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

Annual Performance Report for 2010-11

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

February 2012
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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 percent or more of the day;

- Inside the regular class less than 40 percent 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 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 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. 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 2012 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 P-12: 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 2011 CAP meeting, required changes to the indicator 4B measure 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 (TACD). 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 annually with the NYS Board of Regents. 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, P-12: 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 for accountability reporting under Title I of ESEA. At the beginning of the State Performance Plan 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.

Data Source:

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

NYS' Calculation for the 2009-10 School Year:

The **denominator** is the Total Cohort. See below for the definition of the 2005 district total cohort.

The 2005 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 2005-06 school year (July 1, 2005 through June 30, 2006); or, in the case of ungraded students with disabilities, reached their 17th birthday during the 2005-06 school year.
- Ungraded students are included in the 2005 cohort if their birth date is between July 1, 1988 and June 30, 1989 (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 2005 Total Cohort, years 1, 2, 3, and 4 are the 2005-06, 2006-07, 2007-08, and 2008-09 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 Equivalency Preparation Program (AHSEPP) or High School Equivalency Preparation Program (HSEPP) and the student's previous enrollment record in that district (assuming one exists) indicates that the student:
  a) was enrolled in the district for at least five months (not including July and August); and
  b) dropped out or transferred to an AHSEPP or HSEPP program.

The **numerator** for the calculation of graduation rate is the number of students with disabilities in the Total Cohort who graduated with a high school diploma (Regents or local diploma) as of August 2009 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 2010 (2009-10 school year results) (2005 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 52 percent.

Actual Target Data for FFY 2010:

44.4 percent of youth with IEPs graduated from high school with a regular high school diploma within four years, as of August 2009.

Total Cohort, as of August, Four Years Later				
	All Students		Students with Disabilities	
Cohort Year	# in Cohort	Graduation Number & Rate	# in Cohort	Graduation Number & Rate
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	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
New York City	10,117	25.0%	10,945	26.8%
Large Four Cities	1,612	27.5%	1,647	26.4%
Urban/Suburban High Need Districts	2,633	37.6%	2,668	41.0%
Rural High Need Districts	2,382	38.2%	2,489	40.3%
Average Need Districts	10,216	53.8%	10,218	55.7%
Low Need Districts	4,165	76.7%	3,985	76.3%
Charter Schools	127	39.4%	106	44.3%
Total State	31,252	43.6%	32,058	44.4%

Group of School Districts	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
Big Five Cities	11,729	25.3%	12,592	26.7%
Rest of State	19,523	54.5%	19,466	55.9%
Total State	31,252	43.6%	32,058	44.4%

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

In the 2009-10 school year, the State did not meet its target of 52 percent for this indicator. The 2009-10 graduation rate, however, demonstrates an improvement of 0.8 percentage points higher than 2008-09 actual graduation rate of 43.6 percent.

- The range of graduation rates for the 2005 total cohort by need/resource category of school districts was between 26.4 percent in the large four cities and 76.3 percent in low need school districts. There were improvements in the graduation rates in almost all need/resource categories:
  - NYC from 25.0 to 26.8 percent;
  - Large four cities from 27.5 to 26.4 percent (slippage);
  - Urban/suburban high need districts from 37.6 to 41.0 percent;
  - Rural high need districts from 38.2 to 40.3 percent;
  - Average need districts from 53.8 to 55.7 percent;
  - Low need districts from 76.7 to 76.3 percent (slippage); and
  - Charter schools from 39.4 to 44.3 percent.

Improvement Activities Completed during 2010-11

- In 2010-11, representatives from institutions of higher education assisted with the validation process to identify approximately 50 Effective Practices Schools as part of the State's Personnel Development Grant (SPDG).

- New York State's local educational agency (LEA) determinations for the 2010-11 school year were made in consideration of the State's targets and the LEA's performance on the following: graduation rates for students with disabilities; dropout rates for students with disabilities; results for the subgroup of students with disabilities on the grades 3-8 English language arts State assessments; and compliance and correction of noncompliance. Fifty-six (56) districts identified based on low graduation rates received direct technical assistance and embedded professional development by the State's Special Education Improvement Specialists to improve results for their students with disabilities.

- During the 2010-11 school year, Special Education Quality Assurance (SEQA) monitoring staff conducted 28 focused reviews in 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.

- 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.

- SEQA staff conducted seven monitoring reviews of Boards of Cooperative Educational Services (BOCES). BOCES serve 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 2010:

The criteria for the identification of districts beginning with the 2011-12 school year was revised to align more closely with the State's No Child Left Behind differentiated accountability system, for both identification and support to be provided to school districts. See http://www.p12.nysed.gov/specialed/spp/2011annualcriteria.htm. Upon release of the list of school districts identified under IDEA as "Needs Assistance" or "Needs Intervention," the Coordinators from the Regional Special Education Technical Assistance Support Centers (RSE-TASC) will engage in regional planning with the respective SEQA Offices and District Superintendents to determine how best to allocate its Special Education School Improvement Specialists (SESIS), other regional specialists and SEQA Regional Associates in each region of the State to assist the identified school districts. To the extent resources are available, a SESIS will participate as the Subgroup Specialist for the students with disabilities subgroup for each intervention that the school/district is required to undertake as a result of its Differentiated Accountability designation (i.e., School Quality Review, External School Curriculum Audit and Joint Intervention Team (JIT)) and the SEQA Regional Associates will team with liaisons from the Office of School Accountability as members of the JIT review teams.

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 United States Education 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 Dropout Rate for School Year 2009-10:

For FFY 2010, the 2005 district total cohort is the **denominator**.

The 2005 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 2005-06 school year (July 1, 2005 through June 30, 2006); or, in the case of ungraded students with disabilities, reached their 17th birthday during the 2005–06 school year; or
- Ungraded students are included in the 2005 cohort if their birth date is between July 1, 1988 and June 30, 1989 (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 2005 Total Cohort, years 1, 2, 3, and 4 are the 2005-06, 2006-07, 2007-08, and 2008-09 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 Dropout:

Information pertaining to the rules for reporting dropout data can be found throughout the SIRS Manual at http://www.p12.nysed.gov/irs/sirs/. The definition of "dropout" may

be found on page 3 of AcronymsDefinitions20111109.doc:

"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. 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 an HSEPP 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 2010 (2009-10 school year) (2005 total cohort as of August 2009)*	No more than 15 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 2010:

In the 2009-10 school year, 16.7 percent of students with disabilities in the 2005 total cohort as of August 2009 dropped out of school.

Total Cohort, As of August, Four Years Later				
	All Students		Students with Disabilities	
Cohort Year	# in Cohort	Dropout # & Rate	# in Cohort	Dropout # & Rate
2003	220,332	n = 25,415 11.5%	28,528	n = 4,829 16.9%
2004	223,726	n = 22,253 10.0%	31,252	n = 5,001 16.0%
2005	225,219	n = 21,647 9.6%	32,058	n = 5,352 16.7%

Need/ Resource Capacity Category	2004 Total Cohort of SWD As of August Four Years Later		2005 Total Cohort of SWD As of August Four Years Later	
	# in Cohort	Dropout Rate	# in Cohort	Dropout Rate
New York City	10,117	21.6%	10,945	22.4%
Large Four Cities	1,612	31.4%	1,647	30.2%
Urban/Suburban High Need Districts	2,633	16.5%	2,668	19.3%
Rural High Need Districts	2,382	19.4%	2,489	18.5%
Average Need Districts	10,216	12.0%	10,218	12.0%
Low Need Districts	4,165	3.8%	3,985	4.4%
Charter Schools	127	23.6%	106	17.9%
Total State	31,252	16.0%	31,952	16.7%

Group of School Districts	2004 Total Cohort of SWD As of August Four Years Later		2005 Total Cohort of SWD As of August Four Years Later	
	# in Cohort	Dropout Rate	# in Cohort	Dropout Rate
Big Five Cities	11,729	22.9%	12,592	23.5%
Rest of State	19,523	11.8%	19,466	12.3%
Total State	31,252	16.0%	32,058	16.7%

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

Explanation of Progress or Slippage

In the 2009-10 school year, the State did not meet its target that no more than 15 percent of students with disabilities will drop out of school. In addition, the State's dropout rate for students with disabilities increased by .7 percentage points from FFY 2009. Following is an analysis of the need/resource categories of districts and their dropout rates, showing that the slippage was greatest in urban and suburban high need districts, with some slippage in NYC and low need districts. Three categories of districts (the large four districts, rural high need districts and Charter schools) showed improvement in their dropout rates.

- Improvement and slippage by category:
  - NYC from 21.6 to 22.4 percent (slippage);
  - Large four cities from 31.4 to 30.2 percent (improvement);
  - Urban/suburban high need districts from 16.5 to 19.3 percent (slippage);
  - Rural high need districts from 19.4 to 18.5 percent (improvement);
  - Average need districts from 12.0 to 12.0 percent (no change);
  - Low need districts from 3.8 to 4.4 percent (slippage); and
  - Charter schools from 23.6 to 17.9 percent (improvement).

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

Improvement Activities Completed during 2010-11

- NYS local educational agency (LEA) determinations for the 2010-11 school year were made in consideration of the State's targets and the LEA's performance on the following: graduation rates for students with disabilities; dropout rates for students with disabilities; results for the subgroup of students with disabilities on the grades 3-8 English language arts State assessments; and compliance and correction of noncompliance. The 58 districts identified as needing assistance or intervention based on high dropout rates received direct technical assistance and embedded professional development by the State's Special Education Improvement Specialists to improve results for their students with disabilities.

- Also see improvement activities completed for Indicator 1.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 [If applicable]

See Indicator 1.

Overview of the Annual Performance Report Development:

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

Monitoring Priority: FAPE in the LRE

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

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

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

Measurement:

A. AYP percent = [(# 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 https://reportcards.nysed.gov/.
- 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 Targets								
		Participation for Students with Disabilities (3B)				Proficiency* for Students with Disabilities (3C)			
		Reading		Math		Reading		Math	
FFY 2010 (2010-11 school year)	**Districts Meeting AYP for Disability Subgroup (3A)**	**3-8**	**HS**	**3-8**	**HS**	**3-8**	**HS**	**3-8**	**HS**
Targets	31%	95%	95%	95%	95%	PI 99	PI 139	PI 116	PI 142
Actual Target Data for FFY 2010	17.2%	98%	98%	97%	97%	PI 89	PI 135	PI 110	PI 137

** The State's proficiency performance target, consistent with No Child Left Behind (NCLB), is based on a performance index (PI) to achieve its effective annual measurable objective (AMO) score or achieve safe harbor in English language arts (ELA) and math in grades 3-8 and in high school. Assessment performance is defined at four levels: Level 1 = Basic; Level 2 = Basic Proficiency; Level 3 = Proficient; Level 4 = Advanced Proficiency. A PI is a value from 0 to 200 that is assigned to an accountability group, indicating how that group performed on a required State test (or approved alternative) in ELA, mathematics, or science. PIs are determined using the following equations: For elementary and middle level assessments, the PI = [(number of continuously enrolled tested students scoring at Levels 2, 3, and 4 + the number scoring at Levels 3 and 4) ÷ number of continuously enrolled tested students] X 100.*

Actual Target Data for FFY 2010:

<u>AYP</u>

In FFY 2009, the State established a new baseline for this indicator of 30.8 percent. In the 2010-11 school year, 17.2 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**
2009 (2009-10)	672 (includes 35 Charter Schools)	30.8% (n = 207)
2010 (2010-11)	677 (includes 46 Charter Schools)	17.2% (n = 116)

Participation Rate

The participation rate of students with disabilities in the 2010-11 school year by grade and subject is displayed below:

Participation Rates for Students with Disabilities Subgroup						
	2008-09		**2009-10**		**2010-11**	
Assessment	**Number Tested/ Enrollment**	**Participation Rate**	**Number Tested/ Enrollment**	**Participation Rate**	**Number Tested/ Enrollment**	**Participation Rate**
Grade 3-8 ELA	204,652/ 208,435	98%	204,287/ 208,722	98%	203,051/ 207,129	98%
Grade 3-8 Math	204,519/ 208,210	98%	204,515/ 208,672	98%	202,902/ 207,128	98%
High School ELA (seniors)	18,686/ 19,659	95%	19,906/ 20,693	96%	20,580/ 21,318	97%
High School Math (seniors)	18,875/ 19,659	96%	20,049/ 20,693	97%	20,685/ 21,318	97%

Report of the Participation of Students with Disabilities on Reading/Language Arts Assessment: The State's report on the numbers of students with disabilities who participated in the reading and math assessments, both with and without testing accommodations, can be found at http://www.p12.nysed.gov/sedcar/state.htm#assessments. This link also includes a report of the numbers of students with disabilities who participated in the reading and math assessments, both with and without testing accommodations, at the local educational agency and school levels.

Public Reporting of Assessment Information: Other public reports of assessment results are available at https://reportcards.nysed.gov/[2].

Performance

The two charts below show the 2010-11 NYS performance outcomes by proficiency levels and related PIs for the students with disabilities subgroup. Students who score at Levels 3 or 4 are considered proficient. As described above, a PI is a value from 0 to 200 that is assigned to an accountability group, indicating how that group performed on a required State test (or approved alternative) in ELA, mathematics, or science. The PI is calculated based upon the percentage of full-year tested students who score at Level 2 and above and the percentage scoring at Level 3 and above on the grades 3-8 ELA and mathematics assessments.

Proficiency Levels for Students with Disabilities 2010-11

Assessment	Continuously Enrolled Students with Disabilities in Grades 3-8 and in 2006 Accountability Cohort in High School (HS)	Number by Proficiency Level on State Assessments			
		Level 1	Level 2	Level 3	Level 4
Grade 3-8 ELA	204,892	65,612 (32%)	96,478 (47%)	33,762 (16%)	9,040 (4%)
Grade 3-8 Math	204,629	47,194 (23%)	90,138 (44%)	49,619 (24%)	17,678 (9%)
HS ELA 2005 Accountability Cohort	27,376	6,189 (23%)	5,374 (20%)	13,034 (48%)	2,779 (10%)
HS Math 2005 Accountability Cohort	27,376	4,815 (18%)	7,489 (27%)	13,269 (48%)	1,803 (7%)

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	2011-12 AMO or Safe-Harbor Target
Grades 3-8 ELA	204,892	89	121	99	Yes	No	100
Grades 3-8 Math	204,629	110	136	116	Yes	No	119
HS ELA 2006 accountability cohort	27,376	135	182	139	No	No	142
HS Math 2006	27,376	137	179	142	No	No	143

[2] 2010-11 school district report cards have not been released yet, but will be available at this site when they are released

accountability cohort							
* The third indicator for grades 3-8 is science; for high school it is graduation rate.							

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

Explanation of Progress or Slippage

AYP:

17.2 percent of school districts (including Charter Schools) met AYP in every grade and subject for the subgroup of students with disabilities. The State did not meet its target that 31 percent of school districts make AYP for the subgroup of students with disabilities. While more school districts did not make AYP than in the FFY 2009 baseline year, these results are due in great part to the more rigorous standards established by the State and other factors as described below:

- sunset of the modified assessment statistical adjustment that had permitted many schools, districts and charter schools to make AYP with the students with disabilities group;
- changes in test equating practices;
- introduction of higher proficiency standards in grades 3-8 ELA and mathematics; and
- establishment of more rigorous high school graduation rate goal and targets.

