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Office of P-12 Special Education

Annual Performance Report for 2012-13

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. Department of Education (USDOE), 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.

Priority: Disproportionality

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

Priority: Effective General Supervision Part B

Child Find and Effective Transitions (district-level indicators)

11. Percent of children with parental consent to evaluate, who were evaluated within State-required timelines.
12. Percent of children referred by Part C (Early Intervention services) prior to age 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 2014 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.

The development of the APR is an ongoing process throughout the year. 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. Annually, the results of the APR are shared with CAP as well as NYSED's technical assistance centers (including, but not limited to: Early Childhood Direction Centers (ECDCs); Special Education Parent Centers; Regional Special Education Technical Assistance Support Centers (RSE-TASC); RSE-TASC personnel with specialist expertise, including the Transition Specialists, Special Education School Improvement Specialists, Regional Special Education Trainers, Behavior Specialists, Bilingual Special Education Specialists; and the Technical Assistance Center on Disproportionality. The technical assistance providers discuss the results to further inform their work and

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

provide recommendations to the State for revisions to its improvement activities to improve results. Results and improvement activities are discussed annually with the NYS Board of Regents. The State's Special Education Quality Assurance (SEQA) Regional Offices consider APR results in their work with individual school districts and approved private schools. The APR is also considered by the Special Education Policy and Program Development and Support Services Units to make recommendations for targeted changes in State policy and improvement activities to promote improved results.

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

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 Department of Education 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 2011-12 School Year:

The **denominator** is the Total Cohort. See below for the definition of the 2007 district total cohort. **NYS reports data on the 2007 total cohort graduates as of August 2011, which is during the 2011-12 school year.**

The 2007 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 2007-08 school year (July 1, 2007 through June 30, 2008); or, in the case of ungraded students with disabilities, reached their 17th birthday during the 2007-08 school year.
- Ungraded students are included in the 2007 cohort if their birth date is between July 1, 1990 and June 30, 1991 (inclusive).

Students who have spent at least one day 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 2007 Total Cohort, years 1, 2, 3, and 4 are the 2007-08, 2008-09, 2009-10, and 2010-11 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 one day (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.

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 2011 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 2007, see http://www.p12.nysed.gov/ciai/gradreq/2007GradReqDetails.html.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2012 (2011-12 school year results) (2007 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 55 percent.

Actual Target Data for FFY 2012:

47.7 percent of youth with IEPs graduated from high school with a regular high school diploma within four years, as of August 2011.

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
2007	222,349	n = 171,386 77.1%	32,690	n = 15,600 47.7%

Need/ Resource Capacity Category	2007 Total Cohort of SWD Four Years Later as of August	
	# in Cohort	Grad Rate[3]
New York City (NYC)	11,669	31.8%
Large Four Cities	1,750	30.4%
Urban/Suburban High Need Districts	2,259	39.0%
Rural High Need Districts	2,170	47.7%
Average Need Districts	9,990	57.8%
Low Need Districts	4,695	76.7%
Charter Schools	157	43.3%
Total State	32,690	47.7%

[3] 2007 Cohort Number of Graduates: 3,708 in NYC; 532 in Large Four Cities; 880 in High Need Urban/Suburban; 1,035 in High Need Rural; 5,778 in Average; 3,599 in Low Need; 68 in Charter Schools

Group of School Districts	2007 Total Cohort of SWD Four Years Later as of August	
	# in Cohort	Grad Rate
Big Five Cities[4]	13,419	31.6%
Rest of State	19,271	58.9%
Total State	32,690	47.7%

Discussion of Improvement Activities and Explanation of Slippage, if the State did not meet its target, that occurred for FFY 2012:

In the 2011-12 school year, the State did not meet its target of 55 percent for this indicator. The 2011-12 (2007 cohort) graduation rate of 47.7 percent showed slight improvement compared to the 2010-11 (2006 cohort) graduation rate of 47.5 percent[5]. This slight improvement is significant, however, as it was achieved despite the implementation of the more stringent one-day rule for inclusion in the total cohort.

Improvement Activities Completed during 2012-13

- 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 district identified as needing assistance or intervention under the Individuals with Disabilities Education Act to determine the root cause of the results for the students with disabilities subgroup and inform the district's development of a district Comprehensive Improvement Plan. Reviews were conducted using a revised Diagnostic Tool for School District Effectiveness rubric. See http://www.p12.nysed.gov/accountability/diagnostic-tool-institute/home.html.

- During the 2012-13 school year, the Special Education Quality Assurance monitoring staff conducted focused reviews in 18 school districts that targeted policies, practices and procedures in key areas, including: 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.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013:

None

[4] Big Five Cities are NYC plus Large Four Cities
[5] Graduation rates are as reported through EDFacts.

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 drop 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.

Please note, the above measurement represents a change from the data provided in the federal fiscal year (FFY) 2007, FFY 2006, and FFY 2005 APRs. In these earlier documents, the State reported results of the total cohort after four years as of June (or, for ungraded students with disabilities, after four years from becoming 17 years of age). As of FFY 2008, federal requirements stipulate that the State use the same data as are used under Title I of the Elementary and Secondary Education Act (ESEA), hence the change from June to August.

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 Department of Education 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 2011-12:

Reporting for this FFY 2012 APR, the 2007 district total cohort is the **denominator**.

The 2007 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 2007-08 school year (July 1, 2007 through June 30, 2008); or, in the case of ungraded students with disabilities, reached their 17th birthday during the 2007-08 school year; or
- Ungraded students are included in the 2007 cohort if their birth date is between July 1, 1990 and June 30, 1991 (inclusive).

Students who have spent at least one day 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 2007 Total Cohort, years 1, 2, 3, and 4 are the 2007-08, 2008-09, 2009-10, and 2010-11 school years, respectively. Beginning with the 2011-12 school year, the five-month requirement previously in place 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 one day (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.

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 in Appendix VI: 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 high school equivalency program or to a high school equivalency preparation program is counted as a dropout unless the student resumes school attendance before the end of

the school year. The student's registration for the next school year does not exempt him or her from dropout status in the current school year. Students who resume and continue enrollment until graduation are not counted as dropouts in the cohort dropout calculation. In computing annual dropout rates, students who are reported as having been counted by the same school as a dropout in a previous school year are not counted as a dropout in the current school year."

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.

FFY	Measurable and Rigorous Target
FFY 2012 (2011-12 school year) (2007 total cohort as of August 2011)*	No more than 12 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 2012:

For the 2007 total cohort as of August 2011, 15.8 percent of students with disabilities 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
2006	224,744	n = 20,547 9.1%	32,696	n = 5,228 16.0%
2007	222,373	n = 19,406 8.7%	32,690	n = 5,124 15.7%

Need/ Resource Capacity Category	2006 Total Cohort of SWD As of August Four Years Later		2007 Total Cohort of SWD As of August Four Years Later	
	# in Cohort[6]	Dropout Rate	# in Cohort[7]	Dropout Rate
New York City	11,367	20.8%	11,669	21.4%
Large Four Cities	1,906	33.7%	1,750	27.4%
Urban/Suburban High Need Districts	2,698	17.9%	2,259	20.1%
Rural High Need Districts	2,413	19.5%	2,170	21.0%
Average Need Districts	10,052	10.8%	9,990	10.9%
Low Need Districts	4,098	3.6%	4,695	2.7%
Charter Schools	162	13.6%	157	14.6%
Total State	32,696	16.0%	32,690	15.7%

Group of School Districts	2006 Total Cohort of SWD As of August Four Years Later		2007 Total Cohort of SWD As of August Four Years Later	
	# in Cohort	Dropout Rate	# in Cohort	Dropout Rate
Big Five Cities[8]	13,273	22.7%	13,419	22.2%
Rest of State	19,423	11.4%	19,271	11.2%
Total State	32,696	16.0%	32,690	15.7%

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2012:

Explanation of Progress or Slippage

The State did not meet its target for FFY 2012 (2011-12 school year) that no more than 12 percent of students with disabilities will drop out of school. The State showed improvement, with a decrease in the dropout rate for students with disabilities of 0.3 percentage points from FFY 2011. An analysis of the need/resource categories of districts and their dropout rates shows improvement in two categories and slippage in five. New York City had a 0.6 percentage point increase and the Big Five Cities had a combined decrease of 0.5 percentage points, while the Rest of State total had a combined decrease of 0.2 percentage points compared to FFY 2011.

[6] 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
[7] 2007 Cohort Number of Dropouts (from June 2012 Press Release): 2495 in NYC; 479 in Large Four; 455 in High Need Urban/Suburban; 455 in High Need Rural (same as high need urban/suburban); 1089 in Average; 128 in Low Need; 23 in Charter Schools
[8] Big Five Cities include NYC and the Large Four Cities

Improvement Activities Completed during 2012-13

See improvement activities completed for Indicator 1.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 [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. 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 meeting the State's minimum "n" size that meet the State's adequate yearly progress[9] (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 meeting 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[10] = ([(# 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

[9] The State Education Department (SED) submitted its ESEA Flexibility Request to the U.S. Department of Education (USDOE) on February 28, 2012. On May 29, 2012, SED received approval from USDOE 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. See http://www.p12.nysed.gov/accountability/ESEAFlexibilityWaiver.html

[10] NYS reports proficiency rate as a Performance Index.

whom a proficiency level was assigned, and, calculated separately for reading and 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.
- *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* are available at http://www.p12.nysed.gov/sedcar/state.htm#assessments.

