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Office of P-12 Special Education

Annual Performance Report for 2011-12

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

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THE UNIVERSITY OF THE STATE OF NEW YORK

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OVERVIEW

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

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

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

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

1. Percent of youth with individualized education programs (IEPs) graduating from high school with a regular diploma.
2. Percent of youth with IEPs dropping out of high school.
3. Participation and performance of students with disabilities on statewide assessments:
   - Percent of districts meeting the State's Adequate Yearly Progress (AYP) objectives for progress for the disability subgroup.
   - Participation rate for students with IEPs.
   - Proficiency rate for students with IEPs against grade level, modified and alternate achievement standards.
4. Rates of suspension and expulsion:
   - Percent of districts identified by the State as having a significant discrepancy in the rate of suspensions and expulsions of children with disabilities for greater than 10 days in a school year; and
   - Percent of districts identified by the State as having a significant discrepancy in the rates of suspensions and expulsions of greater than 10 days in a school year of children with disabilities by race and ethnicity, and policies, procedures or practices that contribute to the significant discrepancy and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards.
5. Percent of students with IEPs ages 6 through 21:
   - Inside the regular class 80 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[1].
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[2].
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 SPP and APR are timely and accurate.

Overview of February 2013 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. CAP members were contacted through email to provide input regarding the new baseline, targets and improvement activities for Indicator 6.

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

[1] The federal Office of Special Education no longer requires States to report these results in Annual Performance Reports. NYS reports data on the timeliness of State complaint decisions as part of the data it submits under IDEA section 618.
[2] The federal Office of Special Education no longer requires States to report these results in Annual Performance Reports. NYS reports data on the timeliness of State due process hearing decisions as part of the data it submits under IDEA section 618.

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. 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.

In January and early February 2013, the State consulted with its State Advisory Panel, and representatives of its statewide ECDCs and Special Education Parent Centers to obtain stakeholder input on the target and improvement activities for Indicator 6 (preschool LRE).

The SPP and APR are posted on NYSED's website at http://www.p12.nysed.gov/specialed/spp/, 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 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).

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 2010-11 School Year:

The **denominator** is the Total Cohort. See below for the definition of the 2006 district total cohort.

The 2006 district total cohort consists of all students, regardless of their current grade level, who met one of the following conditions:

- First entered 9th grade at any time during the 2006-07 school year (July 1, 2006 through June 30, 2007); or, in the case of ungraded students with disabilities, reached their 17th birthday during the 2006-07 school year.
- Ungraded students are included in the 2006 cohort if their birth date is between July 1, 1989 and June 30, 1990 (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 2006 Total Cohort, years 1, 2, 3, and 4 are the 2006-07, 2007-08, 2008-09, and 2009-10 school years, respectively. Beginning with APR reporting in the 2011-12 school year, the five month requirement changed to a one day requirement for inclusion in the district total cohort (unless the student transferred to another diploma-granting program outside the district). This change applies to students with and without disabilities.

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 months (not including July and August) 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 2010 after four years of first entering 9th grade or, for ungraded students with disabilities, after four years of becoming 17 years of age.

Graduation Requirements: Graduation rate data for students with disabilities is calculated the same as for all students. In NYS, students with disabilities must earn a

Regents or Local diploma to be included in the counts of graduating students. Students with disabilities who earn an IEP diploma are not considered high school graduates. Detailed information on graduation requirements can be found at http://www.p12.nysed.gov/ciai/gradreq/revisedgradreq3column.pdf.
For graduation requirements for students who first entered 9th grade in 2006, see http://www.p12.nysed.gov/ciai/gradreq/2006GradReqDetails.html.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2011 (2010-11 school year results) (2006 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 53 percent.

Actual Target Data for FFY 2011:

46.4 percent of youth with IEPs graduated from high school with a regular high school diploma within four years, as of August 2010.

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
2005	225,219	n = 167,894 74.5%	32,058	n = 14,248 44.4%
2006	224,744	n = 170,909 76.1%	32,696	n = 15,178 46.4%

Need/ Resource Capacity Category	2005 Total Cohort of SWD Four Years Later as of August		2006 Total Cohort of SWD Four Years Later as of August	
	# in Cohort	Grad Rate[1]	# in Cohort	Grad Rate[2]
New York City (NYC)	10,753	26.6%	11,367	30.7%
Large Four Cities	1,660	25.5%	1,906	27.0%
Urban/Suburban High Need Districts	2,698	39.8%	2,698	42.1%
Rural High Need Districts	2,486	39.8%	2,413	41.8%
Average Need Districts	10,277	54.9%	10,052	58.1%

[1] 2005 Cohort Number of Graduates: 2,864 in NYC; 423 in Large Four Cities; 1,073 in High Need Urban/Suburban; 990 in High Need Rural; 5,643 in Average; 3,084 in Low Need; 41 in Charter Schools

[2] 2006 Cohort Number of Graduates: 3,490 in NYC; 514 in Large Four Cities; 1,137 in High Need Urban/Suburban; 1,008 in High Need Rural; 5,836 in Average; 3,139 in Low Need; 54 in Charter Schools

Need/ Resource Capacity Category	2005 Total Cohort of SWD Four Years Later as of August		2006 Total Cohort of SWD Four Years Later as of August	
	# in Cohort	Grad Rate[1]	# in Cohort	Grad Rate[2]
Low Need Districts	4,086	75.5%	4,098	76.6%
Charter Schools	98	41.8%	162	33.3%
Total State	32,058	44.0%	32,696	46.4%

Group of School Districts	2005 Total Cohort of SWD Four Years Later as of August		2006 Total Cohort of SWD Four Years Later as of August	
	# in Cohort	Grad Rate	# in Cohort	Grad Rate
Big Five Cities[3]	12,413	26.5%	13,273	30.2%
Rest of State	19,645	55.1%	19,423	57.5%
Total State	32,058	44.0%	32,696	46.4%

Discussion of Improvement Activities and Explanation of Slippage, if the State did not meet its target, that occurred for FFY 2011:

In the 2010-11 school year, the State did not meet its target of 53 percent for this indicator. The 2010-11 graduation rate, however, demonstrates an improvement of 2.0 percentage points higher than the 2009-10 graduation rate of 44.4 percent. In addition, as the charts above indicate, there were improvements in the graduation rates in all need/resource categories except Charter Schools.

Graduation rates for the 2006 total cohort by need/resource category of school districts ranged from a low of 27.0 percent in the large four cities to a high of 76.6 percent in low need school districts.

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

Statement from the OSEP Response Table	State's Response
In reporting data for this indicator in the FFY 2011 APR, States must use the same data they used for reporting to the Department under Title I of the ESEA, using the adjusted cohort graduation rate required under the ESEA.	The State used the same data as used for reporting to the Department under Title I of the ESEA, using the adjusted cohort graduation rate required under the ESEA

Improvement Activities Completed during 2011-12

- In 2011, NYSED's P-12 Education's Offices of Special Education and Accountability aligned their respective accountability systems (NCLB and IDEA) when identification

[3] Big Five Cities are NYC plus Large Four Cities

of a school and/or district was a result of poor performance of the subgroup of students with disabilities in order to provide greater continuity of the assessment of needs of these schools/districts and the resulting school improvement plans and activities. To accomplish this, the State's Office of Special Education revised its performance criteria for determination of school districts under IDEA as "Needs Assistance" or "Needs Intervention" to be based primarily on whether a school district has one or more schools not making Adequate Yearly Progress (AYP) for the subgroup of students with disabilities. As a result, the State's Office of Special Education directed its technical assistance resources to the same lowest performing schools/districts identified for the subgroup of students with disabilities as are identified under the State's Differentiated Accountability system in order to provide these schools and districts with technical assistance to improve results for the subgroup of students with disabilities. See http://www.p12.nysed.gov/specialed/spp/aligningaccountability-july2011.htm.

- To the extent resources permitted, the State assigned a Special Education School Improvement Specialist (SESIS) from its State-funded Regional Special Education Technical Assistance Support Centers (RSE-TASC) to each IDEA identified district to participate in a School Quality Review process or Joint Intervention Team (JIT) review to determine the root cause of the results for the students with disabilities subgroup, informing the district's development of a district Comprehensive Improvement Plan. Based on the findings from these reviews:

    - In 2011-12, the SESIS worked with 209 school districts (counting NYC as one district). This included direct technical assistance provided to 31 schools in the Big 4 school districts (Yonkers, Syracuse, Rochester, and Buffalo), 180 schools in NYC and 16 approved private schools serving students with disabilities. The SESIS provided embedded professional development, in accordance with a quality improvement process, to improve literacy instruction, including adolescent literacy, specially designed instruction and/or behavioral supports and interventions to improve results for students with disabilities.

    - Staff from the State's regional Special Education Quality Assurance (SEQA) offices participated in 24 JIT reviews in school districts identified as needs assistance or intervention. These reviews resulted in comprehensive improvement plans to identify root causes and address such areas as curriculum, teaching and learning, school leadership, infrastructure for student success, data collection analysis and utilization, and professional development.

- During the 2011-12 school year, SEQA monitoring staff conducted focused reviews in 27 school districts that targeted policies, practices and procedures in key areas, such as individual evaluations and eligibility determinations; IEP development and implementation; appropriate instruction from qualified staff; access, participation and progress in the general education curriculum; instruction in literacy; behavioral support; and parental involvement.

- SEQA staff conducted 12 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.

- Senior management from the Office of Special Education met quarterly with the directors of special education of each of the Big 4 districts as a forum to problem solve key issues to improve outcomes for students with disabilities, sharing best practices. In addition, the State facilitated meetings with special education administrators from the nine small cities in the central region of the State to provide targeted technical assistance and support regarding NYSED initiatives to improve student outcomes. Some of the key issues discussed in these meetings included behavior support strategies, improving the IEP development process, transition planning and implementation of integrated co-teaching services in general education classes.

- The State's Office of Special Education provided a webinar to charter schools on special education requirements. NYSED's Charter School Office and Office of Special Education collaborated in the delivery of this webinar to provide information and resources so that Charter School personnel have a better understanding of their responsibilities to provide special education services to students with disabilities. See http://www.p12.nysed.gov/psc/SpecialEducationServicesinCharterSchoolsWebinar.html.

- In 2012, in collaboration with the NYS Council of School Superintendent's Leadership for Educational Achievement Foundation (LEAF), NYSED's Office of Special Education and representatives from RSE-TASC presented a webinar on the role of school principals in special education. This webinar focused on the administrators' roles in ensuring appropriate specially-designed instruction is provided to students with disabilities.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012:

- Beginning in 2012-13 school year, the State revised its criteria for the identification of school districts in need of assistance or intervention under IDEA. See http://www.p12.nysed.gov/specialed/spp/2011annualcriteria.htm and http://www.p12.nysed.gov/specialed/spp/NYSIDEAdeterminations-2012.pdf

- The State has revised its tool to review school district effectiveness, beginning with the 2012-13 school year to provide one diagnostic tool of school district effectiveness, replacing the previous School Quality Review and Joint Intervention Team review processes. See http://www.p12.nysed.gov/accountability/diagnostic-tool-institute/DTSDEInstitute.html.

- NYSED's Race to the Top and School Reform Initiatives target improvements in educational performance to result in increased graduation rates for all. Because of the comprehensive nature of these Department-wide initiatives, a link to the Department's "Engage NY" website is provided. See: http://engageny.org/.

- The Board of Regents approved a new compensatory option for students with disabilities to earn a local high school diploma. See http://www.p12.nysed.gov/specialed/publications/safetynet-compensatoryoption.html.

- Effective July 1, 2013, the IEP diploma will no longer be available. Effective July 1, 2013, schools will award Skills and Achievement Commencement Credentials to students with severe disabilities and a (proposed) work readiness certificate for other students with disabilities. These certificates provide documentation of student learning toward the State's Career Development and Occupational Studies learning standards.

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 2010-11:

For FFY 2011, the 2006 district total cohort is the **denominator**.

The 2006 district total cohort consists of all students, regardless of their current grade level, who met one of the following conditions:

- First entered 9th grade at any time during the 2006-07 school year (July 1, 2006 through June 30, 2007); or, in the case of ungraded students with disabilities, reached their 17th birthday during the 2006-07 school year; or
- Ungraded students are included in the 2006 cohort if their birth date is between July 1, 1989 and June 30, 1990 (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 2006 Total Cohort, years 1, 2, 3, and 4 are the 2006-07, 2007-08, 2008-09, and 2009-10 school years, respectively. Beginning with the 2011-12 school year, the five month requirement changed to a one day requirement for inclusion in the district total cohort (unless transferred to another diploma-granting program outside the district). This change applies to students with and without disabilities.

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 months (not including July and August) *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 pages 236-237 of Appendix V: Terms and Acronyms.

"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 2011 (2010-11 school year) (2006 total cohort as of August 2010)*	No more than 14 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 2011:

In the 2010-11 school year, 16.0 percent of students with disabilities in the 2006 total cohort as of August 2010 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%
2006	224,744	N = 20,547 9.1%	32,696	n = 5,228 16.0%

Need/ Resource Capacity Category	2005 Total Cohort of SWD As of August Four Years Later		2006 Total Cohort of SWD As of August Four Years Later	
	# in Cohort[1]	Dropout Rate	# in Cohort[2]	Dropout Rate
New York City	10,753	21.0%	11,367	20.8%
Large Four Cities	1,660	29.8%	1,906	33.7%
Urban/Suburban High Need Districts	2,698	18.3%	2,698	17.9%
Rural High Need Districts	2,486	17.9%	2,413	19.5%
Average Need Districts	10,277	11.9%	10,052	10.8%
Low Need Districts	4,086	4.4%	4,098	3.6%
Charter Schools	98	14.3%	162	13.6%
Total State	32,058	15.9%	32,696	16.0%

Group of School Districts	2005 Total Cohort of SWD As of August Four Years Later		2006 Total Cohort of SWD As of August Four Years Later	
	# in Cohort	Dropout Rate	# in Cohort	Dropout Rate
Big Five Cities[3]	12,413	22.1%	13,273	22.7%
Rest of State	19,645	12.0%	19,423	11.4%
Total State	32,058	15.9%	32,696	16.0%

[1] 2005 Cohort Number of Dropouts: 2254 in NYC; 494 in Large Four; 495 in High Need Urban/Suburban; 444 in High Need Rural; 1228 in Average; 180 in Low Need; 14 in Charter Schools
[2] 2006 Cohort Number of Dropouts: 2370 in NYC; 642 in Large Four; 484 in High Need Urban/Suburban; 471 in High Need Rural; 1090 in Average; 149 in Low Need; 22 in Charter Schools
[3] Big Five Cities include NYC and the Large Four Cities

Discussion of Improvement Activities and Explanation of Slippage, if the State did not meet its target, that occurred for FFY 2011:

Explanation of Progress or Slippage

In the 2010-11 school year, the State did not meet its target that no more than 15 percent of students with disabilities will drop out of school. The State showed minor slippage, with an increase in the dropout rate for students with disabilities of 0.1 percentage points from FFY 2010. An analysis of the need/resource categories of districts and their dropout rates shows that slippage occurred in the large four cities and rural high needs districts but improvement occurred in all other categories. It is important to note that the categories with the largest counts of students in the cohort, New York City and Average Needs Districts, each decreased dropout rates by almost two percentage points. The students in these two categories represent 66 percent of the total cohort while the students in the categories showing slippage represent 13 percent of the total cohort.

Dropout rates for the 2006 total cohort by need/resource category of school districts ranged from a high of 33.7 percent in the large four cities to a low of 3.6 percent in low need school districts.

Improvement Activities Completed during 2011-12

See improvement activities completed for Indicator 1.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 [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. In 2012, the State discussed the Elementary and Secondary Education Act (ESEA) waiver and its impact on results for Indicator 3 with the Commissioner's Advisory Panel for Special Education Services.

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[1] (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. (A.1) 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 scoring at or above proficient against grade level, modified and alternate academic achievement standards) divided by the (total # of children with IEPs who received a valid score and for whom a proficiency level was assigned, and, calculated separately for reading and

[1] The State Education Department (SED) submitted its ESEA Flexibility Request to the U.S. Education Department (USED) on February 28, 2012. On May 29, 2012, SED received approval from the USED for its flexibility waiver request. Because the State still calculates AYP through its waiver, New York State (NYS) is reporting on A.l and not A.2 (Annual Measurable Objective (AMO) percent). Through the waiver, in order to make AYP, schools continue to be required to achieve their Effective Annual Measurable Objective (EAMO) or make Safe Harbor, and demonstrate the required participation rate on State assessments for the subgroup on each measure for which the school is accountable. However, SED eliminated the requirement that in order to make Safe Harbor in grades 3-8 ELA or Math, an accountability group must also make AYP with that group in science, as well as the requirements that to make Safe Harbor for high school ELA or Math, an accountability group must also make AYP with that group for graduation rate.

math)]. The proficiency rate includes both children with IEPs enrolled for a full academic year and those not enrolled for a full academic year.

Notes:

- 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 ESEA.

Beginning in 2011-12, AYP for students with disabilities, consistent with the ESEA waiver provided to NYS, is determined using two criteria: participation and performance. To meet the participation criterion in elementary/middle and secondary level English language arts (ELA) and mathematics, 95 percent of students (enrolled during the test administration period at the elementary/middle level and in 12th grade at the secondary level) must be tested on an approved assessment. To meet the performance criterion, a performance index (PI) that is calculated using assessment results must be equal to or greater than a predetermined EAMO or a Safe Harbor Target (10 percent improvement over the previous year's performance). An EAMO is the lowest PI that an accountability group of a given size can achieve in the subject for a group's PI not to be considered significantly different from the statewide AMO for that subject. The table below displays statewide PI targets and the statewide calculated PI. It is important to note that districts from across the State will have different EAMOs, depending on the size of the students with disabilities population.

At the elementary/middle level, students may achieve one of six performance levels[2]:

- Level 1 On Track (Basic and On Track to Proficient)
- Level 1 Off Track (Basic and Not on Track to Proficient)
- Level 2 On Track (Basic Proficient and On Track to Proficient)
- Level 2 Off Track (Basic Proficient and Not on Track to Proficient)
- Level 3 (Proficient)
- Level 4 (Advanced)

[2] New York's approved ESEA flexibility waiver increased the number of performance levels to six from four to accommodate student growth.

The PI is calculated using the following formula:[3]**
((Level 1 On Track) + (Level 1 On Track) + (Level 2 On Track) + (Level 2 On Track) + (Level 3) + (Level 3) + (Level 4) + (Level 4) + (Level 2 Off Track)) ÷ number of continuously enrolled tested students) × 100

Continuously enrolled tested students are those enrolled on the first Wednesday of October and during the test administration period.

At the secondary level, students may achieve one of four performance levels:

- Level 1 (Basic)
- Level 2 (Basic Proficient)
- Level 3 (Proficient)
- Level 4 (Advanced)

The PI is calculated using the following formula:
(Level 2) + (Level 3) + (Level 3) + (Level 4) + (Level 4)) ÷ number of cohort members) × 100

Cohort members are students who entered grade 9 in the same school year. Data for these students are calculated on June 30, four years after they first enter 9th grade.

Actual Target Data for FFY 2011:

FFY 2011	**Measurable and Rigorous Targets**								
	Districts Meeting AYP for Disability Subgroup (3A.1)	**Participation for Students with IEPs (3B)**				**Proficiency for Students with IEPs (3C)**			
		Reading		**Math**		**Reading**		**Math**	
		3-8	**HS**	**3-8**	**HS**	**3-8**	**HS**	**3-8**	**HS**
Targets	31%	95%	95%	95%	95%	PI 101	PI 97	PI 122	PI 82
Actual Target Data for FFY 2011	44.3%	98%	98%	97%	97%	PI 97	PI 116	PI 100	PI 77

[3] This is a new formula under New York's approved ESEA flexibility waiver.