Participation:

The State exceeded its targets in all areas. The grade 3-8 ELA and math targets were exceeded by 3 percent (98 percent actual compared to 95 percent target) and the high school ELA and math targets were exceeded by 2 percent (97 percent actual compared to 95 percent target). All targets were also exceeded in the prior year at the same rate with the exception of high school ELA, where improvement was made. The high school ELA actual target data was 96 percent for FFY 2009 and increased to 97 percent for FFY 2010.

Performance:

Proficiency results, based on the State's target to achieve its effective AMO score or achieve safe harbor in ELA and math in grades 3-8 ELA and high school showed that the State did not meet its PI targets for both ELA and math. The changes in test equating practices in combination with the introduction of higher proficiency standards in grades 3-8 ELA and mathematics impacted on these results.

Improvement Activities Completed during 2010-11

- NYS' local educational agency (LEA) determinations for the 2010-11 school year were made in consideration of the State's targets and the LEA's performance on the following: graduation rates for students with disabilities; dropout rates for students with disabilities; results for the subgroup of students with disabilities on the grades 3-8 ELA State assessments; and compliance and correction of noncompliance. All districts identified based on student with disabilities' performance on State assessments received direct technical assistance and embedded professional development through a comprehensive Quality Improvement Process by the State's Special Education School Improvement Specialists to improve results for their students with disabilities.

- During the 2010-11 school year, Special Education Quality Assurance (SEQA) monitoring staff conducted 28 focused reviews in 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.

- 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 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.

- SEQA monitoring staff conducted seven monitoring reviews of Boards of Cooperative Educational Services (BOCES). BOCES serve 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.

- Specialists from the Regional Special Education Technical Assistance Support Centers (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 provided training on the use of the State-required form and guidance on Quality IEP Development.

- Twenty eight schools with effective instructional practices for students with disabilities were identified by the State. Seventeen selected effective practice schools received grants to assist 17 low performing schools to adopt these effective practices. See www.S3TAIRproject.com.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 [If applicable]

The criteria for the identification of districts beginning with the 2011-12 school year was revised to align more closely with the State's NCLB differentiated accountability system, both for identification and support to be provided to school districts. See http://www.p12.nysed.gov/specialed/spp/2011annualcriteria.htm.

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/1112/pdf/pd8_1112.pdf. 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 ED*Facts* files.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2010 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 percent or higher. (This rate is two times the baseline average.)

Actual Target Data for FFY 2010 (using 2009-10 data)

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 at a rate of 2.7 percent or higher.

NYS evaluated suspension data from 574 school districts with a minimum enrollment of 75 students with disabilities (enrollment as of October 7, 2009). This means that 108 school districts were excluded in the calculation for this indicator because of the State's minimum size criteria.

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 2008 (using 2007-08 data)	683	64	9.4%
FFY 2009 (using 2008-09 data)	682	40	5.9%
FFY 2010 (using 2009-10 data)	682	41	6.0%

Review of Policies, Procedures and Practices (completed in FFY 2010 using 2009-10 data)

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, 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. Twenty one (21) of the 41 school districts identified 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 (20) of the 41 school districts identified had their review of policies, procedures and practices conducted in this manner.

It was determined that 35 of the 41 school districts had one or more inappropriate policies, procedures and/or practices relating to the development and implementation of IEPs, the use of positive behavioral supports and interventions, and/or procedural safeguards. These school districts were notified that they must correct their policies, practices and procedures within one year from being notified of noncompliance.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

Explanation of Progress or Slippage

FFY 2010 represents the third year of implementing the State's more rigorous definition of significant discrepancy of 2.7 percent or higher. The rates for the past two years (FFY 2009 and FFY 2010) have decreased from FFY 2008. The slippage from FFY 2009 to FFY 2010 was minimal in both percentage and the number of districts (0.1 percentage point representing one school district).

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 from 16 districts in 2006-07 to 15 school districts in 2010-11, and ten (10) school districts that were identified with high suspension rates in 2008-09 decreased their rates of long-term suspensions in 2009-10 to below the State's target.

Correction of FFY 2009 Findings of Noncompliance

Beginning with the FFY 2008 (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 2009 (the period from July 1, 2009 through June 30, 2010) using 2008-09 data	727 findings (56 school districts)
2. Number of FFY 2009 findings the State verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding)	615 findings (47 school districts)
3. Number of FFY 2009 findings not verified as corrected within one year [(1) minus (2)]	112 findings (9 school districts)

Correction of FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above)	112 findings (9 school districts)
5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	112 findings (9 school districts)
6. Number of FFY 2009 findings not yet verified as corrected [(4) minus (5)]	0 findings (0 school district)

Actions Taken if Noncompliance Not Corrected:

All 2009 findings were verified as corrected.

Verification of Correction (either timely or subsequent):

For the nine districts verified as corrected beyond the one-year timeline, staff provided technical assistance to the district to identify and address the root causes. For two of the districts, staff also conducted an on-site review to identify root causes, issued a CAP and conducted regular follow-up activities to assess the district's progress in completing the corrective actions. 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 by a 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 Remaining FFY 2008 Findings of Noncompliance (if applicable):

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1. Number of remaining FFY 2008 findings (identified in July 1, 2008 – June 30, 2009 using 2007-08 data), noted in Office of Special Education Program's (OSEP) June 1, 2011 FFY 2009 APR response table for this indicator	7 findings (1 school district)
2. Number of remaining FFY 2008 findings the State has verified as corrected	7 findings (1 school districts)
3. Number of remaining FFY 2008 findings the State not verified as corrected [(1) minus (2)]	0 findings (0 school district)

Verification of Correction (either timely or subsequent):

Staff provided technical assistance to the district to identify and address the root causes, conducted an on-site review to identify root causes, issued a CAP and

conducted regular follow-up activities to assess the district's progress in completing the corrective actions. Through this process, 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, by 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.

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

Statement from the OSEP Response Table	State's Response
The State must report, in its FFY 2010 APR, on the correction of noncompliance that the State identified in FFY 2009 based on FFY 2008 data as a result of the review it conducted pursuant to 34 CFR §300.170(b). When reporting on the correction of this noncompliance, the State must report that it has verified that each local educational agency (LEA) with noncompliance identified by the State (1) is correctly implementing the specific regulatory requirements(s) (i.e., achieved 100 percent 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 Memorandum 09-02. In the FFY 2010 APR, the State must describe the specific actions that were taken to verify the correction.	The State reported above on the correction of all noncompliance identified in 2009 based on FFY 2008 data. The State reported above how it verified the correction of noncompliance in the districts.
The State reported that noncompliance identified in FFY 2008 based on FFY 2007 data 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 2010 APR, that it has verified that each district with remaining noncompliance identified based on FFY 2007 data is correctly implementing the specific regulatory	All findings on noncompliance identified in FFY 2008 have been corrected and verified by the State as corrected.

Statement from the OSEP Response Table	State's Response
requirements. If the State is unable to demonstrate compliance with those requirements in the FFY 2010 APR, the State must review its improvement activities and revise them, if necessary, to ensure compliance.	

Improvement Activities Completed in 2010-11

- Electronic notices were sent to 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 State should timely correction not occur.

- Through a regional planning process, behavior specialists from the State's Regional Special Education Technical Assistance Support Center (RSE-TASC) were assigned to provide technical assistance and training on implementation of positive behavioral interventions and supports 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 provided 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 interventions and supports. Forty-six (46) regional training sessions were conducted throughout the year.

- The State Technical Assistance Center (TAC) on Positive Behavioral Interventions and Supports (PBIS) delivered nine days of training and ongoing technical assistance to the RSE-TASC behavioral specialists and other State technical assistance providers who, in turn, provided training and technical assistance to identified districts in the development of positive behavior principles and practices. NYS PBIS TAC developed a web-based resource library to provide timely access to research-based information on PBIS statewide and developed research-based curriculum on PBIS to be used by the 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 and the NYS PBIS TAC staff at the National PBIS Leadership Forum in October 2011.

- The State provided statewide regional training on its 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. Updated guidance and training on use of the form and IEP development were also posted at http://www.p12.nysed.gov/specialed/formsnotices/IEP/home.html.

- The State provided training to approved private schools on functional behavioral assessments and intervention plans, use of time out and emergency interventions.

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

- The RSE-TASC Regional Special Education Training Specialists and Behavior Specialists jointly developed training on functional behavioral assessments and intervention plans, to be delivered regionally throughout the State for all interested districts. RSE-TASC behavior specialists provided intensive two-day training on functional behavioral assessments and intervention plans to identified districts in each region of the State.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2011 [*If applicable]*

None

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

Measurement 4B:

B. Percent = [(# of districts that have: (a) a significant discrepancy, by race or ethnicity, in the rates 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 in each race/ethnicity category with the statewide number suspended of all students with disabilities and computes a standard deviation to determine if there is significant discrepancy in suspensions. The State uses the following definition of "significant discrepancy":

- At least 75 students with disabilities enrolled on 10/1/10;
- At least 10 students with disabilities of the particular race/ethnicity were suspended;
- The suspension rate of the particular race/ethnicity was greater than two standard deviations above the mean.

For the school district calculations, the minimum numbers of students with disabilities is used because of the potential for small numbers of students with disabilities to distort percentages. New York State includes the total number of LEAs in the State in the denominator. The Statewide calculation <u>does not exclude</u> school districts from the denominator calculation as a result of this minimum "n" size.

Reports include significant discrepancies of children in the "two or more races" category for Indicator 4B.

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

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2010 (using 2009-10 data)	**4B.** 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.

Actual Target Data for FFY 2010 (using 2009-2010 data)

The State included 574 school districts in the calculation of this indicator because they had a sufficient minimum enrollment of at least 75 students with disabilities. A total of 108 school districts were excluded because of the State's minimum size criteria.

In FFY 2010, 12 districts had data showing significant discrepancy in the rates of suspension and expulsions of greater than 10 days in a school year by race and ethnicity; **nine (9) of these school districts (1.3 percent of all school districts)** had 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 were the result of inappropriate policies, procedures and/or practices.

Indicator 4B(a). LEAs with Significant Discrepancy, by Race or Ethnicity in Rates of Suspension and Expulsion			
Year	**Total Number of LEAs**	**Number of LEAs that have Significant Discrepancies by Race or Ethnicity**	**Percent**
FFY 2010 (using 2009-10 data)	682	12	1.8

Indicator 4B(b). LEAs with Significant Discrepancy, by Race or Ethnicity, in Rates of Suspensions and Expulsions; 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 PBIS, and procedural safeguards			
Year	**Total Number of LEAs**	**Number of LEAs that have Significant Discrepancies by, Race or Ethnicity, and Policies, Procedures or Practices that Contribute to the Significant Discrepancy**	**Percent**
FFY 2010 (using 2009-10 data)	682	9	1.3%

Review of Policies, Procedures and Practices (completed in FFY 2010 using 2009-10 data):

During FFY 2010, 12 school districts were identified by the State as having data showing 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 2009-10 school year data. Four (4) 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. Eight (8) school districts received focused or comprehensive reviews by the special education monitoring office to review their policies, procedures and practices because these school districts had two or more consecutive years of data with significant discrepancies.

It was determined that nine (9) of the 12 school districts (1.3 percent) of all school districts in the State had one or more inappropriate policies, procedures and/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 PBIS, and/or 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.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred in FFY 2010:

Explanation of Progress or Slippage

In FFY 2010, the State showed significant improvement, decreasing the percentage of districts that have Significant Discrepancies by Race or Ethnicity, and Policies, Procedures or Practices that Contribute to the Significant Discrepancy by .9 percentage points from the previous year. While there were 15 districts identified in FFY 2009, only nine school districts were identified in FFY 2010.

Correction of FFY 2009 Findings of Noncompliance

1. Number of findings of noncompliance the State made during FFY 2009 (the period from July 1, 2009 through June 30, 2010) using 2008-09 data	199 findings (11 school districts)
2. Number of FFY 2009 findings the State verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding)	141 findings (6 school districts)
3. Number of FFY 2009 findings not verified as corrected within one year [(1) minus (2)]	58 findings (5 school districts)

Correction of FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above)	58 findings (5 school districts)
5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	22 findings (3 school districts)
6. Number of FFY 2009 findings not yet verified as corrected [(4) minus (5)]	36 findings (2 school districts)

Actions Taken if Noncompliance Not Corrected:

For the two school districts, staff provided technical assistance to district staff to address noncompliance after each three-month electronic reminder notice was sent; conducted an on-site review to identify root causes and issued a CAP. Staff is conducting regular follow-up activities to assess the district's progress in completing the corrective actions specified in the CAP. For both districts, Enforcement Letters have been issued that required completion of an action plan template for review, approval, and monitoring by the State Education Department. Additionally, one district was directed to utilize a sufficient portion of its 2011-12 Individuals with Disabilities Education Act (IDEA) funds to ensure the effective implementation of the action plan and warned that failure to resolve the outstanding areas of noncompliance by January 3, 2012 would result in further enforcement actions which may include requiring the district to revise the action plan, obtain targeted technical assistance that addresses the specific areas of deficiency, and/or redirection of federal dollars from the district's 611 allocation.

Both districts were offered no-cost technical assistance through the State's Technical Assistance Center on Disproportionality (TACD). One district accepted and is receiving embedded professional development from TACD to address issues leading to disproportionality data. The other large city district declined TACD in district support, but indicated they would send representatives to TACD regional trainings to inform the district's improvement activities.

Verification of Correction (either timely or subsequent)

The State verified correction of noncompliance for Indicator 4B 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, by 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.

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

Statement from the OSEP Response Table	State's Response
Because the State reported less than 100 percent compliance for FFY 2009 (greater than 0 percent 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 2010 APR, due February 1, 2012, that the districts identified with noncompliance based on FFY 2008 data have corrected the noncompliance, 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 2010 APR, the State must describe the specific	The State reported on the status of correction of noncompliance. One of the three districts with continuing noncompliance beyond one year identified in FFY 2009 has corrected all outstanding findings of noncompliance. The State reported above on how it verified the correction of noncompliance in this district. There are only two school districts (in a State with 682 districts) with outstanding noncompliance. The State has provided technical assistance and has taken progressive enforcement actions, as appropriate, with the identified districts.

Statement from the OSEP Response Table	State's Response
actions that were taken to verify the correction. If the State is unable to demonstrate compliance with those requirements in the FFY 2010 APR, the State must review its improvement activities and revise them, if necessary, to ensure compliance.	

Improvement Activities Completed in 2010-11

- See Indicator 4 improvement activities.

- During the 2010-11 school year, the TACD at New York University (NYU) worked with 16 school districts, including the New York City Department of Education, to address the policy, practices and procedures that contribute to the disproportionate suspension of students with disabilities based upon race or ethnicity. In addition, TACD provided 30 regional trainings across NYS (five sessions each in six regions).

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2011 [*If applicable]* - None

Overview of the Annual Performance Report Development:

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

Monitoring Priority: FAPE in the LRE

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

A. Inside the regular class 80 percent or more of the day;
B. Inside the regular class less than 40 percent 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 percent 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 percent 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) is used to collect individual student data on all students.

New York State (NYS) uses 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*Facts* files.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2010 (2010-11 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 53.4 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 24.3 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 6.5 percent.

Actual Target Data for FFY 2010:

In FFY 2010, the statewide percent of students with disabilities, ages 6-21, served inside regular classrooms 80 percent or more of the school day was 55.9 percent.

In FFY 2010, the statewide percent of students with disabilities, ages 6-21, served inside regular classrooms for less than 40 percent of the school day was 22.9 percent.

