OMB NO. 1820-0030
Expires: 08/31/05

ANNUAL STATE APPLICATION UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AS AMENDED IN 2004 FOR FEDERAL FISCAL YEAR 2005

CFDA No. 84.027A and 84.173A

ED FORM No. 9055

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION PROGRAMS
Washington, DC 20202-2600

Section I

A. Submission Statement for Part B of IDEA

Please select and check the appropriate statement(s) the State is using for this Federal Fiscal Year.

1. _____ The State provides assurances that it has in effect policies and procedures to meet the eligibility requirements of Part B of the Act as found in PL 108-446. The State is able to meet all assurances found in Section II.A of this Application. (See Section IV, *Optional Technical Assistance Checklist*, which is provided to assist States in determining the disposition of policies and procedures.)

2. __**X**___ The State cannot provide assurances for all eligibility requirements of Part B of the Act as found in PL 108-446. The State has determined that it is unable to make the assurances that are checked as 'No' in Section II.A. However, the State assures that throughout the period of this grant award the State will operate consistent with all requirements of PL 108-446 and applicable regulations. The State will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than July 1, 2006. The State has included the date by which it expects to complete necessary changes associated with assurances marked 'No'. (Refer to Assurances found in Section II.A.)[1]

3. _____ The State is submitting modifications to State policies and procedures previously submitted to the Department. These modifications are: (1) deemed necessary by the State, for example when the State revises applicable State law or regulations; (2) required by the Secretary because there is a new interpretation of the Act or regulations by a Federal court or the State's highest court; and/or (3) because of an official finding of noncompliance with Federal law or regulations.

B. Conditional Approval for Current Grant Year

If the State received conditional approval for the current grant year, check the appropriate statement below:

1. _____ The State previously has submitted documentation of completion of all issues identified in the FFY 04 conditional approval letter.

2. _____ The State is attaching documentation of completion of all issues identified in the FFY 04 conditional approval letter. *(Attach documentation showing completion of all issues.)*

3. _____ The State has not completed all issues identified in the FFY 04 conditional approval letter. *(Attach documentation showing completion of any issues and a list of items not yet completed.)*

1 A State will be granted conditional approval until it can provide all assurances.

Section II

A. Assurances

The State makes the following assurances and provisions as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419)

Check and enter date(s) as applicable		
Yes *(Assurance is given.)*	**No** *(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)*	**Assurances** *(20 U.S.C. 1411-1419)*
X		1. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.
X		2. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1).
X		3. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal (20 U.S.C. 1412(a)(2)).
X		4. All children with disabilities residing the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3).
	6/30/06	5. An individualized education program, or an individualized family service plan that meets the requirements of 20 U.S.C. 1436(d), is developed, reviewed, and revised for each child with a disability in accordance with 20 U.S.C. 1414(d). (20 U.S.C. 1412(a)(4))

Check and enter date(s) as applicable		
Yes *(Assurance is given.)*	**No** *(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)*	**Assurances** *(20 U.S.C. 1411-1419)*
X		6. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B).
	6/30/06	7. Children with disabilities and their parents are afforded the procedural safeguards required by 20 U.S.C. 1415 and in accordance with 20 U.S.C. 1412(a)(6).
	6/30/06	8. Children with disabilities are evaluated in accordance with subsections (a) through (c) of 20 U.S.C. 1414. (20 U.S.C. 1412(a)(7))
X		9. Agencies in the State comply with 20 U.S.C. 1417(c) (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8))
X		10 Children participating in early intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with 20 U.S.C. 1437(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 20 U.S.C. 1414(d)(2)(B) and 20 U.S.C. 1436(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under 20 U.S.C. 1435(a)(10). (20 U.S.C. 1412(a)(9))
	6/30/06	11. To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 20 U.S.C. 1412(a)(10)(A)-(C) unless the Secretary has arranged for services to those children under subsection (f) [By pass].
X		12. The State educational agency is responsible for ensuring that the requirements of part B are met according to 20 U.S.C. 1412(a)(11)(A)-(C).

Check and enter date(s) as applicable		
Yes *(Assurance is given.)*	**No** *(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)*	**Assurances** *(20 U.S.C. 1411-1419)*
	6/30/06	13. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) of 20 U.S.C. 1412(a)(12) and the State educational agency, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C).
X		14. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13))
X		15. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E).
	6/30/06	16. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C).
X		17 All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E).
X		18. Funds paid to a State under this part will be expended in accordance with all the provisions of part B including 20 U.S.C. 1412(a)(17)(A)-(C).
X		19. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year in accordance with 20 U.S.C. 1412(a)(18)(A)-(D).