Data Source:
The Student Information Repository System (SIRS) is used to collect State assessment data for all students. NYS uses the same AYP data as is used for accountability reporting under Title I of the ESEA.

Beginning in 2011-12, consistent with the ESEA waiver provided to NYS, AYP for students with disabilities 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[11] 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[12]:

- 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)

[11] http://www.p12.nysed.gov/accountability/documents/NYSESEAFlexibilityWaiver_REVISED.pdf
[12] 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:[13]**
((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 2012:

Effective with the 2012-13 APR, the actual target for this indicator is lagged one year in order to align APR reporting with revised institutional accountability reporting practices under New York's approved ESEA Flexibility Waiver. Under the ESEA Waiver, NYS used AYP and performance data from the 2010-11 school year to make accountability determinations for 2012-13 and 2011-12 school year results to make accountability determinations for 2013-14. NYSED has aligned the Accountability Systems under No Child Left Behind (Title I AYP), Title III (Annual Measurement Achievement Objectives [AMAOs]), and the Individuals with Disabilities Education Act when identification of a school and/or district is a result of poor performance of the students with disabilities and/or the ELL subgroups, resulting in greater continuity in the assessment of the needs of these schools/districts and the resulting supports and interventions.

New York is committed to using the most recent data for accountability decisions and is working to put in place the necessary systems and structures so that accountability determinations based on 2014-15 school year data can be made no later than the fall of 2015.

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

3A. AYP

FFY 2012 (based on 2011-12 data)	Measurable and Rigorous Targets *Annual Yearly Progress (AYP)* *Performance Index (PI)*								
	Districts Meeting AYP for Disability Subgroup (3A)	Statewide Participation for Students with Disabilities (3B)				Statewide Performance for Students with Disabilities (3C)			
		Reading		Math		Reading		Math	
		3-8	HS*	3-8	HS	3-8	HS	3-8	HS
Targets	31.0%	95%	95%	95%	95%	PI 101	PI 97	PI 122	PI 82
Actual Target Data for FFY 2012[14]	44.3%	98%	98%	97%	97%	PI 97	PI 116	PI 100	PI 77

*High School (HS)

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)
2012** **(based on 2011-12 data)**	682 (includes 55 Charter Schools)	44.3% (n = 302)

**Lagged data – same as reported for FFY 2011.

[14] Based on 2011-12 data

3B. Participation Rate

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

Participation Rates for Students with Disabilities Subgroup				
	2010-11		2011-12	
Assessment	Number Tested/ Enrollment	Participation Rate	Number Tested/ Enrollment	Participation Rate
Grade 3-8 ELA	203,051/ 207,129	98%	225,645/ 229,517	98%
Grade 3-8 Math	202,902/ 207,128	98%	225,767/ 229,554	98%
High School ELA (seniors)	20,580/ 21,318	97%	24,164/ 24,880	97%
High School Math (seniors)	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.

3C. 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. A PI[15] 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.

[15] http://www.p12.nysed.gov/accountability/documents/NYSESEAFlexibilityWaiver_REVISED.pdf

Proficiency Levels for Students with Disabilities 2011-12							
Assessment	Continuously Enrolled Students with Disabilities in Grades 3-8 and in 2008 Accountability Cohort in High School (HS)	Number by Proficiency Level on State Assessments					
		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 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 2012:

Public Reporting of Assessment Information: Public reports of assessment results are available at https://reportcards.nysed.gov/counties.php?year=2012[16].

[16] 2011-12 school district report cards

Explanation of Progress or Slippage

3A. 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 of 31 percent. 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.

3B. 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.

3C. Performance:

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

- 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.

<u>HS ELA and Math:</u>

The HS ELA and Math performance of students with disabilities was lower in 2011-12 compared to the proficiency levels reported in 2010-11.

- In 2010-11, 58.0 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.

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 achieved 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 HS 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.

Improvement Activities Completed *

**The following are the same improvement activities reported in the FFY 2011 APR as the State is reporting on lag year data in this APR. NYSED completed additional improvement activities during 2012-13 that could not have impacted lagged data and are therefore not reported in this APR (see indicators 1 and 2).*

- 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, including: 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 schools that had low-performing subgroups of students with disabilities 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 SED's initiatives that impact priority outcomes for students with disabilities. (See Indicator 1)

- A total of 40 site visits were conducted by 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 titled "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 while not partnered with low performing schools, served as statewide resources providing technical assistance.

- 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 2013 [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 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, significant discrepancy has been 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 Department of Education (USDOE) annually in the 618 report. These data are also provided to USDOE in the corresponding ED*Facts* files.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2012 Using 2011-12 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 2012 (using 2011-12 data)

In the 2011-12 school year, 43 school districts (6.3 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 564 school districts with a minimum enrollment of 75 students with disabilities (enrollment as of October 5, 2011). This means that 118

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%
FFY 2012 (using 2011-12 data)	682	43	6.3%

Review of Policies, Procedures and Practices (completed in FFY 2012 using 2011-12 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. Twenty-four (24) of the 43 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. Nineteen (19) of the 43 school districts identified had a review of their policies, procedures and practices conducted in this manner.

Thirty-three (33) of the 43 school districts identified based on data as having significant discrepancies were found to have 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 2012:

Explanation of Progress or Slippage

FFY 2012 represents the fifth year of implementing the State's more rigorous definition of significant discrepancy of 2.7 percent or higher. The rate for FFY 2012 represented slippage from prior year data in both percentage and the number of districts (1.5 percentage points, representing ten more school districts).

While the State has not met its target for this indicator, the State has shown overall improvement since 2007-08 when the more stringent definition of significant discrepancy went into effect (from 4 percent to 2.7 percent). Sixteen (16) school districts that were identified in 2011-12 with high suspension rates (based on data from 2010-11) decreased their rates of long-term suspensions to below the State's target as did (14) districts identified in 2012-13 (based on 2011-12 data).

Improvement Activities Completed in 2012-13

- 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 (PBIS), and procedural safeguards for students with disabilities subject to discipline.

- RSE-TASC behavior specialists worked with 453 schools statewide to support PBIS implementation.

- 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 (40) regional training sessions were conducted throughout the year.

- The NYS PBIS Technical Assistance Center (NYS PBIS TAC) delivered 10 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 2012-13 school year, the NYS PBIS TAC and RSE-TASC behavior specialists developed and delivered 11 one-day regional forums across the State to provide information on the systems of positive behavioral supports, focusing on the collection and use of school-wide data, how to efficiently and effectively examine data to inform decision making, and progress monitoring for decision making. Eleven (11) one-day sessions focusing on strengthening classroom systems within the context of PBIS and using the Behavior Pathway were developed for the 2013-14 school year and are currently being delivered across the State.

- During the 2012-13 school year, the PBIS TAC, in partnership with an expert from the national TAC on PBIS and the RSE-TASC behavior specialists, provided two three-day training sessions 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 by the NYS PBIS TAC and RSE-TASC behavior specialists in the future for identified districts/schools who demonstrate readiness for this level of intervention.

- The State Education Department (SED) supported attendance of PBIS TAC staff and RSE-TASC behavior specialists at the National Leadership Forum in 2013. In addition, SED staff, PBIS TAC staff and RSE-TASC behavior specialists attended and participated in the 2013 Northeast PBIS Leadership Forum.

- The RSE-TASC behavior specialists provided intensive trainings on functional behavioral assessments and intervention plans to more than 335 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.

- RSE-TASC nondistrict specialists provided supports to approximately 158 approved private programs, including special act schools and State-supported schools. This included direct technical assistance provided to 21 approved private programs. The nondistrict specialists provided embedded professional development and technical assistance, 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.

- Senior management from the Office of Special Education met monthly with the New York City Department of Education (NYCDOE) to address aspects relating to systemic noncompliance, including positive behavioral supports and interventions, and suspensions of students with disabilities.

- Special Education Quality Assurance (SEQA) monitoring staff provided guidance to schools and approved private school-age and preschool programs on topics related to behavior and discipline, including best practices for administering functional behavioral assessments, development of behavioral intervention plans and alternative approaches to suspension.

- 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.

Correction of FFY 2011 Findings of Noncompliance

1. Number of findings of noncompliance the State made during FFY 2011 (the period from July 1, 2011 through June 30, 2012) using 2010-11 data	93 findings (12 school districts)
2. Number of FFY 2011 findings the State verified as timely corrected (corrected within one year from the date of notification to the district of the finding)	90 findings (11 school districts)
3. Number of FFY 2011 findings <u>not</u> verified as corrected within one year [(1) minus (2)]	3 findings (1 school district)

Correction of FFY 2011 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2011 findings not timely corrected (same as the number from (3) above)	3 findings (1 school districts)
5. Number of FFY 2011 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	3 findings (1 school district)
6. Number of FFY 2011 findings <u>not</u> yet verified as corrected [(4) minus (5)]	0 findings (0 school districts)

Verification of Correction of FFY 2011 Noncompliance (either timely or subsequent):

The State verified that each noncompliant district (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) had corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the local educational agency (LEA), consistent with Office of Special Education Programs (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 2011.

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 the information was accurate.