In FFY 2010, 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%	
1999-00	384,352	47.6%	13.2%	30.7%	8.5%	
2000-01	389,668	49.5%	12.9%	29.8%	7.7%	
2001-02	387,014	51.1%	12.9%	28.6%	7.4%	
2002-03	386,082	51.8%	13.9%	27.0%	7.4%	
2003-04	387,633	53.4%	12.4%	27.0%	7.3%	
2004-05 (Baseline Year for APR)	391,595	53.6%	12.0%	27.3%	7.0%	
2005-06	389,125	54.5%	13.1%	25.5%	6.9%	
2006-07	391,773	53.1%	12.9%	24.6%	6.8%	2.6%
2007-08	390,550	54.2%	12.4%	24.1%	6.5%	2.7%
2008-09	382,540	55.4%	12.2%	23.6%	6.0%	2.8%
2009-10	396,567	55.2%	11.6%	23.0%	6.4%	3.8%
2010-11	389,619	55.9%	11.8%	22.9%	6.4%	3.1%

*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%
2010-11	180,857	54.9%	4.1%	29.2%	8.3%	3.4%

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

Comparison of 2010-11 data with the prior year's data by Need Resource Capacity of school districts requires two tables as follows.

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.

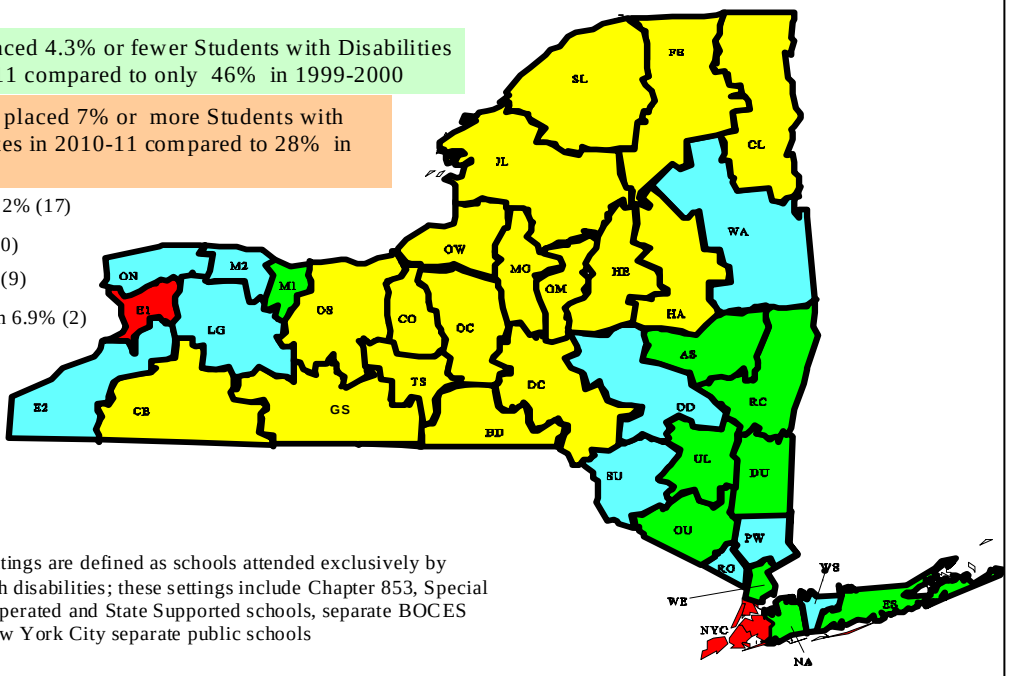
2010-11 LRE Data for Students with Disabilities by Need Resource Capacity Category of School Districts						
Need Resource Capacity	Number of Students Ages 6-21, on First Wednesday in October of the School Year	Percent of School Day that Students are in Regular Classes			Percent of Students in Separate Settings	Percent of Students in Other Specific Settings*
		80% or More	40% to 80%	Less than 40%		
New York City (NYC)	159,770	54.3%	3.5%	30.0%	8.4%	3.7%
Large 4 Cities	21,087	59.3%	8.9%	23.3%	7.4%	1.2%
Urban-Suburban High Need School Districts	30,474	48.7%	16.4%	26.3%	5.7%	2.9%
Rural High Need School Districts	22,702	56.1%	20.6%	21.1%	1.6%	0.5%
Average Need School Districts	104,475	57.3%	19.8%	16.8%	3.8%	2.3%
Low Need School Districts	47,932	63.8%	16.9%	11.7%	4.4%	3.2%
*Other specific settings include students who are home schooled, parentally placed in nonpublic schools or incarcerated.						

2010-11 LRE Data by Board of Cooperative Educational Services (BOCES) Regions for Separate Settings:

27 of 38 regions (71%) placed 4.3% or fewer Students with Disabilities in Separate Sites in 2010-11 compared to only 46% in 1999-2000

Only 2 of 38 regions (5%) placed 7% or more Students with Disabilities in Separate Sites in 2010-11 compared to 28% in 1999-2000

- Less than 2% (17)
- 2-4.3% (10)
- 4.4-6.9% (9)
- More than 6.9% (2)



Separate Settings are defined as schools attended exclusively by students with disabilities; these settings include Chapter 853, Special Act, State Operated and State Supported schools, separate BOCES sites and New York City separate public schools

3/17/11

Explanation of Progress or Slippage

In FFY 2010, 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 increased from 55.2 percent in the 2009-10 school year to 55.9 percent in the 2010-11 school year. The State met its target of more than 53.4 percent in 2010-11.

- The percent of students with disabilities who are in regular classes for less than 40 percent of the school day decreased slightly from 23.0 percent in 2009-10 to 22.9 percent in 2010-11. The State met its target, which was to be below 24.3 percent in 2010-11.

- The percent of students with disabilities who are educated in separate settings remained stable at 6.4 percent in 2009-10 and 2010-11. However, the State met its target to be below 6.5 percent in 2010-11.

- The percentage of students in New York City (NYC) who are in regular classes for less than 40 percent of the day increased slightly from 29.6 to 30.0 percent.

- NYC placed 8.4 percent of its students with disabilities in separate education settings. This percentage is larger than the percentages of other need/resource categories of school districts, which range from 1.6 percent for Rural High Need Districts to 7.4 percent for Large 4 Cities.

- 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 2010-11

None

Revisions, <u>with Justification</u>, 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: 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) is 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 ED*Facts* files.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2010 (2010-11 school year)	No reporting is required in FFY 2010.

Actual Target Data for FFY 2010: Not applicable.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010: Not applicable.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[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 are based on using the federally developed Child Outcomes Summary Form (COSF).

Measurable and Rigorous Targets FFY 2010:

Summary Statements	Targets FFY 2010
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.	84.5%
2. The percent of children who were functioning within age expectations in Outcome A by the time they exited the program.	55.5%
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.	86%
2. The percent of children who were functioning within age expectations in Outcome B by the time they exited the program.	55.4%
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.	83.5%
2. The percent of children who were functioning within age expectations in Outcome C by the time they exited the program.	63.3%

Actual Target Data FFY 2010:

At the end of the 2010-11 school year, 225 school districts reported progress data on 6,011[3] preschool students with disabilities in each of the three early childhood outcome areas. The 6,011 students left preschool special education programs and/or services during the 2010-11 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)

[3] In order to ensure each school district reported on preschool outcomes during the six years of the SPP, the State's data this year includes reports from all districts that reported on baseline data in year 1 of the SPP, as well as those districts in this year's sample of districts. This doubling of sampled districts accounts for the increase in the "n" of preschool students with disabilities from 2,444 in 2009-10 to 6,011 in 2010-11.

Indicator 7 Preschool Outcomes By Progress Categories					
		2009-10		2010-11	
Early Childhood Outcome Area	Progress Category	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	30	1.2%	75	1.2%
	b. Improved - not sufficient to move nearer to same-aged peers	241	9.9%	566	9.4%
	c. Improved - nearer to same aged peers	827	33.8%	2317	38.5%
	d. Improved - reached functioning to same-aged peers	874	35.8%	2151	35.8%
	e. Maintained functioning as same-aged peers	472	19.3%	902	15.0%
	Total A	**2,444**	**100.0%**	**6,011**	**100.0%**
B. Acquisition and use of knowledge and skills (including early language/ communication and early literacy)	a. Did not improve functioning	18	0.7%	45	0.7%
	b. Improved - not sufficient to move nearer to same-aged peers	256	10.5%	524	8.7%
	c. Improved - nearer to same-aged peers	876	35.8%	2409	40.1%
	d. Improved - reached functioning to same-aged peers	908	37.2%	2205	36.7%
	e. Maintained functioning as same-aged peers	386	15.8%	828	13.8%
	Total B	**2,444**	**100.0%**	**6,011**	**100.0%**
C. Use of appropriate behaviors to meet their needs	a. Did not improve functioning	28	1.1%	81	1.3%
	b. Improved - not sufficient to move nearer to same-aged peers	260	10.6%	505	8.4%
	c. Improved - nearer to same - aged peers	731	29.9%	2047	34.1%
	d. Improved - reached functioning to same-aged peers	790	32.3%	1981	33.0%
	e. Maintained functioning as same-aged peers	635	26.0%	1397	23.2%
	Total C	**2,444**	**100.0%**	**6,011**	**100.0%**

Indicator 7 Preschool Outcomes Data By Summary Outcome Statements		
	2009-10	**2010-11**
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.	86.3%	4,468/5,109 (87.5%)
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.	55.1%	3,053/6,011 (50.8%)
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.	86.7%	4,614/5,183 (89.0%)
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.	52.9%	3,033/6,011 (50.5%)
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.	84.1%	4,028/4,614 (87.3%)
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.	58.3%	3,378/6,011 (56.2%)

Discussion of Improvement Activities Completed <u>and</u> Explanation of Progress or Slippage that occurred for FFY 2010:

Explanation of Progress or Slippage

New York State (NYS) demonstrated progress and exceeded its FFY 2010 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 2010 target was 84.5 percent, actual data was 87.5 percent, which was an improvement over last year's data of 86.3 percent.
- In the area of acquisition of knowledge and skills, the FFY 2010 target was 86 percent, actual data was 89 percent, which was an improvement over last year's data of 86.7 percent.

- In the area of use of appropriate behaviors to meet their needs, the FFY 2010 target was 83.5 percent, actual data was 87.3 percent, which was an improvement over last year's data of 84.1 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 2010 target was 55.5 percent, actual data was 50.8 percent, which represents slippage from last year's data of 55.1 percent.
- In the area of use of acquisition of knowledge and skills, the FFY 2010 target was 55.4 percent, actual data was 50.5 percent, which represents slippage from last year's data of 52.9 percent.
- In the area of use of appropriate behaviors to meet their needs, the FFY 2010 target was 63.3 percent, actual data was 56.2 percent, which represents slippage from last year's data of 58.3 percent.

Improvement Activities Completed during 2010-11

None

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[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 2010 (2010-11 school year)	90 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 2010:

In the 2010-11 school year, **92.6** 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 2010-11 school year, 115 school districts, including New York City (NYC) as a single district, were assigned to conduct a parent survey. One hundred (100) school districts achieved a minimum response rate, while 15 school districts did not. The State will review the data from the 15 school districts and may reassign these school districts to conduct the survey again in a subsequent school year to improve their response rates and ensure that results are valid for this indicator. The total number of surveys returned was 10,570. Of these surveys, 10,501 contained responses to at least 15 questions out of the 25 questions on the survey and were included in the denominator. Of the surveys included in the denominator, 9,719 received a positive parental response on at least 51 percent of the questions answered. **This represents an unweighted positive response rate of 92.6 percent and a weighted positive response rate of 92.7 percent.**

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. At the end of six years, all school districts will have submitted data on all six indicators. NYC is required to submit data on every indicator every year, as it is the only school district in the State with a total enrollment of over 50,000 students.

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 and for a schedule of the school years in which some school districts are required to resubmit data in order to achieve a sufficient response rate for an indicator.

The parent survey that was used in the 2010-11 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 by sending the survey to all the parents of preschool and school-age students with disabilities or by sending the survey to ten times the required minimum sample size. The sampling calculator used to determine minimum sample sizes is available at http://eservices.nysed.gov/pdsystem/samplesizecalculator.jsp.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

Explanation of Progress or Slippage

NYS exceeded its 90 percent target with a statewide weighted result from the 2010-11 school year of 92.7 percent of parents reporting that schools facilitated parent involvement as a means of improving services and results for children with disabilities. This is an increase of 1.1 percent over the prior year. The unweighted statewide rate of 92.6 percent exceeds NYS' FFY 2010 target by 2.6 percentage points.

Unweighted positive results in the 2010-11 school year ranged from 74 percent to 100 percent.

Improvement Activities Completed in 2010-11

- Through regional information sessions, the Office of Special Education's 13 regionally-based Special Education Parent Centers provided 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.

- Special Education Parent Centers and the Regional Special Education Technical Assistance Support Centers (RSE-TASC) Special Education Training Specialists delivered regional training on the role of the additional parent member of the Committee on Special Education (CSE) and the Committee on Preschool Special Education (CPSE).

- 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 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 2010-11, regional 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.

Revisions, <u>with Justification</u>, 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: 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/

9selfreviewethnic2011.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 (IDEA), As Amended) and the State's analysis to determine if the disproportionate representation of racial and ethnic groups in special education and related services was the result of inappropriate identification. These data are also provided to USED in the corresponding ED*Facts* files.

Definition of Disproportionate Representation and Methodology:

NYS uses the relative risk and weighted relative risk ratios, with minimum "n" sizes to identify school districts whose data indicate disproportionate representation of racial and ethnic groups in special education. 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 the first Wednesday in October;
- At least 10 students with disabilities of particular race/ethnicity enrolled in district on the first Wednesday in October; and

- Either:
  - Both the relative risk ratio and weighted relative risk ratio for any race/ethnic group is 2.5 or higher; or
  - All students with disabilities in special education are of only one race/ethnic group regardless of the size of the relative risk ratio and weighted relative risk ratio.

Disproportionate Under-representation in Special Education: (category added February 2009)
The district must meet the following criteria for three consecutive years:

- At least 75 students with disabilities enrolled on the first Wednesday in October;
- Both the relative risk ratio and weighted relative risk ratio is less than or equal to 0.25;
- ([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 percent when compared to all other race/ethnicity groups statewide.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2010 (2010-11 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 2010

Districts with Disproportionate Representation in FFY 2010 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. A total of 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 0.9 percent.

- Fourteen school districts were identified based on data with disproportionate representation by race/ethnicity in the identification of students with disabilities.
- Of these districts, six 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 2007 (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%
FFY 2010 (2010-11 data)	682	14	6	0.9%

Step One - Identification of Disproportionate Representation by Data

NYS used its October 6, 2010 enrollment of all students and October 6, 2010 child count of students with disabilities for this FFY 2010 APR submission. Based on the criteria described in the Measurement section above, 14 school districts were identified as having 2010-11 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 2010, NYS determined that of the 14 school districts whose data indicated disproportionate representation and therefore required reviews, six school districts were found to have disproportionate over-representation in special education and inappropriate identification policies, procedures and/or practices. 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 2010:

Explanation of Progress or Slippage

Of the 14 school districts identified in FFY 2010 as having disproportionate representation, six school districts (0.9 percent of all NYS school districts) were found to have one or more inappropriate policies, procedures and/or practices. This is an

improvement over the 1.0 percent identified in FFY 2009, but is still below the target of 0 percent.