AYP

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)
2011 (2011-12)	682 (includes 55 Charter Schools)	44.3% (n = 302)

Participation Rate

The participation rate of students with disabilities in the 2011-12 school year by grade and subject is displayed below:

Participation Rates for Students with Disabilities Subgroup						
	2009-10		**2010-11**		**2011-12**	
Assessment	**Number Tested/ Enrollment**	**Participation Rate**	**Number Tested/ Enrollment**	**Participation Rate**	**Number Tested/ Enrollment**	**Participation Rate**
Grade 3-8 ELA	204,287/ 208,722	98%	203,051/ 207,129	98%	225,645/ 229,517	98%
Grade 3-8 Math	204,515/ 208,672	98%	202,902/ 207,128	98%	225,767/ 229,554	98%
High School ELA (seniors)	19,906/ 20,693	96%	20,580/ 21,318	97%	24,164/ 24,880	97%
High School Math (seniors)	20,049/ 20,693	97%	20,685/ 21,318	97%	24,178/ 24,880	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.

Performance

The two charts below show the 2011-12 NYS performance outcomes by proficiency levels and related PIs for the students with disabilities subgroup. Students who scored at levels 3 or 4 were 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 or mathematics.

Proficiency Levels for Students with Disabilities 2011-12							
		Number by Proficiency Level on State Assessments					
Assessment	Continuously Enrolled Students with Disabilities in Grades 3-8 and in 2008 Accountability Cohort in High School (HS)	Level 1 On Track	Level 1 Off Track	Level 2 On Track	Level 2 Off Track	Level 3	Level 4
Grade 3-8 ELA	215,775	63 (0.029%)	65,613 (30.4%)	9,757 (4.5%)	90,597 (42.0%)	39,891 (18.5%)	9,854 (4.6%)
Grade 3-8 Math	215,741	7 (0.003%)	48,890 (22.7%)	7,880 (3.7%)	82,670 (38.3%)	54,169 (25.1%)	22,125 (10.3%)
HS ELA	28,988	10,014 (34.5%)	N/A	8,987 (31.0%)	N/A	7,953 (27.4%)	2,034 (7.0%)
HS Math	28,988	11,316 (39.0%)	N/A	13,039 (45.0%)	N/A	3,474 (12.0%)	1,159 (4.0%)

Performance Index for the Students with Disabilities Subgroup 2011-12						
Assessment	Continuously Enrolled Students with Disabilities in Grades 3-8 and in 2008 Accountability Cohort in High School (HS)	NYS PI	Effective AMO	Safe-Harbor Target	Students with Disabilities Made AYP in 2011-12	2012-13 AMO or Safe-Harbor Target
Grades 3-8 ELA	215,775	97	101	101	No	118
Grades 3-8 Math	215,741	116	122	122	No	132
HS ELA	28,988	100	97	97	Yes	121
HS Math	28,988	77	82	82	No	102

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2011:

Public Reporting of Assessment Information: Public reports of assessment results are available at https://reportcards.nysed.gov/counties.php?year=2012[4].

Explanation of Progress or Slippage

AYP:

44.3 percent of school districts (including Charter Schools) met AYP in every grade and subject for the subgroup of students with disabilities. The State exceeded its target for AYP. In FFY 2010, only 17.2 percent of districts (including Charter Schools) met AYP in every grade and subject for the subgroup of students with disabilities. The increased number of districts making AYP in FFY 2011 is attributable, in part, to the number of districts that were able to make Safe Harbor based on the change to the State's calculation of AYP, as approved through the ESEA waiver. Under the waiver, the State eliminated the requirement that in order to make Safe Harbor in grades 3-8 ELA or Math, an accountability group must also make AYP with that group in science, as well as the requirements that to make Safe Harbor for high school ELA or Math, an accountability group must also make AYP with that group for graduation rate.

Participation:

The State exceeded its targets in all areas. The grade 3-8 ELA and Math targets were exceeded by three percentage points (98 percent actual compared to 95 percent target) and the high school ELA and Math targets were exceeded by two percentage points (97 percent actual compared to 95 percent target). All targets were also exceeded in the prior year at the same rate.

Performance:

Grades 3-8 ELA and Math:
The Grades 3-8 ELA and Math performance of students with disabilities improved based on the proficiency levels reported in 2010-11 compared to the proficiency levels reported in 2011-12.

- In 2010-11, 20 percent of students with disabilities were at levels 3 and 4 in grades 3-8 ELA. In 2011-12, 22.9 percent of students with disabilities were at levels 3 and 4 in grades 3-8 ELA.
- In 2010-11, 34 percent of students with disabilities were at levels 3 and 4 in grades 3-8 Math. In 2011-12, 35.4 percent of students with disabilities were at levels 3 and 4 in grades 3-8 Math.

[4] 2011-12 school district report cards

High School ELA and Math:
Under the ESEA waiver calculations, in order to make a level 3 proficiency, a student must have achieved a score between 75 and 89 on the Regents Comprehensive Examination in English or between 80 and 89 on a Regents examination in mathematics; or passed a State-approved alternative to those Regents examinations; or a score of level 3 on a State alternate assessment. (Under prior year calculations, the student must have achieved a score between 65 and 84 to earn a level 3.)

Under the ESEA waiver calculations, in order to achieve level 4 proficiency on the high school assessment, a student must have achieved a score of 90 or higher on the Regents Comprehensive Examination in English or a Regents mathematics examination; or a score of level 4 on a State alternate assessment. (Under prior year calculations, the student must have achieved a score above 85 to earn a level 4.)

These changes established standards on Regents exams in ELA and mathematics that are better aligned to college- and career- readiness to hold schools and districts accountable. As a result, fewer students with disabilities were able to reach these proficiency standards.

- In 2010-11, 58 percent of students with disabilities were at levels 3 and 4 for HS ELA. In 2011-12, 34.4 percent were at levels 3 and 4.
- In 2010-11, 54 percent of students with disabilities were at levels 3 and 4 for HS Math. In 2011-12, 16 percent were at levels 3 and 4.

As stated above, the reason for the change in proficiency levels is due to the change in the required score necessary to be considered college and career ready.

Improvement Activities Completed during 2011-12

- During the 2011-12 school year, Special Education Quality Assurance (SEQA) monitoring staff conducted focused reviews in 27 school districts that targeted policies, practices and procedures in key areas, such as individual evaluations and eligibility determinations; IEP development and implementation; appropriate instruction from qualified staff; access, participation and progress in the general education curriculum; instruction in literacy; behavioral support; and parental involvement.

- SEQA monitoring staff conducted 12 monitoring reviews of the Boards of Cooperative Educational Services (BOCES). BOCES serves students with disabilities who require a highly structured setting or who participate in career and technical education programs. The reviews targeted specific compliance areas fundamental to priority student outcomes, such as graduation rate, participation and achievement on state assessments, and behavior management.

- During 2011-12, SEQA monitoring staff regularly met with Special Education Directors of BOCES to update them on changes to regulations and encourage dialogue on the impact of emerging policy on outcomes for students with disabilities.

The BOCES directors were then able to share information provided at these meetings with district leadership within their respective regions. (See Indicator 1)

- SEQA monitoring staff teamed with liaisons from the Office of School Accountability and members of the Joint Intervention Teams in those school that had the subgroup of students with disabilities performing low on State assessments to assess specific areas of special education instruction that impact priority outcomes for this group of students. They conducted a total of 27 reviews which resulted in recommendations for changes to curriculum; teaching and learning; school leadership; infrastructure for student success; collection, analysis and utilization of data; professional development and district support. (See Indicator 1)

- Senior management from the Office of Special Education met quarterly with the Directors of Special Education of the Big 4 City School Districts as a forum to problem solve key issues in improving outcomes for students with disabilities. The school leadership also shared best practices in curriculum and delivery of instruction, in management of behavior and in the design of special education programs. (See Indicator 1)

- SEQA monitoring staff conducted monthly meetings with public school and approved private program special education leadership to provide targeted technical assistance and support in the implementation of the SED's initiatives that impact priority outcomes for students with disabilities. (See Indicator 1)

- A total of 40 site visits were conducted by the SEQA monitoring staff during the administration of State examinations in January and June to verify that testing accommodations for students with disabilities were being appropriately provided, as indicated in their IEPs.

- Specialists from the Regional Special Education Technical Assistance Support Centers 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.

- Twenty-six (26) schools with effective instructional practices for students with disabilities were identified by the State. Sixteen (16) selected effective practice schools received grants to assist low performing schools to adopt these effective practices. The remaining ten (10) schools with effective instructional practices received grants and served as statewide resources, providing technical assistance. These schools were not partnered with low performing schools. See www.S3TAIRproject.com.

- See information on the State's implementation of the Common Core Curriculum and Assessments at http://engageny.org/common-core-curriculum-assessments.

- See information on Data Driven Instruction at http://engageny.org/data-driven-instruction.

- See information on Teacher/Leader evaluations at http://engageny.org/teacherleader-effectiveness.

- See information on Parent and Family Resources at http://engageny.org/parent-and-family-resources.

- See information on Network Teams at http://engageny.org/network-teams.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 [If applicable]

The State is revising its proposed targets for FFY 2012 for AYP as follows:

AYP: 45 percent of school districts that are required to make AYP for the students with disabilities subgroup will make AYP in grades 3-8 ELA, grades 3-8 Math, high school ELA and high school Math.

The reasons for the revised targets are the changes in the calculation of AYP provided through the ESEA waiver. NYS exceeded the previously identified target and a revised target is necessary that considers the FFY 2011 data.

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.

Overview of Issue/Description of System or Process:

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 2011-12, significant discrepancy is defined as a suspension rate of greater than two times the baseline statewide average, (i.e., a rate of 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 with 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 2011 Using 2010-11 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 2011 (using 2010-11 data)

In the 2010-11 school year, 33 school districts (4.8 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 570 school districts with a minimum enrollment of 75 students with disabilities (enrollment as of October 7, 2010). This means that 112

school districts were excluded from the calculation for this indicator because of the State's minimum size criteria. All districts were included in the denominator.

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%
FFY 2011 (using 2010-11 data)	682	33	4.8%

Review of Policies, Procedures and Practices (completed in FFY 2011 using 2010-11 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 related 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 notified through a written finding of noncompliance that they must correct all instances of noncompliance immediately, but not later than the prescribed due date contained in the district's notification. The results from this review are reported to the State for follow-up and corrective actions if compliance issues are identified within one year or sooner. Sixteen (16) of the 33 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. Seventeen (17) of the 33 school districts identified had a review of their policies, procedures and practices conducted in this manner.

It was determined that 24 of the 33 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 through written findings of noncompliance that they must correct their policies, practices and procedures within one year of being notified of noncompliance.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2011:

Explanation of Progress or Slippage

FFY 2011 represents the fourth year of implementing the State's more rigorous definition of significant discrepancy of 2.7 percent or higher. The rate for FFY 2011 represented a decrease from FFY 2010 in both percentage and the number of districts (1.2 percentage point representing eight fewer school districts).

While the State has not met its target for this indicator, the State has shown progress each year. This progress has persisted even with the definition of significant discrepancy becoming more stringent in 2006-07 (from 4 percent to 2.7 percent). In addition, 27 school districts identified with high suspension rates in 2009-10 decreased their rates of long-term suspensions in 2010-11 to below the State's target.

Correction of FFY 2010 Findings of Noncompliance

1. Number of findings of noncompliance the State made during FFY 2010 (the period from July 1, 2010 through June 30, 2011) using 2009-10 data	473 findings (46 school districts)
2. Number of FFY 2010 findings the State verified as timely corrected (corrected within one year from the date of notification to the district of the finding)	460 findings (43 school districts)
3. Number of FFY 2010 findings not verified as corrected within one year [(1) minus (2)]	13 findings (3 school districts)

Correction of FFY 2010 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2010 findings not timely corrected (same as the number from (3) above)	13 findings (3 school districts)
5. Number of FFY 2010 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	13 findings (3 school districts)
6. Number of FFY 2010 findings not yet verified as corrected [(4) minus (5)]	0 findings (0 school district)

Actions Taken if Noncompliance Not Corrected:

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2010.

Verification of Correction of FFY 2010 Noncompliance (either timely or subsequent):

The State verified that each noncompliant district (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) had corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memorandum 09-02, dated October 17, 2008 (OSEP Memo 09-02).

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2010.

The State verified correction of all noncompliance timely or subsequent for Indicator 4 as follows:

> The State's monitoring staff followed up with each district that had continuing noncompliance beyond the one-year timeline to assure that the compliance assurance plan (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 Any Remaining Findings of Noncompliance from FFY 2009 or Earlier (if applicable):

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2009 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
The State must report, in its FFY 2011 APR, on the correction of noncompliance that the State identified in FFY 2010 as a result of the review it conducted pursuant to 34 CFR §300.170(b). When reporting on the correction of the noncompliance identified in FFY 2010, the State must report that it has verified that each	See above

Statement from the OSEP Response Table	State's Response
local educational agency (LEA) with noncompliance identified by the State: (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 longer within the jurisdiction of the LEA, consistent with OSEP Memorandum 09-02, dated October 17, 2008 (OSEP Memo 09-02). In the FFY 2011 APR, the State must describe the specific actions that were taken to verify the correction.	

Improvement Activities Completed in 2011-12

- 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 Centers (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.

- Behavior specialists worked directly with 404 schools (as of July 2012) to support PBIS implementation.

- The State added 15 full time behavior specialists funded through the RSE-TASC to increase the capacity to assist more schools in implementing systems of positive behavioral supports and strategies.

- The State provided a three-day training program for chairpersons of Committees on Special Education (CSEs) and Committees on Preschool Special Education (CPSEs), which included training on IEP development and positive behavioral interventions and supports. Forty-seven (47) regional training sessions were conducted throughout the year.

- The New York State Positive Behavioral Interventions and Supports Technical Assistance Center (NYS PBIS TAC) continued to operate and expand their website.

- The NYS PBIS TAC delivered nine days of training and ongoing technical assistance to the RSE-TASC behavior 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.

- During the 2011-12 school year, the PBIS TAC and RSE-TASC behavior specialists developed and delivered 10 one-day regional forums across the State, focusing on the entire continuum of PBIS supports across the three-tiered system, with an emphasis on data tools and behavioral interventions for groups of students and individuals with higher levels of need. Eleven (11) one-day sessions focusing on the use of data and applying a functional perspective to behavior were planned for the 2012-13 school year and are currently being delivered across the State.

- The PBIS TAC, in partnership with an expert from the federal Technical Assistance Center on PBIS and the RSE-TASC behavior specialists, provided two training opportunities for identified districts/schools on the systems, data and practices of the Wraparound Process as a Tier 3/Tertiary Level Intervention. This training was attended by all RSE-TASC behavior specialists and PBIS TAC staff and is intended to be replicated in the future for identified districts/schools who demonstrate readiness for this level of intervention.

- NYSED supported attendance of the PBIS TAC staff and the RSE-TASC behavior specialists at the National Leadership Forum in 2012. In addition, NYSED staff, PBIS TAC staff and RSE-TASC behavior specialists attended and participated in the 2011 Northeast PBIS Leadership Forum.

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

- The RSE-TASC behavior specialists provided intensive two-day trainings on functional behavioral assessments and intervention plans to more than 30 schools from identified districts in each region of the State. The RSE-TASC regional special education training specialists and behavior specialists continue to develop trainings on functional behavioral assessments and intervention plans, to be delivered regionally throughout the State for all interested districts.

- Special Education Quality Assurance (SEQA) monitoring staff provided targeted technical assistance to each school district that was identified, or at risk for being identified, with noncompliance related to this indicator. Contact was made at three-month intervals with districts identified with noncompliance to assess the status of each district's progress in correcting inappropriate policies, practices and/or procedures regarding the suspension and expulsion of students with disabilities.

- During the 2011-12 school year, SEQA monitoring staff provided targeted technical assistance to the Big Four city school districts (Buffalo, Rochester, Syracuse, Yonkers) regarding the implementation of programs and services which ensure the

provision of a free and appropriate public education for students with disabilities that have a disciplinary change in placement.

- SEQA monitoring staff provided presentations for special education leaders within their regions on appropriate procedures for the suspension and discipline of students with disabilities.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 [*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 of 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 10/5/11;
- At least 10 students with disabilities in the particular race/ethnicity category were suspended;
- The suspension rate of the particular race/ethnicity was greater than two standard deviations above the mean of all suspensions of students with disabilities in the State.

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. NYS 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 through a written finding of noncompliance 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 2011 (using 2010-11 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 2011 (using 2010-11 data)

The State included 570 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 112 school districts were excluded from the calculation because of the State's minimum size criteria. All districts (682) were included in the denominator for this indicator.

In FFY 2011, 22 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; **fifteen (15) of these school districts (2.2 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. The State did not meet its target for this indicator.

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%
FFY 2011 (using 2010-11 data)	682	22	3.2%

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%
FFY 2011 (using 2010-11 data)	682	15	2.2%

Review of Policies, Procedures and Practices (completed in FFY 2011 using 2010-11 data):

During FFY 2011, 22 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 2010-11 school year data. Five (5) 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. Seventeen (17) 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 15 of the 22 school districts (2.2 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 through written findings of noncompliance 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 2011:

Explanation of Progress or Slippage

In FFY 2011, the State demonstrated slippage, increasing 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 nine districts identified in FFY 2010, fifteen school districts were identified in FFY 2011.

The slippage may be attributable, in part, to a demographic change based on changes in how students' race/ethnicity was reported and not an actual increase in suspension rates. In FFY 2011, there was an increase in parents who self-reported as two or more races. The students reported in the 'two or more races' category have lower suspension rates than the students who continue to be reported as Black or African American. Eight districts were identified this year that had 15 or fewer suspensions of a particular race/ethnicity. In these districts, one or two student suspensions made the difference between being identified and not being identified. Four of these 15 districts just met the criteria of at least 10 suspensions of students with disabilities in the particular race/ethnicity. In prior years, there were only two districts that were identified based on 15 or fewer suspensions.

Although the number found to have inappropriate policies and procedures increased from nine to 15, the percent of districts of those notified actually decreased from 75 percent (nine out of 12) to 68 percent (15 out of 22).

Correction of FFY 2010 Findings of Noncompliance

1. Number of findings of noncompliance the State made during FFY 2010 (the period from July 1, 2010 through June 30, 2011) using 2009-10 data	209 findings (19 school districts)
2. Number of FFY 2010 findings the State verified as timely corrected (corrected within one year from the date of notification to the district of the finding)	170 findings (15 school districts)
3. Number of FFY 2010 findings not verified as corrected within one year [(1) minus (2)]	39 findings (4 school districts)

Correction of FFY 2010 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2010 findings not timely corrected (same as the number from (3) above)	39 findings (4 school districts)
5. Number of FFY 2010 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	39 findings (4 school districts)
6. Number of FFY 2010 findings not yet verified as corrected [(4) minus (5)]	0 findings (0 school districts)

Actions Taken if Noncompliance Not Corrected:

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2010.

Verification of Correction of FFY 2010 Findings (either timely or subsequent)

The State verified that each noncompliant district (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) had corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memorandum 09-02, dated October 17, 2008 (OSEP Memo 09-02).

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2010:

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 findings of noncompliance not timely corrected, 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.

Correction of Remaining FFY 2009 Findings of Noncompliance (if applicable)

1. Number of remaining findings for FFY 2009 (in the period from July 1, 2009-June 30, 2010 using 2008-2009 data), noted in OSEP's September 2012 FFY 2010 APR response table for this indicator	36 findings (2 school districts)
2. Number of remaining FFY 2009 findings the State has verified as corrected	12 findings (0 school districts)
3. Number of remaining FFY 2009 findings the State has not verified as corrected [(1) minus (2)]	24 findings (2 school districts)

Verification of Correction of Remaining FFY 2009 findings:

The State verified that each noncompliant district (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) had corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memorandum 09-02, dated October 17, 2008 (OSEP Memo 09-02).

