New York State Education Department
Office of P-12 Special Education

Annual Performance Report for 2009-10

Based on the
IDEA PART B STATE PERFORMANCE PLAN
2005-2010

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THE UNIVERSITY OF THE STATE OF NEW YORK

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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.

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.

<u>Priority: Disproportionality</u>

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.

<u>Priority: Effective General Supervision Part B</u>

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 2011 Annual Performance Report Development

The process for developing New York State's (NYS) Part B SPP can be found at http://www.p12.nysed.gov/specialed/spp/partb1106.html. The APR was developed by a workgroup from among managers and staff of the Office of Special Education, which includes 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. This group holds regularly scheduled monthly meetings to continuously address issues relating to the State's SPP development of the APR.

Stakeholder input from the Commissioner's Advisory Panel (CAP) for Special Education Services is sought throughout the year, as appropriate, on targets and improvement activities. At the October 2010 CAP meeting, data results from this year's APR were presented and new baselines, proposed targets 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 NYSED'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 and 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.p12.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, Office of Special Education at 518-473-2878. For more information on the federal requirements see www.ed.gov/policy/speced/guid/idea/bapr/index.html.

The State's report to the public on the performance of each local educational agency (LEA) in the State against the State's targets in the SPP can be found at http://eservices.nysed.gov/sepubrep/. This report is updated annually not later than 120 days following the State's submission of its APR to USED.

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 9th grade or for ungraded students with disabilities, after four years of becoming 17 years of age.

Note: The above measurement is the same as was used in the Federal Fiscal Year (FFY) 2008 (2008-09) APR, but represents a change from the data provided in the 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).

Graduation rate data for students with disabilities is calculated the same as for all students. For current year graduation requirements, see
http://www.p12.nysed.gov/ciai/EducationLawandRegulations.html

NYS uses the same graduation rate calculation and timeline established by the United States Education Department (USED) 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 graduated with a high school diploma (Regents or local diploma) as of August 31 of the fourth year after first entering 9th grade or for ungraded students with disabilities, after four years of 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 2008-09 school year for the FFY 2009 APR, NYS is reporting the performance of the 2004 total cohort as is used for accountability under ESEA.

Data Source:

Student Information Repository System (SIRS) for collecting graduation data for all students.

NYS' Calculation for the 2008-09 School Year:

The **denominator** is 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. (This five-month enrollment rule does not apply to the Statewide aggregated total cohort data displayed in this APR.) 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 9th grade or for ungraded students with disabilities, after four years of becoming 17 years of age.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2009 (2008-09 school year results) (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 49 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 2009:

Forty-four (43.6) percent of youth with IEPs graduated from high school with a regular high school diploma within four years, as of August 2008.

Total Cohort, As of August, Four Years Later				
	All Students		Students with Disabilities	
Cohort Year	# 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%
2005	225,219	n = 167,894 74.5%	32,058	n = 14,248 (44.4%)

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		2005 Total Cohort of SWD Four Years Later as of August	
	# in Cohort	Grad Rate	# in Cohort	Grad Rate	# in Cohort	Grad Rate
New York City	8,407	21.8%	10,117	25.0%	10,945	26.8%
Large Four Cities	1,536	23.4%	1,612	27.5%	1,647	26.4%
Urban/Suburban High Need Districts	2,778	34.2%	2,633	37.6%	2,668	41.0%
Rural High Need Districts	2,323	36.6%	2,382	38.2%	2,489	40.3%
Average Need Districts	9,563	50.8%	10,216	53.8%	10,218	55.7%
Low Need Districts	3,873	74.6%	4,165	76.7%	3,985	76.3%
Charter Schools	48	10.4%	127	39.4%	106	44.3%
Total State	28,528	41.2%	31,252	43.6%	32,058	44.4%

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		2005 Total Cohort of SWD Four Years Later as of August	
	# in Cohort	Grad Rate	# in Cohort	Grad Rate	# in Cohort	Grad Rate
Big Five Cities	9,943	22.0%	11,729	25.3%	12,592	26.7%
Rest of State	18,585	51.4%	19,523	54.5%	19,466	55.9%
Total State	28,528	41.2%	31,252	43.6%	32,058	44.4%

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2009:

In the 2008-09 school year, the State did not meet its target of 44 percent for this indicator. However, the 2008-09 graduation rate demonstrates an improvement of 2.4 percentage points higher than 2007-08 actual target data graduation rate of 41.2 percent. This improvement is significant because there were 2,724 more students with disabilities in the 2004 total cohort compared to the 2003 total cohort.

In the 2009-10 school year*, the State's graduation rate improved to 44.4, which is an improvement of 0.8 percentage point over 2008-09.

* While the State is required to report in the APR the data results from the 2008-09 school year, it has chosen to also report on the State's most recent year data for this indicator. The chart above displays three-year data results to demonstrate progress/slippage.

- There were improvements in the graduation rate in:
  - NYC from 21.8 to 25.0 to 26.8 percent;
  - Large four cities from 23.4 to 27.5 and then slippage to 26.4 percent;

- o Urban/suburban high need districts from 34.3 to 37.6 to 41.0 percent;
- o Rural high need districts from 36.6 to 38.2 to 40.3 percent;
- o Average need districts from 50.8 to 53.8 to 55.7 percent;
- o Low need districts from 74.6 to 76.7 and then slippage to 76.3 percent;
- o Charter schools from 10.4 to 39.4 to 44.3 percent.

- The range of graduation rates for the 2004 total cohort by Need/Resource category of school districts was between 25 percent in NYC and 76.7 percent in low need school districts. The range for the 2005 total cohort was between 26.4 percent in the big four cities to 76.3 percent in the low need school districts.

Improvement Activities Completed during 2009-10

- 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.

  - o In May 2010, based on 2008-09 data, 78 school districts were identified as needing assistance and 17 were identified as needing intervention. Fifty-six (56) out of the 95 identified districts were identified based on low graduation rates. As a result, the State directed the school districts to obtain technical assistance from the State's Regional Special Education Technical Assistance Support Centers (RSE-TASC) school improvement and other specialists, including transition specialists.

  - o During the 2009-10 school year, Special Education Quality Assurance (SEQA) conducted 22 focused reviews in identified districts that targeted policies, practices and procedures in key areas, such as individual evaluations and eligibility determinations; IEP development and implementation; appropriate instruction from qualified staff; access, participation and progress in the general education curriculum; instruction in literacy; behavioral support; and parental involvement.

  - o In four of the five largest school districts in NYS, SEQA monitoring staff provided on-site technical assistance and support to assist districts in noncompliance resolution and to address systemic change at the building and district levels to ensure that students with disabilities have access to general education and receive programs that are reasonably calculated to result in educational benefit and improved outcomes.

  - o SEQA monitoring staff conducted six monitoring reviews of the Boards of Cooperative Educational Services (BOCES). BOCES serves students with disabilities who require a highly structured setting or who participate in career and technical education programs. The reviews targeted specific compliance areas that impact priority student outcomes.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009:

During FFY 2009, NYS became more rigorous in its criteria, consistent with proposed targets for FFY 2009, to identify a school district as needing assistance or intervention to include any school district whose graduation rate for students with disabilities was 38 percent or less, except where the school district's five-year graduation rate was 44 percent or higher.

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 9th 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 (2007-08), 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).

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."

Data Source:

The Student Information Repository System (SIRS) for collecting dropout data for all students.

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 17th 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 approved Alternative High School Equivalency 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 five-month enrollment rule does not apply to the Statewide aggregated total cohort data displayed in this APR.)

The **numerator** for the computation of the rate of dropping out is the number of total cohort students with disabilities who dropped out as of August after four years of first entering 9th 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.p12.nysed.gov/irs/sirs/. The definition of "dropout" may be found on page 316 of the 2010-11, SIRS Manual in the Glossary of Terms - Appendix 23:

"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 AHSEPP or to a HESPP 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."

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 dropout rate changed to being based on the performance of the "total cohort."

FFY	Measurable and Rigorous Target
FFY 2009 (2008-09 school year) (2004 total cohort as of August 2008)*	No more than 16 percent of students with disabilities will drop out of school.
*Note: The language in this target chart is consistent with March 2009 federal requirements for the lag in reporting for this indicator using ESEA definitions and timelines.	

Actual Target Data for FFY 2009:

In the 2008-09 school year, 16.0 percent of students with disabilities in the 2004 total cohort as of August 2008 dropped out of school.

The State achieved its target of no more than 16 percent will drop out of school.

Total Cohort, As of August, Four Years Later				
	All Students		Students with Disabilities	
Cohort Year	# 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%
2005	225,219	n = 21,647 9.6%	32,058	n = 5,352 16.7%

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		2005 Total Cohort of SWD As of August Four Years Later	
	# in Cohort	Drop-Out Rate	# in Cohort	Drop-Out Rate	# in Cohort	Drop-Out Rate
New York City	8,407	22.0%	10,117	21.6%	10,945	22.4%
Large Four Cities	1,536	38.9%	1,612	31.4%	1,647	30.2%
Urban/Suburban High Need Districts	2,778	20.0%	2,633	16.5%	2,668	19.3%
Rural High Need Districts	2,323	19.9%	2,382	19.4%	2,489	18.5%
Average Need Districts	9,563	12.5%	10,216	12.0%	10,218	12.0%
Low Need Districts	3,873	4.0%	4,165	3.8%	3,985	4.4%
Charter Schools	48	31.3%	127	23.6%	106	17.9%
Total State	28,528	16.9%	31,252	16.0%	31,952	16.7%

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		2005 Total Cohort of SWD As of August Four Years Later	
	# in Cohort	Drop-Out Rate	# in Cohort	Drop-Out Rate	# in Cohort	Drop-Out Rate
Big Five Cities	9,943	24.6%	11,729	22.9%	12,592	23.5%
Rest of State	18,585	12.8%	19,523	11.8%	19,466	12.3%
Total State	28,528	16.9%	31,252	16.0%	32,058	16.7%

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2009:

Explanation of Progress or Slippage

In the 2008-09 school year, the State met its target of no more than 16 percent of students with disabilities will drop out of school. The 2008-09 school year rate is 0.9 percentage point better than the drop out rate for the 2003 total cohort in 2007-08 (16.9 percent). This improvement is significant because there were 2,724 more students with disabilities in the 2004 total cohort compared to the 2003 total cohort.

In the 2009-10 school year, the State's dropout rate dipped to 16.7, which represents slippage of 0.7 percentage point compared to 2008-09.

* While the State is required to report in the APR the data results from the 2008-09 school year, it has chosen to also report on the State's most recent year data for this indicator. The chart above displays three-year data results to demonstrate progress/slippage.

- There were improvements in the dropout rate in:
  - NYC from 22.0 to 21.6 and then slippage to 22.4 percent;
  - Large four cities from 38.9 to 31.4 to 30.2 percent;
  - Urban/suburban high need districts from 20.0 to 16.5, and then slippage to 19.3 percent;
  - Rural high need districts from 19.9 to 19.4 to 18.5 percent;
  - Average need districts from 12.5 to 12.0 to 12.0 percent;
  - Low need districts from 4.0 to 3.8 and then slippage to 4.4 percent;
  - Charter schools from 31.3 to 23.6 to 17.9 percent.

- The range of dropout rates for the 2004 total cohort by Need/Resource category of school districts was between 31.4 percent in the large four cities to 3.8 percent in low need school districts. The range for the 2005 total cohort was between 30.2 percent in the big four cities to 4.4 percent in the low need school districts.

Improvement Activities Completed during 2009-10

In 2009-10, the multiple Regional Special Education Technical Assistance Support Centers conducted regional forums on the topic of factors relating to dropout for students with disabilities.

Also see improvement activities completed for Indicator 1.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 [If applicable]

NYS includes dropout rates of students with disabilities in its criteria to determine whether a school district meets requirements, needs assistance, needs intervention or needs substantial intervention. The State revised its criteria, consistent with its targets for improvement, to identify any district with a dropout rate of 17 percent or higher. In 2009-10, the State identified 58 school districts as a result of high dropout rates for students with disabilities.

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 = [(# 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) divided by the (total # of districts that have a disability subgroup that meets the State's minimum "n" size)] times 100.
B. Participation rate percent = [(# of children with IEPs participating in the assessment) divided by the (total # 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 = [(# of children with IEPs enrolled for a full academic year scoring at or above proficient) divided by the (total # 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.p12.nysed.gov/irs/reportcard/.
- NYS administers alternate assessments against alternate achievement standards aligned to grade level content.
- NYS does not administer assessments against modified achievement standards.
- http://www.p12.nysed.gov/sedcar/state.htm#assessments - *Report of the Participation of Students with Disabilities on Assessment: Report of the Participation of Students with Disabilities on Mathematics Assessment*)" and *"Report of the Participation of Students with Disabilities on Reading/Language Arts Assessment*".

Data Source:

The Student Information Repository System (SIRS) is used to collect State assessment data for all students. 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
FFY 2009* (2009-10 school year results) (rev. 1/10)*	**AYP:** 61 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. **Participation:** 95 percent of students with disabilities in grades 3-8 and high school will participate in State ELA and math assessments. **Performance*:** The State will achieve the effective annual measurable objective (AMO) or the safe-harbor target for the students with disabilities subgroup in Grades 3-8 ELA, Grades 3-8 Math, High School ELA and in High School Math. The effective AMOs for the 2009-10 school year were as follows: • Grades 3-8 ELA: 154 on the Performance Index • Grades 3-8 Math: 134 on the Performance Index • High School ELA: 176 on the Performance Index • High School Math: 172 on the Performance Index The safe harbor targets for the 2009-10 school year for the students with disabilities subgroup were as follows: • Grades 3-8 ELA: 140 on the Performance Index • Grades 3-8 Math: Must achieve Effective AMO (134) • High School ELA: 131 on the Performance Index • High School Math: 135 on the Performance Index
*Note: Consistent with federal guidance, performance targets were revised in January 2010 to be consistent with the State's ESEA criteria.	

Actual Target Data for FFY 2009:

AYP

In the 2009-10 school year, 30.8 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.

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)
2009 (2009-10)	672 (35 Charter Schools)	30.8% (n = 207)

AYP for Students with Disabilities Subgroup by Need/Resource Capacity Category of School Districts						
	2007-08		**2008-09**		**2009-10**	
Need/ Resource Capacity Category of School Districts	**Number of School Districts Required to Make AYP***	**Percent of School Districts that made AYP in all Required Subjects**	**Number of School Districts Required to Make AYP***	**Percent of School Districts that made AYP in all Required Subjects**	**Number of School Districts Required to Make AYP***	**Percent of School Districts that made AYP in all Required Subjects**
New York City	32	6.3%	32	9.4%	32	0%
Large Four Cities	4	0.0%	4	0.0%	4	0%
Urban-Suburban High Need Districts	43	48.8%	43	48.8%	43	11.6%
Rural High Need Districts	123	69.1%	121	91.7%	120	20.8%
Average Need Districts	316	74.7%	321	86.0%	319	24.8%
Low Need Districts	118	88.1%	119	95.8%	119	64.7%
Charter Schools	19	100.0%	25	100.0%	35	60.0%

*Note: For AYP, a school district must have a minimum of 40 students for the participation criterion and 30 students for the performance criterion.

Participation Rate

The participation rate of students with disabilities in the 2009-10 school year by grade and subject is as follows:

- Grades 3-8 ELA: 98 percent
- Grades 3-8 Math: 98 percent
- High School ELA: 96 percent
- High School Math: 97 percent

Participation Rates for Students with Disabilities Subgroup						
	2007-08		2008-09		2009-10	
Assessment	Enrollment	Participation Rate	Number Tested/* Enrollment	Participation Rate	Number Tested/ Enrollment	Participation Rate
Grade 3-8 ELA	211,495	96.8%	204,652/ 208,435	98%	205,471/ 208,722	98%
Grade 3-8 Math	211,104	96.9%	204,519/ 208,210	98%	205,517/ 208,672	98%
High School ELA (seniors)	19,080	92.7%	18,686/ 19,659	95%	20,683/ 26,800	96%
High School Math (seniors)	19,080	94.0%	18,875/ 19,659	96%	20,693/ 26,800	97%

Performance

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 Performance Index calculations that are displayed below the chart. Each calculation is the percentage of students performing at Level 2 and above plus the percentage of students performing at Level 3 and above.

Data Used for Computing Performance Levels for 2009-10					
Assessment	Continuously Enrolled Students with Disabilities in Grades 3-8 and in 2006 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	205,471	10,664 (5.2%)	116,586 (56.7%)	67,306 (32.8%)	10,915 (5.3%)
Grade 3-8 Math	205,517	19,357 (9.4%)	59,995 (29.2%)	107,881 (52.5%)	18,284 (8.9%
HS ELA 2005 Accountability Cohort	26,800	6,329 (23.6%)	5,541 (20.7%)	12,516 (46.7%)	2,414 (9.0%)
HS Math 2005 Accountability Cohort	26,800	4,957 (18.5%)	7,312 (27.3%)	12,199 (45.5%)	2,332 (8.7%)

In the 2009-10 school year, the Statewide average performance for the students with disabilities subgroup on these indices was as follows:

- Grades 3-8 ELA: 133 (missed the target by 7 points)
- Grades 3-8 Math: 152 (exceeded the target by 18 points)
- High School ELA: 132 (exceeded the target by 1 point)
- High School Math: 136 (exceeded the target by 1 point)

Performance Index for the Students with Disabilities Subgroup

Assessment	Continuously Enrolled Students with Disabilities in Grades 3-8 and in 2006 Accountability Cohort in High School (HS)	NYS PI	Effective AMO*	Safe-Harbor Target	Met Third Indicator for Safe Harbor**	Students with Disabilities Made AYP in 2009-10	2010-11 AMO or Safe-Harbor Target
Grades 3-8 ELA		133	154	140	Yes	No	101
Grades 3-8 Math		152	134	(AMO 134)	Yes	Yes	151
HS ELA 2005 accountability cohort		132	176	131	No	No	139
HS Math 2005 accountability cohort		136	172	135	No	No	142

*Annual measurable objective (AMO)
** The students with disabilities as a subgroup did not make AYP in high school ELA and high school math even though they achieved the safe-harbor target in these grades and subjects. This is because they did not make the progress target for the third accountability measure in high school, which is the graduation rate. For the first time, the graduation targets for the 2009-10 school year were made more rigorous.

Public Reporting of Assessment Information:

Public reports of assessment results are available at http://www.p12.nysed.gov/irs/reportcard/.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2009:

AYP:

The State did not meet its target of 61 percent of school districts for this indicator. Actual target data represents a 51.9 percentage point decline from the 2008-09 school year, when 82.7 percent of school districts (including Charter Schools) met AYP in every grade and subject for the subgroup of students with disabilities.

The precipitous drop is due to the following factors:

- NYS raised the rigor of its ELA and math State assessments in 2009-10 and established new higher cut scores to define proficiency in Grades 3-8 ELA and math.
- The "34-point rule" for determination of AYP for the students with disabilities subgroup expired and was not available for accountability decisions based on 2009-10 school year results.
- The graduation rate targets were made more rigorous for the 2009-10 school year to be consistent with the requirements under ESEA, making it more difficult for school districts to meet the new progress targets for the students with disabilities subgroup. Graduation rate is the third indicator of success in high school. Without making the progress target on the third indicator, school districts cannot use safe-harbor to make AYP in high school ELA or Math.

In order to not hold school districts accountable retroactively to higher standards, test results were statistically adjusted to mitigate the differences in cut scores that define proficiency in 2009-10 and 2008-09 for accountability purposes. Also, in FFY 2009 results of former students with disabilities were included in the students with disabilities subgroup when calculating AYP for the students with disabilities subgroup. In spite of these adjustments, many more school districts were not able to achieve AYP for the students with disabilities subgroup.

Because of the factors identified above, NYS is proposing to use FFY 2009 AYP data as its new baseline data and is proposing new targets for the 2010-11, 2011-12 and 2012-13 school years. See the State Performance Plan (SPP) for the revised baseline, targets and improvement activities. NYS is also revising our measure for AYP to include making progress targets on the third accountability measure for elementary and middle school, which is performance in Science, and in high school, which is the graduation rate.

Participation:

The State exceeded the participation rate target of 95 percent in all the required subjects and grades. In grades 3-8 ELA and math, the State's rate was 98 percent, same as in the previous school year. In high school ELA, the rate was 96 percent compared to 95 percent last year and in high school math it was 97 percent compared to 96 percent in the previous year.

Performance:

The State revised its performance target in the FFY 2008 APR to be consistent with ESEA. The State's target was to achieve its effective AMO score or achieve safe-harbor in ELA and math in Grades 3-8 and in high school. To be completely consistent with the ESEA, for the remaining years of the SPP, the State will also add targets for the third indicator of success in elementary and middle school, which is performance in Science, and in high school, which is the graduation rate.

Improvement Activities Completed during 2009-10

- The State Education Department (SED) 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 improvement activities for this indicator.

- During the 2009-10 school year, the Special Education Quality Assurance (SEQA) offices conducted 22 focused reviews and provided on-site technical assistance in identified districts that targeted policies, practices and procedures in key areas, such as individual evaluations and eligibility determinations; IEP development and implementation; appropriate instruction from qualified staff; access, participation and progress in the general education curriculum; instruction in literacy; behavioral support; and parental involvement.

- SEQA monitoring staff conducted six monitoring reviews of the Boards of Cooperative Education Services (BOCES). BOCES serves students with disabilities who require a highly structured setting or who participate in career and technical education programs. The reviews targeted specific compliance areas that impact priority student outcomes.

- The State considered a district's performance of students with disabilities on ELA assessments in its determinations of meets requirements, needs assistance, needs intervention and needs substantial intervention. As a result, the State directed its Regional Special Education Technical Assistance Support Centers (RSE-TASC) school improvement specialists to school districts needing assistance or

intervention, and provided professional development on research-based literacy instructional programs for students with disabilities.

- The Office of Special Education funded a State technical assistance center on RtI and provided grants to 14 schools throughout NYS to develop high quality RtI programs.

- Specialists from the RSE-TASC delivered multiple regional training sessions for school districts including, but not limited to training on: Committee on Special Education Process; Accessible Instructional Materials; Testing Accommodations; and IEP Development.

- The State published a model IEP form and issued State guidance on the use of the form and Guidance on Quality IEP Development. The IEP form will be mandatory for use by all NYS local educational agencies (LEAs) beginning with the 2011-12 school year.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 [If applicable]

NYS raised the rigor of its ELA and math State assessments in 2009-10 and established new higher cut scores to define proficiency in grades 3-8 ELA and math. The “34-point rule” for determination of AYP for the students with disabilities subgroup expired and was not available for accountability decisions based on 2009-10 school year results. Also, more rigorous targets were implemented for the graduation rate, which is the third indicator of success in high school.

In order to not hold school districts accountable retroactively to higher standards, test results were statistically adjusted to mitigate the differences in cut scores that define proficiency in 2009-10 and 2008-09 for accountability purposes. Also, in FFY 2009 results of former students with disabilities were included in the students with disabilities subgroup when calculating AYP for the students with disabilities subgroup.

Because of the factors identified above, NYS is proposing to use FFY 2009 AYP data as its new baseline data and is proposing new targets for the 2010-11, 2011-12 and 2012-13 school years. See the SPP for the revised baseline, targets and improvement activities. Also, to be completely consistent with the ESEA, the State will add targets for the third indicator of success in elementary and middle school, which is performance in Science, and in high school, which is the graduation rate.

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.

New York State's (NYS) 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.

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).

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.

The State uses a minimum of 75 students with disabilities "n" size requirement in its formula to compute significant discrepancy. However, it does not exclude school districts from the denominator when calculating results for this indicator.

Data Source:

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 – See http://www.p12.nysed.gov/sedcar/forms/pdforms/0910/09word/09pd8.doc. Data for this report are collected through the PD Data System, which is a web-based application used by school districts to provide aggregate data. The State verifies the reliability and accuracy of the State's data through automated edit checks and verification procedures.

Section 618 data are 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.

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.

Actual Target Data for FFY 2009

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2009 Using 2008-09 school year data	**4A.** 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.)
Using 2009-10 school year data	**4A.** 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.)

Actual Target Data for FFY 2009 for Indicator 4A:

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

In the 2009-10 school year*, **41** school districts (6.0 percent of all school districts) had an out-of-district suspension rate for more than 10 days of 2.7 percent or higher.

* While the State is required to report in the APR the data results from the 2008-09 school year, it has chosen to also report on the State's most recent year data for this indicator. The following chart displays three-year data results to demonstrate progress/slippage.

NYS evaluated suspension data from 574 school districts with a minimum enrollment of 75 students with disabilities (enrollment as of October 1, 2008). This means that 108 school districts were excluded in the calculation for this indicator because of the State's minimum size criteria.

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Indicator 4A. Local Educational Agencies (LEAs) with Significant Discrepancies in Rates for Suspension and Expulsion of Students with Disabilities			
Year	**Total Number of LEAs**	**Number of LEAs that have Significant Discrepancies**	**Percent**
FFY 2007 (2007-08)	683	64	9.4%
FFY 2008 (2008-09)	682	40	5.9%
FFY 2009 (2009-10)	682	41	6.0%

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 State provides for the review of policies, procedures and practices each year a school district's data shows a significant discrepancy in its suspension rates for students with disabilities as follows:

- The first year a district's data indicates a significant discrepancy, the State requires the district to complete a State-developed self-review monitoring protocol, which requires the review of 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 monitoring protocol for this review is available at http://www.p12.nysed.gov/specialed/spp/indicators/4.htm. A report of the results of this review is submitted by the district to the State. At the time of submission, school districts 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. The results from this review are reported to the State for follow-up and corrective actions if compliance issues are identified. Seventeen (17) of the 40 school districts identified in FFY 2008 had their review of policies, procedures and practices conducted in this manner.

- For subsequent years in which a school district's data indicates significant discrepancies, the State conducts the monitoring review of the district's policies, procedures and practices as identified above. Twenty-three (23) of the 40 school districts identified in FFY 2008 had their review of policies, procedures and practices conducted in this manner.

The State determined that 30 of the 40 school districts had policies, procedures and practices that were not in compliance and each of these districts were timely notified that the correction of noncompliance must be made as soon as possible, but not later than one year of notification.

Review of Policies, Procedures and Practices (FFY 2009)

Using the same procedures as identified above, the State will complete its reviews of policies, procedures and practices of each of the 41 school districts identified in FFY 2009 as having significant discrepancies in their suspension rates and notify them that any findings of noncompliance. The State will report on the number of districts with findings of noncompliance based on FFY 2009 data in the February 2012 APR.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2009:

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 percent or higher to a rate that is 2.7 percent or higher. This resulted in identifying more school districts, i.e., 64 districts based on 2007-08 school year data compared to 16 school districts based on 2006-07 school year data.

Based on 2008-09 school year data, NYS identified 40 school districts with significant discrepancy. This data demonstrates significant improvement over the 2007-08 data results.

The 2009-10 school year represents the third year of implementing the State's more rigorous definition of significant discrepancy of 2.7 percent or higher. The percentage of school districts whose data indicated significant discrepancies in high rates of suspensions of students with disabilities for greater than 10 days increased slightly, from 5.9 percent (40 districts) to 6.0 percent (41 districts).

While the State has not met its target for this indicator, an analysis of the number of school districts with a suspension rate of 4.0 percent or higher decreased significantly from 16 districts in 2006-07 to 10 school districts in 2009-10, demonstrating significant

progress toward meeting the State's target. Also, 22 school districts improved their long-term suspension rates from the previous year to be below the State's target, which also indicates progress in previously identified school districts.

NYS completed its review of policies, practices and procedures relating to the development and implementation of IEPs, the uses of positive behavioral interventions and supports, and procedural safeguards for students with disabilities subject to discipline in the 40 school districts identified based on 2008-09 data. For districts identified based on 2009-10 data, the State will initiate these reviews in the spring and report results of these reviews in the next APR.

Correction of FFY 2008 Findings of Noncompliance

Beginning with last year's (APR 2010) submission, NYS began 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 2008 (the period from July 1, 2008 through June 30, 2009)	161 findings (16 school districts)
2. Number of FFY 2008 findings the State verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding)	122 findings (12 school districts)
3. Number of FFY 2008 findings not verified as corrected within one year [(1) minus (2)]	39 findings (4 school districts)

Correction of FFY 2008 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2008 findings not timely corrected (same as the number from (line 3) above)	39 findings (4 school districts)
5. Number of FFY 2008 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	32 findings (3 school districts)
6. Number of FFY 2008 findings not yet verified as corrected [(4) minus (5)]	7 findings (1 school district)

Actions Taken if Noncompliance from FFY 2008 Not Corrected:
For FFY 2008 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.

