance of its behavior specialists at the national conferences.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [*If applicable*]**

None.

**Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

**Monitoring Priority: FAPE in the LRE**

**Indicator 5:** Percent of children with individualized education programs (IEPs) aged 6 through 21 served:

- A. Inside the regular class 80% or more of the day;
- B. Inside the regular class less than 40% of the day; and
- C. In separate schools, residential facilities, or homebound/hospital placements.  
(20 U.S.C. 1416(a)(3)(A))

**Measurement:**

- A. Percent = [(# of children with IEPs served inside the regular class 80% or more of the day) divided by the (total # of students aged 6 through 21 with IEPs)] times 100.
- B. Percent = [(# of children with IEPs served inside the regular class less than 40% of the day) divided by the (total # of students aged 6 through 21 with IEPs)] times 100.
- C. Percent = [(# of children with IEPs served in separate schools, residential facilities, or homebound/hospital placements) divided by the total (# of students aged 6 through 21 with IEPs)] times 100.

**Data Source:**

New York State (NYS) will use data collected for Table 3 of Information Collection 1820-0517 (Part B, Individuals with Disabilities Education Act Implementation of FAPE Requirements) and reported annually in the 618 report to the United States Education Department (USED). These data are also provided to USED in the corresponding EDFacts files.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2008 (2008-09 school year)	<p>The statewide percent of students with disabilities, ages 6-21, served inside the regular class 80% or more of the day will be greater than 53.2 percent.</p> <p>The statewide percent of students with disabilities, ages 6-21, served inside the regular class less than 40% of the day will be less than 24.5 percent.</p> <p>The statewide percent of students with disabilities, ages 6-21, served in separate schools, residential placements, or homebound/hospital placements will be less than 6.7 percent.</p>

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
Note: Following USED changes in the least restrictive environment (LRE) reporting categories effective for the 2006-07 school year; NYS revised its targets for Indicator 5, beginning with school year 2007-08. See APR February 2008.	

**Actual Target Data for FFY 2008**

In FFY 2008, the statewide percent of students with disabilities, ages 6-21, served inside regular classrooms 80 percent or more of the school day was **55.4** percent.

In FFY 2008, the statewide percent of students with disabilities, ages 6-21, served inside regular classrooms for less than 40 percent of the school day was **23.6** percent.

In FFY 2008, the statewide percent of students with disabilities, ages 6-21, served in public or private separate schools, residential placements, or homebound or hospital placements was **6.0** percent.

Statewide Trend Data: LRE for School-Age Students with Disabilities						
School Year	Number of Students Ages 6-21, on December 1 of the School year or first Wednesday in October Beginning in 2008-09 School Year	Percent of School Day that Students are in Regular Classes			Percent of Students in Separate Settings	Percent of Students in Other Specific Settings*
		80% or More	40% to 80%	Less than 40%		
1997-98	372,716	43.2%	12.9%	34.8%	9.1%	
1998-99	381,342	44.7%	12.9%	33.5%	8.9%	
1999-00	384,352	47.6%	13.2%	30.7%	8.5%	
2000-01	389,668	49.5%	12.9%	29.8%	7.7%	
2001-02	387,014	51.1%	12.9%	28.6%	7.4%	
2002-03	386,082	51.8%	13.9%	27.0%	7.4%	
2003-04	387,633	53.4%	12.4%	27.0%	7.3%	
2004-05 (Baseline Year for APR)	391,595	53.6%	12.0%	27.3%	7.0%	
2005-06	389,125	54.5%	13.1%	25.5%	6.9%	
2006-07	391,773	53.1%	12.9%	24.6%	6.8%	2.6%
2007-08	390,550	54.2%	12.4%	24.1%	6.5%	2.7%
2008-09	382,540	55.4%	12.2%	23.6%	6.0%	2.8%

\*Other specific settings include students who are home schooled, parentally placed in nonpublic schools or incarcerated.

Big Five Cities' Combined Trend Data: LRE for School-Age Students with Disabilities						
School Year	Number of Students Ages 6-21, on December 1 of the School year or first Wednesday in October Beginning in 2008-09 School Year	Percent of School Day that Students are in Regular Classes			Percent of Students in Separate Settings	Percent of Students in Other Specific Settings*
		80% or More	40% to 80%	Less than 40%		
2002-03	160,410	47.9%	5.4%	38.1%	8.6%	
2003-04	161,347	49.5%	2.5%	39.0%	9.0%	
2004-05	165,795	49.9%	2.1%	39.3%	8.8%	
2005-06	164,462	51.3%	4.8%	35.2%	8.7%	
2006-07	169,394	49.7%	4.8%	33.5%	9.0%	3.1%
2007-08	172,979	51.5%	4.5%	31.9%	8.5%	3.6%
2008-09	169,737	53.1%	4.4%	31.1%	7.9%	3.6%

\*Other specific settings include students who are home schooled, parentally placed in nonpublic schools or incarcerated.

2008-09 LRE Data for Students with Disabilities by Need Resource Capacity Category of School Districts						
Need Resource Capacity	Number of Students Ages 6-21, on First Wednesday in October of the School Year	Percent of School Day that Students are in Regular Classes			Percent of Students in Separate Settings	Percent of Students in Other Specific Settings*
		80% or More	40% to 80%	Less than 40%		
New York City (NYC)	148,652	52.6%	3.8%	31.6%	8.0%	4.0%
Large 4 Cities	21,085	57.0%	8.4%	27.2%	6.5%	1.0%
Urban-Suburban High Need School Districts	30,368	48.7%	16.8%	26.1%	5.7%	2.7%
Rural High Need School Districts	23,662	54.3%	22.9%	20.7%	1.6%	0.5%
Average Need School Districts	106,900	57.7%	19.1%	17.4%	3.8%	1.9%
Low Need School Districts	48,159	64.0%	17.1%	11.6%	4.6%	2.7%

\*Other specific settings include students who are home schooled, parentally placed in nonpublic schools or incarcerated.

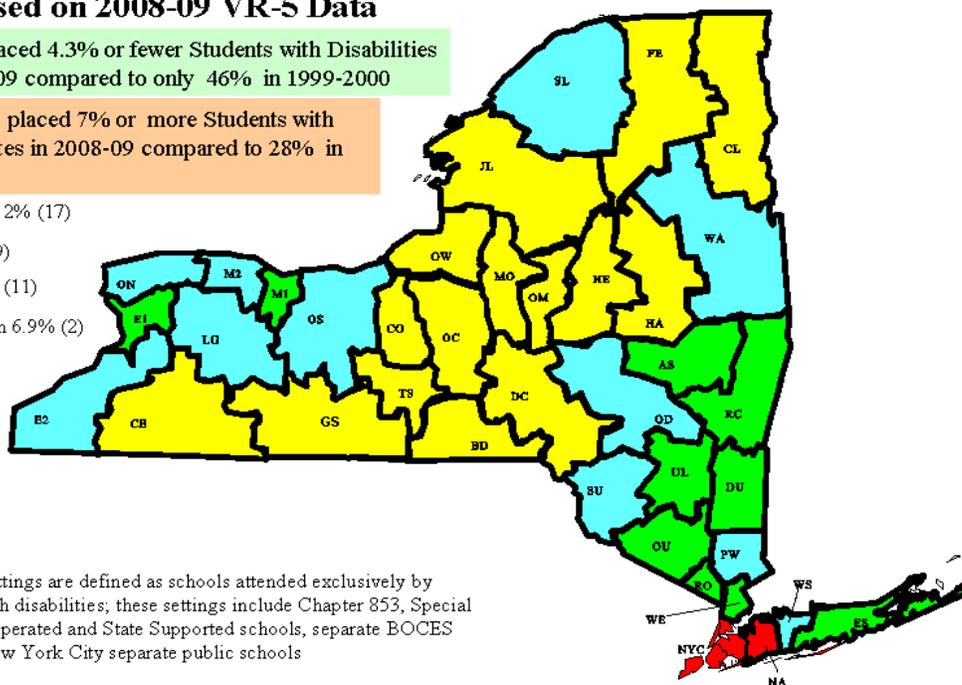
**2008-09 LRE Data by Board of Cooperative Educational Services (BOCES) Regions for Separate Settings:**

**Students with Disabilities (Ages 4-21) in Separate Settings  
By BOCES Region and New York City  
Based on 2008-09 VR-5 Data**

26 of 38 regions (68%) placed 4.3% or fewer Students with Disabilities in Separate Sites in 2008-09 compared to only 46% in 1999-2000

Only 2 of 38 regions (5%) placed 7% or more Students with Disabilities in Separate Sites in 2008-09 compared to 28% in 1999-2000

- Less than 2% (17)
- 2-4.3% (9)
- 4.4-6.9% (11)
- More than 6.9% (2)



7/8/08

*Explanation of Progress or Slippage*

In FFY 2008, NYS met its targets in all three settings:

- The percentage of students with disabilities who are in regular classes for 80 percent or more of the school day increased from 54.2 percent in the 2007-08 school year to 55.4 percent in the 2008-09 school year. The State met its target, which was to increase this percentage to more than 53.2 percent.
- The percent of students with disabilities who are in regular classes for less than 40 percent of the school day decreased from 24.1 percent in 2007-08 to 23.6 percent in 2008-09. The State met its target, which was to be below 24.5 percent in 2008-09.
- The percent of students with disabilities who are educated in separate settings decreased from 6.5 percent in 2007-08 to 6.0 percent in 2008-09. The State met its target, which was to be below 6.7 percent in 2008-09.
- NYC reduced the percentage of students who are in regular classes for less than 40 percent of the day from 32.6 to 31.6 percent.

- NYC reduced the percentage of students in separate settings from 8.9 to 8.0 percent, however, it continues to place more students in these settings compared to other need/resource categories of school districts.
- The high need school districts tend to use the category of “in regular classes for less than 40 percent of the school day setting” for significantly greater percentages of students with disabilities compared to average or low-need school districts.

*Improvement Activities Completed in 2008-09*

1. The Office of Vocational and Educational Services for Individuals with Disabilities (VESID) extended and expanded the resources under its contract with the New York University (NYU) Metro Center Technical Assistance Center on Disproportionality (TAC-D) to provide technical assistance directly to school districts with disproportionality by race/ethnicity in their rates of separate placements of students with disabilities.
2. VESID conducted regular meetings with the New York City Department of Education (NYCDOE) special education central office administration to monitor NYCDOE's implementation of its school improvement plan relating to special education and its plan to address issues of LRE placements.
3. The Regulations of the Commissioner of Education were amended to add “integrated co-teaching services” to the State’s continuum of special education services. A guidance document on the continuum of services was issued to the field in April 2008 and is available at <http://www.vesid.nysed.gov/specialed/publications/policy/schoolagecontinuum.pdf>. The State’s technical assistance networks made training available statewide on this topic.
4. A three-day training program for Committee on Special Education (CSE) and Committee on Preschool Special Education (CPSE) chairpersons was developed. This training includes information on IEP development and LRE placement decisions.
5. Through enhanced oversight of out-of-state residential placements of students with disabilities and the implementation of an interagency plan for in-state residential development, the number of students served out-of-state during the 2008-09 school year (596) shows a reduction of 43 percent from the number served during the 2005-06 school year (1,050).

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

None.

**Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

**Monitoring Priority: FAPE in the LRE**

**Indicator 6:** Percent of children aged 3 through 5 with individualized education programs (IEPs) attending a:

- A. Regular early childhood program and receiving the majority of special education and related services in the regular early childhood program; and
  - B. Separate special education class, separate school or residential facility.
- (20 U.S.C. 1416(a)(3)(A))

**Measurement:**

- A. Percent = [(# of children aged 3 through 5 with IEPs attending a regular early childhood program and receiving the majority of special education and related services in the regular early childhood program) divided by the (total # of children aged 3 through 5 with IEPs)] times 100.
- B. Percent = [(# of children aged 3 through 5 with IEPs attending a separate special education class, separate school or residential facility) divided by the (total # of children aged 3 through 5 with IEPs)] times 100.

**Data Source:**

New York State (NYS) will use the data collected and reported annually to the United States Education Department (USED) in the 618 report on Table 3 of Information Collection 1820-0517 (Part B, Individuals with Disabilities Education Act Implementation of FAPE Requirements). These data are also provided to USED in the appropriately formatted EDfacts files.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2008 (2008-09 school year)	No reporting is required in FFY 2008. A new baseline and target will be established using 2009-10 data.

**Actual Target Data for FFY 2008:**

Not applicable.

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

Not applicable.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

Not applicable.

### **Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

#### **Monitoring Priority: FAPE in the LRE**

**Indicator 7:** Percent of preschool children aged 3 through 5 with individualized education programs (IEPs) who demonstrate improved:

- A. Positive social-emotional skills (including social relationships);
  - B. Acquisition and use of knowledge and skills (including early language/communication and early literacy); and
  - C. Use of appropriate behaviors to meet their needs.
- (20 U.S.C. 1416 (a)(3)(A))

#### **Measurement:**

##### Outcomes:

- A. Positive social-emotional skills (including social relationships);
- B. Acquisition and use of knowledge and skills (including early language/communication and early literacy); and
- C. Use of appropriate behaviors to meet their needs.

##### Progress Categories for Outcomes A, B, and C:

The following definitions of Progress Categories are based on United States Education Department (USED) guidance issued in March 2009 and represent a consolidation of language that used in previous State Performance Plans (SPP) and APRs. There is no change in Progress Categories used for this Indicator.

- a. Percent of preschool children who did not improve functioning =  $[(\# \text{ of preschool children who did not improve functioning}) \div (\# \text{ of preschool children with IEPs assessed})] \times 100$ .
- b. Percent of preschool children who improved functioning but not sufficient to move nearer to functioning comparable to same-aged peers =  $[(\# \text{ of preschool children who improved functioning but not sufficient to move nearer to functioning comparable to same-aged peers}) \div (\# \text{ of preschool children with IEPs assessed})] \times 100$ .
- c. Percent of preschool children who improved functioning to a level nearer to same-aged peers but did not reach it =  $[(\# \text{ of preschool children who improved functioning to a level nearer to same-aged peers but did not reach it}) \div (\# \text{ of preschool children with IEPs assessed})] \times 100$ .
- d. Percent of preschool children who improved functioning to reach a level comparable to same-aged peers =  $[(\# \text{ of preschool children who improved functioning to reach a level comparable to same-aged peers}) \div (\# \text{ of preschool children with IEPs assessed})] \times 100$ .

IEPs assessed)] times 100.

- e. Percent of preschool children who maintained functioning at a level comparable to same-aged peers = [(# of preschool children who maintained functioning at a level comparable to same-aged peers) divided by the (# of preschool children with IEPs assessed)] times 100.

### Summary Statements for Each of the Three Outcomes A, B, and C

The following represents new language provided by USED in March 2009 to help organize the data and set targets in the February 2010 SPP:

**Summary Statement 1:** Of those preschool children who entered the preschool program below age expectations in each Outcome, the percent who substantially increased their rate of growth by the time they turned 6 years of age or exited the program.

**Measurement for Summary Statement 1:** Percent = # of preschool children reported in progress category (c) plus # of preschool children reported in category (d) divided by [# of preschool children reported in progress category (a) plus # of preschool children reported in progress category (b) plus # of preschool children reported in progress category (c) plus # of preschool children reported in progress category (d)] times 100.

**Summary Statement 2:** The percent of preschool children who were functioning within age expectations in each Outcome by the time they turned 6 years of age or exited the program.

**Measurement for Summary Statement 2:** Percent = # of preschool children reported in progress category (d) plus # of preschool children reported in progress category (e) divided by [the total # of preschool children reported in progress categories (a) + (b) + (c) + (d) + (e)] times 100.

### Data Source

Beginning with the 2006-07 school year, the PD-10 report was used to collect progress data on preschool outcomes during the 2006-07 school year via a web-based data reporting system. The PD-10 report is posted at <http://www.vesid.nysed.gov/sedcar/archived/0607pdrpts.htm>. Beginning in the 2007-08 school year, these data are collected at the individual student level through the State's Student Information Repository System (SIRS). The most current SIRS manual is posted at: <http://www.emsc.nysed.gov/irts/sirs/2009-10/2009-10SIRSMannual5-0.pdf>. The data is based on using the federally developed Child Outcomes Survey Form (COSF).

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2008 (2008-09 school year)	None this year. Baseline and target information are reported in the SPP.

**Actual Target Data for FFY 2008:**

Data for FFY 2008 represents baseline data and is provided in the SPP, revised February 2010.

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

Improvement activities are reported in the SPP in the Indicator 7 section.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

Not applicable.

### **Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

#### **Monitoring Priority: FAPE in the LRE**

**Indicator 8:** Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities.

(20 U.S.C. 1416(a)(3)(A))

#### **Measurement:**

Percent = [(# of respondent parents who report schools facilitated parent involvement as a means of improving services and results for children with disabilities) divided by the (total # of respondent parents of children with disabilities)] times 100.

#### **New York State's (NYS) calculation:**

NYS' parent survey contains 25 questions. All surveys returned with at least 15 of the 25 questions answered are the denominator for the calculation. The numerator is the number of surveys with an overall positive parental involvement rating. These are surveys in which parents indicated that they "agree", "strongly agree" or "very strongly agree" with at least 51% of the questions.

NYS' statewide calculation will use a weighted average to control for the required minimum sample size response from every school district. This is necessary because many school districts received a response that was well above the minimum sample size required and, in other school districts, the minimum response required was not achieved. In order to give each school district's positive response rate a proportional weight relative to their sample size in the State's average, the percent of positive responses was weighted by the sample size of each school district. For example in one school district with a minimum sample size of 53, 30 surveys were returned with at least 15 questions answered with 18 of the 30 questions answered positively. This district's weighting in the State's average is  $18/30 \times 53$  or 31.8 surveys with positive parental response. As another example, in another school district with minimum sample size was 87, 172 surveys were returned with at least 15 questions answered with 148 of the 172 questions answered positively. This district's weighting in the State's average is  $148/172 \times 87$  or 74.8 surveys with positive parental response. The weighting helps to achieve an equal contribution from every school district of their positive parental response rate.

Note: When NYS reports school district data on this indicator as part of the public reporting requirement, weightings will not be used. A school district's actual data will be displayed.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2008 (2008-09 school year)	88 percent of parents with a child receiving special education services will report that schools facilitated parent involvement as a means of improving services and results for children with disabilities.

**Actual Target Data for FFY 2008:**

In the 2008-09 school year, 85.4 percent of parents with a child receiving special education services reported that schools facilitated parent involvement as a means of improving services and results for children with disabilities.

During the 2008-09 school year, 115 school districts, including New York City (NYC) as a single district, were assigned to conduct a parent survey. Sixty-one school districts achieved a minimum response rate while 54 school districts did not. The State will review the data from the 54 school districts and may reassign these school districts to conduct the survey again in a subsequent school year to improve their response rates and ensure there are valid results on this indicator. The number of surveys returned was 8,042, with 7,798 surveys responding to at least 15 questions out of 25 questions on the survey. Of the surveys with responses to at least 15 questions, 7,159 provided a positive response on at least 51 percent of the questions. **This represents an unweighted positive response rate of 91.8 percent and a weighted positive response rate of 85.4 percent.** NYS uses a weighted average to control for the required minimum sample size response from every school district. This is necessary because many school districts received a response that was well above the minimum sample size required, and in other school districts, the minimum sample size required was not achieved. In order to give each school district's positive response rate a proportional weight relative to their sample size in the State's average, the percent of positive responses was weighted by the sample size of each school district.

The 115 school districts are representative of NYS. See the State Performance Plan (SPP) for a discussion of how NYS assigned all school districts in the State into six representative samples for the purposes of collecting data on this Indicator. Each group of school districts is required to submit data on one of the six sampling indicators each year such that within six years, all school districts will have submitted data on all six indicators. NYC is the only school district with a total enrollment of over 50,000 students and therefore, is required to submit data on every indicator every year.