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2009:

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 findings of noncompliance not timely corrected, 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.

Actions Taken if Noncompliance Not Corrected:

The State directed the two districts to develop and implement an Action Plan to Resolve Outstanding Noncompliance. Monitoring staff then followed implementation of the Action Plan and provided technical assistance. In both districts, State staff met with district staff and leadership on a monthly basis to review policies, procedures and practices regarding the outstanding noncompliance. In one district, the leadership of the district has changed and a special education consultant has been hired to assist the district to address the issues of noncompliance. In the other district, professional development has been provided to school staff. Both districts are making progress in resolving the noncompliance.

Correction of Any Remaining Findings of Noncompliance from FFY 2008 or Earlier (if applicable):

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2008 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 2010 (greater than 0 percent actual target data for this indicator), the State must report on the status of the correction of noncompliance that the State identified in FFY 2010 as a result of the review it conducted pursuant to 34 CFR §300.170(b) for districts identified with significant discrepancy.	The State verified all findings from 2010 as corrected.
The State must also report on the status of correction of noncompliance identified in FFY 2009 as a result of the review it conducted pursuant to 34 CFR §300.170(b) for districts identified with a significant discrepancy based upon FFY 2008 data	Two school districts have continuing noncompliance identified in 2009. The State took additional actions with each of these districts to bring them into compliance.
When reporting on the correction of this noncompliance, the State must report that it has verified that each LEA with noncompliance identified by the State: (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 LEA, consistent with OSEP Memo 09-02. In the FFY 2011 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 2011 APR, the State must review its improvement activities and revise them, if necessary, to ensure compliance.	See above.

Improvement Activities Completed in 2011-12

- See Indicator 4 improvement activities.

- During the 2011-12 school year, the Technical Assistance Center on Disproportionality (TACD) at New York University (NYU) worked with 14 school districts, plus 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 offered five training sessions in each of six regional locations, plus New York City.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 [*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 2011 (2011-12 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 57 percent. The statewide percent of students with disabilities, ages 6-21, served inside the regular class less than 40 percent of the day will

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
	be less than 22 percent. 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 percent.

Actual Target Data for FFY 2011:

In FFY 2011, the statewide percent of students with disabilities, ages 6-21, served inside regular classrooms 80 percent or more of the school day was 56.9 percent.

In FFY 2011, the statewide percent of students with disabilities, ages 6-21, served inside regular classrooms for less than 40 percent of the school day was 22.0 percent.

In FFY 2011, 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%		
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%
2011-12	388,237	56.9%	11.6%	22.0%	6.4%	3.0%
*Other specific settings include students who are home schooled, parentally placed in nonpublic schools or incarcerated.						

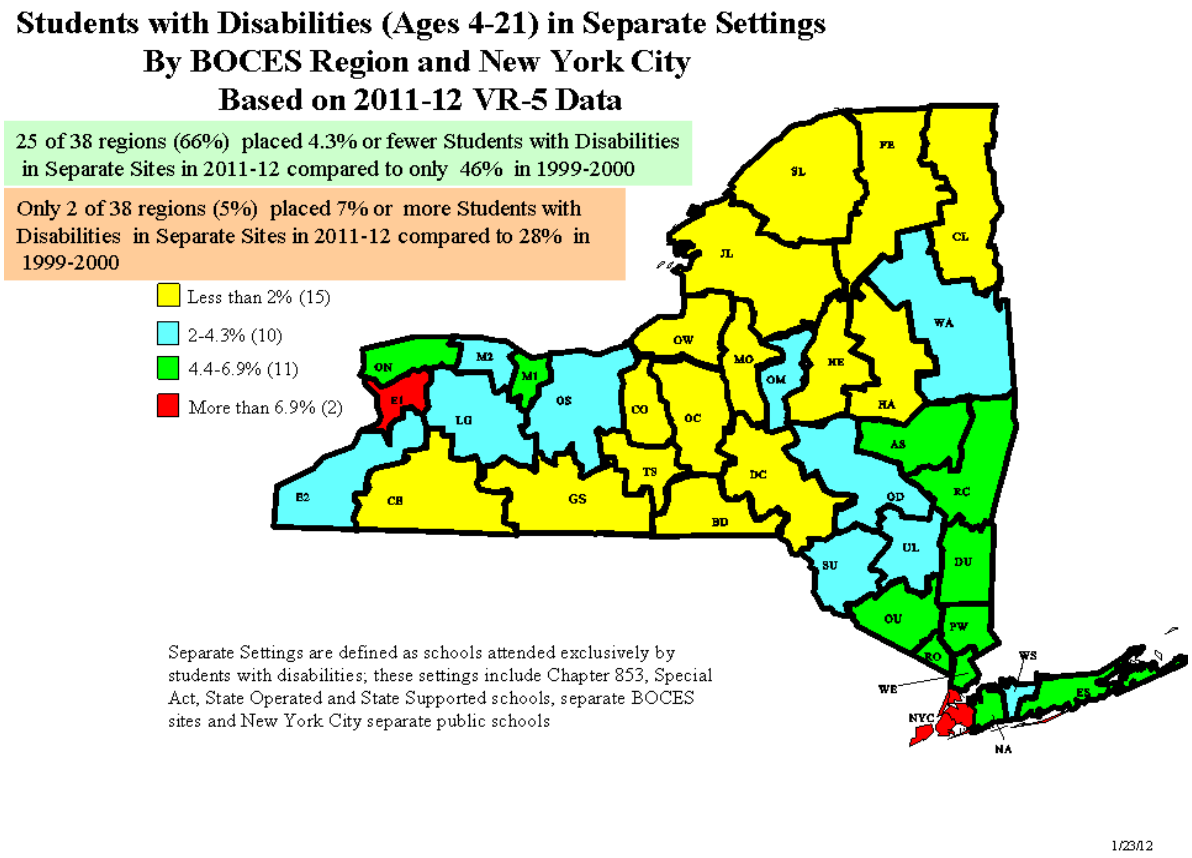
Big Five Cities' Combined Trend Data: LRE for School-Age Students with Disabilities						
School Year	Number of Students Ages 6-21, on December 1 of the School year or first Wednesday in October Beginning in 2008-09 School Year	Percent of School Day that Students are in Regular Classes			Percent of Students in Separate Settings	Percent of Students in Other Specific Settings*
		80% or More	40% to 80%	Less than 40%		
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%
2011-12	183,841	56.5%	4.5%	27.5%	8.1%	3.2%
*Other specific settings include students who are home schooled, parentally placed in nonpublic schools or incarcerated.						

Comparison of 2011-12 data with the prior year's data by Need Resource Capacity of school districts:

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.						

2011-12 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%**		
NYC	163,318	56.4%	3.7%	28.2%	8.2%	3.5%
Large 4 Cities	20,523	58.0%	10.4%	22.9%	7.5%	1.2%
Urban-Suburban High Need School Districts	30,330	48.9%	17.0%	25.2%	5.9%	3.0%
Rural High Need School Districts	21,913	56.6%	20.3%	21.0%	1.6%	0.6%
Average Need School Districts	101,999	58.1%	18.8%	16.7%	4.1%	2.3%
Low Need School Districts	47,325	63.8%	17.1%	11.0%	4.9%	3.3%
*Other specific settings include students who are home schooled, parentally placed in nonpublic schools or incarcerated.						

The following chart illustrates least restrictive environment placement data by Board of Cooperative Educational Services (BOCES) region and for New York City for children with disabilities, ages 4-21:



Discussion of Improvement Activities and Explanation of Slippage, if the State did not meet its target, that occurred for FFY 2011:

NYS narrowly missed its FFY 2011 targets for the percent of children with IEPs for all three measures and significant progress was made in two of the three target areas:

- The percentage of students with disabilities who are in regular classes for 80 percent or more of the school day increased from 55.9 percent in the 2010-11 school year to 56.9 percent in the 2011-12 school year. The State did not meet its target of more than 57 percent in 2011-12, but made a 1 percent improvement and came within 0.2 percent of the target.

- The percent of students with disabilities who are in regular classes for less than 40 percent of the school day decreased from 22.9 percent in 2010-11 to 22.0 percent in 2011-12. The State came within 0.1 percent of its target, which was to be below 22 percent in 2011-12.

- The percent of students with disabilities who are educated in separate settings remained stable at 6.4 percent in 2010-11 and 2011-12 and was only 0.5 percentage points short of meeting the target to be below 6 percent.

- The percentage of students in NYC who are in regular classes for less than 40 percent of the day decreased from 30.0 to 28.2 percent. The 1.8 percent decrease from the previous year shows improvement, although it does not meet the target of less than 22 percent.

- When comparing need/resource categories of school districts, NYC, at 8.2 percent, has the highest percentage of students with disabilities placed in separate education settings. The Large 4 Cities and Urban-Suburban High Need categories follow, with 7.5 percent and 5.9 percent, respectively. The category with the lowest percentage (1.6 percent) is Rural High Need Districts.

- The high need school districts tend to use the category of “in regular classes for less than 40 percent of the school day setting” for significantly greater percentages of students with disabilities compared to average or low-need school districts.

Improvement Activities Completed in 2011-12

- State staff reviewed annual progress reports from each BOCES region on the extent to which they are meeting their benchmarks to ensure that 3.8 percent or fewer students with disabilities in each region of the State are placed in separate educational settings.

- State staff met with leadership from the Big 4 districts to review continuum of service requirements, including consultant teacher and integrated co-teaching services.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 ***[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 2011 (2011-12 school year)	None this year. Baseline and target information are reported in the SPP.

Actual Target Data for FFY 2011:

Data for FFY 2011 represents baseline data and is provided in the State Performance Plan (SPP), revised February 2013.

Discussion of Improvement Activities and Explanation of Slippage, if the State did not meet its target, that occurred for FFY 2011:

Improvement activities are reported in the SPP in the Indicator 6 section.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 *[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 or exited 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 generated using the federally developed Child Outcomes Summary Form (COSF), developed by the Early Childhood Outcomes Center (ECO). Annually, NYS requires a representative sample of one/sixth of the school districts in the State to report progress data on this indicator through the individual student data collection system, SIRS. NYS' sampling plan is such that over the six-year SPP cycle, every school district will have submitted progress data on preschool outcomes at least once. New York City (NYC) is the only district with a total enrollment of over 50,000 students and submits data for every special education indicator every year. Every school district except NYC reported progress data on all

eligible preschool children. NYC reports progress data on a representative sample of students. In 2011-12, 112 districts reported progress data.

Measurable and Rigorous Targets FFY 2011:

Summary Statements	Targets FFY 2011
Outcome A: Positive social-emotional skills (including social relationships)	
1. Of those preschool children who entered or exited the preschool 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.	85%
2. The percent of preschool children who were functioning within age expectations in Outcome A by the time they turned 6 years of age or exited the program.	55.6%
Outcome B: Acquisition and use of knowledge and skills (including early language/ communication and early literacy)	
1. Of those preschool children who entered or exited the preschool 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.	86.5%
2. The percent of preschool children who were functioning within age expectations in Outcome B by the time they turned 6 years of age or exited the program.	55.5%
Outcome C: Use of appropriate behaviors to meet their needs	
1. Of those preschool children who entered or exited the preschool 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%
2. The percent of preschool children who were functioning within age expectations in Outcome C by the time they turned 6 years of age or exited the program.	63.4%

Actual Target Data FFY 2011:

At the end of the 2011-12 school year, 112 school districts reported progress data on 4,388[1] preschool students with disabilities in each of the three early childhood outcome areas. The data represents school district data on the functional level of preschool children on the COSF in the three early childhood outcome areas upon initial evaluation for preschool special education services and upon exit from preschool special education. The 4,388 students left preschool special education programs and/or services during the 2011-12 school year after receiving special education services for at

[1] In order to ensure each school district reported on preschool outcomes during the six years of the SPP, the State's data the prior year included 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 in the prior year accounts for the decrease in the "n" of preschool students with disabilities from 6,011 in 2010-11 to 4,388 in 2011-12.

least six months. The amount of progress these students made in the three early childhood outcome areas are reported below. The formulas for calculating summary statements, which are displayed in the second Table below, are based on the progress data displayed in the first Table below. Letters a, b, c, d and e are described in the first Table and the formulas for the summary statements are as follows:

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

Indicator 7 Preschool Outcomes By Progress Categories

Early Childhood Outcome Area	Progress Category	2010-11 Number of Preschool Students	2010-11 Percent of Students	2011-12 Number of Preschool Students	2011-12 Percent of Students
A. Positive social-emotional skills (including social relationships)	a. Did not improve functioning	75	1.2%	42	1.0%
	b. Improved - not sufficient to move nearer to same-aged peers	566	9.4%	394	9.0%
	c. Improved - nearer to same aged peers	2317	38.5%	1826	41.6%
	d. Improved - reached functioning to same-aged peers	2151	35.8%	1541	35.1%
	e. Maintained functioning as same-aged peers	902	15.0%	585	13.3%
	Total A	**6,011**	**100.0%**	**4,388**	**100%**
B. Acquisition and use of knowledge and skills (including early language/ communication and early literacy)	a. Did not improve functioning	45	0.7%	36	0.8%
	b. Improved - not sufficient to move nearer to same-aged peers	524	8.7%	414	9.4%
	c. Improved - nearer to same-aged peers	2409	40.1%	1778	40.5%
	d. Improved - reached functioning to same-aged peers	2205	36.7%	1623	37.0%
	e. Maintained functioning as same-aged peers	828	13.8%	537	12.2%
	Total B	**6,011**	**100.0%**	**4,388**	**100%**

Indicator 7 Preschool Outcomes By Progress Categories					
		2010-11		2011-12	
Early Childhood Outcome Area	Progress Category	Number of Preschool Students	Percent of Students	Number of Preschool Students	Percent of Students
C. Use of appropriate behaviors to meet their needs	a. Did not improve functioning	81	1.3%	50	1.1%
	b. Improved - not sufficient to move nearer to same-aged peers	505	8.4%	411	9.4%
	c. Improved - nearer to same -aged peers	2047	34.1%	1491	34.0%
	d. Improved - reached functioning to same-aged peers	1981	33.0%	1515	34.5%
	e. Maintained functioning as same-aged peers	1397	23.2%	921	21.0%
	Total C	**6,011**	**100.0%**	**4,388**	**100%**

Indicator 7 Preschool Outcomes Data By Summary Outcome Statements		
	2010-11	2011-12
Summary Statements	# and % of Children	# and % of Children
Outcome A: Positive social-emotional skills (including social relationships)		
1. Of those preschool children who entered or exited the preschool 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.	4,468/5,109 (87.5%)	3,367/3,803 (88.5%)
2. The percent of preschool children who were functioning within age expectations in Outcome A by the time they turned 6 years of age or exited the program.	3,053/6,011 (50.8%)	2,126/4,388 (48.5%)
Outcome B: Acquisition and use of knowledge and skills (including early language/ communication and early literacy)		
1. Of those preschool children who entered or exited the preschool 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.	4,614/5,183 (89.0%)	3,401/3,851 (88.3%)
2. The percent of preschool children who were functioning within age expectations in Outcome B by the time they turned 6 years of age or exited the program.	3,033/6,011 (50.5%)	2,160/4,388 (49.2%)

Indicator 7 Preschool Outcomes Data By Summary Outcome Statements		
Summary Statements	**2010-11 # and % of Children**	**2011-12 # and % of Children**
To the Outcome C: Use of appropriate behaviors to meet their needs		
1. Of those preschool children who entered or exited the preschool 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.	4,028/4,614 (87.3%)	3,006/3,467 (86.7%)
2. The percent of preschool children who were functioning within age expectations in Outcome C by the time they turned 6 years of age or exited the program.	3,378/6,011 (56.2%)	2,436/4,388 (55.5%)

Discussion of Improvement Activities and Explanation of Slippage, if the State did not meet its target, that occurred for FFY 2011:

Explanation of Progress or Slippage

The State demonstrated progress and met its targets for the percent of preschool children who entered or exited the preschool program below age expectations who substantially increased their rate of growth by the time they turned 6 years of age or exited the program in Outcomes A, B and C.

The State demonstrated slippage and did not meet its targets, for the percent of preschool children who were functioning within age expectations by the time they turned 6 years of age or exited the program in Outcomes A, B and C. Data from this indicator is based on a different representative sample of districts each year and therefore, while each sample is representative of the State, we expect results to vary somewhat each year. New York City (NYC) is included in the sample each year. NYC's data showed improvement in all three outcome areas. The slippage was primarily due to the results in two regions of the State (Eastern and Long Island).

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

Statement from the OSEP Response Table	State's Response
The State must report progress data and actual target data for FFY 2011 with the FFY 2011 APR.	The State reported above on the progress data and actual target data for FFY 2011.

Improvement Activities Completed during 2011-12

None

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 *[If applicable]*

- The NYS Education Department is increasing its amount of IDEA discretionary funds, beginning in 2013, to each of the Early Childhood Direction Centers to increase resources available statewide to provide technical assistance and support to parents, districts and preschool providers.

- A new Preschool Special Education Unit has been established, beginning in January 2013, to provide a more dedicated focus on issues relating to preschool special education.

- The State will provide professional development on systems of Response and Recognition, a preschool version of response to intervention practices, through its State Response to Intervention (RtI) Technical Assistance Center (nysrti.org) and newly established regional RtI professional development centers. This initiative is funded through the State's federal State Personnel Development Grant.

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.

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 2011 (2011-12 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 2011:

In the 2011-12 school year, **93.2** 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 2011-12 school year, 113 school districts, including New York City (NYC) as a single district, were assigned to conduct a parent survey. Ninety-five (95) school districts achieved a minimum response rate, while 18 school districts did not. The State will review the data from the 18 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 10,325. Of these surveys, 10,241 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, 9,540 received a positive parental response on at least 51 percent of the questions answered. **This represents an unweighted positive response rate of 93.2 percent and a weighted positive response rate of 92.7 percent.**

The 113 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/sedcar/sppschedule.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 2011-12 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 2011:

Explanation of Progress or Slippage

NYS exceeded its 90 percent target with a statewide weighted result from the 2011-12 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 0.5 percent over the prior year. The unweighted statewide rate of 93.2 percent exceeds NYS' FFY 2011 target by 3.2 percentage points.

Unweighted positive results in the 2011-12 school year ranged from 75 percent to 100 percent.

Improvement Activities Completed in 2011-12

- 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. (Many of the State's funded Special Education Parent Centers are operated by the same agencies as the Office of Special Education Programs funded parent centers.) Funding for each of the Special Education Parent Centers was increased by 25 percent to provide enhanced capacity to provide information and outreach to parents of children with disabilities.

- 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 Centers 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 2011-12, 47 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.

- Special Education Parent Centers developed and delivered information sessions for parents designed to enhance communication between home and school and to improve parent participation in the CSE process.

- The RSE-TASC transition specialists and the Special Education Parent Centers collaborated to provide 62 joint training and/or information sessions for parents across the State which included topics such as transition planning with families.

- Special Education Quality Assurance (SEQA) monitoring staff collaborated with staff from the Special Education Parent Centers in the western part of the State to provide training to parents of students with disabilities on their due process rights, the CSE/CPSE process and NYSED updates/initiatives.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 *[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 identification 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 disproportionality is the same as the definition of disproportionality.)

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 <u>first year a district's data indicates disproportionality</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 to determine whether the disproportionate representation was the result of inappropriate

identification. The monitoring protocol for this review is available at http://www.p12.nysed.gov/specialed/spp/9selfreview-Oct12.pdf. 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 notified through written findings of noncompliance that they must correct all issues of noncompliance immediately, but not later than the prescribed due date in the district's notification (always within one year).

- 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 disproportionate representation and inappropriate policies, procedures and/or practices that indicate inappropriate identification 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.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2011 (2011-12 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 2011

Districts with Disproportionate Representation in FFY 2011 of Racial and Ethnic Groups that was the Result of Inappropriate Identification

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 0.4 percent.