Check and enter date(s) as applicable		
Yes *(Assurance is given.)*	**No** *(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)*	**Assurances** *(20 U.S.C. 1411-1419)*
X		20. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19))
X		21. In complying with 20 U.S.C. 1412(a)(17) and (18), a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20))
	6/30/06	22. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D)).
	6/30/06	23. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B).
	6/30/06	24. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A)-(E).
	6/30/06	25. The State has in effect, consistent with the purposes of the IDEA and with 20 U.S.C. 1418(d), policies and procedures designed to prevent the inappropriate over identification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 20 U.S.C. 1401. (20 U.S.C 1412(a)(24))
	6/30/06	26. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation under subsection (a) or (c) of 20 U.S.C. 1414, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B).

Check and enter date(s) as applicable		
Yes *(Assurance is given.)*	**No** *(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)*	**Assurances** *(20 U.S.C. 1411-1419)*
X		27. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under 20 U.S.C. 1413 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3).
X		28. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3))
X		29. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702.)
X		30. The State will continue to comply with the regulations that are still applicable and currently in place.

B. Certifications

The State Educational Agency is providing the following certifications:

Yes	
X	1. The State certifies that ED Form 80-0013, *Certification Regarding Lobbying*, is on file with the Secretary of Education. With respect to the *Certification Regarding Lobbying* the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.
X	2. The State certifies that certifications in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §80.11 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.
X*	3. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1).

* Arrangements to establish responsibility for services are current, as noted in OSEP's full approval of NYS' Part B Eligibility Documents for FFY 2004, and will continue to be current after July 1, 2005 upon enactment of proposed legislation relating to additional interagency dispute resolution mechanisms.

C. Statement

I certify that the State of **New York** can make the assurances checked as 'yes' in Section II.A and the certifications required in Section II.B of this application. These provisions meet the requirements of the Part B of the Individuals with Disabilities Education Act as found in PL 108-446. The State will operate its Part B program in accordance with all of the required assurances and certifications.

If any assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistent with the requirements of the IDEA as found in PL 108-446 and any applicable regulations, and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than July 1, 2006. (34 CFR §76.104)

I, the undersigned authorized official of the

New York State Education Department

(Name of State and official name of State agency)

am designated by the Governor of this State to submit this application for FFY **2005** funds under Part B of the Individuals with Disabilities Education Act (IDEA).

Printed/Typed Name and Title of Authorized Representative of the State: **Theresa E. Savo**	
Signature: s/	Date: 5/4/05

Section III

Description of Use of Funds Under Part B of the Individuals with Disabilities Education Act – 20 U.S.C. 1411(e)(5)

Describe how the amount retained by the State educational agency under 20 U.S.C. 1411(e)(1) will be used to meet the following activities under Part B. (20 U.S.C. 1411(e)(1)–(3), (6) and (7). The Department annually identifies for States the maximum amount that a State may retain under Section 611(e)(1) and (2).[2] The amounts or percentages listed by the State in this chart for administration and for other State activities should add up to less or equal to the amount or percentage provided to the State by the Department for each of these activities.

FOR ADMINISTRATIVE ACTIVITIES UNDER PART B	PERCENTAGE OF TOTAL STATE ALLOCATIONS *Note: Other measures of the amounts that will be used for these purposes may be substituted.*
For the purpose of administering this part, including 20 U.S.C. 1411(e)(3), 20 U.S.C. 1419, and the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities (20 U.S.C. 1411(e)(1)(A))	$13,116,466
The administration of Part C of IDEA, if the SEA is the Lead Agency for the State under Part C. (20 U.S.C. 1411 (e)(1)(D))	0
A State may use funds the State reserves for administration that are the result of inflationary increases described in 20 U.S.C. 1411(e)(1)(B) for the following activities: (20 U.S.C. 1411(e)(6))	
For support and direct services, including technical assistance, personnel preparation, and professional development and training.	0
To assist local educational agencies in providing positive behavioral interventions and supports and appropriate mental health services for children with disabilities.	0
To assist local educational agencies in meeting personnel shortages.	0
To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.	0
Flexibility in Using Funds for Part C (20 U.S.C. 1411(e)(7))	
Any State eligible to receive a grant under 20 U.S.C. 1419 may use funds made available under 20 U.S.C. 1411(e)(1)(A), 20 U.S.C. 1411(f)(3), or 20 U.S.C. 1419(f)(5) to develop and implement a State policy jointly with the lead agency under	0

[2] Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this section for fiscal year 2004 or $800,000 (adjusted in accordance with 20 U.S.C. 1411(e)(1)(B)), whichever is greater; and each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under 20 U.S.C. 1411(b)(1) for the fiscal year or $35,000, whichever is greater.

For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust: 1) the maximum amount the State was eligible to reserve for State administration under this part for fiscal year 2004; and 2) $800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the *Consumer Price Index For All Urban Consumers*, published by the Bureau of Labor Statistics of the Department of Labor.