See <http://www.vesid.nysed.gov/specialed/spp/home.html> for a schedule of the school years in which districts must submit data on these indicators. The State has also developed a schedule of the years in which selected school districts are required to re-submit data on some indicators to document improvement in compliance rates or to achieve a sufficient response rate for an indicator. The schedule of re-submissions is also posted at the same website as the schedule.

The parent survey that was used in the 2008-09 school year was the same as was used in the previous school years and is included in New York's SPP. Each school district was required to over sample, and send the survey to all the parents of preschool and school-age students with disabilities or send the survey to ten times the required minimum sample size. See the sampling calculator to determine the minimum sample size at <http://eservices.nysed.gov/pdssystem/samplesizecalculator.jsp>.

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress or Slippage*

The Statewide weighted result from the survey in the 2008-09 school year was that 85.4 percent of parents reported that schools facilitated parent involvement as a means of improving services and results for children with disabilities. This is 2.1 percentage points lower than was achieved last year and 2.6 percentage points lower than the FFY 2008 target rate of 88 percent. However, the unweighted result in 2008-09 was 91.8 percent, which exceeds the established target.

The range of positive unweighted results in 2008-09 school year was 71.4 percent to 100 percent, which was better than the range in the 2007-08 school year of 53.8 percent to 100 percent.

*Improvement Activities Completed in 2008-09*

The Office of Vocational and Educational Services for Individuals with Disabilities (VESID) expanded the number of Parent Centers from 5 to 13 so that parents in every region in the State now have access to a State-funded Special Education Parent Center. The Special Education Parent Centers provide parents of children with disabilities with information, resources, and strategies to:

- promote their meaningful involvement in their children's education programs, including information regarding the special education process (referrals, individual evaluations and individualized education program development and transition planning);
- assist in understanding their children's disabilities;
- promote early resolution of disputes between parents and school districts;
- promote the use of resolution sessions and special education mediation;
- assist in understanding procedural due process rights, including the right to impartial hearings and appeals and the State complaint process; and
- enhance parents' skills and levels of confidence to communicate effectively and work collaboratively with other schools and other stakeholders to advocate and actively participate in their children's education program.

See: <http://www.vesid.nysed.gov/specialed/publications/policy/parentcenter309.htm>.

- Early Childhood Direction Centers (ECDCs) provided information and training to families to facilitate parental involvement in their child's special education program and to provide them with information on due process, federal and State laws and regulation, transition planning, least restrictive environment (LRE) and other issues related to preschool children with disabilities.
- A three-day Committee on Special Education (CSE)/Committee on Preschool Special Education (CPSE) Chairperson Training is being delivered statewide by the State's funded regional special education trainers from the Regional Special Education Technical Assistance Support Centers (RSE-TASC). This training emphasizes meaningful and effective parent involvement in the IEP development process.
- A new contract with the New York State Dispute Resolution Center includes a required deliverable for 15 regional annual training sessions on early and nonadversarial dispute resolution among parents and school districts. Representatives from the State's Special Education Parent Centers are collaborating on the development and delivery of these sessions.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

None.

## **Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

### **Monitoring Priority: Disproportionality**

**Indicator 9:** Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.

(20 U.S.C. 1416(a)(3)(C))

#### **Measurement:**

Percent = [(# of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification) divided by the (# of districts in the State)] times 100.

#### **New York State's (NYS) Measurement:**

NYS will compare the percent of total enrollment of each race/ethnic group in special education with the percent of total enrollment of all other race/ethnic groups in special education combined. For notifications of school districts since the 2005-06 school year, the State will use the following definition of "disproportionate representation" and in subsequent years may revise the definition by lowering the relative risk ratio, weighted relative risk ratio as well as the minimum numbers of students. (Clarified in February 2008 that the State's definition of significant disproportion is the same as the definition of disproportion.)

NYS uses the relative risk and weighted relative risk ratios, with minimum "n" sizes to identify school districts whose data indicate disproportionate representation of racial and ethnic groups in special education. See the definition of "Disproportionate Representation and Methodology" described below. All school districts whose data are disproportionate are required to use a State developed self-review monitoring protocol to identify the regulations with which they are not in compliance. The results from the self-review monitoring protocol are reported to the State and are used as the basis to determine the number the districts in which disproportionate representation is the result of inappropriate identification. Districts that are identified based on their data for two consecutive years receive an on-site focused review to determine if their policies, practices and procedures are in compliance with State requirements. (Added this paragraph in February 2010 to clarify the two-step method used for identification of districts.)

#### **Data Source:**

NYS uses data collected and reported to the United States Education Department (USED) in the annual 618 report on Table 1 of Information Collection 1820-0043

(Report of Children with Disabilities Receiving Special Education Under Part B of the Individuals with Disabilities Education Act, As Amended) and the State's analysis to determine if the disproportionate representation of racial and ethnic groups in special education and related services was the result of inappropriate identification. These data are also provided to USED in the corresponding ED Facts files.

**Definition of Disproportionate Representation and Methodology**

NYS uses the relative risk and weighted relative risk ratios, with minimum "n" sizes to identify school districts whose data indicate disproportionate representation of racial and ethnic groups in special education.

*Disproportionate Over-representation in Special Education:*

- At least 75 students with disabilities enrolled on the first Wednesday in October;
- A minimum of 30 students (disabled and nondisabled) of particular race/ethnicity enrolled on the first Wednesday in October;
- At least 75 students (disabled and nondisabled) of all other race/ethnicities enrolled on first Wednesday in October;
- At least 10 students with disabilities of particular race/ethnicity enrolled in district on the first Wednesday in October; and
- Either:
  - Both the relative risk ratio and weighted relative risk ratio for any race/ethnic group is 2.5 or higher; or
  - All students with disabilities in special education are of only one race/ethnic group regardless of the size of the relative risk ratio and weighted relative risk ratio.

*Disproportionate Under-representation in Special Education: (category added February 2009)*

The district must meet the following criteria for three consecutive years:

- At least 75 students with disabilities enrolled on the first Wednesday in October;
- Both the relative risk ratio and weighted relative risk ratio is less than or equal to 0.25;
- ( $[\text{District enrollment of race}] \times [\text{Risk of Other Races}]$ ) divided by 2.5 is greater than or equal to 10;
- Minimum district enrollment of other races is 75; and
- A district's risk of race is less than 50% of the Statewide risk of race.

<b>Federal Fiscal Year (FFY)</b>	<b>Measurable and Rigorous Target</b>
<b>FFY 2008</b> (2008-09 school year)	The percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification will be 0.

**Actual Target Data for FFY 2008**

**Districts with Disproportionate Representation in FFY 2008 of Racial and Ethnic Groups that was the Result of Inappropriate Identification**

NYS completed two notifications during the 2008-09 school year in order to catch up and use current year data to measure compliance on this indicator. In the next APR, the State will report on disproportionate notifications based on FFY 2009 data and policies practices and procedures reviewed prior to the next APR due date. The results of the two notifications conducted during FFY 2008 are provided below.

Year	Total Number of Districts	Number of Districts with Disproportionate Representation (Step One)	Number of Districts with Disproportionate Representation of Racial and Ethnic Groups that was the Result of Inappropriate Identification (Step Two)	Percent of Districts
FFY 2008 (2007-08 data)	682	13	7	1.0%
FFY 2008 (2008-09 data)	683	17*	8	1.2%

\*One additional school district is undergoing a focused review but compliance determination has not been finalized at the time this report was prepared.

*Step One - Identification of Disproportionate Representation:*

NYS used its October 1, 2007 and October 1, 2008 enrollment of all students and December 1, 2007 and October 1, 2008 child count of students with disabilities for this FFY 2008 APR submission. Based on the criteria described in the Measurement section above, 30 school districts were identified as having 2007-08 and/or 2008-09 data that was disproportionate based on the criteria described above, and therefore required reviews. Consistent with 34 CFR §300.646(b), all school districts identified by their data as having significant disproportionality were required to reserve 15 percent of their IDEA funds for Coordinated Comprehensive Early Intervening Services (CEIS).

*Step Two - Determining if Disproportionate Representation is the Result of Inappropriate Identification*

In FFY 2008 NYS determined that of the 30 school districts whose data indicated disproportionate representation and therefore required reviews, fifteen (15) school districts reported disproportionate over-representation in special education that is the result of inappropriate identification. This number was determined as follows.

Every district that is identified by data for the first time must complete the State-developed *Self-Review Monitoring Protocol: Disproportionate Identification of Racial and Ethnic Groups for Special Education and Related Services* in accordance with the procedures specified in the review protocol (see <http://www.vesid.nysed.gov/specialed/spp/selfreviewethnic0910.htm>). Results from this review are reported to the

State. Twelve (12) school districts based on 2007-08 data and ten (10) school districts based on 2008-09 data conducted a self review. The one remaining district identified based on 2007-08 data and seven (7) districts identified based on their 2008-09 data received focused reviews during FFY 2008-09 and/or FFY 2009-10 and had their policies, procedures and practices reviewed by the State’s special education monitoring staff.

Seven (7) school districts based on 2007-08 data and eight (8) school districts based on 2008-09 data reported noncompliance on one or more of the 19 regulatory citations contained in the monitoring protocol, The State’s compliance rate on this Indicator is based on these school districts as a percentage of all school districts in the State.

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress or Slippage*

There was slippage in NYS’ compliance rate from 1.0 percent to 1.2 percent of school districts having some noncompliance on this indicator. In part, this is due to more school districts receiving a focused or comprehensive review of their policies, practices and procedures based on consecutive years of identification compared to the previous year.

NYS is now on schedule to make notifications based on same year data and require a review of policies, practices and procedures to report results in the following year’s APR. Also, NYS is now current and will be conducting focused reviews or comprehensive reviews annually to determine compliance on this indicator in school districts who are identified for consecutive years.

*Correction of Identified Noncompliance*

**Correction of FFY 2007 Findings of Noncompliance:**

The level of compliance (actual target data) that the State reported for FFY 2007 for this indicator was 0.3%.

1. Number of findings of noncompliance the State made during FFY 2007 (the period from July 1, 2007 through June 30, 2008)	3 findings (1 district)
2. Number of FFY 2007 findings the State verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding)	0 findings (0 districts)
3. Number of FFY 2007 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	3 findings (1 district)

**Correction of FFY 2007 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):**

4. Number of FFY 2007 findings not timely corrected (same as the number from (3) above)	3 findings (1 district)
5. Number of FFY 2007 findings the State has verified as corrected beyond the one-year timeline (“subsequent correction”)	3 findings (1 district)

6. Number of FFY 2007 findings <u>not</u> yet verified as corrected [(4) minus (5)]	0 findings (0 district)
---	----------------------------

**Actions Taken if Noncompliance Found in FFY 2007 Is Not Corrected:**

*For FFY 2007 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

All FFY 2007 findings have been corrected.

**Verification of Correction of FFY 2007 Noncompliance (either timely or subsequent):**

*For those findings for which the State has reported correction, report whether the State verified that the LEA: (1) is correctly implementing the specific regulatory requirements; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memorandum 09-02.*

The State requires that the school district submit its report of correction of noncompliance with an assurance by the School Superintendent of its accuracy. Each district must also publicly report on revisions to its policies, procedures and practices. If a school district does not report correction of noncompliance within one year from identification, the State conducts a follow-up monitoring review and issues a Compliance Assurance Plan, specifying the actions the school district is required to take and giving timelines for these actions to be completed. The Special Education Quality Assurance (SEQA) Regional Associate follows up with each district to assure that the Compliance Assurance Plan is fully implemented and to verify that noncompliance has been corrected. If a school district's data continues to show disproportionality subsequent to the year that the correction of noncompliance is reported, the State conducts an onsite review of the district's policies, procedures and practices.

**Correction of Remaining FFY 2006 Findings of Noncompliance (if applicable):**

*For FFY 2006 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

All identified noncompliance from FFY 2006 has been corrected.

1. Number of findings of noncompliance the State made during FFY 2006 (the period from July 1, 2006 through June 30, 2007)	29 findings (8 districts)
2. Number of FFY 2006 findings the State has verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding)	7 findings (2 districts)
3. Number of FFY 2006 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	22 findings (6 districts)

**Correction of FFY 2006 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):**

4. Number of FFY 2006 findings not timely corrected (same as the number from (3) above)	22 findings (6 districts)
---	------------------------------

5. Number of FFY 2006 findings the State has verified as corrected beyond the one-year timeline (“subsequent correction”)	22 findings (6 districts)
6. Number of FFY 2006 findings <u>not</u> yet verified as corrected [(4) minus (5)]	0 findings (0 districts)

**Correction of Any Remaining Findings of Noncompliance from FFY 2005 or Earlier (if applicable):**

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2005 or earlier years.

**Additional Information required by the OSEP APR Response Table for this Indicator (if applicable)**

<b>Statement from the OSEP Response Table</b>	<b>State’s Response</b>
<p>The State further reported that noncompliance identified in FFY 2007 with the requirements in 34 CFR §§300.173, 300.111, 300.201, and 300.301 through 300.311 was not corrected, and that noncompliance identified in 2006 was partially corrected. The State also reported that the five districts identified in FFY 2007 and the one district identified in FFY 2006 that still have uncorrected noncompliance have time remaining within the one year notification timeline to report correction of their noncompliance.</p> <p>The State must demonstrate, in the FFY 2008 APR, due February 1, 2010, that the uncorrected noncompliance was corrected, by reporting that it has verified that each LEA with remaining noncompliance identified in FFY 2006 and/or 2007: (1) is correctly implementing the specific regulatory requirements; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02.</p>	<p>The State ensured the correction of all noncompliance for this Indicator identified in FFY 2006 and FFY 2007.</p>
<p>If the State is unable to demonstrate compliance in the FFY 2008 APR, the State must review its improvement activities and revise them, if necessary to ensure compliance.</p>	<p>The Office of Vocational and Educational Services for Individuals with Disabilities (VESID) extended and expanded resources in its contract for the Technical Assistance Center for Disproportionality to work directly with school districts identified by the State for issues of disproportionality.</p> <p>VESID also established a State technical assistance center on Response to Intervention (Rtl) and grants to 14 schools across the State to develop model Rtl programs.</p>

Statement from the OSEP Response Table	State's Response
	Beginning in 2010, to improve timely correction of noncompliance, direct follow up from the State's special education monitoring staff will be initiated with a school district upon a finding that the district has not corrected its noncompliance within nine months.

*Improvement Activities Completed in 2008-09*

- VESID extended and expanded resources in its contract for the Technical Assistance Center for Disproportionality (TAC-D) to work directly with school districts identified by the State for issues of disproportionality.
- SEQA Regional Associates and technical assistance providers attended regional training sessions provided by TAC-D to build the capacity and expertise in each region to address identified issues of disproportionality.
- VESID developed and implemented the use of electronic notices, sent to districts at 3-month intervals, as a reminder of the noncompliance that needs to be corrected and the next steps that will be taken by VESID should timely correction not occur. The State's monitoring staff also receive copies of these electronic notices and take appropriate follow-up action.
- VESID also established a State technical assistance center on Response to Intervention (RtI) and grants to 14 schools across the State. This Center has sponsored sessions specifically on RtI for students with limited English proficiency.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]:**

Beginning in 2010, to improve timely correction of noncompliance, direct follow up from NYS' special education monitoring staff will be initiated with a school district upon a finding that the district has not corrected its noncompliance within nine months.

The State expanded the number of bilingual special education technical assistance providers statewide through its Regional Special Education Technical Assistance Support Centers (RSE-TASC) to assist school districts to address issues of disproportionality by race/ethnicity as they relate to cultural and bilingual issues. Beginning in 2010, these positions should be filled and available to provide regional and district-specific technical assistance.

## **Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

### **Monitoring Priority: Disproportionality**

**Indicator 10:** Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.

(20 U.S.C. 1416(a)(3)(C))

#### **Measurement:**

Percent = [(# of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification) divided by the (# of districts in the State)] times 100.

#### **New York State's (NYS) Measurement:**

NYS will compare the percent of total enrollment of each race/ethnic group that is identified by particular disabilities compared to other race/ethnic groups combined. For notifications of school districts since the 2005-06 school year, the State has used the following definition of "disproportionate representation" and in subsequent years may revise the definition by lowering the relative risk ratio, weighted relative risk ratio as well as the minimum numbers of students. The State's definition of significant disproportion is the same as the definition of disproportion.

NYS uses the relative risk and weighted relative risk ratios, with minimum "n" sizes to identify school districts whose data indicate disproportionate representation of racial and ethnic groups in specific disability categories of Emotional Disturbance, Learning Disability, Mental Retardation, Other Health Impairment, Speech or Language Impairment and Autism. See the definition of "Disproportionate Representation and Methodology" described below. All school districts whose data are disproportionate are required to use a State developed self-review monitoring protocol to identify the regulations with which they are not in compliance. The results from the self-review monitoring protocol are reported to the State and are used as the basis to determine the number of districts in which disproportionate representation is the result of inappropriate identification. Districts that are identified based on their data for two consecutive years receive an on-site focused review to determine if their policies, practices and procedures are in compliance with State requirements.

#### **Data Source:**

NYS uses data collected and reported in the annual 618 report on Table 1 of Information Collection 1820-0043 (Report of Children with Disabilities Receiving Special Education Under Part B of the Individuals with Disabilities Education Act, As Amended)

and the State's analysis to determine if the disproportionate representation of racial and ethnic groups in specific disability categories was the result of inappropriate identification. These data are also provided to the United States Education Department (USED) in the corresponding ED Facts files.

**Definition of Disproportionate Representation and Methodology** (title added February 2010)

NYS uses the relative risk and weighted relative risk ratios, with minimum "n" sizes to identify school districts whose data indicate disproportionate representation of racial and ethnic groups in specific disability categories. The definition of "Disproportionate Representation" and the methodology for calculating it is as follows:

*Disproportionate Over-representation in Specific Disability Categories (Emotional Disturbance, Learning Disability, Mental Retardation, Other Health Impairment, Speech or Language Impairment and Autism) :*

- At least 75 students with disabilities enrolled on child count date (the first Wednesday in October);
- A minimum of 30 students (disabled and nondisabled) of particular race/ethnicity enrolled on the child count date;
- At least 75 students of all other race/ethnicities enrolled in the district on child count date;
- At least 10 students with disabilities of particular race/ethnicity and disability enrolled in district on the child count date; and
- Either:
  - Both the relative risk ratio and weighted relative risk ratio for any race/ethnic group is 4.0 or higher; or
  - All students with disabilities in a specific disability category are of only one race/ethnic group regardless of the size of the relative risk ratio and weighted relative risk ratio.

*Disproportionate Under-representation in Special Education:*

The district must meet the following criteria for three consecutive years:

- At least 75 students with disabilities enrolled on child count date;
- Both the relative risk ratio and weighted relative risk ratio is less than or equal to 0.25;
- ( $[\text{District enrollment of race}] \times [\text{Risk of Other Races}]$ ) divided by 4 is greater than or equal to 10;
- Minimum district enrollment of other races is 75; and
- A district's risk of disability by race is less than 50% of the statewide risk of disability by race.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
<b>FFY 2008</b> (2008-09 school year)	The percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate policies, procedures and/or practices will be 0.

**Actual Target Data for FFY 2008:**

NYS completed two notifications during the 2008-09 school year in order to catch up and use current year data to measure compliance on this indicator. In the next APR, the State will report on disproportionate notifications based on FFY 2009 data and policies practices and procedures reviewed prior to the next APR due date. The results of the two notifications conducted during FFY 2008 are provided below.

Districts with Disproportionate Representation in FFY 2008 of Racial and Ethnic Groups in Specific Disability categories that was the Result of Inappropriate Identification				
Year	Total Number of Districts	Number of Districts with Disproportionate Representation (Step One)	Number of Districts with Disproportionate Representation of Racial and Ethnic Groups in specific disability categories that was the Result of Inappropriate Identification (Step Two)	Percent of Districts
FFY 2008 (2007-08 data)	683	16	4	0.6%
FFY 2008 (2008-09 data)	682	18	11	1.6%

*Step One – Identification of Disproportionate Representation:*

NYS used its October 1, 2007 and October 1, 2008 enrollment of all students and December 1, 2007 and October 1, 2008 child count of students with disabilities for this FFY 2008 APR submission. Based on the criteria described in the Measurement section above, 34 school districts were identified as having 2007-08 and/or 2008-09 data that was disproportionate based on the criteria described above. Consistent with 34 CFR §300.646(b), all school districts identified by their data as having significant disproportionality were required to reserve 15 percent of their IDEA funds for Coordinated Comprehensive Early Intervening Services (CEIS).