The State included 570 school districts in the calculation of disproportionality for this indicator because they met the minimum ‘n’ size criteria. A total of 112 school districts were excluded because of the State’s minimum size criteria. All 682 districts are included in the denominator.

- Ten (10) school districts were identified based on data as having disproportionate representation by race/ethnicity in the identification of students with disabilities.

- Of these districts, three (3) were found to have disproportionate representation that was the result of inappropriate identification according to the review of policies, procedures and/or practices.

The following table displays trend data for this indicator since FFY 2007.

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%
FFY 2011 (2011-12 data)	682	10	3	0.4%

Step One - Identification of Disproportionate Representation by Data

NYS used its October 5, 2011 enrollment of all students and October 5, 2011 child count of students with disabilities for this FFY 2011 APR submission. Based on the criteria described in the Measurement section above, ten (10) school districts were identified as having 2011-12 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 ten school districts identified by their data as having significant disproportionality (same definition as disproportionate representation) 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 2011, NYS determined that of the ten (10) school districts whose data indicated disproportionate representation and therefore required reviews of their policies, procedures and practices, three (3) 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 2011:

Explanation of Progress or Slippage

Of the ten (10) school districts identified in FFY 2011 as having disproportionate representation, three (3) school districts (0.4 percent of all NYS school districts (682)) were found to have one or more inappropriate policies, procedures and/or practices. This is an improvement over the 0.9 percent identified in FFY 2010.

Correction of FFY 2010 Findings of Noncompliance (if State did not report 0 percent):

1. Number of findings of noncompliance the State made during FFY 2010 (the period from July 1, 2010 through June 30, 2011)	7 findings (5 school districts)
2. Number of FFY 2010 findings the State verified as timely corrected (corrected within one year from the date of notification to the local educational agency of the finding)	7 findings (5 school districts)
3. Number of FFY 2010 findings not verified as corrected within one year [(1) minus (2)]	0 findings (0 school districts)

Correction of FFY 2010 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2010 findings not timely corrected (same as the number from (3) above)	0 findings (0 school districts)
5. Number of FFY 2010 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	0 findings (0 school districts)
6. Number of FFY 2010 findings not yet verified as corrected [(4) minus (5)]	0 findings (0 school districts)

Actions Taken if Noncompliance Found in FFY 2010 Is Not Corrected:

Not applicable.

Verification of Correction of FFY 2010 Noncompliance (either timely or subsequent)

To verify the correction of noncompliance the State verified that each noncompliant district 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) had corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2010:

Specifically, to verify the correction of noncompliance identified through onsite monitoring, the State followed up with each district to assure that the compliance assurance plan (CAP) was fully implemented, reviewed the district's revised policies, procedures and practices, including a sample of student records to verify correction of noncompliance and that individual instances of noncompliance had been corrected.

Correction of Remaining FFY 2009 Findings of Noncompliance (if applicable):

1. Number of remaining FFY 2009 findings noted in Office of Special Education Program's (OSEP) September 2012 FFY 2010 APR response table for this indicator	2 findings (1 school district)
2. Number of remaining FFY 2009 findings the State has verified as corrected	2 findings (1 school district)
3. Number of remaining FFY 2009 findings the State has not yet verified as corrected [(1) minus (2)]	0 findings (0 school districts)

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

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2009.

Verification of Correction of Remaining FFY 2009 findings

To verify the correction of noncompliance the State verified that each noncompliant district 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) had corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2009:

Specifically, to verify the correction of noncompliance identified through onsite monitoring, the State followed up with each district to assure that the CAP to address administrative issues and evaluation resources was fully implemented and reviewed the district's revised policies, procedures and practices, including a sample of student records to verify correction of noncompliance, 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 OSEP'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	1 finding (1 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)

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

Not applicable.

Verification of Correction of Remaining FFY 2008 findings

To verify the correction of noncompliance the State verified that each noncompliant district 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) had corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2008:

Specifically, to verify the correction of noncompliance identified through onsite monitoring, the State followed up with each district to assure that the CAP was fully implemented, reviewed the district's revised policies, procedures and practices, including a sample of student records to verify correction of noncompliance and that individual instances of noncompliance had 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 (if applicable)

Statement from the OSEP Response Table	State's Response
Because the State reported less than 100 percent compliance for FFY 2010 (greater than 0 percent actual target data for this indicator), the State must report on the status of correction of noncompliance reflected in the FFY 2010 data the State reported for this indicator. The State must demonstrate, in the FFY 2011 APR, that the districts identified in FFY 2010, 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 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	The State reported that three school districts out of 570 districts in the State were found to have disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification. All district identified in FFY 2010, 2009 and 2007 are in compliance with the requirements in 34 CFR §§300.111, 300.201, and 300.301 through 300.311. 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 collected through on-site monitoring; 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.

Statement from the OSEP Response Table	State's Response
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 2011 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 2011 APR, the State must review its improvement activities and revise them, if necessary, to ensure compliance.	The State reviewed the district's revised policies, procedures and practices, including a sample of student records to verify correction of noncompliance. The State demonstrated compliance.
OSEP is concerned about the State's failure to correct longstanding noncompliance from FFY 2008. The State must take the steps necessary to ensure that it can report, in the FFY 2011 APR, that it has corrected the remaining finding identified in FFY 2008. If the State cannot report in the FFY 2011 APR that this noncompliance has been corrected, the State must report in the FFY 2011 APR: (1) the specific nature of the noncompliance; (2) the State's explanation as to why the noncompliance has persisted; (3) the steps that the State has taken to ensure the correction of each finding of the remaining findings of noncompliance, and any new or different actions the State has taken, since the submission of its FFY 2010 APR, to ensure such correction; and (4) any new or different actions the State will take to ensure such correction.	The State has verified the correction of all findings of noncompliance from FFY 2007 through 2010.

Improvement Activities Completed in 2011-12

- Monitoring staff provided targeted technical assistance for each district with identified noncompliance under this indicator and/or those at risk for identification under this indicator. For districts with noncompliance, routine contact was made at three-month intervals to check on the status of each district's correction of inappropriate policies, practices and/or procedures regarding the placement and/or identification of students with disabilities.

- Monitoring staff in the western part of the State scheduled several presentations for regional special education leadership regarding the special education referral process to occur in the 2012-13 school year.

- The Technical Assistance Center on Disproportionality (TACD) provided direct technical assistance to 14 NYS school districts plus the New York City Department of Education to address issues of disproportionality. A list of districts can be found at http://steinhardt.nyu.edu/metrocenter/clients.

- TACD sponsored a 2012 Summer Institute which focused on implementing responsive academic and behavioral support systems to improve outcomes for a diverse student population. Additional information pertaining to this event can be found at http://steinhardt.nyu.edu/metrocenter/tacd/events/videos.

- 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/past-professional-development/. The TAC coordinated and hosted two full-day workshops on the topic of RtI and ELLs on October 18-19, 2012, with Dr. Sylvia Linan-Thompson from the University of Texas at Austin presenting.

- The State's bilingual special education technical assistance providers from the Regional Special Education Technical Assistance Support Centers 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 2012 *[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 identification 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 disproportionality is the same as the definition of disproportionality.

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.

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 <u>first year a district's data indicates disproportionality</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 to determine whether the disproportionate representation was the result of inappropriate

identification. 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 through written findings of noncompliance 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 disproportionate representation 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.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2011 (2011-12 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 2011:

The State included 570 school districts in the numerator for the calculation of disproportionality for this indicator because they met the minimum 'n' size criteria. A total of 112 school districts were excluded from the numerator calculations because of the State's minimum size criteria. All 682 districts are included in the denominator.

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.

- Seventeen (17) 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%
FFY 2011 (2011-12 data)	682	17	6	0.9%

Step One – Identification of Disproportionate Representation:

NYS used its October 5, 2012 enrollment of all students and October 5, 2012 child count of students with disabilities for this FFY 2011 APR submission. Based on the criteria described in the Measurement section above, 17 school districts were identified as having 2011-12 data that was disproportionate based on the criteria described above. Consistent with 34 CFR §300.646(b), all 17 school districts identified by their data as having significant disproportionality (same definition as disproportionate representation) were required to reserve 15 percent of their IDEA funds for Coordinated Early Intervening Services.

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

In FFY 2011, the State reviewed the policies, procedures and practices of 17 school districts whose data indicated disproportionate representation. Six of the 17 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 2011:

Explanation of Progress or Slippage

In FFY 2011, six, or 0.9 percent, of all 682 NYS school districts were found to have disproportionate rates by race/ethnicity in disability categories that were the result of inappropriate policies, procedures and/or practices. This demonstrates no change from the 0.9 percent reported for FFY 2010.

Correction of Identified Noncompliance

Correction of FFY 2010 Findings of Noncompliance (if State reported more than 0 percent compliance):

1. Number of findings of noncompliance the State made during FFY 2010 (the period from July 1, 2010 through June 30, 2011)	17 findings (6 school districts)
2. Number of FFY 2010 findings the State verified as timely corrected (corrected within one year from the date of notification to the local educational agency of the finding)	15 findings (5 school districts)
3. Number of FFY 2010 findings not verified as corrected within one year [(1) minus (2)]	2 findings (1 school district)

Correction of FFY 2010 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2010 findings not timely corrected (same as the number from (3) above)	2 findings (1 school district)
5. Number of FFY 2010 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	0 findings (0 school districts)
6. Number of FFY 2010 findings not yet verified as corrected [(4) minus (5)]	2 findings (1 school district)

Actions Taken if FFY 2010 Noncompliance Not Corrected:

The Special Education Quality Assurance Regional Offices provided technical assistance and met with district leadership of the one district with two findings of noncompliance not corrected within one year on an ongoing basis, and conducted regular monitoring of enforcement actions, which included requiring the district to implement an action plan to correct overdue noncompliance. The district was also required to redirect a portion of its 2011-12 IDEA funds to pay for a consultant and intensive technical assistance. In addition, an in-depth investigation will be conducted to identify the systemic issues that have prevented the district from resolving its noncompliance.

Verification of Correction of FFY 2010 Noncompliance (either timely or subsequent):

To verify the correction of noncompliance the State verified that each noncompliant district 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) had corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2010:

The State provided additional technical assistance and required the district to receive professional development on compliance issues relating to individual evaluations. This district was notified of enforcement actions, requiring the district to develop an Action Plan to Resolve Outstanding Noncompliance and a portion of its 2011-12 IDEA funds were redirected to hire a special education consultant to assist the district in making the required changes. A special investigation of the district and its governance structure to determine the reasons the district has not been able to resolve the noncompliance is being initiated by the Commissioner through the local District Superintendent of the Board of Cooperative Educational Services.

Correction of Remaining FFY 2009 Findings of Noncompliance (if applicable):

1. Number of remaining FFY 2009 findings noted in the Office of Special Education Program's (OSEP) September 2012 FFY 2010 APR response table for this indicator	4 findings (1 school district)
2. Number of remaining FFY 2009 findings the State has verified as corrected	4 findings (1 school district)
3. Number of remaining FFY 2009 findings the State has not verified as corrected [(1) minus (2)]	0 findings (0 school districts)

Actions Taken if FFY 2009 Noncompliance Not Corrected:

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2009.

Verification of Correction of Remaining FFY 2009 findings:

To verify the correction of noncompliance the State verified that each noncompliant district 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) had corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2009:

Specifically, to verify the correction of noncompliance assured that the compliance assurance plan was fully implemented, reviewed the district's revised policies, procedures and practices, including a sample of student records to verify correction of noncompliance, and that individual instances of noncompliance had been corrected.

Correction of Any Remaining Findings of Noncompliance from FFY 2008 or Earlier (if applicable):

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2008 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 2010 (greater than 0 percent actual target data for this indicator), the State must report on the status of correction of noncompliance reflected in the FFY 2010 data the State reported for this indicator.	The State reported on the status of correction of noncompliance for FFY 2010.
The State must demonstrate, in the FFY 2011 APR, that the districts identified in FFY 2010 and FFY 2009 with disproportionate representation of racial and ethnic groups in specific disability categories that was the result of inappropriate identification are in compliance with the requirements in 34 CFR §§300.111, 300.201, and 300.301 through 300.311, including that the State verified that each district with noncompliance: (1) is correctly implementing the specific regulatory 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.	One district out of the State's 570 districts upon which this indicator is calculated remains in continuous noncompliance with this indicator.
In the FFY 2011 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 2011 APR, the State must review its improvement activities and	The State has taken progressive corrective actions with this district as described above.

Statement from the OSEP Response Table	State's Response
revise them, if necessary to ensure compliance.	

Improvement Activities Completed in 2011-12

See Indicator 9.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 *[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 timeline to complete the initial evaluation is 60 calendar days from the date of parental consent to evaluate for preschool and school-age students.[1]

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 60 calendar days for preschool[2] and 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

[1] Effective April 2012, the Regulations of the Commissioner of Education were amended to align the preschool initial evaluation timeline of 30 school days from receipt of consent, to the federal timeline for initial evaluations and the timeline established in New York State for school-age evaluations, which is 60 calendar days.
[2] For preschool evaluations completed prior to April 2012, the timeline calculation was 30 school days from date of parental consent to evaluate.

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 2011 (2011-12 school year)	100 percent of children with parental consent to evaluate will be evaluated within State-required timelines.

Actual Target Data for FFY 2011:

In FFY 2011, 90 percent of students with parental consent to evaluate received their initial individual evaluations within State-required timelines.

- **85.8** percent of preschool children had their initial evaluations completed within the State required timeline.
- **92.5** percent of school-age students had their initial evaluations completed within 60 calendar days of the date of the parent's consent to evaluate.

Description (optional) of how the State treated, in its data for Indicator 11, children for whom consent to conduct an initial evaluation was received during FFY 2011, but the timeline for completing the evaluation elapsed after the end of FFY 2011:

NYS reports all students with parental consent to evaluate provided during the 2011-12 school year in the reporting for the 2011-12 school year. In order to ensure that compliance is determined for all students for whom consent was received in the 2011-12 school year, evaluation completion data was captured for all of the 2011-12 school year as well as for the first two months of the 2012-13 school year (July 1, 2011 – June 30, 2012 and July 1, 2012 – August 31, 2012).

Children Evaluated Within 60 Days (or State-established timeline) during FFY 2011	
a. Number of children for whom parental consent to evaluate was received	15,158[3]
b. Number of children whose evaluations were completed within 60 days (or State-established timelines)	13,662
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)	90%

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

There are 1,496 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 2011	Number of Children by Number of Days of Delay in Completing Evaluations, FFY 2011				Total	Percent of Total
	1-10	11-20	21-30	Over 30		
An approved evaluator was not available to provide a timely evaluation.	55	50	34	141	280	18.7%
Evaluator delays in completing evaluations.	163	125	83	258	629	42.0%
Delays in scheduling CPSE or CSE meetings.	164	128	73	222	587	39.2%
Total	382	303	190	621	1,496	
Percent of Total	25.5%	20.3%	12.7%	41.5%		100%

Discussion of Improvement Activities Completed <u>and</u> Explanation of Progress or Slippage that Occurred for FFY 2011:

Explanation of Progress or Slippage:

In 2011-12, NYS' compliance rate improved to 90 percent, an increase of six percentage points over the State's rate of 84 percent in 2010-11. 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 New York City (NYC), the State's results only reflect compliance for those districts where the State has not previously monitored for this indicator and the data do not reflect improvements made by other districts that have corrected their noncompliance. All findings of

[3] The 15,158 parental consents to evaluate were received does not include another 1,730 students whose evaluations were completed beyond the required timeline, but for reasons authorized in the exception provided in 34 CFR §300.301(d).

noncompliance identified in 2010-11 or earlier have been corrected. Improvement for this indicator, therefore, demonstrates the proactive attention given to this compliance issue through the State's improvement activities.

School-Age Evaluations

92.5 percent of school-age students had their initial evaluations completed within 60 calendar days of the date of the parent's consent to evaluate. 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 2.5 percentage points.

Preschool Evaluations

Actual performance data shows that 85.8 percent of preschool children had their initial evaluations completed within the State required timeline. This is an improvement of more that 9 percentage points from prior year reporting.

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:

- Prior to April 2012, the State's timeline for preschool evaluations was 30 school days, which is much shorter than the federally-required 60 calendar days and contributed 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.

Lengths of Delays

A review of the length of delays indicates the following:

- 25.5 percent of all delays in completing initial evaluations were for 1-10 days;
- 20.3 percent for 11-20 days;
- 12.7 percent for 21-30 days; and
- 41.5 percent for more than 30 days.

While there is a decrease in the percent of delays in completing initial evaluations for 1-10 days, we see an increase in the percentage of delays for more than 30 days. This is likely impacted by the regulatory change for completion of preschool evaluations. NYS expects this number to decrease in future years based on the new timeline.

Reasons for Delays

A review of the reasons for the delays indicates:

- 18.7 percent of delays were because an approved evaluator was not available to provide a timely evaluation;
- 42.0 percent because of evaluator delays in completing the evaluations; and

- 39.2 percent related to timeliness of scheduling CPSE or CSE meetings to discuss evaluation results.

Last year, we reported that only 10.8 percent of delays were because an approved evaluator was not available to provide a timely evaluation. However, this year, the data shows that 18.7 percent of the delays were linked to this reason.

Last year, we reported that 53.9 percent of the delays were reported as caused by untimely scheduling of CPSE or CSE meetings to discuss the evaluation results. The State's FFY 2011 data shows only 39.2 percent were indicated as the reason.

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

Correction of FFY 2010 Findings of Noncompliance (if State reported less than 100 percent compliance):
Level of compliance (actual target data) State reported for FFY 2010 for this indicator: 84 percent

1. Number of findings of noncompliance the State made during FFY 2010 (the period from July 1, 2010 through June 30, 2011)	112 findings (70 school districts)
2. Number of FFY 2010 findings the State verified as timely corrected (corrected within one year from the date of notification to the local educational agency of the finding)	110 findings (68 school districts)
3. Number of FFY 2010 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	2 findings (2 school districts)

Correction of FFY 2010 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2010 findings not timely corrected (same as the number from (3) above)	2 findings (0 school districts)
5. Number of FFY 2010 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	2 findings (2 school districts)
6. Number of FFY 2010 findings <u>not</u> verified as corrected [(4) minus (5)]	0 findings (0 school districts)

Actions Taken if Noncompliance Not Corrected:

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2010.

Verification of Correction of FFY 2010 Noncompliance (either timely or subsequent):

NYS has verified that each local educational agency (LEA) with noncompliance identified in FFY 2010 for this indicator: (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.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2010:

The State verified the correction of noncompliance by requiring submission of the specific date that the individual evaluation was completed, although late, for each individual student whose evaluation was not timely. To verify the correction of noncompliance for all students through the review of subsequent data demonstrating compliance, the districts were required to report to the State the percent of students who had a timely evaluation over specified period of time. See http://www.p12.nysed.gov/sedcar/forms/vr/1112/html/verif11.htm.

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

Statement from the OSEP Response Table	State's Response
The State must demonstrate, in the FFY 2011 APR, that the State is in compliance with the timely initial evaluation requirement in 34 CFR §300.301(c)(1).	The State's compliance rate for this indicator is 90 percent.
Because the State reported less than 100 percent compliance for FFY 2010, the State must report on the status of correction of noncompliance identified in FFY 2010 for this indicator. When reporting on the correction of noncompliance, the State must report, in its FFY 2011 APR, that it has verified that each LEA with noncompliance identified in FFY 2010 for this indicator: (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 2011 APR, the	The State verified as corrected all issues of noncompliance identified in FFY 2010. The process to verify correction of noncompliance is described above.

Statement from the OSEP Response Table	State's Response
State must describe the specific actions that were taken to verify the correction.	
If the State does not report 100 percent compliance in the FFY 2011 APR, the State must review its improvement activities and revise them, if necessary to ensure compliance.	The State reviewed and revised its improvement activities.