There is one large city school district that has not yet corrected all of its noncompliance identified in FFY 2008. Between February and April of 2011, the State was able to verify correction of seven of this district's 14 issues of noncompliance. The State's monitoring staff have conducted regular follow-up activities to assess the district's progress in completing the corrective actions specified in the Compliance Assurance Plan previously issued by the State. The State also 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 district in the development of systems of Positive Behavioral Interventions and Supports (PBIS). As a result, the district's rate of suspensions of greater than 10 days in a school year, however, has significantly improved.

Verification of Correction of Findings (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.

The State verified correction of noncompliance for Indicator 4 as follows:

- For noncompliance identified based on self-reviews, when the school district reported correction of noncompliance to the State, the State required an assurance from the school superintendent that each instance of noncompliance was corrected and that the information reported is accurate.
- For noncompliance identified based on on-site monitoring, the State's monitoring staff followed up with each district to assure that the Compliance Assurance Plan was fully implemented and verified, through review of revised policies and a sample of student records, that the district is correctly implementing the specific regulatory requirements and that individual instances of noncompliance had been corrected.

Correction of FFY 2007 Findings of Noncompliance (if applicable):

1. Number of findings of noncompliance the State made during FFY 2007 (the period from July 1, 2007 through June 30, 2008)	167 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)	107 findings (8 school districts)
3. Number of FFY 2007 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	60 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)	60 findings (5 school districts)

5. Number of FFY 2007 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	60 findings (5 school districts)
6. Number of FFY 2007 findings not yet verified as corrected [(4) minus (5)]	0 findings (0 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.

All findings of noncompliance during the 2006-07 school year have been corrected and the correction verified.

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)	184 findings (19 school 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 school districts)
3. Number of FFY 2006 findings not verified as corrected within one year [(1) minus (2)]	184 findings (19 school 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)	184 findings (19 school districts)
5. Number of FFY 2006 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	184 findings (19 school districts)
6. Number of FFY 2006 findings not yet verified as corrected [(4) minus (5)]	0 findings (0 school districts)

All findings of noncompliance during the 2006-07 school year have been corrected and the correction verified.

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 began issuing notifications of noncompliance beginning in the FFY 2006, thus there were no findings in FFY 2005.

Additional Information Required by the Office of Special Education Programs (OSEP) APR Response Table for this Indicator:

Statement from the OSEP Response Table	State's Response
The State reported that noncompliance identified in FFY 2007 and FFY 2006 as a result of the review it conducted pursuant to 34 CFR §300.170(b) was partially corrected. When reporting on the correction of noncompliance, the State must demonstrate, in the FFY 2009 APR, that it has verified that each LEA with remaining noncompliance identified in FFY 2007 and FFY 2006 is correctly implementing the specific regulatory requirements.	The State has verified that all issues of noncompliance identified in FFY 2006 and 2007 have been corrected. The State verified correction of noncompliance for Indicator 4 as follows: • For noncompliance identified based on self-reviews, when the school district reported correction of noncompliance to the State, the State required an assurance from the school superintendent that each instance of noncompliance was corrected and that the information reported is accurate. • For noncompliance identified based on on-site monitoring, the State's monitoring staff followed up with each district to assure that the Compliance Assurance Plan was fully implemented and verified, through review of revised policies and a sample of student records, that the district is correctly implementing the specific regulatory requirements and that individual instances of noncompliance had been corrected.

Improvement Activities Completed in 2009-10

- Electronic notices were 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 the State should timely correction not occur.

- Through a regional planning process, behavior specialists from the State's RSE-TASC were assigned 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 for students with disabilities subject to discipline.

- The State developed a three-day training program for chairpersons of Committees on Special Education (CSEs) and Committees on Preschool Special Education (CPSEs), which includes training on IEP development and positive behavioral supports and interventions. Seventy-nine (79) regional training sessions were conducted throughout the year.

- The State established a State Technical Assistance Center (TAC) on PBIS in March 2010 to train regional behavioral specialists and other State technical assistance

providers to provide training and technical assistance to identified districts in the development of positive behavior principles and practices; provide timely access to research-based information on PBIS statewide through a web-based resource library; and continue development of research-based curriculum on PBIS to be used by State behavioral specialists in their work with school districts.

- The Office of Special Education 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 PBIS. The regional behavior specialists received direct on-site professional development and technical assistance from national PBIS center staff and the State supported attendance of the entire team of regional behavior specialists, NYS PBIS TAC staff and the New York State Education Department PBIS Project Manager at the National PBIS Leadership Forum in October 2010.

- The State developed a model IEP form (to be mandated for use by all NYS school districts beginning in the 2011-12 school year). The form ensures that CSEs document in the IEP the results of its consideration of a student's need for positive behavioral supports and other strategies. Guidance and training on use of the form and IEP development were provided and are available at http://www.p12.nysed.gov/specialed/formsnotices/IEP/home.html.

- The State required all residential schools approved by the State to complete a self-review of its policies, procedures and practices relating to discipline procedures, functional behavioral assessments and intervention plans, use of time out and emergency interventions.

- Specialists from the RSE-TASC provided technical assistance and professional development to selected approved private schools.

- In September 2009, the State issued a field memorandum to all schools regarding the State's requirements and technical assistance resources relating to behavioral supports and interventions.
  http://www.p12.nysed.gov/specialed/publications/policy/BImemo-909.htm

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 [*If applicable]*

NYS changed its monitoring procedures and technological support systems to provide reminder notices and direct follow-up to districts with continuing noncompliance.

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

The new baseline for Measurement 4B is contained in the State Performance Plan (SPP) being submitted February 1, 2011, a copy of which is appended at the end of this

APR. Future APRs will discuss progress compared with the baseline established in the SPP.

Measurement 4B:

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) divided by the (# of districts in the State)] times 100.

Definition of significant discrepancy:

NYS compares the number of students suspended of each race/ethnicity category with the number suspended of all other race/ethnicity categories combined and compute relative risk ratios and weighted relative risk ratios to determine if there is significant discrepancy in suspensions. For notifications of school districts during the 2009-10 school year based on 2008-09 school year data, the State used the following definition of "significant discrepancy" 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 suspensions:

- At least 75 students with disabilities enrolled on 10/1/08;
- At least 10 students with disabilities of the particular race/ethnicity were suspended;
- At least 20 students with disabilities of all other race/ethnicities were enrolled; and
- Either:
  - Both the relative risk ratio and weighted relative risk ratio for any minority group was 2.0 or higher; or
  - All students with disabilities suspended were from only one minority group regardless of the size of the relative risk ratio and weighted relative risk ratio.

The minimum numbers of students with disabilities was used since small numbers of students with disabilities may distort percentages. However, in the State's calculation, it <u>does not exclude</u> school districts from the denominator calculation as a result of this minimum "n" size.

For each school district identified by its 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 State provides for the review of policies, procedures and practices each year a school district's data shows a significant discrepancy in its suspension rates for students with disabilities as follows:

- The <u>first year a district's data indicates a significant discrepancy</u>, the State requires

the district to complete a State-developed self-review monitoring protocol, which requires the review of 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 monitoring protocol for this review is available at http://www.p12.nysed.gov/specialed/spp/indicators/4.htm. A report of the results of this review is submitted by the district to the State. At the time of submission, school districts 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. The results from this review are reported to the State for follow-up and corrective actions if compliance issues are identified. Districts that are identified with inappropriate policies, procedures and/or practices are identified for purposes of reporting in the APR for indicator 4B.

- For subsequent years in which a school district's data indicates significant discrepancies, the State conducts the monitoring review of the district's policies, procedures and practices in the areas as identified above.

Data Source:

For 4B, NYS will use 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 in the annual 618 report to USED. For 4B, NYS will also include data from reviews of policies, practices and procedures as defined in the above Measurement for this indicator.

Actual Target Data for FFY 2009

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2009	**4B.** Baseline, targets and improvement activities are provided in the FFY 2009 SPP being submitted February 1, 2011.

Data for FFY 2009 represents baseline data and is provided in the SPP.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2009:

Improvement activities are reported in the SPP Indicator 4B section.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 [*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 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:

The Student Information Repository System (SIRS) used to collect individual student data on all students.

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 ED*F*acts files.

Actual Target Data for FFY 2009

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2009 (2009-10 school year)	The statewide percent of students with disabilities, ages 6-21, served inside the regular class 80 percent or more of the day will be greater than 53.3 percent. The statewide percent of students with disabilities, ages 6-21, served inside the regular class less than 40 percent of the day will be less than 24.4 percent.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
	The statewide percent of students with disabilities, ages 6-21, served in separate schools, residential placements, or homebound/hospital placements will be less than 6.6 percent.

In FFY 2009, the statewide percent of students with disabilities, ages 6-21, served inside regular classrooms 80 percent or more of the school day was 55.2 percent.

In FFY 2009, the statewide percent of students with disabilities, ages 6-21, served inside regular classrooms for less than 40 percent of the school day was 23.0 percent.

In FFY 2009, 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 6.4 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%	
1999-2000	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%
2009-10	396,567	55.2%	11.6%	23.0%	6.4%	3.8%

*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%
2009-10	185,188	53.7%	3.8%	29.2%	8.2%	5.2%

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

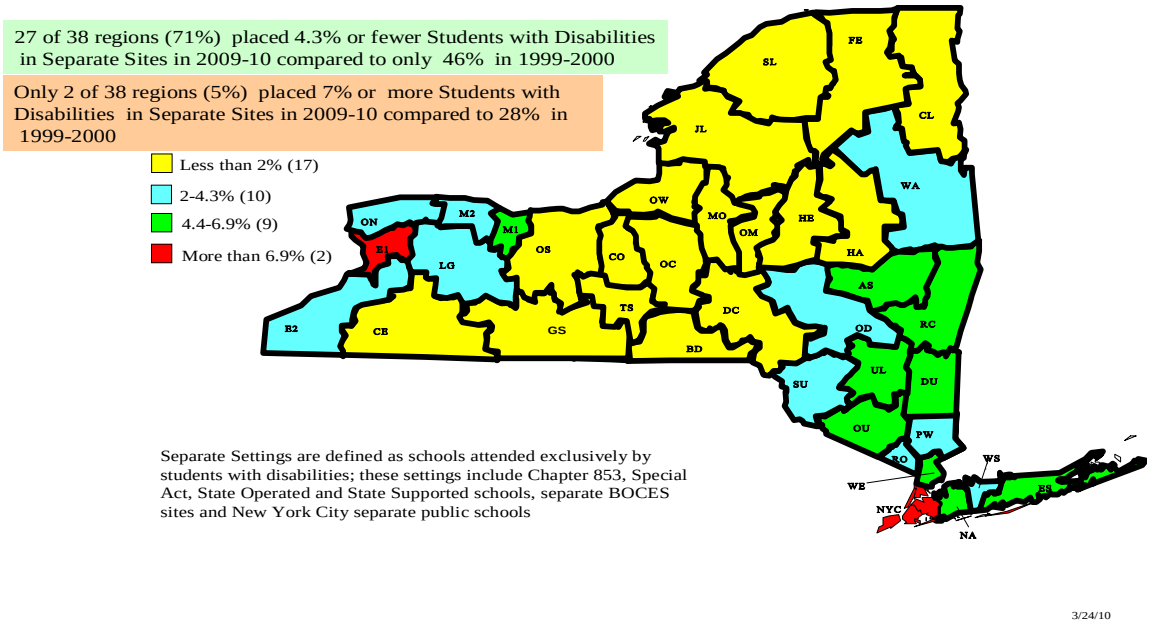
Comparison of 2009-10 data with the prior year's data by Need Resource Capacity of school districts requires two tables as follows.

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.

2009-10 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)	163,789	53.1%	3.4%	29.6%	8.3%	5.7%
Large 4 Cities	21,399	57.7%	7.6%	26.1%	7.3%	1.3%
Urban-Suburban High Need School Districts	30,556	47.9%	17.7%	25.9%	5.7%	2.8%
Rural High Need School Districts	23,231	55.3%	21.6%	21.0%	1.6%	0.5%
Average Need School Districts	106,066	57.7%	19.1%	17.3%	3.8%	2.2%
Low Need School Districts	48,150	63.8%	17.1%	11.4%	4.5%	3.2%
*Other specific settings include students who are home schooled, parentally placed in nonpublic schools or incarcerated.						

2009-10 LRE Data by Board of Cooperative Educational Services (BOCES) Regions for Separate Settings:



Explanation of Progress or Slippage

In FFY 2009, NYS met its targets for the percent of children with IEPs for all three measures:

- The percentage of students with disabilities who are in regular classes for 80 percent or more of the school day decreased from 55.4 percent in the 2008-09 school year to 55.2 percent in the 2009-10 school year. However, the State met its target, which was to be more than 53.3 percent.

- The percent of students with disabilities who are in regular classes for less than 40 percent of the school day decreased from 23.6 percent in 2008-09 to 23.0 percent in 2009-10. The State met its target, which was to be below 24.4 percent in 2009-10.

- The percent of students with disabilities who are educated in separate settings increased from 6.0 percent in 2008-09 to 6.4 percent in 2009-10. However, the State met its target, which was to be below 6.6 percent in 2009-10.

- New York City (NYC) reduced the percentage of students who are in regular classes for less than 40 percent of the day from 31.6 to 29.6 percent.

- NYC placed 8.3 percent of its students with disabilities in separate education settings, which is the largest such percentage 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 2009-10

- The Office of Special Education continues to provide expanded 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. In collaboration with the Regional Special Education Technical Assistance Support Centers (RSE-TASC), the TAC-D is working to enhance the focus of their work with districts by developing annual measurable goals and shaping intervention strategies to match the challenges of targeted districts in an effort to yield greater improvement.

- The State Education Department (SED) continues to conduct 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 placements of students with disabilities in the least restrictive environment (LRE).

- In the 2009-10 school year, a total of 79 three-day training programs were provided to Committee on Special Education (CSE) and Committee on Preschool Special Education (CPSE) chairpersons. These trainings included information on IEP development and LRE placement decisions.

- 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 2009-10 school year (617) shows a reduction of 41 percent from the number served during the 2005-06 school year (1,050). This is only slightly less than the 43 percent reduction observed during the 2008-09 school year.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 *[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:

The Student Information Repository System (SIRS) used to collect individual student data on all students. 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 2009 (2009-10 school year)	No reporting is required in FFY 2009.

Actual Target Data for FFY 2009:

Not applicable.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2009:

Not applicable.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 [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 was used in previous State Performance Plans (SPPs) and APRs. There is no change in Progress Categories used for this Indicator.

a. Percent of preschool children who did not improve functioning = [(# of preschool children who did not improve functioning) divided by the (# 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 = [(# of preschool children who improved functioning but not sufficient to move nearer to functioning comparable to same-aged peers) divided by the (# 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 = [(# of preschool children who improved functioning to a level nearer to same-aged peers but did not reach it) divided by the (# 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 = [(# of preschool children who improved functioning to reach a level comparable to same-aged peers) divided by the (# of preschool children with 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 available at http://www.p12.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 available at: http://www.p12.nysed.gov/irs/sirs/. The data is based on using the federally developed Child Outcomes Survey Form (COSF).

Measurable and Rigorous Targets FFY 2009:

Summary Statements	Targets **FFY 2009**
Outcome A: Positive social-emotional skills (including social relationships)	
1. Of those children who entered 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%
2. The percent of children who were functioning within age expectations in Outcome A by the time they exited the program.	55.4%
Outcome B: Acquisition and use of knowledge and skills (including early language/ communication and early literacy)	
1. Of those children who entered 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%
2. The percent of children who were functioning within age expectations in Outcome B by the time they exited the program	55.3%
Outcome C: Use of appropriate behaviors to meet their needs	
1. Of those children who entered 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%
2. The percent of children who were functioning within age expectations in Outcome C by the time they exited the program	63.2%

Actual Target Data FFY 2009

At the end of the 2009-10 school year, 116 school districts reported progress data on 2,444 preschool students with disabilities in each of the three early childhood outcome areas. One (1) school district's data was missing at the time this report was prepared. The 2,444 students left preschool special education programs and/or services during the 2009-10 school year after receiving special education services for at least six months. The amount of progress these students made in the three early childhood outcome areas are reported below.

The formulas for calculating summary statements, which are displayed in the second Table below, are based on the progress data displayed in the first Table below. Letters a, b, c, d and e are described in the first Table and the formulas for the summary statements are as follows:

Summary Statement 1 = (c+d)/(a+b+c+d)
Summary Statement 2 = (d+e)/(a+b+c+d+e)

Indicator 7 Preschool Outcomes By Progress Categories					
		2008-09		2009-10	
Early Childhood Outcome Area		Number of Preschool Students	Percent of Students	Number of Preschool Students	Percent of Students
A. Positive social-emotional skills (including social relationships)	a. Did not improve functioning	47	2.0%	30	1.2%
	b. Improved - not sufficient to move nearer to same-aged peers	253	10.7%	241	9.9%
	c. Improved - nearer to same aged peers	750	31.8%	827	33.8%
	d. Improved - reached functioning to same-aged peers	806	34.2%	874	35.8%
	e. Maintained functioning as same-aged peers	500	21.2%	472	19.3%
	Total A	**2,356**	**100.0%**	**2,444**	**100.0%**
B. Acquisition and use of knowledge and skills (including early language/communication and early literacy)	a. Did not improve functioning	30	1.3%	18	0.7%
	b. Improved - not sufficient to move nearer to same-aged peers	257	10.9%	256	10.5%
	c. Improved - nearer to same-aged peers	767	32.6%	876	35.8%
	d. Improved - reached functioning to same-aged peers	899	38.2%	908	37.2%
	e. Maintained functioning as same-aged peers	403	17.1%	386	15.8%
	Total B	**2,356**	**100.0%**	**2,444**	**100.0%**
C. Use of appropriate behaviors to meet their needs	a. Did not improve functioning	47	2.0%	28	1.1%
	b. Improved - not sufficient to move nearer to same-aged peers	240	10.2%	260	10.6%
	c. Improved - nearer to same - aged peers	581	24.7%	731	29.9%
	d. Improved - reached functioning to same-aged peers	799	33.9%	790	32.3%
	e. Maintained functioning as same-aged peers	689	29.2%	635	26.0%
	Total C	**2,356**	**100.0%**	**2,444**	**100.0%**

Indicator 7 Preschool Outcomes Data By Summary Outcome Statements		
	2008-09	**2009-10**
Summary Statements	**% of Children**	**# and % of Children**
Outcome A: Positive social-emotional skills (including social relationships)		
1. Of those children who entered 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%	1,701/1,972 (86.3%)
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%	1,346 /2,444 (55.1%)
Outcome B: Acquisition and use of knowledge and skills (including early language/ communication and early literacy)		
1. Of those children who entered 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%	1,784/2,058 (86.7%)
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%	1,294/2,444 (52.9%)
Outcome C: Use of appropriate behaviors to meet their needs		
1. Of those children who entered 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%	1,521/1,809 (84.1%)
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%	1,425/2,444 (58.3%)

Discussion of Improvement Activities Completed <u>and</u> Explanation of Progress or Slippage that occurred for FFY 2009:

Explanation of Progress or Slippage

New York State (NYS) demonstrated progress and exceeded its FFY 2009 target for the first summary statement in each early childhood outcome area ("Of those preschool children who entered the preschool program below age expectations, the percent who substantially increased their rate of growth by the time they exited the program"):

- In the area of positive social, emotional skills (including social relationships), the FFY 2009 target was 84 percent, actual data was 86.3 percent, which was an improvement over last year's baseline data of 83.8 percent.
- In the area of acquisition of knowledge and skills, the FFY 2009 target was 85.5 percent, actual data was 86.7 percent, which was an improvement over last year's baseline data of 85.3 percent.

- In the area of use of appropriate behaviors to meet their needs, the FFY 2009 target was 83 percent, actual data was 84.1 percent, which was an improvement over last year's baseline data of 82.8 percent.

NYS did not achieve its target in any early childhood outcome for the second summary statement ("The percent of preschool children who were functioning within age expectations by the time they exited the program"):

- In the areas of positive social, emotional skills (including social relationships), the FFY 2009 target was 55.4 percent, actual data was 55.1 percent, which represents slippage from last year's data of 55.4 percent.
- In the area of use of acquisition of knowledge and skills, the FFY 2009 target was 55.3 percent, actual data was 52.9 percent, which represents slippage from last year's data of 55.3 percent.
- In the area of use of appropriate behaviors to meet their needs, the FFY 2009 target was 63.2 percent, actual data was 58.3 percent, which represents slippage from last year's data of 63.2 percent.

Improvement Activities Completed during 2009-10

Seventy-nine (79) regional training sessions for Chairpersons on Committees on Special Education and Committees on Preschool Special Education were conducted relating to IEP development.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 *[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.

Data Source:

New York State (NYS) uses a modified version of the survey developed by the National Center for Special Education Accountability Measures (NCSEAM). 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 percent of the questions.

NYS' calculation:

NYS' statewide calculation 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 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*53 or 31.8 surveys with positive parental response. As another example, in another school district with a minimum sample size of 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*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 are not used. A school district's actual data are displayed.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2009 (2009-10 school year)	89 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 2009:

In the 2009-10 school year, **91.6** 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 2009-10 school year, 115 school districts, including New York City (NYC) as a single district, were assigned to conduct a parent survey. Ninety-eight (98) school districts achieved a minimum response rate while 17 school districts did not. The State will review the data from the 17 school districts and may assign 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 9,529, with 9,479 surveys responding to at least 15 questions out of 25 questions on the survey. Of the surveys with responses to at least 15 questions, 8,694 provided a positive response on at least 51 percent of the questions. **This represents an unweighted positive response rate of 91.7 percent and a weighted positive response rate of 91.6 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.p12.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 some school districts are required to re-submit data 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 2009-10 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/pdsystem/samplesizecalculator.jsp.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2009:

Explanation of Progress or Slippage

The Statewide weighted result from the survey in the 2009-10 school year was that 91.6 percent of parents reported that schools facilitated parent involvement as a means of improving services and results for children with disabilities. The unweighted response rate is 91.7 percent. NYS exceeded its FFY 2009 target of 89 percent by 2.6 percentage points.

The range of positive unweighted results in 2009-10 school year was 70 percent to 100 percent.

Improvement Activities Completed in 2009-10

- The Office of Special Education supports 13 regionally-based Special Education Parent Centers. 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 (IEP) 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.p12.nysed.gov/specialed/publications/policy/parentcenter309.htm.

- With input from the Special Education Parent Centers and the Regional Special Education Technical Assistance Support Centers (RSE-TASC) Special Education Training Specialists, the State developed standardized training for the additional parent member of the Committee on Special Education (CSE) and the Committee on Preschool Special Education (CPSE). The training is offered in each region of the State and is co-delivered by staff from the Special Education Parent Centers and the Regional Special Education Training Specialists.

- With input from the State center for mediation and dispute resolution and the Special Education Parent Centers, the State developed and delivered standardized, training on early dispute resolution and special education mediation. The training was offered in multiple regions of the State, and was delivered collaboratively by special education mediation staff and representatives from the State's Special Education Parent Centers.

- The Early Childhood Direction Centers (ECDCs) continued to provide 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. ECDCs provided workshops and technical assistance on these topics for professionals who serve young children with disabilities and their families and collaborated with the State Education Department funded Special Education Parent Center and RSE-TASC network, Head Start, and regional early intervention and daycare programs to provide technical assistance and support to parents of preschool children.

- In 2009-10, 79 three-day training programs were delivered statewide to CSE/CPSE Chairpersons by the State's funded RSE-TASC regional training specialists. This training emphasizes meaningful and effective parent involvement in the IEP development process.

- Bilingual Specialists from the RSE-TASC co-present with and provide technical assistance to staff from the Special Education Parent Centers, ECDCs, and Bilingual/English as Second Language Technical Assistance Centers so that parents who prefer to speak languages other than English receive information in their native languages about their due process rights and special education services for students with limited English proficiency. In 2009-10, bilingual specialists assisted in the delivery of seven training sessions for parents on topics that included the development and understanding of IEPs, CSE/CPSE Parent Member training, transition from early intervention to preschool and from preschool to school-age services, basic knowledge about disabilities, and services for English language learners with disabilities. Staff at the Special Education Parent Centers and ECDCs also received two training sessions on best practices in bilingual evaluations and regional resources for obtaining bilingual evaluations.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 *[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:

Step One:

NYS compares 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 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. (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.

Step Two:

The State provides for the review of policies, procedures and practices each year a school district's data shows a disproportionate representation based on race/ethnicity as follows:

- The first year a district's data indicates disproportionality, the State requires the district to complete a State-developed self-review monitoring protocol, which requires the review of specific policies, practices and procedures. The monitoring protocol for this review is available at http://www.p12.nysed.gov/specialed/spp/9selfreviewethnic0910rev.htm. A report of the results of this review is submitted by

the district to the State. At the time of submission, school districts 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.

- For subsequent years in which a school district's data indicates significant discrepancies, the State conducts the monitoring review of the district's policies, procedures and practices as identified above.

Step Three:

When calculating the results for this indicator, the State divides the number of school districts with significant disproportionality and inappropriate policies, procedures and/or practices by the total number of school districts in the State.

Data Source:

Data on students' race/ethnicity and special education classification are collected through the Student Information Repository System (SIRS) at an individual student level. Results of monitoring reviews submitted are entered into the PD web-based data collection system.

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*F*acts 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. The minimum "n" size requirement used to compute disproportionate representation does not exclude school districts from the denominator when calculating results for this indicator, but only districts that meet the minimum "n" size are included in the numerator.

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
- o 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;
- ([District enrollment of race] times [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.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2009 (2009-10 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 2009

Districts with Disproportionate Representation in FFY 2009 of Racial and Ethnic Groups that was the Result of Inappropriate Identification

The State included 574 school districts in the calculation of disproportionality for this indicator because they had a sufficient minimum enrollment of at least 75 students with disabilities. (This means that 108 school districts were excluded because of the State's minimum size criteria.)

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 is 1.0 percent.
- Twelve (12) school districts were identified based on data with disproportionate representation by race/ethnicity in the identification of students with disabilities.
- Of these districts, seven (7) were found to have disproportionate representation that was the result of inappropriate policies, procedures and/or practices.

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	8	1.2%
FFY 2008 (2008-09 data)	682	17	8	1.2%
FFY 2009 (2009-10 data)	682	12	7	1.0%

Step One - Identification of Disproportionate Representation by Data

NYS used its October 7, 2009 enrollment of all students and October 7, 2009 child count of students with disabilities for this FFY 2009 APR submission. Based on the criteria described in the Measurement section above, 12 school districts were identified as having 2009-10 data that was disproportionate based on the criteria described above, and therefore required reviews of their policies, procedures and practices. **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 Early Intervening Services (CEIS).**

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

In FFY 2009, NYS determined that of the 12 school districts whose data indicated disproportionate representation and therefore required reviews, seven (7) school districts were found to have disproportionate over-representation in special education that is the result of inappropriate identification. 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 <u>and</u> Explanation of Progress or Slippage that occurred for FFY 2009:

Explanation of Progress or Slippage

In FFY 2008, there were 17 NYS school districts whose data indicated disproportionate identification based on race/ethnicity. In FFY 2009, there were just 12 school districts, representing progress in addressing the disproportionate representation of students in special education based on race/ethnicity.

In FFY 2008, eight of the 17 school districts (1.2 percent of all NYS school districts) were found to have disproportionate rates of identification based on race/ethnicity that

were the result of inappropriate policies, procedures and/or practices. In FFY 2009, there were just seven school districts with disproportionate rates of identification by race/ethnicity that were found to be the result of inappropriate policies, procedures and/or practices (or 1.0 percent of all NYS school districts), demonstrating progress.

Correction of Identified Noncompliance

Correction of FFY 2008 Findings of Noncompliance:

1. Number of findings of noncompliance the State made during FFY 2008 (the period from July 1, 2008 through June 30, 2009)	28 findings (9 school districts)
2. Number of FFY 2008 findings the State verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding)	22 findings (7 school districts)
3. Number of FFY 2008 findings not verified as corrected within one year [(1) minus (2)]	6 findings (2 school districts)

Correction of FFY 2008 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2008 findings not timely corrected (same as the number from (3) above)	6 findings (2 school districts)
5. Number of FFY 2008 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	5 findings (1 school district)
6. Number of FFY 2008 findings not yet verified as corrected [(4) minus (5)]	1 finding (1 school district)

Actions Taken if Noncompliance Found in FFY 2008 Is Not Corrected:
For FFY 2008 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 the two districts that did not report correction of noncompliance within one year from identification, the State conducted a follow-up monitoring review and issued a Compliance Assurance Plan (CAP), specifying the actions the school district was required to take and giving timelines for these actions to be completed. The State also directed its State Technical Assistance Center on Disproportionality (TAC-D) (see http://steinhardt.nyu.edu/metrocenter/tacd) to work with these districts to identify root causes and to participate in professional development to address root causes. Each district was also invited at no cost to the district to participate in New York University's TAC-D Summer Institute where extensive professional development was provided.
See http://steinhardt.nyu.edu/metrocenter/tacd/summer_institute.