*Step Two – Determining if Disproportionate Representation is the Result of Inappropriate Identification*

In FFY 2008 NYS determined that of the 34 school districts whose data indicated disproportionate representation and therefore required reviews, Fifteen (15) school districts reported disproportionate representation by specific disability that is the result of inappropriate identification. This number was determined as follows.

Every district that is identified by data for the first time must complete the State-developed *Self-Review Monitoring Protocol: Disproportionate Representation of Students with Disabilities by Classification and Placement* in accordance with the procedures specified in the review protocol (see <http://www.vesid.nysed.gov/specialed/spp/selfreviewclass0910.htm>). Results from this review are reported to the State. Eleven (11) school districts based on 2007-08 data and eight (8) school districts based on 2008-09 data conducted a self review. The remaining 5 districts identified based on 2007-08 data and ten (10) districts identified based on 2008-09 data received focused reviews during FFY 2008-09 and/or 2009-10 and had their policies, procedures and practices reviewed by the State’s special education monitoring staff.

Four (4) school districts based on 2007-08 data and eleven (11) school districts based on 2008-09 data reported noncompliance on one or more of the 11 regulatory citations contained in the monitoring protocol. The State’s compliance rate on this Indicator is based on these school districts as a percentage of all school districts in the State.

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress or Slippage*

There was slippage in NYS’ compliance rate from 0.6 percent to 1.6 percent of school districts having some noncompliance on this indicator. In part, this is due to more school districts receiving a focused review of their policies, practices and procedures based on consecutive years of identification compared to the previous year.

NYS is now on schedule to make notifications based on same year data and require a review of policies, practices and procedures to report results in the following year’s APR. Also, NYS is now current and will be conducting focused reviews or comprehensive reviews annually to determine compliance on this indicator in school districts who are identified for consecutive years based on their data.

*Correction of Identified Noncompliance*

**Correction of FFY 2007 Findings of Noncompliance:**

The level of compliance (actual target data) that the State reported for FFY 2007 for this indicator was 0.3%.

1. Number of findings of noncompliance the State made during FFY 2007 (the period from July 1, 2007 through June 30, 2008)	1 finding (1 district)
2. Number of FFY 2007 findings the State verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding)	1 finding (1 district)
3. Number of FFY 2007 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	0 findings (0 district)

**Correction of FFY 2007 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):**

4. Number of FFY 2007 findings not timely corrected (same as the number from (3) above)	0 findings (0 district)
5. Number of FFY 2007 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	0
6. Number of FFY 2007 findings <u>not</u> yet verified as corrected [(4) minus (5)]	0 findings (0 district)

**Actions Taken if FFY 2007 Noncompliance Not Corrected:**

*For FFY 2007 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

All identified noncompliance from FFY 2007 has been corrected.

**Verification of Correction of FFY 2007 Noncompliance (either timely or subsequent):**

*For those findings for which the State has reported correction, report whether the State verified that the LEA: (1) is correctly implementing the specific regulatory requirements; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memorandum 09-02.*

The process used is that if a school district does not report correction of noncompliance within one year from identification, the State conducts a follow-up monitoring review and issues and issues a Compliance Assurance Plan, specifying the actions the school district is required to take and giving timelines for these actions to be completed. The Special Education Quality Assurance (SEQA) Regional Associate follows up with each district to assure that the Compliance Assurance Plan is fully implemented and to verify that noncompliance has been corrected.

**Correction of Remaining FFY 2006 Findings of Noncompliance (if applicable):**

All identified noncompliance from FFY 2006 has been corrected as explained below.

1. Number of findings of noncompliance the State made during FFY 2006 (the period from July 1, 2006 through June 30, 2007)	24 findings (12 districts)
2. Number of FFY 2006 findings the State verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding)	12 findings (3 districts)
3. Number of FFY 2006 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	12 findings (9 districts)

**Correction of FFY 2006 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):**

4. Number of FFY 2006 findings not timely corrected (same as the number from (3) above)	12 findings (9 districts)
5. Number of FFY 2006 findings the State has verified as corrected beyond	12 findings

the one-year timeline ("subsequent correction")	(9 districts)
6. Number of FFY 2006 findings <u>not</u> yet verified as corrected [(4) minus (5)]	0 findings (0 districts)

**Correction of Any Remaining Findings of Noncompliance from FFY 2005 or Earlier (if applicable):**

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2005 or earlier years.

**Additional Information Required by the OSEP APR Response Table for this Indicator**

<b>Statement from the OSEP Response Table</b>	<b>State's Response</b>
The State reported that noncompliance identified in FFY 2005 with the requirements in 34 CFR §§300.173, 300.111, 300.201, and 300.301 through 300.311 was corrected. The State further reported that noncompliance identified in FFY 2006 and FFY 2007 was partially corrected. The State also reported that the three districts identified in FFY 2007 and the two districts identified in FFY 2006 that still have uncorrected noncompliance have time remaining within the one year from notification timeline to report correction of their noncompliance. The State must demonstrate, in the FFY 2008 APR, due February 1, 2010, that the uncorrected noncompliance was corrected, by reporting that it has verified that each LEA with remaining noncompliance identified in FFY 2006 and/or 2007: (1) is correctly implementing the specific regulatory requirements; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02.	All findings of noncompliance identified in FFY 2006 and FFY 2007 have been corrected and verified.
If the State is unable to demonstrate compliance in the FFY 2008 APR, the State must review its improvement activities and revise them, if necessary to ensure compliance.	The Office of Vocational and Educational Services for Individuals with Disabilities (VESID) extended and expanded resources in its contract for the Technical Assistance Center for Disproportionality to work directly with school districts identified by the State for issues of disproportionality. VESID also established a State technical assistance center on Response to Intervention (Rtl) and grants to 14 schools across the State to develop model Rtl programs. Beginning in 2010, to improve timely correction of noncompliance, direct follow up from the State's special education monitoring staff will

Statement from the OSEP Response Table	State's Response
	be initiated with a school district upon a finding that the district has not corrected its noncompliance within nine months.

*Improvement Activities Completed in 2008-09*

- VESID extended and expanded resources in its contract for the Technical Assistance Center for Disproportionality (TAC-D) to work directly with school districts identified by the State for issues of disproportionality.
- SEQA Regional Associates and technical assistance providers attended regional training sessions provided by TAC-D to build the capacity and expertise in each region to address identified issues of disproportionality.
- VESID developed and implemented use of electronic notices, sent to districts at 3-month intervals, as a reminder of the noncompliance that needs to be corrected and next steps that will be taken by VESID should timely correction not occur. The State's monitoring staff also receives copies of the electronic notices and take appropriate follow-up action.
- VESID also established a State technical assistance center on Response to Intervention (RtI) and grants to 14 schools across the State. This Center has sponsored sessions specifically on RtI for students with limited English proficiency.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable] - see Indicator 9**

Beginning in 2010, to improve timely correction of noncompliance, direct follow up from the State's special education monitoring staff will be initiated with a school district upon a finding that the district has not corrected its noncompliance within nine months.

The State expanded the number of bilingual special education technical assistance providers statewide through its Regional Special Education Technical Assistance Support Centers (RSE-TASC) to assist school districts to address issues of disproportionality by race/ethnicity as they relate to cultural and bilingual issues. Beginning in 2010, these positions should be filled and available to provide regional and district-specific technical assistance.

### **Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

#### **Monitoring Priority: Effective General Supervision Part B / Child Find**

**Indicator 11:** Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeline.  
(20 U.S.C. 1416(a)(3)(B))

##### **Measurement:**

- (a) # of children for whom parental consent to evaluate was received.
- (b) # of children whose evaluations were completed within 60 days (or State established timelines\*).

Account for children included in (a) but not included in (b). Indicate the range of days beyond the timeline when the evaluation was completed and any reasons for the delays.

Percent = [(b) divided by (a)] times 100.

\*The State's established timelines to complete the initial evaluation and eligibility determinations is 30 school days for preschool students and 60 calendar days for school-age students.

##### **New York State's (NYS) Calculation:**

NYS' formula calculating results for this indicator is as follows:

- a) # of children for whom parental consent to evaluate was received (Does not include students whose evaluations were completed past the State-established timelines for reasons that are in compliance with State requirements.)
- b) # of children whose evaluations were completed within 30 school days for preschool children and 60 calendar days for school-age students.

Percent = [(b) divided by (a)] times 100.

##### **Data Source:**

Beginning with the 2007-08 year, NYS collects data for this indicator via the Student Information Repository System (SIRS) and verifies these data by displaying them in a VR11 report, which was developed in the PD Data System. SIRS is NYS' individual student data reporting system.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2008 (2008-09 school year)	100 percent of children with parental consent to evaluate will be evaluated within State required timelines.

**Actual Target Data for FFY 2008:**

In FFY 2008, **74.6** percent of students were evaluated within State established timelines.

*NYS' Method Used to Collect Data*

NYS collects individual student data through SIRS. School districts report specific dates when special education events occur such as the date of referral, date of written parent consent for an initial individual evaluation and the date of the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE) meeting to discuss evaluation results. Information is also collected regarding the number of days from receipt of parent consent to evaluate the child and the date of the CPSE or CSE meeting to discuss evaluation results. If the number of days exceeds the State established timelines, reasons for delays are collected. Some reasons are considered to be in compliance with State requirements and other reasons are not in compliance. Each school district's compliance rate is calculated. NYS requires documentation from each school district whose compliance rate is less than 100 percent that demonstrates each student's evaluation was completed and that it complies with the regulatory time lines associated with timely completion of initial individual evaluations.

**Children Evaluated Within 60 Days (or State-established timeline) during FFY 2008:**

a. Number of children for whom parental consent to evaluate was received	9,456
b. Number of children whose evaluations were completed within 60 days (or State-established timelines)	7,050
Percent of children with parental consent to evaluate, who were evaluated within 60 days (or State-established timeline) (Percent = [(b) divided by (a)] times 100)	<b>75%</b>

*Account for children included in (a) but not included in (b) in the above table:*

There are 2,406 students in (a.) and not in (b.) of the above table. These are students for whom evaluations were not completed within State established timelines for reasons which are not in compliance with State requirements. The chart below provides information regarding the extent of delays and reasons for not completing the initial evaluations of children within the State established timelines.

Reasons for Delays	Number of Children by Number of Days of Delay in Completing Evaluations				Total	Percent of Total
	1-10	11-20	21-30	Over 30		
An approved evaluator was not available to provide a timely evaluation.	151	120	84	109	464	19.3%
Evaluator delays in completing evaluations.	341	237	156	246	980	40.7%
Delays in scheduling CPSE or CSE meetings.	427	244	127	164	962	40.0%
Total	919	601	367	519	2,406	
Percent of Total	38.2%	25.0%	15.3%	21.6%		100%

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that Occurred for FFY 2008:**

*Explanation of Progress or Slippage in FFY 2008:*

In 2008-09, NYS' compliance rate improved to 74.6%, an increase of 7.2 percentage points over 67.4% in 2007-08. However, the State did not achieve its target of 100% compliance. The State measures its performance each year based on a different representative sample of school districts. Therefore, the State's results do not reflect improvements made by other districts that have corrected their noncompliance. Ninety percent (90%) of findings of noncompliance identified in 2007-08 have been corrected. Improvement for this indicator therefore demonstrates the proactive attention given to this compliance issue.

A review of the length of delays indicates: 38.2 percent of all delays in completing initial evaluations were for 1-10 days; 25.0 percent for 11-20 days; 15.3 percent for 21-30 days; and 21.6 percent for more than 30 days.

A review of the reasons for the delays indicates: 19.3 percent of delays were because an approved evaluator was not available to provide a timely evaluation; 40.7 percent because of evaluator delays in completing the evaluations; and 40.0 percent related to timeliness of scheduling CPSE or CSE meetings to discuss evaluation results.

**Correction of FFY 2007 Findings of Noncompliance (if State reported less than 100% compliance):**

NYS issued notifications of noncompliance for this indicator to 210 school districts. These school districts had submitted data representing the 2005-06 and 2006-07 school years. School districts that submitted data representing the 2007-08 school year were issued notifications of noncompliance in the 2008-09 school year, so the State will

report on their correction of noncompliance in the next APR, due February 1, 2011. Delays in systems development resulted in late notifications based on data collected for the 2005-06 and 2006-07 school years. The specifications for developing automated programs that evaluate each reason for delay and accurately compute each school district's compliance rate for preschool and school-age students were complex and required significant amount of collaboration among staff and revisions in the program code. These programs continue to be enhanced as new scenarios such as additional reasons for delays are identified.

The chart below provides information on the timely correction of findings of noncompliance in 210 school districts.

1. Number of findings of noncompliance the State made during FFY 2007 (the period from July 1, 2007 through June 30, 2008)	367 (210 districts – counting NYC twice)
2. Number of FFY 2007 findings the State verified as timely corrected (corrected within one year from the date of notification to the local educational agency (LEA) of the finding)	147 (86 districts)
3. Number of FFY 2007 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	220 (124 districts)

**Correction of FFY 2007 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):**

4. Number of FFY 2007 findings not timely corrected (same as the number from (3) above)	220 (124 districts)
5. Number of FFY 2007 findings the State has verified as corrected beyond the one-year timeline (“subsequent correction”)	210 (119 districts)
6. Number of FFY 2007 findings <u>not</u> verified as corrected [(4) minus (5)]	10 (5 districts)

**Actions Taken if Noncompliance Found in FFY 2007 Was Not Corrected:**

*For FFY 2007 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

Each school district that failed to report and verify its correction of noncompliance within 12 months of the date of notification of noncompliance was issued written notification to develop a corrective action plan that included the reasons for the district's failure to provide each student with an individual evaluation within the State's required timeline, which was required to consider the district's procedures and practices for conducting timely individual evaluations, staff training and supervision that relate to the current noncompliance; and in addition, for delays in preschool evaluations, the corrective action plan had to identify those approved evaluators that did not complete the preschool child's individual evaluation within the required time period and the reasons for such delays; and include consideration of procedures to ensure CPSE meetings are conducted in a timely manner to determine a child's eligibility for special education and

provide its recommendation to the Board of Education within 30 school days of the parent's written consent for the evaluation. Further, the corrective action plan had to identify the actions the district would take to demonstrate compliance, including the strategies related to these categories of factors/reasons and, for each strategy, identification of who is responsible and the timeline for completing the strategy.

Each of the districts with identified noncompliance beyond one year was also directed to technical assistance resources that were available to assist with the district's responsibility to correct the noncompliance for this indicator as follows:

- Early Childhood Direction Centers (ECDC) - <http://www.vesid.nysed.gov/lsn/ecdc/locations.htm>
- Special Education Quality Assurance (SEQA) Regional Offices - <http://www.vesid.nysed.gov/specialed/quality/regassoc.htm>
- The National Early Childhood Technical Assistance Center (NECTAC) - <http://www.nectac.org/>

SEQA staff followed up with each of the districts with identified noncompliance beyond one year to determine the status of the district's corrective action plan and the status of the district's correction of noncompliance.

**Verification of Correction of Noncompliance Found in FFY 2007 (either timely or subsequent):**

*For those findings for which the State has reported correction, describe the process the State used to verify that the LEA: (1) is correctly implementing the specific regulatory requirements; and (2) has completed the initial evaluation, although late, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memorandum 09-02.*

The State verified the correction of noncompliance by requiring the school district to submit an assurance of the accuracy of the district's report of correction of noncompliance and by requiring the district to resubmit data on Indicator 11 (timely evaluations) for the 2008-09 school year through SIRS. Correction of noncompliance for Indicator 11 (timely evaluations) requires that each student who had not received his or her initial individual evaluation with the State's required timeline as reported for Indicator 11 has since been evaluated to determine eligibility for special education. In addition, correction of noncompliance also means that the district has addressed the reasons why the students did not receive their evaluations on time to ensure that all students receive timely individual evaluations.

An on-site review has been scheduled in each district that has not submitted an assurance that they have successfully corrected their noncompliance that has continued beyond 12 months after identification. During the review, SEQA determines the reasons that a district has not successfully corrected the noncompliance and requires specific corrective actions to resolve any remaining instances of individual noncompliance as well as to resolve any systemic reasons causing the district to go beyond the State-established timelines for evaluation.

**Correction of Remaining FFY 2006 Findings of Noncompliance (if applicable):**

*For FFY 2006 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

As explained above, the State issued findings based on FFY2006 data in the FFY 2007 school year.

**Correction of Any Remaining Findings of Noncompliance from FFY 2005 or Earlier (if applicable):**

As explained above, the State issued findings based on FFY2005 data in the FFY 2007 school year.

**Additional Information Required by the OSEP APR Response Table for this Indicator (if applicable):**

Statement from the Response Table	State's Response
<p>The State must demonstrate, in the FFY 2008 APR due February 1, 2010, that the State is in compliance with the timely initial evaluations requirements in 34 CFR §300.301( c)(1), including correction of the noncompliance that the State reported under this indicator in the FFY 2007 APR, and the findings issued in FFY 2007 based on the FFY 2005 and FFY 2006 data.</p> <p>The State must report, in its FFY 2008 APR due February 1, 2010, that it has verified that each LEA with noncompliance reported by the State under this indicator in the FFY 2007 APR, including the findings of noncompliance based on the FFY 2005 and FFY 2006 data: (1) is correctly implementing the specific regulatory requirements; and (2) has completed the initial evaluation although late, unless the child is no longer within the jurisdiction of the LEA consistent with OSEP Memo 09-02.</p>	<p>To date, the State has verified the correction of 357 findings of noncompliance identified for this Indicator. This represents 97 percent of all identified findings for this indicator.</p> <p>As explained above, to ensure correction of 100 percent of findings, the State continues to monitor each remaining school district's corrective action plan and to take appropriate monitoring actions for unresolved noncompliance.</p>
<p>If the State is unable to demonstrate compliance in the FFY 2008 APR, the State must review its improvement activities and revise them, if necessary to ensure compliance.</p>	<p>The State has reviewed its improvement activities. Revisions are noted below.</p>

*Improvement Activities Completed in 2008-09*

ECDC and NYS SEQA staff facilitated regional meetings with preschool evaluators and school district to identify and address the reasons that preschool students were not receiving their evaluations within the required timelines.

References to the federal technical assistance resources were built into the notifications to school districts that demonstrated continuing noncompliance as well as into the correspondence to superintendents letting them know of their FFY 2009 reporting responsibilities. The federal technical assistance centers recommended to assist with field understanding of issues and effective practices included National Early Childhood Technical Assistance Center (NECTAC). Directions for corrective action planning contained in the notifications of continuing noncompliance were modeled on the "Resources for Systems Change and Improvement Planning" section of the SPP/APR calendar, available at <http://spp-apr-calendar.rfcnetwork.org/explorer/view/id/650?1#category1>. Additionally, a team of policy, program development and monitoring staff that work with early childhood issues and programs participate regularly in the monthly Community of Practice (CoP) calls sponsored by NECTAC to gain insight into critical issues and benchmark practices nationally.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

Beginning in 2010, the State will require a school district to develop a corrective action plan to address continuing noncompliance if it fails to report correction of noncompliance within nine months.

Verification of correction of noncompliance will be measured based on a review to ensure that each identified student, whose initial evaluation was not completed in compliance with State time lines, and for whom data was not already available in SIRS, has since had his or her initial evaluation completed. If not, there is a reason that is in compliance with State requirements. Additionally, during a three-month period determined by the district, a review of all students for whom parent consent to evaluate was received demonstrates that all students during this time period received their initial individual evaluations within the State required timelines. This revised procedure will provide more timely verification of correction of noncompliance for this Indicator.