Improvement Activities Completed in 2011-12

- 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. 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.

- Monitoring staff provided targeted technical assistance to administrators and all CPSE chairpersons in the Buffalo and Syracuse City Public Schools regarding compliance areas and effective practices to improve the overall operations of the CPSE process in the district and foster timely practices under Indicator 11.

- Monitoring staff in the Central Regional Office and regional partners provided a one-day technical assistance session to mid-State preschool providers and chairpersons in the areas of prior written notice, monitoring of progress of annual goals, annual reviews and transition from CPSE to CSE services.

- 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 2011-12, 47 three-day sessions were provided throughout NYS.

- Early Childhood Direction Centers (ECDCs) 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.

- 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.

- State law was amended to address corporate practice law limitations that were affecting the State's ability to approve new evaluators.

- 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.

- The State's regulations were amended 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.

- ECDCs provided technical assistance to families, including mobile military families that have a child with a disability, on topics such as warning signs that might indicate the need for an evaluation, the referral process and identification of young children with disabilities, the evaluation process and available services. The ECDCs also provided technical assistance to professionals on topics such as the referral and timeline process.

- The State increased the amount of IDEA discretionary funds by 25 percent for each of the ECDCs to provide increased technical assistance capacity throughout the State relating to preschool special education.

- ECDCs collaborated with Department of Health, SEQA, Parent Center and RSE-TASC staff to address issues related to initial evaluations and timelines.

- ECDCs disseminated comprehensive lists of approved evaluators to school districts, parents and preschool special education programs, and assisted bilingual families in obtaining translators for evaluation purposes.

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

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 *[If applicable]*

A bill to amend State law to allow the district to select the preschool evaluator, in consideration of a parent's preference, will be submitted to the legislature in 2013.

The State established a unit within the Office of Special Education to specifically address preschool special education issues.

In 2013, the State will monitor 35 preschool evaluation programs, which includes NYC Department of Education's Preschool Assessment Centers which has a total of four sites responsible for all preschool evaluations conducted in NYC to ensure such programs are operating in compliance with State requirements to provide timely evaluations.

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 birthdays.
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 determined to be eligible for early intervention services under 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.**[1]
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

[1] New York State Public Health Law, section 2541(8)(a) provides that a child's eligibility for EI services ends as of his or her third birthday, unless the child has been referred to the Committee on Preschool Special Education (CPSE) and found eligible for preschool special education services before his or her third birthday. Under these provisions, parents may elect to either transition the child to preschool special education or continue their child in early intervention programming beyond the third birthday until either September or January, according to the following rules: (1) If the child turns three years of age on or before the thirty-first day of August, the child shall, if requested by the parent, be eligible to receive early intervention services contained in an Individualized Family Service Plan (IFSP) until the first day of September of that calendar year; or, (2) If the child turns three years of age on or after the first day of September, the child shall, if requested by the parent and if already receiving EI services, be eligible to continue receiving such services until the second day of January of the following calendar year. When the parent elects to continue in EI under these provisions, the CPSE would write the IEP and indicate the starting date for special education services as of September or January, respectively. In no cases may the child receive EI and preschool special education services simultaneously.

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 VR12 report, which was developed in the PD Data System. SIRS is NYS' individual student data reporting system.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2011 (2011-12 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 2011:

In FFY 2011**, 87.5** percent of children referred from Part C had their eligibility for Part B determined and an 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 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 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 2010	**FFY 2011**
a. Number of children who have been served in Part C and referred to Part B for Part B eligibility determination (Students whose 3rd birthday is after August 31 after the full school year for whom data are reported are excluded from this number.)	2,470	2,603
b. Number of those referred determined to be NOT eligible and whose eligibility was determined prior to third birthday	141	130
c. Number of those found eligible who have an IEP developed and implemented by their third birthdays	436	461
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	451	440
e. Number of children who were determined to be eligible for Part C less than 90 days before their third birthdays	4	4
f. Number of children whose parents chose to continue their child in EI Program	1,156	1,412
g. Number of children who moved (14), # of children who died (1), # of children who started receiving services on the recommended program's beginning date, even though it was after the child's third birthday (75)	98	90
Number in a but not in b, c, d, e, f or g.	**184**	**66**
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	**70.3%**	**87.5%**

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

In FFY 2011, there were 66 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 2011				Unknown	Total	Percent of Total
	1-10	11-20	21-30	Over 30			
An approved evaluator was not available to provide an evaluation.	0	1	0	2		3	4.5%
Additional evaluations were requested outside of the required timeline.	0	0	0	1		1	1.5%
There were evaluator delays in completing the evaluation.	1	0	2	13		16	24.2%
Delays in scheduling the CPSE meetings	3	4	2	17		26	39.4%
The recommended Part B services were not available when child turned three years of age.	2	0	0	7		9	13.6%
Inaccurate or incomplete data					11	11	16.7%
Total	6	5	4	40	11	66	100%
Percent of Total	9.1%	7.6%	6.1%	60.6%	16.7%		

Discussion of Improvement Activities Completed <u>and</u> Explanation of Progress or Slippage that occurred for FFY 2011:

Explanation of Progress or Slippage:

NYS' compliance rate significantly improved from 70.3 percent in FFY 2010-11 to 87.5 percent in 2011-12. This improvement is also noteworthy in that NYS' data are collected from a different sample of school districts that is 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 22.3 percentage points.

- One major root cause for delays is 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).

- There was a decrease in the percent of delays resulting from a lack of approved evaluators available to provide timely evaluations, decreasing from 13.6 percent in FFY 2010 to 4.5 percent in FFY 2011.

Correction of FFY 2010 Findings of Noncompliance (if State reported less than 100 percent compliance in its FFY 2010 APR)
Level of compliance (actual target data) State reported for FFY 2010 for this indicator: **70.3 percent**

1. Number of findings of noncompliance the State made during FFY 2010 (the period from July 1, 2010 through June 30, 2011)	10
2. Number of FFY 2010 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)	9
3. Number of FFY 2010 findings not verified as corrected within one year [(1) minus (2)]	1

Correction of FFY 2010 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2010 findings not timely corrected (same as the number from (3) above)	1
5. Number of FFY 2010 findings the State has verified as corrected beyond the one-year timeline (“subsequent correction”)	0
6. Number of FFY 2010 findings not verified as corrected [(4) minus (5)]	1

Actions Taken if Noncompliance Not Corrected:

Contributing factors as to why the noncompliance has persisted were determined, in part, to be due to administrative structure and availability of resources. The district was required to revise its practices relating to Committee on Preschool Special Education (CPSE) meetings and to direct resources to hire additional special education administrators and clerical staff to improve their capacity to meet timelines, the State Education Department (SED) provided technical assistance to the district on other administrative structural revisions to ensure timely placements for students. SED staff will conduct monthly meetings with the district to review data, discuss real and potential barriers and to problem solve in order to ensure timely correction of noncompliance. If concerns persist, the State may redirect the district’s use of IDEA funds.

Verification of Correction (either timely or subsequent):

For all noncompliance identified in FFY 2010 that has been corrected, NYS has verified that each LEA with noncompliance identified for this indicator: (1) is correctly implementing 34 CFR §300.124(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 developed and implemented the IEP, although late, for any child for whom implementation of the IEP was not timely, unless the child was no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2010:

The State verified the correction of noncompliance by requiring submission of the specific date that the student's IEP was implemented, although late, for each individual student whose IEP implementation was not timely. To verify the correction of noncompliance for all students through the review of subsequent data demonstrating compliance, the districts were required to report to the State the percent of students who had a timely evaluation over specified period of time. See http://www.p12.nysed.gov/sedcar/forms/vr/1112/html/verif11.htm.

Correction of Remaining FFY 2009 and FFY 2008 Findings of Noncompliance (if applicable):

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2009 or FFY 2008.

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

1. Number of remaining FFY 2007 findings noted in the Office of Special Education Program's (OSEP) September 2012 FFY 2010 APR response table for this indicator	1
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)]	0

Verification of Correction of Remaining FFY 2007 findings:

For all noncompliance identified in FFY 2007 that has been corrected, NYS has verified that each LEA with noncompliance identified for this indicator: (1) is correctly implementing 34 CFR §300.124(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 developed and implemented the IEP, although late, for any child for whom implementation of the IEP was not timely, unless the child was no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2007:

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

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

Statement from the OSEP Response Table	State's Response
Because the State reported less than 100 percent compliance for FFY 2010, the State must report on the status of correction of noncompliance identified in FFY 2010 for this indicator.	The State reported on the correction of noncompliance identified in FFY 2010.
The State must demonstrate, in the FFY 2011 APR, that the one remaining uncorrected noncompliance finding identified in FFY 2007 is corrected.	The one remaining issue identified in FFY 2007 has been verified as corrected.
When reporting on the correction of noncompliance, the State must report, in its FFY 2011 APR, that it has verified that each LEA with noncompliance identified in FFY 2010 and FFY 2007 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 2011 APR, the State must describe the specific actions that were taken to verify the correction.	See above
If the State does not report 100 percent compliance in the FFY 2011 APR, the State must review its improvement activities and revise them, if necessary, to ensure compliance.	See indicator 11

Improvement Activities Completed in 2011-12

- 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 SED 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 CPSEs, which includes specific training on the timelines and process for evaluations, eligibility and IEP development. In 2011-12, 47 three-day sessions were provided throughout NYS.

- Monitoring staff provided targeted technical assistance to administrators and all CPSE chairpersons in the Buffalo and Syracuse City Public Schools regarding compliance areas and effective practices to improve the overall operations of the CPSE process in the district and foster timely practices under Indicator 12.

- Monitoring staff in the Central Regional Office and regional partners provided a one-day technical assistance session to mid-State preschool providers and chairpersons in the areas of prior written notice, monitoring of progress of annual goals, annual reviews and transition from CPSE to Committee on Special Education services.

- The State's funded Early Childhood Direction Centers 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.

- 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 SED, the Part B agency.

- State law was amended to address corporate practice law limitations that were affecting the State's ability to approve new evaluators.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 *[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 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 used data taken from State monitoring of a statewide representative sample of school districts. Because New York City has a total enrollment of 50,000 or more students, it was represented in the sample of school districts.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2011 (2011-12 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 2011:

89.4 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%
FFY 2011	3,096	2,769	89.4%

Discussion of Improvement Activities Completed <u>and</u> Explanation of Progress or Slippage that occurred for FFY 2011:

NYS showed significant progress in meeting the State's target for this indicator. In FFY 2011, 89.4 percent of youth aged 15 and above had IEPs that included appropriate measurable post-secondary goals based on age-appropriate transition assessments, coordinated, measurable, annual IEP goals and transition services, including courses of study, that would reasonably enable the student to meet the post-secondary goals, compared to 79 percent in FFY 2010.

The FFY 2011 data was based on the monitoring review of IEPs from a representative sample of 107 school districts, including New York City (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-Oct2012.pdf. The total number of students with IEPs, ages 15-21, enrolled in the school districts sampled during 2011-12 was 50,081. The total number of IEPs reviewed from these representative school districts was 3,096. Of the IEPs reviewed, 2,769 were found to have been in compliance with all IEP transition requirements; and 327 had one or more transition planning requirement that were 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:

- 1 school district (0.9 percent) reported that 0 percent of their students' IEPs that were reviewed were in compliance with the IEP transition requirements. This is a significant improvement from the prior year report of 8 school districts in this category.
- 6 school districts (5.6 percent) reported between 1 and 49 percent of the students' IEPs that were reviewed met the transition requirements, an improvement from the 12 school districts reported last year in this category.
- 11 school districts (10.3 percent) reported between 50 and 79 percent of their IEPs that were reviewed met the transition requirements. This again is an improvement from the 18 school districts reported in this category last year.
- 17 school districts (15.9 percent) reported between 80 and 99 percent of IEPs that were reviewed met the transition requirements. This number was 12 for FFY 2010.
- 72 school districts (67.3 percent) reported 100 percent of IEPs that were reviewed were in compliance with all transition planning requirements, compared with 57 (53.3 percent) in FFY 2010.

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 2011 Data						
RSE-TASC* Region	Total # of School Districts Reviewed in FFY 2011	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
Capital District/ North Country	18	0	0	1	6	11
Central	7	1	0	2	2	2

Indicator 13 - Transition IEP FFY 2011 Data						
RSE-TASC* Region	Total # of School Districts Reviewed in FFY 2011	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
Long Island	23	0	3	4	1	15
Lower Hudson	6	0	1	0	4	1
Mid-Hudson	10	0	1	2	2	5
Mid-South	12	0	0	0	1	11
Mid-State	4	0	1	1	0	2
Mid-West	13	0	0	1	0	12
NYC	1	0	0	0	1	0
West	13	0	0	0	0	13
Totals	107	1	6	11	17	72

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

Correction of FFY 2010 Findings of Noncompliance:
Level of compliance (actual target data) State reported for FFY 2010 for this indicator: **79.0 percent**

1. Number of findings of noncompliance the State made during FFY 2010 (the period from July 1, 2010 through June 30, 2011)	99 findings (72 school districts)
2. Number of FFY 2010 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)	95 findings (68 school districts)
3. Number of FFY 2010 findings not verified as corrected within one year [(1) minus (2)]	4 findings (4 school districts)

Correction of FFY 2010 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2010 findings not timely corrected (same as the number from (3) above)	4 findings (4 school districts)
5. Number of FFY 2010 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	4 findings (4 school districts)
6. Number of FFY 2010 findings not yet verified as corrected [(4) minus (5)]	0 findings (0 school districts)

Actions Taken if Noncompliance Found in FFY 2010 Is Not Corrected:

All findings from FFY 2010 have been corrected to date.

Verification of Correction of FFY 2010 Noncompliance (either timely or subsequent):

The State verified that each LEA with noncompliance identified in FFY 2010 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.

Specifically, the State verified correction of noncompliance by reviewing individual student records, including records of individual students whose IEPs were identified as noncompliant, The State also verified the correction of noncompliance for NYC by requiring annual monitoring for compliance with this indicator.

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.

Correction of Remaining FFY 2009 Findings of Noncompliance (if applicable):

1. Number of FFY 2009 findings noted in the Office of Special Education Program's (OSEP) September 2012 FFY 2010 APR response table for indicator	5 findings (2 school districts)
2. Number of remaining FFY 2009 findings the State has verified as corrected	5 findings (2 school districts)
3. Number of FFY 2009 findings <u>not</u> yet verified as corrected [(1) minus (2)]	0 findings (0 school districts)

Verification of Correction of Remaining FFY 2009 findings:

All findings from FFY 2009 have been corrected to date.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2009:

The State verified that each LEA with noncompliance identified in FFY 2009 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 individual student records through on-site monitoring; 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.

Specifically, the State verified correction of noncompliance by reviewing individual student records, including records of individual students whose IEPs were identified as

noncompliant, The State also verified the correction of noncompliance for NYC by requiring annual monitoring for compliance with this indicator.

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

1. Number of remaining FFY 2008 findings noted in the OSEP September 2012 FFY 2010 APR response table for this indicator.	5 findings (1 school district)
2. Number of remaining FFY 2008 findings the State has verified as corrected	5 findings (1 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)

Verification of Correction of Remaining FFY 2008 findings:

All findings from FFY 2008 have been corrected to date.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2008:

The State verified that each LEA with noncompliance identified in FFY 2009 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 individual student records through on-site monitoring; 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.

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

1. Number of remaining FFY 2007 findings noted in OSEP's September 2012 FFY 2010 APR response table for this indicator	2 findings (1 school district)
2. Number of remaining FFY 2007 findings the State has verified as corrected	2 findings (1 school district)
3. Number of remaining FFY 2007 findings the State has NOT verified as corrected [(1) minus (2)]	0 findings (0 school districts)

Verification of Correction of Remaining FFY 2007 findings:

All findings from FFY 2007 have been corrected to date.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2007:

The State verified that each LEA with noncompliance identified in FFY 2009 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 individual student records through on-site monitoring; 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.

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 2011 APR, that the State is in compliance with the secondary transition requirements in 34 CFR §§300.320(b) and 300.321(b).	The State's report of compliance for FFY 2011 is 89.4 percent, demonstrating significant improvement from FFY 2010 compliance.
Because the State reported less than 100 percent compliance for FFY 2010, the State must report on the status of correction of noncompliance identified in FFY 2010 for this indicator.	All findings from FFY 2010 have been verified as corrected.
The State must demonstrate, in the FFY 2011 APR, that the five remaining findings of noncompliance identified in FFY 2008, and the two remaining findings of noncompliance identified in FFY 2007 are corrected.	All findings from FFY 2008 and FFY 2007 have been verified as corrected to date.
When reporting on the correction of noncompliance, the State must report in its FFY 2011 APR, that it has verified that each LEA with noncompliance identified in FFY 2010, FFY 2008, and FFY 2007 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 2011 APR, the State must describe the specific actions that were taken to verify the correction.	See narrative above.
If the State does not report 100 percent compliance in the FFY 2011 APR, the State must review its improvement activities and revise them, if necessary to ensure compliance.	The State reviewed its improvement activities and determined, in consideration of the rate of progress the State is making on this Indicator, that no revisions are needed.
OSEP is concerned about the State's failure to correct longstanding noncompliance from FFY 2008 and FFY 2007. The State must take the steps necessary to ensure that it can report, in the FFY 2011 APR, that it has corrected the remaining five findings identified in FFY 2008 and the remaining two findings identified in	All findings from FFY 2008 and FFY 2007 have been corrected to date.

Statement from the OSEP Response Table	State's Response
FFY 2007. If the State cannot report in the FFY 2011 APR that this noncompliance has been corrected, the State must report in the FFY 2011 APR: (1) the specific nature of the noncompliance; (2) the State's explanation as to why the noncompliance has persisted; (3) the steps that the State has taken to ensure the correction of each finding of the remaining findings of noncompliance, and any new or different actions the State has taken, since the submission of its FFY 2010 APR, to ensure such correction; and (4) any new or different actions the State will take to ensure such correction.	

Improvement Activities Completed in 2011-12

- The State funded Transition Services Professional Development Support Center (PDSC) utilizes information from the National Secondary Transition Technical Assistance Support Center (NSTTAC) throughout the year to bring information back to the State's transition specialists. The PDSC has adapted national information into usable tools for us to employ. In particular, NYS has benefited from NSTTAC information on transition assessment to develop our own training package, and the transition specialists consistently include the listed NSTTAC evidence-based practices in all of their trainings. NYS has also developed informational brochures from the evidence-based practices to get people interested in the process a transition specialist would use to provide technical assistance and/or regional trainings.

- Staff reviewed information and resources, including but not limited to information available through the following OSEP technical assistance centers: National Post-School Outcome Center, National Dropout Prevention Center for Students with Disabilities, and 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 took appropriate proactive measures, 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 47 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, Post-School Outcomes, Best Practices for Including Transition Processes in School, and Work-Based Learning.

- The Offices of Special Education and Adult Career and Continuing Education Services (ACCES) continue to collaborate with other State agencies and the University of Rochester on a federal grant to improve transition planning and results for students with developmental disabilities. Work of the grant includes 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.

- The RSE-TASC Transition Specialists held 160 interagency meetings across the State. These meetings were established to assist local partners with communication and understanding between and across the different systems. Attendees of the interagency meetings typically include ACCES-Vocational Rehabilitation, Office for People With Developmental Disabilities, Independent Living Council, school/district representatives, workforce development, parent agencies, post-secondary agencies, parents, and local community agencies, such as community counseling centers.

- The RSE-TASC Transition Specialists and Special Education Parent Centers collaborated throughout the year. They held 62 joint training and/or information sessions for parents across the State.

- In 2011-12, the RSE-TASC Transition Specialists reached 533 of the 747 NYS school districts/NYC clusters through some form of training or a combination of events. A total of 528 districts participated in regional training events, 147 were provided with direct technical assistance, and 185 participated in interagency meetings.