For findings of noncompliance not timely corrected, the State's monitoring staff followed up with each district to assure that the corrective action plan was fully implemented and verified; and, by review of revised policies and a sample of students' 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 2010 or Earlier (if applicable):

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2010 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 2012 APR, on the correction of noncompliance that the State identified in FFY 2011 as a result of the review it conducted pursuant to 34 CFR §300.170(b). When reporting on the correction of this noncompliance, the State must report that it has verified that each LEA with noncompliance identified by the State: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100 percent	See above description of correction of noncompliance.

Statement from the OSEP Response Table	State's Response
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. In the FFY 2012 APR, the State must describe the specific actions that were taken to verify the correction.	

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 [*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 of all students with disabilities suspended 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 10/5/12;
- 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 USDOE. 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 2012 (using 2011-12 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 2012 (using 2011-12 data)

The State included 564 school districts in the calculation of this indicator because these districts had a sufficient minimum enrollment of at least 75 students with disabilities. A total of 118 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 2012, **2.1 percent** of the State's school districts (14 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.

1.6 percent of all school districts (11 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 but did show improvement from FFY2011.

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%
FFY 2012 (using 2011-12 data)	682	14	2.1%

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%
FFY 2012 (using 2011-12 data)	682	11	1.6%

Review of Policies, Procedures and Practices (completed in FFY 2012 using 2011-12 data):

During FFY 2012, 14 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 2011-12 school year data. Two (2) 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. Twelve (12) 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 11 of the 14 school districts (1.6 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 2012:

Explanation of Progress or Slippage

In FFY 2012, the State demonstrated improvement from FFY 2011, decreasing the percentage of districts that have significant discrepancies by race or ethnicity by 1.1 percentage points. This represents a decrease in the number of identified districts from 22 in FFY 2011 to 14 in FFY 2012.

The State demonstrated improvement in the percentage of districts 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 by .6 percentage points. This represents a decrease in the identified districts from 15 in FFY 2011 to 11 in FFY 2012.

Improvement Activities Completed in 2012-13

- See Indicator 4A improvement activities.

- During the 2012-13 school year, the Technical Assistance Center on Disproportionality (TACD) at New York University (NYU) worked with 16 school districts, including two schools within the NYCDOE, 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 17 regional professional development sessions on topics related to improving practices to reduce disproportionate suspensions.

- The RSE-TASC bilingual specialists provided training to personnel from school districts and approved private special education programs on effective instruction, IEP development, assessment and testing accommodations, and service delivery options for English language learners with disabilities.

- SEQA monitoring staff conducted a follow-up comprehensive review of NYCDOE schools that were identified with substantial noncompliance related to

disproportionality in suspension in 2011-12. The focus of the review was to verify NYCDOE's compliance with federal and State regulations, policies and procedures relating to suspension of students with disabilities.

Correction of FFY 2011 Findings of Noncompliance

1. Number of findings of noncompliance the State made during FFY 2011 (the period from July 1, 2011 through June 30, 2012) using 2010-11 data	39 findings[17] (4 school districts)
2. Number of FFY 2011 findings the State verified as timely corrected (corrected within one year from the date of notification to the district of the finding)	10 findings (3 school districts)
3. Number of FFY 2011 findings not verified as corrected within one year [(1) minus (2)]	29 findings (1 school district)

Correction of FFY 2011 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2011 findings not timely corrected (same as the number from (3) above)	29 findings (1 school districts)
5. Number of FFY 2011 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	0 findings (0 school districts)
6. Number of FFY 2011 findings not yet verified as corrected [(4) minus (5)]	29 findings (1 school district)

Actions Taken if Noncompliance Not Corrected:

The State identified the district as needing intervention and directed the district to develop and implement a Special Education Strategic Action Plan to Resolve Outstanding Noncompliance and to obtain technical assistance. The State met with district staff and leadership on a monthly basis to review policies, procedures and practices regarding the outstanding noncompliance. The State provided the district with the resources of RSE-TASC behavior specialists and TACD to address findings in schools within the district.

Verification of Correction of FFY 2011 Findings (either timely or subsequent)

The State verified that each noncompliant district (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) 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).

[17] Findings means the number of regulatory citations for which noncompliance was found.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2011:

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 the information was accurate.

For findings of noncompliance not timely corrected, the State's monitoring staff followed up with each district to assure that the corrective action plan was fully implemented and verified; and, by review of revised policies and a sample of students' 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 2010:

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

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 2008-09 data), noted in OSEP's September 2012 FFY 2010 APR response table for this indicator	24 findings (2 school districts)
2. Number of remaining FFY 2009 findings the State has verified as corrected	18 findings (1 school district)
3. Number of remaining FFY 2009 findings the State has <u>not</u> verified as corrected [(1) minus (2)]	6 findings (1 school district)

Verification of Correction of Remaining FFY 2009 findings:

The State verified that one (1) of the two school districts corrected noncompliance with the specific regulatory requirements (i.e., achieved 100 percent compliance) based on a review of updated data subsequently collected through on-site monitoring; 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's monitoring staff followed up with each district to assure that the CAP was fully implemented and to verify, 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 district to develop and implement an Action Plan to Resolve Outstanding Noncompliance related to the provision of services and instruction to students with disabilities during suspensions. Monitoring staff then followed implementation of the Action Plan and provided technical assistance. State staff met with district staff and leadership on a monthly basis to review policies, procedures and practices regarding the outstanding noncompliance. The district is making progress in resolving the noncompliance.

The RSE TASC behavior specialist is providing professional development and technical assistance to this district to implement a school wide system of PBIS and the district has demonstrated a commitment to engage in this work.

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 (greater than 0 percent actual target data for this indicator) for FFY 2011, the State must report on the status of correction of noncompliance identified in FFY 2011 for this indicator. The State must demonstrate, in the FFY 2012 APR, that the districts identified with noncompliance in FFY 2011 have corrected the noncompliance, including that the State verified that each district with noncompliance: (1) is correctly implementing the specific regulatory requirement(s) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02. In the FFY 2012 APR, the State must describe the specific actions that were taken to verify the correction.	See above. The State corrected all findings of noncompliance in three of the four districts identified in FFY 2011. The State imposed graduated enforcement actions for the one district.

Statement from the OSEP Response Table	State's Response
The State reported that noncompliance identified in FFY 2009 as a result of the review it conducted pursuant to 34 CFR §300.170(b) was partially corrected. When reporting on the correction of noncompliance, the State must demonstrate, in the FFY 2012 APR, that it has verified that each district with remaining noncompliance identified in FFY 2009: (1) is correctly implementing the specific regulatory requirement(s) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02. In the FFY 2012 APR, the State must describe the specific actions that were taken to verify the correction.	The State verified the correction of FFY 2009 noncompliance in one of the two identified districts. The State took progressive enforcement actions with the district with continuing noncompliance.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 [*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 Department of Education (USDOE). These data are also provided to USDOE in the corresponding ED*Facts* files.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2012 (2012-13 school year)	The statewide percent of students with disabilities, aged 6-21, served inside the regular class 80 percent or more of the day will be greater than 60 percent. The statewide percent of students with disabilities, aged 6-21, served inside the regular class less than 40 percent of the day will be less than 20 percent. The statewide percent of students with disabilities, aged 6-21, served in separate schools, residential placements, or homebound/hospital placements will be less than 5.8 percent.

Actual Target Data for FFY 2012:

57.5 percent of students with disabilities, aged 6-21, were served inside regular classrooms 80 percent or more of the school day.

21.3 percent of students with disabilities, aged 6-21, were served inside regular classrooms for less than 40 percent of the school day.

6.5 percent of students with disabilities, aged 6-21, were served in public or private separate schools, residential placements, or homebound or hospital placements.

2012-13 LRE Data for Students with Disabilities by Need Resource Capacity Category of School Districts

Need Resource Capacity	Number of Students Aged 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	162,305	58.2%	3.7%	26.4%	8.4%	3.4%
Large 4 Cities	20,300	56.8%	11.3%	22.3%	8.2%	1.3%
Urban-Suburban High Need School Districts	32,609	48.6%	17.1%	25.7%	5.7%	2.9%
Rural High Need School Districts	21,513	57.0%	20.0%	20.7%	1.8%	0.6%
Average Need School Districts	99,444	57.8%	19.3%	16.4%	4.1%	2.4%
Low Need School Districts	46,887	64.1%	16.0%	11.4%	4.9%	3.7%

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

The following tables display trend data over a nine year period of time by need/resource capacity category and among the Big 5 school districts (Buffalo, NYC, Rochester, Syracuse and Yonkers).