FOR ADMINISTRATIVE ACTIVITIES UNDER PART B	PERCENTAGE OF TOTAL STATE ALLOCATIONS *Note: Other measures of the amounts that will be used for these purposes may be substituted.*
part C and the State educational agency to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with part C to children with disabilities who are eligible for services under 20 U.S.C. 1419 and who previously received services under part C until such children enter, or are eligible under State law to enter, kindergarten, or elementary school as appropriate.	
Establishment of High Cost Fund (20 U.S.C. 1411(e)(3)(B)(i))	0
A State shall not use any of the funds the State reserves pursuant to 20 U.S.C. 1411(e)(3)(A)(i), but may use the funds the State reserves under 20 U.S.C. 1411(e)(1), to establish and support the high cost fund.	0

FOR OTHER STATE-LEVEL ACTIVITIES $63,065,231	PERCENTAGE OF TOTAL STATE ALLOCATIONS *Note: Other measures of the amounts that will be used for these purposes may be substituted.*
Required Activities Funds reserved under 20 U.S.C. 1411(e)(2)(A) shall be used to carry out the following activities:	
For monitoring, enforcement, and complaint investigation	$12,928,488
To establish and implement the mediation process required by 20 U.S.C. 1415(e), including providing for the cost of mediators and support personnel.	$150,000 $345,000
Authorized Activities Funds reserved under 20 U.S.C. 1411(e)(2)(A) may be used to carry out the following activities:	
For support and direct services, including technical assistance, personnel preparation, and professional development and training.	$25,885,477
To support paperwork reduction activities, including expanding the use of technology in the IEP process.	0
To assist local educational agencies in providing positive behavioral interventions and supports and appropriate mental health services for children with disabilities.	$3,942,350
To improve the use of technology in the classroom by children with disabilities to enhance learning.	$337,500

FOR OTHER STATE-LEVEL ACTIVITIES $63,065,231	**PERCENTAGE OF TOTAL STATE ALLOCATIONS** *Note: Other measures of the amounts that will be used for these purposes may be substituted.*
To support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities.	$500,000
Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of children with disabilities to postsecondary activities.	$2,000,000 $2,945,015
To assist local educational agencies in meeting personnel shortages.	$2,096,500
To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.	$150,000 $3,062,900
Alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools.	$233,362
To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with Sections 1111(b) and 6111 of the Elementary and Secondary Education Act of 1965.	$2,948,639
To provide technical assistance to schools and local educational agencies, and direct services, including supplemental educational services as defined in Section 1116(e) of the Elementary and Secondary Education Act of 1965 to children with disabilities, in schools or local educational agencies identified for improvement under Section 1116 of the Elementary and Secondary Education Act of 1965 on the sole basis of the assessment results of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement to meet or exceed the objectives established by the State under Section 1111(b)(2)(G) the Elementary and Secondary Education Act of 1965.	$5,540,000

FOR OTHER STATE-LEVEL ACTIVITIES $63,065,231	PERCENTAGE OF TOTAL STATE ALLOCATIONS *Note: Other measures of the amounts that will be used for these purposes may be substituted.*
Local Educational Agency Risk Pool (20 U.S.C. 1411(e)(3)(A)): For the purpose of assisting local educational agencies (including a charter school that is a local educational agency or a consortium of local educational agencies) in addressing the needs of high need children with disabilities, each State shall have the option to reserve for each fiscal year 10 percent of the amount of funds the State reserves for State-level activities under 20 U.S.C. 1411(e)(2)(A)—	0
To establish and make disbursements from the high cost fund to local educational agencies in accordance with 20 U.S.C. 1411(e)(3) during the first and succeeding fiscal years of the high cost fund; and	0
To support innovative and effective ways of cost sharing by the State, by a local educational agency, or among a consortium of local educational agencies, as determined by the State in coordination with representatives from local educational agencies, subject to 20 U.S.C. 1411(e)(3)(B)(ii) [Amount may not be more than 5% of the amount reserved for the LEA Risk Pool.].	0
Establishment of High Cost Fund (20 U.S.C. 1411(e)(3)(B)(i))	0
A State shall not use any of the funds the State reserves pursuant to 20 U.S.C. 1411(e)(3)(A)(i), but may use the funds the State reserves under 20 U.S.C. 1411(e)(1), to establish and support the high cost fund.	0

Describe the process used to get input from LEAs regarding the distribution of amounts among activities described in the above charts to meet State priorities. 20 U.S.C. 1411(e)(5)(B):

Funds are allocated based on local needs in accordance with goals set forth by the Office of Vocational and Educational Services for Individuals with Disabilities and within IDEA restrictions. LEAs have input into the distribution of amounts through VESID meetings with LEAs, District Superintendents, approved private schools and other constituent groups including the Commissioner's Advisory Panel for Special Education.