- The Office of Special Education added two full-time transition specialists to the NYC RSE-TASC.

- SED developed and disseminated a statewide transition planning policy guidance document.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 *[If applicable]*

None

Overview of the Annual Performance Report Development:

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

Monitoring Priority: Effective General Supervision Part B / Effective Transition

Indicator 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.

Data Source:

New York State (NYS) continues to use a contractor to collect data for this indicator. The current contractor is Potsdam Institute for Applied Research at the State University in Potsdam, NY. When possible, interviews with each identified Exiter were conducted

by telephone, but the survey was available on the web and in hard copy by mail. See http://www.p12.nysed.gov/specialed/spp/2012/ind14.htm.

Definitions:

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

Survey pool is the total number of Exiters from the school districts surveyed in FFY 2011.

Response pool means those students from the survey pool who were able to be reached for an interview at least one year after leaving school.

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

Enrolled in other postsecondary education or training means youth have been enrolled on a full- or part-time basis for at least one complete term at any time in the year since leaving high school in an education or training program (e.g., Job Corps; adult education; workforce development program; adult rehabilitation service programs; or other). Part time is defined differently depending on the standard for the postsecondary school program. For colleges, part-time course loads typically are defined as less than nine credit hours per semester. Each person interviewed responds based on their understanding of what constitutes full or part time for the institution or program they are attending. Interviewers are trained to provide guidance if requested or needed. Enrolled in other postsecondary education or training also includes enrollment on a full- or part-time basis for at least one complete term at any time of the year since leaving high school in a vocational technical school that is less than a two-year program.

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

Sampling Methodology

Data was collected from a statewide representative sample of school districts. One-sixth of the school districts reported data on this indicator for FFY 2011. For a detailed description of NYS' sampling methodology, see:
http://www.p12.nysed.gov/specialed/spp/2012/ind14.htm
http://www.p12.nysed.gov/specialed/spp/2011/att2.htm.

Federal Fiscal Year (FFY) (school year students left)	Measurable and Rigorous Target
FFY 2011 (2010-11 school year)	A. **44** percent will be enrolled in higher education for at least one complete term; B. **65** percent will be enrolled either in higher education or being competitively employed (note: target for B includes target for A); C. **78** percent will be enrolled in higher education or in some other postsecondary education or training program, or competitively employed or in some other employment within one year of leaving high school (note: target C includes targets for B and A).

Actual Target Data for FFY 2011 (2010-11 School Year Exiters)

A	Percent enrolled in higher education for at least one complete term	42% (713/1695)
B	Percent enrolled either in higher education or being competitively employed (note: target for B includes target for A);	68% ([713+447]/1695)
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)	79% ([713+447+125+53]/1695)

The calculation of FFY 2011 outcomes was based on the following. Each responder is counted once in the highest category.

- There were 26,586 Exiters in FFY 2011 from all school districts in NYS.
- There were 3,820 Exiters in the survey pool for FFY 2011.
- There were 1,695 responders. Each responder is counted once in the highest category.
  - 713 were enrolled in higher education for at least one complete term.
  - 447 students were competitively employed.
  - 125 were in some other postsecondary education or training program.
  - 53 students were in some other employment.
  - 357 were not engaged in any of the above.

Representativeness of FFY 2011 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 Exiters who were able to be reached for an interview at least one year after leaving school. The response

pool is representative of gender and disability groups. Minority and drop out students were significantly underrepresented in the response pool. 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 2010-11, as reported in VR10 Data Reports

Statewide Demographic Representativeness							
Statewide	**Learning Disabilities**	**Emotional Disabilities**	**Intellectual Disabilities**	**All Other Disabilities**	**Female**	**Minority**	**Dropout**
Exiters Representation (n = 26,586)	55.9%	11.0%	4.2%	28.9%	36.0%	47.6%	20.7%
Response Pool Representation (n=1,695)	58.6%	8.8%	3.1%	29.6%	36.0%	36.6%	13.1%
Difference	2.7%	-2.2%	-1.1%	0.7%	0.0%	-11.0%	-7.6%

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

Post-School Outcomes by Type of Exit

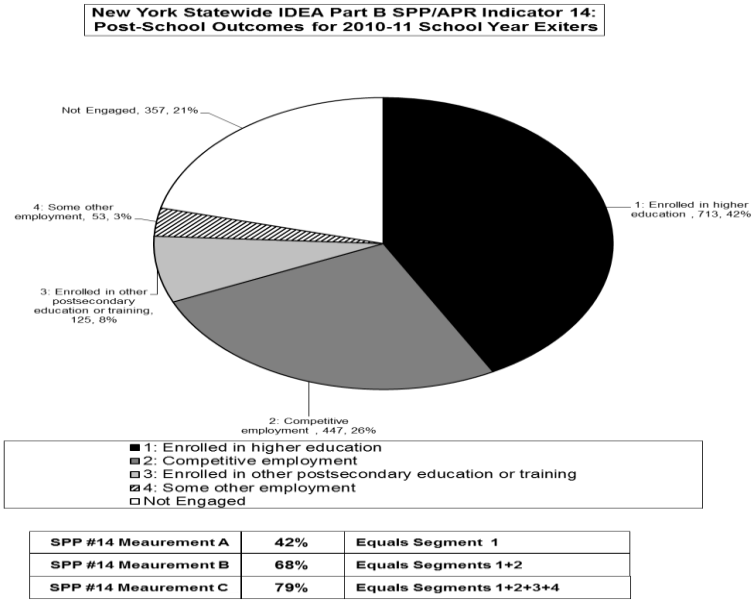
Table 2 displays post-school outcomes by Exit Type. Those who graduated from high school with Regents, local or GED diplomas have the highest rates of participation in one of the four post-school outcomes at 87 percent. Those who dropped out or have other exit reasons have the lowest rates at 55 and 52 percent, respectively.

Table 2 – 2010-11 Post-School Outcomes by Type of Exit

2010-11 Post-School Outcome* within one year of leaving high school	Statewide Responses 2010-11		Diploma (Regents, Local, GED)		Certificate or Modified Diploma (IEP Diploma)		Dropped Out		Other Exit Reasons**	
	N	%	N	%	N	%	N	%	N	%
Total in category	1695	100%	1213	72%	239	14%	222	13%	21	1%
All Post-school Outcomes	1338	79%	1057	87%	148	62%	122	55%	11	52%
1. Enrolled in higher education	713	42%	686	57%	15	6%	9	4%	3	14%
2. Competitively employed but not enrolled in higher education	447	26%	304	25%	65	27%	73	33%	5	24%
3. Enrolled in some other postsecondary education or training program but neither enrolled in higher education nor competitively employed	125	7%	43	4%	53	22%	27	12%	2	10%
4. In some other employment, but neither enrolled in higher education, nor some other postsecondary	53	3%	24	2%	15	6%	13	6%	1	5%

Table 2 – 2010-11 Post-School Outcomes by Type of Exit										
2010-11 Post-School Outcome* within one year of leaving high school	**Statewide Responses 2010-11**		**Diploma (Regents, Local, GED)**		**Certificate or Modified Diploma (IEP Diploma)**		**Dropped Out**		**Other Exit Reasons****	
	N	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
education or training program and not competitively employed										
None of the above	357	21%	156	13%	91	38%	100	45%	10	48%

* "Post-school outcomes" are defined differently than in past years – see definition section of the State Performance Plan (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.



SPP #14 Meaurement A	42%	Equals Segment 1
SPP #14 Meaurement B	68%	Equals Segments 1+2
SPP #14 Meaurement C	79%	Equals Segments 1+2+3+4

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

- 57 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[1].
- 4 percent of those who dropped out report they are in a two- or four- year college or university, and 12 percent report participation in other types of postsecondary education.

[1] Other post-secondary 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 Program, College Preparatory, Rehabilitation Services and Other.

- For those with IEP diplomas, 6 percent report they are in a two- or four-year college or university, and 22 percent report participation in other types of postsecondary education or training programs.

Examination of employment outcomes shows:

- Only 33 percent of students exiting with IEP diplomas were competitively employed or employed in some other situation.
- Only 39 percent of students who dropped out of school were competitively employed or employed in some other situation.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that Occurred for FFY 2011:

Explanation of Progress or Slippage

Compared to the data in 2009-10:
- There was no change in the percent of students with disabilities enrolled in higher education for at least one complete term;
- There was a one percentage point improvement in the percent of students with disabilities either in higher education or competitively employed; and
- There was a one percentage point improvement in the percent of students 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.

Improvement Activities Completed during 2011-12

- Three new professional development packages were developed on Transition Assessments, Transition for Families, and Transition in the IEP. 44 sessions on these topics were delivered statewide.

- Direct technical assistance was provided in 630 sessions statewide to assist districts in improving transition planning. Topics included Transition in the IEP; Student Exit Summary; Importance of Interagency Collaboration; and Transition Assessments.

- Transition Specialists facilitated 160 interagency meetings across the State to assist local partners with communication and understanding between and across the different systems. Attendees included Adult Career and Continuing Education Services – Vocational Rehabilitation, the Office for People with Developmental Disabilities, Independent Living Centers. the Office of Mental Health, schools/districts, workforce development, parent agencies, post-secondary agencies, parents and local community agencies (such as community counseling centers).

- Transition specialists collaborated with Special Education Parent Centers to provide 62 jointly-delivered training and or information sessions for parents on transition planning and services.

- Overall, approximately 83 school districts and several schools in New York City (NYC) participated in professional development activities described above.

- The Office of Special Education added two full-time transition specialists to the NYC RSE-TASC.

- A panel of students and parents presented to the State Education Department's Board of Regents on school and vocational rehabilitation activities that facilitated successful post-school employment.

Also see Indicator 13.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 *[If applicable]*

None

Overview of the Annual Performance Report Development:

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

Monitoring Priority: Effective General Supervision Part B / General Supervision

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

Measurement:

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 2011 (2011-12 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 2011:

93.5 percent of noncompliance issues identified between July 1, 2011 and June 30, 2012 through the State's general supervision system (including monitoring, State complaints, hearings, etc.) were corrected within one year of identification.

Table: Indicator B15 Worksheet

Indicator/Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) issued Findings in FFY 2010 (7/1/10 to 6/30/11)	(a) # of Findings of noncompliance identified in FFY 2010 (7/1/10 to 6/30/11)	(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 1/2013
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	2	2	2	0	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	5	5	4	0	1
7. Percent of preschool children with IEPs who demonstrated improved outcomes.	Dispute Resolution: Complaints, Hearings	2	2	2	0	0

Indicator/Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) issued Findings in FFY 2010 (7/1/10 to 6/30/11)	(a) # of Findings of noncompliance identified in FFY 2010 (7/1/10 to 6/30/11)	(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 1/2013
4A.[1] 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	58	646	626	20	0
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	14	21	19	0	2
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	58	138	133	5	0
6. Percent of preschool children aged 3 through 5 – early childhood placement.	Dispute Resolution: Complaints, Hearings	65	138	130	6	2

[1] 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 2010 (7/1/10 to 6/30/11)	(a) # of Findings of noncompliance identified in FFY 2010 (7/1/10 to 6/30/11)	(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 1/2013
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	20	25	25	0	0
	Dispute Resolution: Complaints, Hearings	20	42	41	0	1
9.[2] 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	14	41	38	0	3
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	13	16	13	2	1

[2] 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 2010 (7/1/10 to 6/30/11)	(a) # of Findings of noncompliance identified in FFY 2010 (7/1/10 to 6/30/11)	(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 1/2013
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	75	104	102	2	0
	Dispute Resolution: Complaints, Hearings	8	8	8	0	0
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	10	10	9	0	1
	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	72	115	107	8	0
	Dispute Resolution: Complaints, Hearings	3	3	2	1	0

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2010 (7/1/10 to 6/30/11)	(a) # of Findings of noncompliance identified in FFY 2010 (7/1/10 to 6/30/11)	(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 1/2013
Other areas of noncompliance: Behavioral Intervention Plans	Monitoring Activities: Self-Assessment/Local APR, Data Review, Desk Audit, On-Site Visits, or Other	33	125	95	30	0
	Dispute Resolution: Complaints, Hearings	10	23	20	1	2
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	7	12	11	0	1
	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	5	7	6	1	0
	Dispute Resolution: Complaints, Hearings	9	9	7	1	1

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2010 (7/1/10 to 6/30/11)	(a) # of Findings of noncompliance identified in FFY 2010 (7/1/10 to 6/30/11)	(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 1/2013
Other areas of noncompliance: Educational Facilities	Monitoring Activities: Self-Assessment/Local APR, Data Review, Desk Audit, On-Site Visits, or Other	3	3	3	0	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	40	103	95	1	7
	Dispute Resolution: Complaints, Hearings	31	49	48	1	0
Other areas of noncompliance: Personnel Qualifications	Monitoring Activities: Self-Assessment/Local APR, Data Review, Desk Audit, On-Site Visits, or Other	1	2	2	0	0
	Dispute Resolution: Complaints, Hearings	0	0	0	0	0

Indicator/ Indicator Clusters	General Supervision System Components	# of local educational agencies (LEAs) Issued Findings in FFY 2010 (7/1/10 to 6/30/11)	(a) # of Findings of noncompliance identified in FFY 2010 (7/1/10 to 6/30/0911)	(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 1/2013
Other areas of noncompliance: Residential Placement	Monitoring Activities: Self-Assessment/Local APR, Data Review, Desk Audit, On-Site Visits, or Other	5	18	12	6	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	21	38	32	3	3
	Dispute Resolution: Complaints, Hearings	32	52	50	1	1
Sum of the numbers down Column a and Column b			1761	1646	89	26
Percent of noncompliance corrected within one year of identification = (column (b) sum divided by column (a) sum) times 100. 1645 (b) /1760 (a) = X 100 = 93.5%			**(b) / (a) X 100 = 93.5%**			

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); 539 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.

In addition, districts are selected for targeted 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. Focused review protocols include reviews relating to Evaluation/Reevaluation, Special Education Program and Services Focused Review, Annual Review Process, Behavioral Interventions and Secondary Transition.

Selection of the monitoring protocol is based on data, nature of technical assistance calls, concerns raised by parents and input from the District Superintendent from the BOCES and the State's technical assistance providers.

Education programs of BOCES, approved preschool programs, approved private schools, Special Act School Districts, State-supported schools and State-operated schools are selected for monitoring on a rotating schedule, but also in consideration of compliance concerns. Facilities operated by the NYS Office of Children and Family Services (OCFS) are monitored every four years as required by statute.

In 2011-12, all school-age approved private residential schools and Special Act school districts received focused monitoring reviews in the areas of behavioral interventions, use of time out rooms, emergency interventions and, as appropriate, 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 2011:

Explanation of Progress or Slippage

The State significantly improved its percentage of timely correction of noncompliance. In the 2012 APR submission (for FFY 2010), the State reported that 87 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 submission of 93.5 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 2010 Findings of Noncompliance (corrected within one year from identification of the noncompliance):

1. Number of findings of noncompliance the State identified in FFY 2010 (the period from July 1, 2010 through June 30, 2011) (Sum of Column a on the Indicator B15 Worksheet)	1760
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)	1645
3. Number of findings not verified as corrected within one year [(1) minus (2)]	115

FFY 2010 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance and/or Not Corrected):

4. Number of FFY 2010 findings not timely corrected (same as the number from (3) above)	115
5. Number of FFY 2010 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	89
6. Number of FFY 2010 findings not yet verified as corrected [(4) minus (5)]	26

Verification of Correction for findings of noncompliance identified in FFY 2010 (either timely or subsequent):

For all FFY 2010 noncompliance verified as corrected, NYS verified that each LEA with noncompliance: (1) was 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 was no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2010 (including any revisions to general supervision procedures, technical assistance provided and/or any enforcement actions that were taken):

The State verified the correction of 1,734 out of 1,760 findings of noncompliance.

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

The State verified correction of noncompliance 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 reviewed subsequent data from other student records, conducted observations in other classrooms, etc., to ensure that the issue has been corrected for all students (i.e., subsequent data show 100 percent compliance with regulatory requirements). The size of the subsequent verification sample varied based on such factors as the specific compliance issue, size of the district, and initial extent of the findings of noncompliance.

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

Issues relating to suspension and review of policies, practices and procedures relating to development and implementation of IEPs, the uses of positive behavioral

interventions and supports and procedural safeguards for students with disabilities subject to discipline (Indicator 4):

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, that the information reported is accurate, and the district will maintain documentation subject to review by the State Education Department (SED).
- When data identifies a district below target levels for consecutive years, the State's monitoring staff conducted a review of the district's policies, procedures and practices through on-site monitoring.
- 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 and that each instance, in addition to any systemic issues, has been corrected. For issues of disproportionality by race/ethnicity, the State required the district to publicly report on revisions to its policies, procedures and practices.

When data identifies a district below target levels for consecutive years, monitoring staff either go into districts to verify data, both for individuals and systems, or initiate a full review. 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 CAP was issued by the State 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, SED 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.

The State verified correction of noncompliance by reviewing individual student records, including records of individual students whose IEPs were identified as noncompliant, The State also verifies the correction of noncompliance for NYC by requiring annual monitoring for compliance with this indicator.

Actions Taken if Noncompliance Not Corrected:

Following is a description, by school, of the nature of the noncompliance finding(s), why the noncompliance has persisted, steps the State has taken to ensure such correction and any new or different actions the State will take to enforce such correction of the 26 instances of noncompliance found in five public school district and one approved private school.

1. Nature of the noncompliance: behavioral interventions, discipline procedures, IEP implementation. The State cannot determine why noncompliance has persisted. The State provided written clarification and onsite technical assistance to administrators in the program. The State will consider whether the school's failure to correct long-standing noncompliance may result in termination of the State's approval.

2. Nature of the noncompliance: timely preschool evaluations and services. Contributing factors as to why the noncompliance has persisted were determined, in part, to be due to administrative structure and availability of resources. The district was required to revise its practices relating to CSE meetings and to direct resources to hire additional special education administrators and clerical staff to improve their capacity to meet timelines; SED provided technical assistance to the district on other administrative structural revisions to ensure timely placements for students. SED staff will conduct monthly meetings with the district to review data, discuss real and potential barriers and to problem solve in order to ensure timely correction of noncompliance. If concerns persist, the State may redirect the district's use of IDEA funds.

3. Nature of the noncompliance: least restrictive environment. Contributing reasons that the noncompliance has persisted have been determined, in part, to be inappropriate administrative procedures and board of education action to implement CSE IEP recommendations. The State met with district officials, and required them to publicly post SED letters of findings from the State monitoring and verification reviews. The State has provided contingencies on the district's receipt of State aid. The State may redirect or withhold IDEA funds if the district does not come into compliance.

4. Nature of the noncompliance: inappropriate policies and practices relating to evaluation practices leading to the disproportionality by race/ethnicity in the classification of students with disabilities (Indicator 10), CSE membership, timely IEP implementation and timely evaluations. Contributing reasons the noncompliance has persisted have been determined to be lack of resources and administrative issues. The State provided additional technical assistance and required the district to receive professional development on compliance issues. This district was notified of enforcement actions, requiring the district to develop an Action Plan to Resolve Outstanding Noncompliance and a portion of its 2011-12 IDEA funds were redirected to hire a special education consultant to assist the district in making the required changes. A special investigation of the district and its governance structure to determine the reasons the district has not been able to resolve the noncompliance is being initiated by the Commissioner through the local District Superintendent of BOCES.

5. Nature of the noncompliance: transition planning. Contributing reasons for the continuing noncompliance relate to loss of key personnel in the district responsible for coordination of transition activities. This district has 11 of the 26 findings of noncompliance identified as continuing from 2010. The State directed the district to develop an Action Plan to Resolve Outstanding Noncompliance and to engage in professional development from the Regional Special Education Technical Assistance Support Centers (RSE-TASC) Transition Specialist to assist the district in resolving the noncompliance.