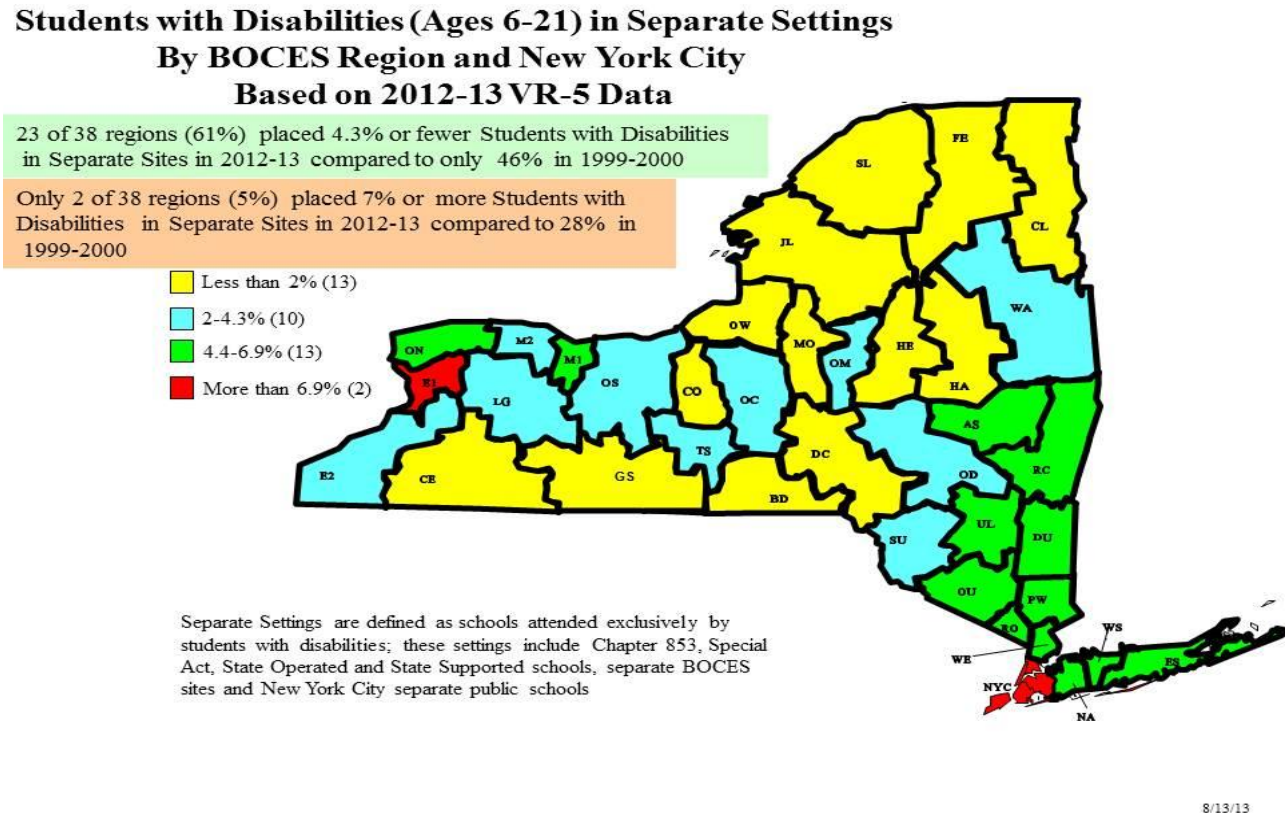
Statewide Trend Data: LRE for School-Age Students with Disabilities						
School Year	Number of Students Ages 6-21, on December 1 of the School year or first Wednesday in October Beginning in 2008-09 School Year	Percent of School Day that Students are in Regular Classes			Percent of Students in Separate Settings	Percent of Students in Other Specific Settings*
		80% or More	40% to 80%	Less than 40%		
2004-05 (Baseline Year)	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%
2012-13	385,669	57.5%	11.6%	21.3%	6.5%	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 Aged 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%
2012-13	182,605	58.0%	4.5%	25.9%	8.3%	3.2%

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

The following chart illustrates LRE placement data by Board of Cooperative Educational Services (BOCES) region and New York City for children with disabilities, aged 6-21:



Discussion of Improvement Activities <u>and</u> Explanation of Slippage, if the State did not meet its target, that occurred for FFY 2012:

NYS narrowly missed its FFY 2012 targets for all three measures, but made progress 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 56.9 percent in the 2011-12 school year to 57.5 percent in the 2012-13 school year. The State did not meet its target of more than 60 percent in 2012-13, but made a 0.6 percent improvement and came within 0.5 percentage points 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 22.0 percent in 2011-12 to 21.3 percent in 2012-13. The State came within 1.3 percentage points of its target.

- The percent of students with disabilities who are educated in separate settings remained relatively stable at 6.5 percent in 2012-13 (compared to 6.4 percent in 2011-12) and was only 0.7 percentage points short of meeting the target of below 5.8 percent.

- The percent of students in New York City who are in regular classes for less than 40 percent of the day decreased from 28.2 to 26.4 percent. The 1.8 percentage point decrease from the previous year shows improvement, although it does not meet the target of less than 20 percent.

- As shown in the table above (*2012-13 LRE Data for Students with Disabilities by Need Resource Capacity Category of School Districts*), LRE results vary based on the districts need/resource category. New York City, at 8.4 percent, has the highest percentage of students with disabilities placed in separate settings. The large 4 cities and urban-suburban high need categories follow, with 8.2 percent and 5.7 percent, respectively. Rural high need districts had the lowest percentage (1.8 percent).

- 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 2012-13

- State Education Department (SED) 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.

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

- NYS law was amended to repeal the requirement for a regional space plan for students with disabilities and added a new requirement that each district superintendent of the BOCES region must determine the adequacy and appropriateness of facilities space available to house special education programs in the LRE and ensure that programs will not be relocated without adequate consideration of the needs of participating students with disabilities.

- In 2012-13, the State's Special Education Quality Assurance staff met with the leaders of special education in the big four city school districts to discuss ways in which delivery of instruction could be improved.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 *[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 Department of Education (USDOE) 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 USDOE in the appropriately formatted ED*Facts* files.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2012 (2012-13 school year)	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.

Actual Target Data for FFY 2012:

Measurement A: 43.7 percent of children aged 3 through 5 with IEPs received the majority of their special education and related services in the regular early childhood program. NYS exceeded its target for this measurement.

Measurement B: 23.5 percent of children aged 3 through 5 with IEPs attended a separate special education class, separate school or residential facility. NYS exceeded its target for this measurement.

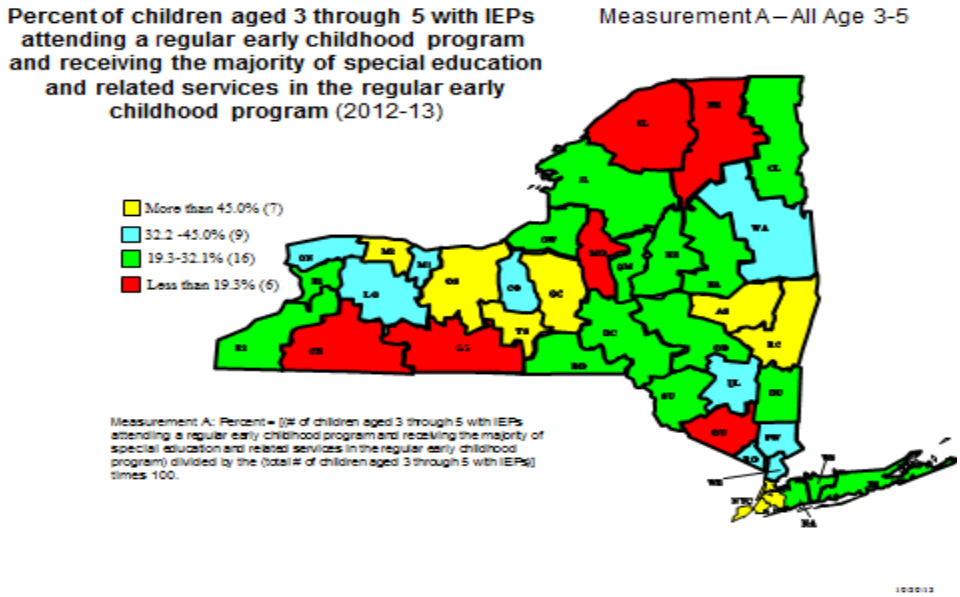
Number of children aged 3 through 5 with IEPs attending a regular early childhood program and receiving the majority of special education and related services in the regular early childhood program	Total # of children aged 3 through 5 with IEPs	Percent
28,269 (26,467[18] + 1,802)[19]	65,031	43.47%

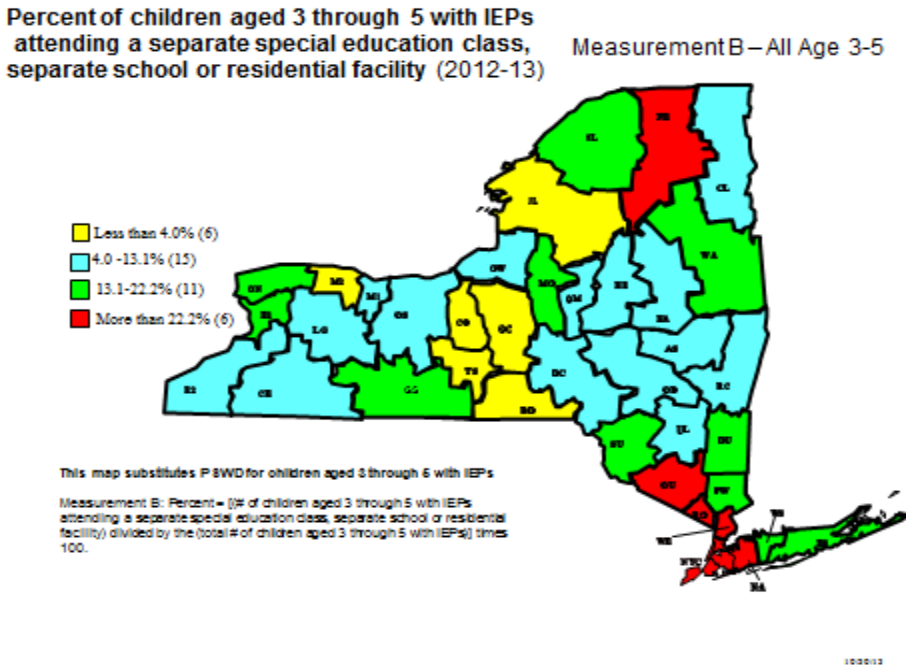
Number of children aged 3 through 5 with IEPs attending a separate special education class, separate school or residential facility	Total # of children aged 3 through 5 with IEPs	Percent
15,292 (11,567[20] + 3,722[21] + 3[22])	65,031	23.514%

In FFY 2011, there were 64,032 children ages 3-5 with IEPs. In FFY 2012, there were 65,031 children ages 3-5 with IEPs. Despite the increase in numbers of preschool students, the State increased the percent of students receiving special education services in the regular early childhood program by 1.2 percentage points and decreased the percent of students placed in separate classes and schools by 3.2 percentage points.