Correction of FFY 2009 Findings of Noncompliance (if State did not report 0%):

1. Number of findings of noncompliance the State made during FFY 2009 (the period from July 1, 2009 through June 30, 2010)	29 findings (8 school districts)
2. Number of FFY 2009 findings the State verified as timely corrected (corrected within one year from the date of notification to the LEA of the finding)	27 findings (7 school districts)
3. Number of FFY 2009 findings not verified as corrected within one year [(1) minus (2)]	2 findings (1 school district)

Correction of FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above)	2 findings (1 school district)
5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	0 findings (0 school district)
6. Number of FFY 2009 findings not yet verified as corrected [(4) minus (5)]	2 findings (1 school district)

Actions Taken if Noncompliance Found in FFY 2009 Is Not Corrected:

The district was required to implement a compliance assurance plan (CAP). The Office of Special Education Quality Assurance (SEQA) then provided technical assistance on the root causes and required the district to initiate specific procedures for prereferral supports, as are provided to other students, and to ensure that the students' individual evaluations were conducted in their native languages. This district was offered technical assistance by the Technical Assistance Center on Disproportionality (TACD) and Regional Special Education Technical Assistance Support Centers (RSE-TASC), but declined the support.

Verification of Correction of FFY 2009 Noncompliance (either timely or subsequent):

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 districts were correctly implementing the specific regulatory requirements and that individual instances of noncompliance had been corrected.

Correction of Remaining FFY 2008 Findings of Noncompliance (if applicable):

1. Number of remaining FFY 2008 findings noted in Office of Special Education Program's June 2010 FFY 2009 APR response table for this indicator	1 finding (1 school district)
2. Number of remaining FFY 2008 findings the State has verified as corrected	0 findings (0 school district)
3. Number of remaining FFY 2008 findings the State has not yet verified as corrected [(1) minus (2)]	1 finding (1 school district)

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

The same district cited above for not correcting 2009 noncompliance was identified in 2008. The district was required to implement a CAP. The SEQA Office then provided technical assistance on the root causes and required the district to initiate specific procedures for prereferral supports, as are provided to other students, and to ensure that the students' individual evaluations were conducted in their native languages. This district was offered technical assistance by TACD and RSE-TASC, but declined the support.

Verification of Correction of Remaining FFY 2008 findings:

Not applicable. The district did not correct the noncompliance.

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 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 percent compliance for FFY 2009 (greater than 0 percent 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 reported on the correction of noncompliance identified in FFY 2009.
The State must demonstrate, in the FFY 2010 APR, that the districts identified in FFY 2009 and 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	In FFY 2009, one district did not correct noncompliance within one year and, upon verification review, the State found that the district had not corrected the noncompliance.

Statement from the OSEP Response Table	State's Response
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 percent 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 2010 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 2010 APR, the State must review its improvement activities and revise them, if necessary, to ensure compliance.	The actions the State took to verify correction of noncompliance and correct noncompliance are described above. The State provides technical assistance and training to districts at risk of, or identified with, disproportionality by race/ ethnicity. As a result, the State has fewer than one percent of districts identified for this indicator. In addition, the State has a system of progressive enforcement actions to ensure correction of noncompliance.

Improvement Activities Completed in 2010-11

- To improve timely correction of noncompliance, the Office of Special Education used electronic notices, sent to 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 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.

- TACD provided direct technical assistance to NYS school districts to address issues of disproportionality. For a list of districts, see http://steinhardt.nyu.edu/metrocenter/clients.

- TACD sponsored a 2011 Summer Institute that focused on how schools can become a protective environment for students through the development of culturally responsive practices. See http://steinhardt.nyu.edu/metrocenter/tacd/summer_institute.

- The New York State Education Department's State technical assistance center on Response to Intervention (RtI) provided resources to promote the appropriate identification of English language learners (ELLs) with disabilities. See http://www.nysrti.org/page/lep-ell/. The TAC sponsored a regional professional development session focused on the specific needs of ELLs within an RtI framework

with Dr. Julie Esparza-Brown from Portland (Oregon) State University presenting. In addition, each of the four regional professional development sessions offered provided specific guidance on serving students with limited English proficiency within the RtI topic being addressed.

- The State's bilingual special education technical assistance providers from the RSE-TASC provided technical assistance and professional development to address issues of disproportionality by race/ethnicity as they relate to cultural and bilingual issues.

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: 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, Intellectual Disability, 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/indicators/10.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 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 (IDEA), 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 USED in the corresponding ED*Facts* files.

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

NYS uses the relative risk and weighted relative risk ratios, with minimum "n" sizes to identify school districts whose data indicate disproportionate representation of racial and ethnic groups in specific disability categories. The 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, Intellectual Disability, 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 percent when compared to all other race/ethnicity groups statewide.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2010 (2010-11 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 2010:

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. A total of 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 0.9 percent.

- Sixteen school districts were identified based on data with disproportionate representation by race/ethnicity in specific disability categories.
- Of these districts, six 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%
FFY 2010 (2010-11 data)	682	16	6	0.9%

Step One – Identification of Disproportionate Representation:

NYS used its October 6, 2010 enrollment of all students and October 6, 2010 child count of students with disabilities for this FFY 2010 APR submission. Based on the criteria described in the Measurement section above, 16 school districts were identified as having 2010-11 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 2010, the State reviewed the policies, procedures and practices of 16 school districts whose data indicated disproportionate representation. Six of the 16 school districts were found to have disproportionate representation by specific disability that was the result of inappropriate identification policies, practices and/or procedures. The State's compliance rate for this indicator is based on these school districts as a percentage of all school districts in the State (6 divided by 682 = 0.9 percent).

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

Explanation of Progress or Slippage

In FFY 2010, six, or 0.9 percent, of all NYS school districts were found to have disproportionate rates by race/ethnicity in disability categories that were as a result of inappropriate policies, procedures and/or practices. This demonstrates progress from the 1.2 percent reported for FFY 2009.

Correction of Identified Noncompliance

Correction of FFY 2009 Findings of Noncompliance (if State reported more than 0% compliance):

1. Number of findings of noncompliance the State made during FFY 2009 (the period from July 1, 2009 through June 30, 2010)	53 findings (8 school districts)
2. Number of FFY 2009 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)	49 findings (7 school districts)
3. Number of FFY 2009 findings not verified as corrected within one year [(1) minus (2)]	4 findings (1 school district)

Correction of FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above)	4 findings (1 school district)
5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	0 findings (0 school district)
6. Number of FFY 2009 findings not yet verified as corrected [(4) minus (5)]	4 findings (1 school district)

Actions Taken if FFY 2009 Noncompliance Not Corrected:

This is the same school district that was identified with continuing noncompliance for indicator 9. The district was required to implement a compliance assurance plan (CAP). The Office of Special Education Quality Assurance (SEQA) provided technical assistance on the root causes and required the district to initiate specific procedures for the appropriate identification of students with disabilities. This district was offered technical assistance by the State-funded Technical Assistance Center for Disproportionality (TACD) and the Regional Special Education Technical Assistance Support Centers (RSE-TASC), but declined the support.

Verification of Correction of FFY 2009 Noncompliance (either timely or subsequent):

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 districts were correctly implementing the specific regulatory requirements and that individual instances of noncompliance have been corrected.

Correction of Remaining FFY 2008 Findings of Noncompliance (if applicable):

1. Number of remaining FFY 2008 findings noted in the Office of Special Education Program's (OSEP) June 2011 FFY 2009 APR response table for this indicator	4 findings (2 school districts)
2. Number of remaining FFY 2008 findings the State has verified as corrected	4 findings (2 school district)
3. Number of remaining FFY 2008 findings the State has not yet verified as corrected [(1) minus (2)]	0 findings (0 school districts)

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2008 or earlier years.

Verification of Correction of Remaining FFY 2008 findings:

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 OSEP APR Response Table for this Indicator

Statement from the OSEP Response Table	State's Response
Because the State reported less than 100 percent compliance for FFY 2009 (greater than 0 percent 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.	See above.

Statement from the OSEP Response Table	State's Response
The State must demonstrate, in the FFY 2010 APR, that the districts identified in FFY 2009 and the remaining district with noncompliance identified in FFY 2008 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 requirement(s) (i.e., achieved 100 percent 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.	The State verified the correction of noncompliance identified in FFY 2008. There are no outstanding noncompliance issues for this indicator for FFY 2008 or earlier. There is one school district with four findings of noncompliance identified in FFY 2009. This is the same district as identified with continuing noncompliance with Indicator 9.
In the FFY 2010 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 2010 APR, the State must review its improvement activities and revise them, if necessary to ensure compliance.	The specific actions the State took to verify correction of noncompliance are identified above. Only one district in the State continues to have continuing noncompliance for this indicator, as identified in 2008 and again in 2009. Monitoring staff are providing ongoing reviews of the district's progress. Because the district has refused direct technical assistance from the State's technical assistance providers to address the findings, the State will take additional enforcement actions with the district if the findings are not corrected this year.

Improvement Activities Completed in 2010-11

See Indicator 9

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[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 timeframe.
(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 school 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 timelines associated with timely completion of initial individual evaluations.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2010 (2010-11 school year)	100 percent of children with parental consent to evaluate will be evaluated within State-required timelines.

Actual Target Data for FFY 2010:

In FFY 2010, 84 percent of students with parental consent to evaluate received their initial individual evaluations within State-required timelines.

- 76.5 percent of preschool children had their initial evaluations completed within 30 school days of the date of the parent's consent to evaluate; and
- 90 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 2010	
a. Number of children for whom parental consent to evaluate was received	13,760
b. Number of children whose evaluations were completed within 60 days (or State-established timelines)	11,534[4]
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)	84%

[4] 9,482 students' evaluations were completed within 60 days (or the State established timelines) and another 2,052 students' evaluations were completed beyond the required timeline, but for reasons authorized in the exception provided in 34 CFR §300.301(d).

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

There are 2,226 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 2010	Number of Children by Number of Days of Delay in Completing Evaluations, FFY 2010				Total	Percent of Total
	1-10	11-20	21-30	Over 30		
An approved evaluator was not available to provide a timely evaluation.	104	47	21	68	240	10.8%
Evaluator delays in completing evaluations.	271	211	122	183	787	35.30%
Delays in scheduling CPSE or CSE meetings.	490	286	165	258	1,199	53.90%
Total	865	544	308	509	2,226	
Percent of Total	38.9%	24.4%	13.8%	22.90%		100%

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that Occurred for FFY 2010:

Explanation of Progress or Slippage:

In 2010-11, NYS' compliance rate improved to 84 percent, an increase of seven percentage points over the State's rate of 77 percent in 2009-10. 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. More than 99 percent of findings of noncompliance identified in 2009-10 and 99 percent of findings identified in 2008-09 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 who had their initial evaluations completed within 30 school days of the date of the parent's consent to evaluate improved by approximately nine percentage points. The percent of school-age students who had their initial evaluations completed within 60 calendar days of the date of the parent's consent to evaluate improved by five percentage points.

The percent of preschool children that did not have their evaluations completed within the State-required timeline continues to significantly impact 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. These issues will be addressed through legislative and regulatory changes to be proposed in 2012 (see improvement activities section below).

A review of the length of delays indicates the following:

- 38.9 percent of all delays in completing initial evaluations were for 1-10 days;
- 24.4 percent for 11-20 days;
- 13.8 percent for 21-30 days; and
- 22.9 percent for more than 30 days.

The percentages in length of the delays as reported above show improvement in the lengths of delays.

A review of the reasons for the delays indicates:

- 10.8 percent of delays were because an approved evaluator was not available to provide a timely evaluation;
- 35.3 percent because of evaluator delays in completing the evaluations; and
- 53.9 percent related to timeliness of scheduling CPSE or CSE meetings to discuss evaluation results.

There has been significant improvement in the percentage of delays caused because an approved evaluator was not available to provide a timely evaluation. This is an issue which the State has been directly addressing statewide through its approval of programs and monitoring of approved evaluators.

One major root cause of this reason for delays continues to be 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).

Correction of FFY 2009 Findings of Noncompliance (if State reported less than 100% compliance):
Level of compliance (actual target data) State reported for FFY 2009 for this indicator: **77%**

1. Number of findings of noncompliance the State made during FFY 2009 (the period from July 1, 2009 through June 30, 2010)	165 findings (98 school districts)
2. Number of FFY 2009 findings the State verified as timely corrected (corrected within one year from the date of notification to the local	114 findings (68 school districts)

educational agency (LEA) of the finding)	
3. Number of FFY 2009 findings not verified as corrected within one year [(1) minus (2)]	51 findings (30 school districts)

Correction of FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above)	51 findings (30 school districts)
5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	51 findings (30 school districts)
6. Number of FFY 2009 findings not verified as corrected [(4) minus (5)]	0 findings (0 school districts)

Actions Taken if Noncompliance Found Is Not Corrected:

Not applicable.

Verification of Correction of FFY 2009 Noncompliance (either timely or subsequent):

For each district with noncompliance identified, the State verified the correction of noncompliance by requiring submission of the specific date that the individual evaluation was completed for each individual student whose evaluation was not timely. To verify correction of noncompliance for all students, the districts were required to report to the State the percent of students who had a timely evaluation over a three-month period of time. See http://www.p12.nysed.gov/sedcar/forms/vr/1011/html/verif11.htm.

Based on a regional sampling process, the State verified the reports of correction of noncompliance by on-site reviews.

The State verified the correction of noncompliance for NYC's report for individual students whose evaluations were not timely in FFY 2009. NYC's annual submission of data for this indicator was used to verify that all children are receiving their individual evaluations within the required timelines. For this indicator, if NYC's data did not show 100 percent timely evaluations, this is reported as a new finding for the year reported.

Correction of Remaining FFY 2008 Findings of Noncompliance (if applicable):

1. Number of remaining FFY 2008 findings noted in the Office of Special Education Program's (OSEP) June 2011 FFY 2009 APR response table for this indicator	6 findings (3 school districts)
2. Number of remaining FFY 2008 findings the State has verified as corrected	6 findings (3 school districts)
3. Number of remaining FFY 2008 findings the State has not verified as corrected [(1) minus (2)]	0 findings (0 school districts)

Verification of Correction of Remaining FFY 2008 findings:

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.

Except for NYC, the districts were 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.

The State verified the correction of noncompliance for NYC's report for individual students whose evaluations were not timely in FFY 2009. NYC's annual submission of data for this indicator was used to verify that all children are receiving their individual evaluations within the required timelines. For this indicator, if NYC's data did not show 100 percent timely evaluations, this is reported as a new finding for the year reported.

For all districts outside of NYC, based on a regional sampling methodology, selected school districts that had 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 compliance assurance plan was issued to address any instances of individual noncompliance, as well as to resolve any underlying systemic reason(s) for the noncompliance.

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

1.	Number of remaining FFY 2007 findings noted in OSEP's June 2011 FFY 2009 APR response table for this indicator	2 findings (1 school districts)
2.	Number of remaining FFY 2007 findings the State has verified as corrected	2 findings (1 school districts)
3.	Number of remaining FFY 2007 findings the State has <u>not</u> verified as corrected [(1) minus (2)]	0 findings (0 school district)

Verification of Correction of Remaining FFY 2007 findings:

The State verified that the individual students reported in 2007 have since had their individual evaluations completed. NYC's annual submission of data for this indicator was used to verify that all children are receiving their individual evaluations within the required timelines. For this indicator, if NYC's data did not show 100 percent timely evaluations, this is reported as a new finding for the year in which the data is reported.