For the one school district in item 6 of the FFY 2008 table above, the State's special education monitoring staff also conducted follow-up activities to assess the district's progress in completing the corrective action specified in the CAP previously issued by the State. This district corrected four out of the five findings of noncompliance. In addition, as a result of having disproportionate data for the third consecutive year, the State is conducting a comprehensive monitoring review that will further examine the root

cause(s) of the continuing noncompliance and will identify any new noncompliance related to this indicator.

Verification of Correction of FFY 2008 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.

For correction of noncompliance identified through self-review monitoring reports, the State required that the school district submit its report of correction of each issue of noncompliance with an assurance by the School Superintendent of its accuracy and each district was required to publicly report on revisions to its policies, procedures and practices.

In the State's process to verify the correction of noncompliance identified through on-site monitoring, the State followed up with each district to assure that the CAP was fully implemented. The State reviewed, as appropriate, a sample of student records to ensure that the district is correctly implementing the specific regulatory requirements and that individual instances of noncompliance have been corrected.

Correction of Any Remaining Findings of Noncompliance from FFY 2007 or Earlier (if applicable):

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2007 or earlier years.

Additional Information required by the Office of Special Education Programs (OSEP) APR Response Table for this Indicator (if applicable)

Statement from the OSEP Response Table	State's Response
Because the State reported less than 100% compliance for FFY 2008 (greater than 0% actual target data for this indicator), the State must report on the status of correction of noncompliance reflected in the data the State reported for this indicator.	The State has verified the correction of 27 out of 28 findings of noncompliance (96 percent) from nine school districts identified in FFY 2008. One school district has one finding of noncompliance that has not yet been corrected.
The State must demonstrate, in the FFY 2009 APR, that the districts identified in FFY 2008 with disproportionate representation of racial and ethnic groups in special education and related services that was the result of inappropriate identification are in compliance with the requirements in 34 CFR §§300.111, 300.201, and 300.301 through 300.311, including that the State verified that each district with noncompliance: (1) is correctly implementing the specific regulatory	See above. In the State's process to verify the correction of noncompliance identified through on-site monitoring, the State followed up with each district to assure that the Compliance Assurance Plan was fully implemented. The State reviewed, as appropriate, a sample of student records to ensure that the district is correctly implementing the specific regulatory requirements and that individual instances of noncompliance have been corrected.

Statement from the OSEP Response Table	State's Response
requirement(s) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02, dated October 17, 2008 (OSEP Memo 09-02).	
In the FFY 2009 APR, the State must describe the specific actions that were taken to verify the correction. If the State is unable to demonstrate compliance with those requirements in the FFY 2009 APR, the State must review its improvement activities and revise them, if necessary to ensure compliance.	NYS changed its monitoring procedures and technological support systems to provide reminder notices and direct follow-up to districts with continuing noncompliance. The State verified correction of noncompliance by requiring an assurance from the School Superintendent that its report of correction is accurate, or by conducting an on-site review by special education monitoring staff.

Improvement Activities Completed in 2009-10

- To improve timely correction of noncompliance, the Office of Special Education used 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 the Office of Special Education should timely correction not occur. The State's monitoring staff also received copies of these electronic notices and took appropriate follow-up action, including direct follow up upon a finding that noncompliance was not corrected within nine months.

- The State's monitoring staff 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.

- The New York State Education Department (NYSED) established a State technical assistance center on Response to Intervention (RtI) and grants to 14 schools across the State. This Center has sponsored professional development sessions specifically on RtI for students with limited English proficiency.

- 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.

- In 2009-10, staff from the RtI Technical Assistance Center and Office of Special Education worked with NYSED's Bilingual/English as a Second Language (ESL)

Technical Assistance Centers (BETAC) to enhance their capacity to provide technical assistance to districts implementing RtI with limited English proficient/English language learners (LEP/ELLs). District improvements in core bilingual and ESL instruction, progress monitoring, and assessment procedures for LEP/ELLs should result in fewer referrals of Hispanic and Black students who speak English as a second language and reduce the disproportionate representation of Hispanic and Black students in special education.

- Bilingual specialists from four regions of the State provided regional and district-specific technical assistance to districts serving students with disabilities who are also LEP/ELLs. To address the shortage of qualified bilingual personnel within the State, district personnel from regions without a bilingual specialist were invited to attend professional development sessions in neighboring regions.

- During 2009-10, NYSED staff participated in webinars and conferences sponsored by the Regional Education Laboratory – North East and Islands (REL-NEI) and other national technical assistance centers. Bilingual specialists from the RSE-TASC and BETACs are incorporating information obtained from these sessions into a set of training modules aimed at improving districts' policies, procedures and practices. The REL-NEI is also collaborating with the RSE-TASC and BETAC to provide additional professional development activities that bridge the gap between research and practice, and are tailored to meet regional needs.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 *[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 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:

Step One:

NYS compares 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.

Step Two:

The State provides for the review of policies, procedures and practices each year a

school district's data shows a disproportionate representation based on race/ethnicity in the disability category of students with disabilities as follows:

- The first year a district's data indicates disproportionality, the State requires the district to complete a State-developed self-review monitoring protocol, which requires the review of specific policies, practices and procedures. The monitoring protocol for this review is available at http://www.p12.nysed.gov/specialed/spp/10selfreviewclass0910rev.htm. A report of the results of this review is submitted by the district to the State. At the time of submission, school districts 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.
- For subsequent years in which a school district's data indicates significant discrepancies, the State conducts the monitoring review of the district's policies, procedures and practices as identified above.

Step Three:

When calculating the results for this indicator, the State divides the number of school districts with significant disproportionality and inappropriate policies, procedures and/or practices by the total number of school districts in the State.

Data Source:

Data on students' race/ethnicity and special education classification are collected through the Student Information Repository System (SIRS), at an individual student level. Results of self-review monitoring protocols are submitted by school districts through the PD web-based data collection system.

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*F*acts 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 minimum "n" size requirement used to compute disproportionate representation does not exclude school districts from the denominator when calculating results for this indicator, but only districts that meet the minimum "n" size are included in the numerator. 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;
- ([District enrollment of race] times [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
FFY 2009 (2009-10 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 2009:

The State included 574 school districts in the numerator for the calculation of disproportionality for this indicator because they had a sufficient minimum enrollment of a least 75 students with disabilities. (This means that 108 school districts were excluded from the numerator calculations because of the State's minimum size criteria.)

The percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification is 1.2 percent.

- Eleven (11) school districts were identified based on data with disproportionate representation by race/ethnicity in specific disability categories.
- Of these districts, eight (8) were found to have disproportionate representation that was the result of inappropriate policies, procedures and/or practices.

Districts with Disproportionate Representation 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 2007 (2007-08 data)	683	16	5	0.7%
FFY 2008 (2008-09 data)	682	18	11	1.6%
FFY 2009 (2009-10 data)	682	11	8	1.2%

Step One – Identification of Disproportionate Representation:

NYS used its October 7, 2009 enrollment of all students and October 7, 2009 child count of students with disabilities for this FFY 2009 APR submission. Based on the criteria described in the Measurement section above, 11 school districts were identified as having 2009-10 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 Early Intervening Services (CEIS).**

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

In FFY 2009, the State reviewed the policies, procedures and practices of 11 school districts whose data indicated disproportionate representation. Eight (8) of the 11 school districts were found to have disproportionate representation by specific disability that was the result of inappropriate identification. The State's compliance rate for this Indicator is based on these school districts as a percentage of all school districts in the State (8 divided by 682 = 1.2 percent)

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2009:

Explanation of Progress or Slippage

In FFY 2008, there were 18 NYS school districts whose data indicated disproportionate representation by specific disability based on race/ethnicity. In FFY 2009, there were just 11 school districts, representing progress in addressing the disproportionate representation by specific disability based on race/ethnicity.

In FFY 2008, 11 of the 18 school districts (1.6 percent of all NYS school districts) were found to have disproportionate rates based on race/ethnicity in the disability categories of students with disabilities that were the result of inappropriate policies, procedures and/or practices. In FFY 2009, there were just eight school districts with disproportionate rates by race/ethnicity in disability categories that were found to be the result of inappropriate policies, procedures and/or practices (or 1.2 percent of all NYS school districts), demonstrating progress.

Correction of Identified Noncompliance

Correction of FFY 2008 Findings of Noncompliance:

1. Number of findings of noncompliance the State made during FFY 2008 (the period from July 1, 2008 through June 30, 2009)	23 findings (6 school districts)
2. Number of FFY 2008 findings the State verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding)	19 findings (4 school districts)
3. Number of FFY 2008 findings not verified as corrected within one year [(1) minus (2)]	4 findings (2 school districts)

Correction of FFY 2008 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2008 findings not timely corrected (same as the number from (3) above)	4 findings (2 school districts)
5. Number of FFY 2008 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	3 findings (1 school district)
6. Number of FFY 2008 findings not yet verified as corrected [(4) minus (5)]	1 finding (1 school district)

Actions Taken if FFY 2008 Noncompliance Not Corrected:
For FFY 2008 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 the one school district in item 6 of the FFY 2008 table above, there continues to be one finding of uncorrected noncompliance. The State's special education monitoring staff conducted follow-up activities to assess this district's progress in completing the corrective action specified in the Compliance Assurance Plan (CAP) previously issued

by the State. In addition, as a result of having disproportionate data for the third consecutive year, the State is conducting a comprehensive monitoring review that will further examine the root cause(s) of the continuing noncompliance and will identify any new noncompliance related to this indicator. It should be noted that the remaining FFY 2008 finding is the same as the remaining FFY 2008 finding described in Indicator 9.

Also see actions taken with this district as identified under Indicator 9.

Verification of Correction of FFY 2008 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.

For correction of noncompliance identified through self-review monitoring reports, the State required that the school district submit its report of correction of each issue of noncompliance with an assurance by the School Superintendent of its accuracy and each district was required to publicly report on revisions to its policies, procedures and practices.

In the State's process to verify the correction of noncompliance identified through on-site monitoring, the State followed up with each district to assure that the CAP was fully implemented. The State reviewed, as appropriate, a sample of student records to ensure that the district is correctly implementing the specific regulatory requirements and that individual instances of noncompliance have been corrected.

Correction of Any Remaining Findings of Noncompliance from FFY 2007 or Earlier (if applicable):

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2007 or earlier years.

Additional Information Required by the Office of Special Education Programs (OSEP) APR Response Table for this Indicator

Statement from the OSEP Response Table	State's Response
Because the State reported less than 100% compliance for FFY 2008 (greater than 0% actual target data for this indicator), the State must report on the status of correction of noncompliance reflected in the data the State reported for this indicator. The State must demonstrate, in the FFY 2009 APR, that the districts identified in FFY 2008 with disproportionate representation of racial and ethnic groups in specific disability categories that was the result of inappropriate identification are in compliance with the	The State has verified the correction of 22 findings of noncompliance (96 percent) from six school districts identified in FFY 2008. One school district has one finding of noncompliance that has not yet been corrected. Also see response under Indicator 9.

Statement from the OSEP Response Table	State's Response
requirements in 34 CFR §§300.111, 300.201, and 300.301 through 300.311, including that the State verified that each district with noncompliance: (1) is correctly implementing the specific regulatory requirement(s) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02.	
In the FFY 2009 APR, the State must describe the specific actions that were taken to verify the correction. If the State is unable to demonstrate compliance with those requirements in the FFY 2009 APR, the State must review its improvement activities and revise them, if necessary to ensure compliance.	See Indicator 9

Improvement Activities Completed in 2009-10

See Indicator 9

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 *[If applicable]* - see Indicator 9

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 / 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.

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.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2009 (2009-10 school year)	100 percent of children with parental consent to evaluate will be evaluated within State required timelines.

Actual Target Data for FFY 2009:

In FFY 2009, **77** percent of students with parental consent to evaluate received their initial individual evaluations within State required timelines.

- 68.4 percent of preschool children had their initial evaluations completed within 30 school days of the date of the parent's consent to evaluate; and
- 85 percent of school-age students had their initial evaluations completed within 60 calendar days of the date of the parent's consent to evaluate.

Children Evaluated Within 60 Days (or State-established timeline) during FFY 2009	
a. Number of children for whom parental consent to evaluate was received	10,154
b. Number of children whose evaluations were completed within 60 days (or State-established timelines)	7,818
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)	77%

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

There are 2,336 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, FFY 2009	Number of Children by Number of Days of Delay in Completing Evaluations, FFY 2009				Total	Percent of Total
	1-10	11-20	21-30	Over 30		
An approved evaluator was not available to provide a timely evaluation.	118	136	97	201	552	23.6%
Evaluator delays in completing evaluations.	246	196	127	176	745	31.9%
Delays in scheduling CPSE or CSE meetings.	445	266	139	189	1,039	44.5%
Total	809	598	363	566	2,336	
Percent of Total	34.6%	25.6%	15.5%	24.2%		100%

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that Occurred for FFY 2009:

Explanation of Progress or Slippage:

In 2009-10, NYS' compliance rate improved to 77 percent, an increase of two percentage points over the State's rate of 75 percent in 2008-09. This improvement is significant because the State measures its performance each year based on a different representative sample of school districts. Therefore, with the exception of NYC, the State's results only reflect compliance for those districts where the State has not previously monitored for this indicator and does not reflect improvements made by other districts that have corrected their noncompliance. (Ninety-five percent (95%) of findings of noncompliance identified in 2008-09 and 99 percent of findings identified in 2007-08 have been corrected.) Improvement for this indicator, therefore, demonstrates the proactive attention given to this compliance issue through the State's improvement activities.

The percent of preschool children that did not have their evaluations completed within the State required timeline significantly impacted the State's results for this indicator. Factors impacting this rate include, but are not limited to, the following:

- The State's timeline for preschool evaluations (30 school days) is shorter than the federally-required 60 calendar days, which further contributes to evaluation delays.
- State law allows the parent of a preschool child to select the approved evaluator to conduct the individual evaluation. Parents do not always select approved evaluators who are able to complete the individual evaluation within the State's required timeline.

A review of the length of delays indicates the following:

- 34.6 percent of all delays in completing initial evaluations were for 1-10 days;
- 25.6 percent for 11-20 days;
- 15.5 percent for 21-30 days; and

- 24.2 percent for more than 30 days.

The percentages in length of the delays as reported above are very comparable to the length of delays reported in last year's APR.

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

There has been some improvement in the percentages of delays caused by evaluator delays in completing the evaluations, an issue which the State has been directly addressing statewide through its oversight of approved evaluators.

However, there was a significant increase in the percent of delays resulting in lack of approved evaluators available to provide a timely evaluation. One major root cause of this reason for delays relates to personnel shortages, particularly in New York City (NYC) and the other Big Four cities. The State and NYC are implementing court settlement actions under the *Jose P.* court case relating to availability of professionals in personnel shortage areas (e.g., speech and language and bilingual evaluators). An additional root cause factor for these delays is the State's inability at this time to approve any new evaluators to address availability of approved evaluators, in part due to corporate professional practice limitations for private approved evaluation programs (which the State is attempting to address through legislation).

Correction of FFY 2008 Findings of Noncompliance (if State reported less than 100% compliance):

NYS issued notifications of noncompliance for this indicator to 98 school districts in the 2008-09 school year. Correction of noncompliance in these districts is reported in the table below.

The chart below provides information on the timely correction of FFY 2008 findings of 165 findings of noncompliance in 98 school districts. (The State counts a finding of noncompliance for timely evaluations of preschool students as one compliance issue and for school-age students as a separate compliance issue, which explains why the numbers of findings for this indicator exceeds the number of school districts.)

1. Number of findings of noncompliance the State made during FFY 2008 (the period from July 1, 2008 through June 30, 2009)	165 (98 school districts)
2. Number of FFY 2008 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)	114 (68 school districts)
3. Number of FFY 2008 findings not verified as corrected within one year [(1) minus (2)]	51 (30 school districts)

Correction of FFY 2008 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2008 findings not timely corrected (same as the number from (3) above)	51 (30 school districts)
5. Number of FFY 2008 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	45 (27 school districts)
6. Number of FFY 2008 findings not verified as corrected [(4) minus (5)]	6 (3 school districts)

Actions Taken if Noncompliance Found Is Not Corrected:
For 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 provided electronic notification at three-month intervals to each school district as a reminder of the noncompliance that needed to be corrected and the next steps that would be taken should timely correction not occur. If a school district was unable to correct its noncompliance within 30 days of its nine-month notice, the State required the district 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 timelines. The corrective action plan was required to address consideration of the school district's procedures and practices for conducting timely individual evaluations, staff training and supervision that relate to the findings of 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. The corrective action plan also 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.

For the 30 districts that did not correct noncompliance within 12 months of identification, special education monitoring staff conducted reviews to determine the status of the above-referenced corrective action plans. During the reviews, special education monitoring staff reviewed the districts' determination of root causes for the delays and, as appropriate, required additional corrective actions to resolve any remaining instances of individual noncompliance as well as to resolve any systemic reasons causing the school district to go beyond the State-established timelines for evaluation. In addition, each of the school districts 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.p12.nysed.gov/specialed/techassist/ecdc/locations.htm
- Special Education Quality Assurance (SEQA) Regional Offices - http://www.p12.nysed.gov/specialed/quality/regassoc.htm

- The National Early Childhood Technical Assistance Center (NECTAC) - http://www.nectac.org/

As of this report, only three (of 30) school districts have continuing noncompliance from the FFY 2008. To assist districts to meet their corrective action plans, for two of the four districts, the State convened meetings with the State funded ECDC, school district staff and preschool providers to discuss targeted technical assistance to improve the districts' timely evaluation of preschool students. In one district, a major root cause was a shortage of bilingual evaluators for preschool students.

One of the remaining districts is NYC, with findings of noncompliance of both preschool and school-age students. **The State and NYC are implementing court settlement actions under two court cases: *DD* and *Jose P.*, both relating to timely evaluations and placements of students with disabilities.** In addition, NYSED has directed the NYC Department of Education (NYCDOE) to:

- develop a tracking system with specific targets throughout the school year for meeting evaluation and placement timelines. Data will be provided to the responsible administrators at set intervals throughout the school year and they will be held accountable for performance at the cluster, network and school level;
- redirect a portion of its IDEA flow-through funds to hire additional CPSE administrators and clerical staff to reduce individual staff caseloads in order to meet mandated timeframes for evaluation and placement; and
- track the evaluation timeframes for approved preschool evaluation sites and notify sites of their compliance rates. The New York State Education Department (NYSED) and NYCDOE then follow-up with the providers and require corrective action. Failure to improve performance can result in the removal of the evaluators' approval status.

Verification of Correction of Noncompliance Found in FFY 2008 (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 required school districts with less than a 100 percent compliance rate for this indicator to submit a statement of assurance from the School Superintendent of correction of the identified noncompliance. Prior to the school district's submission that it has corrected the noncompliance, it was required to conduct a review to ensure that each identified student, whose initial evaluation was not completed in compliance with State timelines, and for whom data was not already available in SIRS, had since had his or her initial evaluation completed. The district was also required to monitor and document over a three-month period that all students (or a representative sample for the Big Four districts) had their individual evaluations completed within the required time period. These results were required to be documented on a form provided by the State. NYC's annual submission of data for this indicator has been used to verify that all children are receiving their individual evaluations within the required timelines.

Based on a regional sampling methodology, selected school districts that have submitted a statement of assurance of corrected noncompliance were selected for verification reviews on the accuracy of their reports. If it was identified that the school district continued to have areas of noncompliance, a new corrective action plan was issued to address any instances of individual noncompliance, as well as to resolve any underlying systemic reason(s) for the noncompliance.

During the FFY 2008, the State verified the timely correction of identified noncompliance in 68 of the 98 school districts using the above referenced review and assurance process. In addition, the State verified the correction of noncompliance of an additional 26 school districts through the use of on-site reviews conducted by State monitoring staff from the Office of Special Education. The State verifies the correction of individual noncompliance for NYC through the assurance process and the correction of noncompliance for all students through annual data monitoring.

Correction of Remaining FFY 2007 Findings of Noncompliance (if applicable):
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.

1. Number of findings of noncompliance the State made during FFY 2007 (the period from July 1, 2007 through June 30, 2008)	365 (209 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 local educational agency (LEA) of the finding)	147 (86 school districts)
3. Number of FFY 2007 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	218 (123 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)	218 (123 school districts)
5. Number of FFY 2007 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	216 (122 school districts)
6. Number of FFY 2007 findings not verified as corrected [(4) minus (5)]	2 (1 school district)

The one remaining district is NYC with findings of noncompliance of both preschool and school-age students. **The State and NYC are implementing court settlement actions under two court cases: *<u>DD</u> and <u>Jose P.</u>*, both relating to timely evaluations and placements of students with disabilities.** Also see the "**Actions Taken if Noncompliance Found Is Not Corrected"** for 2008 relating to New York City.

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.

Not applicable. The State issued findings based on FFY 2006 data in the FFY 2007 school year.

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

Not applicable. The State issued findings based on FFY 2005 data in the FFY 2007 school year.

Additional Information Required by the Office of Special Education Programs (OSEP) APR Response Table for this Indicator (if applicable):

When reporting on the correction of noncompliance, the State must report, in its FFY 2009 APR, that it has verified that each LEA with noncompliance reflected in the FFY 2008 data the State reported for this indicator, each LEA with noncompliance reflected in the FFY 2007 data the State reported for this indicator in the FFY 2007 APR, and each LEA with the remaining ten uncorrected noncompliance findings identified in FFY 2007 (based on FFY 2005 and FFY 2006 data): (1) is correctly implementing 34 CFR §300.301(c)(1) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has completed the evaluation, although late, for any child whose initial evaluation was not timely, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02. In the FFY 2009 APR, the State must describe the specific actions that were taken to verify the correction.	In FFY 2008, the State instituted new procedures to ensure that the verification of the correction of noncompliance included student-specific correction and a review of updated data over a three-month period of time to ensure subsequent compliance. Verification that compliance was corrected was achieved in 94 of 98 or 96 percent of school districts that corrected their noncompliance within one year and an additional 26 of 30 or 87 percent of school districts with over 12 month findings of noncompliance In FFY 2007, the State verified 208 of 210 or 99 percent of school districts with findings of noncompliance and conducted on-site reviews to address any over 12 month noncompliance. As a result, 122 of 124 or 98.3 percent of school districts with over 12 month findings of noncompliance are now in compliance with the requirements of this indicator.
If the State does not report 100% compliance in the FFY 2009 APR, the State must review its improvement activities and revise them, if necessary.	The State has reviewed, revised and implemented improvement activities in response to its report of less than 100 percent compliance in the FFY 2009 APR (see below).

Improvement Activities Completed in 2009-10

- The Office of Special Education used information obtained from federal technical assistance resources to further inform its activities to improve timely evaluations for students with disabilities:
  - In May 2010, NYSED issued annual determination letters to superintendents of school districts that were identified as having noncompliance for Indicator 11. The NECTAC checklist, "Local Corrective Action Plans: Collection and Use of Valid and Reliable Data for Determining Factors Contributing to Noncompliance"

(2008), was referenced to provide school districts with examples of questions that should be considered when investigating contributing factors for noncompliance and developing improvement strategies.

- Links to federal and State technical assistance resources were also included in the annual determination letters to assist district personnel to better understand the issues and effective practices pertaining to Indicator 11. The link for NECTAC (http://www.nectac.org/) was among the resources listed.

- The Office of Special Education staff participated in monthly Communities of Practice (CoP), hosted by various federal technical assistance centers, in an effort to keep updated on the latest policy information and new resources that NYSED could use directly or share with stakeholder groups. Included in the monthly CoP calls were those sponsored by NECTAC relating to Indicator 11.

- To improve timely correction of noncompliance, the Office of Special Education continued the use of electronic notices, sent to school districts at three-month intervals, as a reminder of the noncompliance that needs to be corrected and the next steps that will be taken by the Office of Special Education should timely correction not occur. Special education monitoring staff also received copies of the electronic notices and take appropriate proactive actions, including direct follow-up upon a finding that noncompliance was not corrected within nine months.

- The State continued to provide a three-day training program for chairpersons of CSEs and CPSEs, which includes training on the timelines and process for conducting individual initial evaluations and determining eligibility for special education. In 2010, 79 three-day sessions were provided throughout NYS.

- ECDC and NYS Special Education Quality Assurance (SEQA) staff facilitated regional meetings with preschool evaluators and school districts 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 correspondence to superintendents letting them know of their FFY 2009 reporting responsibilities.

- The State reviewed information on effective practices available through NECTAC. The State directed school districts to NECTAC for information to assist them in developing corrective action plans, with particular attention to NECTAC's "Resources for Systems Change and Improvement Planning" section of the SPP/APR calendar, available at http://spp-apr-calendar.rrfcnetwork.org/explorer/view/id/650?1#category1. Additionally, a team of NYSED Special Education Policy, Program Development and SEQA staff who work with early childhood issues and programs participate regularly in the monthly CoP calls sponsored by NECTAC to gain insight into critical issues and benchmark practices nationally.

- In the 2009-10 year, IDEA discretionary funds were used to fund a project to provide inservice training on cultural and linguistic diversity to preschool providers in NYC who work with preschoolers who speak native languages other than English. The Intensive Teacher Institute in Bilingual Special Education (ITI-BSE) provided tuition assistance for preschool evaluators across the State to obtain bilingual certification and for bilingual paraprofessionals to receive initial certification in special education and speech. Seventy-nine recipients of tuition assistance from the ITI-BSE who were working in preschool programs for students with disabilities completed coursework leading to a bilingual extension to the certification in special education, speech, counseling, social work, or school psychology.

- During 2009-10, Office of Special Education staff and bilingual specialists from the Regional Special Education Technical Assistance Support Centers and staff from the Bilingual/English as second language (ESL) Technical Assistance Centers provided technical assistance to districts that were conducting bilingual evaluations for preschoolers.

- The State and NYC are implementing court settlement actions under two court cases: DD and Jose P., both relating to timely evaluations and placements of students with disabilities.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 *[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 / 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. Students whose 3rd birthday is after August 31after the full school year for whom data are reported are excluded from this number.
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 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 2009 (2009-10 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 2009:

In FFY 2009**, 64.5** percent of children referred from Part C had their eligibility for Part B determined or IEP implemented by their 3rd 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 timelines associated with this indicator.

Children referred from Part C who had their eligibility for Part B determined or IEP implemented by their 3rd birthday		
	FFY 2008	FFY 2009
a. Number of children who have been served in Part C and referred to Part B for Part B eligibility determination (Students whose 3rd birthday is after August 31 after the full school year for whom data are reported are excluded from this number.)	2,849	2,641
b. Number of those referred determined to be NOT eligible and whose eligibility was determined prior to third birthday	135	146
c. Number of those found eligible who have an IEP developed and implemented by their third birthdays	306	385

Children referred from Part C who had their eligibility for Part B determined or IEP implemented by their 3rd birthday		
	FFY 2008	**FFY 2009**
d. Number for whom parent refusals to provide consent caused delays in evaluation or initial services	1,133	522
e. Number of children who were referred to Part C less than 90 days before their third birthdays *[This information is not required until the 2011 submission but may be reported in 2010 if the State's data are available.]*	19	22
f. Number of children whose parents chose to continue their child in Early Intervention Program	1,032	1,246
g. Number of children who either moved (10), # of children who died (0), # of children who started receiving services on the recommended program's beginning date, even though it was after the child's third birthday (98)	121	108
Number in a but not in b, c, d, e, f or g.	**103**	**212**
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	**75%**	**64.5%**

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

In FFY 2009, there were 212 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 in FFY 2009				Unknown	Total	Percent Of Total
	1-10	11-20	21-30	Over 30			
An approved evaluator was not available to provide an evaluation.	2	2	5	21		30	14.2%
Additional evaluations were requested outside of the required timeline.	0	0	0	2		2	0.9%
There were evaluator delays in completing the evaluation.	2	4	5	54		65	30.7%

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 in FFY 2009				Unknown	Total	Percent Of Total
	1-10	11-20	21-30	Over 30			
Delays in scheduling the CPSE meetings	4	3	4	98		109	51.4%
The recommended Part B services were not available when child turned three years of age.	0	0	0	1		1	0.5%
Inaccurate or incomplete data					5	5	2.4%
Total	8	9	14	176	5	212	100%
Percent of Total	3.8%	4.2%	6.6%	83.0%	2.4%		

Discussion of Improvement Activities Completed <u>and</u> Explanation of Progress or Slippage that occurred for FFY 2009:

Explanation of Progress or Slippage:

In 2009-10, NYS' compliance rate decreased from 75 percent in FFY 2008-09 to 64.5 percent. NYS' data are collected from a different sample of school districts that are all representative of the State each year. The only school district included in each year's sample is New York City (NYC). NYC's rate declined to 53.2 percent compared to 57.4 percent in 2008-09, contributing to the State's lower performance.