Analysis by geographic regions indicates wide differences. The following maps, by Board of Cooperative Educational Services (BOCES) regions, display regional disaggregation of the data. In FFY 2011, seven regions of the State served less than 19.3 percent of the preschool students in regular early childhood settings; in FFY 2012, there were six regions in this category. In both FFY 2011 and FFY 2012, there were six regions that placed more than 22.2 percent of preschool students in separate classes or schools.

[18] Number attending a regular early childhood program 10 hours or more a week and receiving the majority of special education and related services in the regular early childhood program
[19] Number attending a regular early childhood program less than 10 hours a week and receiving the majority of special education and related services in the regular early childhood program
[20] Number placed in a special class
[21] Number placed in a separate school
[22] Number placed in a residential school





Discussion of Improvement Activities <u>and</u> Explanation of Slippage, if the State did not meet its target, that occurred for FFY 2012:

NYS met, and exceeded, its targets for both Measurement A and Measurement B**.** However, because of the regional variability of the data across NYS, the State Education Department will conduct regional discussions to ascertain regional root cause

analysis and engage stakeholders to reach consensus on recommendations to address regional disparities in placement of students in separate classes and schools.

The proposed timeline to conduct regional stakeholder meetings to address the regional variations in preschool LRE has been revised to begin in January 2014 and continue throughout the 2014-15 and 2015-16 school years.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 ***[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 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 Department of Education (USDOE) 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 USDOE 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 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 2012-13, 111 districts reported progress data.

Measurable and Rigorous Targets FFY 2012:

Summary Statements	Targets FFY 2012
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.	85.5%
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.	55.7%
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.	87%
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.	55.6%
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.	84.5%
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.	63.5%

Actual Target Data FFY 2012:

At the end of the 2012-13 school year, 111 school districts reported progress data on 3,422[23] preschool students with disabilities in each of the three early childhood outcome areas. The data represent 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 3,422 students left preschool special education programs and/or

[23] The decrease in the "n" of preschool students with disabilities from 4,388 in 2011-12 to 3,422 in 2012-13 is due to the inclusion of Buffalo in the 2011-12 sample. In 2012-13, the sample included none of the other Large Cities (Buffalo, Rochester, Syracuse and Yonkers)

services during the 2012-13 school year after receiving special education services for at least six months. The amount of progress these students made in the three early childhood outcome areas is 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	2011-12 Number of Preschool Students	2011-12 Percent of Students	2012-13 Number of Preschool Students	2012-13 Percent of Students
A. Positive social-emotional skills (including social relationships)	a. Did not improve functioning	42	1.0%	10	0.3%
	b. Improved - not sufficient to move nearer to same-aged peers	394	9.0%	259	7.6%
	c. Improved - nearer to same aged peers	1,826	41.6%	1,504	44.0%
	d. Improved - reached functioning to same-aged peers	1,541	35.1%	1,173	34.3%
	e. Maintained functioning comparable to same-aged peers	585	13.3%	476	13.9%
	Total A	**4,388**	**100.0%**	**3,422**	**100.0%**
B. Acquisition and use of knowledge and skills (including early language/ communication and early literacy)	a. Did not improve functioning	36	0.8%	13	0.4%
	b. Improved - not sufficient to move nearer to same-aged peers	414	9.4%	221	6.5%
	c. Improved - nearer to same-aged peers	1,778	40.5%	1,518	44.4%
	d. Improved - reached functioning to same-aged peers	1,623	37.0%	1,212	35.4%
	e. Maintained functioning comparable to same-aged peers	537	12.2%	458	13.4%
	Total B	**4,388**	**100.0%**	**3,422**	**100.0%**

Indicator 7 Preschool Outcomes By Progress Categories					
		2011-12		2012-13	
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	50	1.1%	11	0.3%
	b. Improved - not sufficient to move nearer to same-aged peers	411	9.4%	239	7.0%
	c. Improved - nearer to same -aged peers	1,491	34.0%	1,277	37.3%
	d. Improved - reached functioning to same-aged peers	1,515	34.5%	1,272	37.2%
	e. Maintained functioning comparable to same-aged peers	921	21.0%	623	18.2%
	Total C	**4,388**	**100.0%**	**3,422**	**100.0%**

Indicator 7 Preschool Outcomes Data By Summary Outcome Statements		
	2011-12	2012-13
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.	3,367/3,803 (88.5%)	2,677/2,946 (90.9%)
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.	2,126/4,388 (48.5%)	1,649/3,422 (48.2%)
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.	3,401/3,851 (88.3%)	2,730/2,964 (92.1%)
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.	2,160/4,388 (49.2%)	1,670/3,422 (48.8%)

Indicator 7 Preschool Outcomes Data By Summary Outcome Statements		
	2011-12	**2012-13**
Summary Statements	**# and % of Children**	**# and % of Children**
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.	3,006/3,467 (86.7%)	2,549/2,799 (91.1%)
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.	2,436/4,388 (55.5%)	1,895/3,422 (55.4%)

Discussion of Improvement Activities and Explanation of Slippage, if the State did not meet its target, that occurred for FFY 2012:

Explanation of Progress or Slippage

The State met its targets for the percent of preschool children who entered or exited the preschool program below age expectations and 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 very slight 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. The slippage is less than 0.5 percentage points for each outcome area. Data from this indicator are 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. NYC is included in the sample each year. NYC's data showed improvement in all three outcome areas. Three of the six regions (Central, Western and Long Island) met the targets for all three outcome areas.

Improvement Activities Completed during 2012-13

- The State adopted new Prekindergarten Foundation for the Common Core State Learning Standards.

- The State increased 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 established regional centers to 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.

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 2012 with the FFY 2012 APR.	The State reported above on the progress data and actual target data for FFY 2012.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 *[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 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. 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 2012 (2012-13 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 2012:

In the 2012-13 school year, **92.4** percent of parents with a child receiving special education services reported that schools facilitated parent involvement as a means of improving services and results for children with disabilities.

During the 2012-13 school year, 113 school districts, including New York City (NYC) as a single district, were assigned to conduct a parent survey. Eighty-six (86) school districts achieved a minimum response rate, while 27 school districts did not. The State will review the data from the 27 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 8,953. Of these surveys, 8,878 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, 8,206 received a positive parental response on at least 51 percent of the questions answered. **This represents an unweighted positive response rate of 92.4 percent and a weighted positive response rate of 92.2 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 2012-13 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 2012:

The State met its target for this indicator and is not required to report on improvement activities or discuss progress or slippage.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 *[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 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, and the minimum numbers of students. (The State's definition of significant disproportionality is the same as its 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 first year a district's data indicates disproportionality, the State requires the district to complete a State-developed self-review monitoring protocol, which requires the review of specific policies, practices and procedures 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 Department of Education (USDOE) 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 USDOE 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. All districts are included in the denominator.

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 2012 (2012-13 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 2012

Districts with Disproportionate Representation in FFY 2012 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 **0.6 percent**.

The State included 564 school districts in the calculation of disproportionality for this indicator because they met the minimum 'n' size criteria. A total of 118 school districts were excluded from the calculation because of the State's minimum n size criteria. All 682 districts are included in the denominator.

- Twelve (12) school districts were identified based on data as having disproportionate representation by race/ethnicity in the identification of students with disabilities.

- Of these districts, four 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%
FFY 2012 (2012-13 data)	682	12	4	0.6%

Step One - Identification of Disproportionate Representation by Data

NYS used its October 3, 2012 enrollment of all students and October 3, 2012 child count of students with disabilities for this FFY 2012 APR submission. Based on the criteria described in the Measurement section above, 12 school districts were identified as having 2012-13 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 12 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 2012, NYS determined that of the 12 school districts whose data indicated disproportionate representation and therefore required reviews of their policies, procedures and practices, four school districts were found to have disproportionate over-representation in special education that was the result of 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 and Explanation of Progress or Slippage that occurred for FFY 2012:

Explanation of Progress or Slippage

Of the 12 school districts identified in FFY 2012 as having disproportionate representation, four school districts (0.6 percent of all NYS school districts (682)) were found to have one or more inappropriate policies, procedures and/or practices that contributed to inappropriate identification. This is an increase of one district compared to the number of districts identified in FFY 2011.

Improvement Activities Completed in 2012-13

- 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.

- During the Fall of 2013, monitoring staff in the western part of the State conducted a total of five presentations for regional special education leadership regarding the special education referral process.

- The State's funded Technical Assistance Center on Disproportionality sponsored a 2013 Summer Institute for schools identified as needing support to address issues of disproportionality. The Institute focused on how to develop and maintain equitable school systems. Additional information pertaining to this event can be found at: http://steinhardt.nyu.edu/metrocenter/tacd/events/videos.