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

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 OSEP APR Response Table for this Indicator (if applicable):

Statement from the OSEP Response Table	State's Response
The State must demonstrate, in the FFY 2010 APR, due February 1, 2012, that the State is in compliance with the timely initial evaluation requirement in 34 CFR §300.301(c)(1). Because the State reported less than 100 percent compliance for FFY 2009, the State must report on the status of correction of noncompliance reflected in the data the State reported for this indicator.	The State's report of compliance for FFY 2010 is less than 100 percent.
The State must demonstrate, in the FFY 2010 APR that the remaining six uncorrected noncompliance findings identified in FFY 2008 and the remaining two uncorrected noncompliance findings identified in FFY 2007 were corrected.	All uncorrected noncompliance findings identified in FFY 2008 and FFY 2007 have been corrected as explained above.
When reporting on the correction of noncompliance, the State must report, in its FFY 2010 APR, that it has verified that each LEA with noncompliance reflected in FFY 2009 and, for each LEA with remaining noncompliance identified in FFY 2008 and FFY 2007 data, the State reported for this indicator that the LEA: (1) is correctly implementing 34 CFR §300.301(c)(1) (i.e., achieved 100 percent 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 2010 APR, the State must describe the specific actions that were taken to verify the correction.	The process the State used to verify the correction of noncompliance is identified above. The verification process is based on a review of updated data through the State's data system and on-site reviews of a sample of districts. The State's verification system ensures both individual and systemic correction of noncompliance.

Statement from the OSEP Response Table	State's Response
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 2010 APR, that it has corrected this noncompliance.	All longstanding noncompliance findings have been corrected.

Improvement Activities Completed in 2010-11

- 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, the New York State Education Department (NYSED) issued annual determination letters to superintendents of school districts that were identified as having noncompliance for Indicator 11. The National Early Childhood Technical Assistance Center (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 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 training on the timelines and process for conducting individual initial evaluations and determining eligibility for special education. In 2010-11, 46 three-day sessions were provided throughout NYS.

- Early Childhood Direction Centers funded by the State 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.

- Links to technical assistance resources were provided to school districts with their notifications of findings of noncompliance.

- The State continued to direct school districts to NECTAC for information to assist them in developing compliance assurance 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.

- At the OSEP Leadership Conference, the State met with representatives from other States, led by federal resource centers, to discuss issues around correction of noncompliance in large school districts. NYS continues to participate as a member of a workgroup to address this issue.

- 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 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.

- In 2011, State law was amended to address corporate practice law limitations for private approved evaluation programs. This will address the State's prior inability to approve any new preschool evaluators to address availability of approved evaluators.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[If applicable]*

- An amendment to the State's regulations will be proposed in 2012 to conform the State's timeline for timely preschool evaluations to 60 calendar days, consistent with the State's timeline for school-age students with disabilities.

- A bill to amend State law to modify the parent's role to select the preschool evaluator will be submitted in 2012.

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 third birthday occurs after August 31 following the full school year for which 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(s) refusal to provide consent caused delays in evaluation or initial services or to whom exceptions under 34 CFR §300.301(d) applied.
e. # of children who were referred to Part C less than 90 days before their third birthdays.*
f. # of children whose parent(s) chose to continue their child in Early Intervention (EI) 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 collects data for this indicator via the Student Information Repository System (SIRS) and verifies these data by displaying them in a VR11 report, which was developed in the PD Data System. SIRS is NYS' individual student data reporting system.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2010 (2010-11 school year)	100 percent 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 2010:

In FFY 2010**, 70.3** percent of children referred from Part C had their eligibility for Part B determined or IEP implemented by their third birthday or in compliance with timelines established in State law.

NYS' Method Used to Collect Data

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. School districts report 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 2009	**FFY 2010**
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	2,641	2,470

Children referred from Part C who had their eligibility for Part B determined or IEP implemented by their 3rd birthday		
	FFY 2009	**FFY 2010**
whom data are reported are excluded from this number.)		
b. Number of those referred determined to be NOT eligible and whose eligibility was determined prior to third birthday	146	141
c. Number of those found eligible who have an IEP developed and implemented by their third birthdays	385	436
d. Number for whom parent refusals to provide consent caused delays in evaluation or initial services or to whom exceptions under 34 CFR §300.301(d) applied	522	451
e. Number of children who were referred to Part C less than 90 days before their third birthdays	22	4
f. Number of children whose parents chose to continue their child in EI Program	1,246	1,156
g. Number of children who moved (9), # 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 (89)	108	98
Number in a but not in b, c, d, e, f or g.	**212**	**184**
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	**64.5%**	**70.3%**

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

In FFY 2010, there were 184 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 2010				Unknown	Total	Percent of Total
	1-10	11-20	21-30	Over 30			
An approved evaluator was not available to provide an evaluation.	2	0	1	22		25	13.6%
Additional evaluations were requested outside of the required timeline.	0	0	0	4		4	2.2%
There were evaluator delays in completing the evaluation.	4	5	0	55		64	34.8%
Delays in scheduling the CPSE meetings	3	3	2	54		62	33.7%
The recommended Part B services were not available when child turned three years of age.	2	1	1	20		24	13.0%
Inaccurate or incomplete data					5	5	2.7%
Total	11	9	4	155	5	184	100%
Percent of Total	6.0%	4.9%	2.2%	84.2%	2.7%		

Discussion of Improvement Activities Completed <u>and</u> Explanation of Progress or Slippage that occurred for FFY 2010:

Explanation of Progress or Slippage:

In 2010-11, NYS' compliance rate significantly improved from 64.5 percent in FFY 2009-10 to 70.3 percent. This improvement is also noteworthy in that 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 of compliance improved by 5.3 percentage points contributing to the State's improved performance.

- 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).

- In 2011, State law was amended to address corporate practice law limitations for private approved evaluation programs. This will begin to address the State's prior inability to approve any new preschool evaluators to address availability of approved evaluators.

- There was a significant decrease in the percent of delays caused by delays in scheduling the CPSE meetings (from 51.4 percent in FFY 2009 to 33.7 percent in FFY 2010), primarily in NYC (see below for actions the State took to address this issue).

- There was also a decrease in the percent of delays resulting from a lack of approved evaluators available to provide timely evaluations, decreasing from 14.2 percent in FFY 2009 to 13.6 percent in FFY 2010.

Correction of FFY 2009 Findings of Noncompliance (if State reported less than 100 percent compliance)
Level of compliance (actual target data) State reported for FFY 2009 for this indicator: **64.5%**

1. Number of findings of noncompliance the State made during FFY 2009 (the period from July 1, 2009 through June 30, 2010)	20
2. Number of FFY 2009 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)	20
3. Number of FFY 2009 findings not verified as corrected within one year [(1) minus (2)]	0

Correction of FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above)	0
5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	0
6. Number of FFY 2009 findings not yet verified as corrected [(4) minus (5)]	0

Actions Taken if Noncompliance Not Corrected:

Not applicable.

Verification of Correction (either timely or subsequent):

To verify correction of noncompliance, the State required the district to conduct a review of each identified student who did not receive their preschool special education services

by his/her third birthday or within the timeline required by State regulations; and document that the student has since had his or her IEP developed and implemented or if not, there is a reason that is in compliance with State requirements. Each district is required to complete a student-specific chart found at the end of the VR 12 report for each identified student, if any, maintain this documentation, and make it available upon request by the New York State Education Department (NYSED). Each district is also required to conduct a review over a three consecutive month period to determine if all children who transition from Part C program to preschool special education have had their eligibility for preschool special education determined and, if found eligible, had their IEPs developed and implemented by their third birthdays (except when the parent has agreed to keep their child in the EI program in accordance with State regulations). The district completes a student-specific chart found at the end of the VR 12 report and maintains this documentation, which must be made available for review upon request by NYSED. This was required to assure that the district has addressed the reasons why children transitioning from EI to preschool special education were not receiving timely special education services.

See http://www.p12.nysed.gov/sedcar/forms/vr/1011/html/verif12.htm.

For NYC, the State verified that all preschool children had since had their IEPs implemented. NYC reports annually on a representative sample of preschool students for this indicator. If data is less than 100 percent for this indicator, a new finding of noncompliance is found for the year in which the data is reported.

Correction of Remaining FFY 2008 Findings of Noncompliance (if applicable)

1. Number of remaining FFY 2008 findings noted in the Office of Special Education Program's (OSEP) June 2010 FFY 2009 APR response table for this indicator	1
2. Number of remaining FFY 2008 findings the State has verified as corrected	1
3. Number of remaining FFY 2008 findings the State has not verified as corrected [(1) minus (2)]	0

Verification of Correction of Remaining FFY 2008 findings:

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.

For NYC, the State verified that all preschool children had since had their IEPs implemented. NYC reports annually on a representative sample of preschool students for this indicator. If data is less than 100 percent for this indicator, a new finding of noncompliance is found for the year in which the data is reported.

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

1. Number of remaining FFY 2007 findings noted in OSEP's June 2010 FFY 2009 APR response table for this indicator	2
2. Number of remaining FFY 2007 findings the State has verified as corrected	1
3. Number of remaining FFY 2007 findings the State has not verified as corrected [(1) minus (2)]	1

For the one district with continuing noncompliance, the State's Special Education Quality Assurance (SEQA) staff conducted a review to identify the root cause (timely evaluations and scheduling of CPSE meetings to develop the IEPs). The Associate Commissioner of the Office of Special Education and other Office of Special Education managers met with the district's Board of Education and the administration (superintendent and cabinet) to discuss the district's failure to address the noncompliance. Individuals with Disabilities Education Act (IDEA) funds were redirected to require the district to obtain direct technical assistance to address the issue. The special consultant hired by the district developed an action plan for the district to resolve the noncompliance and is assisting the district in the implementation of the plan. On a monthly basis, SEQA meets with district staff and review records to monitor the implementation of the plan and the district's progress toward correction of noncompliance.

Verification of Correction of Remaining FFY 2007 findings:

The State verified for NYC that the identified individual students have since had their IEPs implemented. NYC demonstrates compliance annually for this indicator based on a representative sample of students. For this indicator, if NYC's annually reported data does not show 100 percent compliance, it is reported as a new finding for the year reported.

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

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)

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 OSEP APR Response Table (if applicable)

Statement from the OSEP Response Table	State's Response
The State must demonstrate, in the FFY 2010 APR, due February 1, 2012, 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 percent compliance for FFY 2009, the State must report on the status of correction of noncompliance reflected in the FFY 2009 data the State reported for this indicator.	The State did not report 100 percent compliance with the early childhood transition requirements in is FFY 2010 APR. However, the State did report progress.
The State must demonstrate, in the FFY 2010 APR, that the remaining one uncorrected noncompliance finding identified in FFY 2008 and the remaining two uncorrected noncompliance findings identified in FFY 2007 were corrected.	The State reported correction of noncompliance of the FFY 2008 findings. The State reported for FFY 2007, that only one district (one finding of noncompliance) remains. The State reported on its enforcement actions taken with the one district with continuing noncompliance.
When reporting on the correction of noncompliance, the State must report, in its FFY 2010 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 2009 data and each LEA with remaining noncompliance identified in FFY 2008 and FFY 2007 the State reported for this indicator: (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 2010 APR, the State must describe the specific actions that were taken to verify the correction.	The State reported on its verification of the correction of noncompliance (see above), which included both individual and systemic corrections.
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 2010 APR, that it has corrected this noncompliance.	The State has reported on the appropriate and progressive enforcement actions it has taken with the one district with continuing noncompliance. For a State as large as New York, one district's failure to correct noncompliance does not represent a systemic failure on the part of the State's general

Statement from the OSEP Response Table	State's Response
	supervision system.

Improvement Activities Completed in 2010-11

- The Office of Special Education accessed technical assistance from the National Early Childhood Technical Assistance Center (NECTAC) to further inform its activities to improve transition from Part C EI programs to Part B preschool special education programs.

- Links to federal and State technical assistance resources were also included in the notifications to district personnel for noncompliance findings. The link for NECTAC (http://www.nectac.org/) was among the resources listed.

- Office of Special Education staff participated in 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. Monitoring staff 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. In 2010-11, 46 three-day sessions were provided throughout NYS.

- The State's funded Early Childhood Direction Centers and NYS 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.

- Staff from the Office of Special Education represent the Commissioner of Education in meetings of the State Early Intervention Coordinating Council (EICC). The EICC advises the Part C agency (the NYS Department of Health (DOH)) on required early intervention activities, including the transition of children from Part C to Part B.

- The Part B and Part C agencies continue to review the Memorandum of Understanding that focuses on activities that result in a smooth transition of children

from Part C to Part B, including monitoring programs that are approved by both DOH, the Part C agency and NYSED, the Part B agency.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[If applicable]*

See indicator 11.

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 individualized education programs (IEP) 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))

* While federal regulations require transition planning to begin with the first IEP to be in effect at age 16, New York State (NYS) law requires transition planning 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 2010 (2010-11 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 2010:

79 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.

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 2009 (baseline)	3,321	2,232	67.2%
FFY 2010	3,437	2,714	79.0%

Discussion of Improvement Activities Completed <u>and</u> Explanation of Progress or Slippage that occurred for FFY 2010:

NYS showed significant progress in meeting the State's target for this indicator. In 2010, 79.0 percent of youth aged 15 and above had IEPs that included coordinated, measurable, annual IEP goals and transition services that would reasonably enable the student to meet the post-secondary goals, compared to 67.2 percent in 2009.

The FFY 2010 data was 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-2011.pdf. The total number of students with IEPs, ages 15-21, enrolled in the school districts sampled during 2010-11 was 52,907. The total number of IEPs reviewed from these representative school districts was 3,437. Of the IEPs reviewed, 2,714 were found to have been in compliance with all IEP transition requirements; and 723 had one or more transition planning requirement that was not appropriately addressed in the students' IEPs.

The following data shows improvement in the percent of IEPs within each district that met full compliance with the transition planning requirements. Of the 107 school districts:

- 8 school districts (7.5 percent of the 107 school districts) reported that 0 percent of their students' IEPs that were reviewed were in compliance with the IEP transition requirements. This is an improvement of 50 percent from the prior year report of 16 school districts in this category.
- 12 school districts (11.2 percent of the 107 school districts) reported between 1 and 49 percent of the students' IEPs that were reviewed met the transition requirements, an improvement from the 15 school districts reported last year in this category.
- 18 school districts (16.8 percent of the 107 school districts) reported between 50 and 79 percent of their IEPs that were reviewed met the transition requirements. This again is an improvement from the 15 school districts reported in this category last year.
- 12 school districts (11.2 percent of the 107 school districts) reported between 80 and 99 percent of IEPs that were reviewed met the transition requirements. This number was 22 for FFY 2009.
- 57 school districts (53.3 percent of the 107 school districts) reported 100 percent of IEPs that were reviewed were in compliance with all transition planning requirements, compared with 39 (36.4 percent) in FFY 2009.

Regional variations are noted in the following chart. The regional trends are similar to baseline data, indicating in part the need for regionally-designed targeted interventions, training and technical assistance.