A review of the length of delays indicates: 3.8 percent of all delays in completing initial evaluations were for 1-10 days; 4.2 percent for 11-20 days; 6.6 percent for 21-30 days; and 83 percent for more than 30 days. The number of days of delay has not been determined for 5 children by the time this report was prepared.

A review of the reasons for the delays indicates: 14.2 percent of delays were because an approved evaluator was not available to provide an evaluation; 0.9 percent because additional evaluations were requested outside of the required timeline; 30.7 percent of delays were evaluator delays in completing the evaluation; 51.4 percent were related to timeliness of scheduling CPSE or Committee on Special Education (CSE) meetings to determine eligibility; and 0.5 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 five, or 2.4 percent, of children by the time this report was prepared.

- There has been significant improvement in the percentages of delays caused by evaluator delays in completing the evaluations (from 22 percent in FFY 2008 to 14.2 percent in FFY 2009), an issue which the State has been directly addressing statewide through its oversight of approved evaluators. One major root cause of this reason for delays relates to personnel shortages, particularly in NYC and the other Big Four cities. The State and NYC are implementing court settlement actions under the *Jose P.* court case relating to availability of professionals in personnel shortage areas (e.g., speech and language and bilingual evaluators). An additional root cause factor for these delays is the State's inability at this time to approve any new evaluators to address availability of approved evaluators, in part due to corporate professional practice limitations for private approved evaluation programs (which the State is attempting to address through legislation).

- There was a significant increase in delays in scheduling the CPSE meetings (from 15 percent in FFY 2008 to 51.4 percent in FFY 2009), primarily in NYC (see below for actions the State is taking to address this issue).

- There was a significant decrease in the percent of delays resulting in lack of approved evaluators available to provide a timely evaluation (48 percent in FFY 2008 to 14 percent).

Correction of FFY 2008 Findings of Noncompliance (if State reported less than 100 percent compliance)

In FFY 2008, NYS issued notifications of noncompliance for this indicator to 17 school districts. School districts that submitted data representing the 2008-09 school year were issued noncompliance notifications in the 2009-10 school year, so the State will report on their correction of noncompliance in the next APR, due February 1, 2012. The chart below provides information on the timely correction of noncompliance among these 17 school districts. Each school district represents one finding.

1. Number of findings of noncompliance the State made during FFY 2008 (the period from July 1, 2008 through June 30, 2009)	17
2. Number of FFY 2008 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)	10
3. Number of FFY 2008 findings not verified as corrected within one year [(1) minus (2)]	7

Correction of FFY 2008 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2008 findings not timely corrected (same as the number from (3) above)	7
5. Number of FFY 2008 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	6
6. Number of FFY 2008 findings not yet verified as corrected [(4) minus (5)]	1

Actions Taken if Noncompliance Found Is Not Corrected:
For FFY 2008 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 one school district with continuing noncompliance is NYC. While individual students have since had their IEPs implemented, NYC reports compliance annually for this indicator based on a representative sample of students. Where the annual report does not demonstrate compliance, the State continues to cite this district for each year it cannot demonstrate that 100 percent of its students had their IEPs implemented by their third birthdays. This noncompliance finding is the same as is reported for FFY 2008. State monitoring staff conduct monthly meetings to follow up on the district's actions to achieve compliance.

The State and NYC are implementing a Court Order Settlement Agreement for the timely evaluation and placement of preschool children. (*D.D. et. al. v New York City Board of Education*).

A major root cause of noncompliance for this indicator relates to personnel shortage areas, particularly in NYC. The State and NYC are implementing court settlement actions under the *Jose P*. court case relating to timely evaluations and placements of students and personnel shortages.

The State provided electronic notification at three-month intervals to school districts as a reminder of the noncompliance that needs to be corrected and the next steps that would be taken should timely correction not occur. If a school district did not correct its noncompliance within 30 days of its nine-month notice, then the State required it to develop a corrective action plan that included:

- The reasons for the school district's failure to provide each eligible preschool child transitioning from early intervention (EI) services with special education services by the child's third birthday, which may include whether the:
  a. school district received the notification from the EI 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 EI 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 State notified the district of technical assistance resources available to assist with the school district's responsibility to correct the noncompliance for this indicator, including:

- Early Childhood Direction Centers (ECDC) – http://www.p12.nysed.gov/specialed/techassist/ecdc/locations.htm
- Special Education Quality Assurance (SEQA) Regional Offices - http://www.p12.nysed.gov/specialed/quality/regassoc.htm
- The National Early Childhood Technical Assistance Center (NECTAC) - http://www.nectac.org/

Verification of Correction of Noncompliance Found in FFY 2008 (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 requires school districts with less than a 100 percent compliance rate to submit a statement of assurance of correction of the identified noncompliance. The school superintendent must submit an assurance that the information reported to the State is accurate. Prior to the school district's submission that it has corrected the noncompliance, it is required to conduct a review to ensure that 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.

Based on a regional sampling methodology, select school districts that have submitted a statement of assurance of corrected noncompliance are selected on an ongoing basis by the New York State Education Department (NYSED) Office of Special Education for an on-site review to verify the accuracy of the report. If it is identified that the school district continues to have areas of noncompliance, NYSED issues and closely monitors a Compliance Assurance Plan (CAP) to address any instances of individual noncompliance as well as to resolve any underlying systemic reason(s) for the noncompliance.

During the FFY 2008, the State verified the timely correction of identified noncompliance, including individual student noncompliance as appropriate, in 10 of the 17 school districts using the above referenced review and assurance process. In addition, the State verified the correction of noncompliance in six (6) of the seven (7) remaining districts with noncompliance beyond 12 months through the use of on-site reviews conducted by State monitoring staff from Office of Special Education.

The other school district with continuing noncompliance is NYC. While individual students have since had their IEPs implemented, NYC demonstrates compliance annually for this indicator based on a representative sample of students. Where the annual report does not demonstrate compliance, the State continues to cite the district for each year it cannot demonstrate that 100 percent of its students had their IEPs implemented by their third birthdays. This noncompliance finding is the same as is reported for FFY 2009.

Correction of Remaining FFY 2007 Findings of Noncompliance (if applicable)

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.

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")	20
6. Number of FFY 2007 findings not yet verified as corrected [(4) minus (5)]	2*

To address one school district's finding of continuing noncompliance from the FFY 2007, State monitoring staff conducted an on-site review and issued a CAP. Additionally, State monitoring staff maintains ongoing contact and the district was required to develop and implement an action plan. If sufficient progress is not made regarding the resolution of the noncompliance, the State plans to redirect the district's IDEA funds to address the requirements of this indicator.

*The other school district with continuing noncompliance is NYC. While individual students have since had their IEPs implemented, NYC demonstrates compliance annually for this indicator based on a representative sample of students. Where the annual report does not demonstrate compliance, the State continues to cite the district for each year it cannot demonstrate that 100 percent of its students had their IEPs implemented by their third birthdays. This noncompliance finding is the same as is reported for FFY 2009. NYSED has directed this district to:

- develop a tracking system with specific targets throughout the school year for meeting evaluation and placement timelines. Data will be provided to the responsible administrators at set intervals throughout the school year and they will be held accountable for performance at the cluster, network and school levels;
- redirect a portion of its IDEA flow-through funds to hire CPSE administrators and clerical staff to reduce individual staff caseloads in order to meet mandated timeframes for evaluation and placement; and
- track the evaluation timeframes for approved preschool evaluation sites and notify sites of their compliance rates. NYSED and the district then follow-up with the providers and require corrective action. Failure to improve performance could result in the removal of the evaluators' approval status.

The State and NYC are also implementing a Court Order Settlement Agreement for the timely placement of preschool children. (*D.D. et. al. v New York City Board of Education*).

Another major root cause of noncompliance for this indicator relates to personnel shortage areas, particularly in NYC. The State and NYC are implementing court settlement actions under the *Jose P*. court case relating to timely placements of students and personnel shortages.

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.

Not applicable. NYS issued notifications of noncompliance in FFY 2007 based on data submitted for the FFY 2006 school year.

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.

Not applicable. NYS issued notifications of noncompliance in FFY 2007 based on data submitted for the FFY 2005 school year.

Additional Information Required by the Office of Special Education Programs (OSEP) APR Response Table (if applicable)

Statement from the OSEP Response Table	State's Response
The State must demonstrate, in the FFY 2009 APR, that the State is in compliance with the early childhood transition requirements in 34 CFR §300.124(b). Because the State reported less than 100% compliance for FFY 2008, the State must report on the status of correction of noncompliance reflected in the data the State reported for this indicator.	To date, the State has verified the correction of 16 of 17 findings of noncompliance identified for this indicator from the FFY 2008. This represents 94.1 percent of all identified findings of noncompliance for this indicator. Because of the size of NYC, the State is unable to ensure, based on the re-reporting of compliance data from NYC annually for this indicator, that it has corrected the root causes resulting in less than 100 percent compliance.

Statement from the OSEP Response Table	State's Response
When reporting on the correction of noncompliance, the State must report, in its FFY 2009 APR, that it has verified that each LEA with noncompliance reflected in the FFY 2008 data the State reported for this indicator, each LEA with noncompliance reflected in the FFY 2007 data the State reported for this indicator in the FFY 2007 APR, and each LEA with the remaining four uncorrected noncompliance findings identified in FFY 2007 (based on FFY 2005 and FFY 2006 data): (1) is correctly implementing 34 CFR §300.124(b) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has developed and implemented the IEP, although late, for any child for whom implementation of the IEP was not timely, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02. In the FFY 2009 APR, the State must describe the specific actions that were taken to verify the correction.	The State verified 16 of 17 or 94.1 percent of FFY 2008 findings and conducted on-site reviews to address any over 12 month noncompliance. As a result, 6 of 7 or 85.7 percent of school districts with over 12 month findings of noncompliance are now in compliance with the requirements of this indicator. See above explanation regarding NYC. In the FFY 2007, the State verified 26 of 28 or 92.8 percent of school districts with findings of noncompliance and conducted on-site reviews to address any over 12-month noncompliance. As a result, 20 of 22 or 90.9 percent of school districts with over 12-month noncompliance are now in compliance with the requirements of this indicator. An on-site review was conducted and a CAP was issued in the one upstate school district with noncompliance over 12 months. Additional enforcement actions have also been implemented to address this district's noncompliance. See above explanation of NYC noncompliance.
If the State does not report 100% compliance in the FFY 2009 APR, the State must review its improvement activities and revise them, if necessary.	The State and NYC are implementing a Court Order Settlement Agreement for the timely placement of preschool children. (*D.D. et. al. v New York City Board of Education*). A major root cause of noncompliance for this indicator relates to personnel shortage areas, particularly in NYC. The State and NYC are implementing court settlement actions under the *Jose P*. court case relating to timely placements of students.

Improvement Activities Completed in 2009-10

- The Office of Special Education accessed technical assistance from NECTAC to further inform its activities to improve transition from Part C EI programs to Part B preschool special education programs.

- In May 2010, NYSED issued annual determination letters to superintendents of school districts that were identified as having noncompliance for Indicator 12. The NECTAC checklist, "Local Corrective Action Plans: Collection and Use of Valid and Reliable Data for Determining Factors Contributing to Noncompliance" (2008), was referenced to provide school districts with examples of questions that should be considered when investigating contributing factors for noncompliance and developing improvement strategies.
  - Links to federal and State technical assistance resources were also included in the annual determination letters to assist district personnel to better understand the issues and effective practices pertaining to Indicator 12. The link for NECTAC (http://www.nectac.org/) was among the resources listed.
  - Office of Special Education staff participated in monthly Communities of Practice (CoP), hosted by various federal technical assistance centers, in an effort to keep updated on the latest policy information and new resources that NYSED could use directly or share with stakeholder groups. Included in the monthly CoP calls were those sponsored by NECTAC relating to Indicator 12.

- To improve timely correction of noncompliance, the Office of Special Education continued the use of electronic notices, sent to school districts at three-month intervals, as a reminder of the noncompliance that needs to be corrected and the next steps that will be taken by the Office of Special Education should timely correction not occur. The State's monitoring staff also receive copies of the electronic notices and take appropriate proactive actions, including direct follow-up upon a finding that noncompliance was not corrected within nine months.

- The State continued to provide a three-day training program for chairpersons of CSEs and CPSEs, which includes specific training on the timelines and process for evaluations, eligibility and IEP development.

- The State's funded 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 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.rrfcnetwork.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 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 2009 *[If applicable]*

A new RFP was issued in FFY 2009 for a technical assistance center to address significant shortages of certified preschool providers who hold bilingual extensions and therefore are qualified to provide services to preschoolers with disabilities who are limited English proficient.

Data will be analyzed by regions of the State and used in developing regional strategies for 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: Effective General Supervision Part B / Effective Transition

Indicator 13: Percent of youth with IEPs aged 15 and above with an individualized education program (IEP) that includes appropriate measurable post-secondary 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 post-secondary goals, and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the IEP Team meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority. (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 beginning with the IEP in effect when the student turns age 15. In NYS, the IEP Team is the Committee on Special Education (CSE).

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.

Measurement used as of school year 2009-10:
Percent = [(# of youth with IEPs aged 15 and above with an IEP that includes appropriate measurable post-secondary 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 post-secondary goals, and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the 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) divided by the (# of youth with an IEP age 15 and above)] times 100.

Data Source:
NYS uses data taken from State monitoring.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2009 (2009-10 school year)	100 percent of youth* aged 15 and above will have IEPs that include appropriate measurable post-secondary 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 post-secondary goals, and annual IEP goals related to the student's transition services needs, with evidence that the student was invited to the 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.

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

Actual Target Data for FFY 2009:

Year	Number of Youth Age 15 and Above Whose Transition IEPs were Reviewed	Number of IEPs in Full Compliance with all Transition Requirements	Percent of IEPs in Full Compliance with all Transition Requirements
FFY 2008	3,290	2,029	61.7%
FFY 2009	See SPP for new baseline data	See SPP for new baseline data	See SPP for new baseline data

See SPP for new baseline data

Discussion of Improvement Activities Completed <u>and</u> Explanation of Progress

See SPP for new baseline data, targets and improvement activities.

Correction of FFY 2008 Findings of Noncompliance:

1. Number of findings of noncompliance the State made during FFY 2008 (the period from July 1, 2008 through June 30, 2009)	523 (127 school districts)
2. Number of FFY 2008 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)	291 (75 school districts)
3. Number of FFY 2008 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	232 (52 school districts)

Correction of FFY 2008 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2008 findings not timely corrected (same as the number from (3) above)	232 (52 school districts)
5. Number of FFY 2008 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	223 (50 school districts)
6. Number of FFY 2008 findings <u>not</u> yet verified as corrected [(4) minus (5)]	9 (2 school districts)

Actions Taken if Noncompliance Found in FFY 2008 Is Not Corrected:
For FFY 2008 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.

There remain two school districts in the State that have not corrected findings relating to this indicator as identified in FFY 2008. One of these districts has continuing noncompliance with one finding. In the other school district, which is one of NYS' largest school districts, there are 8 findings uncorrected.

The State provided electronic notification at three-month intervals to school districts as a reminder of the noncompliance that needs to be corrected and the next steps that would be taken should timely correction not occur. For each school district that did not correct its noncompliance within 30 days of its nine-month notice, the State required the district to develop a corrective action plan that includes:

- the reasons for the school district's failure to provide each student with an appropriate 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 monitored the districts' implementation of the above-referenced corrective action plans and required them to be submitted to the Office of Special Education. The Office of Special Education monitoring staff conducted on-site reviews in each of the districts with identified noncompliance beyond one year to determine the status of the districts' correction of noncompliance. Using this process, the State has verified the correction of 50 of the 52 school districts with findings of noncompliance beyond the one-year timeline.

For the school district with one finding of uncorrected noncompliance from FFY 2008, the State conducted an on-site review and issued a Compliance Assurance Plan (CAP), which included a description of the specific noncompliance, identification of the root cause(s) of the continuing noncompliance, and the activities the district must take to achieve compliance with the requirements of this indicator. In addition to the New York State Education Department (NYSED) technical assistance, this district received direct technical assistance from the Regional Special Education Technical Assistance Support Centers (RSE-TASC), including embedded professional development on the district's delivery of specially-designed instruction from an RSE-TASC school improvement specialist and direct technical assistance from the RSE-TASC transition specialist to address the quality of transition planning in the district.

For the district with eight findings of continuing noncompliance (New York City (NYC)), in addition to the above actions, the State funds three full-time equivalent RSE-TASC transition specialists to provide technical assistance to district staff to improve transition planning. NYC Department of Education (NYCDOE) created a Transition Services Center to address noncompliance for this indicator. The Transition Services Center will work in collaboration with the RSE-TASC transition specialists to provide professional development and technical assistance to address the root causes for NYC's continuing noncompliance. NYSED directed NYC to develop a tracking system with specific targets throughout the school year for addressing the development of transition plans for students with disabilities. Data will be provided to the responsible administrators at set intervals throughout the year. In addition, NYC, with assistance from the State's RSE-TASC training specialists, is conducting comprehensive city-wide training on a new IEP management system which will require documentation of transition goals and activities on the State's new IEP form. This training also addresses quality IEP development and transition planning.

Verification of Correction of FFY 2008 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.

In the FFY 2008, the State verified timely correction of noncompliance in 75 of the 127 school districts with findings of noncompliance for this indicator. To verify correction of noncompliance, the State required the school 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 2008-09 school year and for whom the district continues to have CSE responsibility, the CSE has met to develop a new IEP that is in compliance with the transition requirements. In addition, the school 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. Upon completion of the individual IEP reviews, and a determination that the district has resolved the reason(s) for the noncompliance, the school superintendent was required to provide a written assurance verifying accuracy of the district's report to the State. All reports to the State are subject to verification.

Based on a regional sampling methodology, the State selected school districts that had submitted a statement of assurance of corrected noncompliance for a State on-site review to verify the accuracy of their report. If it was identified that the school district continued to have areas of noncompliance, the State issued a CAP to address any instances of individual noncompliance, as well as to resolve any underlying systemic reason(s) for the noncompliance. The State also verifies the correction of noncompliance for NYC by requiring annual monitoring for compliance with this indicator.

Correction of Remaining FFY 2007 Findings of Noncompliance (if applicable):
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.

1. Number of findings of noncompliance the State made during FFY 2007 (the period from July 1, 2007 through June 30, 2008)	391 (83 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 local educational agency (LEA) of the finding)	247 (48 school districts)
3. Number of FFY 2007 findings not verified as corrected within one year [(1) minus (2)]	144 (35 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)	144 (35 school districts)
5. Number of FFY 2007 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	135 (33 school districts)
6. Number of FFY 2007 findings not yet verified as corrected [(4) minus (5)]	9 (2 school 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.

In one school district with continuing noncompliance from the FFY 2007, an on-site review was conducted and a CAP issued to address the underlying causes of the two findings of noncompliance specific to this district. The district received technical assistance from NYSED staff as well as from the RSE-TASC specialists. The State identified this district as a district in need of intervention, in part related to its compliance issues for this indicator, and has initiated enforcement actions with this district including a redirection of a portion of its IDEA funds to implement a corrective action plan.

The other school district is NYC, See actions for FFY 2008 above.

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

To verify correction of 2007 noncompliance, the State required the school 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 and for whom the district continues to have CSE responsibility, the CSE has met to develop a new IEP that is in compliance with the transition requirements. In addition, the school 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. Upon completion of the individual IEP reviews, and a determination that the district has resolved individual noncompliance and, based on a review of sample IEPs of other students, verification that the district has addressed the reason(s) for the noncompliance, the school superintendent was required to provide a written assurance

verifying accuracy of the district's report to the State. All reports to the State were subject to verification. In addition to individual IEP reviews to verify the two-prong correction of noncompliance for NYC, the State also requires 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.

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 school 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)	62 (12 school districts)
3. Number of FFY 2006 findings not verified as corrected within one year [(1) minus (2)]	463 (93 school 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)	463 (92 school districts)
5. Number of FFY 2006 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	456 (92 school districts)
6. Number of FFY 2006 findings not yet verified as corrected [(4) minus (5)]	7 (1 school district)

Ninety-nine percent (99%) of all findings from FFY 2006 have been corrected to date.

The one district is NYC. See above report on actions to correct noncompliance with the indicator in NYC.

Verification of Correction of FFY 2006 Noncompliance (either timely or subsequent):

See above section on Verification of Correction of FFY 2007 Noncompliance.

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 Office of Special Education Programs (OSEP) APR Response Table for this Indicator (if applicable):

Statement from the OSEP Response Table	State's Response
In the FFY 2009 APR, the State must provide a revised baseline using data from 2009-10. Targets must remain 100%.	See State Performance Plan
The State must demonstrate, in the FFY 2009 APR that the remaining 21 uncorrected noncompliance findings identified in FFY 2007 were corrected. When reporting on the correction of noncompliance, the State must report in its FFY 2009 APR, that it has verified that each LEA with the remaining 21 findings of noncompliance identified in FFY 2007: (1) is correctly implementing 34 CFR §300.320(b) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; 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. In the FFY 2009 APR, the State must describe the specific actions that were taken to verify the correction.	Last year, the State reported that there were 21 FFY 2007 findings not yet verified as corrected in five school districts. The State verified the correction of all but seven findings in four of the five school districts. Upon verification review, the State found that the remaining school district had not met compliance for this indicator, even though it had reported that it had. In the FFY 2007, the State verified 81 of 83 or 97.5 percent of school districts with findings of noncompliance and conducted on-site reviews to address any over 12 month noncompliance. As a result, 33 of 35 or 94.2 percent of school districts with over 12 month findings of noncompliance are now in compliance with the requirements of this indicator. As previously explained, to address the two remaining school districts with uncorrected noncompliance, the State has initiated appropriate monitoring actions. See revisions to improvement activities below regarding verification of the correction of noncompliance.

Improvement Activities Completed in 2009-10

- NYSED 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 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).

- To improve timely correction of noncompliance, the Office of Special Education continued the use of electronic notices, sent to school districts at three-month intervals, as a reminder of the noncompliance that needs to be corrected and the next steps that will be taken by the Office of Special Education should timely correction not occur. Special education monitoring staff also received copies of the

electronic notices and take appropriate proactive actions, including direct follow-up upon a finding that noncompliance was not corrected within nine months.

- A three-day training program for CSE chairpersons was developed and delivered. This training, delivered in multiple sessions in each region of the State, provided extensive information on appropriate IEP development and transition planning.

- The State issued a State Model IEP form in 2010 with accompanying guidance and provided on-line and regional training on its use. 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.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 *[If applicable]*

To ensure both individual and systemic correction of noncompliance for this indicator, the State instituted a new reporting and verification process as follows:

To Report Correction of Noncompliance:

A school district must submit to NYSED a two-part statement of assurance of correction. For each step, documentation must be made available to NYSED upon request that demonstrates that:

1. A CSE meeting was convened for each identified student whose IEP was found to not be in compliance with all of the transition planning requirements and that the student and, if appropriate, a representative of any participating agency were invited to the meeting.
2. The IEP was revised as appropriate.
3. The revised IEP was reviewed using the Compliance Review Form (Attachment 3) of the Self Review Monitoring Protocol for Indicator 13 available at http://www.p12.nysed.gov/specialed/spp/13selfreview2010rev.htm
4. The district has addressed the reasons why students' IEPs were not appropriately developed to ensure that all current and future students with disabilities have appropriate transition goals and services on their IEPs.

If a district is not able to report the correction of noncompliance:

Within 30 days of the date of this notification, in order to identify and address any issues of continuing noncompliance, the district is directed to develop a corrective action plan (CAP) using the template, found at http://www.p12.nysed.gov/specialed/formsnotices/noncompliance.htm and mail the CAP to its Special Education Quality Assurance (SEQA) Regional Office. The CAP must include:

- The names of those students whose IEPs have not been corrected as described above.
- The reasons for the district's failure to provide each student with an appropriate IEP;

- The activities the district will take to achieve compliance which must identify the individuals responsible for these activities and the timelines for completing the activities.
- A timeline that ensures that all issues will be corrected as soon as possible with regular progress monitoring and reporting to NYSED.

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: Percent of youth who are no longer in secondary school, had individualized education programs (IEPs) in effect at the time they left school, and were:

A. Enrolled in higher education within one year of leaving high school.

B. Enrolled in higher education or competitively employed within one year of leaving high school.

C. Enrolled in higher education or in some other postsecondary education or training program; or competitively employed or in some other employment within one year of leaving high school.

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

Measurement:

A. Percent enrolled in higher education = [(# of youth who are no longer in secondary school, had IEPs in effect at the time they left school and were enrolled in higher education within one year of leaving high school) divided by the (# of respondent youth who are no longer in secondary school and had IEPs in effect at the time they left school)] times 100.

B. Percent enrolled in higher education or competitively employed within one year of leaving high school = [(# of youth who are no longer in secondary school, had IEPs in effect at the time they left school and were enrolled in higher education or competitively employed within one year of leaving high school) divided by the (#of respondent youth who are no longer in secondary school and had IEPs in effect at the time they left school)] times 100.

C. Percent enrolled in higher education, or in some other postsecondary education or training program; or competitively employed or in some other employment = [(# of youth who are no longer in secondary school, had IEPs in effect at the time they left school and were enrolled in higher education, or in some other postsecondary education or training program; or competitively employed or in some other employment) divided by the (# of respondent youth who are no longer in secondary school and had IEPs in effect at the time they left school)] times 100.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2009 (2009-10 school year)	Baseline, targets and improvement activities will be provided in the FFY 2009 SPP being submitted February 1, 2011.

Actual Target Data for FFY 2009:

Data for FFY 2009 represents baseline data and is provided in the SPP, revised February 2011.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that Occurred for FFY 2009:

- Improvement activities for FFY 2009 are reported in the SPP Indicator 14 section.
- Also, see Indicators 1, 2, 8 and 13.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 *[If applicable]*

See SPP

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 2009 (2009-10 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 2009:

75.1 percent of noncompliance issues identified between July 1, 2008 and June 30, 2009 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 2008 (7/1/08 to 6/30/09)	(a) # of Findings of noncompliance identified in FFY 2008 (7/1/08 to 6/30/09)	(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 4/12/11
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.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	7	23	21	2	0
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	1	1	0	0	1
7. Percent of preschool children with IEPs who demonstrated improved outcomes2.	Dispute Resolution: Complaints, Hearings	1	1	1	0	0

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2008 (7/1/08 to 6/30/09)	(a) # of Findings of noncompliance identified in FFY 2008 (7/1/08 to 6/30/09)	(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 4/12/11
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	109	373	269	61	43
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	37	36	1	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	144	457	359	51	47
6. Percent of preschool children aged 3 through 5 – early childhood placement.	Dispute Resolution: Complaints, Hearings	58	120	111	6	3

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2008 (7/1/08 to 6/30/09)	(a) # of Findings of noncompliance identified in FFY 2008 (7/1/08 to 6/30/09)	(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 4/12/11
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	30	48	44	2	2
	Dispute Resolution: Complaints, Hearings	27	47	47	0	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	53	86	69	5	12
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	5	5	5	0	0
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	154	246	187	52	7
	Dispute Resolution: Complaints, Hearings	11	12	12	0	0

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2008 (7/1/08 to 6/30/09)	(a) # of Findings of noncompliance identified in FFY 2008 (7/1/08 to 6/30/09)	(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 4/12/11
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	17	17	10	6	1
	Dispute Resolution: Complaints, Hearings	2	2	2	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	194	674	434	229	11
	Dispute Resolution: Complaints, Hearings	3	5	5	0	0

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2008 (7/1/08 to 6/30/09)	(a) # of Findings of noncompliance identified in FFY 2008 (7/1/08 to 6/30/09)	(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 4/12/11
Other areas of noncompliance: Behavioral Intervention Plans	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	68	182	122	25	35
	Dispute Resolution: Complaints, Hearings	9	16	15	0	1
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	0	0	0	0	0
	Dispute Resolution: Complaints, Hearings	1	1	1	0	0
Other areas of noncompliance: Discipline	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	13	15	11	2	2
	Dispute Resolution: Complaints, Hearings	3	6	6	0	0

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2008 (7/1/08 to 6/30/09)	(a) # of Findings of noncompliance identified in FFY 2008 (7/1/08 to 6/30/09)	(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 4/12/11
Other areas of noncompliance: Educational Facilities	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	14	18	17	0	1
	Dispute Resolution: Complaints, Hearings	4	5	5	0	0
Other areas of noncompliance: IEP Development/Implementation	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	77	115	93	8	14
	Dispute Resolution: Complaints, Hearings	14	21	21	0	0
Other areas of noncompliance: Personnel Qualifications	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	8	12	6	5	1
	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 2008 (7/1/08 to 6/30/09)	(a) # of Findings of noncompliance identified in FFY 2008 (7/1/08 to 6/30/09)	(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 4/12/11
Other areas of noncompliance: Residential Placement	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	0	0	0	0	0
	Dispute Resolution: Complaints, Hearings	0	0	0	0	0
Other areas of noncompliance: Situation Unique	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	50	101	76	11	14
	Dispute Resolution: Complaints, Hearings	9	10	10	0	0
Sum of the numbers down Column a and Column b			2664	1995	452	217
Percent of noncompliance corrected within one year of identification = (column (b) sum divided by column (a) sum) times 100. **1995 (b) /2664 (a) = X 100 =75%**			**(b) / (a) X 100 = 75**			

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 (NYC) 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;
- 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;
- 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); and,
- 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 plus 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 reviews and/or technical assistance whenever the State’s Annual Determinations process identifies a school district as needing assistance or intervention. NYS considers each district's performance in relation to the State's targets in the areas of graduation rates, dropout 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 and/or which districts would benefit from intensive technical assistance.