### **Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

#### **Monitoring Priority: Effective General Supervision Part B / Effective Transition**

**Indicator 12:** Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an individualized education program (IEP) developed and implemented by their third birthdays.  
(20 U.S.C. 1416(a)(3)(B))

#### **Measurement\*:**

- a. # of children who have been served in Part C and referred to Part B for eligibility determination.
- b. # of those referred determined to be NOT eligible and whose eligibility was determined prior to their third birthdays.
- c. # of those found eligible who have an IEP developed and implemented by their third birthday.
- d. # of children for whom parent refusal to provide consent caused delays in evaluation or initial services.
- e. # of children who were referred to Part C less than 90 days before their third birthdays.\*
- f. # of children whose parents chose to continue their child in Early Intervention Program.\*\*
- g. # of children who moved, # of children who died, # of children who started receiving services on the recommended program's beginning date, even though it was after the child's third birthday.\*\*

\*Note: In March 2009, the United States Education Department (USED) added category (e) to the Measurement.

\*\*Note: In 2008-09, New York State (NYS) added f and g to the measurement to be accurate in measurement, consistent with NYS requirements.

Account for children included in a, but not included in b, c, d, e, f or g. Indicate the range of days beyond the third birthday when eligibility was determined and the IEP developed and the reasons for the delays.

Percent = [(c) divided by (a – b – d – e- f - g)] times 100.

#### **Data Source:**

NYS now uses data taken from the State data system. Beginning with the 2007-08

year, NYS collects data for this indicator via the Student Information Repository System (SIRS) and verifies these data by displaying them in a VR12 report, which was developed in the PD Data System. SIRS is NYS' individual student data reporting system.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2008 (2008-09 school year)	100% of children referred by Part C prior to age 3, who are found eligible for Part B, will have an IEP developed and implemented by their third birthday or in compliance with timelines established in State law.

**Actual Target Data for FFY 2008:**

In FFY 2008, 74.8 percent of children referred from Part C had their eligibility for Part B determined or IEP implemented by their 3<sup>rd</sup> birthdays or in compliance with timelines established in State law.

*NYS' Method Used to Collect Data*

NYS collects individual student data through SIRS. School districts report specific dates when special education events occur such as the date of referral, date of written parent consent for an initial evaluation, date of the Committee on Preschool Special Education (CPSE) meeting to determine eligibility and date the IEP is implemented. Reasons for delays are collected for children whose eligibility determination is not made or whose IEPs are not implemented by their third birthday. Some reasons are considered to be in compliance with State requirements and other reasons are not in compliance. Each school district's compliance rate is calculated.

The State verifies that each school district whose compliance rate is less than 100 percent completes any remaining eligibility determinations and implements any remaining IEPs. The State also requires documentation that the school district complies with the time lines associated with this indicator.

<b>Children referred from Part C who had their eligibility for Part B determined or IEP implemented by their 3<sup>rd</sup> birthday during FFY 2008</b>	
a. Number of children who have been served in Part C and referred to Part B for Part B eligibility determination	2,849
b. Number of those referred determined to be NOT eligible and whose eligibility was determined prior to third birthday	135
c. Number of those found eligible who have an IEP developed and implemented by their third birthdays	306
d. Number for whom parent refusals to provide consent caused delays in evaluation or initial services	1,133
e. Number of children who were referred to Part C less than 90 days before their third birthdays.	19
<i>[This information is not required until the 2011 submission but may be</i>	

<b>Children referred from Part C who had their eligibility for Part B determined or IEP implemented by their 3<sup>rd</sup> birthday during FFY 2008</b>	
<i>reported in 2010 if the State's data are available.]</i>	
f. Number of children whose parents chose to continue their child in Early Intervention Program	1,032
g. Number of children who either moved (18), # of children who died (1), # of children who started receiving services on the recommended program's beginning date, even though it was after the child's third birthday (102)	121
Number in a but not in b, c, d, e, f or g.	<b>103</b>
Percent of children referred by Part C prior to age 3 who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays Percent = [(c) / (a-b-d-e-f-g)] * 100	<b>75%</b>

*Account for Children Included in a, but not in b, c, d, e, f or g in the above table:*

There were 103 students for whom there were delays in implementing the IEP or determining eligibility for Part B services for reasons that are not in compliance with State requirements. The chart below provides reasons for the delays and the extent of delays.

Reasons for Delays	Number of Children by Number of Days of Delay in Developing an IEP by Third Birthday or Determining Eligibility for Preschool Special Education				Total	Percent Of Total
	1-10	11-20	21-30	Over 30		
An approved evaluator was not available to provide an evaluation.	2	0	1	46	48	48%
Additional evaluations were requested outside of the required timeline.	1	2	0	3	6	6%
There were evaluator delays in completing the evaluation.	1	1	1	20	23	22%
Delays in scheduling the CPSE meetings.	1	0	2	12	15	15%
The recommended Part B services were not available when child turned three years of age.	0	0	0	2	2	2%
Inaccurate or incomplete data.	8 (length of delay to be determined)				8*	8%
Total	5	3	4	83	103	100%

Reasons for Delays	Number of Children by Number of Days of Delay in Developing an IEP by Third Birthday or Determining Eligibility for Preschool Special Education				Total	Percent Of Total
	1-10	11-20	21-30	Over 30		
Percent of Total	5%	3%	4%	81%		

\* 8 children have missing or inaccurate data. These children have been counted as not in compliance in the State's rate.

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress or Slippage in FFY 2008:*

In 2008-09, NYS' compliance rate dropped from 78.2 percent to 74.8 percent. Data are analyzed by regions of the State and will be used in developing regional strategies for improvement.

A review of the length of delays indicates: 5 percent of all delays in completing initial evaluations were for 1-10 days; 3 percent for 11-20 days; 4 percent for 21-30 days; and 81 percent for more than 30 days. The number of days of delay has not been determined for 8 children by the time this report was prepared.

A review of the reasons for the delays indicates: 49 percent of delays were because an approved evaluator was not available to provide an evaluation; 6 percent because additional evaluations were requested outside of the required timeline; 23 percent of delays were evaluator delays in completing the evaluation; 15 percent were related to timeliness of scheduling CPSE or Committee on Special Education (CSE) meetings to determine eligibility; and 2 percent were because the recommended Part B services were not available when child turned three years of age. Due to inaccurate or incomplete data, reasons for delays could not be determined for 8 children by the time this report was prepared.

**Correction of FFY 2007 Findings of Noncompliance (if State reported less than 100% compliance)**

NYS issued notifications of noncompliance for this indicator to 28 school districts. These school districts had submitted data representing the 2005-06 and 2006-07 school years. School districts that submitted data representing the 2007-08 school year were issued noncompliance notifications in the 2008-09 school year, so the State will report on their correction of noncompliance in the next APR, due February 1, 2011. Delays in systems development resulted in late notifications based on data collected for the 2005-06 and 2006-07 school years. The chart below provides information on the timely correction of

noncompliance among these 28 school districts. Each school district represents one finding.

1. Number of findings of noncompliance the State made during FFY 2007 (the period from July 1, 2007 through June 30, 2008)	28
2. Number of FFY 2007 findings the State verified as timely corrected (corrected within one year from the date of notification to the local educational agency (LEA) of the finding)	6
3. Number of FFY 2007 findings not verified as corrected within one year [(1) minus (2)]	22

**Correction of FFY 2007 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):**

4. Number of FFY 2007 findings not timely corrected (same as the number from (3) above)	22
5. Number of FFY 2007 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	18
6. Number of FFY 2007 findings not yet verified as corrected [(4) minus (5)]	4

**Actions Taken if Noncompliance Found in FFY 2007 Was Not Corrected:**

*For FFY 2006 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

Each school district with continuing noncompliance with this Indicator received notification from the State that it must develop a corrective action plan that includes:

- The reasons for the district's failure to provide each eligible preschool child transitioning from early intervention services with special education services by the child's third birthday, which may include whether the:
  - a. district received the notification from the early intervention program of children transitioning from early intervention;
  - b. Chairperson of the CPSE or his/her designee participated in the transition planning meeting conducted by the early intervention program in compliance with 8 NYCRR §200.16(f);
  - c. eligible child received his/her evaluation within the required timelines, which should include consideration of which of the approved evaluators did not complete the preschool child's individual evaluation within the required time period and the reasons for such delays; and
  - d. CPSE meeting to determine the child's eligibility for preschool special education was conducted in a timely manner before the child's third birthday.
- The corrective action plan required the identification of the actions the district would take to demonstrate compliance, including the strategies related to these categories of factors/reasons and, for each strategy, identification of who is responsible and the timeline for completing the strategy.

Each such district was provided with technical assistance resources available to assist with the district's responsibility to correct the noncompliance for this indicator including:

- Early Childhood Direction Centers (ECDC) - <http://www.vesid.nysed.gov/lsn/ecdc/locations.htm>
- Special Education Quality Assurance (SEQA) Regional Offices - <http://www.vesid.nysed.gov/specialed/quality/regassoc.htm>
- The National Early Childhood Technical Assistance Center (NECTAC) - <http://www.nectac.org/>

SEQA monitoring staff followed up with each of the districts with identified noncompliance beyond one year to determine the status of the district's corrective action plan and to ensure their correction of noncompliance

**Verification of Correction of Noncompliance Found in FFY 2007 (either timely or subsequent):**

*For those findings for which the State has reported correction, describe the process the State used to verify that the LEA: 1) is correctly implementing the specific regulatory requirements; and (2) has developed and implemented the IEP, although late, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memorandum 09-02.*

The State verified the correction of noncompliance by requiring the school district to submit an assurance of the accuracy of the district's report of correction of noncompliance and by requiring the district to resubmit data on Indicator 12 for the 2008-09 school year through SIRS. Correction of noncompliance requires that the district can assure that students transitioning from early intervention programs have their IEPs developed and implemented and that the district can assure the future appropriate provision of timely services to children transitioning from early intervention programs to preschool special education. To demonstrate correction of noncompliance, each school district with noncompliance was scheduled to resubmit data on Indicator 12 (timely transitions from early intervention to preschool special education) for the 2008-09 school year through SIRS.

An on-site review has been scheduled in each district that has not successfully corrected noncompliance that has continued beyond 12 months after identification. During the review, SEQA determines the reasons that a district has not successfully corrected the noncompliance and will require specific corrective actions to resolve any remaining instances of individual noncompliance as well as to resolve any systemic reasons causing the district to fail to develop and implement an IEP for a child by their 3<sup>rd</sup> birthday who has been referred by Part C prior to the age of 3 and who is found eligible under Part B.

**Correction of Remaining FFY 2006 Findings of Noncompliance (if applicable)**

*For FFY 2006 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

NYS issued notifications of noncompliance in FFY 2007 based on data submitted for the FFY 2006 school year. Correction of these findings is reported above.

**Correction of Any Remaining Findings of Noncompliance from FFY 2005 or Earlier (if applicable)**

*For FFY 2005 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

NYS issued notifications of noncompliance in FFY 2007 based on data submitted for the FFY 2005 school year. Correction of these findings is reported above.

**Additional Information Required by the OSEP APR Response Table (if applicable)**

Statement from the OSEP Response Table	State's Response
The State must demonstrate, in the FFY 2008 APR due February 1, 2010, that the State is in compliance with the early childhood transition requirements in 34 CFR §300.124(b), including correction of the noncompliance that the State reported under this indicator in the FFY 2007 APR, and the findings issued in FFY 2007 based on the FFY 2005 and FFY 2006 data.	The State regulations comply with 34 CFR §300.124(b) for the transition of children from Part C to Part B. The State is implementing a Court Order Settlement Agreement for the timely placement of preschool children in New York City. A copy of this agreement was provided to USED. In addition, the State is implementing actions under the Jose P. Court case in New York City (NYC) relating to timely placements of student.
The State must report, in its FFY 2008 APR due February 1, 2010, that it has verified that each LEA with noncompliance reported by the State under this indicator in the FFY 2007 APR, including the findings of noncompliance based on the FFY 2005 and FFY 2006 data: (1) is correctly implementing the specific regulatory requirements; and (2) has developed and implemented the IEP, although late, unless the child is no longer within the jurisdiction of the LEA consistent with OSEP Memo 09-02.	The State, to date, has verified the correction of 24 findings of noncompliance identified for this Indicator. This represents 86 percent of all identified noncompliance. As explained above, the State continues to monitor each remaining school district's corrective action plan and to take appropriate monitoring actions for unresolved noncompliance.
If the State is unable to demonstrate compliance in the FFY 2008 APR, the State must review its improvement activities and revise them, if necessary to ensure compliance.	The State has reviewed and revised its improvement activities as identified below.

*Improvement Activities Completed in 2008-09*

ECDC and NYS SEQA staff facilitated regional meetings with preschool evaluators and school district to identify and address the reasons that preschool students were not receiving their evaluations within the required timelines.

References to the federal technical assistance resources were built into the notifications to school districts that demonstrated continuing noncompliance as well as into the

correspondence to superintendents letting them know of their FFY 2009 reporting responsibilities. The federal technical assistance centers recommended to assist with field understanding of issues and effective practices included National Early Childhood Technical Assistance Center (NECTAC). Directions for corrective action planning contained in the notifications of continuing noncompliance were modeled on the "Resources for Systems Change and Improvement Planning" section of the SPP/APR calendar, available at <http://spp-apr-calendar.rfcnetwork.org/explorer/view/id/650?1#category1>. Additionally, a team of policy, program development and monitoring staff that work with early childhood issues and programs participate regularly in the monthly Community of Practice (CoP) calls sponsored by NECTAC to gain insight into critical issues and benchmark practices nationally.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

Beginning in 2010, the State will require a school district to develop a corrective action plan to address continuing noncompliance if it fails to report correction of noncompliance within nine months.

Verification of correction of noncompliance will be based on reviewing data that shows that:

1. each identified student who did not receive their preschool special education services by their 3rd birthday or within the timeline required by State regulations, and for whom data was not already available in SIRS, has since had his or her IEP developed and implemented or if not, there is a reason that is in compliance with State requirements; and
2. the district has data to verify that all children who transition from Part C program to preschool special education during a three-month period determined by the district have had their eligibility for preschool special education determined and if found eligible, had their IEP developed and implemented by the child's third birthday. If not, the district will identify those reasons that are in compliance with State requirements.

This revised procedure will provide more timely verification of correction of noncompliance for this Indicator.

**Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

**Monitoring Priority: Effective General Supervision Part B / Effective Transition**

**Indicator 13:** Indicator definition used through school year 2008-09: Percent of youth aged 15\* and above with an individualized education program (IEP) that includes coordinated, measurable, annual IEP goals and transition services that will reasonably enable the student to meet the post-secondary goals.

(20 U.S.C. 1416(a)(3)(B))

\*The federal indicator is age 16. New York State (NYS) has elected to measure this beginning at age 15, since NYS law and regulations require that transition services be indicated on a student's IEP to be in effect when the student turns age 15.

Because of the change in definition in March 2009, the United States Education Department (USED) does not require reporting in the February 2010 APR for the 2008-09 school year, although NYS completed the data collection and will report individual school district data using the prior definition. NYS will resume reporting in the APR due February 1, 2011 using data collected during 2009-10 under the new definition.

**Measurement used through school year 2008-09:**

Percent = # of youth with disabilities aged 15 and above with an IEP that includes coordinated, measurable, annual IEP goals and transition services that will reasonably enable the student to meet the post-secondary goals divided by the # of youth with an IEP age 15 and above times 100.

**Data Source:**

NYS will use data taken from State monitoring.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
<p><b>FFY 2008</b> (2008-09 school year)</p>	<p>100 percent of youth* aged 15 and above will have IEPs that include coordinated, measurable, annual IEP goals and transition services that will reasonably enable the student to meet the post-secondary goals.</p> <p>Note: No reporting is required in the February 2010 submission, although data continued to be collected from individual school districts using the prior definition.</p>

\*i.e., percent of youth with IEPs reviewed.

**Actual Target Data for FFY 2008:**

N/A

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress or Slippage*

N/A

*Correction of Identified Noncompliance*

**Correction of FFY 2007 Findings of Noncompliance:**

The level of compliance (actual target data) that the State reported for FFY 2007 for this indicator was 58.6%.

1. Number of findings of noncompliance the State made during FFY 2007 (the period from July 1, 2007 through June 30, 2008)	391 (83 districts)
2. Number of FFY 2007 findings the State verified as timely corrected (corrected within one year from the date of notification to the local educational agency (LEA) of the finding)	247 (59 districts)
3. Number of FFY 2007 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	144 (35 districts)

**Correction of FFY 2007 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):**

4. Number of FFY 2007 findings not timely corrected (same as the number from (3) above)	144 (35 districts)
5. Number of FFY 2007 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	123 (31 districts)
6. Number of FFY 2007 findings <u>not</u> yet verified as corrected [(4) minus (5)]	21 (5 districts)

**Actions Taken if Noncompliance Found in FFY 2007 Is Not Corrected:**

*For FFY 2007 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

Ninety-five percent (95%) of the FFY 2007 findings of noncompliance for this Indicator have been corrected to date. Each school district that did not provide a report of correction of noncompliance within 12 months of notification received written notice that it must develop a corrective action plan to identify the root cause of the continuing noncompliance and obtain technical assistance to correct its noncompliance.

The State is monitoring the districts' implementation of their corrective action plans with Special Education Quality Assurance (SEQA) staff following up with each of the districts with identified noncompliance beyond one year to determine the status of the district's corrective action plan and the status of the district's correction of noncompliance.

An on-site review has been scheduled in each district that has not successfully corrected the noncompliance that has continued beyond 12 months after identification. During the review, SEQA staff determine the reasons that a district has not successfully corrected the noncompliance and requires specific corrective actions to resolve any remaining instances of individual noncompliance.

**Verification of Correction of FFY 2007 Noncompliance (either timely or subsequent):**

*For those findings for which the State has reported correction, describe the process the State used to verify that the LEA: 1) is correctly implementing the specific regulatory requirements; and (2) has developed an IEP that includes the required transition content for each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memorandum 09-02.*

The State requires that a team from each school district conduct a review of each student's IEP to verify correction of noncompliance using the State's monitoring protocol related to transition planning. Correction of noncompliance is required for each individual student whose IEP was determined to be not in compliance with all regulatory citations. Upon completion of the individual IEP reviews, the school superintendent must provide an assurance verifying accuracy of the district's report to the State. All reports to the State are subject to verification.

To verify correction of noncompliance, the State requires the district to document on a State-developed Individual Student Record Review Form that, for each student whose IEP did not include appropriate transition goals and services in the 2007-08 school year and for whom the district continues to have Committee on Special Education (CSE) responsibility, the CSE has met to develop a new IEP that is in compliance with the transition requirements. In addition, the district must have addressed the reasons why the students did not receive appropriate IEPs in order to ensure that other students will have appropriate transition planning on their IEPs. This documentation is subject to verification by the State.

For any district with continuing noncompliance beyond 12 months, they were required to develop a corrective action plan to document:

- the reasons for the district's failure to provide each student with an IEP that includes coordinated, measurable, annual IEP goals and transition services that will reasonably enable students to meet their post-secondary goals. In considering the reasons, the district must consider information obtained during the self-review process for each compliance issue identified; and
- identification of the actions the district has taken and will take to demonstrate compliance, including the strategies related to these categories of factors/reasons

and, for each strategy, who is responsible and the timeline for completing the strategy.

The State verifies the correct of noncompliance for New York City (NYC) by requiring annual monitoring for compliance with this indicator.

**Correction of Remaining FFY 2006 Findings of Noncompliance (if applicable):**

*For FFY 2006 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance*

Each school district that did not provide a report of correction of noncompliance within 12 months of notification received written notice that it must develop a corrective action plan to identify the root cause of the continuing noncompliance and obtain technical assistance to correct its noncompliance.

The State is monitoring the districts' implementation of their corrective action plans with SEQA staff following up with each of the districts with identified noncompliance beyond one year to determine the status of the district's corrective action plan and the status of the district's correction of noncompliance.