Indicator 13 - Transition IEP FFY 2010 Data						
		Number of Reviewed School Districts with IEPs found in Compliance				
RSE-TASC* Region	Total # of School Districts Reviewed in FFY 2010	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	1	2	7	2	12
Central	9	0	2	3	1	3
Long Island	14	3	1	1	5	4

Indicator 13 - Transition IEP FFY 2010 Data						
RSE-TASC* Region	Total # of School Districts Reviewed in FFY 2010	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	80-99% of IEPs in compliance	100% of IEPs in compliance
Lower Hudson	8	1	2	3	1	1
Mid-Hudson	10	1	3	1	0	5
Mid-South	10	0	0	0	1	9
Mid-State	7	1	2	1	0	3
Mid-West	13	0	0	1	0	12
New York City	1	0	0	0	1	0
West	11	1	0	1	1	8
Totals	107	8	12	18	12	57

*Regional Special Education Technical Assistance Support Centers (See map of regions at http://www.p12.nysed.gov/specialed/techassist/rsetasc/regionmap.htm)

Correction of Noncompliance

Correction of FFY 2009 Findings of Noncompliance:

Level of compliance (actual target data) State reported for FFY 2009 for this indicator: **67.2%**

1. Number of findings of noncompliance the State made during FFY 2009 (the period from July 1, 2009 through June 30, 2010)	425 findings (108 school districts)
2. Number of FFY 2009 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)	398 findings (100 school districts)
3. Number of FFY 2009 findings not verified as corrected within one year [(1) minus (2)]	27 findings (8 school districts)

Correction of FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above)	27 findings (8 school districts)
5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	22 findings (6 school districts)
6. Number of FFY 2009 findings not yet verified as corrected [(4) minus (5)]	5 findings (2 school districts)

Actions Taken if Noncompliance Found in FFY 2009 Is Not Corrected:

Two districts have continuing noncompliance. One of the districts is the same district with noncompliance identified in FFY 2007, identified from a resubmission of a new self-

review in FFY 2009 that they were required to submit based on their low percentage of students with IEPs with appropriate transition plans. This same district is also reported on under FFY 2007 (see below). Staff from the State's monitoring office conducted on-site reviews to identify root causes, provided technical assistance to the district and required the district to develop an Action Plan. The transition specialist from the RSE-TASC provided embedded professional development with the district. The district has not yet been able to demonstrate to the State's monitoring office that the noncompliance has been resolved, due, in part, to a computer error at the time the district converted to a new IEP software contractor wherein data was lost during the conversion.

The other district is New York City (NYC). Based upon a verification review, the State found they had not corrected all issues of noncompliance for individual students. The State required the NYC Department of Education (NYCDOE) to develop a compliance assurance plan (CAP) with targeted action steps, timelines and expected outcomes. The CAP is routinely addressed at monthly meetings with the Deputy Chancellor and her Executive Officers. The State also took the following actions to address this compliance issue with NYC:

- Data analysis for SPP 13 was reviewed at monthly Cluster Meetings convened by the State's NYC Regional Associates with Cluster Leaders, Network Leaders and Administrators of Special Education and other pertinent personnel to identify root causes for noncompliance at the network/school level, discuss strategies to resolve the noncompliance and improve outcomes. These monthly cluster meetings are designed to hold accountable the appropriate individuals who are responsible for improving compliance in the schools as well as improving student outcomes.

- The State provided training on SPP Indicator 13 to NYCDOE Cluster 5 and Network Leaders and Administrators of Special Education, NYCDOE Division of Students with Disabilities and English Language Learners, Community School District 75 Citywide Programs, all six Clusters and the NYCDOE Office of Special Education Performance Initiatives.

- NYC Regional Office (RO) Supervisors provided peer review opportunities with the NYCDOE central staff in spring and fall of 2011 utilizing the New York State Education Department (NYSED)-reviewed IEPs where noncompliance was identified from both the 2008-09 and 2009-10 school years to illustrate areas of continued noncompliance and identify strategies and future professional development needs to address systemic noncompliance.

- NYCRO Associates met monthly with Cluster and Network Leaders and NYCDOE central staff to discuss steps the Cluster/Network has taken to ensure the quality of transition plans and transition planning in their respective schools.

- NYCRO Associates provided school-level training with Cluster and Network staff on SPP Indictor 13 with the schools identified for this intervention that struggled with compliant IEP development and provision of appropriate transition services.

- NYCDOE District 75 Citywide Programs provides special education service and programs to students across the NYCDOE who are severely behaviorally and cognitively challenged, and who cannot be effectively served in their local community-based schools. District 75 has a dedicated Transition Coordinator and staff whose responsibility is to provide professional development to schools to assist with development of appropriate transition plans and identifying appropriate transition services. District 75's Deputy Superintendent has responsibility for ensuring the resources of that department are available to the four Networks that comprise District 75. District 75's corrected IEPs for the 2009-10 sample year indicate a significant improvement in compliance from previous sample years.

Verification of Correction of FFY 2009 Noncompliance (either timely or subsequent):

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. To verify correction, staff reviewed individual IEPs that were identified out of compliance and then conducted a review of a representative sample of other IEPs.

Correction of Remaining FFY 2008 Findings of Noncompliance (if applicable):

1. Number of FFY 2008 findings noted in the Office of Special Education Program's (OSEP) June 2011 FFY 2009 APR response table for indicator.	9 findings (2 school districts)
2. Number of remaining FFY 2008 findings the State has verified as corrected	4 findings (2 school districts)
3. Number of FFY 2008 findings <u>not</u> yet verified as corrected [(1) minus (2)]	5 findings (1 school district)

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

See actions identified above for NYCDOE FFY 2009 noncompliance.

Verification of Correction of FFY 2008 Noncompliance (either timely or subsequent):

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. To verify correction, staff reviewed individual IEPs that were identified out of compliance and then conducted a review of a representative sample of other IEPs. 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):

1. Number of remaining FFY 2007 findings noted in OSEP's June 2011 FFY 2009 APR response table for this indicator	9 findings (2 school districts)
2. Number of remaining FFY 2007 findings the State has verified as corrected	7 findings (1 school district)
3. Number of remaining FFY 2007 findings the State has not verified as corrected [(1) minus (2)]	2 findings (1 school district)

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

For one district, staff from the State's monitoring office conducted on-site reviews to identify root causes, provided technical assistance to the district, and required the district to develop an Action Plan. The transition specialist from the RSE-TASC provided embedded professional development with the district. The district has not yet been able to demonstrate to the State's monitoring office that the noncompliance has been resolved, due, in part, to a computer error at the time the district converted to a new IEP software contractor wherein data was lost during the conversion.

Verification of Correction of Remaining FFY 2007 Findings:

Upon review, all individual students identified with noncompliant IEPs identified in FFY 2007 in NYC have since graduated or aged out. In addition to individual IEP reviews to verify the two-prong correction of noncompliance for NYC, the State also requires annual monitoring for compliance in NYC for this indicator and issues a new finding in the year reviewed if 100 percent of the IEPs are not in compliance.

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

1. Number of remaining FFY 2006 findings noted in OSEP's June 2011 FFY 2009 APR response table for this indicator	7 findings (1 school district)
2. Number of remaining FFY 2006 findings the State has verified as corrected	7 findings (1 school district)
3. Number of remaining FFY 2006 findings the State has not verified as corrected [(1) minus (2)]	0 findings (0 school districts)

All findings from FFY 2006 have been corrected to date.

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

Upon review, all individual students identified with noncompliant IEPs identified in FFY 2006 have since graduated or aged out. The State requires annual monitoring in NYC for compliance with this indicator to ensure correction for all students.

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

Statement from the OSEP Response Table	State's Response
Although OSEP did not consider data for Indicator 13 in its determinations for FFY 2009, OSEP is concerned about the State's very low FFY 2009 data (below 75 percent) for this indicator. In 2012, OSEP will consider the State's FFY 2010 data for Indicator 13 in determinations.	The State's performance for this indicator for FFY 2010 was 79 percent, above the 75 percent threshold, and an indication of significant progress over its baseline data report for FFY 2009 of 67.2 percent.
The State must demonstrate, in the FFY 2010 APR, due February 1, 2012, that the State is in compliance with the secondary transition requirements in 34 CFR §§300.320(b) and 300.321(b).	While the State reported less than 100 percent compliance in the FFY 2010 APR, it is showing steady and substantial progress toward full compliance. The State's progress is significant because each year the report reflects compliance from a different representative sample of districts.
Because the State reported less than 100 percent compliance for FFY 2009, the State must report on the status of correction of noncompliance reflected in the data the State reported for this indicator.	The State reported above on the status of correction of noncompliance identified in FFY 2008 and 2009.
The State must demonstrate, in FFY 2010 APR, that the remaining nine uncorrected noncompliance findings identified in FFY 2007 were corrected.	The State reported above on the status of correction of noncompliance identified in FFY 2007 and earlier.
When reporting on the correction of noncompliance, the State must report in its FFY 2010 APR, that it has verified that each LEA with noncompliance reflected in the FFY 2009 data and each LEA with the remaining noncompliance identified in FFY 2007 the State reported for this indicator: (1) is correctly implementing 34 CFR §§300.320(b) and 300.321(b) (i.e., achieved 100 percent 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 2010 APR, the State must describe the specific actions that were taken to verify the correction.	The State reported above on its process to verify the correction of noncompliance. The State's process for verification is based on (1) a review of updated data subsequently collected through on-site monitoring and review of data collected through a self-review process; and (2) a review of each individual case of noncompliance, unless the child is no longer within the jurisdiction of the school district. To ensure both individual and systemic correction of noncompliance for this indicator for every district, 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

Statement from the OSEP Response Table	State's Response
	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 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 the State does not report 100 percent compliance in the FFY 2010 APR, the State must review its improvement activities and revise them, if necessary. The State also must demonstrate in the FFY 2010 APR that the remaining seven uncorrected noncompliance findings identified in FFY 2006, were corrected. 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 2010 APR that it has corrected this noncompliance.	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 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.

Improvement Activities Completed in 2010-11

- 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.

- The RSE-TASC Regional Special Education Training Specialists delivered a total of 46 three-day trainings for CSE chairpersons across the State. These trainings provided extensive information on appropriate IEP development and transition planning.

- The RSE-TASC Transition Specialists provided locally developed training sessions within their regions on the following topics: Transition in the IEP, Transition Assessment, the Student Exit Summary, Agency Collaboration, Transition for Families, Self-Advocacy, and Post-School Outcomes.

- The State issued a State Model IEP form in 2010. This form is 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. A total of 466 training sessions on IEP development were conducted throughout the State.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[If applicable]*

- NYSED is working with an interagency task force to address aging out transition planning requirements for students with disabilities. (2011-2012)

- The Offices of Special Education and Adult Career and Continuing Education Services (ACCES) are collaborating with other State agencies and the University of Rochester on a new federal grant to improve transition planning and results for students with developmental disabilities. Work of the grant will include the development of a job training curriculum, a resource guide for families and schools, and community groups focused on improving transition outcomes for students with intellectual and developmental disabilities. (2011 – 2016)

- Two public reports were made to the Board of Regents to discuss improved transition planning and results for students with disabilities. (See http://www.regents.nysed.gov/meetings/2011Meetings/June2011/611p12accessd1.pdf; and http://www.regents.nysed.gov/meetings/2011Meetings/December2011/1212p12accessd1.pdf. (2011)

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) (school year students left)	Measurable and Rigorous Target
FFY 2009 (2009-10 school year)	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 C includes targets for B and A).

Actual Target Data for FFY 2009 (2009-10 School Year Exiters)

A	Percent enrolled in higher education for at least one complete term	42% (1,291/3,107)
B	Percent enrolled either in higher education or being competitively employed (note: target for B includes target for A);	67% ([1,291+798]/3,107)
C	Percent 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 C includes targets for B and A)	78% ([1,291+798+231+89]/3,107)

Representativeness of FFY 2009 Response Pool

Table 1 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. The response pool is representative of gender and all disability groups. Minority students are underrepresented by 13.0 percent (36.9 percent vs. 49.9 percent). Students who left by dropping out are also underrepresented by 9.3 percent (17.9 percent vs. 27.2 percent). The factors contributing to underrepresentation by these groups include their over/underrepresentation in the survey pool of students referred by the schools for interview, and lower response rates in these groups to efforts made to contact former students for interview.

Table 1: Representativeness of *Response* Pool Compared to Total Exiters for All NYS Schools During 2009-10, as reported in VR10 Data Reports							
Statewide Demographic Representativeness							
Statewide	**Learning Disabilities**	**Emotional Disabilities**	**Intellectual Disabilities**	**All Other Disabilities**	**Female**	**Minority**	**Dropout**
Census Representation (n = 30,012)	55.9%	13.6%	4.3%	26.1%	34.7%	49.9%	27.2%
Response Pool Representation (n=3,820)	56.9%	12.0%	4.2%	26.9%	37.3%	36.9%	17.9%
Difference	+0.9%	-1.6%	-0.1%	+0.8%	+2.7%	-13.0%	-9.3%

Note: Positive difference indicates overrepresentation; negative difference indicates underrepresentation in the interview pool.

Post-School Outcomes by Type of Exit

Table 2 displays post-school outcomes by Exit Type. Those who graduated from high school (Local, Regents, or General Educational Development (GED)) have the highest rates of participation in one of the four post-school outcomes at 87 percent. Those who dropped out or have other exit reasons have the lowest rates at 47 percent.

Table 2 – 2009-10 Post-School Outcomes by Type of Exit

2008-09 Post-School Outcome* within one year of leaving high school	Statewide Responses 2009-10		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	3107	100%	2231	72%	435	14%	360	6%	81	1%
All Post-school Outcomes	2408	78%	1946	87%	256	59%	168	47%	38	47%
1. Enrolled in higher education	1291	42%	1239	56%	30	7%	19	5%	3	4%
2. Competitively employed but not enrolled in higher education	797	26%	562	25%	107	25%	112	31%	16	20%
3. Enrolled in some other postsecondary education or training program but neither enrolled in higher education nor competitively employed	231	7%	91	4%	94	22%	29	8%	17	21%
4. In some other employment, but neither enrolled in higher education, nor some other postsecondary education or training program and not competitively employed	89	3%	54	2%	25	6%	8	2%	2	2%
None of the above	699	22%	285	13%	179	41%	192	53%	43	53%

*"Post-school outcomes" are defined differently than in past years – see definition section of the SPP 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.
**"Other" may include that the student reached maximum age or that reasons were not reported.

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

- 56 percent of Exiters with Regents, Local or GED diplomas report they are in a two- or four-year college or university, and 4 percent report participation in other types of postsecondary education[5].
- 5 percent of those who dropped out report they are in a two- or four- year college or university, and 8 percent report participation in other types of postsecondary education.
- For those with IEP diplomas, 7 percent report they are in a two- or year- year college or university, and 22 percent report participation in other types of postsecondary education or training programs.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that Occurred for FFY 2010:

Explanation of Progress or Slippage

Compared to the baseline data established in 2008-09:

- 1 percent fewer students with disabilities were enrolled in higher education for at least one complete term;
- an additional 3 percent of students with disabilities were either in higher education or competitively employed; and
- 1 percent more students were 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.

The State met its targets for all outcome areas, except the first category.

Improvement Activities Completed during 2010-11

See Indicator 13

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[If applicable]*

None

[5] Other postsecondary or training program includes Vocational Technology College (< two-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

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:

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 2010 (2010-11 school year)	100 percent 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 2010:

87[6] percent of noncompliance issues identified between July 1, 2009 and June 30, 2010 through the State's general supervision system (including monitoring, State complaints, hearings, etc.) were corrected within one year of identification.

[6] Actual number 86.9 percent

Table: Indicator B15 Worksheet

Indicator/Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) issued Findings in FFY 2009 (7/1/09to 6/30/10)	(a) # of Findings of noncompliance identified in FFY 2009 (7/1/09 to 6/30/10)	(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 1/2012
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	5	5	2	3	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	7	8	6	1	1
7. Percent of preschool children with IEPs who demonstrated improved outcomes.	Dispute Resolution: Complaints, Hearings	3	4	4	0	0

Indicator/Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) issued Findings in FFY 2009 (7/1/09to 6/30/10)	(a) # of Findings of noncompliance identified in FFY 2009 (7/1/09 to 6/30/10)	(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 1/2012
4A.[7] 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	100	704	589	84	31
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	22	31	30	0	1
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	117	258	223	27	8
6. Percent of preschool children aged 3 through 5 – early childhood placement.	Dispute Resolution: Complaints, Hearings	74	140	135	1	4

[7] When the same compliance issue is identified for a school district both for Indicator 4 and 4B, it is reported only once in Indicator 15.