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. Facilities operated by the NYS Office of Children and Family Services (OCFS) are monitored every four years as required by statute.

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. In 2010, the State required 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 2009:

Explanation of Progress or Slippage

The State improved its performance for this indicator by 2.5 percentage points. In the 2010 APR, the State reported that 72.5 percent of noncompliance issues identified through the State's general supervision system (including monitoring, State complaints, hearings, etc.) were corrected within one year of identification as compared to this year's APR report of 75 percent.

The improvement in the correction of noncompliance within 12 months reflects the State's continuing progress in designing systems and processes to manage implementation of the State Performance Plan (SPP). NYS has 682 public school districts, including the Big 5 School Districts of NYC, Yonkers, Syracuse, Buffalo and Rochester; 37 BOCES; 403 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 2008 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 2008 (the period from July 1, 2008 through June 30, 2009) (Sum of Column a on the Indicator B15 Worksheet)	2664
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)	1995
3. Number of findings not verified as corrected within one year [(1) minus (2)]	669

Correction of FFY 2008 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2008 findings not timely corrected (same as the number from (3) above)	667
5. Number of findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	452
6. Number of findings not yet verified as corrected [(4) minus (5)]	217

Actions Taken if Noncompliance Not Corrected

For FFY 2008 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 217 FFY 2008 findings of noncompliance that have not yet been verified as corrected by the State (line 6 above), four (4) of the findings resulted from State complaint investigations and 151 were the result of focused monitoring reviews. Throughout FFY 2009, the State's monitoring staff 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 were sent to district programs as a matter of practice.

For some of the approved private school or Special Act School district programs with continued lack of compliance, the State met jointly with the school and agency boards of education. In some instances, the State notified agencies that failure to correct the noncompliance would result in a removal of the school from the State's list of approved schools.

The remaining 62 FFY 2008 findings of continuing noncompliance in seven school districts resulted from the State's monitoring of the SPP Indicators. The State instituted a revised process to follow up on all unresolved noncompliance in 2009-10, which included issuance of three and six month notices to districts reminding them of the requirement to resolve the noncompliance within 12 months and if unable to resolve the noncompliance, a nine-month notice was issued directing the district to develop a corrective action plan. In addition, the State's monitoring staff are in contact with these districts to determine the ongoing 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.

In FFY 2009, on-site reviews were scheduled in each district that did not submit an assurance that they successfully corrected noncompliance that continued beyond 12 months after identification. During the on-site review, monitoring staff determined the reasons or root causes that the district has not successfully corrected the noncompliance. Monitoring staff required specific corrective actions to resolve any remaining instances of noncompliance and follows up with the district until verification of resolution is complete.

In FFY 2009, the State required each school district identified by the State under the Annual Determination process 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 Special Education conducted regular meetings with the NYC 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 FFY 2009, 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 FFY 2009, the State provided each school district with data indicating disproportionality by race/ethnicity (Indicators 9 and 10) with technical assistance support from the State's Technical Assistance Center on Disproportionality (TAC-D).

IDEA discretionary funds were directed in the 2009-10 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. From the inception in 2006-07 of grant initiatives through the 2009-10 school year, 391 teachers who were awarded grant funds for course work have achieved certification in a teaching discipline, including 95 teachers achieving certification in 2009-10. The State also used its IDEA discretionary funds to support intensive teacher institutes and to fund personnel preparation projects to address personnel shortages in bilingual areas (such as special education teachers, psychologists and speech and language therapists.)

The State continues to implement Court Order Settlement Agreements (DD, Ray M., Jose P.) for the timely evaluation and placement of preschool children.

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 process for Verification of Correction of Noncompliance is 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.

For all related findings of noncompliance, verification of correction of noncompliance includes confirmation that there is documentation that the LEA is (1) correctly implementing the specific regulatory requirements; and (2) that it has corrected each individual case of noncompliance, unless the student is no longer within the jurisdiction of the LEA.

For noncompliance cited in monitoring, State complaints and hearing decisions:

The State verified that the district has corrected the issue for the individual student through such means (as applicable to the specific finding) as a review of written reports, revised notices to parents, revised IEPs, observation in classrooms, etc.. Compliance assurance plans (CAP) identify the specific documentation required for submission to the State to verify the correction of noncompliance. In addition, as applicable to the specific finding, the State reviews other student records, conducts observations in other classrooms, etc. to ensure that the issue has been corrected for all students. The size of the verification sample varied based on such factors as the specific compliance issue, size of the district, and initial extent of the findings of noncompliance.

Also see specific processes for verification of correction reported under Indicators 4, 9, 10, 11, 12 and 13. These processes are described below:

Issues relating to suspension and review of policies, practices and procedures relating to development and implementation of IEPs, the uses of positive behavioral interventions and supports and procedural safeguards for students with disabilties subject to discipline (Indicator 4):

The State verified correction of noncompliance for Indicator 4 as follows:

- For noncompliance identified based on self-reviews, when the school district reported correction of noncompliance to the State, the State required an assurance from the school superintendent that each instance of noncompliance was corrected and that the information reported is accurate.
- For noncompliance identified based on on-site monitoring, the State's monitoring staff followed up with each district to assure that the CAP was fully implemented and verified, through review of revised policies and a sample of student records, that the district is correctly implementing the specific regulatory requirements and that individual instances of noncompliance had been corrected.

Issues relating to disproportionality by race/ethnicity (Indicators 4b, 9 and 10):

For correction of noncompliance identified through self-review monitoring reports, the State required that the school district submit its report of correction of each issue of noncompliance with an assurance by the School Superintendent of its accuracy and each district was required to publicly report on revisions to its policies, procedures and practices.

In the State's process to verify the correction of noncompliance identified through on-site monitoring, the State followed up with each district to assure that the CAP was fully

implemented. The State reviewed, as appropriate, all or a sample of student records to ensure that the district is correctly implementing the specific regulatory requirements and that individual instances of noncompliance have been corrected.

For issues relating to timely evaluations (Indicator 11):

The State required school districts with less than a 100 percent compliance rate for this indicator to submit a statement of assurance from the School Superintendent of correction of the identified noncompliance. Prior to the school district's submission that it had corrected the noncompliance, it was required to conduct a review to ensure that each identified student, whose initial evaluation was not completed in compliance with State timelines, and for whom data was not already available in the Student Information Repository System (SIRS), had since had his or her initial evaluation completed. This information was to be documented on a form provided by the State and maintained by the district, subject to review by the State. The district was also required to monitor and document over a three-month period that all students (or a representative sample for the Big Four districts) had their individual evaluations completed within the required time period. These results were also required to be documented on a form provided by the State. NYC's annual submission of data for this indicator has been used to verify that all children are receiving their individual evaluations within the required timelines.

Based on a regional sampling methodology, selected school districts that have submitted a statement of assurance of corrected noncompliance were selected for verification reviews on the accuracy of their reports. If it was identified that the school district continued to have areas of noncompliance, a new corrective action plan was issued to address any instances of individual noncompliance, as well as to resolve any underlying systemic reason(s) for the noncompliance.

For noncompliance with the requirement that special education services be provided to preschool children with disabilities by their 3rd birthdays in compliance with State law (Indicator 12):

The State required school districts with less than a 100 percent compliance rate to submit a statement of assurance of correction of the identified noncompliance. The school superintendent was required to submit an assurance that the information reported to the State is accurate. Prior to the school district's submission that it has corrected the noncompliance, it is required to conduct a review to document on a form provided by the State that 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.

Based on a regional sampling methodology, the State selected school districts that had submitted a statement of assurance of corrected noncompliance for an on-site review to verify the accuracy of the report. If it was identified that the school district continued to have areas of noncompliance, NYSED issued and closely monitored a CAP to address

any instances of individual noncompliance as well as to resolve any underlying systemic reason(s) for the noncompliance.

For issues related to transition planning (Indicator 13):

To verify correction of noncompliance, the State required the school 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 and for whom the district continues to have CSE responsibility, the CSE has met to develop a new IEP that is in compliance with the transition requirements. In addition, the school 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. Upon completion of the individual IEP reviews, and a determination that the district has resolved the reason(s) for the noncompliance, the school superintendent was required to provide a written assurance verifying accuracy of the district's report to the State. All reports to the State were subject to verification.

Based on a regional sampling methodology, the State selected school districts that had submitted a statement of assurance of corrected noncompliance for a State on-site review to verify the accuracy of their report. If it was identified that the school district continued to have areas of noncompliance, the State issued a CAP to address any instances of individual noncompliance, as well as to resolve any underlying systemic reason(s) for the noncompliance. The State also verified the correction of noncompliance for NYC by requiring annual monitoring for compliance with this indicator.

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 contained in APR 2010)	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 from APR 2010)	1932
3. Number of findings not 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")	684
6. Number of findings not yet verified as corrected [(4) minus (5)]	49

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 FFY 2007 findings of noncompliance that had not been verified as corrected in the February 2010 APR, there remain four (4) findings from State complaint investigations and 30 findings from focused monitoring reviews that the State has been unable to verify as corrected.

The State's monitoring staff 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. For example, in NYC, the State's monitoring staff averaged five phone conferences with school administrators per issue to provide clarity and direction concerning unresolved noncompliance issues; required three to six separate document submissions for continuing noncompliant issues and conducted an average of three on-site visits per school.

Notices indicating required enforcement actions were 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 was 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 State required each school district identified by the State's Annual Determination process as Needing Assistance or Needing Intervention to obtain technical assistance and directed its State technical assistance providers to work with these districts to determine root causes and address instructional issues impacting performance and/or compliance.

Of the remaining 15 uncorrected findings of noncompliance from the FFY 2007 APR that are the result of the State's monitoring of the SPP Indicators, 10 are from one district (NYC) – two findings for Indicator 11 (NYC), one finding for Indicator 12 (NYC) and 7 findings for Indicator 13 (NYC). See specific actions taken to follow up on identified noncompliance reported on pages 114-115 for Indicators 11, 12 and 13.

NYSED monitoring staff held formal meetings with representatives of the NYCDOE that required the attendance of the district superintendent and the building principal to discuss barriers that precluded the school from coming into compliance and the need for providing and/or directing resources to the school to ensure compliance. For compliance issues where previous efforts did not result in full compliance the NYCDOE was directed to add personnel and redirect the use of its IDEA funds to the particular school to ensure compliance.

There were two districts with 27 findings of continuing noncompliance relating to Indicator 4B. To address continuing noncompliance, the State provided each school district with data indicating disproportionality by race/ethnicity for suspension with the opportunity for technical assistance support from the State's TAC-D. TAC-D worked with each district work to determine root causes and provided professional development.

IDEA discretionary funds were used 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 used 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.)

The State continues to implement Court Order Settlement Agreements (DD, Ray M., Jose P.) for the timely evaluation and placement of preschool children.

Verification of 2007 Correction (either timely or subsequent)

See Verification process cited above for 2008.

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	46
2. Number of remaining FFY 2006 findings the State has verified as corrected	31
3. Number of remaining FFY 2006 findings the State has NOT verified as corrected [(1) minus (2)]	15

Eight (8) findings relate to IEP development and implementation in NYC and seven (7) findings were found for Indicator 13 (transition planning) in NYC (see indicator 13 for actions taken).

The State has developed an IEP form which will be required to be used in the 2011-2012 school year to address many of the continuing IEP deficiencies seen across the State. Training programs on the use of the IEP form are being offered regionally by the State supported RSE-TASC network. In addition, the State has posted on the New York State Education Department's (NYSED) website training presentations, guidance and extensive question and answer documents relating to IEP development and related procedural requirements of meeting notice and prior written notice.

Some of the IEP implementation issues relate to personnel shortages.

- The State used 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).

- The State continues to implement Court Order Settlement Agreements (DD, Ray M., Jose P.) for the timely evaluation and placement of preschool children.

Verification of 2006 Correction of Noncompliance (either timely or subsequent)

See Verification process cited above for 2008.

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.

4. Number of remaining FFY 2005 and 2004 findings noted in the Office of Special Education Programs' (OSEP) June 1, 2009 FFY 2007 APR response table for this indicator	17
5. Number of remaining FFY 2005 and 2004 findings the State has verified as corrected	17
6. Number of remaining FFY 2005 findings the State has NOT verified as corrected [(1) minus (2)]	**0**

All issues of noncompliance from FFY 2005 or earlier have been resolved.

Verification of 2005 or earlier Correction of Noncompliance (either timely or subsequent)

See Verification process cited above for 2008.

Additional Information Required by the OSEP APR Response Table

Statement from the OSEP Response Table	State's Response
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 2009 APR demonstrating that the State timely corrected noncompliance identified by the State in FFY 2008 in accordance with 20 U.S.C. 1232d(b)(3)(E), 34 CFR §§300.149 and 300.600(e), and OSEP Memo 09-02.	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.
In reporting on correction of noncompliance in the FFY 2009 APR, the State must report that it verified that each LEA with noncompliance identified in FFY 2008: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; 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. In the	The State revised its practices to ensure the State has documentation that the LEA is correctly implementing the specific regulatory requirements and has corrected each individual case of noncompliance.

Statement from the OSEP Response Table	State's Response
FFY 2009 APR, the State must describe the specific actions that were taken to verify the correction.	
The State must demonstrate, in the FFY 2009 APR that the remaining 148 findings of noncompliance identified in FFY 2007, the remaining 46 findings of noncompliance identified in FFY 2006, and the remaining 17 findings of noncompliance identified in FFYs 2005 and 2004 that were not reported as corrected in the FFY 2008 APR were corrected.	For FFY 2007, of the 148 remaining findings of noncompliance reported in the FFY 2009 APR, the State has since verified the correction of noncompliance for all but 49 of the findings. See narrative above on actions the State has taken to address these issues. Of the 46 remaining findings of noncompliance identified in FFY 2006, the State has corrected all but 15 of the findings. See narrative above on actions the State has taken to address these issues. Of the remaining 64 issues, most are in NYC and many relate to IEP development and implementation and personnel certification findings. The State is implementing Court Order Settlement Agreements and action for the timely evaluation and placement of preschool children in New York City, which includes actions relating to personnel shortages *(Ray M and DD) and* Jose P. Court case in NYC. In addition, the State funds numerous IDEA discretionary projects designed to recruit, prepare and retain appropriately certified personnel and uses a significant portion of its discretionary funds to address personnel shortage issues.
In the February 13, 2009 verification letter, the State was required to provide documentation demonstrating that any remaining findings from FFYs 2004, 2005, and 2006 were corrected. As noted above, the State has not yet provided that documentation. 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 2009 APR, that it has corrected this noncompliance.	This APR reports no continuing noncompliance remaining from findings identified in FFYs 2004, 2005 and 2006.
In responding to Indicators 4A, 9, 10, 11, and 12 in the FFY 2009, the State must report on correction of the noncompliance described in this table under those indicators.	The correction of noncompliance reported in Indicator 15 includes the correction of noncompliance reported in Indicators 4A, 9, 10, 11 and 12. The State also reported on the correction of the noncompliance described in

Statement from the OSEP Response Table	State's Response
	this table under those indicators.
In addition, in reporting on Indicator 15 in the FFY 2009 APR, the State must use the Indicator 15 Worksheet.	The Indicator B15 Worksheet was used to report FFY 2009 data.

Improvement Activities Completed in 2009-10

- The State accessed and used federal technical assistance to further inform its activities to improve identification and correction of noncompliance as follows:

  - Office of Special Education managers and staff routinely participated in meetings, teleconferences and Community of Practice (CoP) webinars related to all aspects of the various indicators in an effort to ensure consistency, accuracy and reliability of the data being collected, analyzed and reported.

  - Staff viewed the webinar presentations of the OSEP Leadership Mega Conference, including the presentation, "Update on Identification and Correction of Noncompliance – Part B", on August 3, 2010. Information from this session was discussed among special education policy and monitoring staff to review the State's approach for correcting noncompliance and provide recommendations for how it might be improved.

  - Regular participation in the Northeast Regional Resource Center (NERRC) Legal and Regulatory Workgroup's twice yearly forums assisted our State teams' legal counsel, special education policy and other key staff to remain current in legal and policy developments, systems operations issues, and evaluation of short-term and long-term impact of implementation of the IDEA.

  - In refining and implementing its procedures for the identification and resolution of noncompliance, the State relied on several OSEP technical assistance documents for guidance, including "Reporting on Correction of Noncompliance in the Annual Performance Report Required Under Sections 616 and 642 of the Individuals with Disabilities Education Act" (9/08), "Frequently Asked Questions Regarding Identification and Correction of Noncompliance and Reporting on Correction in the State Performance Plan (SPP) Annual Performance Report" (9/08), and "OSEP Update on the Identification and Correction of Noncompliance – Part B" (2010 OSEP Leadership Conference).

  - After receiving professional development and consultation in 2008-09 from a national expert on complaint investigation, improvements were made relating to the NYS complaint process. As a result, the State revised its procedures, including developing a public question and answer document describing the NYS complaint procedures and revising the State's sample form to initiate a State complaint.

- To improve the State's performance on Indicator 15, we obtained federal technical assistance from 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.

- The State has made significant changes to its process for the investigation of complaints. It has established a core group of investigators within each regional office that has responsibility for the investigation of complaints. This action allows the State to focus its professional development on a cadre of investigators and supervisors to promote quality and consistency in the investigation of State complaints. The State has also developed and piloted a draft investigation plan format and has built its professional development around the plan.

- 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 the Office of Special Education 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, the Office of Special Education 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.p12.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.

- IDEA discretionary funds were directed in the 2009-10 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).

    - From July 2009 to June 2010, 115 recipients of tuition assistance (79 in preschools) completed coursework leading to a bilingual extension to their certification in special education, speech, counseling, social work, or school psychology, and 15 special education teachers completed coursework leading to certification in Teaching English to Speakers of other Languages. NYC Public Schools were able to add 553 English-speaking special education teachers, 5 bilingual special education teachers, 3 bilingual speech therapists and 13 bilingual school psychologists.

    - Since July 2007, 26 new programs which lead to bilingual or ESL certification for special education personnel, and which are linked to sources of tuition assistance, have been registered. The Board of Regents granted Western Kentucky University (WKU) limited permission to operate its master's program in speech-language pathology (SLP) in NYS in order to address shortages of monolingual and bilingual speech providers. Students enrolled in WKU's SLP program sign a service commitment to work in NYC Public Schools.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 *[If applicable]*

- In 2010 the State began requiring school districts to develop corrective action plans and to obtain technical assistance whenever the district fails to correct noncompliance within nine months for SPP Indicators 11, 12, and 13.

- 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 2009 (2009-10 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 2009:

99 percent of signed written complaints were resolved within the 60-day timeline or a timeline extended for exceptional circumstances with respect to a particular complaint.

7/1/2009 - 6/30/2010 Table 7: Section A, Written Signed Complaints	
(1) Total Number of written, signed complaints filed	306
(1.1) Complaints with reports issued	217
(a) Reports with findings of noncompliance	166
(b) Reports within timeline	201
(c) Reports within extended timelines	15
(1.2) Complaints pending	1
(a) Complaint pending a due process hearing	0
(1.3) Complaints withdrawn or dismissed	88
Percent = 201 [1.1(b)] + 15[1.1(c)] = 216 divided by 217[1.1] times 100 = 99.53%.	

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2009:

Explanation of Progress or Slippage

The percentage of signed written complaints resolved within the 60-day timeline or an extended timeline improved from 96 percent in 2008-09 to **99.53** percent in 2009-10. The one State complaint that was not resolved within the 60 day timeline or a timeline extended was one day late, with the delay caused by unforeseen delay in receipt of the translation of the State complaint findings into the native language of the parent.

Improvement Activities Completed

The State complaint model form and a question and answer document on State complaints was posted on the State's web site in February 2010 and is available at http://www.p12.nysed.gov/specialed/publications/policy/SampleComplaintForm-210.pdf.

Also see Revisions to improvement activities for FFY 2009 below.

Additional Information Required by the Office of Special Education Programs (OSEP) APR Response Table for this Indicator (if applicable):

Statement from the OSEP Response Table	State's Response
If the State does not report 100% compliance in the FFY 2009 APR, the State must review its improvement activities and revise them, if necessary.	See below

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 *[If applicable]*

- To ensure consistent procedures, the State revised its State complaint procedures and investigation process and provided professional development to all State complaint investigators, Special Education Quality Assurance (SEQA) Supervisors and Special Education Managers.

- The State established a core group of investigators from each of its six regional offices to conduct State complaint investigations.

- The Comprehensive Special Education Information System (CSEIS) modified letters, forms, and procedures for recording State complaint data to reflect changes made to investigation procedures. Training was provided to SEQA investigators to learn about and use the new system modifications

- The State complaint model form and a question and answer document on State complaints was posted on the State's web site in February 2010 and is available at http://www.p12.nysed.gov/specialed/publications/policy/SampleComplaintForm-210.pdf .

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)).

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2009 (2009-10 school year)	100 percent of impartial hearing decisions will be rendered within regulatory timelines.

Actual Target Data for FFY 2009:

84 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.

7/1/2009 - 6/30/2010 SECTION C: Hearing Requests	
(3) Hearing requests total	6078
(3.2) Hearings (fully adjudicated)	425
(a) Decisions within timeline	94
(b) Decisions within extended timeline	261

7/1/2009 - 6/30/2010 SECTION C: Hearing Requests	
(3.3) Resolved without a hearing	4725
Percent = [94[3.2(a)] + 261[3.2(b)] divided by 425[3.2] = .835 x 100 = 84%.	

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2009:

Explanation of Progress or Slippage

The percentage of adjudicated hearings completed in a timely manner increased from 81 percent in FFY 2008 to **84** percent in FFY 2009, an increase of three percentage points.

The number of IHOs with five or more late decisions was reduced from 13 in 2007-08 to six in 2008-09 and five in 2009-10. Based on NYS Regulations, the New York State Education Department (NYSED) continues to notify IHOs when decisions are late, and uses progressive notifications that culminate in decertification.

Improvement Activities Completed in FFY 2009:

See revisions to improvement activities below.

Additional Information Required by the Office of Special Education Programs (OSEP) APR Response Table for this Indicator (if applicable):

Statement from the OSEP Response Table	State's Response
The State must review its improvement activities and revise them, if necessary, to ensure they will enable the State to provide data in the FFY 2009 APR demonstrating that the State is in compliance with the due process hearing timeline requirements in 34 CFR §300.515. In the February 13, 2009 verification letter, the State was required to review its improvement activities and revise them, if appropriate to ensure that the State would be able to provide data in the FFY 2008 APR that demonstrates compliance. As the data reported for this indicator demonstrate, the State is still not ensuring compliance with the timely due process hearing decisions requirements.	The State demonstrated progress in ensuring timely IHO decisions, but did not achieve full compliance. The State took significant actions to revise its improvement activities. See below.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2009 *[If applicable]*

- The State trained and certified 32 additional IHOs to serve in the NYC region to ensure sufficient numbers of IHOs available to issue timely decisions.

- The Office of Special Education accessed federal technical assistance to further inform its activities to improve due process timelines on the following occasions:
  - NYSED obtained assistance from the Northeast Regional Resource Center (NERRC) to access a presenter for the Annual Update Training for Certified IHOs on March 18 and April 21, 2010.
  - NYSED provided training for new IHOs in July 2010, and participants were provided with a list of resources, which included web links for USED's published documents (http:///www2.ed.gov/news/fedregister/index.html) and OSEP (http://idea.ed.gov).

- Beginning in January 2009, the Office of Special Education 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. The following types of notices were sent to IHOs in FFY 2008 and FFY 2009, demonstrating a decrease in the number of late decisions where IHOs were unresponsive in remediating the issue and in the number of IHOs issuing late decisions.

Type of Notice sent	# of notices sent in 2008-09	# of IHOs who received notices in 2008-09	# of notices sent in 2009-10	# of IHOs who received notices in 2009-10
Noncompliance Alert	56	12	15	7
Notice of Noncompliance	14	5	2	2
Notice of Continuing Noncompliance	7	2	0	0
Second Notice of Continuing Noncompliance	4	1	0	0

- Beginning in 2010, the State required each NYS certified IHO to attend twelve hours of annual update training sessions, an increase over the previous six hours required every two years.

- In FFY 2009, IHOs received copies of trend data regarding their individual performance. IHOs with a history of late decisions in the past three years and/or a history of closing cases where they had approved five or more extensions, were asked to review their practices. During IHO retraining programs, IHOs were

provided guidance and technical assistance in using the IHO Toolbox, an on-line resource to aid in timeline management.

- The Impartial Hearing Reporting System (IHRS) Help file continues to be updated to provide technical assistance to IHOs and school districts regarding the impartial hearing process and timelines.

- Monthly phone conferences were conducted by the NYS Office of Special Education 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.

- Monthly meetings occur between the Information Technology departments of the IHRS Office and the NYC Impartial Hearing Office and representatives from both of the related program offices to coordinate an automated transfer of information between the two impartial hearing recording systems. This efficient transfer of information allows for better monitoring of cases and timelines.

- IHRS staff provided reminders and offered school districts and IHOs technical assistance regarding cases identified as five or more days late.

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 2009 (2009-10 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 2009:

10 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 decreased by almost three (3) percent.

7/1/2009 - 6/30/2010 Table 7 Section C: Hearing Requests	
(3) Hearing requests total	6078
(3.1) Resolution sessions	5277
(a) Settlement agreements	541
Percent = 541 [3.1(a)] divided by 5277 (3.1) times 100 = 10.25 **%.**	

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2009:

Explanation of Progress or Slippage

In 2009-10, the percentage of resolution sessions ending in agreement was 10.25 percent, a decrease of 2.88 percentage points over the previous year. In 2008-09, the percentage of resolution sessions ending in agreement was 13.134 percent.

The 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, despite the fact that parties may be nearing a settlement agreement. There were 469 additional due process requests where the case was closed as settled or withdrawn within 14 days of the end of the resolution period.

Improvement Activities Completed in FFY 2009

See improvement activities completed for Indicator 17.

- Impartial Hearing Reporting System (IHRS) staff provided ongoing technical assistance to school districts regarding the resolution session process and timelines.

- The revised on-line IHRS Help file includes information about the resolution period, and staff was trained to assist district personnel and IHOs in encouraging the use of resolution periods.

  The New York State Dispute Resolution Association (NYSDRA), under contract with the Office of Special Education, continues to provide information on Special Education Mediation and Resolution Sessions on its website at http://www.nysdra.org/consumer/specialeducation.aspx

- In 2010, NYSDRA, in collaboration with the NYS funded Special Education Parent Centers, conducted 11 regional sessions to provide information on strategies that result in early and non-adversarial dispute resolution between parents and school districts, including resolution sessions.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[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 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 2009 (2009-10 school year)	96.5 percent of mediations held will result in mediation agreements.

Actual Target Data for FFY 2009:

88.3 percent of mediation sessions held in 2009-10 resulted in mediation agreements to resolve the dispute.