6. Nature of noncompliance: IEP implementation. The school in this district has resolved 8 of 11 findings. The reason why noncompliance was continuing was related to systemic administrative issues. This district was provided additional technical assistance from the State. The State continued to provide technical assistance to the district to ensure the students are receiving services in accordance with their IEPs at the schools in which each student is currently enrolled. The school where the complaint originated has since closed.

Correction of Remaining FFY 2009 Findings of Noncompliance (if applicable):

1. Number of remaining FFY 2009 findings noted in Office of Special Education's (OSEP) September 2012 FFY 2010 APR response table for this indicator (2009-10)	73
2. Number of remaining FFY 2009 findings the State has verified as corrected	46
3. Number of remaining FFY 2009 findings the State has not verified as corrected [(1) minus (2)]	27

Verification of Correction of Remaining 2009 findings:

In 2011-12 the State verified the correction of 46 findings of noncompliance that were first identified in FFY 2009. The process the State used for the verification of noncompliance is the same process as identified above. The correction of all findings

over 12 months from identification was verified by monitoring staff, assuring correction of findings for individuals and systemic change.

Actions Taken if Noncompliance Not Corrected:

The 27 findings of noncompliance were identified in three school districts. One of the districts is one of the districts identified with continuing noncompliance identified in 2010 as described above. Following is a description, by school, of the nature of the noncompliance finding(s), why the noncompliance has persisted, steps the State has taken to ensure such correction and any new or different actions the State will take to enforce such correction of the 26 instances of noncompliance found in five public school district and one approved private school.

1. Nature of the noncompliance: the school district referenced above in FFY 2010, has 9 unresolved findings from 2 complaints relating to evaluations, IEP development and implementation, suspension procedures and home instruction. The reasons the noncompliance has persisted have been determined to be lack of resources and administrative issues. The State provided additional technical assistance and required the district to receive professional development on compliance issues. This district was notified of enforcement actions, requiring the district to develop an Action Plan to Resolve Outstanding Noncompliance and a portion of its 2011-12 IDEA funds were redirected to hire a special education consultant to assist the district in making the required changes. A special investigation of the district and its governance structure to determine the reasons the district has not been able to resolve the noncompliance is being initiated by the Commissioner through the local District Superintendent of BOCES.

2. Nature of the noncompliance: inappropriate policies and procedures relating to the provision of services to students in long term suspensions. The reasons noncompliance has persisted, in part, is due to the size of the district, which is one of the big four districts in NYS. The district has developed an Action Plan to Resolve Outstanding Noncompliance and has made significant progress in resolving all but one of six original noncompliant issues affecting the provision of services during suspensions. Monitoring staff has been actively engaged with the district administration assisting the district in developing appropriate policies, practices and procedures regarding the sole noncompliant issue, the provision of services during suspension. It is expected that the district will be able to demonstrate the resolution of this noncompliant issue by early spring 2013.

3. Nature of the noncompliance: 30 findings of noncompliance relating to IEP development and implementation to address student behaviors and services provided to students in long term suspensions. The reasons noncompliance has persisted have been attributed to turnover in all top district personnel and Special Education administrators. The district was required to develop an Action Plan to Resolve Outstanding Noncompliance. Monitoring staff continues to provide ongoing

technical assistance to assist new administration and train staff on new policies and procedures. Substantial progress has been made during the current school year as the district continues to work with monitoring staff to reach full compliance. Technical assistance resources have been offered to the district. The district currently has 17 noncompliant issues left to resolve.

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

1. Number of remaining FFY 2008 findings noted in OSEP's September 2012 FFY 2010 APR response table for this indicator. 2008-2009	103
2. Number of remaining FFY 2008 findings the State has verified as corrected	52
3. Number of remaining FFY 2008 findings the State has not verified as corrected [(1) minus (2)]	51

Verification of Correction of Remaining 2008 findings:

For all FFY 2008 noncompliance verified as corrected, NYS verified that each LEA with noncompliance: (1) was 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 was no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2008 (including any revisions to general supervision procedures, technical assistance provided and/or any enforcement actions that were taken):

In 2011-12, the State verified the correction of 52 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. The correction of all findings over 12 months from identification were verified individually by State personnel, assuring correction of findings for individuals and systemic change in accordance with OSEP Memorandum 09-02.

Actions Taken if Noncompliance Not Corrected:

The 51 unresolved instances of noncompliance were all found in three school districts; one district responsible for noncompliance in both previous years, had 43 of the 52 instances of noncompliance still unresolved from FFY 2008. Following is a description, by school, of the nature of the noncompliance finding(s), why the noncompliance has persisted, steps the State has taken to ensure such correction and any new or different actions the State will take to enforce such correction.

1. Nature of the noncompliance: the school district has findings relating to behavioral assessments and interventions, manifestation determinations, IEP development and

implementation; continuum of special education services, annual reviews, least restrictive environment and prior written notice. The district was identified as "Needs Intervention." The State has put this district under enforcement action, requiring the district to develop an Action Plan to Resolve Outstanding Noncompliance and to redirect a portion of its 2011-12 IDEA funds to hire a special education consultant to assist the district in making the required changes. A special investigation of the district and its governance structure to determine the reasons the district has not been able to resolve the noncompliance is being initiated by the Commissioner through the local District Superintendent of BOCES. Despite the provision of technical assistance and professional development for staff, the district has been unable to resolve the systemic issues contributing to inappropriate policies, practices and procedures in the identification and suspension of students with disabilities.

2. Nature of the noncompliance: development and implementation of IEPs and behavioral intervention plans (BIPs) in NYC. The district corrected most noncompliance stemming from an Academic Achievement Review, but despite intense technical assistance there still remains noncompliance with IEPs including all mandated components, developing and implementing IEPs when appropriate, provision of all intermediate level required instruction and fully serving all students with disabilities as mandated by their IEPs. The District was identified as Needs Intervention. The persistence of the remaining noncompliance relates to the following: annual reorganization of the LEA (District of NYC) and resultant changes in supports to the school, continued inappropriate practices and procedures regarding IEP and BIP development and limited resources relative to the latter two areas of noncompliance

3. Nature of the noncompliance: certification. One approved private school, although correcting 33 instances of noncompliance from a program review, still has one remaining finding around the certification of one staff member. The school has been advised that an appropriately certified teacher must be hired.

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

1. Number of remaining FFY 2007 findings noted in OSEP's September 2012 FFY 2010 APR response table for this indicator	24
2. Number of remaining FFY 2007 findings the State has verified as corrected	2
3. Number of remaining FFY 2007 findings the State has not verified as corrected [(1) minus (2)]	22

Verification of Correction of Remaining 2007 findings:

For all FFY 2007 noncompliance verified as corrected, NYS verified that each LEA with noncompliance: (1) was 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 was no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2007 (including any revisions to general supervision procedures, technical assistance provided and/or any enforcement actions that were taken):

In 2011-12, the State verified the correction of 2 findings of noncompliance that were first identified in FFY 2007. The process the State used for the verification of noncompliance is the same process as identified above. The correction of all findings over 12 months from identification must be verified individually by State personnel, assuring correction of findings for individuals and systemic change in accordance with OSEP Memorandum 09-02.

Actions Taken if Noncompliance Not Corrected:

Following is a description, by school, of the nature of the noncompliance finding(s), why the noncompliance has persisted, steps the State has taken to ensure such correction and any new or different actions the State will take to enforce such correction. The 22 findings of noncompliance identified in 2007 were in three schools.

1. Nature of the noncompliance: this district is one of the same school districts referenced above for outstanding noncompliance for 2010, 2009, 2008 and 2007. There were 19 findings relating to suspension policies, procedures and practices and one relating to timely services for children transitioning from early intervention (Indicator 12). The district was identified as a District in Need of Intervention. The State has put this district under enforcement action, requiring the district to develop an Action Plan to Resolve Outstanding Noncompliance and to redirect a portion of its 2011-12 IDEA funds to hire a special education consultant to assist the district in making the required changes. A special investigation of the district and its governance structure to determine the reasons the district has not been able to resolve the noncompliance is being initiated by the Commissioner through the local District Superintendent of BOCES. Despite the provision of technical assistance and professional development for staff, the district has been unable to resolve the systemic issues contributing to inappropriate policies, practices and procedures in the identification and suspension of students with disabilities.

2. Nature of the noncompliance: teacher certification. Although all other instances of noncompliance for one district have been corrected from the investigation of a State complaint, one remains around the certification of staff. The school's noncompliance has persisted due to hiring additional staff that are not appropriately certified and need extended time to achieve appropriate certification. Two required submissions of materials in 2012 have not met State standards. A meeting was held to clarify State certification requirements, and school was sent a letter in December 2012 requesting immediate submission of correction action documents indicating compliance.

3. Nature of the noncompliance: provision of related services. Contributing reasons for the continuing noncompliance include a shortage of related service providers and CSE recommendations based on disability classification. The district has hired 50 percent more occupational therapy (OT) and physical therapy (PT) providers since 2010. They now have 600 providers, an increase from 400 in 2010. Unfortunately these new hires have not always matched the increasing number of students mandated for OT and PT. The District was identified as a District in Need of Intervention. SED met with the District's superintendent and Cabinet 12 times during 2012 to review the district's actions to ensure the provision of related services. The District provided monthly data for trend analysis and the State is seeing substantial progress. Changes to administrative practices and organizational oversight have been implemented. SED will continue to provide technical assistance and monitoring of the district's corrective action steps to re-examine hiring practices and more efficient deployment of OT and PT providers, to establish guidelines for CSE and CPSE recommendations for OT and PT services and to monitor the progress of providing mandated services with monthly Cabinet meetings and accurate tracking and reporting.

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

1. Number of remaining FFY 2006 findings noted in OSEP's September 2012 FFY 2010 APR response table for this indicator	8
2. Number of remaining FFY 2006 findings the State has verified as corrected	8
3. Number of remaining FFY 2006 findings the State has <u>not</u> verified as corrected [(1) minus (2)]	0

Verification of Correction of Remaining 2006 findings:

For all FFY 2006 noncompliance verified as corrected, NYS verified that each LEA with noncompliance: (1) was 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 was no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2006 (including any revisions to general supervision procedures, technical assistance provided and/or any enforcement actions that were taken):

In 2011-12, the State verified the correction of 8 findings of noncompliance that were first identified in FFY 2006. The process the State used for the verification of noncompliance is the same process as identified above. The correction of all findings over 12 months from identification must be verified individually by monitoring staff, assuring correction of findings for individuals and systemic change in accordance with OSEP Memorandum 09-02.

Actions Taken if Noncompliance Not Corrected:

All findings of noncompliance from 2006 and before have been verified as resolved.

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 2011 APR, that the remaining 73 findings identified in FFY 2009, 103 findings of noncompliance identified in FFY 2008, 24 findings of noncompliance identified in FFY 2007, and eight findings of noncompliance identified in FFY 2006 that were not reported as corrected in the FFY 2010 APR, were corrected.	The State has corrected 46 of the 73 findings identified in FFY 2009, 52 or the 103 findings identified in FFY 2008, 22 of the 24 findings identified in FFY 2007 and all 8 of the 8 findings identified in FY 2006. Of the total 126 uncorrected findings, 78 belong to one school district, and 17 to another.

Statement from the OSEP Response Table	State's Response
The State must review its improvement activities and revise them, if appropriate, to ensure they will enable the State to provide data in the FFY 2011 APR, demonstrating that the State timely corrected noncompliance identified by the State in FFY 2010 in accordance with 20 U.S.C. 1232d(b)(3)(E), 34 CFR §§300.149 and 300.600(e), and OSEP Memo 09-02.	93.5 percent of findings from FFY 2011 were corrected within 12 months. Only findings from 5 districts are still unresolved. The State has reviewed, and as appropriate revised, its improvement activities to provide additional automated notifications on outstanding noncompliance to districts and to provide State intervention earlier than 12 months.
OSEP is concerned about the State's failure to correct longstanding noncompliance from FFY 2008, FFY 2007, and FFY 2006. The State must take the steps necessary to ensure that it can report, in the FFY 2011 APR, that it has corrected the remaining 103 findings of noncompliance identified in FFY 2008, 24 findings of noncompliance identified in 2007, and eight findings of noncompliance identified in FFY 2006. If the State cannot report in the FFY 2011 APR that this noncompliance has been corrected, the State must report in the FFY 2011 APR: (1) the specific nature of the noncompliance; (2) the State's explanation as to why the noncompliance has persisted; (3) the steps that the State has taken to ensure the correction of each finding of the remaining findings of noncompliance, and any new or different actions the State has taken, since the submission of its FFY 2010 APR, to ensure such correction; and (4) any new or different actions the State will take to ensure such correction.	Only nine (9) of the 1350 schools or districts in this State, or 0.6 percent, continue to have uncorrected noncompliance after 12 months. The State is taking progressive enforcement actions with each of these schools to ensure correction of noncompliance.
When reporting on correction of findings of noncompliance in the FFY 2011 APR, the State must report that it verified that each LEA with noncompliance identified in FFY 2010 and 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 longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02. In the FFY 2011 APR, the State must describe the specific	The detailed steps the State has taken to verify the correction of noncompliance are identified above. The State used the Indicator 15 worksheet to report on this Indicator.

Statement from the OSEP Response Table	State's Response
actions that were taken to verify the correction. In addition, in reporting on Indicator 15 in the FFY 2011 APR, the State must use the Indicator 15 Worksheet.	
In addition, in responding to Indicators 4A, 4B, 9, 10, 11, 12 and 13 in the FFY 2011 APR, the State must report on correction of the noncompliance described in this table under those indicators.	The State also reported on the correction of the noncompliance described in this table under those indicators.

Improvement Activities Completed in 2011-12

- IDEA discretionary funds were used to provide funds to approved private schools and Special Act school districts to provide tuition for coursework and test preparation support to uncertified teachers seeking teacher certification.

- The State used 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 2012 OSEP Leadership Conference.

    - Regular participation in the Northeast Regional Resource Center (NERCC) 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.

    - Staff participated in NERCC State monitoring workgroups.

- 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. The monitoring staff sends out reminder notices 30 days before a corrective action due date and follows up with telephone calls in order to facilitate the correction in a timely manner. The State requires the program to correct its noncompliance within a shorter time frame. The State has also established a graduation of enforcement actions even if the program is within its first 12 months of identification of noncompliance.

- Special Education Quality Assurance Nondistrict monitoring staff initiated 35 Behavioral Management and Support Focused Reviews to determine if approved private residential schools and Special Act school districts serving students with disabilities appropriately address student behaviors and support the continued implementation of quality behavioral management practices.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 *[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 monitoring staff to intervene sooner, prior to 12 months from identification of noncompliance, to help districts resolve noncompliance earlier. Prior proposed timeline of December 31, 2012 was not met because of lack of technology resources, but is scheduled for completion in the spring of 2013.

- Each regional office is having a staff person trained in using a data collection system to access and sort all noncompliance from the region.

- Training has recently been provided to regional offices on how to implement new procedures for the resolution of noncompliance.

- Monitoring capacity of each regional office has been increased by the addition of at least one monitoring staff person, per office.

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

Reporting on this Indicator in the APR is no longer required by USED. States report data on the timeliness of State complaint decisions as part of the data they submit under IDEA section 618. (see http://www.ideadata.org/PartBDispRes.asp).

Overview of the Annual Performance Report Development:

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

Monitoring Priority: Effective General Supervision Part B / General Supervision

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

Measurement:

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

Data Source:

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

Reporting on this Indicator in the APR is no longer required by USED. States report data on the timeliness of State complaint decisions as part of the data they submit under IDEA section 618. (see http://www.ideadata.org/PartBDispRes.asp)

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 2011 (2011-12 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 2011:

8.78 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 .39 percentage points from FFY 2010.

7/1/2011 - 6/30/2012 Table 7 Section C: Hearing Requests	
(3) Hearing requests total	6116
(3.1) Resolution sessions	5469
(a) Settlement agreements	480
Percent = 480 [3.1(a)] divided by 5469 (3.1) times 100 = 8.78**%**	

Discussion of Improvement Activities and Explanation of Slippage, if the State did not meet its target, that occurred for FFY 2011:

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 2011-12, the percent of resolution sessions ending in agreement was 8.78 percent, which is .39 percentage points less than the prior year. This may be due to the continued 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 583 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 2011

- 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.

- 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, to assist district personnel and impartial hearing officers in the use of resolution periods.

- In April and May of 2012, the New York State Dispute Resolution Center (NYSDRA), in collaboration with State Education Department funded Special Education Parent Centers, provided 12 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 2012 *[If applicable]*

None

Overview of the Annual Performance Report Development:

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

Monitoring Priority: Effective General Supervision Part B / General Supervision

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

Measurement:

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

Data Source:

New York State (NYS) will use data collected and reported to the United States Education Department 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 2011 (2011-12 school year)	97 percent of mediations held will result in mediation agreements.

Actual Target Data for FFY 2011:

86 percent of mediation sessions resulted in mediation agreements.

7/1/2011 - 6/30/2012 Table 7: Section B, Mediation Requests	
(2) Total number of Mediation requests received	253
(2.1) Mediations held	157
(a) Mediations held related to due process	5
(i) Mediation agreements related to due process complaints	5
(b) Mediations held not related to due process	152
(i) Mediation agreements not related to due process	130
(2.2) Mediations not held (including pending)	96
Percent = 5[(2.1(a)(i)] + 130[2.1(b)(i)] = 135 divided by 157[2.1] = 0.86 times 100 = 86%	

Discussion of Improvement Activities and Explanation of Slippage, if the State did not meet its target, that occurred for FFY 2011:

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 2011-12 that resulted in agreement was **86** percent, compared with 88.3 percent from the previous year. There were 253 total mediation requests in 2011-12, 67 more than in 2010-11. The increase in requests rose to just under 257 reported in 2009-10, possibly due to increased and improved training of new and veteran special education mediators and increased public awareness of special education mediation. However, the percentage of mediation sessions that resulted in agreement declined slightly (2.3 percentage points).

Improvement Activities Completed in 2011-12:

- 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 2011 to July 2012, the NYSDRA website had a total of 27,615 individuals visiting the webpage.

- In March, April and May 2012, NYSDRA collaborated with the State Education Department (SED)-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. Twelve regional workshops took place and 133 attendees benefited.

- NYSRDA provided training to 73 veteran and new mediators. This training curriculum was made accessible (post-training) online.

- During the 2010-11 school year, NYSDRA distributed an estimated 2,850 brochures.

- NYSDRA established a working group, comprised of representatives from the Community Dispute Resolution Centers and SED, to share best practices and explore ways to enhance and expand the program.