Indicator/Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) issued Findings in FFY 2009 (7/1/09to 6/30/10)	(a) # of Findings of noncompliance identified in FFY 2009 (7/1/09 to 6/30/10)	(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 1/2012
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	25	46	44	1	1
	Dispute Resolution: Complaints, Hearings	16	19	19	0	0
9.[8] 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	39	55	51	4	0
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	12	17	17	0	0

[8] When the same compliance issue is identified for a school district both for Indicator 9 and 10, it is reported only once in Indicator 15.

Indicator/Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) issued Findings in FFY 2009 (7/1/09to 6/30/10)	(a) # of Findings of noncompliance identified in FFY 2009 (7/1/09 to 6/30/10)	(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 1/2012
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	291	480	421	53	6
	Dispute Resolution: Complaints, Hearings	12	15	14	0	1
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	20	20	20	0	0
	Dispute Resolution: Complaints, Hearings	0	0	0	0	0
13. Percent of youth aged 15 and above with IEPs that include coordinated, measurable, annual IEP goals and transition services that will reasonably enable student to meet the post-secondary goals.	Monitoring Activities: Self-Assessment/Local APR, Data Review, Desk Audit, On-Site Visits, or Other	133	539	492	45	2
	Dispute Resolution: Complaints, Hearings	4	4	4	0	0

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 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	91	222	150	68	4
	Dispute Resolution: Complaints, Hearings	10	12	10	1	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	5	7	7	0	0
	Dispute Resolution: Complaints, Hearings	4	4	4	0	0
Other areas of noncompliance: Discipline	Monitoring Activities: Self-Assessment/Local APR, Data Review, Desk Audit, On-Site Visits, or Other	36	42	40	1	1
	Dispute Resolution: Complaints, Hearings	4	4	4	0	0

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 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	11	13	12	1	0
	Dispute Resolution: Complaints, Hearings	0	0	0	0	0
Other areas of noncompliance: IEP Development/Implementation	Monitoring Activities: Self-Assessment/Local APR, Data Review, Desk Audit, On-Site Visits, or Other	82	128	113	9	6
	Dispute Resolution: Complaints, Hearings	34	47	44	0	3
Other areas of noncompliance: Personnel Qualifications	Monitoring Activities: Self-Assessment/Local APR, Data Review, Desk Audit, On-Site Visits, or Other	11	15	8	5	2
	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
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	34	96	82	13	1
	Dispute Resolution: Complaints, Hearings	27	45	45	0	0
Sum of the numbers down Column a and Column b			2981	2591	317	73
Percent of noncompliance corrected within one year of identification = (column (b) sum divided by column (a) sum) times 100. 2591 (b) /2981 (a) = X 100 =86.9%			**(b) / (a) X 100 = 86.9%**			

Describe the process for selecting LEAs for monitoring:

NYS has general supervisory responsibility for 698 public school districts, including the Big 5 School Districts of New York City (NYC), Yonkers, Syracuse, Buffalo and Rochester; 37 Boards of Cooperative Educational Services (BOCES); 406 approved private day and residential programs (preschool and school age); 10 Special Act school districts; 11 State-supported schools; numerous other State agency-operated education programs, two State-operated schools and 184 Charter Schools. The State's system identifies noncompliance through data collection, State complaints, self-review monitoring processes, on-site reviews and impartial 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 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 show 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 show 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 show significant discrepancies and/or disproportionality by race/ethnicity in the identification of students with disabilities in specific disability categories (Emotional Disturbance, Learning Disability, Intellectual Disabilities, Other Health Impairment, Speech or Language Impairment and Autism); and,
- CSE evaluations, IEP development and placement recommendations whenever the district's data show significant discrepancies and/or 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 in consideration of the State's Individuals with Disabilities Education Act (IDEA) Annual Determination process, which identifies school districts that need assistance, intervention or substantial intervention.

Education programs of 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.

The State uses desk audits to monitor certain approved private schools in the area of 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 2010:

Explanation of Progress or Slippage

The State significantly improved its percentage of timely correction of noncompliance. In the 2011 APR, the State reported that 75 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 87 percent.

The improvement in the percentage of findings timely corrected and verified as corrected demonstrates the effectiveness of the State's targeted efforts to design and implement effective monitoring and technical assistance systems and processes.

Timely Correction of FFY 2009 Findings of Noncompliance (corrected within one year from identification of the noncompliance):

1. Number of findings of noncompliance the State identified in FFY 2009 (the period from July 1, 2009 through June 30, 2010) (Sum of Column a on the Indicator B15 Worksheet)	2981
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)	2591
3. Number of findings not verified as corrected within one year [(1) minus (2)]	390

FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance and/or Not Corrected):

4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above)	390
5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	317
6. Number of FFY 2009 findings not yet verified as corrected [(4) minus (5)]	73

Verification of Correction for findings of noncompliance identified in FFY 2009 (either timely or subsequent):

The State verified the correction of 307 findings of noncompliance. The State's 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 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.

<u>For noncompliance cited in monitoring, State complaints and hearing decisions:</u>

The State verifies correction for the individual student through such means 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:

<u>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 disabilities subject to discipline (Indicator 4):</u>

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

- For noncompliance identified based on self-reviews, the State required the district to submit an assurance from the School Superintendent that each instance of noncompliance was corrected and that the information reported is accurate and to maintain documentation subject to review by the New York State Education Department (NYSED).

- For noncompliance identified based on on-site monitoring, the State's monitoring staff reviewed revised policies and a sample of student records to verify 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. For issues of disproportionality by race/ethnicity, the State required the district 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 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 CAP 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 his or her preschool special education services by his or her 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 in 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.

Actions Taken if Noncompliance Not Corrected:

Seventy-three findings of noncompliance in nine school districts and four approved private schools/Special Act school districts that were identified in FFY 2009 remain uncorrected.

Of the 73 findings, 10 of the findings resulted from State complaint investigations (2 schools) and 18 were the result of focused monitoring reviews (7 schools).

- One of the school districts that has unresolved noncompliance as a result of a State complaint investigation is currently under enforcement action by the State because of its inability to correct previously identified overdue noncompliance identified through SPP monitoring and other monitoring efforts.

- Throughout FFY 2010, the State's monitoring staff provided targeted technical assistance to each district or agency programs to clarify actions these programs need to take to correct noncompliance. Such technical assistance included ongoing phone contact and on-site visits to assist the programs.

- 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 45 FFY 2009 findings of continuing noncompliance in five 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, monitoring staff contacted each district to determine the ongoing status of the district's plan and correction of noncompliance.

- In two of these districts, the State issued CAPs with specific actions that the districts must take to demonstrate correction of noncompliance, and in three of these districts, the State has moved to an enforcement action. See specific actions taken to follow up on identified noncompliance reported under Indicators 4, 9, 10, 11, 12 and 13.

- On-site reviews were scheduled in each district that did not submit an assurance that it 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 followed up with the district until verification of resolution was complete.

- 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.

- 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 and provided each school district with data indicating significant discrepancies and/or disproportionality by race/ethnicity (Indicators 9 and 10) with the opportunity to benefit from technical assistance support from the State's Technical Assistance Center on Disproportionality (TACD).

Correction of Remaining FFY 2008 Findings of Noncompliance (if applicable):

1. Number of remaining FFY 2008 findings noted in Office of Special Education's (OSEP) FFY 2009 APR response table for this indicator.	217
2. Number of remaining FFY 2008 findings the State has verified as corrected	114
3. Number of remaining FFY 2008 findings the State has not verified as corrected [(1) minus (2)]	103

Verification of Correction for findings of noncompliance identified in FFY 2008 (either timely or subsequent):

In 2010-11, the State verified the correction of 114 findings of noncompliance that were first identified in FFY 2008. The process the State used for the verification of noncompliance is the same process as identified above for FFY 2009 findings.

Actions Taken if Noncompliance Not Corrected:

One hundred three FFY 2008 findings of noncompliance have not yet been verified as corrected by the State. Actions taken included the following:

- 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. Monitoring staff attended NYC Cluster level meetings and met with the NYC Chancellor's staff. The Associate Commissioner met directly with the NYCDOE Deputy Chancellor to address compliance issues.

- The State withdrew its approval for one private school for failure to correct identified noncompliance.

- NYSED's Special Education Statewide Coordinator and monitoring staff met with the administration of one out-of-State approved school on its outstanding noncompliance. The program has since hired an outside consultant to assist it to achieve compliance.

Actions taken for noncompliance identified with the SPP indicators are described under each indicator. These actions included requiring the districts to develop action plans to correct the overdue noncompliance. In addition:

- In one instance, the State required the district to redirect its use of its IDEA funds to address the unresolved noncompliance.
- Monitoring staff met with the Superintendent and board of education in one district to clarify the district's responsibility to resolve its noncompliance.
- These districts have also been notified that failure to correct noncompliance will result in further enforcement actions, which could include redirection of IDEA funds.
- Additional site visits were made, technical assistance was offered, and, in some districts, monitoring staff met regularly with the School Superintendents/ administrative staff to provide technical assistance
- The State continues to provide each school district with the opportunity for technical assistance support from the State's network of technical assistance providers. TACD provides districts with the opportunity to address their disproportionate suspension of students with disabilities to determine root causes driving that data and the professional development to change its policies, practices and procedures.
- The State requires each school district identified by the State's Annual Determination process as Needing Assistance or Needing Intervention to obtain technical assistance and has directed its State technical assistance providers to work with these districts to determine root causes and address instructional issues impacting performance and/or compliance.

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

1. Number of remaining FFY 2007 findings noted in OSEP's FFY 2009 APR response table for this indicator	49
2. Number of remaining FFY 2008 findings the State has verified as corrected	25
3. Number of remaining FFY 2008 findings the State has <u>not</u> verified as corrected [(1) minus (2)]	24

Actions Taken if Noncompliance Not Corrected:

The State required one district to submit an Action Plan to correct noncompliance, and monitoring staff are meeting with the district's leadership on a monthly basis to monitor the implementation of the plan and the district's progress in resolving the noncompliance. This district was directed to obtain professional development from one of the State's technical assistance providers.

Several of 2007 findings not verified as corrected come from the NYC (public and private) schools and relate to personnel shortage issues. For these issues, while they remain uncorrected, the Court has accepted the actions of the NYCDOE to achieve compliance (Jose P.), and the State continues to monitor implementation of those actions.

The State required one district to redirect its IDEA funds to hire an outside expert to assist it in the development of the Action Plan and to assist in its implementation. Monitoring staff meet monthly with district leadership to monitor the implementation of the plan and the district's progress in resolving the noncompliance. This district has also been receiving professional development from one of the State's technical assistance providers.

Two districts have uncorrected findings relating to Indicators 4 and 13. Descriptions of the actions taken with these districts are provided under those Indicators.

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):

1. Number of remaining FFY 2006 findings noted in OSEP's FFY 2009 APR response table for this indicator	15
2. Number of remaining FFY 2006 findings the State has verified as corrected	7
3. Number of remaining FFY 2006 findings the State has not verified as corrected [(1) minus (2)]	8

Actions Taken if Noncompliance Not Corrected:

All of the FFY 2006 findings not verified as corrected come from the NYC (public and private) schools and relate to personnel shortage issues. For these issues, while they remain uncorrected, the Court has accepted the actions of the NYCDOE to achieve compliance (Jose P.), and the State continues to monitor implementation of those actions.

Verification of Correction of Remaining 2006 findings:

See Verification process described above for 2009.

Additional Information Required by the OSEP APR Response Table

Statement from the OSEP Response Table	State's Response
The State must demonstrate, in the FFY 2010 APR, due February 1, 2012, that the remaining 217 findings of noncompliance identified in FFY 2008, the remaining 49 findings of noncompliance identified in FFY 2007, and the remaining 15 findings of noncompliance identified in FFY 2006 that were not reported as corrected in the FFY 2009 APR were corrected.	114 of the 217 findings identified in FFY 2008 have been corrected. 25 of the 49 findings identified in FFY 2007 have been corrected. 7 of the 15 findings identified in FFY 2006 have been corrected. All findings relate to personnel shortages in the NYC area, for which the Court has approved the district's actions to achieve compliance. (Jose P) More than 50 percent of prior year noncompliance issues have been corrected. The steps the State has taken to increase its enforcement actions to ensure correction are identified above. The majority of these remaining findings relate to personnel shortage issues in the NYC region, for which the Court has accepted actions the district must take to address compliance. The State monitors the district's implementation of these actions.
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 2010 APR demonstrating that the State timely corrected noncompliance identified by the State in FFY 2009 in accordance with 20 U.S.C. 1232d(b)(3)(E), 34 CFR §§300.149 and 300.600(e), and OSEP Memo 09-02.	The State reviewed and revised its improvement activities. As a result, the State's FFY 2010 percentage of noncompliance timely corrected (87 percent) improved by 12 percentage points over the prior year.
In reporting on correction of findings of noncompliance identified in FFY 2009 in the FFY 2010 APR, the State must report that it verified that each LEA with noncompliance identified in FFY 2009: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100 percent 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	The State's process for the verification of correction of noncompliance is identified in detail above.

Statement from the OSEP Response Table	State's Response
longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02. In the FFY 2010 APR, the State must describe the specific actions that were taken to verify the correction. In addition, in reporting on Indicator 15 in the FFY 2010 APR, the State must use the Indicator 15 Worksheet.	
In responding to Indicators 4a, 4b, 9, 10, 11, 12 and 13 in the FFY 2010 APR due February 1, 2012, the State must report on correction of the noncompliance described in this table under those indicators.	The State reported on correction of the noncompliance described in the "Table: Indicator B15 Worksheet" for Indicators 4a, 4b, 9, 10, 11, 12 and 13 under those indicators. The State also included those noncompliance findings and related findings in the Indicator 15 report of noncompliance.
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 2010 APR, that it has corrected this noncompliance.	The State has a rigorous system of monitoring to ensure procedural compliance with IDEA. In FFY 2010, the State ensured the timely correction of 87 percent of 2,981 identified findings and verified the correction of more than 50 percent of noncompliance identified in prior years. While challenged with personnel resources, the State has taken progressive enforcement actions and has provided extensive technical assistance to its schools/ districts to ensure systemic changes in practices. The longstanding noncompliance that remains uncorrected is limited to very few approved private schools (including out-of-state schools) and four public school districts.

Improvement Activities Completed in 2010-11

- IDEA discretionary funds were directed again in the 2010-11 school year to provide funds to approved private schools and Special Act school districts to provide tuition for coursework and test preparation support to uncertified teachers seeking teacher certification. From the inception in 2006-07 of grant initiatives through the 2010-11 school year, 447 teachers who were awarded grant funds for course work have achieved certification in a teaching discipline, including 55 teachers achieving certification in 2010-11. 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.

- 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 attended the 2011 OSEP Leadership Conference.

- Regular participation in the Northeast Regional Resource Center 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.

- See individual Indicator sections (4, 9, 10, 11, 12 and 13) for information on activities completed to address resolution of issues of noncompliance.