7/1/2009 - 6/30/2010 Table 7: Section B, Mediation Requests	
(2) Total number of Mediation requests received	257
(2.1) Mediations held	154
(a) Mediations held related to due process	13
(i) Mediation agreements related to due process complaints	13
(b) Mediations held not related to due process	141
(i) Mediation agreements not related to due process	123
(2.2) Mediations not held (including pending)	105
Percent = 13[(2.1(a)(i)] + 123[2.1(b)(i)] = 136 divided by 154[2.1] = .883 times 100 = 88.3 %	

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2009:

Explanation of Progress or Slippage

The percent of mediation sessions held in 2009-10 that resulted in agreement was **88.3** percent, compared with 88 percent from the previous year. There were 257 total mediation requests in 2009-10, 104 fewer than in 2008-09. However, this may have been affected by the increase of 412 resolution session during the same period.

Improvement Activities Completed in 2009-10:

- The Office of Special Education 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 Special Education, revised its website to add a question and answer document relating to the special education mediation. (http://www.nysdra.org/consumer/specialeducation.aspx)

- In 2010, NYSDRA, in collaboration with the NYS funded Special Education Parent Centers, conducted 11 regional sessions to provide information on strategies that result in early and nonadversarial dispute resolution between parents and school districts, including mediation and resolution.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[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 20: State reported data (section 618, State Performance Plan (SPP) and APR) are timely and accurate.
(20 U.S.C. 1416(a)(3)(B))

Measurement:

State reported data, including section 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 2009 (2009-10 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 2009:

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

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	1	1	2
14	1	1	2
15	1	1	2
16	1	1	2
17	1	1	2
18	1	1	2
19	1	1	2
		Subtotal	40
APR Score Calculation	**Timely Submission Points –** If the FFY 2009 APR was submitted on-time, place the number 5 in the cell on the right.		5
	Grand Total = (Sum of subtotal and Timely Submission Points)		45

618 Data – Indicator 20					
Table	**Timely**	**Complete Data**	**Passed Edit Check**	**Responded to Date Note Requests**	**Total**
Table 1 – Child Count Due Date: 2/1/2010	1	1	1	1	4
Table 2 – Personnel Due Date: 11/1/2010	1	1	1	N/A	3
Table 3 – Ed. Environments Due Date: 2/1/2010	1	1	1	1	4
Table 4 – Exiting Due Date: 11/1/2010	1	1	1	N/A	3
Table 5 – Discipline Due Date: 11/1/2010	1	1	1	N/A	3
Table 6 – State Assessment Due Date: 2/1/2011	1	N/A	N/A	N/A	1
Table 7 – Dispute Resolution Due Date: 11/1/2010	1	1	1	N/A	3
				Subtotal	21
618 Score Calculation				**Grand Total (Subtotal X 2.143)**	45

Indicator #20 Calculation	
A. APR Grand Total	45
B. 618 Grand Total	45
C. APR Grand Total (A) = 618 Grand Total (B) =	90
Total N/A in APR	0
Total N/A in 618	0
Base	**90**
D. Subtotal (C divided by Base*) =	1.0
E. Indicator Score(Subtotal D*100	100

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2009:

Explanation of Progress or Slippage

NYS' compliance rate on this indicator is 100 percent, which is the same as in the previous year and meets the State's target .

Improvement Activities Completed in 2009-10

- 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.rrfcnetwork.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 Special Education 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 continued its participation in the annual data managers meeting hosted by DAC.

- The State added a special education team member to Ed*F*acts meetings to enable the accurate and timely submission of all special education Ed*F*acts files to United States Education Department (USED).

- The State improved linkages between the two separate systems, the PD data system, which contains data for most of the SPP indicators with the Comprehensive Special Education Information System (CSEIS), which contains information regarding correction of noncompliance. This linkage of systems has been tremendously beneficial to ensure timely correction of all noncompliance when the noncompliance is first identified by data collection for Indicators 4, 9, 10, 11, 12 and 13. The special education monitoring staff has immediate access to noncompliance data reported by school districts and can track its correction on an on-going basis. NYS continues to make necessary improvements in these linkages to ensure thorough and timely follow-up.

- The SEDCAR unit, which is responsible for the collection of special education data was administratively merged with the larger Information Reporting Services office, which is an office in the Office of P-12 (Prekindergarten through Grade 12 Education). This merger is a step in the right direction to ensure all special education

data collection policies, practices, procedures are consistent and integrated with those used to collect all other education data.

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 Office of Special Education Programs (OSEP) APR Response Table for this Indicator (if applicable):

Statement from the OSEP Response Table	State's Response
In reporting on Indicator 20 in the FFY 2009 APR, the State must use the Indicator 20 Data Rubric.	NYS reported its data for Indicator 20 using the required Indicator 20 Data Rubric.

Revisions, <u>with Justification</u>, to Proposed Targets/ Improvement Activities / Timelines / Resources for FFY 2009 *[If applicable]*

None

Attachments:

State Performance Plan Indicator 4B – Disproportionality by Race/Ethnicity in Suspension/Expulsion

State Performance Plan Indicator 13 – Secondary Transition

State Performance Plan Indicator 14 – Post-school Outcomes

Attachment – State Performance Plan Indicator 4B

Overview of the State Performance Plan Development

See *Overview of the State Performance Plan (SPP) Development* preceding Indicator 1. In addition, New York State (NYS) consulted with its Commissioner's Advisory Panel for Special Education Services (CAP) to establish extended targets and improvement activities for FFY 2011 and FFY 2012, and to establish the baseline for Indicator 4B. The State's technical assistance and support networks were also involved in these discussions.

Monitoring Priority: FAPE in the LRE

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

A new baseline for Measurement 4B is reported in this SPP, submitted February 1, 2011, with Annual Performance Reports (APRs) resuming thereafter.

Measurement 4B (Revised for reporting new baseline data for FFY 2009):

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 individualized education programs (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) divided by the (# of districts in the State)] times 100.

Definition of significant discrepancy:

NYS compares the number of students suspended of each race/ethnicity category with the number suspended of all other race/ethnicity categories combined and compute relative risk ratios and weighted relative risk ratios to determine if there is significant discrepancy in suspensions. For notifications of school districts during the 2009-10 school year based on 2008-09 school year data, the State used the following definition of "significant discrepancy" 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 suspensions:

- At least 75 students with disabilities enrolled on 10/1/08;
- At least 10 students with disabilities of the particular race/ethnicity were suspended;
- At least 20 students with disabilities of all other race/ethnicities were enrolled; and
- Either:
  - Both the relative risk ratio and weighted relative risk ratio for any minority group was 2.0 or higher; or
  - All students with disabilities suspended were from only one minority group regardless of the size of the relative risk ratio and weighted relative risk ratio.

The minimum number of students with disabilities was used since small numbers of students with disabilities may distort percentages. However, in the State's calculation, it does not exclude school districts from the denominator calculation as a result of this minimum "n" size.

For each school district identified by its 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 State provides for the review of policies, procedures and practices each year a school district's data shows a significant discrepancy in its suspension rates for students with disabilities as follows:

- The first year a district's data indicates a significant discrepancy, the State requires the district to complete a State-developed self-review monitoring protocol. This protocol requires the review of 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 monitoring protocol for this review is available at http://www.p12.nysed.gov/specialed/spp/indicators/4.htm. A report of the results of this review is submitted by the district to the State. At the time of submission, school districts 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. The results from this review are reported to the State for follow-up and corrective actions if compliance issues are identified. Districts that are identified with inappropriate policies, procedures and/or practices are identified for purposes of reporting in the APR for indicator 4B.
- For subsequent years in which a school district's data indicates significant discrepancies, the State conducts the monitoring review of the district's policies, procedures and practices in the areas identified above.

Data Source:

For 4B, NYS will use 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 in the annual 618 report to USED. For 4B, NYS will also include data from reviews of policies, practices and procedures as defined in the above Measurement for this indicator.

Overview of Issue/Description of System or Process

IDEA section 618(d) requires States to collect and examine data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the LEAs of the State with respect to the incidence, duration, and type of disciplinary

actions, including suspensions and expulsions. In the case of a determination of significant disproportionality the State must:

- provide for the review and if appropriate revision of the school district's discipline policies, procedures, and practices to comply with the requirements of federal and State law and regulations;

- require any LEA identified to reserve 15 percent of funds under section 613(f) to provide comprehensive coordinated early intervening services to serve children in the LEA, particularly children in those groups where there is a significant discrepancy in the rates of suspension; and

- require the LEA to publicly report on the revision of policies, practices, and procedures related to disproportionality.

Plan to Collect the Baseline Data for 4B:

By February of 2006, NYS analyzed data and sent notifications to school districts whose data indicate "significant discrepancy" based on the above definition, providing them with a State developed "self-review monitoring protocol." School districts were notified that they must reserve the maximum 15 percent of the school district's IDEA Part B funds to support early intervening services.

By May of 2006, these school districts were required to submit their completed self-review monitoring protocols of relevant school district policies, practices and procedures to the Department. Based on this self-review, if a school district determines that one or more of its policies, procedures and/or practices require revision, it must revise them and publicly post such revisions and provide corrective action documentation to the Department. If a school district determines its policies, procedures and/or practices are appropriate and do not require revision, the Department arranged for verification of this determination.

If the State determines that the school district's policies, procedures and practices are in compliance with federal and State requirements, the school district may not be required to complete another review of its policies, procedures or practices during the remaining period of the SPP. However, the district will be required to reserve the maximum 15 percent of its IDEA Part B funds for each year its data indicates discrepancy, based on the State's definition. Furthermore, if school district's data do not improve, the State may conduct another review of school district's policies, practices and procedures.

School districts that are found to have inappropriate policies, procedures and/or practices through the self-reviews or the Department verification reviews will be reported in the baseline data for the 2005-06 school year.

Baseline Data for FFY 2005 (2005-06) for Indicator 4B

1.5 percent (10 school districts) of all school districts in the State (684) were identified as having a significant discrepancy by race and ethnicity that is the result of inappropriate policies, procedures and practices.

School Year	Number of School Districts Identified in the State as Having Significant Discrepancy by Race and Ethnicity	Number of Identified Districts Reporting Some Inappropriate Policies, Practices or Procedures	Percent of All Districts in the State (684) Identified as Having Significant Discrepancy by Race and Ethnicity That is Result of Inappropriate policies, practices or procedures
2005-06	10	10	1.5%

School district 2005-06 results based review of their policies, practices and procedures:

Indicator 4B Baseline Data 2005-06			
8 NYCRR Regulatory Citation		# out of 10 School Districts Reporting Compliance	% of 10 School Districts Reporting Compliance
§200.4(b)(1)(v)	Initial evaluations of students with disabilities include a functional behavioral assessment (FBA) for students whose behaviors impede their learning or that of others.	6	60%
§200.4(b)(4)	The reevaluation is sufficient to determine the student's individual needs.	7	70%
§200.1(r)	FBAs identify the problem behavior, define the behavior in concrete terms, identify contextual factors that contribute to the behavior and formulate a hypothesis regarding the general conditions under which a behavior usually occurs and the probable consequences that serve to maintain it.	7	70%
§201.3(a)	FBAs are conducted when students are suspended for behaviors determined to be related to their disabilities.	6	60%

Indicator 4B Baseline Data 2005-06			
8 NYCRR Regulatory Citation		**# out of 10 School Districts Reporting Compliance**	**% of 10 School Districts Reporting Compliance**
§200.4(d)(3)	For students whose behaviors impede their learning or that of others, the IEPs include positive behavioral interventions and supports and other strategies to address the behaviors.	5	50%
§200.3(d)(1)	The general education teacher participated in the Committee on Special Education (CSE) meeting to identify appropriate positive behavioral interventions and strategies for the student.	5	50%
§201.4(e)	The IEP was revised as a result of any deficiencies noted during a manifestation determination review.	5	50%
§201.2(a)	Behavioral intervention plans are based on the results of the FBA and, at a minimum, include a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs and intervention strategies to address the behavior.	8	80%
§201.3(a)	When a student has been removed for more than 10 days and the student's conduct was determined to be a manifestation of the student's disability, the CSE conducted a FBA and implements a behavioral intervention plan for that student.	7	70%
§201.3(b)	If the student already has a behavioral intervention plan, the CSE meets to review the plan and its implementation and modifies the plan and its implementation, as necessary, to address the behavior that resulted in the disciplinary change of placement.	6	60%
§200.4(e)	Behavioral intervention plans are implemented, monitored and progress documented.	4	40%
§201.4(a)	The manifestation review is conducted immediately, but not later than 10 days after the decision to remove or suspend the student.	3	30%

Indicator 4B Baseline Data 2005-06			
8 NYCRR Regulatory Citation		**# out of 10 School Districts Reporting Compliance**	**% of 10 School Districts Reporting Compliance**
§201.4(b)	A team that includes the student's parent, an individual knowledgeable about the student and the interpretation of behavior and other relevant members of the CSE as determined by the parent and the school district conducts the manifestation review. Parents are notified in writing of the meeting.	5	50%
§201.4(c)	All relevant information in the student's file, including the student's IEP, any teacher observations and relevant information provided by the parent is reviewed.	6	60%
§201.4(d)(2)	The manifestation determination is made based on whether the conduct was caused by or had a direct and substantial relationship to the student's disability or was a direct result of the school district's failure to implement the IEP.	7	70%
§201.4(d)(2)(ii)	If the conduct was determined to be related to the student's disability, the student is returned to the placement from which the student was removed (except drugs, weapons or serious bodily injury removals).	8	80%
§201.7(a)	The parent is notified and provided a copy of the procedural safeguards notice within 10 days of the decision to suspend the student for more than 10 days.	8	80%
§201.7(b)	Suspensions of students with disabilities do not exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior.	10	100%
§201.7(c)	A manifestation determination has been made prior to the removal for more than 10 school days. If the behavior is a manifestation of the disability, the penalty phase of a superintendent's hearing is dismissed.	8	80%
§201.7(d)	Short-term suspensions are reviewed to determine if they constitute a pattern of removals.	5	50%

Indicator 4B Baseline Data 2005-06			
8 NYCRR Regulatory Citation		**# out of 10 School Districts Reporting Compliance**	**% of 10 School Districts Reporting Compliance**
§201.7(f)	School personnel consider unique circumstances on a case-by-case basis when determining whether to suspend a student with a disability.	10	100%
§201.10(b)	Students with disabilities of compulsory school age are provided with alternative instruction for short-term suspensions (10 days or less in the school year).	6	60%
§201.10(c) and (d)	During suspensions of more than 10 days in a school year, regardless of the manifestation determination, students with disabilities receive services to enable them to participate in the general curriculum and to continue to progress toward IEP goals.	5	50%
§201.10(e)	Interim alternative educational settings (IAES) and the services to be provided to a student are determined by the CSE.	7	70%

Explanation of 2005-06 Baseline Data for Indicator 4B

During the 2005-06 school year, 10 school districts were identified by the State as having significant discrepancy based on race/ethnicity in the percent of students with disabilities suspended out-of-school for more than 10 days based on their 2004-05 school year data. These school districts were sent notifications with directions to use a State developed self-review monitoring protocol to review their policies, practices and procedures. These school districts were also required to reserve 15 percent of their IDEA flow through allocation to provide comprehensive Coordinated Early Intervening Services (CEIS).

All identified school districts reviewed their policies, practices and procedures related to discipline for students with disabilities during the 2005-06 school year and reported results through a State developed web-based data submission system. All 10 school districts reported being out of compliance with at least one citation related to discipline procedures for students with disabilities. These school districts have been notified that they must correct their policies, practices and procedures within one year from being notified of noncompliance. As soon as possible, but no later than one year from notification, they will be required to resubmit compliance information to the State along with a written assurance that they are in compliance with all citations. They are also required to publicly report on the revision(s) to their policies, procedures and/or practices.

As shown above, at least half of the school districts reported not being in compliance with the following eight citations:

- **§200.4(d)(3) -** For students whose behaviors impede their learning or that of others, the IEPs include positive behavioral interventions and supports and other strategies to address the behaviors.
- **§200.3(d)(1) -** The general education teacher participated in the CSE meeting to identify appropriate positive behavioral interventions and strategies for the student.
- **§201.4(e) -** The IEP was revised as a result of any deficiencies noted during a manifestation determination review.
- **§200.4(e) -** Behavioral intervention plans are implemented, monitored and progress documented.
- **§201.4(a) -** The manifestation review is conducted immediately, but not later than 10 days after the decision to remove or suspend the student.
- **§201.4(b) -** A team that includes the student's parent, an individual knowledgeable about the student and the interpretation of behavior and other relevant members of the CSE as determined by the parent and the school district conducts the manifestation review. Parents are notified in writing of the meeting.
- **§201.7(d) -** Short-term suspensions are reviewed to determine if they constitute a pattern of removals.
- **§201.10(c) and (d) -** During suspensions of more than 10 days in a school year, regardless of the manifestation determination, students with disabilities receive services to enable them to participate in the general curriculum and to continue to progress toward IEP goals.

The Statewide results of compliance with regulatory citations provided above were disaggregated by the State's Special Education Quality Assurance (SEQA) regions and other technical assistance network regions so that the regional staff may provide the required technical assistance to school districts based on the regional profile of results on the self-review monitoring protocol.

New Baseline Data for Indicator 4B Established for FFY 2009 (2009-10)

Federal changes in SPP reporting requirements for Indicator 4B resulted in suspending reporting for Indicator 4B from FFY 2006 through FFY 2008. Reporting is being resumed as of FFY 2009, requiring setting a new baseline. 2009-10 school year data are the State's new baseline data; they cannot be compared to prior year's data.

2.2 percent (15 school districts) of all school districts in the State (682) were identified as having a significant discrepancy by race and ethnicity and policies, procedures and practices that contributed to the significant discrepancy and did not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. NYS evaluated suspension data from 574 school districts with a minimum enrollment of 75 students with disabilities (enrollment as of October 1, 2008) to determine if significant discrepancies were occurring in the rates of suspension by race/ethnicity.

School Year	Number of School Districts Identified in the State as Having Significant Discrepancy by Race and Ethnicity	Number of Identified Districts Reporting Some Inappropriate Policies, Practices or Procedures	Percent of All Districts in the State (684) Identified as Having Significant Discrepancy by Race and Ethnicity That is Result of Inappropriate policies, practices or procedures
2008-09	17	15	2.2%

Discussion of Indicator 4B FFY 2009 Baseline Data

During the 2009-10 school year, 17 school districts were identified by the State as having significant discrepancy based on race/ethnicity in the percent of students with disabilities suspended out-of-school for more than 10 days based on their 2008-09 school year data. Seven (7) of these school districts were sent notifications with directions to use a State developed self-review monitoring protocol to review their policies, practices and procedures. Ten (10) school districts received focused or comprehensive reviews by the State's special education monitoring staff to review their policies, procedures and practices because these school districts had two or more consecutive years of data with significant discrepancies. All 17 school districts were also required to reserve 15 percent of their IDEA flow through allocation to provide CEIS.

It was determined that 15 of the 17 school districts or 2.2 percent of all school districts in the State had one or more policies, procedures or practices that contributed to the significant discrepancy and did not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. These school districts have been notified that they must correct their policies, practices and procedures within one year from being notified of noncompliance. They are also required to publicly report on the revision(s) to their policies, procedures and/or practices.

The State will report on the correction of noncompliance on findings related to this indicator in a subsequent year's APR.

Measurable and Rigorous Targets for Indicator 4B

FFY	Measurable and Rigorous Targets for 4B
2005 (2005-06)	Baseline data were collected
2006 (2006-07)	0 percent of school districts will be 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 that is the result of inappropriate policies, procedures and/or practices. Revision February 2008: Reporting on this indicator by race and ethnicity in the APR is not required beginning with FFY 2006.*
2007 (2007-08)	0 percent of school districts will be 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 that is the result of inappropriate policies, procedures and/or practices. Revision February 2008: Reporting on this indicator by race and ethnicity in the APR is not required beginning with FFY 2006.*
2008 (2008-09)	0 percent of school districts will be 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 that is the result of inappropriate policies, procedures and/or practices. Revision February 2009: 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 provided in the FFY 2009 APR due February 1, 2011.
2009 (2009-10)	0 percent of school districts will be 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 that is the result of inappropriate policies, procedures and/or practices. Revision February 2009: Baseline, targets and improvement activities will be provided in the FFY 2009 APR due February 1, 2011.
2010 (2010-11)	0 percent of school districts will be 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 that is the result of inappropriate policies, procedures and/or practices. Revision February 2009: Reporting on attainment of targets will resume in the FFY 2010 APR due February 1, 2012.

FFY	Measurable and Rigorous Targets for 4B
2011 (2011-12)**	0 percent of school districts will be 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 that is the result of inappropriate policies, procedures and/or practices.
2012 (2012-13)**	0 percent of school districts will be 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 that is the result of inappropriate policies
*NYS continued to monitor school districts' policies, procedures and practices when data has indicated a significant discrepancy in rates of suspension of students with disabilities by race/ethnicity pursuant to 34 CFR section 300.170. **In FFY 2009, USED requested states to add two additional years to the SPP, including adding two additional years of targets.	

Improvement Activities/Timelines/Resources

Activity	Timelines	Resources
Annually notify and provide a State developed self-review protocol to all school districts in the State whose data on long-term suspensions exceeds 2.7 percent with a recommendation that these districts conduct a self-review of policies, procedures and practices. These districts will be targeted for review by SED in the school year in which SED redefines "significant discrepancy."	February 2008 Annually	SED staff "Suspension Review Monitoring Protocol"
Require each identified school district to either: 1) submit the results of the monitoring self review of policies, procedures and practices to NYSED, or 2) if identified for consecutive years, participate in an on-site review of policies, procedures and practices conducted by SED special education monitoring staff. If the self-review identifies inappropriate policies, procedures and/or practices, SED will direct the school district to revise its policies, procedures and/or practices as soon as possible, but not later than within one year.	2006 -12*** Annually	SED, Regional Special Education Technical Assistance Support Centers (RSE-TASC) (rev. 1/10)

Activity	Timelines	Resources
Direct a school district to obtain technical assistance on its policies, procedures and practices relating to long-term suspensions if the data continues to indicate significant discrepancies after two years.	Annually	SED staff
Revise State regulations to establish standards on behavioral interventions, including standards for functional behavioral assessments, behavioral intervention plans, use of time out rooms and emergency interventions. Issue a guidance document on positive behavioral supports and services.	2006-07 Completed (See APR 2/08)	SED staff
Update technical assistance documents to schools and parents to assist in their understanding of the requirements relating to the suspension of students with disabilities.	2007-12***	*Discipline of Students with Disabilities*
Establish a Positive Behavior Interventions and Supports (PBIS) Statewide Technical Assistance Center to coordinate activities of PBIS.	2007-10 Completed	PBIS
Increase school district access to community resources to assist with support for families and students. Provide support to the Coordinated Children's Services Initiative (CCSI).	2006-10 Completed	CCSI Office of Special Education central and regional staff
Expand field-based PBIS technical assistance resources to work directly with schools identified by the State as having disproportionate rates of suspension of students with disabilities. (added APR 2/08)	2008-12***	RSE-TASC Behavioral Specialists technical assistance network (rev. 1/10)
Through regional planning process, direct RSE-TASC and TAC-D to work with schools identified with disproportionate rates of suspension. (added APR 2/08; rev. 1/10))	2008-12***	RSE-TASC professional development specialists (rev. 1/10)

Activity	Timelines	Resources
Provide regional training on functional behavioral assessments and behavioral intervention plans (added APR 2/08)	2008-12***	RSE-TASC regional trainers (rev. 1/10)
See improvement activities for Indicators 9 and 10.	2006-12***	
***Note: Extended the end dates to 2012 coinciding with extended dates of the SPP (rev. 2/11).		

- For additional detail on activities revised, completed or added in the school year 2005-06, see pp. 34-40 at http://www.p12.nysed.gov/specialed/spp/apr2007/june07.pdf.
- For additional detail on activities revised, completed or added in the school year 2006-07, see pp. 28-29 at http://www.p12.nysed.gov/specialed/spp/apr2008/APR-1008.pdf.
- For additional detail on activities revised, completed or added in the school year 2007-08, see pp. 36-37 at http://www.p12.nysed.gov/specialed/spp/apr2009/final.pdf.
- For additional detail on activities revised, completed or added in the school year 2008-09, see pp. 29-30 at http://www.p12.nysed.gov/specialed/spp/apr2010/revisedApril2010-final.pdf.

Attachment – State Performance Plan Indicator 13

Overview of the State Performance Plan Development

See *Overview of the State Performance Plan (SPP) Development* preceding Indicator 1. In addition to the plan development activities described previously, the Department sought the input on data collection for this indicator with the transition subcommittee of the Commissioner's Advisory Panel for Special Education Services (CAP), representatives of the Transition Coordination Sites (TCS) and representatives of the Employment and Disability Institute of Cornell University working on *TransQUAL Online*, a tool to support school district teams to improve their practices in career development and transition.

New York State (NYS) consulted with CAP to establish the new baseline and improvement activities for Indicator 13 reported in February 2011. The State's technical assistance and support networks were also involved in these discussions.

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.

Beginning with the 2009-10 school year, this Indicator is defined as follows:
Percent of youth with IEPs aged 15* and above with an IEP that includes appropriate measurable post-secondary 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 post-secondary goals, and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the IEP Team meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority.
(20 U.S.C. 1416(a)(3)(B))

* Note: The federal indicator is age 16. NYS has elected to measure this indicator beginning at age 15, since State regulations require that transition services be indicated in a student's IEP beginning with the IEP in effect when the student turns age 15 and updated annually. In NYS, the IEP Team is the Committee on Special Education (CSE).

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.

Measurement used as of school year 2009-10:

Percent = [(# of youth with IEPs aged 15 and above with an IEP that includes appropriate measurable post-secondary 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 post-secondary goals, and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the 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) divided by the (# of youth with an IEP age 15 and above)] times 100.

Data Source:

NYS will use data taken from State monitoring, as described below.

Overview of Issue/Description of System or Process

State law and regulations define transition services to mean a coordinated set of activities for a student with a disability, designed within a results-oriented process that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities, including, but not limited to, post-secondary education, vocational education, integrated competitive employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based on the individual student's needs, taking into account the student's strengths, preferences and interests, and must include needed activities in instruction; related services; community experiences; the development of employment and other post-school adult living objectives; and when appropriate, acquisition of daily living skills and functional vocational evaluation.

When the purpose of an IEP meeting is to consider transition services, the meeting notice must indicate this purpose, indicate that the school district/agency will invite the student to participate in the meeting; and identify any other agency that will be invited to send a representative.

In NYS, transition services must be in a student's IEP beginning not later than the first IEP to be in effect when the student is age 15 (and at a younger age, if determined

appropriate), and updated annually. The IEP must, under the applicable components of the student's IEP, include:

- under the student's present levels of performance, a statement of the student's needs, taking into account the student's strengths, preferences and interests, as they relate to transition from school to post-school activities;
- appropriate measurable post-secondary goals based upon age appropriate transition assessments relating to training, education, employment and, where appropriate, independent living skills;
- annual IEP goals related to the student's transition services needs;
- statement of the transition service needs of the student that focuses on the student's courses of study, such as participation in advanced placement courses or a vocational education program;
- needed activities to facilitate the student's movement from school to post-school activities, including instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation; and
- a statement of the responsibilities of the school district and, when applicable, participating agencies for the provision of such services and activities that promote movement from school to post-school opportunities, or both, before the student leaves the school setting.

The Office of Vocational and Educational Services for Individuals with Disabilities' (VESID) Strategic Plan Goals, Key Performance Indicators and Targets (June 2004, revised October 2004) included the Key Performance Indicator, "Individualized Education Program (IEP) with transition goals, objectives and services for students with disabilities."

Plan to collect baseline data

NYS will collect data from a statewide representative sample of school districts on this indicator and use a monitoring protocol to select and review the IEPs in the representative sample of school districts. Over a six-year period beginning with the 2005-06 school year, all school districts will provide data on this indicator.

<u>Sampling Methodology</u>

NYS has distributed all school districts among six statewide representative samples. These six groups of school districts were tested with Analysis of Variance (ANOVA) and there was no statistical difference among the six groups of school districts on the population variables described in Attachment 2. These population variables were from the 2000 decennial census. New York City is the only school district in the State with a total enrollment of 50,000 or more students, so it will be represented in each of the six samples.

By January 2006, the State Education Department (SED) will notify the selected sample districts that they must conduct a self-review of a randomly selected sample of IEPs of all students with disabilities ages 15-21.