An on-site review has been scheduled in each district that has not successfully corrected the noncompliance that has continued beyond 12 months after identification. During the review, SEQA staff determine the reasons that a district has not successfully corrected the noncompliance and requires specific corrective actions to resolve any remaining instances of individual noncompliance.

To address continuing noncompliance with this Indicator in NYC, SEQA regional associates meet on a monthly basis with NYC administrators to discuss the status of compliance issues and the action steps taken by the school, including district-wide trainings and initiatives to ensure compliance. The State supported the NYC Department of Education in developing multi-agency Transition Forums for all five boroughs. These Forums were open to school principals, school psychologists and Transition Linkage Coordinators, to familiarize school-level staff with regulatory requirements, best practices, and available resources. The State provided NYC with additional grant funds to provide training to its school personnel on IEP transition planning and to develop transition programs in several schools.

Correction of noncompliance for FFY 2006 is reported by compliance findings rather than by school district.

1. Number of findings of noncompliance the State made during FFY 2006 (the period from July 1, 2006 through June 30, 2007)	525 (105 districts)
2. Number of FFY 2006 findings the State verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding)	94 (24 districts)

3. Number of FFY 2006 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	431 (89 districts)
---	-----------------------

**Correction of FFY 2006 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):**

4. Number of FFY 2006 findings not timely corrected (same as the number from (3) above)	431 (89 districts)
5. Number of FFY 2006 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	421 (88 districts)
6. Number of FFY 2006 findings <u>not</u> yet verified as corrected [(4) minus (5)]	10 (3 districts)

Ninety-eight percent (98%) of all findings from FFY 2006 have been corrected to date.

**Correction of Any Remaining Findings of Noncompliance from FFY 2005 or Earlier (if applicable):**

School districts that identified some noncompliance in FFY 2005 were provided notification of noncompliance in FFY 2006. The correction of this noncompliance is reported in the data for FFY 2006, above. The delay in notification was the result of systems development to use State reported data and develop processes to notify school districts and processes to track the correction of noncompliance.

**Additional Information Required by the OSEP APR Response Table for this Indicator (if applicable):**

Statement from the OSEP Response Table	State's Response
<p>The State reported that noncompliance identified in FFY 2005 and FFY 2006 with the secondary transition requirements in 34 CFR §300.320(b) was partially corrected. The State must demonstrate, in the FFY 2008 APR, due February 1, 2010, that the remaining noncompliance 39 uncorrected noncompliance findings were corrected.</p> <p>Although the State is not required to report data for this indicator in the FFY 2008 APR, the State must report on the timely correction of the noncompliance reported by the State under this indicator in the FFY 2007 APR and the findings of noncompliance from FFY 2005 and FFY 2006 not reported as corrected in the FFY 2007 APR</p>	<p>In the previous APRs, the State reported on the number of school districts that reported some noncompliance for this indicator by the year in which they reported the noncompliance. In this APR, the State is reporting on the correction of noncompliance based on the year in which school districts were notified of noncompliance (or the year in which the findings were made). This format of reporting is consistent with the guidance provided by USED.</p> <p>As reported above, school districts have corrected 95 percent of findings made during the FFY 2007 school year and 98 percent of findings made during the FFY 2006 school year.</p> <p>The Department continues to monitor the corrective action plans in the remaining school districts to ensure correction of 100 percent of findings from all school years.</p>

<b>Statement from the OSEP Response Table</b>	<b>State's Response</b>
<p>The State must report, in its FFY 2008 APR due February 1, 2010, that it has verified that each LEA with remaining noncompliance: (1) is correctly implementing the specific regulatory requirements; and (2) has developed an IEP that includes the required transition content for each youth, unless the youth is no longer within the jurisdiction of the LEA consistent with OSEP Memo 09-02.</p>	<p>The State verified that the LEAs corrected noncompliance through a review of each student's IEP using the State developed self-review monitoring protocol and through written assurance from the school superintendent of the accuracy of the monitoring report and correction of noncompliance. The State also required these districts to re-report on this indicator to demonstrate sustained correction of noncompliance.</p>
<p>If the State is unable to demonstrate compliance in the FFY 2008 APR, the State must review its improvement activities and revise them if necessary to ensure compliance.</p>	<p>The State has reviewed and revised its improvement activities for this indicator as described below.</p>

*Improvement Activities Completed in 2008-09*

- The Office of Vocational and Educational Services for Individuals with Disabilities (VESID) accessed federal technical assistance to further inform its activities to improve transition planning for students with disabilities. This included a review of information and resources, including but not limited to information available through the following Office of Special Education Programs (OSEP) technical assistance centers: National Post-School Outcome Center (NPSO), National Dropout Prevention Center for Students with Disabilities (NDPC-SD), and National Secondary Transition Technical Assistance Center (NSTTAC). VESID plans to continue calling upon federal technical assistance resources to assist with the redesign of our State's transition technical assistance process as described below.
- NYS redesigned its special education technical assistance system to replace the seven separately funded Transition Coordination Site (TCS) network with a new system through which Transition Specialists (TS) are part of a team of specialists in each region of the State through 10 Regional Special Education Technical Assistance Support Centers (RSE-TASC). Through this redesign, the number of transition specialists increased from seven to 10.
- A three-day training program for CSE chairpersons was developed. This training, delivered in multiple sessions in each region of the State, provides extensive information on appropriate IEP development and transition planning.
- The State provided school districts identified as needing assistance or intervention with grant funds to address the root causes of the compliance and performance issues.
- Also see activities completed for Indicators 1, 2, 8 and 14.

**Revisions, with Justification, to Proposed Targets / Improvement Activities /  
Timelines / Resources for FFY 2008 *[If applicable]***

The State will issue a State Model IEP form in 2010 with accompanying guidance. This form will be required for use beginning with all NYS IEPs developed for the 2011-12 school year and thereafter. This form is expected to assist districts to appropriately document transition plans on students' IEPs.

In 2010, the State will issue additional guidance to school districts on IEP transition planning and standards for the review of IEPs to ensure compliance with the State's requirements.

The State will provide, through its RSE-TASC, increased training and technical assistance on transition planning requirements to all school districts, with priority for attendance to districts identified as needing assistance or intervention based on the quality of transition IEPs.

**Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

**Monitoring Priority: Effective General Supervision Part B / Effective Transition**

**Indicator 14:**

*Indicator definition used through school year 2007-08:*

Percent of youth who had individualized education programs (IEPs), are no longer in secondary school and who have been competitively employed, enrolled in some type of postsecondary school, or both, within one year of leaving high school.  
(20 U.S.C. 1416(a)(3)(B))

**Measurement used through school year 2007-08 :**

Percent = [(# of youth who had IEPs, are no longer in secondary school and who have been competitively employed, enrolled in some type of postsecondary school, or both, within one year of leaving high school) divided by the (# of youth assessed who had IEPs and are no longer in secondary school)] times 100.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2008 (2008-09 school year)	A new baseline and targets will be established using the new measurement categories and reported in the State Performance Plan (SPP) due February 1, 2011.

**Actual Target Data for FFY 2008:**

Since the definition was changed in March 2009, the United States Education Department (USED) does not require reporting data on Indicator 14 in the February 2010 APR, although New York State (NYS) continued to collect data from individual districts under the 2007-08 indicator definition.

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Improvement Activities Completed in 2008-09*

The Office of Vocational and Educational Services for Individuals with Disabilities (VESID) accessed technical assistance to further inform its activities to improve transition planning for students with disabilities. This included a review of information

and resources, including but not limited to information available through the following Office of Special Education Programs (OSEP) technical assistance centers: National Post-School Outcomes (NPSO), National Dropout Prevention Center for Students with Disabilities (NDPC-SD) and National Secondary Transition Technical Assistance Center (NSTTAC). Also see resources accessed as identified for indicators 1 and 13.

*Activities Completed:*

- The Model Transition Project (MTP) ended in 2009. This 2.5 year project provided funding to school districts to expand school-vocational rehabilitation collaboration to improve youth employment outcomes. MTP resulted in increasing the numbers of youth served by the vocational rehabilitation system from 30,844 annually in school year 2006-07 to 42,468 annually in school year 2008-09; and, while employment rates for all persons with disabilities are declining, this project contributed to the increased rate of employment of youth who received vocational rehabilitation services from 31.3% to 34.6%.
- Also, see Indicators 1, 2, 8 and 13.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

None

**Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

**Monitoring Priority: Effective General Supervision Part B / General Supervision**

**Indicator 15:** General supervision system (including monitoring, complaints, hearings, etc.) identifies and corrects noncompliance as soon as possible but in no case later than one year from identification.  
(20 U.S.C. 1416 (a)(3)(B))

**Measurement:**

In 2006, the United States Education Department (USED) revised the baseline measurement for this indicator as follows:

Percent of noncompliance corrected within one year of identification:

- a. # of findings of noncompliance.
  - b. # of corrections completed as soon as possible but in no case later than one year from identification.
- Percent = [(b) divided by (a)] times 100.

For any noncompliance not corrected within one year of identification, describe what actions, including technical assistance and/or enforcement that the State has taken.

**Data Source:**

New York State (NYS) uses data taken from State monitoring, complaints, hearings and other general supervision system components.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2008 (2008-09 school year)	100% of noncompliance issues identified through the State's general supervision system (including monitoring, complaints, hearings, etc.) will be corrected within one year from identification.

**Actual Target Data for FFY 2008:**

**72.5 percent** of noncompliance issues identified between July 1, 2007 and June 30, 2008 through the State's general supervision system (including monitoring, State complaints, hearings, etc.) were corrected within one year of identification.

Table: Indicator B15 Worksheet

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2007 (7/1/07 to 6/30/08)	(a) # of Findings of noncompliance identified in FFY 2007 (7/1/07 to 6/30/08)	(b) # of Findings of noncompliance from (a) for which correction was verified no later than one year from identification	(c) # of Findings of noncompliance resolved in greater than 12 months	(d) # of Findings of Noncompliance Pending as of 12/23/09
1. Percent of youth with individualized education programs (IEPs) graduating from high school with a regular diploma.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	1	1	1	0	0
2. Percent of youth with IEPs dropping out of high school.  14. Percent of youth who had IEPs, are no longer in secondary school and who have been competitively employed, enrolled in some type of post-secondary school, or both, within one year of leaving high school.	Dispute Resolution: Complaints, Hearings	0	0	0	0	0
3. Participation and performance of children with disabilities on statewide assessments.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	4	4	2	1	1
7. Percent of preschool children with IEPs who demonstrated improved outcomes.	Dispute Resolution: Complaints, Hearings	0	0	0	0	0

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2007 (7/1/07 to 6/30/08)	(a) # of Findings of noncompliance identified in FFY 2007 (7/1/07 to 6/30/08)	(b) # of Findings of noncompliance from (a) for which correction was verified no later than one year from identification	(c) # of Findings of noncompliance resolved in greater than 12 months	(d) # of Findings of Noncompliance Pending as of 12/23/09
4A. Percent of districts identified as having a significant discrepancy in the rates of suspensions and expulsions of children with disabilities for greater than 10 days in a school year.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	63	371	223	97	51
4B. Percent of districts identified by the State as having a significant discrepancy in the rates of suspensions and expulsions of greater than 10 days in a school year of children with disabilities by race and ethnicity.	Dispute Resolution: Complaints, Hearings	20	35	33	2	0
5. Percent of children with IEPs aged 6 through 21 - educational placements.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	134	410	348	46	16
6. Percent of preschool children aged 3 through 5 – early childhood placement.	Dispute Resolution: Complaints, Hearings	88	211	192	12	7

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2007 (7/1/07 to 6/30/08)	(a) # of Findings of noncompliance identified in FFY 2007 (7/1/07 to 6/30/08)	(b) # of Findings of noncompliance from (a) for which correction was verified no later than one year from identification	(c) # of Findings of noncompliance resolved in greater than 12 months	(d) # of Findings of Noncompliance Pending as of 12/23/09
8. Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	26	47	43	3	1
	Dispute Resolution: Complaints, Hearings	38	77	76	1	0
9. Percent of districts with disproportionate representation of racial and ethnic groups in special education that is the result of inappropriate identification.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	70	108	83	19	6
10. Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.	Dispute Resolution: Complaints, Hearings	11	15	13	1	1
11. Percent of children who were evaluated within NYS' established timeline to complete the initial evaluation	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	237	430	204	214	12
	Dispute Resolution: Complaints, Hearings	14	30	29	0	1

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2007 (7/1/07 to 6/30/08)	(a) # of Findings of noncompliance identified in FFY 2007 (7/1/07 to 6/30/08)	(b) # of Findings of noncompliance from (a) for which correction was verified no later than one year from identification	(c) # of Findings of noncompliance resolved in greater than 12 months	(d) # of Findings of Noncompliance Pending as of 12/23/09
12. Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	28	28	6	15	7
	Dispute Resolution: Complaints, Hearings	0	0	0	0	0
13. Percent of youth aged 15 and above with IEPs that include coordinated, measurable, annual IEP goals and transition services that will reasonably enable student to meet the post-secondary goals.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	142	497	339	134	24
	Dispute Resolution: Complaints, Hearings	4	4	4	0	0

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2007 (7/1/07 to 6/30/08)	(a) # of Findings of noncompliance identified in FFY 2007 (7/1/07 to 6/30/08)	(b) # of Findings of noncompliance from (a) for which correction was verified no later than one year from identification	(c) # of Findings of noncompliance resolved in greater than 12 months	(d) # of Findings of Noncompliance Pending as of 12/23/09
Other areas of noncompliance: Behavior Intervention Plans	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	63	33	63	0	0
	Dispute Resolution: Complaints, Hearings	13	27	26	1	0
Other areas of noncompliance: Committee on Preschool Special Education (CPSE)/Committee on Special Education (CSE) Membership	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	9	10	10	0	0
	Dispute Resolution: Complaints, Hearings	7	11	11	0	0
Other areas of noncompliance: Discipline	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	4	5	5	0	0
	Dispute Resolution: Complaints, Hearings	7	10	9	1	0

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2007 (7/1/07 to 6/30/08)	(a) # of Findings of noncompliance identified in FFY 2007 (7/1/07 to 6/30/08)	(b) # of Findings of noncompliance from (a) for which correction was verified no later than one year from identification	(c) # of Findings of noncompliance resolved in greater than 12 months	(d) # of Findings of Noncompliance Pending as of 12/23/09
Other areas of noncompliance: Educational Facilities	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	15	17	17	0	0
	Dispute Resolution: Complaints, Hearings	3	4	4	0	0
Other areas of noncompliance: IEP Development/Implementation	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	65	117	85	32	0
	Dispute Resolution: Complaints, Hearings	13	19	18	1	0
Other areas of noncompliance: Personnel Qualifications	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	12	17	1	0	16
	Dispute Resolution: Complaints, Hearings	1	1	0	0	1

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2007 (7/1/07 to 6/30/08)	(a) # of Findings of noncompliance identified in FFY 2007 (7/1/07 to 6/30/08)	(b) # of Findings of noncompliance from (a) for which correction was verified no later than one year from identification	(c) # of Findings of noncompliance resolved in greater than 12 months	(d) # of Findings of Noncompliance Pending as of 12/23/09
Other areas of noncompliance: Residential Placement	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	4	8	8	0	0
	Dispute Resolution: Complaints, Hearings	1	5	5	0	0
Other areas of noncompliance: Situation Unique	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	60	71	63	5	3
	Dispute Resolution: Complaints, Hearings	7	12	11	0	1
<b>Sum of the numbers down Column a and Column b</b>			2665	1932	585	148
<b>Percent of noncompliance corrected within one year of identification = (column (b) sum divided by column (a) sum) times 100.</b> 1932(b) / 2665(a) = .72495 X 100 = 72.5.			<b>(b) / (a) X 100 =</b>	<b>72.5%</b>	22.2%	5.6%

**Describe the process for selecting LEAs for Monitoring:**

The State monitors school districts through data collection, State complaints, self-review monitoring processes, on-site reviews and hearings.

For compliance relating to Indicators 11 (timely evaluations), 12 (Early Intervention to preschool special education) and 13 (transition services), the State monitors a representative sample of one-sixth of the school districts and New York City annually.

Districts are selected for monitoring to review their policies, procedures and practices relating to development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards whenever a school district's data shows significant discrepancies in their rates of long-term suspension of students with disabilities and/or when their data shows a significant discrepancy by race/ethnicity in high suspension rates.

Districts are selected for monitoring to review their policies, procedures and practices relating to individual evaluations and eligibility determinations by the CSE whenever a school district's data shows significant disproportionality by race/ethnicity in the identification of students with disabilities.

Districts are selected for monitoring to review their policies, procedures and practices relating to Individual Evaluations of Students with Disabilities and CSE Recommendations whenever a school district's data shows significant disproportionality by race/ethnicity in the identification of students with disabilities in specific disability categories (Emotional Disturbance, Learning Disability, Mental Retardation, Other Health Impairment, Speech or Language Impairment and Autism).

Districts are selected for monitoring to review their policies, procedures and practices relating to CSE evaluations, IEP development and placement recommendations whenever the district's data shows significant disproportionality by race/ethnicity in the placement of students with disabilities.

School districts that have unresolved noncompliance beyond 12 months for Indicators 4, 9, 10, 11,12 and 13 and school districts that have been identified for multiple years because of disproportionate data are also selected for additional monitoring reviews.

Districts are also selected for monitoring whenever the State identifies a school district as needing assistance or intervention. NYS considers a district's performance in relation to the State's targets in the areas of graduation rates, drop out rates, performance on State assessments and compliance issues. Regional Special Education Quality Assurance (SEQA) monitoring staff, in consultation with the Coordinators of the Regional Special Education Technical Assistance Support Centers (RSE-TASC) and regional school district leaders, determines which school districts should be reviewed and the type of review that should occur to appropriately probe the

district's policies, practices and procedures affecting the performance / compliance in the target area.

Education programs of Boards of Cooperative Educational Services (BOCES), approved preschool programs, approved private schools, State supported schools and State operated schools are selected for monitoring on a rotating schedule, but also in consideration of compliance concerns.

Beginning in 2009, the State conducted a desk audit of use of physical restraints used in residential schools and this information is used to prioritize monitoring of selected residential schools. Beginning in 2010, the State will require each residential school to conduct a self-review using a State developed protocol relating to behavioral assessments, behavioral interventions, use of time out rooms, emergency interventions and procedures for prevention of abuse, maltreatment or neglect of students in residential placements.

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress or Slippage*

The State is making progress on this indicator. The **72.5** percent correction of noncompliance is an increase of 10 percentage points from 62.5 percent reported in the 2009 APR. As of this APR submission (January 28, 2010), **94.4 percent** of the total noncompliance issues have been corrected, an increase of 1.8 percent over the last APR.

These improvements reflect the State's continuing progress in designing systems and processes to manage implementation of the State Performance Plan (SPP). NYS has 684 public school districts, including the Big 5 School Districts of New York City, Yonkers, Syracuse, Buffalo and Rochester; 37 BOCES; 399 approved private day and residential programs (preschool and school age); 13 Special Act School Districts; 11 State-supported schools; numerous other State agency operated education programs and two State-operated schools. The SPP requirements that the State identifies and ensures the timely correction of noncompliance in each school district for every indicator has created significant challenges given the State's available resources.

**Correction of FFY 2007 Findings of Noncompliance Timely Corrected (corrected within one year from identification of the noncompliance):**

1. Number of findings of noncompliance the State made during FFY 2007 (the period from July 1, 2007 through June 30, 2008) (Sum of Column a on the Indicator B15 Worksheet)	2665
2. Number of findings the State verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding) (Sum of Column b on the Indicator B15 Worksheet)	1932
3. Number of findings <u>not</u> verified as corrected within one year [(1) minus (2)]	733

**Correction of FFY 2007 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):**

4. Number of FFY 2007 findings not timely corrected (same as the number from (3) above)	733
5. Number of findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	585
6. Number of findings <u>not</u> yet verified as corrected [(4) minus (5)]	148

**Actions Taken if Noncompliance Not Corrected**

*For FFY 2007 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

Of the 148 findings of noncompliance that have not yet been verified as corrected by the State, 11 of the findings resulted from State complaint investigations and 52 were the result of focused monitoring reviews. SEQA monitoring staff have consistently followed up with district or agency programs through the provision of technical assistance, ongoing phone contact and on-site visits to assist the programs to achieve compliance. Notices indicating required enforcement actions have been sent to district programs as a matter of practice. In one school district, because of the number and nature of the founded complaints, a Focused Review has also been scheduled for the 2009-10 school year to determine the extent of compliance with special education procedural requirements. The State closed one private school for failure to correct identified noncompliance.