- The State revised its procedures for the resolution of noncompliance to require the program to correct its noncompliance within a shorter time frame and establish more stringent enforcement actions even if the program is within its first 12 months of identification of noncompliance.

- The State revised its criteria for its annual IDEA determination to add a consideration of the length of time that a district has been out of compliance in determining if the district needs assistance, intervention or substantial intervention.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[If applicable]*

- See revisions to improvement activities identified under Indicators 4, 9, 10, 11, 12, and 13.

- A newly designed module will be added to the State's Comprehensive Special Education Information System to alert monitoring staff to districts within their region that are required to submit data, the result of that submission, status of correction of noncompliance, last notifications/reminder sent to the district, and need to schedule follow-up, focused, or comprehensive reviews. This will allow Special Education Quality Assurance staff to intervene sooner, prior to 12 months from identification of noncompliance, to help district resolve noncompliance earlier. Timeline: by December 31, 2012

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))

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 the United States Education Department 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).

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2010 (2010-11 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 2010:

100 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.

7/1/2010 - 6/30/2011 Table 7: Section A, Written Signed Complaints	
(1) Total Number of written, signed complaints filed	283
(1.1) Complaints with reports issued	201
(a) Reports with findings of noncompliance	167
(b) Reports within timeline	179
(c) Reports within extended timelines	22
(1.2) Complaints pending	6
(a) Complaint pending a due process hearing	0
(1.3) Complaints withdrawn or dismissed	76
Percent = 179 [1.1(b)] + 22[1.1(c)] = 201 divided by 201[1.1] times 100 = 100%.	

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

Explanation of Progress or Slippage

The percentage of signed written complaints resolved within the 60-day timeline or an extended timeline improved from 99.53 percent in 2009-10 to 100 percent in 2010-11. The State has met its target for this indicator.

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.

- Office of Special Education staff participated in all meetings of the Northeast Regional Resource Center (NERCC) Legal and Regulatory Workgroup in 2010.

- Office of Special Education leadership staff attended the session on dispute resolution at the Office of Special Education Programs (OSEP) Mega Conference in 2010.

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

Statement from the OSEP Response Table	State's Response
OSEP appreciates the State's efforts and looks forward to reviewing in the FFY 2010 APR, due February 1, 2012, the State's data demonstrating that it is in compliance with the timely complaint resolution requirements in 34 CFR §300.152. If the State does not report 100 percent compliance in the FFY 2010 APR, the State must review its improvement activities and revise them, if necessary.	The State met its target of 100 percent compliance for this indicator in FFY 2010.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[If applicable]* **-** None

Revised April 2012

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 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).

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2010 (2010-11 school year)	100 percent of impartial hearing decisions will be rendered within regulatory timelines.

Actual Target Data for FFY 2010:

84.25 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.

7/1/2010 - 6/30/2011 SECTION C: Hearing Requests	
(3) Hearing requests total	6,147
(3.2) Hearings (fully adjudicated)	381
(a) Decisions within timeline	81
(b) Decisions within extended timeline	240
(3.3) Resolved without a hearing	4,578
Percent = 81[3.2(a)] + 240[3.2(b)] divided by 381[3.2] = .8425x 100 = 84.25%.	

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

Explanation of Progress or Slippage

The State demonstrated progress for this indicator. The percentage of adjudicated hearings completed in a timely manner improved slightly, from 84 percent in FFY 2009 to **84.25** percent in FFY 2010.

In FFY 2010, there was an increase in the number of impartial hearings requested, from 6,078 in FFY 2009 to 6,147 in 2010. Most of these requests were from New York City (NYC). To ensure that there were sufficient numbers of IHOs available to hear cases in a timely manner, the State certified 32 additional IHOs specifically to hear NYC cases.

There has been a documented decrease in the number of IHOs with five or more late decisions (in 2007, 13 IHOs had five or more late decisions; in FFY 2010, no IHOs had five or more late decisions). In FFY 2009, 425 cases were fully adjudicated, and 70 of these decisions were not timely; in FFY 2010, there were 381 cases fully adjudicated, and 60 decisions were not timely. In FFY 2009, there were 14 cases where decisions were rendered more than two weeks late. In FFY 2010, this number decreased to nine cases. So while not reflected in the overall percentage, fewer cases are rendered late than in the prior year.

Improvement Activities Completed in FFY 2010:

- Staff from the Office of Special Education accessed federal technical assistance to further inform its activities to improve due process timelines on the following occasions:
    - The Office of Special Education Programs (OSEP) 2010 Mega Conference – session on dispute resolution.
    - Regular review of information posted on the CADRE (Center for Appropriate Dispute Resolution in Special Education) website and through its list serve.

- o Participation in the Northeast Regional Resource Center (NERCC) Legal and Regulatory Workgroup.

- o Staff from the Office of Special Education participated in two webinars sponsored by the National Center on Dispute Resolution in Special Education (CADRE) which focused on strategies to resolve disagreements related to special education.

- Training was provided to NYS IHOs by staff from NERCC (Pamela Kraynak).

- To ensure the availability of sufficient numbers of IHOs, the New York State Education Department (NYSED) certified 32 new IHOs in July 2010.

- Beginning in 2010, the State required each NYS-certified IHO to attend 12 hours of annual update training sessions, an increase over the previous six hours required every two years. Annual update training was provided to all NYS-certified IHOs specifically on managing the timelines in an impartial hearing.

- A request for proposals was issued in 2010, and in June of 2011, NYSED entered into a five-year contract with Special Education Solutions, L.L.C. to plan, develop, and conduct annual update training for currently certified IHOs and provide training to new IHO candidates in year four of the contract; host a website containing materials for IHOs and maintain a listserv in order to provide ongoing technical support to IHOs; assist NYSED in periodically updating technical assistance materials for IHOs; and investigate complaints alleging the misconduct or challenging the competence of an IHO. Through this contract, nationally recognized experts in the field of special education impartial hearings will be available to provide training and technical assistance to NYC IHOs on topics including the timely management of the impartial hearing process.

- Office of Special Education provided real-time monitoring of the timeliness of all impartial hearing decisions through its Impartial Hearing Reporting System (IHRS). Late notice reminders were issued to IHOs when decisions had not been issued by the regulatory compliance date. The Impartial Hearing Reporting System (IHRS) Help file, available to IHOs on the IHRS website, was expanded to include a technical assistance section for IHOs having difficulty using the IHRS tables designed to help IHOs monitor their cases.

- NYSED initiated misconduct investigations of IHOs for those cases where decisions were late and/or where there were multiple extensions to a hearing to determine whether the IHO demonstrated misconduct or incompetence.

- Written guidance was issued to IHOs regarding the record close date for all impartial hearings and the State's regulatory requirement to render decisions no more than 14 days after the actual record close date when extensions have been properly granted.

- Monthly phone conferences were conducted by the NYS Office of Special Education IHRS Office, NYC Special Education Quality Assurance 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 were held between the Information Technology departments of the IHRS Office and the NYC Impartial Hearing Office 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.

Additional Information Required by the 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 2010 APR, due February 1, 2012, demonstrating that the State is in compliance with the due process hearing timeline requirements in 34 CFR §300.515.	The State has contracted with nationally recognized experts in the due process field to provide training and technical assistance to NYS IHOs on managing the impartial hearing process to ensure timely decisions and has increased the frequency of required training sessions. Further, the State expanded its pool of IHOs to ensure sufficient numbers of IHOs are available to hear cases in a timely manner. The State has also increased its actions to real-time monitor impartial hearing timelines and to review and, as appropriate, provide sanctions to IHOs who issue late decisions. Further, the State has proposed regulations to address procedural issues often leading to untimely decisions.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[If applicable]*

The following revised improvement activities are added to ensure the timeliness of impartial hearing decisions.

1. 2011 annual update training to NYS IHOs to be provided by national experts (Lyn Beekman, Deusdedi Merced and Perry Zirkel) on the following topics:
   - The 45 day timeline requirement to issue a final decision;
   - Tuition reimbursement; and
   - Pre-hearing techniques.

   Timeline: By December 2011

2. NYSED will revise and reissue written guidance on impartial hearing procedures. Timeline: By December 2012.

3. NYSED will revise its State regulations relating to impartial hearing procedures to address procedural issues that impact timely impartial hearing decisions. Timeline: By June 2012

4. NYSED will take action with regard to the certification of an IHO upon a finding that the IHO demonstrated misconduct or incompetence relating to improperly granted extensions and/or late decisions.

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 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).

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2010 (2010-11 school year)	The percent of hearing requests that go to resolution sessions and are resolved through resolution session settlement agreements will increase by 2 percent.

Actual Target Data for FFY 2010:

9.17 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 1.08 percentage points from FFY 2009.

7/1/2010 - 6/30/2011 Table 7 Section C: Hearing Requests	
(3) Hearing requests total	6147
(3.1) Resolution sessions	5492
(a) Settlement agreements	504
Percent = 504 [3.1(a)] divided by 5492 (3.1) times 100 = 9.17**%**	

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

Explanation of Progress or Slippage

The State did not meet its target to increase the percent of hearing requests that go to resolution sessions and are resolved through resolution session settlement agreements by 2 percent. In 2010-11, the percent of resolution sessions ending in agreement was 8.19 percent, which is almost five percentage points less than the prior year. In part, this may be due to the increasing number of impartial hearing requests that involve more than one issue, which may be a factor impacting the number of resolution sessions ending in written agreements.

In addition, the percent of resolution sessions resulting in agreement reflects only those cases where the settlement agreement is signed within the 30-day resolution period. 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 (no later than 14 days after the resolution period has ended) were not counted. There were 421 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 2010

- 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 Legal and Regulatory Workgroup.

- Staff from the Office of Special Education participated in two webinars sponsored by the National Center on Dispute Resolution in Special Education (CADRE) which focused on strategies to resolve disagreements related to special education.

- Impartial Hearing Reporting System (IHRS) staff provides 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.

- In March, April and May of 2011, the New York State Dispute Resolution Center (NYSDRA), in collaboration with New York State Education Department (NYSED)-funded Special Education Parent Centers, provided regional forums on early and nonadversarial dispute resolution, including resolution sessions and mediation.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[If applicable]*

NYSED will post guidance materials on resolution sessions on its website and disseminate statewide through its technical assistance networks.
Timeline: By June 2012.

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 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).

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2010 (2010-11 school year)	97 percent of mediations held will result in mediation agreements.

Actual Target Data for FFY 2010:

88.3 percent of mediation sessions resulted in mediation agreements.

7/1/2010 - 6/30/2011 Table 7: Section B, Mediation Requests	
(2) Total number of Mediation requests received	186
(2.1) Mediations held	144
(a) Mediations held related to due process	6
(i) Mediation agreements related to due process complaints	5
(b) Mediations held not related to due process	138
(i) Mediation agreements not related to due process	115
(2.2) Mediations not held (including pending)	42

7/1/2010 - 6/30/2011 Table 7: Section B, Mediation Requests
Percent = 5[(2.1(a)(i)] + 115[2.1(b)(i)] = 120 divided by 144[2.1] = 0.883 times 100 = 88.3%

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

Explanation of Progress or Slippage

The State did not meet its target that 97 percent of mediations held would result in mediation agreements. The percent of mediation sessions held in 2010-11 that resulted in agreement was **88.3** percent, compared with 88.033 percent from the previous year. There were 186 total mediation requests in 2010-11, 71 fewer than in 2009-10. The decline in requests has slowed from the 104 slippage reported in 2008-09 and may have been affected by the increase in resolution sessions during the same period. However, the percentage of mediation sessions that resulted in agreement improved slightly (.27 percentage points).

Improvement Activities Completed in 2010-11:

- 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 Legal and Regulatory Workgroup.

- The New York State Dispute Resolution Association (NYSDRA), under contract with the Office of Special Education, edited and maintained a website (http://www.nysdra.org/consumer/specialeducation.aspx) that describes and promotes the benefits of special education mediation in NYS, highlights frequently asked questions and answers, and provides additional resources. From June 2010 to July 2011, the NYSDRA website had a total of 29,722 individuals visiting the webpage. This is an increase of 3,915 from the 2009-10 year.

- In March, April and May 2011, NYSDRA collaborated with the New York State Education Department (NYSED)-funded Special Education Parent Centers to deliver regional presentations to provide parents, school districts, advocates and others with information and strategies to engage in early and nonadversarial dispute resolution, including mediation and resolution sessions.

- NYSRDA provided training to 117 veteran and new mediators. This training curriculum was made accessible online.

- In 2011, NYSDRA updated the Special Education Mediation brochure. During the 2010-11 school year, NYSDRA distributed an estimated 3,500 brochures.

- NYSDRA completed a pilot project with the Charitable Ventures Foundation (CVF), which was designed to test whether intensive outreach could increase the number of mediations utilized in the special education field. Through its member Community Dispute Resolution Center in Buffalo, NY, NYSDRA and CVF discovered that a focused effort increased the number of mediations by 60 percent. Discussions are being held about replicating this effort in other areas of NYS.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 *[If applicable]*

NYSED will conduct stakeholder discussions on regional and statewide strategies to increase the use of mediation to resolve disputes.
Timeline: By December 2012

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:

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 2010 (2010-11 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 2010:

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
4B	0	1	1
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	39
APR Score Calculation	**Timely Submission Points –** If the FFY 2010 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)		44

618 Data – Indicator 20					
Table	**Timely**	**Complete Data**	**Passed Edit Check**	**Responded to Date Note Requests**	**Total**
Table 1 – Child Count Due Date: 2/2/2011	1	1	1	1	4
Table 2 – Personnel Due Date: 11/2/2011	1	1	1	N/A	3
Table 3 – Ed. Environments Due Date: 2/2/2011	1	1	1	1	4
Table 4 – Exiting Due Date: 11/2/2011	1	1	1	N/A	3
Table 5 – Discipline Due Date: 11/2/2011	1	1	1	N/A	3
Table 6 – State Assessment Due Date: 12/15/2011	1*	N/A	N/A	N/A	1
Table 7 – Dispute Resolution Due Date: 11/2/2011	1	1	1	N/A	3
Table 8 – MOE/CEIS Due Date: 5/1/11	1	N/A	N/A	N/A	1
				Subtotal	22
618 Score Calculation				**Grand Total (Subtotal X 2.045)**	44.99

Indicator 20 Calculation	
A. APR Grand Total	44
B. 618 Grand Total	44.99
C. APR Grand Total (A) + 618 Grand Total (B) =	88.99
Total N/A in APR	0
Total N/A in 618	0
Base	**90**
D. Subtotal (C divided by Base*) =	0.988
E. Indicator Score = Subtotal (D) times 100	98.87

***** The State is appealing DAC's determination that the Table 6 submission was not timely based on the timely December 14, 2011 submission of the N093 (required in Part 1 of the CSPR) and the December 16 submission of the N003 and N004 files (which are not used in the Part 1 of

the CSPR). In prior years, these files would not have been due until February 1 and the due date was changed solely to ensure that the N093 file data was available for use in the CSPR by December 15.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

Explanation of Progress or Slippage

NYS' compliance rate on this indicator is 100 percent.

Improvement Activities Completed in 2010-11

- The State continued its participation in the annual data managers' meeting hosted by the Data Accountability Center.

- Annual activities completed 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 districts' 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 2010 APR, the State must use the Indicator 20 Data Rubric. If the State does not report 100 percent compliance in the FFY 2010 APR, the State must review its improvement activities and revise them, if necessary.	The State reported 100 percent compliance using the Indicator 20 Data Rubric.

Revisions, with Justification, to Proposed Targets/ Improvement Activities / Timelines / Resources for FFY 2010 *[If applicable]*

None