- The State's technical assistance center on Response to Intervention (RtI) provided resources to districts on students with limited English proficiency. See http://www.nysrti.org/page/lep-ell/

- Four regional contracts were awarded to provide professional development and technical assistance to districts to scale up implementation of RtI from Pre-K through grade 8.

- During 2012-13, the Intensive Teacher Institute in Bilingual Special Education (ITI-BSE) provided tuition assistance for 211 candidates seeking the certification required to provide bilingual special education, bilingual related services and English as a second language instruction to English language learners (ELLs) with suspected or identified disabilities. Of these participants, 75 completed the requirements for the certificate or extension that they were seeking. Over 90 percent of New York City employees who completed an ITI-BSE program between 2009 and 2012 were still working for New York City public schools in June 2013.

- The State's Regional Special Education Technical Assistance Support Center Bilingual Specialists provided training to personnel from school districts and approved private special education programs on cultural and linguistic diversity and appropriate evaluations for ELLs.

Correction of FFY 2011 Findings of Noncompliance (if State did not report 0 percent):

1. Number of findings of noncompliance the State made during FFY 2011 (the period from July 1, 2011 through June 30, 2012)	33 findings[24] (8 school districts)
2. Number of FFY 2011 findings the State verified as timely corrected (corrected within one year from the date of notification to the local educational agency of the finding)	33 findings (8 school districts)
3. Number of FFY 2011 findings not verified as corrected within one year [(1) minus (2)]	0 findings (0 school districts)

Correction of FFY 2011 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2011 findings not timely corrected (same as the number from (3) above)	0 findings (0 school districts)
5. Number of FFY 2011 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	0 findings (0 school districts)
6. Number of FFY 2011 findings not yet verified as corrected [(4) minus (5)]	0 findings (0 school districts)

Actions Taken if Noncompliance Found in FFY 2011 Is Not Corrected:

All noncompliance found in FFY 2011 has been corrected.

Verification of Correction of FFY 2011 Noncompliance (either timely or subsequent)

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

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2011:

To verify the correction of noncompliance identified through onsite monitoring, the State followed up with each district to ensure that the compliance assurance plan was fully implemented, and reviewed the district's revised policies, procedures and practices,

[24] Findings means the number of regulatory citations found to be noncompliant.

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 2010 or Earlier (if applicable):

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2010 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 2011 (greater than 0 percent actual target data for this indicator), the State must report on the status of correction of noncompliance identified in FFY 2011 for this indicator. The State must demonstrate, in the FFY 2012 APR, that the districts identified in FFY 2011, with disproportionate representation of racial and ethnic groups in special education and related services that was the result of inappropriate identification [is/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. In the FFY 2012 APR, the State must describe the specific actions that were taken to verify the correction.	All districts identified in FFY 2011 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.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 *[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 identified by particular disabilities to percent of total enrollment of 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, and the minimum numbers of students. The State's definition of significant disproportionality is the same as its 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 Department of Education (USDOE) 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 USDOE 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. All districts are included in the denominator. 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 2012 (2012-13 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 2012:

The percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification is **0.4 percent.**

- Thirteen (13) school districts were identified based on data with disproportionate representation by race/ethnicity in specific disability categories.

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

The State included 564 school districts in the numerator for the calculation of disproportionality for this indicator because they met the minimum ‘n’ size criteria. A total of 118 school districts were excluded from the numerator calculations because of the State’s minimum size criteria. All 682 districts are included in the denominator.

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%
FFY 2012 (2012-13 data)	682	13	3	0.4%

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 APR submission. Based on the criteria described in the Measurement section above, 13 school districts were identified as having 2012-13 data that was disproportionate based on the criteria described above. Consistent with 34 CFR §300.646(b), all 13 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 2012, the State reviewed the policies, procedures and practices of 13 school districts whose data indicated disproportionate representation. Three of the 13 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 (3 divided by 682 = 0.4 percent).

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2012:

Explanation of Progress or Slippage

In FFY 2012, three, or 0.4 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 improvement from the 0.9 percent reported for FFY 2011 and is very close to the State's target of zero percent.

Improvement Activities Completed in 2012-13

See Indicator 9.

Correction of Identified Noncompliance

Correction of FFY 2011 Findings of Noncompliance (if State reported more than 0 percent compliance):

1. Number of findings of noncompliance the State made during FFY 2011 (the period from July 1, 2011 through June 30, 2012)	20 findings[25] (7 school districts)
2. Number of FFY 2011 findings the State verified as timely corrected (corrected within one year from the date of notification to the local educational agency of the finding)	20 findings (7 school districts)
3. Number of FFY 2011 findings not verified as corrected within one year [(1) minus (2)]	0 findings (0 school district)

Correction of FFY 2011 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2011 findings not timely corrected (same as the number from (3) above)	0 findings (0 school district)
5. Number of FFY 2011 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	0 findings (0 school districts)
6. Number of FFY 2011 findings not yet verified as corrected [(4) minus (5)]	0 findings (0 school district)

Actions Taken if FFY 2011 Noncompliance Not Corrected:

All FFY 2011 noncompliance has been corrected.

[25] Findings means the number of regulatory citations for which noncompliance was found in all districts.

Verification of Correction of FFY 2011 Noncompliance (either timely or subsequent):

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

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2011:

The State reviewed the districts' revised policies, procedures and practices; reviewed student records where noncompliance was found to ensure that individual instances of noncompliance had been corrected; and reviewed an additional sample of student records.

Correction of Remaining FFY 2010 Findings of Noncompliance (if applicable):

1. Number of remaining FFY 2010 findings noted in OSEP's July 2013 FFY 2010 APR response table for this indicator	2 findings (1 school district)
2. Number of remaining FFY 2010 findings the State has verified as corrected	0 findings (0 school district)
3. Number of remaining FFY 2010 findings the State has not verified as corrected [(1) minus (2)]	2 findings (1 school district)

Actions Taken if FFY 2010 Noncompliance Not Corrected:

The district was required to use a portion of its IDEA funds to hire a special consultant to assist with the development and implementation of an action plan to address its FFY 2010 noncompliance. The action plan included interim steps that the district was required to take to revise its policies, procedures and practices. The State Education Department's (SED) monitoring staff held meetings with district staff, administrators and the special consultant, reviewed individual student records and district data, and observed Committee on Special Education meetings in an effort to track the district's progress in implementing change.

When a lack of progress was revealed, despite the assistance of a special consultant, SED ordered a special investigation by a team of professionals with expertise in the area of special education to identify the systemic issues interfering with the district's ability to make the necessary changes to resolve its noncompliance.

Technical assistance was provided by the State's Technical Assistance Center on Disproportionality (TACD) to determine root cause and improvement activities.

Verification of Correction of Remaining FFY 2010 findings:

Upon review, the State could not verify that the district (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) 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 reviewed the status of the district's compliance assurance plan; reviewed the district's revised policies, procedures and practices; reviewed student records where noncompliance was found to ensure that individual instances of noncompliance had been corrected; and reviewed an additional sample of student records and found the district had not corrected all instances of noncompliance.

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

Statement from the OSEP Response Table	State's Response
Because the State reported less than 100 percent compliance for FFY 2011 (greater than 0 percent actual target data for this indicator), the State must report on the status of correction of noncompliance identified in FFY 2011 for this indicator.	The State reported on the status of correction of noncompliance for FFY 2011.
The State must demonstrate, in the FFY 2012 APR, that the district(s) identified in FFY 2011 [OR if applicable: identified in FFY 2012 based on FFY 2011 data] with disproportionate representation of racial and ethnic groups in specific disability categories that was the result of inappropriate identification [is/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.,	The districts identified in FFY 2011 are in compliance with the requirements. One district out of the State's 570 districts upon which this indicator is calculated has two findings of noncompliance identified in 2010.

Statement from the OSEP Response Table	State's Response
achieved 100 percent compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02.	
In the FFY 2012 APR, the State must describe the specific actions that were taken to verify the correction	The State has taken progressive corrective actions with this district as described above in the section titled "Actions Taken if FFY 2010 Noncompliance Not Corrected"

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

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.[26]

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[27] 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 from a

[26] 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.
[27] For preschool evaluations completed prior to April 2012, the timeline calculation was 30 school days from date of parental consent to evaluate.

representative sample of school districts (including New York City each year) via the Student Information Repository System (SIRS) and verifies these data by displaying them in a VR11 report, which was developed in the PD Data System. SIRS is NYS' individual student data reporting system.

NYS' Method Used to Collect Data

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

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2012 (2012-13 school year)	100 percent of children with parental consent to evaluate will be evaluated within State-required timelines.

Actual Target Data for FFY 2012:

In FFY 2012, **92.4** percent of students with parental consent to evaluate received their initial individual evaluations within State-required timelines.

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

- **92.3** percent of preschool children had their initial evaluations completed within the State required timeline.

Description of how the State treated, in its data for Indicator 11, children for whom consent to conduct an initial evaluation was received during FFY 2012, but the timeline for completing the evaluation elapsed after the end of FFY 2012:

NYS reports all students with parental consent to evaluate provided during the 2012-13 school year in the reporting for the 2012-13 school year. In order to ensure that compliance is determined for all students for whom consent was received in the 2012-13 school year, evaluation completion data was captured for all of the 2012-13 school

year as well as for the first two months of the 2013-14 school year (July 1, 2012 – June 30, 2013 and July 1, 2013 – August 31, 2013).