- SED conducted stakeholder discussions on regional and statewide strategies to increase the use of mediation to resolve disputes.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2012 *[If applicable]*

None

Overview of the Annual Performance Report Development:

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

Monitoring Priority: Effective General Supervision Part B / General Supervision

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

Measurement:

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

A. Submitted on or before due dates (first Wednesday in February for child count, including race and ethnicity; and educational environments; first Wednesday in November for exiting, discipline, personnel and dispute resolution; December 15 for assessment; May 1 for Maintenance of Effort & Coordinated Early Intervening Services; and February 1 for Annual Performance Reports).
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 2011 (2011-12 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 2011:

100 percent of State reported data, including 618 data and annual performance reports were submitted on or before the due dates and are 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	1	1	2
5	1	1	2
6	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
18	1	1	2
19	1	1	2
		Subtotal	38
APR Score Calculation	**Timely Submission Points** - If the FFY 2011 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) =		43.00

618 Data - Indicator 20					
Table	**Timely**	**Complete Data**	**Passed Edit Check**	**Responded to Data Note Requests**	**Total**
Table 1 - Child Count Due Date: 2/1/12	1	1	1	1	4
Table 2 - Personnel Due Date: 11/7/12	1	1	1	N/A	3
Table 3 - Ed. Environments Due Date: 2/1/12	1	1	1	1	4
Table 4 - Exiting Due Date: 11/7/12	1	1	1	N/A	3
Table 5 - Discipline Due Date: 11/7/12	1	1	1	N/A	1
Table 6 - State Assessment Due Date: 12/19/12	1	N/A	N/A	N/A	1
Table 7 - Dispute Resolution Due Date: 11/7/12	1	1	1	N/A	3
Table 8 - MOE/CEIS Due Date: 5/1/12	1	1	N/A	N/A	2
				Subtotal	23
618 Score Calculation			**Grand Total** Subtotal X 1.8695) =		43.00

Indicator #20 Calculation	
A. APR Grand Total	43.00
B. 618 Grand Total	43.00
C. APR Grand Total (A) + 618 Grand Total (B) =	86.00
Total N/A in APR	0
Total N/A in 618	0
Base	**86.00**
D. Subtotal (C divided by Base*) =	1.000
E. Indicator Score (Subtotal D x 100) =	100.00

** Note any cell marked as N/A will decrease the denominator by 1 for APR and 1.8695 for 618*

Detailed information about the actions NYS is taking to ensure compliance is included below, including a description of New York's mechanisms for ensuring error-free, consistent, valid and reliable data and evidence that these standards are met. Please note that targets for timeliness and accuracy are 100 percent.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2011:

Explanation of Progress or Slippage

The State has an email notice from the EDEN system dated 10/22/2012 stating "The Education Data Exchange Network (EDEN) Submission System has processed your transmittal and detected no conditions that would generate errors and warnings" for all EDFacts files submitted to populate Table 5 (N/X 005, N/X 006, N/X 007, N/X 088, N/X 143, N/X 144). The State has since learned that our Table 5 data was incorrect because of problems with the N/X 088, N/X 005 and N/X 006 files that we were not aware of on the date the State submitted the APR. The State has submitted revised EDFacts files to correct the Table 5 errors. In N/X 005, the actual error was in the reporting of one school district on one student. The EDFacts submission reports that previously showed 1 error now shows no errors for the N/X 005. The N/X 006 file was inadvertently submitted with the wrong year in the header (2010-11 instead of 2011-12), so the EDEN system did not register that 2011-12 N/X 006 data had been submitted. The N/X 006 data was therefore not loaded into Table 5 and comparisons of N/X 006 data with N/X 088 data resulted in discrepancies. The N/X 006 file has been resubmitted with 2011-12 in the header row which has resolved the N/X 088 discrepancies.

NYSED's Part B IDEA Data Manager encountered account set-up issues with the OMB Max website and did not have access to the data quality report that would have alerted us to the Table 5 issues. The end of the five- year cooperative agreement with Westat and OSEP to operate the Data Accountability Center and the switch to the OMB Max System contributed to NYSED not receiving a communication on the Table 5 error. The State has no record of any other email notification that would have provided the State the opportunity to correct the Table 5 errors. Therefore, on the date the State submitted the APR, the State was unaware of any error in Table 5.

Improvement Activities Completed in 2011-12

- The State continued its participation in the monthly technical assistance calls hosted by the United States Education Department Office of Special Education

- The State regularly reviewed The Right IDEA website for technical assistance resources, information and documentation that can be utilized to improve State Performance Plan results.

- Annual activities completed to ensure error-free, consistent, valid and reliable section 618 data and evidence that these standards are met 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 OSEP APR Response Table for this Indicator (if applicable):

Statement from the OSEP Response Table	State's Response
If the State does not report 100% compliance in the FFY 2011 APR, the State must review its improvement activities and revise them, if necessary to ensure compliance. In reporting on Indicator 20 in the FFY 2011 APR, the State must use the Indicator 20 Data Rubric.	SED, per OSEP instruction in the 2013 Part B SPP and APR Part B Indicator Measurement Table, is not reporting data for this indicator for the initial FFY 2011 APR submission on February 15, 2013. SED will review and respond to OSEP's calculation of New York's data on this indicator when it is received from OSEP. Discussion of progress/slippage and improvement activities, if required, will be included after OSEP's calculation has been

Statement from the OSEP Response Table	State's Response
	reviewed. Detailed information about the actions NYS is taking to ensure compliance is included above, including a description of New York's mechanisms for ensuring error-free, consistent, valid and reliable data and evidence that these standards are met. Please note that targets for timeliness and accuracy are 100 percent.

Revisions, <u>with Justification</u>, to Proposed Targets/ Improvement Activities / Timelines / Resources for FFY 2012 *[If applicable]*

None

Attachment – State Performance Plan Indicator 6

Overview of the State Performance Plan Development
See Overview of the State Performance (SPP) Development preceding Indicator 1.

FFY 2011: To discuss the revised baseline data and establish measureable and rigorous improvement activities for this Indicator, two interactive webinars were conducted: one involved representatives from the 13 State-funded special education Parent Centers and regional Early Childhood Direction Centers (ECDCs); the other involved State special education staff across all offices, including regional Special Education Quality Assurance (SEQA) offices. Additionally, staff met with the Commissioner's Advisory Panel for Special Education Services.

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))

* Note: As of the January 2010 SPP, this indicator is reworded per federal guidance issued 3/09.

Measurement:

Percent = # of preschool children with IEPs who received all special education services in settings with typically developing peers divided by the total # of preschool children with IEPs times 100.

Measurement: (Revised January 2010 consistent with federal guidance)

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:

Student Information Repository System (SIRS) is used to collect individual student data

on all students.

New York State (NYS) uses 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*F*acts files.

Overview of Issue/Description of System or Process

Section 4410 of the Education Law and section 200.16 of the Commissioner's Regulations establish the process for preschool students with disabilities to receive special education services.

The Committee on Preschool Special Education (CPSE) makes recommendations for placement of preschool students with disabilities. The CPSE is required by law and regulation to first consider the appropriateness of providing related services only; or special education itinerant teacher services (SEIT) only; or related services in combination with SEIT services; or a half-day preschool program or a full-day preschool program. The CPSE is also required to first consider providing special education services in a setting where age-appropriate peers without disabilities are typically found, prior to recommending the provision of special education services in a setting which includes only preschool children with disabilities.

The CPSE is required to include in its written report of its recommendation a statement of the reasons why less restrictive placements were not recommended when the recommendation is for the provision of special education services in a setting with no regular contact with age-appropriate peers without disabilities.

Baseline Data for FFY 2004 (2004-2005)

In 2004-05, 63.5 percent of preschool children with IEPs received special education and related services in settings with typically developing peers (e.g., early childhood settings, home, and part-time early childhood/part-time early childhood special education settings).

Discussion of Baseline Data

- In 2004-05, 465 out of 664 school districts with preschool special education students (70 percent) had rates of integration in preschool placements that exceeded the State average, while 199 school districts were below the statewide average. One hundred forty-eight (148) school districts were at 100 percent integration, including a large city/high need school district.

- Analysis by geographic regions indicates wide differences. New York City (NYC) and Long Island are below the statewide rate by 11 and 7 percentage points

respectively, while Central and Eastern New York State exceed the statewide baseline by 20 and 15 percentage points respectively. Between 2003-04 and 2004-05, NYC increased its integration of special education placements from 41.5 percent to 52.4 percent.

- Data from the longitudinal study of 5,000 preschool students with disabilities indicate a statistical relationship between integration in preschool special education and age appropriate development of learning and behavioral skills in kindergarten. As the students progress through grade four, data will continue to be collected to ascertain long-term effects of preschool integration.

- NYS has made steady growth in the integration of preschool special education over time. In 1995-96, the integration rate was 32.3%. The 2004-05 rate has nearly doubled since that time. In 2003-04, the NYS rate exceeded the national average by 6.7 percentage points. Among the improvement strategies implemented over this time period that led to these improvement results are:
  - A moratorium on the approval of any new or expanded preschool programs in settings that include only preschool children with disabilities.
  - The addition of SEIT services to the continuum of preschool special education services in 1997.
  - A grant initiative to promote the development of new or expanded preschool programs in integrated settings.
  - Initiation in 2001 of the NYS Universal Pre-Kindergarten Program.

New Baseline Data for FFY 2011 (2011-12):

In the FFY 2011 submission, states are required to provide FFY 2011 baseline data, an FFY 2012 target, and improvement activities through FFY 2012 in the SPP that it submits with the FFY 2011 APR.

Baseline Data for FFY 2011

Measurement A: 42.2 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.

Measurement B: 26.8 percent of children aged 3 through 5 with IEPs attending a separate special education class, separate school, or residential facility.

Discussion of FFY 2011 Baseline Data:

In FFY 2011, there were 64,082 children aged 3 through 5 with IEPs. Of these children, 27,065 (42.2 percent) were attending a regular early childhood program and receiving the majority of special education and related services in the regular classroom and 17,258 (26.8 percent) were attending a separate special education class, separate school, or residential facility.

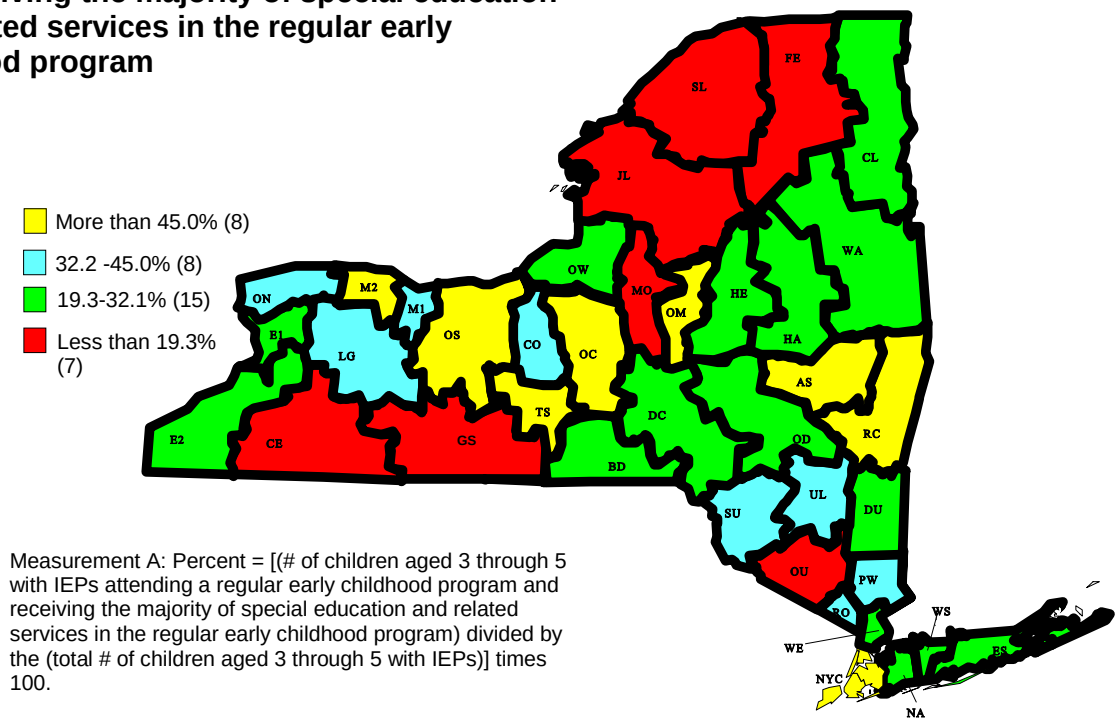
There were 19,859 (31.0 percent) children aged 3 through 5 with IEPs that fell outside of the Measurement A or Measurement B categories. Of this group of children, 15,811 received the majority of hours of special education and related services at the service provider location or some other location and 4,048 received the majority of hours of special education and related services at home. In all regions of the State, except NYC, the average percentage of students receiving special education and related services at the service provider location, some other location or at home is 54 percent. In NYC, this percentage is much smaller at 4.25 percent, showing that preschool students with IEPs in NYC receive the majority of special education and related services in the regular classroom (55 percent) or in separate settings (41 percent).

The following maps, by Board of Cooperative Educational Services (BOCES) regions, display regional desegregation of the data.

2011-12 Measurement A Data by BOCES Regions

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

Measurement A – All Age 3-5



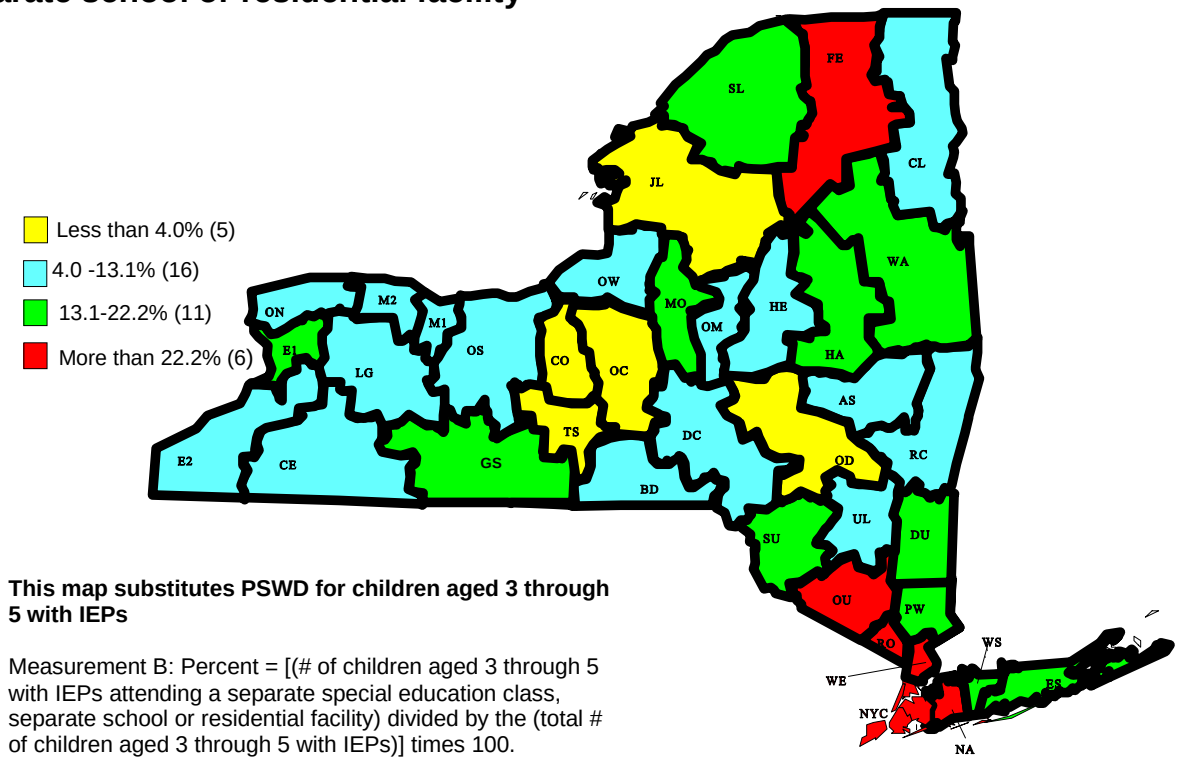
Measurement A: Percent = [(# of children aged 3 through 5 with IEPs attending a regular early childhood program and receiving the majority of special education and related services in the regular early childhood program) divided by the (total # of children aged 3 through 5 with IEPs)] times 100.

11/15/12

2011-12 Measurement B Data by BOCES Regions

Percent of children aged 3 through 5 with IEPs attending a separate special education class, separate school or residential facility

Measurement B – All Age 3-5



This map substitutes PSWD for children aged 3 through 5 with IEPs

Measurement 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.

11/15/12

This regional analysis will inform the State's improvement activities to target activities to regions with the highest rates of placements of students in the most restrictive environment settings.

Measurable and Rigorous Targets

FFY	Measurable and Rigorous Target
2005 (2005-06)	64 percent of preschool students with disabilities served in either natural settings or settings that include nondisabled children.
2006 (2006-07)	USED suspended reporting on this indicator, pending further instructions.
2007 (2007-08)	USED suspended reporting on this indicator, pending further instructions.
2008 (2008-09)*	No reporting is required in FFY 2008.

FFY	Measurable and Rigorous Target
2009 (2009-10)**	No reporting is required in FFY 2009. USED continued suspension of reporting on this indicator for one additional year.(rev. 2/11)
2010 (2010-11)**	No reporting is required in FFY 2010. (rev. 2/12)
2011 (2011-12)***	New Baseline Data Measurement A: 42.2 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 New Baseline Data Measurement B: 26.8 percent of children aged 3 through 5 with IEPs attending a separate special education class, separate school, or residential facility Progress will be reported in the APR submission due February 1, 2014, based on targets set in FFY 2011.
2012 (2012-13)***	Measurement A: 42.7 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 Measurement B: 26.3 percent of children aged 3 through 5 with IEPs attending a separate special education class, separate school, or residential facility
* Note: Wording changes made in 1/10 reflect federal changes in guidance issued 3/09. **USED modified the reporting requirements for Indicator 6 in 8/10 and in 11/11. ***In FFY 2009, USED requested states to add two additional years to the SPP, including adding two additional years of targets.	

Improvement Activities/Timelines/Resources

Activity	Timeline	Resources
Review the results of the preschool longitudinal study, including the effects of placements of preschool students in integrated versus nonintegrated settings.	2005-07 Completed See 9/07 report.	IDEA Discretionary Funds Longitudinal Study of Preschool Students is found at http://www.p12.nysed.gov/specialed/preschool/study/intro.pdf
Approval of any new or expanded programs in settings which include only preschool children with disabilities requires documentation of regional need to meet the demand for services for preschool children in the least restrictive environment.	2005-12*	SEQA staff
Increase opportunities for students with disabilities to have earlier access to inclusive educational settings. • Regents policy paper on early childhood education – expansion of universal pre-kindergarten statewide	2006-12*	Office of P-12 Education staff
Share national effective practices and strategies regarding: instructional delivery designs in general education	2006-12*	National Technical Assistance Centers: Preschool LRE Community of Practice www.tacommunities.org

Activity	Timeline	Resources
settings; and classroom culture and conditions that positively impact student engagement in general education preschool settings.		National Early Childhood Technical Assistance Center www.nectac.org
Share information about the knowledge and skills of early childhood educators to facilitate student participation in general education settings.	2006-12*	IRIS Center for Faculty Enhancement http://iris.peabody.vanderbilt.edu
Provide information and technical assistance to schools and preschool providers to promote placement of preschool students in settings with nondisabled peers.	2005-12*	Early Childhood Direction Centers (ECDCs) http://www.p12.nysed.gov/specialed/techassist/ecdc/
Propose State regulations to clarify school district responsibility to provide special education services to preschool students.	2007	SED staff
Develop and distribute field guidance memorandum highlighting regional variations in preschool LRE.	2012-13	Office of Special Education Staff
Conduct meetings, facilitated by the ECDCs and SED Regional Offices, in BOCES regions with high percentages of preschool students in the most restrictive settings.	2012-13	ECDCs Special Education Quality Assurance Regional Office staff
Require business plans for approved preschool programs in targeted regions with highest percentage of students in separate settings.	2012-13	SED staff
*Note: Extended the end dates to 2012 coinciding with extended dates of the SPP (rev. 2/11).		

- For additional detail on activities revised, completed or added in the school year 2005-06, see page 53 at http://www.p12.nysed.gov/specialed/spp/apr2007/june07.pdf
- For additional detail on activities revised, completed or added in the school year 2006-07, see pp. 37-38 at http://www.p12.nysed.gov/specialed/spp/apr2008/APR-1008.pdf
- For additional detail on activities revised, completed or added in the school year 2007-08, see pp. 44-45 at http://www.p12.nysed.gov/specialed/spp/apr2009/final.pdf
- For additional detail on activities revised, completed or added in the school year 2008-09, see page 27 at http://www.p12.nysed.gov/specialed/spp/apr2010/revisedApril2010-final.pdf