The remaining 85 findings of noncompliance are the result of the State's monitoring of the SPP Indicators. The State has established a process to follow up on all unresolved noncompliance which includes the development of a district corrective action plan and follow up by the SEQA monitoring staff to determine the status of the district's plan and their correction of noncompliance. See specific actions taken to follow up on identified noncompliance reported under Indicators 4, 9, 10, 11, 12 and 13.

On-site reviews have been scheduled in each district that has not submitted an assurance that they have successfully corrected noncompliance that has continued beyond 12 months after identification. During the review, SEQA monitoring staff determines the reasons or root causes that the district has not successfully corrected the noncompliance. SEQA requires specific corrective actions to resolve any remaining instances of noncompliance and follows up with the district until **verification of** resolution is complete.

In 2007, the State required each school district identified by the State as needing assistance or needing intervention to obtain technical assistance and directed its State technical assistance providers to work with these districts to address instructional issues impacting performance and/or compliance. The Office of Vocational and Educational Services for Individuals with Disabilities (VESID) conducted regular meetings with the

New York City Department of Education (NYCDOE) special education central office administration to monitor NYCDOE's implementation of its school improvement plan relating to special education and its plan to address issues of noncompliance.

In 2007, the State directed any school district identified with continuing noncompliance with Indicators 11, 12 and 13 to resources for technical assistance to address the reasons for the noncompliance.

In 2007, the State provided each school district with data indicating disproportionality by race/ethnicity with technical assistance support from the State's Technical Assistance Center on Disproportionality (TAC-D).

IDEA discretionary funds were directed in the 2008-09 year to provide funds to approved private schools and Special Act school districts to provide tuition for coursework and test preparation support to paraprofessionals seeking teacher certification. The State also uses its IDEA discretionary funds to support intensive teacher institutes and for personnel preparation projects to address personnel shortages in bilingual areas (such as special education teachers, psychologists and speech and language therapists.)

**Verification of Correction (either timely or subsequent)**

*For those findings for which the State has reported correction, describe the process the State used to verify that the LEA: 1) is correctly implementing the specific regulatory requirements; and (2) has corrected all instances of noncompliance (including noncompliance identified through the State's monitoring system, through the data system and by the Department), consistent with OSEP Memorandum 09-02.*

The State verifies the correction of noncompliance through various methods based on the way the noncompliance is identified. When the State identifies noncompliance through its monitoring function, a corrective action is prescribed which includes specific actions the institution must take to resolve the noncompliance. A due date is established for the resolution of the noncompliance and a description of what the monitoring staff must see as evidence of correction of noncompliance is detailed. For those findings that were determined through the State's data system, the State requires a written assurance by the school district superintendent and maintenance of documentation of correction of noncompliance which is subject to review by the State. Resubmission of data has also been used to verify the correction of noncompliance.

For all related findings of noncompliance, verification of correction of noncompliance includes confirmation that there is documentation that the local educational agency (LEA) is (1) correctly implementing the specific regulatory requirements; and (2) that it has corrected each individual case of noncompliance, unless the student is not longer within the jurisdiction of the LEA. Also see specific processes for verification of correction reported under Indicators 4, 9, 10, 11, 12 and 13.

**Correction of Remaining FFY 2006 Findings of Noncompliance (if applicable)**

*For FFY 2006 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

1. Number of remaining FFY 2006 findings noted in OSEP's June 1, 2009 FFY 2007 APR response table for this indicator	174
2. Number of remaining FFY 2006 findings the State has verified as corrected	128
3. Number of remaining FFY 2006 findings the State has NOT verified as corrected [(1) minus (2)]	46

Fifteen (15) of the 46 issues that have not yet been verified as being corrected are the result of unresolved noncompliance identified under SPP Indicators 4 and 13. SEQA monitoring staff conduct on-site reviews in each district that has not submitted an assurance that it has corrected noncompliance within 12 months of identification. During the review, SEQA monitoring staff determines the reasons or root causes that the district has not successfully corrected the noncompliance and requires specific corrective actions to resolve any remaining instances of noncompliance and will follow up with the district until resolution is complete.

Of the remaining 31 issues, most are in approved private schools and relate to teacher qualifications and personnel shortages in key areas, which are not readily resolved at the school-level.

- IDEA discretionary funds were directed in the 2007-08 year to provide funds to approved private schools and Special Act school districts to provide tuition for coursework and test preparation support to teachers seeking appropriate certifications and paraprofessionals seeking teacher certification.
- The State also uses its IDEA discretionary funds to support intensive teacher institutes and for personnel preparation projects to address personnel shortages in bilingual areas (such as special education teachers, psychologists and speech and language therapists.)

**Correction of Any Remaining Findings of Noncompliance from FFY 2005 or Earlier (if applicable)**

*For FFY 2006 findings for which the State has not yet verified correction, explain what the State has done to identify the root cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance, including, as appropriate, enforcement actions taken against an LEA that continues to show noncompliance.*

1. Number of remaining FFY 2005 and 2004 findings noted in OSEP's June 1, 2009 FFY 2007 APR response table for this indicator	21
2. Number of remaining FFY 2005 and 2004 findings the State has verified as corrected	4
3. Number of remaining FFY 2005 findings the State has NOT verified as corrected [(1) minus (2)]	17

These 17 issues are the result of approved private programs not being able to provide appropriately qualified staff regardless of their efforts. Even with frequent phone calls and on-site visits by SEQA monitoring staff, teacher certification continues to be an outstanding compliance issue for the approved school-age private schools and Special Act School Districts monitored by the Nondistrict Unit (NDU). This continues to be a challenging problem that requires interagency solutions because of relatively low teacher salaries at these schools, frequent turn-over of staff, and in some cases, the continuing statewide shortage of qualified professionals.

IDEA discretionary funds were directed in the 2006-07 year to provide funds to approved private schools and Special Act school districts to provide tuition for coursework and test preparation support for teachers seeking appropriate certification and paraprofessionals seeking teacher certification. The State also uses its IDEA discretionary funds to support intensive teacher institutes and for personnel preparation projects to address personnel shortages in bilingual areas (such as special education teachers, psychologists and speech and language therapists.)

**Additional Information Required by the OSEP APR Response Table**

<b>Statement from the OSEP Response Table</b>	<b>State's Response</b>
<p>The State must review its improvement activities and revise them, if appropriate, to ensure they will enable the State to provide data in the FFY 2008 APR, due February 1, 2010, demonstrating that the State timely corrected noncompliance identified by the State in FFY 2007, in accordance with 20 U.S.C. 1232d(b)(3)(E) and 34 CFR §§300.149 and 300.600(e) and OSEP Memo 09-02. The State must demonstrate, in the FFY 2008 APR, due February 1, 2010, that the State has corrected the remaining findings of noncompliance the State reported under this indicator in the FFY 2006, FFY 2005, and FFY 2004 APR that were not reported as corrected.</p>	<p>Under Indicator 15 in the APRs for FYY 2004, 2005 and 2006 there were a total of 195 instances of uncorrected noncompliance. 78% or 132 of these issues have been corrected. The remaining 53 issues most are in approved private schools and are related to teacher certification or involve personnel shortage areas. See below.</p>
<p>The State's failure to correct longstanding noncompliance raises serious questions about the effectiveness of the State's general supervision system. The State must take the steps necessary to ensure that it can report, in the FFY 2008 APR, due February 1, 2010, that it has corrected this noncompliance. In reporting on correction of noncompliance, the State must report that it has: (1) corrected all instances of noncompliance (including noncompliance identified through the State's monitoring system, through the State's data system and by the Department); and (2)</p>	<p>As reported above, 78% of noncompliance issues have been corrected. The remaining 53 issues are in approved private schools and are related to teacher certification or involve personnel shortage areas and the State implemented a Court Order Settlement Agreement for the timely placement of preschool children in New York City. A copy of this agreement was provided to USED. In addition, the State is implementing actions under the Jose P. Court case in New York City (NYC) relating to timely placements of student. In addition, the State funds numerous IDEA</p>

Statement from the OSEP Response Table	State's Response
<p>verified that each LEA with identified noncompliance is correctly implementing the specific regulatory requirements, consistent with OSEP Memo 09-02.</p>	<p>discretionary projects designed to recruit, prepare and retain appropriately certified personnel.</p> <p>The State revised its practices to ensure the State has documentation that LEA is correctly implementing the specific regulatory requirements and has corrected each individual case of noncompliance.</p> <p>The New York State Education Department (NYSED) has reviewed, and as appropriate, revised its practices and improvement activities and has determined that the State has the infrastructure to effectively resolve the outstanding noncompliance identified in this APR.</p>
<p>In addition, in responding to Indicators 4, 9, 10, 11, 12, and 13 in the FFY 2008 APR due February 1, 2010, the State must report on correction of the noncompliance described in this table under those indicators.</p>	<p>The correction of noncompliance reported in Indicator 15 includes the noncompliance reported in Indicators 4, 9, 10, 11, 12, and 13.</p>
<p>In reporting on Indicator 15 in the FFY 2008 APR, the State must use the Indicator 15 Worksheet.</p>	<p>The Indicator B15 Worksheet was used to report FFY 2008 data.</p>

*Improvement Activities Completed in 2008-09*

- To improve the State's performance on Indicator 15, we obtained federal technical assistance from the Northeast Regional Resource Center (NERRC) to access a national expert in complaint investigation and management from the Mountain Plains Regional Resource Center (MPRRC). She provided consultation in developing written complaint procedures and provided three professional development sessions for our State complaint investigators. To develop the procedures and the training, Special Education Policy and Quality Assurance staff participated regularly in the Complaint Investigators Work Group convened by MPRRC. This work group provided opportunities for State complaint investigators to discuss and share ideas for improving skills, improve understanding and clarification of special education law consistent with OSEP interpretations on matters that might be the subject of a complaint.
- See individual Indicator sections (4, 9, 10, 11, 12 and 13) for information for activities completed to address resolution of issues of noncompliance.
- Annually, each School Superintendent is notified in writing if the district has continuing noncompliance.

- The Comprehensive Special Education Information System (CSEIS) was enhanced to increase the capacity of the compliance monitoring reports that CSEIS generates to be aggregated in different ways to facilitate strategic interventions. The newly designed management reports allow, for example, the identification of “hot spots,” where the resolution of noncompliance might be going too slowly, at the geographic or institution level. CSEIS is used to disseminate periodic electronic notices to LEAs with identified noncompliance, as a reminder of the noncompliance that needs to be corrected and the next steps that will be taken by VESID should timely correction not occur. The State’s monitoring staff also receives copies of the electronic notices and take appropriate follow-up actions.
- During 2008-09, VESID comprehensively redesigned its technical assistance system to expand its technical assistance resources statewide and to create teams of specialists within each region of NYS which include special education school improvement specialists, regional special education trainers, secondary transition specialists, bilingual special education specialists, behavior specialists and individuals directly targeted to provide training and school improvement technical assistance to nondistrict programs such as school-age approved private schools. This redesign resulted in ten RSE-TASC. For further information on this new technical assistance network, see <http://www.vesid.nysed.gov/specialed/techassist/rsetasc/>.
- Through a regional planning process, the State’s technical assistance providers are directed to work with identified districts to apply research-based instructional practices and to provide, as appropriate, training and technical assistance support to address compliance issues.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

- The State will require school districts to develop corrective action plans and to obtain technical assistance whenever the district fails to correct noncompliance within nine months.
- See revisions to improvement activities identified under Indicators 4, 9, 10, 11, 12, and 13.

**Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

**Monitoring Priority: Effective General Supervision Part B / General Supervision**

**Indicator 16:** Percent of signed written complaints with reports issued that were resolved within 60-day timeline or a timeline extended for exceptional circumstances with respect to a particular complaint, or because the parent (or individual or organization) and the public agency agree to extend the time to engage in mediation or other alternative means of dispute resolution, if available in the State.  
(20 U.S.C. 1416(a)(3)(B))

Note: The Indicator definition was expanded in March 2009 per the United States Education Department (USED) guidance to specify that the time limit could be extended by mutual agreement to engage in mediation or alternate means of dispute resolution.

**Measurement:**

Percent = [(1.1(b) + 1.1(c)) divided by 1.1] times 100. (Formula references data in rows contained in the table below)

**Data Source:**

New York State (NYS) will use data collected and reported annually to USED in the 618 report on Table 7 of Information Collection 1820-0677 (Report of Dispute Resolution Under Part B of the Individuals with Disabilities Education Act IDEA)).

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2008 (2008-09 school year)	100 percent of signed written complaints will be resolved within the 60-day timeline or a timeline extended for exceptional circumstances with respect to a particular complaint.

**Actual Target Data for FFY 2008:**

7/1/2007 - 6/30/2008	
Table 7: Section A, Written Signed Complaints	
(1) Total Number of written, signed complaints filed	299
(1.1) Complaints with reports issued	282
(a) Reports with findings of noncompliance	157
(b) Reports within timeline	270

7/1/2007 - 6/30/2008	
Table 7: Section A, Written Signed Complaints	
(c) Reports within extended timelines	2
(1.2) Complaints pending	0
(a) Complaint pending a due process hearing	0
(1.3) Complaints withdrawn or dismissed	17
Percent = $270 [1.1(b)] + 2[1.1(c)] = 272$ divided by $299 [1.1]$ times 100 = <b>96.453%</b> .	

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress*

The percentage of signed written complaints resolved within the 60-day timeline or an extended timeline improved from 82.82 percent in 2006-07 to 96.755 percent in 2007-08 and continued at **96.453** percent in 2008-09.

*Improvement Activities Completed*

- The Comprehensive Special Education Information System (CSEIS) Summary of 60 Day Compliant Timeliness Report, which provides real time information regarding the status of any State complaint received, was revised to allow regional Special Education Quality Assurance (SEQA) Supervisors to access individual staff reports as well as regional reports.
- The Office of Vocational and Educational Services for Individuals with Disabilities (VESID) provided statewide professional development sessions to all staff responsible for conducting formal State complaint investigations. Subsequently, a work group was formed, which met on a regular basis to develop products to assist staff in conducting complaint investigations, and foster a level of consistency across the State. Regionally, SEQA Supervisors met with complaint investigators to review investigation plans and discuss the status of each investigation being conducted by his/her Regional Office. This served to ensure that quality standards were being met and investigations were handled in a timely manner.

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

A revised State complaint model form and a question and answer document on State complaints will be posted on the State's web site.

**Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

**Monitoring Priority: Effective General Supervision Part B / General Supervision**

**Indicator 17:** Percent of adjudicated due process hearing requests that were fully adjudicated within the 45-day timeline or a timeline that is properly extended by the hearing officer at the request of either party or in the case of an expedited hearing, within the required timelines.  
(20 U.S.C. 1416(a)(3)(B))

**Measurement:**

Percent = [(3.2(a) + 3.2(b)) divided by 3.2] times 100. (This formula references data contained in the rows of the table below.)

**Data Source:**

New York State (NYS) will use data collected and reported to the United States Education Department (USED) annually in the 618 report on Table 7 of Information Collection 1820-0677 (Report of Dispute Resolution Under Part B of the Individuals with Disabilities Education Act (IDEA)).

<b>Federal Fiscal Year (FFY)</b>	<b>Measurable and Rigorous Target</b>
FFY 2008 (2008-09 school year)	100 percent of impartial hearing decisions will be rendered within regulatory timelines.

**Actual Target Data for FFY 2008:**

**81.2** percent of impartial hearing requests were fully adjudicated within the 45-day timeline (or 30-day timeline for preschool students) or a timeline was properly extended by the impartial hearing officer (IHO) at the request of either party.

<b>7/1/2008 - 6/30/2009</b>	
<b>SECTION C: Hearing Requests</b>	
(3) Hearing requests total	6064
(3.2) Hearings (fully adjudicated)	552
(a) Decisions within timeline	118
(b) Decisions within extended timeline	330

7/1/2008 - 6/30/2009	
SECTION C: Hearing Requests	
(3.3) Resolved without a hearing	4373
Percent = $118[3.2(a)] + 330[3.2(b)]$ divided by $552[3.2] = .81159$ times 100 = 81.159%.	

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress*

In 2008-09, the percentage of adjudicated hearings completed in a timely manner increased slightly from 80.909 percent to **81.159** percent, an **increase of 0.25** percentage points.

The number of IHOs with five or more late decisions was reduced from 13 in 2007-08 to six in 2008-09. Based on NYS Regulations, the New York State Education Department (NYSED) continued to investigate impartial hearing cases where the decisions were late. This resulted in the decertification of any IHO with a history of consistently late cases.

*Improvement Activities Completed in 2008-09*

The Office of Vocational and Educational Services for Individuals with Disabilities (VESID) worked with the federally funded Northeast Regional Resource Center (NERRC) to plan for expanding professional development for staff and IHOs in order to improve the timeliness of due process. NERRC assisted staff with updating information and identifying resource materials and possible consultants who could assist with training. NERRC provided advice in expanding professional development for IHOs and in developing related materials. By participating in a NERRC-sponsored webinar for the northeastern states' IHOs, NYSED staff were able to assess the usefulness of the webinar as a tool to increase professional development for our State's IHOs. This model for training IHOs is under consideration by NYSED to increase the frequency for IHO training.

1. Beginning in January 2009, VESID instituted a noncompliance notification process for IHOs who have an overdue decision. The notifications are monitored and data from the notification process is used to initiate a Commissioner's review and, if warranted, further investigation to determine if suspension or revocation of an IHO's certification is warranted for failure of the IHO to issue a decision in a timely manner where such delay was not due to extensions granted at the request of either party as documented in the record. In the first six months, the following types of notices were sent to IHOs. The IHO who received the Second Notice of Continuing Noncompliance was decertified.

<b>Type of Notice sent</b>	<b># of notices sent in 2008-09</b>	<b># of IHOs who received notices</b>
Noncompliance Alert	56	12
Notice of Noncompliance	14	5
Notice of Continuing Noncompliance	7	2
Second Notice of Continuing Noncompliance	4	1

2. IHOs have annually been provided with paper copies of an annual "Activity Summary." The activity summary includes the total number of cases to which they were appointed and whether those cases were addressed in a timely manner and use of extension information. This report is now available electronically to IHOs through the Impartial Hearing Reporting System (IHRS) and may be accessed at anytime.
3. In January of 2009, IHOs received trend data regarding their individual performance in the 2006-07, 2007-08, and 2008-09 reporting periods. IHOs with a history of late decisions in all three years were asked to review their practices and were provided technical assistance regarding the tools available to assist them to monitor timelines. The IHO Toolbox includes a calculator for the IHO to use to calculate dates of any extension calculator and provides the IHO with his/her Summary of Hearing Timeliness report.
4. The IHRS Help file was revised to provide additional technical assistance to IHOs and school districts regarding the impartial hearing process and timelines.
5. Monthly phone conferences were conducted by VESID's IHRS Office, New York City (NYC) Special Education Quality Assurance (SEQA) Regional Office and the NYC Impartial Hearing Office to address data collection issues, clarify State regulations, policies and procedures, and address other issues affecting timely decisions by NYC IHOs.
6. IHRS staff provided reminders and offered school districts and IHOs technical assistance regarding cases when they were identified as five or more days late.
7. In 2007-08, a review of the data identified a process issue that contributed to the number of late decisions in the NYC Region. In response, the NYC Department of Education (NYCDOE) Impartial Hearing Office revised their administrative processing procedures that were contributing to the late decisions.