Federal Indicator Number	Eligible Population of Students From Which A Random Sample Must be Selected	Minimum Number of Students in the Sample	Method for Selecting Students	Required Documentation
13	All students with disabilities ages 15-21 who are provided special education services in district-operated programs or under contract with other service providers.	All students up to 30 eligible students. NYC samples 100 students.	Random selection using a random number table	Documentation period is seven years. Maintain list of all eligible students, copy of Random Number Table used, beginning random number for selecting students and list of all students who were selected and their number

A school district may choose to review additional IEPs above the minimum number in order to improve the confidence with which results can be generalized to the entire population especially when there is wide variation in the results. In some cases, the State may require the review of additional IEPs.

SED will require that school districts maintain documentation as described above if they choose to report data on a sample of students. The totally random sampling methodology and required documentation should eliminate selection bias. The State will attempt to prevent missing data by first describing precisely what SED 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 will be handled in accordance with the rules and procedures in FERPA. SED will also guard 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.

<u>IEP Review Process</u>

By February 2006, SED will provide an “IEP/Transition Self-Review” monitoring protocol to all school districts. The school districts selected for the representative sample will be directed to complete the “Transition IEP” self-review monitoring protocol on a representative sample of IEPs and document results on a form prescribed by SED. The

form will require documentation of the percent of students whose IEPs met each of the compliance requirements on the monitoring protocol. The State is exploring the development of an on-line reporting system (e.g., an adaptation of the *TransQUAL Online* system) through which school districts would be required to submit the aggregate results of the self-review. SED will arrange for professional development on the self-review protocol and *TransQUAL Online* system through TCS and SETRC. Training will be ongoing in subsequent years, as needed.

Districts will be directed to complete and enter data on their IEP reviews by August 31. SED will arrange for random verification reviews of reported data in school districts in each Special Education Quality Assurance (SEQA) region. All school districts identified through the self-review or verification process as not having IEPs that include appropriate documentation of post-secondary goals and transition services on a student's IEP will be directed to correct the noncompliance as soon as possible, but no later than one year from the date of identification.

The review of IEPs required a determination as to whether the IEPs in the sample selected included specific transition content information and whether the content of the IEP would reasonably enable the student to meet measurable post-secondary goals. A qualitative review of the IEPs around the following eight components was conducted:

- Students actively participate in planning their educational programs leading toward achievement of post-secondary goals.
- IEPs are individualized and are based on the assessment information about the student's, including individual needs, preferences, interests and strengths of the students.
- Transition needs identified in the students' assessment information are included in the students' present levels of performance.
- Annual goals address students' transition needs identified in the present levels of performance and are calculated to help each student progress incrementally toward the attainment of the post-secondary goals.
- The recommended special education programs and services will assist the students to meet their annual goals relating to transition.
- The statements of needed transition services are developed in consideration of the students' needs, preferences and interests, are directly related to the students' goals beyond secondary education and will assist the students to reach their post-secondary goals.
- Courses of student are linked to attainment of the students' post-secondary goals
- The school district and appropriate participating agencies coordinate their activities in support of the students' attainment of post-secondary goals.

<u>Baseline Data for FFY 2005 (2005-06)</u>

During FFY 2005, **33.3 percent** of youth, ages 15 and above, had IEPs that included coordinated, measurable annual IEP goals and transition services to reasonably enable them to meet their post-secondary goals.

Discussion of FFY 2005 Baseline Data

The 2005 baseline data is based on the monitoring review of IEPs from a representative sample of 108 school districts, including New York City (NYC). The total number of students with IEPs, ages 15-21 in NYS during the 2005-06 school year was 54,780. The total number of IEPs reviewed from these representative school districts was 3,541. Of the 3,541 IEPs, 1,176 were found to have been in compliance with all IEP transition requirements.

Of the 108 school districts:

- 43 school districts reported that 0 percent of their student's IEPs that were reviewed met compliance with the IEP transition requirements.
- 34 school districts reported between 1 and 49 percent of their students' IEPs that were reviewed met the transition requirements.
- 12 school districts reported between 50 and 79 percent of their IEPs that were reviewed met the transition requirements.
- 19 percent reported between 80 and 100 percent of IEPs that were reviewed met the transition requirements.

Regional variations are noted in the following chart. NYC, from which nearly one third of the students with disabilities are educated, reported that none of their IEPs met all of the compliance indicators.

2005-06 Indicator 13 - Transition IEP FFY 2005 Baseline Data					
Transition Coordination Site (TCS) Region	Total # of School Districts Reviewed	Number of Reviewed School Districts with IEPs found in Compliance			
		0% of IEPs in compliance	1-49% of IEPs in compliance	50-79% of IEPs in compliance	80-100% of IEPs in compliance
Eastern	18	6	3	3	6
Hudson Valley	22	16	4	2	0
Long Island	23	2	6	4	11
Mid-State	14	5	7	1	1
Mid-West	17	8	8	0	1
NYC	1	1	0	0	0
Western	13	5	6	2	0
Totals	**108**	**43**	**34**	**12**	**19**

Technical assistance personnel from SED's funded TCSs and/or SETRC facilitated the reviews of most of the school districts compliance with this indicator. This served as part of the verification process and afforded districts technical assistance during the compliance review. In most cases it was indicated that districts are often providing appropriate transition programs and services but not accurately documenting this information on the students' IEPs.

Data for each of the eight compliance indicators is reported in the chart below. Major findings include:

- 23 percent of districts reported compliance with the requirement for measurable post-secondary goals. This is a new requirement for school districts (IDEA 2004).
- 24 percent reported compliance with documenting a student's transition needs under the IEP section "present levels of performance." However, TCS and SETRC staff participating in these reviews reported that district staff were generally able to orally describe the student's needs, but often failed to accurately capture those needs in writing in the IEPs.
- More than 70 percent of school districts were in compliance with the requirement to document recommended special education programs and services.
- More than 57 percent of the school districts invited and/or otherwise provided for the student's participation in the transition planning process.

FFY 2005 Baseline Compliance Rate for Individual Regulatory Citations - Transition IEPs		
Requirement	**Number of Districts in Compliance**	**Percent of Districts in Compliance**
When the CSE met to consider transition service needs, the school district invited the student. If the student did not attend, the district ensured that the student's preferences and interests were considered	62	57.41%
Under the student's present levels of performance, the IEP includes a statement of the student's needs, taking into account the student's strengths, preferences and interests, as they relate to transition from school to post-school activities.	26	24.07%
The IEP includes appropriate measurable post-secondary goals based upon age appropriate transition assessments relating to training, education, employment and, where appropriate, independent living skills.	25	23.15%
The IEP includes measurable annual goals consistent with the student's needs and abilities, including (if applicable) benchmarks or short-term objectives.	58	53.70%
The IEP includes a statement of the transition service needs of the student that focuses on the student's courses of study.	45	41.67%
The IEP indicates the recommended special education program and services to advance appropriately toward meeting the annual goals relating to transition needs.	76	70.37%

FFY 2005 Baseline Compliance Rate for Individual Regulatory Citations - Transition IEPs		
Requirement	**Number of Districts in Compliance**	**Percent of Districts in Compliance**
The IEP includes needed activities to facilitate the student's movement from school to post-school activities, including: instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation.	35	32.41%
The IEP includes a statement of the responsibilities of the school district and, when applicable, participating agencies, for the provision of such services and activities that promote movement from school to post-school opportunities, or both.	40	37.04%

New Baseline Data for FFY 2009 (2009-10)

Federal changes in the definition of the indicator in March 2009 necessitated resetting a new baseline. Data reported for the 2009-10 school year below are the State's new baseline data; they cannot be compared to prior years' data.

During FFY 2009, **67.2 percent** of youth, ages 15 and above, had IEPs that included appropriate measurable post-secondary 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 post-secondary goals, and annual IEP goals related to the student's transition services needs.

Discussion of FFY 2009 Baseline Data

The FFY 2009 baseline data is based on the monitoring review of IEPs from a representative sample of 107 school districts, including NYC. Districts used a State-developed self-review monitoring protocol to review a sample of IEPs of students with disabilities aged 15 and above to determine if each IEP is in compliance with all transition planning requirements. The self-review monitoring protocol is posted at http://www.p12.nysed.gov/specialed/spp/13selfreview-410.pdf. The total number of students with IEPs, ages 15-21, in NYS during 2009-10 was 58,055. The total number of IEPs reviewed from these representative school districts was 3,321. Of the IEPs reviewed, 2,232 were found to have been in compliance with all IEP transition requirements.

Of the 107 school districts:

- 16 school districts (15 percent of the 107 school districts) reported that 0 percent of their student's IEPs that were reviewed met compliance with the IEP transition requirements.
- 15 school districts (14 percent of the 107 school districts) reported between one (1) and 49 percent of the students' IEPs that were reviewed met the transition requirements.
- 15 school districts (14 percent of the 107 school districts) reported between 50 and 79 percent of their IEPs that were reviewed met the transition requirements.
- 22 school districts (20.6 percent of the 107 school districts) reported between 80 and 99 percent of IEPs that were reviewed met the transition requirements.
- 39 school districts (36.4 percent of the 107 school districts) reported 100 percent of IEPs that were reviewed were in compliance with all transition planning requirements.

Regional variations are noted in the following chart. While the majority of school districts in each region of the State reported a compliance rate of between 80 to 100 percent, two regions of the State were an exception: In the Western region only one school district had a compliance rate in this range and in NYC the compliance rate was 25 percent.

Indicator 13 - Transition IEP FFY 2009 Baseline Data						
		Number of Reviewed School Districts with IEPs found in Compliance				
RSE-TASC* Region	Total # of School Districts Reviewed in FFY 2009	0% of IEPs in compliance	1-49% of IEPs in compliance	50-79% of IEPs in compliance	80-99% of IEPs in compliance	100% of IEPs in compliance
Capital District/ North Country	24	3	3	5	6	7
Central	9	2	2	0	2	3
Long Island	12	2	1	2	4	3
Lower Hudson	15	1	3	3	1	7
Mid-Hudson	7	0	1	2	2	2
Mid-South	11	3	1	0	0	7
Mid-State	11	2	0	1	4	4
Mid-West	8	0	0	0	2	6
New York City	1	0	1	0	0	0
West	9	3	3	2	1	0
Totals	107	16	15	15	22	39

*Regional Special Education Technical Assistance Support Centers

School districts that reported any IEP not in full compliance with all requirements were required to immediately correct those IEPs and provide an assurance of correction of noncompliance to SED, which was verified by the State's monitoring staff.

Also, school districts that reported less than 100 percent of IEPs in full compliance with all requirements were issued findings in 2010. School districts are required to correct these findings as soon as possible but no later than within 12 months from notification and report an assurance of correction of noncompliance to SED. These corrections are also verified by the State's monitoring staff. NYS will report on the correction of noncompliance identified during FFY 2009 in the February 2012 APR.

Measurable and Rigorous targets

FFY	Measurable and Rigorous Target
2005 (2005-06)	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.
2006 (2006-07)	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.
2007 (2007-08)	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.
2008 (2008-09)**	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. Note: No reporting is required in the February 2010 APR submission, although data continued to be collected from individual school districts using the prior definition. (rev. 1/10)
2009 (2009-10)**	100 percent of youth* aged 15 and above will have IEPs that include appropriate measurable post-secondary 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 post-secondary goals, and annual IEP goals related to the student's transition services needs. (rev. 1/10**)

FFY	Measurable and Rigorous Target
2010 (2010-11)**	100 percent of youth* aged 15 and above will have IEPs that include appropriate measurable post-secondary 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 post-secondary goals, and annual IEP goals related to the student's transition services needs. (rev. 1/10**)
2011 (2011-12)***	100 percent of youth* aged 15 and above will have IEPs that include appropriate measurable post-secondary 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 post-secondary goals, and annual IEP goals related to the student's transition services needs, with evidence that the student was invited to the 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.
2012 (2012-13)***	100 percent of youth* aged 15 and above will have IEPs that include appropriate measurable post-secondary 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 post-secondary goals, and annual IEP goals related to the student's transition services needs, with evidence that the student was invited to the 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.

* Note: "percent of youth" means percent of youth with IEPs reviewed
** Note: Revisions to targets and reporting schedule made in 1/10 per federal guidance.
*** In FFY 2009, the United States Education Department (USED) requested states to add two additional years to the SPP, including adding two additional years of targets.

Improvement Activities/Timelines/Resources

Activity	Timeline	Resources
Provide targeted training and technical assistance to school districts to improve transition planning process; assist districts and adult service agencies to develop and strengthen transition programs and services.	2005-12*	14 RSE-TASC Transition Specialists funded through IDEA Part B discretionary funds (rev. 1/10)
Develop a self-review monitoring protocol for IEP transition planning requirements.	2006 Completed See SPP 6/07	SED staff
Develop and disseminate statewide a transition planning policy guidance document	2007-12*	SED Policy Staff
Require one-sixth of NYS school districts and NYC to annually conduct a review of their policies, procedures and practices for transition planning. Encourage RSE-TASC personnel to facilitate the transition self-reviews, providing on-site improvement strategies during the review process. (rev. 1/10)	2006-12*	SED staff; RSE-TASC, and RSE-TASC Transition Specialists (rev. 1/10)
Require school districts with poor results in the transition planning to work with RSE-TASC Transition Specialists to improve their transition planning process.	2007-12*	RSE-TASC Transition Specialists (rev. 1/10)
Develop a statewide training program on IEP transition planning development.	2007	RSE-TASC Transition Specialists (rev. 1/10)
Develop and require by regulation the use of a State-mandated IEP form. Provide statewide training on the use of the form.	2008-11 2010-12	SED staff RSE-TASC Regional Trainers and Transition Specialists
Assist school districts to assess school improvement transition planning needs, prioritize desirable changes, develop strategic plans to implement those changes and record their results. School improvement through TRANSQUAL ONLINE focuses on: • district program structure • interagency and interdisciplinary collaboration	2006-12*	TRANSQAUAL ONLINE - funded by SED through Cornell University using IDEA Part B discretionary funds

Activity	Timeline	Resources
• family involvement • student involvement • student development *TransQUAL Online p*rovides a standardized set of quality indicators for transition procedures based on Dr. Paula Kohler's Taxonomy of Transition Programming, which allows a school to self-identify its needs for improvement and to use a strategic plan template to make improvements. Hyperlinks are made to on-line technical assistance information and effective practices. School data is password and username protected and history files are created from year to year so a school can revisit and revise its plans and self-assessments. Approximately half the school districts in the State have used the on-line tool. Aggregated data from the tool is available to the RSE-TASC Transition Specialists to identify common needs and guide local training and development activities. (rev. 1/10)		
Provide training on the development of the IEP to NYC school based transition coordinators. Cornell University's Employment and Disability Institute will work with NYC to advance the use of the TRANSQUAL Online toolkit with secondary programs.	2007-12*	RSE-TASC Transition Specialists (rev.1/10) Cornell University
Implement Model Transition Programs in 60 school districts throughout the State	2007-09 Completed See APR 2/10	Competitive contracts with 60 school districts in collaboration with VESID Vocational Rehabilitation District Offices
Analyze and disseminate the results of NYS' Longitudinal Post School Indicators Study of outcomes for former special and general education students who left school in 2000 and 2001 with a Regents, Local or IEP diploma. Comparative analysis of high school experiences of the class of 2001 in relation to their post-school outcomes indicate that the combined presence during the student's K-12 educational program of	2005-07 Study Completed (See Board of Regents Report, 11/08)	Post School Indicator Study - SUNY Potsdam contract with IDEA Part B funds.

Activity	Timeline	Resources
helpful transition planning, early planning, provision of career and postsecondary information, participation by students and families, integration, academic achievement and a safe educational environment are significantly related to positive post school transitions.		
Establish a State Transition Technical Assistance Center to provide professional development to the State's transition specialists in the RSE-TASC and technical assistance resources to all school districts in the State.	2010-12	IDEA discretionary funds supports TAC through Cornell University
Update and streamline *TransQUAL Online* and develop a website devoted to transition resources and planning for students, families and district staff. http://www.transitionsource.org/	2010-11	Contract with Cornell University – Transition Services Professional Development Support Center
Develop and deliver training on the following topics to school districts statewide: • Transition in the IEP • Student Exit Summary • Transition Assessments • State and Community Agencies • Self-advocacy/self-determination • Assistive Technology and Accessible Instructional Materials for Post-School Success	2011-12	State Transition TAC Transition Specialists in the RSE-TASC
*Note: Extended the end dates to 2012 coinciding with extended dates of the SPP (rev. 2/11).		

- For additional detail on activities revised, completed or added in the school year 2006-07, see pp. 70-72 at http://www.p12.nysed.gov/specialed/spp/apr2008/APR-1008.pdf.
- For additional detail on activities revised, completed or added in the school year 2007-08, see pp. 86-88 at http://www.p12.nysed.gov/specialed/spp/apr2009/final.pdf.
- For additional detail on activities revised, completed or added in the school year 2008-09, see pp. 79-80 at http://www.p12.nysed.gov/specialed/spp/apr2010/revisedApril2010-final.pdf.

Attachment – State Performance Plan Indicator 14

Overview of the State Performance Plan Development:

See Overview of the State Performance Plan (SPP) Development in the Introduction to the State Performance Plan. In addition to the plan development activities described there, input on data collection for this indicator was sought from Commissioner's Advisory Panel for Special Education Services (CAP) and representatives of the Regional Special Education Technical Assistance Support Centers (RSE-TASC).

Monitoring Priority: Effective General Supervision Part B / Effective Transition

Indicator 14:

Indicator definition used for students exiting 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.

For school students exiting beginning with the 2008-09 school year and thereafter, this Indicator is defined as:

Percent of youth who are no longer in secondary school, had IEPs in effect at the time they left school, and were:

A. Enrolled in higher education within one year of leaving high school.
B. Enrolled in higher education or competitively employed within one year of leaving high school.
C. Enrolled in higher education or some other postsecondary education or training program; or competitively employed or in some other employment within one year of leaving high school.

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

Note: Because of the change in definition in March 2009, United States Education Department (USED) did not require reporting in the February 2010 APR for the 2008-09 school year, although New York State (NYS) completed the data collection and will report individual school district data using the prior definition.

Measurement used for students exiting 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.

Measurement used for students exiting beginning with the 2008-09 school year and thereafter:

A. Percent enrolled in higher education = [(# of youth who are no longer in secondary school, had IEPs in effect at the time they left school and were enrolled in higher education within one year of leaving high school) divided by the (# of respondent youth who are no longer in secondary school and had IEPs in effect at the time they left school)] times 100.
B. Percent enrolled in higher education or competitively employed within one year of leaving high school = [(# of youth who are no longer in secondary school, had IEPs in effect at the time they left school and were enrolled in higher education or competitively employed within one year of leaving high school) divided by the (# of respondent youth who are no longer in secondary school and had IEPs in effect at the time they left school)] times 100.
C. Percent enrolled in higher education, or in some other postsecondary education or training program; or competitively employed or in some other employment = [(# of youth who are no longer in secondary school, had IEPs in effect at the time they left school and were enrolled in higher education, or in some other postsecondary education or training program; or competitively employed or in some other employment) divided by the (# of respondent youth who are no longer in secondary school and had IEPs in effect at the time they left school)] times 100.

Overview of Issue/Description of System or Process:

From 2000 through 2007, NYS independently conducted a seven year study to collect post-school outcome data from special and general education Exiters. Stratified random samples of 13,000 special and general education students were followed since they were seniors in 2000 and 2001, with data collected during the senior year and at one-, three- and five-years beyond high school exit. The NYS LPSI found that, at one year beyond high school exit, 83 percent of the Class of 2001 completers had successfully transitioned to employment, postsecondary education and/or day program alternatives[1] as compared to 96 percent of general education students who left the same high schools at the same time. Thus, NYS students with disabilities experienced a gap in post-school outcomes of approximately 13 percentage points as compared with their general education peers. However, 75 percent of an earlier group of students with disabilities from the senior class of 1995 at one-year had positive post-school transitions. The LPSI showed that over six years, successful post-school transitions for

[1] Day program alternatives are adult rehabilitation service programs designed for persons with the most severe disabilities who cannot successfully compete in the competitive labor market or matriculate in traditional postsecondary education settings even with extensive support. Services provided in these day program alternatives typically involve provision of developmental therapies to improve daily living, independent living, and social skills and to provide prevocational training. Placement in these settings is not necessarily an end-placement. As individuals acquire more skills and new systems for providing support evolve, participants may transition full- or part-time into other more integrated settings, including supported employment or supported postsecondary education models. Inclusion of this outcome in NYS' definition of postsecondary school was highly recommended by the CAP to assure that students with the most severe disabilities are included in NYS' transition services. Such outcomes will be applied to the new criterion C, included as "other training program or employment."

students with disabilities had climbed 8 percentage points, an improvement resulting from statewide technical assistance, such as provided by the TCS technical assistance centers.

Note that the NYS LPSI used a slightly different criterion for successful post-school transition. While the SPP measure for Exiters through 2007-08 represents those "engaged at any time" during the post-school year, the LPSI used the criterion of the person being engaged at the point of interview one year out of school. If the federal SPP criterion were applied to the LPSI study data, the rate for all students would have been higher. This difference has implications for understanding the SPP results and improvement planning.

Plan to collect baseline data for 2005-06

Under the SPP requirements, baseline data was collected by interviewing students with disabilities exiting a representative sample of one-sixth of NYS school districts in 2005-06. A short interview protocol was designed to determine post-school transition status in areas of competitive employment and/or enrollment in post-secondary schools.

Definitions

Exiters are defined to include those students with disabilities who had IEPs and who completed the high school program with any diploma or certificate of completion (i.e., Regents or local diploma, IEP diploma, high school equivalency diploma), who completed school by reaching the maximum age to attend special education or those dropping out during the academic year being reviewed.

Enrolled in higher education means youth have been enrolled on a full-or part-time basis in a community college (two-year program) or college/university (four or more year program) that meets the definition of "Institution of Higher Education" in the Higher Education Act (HEA), for at least one complete term, at anytime in the year since leaving high school: (a) in an educational program to earn a degree or other recognized credential; OR (b) in a training program that lasts at least one academic year to prepare for gainful employment in a recognized occupation.).

Competitive employment means that youth have worked for pay at or above the minimum wage in a setting with others who are nondisabled for a period of 20 hours a week for at least 90 days at any time in the year since leaving high school. This includes military employment.

Enrolled in other postsecondary education or training means youth have been enrolled on a full- or part-time basis for at least one complete term at any time in the year since leaving high school in an education or training program (e.g., Job Corps; adult education; workforce development program; adult rehabilitation service programs; or other). Part-time is defined differently depending on the standard for the post-secondary school program. For colleges, part-time course loads typically are defined as less than nine credit hours per semester. Each person interviewed responds based on their

understanding of what constitutes full- or part time for the institution or program they are attending. Interviewers are trained to provide guidance if requested or needed.

Some other employment means youth have worked for pay or been self-employed for a period of at least 90 days at any time in the year since leaving high school. This includes working in a family business (e.g., farm, store, fishing, ranching, catering services, etc.)

Plan to collect baseline data for 2008-09

Same as above except that:

Enrolled in higher education has been redefined to mean youth have been enrolled on a full- or part-time basis in a community college (two-year program) or college/university (four or more year program) for at least one complete term, at any time in the year since leaving high school.

Enrolled in other postsecondary education or training also includes enrollment on a full- or part-time basis for at least one complete term at any time of the year since leaving high school in a vocational technical school that is less than a two-year program.

NYS continues to use a contractor to collect data for this indicator. The current contractor is Potsdam Institute for Applied Research (PIAR) at the State University in Potsdam, NY. The schedule for collection of baseline data for 2008-09 school year cohort was as follows:

- By April 2009, districts were required to provide PIAR with student-specific contact and demographic information for students who left school between July 1 and December 31, 2008. This group was designated as “Semester 1 Exiters.”
- By August 2009, districts were required to provide PIAR with student-specific contact and demographic information for students who left school between January 1 and June 30, 2009. This group was designated as “Semester 2 Exiters.”

When possible, interviews with each identified Exiter were conducted by telephone, but the survey was available on the web and in hard copy by mail. Interviews were attempted between March 8 through April 19, 2010 for Semester 1 Exiters. The major interviewing period was between June 2 through September 30, 2010. All remaining Exiters were included in this second round of interviews. Although the second round of interviewing started on June 2nd, no one was contacted for an interview until 12 months had passed since their reported Date of School Exit.

Districts submitted information on Exiters and sent out a notification/consent letter. Exiters who withdrew consent or for whom the district had no current contact information (letters were returned as undeliverable and the phone numbers on record did not work) were taken out of the survey pool. With these Exiters excluded, 3,820 Exiters were included in the survey pool. Of these targeted 3,820 students from 109 school districts (NYC counts as one district), 2,041 were available for interview, for a response rate of 53 percent.

Sampling Plan Used

Sampling was used to establish the 2005-06 baseline for this indicator. One-sixth of the school districts reported data on this indicator in 2005-06. A different sample group of school districts will report in subsequent school years until all school districts report data on this indicator over the first six years of the SPP. When each school district has reported once, the cycle will begin again in the same order. This represents approximately 110 school districts each year. The NYC School District will be included in the sample group each year. It is the only school district in NYS with a total enrollment of 50,000 or more students. Because Indicator 14 data collection takes two years (the first year to identify school Exiters and the second year to conduct one-year out interviews), two samples will be identified in the fifth year to enable interview data to be collected during the sixth year, analyzed and reported for every district before the SPP expires. (See Attachment 2 to the SPP as revised June 2007)

NYS distributed all school districts among six statewide representative samples. These six groups of school districts were tested with Analysis of Variance (ANOVA) and there was no statistical difference among the six groups of school districts on the population variables described in Attachment 2 to the SPP as revised June 2007. These population variables were from the 2000 decennial census.

For Indicator 14 for school years 2005-06 and 2006-07, school districts with over 100 Exiters had a choice of reporting data on all Exiters or submitting data on a randomly selected representative sample of Exiters. The minimum number of students required for sampling under this indicator was obtained by using the sampling calculator provided by the State (http://www.p12.nysed.gov/sedcar/randomno.htm) and the guidelines provided below. The vast majority of school districts will need to submit data on all Exiters for this indicator. For a few large school districts, finding it less burdensome to report on a sample of students, the methodology described below (totally random sampling) was determined likely to produce a sample that is representative of the school district in terms of all variables, since every exiting student has the same chance as another student to be selected for the sample.

The State Education Department (SED) requires that school districts maintain documentation as described below if they chose to report data on a sample of students. The totally random sampling methodology and required documentation would 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 addressed by following procedures in accordance with FERPA. SED will also guard against divulging personally identifiable information by not publicly 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.

Federal Indicator Number	Eligible Population of Students From Which A Random Sample Must be Selected	Minimum Number of Students in the Sample	Method for Selecting Students	Required Documentation
14	All students with disabilities who are no longer in secondary school but received some special education service during the school year (July 1-June 30) in district-operated programs or under contract with other service provider. (Include all students who left with a credential, reached maximum age for educational services or dropped out.)	School districts with less than 100 students with disabilities exiting, survey all students. School districts with 100 or more students use the sampling calculator. Require 95% confidence interval and plus or minus 5% margin of error.	If less than 100 Exiters, survey all students. For larger districts, use random selection using a random number table.	Documentation period is seven years. Maintain list of all eligible students, copy of Random Number Table used, beginning random number for selecting students and of all students who were selected their number.

NOTE: Beginning with reporting for 2007-08 Exiters, the option of sampling students for Indicator 14 was discontinued. No districts scheduled to report on this indicator, except for NYC, are permitted to sample students to report for this indicator. See Sampling Plan, Attachment 2.

Establishing the Baseline Sample for 2005-06

- By January 2006, school districts selected for this indicator for the 2005-06 reporting year were notified by SED that they must obtain contact information and consent to be contacted from all or their sample of students who left secondary school between the months of January to June 2006. The shorter period for the baseline cycle was used because this was the earliest that schools could reasonably be expected to be implement the process created under the first submission of the SPP in December 2005. School districts provided demographic and contact data for these students to the contractor, the Potsdam Institute for Applied Research (PIAR) at SUNY Potsdam. Demographic data included name of the school district and student identification, date of birth, year of exit, primary disability, gender, race/ethnicity information, type of school exit (e.g., graduation, drop out, aging out) and special education placement during the student's last year of school participation.

- By September 2006, school districts submitted the contact and demographic information to PIAR, who verified completeness of information with school districts and initiated planning for interviewing, via a calling center and creating mail and on-line survey alternatives. Survey protocols were programmed and interviewer training

was designed. Recruitment of interviewers anticipated addressing the multi-lingual needs of former students as identified in the student information provided to PIAR.