Children Evaluated Within 60 Days (or State-established timeline) during FFY 2012	
a. Number of children for whom parental consent to evaluate was received	16,670[28]
b. Number of children whose evaluations were completed within 60 days (or State-established timelines)	15,403
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)	92.4%

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

There are 1,267 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 2012	**Number of Children by Number of Days of Delay in Completing Evaluations, FFY 2012**				**Total**	**Percent of Total**
	1-10	**11-20**	**21-30**	**Over 30**		
An approved evaluator was not available to provide a timely evaluation.	47	78	53	172	350	27.6%
Evaluator delays in completing evaluations	125	112	55	143	435	34.3%
Delays in scheduling CPSE or CSE meetings	222	121	47	92	482	38.0%
Total	394	311	155	407	1,267	
Percent of Total	31.1%	24.6%	12.2%	32.1%		100%

[28] The 16,670 parental consents to evaluate received does not include another 1,377 students whose evaluations were completed beyond the required timeline, but for reasons authorized in the exception provided in 34 CFR §300.301(d).

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that Occurred for FFY 2012:

Explanation of Progress or Slippage:

In 2012-13, NYS' compliance rate improved to 92.4 percent, an increase of 2.3 percentage points over the State's rate of 90.1 percent in 2011-12. This improvement is significant because the State measures its performance each year based on a different representative sample of school districts. Improvement for this indicator, therefore, demonstrates the proactive attention given to this compliance issue through the State's improvement activities.

School-Age Evaluations

92.4 percent of school-age students had their initial evaluations completed within 60 calendar days of the date of the parent's consent to evaluate. This compares with a 92.5 percentage rate in the prior year.

Preschool Evaluations

92.3 percent of preschool children had their initial evaluations completed within the State required timeline. This is an improvement of 6.5 percentage points from the prior year. In part, this improvement can be attributed to the amendment of State regulations, effective April 2012, to align preschool and school-age evaluation timelines. The NYS law that allows the parent of a preschool child to select the approved evaluator to conduct the individual evaluation limits gains in this target area, as parents do not always select approved evaluators who are available to complete the individual evaluation within the State's required timeline.

Lengths of Delays

A review of the length of delays indicates the following:

- 31.1 percent of all delays in completing initial evaluations were for 1-10 days;
- 24.5 percent for 11-20 days;
- 12.2 percent for 21-30 days; and
- 32.1 percent for more than 30 days.

There is an increase in the percent of delays in completing initial evaluations for 1-10 days and also a decrease in the percentage of delays for more than 30 days.

Reasons for Delays

A review of the reasons for the delays indicates:

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

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

Last year, we reported that only 18.7 percent of delays were because an approved evaluator was not available to provide a timely evaluation. However, this year, the data shows that 27.6 percent of the delays were linked to this reason.

Last year, we reported that 39.2 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 2012 data shows only 38.0 percent were indicated as the reason.

NYS requests consideration by the Office of Special Education Programs (OSEP) of the effect of Hurricane Sandy on results for this indicator. Delays in availability of approved evaluators, evaluations and CSE and CPSE meetings to discuss the evaluation results (which is the date NYS uses to determine if evaluations met the State timeline) that were directly impacted by the effects of the storm were counted by NYS as reasons considered to be in compliance with State requirements (see explanation below). In the fall of 2012, Hurricane Sandy caused extensive devastation of property and infrastructure damage to many communities in NYS. Many schools were temporarily closed, many students were temporarily displaced from their residences from one school district to another school district and many families became temporarily homeless. Schools particularly in the Long Island, lower Hudson Valley and New York City (NYC) regions were significantly impacted by the storm. These are among the most populated regions of NYS. In NYC alone, 57 schools received extensive damage and some remained closed for an extensive period. As a result, many school districts were not able to meet the timelines for timely initial evaluations.

In response to a request from the State Education Department for flexibility in light of damage caused to some NYS school districts by Hurricane Sandy, Melody Musgrove, Director of OSEP indicated that "it would be reasonable for New York to establish a different timeframe for completing evaluations of all children suspected of having a disability in those LEAs whose operations have been significantly affected by Hurricane Sandy." With regard to individualized education program (IEP) implementation, Dr. Musgrove stated that 34 CFR §300.323(c) provides some flexibility to local educational agencies (LEAs) that were affected by Hurricane Sandy to implement IEPs "as soon as possible" (letter from OSEP dated November 20, 2013).

NYS responded with guidance to schools that the State would not issue findings of noncompliance to a school district because of its failure to meet these requirements when it is evident that the failure was a direct result of the State disaster emergency. The guidance also clarified that it was expected that school districts would use such flexibility only to the extent and for the duration absolutely necessary and consistent with the conditions they are facing to bring normalcy back to the education programs for their students with disabilities.

In addition to the effects of Hurricane Sandy, delays in evaluations continue to be impacted by bilingual 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).

Improvement Activities Completed in 2012-13

- 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 Quality Assurance (SEQA) 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 in NYC provided monthly technical assistance to all ten CPSE. Topics addressed included, but were not limited to, factors preventing preschool students from receiving evaluations and IEP meetings within required timelines; ways to increase the number of IEP meetings held within timelines; and effective practices to improve the overall operations of the CPSE process in each district.

- NYC monitoring staff met with the borough directors of the Early Childhood Direction Centers (ECDCs) to identify and address the reasons that preschool students were not receiving evaluations and IEP meetings within required timelines.

- NYC monitoring staff received monthly reports on the progress of newly initiated CPSE placement officers, whose responsibilities included assisting to improve CPSE operations and ensuring timely IEP meetings.

- During 2012-13, the Intensive Teacher Institute in Bilingual Special Education provided tuition assistance for 211 candidates seeking the certification required to provide bilingual special education, bilingual related services and English as a second language instruction to English language learners with suspected or identified disabilities. Seventy-five (75) of the candidates completed the requirements for their certificate or extension. Over 90 percent of New York City employees who completed an ITI-BSE program between 2009 and 2012 were still working for NYC public schools in June 2013.

- The NYC Preschool Bilingual/English as a Second Language Technical Assistance Center (NYC Bilingual Preschool TAC) provided more than 85 training sessions to 361 employees of NYS approved preschool special education programs so that these programs could provide interim alternate bilingual placements when a fully certified bilingual special education teacher was not available.

- As of November 2013, the Speech-Language and Bilingual Speech-Language Personnel Development Technical Assistance Center was assisting 91 monolingual and 13 bilingual candidates to take courses leading to NYS licensure in speech-language pathology (SLP) and certification in Teaching Students with Speech and Language Disabilities and 48 had completed the requirements for SLP licensure. Another 18 monolingual and 12 bilingual candidates supported by the project were taking courses needed for acceptance into SLP programs. NYC Department of Education reported that they had 163 more monolingual speech providers and 18 more bilingual speech providers in November 2013 than in the previous year.

- 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 2012-13, 40 three-day sessions were provided throughout NYS.

- 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.

- 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.

- ECDCs continued to collaborate with Department of Health, SEQA, Parent Centers and Regional Special Education Technical Assistance Support Centers 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 federal technical assistance resources were provided to school districts with their notifications of findings of noncompliance.

- The State provided increased Individuals with Disabilities Education Act funds to ECDCs to provide enhanced support to districts, providers and parents of preschool children to promote timely referral and evaluation.

Correction of FFY 2011 Findings of Noncompliance (if State reported less than 100 percent compliance):

Level of compliance (actual target data) State reported for FFY 2011 for this indicator: 90.1 percent

1. Number of findings of noncompliance the State made during FFY 2011 (the period from July 1, 2011 through June 30, 2012)	106 findings (68 school districts)
2. Number of FFY 2011 findings the State verified as timely corrected (corrected within one year from the date of notification to the local educational agency of the finding)	102 findings (65 school districts)
3. Number of FFY 2011 findings not verified as corrected within one year [(1) minus (2)]	4 findings (3 school districts)

Correction of FFY 2011 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2011 findings not timely corrected (same as the number from (3) above)	4 findings (3 school districts)
5. Number of FFY 2011 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	4 findings (3 school districts)
6. Number of FFY 2011 findings not verified as corrected [(4) minus (5)]	0 findings (0 school districts)

Actions Taken if Noncompliance Not Corrected:

All findings of noncompliance from FFY 2011 have been corrected.

Verification of Correction of FFY 2011 Noncompliance (either timely or subsequent):

NYS has verified that each LEA with noncompliance identified in FFY 2011 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 2011:

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 a specified period of time. See http://www.p12.nysed.gov/sedcar/forms/vr/1112/html/verif11.htm.

Correction of Any Remaining Findings of Noncompliance from FFY 2010 or Earlier (if applicable):

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

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

Statement from the OSEP Response Table	State's Response
Because the State reported less than 100 percent compliance for FFY 2011, the State must report on the status of correction of noncompliance identified in FFY 2011 for this indicator. When reporting on the correction of noncompliance, the State must report, in its FFY 2012 APR, that it has verified that each LEA with noncompliance identified in FFY 2011 for this indicator: (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 2012 APR, the State must describe the specific actions that were taken to verify the correction.	The State has verified that each LEA with noncompliance identified in FFY 2011 has corrected identified noncompliance.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 *[If applicable]*

None

Overview of the Annual Performance Report Development:

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

Monitoring Priority: Effective General Supervision Part B / Effective Transition

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

Measurement*:

a. # of children who have been served in Part C and referred to Part B for eligibility determination. Students whose 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.**[29]
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 Department of Education (USDOE) added category (e) to the Measurement.