**Additional Information Required by the OSEP APR Response Table for this Indicator (if applicable):**

Statement from the OSEP Response Table	State's Response
<p>The State must review its improvement activities and revise them, if appropriate, to ensure they will enable the State to provide data in the FFY 2008 APR, due February 1, 2010, demonstrating that the State is in compliance with the due process hearing timelines requirements in 34 CFR §300.515.</p>	<p>The State expanded its processes for tracking and giving feedback to IHOs regarding timeliness of their decisions, including developing consequences for IHOs that do not improve their timeliness. Additionally, the State began to plan for expanding professional development of IHOs to assist them with improving their management of due process.</p>

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

Beginning in 2010, the State will require each NYS certified IHO to attend 12 hours of annual update training sessions.

**Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

**Monitoring Priority: Effective General Supervision Part B / General Supervision**

**Indicator 18:** Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements.  
(20 U.S.C. 1416(a)(3)(B))

**Measurement:**

Percent = 3.1(a) divided by (3.1) times 100. (This formula references data in the rows contained in the table below.)

**Data Source:**

New York State (NYS) will use data collected and reported to the United States Education Department (USED) annually in the 618 report on Table 7 of Information Collection 1820-0677 (Report of Dispute Resolution Under Part B of the Individuals with Disabilities Education Act (IDEA)).

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2008 (2008-09 school year)	The percent of hearing requests that go to resolution sessions and are resolved through resolution session settlement agreements will increase by 2%.

**Actual Target Data for FFY 2008:**

**13.1** percent of hearing requests that went to resolution sessions were resolved through resolution session settlement agreements. The percent of hearing requests that went to resolution sessions and were resolved through resolution session settlement agreements increased by 1.6%.

7/1/2008 - 6/30/2009 Table 7 Section C: Hearing Requests	
(3) Hearing requests total	6064
(3.1) Resolution sessions	4865
(a) Settlement agreements	639
Percent = 639 [3.1(a)] divided by 4865(3.1) times 100 = 13.134%.	

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress*

In 2008-09, the percentage of resolution sessions ending in agreement increased from 11.524 percent to 13.134 percent. This represents a 1.61 percentage point improvement over the last year. Although this is less than the 2% target it is a significant improvement.

The 11.524 percent of resolution sessions resulting in agreement reflects only those cases where the settlement agreement is signed within the 30 day resolution period. There are other cases where the discussions started during the resolution period and resulted in a written settlement agreement prior to the first date of the impartial hearing. NYS requires that the impartial hearing officer (IHO) initiate the hearing within 14 days of the end of the resolution period. There are approximately 500 additional due process requests where the case is closed as settled or withdrawn within 14 days of the end of the resolution period.

*Improvement Activities Completed in 2008-09*

See improvement activities completed for Indicator 17.

1. Impartial Hearing Reporting System (IHRS) staff provided ongoing technical assistance to school districts regarding the resolution session process and timelines.
2. The revised IHRS Help file includes information about the resolution period and encourages its use.
3. The New York State Dispute Resolution Association (NYSDRA), under contract with the Office of Vocational and Educational Services for Individuals with Disabilities (VESID), updated their website on Special Education Mediation to provide information on Resolution Sessions.

[See http://www.nysdra.org/consumer/specialeducation.aspx](http://www.nysdra.org/consumer/specialeducation.aspx)

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

- Beginning in 2010, NYSDRA, in collaboration with the NYS funded Special Education Parent Centers, will conduct 15 regional sessions to provide information on strategies that result in early and nonadversarial dispute resolution between parents and school districts, including resolution sessions.
- NYSDRA will, as part of its contract with VESID, pilot individualized education program (IEP) facilitation as a means to reach agreement between parents and school districts.

**Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

**Monitoring Priority: Effective General Supervision Part B / General Supervision**

**Indicator 19:** Percent of mediations held that resulted in mediation agreements.  
(20 U.S.C. 1416(a)(3)(B))

**Measurement:**

Percent = [(2.1)(a)(i) + 2.1(b)(i)] divided by 2.1] times 100. (Formula references data contained in the rows of the table below.)

**Data Source:**

New York State (NYS) will use data collected and reported to the United States Education Department (USED) annually in the 618 report on Table 7 of Information Collection 1820-0677 (Report of Dispute Resolution Under Part B of the Individuals with Disabilities Education Act (IDEA)).

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2008 (2008-09 school year)	96 percent of mediations held will result in mediation agreements.

**Actual Target Data for FFY 2008:**

**88.0** percent of mediation sessions held in 2008-09 resulted in mediation agreements to resolve the dispute.

7/1/2008 - 6/30/2009 Table 7: Section B, Mediation Requests	
(2) Total number of Mediation request received	361
(2.1) Mediations held	209
(a) Mediations held related to due process	16
(i) Mediation agreements related to due process complaints	10
(b) Mediations held not related to due process	193
(i) Mediation agreements not related to due process	174
(2.2) Mediations not held (including pending)	152

7/1/2008 - 6/30/2009

**Table 7: Section B, Mediation Requests**

Percent =  $10[(2.1(a)(i)) + 174(2.1(b)(i)) = 184 \text{ divided by } 209 [2.1] = .88038 \text{ times } 100 = 88.038\%$ .

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress or Slippage*

The percent of mediation sessions held in 2008-09 that resulted in agreement was **88.033** percent, down from 89.883 percent from the previous year. There were 361 total mediation requests in 2007-08, 66 fewer than in 2007-08. There is some indication that the increasing numbers of resolution sessions is affecting the number of mediations requested as well as the number of mediations with agreements.

*Improvement Activities Completed in 2008-09:*

- The Office of Vocational and Educational Services for Individuals with Disabilities (VESID) accessed technical assistance to further inform its special education mediation process through ongoing participation in the Northeast Regional Resource Center's (NERRC) Legal and Regulatory Workgroup.
- The New York State Dispute Resolution Association (NYSDRA), under contract with the Office of Vocational and Educational Services for Individuals with Disabilities (VESID), updated their website on Special Education Mediation to provide information on Resolution Sessions.

[See http://www.nysdra.org/consumer/specialeducation.aspx](http://www.nysdra.org/consumer/specialeducation.aspx)

**Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2008 [If applicable]**

- Beginning in 2010, NYSDRA, in collaboration with the NYS funded Special Education Parent Centers, will conduct 15 regional sessions to provide information on strategies that result in early and nonadversarial dispute resolution between parents and school districts, including mediation.
- NYSDRA will, as part of its contract with VESID, pilot individualized education programs (IEP) facilitation as a means to reach agreement between parents and school districts.

**Overview of the Annual Performance Report Development:**

See Overview of the Development of the Annual Performance Report (APR) in the Introduction section, page 1.

**Monitoring Priority: Effective General Supervision Part B / General Supervision**

**Indicator 20:** State reported data (618 and State Performance Plan (SPP) and APR are timely and accurate.  
(20 U.S.C. 1416(a)(3)(B))

**Measurement:**

State reported data, including 618 data, SPP, and APRs, are:

- a. Submitted on or before due dates (February 1 for child count, including race and ethnicity, placement; November 1 for exiting, discipline, personnel and dispute resolution; and February 1 for APRs and assessment); and
- b. Accurate, including covering the correct year and following the correct measurement.

States are required to use the “Indicator 20 Scoring Rubric” for reporting data for this indicator (see tables below).

**Data Source:**

- c. New York State (NYS) will use State selected data sources, including data from State data system and SPP/APR.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2008 (2008-09 school year)	100 percent of State reported data, including 618 data and annual performance reports, are submitted on or before due dates and are accurate.

**Actual Target Data for FFY 2008:**

State reported data (618, SPP and APR) were 100 percent timely and accurate.

FFY 2008 SPP/APR Data – Indicator 20			
APR Indicator	Valid and Reliable	Correct Calculation	Total
1	1		1
2	1		1
3A	1	1	2
3B	1	1	2
3C	1	1	2
4A	1	1	2
5	1	1	2
7	1	1	2
8	1	1	2
9	1	1	2
10	1	1	2
11	1	1	2
12	1	1	2
13	NA	NA	0
14	NA	NA	0
15	1	1	2
16	1	1	2
17	1	1	2
18	1	1	2
19	1	1	2
<b>Subtotal</b>			34
<b>APR Score Calculation</b>	<b>Timely Submission Points</b> (If the FFY 2007 APR was submitted on-time, place the number 5 in the cell on the right)		5
	<b>Grand Total</b> – (Sum of subtotal and Timely Submission Points)		39

FFY 2008 618 Data - Indicator 20					
Table	Timely	Complete Data	Passed Edit Check	Responded to Date Note Requests	Total
Table 1 – Child Count Due Date: 2/1/09	1	1	1	1	4
Table 2 – Personnel Due Date: 11/1/09	1	1	1	N/A	3
Table 3 – Ed. Environments Due Date: 2/1/09	1	1	1	1	4
Table 4 – Exiting Due Date: 11/1/09	1	1	1	N/A	3
Table 5 – Discipline Due Date: 11/1/09	1	1	1	N/A	3
Table 6 – State Assessment Due Date: 2/1/10	1	N/A	N/A	N/A	1
Table 7 – Dispute Resolution Due Date: 11/1/09	1	1	1	N/A	3
				<b>Subtotal</b>	21
<b>618 Score Calculation</b>			<b>Grand Total</b> (Subtotal X 1.87=		39.00

Indicator #20 Calculation	
A. APR Grand Total	39.00
B. 618 Grand Total	39.00
C. APR Grand Total (A) + Grand Total (B) =	78.00
Total N/A in APR*	0*
Total N/A in 618*	0*
<b>Base</b>	<b>78.00</b>
D. Subtotal (C) divided by Base*	1.00
E. Indicator Score = Subtotal (D) times 100	100.00
*Note any cell marked as N/A will decrease the denominator by 1 for APR and 1.857 for 618	

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Explanation of Progress or Slippage*

NYS' compliance rate on this indicator improved from 93 percent to 100 percent. This improvement was due to the State's change in child count date from December 1 to the first Wednesday in October, beginning in 2008-09 school year. The earlier child count date allowed the State to submit certified data related to child count and the least restrictive environments in which students are provided special education services to the United States Education Department (USED) earlier. Availability of earlier data allowed the State to calculate significant disproportionality based on race/ethnicity in identification of students for special education, identification of students by specific disability and placement of students in particular settings earlier. The earlier notifications allowed school districts sufficient time to review their policies, practices and procedures related to these issues and report on the results of their self-reviews to the State in enough time for the State to report these results in this APR under Indicators 9 and 10.

*Improvement Activities Completed in 2008-09*

- The Strategic Evaluation Data Collection Analysis and Reporting (SEDCAR) unit routinely accessed information through the federal Data Accountability Center (DAC) at <http://www.ideadata.org> and the Regional Resource Center (RRC) program portal at <http://www.rfccnetwork.org/> to help answer questions related to indicator measurements, calculations and other information to assist with data analysis and management. DAC provided data from individual states and nationally aggregated data that was used in interpretation of NYS data. Staff attended the annual data managers meeting hosted by DAC to stay current with changing practices and reporting expectations. The Office of Vocational and Educational Services for Individuals with Disabilities' (VESID) Data Manager participated with the data managers' listserv to benchmark practices with other states and ask questions to clarify the data system implications of new practices or policies, posing questions to other Data Managers as needed between meetings.
- The State revised its child count date from December 1 to first Wednesday in October.
- The State continued its participation in the annual data managers meeting hosted by DAC.
- The State added a special education team member to EdFacts meetings to enable the accurate and timely submission of all special education EdFacts files to USED.

Annual activities to ensure NYS' Section 618 data are accurate, valid and reliable include but are not limited to the following:

- Implement numerous edit checks at Level 0 of our State's data warehouse. These edit checks are reviewed and revised continuously to ensure data are reasonable.
- Implement additional edit checks at Level 1 of our State's data warehouse. Require school districts to resolve any identified issues related to incomplete or inaccurate

data identified at this level before the data are moved to the State's Level 2 environment.

- Implement additional edit checks at Level 2 of the State's data warehouse (much fewer checks compared to those implemented at L0 and L1). As an example, these edit checks allow the State to determine duplications in reporting the same student by two school districts and to resolve these types of issues before State data files are finalized.
- Implement additional edit checks and reasonability checks when school district's individual student data are displayed in the various special education reports. These aggregated reports (with links to individual students' data) assist school districts to compare some totals against previous year's totals, and to review results of calculations to ensure individual students' data are included accurately in the various calculations and aggregates.
- Provide technical assistance regarding data collection requirements and procedures continuously throughout the year. Technical assistance is also provided annually throughout the State in group format as requested by various regions and large cities of the State.
- Prepare written communications and documentation annually and throughout the year to provide data reporting instructions, guidelines and timelines.
- The State's special education monitoring personnel assist school districts to accurately report compliance data by providing them technical assistance on regulatory requirements related to the compliance indicators.

**Additional Information Required by the OSEP APR Response Table for this Indicator (if applicable):**

Statement from the OSEP Response Table	State's Response
<p>The State must review its improvement activities and revise them, if appropriate, to ensure they will enable the State to provide data in the FFY 2008 APR, due February 1, 2010, demonstrating that the State is in compliance with the timely and accurate data reporting requirements in IDEA sections 616 and 618 and 34 CFR §§76.720 and 300.601(b).</p> <p>In reporting on Indicator 20 in the FFY 2008 APR, the State must use the Indicator 20 Data Rubric.</p>	<p>As reported above, the State's self-determined compliance rate on this indicator is 100 percent. The State has complied with all data reporting requirements for all indicators and Section 618 data. In addition, NYS has provided all the required FFY2008 EdFacts files to USED.</p>

**Revisions, with Justification, to Proposed Targets/ Improvement Activities /  
Timelines / Resources for FFY 2008 [If applicable]**

The State's child count date was changed from December 1 to the first Wednesday in October, beginning in 2008-09 school year. This has resulted in changing Measurement information where child count data is considered. See individual Measurement boxes for Indicators 4, 9 and 10.

Our State's data systems are continuing to be revised to enhance our capacity to track school district's performance and correction of noncompliance when noncompliance is identified through the State's data systems. The PD data system, which now interfaces with the Student Information Repository System (SIRS) is used to collect, verify and certify data for Indicators 4, 5, 6, 7, 9, 10, 11, 12 and 13. Since some of these indicators are compliance indicators (4, 9, 10, 11, 12 and 13), we have determined that the PD data system and the Comprehensive Special Education Information System (CSEIS) need to be linked to allow the monitoring staff to have easy access to school districts' data so they may be involved in the timely correction of noncompliance when the data in the PD system indicates there is noncompliance. The development to create connections between PD system and CSEIS will continue during the 2009-10 school year. Implementing these connections will facilitate more timely correction of noncompliance on the aforementioned indicators.

Another change effective with the new calendar year, 2010, is that the State's special education data collection functions have merged with the New York State Education Department's (NYSED) P-12 data office. This change will facilitate complete integration of special education data collection efforts with the rest of NYSED. This change is anticipated to further enhance the viability, validity, reliability and accuracy of special education data.

ATTACHMENT: STATE PERFORMANCE PLAN INDICATOR 7

**Overview of the State Performance Plan Development**

See Overview of the State Performance Plan (SPP) Development in the Introduction to the SPP originally submitted February 1, 2006 and revised June 2007. The SPP was revised in February 2009 to add progress data. The SPP was revised in January 2010 to add Baseline and set Targets with the input of stakeholder groups.

**Monitoring Priority: FAPE in the LRE**

**Indicator 7:** Percent of preschool children aged 3 through 5 with individualized education programs (IEPs) who demonstrate improved:

- A. Positive social-emotional skills (including social relationships);
  - B. Acquisition and use of knowledge and skills (including early language/communication and early literacy); and
  - C. Use of appropriate behaviors to meet their needs.
- (20 U.S.C. 1416 (a)(3)(A))

**Measurement:**

Outcomes:

- A. Positive social-emotional skills (including social relationships);
- B. Acquisition and use of knowledge and skills (including early language/communication and early literacy); and
- C. Use of appropriate behaviors to meet their needs.

Progress Categories for Outcomes A, B, and C (revised January 2010)

The following definitions of Progress Categories are based on United States Education Department (USED) guidance issued in March 2009 and represent a consolidation of language used in previous SPPs and Annual Performance Reports (APRs). There is no change in Progress Categories used for this Indicator.

- a. Percent of preschool children who did not improve functioning =  $[(\# \text{ of preschool children who did not improve functioning}) \div (\# \text{ of preschool children with IEPs assessed})] \times 100$ .
- b. Percent of preschool children who improved functioning but not sufficient to move nearer to functioning comparable to same-aged peers =  $[(\# \text{ of preschool children who improved functioning but not sufficient to move nearer to functioning comparable to same-aged peers}) \div (\# \text{ of preschool children with IEPs assessed})] \times 100$ .
- c. Percent of preschool children who improved functioning to a level nearer to same-aged peers but did not reach it =  $[(\# \text{ of preschool children who improved functioning to a level nearer to same-aged peers but did not reach it}) \div (\# \text{ of preschool children with IEPs assessed})] \times 100$ .

- d. Percent of preschool children who improved functioning to reach a level comparable to same-aged peers =  $[(\# \text{ of preschool children who improved functioning to reach a level comparable to same-aged peers}) \div (\# \text{ of preschool children with IEPs assessed})] \times 100$ .
- e. Percent of preschool children who maintained functioning at a level comparable to same-aged peers =  $[(\# \text{ of preschool children who maintained functioning at a level comparable to same-aged peers}) \div (\# \text{ of preschool children with IEPs assessed})] \times 100$ .

**Summary Statements for Each of the Three Outcomes A, B, and C:** (new January 2010)

The following represents new language provided by USED in March 2009 to help organize the data and set targets in the January 2010 SPP.

**Summary Statement 1:** Of those preschool children who entered the preschool program below age expectations in each Outcome, the percent who substantially increased their rate of growth by the time they turned 6 years of age or exited the program.

**Measurement for Summary Statement 1:** Percent =  $\# \text{ of preschool children reported in progress category (c) plus } \# \text{ of preschool children reported in category (d) divided by } [\# \text{ of preschool children reported in progress category (a) plus } \# \text{ of preschool children reported in progress category (b) plus } \# \text{ of preschool children reported in progress category (c) plus } \# \text{ of preschool children reported in progress category (d)}] \times 100$ .

**Summary Statement 2:** The percent of preschool children who were functioning within age expectations in each Outcome by the time they turned 6 years of age or exited the program.

**Measurement for Summary Statement 2:** Percent =  $\# \text{ of preschool children reported in progress category (d) plus } [\# \text{ of preschool children reported in progress category (e) divided by the total } \# \text{ of preschool children reported in progress categories (a) + (b) + (c) + (d) + (e)}] \times 100$ .

**Data Source:**

The PD-10 report (<http://www.vesid.nysed.gov/sedcar/archived/0607pdrpts.htm>) was used to collect progress data on preschool outcomes for the 2006-07 school year via a web-based data reporting system. Beginning in the 2007-08 school year, these data are collected at the individual student level through the State's Student Information Repository System (SIRS). The most current SIRS manual is posted at: <http://www.emsc.nysed.gov/irts/sirs/2009-10/2009-10SIRSManual5-0.pdf>. The data is based on using the federally developed Child Outcomes Survey Form (COSF).

**Overview of Issue/Description of System or Process:**

In NYS, preschool children suspected of having a disability are referred to their local school districts through their district's Committee on Preschool Special Education (CPSE). In accordance with State statute, parents maintain the right to select an evaluator from a list of state-approved evaluators. If, based on the evaluation, the CPSE determines that a child is eligible for special education services, an IEP is developed that identifies the recommended special education services for the child. Preschool students with disabilities may receive related services only (RSO), services of a Special Education Itinerant Teacher (SEIT), or be placed in a special class program for either half or full day, including integrated programs with students without disabilities when appropriate. NYS' system allows for the provision of related services and SEIT within general education preschool and/or daycare environments as well as in the child's home. In NYS, most preschool children with disabilities receive their special education services from approved private preschool providers.