- In mid-March 2007, PIAR sent letters to the entire survey pool of 2,936 former students to remind them of the purpose of the future call. If contact information failed to reach the former student, PIAR followed up with the school district to seek additional contact information. Most districts except NYC were able to provide additional contact information. PIAR also used web searches of on-line directories and databases to search for alternative addresses to supplement the outreach process.

- From April through the end of July 2007, interviews were conducted by PIAR using a modified form of the National Post-School Outcomes Center Post-School Data Collection Protocol, involving twelve basic questions plus one qualitative question regarding connections to adult services and supports. Call Center hours included early morning through evening hours, seven days per week, except holidays. English and Spanish-speaking interviewers were available. A maximum of 20 calls per former student was made, varied across time-of-day and day-of-week.

- Questions pertaining to employment and postsecondary education include the following:

Employment

1. The level of employment, from working in a competitive employment setting for pay to supported employment.
2. If employed at all during the previous year.
3. If currently employed.
4. Hours worked per week.
5. Typical hourly wage received.
6. If the job provides health insurance benefits (an indicator of the stability of the level of engagement in the world of work).
7. If not employed, why?

Postsecondary Education

8. The level of postsecondary education (from 4-year college program to Adult Basic Education).
9. If ever participated in postsecondary education.
10. If currently involved in postsecondary education.
11. Whether enrolled full or part time.
12. If not engaged in postsecondary education, why?

Awareness of and engagement with vocational rehabilitation and related adult services.

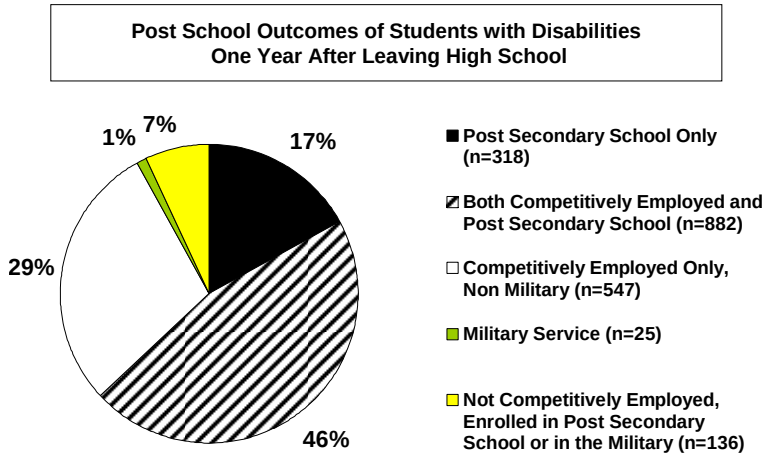
- Final reports to NYSED were provided by the end of September beginning in 2007 as they will be in each subsequent year, including all responses as well as analyses of response rates and differential outcomes by school, location (Big Five City vs. Rest of State), major demographic characteristics and type of school exit.

Future cycles of collecting the data will follow a similar schedule and process, with two exceptions. In subsequent annual data collections, beginning 2006-07, Exiters from the complete school year September to June will be included. Secondly, to increase response rates from larger districts, beginning with the 2008-09 student Exiters, sampling will be discontinued for all districts except NYC.

Because Indicator 14 data collection takes two years (the first year to identify school Exiters and the second year to conduct one-year out interviews), two samples will be identified in the fifth year (2009-10 SY) to enable interview data to be collected during the sixth year, analyzed and reported for every district before the SPP expires. (See Attachment 2 to the SPP as revised June 2007)

Baseline Data for FFY 2005 (2005-06)

Out of a targeted 2,917 student Exiters from 107 school districts (NYC counts as one district), 1,908 students were available for interview, for a response rate of 65 percent. 92 percent of those who were interviewed reported being in post secondary school and/or competitive employment at some point during the year after exiting high school in 2005-06. The post-school status of the 1,009 former students who could not be reached for interview is unknown.



Discussion of FFY 2005 Baseline Data:

Representativeness of FFY 2005 Survey Pool

Table 1 addresses the representativeness of the survey pool compared with all Exiters for 2005-06. The survey pool is the group of students that school districts identified to PIAR to be interviewed. The NPSO recommends using a +/-3 percent difference to judge the representativeness of demographic subgroups reported in Table 1. Using this criterion, the survey pool is representative of disability subgroups and gender. Minority

students and students who dropped out of school are under represented at -15.9 percent and -14.8 percent, respectively. Similar analysis of representation by geographic region showed that for the Big Five Cities included in the sample, only students who dropped out are under represented at -8.6 percent. For the Rest-of-State, students who dropped out are under represented at -10.2 percent and minority students are slightly under represented at -4.7 percent.

Table 1: Representativeness of Survey Pool Compared to Total Exiters for All NYS Schools During 2005-06, as reported in PD-5 Data Reports							
Statewide Demographic Representativeness							
Statewide	**Learning Disabilities**	**Emotional Disabilities**	**Mental Retardation**	**All Other Disabilities**	**Female**	**Minority**	**Dropout**
PD-5 Report	61%	13%	5%	21%	35%	44%	30%
Survey Pool Representation	63%	11%	4%	22%	36%	28%	16%
Note: positive difference indicates over-representation; negative difference indicates under-representation on the interview pool.							
Difference	2.2%	-2.6%	-0.6%	1%	0.7%	-15.9%	-14.8%

Two factors are believed to contribute to these differences in representation:

(1) The PD-5 report represents Exiters for the entire school year, but the 2005-06 survey pool represents Exiters from the second half of the year. Dropping out is believed to more often occur during the first semester.

(2) The consent process influences the composition of the survey pool. The consent process requires school districts to contact Exiters and their families to inform them about Indicator 14, to obtain contact information and to expect to be interviewed a year after leaving school. If a district cannot contact Exiters or their families or if there is a refusal of consent, the person is removed from the survey pool. Most often, these students have left by dropping out or have less stable living situations.

Representativeness of FFY 2005 Response Pool

Table 2 addresses the representativeness of the response pool, compared with the PD-5 report about all Exiters. The response pool is comprised of the students from the survey pool who actually were interviewed and who fit the criteria of being Exiters after one year. Using the PSO criteria of +/-3 percent to judge representativeness of subgroups, the response pool is representative of gender and all but one disability group. Exiters with emotional disabilities are slightly under represented at -4.5 percent. Minority and students and students who dropped out of school are under represented at -22.7 percent and -20.5 percent respectively. For the Big Five Cities, the response pool is representative of gender, minority and all but one disability subgroup. Exiters with emotional disabilities are slightly under represented at -4.1 percent. Students who dropped out of school are under represented at -18.2 percent. For the Rest-of-State, students who dropped out and minority students are under represented at -13.8 percent and -8.9 percent, respectively. Students with emotional disabilities are slightly under represented at -3.5 percent. The factors contributing to under representation by these groups include their under representation in the survey pool and having lower response rates.

Table 2: Representativeness of FFY 2005 Response Pool Compared to Total Exiters for All NYS Schools During 2005-06, as reported in PD-5 Data Reports							
Statewide Demographic Representativeness							
Statewide	**Learning Disabilities**	**Emotional Disabilities**	**Mental Retardation**	**All Other Disabilities**	**Female**	**Minority**	**Dropout**
Census Representation	61%	13%	5%	21%	35%	44%	30%
Response Pool Representation	63%	9%	4%	24%	35%	21%	10%
Note: positive difference indicates over-representation; negative difference indicates under-representation on the interview pool.							
Difference	1.4%	-4.5%	-0.7%	3.8%	0.1%	-22.7%	-20.5%

Response Rates for the FFY 2005 Baseline

- Within the survey pool, the response rates for three demographic subgroups were less than 65 percent: students with emotional disabilities at 55 percent; minority students at 50 percent; and students who dropped out of school at 42 percent.
- For the Big Five Cities, the response rate was 52 percent, with two groups falling below this rate: students with emotional disabilities at 45 percent and students who dropped out of school at 39 percent.
- For the Rest-of-State, there was a response rate of 69 percent, with three groups falling below this rate: students with emotional disabilities at 58 percent; minority students at 49 percent; and students who dropped out at 45 percent.

Implications for Interpreting and Applying the FFY 2005 Data

In reviewing the data results, readers are cautioned that the percent of former students with positive post-school outcomes is not representative of students who dropped out of school, minority students and students with emotional disabilities since these subgroups were underrepresented in student responses to the survey interviews.

Data Reliability and Validity for FFY 2005

Strategies are needed to equalize the response rates between the largest school districts and the rest of the participating schools that provide data for this indicator. Outreach activities need to be enhanced to find students who dropped out and assure their representation in the data. Strategies for improving response rates and representativeness for this indicator are discussed under the Improvement Activities/Timelines/Resources section**.**

Major Findings from FFY 2005 Baseline

- 92 percent of the 1,908 interviewed 2005-06 exiting students with disabilities reported that they participated in competitive employment and/or post secondary school enrollment at some point during the year since they left high school.
- If military service is counted as “competitive employment,” the percent of students with positive post-school transitions would be 1.3 percent higher (n=25), or 93 percent.
- Based on past post-school studies, we believe that “employed and/or in post secondary school at the point of interview one-year beyond high school exit” is a

better measure and may include some indication of sustaining positive post-school outcomes.

- Using this criterion, the percent of former students achieving positive post-school outcomes would be only 84 percent, distributed as follows: 24 percent in post secondary school only; 30 percent both working competitively and in post secondary school, and 30 percent in competitive employment only.
- Also using this criterion, there are 15 percent fewer former students sustaining themselves in employment and nine percent fewer former students sustaining their participation in post secondary school programs. (Note: there is some double counting here, because some students were doing both activities and some were only doing one).
- Only half of the former students not sustaining their participation in competitive employment or post secondary schools had heard of vocational rehabilitation services and, of these, only one third were using them. This means that sustaining post-school transitions also represents an area for improvement and that stronger alliances between schools and adult service agencies are needed to effect smooth transitions that are sustained beyond immediate school exit.

- Of the 1,200 former students who participated in post secondary school at any point during the year since leaving school, 883 (73.6 percent) participated in two-year college programs (47.1 percent) or four-year college programs (26.5 percent). Seven out of every 8 students participating in college programs participated full-time.
- Of the 1,429 former students who worked competitively at any time within one year of leaving school, 577 were found on interview to be still employed one year later and not attending post secondary school. Of this group, for whom employment is the primary activity, two-thirds work full-time, with the majority working 40 hours per week. The average wage for all 577 former students was $8.90 per hour and the average hours worked was 35.7 hours per week.
- Type of school exit: While 96 percent of students with regular diplomas transitioned to post-secondary school and/or competitive employment at some point during the year after school exit, only 84 percent of students with IEP diplomas and 78 percent of students who dropped out had these positive post-school outcomes. While 77 percent of all students transitioned to employment, only 63 percent of students with IEP diplomas and 69 percent of students who dropped out of school did so.

2005-06 Post-School Outcomes by Type of Exit										
2005-06 Post-School Outcome	**Statewide Responses 2005-06**		**Regular HS Diploma (Regents, Local, HS Equivalency**		**Certificate or Modified Diploma (IEP Diploma)**		**Dropped Out**		**Other Exit Reasons***	
	N	%	N	%	N	%	N	%	N	%
Total in category	1908	100%	1312	100%	377	100%	188	100%	31	100%
All Post-school Outcomes**	1747	92%	1262	96%	316	84%	146	78%	23	74%
Postsecondary school only	318	17%	215	16%	77	20%	16	9%	10	32%
Both competitively employed and post	882	46%	733	56%	91	24%	53	28%	5	16%

2005-06 Post-School Outcomes by Type of Exit										
2005-06 Post-School Outcome	**Statewide Responses 2005-06**		**Regular HS Diploma (Regents, Local, HS Equivalency**		**Certificate or Modified Diploma (IEP Diploma)**		**Dropped Out**		**Other Exit Reasons***	
	N	%	N	%	N	%	N	%	N	%
secondary school										
Only competitively employed	547	29%	314	24%	148	39%	77	41%	8	26%
Other: military service	25	1%	20	2%	3	1%	1	1%	1	3%
Neither	136	7%	30	2%	58	15%	41	22%	7	23%
* "Other" may include that the student reached maximum age or that reasons were not reported. ** "All" represents the sum of post secondary school and/or competitive employment. It excludes military service.										

- School characteristics: Students from NYC, which has the highest resource needs, had fewer transitions (82 percent) in comparison to students from Rest-of-State (93 percent). Competitive employment was less often reported by students from NYC (57 percent) than by students from the Rest-of-State (78 percent).
- Demographics of Students: There are no significant differences by gender. Fewer minority students had positive post-school outcomes (85 percent) than did white students (93 percent). Fewer minority students (65 percent) reported competitive employment than did white students (77 percent).

Based on FFY 2005 baseline:

- Encourage districts to provide better contact information by requesting three distinct sets of contacts instead several individuals all living at the same location.
- Encourage districts to check with student and families to confirm or update contact information. This could be done when they formally notify youth and families about SPP Indicator 14, at Parent-Teacher conferences, IEP meetings and when the student is given their Student Exit Summary prior to graduation.
- Modify "Sampling Methodology" to drop sampling for any school district except for NYC. The work of larger districts in compiling randomly selected student lists and over sampling to address lower response rates will be dropped. These districts will be asked instead to provide lists of all Exiters that include contact information known at the school building the student attends, which is typically more up-to-date with this information than centralized data bases.
- Based the first round of data collection, NYC will be asked to increase its sample size as well as provide more up-to-date contact information from the buildings attended by the students. Discussions have begun with city administrators on these and other creative solutions to address the lower response rate.
- Contact youth enrolled by the districts by phone at the end of each semester to verify their contact information as soon it is submitted by the school district rather than waiting until the April following school exit. For example calls were made to 2006-07 youth enrolled in the 2006-07 survey pool during November 2007. If these

calls prove effective in increasing response rates, they will be repeated in subsequent cycles.

- In addition to discussing their post-school status, provide interviewed students and/or their families with lists of services that may assist the student to obtain more successful outcomes, including returning to school, if the student has dropped out.

New Baseline Data for FFY 2008 (2008-09 school year Exiters)

Federal changes in the definition of the indicator in March 2009 necessitated resetting a new baseline with students who exited school in FFY 2008. Data reported below for 2008-09 comprise the State's new baseline data; they cannot be compared to prior years' data for this indicator.

Data on Exiters from the 2007-08 School Year was collected on schedule but not reported as part of the APR that was submitted February 2010. However, individual school district reports were publicly reported.

Baseline Data for FFY 2009

A. **43 percent** of youth (n=876) who are no longer in secondary school and had IEPs in effect at the time they left school were enrolled in higher education;

B. **64 percent** of youth (n=1,314) who are no longer in secondary school and had IEPs in effect at the time they left school were enrolled in higher education or were competitively employed (n=438) (note – results for B include results for A); and

C. **77 percent** of youth (n=1564) who are no longer in secondary school and had IEPs in effect at the time they left school were enrolled in higher education or in some other post-secondary education or training program (n=135), or competitively employed or in some other employment (n=115) within one year of leaving high school. (note- results for C include results for B and results for A)

3,820 Exiters were included in the survey pool. Of these targeted 3,820 students from 109 school districts (NYC counts as one district), 2,041 were available for interview, for a response rate of 53 percent.

Measure 1 = 876 respondent Exiters were enrolled in "higher education."
Measure 2 = 438 respondent Exiters were engaged in "competitive employment" (and not counted in 1 above).
Measure 3 = 135 of respondent Exiters were enrolled in "some other postsecondary education or training" (and not counted in 1 or 2 above).
Measure 4 = 115 of respondent Exiters were engaged in "some other employment" (and not counted in 1, 2, or 3 above).

To calculate the above indicator percentages, the following calculations were used:

A = 1 divided by total respondents; 876/2041= 43%
B = 1 + 2 divided by total respondents; (876+438)/2041= 64%

C = 1 + 2 + 3 + 4 divided by total respondents; (876+438+135+115)/2041= 77%

Table 3 - 2008-09 Post-School Outcomes					
2008-09 Post-School Outcome* within one year of leaving high school	**Statewide Responses 2008-09**				
	N	%			
Total in category	2041	100%			
1. Enrolled in higher education	876	43%	A	B	C
2. Competitively employed but not enrolled in higher education	438	21%	64%		
3. Enrolled in some other post-secondary education or training program but neither enrolled in higher education nor competitively employed	135	7%			
4. In some other employment, but neither enrolled in higher education, nor some other post-secondary education or training program and not competitively employed	115	6%	77%		
All SPP Post-school Outcomes	1564	77%			
SPP Not Engaged	477	23%			

* "Post-school outcomes" are defined differently than in past years – see definition section for Indicator 14, which has been updated consistent with new federal definitions. For example, higher education only includes two- and four-year colleges and competitive employment includes military service.

<u>Discussion of FFY 2008 Baseline Data</u>:

Representativeness of FFY 2008 Survey Pool

Table 4 addresses the representativeness of the FFY 2008 survey pool compared with all Exiters from all school districts during school year 2008-09. The "survey pool" refers to the group of students that school districts identified for the contractor, PIAR, to interview during FFY 2009. The NPSO recommends using a +/-3 percent difference to evaluate the representativeness of the demographic subgroups reported in Table 5. Per this criterion, the baseline survey pool is representative of disability subgroups and gender.

- Minority students and students who dropped out of school are under represented by 8.2 percent and 6.3 percent respectively.
- Analysis of representation by geographic region show that, for the Big Five Cities included in the sample, the "All Other Disabilities" category is under represented by 12.2 percent (16.9 percent vs. 29.2 percent) and that students who dropped out was also under represented by 7.8 percent (32.8 percent vs. 40.6 percent).
- For the Rest-of State, the "All Other Disabilities" category is slightly over represented by 3.1 percent (33.7 percent vs. 30.5 percent), students who dropped out are slightly under represented by 3.3 percent (13.3 percent vs. 16.6 percent), and Minority

students are slightly under represented by 4.4 percent (17.2 percent vs. 21.7 percent).

Table 4: Representativeness of *Survey* Pool Compared to Exiters for All NYS Schools During 2008-09, as reported in VR10 Data Reports.

Statewide Demographic Representativeness							
Statewide	**Learning Disabilities**	**Emotional Disabilities**	**Mental Retardation**	**All Other Disabilities**	**Female**	**Minority**	**Dropout**
Census Representation (n=30,012)	57.3%	12.5%	4.3%	25.9%	35.8%	46.6%	25.5%
Survey Pool Representation (n=3820)	56.6%	11.9%	2.9%	28.6%	34.7%	38.5%	19.2%
Difference	-0.7%	-0.6%	-1.4%	2.7%	-1.2%	-8.2%	-6.3%

Note: Positive difference indicates over-representation; negative difference indicates under-representation on the interview pool.
Note: The State report of all Exiters from special education from all schools is called the "VR-10" report. Totals from this report were adjusted to remove data for students who remained in school but were declassified and did not have an IEP in effect at school exit, who died, or whose reason for exit was a transfer to another school.

The consent process itself influences the composition of the survey pool. The consent process requires school districts to contact potential Exiters and their families prior to the student exiting school to inform them about Indicator 14 activities, to obtain contact information and to make them aware they can expect to be interviewed a year after leaving school. Minority students and students who dropped out are disproportionately from New York City and other High Need Urban/Suburban districts in NYS. The contact information on file is more often out-of-date in these urban districts, and more difficult to update, than in other school districts. If a district cannot contact potential Exiters or their families or if there is a refusal of consent, the student is removed from the survey pool.

Representativeness of FFY 2008 Response Pool

Table 5 addresses the representativeness of the response pool compared with the VR-10 report about all Exiters. The response pool is comprised of the students from the survey pool who were actually reached for interview at least one year after leaving school. Using the PSO criteria described above to evaluate representativeness of subgroups, the response pool is representative of gender and all disability groups except All Other Disability which is over represented by 5.8 percent (31.7 percent vs. 25.9 percent. Minority students are under represented by 14.3 percent (32.4 percent vs. 46.6 percent). Students who left by dropping out are also under represented by 11.1 percent (14.5 percent vs. 25.5 percent) The factors contributing to under representation by these groups include their over/under representation in the survey pool of students referred by the schools for interview, and lower group response rates to efforts made to contact former students for interview.

Table 5: Representativeness of *Response* Pool Compared to Total Exiters for All NYS Schools During 2008-09, as reported in VR10 Data Reports							
	Statewide Demographic Representativeness						
Statewide	**Learning Disabilities**	**Emotional Disabilities**	**Mental Retardation**	**All Other Disabilities**	**Female**	**Minority**	**Dropout**
Census Representation (n=30,012)	57.3%	12.5%	4.3%	25.9%	35.8%	46.6%	25.5%
Response Pool Representation (n=2,041)	55.3%	10.1%	2.8%	31.7%	33.6%	32.4%	14.5%
Difference	-2.0%	-2.4%	-1.5%	+5.8%	-2.2%	-14.3%	-11.1%

Note: Positive difference indicates over representation; negative difference indicates under representation in the interview pool.

Table 6 displays post-school outcomes by Exit Type. Those who graduated from high school (Local, Regents, or General Education Development (GED)) have the highest rates of participation in one of the four post-school outcomes at 88 percent. Those who dropped out have the lowest rate at 45 percent.

Table 6 - 2008-09 Post-School Outcomes by Type of Exit										
2008-09 Post-School Outcome* within one year of leaving high school	**Statewide Responses 2008-09**		**Regular HS Diploma (Regents, Local, GED)**		**Certificate or Modified Diploma (IEP Diploma)**		**Dropped Out**		**Other Exit Reasons****	
	N	%	N	%	N	%	N	%	N	%
Total in category	2041	100%	1325	65%	375	18%	295	15%	46	2%
All Post-school Outcomes	1564	77%	1160	88%	238	63%	133	45%	33	72%
1. Enrolled in higher education	876	43%	812	61%	47	13%	11	4%	6	13%
2. Competitively employed but not enrolled in higher education	438	21%	264	20%	98	26%	61	21%	15	33%
3. Enrolled in some other postsecondary education or training program but neither enrolled in higher education nor competitively employed	135	7%	43	3%	66	18%	20	7%	6	13%
4. In some other employment, but neither enrolled in higher education, nor some other postsecondary education or training program and not competitively employed	115	6%	41	3%	27	7%	41	14%	6	13%
None of the above	477	23%	165	12%	137	37%	162	55%	7	28%

*"Post-school outcomes" are defined differently than in past years – see definition section for Indicator 14, which has been updated consistent with new federal definitions. For example, higher

Table 6 - 2008-09 Post-School Outcomes by Type of Exit					
2008-09 Post-School Outcome* within one year of leaving high school	**Statewide Responses 2008-09** N %	**Regular HS Diploma (Regents, Local, GED)** N %	**Certificate or Modified Diploma (IEP Diploma)** N %	**Dropped Out** N %	**Other Exit Reasons**** N %
education only includes two- and four-year colleges and competitive employment includes military service. **"Other" may include that the student reached maximum age or that reasons were not reported.					

Examination of postsecondary participation shows that Exit Type significantly affects postsecondary education:

- 61 percent of Exiters with Regents, Local or High School Equivalency diplomas report they are in 2- or 4 year college or university and three (3) percent report participation in other types of postsecondary education[2].
- Four (4) percent of those who dropped out report they are in 2- or 4- year college or university and seven (7) percent report participation in other types of postsecondary education.
- For those with IEP diplomas, 13 percent report they are in 2- or 4 year college or university and 18 percent report participation in other types of postsecondary education or training programs. Half of this 18 percent is due to participation in rehabilitation programs.

Measurable and Rigorous Targets

FFY (school year students left)	Measurable and Rigorous Target
2005 (2005-06) Baseline	**Baseline = 92 percent** of youth with IEPs*, who exited school in 2005-06 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 school (i.e., during 2006-07).
2006 (2006-07)	**92 percent** of youth with IEPs*, who exited school in 2006-07 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 school (i.e., during 2007-08).
2007 (2007-08)	**92 percent** of youth with IEPs*, who exited school in 2007-08 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 school (i.e., during 2008-09).

[2] Other postsecondary or training program includes Vocational Technology College (< 2-year), Trade Apprenticeship, or WIA - One Stop, Job Corp, continuing education classes or Ameri Corps, GED or Adult Basic Education (ABE) Program, College Preparatory, Rehabilitation Services and Other

New Baseline Data and Targets Established Beginning with FFY 2008

FFY (school year students left)	Measurable and Rigorous Target
2008* (2008-09) BASELINE**	**Baseline =** A. 43 percent will be enrolled in higher education for at least one complete term; B. 64 percent will be enrolled either in higher education or being competitively employed (note – target for B includes target for A); C. 77 percent will be enrolled in higher education or in some other postsecondary education or training program, or competitively employed or in some other employment within one year of leaving high school. (note - target for C includes targets for B and for A) Based on post-school outcomes of school Exiters during 2008-09, a new baseline and targets are being established using the new Measurement categories and reported in the SPP due February 1, 2011.
2009* (2009-10)**	A. 43 percent will be enrolled in higher education for at least one complete term; B. 64 percent will be enrolled either in higher education or being competitively employed (note – target for B includes target for A); C. 77 percent will be enrolled in higher education or in some other postsecondary education or training program, or competitively employed or in some other employment within one year of leaving high school. (note - target for C includes targets for B and for A)
2010* (2010-11)**	A. 44 percent will be enrolled in higher education for at least one complete term; B. 65 percent will be enrolled either in higher education or being competitively employed (note – target for B includes target for A); D. 78 percent will be enrolled in higher education or in some other postsecondary education or training program, or competitively employed or in some other employment within one year of leaving high school. (note- target for C includes targets for B and for A)
2010* (2010-11)**	A. 44 percent will be enrolled in higher education for at least one complete term; B. 65 percent will be enrolled either in higher education or being competitively employed (note – target for B includes target for A); C. 80 percent will be enrolled in higher education or in some other postsecondary education or training program, or competitively employed or in some other employment within one year of leaving high school. (note - target for C includes targets for B and for A)

*"Percent of youth with IEPs" refers to the percent of students who could be reached for interview.
**In these targets, competitive employment excluded military service. The change in the measure in March 2009 will require including individuals with military service to the competitive employment outcome.
*** In FFY 2009, the United States Education Department (USED) requested states to add two additional years to the SPP, including adding two additional years of targets.

Improvement Activities/Timelines/Resources:

Improvement activities center around efforts to target technical assistance and transition funding based on gaps identified in the baseline data for students at-risk of dropping out and who exit with IEP diplomas and in improving the reliability and validity of data collected on this measure. Assistance will be provided regarding development of student samples of an adequate size to offset anticipated low response rates.

Activity	Timeline	Resources
See improvement activities for indicators 1, 2 and 13	2008-12*	Regional Special Education Technical Assistance Support Centers (RSE-TASC) Regional Transition Specialists (rev. 1/10)
Prioritize training and technical assistance delivered by Transition Specialists to improve transition outcomes based on gaps in post-school outcomes identified for subpopulations: i.e., for students who dropped out and for students who exited with IEP diplomas. (rev.2/11)	2007-12*	RSE-TASC regional Transition Specialists (rev. 1/10)
Implement Model Transition Programs in 60 consortia of school districts throughout the State to build capacity for in-school career preparation and smooth transitions to vocational rehabilitation (VR) for students needing those services.	2007-09 Completed (See APR 2/10)	Competitive contracts with 60 school district consortia in collaboration with VESID VR District Offices
VR policy development will be revised to enhance the availability of VR counseling to transitioning students no later than their junior year and the revision of economic need policies related to funding support during postsecondary education, including provision of career-related internships during postsecondary education study.	2007-09 Completed 8/08 (See APR 2/09)	VESID VR Policy Unit
Increase Independent Living Center (ILC) initiatives to facilitate making and sustaining post-school transitions, including identifying and connecting appropriate adult role models with currently transitioning secondary students (e.g., through mentoring programs, shadowing experiences and other innovations to increase student awareness of successful adult roles).	2008-09 Completed	ILC network VR District Offices
Develop an alternate high school exiting credential that documents student experiences and achievements toward career goals.	2010-12	SED Staff with consultants
*Note: Extended the end dates to 2012 coinciding with extended dates of the SPP (rev. 2/11).		

- For additional detail on activities revised, completed or added in the school year 2007-08, see pp. 95-97 at http://www.p12.nysed.gov/specialed/spp/apr2009/final.pdf
- For additional detail on activities revised, completed or added in the school year 2008-09, see pp. 81-82 at http://www.p12.nysed.gov/specialed/spp/apr2010/revisedApril2010-final.pdf