**Identification of assessment measures in preschool outcome areas**

At the request of the Office of Vocational and Educational Services for Individuals with Disabilities (VESID), a survey was conducted by the Early Childhood Direction Centers (ECDCs) of the assessment tools currently being used by special education preschool programs in NYS that measure the required indicator areas. The most frequently administered assessments used in the State for 3- and 4-year-old preschool children to assess preschool children with disabilities in the three outcome areas are provided below.

<b>Assessment Measure</b>	<b>Outcome 1</b>	<b>Outcome 2</b>	<b>Outcome 3</b>
<b>Name, Edition and Publication Date of Assessment Measure</b>	<b>Positive Social Relationships</b>	<b>Acquire and Use Skills and Knowledge</b>	<b>Takes Actions to Meet Needs</b>
Adaptive Behavior Assessment System (Ages 0-5)			X
Arizona Articulation Proficiency Scale – 3 <sup>rd</sup> Revision, Western Psychological Service, 2000		X	
Battelle Developmental Inventory (BDI 2) – 2 <sup>nd</sup> Edition, 2005	X	X	X
Bayley Scales of Infant Development (BSID 2), 1993		X	
Behavior Assessment System for Children (BASC) - 2 <sup>nd</sup> Edition, 2004	X		X
Brigance Diagnostic Inventory of Development, 1 <sup>st</sup> Edition, Copyright (1978, revised 1991)	X		X

Assessment Measure	Outcome 1	Outcome 2	Outcome 3
Name, Edition and Publication Date of Assessment Measure	Positive Social Relationships	Acquire and Use Skills and Knowledge	Takes Actions to Meet Needs
Carolina Curriculum for Preschoolers with Special Needs, 2 <sup>nd</sup> Edition, Copyright 2004	X	X	X
Child Behavior Checklist (CBCL) – 2 <sup>nd</sup> Edition, 2000	X		
Clinical Evaluation of Language Fundamentals-Preschool II (CELF), 1992 & 2004		X	
Connors' Parent & Teacher Rating Scale (CRS-R), 1997	X		
Developmental Assessment of Young Children (DAYC), 1998	X	X	X
Differential Ability Scales – Psychological Corporation, 1990		X	
Goldman-Fristoe Test of Articulation 2, American Guidance Service, Inc., 2000 Edition		X	
Hawaii Early Learning Profile (HELP), 2004		X	X
Learning Accomplishment Profile–D (LAP-D)	X	X	
Mullen Scales of Early Learning, 1995		X	
Peabody Developmental Motor Scales-2, 2002 (1983)			X
Peabody Picture Vocab. Test (PPVT) – IIIA		X	
Preschool – Kindergarten Behavior Scales – 2 <sup>nd</sup> Edition, 2002	X		
Preschool Evaluation Scale	X	X	X
Preschool Language Scale – (PLS-4), 2002		X	
Rossetti Infant-Toddler Language Scales, 1990	X	X	
Sensory Profile Checklist (Dunn) Psychological Corporation, 1999			X
Stanford-Binet Intelligence Scale, 2003		X	
Stuttering Severity Instrument for Children & Adults, Third Edition, 1994		X	

Assessment Measure	Outcome 1	Outcome 2	Outcome 3
Name, Edition and Publication Date of Assessment Measure	Positive Social Relationships	Acquire and Use Skills and Knowledge	Takes Actions to Meet Needs
Vineland Social Emotional Early Childhood Scales (SEEC)	X	X	X
Wechsler Preschool and Primary Scale of Intelligence-III (WPPSI), 2002		X	
Westby Play Scale, 2000		X	

**Process to collect entry and exit information**

Entry assessments:

All preschool children who were initially evaluated on or after March 1, 2006 and found eligible for preschool special education programs and/or services are required to have entry assessment results. All preschool children suspected of having a disability must have entry assessments. These assessments are conducted by approved preschool evaluators. Results are reported to the CPSE, which determines if the child is eligible for preschool special education programs and services and the entry levels of functioning in three early childhood outcome areas. Approved preschool evaluators are required to include specific assessment information on the Preschool Student Evaluation Summary Report and fill out the supporting evidence for questions 1a, 2a and 3a of the Child Outcomes Summary Form. CPSEs are required to meet to determine a preschool child's eligibility for preschool special education programs and/or services and review the summary evaluation results and reports from the approved evaluator. For preschool children found to be eligible, the CPSEs rate the child's functioning across settings in each of the three outcome areas identified in questions 1a, 2a, and 3a of the Child Outcomes Summary Form. Annually, a representative sample of school districts are required to collect and submit entry and exit data to the State Education Department (SED) through SIRS for preschool children who leave preschool special education services anytime during the school year. All school districts are required to maintain entry level assessment data on all preschool children who are determined to be eligible for preschool special education programs or services.

Exit assessments:

While all preschool children who were initially evaluated on or after March 1, 2006 and found eligible for preschool special education programs and/or services are required to have entry assessment results, exit assessments only need to be conducted for preschool children with disabilities who stop receiving preschool special education services due to program completion or declassification during the school year in which the school district is required to report exit data on this indicator. The only children in sample school districts who require exit assessments are those who received an entry

assessment and participated in preschool special education for at least six months prior to exiting.

In order to collect exit assessment data on the progress preschool children with disabilities have made as a result of receiving preschool special education programs and/or services, the Committee on Special Education (CSE) must arrange for exit assessment(s) in the three early childhood outcome areas to be conducted as part of the reevaluation process to determine the child's eligibility for school age special education. Whenever possible and appropriate, the exit assessment instruments should be the same assessment instruments used by the preschool evaluator for the entry assessment process. The results of these assessments must be provided to the CSE. The CSE will review the exit assessment results and determine the child's progress rating in the three identified areas. Some preschool children with disabilities may be referred to the CPSE for possible declassification prior to aging out of preschool special education programs and/or services. When considering declassification of a preschool child with a disability, the CPSE must arrange for a reevaluation by an approved evaluator selected by the parent. The reevaluation process must include conducting exit assessments that measure the child's progress in the three early childhood outcome areas. Whenever possible, the exit assessment instruments should be the same assessment instruments used by the initial approved preschool evaluator for the entry assessment process. The results of the reevaluation and exit assessments must be provided to the CPSE, including the child's parents and the person designated by the municipality in which the child resides. The CPSE must review the reevaluation and assessment results and determine the child's progress rating in each of the three identified areas.

### **Sampling Methodology**

Annually, NYS requires a representative sample of one/sixth of the school districts in the State to report progress data on this indicator through the individual student data collection system, SIRS. The process for selecting a representative sample of school districts each year to report data on this indicator through the 2010-11 school year is described in NYS' SPP, as revised in June 2007. NYS' sampling plan is such that over the six-year SPP cycle, every school district will have submitted progress data on preschool outcomes at least once. New York City (NYC) is the only district with a total enrollment of over 50,000 students and submits data for every special education indicator every year. Every school district except NYC reported progress data on all eligible preschool children. NYC reports progress data on a representative sample of students.

Beginning in the 2007-08 school year, NYS collected entry and exit scores on the Child Outcomes Summary Form on an individual student basis through SIRS and categorized children in the progress categories as described in the measure. Except for NYC, all school districts assigned to report data on this indicator are required to provide data on all exiting preschool children that meet the criteria (no sampling is permitted). See the 2007-08 SIRS policy manual and 2007-08 SIRS Dictionary of Reporting Data Elements

posted at <http://www.vesid.nysed.gov/sedcar/archived/0708pdrpts.htm#references>. Reporting data through this new system is expected to improve the accuracy of these data. NYS collects raw data on the score each child receives on the Child Outcomes Summary Form at entry and again at exit from preschool special education programs or services. Based on the raw data, the State reports children in the correct progress category. Having data at the individual student level and the ability to track children longitudinally until they no longer attend school in NYS provides the State greater capacity for data analysis.

NYC is required to maintain documentation regarding selecting students for sampling, since they are the only school district that are allowed to report these data for a sample of eligible students. The totally random sampling methodology and required documentation should eliminate selection bias. SED will attempt to prevent missing data by first describing precisely what the State needs to collect, providing technical assistance and then following up with school districts to request missing data. The completeness of data collection will improve after the first year and will continue to improve as long as requirements remain unchanged. All issues of confidentiality are handled in accordance with the rules and procedures in the Family Educational Rights and Privacy Act (FERPA). SED guards against divulging personally identifiable information by not reporting results when there are less than five students for whom data are available or when those results can be easily calculated based on other data provided.

**Progress Data 2007-08**

At the end of the 2007-08 school year, 112 school districts reported progress data on 1,678 preschool students with disabilities in each early childhood outcome area. Two school district's data were missing at the time this report was prepared. The 1,695 students left preschool special education programs and/or services during the 2007-08 school year after receiving special education for at least six months. The results for these students in the three early childhood outcome areas are reported below.

<b>Indicator 7 Preschool Outcomes: Progress Data 2007-08</b>			
<b>Early Childhood Outcome Area</b>	<b>Progress Category (Refer to Measurement Section for full Description of Progress Categories)</b>	<b>Number of Preschool Students</b>	<b>Percent of 1,695 students</b>
Positive social-emotional skills (including social relationships)	a. Did not improve functioning	24	1.4%
	b. Improved-not sufficient to move nearer to same-aged peers	174	10.3%
	c. Improved-nearer to same aged peers	562	33.2%
	d. Improved-reached functioning to same-aged peers	614	36.2%
	e. Maintained functioning as same-aged peers	321	18.9%
	<b>Total</b>		<b>1,695</b>

<b>Indicator 7 Preschool Outcomes: Progress Data 2007-08</b>			
<b>Early Childhood Outcome Area</b>	<b>Progress Category (Refer to Measurement Section for full Description of Progress Categories)</b>	<b>Number of Preschool Students</b>	<b>Percent of 1,695 students</b>
Acquisition and use of knowledge and skills (including early language/communication and early literacy)	a. Did not improve functioning	21	1.2%
	b. Improved-not sufficient to move nearer to same-aged peers	161	9.5%
	c. Improved- nearer to same aged peers	592	34.9%
	d. Improved-reached functioning to same-aged peers	587	34.6%
	e. Maintained functioning as same-aged peers	334	19.7%
	<b>Total</b>	<b>1,695</b>	<b>100.0%</b>
Use of appropriate behaviors to meet their needs	a. Did not improve functioning	29	1.7%
	b. Improved-not sufficient to move nearer to same-aged peers	134	7.9%
	c. Improved- nearer to same aged peers	477	28.1%
	d. Improved-reached functioning to same-aged peers	568	33.5%
	e. Maintained functioning as same-aged peers	487	28.7%
	<b>Total</b>	<b>1,695</b>	<b>100.0%</b>

**Baseline Data 2008-09**

<b>Indicator 7 Preschool Outcomes: Baseline Data By Response 2008-09</b>			
<b>Early Childhood Outcome Area</b>	<b>Progress Category (Refer to Measurement Section for full Description of Progress Categories)</b>	<b>Number of Preschool Students</b>	<b>Percent of students</b>
Positive social-emotional skills (including social relationships)	a. Did not improve functioning	47	2.0%
	b. Improved-not sufficient to move nearer to same-aged peers	253	10.7%
	c. Improved-nearer to same aged peers	750	31.8%
	d. Improved-reached functioning to same-aged peers	806	34.2%
	e. Maintained functioning as same-aged peers	500	21.2%
	<b>Total</b>	<b>2,356</b>	<b>100.0%</b>

Indicator 7 Preschool Outcomes: Baseline Data By Response 2008-09			
Early Childhood Outcome Area	Progress Category (Refer to Measurement Section for full Description of Progress Categories)	Number of Preschool Students	Percent of students
Acquisition and use of knowledge and skills (including early language/communication and early literacy)	a. Did not improve functioning	30	1.3%
	b. Improved-not sufficient to move nearer to same-aged peers	257	10.9%
	c. Improved- nearer to same aged peers	767	32.6%
	d. Improved-reached functioning to same-aged peers	899	38.2%
	e. Maintained functioning as same-aged peers	403	17.1%
	<b>Total</b>	<b>2,356</b>	<b>100.0%</b>
Use of appropriate behaviors to meet their needs	a. Did not improve functioning	47	2.0%
	b. Improved-not sufficient to move nearer to same-aged peers	240	10.2%
	c. Improved- nearer to same aged peers	581	24.7%
	d. Improved-reached functioning to same-aged peers	799	33.9%
	e. Maintained functioning as same-aged peers	689	29.2%
	<b>Total</b>	<b>2,356</b>	<b>100.0%</b>

Indicator 7 Preschool Outcomes: Baseline Data By Outcomes 2008-09	
Summary Statements	% of Children
<b>Outcome A: Positive social-emotional skills (including social relationships)</b>	
1. Of those children who entered or exited the program below age expectations in Outcome A, the percent who substantially increased their rate of growth by the time they turned 6 years of age or exited the program	83.8%
2. The percent of children who were functioning within age expectations in Outcome A by the time they turned 6 years of age or exited the program	55.4%
<b>Outcome B: Acquisition and use of knowledge and skills (including early language/communication and early literacy)</b>	
1. Of those children who entered or exited the program below age expectations in Outcome B, the percent who substantially increased their rate of growth by the time they turned 6 years of age or exited the program	85.3%
2. The percent of children who were functioning within age expectations in Outcome B by the time they turned 6 years of age or exited the program	55.3%

Indicator 7 Preschool Outcomes: Baseline Data By Outcomes 2008-09	
Summary Statements	% of Children
<b>Outcome C: Use of appropriate behaviors to meet their needs</b>	
1. Of those children who entered or exited the program below age expectations in Outcome C, the percent who substantially increased their rate of growth by the time they turned 6 years of age or exited the program	82.8%
2. The percent of children who were functioning within age expectations in Outcome C by the time they turned 6 years of age or exited the program	63.2%

**Discussion of 2008-09 Baseline Data:**

For the 2008-09 school year, 117 school districts provided preschool outcomes data on preschool children with disabilities who left preschool special education during the 2008-09 school year after receiving special education programs or services for at least 6 months since first being evaluated and determined eligible (since February 1, 2006). Some students in this group may have received special education services for a longer period of time compared with progress data reported for the 2007-08 school year. These data are representative of school districts in NYS because of our sampling methodology in selecting our annual sample of districts. Our methodology is provided in the SPP Attachment 2.

The baseline data indicate that more than half of preschool children with disabilities in each of the three preschool outcome areas are functioning within age expectations upon exiting preschool special education. The greatest percentage of preschool children functioning within age expectations is in the “Use of Appropriate Behaviors to Meet Their Needs” outcome area (63.2%).

The baseline data also indicate that more than 80% of preschool children with disabilities in each of the three preschool outcome areas substantially increased their rate of growth, with most children improving in the “Acquisition of Knowledge and Skills” outcome area (85.3%).

**Measurable and Rigorous Targets:**

Summary Statements	Targets FFY 2009 (% of children exiting 2009-10)	Targets FFY 2010 (% of children exiting 2010-11)
<b>Outcome A: Positive social-emotional skills (including social relationships)</b>		
1. Of those children who entered or exited the program below age expectations in Outcome A, the percent who substantially increased their rate of growth by the time they exited the program.	84%	84.5%
2. The percent of children who were functioning within age expectations in Outcome A by the time they exited the program.	55.4%	55.5%

Summary Statements	Targets FFY 2009 (% of children exiting 2009-10)	Targets FFY 2010 (% of children exiting 2010-11)
<b>Outcome B: Acquisition and use of knowledge and skills (including early language/communication and early literacy)</b>		
1. Of those children who entered or exited the program below age expectations in Outcome B, the percent who substantially increased their rate of growth by the time they exited the program	85.5%	86%
2. The percent of children who were functioning within age expectations in Outcome B by the time they exited the program	55.3%	55.4%
<b>Outcome C: Use of appropriate behaviors to meet their needs</b>		
1. Of those children who entered or exited the program below age expectations in Outcome C, the percent who substantially increased their rate of growth by the time they exited the program	83%	83.5%
2. The percent of children who were functioning within age expectations in Outcome C by the time they exited the program	63.2%	63.3%

Over the next two years, NYS is targeting .5 percentage point improvements for each outcome area in the percentage of children who entered or exited the program below age expectations who substantially increased their rate of growth by the time they exited the program; and .1 percentage point improvement in the percentage of children who function within age expectations in each outcome area by the time they exited the program. Improvement activities, particularly through the ECDCs, will be directed to instruction leading to improved outcomes in these areas.

**Improvement Activities/Timelines/Resources:**

Activity	Timeline	Resources
Disseminate regional preschool outcome data progress results to approved preschool providers.	2008-11	ECDCs
Provide technical assistance to preschool providers on instructional programs to improve results in positive social-emotional skills; early language/communication and literacy; and use of appropriate behaviors.	2007-11	ECDCs covering every county and borough in NYS  <i>Guide for Determining Eligibility and Special Education Programs and/or Services for Preschool Students with Disabilities</i>

Activity	Timeline	Resources
		<p><i>Preschool Special Education Learning Outcomes and Indicators for Kindergarten Participation</i></p> <p><i>Preschool Special Education Program Self-Assessment and Quality Improvement Guide</i></p>
<p>Disseminate the results of the preschool longitudinal study, including the positive effects on social-emotional skills, early language/communication and use of appropriate behaviors of placements of preschool students in integrated versus nonintegrated settings.</p> <p><a href="http://www.vesid.nysed.gov/specialed/preschool/study/intro.pdf">http://www.vesid.nysed.gov/specialed/preschool/study/intro.pdf</a></p>	<p>2007-08 Completed See report 9/07</p>	<p>IDEA Discretionary Funds</p> <p><a href="#">Longitudinal Study of Preschool Students</a></p>
<p>Implement Regents Policy on Early Education to increase the capacity of NYS' many child care and education services to support families and address social emotional needs of preschool children.</p>	<p>2007-11</p>	<p>University of the State of New York (USNY) Cabinet on Early Childhood Education</p>
<p>Improve knowledge and skills of CPSE and providers (dates revised 1/10)</p> <ul style="list-style-type: none"> <li>• develop training curricula for CPSE chairpersons on eligibility determinations, State and federal requirements and decision making.</li> <li>• offer initial training for newly appointed CPSE chairpersons beginning in the summer or fall of 2008 and annually thereafter.</li> <li>• update and disseminate the Parent Guide to Special Education.</li> <li>• update the VESID publication, <i>Guide for Determining Eligibility and Special Education Programs and/or Services for Preschool Students with Disabilities</i></li> </ul>	<p>2009-11</p> <p>2009-11</p> <p>2010</p> <p>2010</p>	<p><del>SETRG</del> <u>Regional Special Education Technical Assistance Support Center (RSE-TASC)</u> Regional Trainers (rev. 1/10)</p> <p>ECDC regional staff</p> <p>IDEA discretionary funds to support training</p> <p>VESID staff</p>
<p>Encourage development of UPK for three-and four-year-olds to increase the availability of integrated settings and promote earlier connections between</p>	<p>2008-11</p>	<p>VESID and P-16 staff</p> <p>NYSED guidance</p>

Activity	Timeline	Resources
preschoolers with disabilities and the district setting that is most able to meet the needs of children in the least restrictive environment.		

- For additional detail on activities revised, completed or added in 2009, see pp. 137-138 at <http://www.vesid.nysed.gov/specialed/spp/apr2009/final.pdf>.

**Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2008:**

*Improvement Activities Completed in 2008-09*

- During 2008-09, the ECDCs provided technical assistance to CPSE chairpersons regarding criteria for Indicator 7. They worked in collaboration with VESID's Special Education Quality Assurance (SEQA) Unit and SETRC and RSE-TASC technical assistance networks to provide technical assistance to identified school districts.
- A three-day training program for all new Chairpersons of the CPSE and CSE was completed in 2009. Multiple training sessions have been completed statewide, including in NYC and will continue to be delivered annually.
- Technical assistance resources for Indicator 7 are posted on line at <http://www.vesid.nysed.gov/specialed/spp/indicators/7.htm> and were provided in the annual determination letters sent to school districts specifically scheduled to report on this indicator in the 2008-09 school year. Resources listed include the national Early Childhood Outcomes Center (ECO) - <http://www.fpg.unc.edu/~eco/index.cfm>.