[29] New York State (NYS) 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.

**Note: In 2008-09, NYS added f and g to the measurement to be consistent with NYS requirements. Account for children included in a, but not included in b, c, d, e, f or g. Indicate the range of days beyond the third birthday when eligibility was determined and the IEP developed and the reasons for the delays. Percent = [(c) divided by (a – b – d – e - f - g)] times 100.
Data Source: NYS collects data for this indicator via the Student Information Repository System (SIRS) and verifies these data by displaying them in a 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 2012 (2012-13 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 2012:

In FFY 2012**, 82.4** 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 from a representative sample of school districts (that includes New York City (NYC) each year) 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 2011	**FFY 2012**
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 which data are reported are excluded from this number.)	2,603	2,204
b. Number of those referred determined to be NOT eligible and whose eligibility was determined prior to third birthday	130	120
c. Number of those found eligible who have an IEP developed and implemented by their third birthdays	461	168
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	440	411
e. Number of children who were determined to be eligible for Part C less than 90 days before their third birthdays	4	28
f. Number of children whose parents chose to continue their child in EI Program	1,412	1,334
g. Number of children who moved (18), # of children who died (0), # of children who started receiving services on the recommended program's beginning date, even though it was after the child's third birthday (89)	90	107
Number in a but not in b, c, d, e, f or g.	**66**	**36**
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	**87.5%**	**82.4%**

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

In FFY 2012, there were 36 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 2012				Unknown	Total	Percent of Total
	1-10	11-20	21-30	Over 30			
An approved evaluator was not available to provide an evaluation.	1	0	0	2	0	3	8.3%
Additional evaluations were requested outside of the required timeline.	0	0	0	2	0	2	5.6%
There were evaluator delays in completing the evaluation.	0	2	0	3	0	5	13.9%
Delays in scheduling the CPSE meetings	1	2	1	21	0	25	69.4%
The recommended Part B services were not available when child turned three years of age.	0	0	1	0	0	1	2.8%
Inaccurate or incomplete data					0	0	0%
Total	2	4	2	28	0	36	100%
Percent of Total	5.6%	11.1%	5.6%	77.8%	0%		

Discussion of Improvement Activities Completed <u>and</u> Explanation of Progress or Slippage that occurred for FFY 2012:

Explanation of Progress or Slippage:

NYS did not meet its target for this Indicator. The percent of children referred by Part C prior to age 3, who were found eligible for Part B, and who had an IEP developed and implemented by their third birthday or in compliance with timelines established in State law decreased by 4.1 percentage points (87.5 percent in FFY 2011-12 to 82.4 percent in 2012-13).

NYS' data are collected from a different selection of school districts that is representative of the State each year. The only school district included in each year's sample is NYC. Of the 2,204 children who have been served in Part C and referred to Part B for Part B eligibility determination, 1,145 (52 percent) were NYC referrals.

In terms of actual number of students who did not receive timely evaluations, NYS showed significant improvement. In FFY 2012, the number of NYC students who did

not have their IEPs implemented by their 3rd birthdays or in accordance with State timelines because of reasons that were determined to be for reasons not in compliance with State requirements was 36. In FFY 2011, the number was 66.

There was a significant increase in FFY 2012 in the numbers of students who did not have their IEPs timely implemented due to reasons that were determined to be 'in compliance' (see explanation below regarding Hurricane Sandy), resulting in the need to exclude these numbers from the calculation rate (numerator and denominator). The percent of delays for compliant reasons represented 90 percent of all referrals. When these were excluded from the compliance rate calculation, the percent of referrals that were due to noncompliant reasons actually decreased from 3.1 percent in FFY 2011 to 2.6 percent in FFY 2012.

Delays in evaluations and placements that were directly impacted by the effects of Hurricane Sandy were counted as 'compliant reasons'. In the fall of 2012, Hurricane Sandy caused extensive devastation of property and infrastructure damage to many communities in NYS. Many schools were temporarily closed, many students were temporarily displaced from their residences from one school district to another school district and many families became temporarily homeless. Schools, particularly in the Long Island, lower Hudson Valley and NYC regions, were significantly impacted by the storm. These are among the most populated regions of NYS. In NYC alone, 57 schools received extensive damage and some remained closed for an extended period. As a result, many school districts were not able to meet the timelines for timely initial evaluations. Therefore, as with Indicator 11, NYS requests consideration by the Office of Special Education Programs (OSEP) of the effect of Hurricane Sandy on results for this indicator.

In response to a request from the State Education Department (SED) for flexibility in light of damage caused to some NY school districts by Hurricane Sandy, Melody Musgrove, Director of OSEP indicated that "it would be reasonable for New York to establish a different timeframe for completing evaluations of all children suspected of having a disability in those LEAs whose operations have been significantly affected by Hurricane Sandy." With regard to IEP implementation, Dr. Musgrove stated that 34 CFR §300.323(c) provides some flexibility to local educational agencies (LEAs) that were affected by Hurricane Sandy to implement IEPs "as soon as possible" (letter from OSEP dated November 20, 2013).

NYS responded with guidance to schools that the State would not issue findings of noncompliance to a school district because of its failure to meet these requirements when it is evident that the failure was a direct result of the State disaster emergency. The guidance also clarified that it was expected that school districts would use such flexibility only to the extent and for the duration absolutely necessary and consistent with the conditions they were facing to bring normalcy back to the education programs for their students with disabilities.

In addition to Hurricane Sandy, delays in the evaluation and placement of preschool students is impacted by personnel shortages of bilingual personnel, 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).

Improvement Activities Completed in 2012-13

- The Office of Special Education participated in technical assistance activities offered through the Northeast Regional Resource Center and 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.

- NYS provided guidance to school districts impacted by the effects of Hurricane Sandy. See http://usny.nysed.gov/hurricane-sandy.html.

- 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. SED monitoring staff receive copies of the electronic notices and take appropriate proactive measures, including direct follow-up upon a finding that noncompliance was not corrected within nine months.

- Forty (40) regional three-day trainings were conducted for chairpersons of CPSEs, which included specific training on the timelines and process for evaluations, eligibility and IEP development.

- Staff from the Office of Special Education represented the Commissioner of Education in meetings of the State Early Intervention Coordinating Council (EICC). The EICC advised 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.

Correction of FFY 2011 Findings of Noncompliance (if State reported less than 100 percent compliance in its FFY 2011 APR)

Level of compliance (actual target data) State reported for FFY 2011 for this indicator: 87.5 percent

1. Number of findings of noncompliance the State made during FFY 2011 (the period from July 1, 2011 through June 30, 2012)	11
2. Number of FFY 2011 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 2011 findings not verified as corrected within one year [(1) minus (2)]	2

Correction of FFY 2011 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance):

4. Number of FFY 2011 findings not timely corrected (same as the number from (3) above)	2
5. Number of FFY 2011 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	2
6. Number of FFY 2011 findings not verified as corrected [(4) minus (5)]	0

Actions Taken if Noncompliance Not Corrected:

All findings of noncompliance from FFY 2011 have been corrected.

Verification of Correction (either timely or subsequent):

For all noncompliance identified in FFY 2011 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 2011:

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 a specified period of time. See http://www.p12.nysed.gov/sedcar/forms/vr/1112/html/verif12.htm

Correction of Remaining FFY 2010 Findings of Noncompliance (if applicable)

1. Number of remaining FFY 2010 findings noted in the Office of Special Education Program's (OSEP) July 2013 FFY 2011 APR response table for this indicator	1
2. Number of remaining FFY 2010 findings the State has verified as corrected	1
3. Number of remaining FFY 2010 findings the State has not verified as corrected [(1) minus (2)]	0

Verification of Correction of Remaining FFY 2010 findings:

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 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, FFY 2008 or FFY 2007.

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 2011, the State must report on the status of correction of noncompliance identified in FFY 2011 for this indicator.	The State reported on the correction of noncompliance identified in FFY 2011. See above.
When reporting on the correction of noncompliance, the State must report, in its FFY 2012 APR, that it has verified that each	The State has verified the correction of noncompliance in accordance with OSEP Memo 09-02. See above.

Statement from the OSEP Response Table	State's Response
LEA with noncompliance identified in FFY 2011 for this Indicator (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02. In the FFY 2012 APR, the State must describe the specific actions that were taken to verify the correction.	

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 *[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 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 from 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 annual State monitoring of a statewide representative sample of school districts. Because New York City (NYC) has a total enrollment of 50,000 or more students, it is represented in the sample of school districts for each year.

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2012 (2012-13 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 2012:

86.1 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 Aged 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%
FFY 2012	3,184	2,743	86.1%

Discussion of Improvement Activities Completed <u>and</u> Explanation of Progress or Slippage that occurred for FFY 2012:

NYS showed minor slippage in meeting the State's target for this indicator. In FFY 2012, 86.1 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 89.4 percent in FFY 2011. The data are from a new selection of districts, except for NYC, which is annually included in the State's representative sample.

The FFY 2012 data is based on the monitoring review of IEPs from a representative sample of 109 school districts, including NYC. Except for NYC[30], all 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 State conducted the monitoring review of the NYC IEPs.

The total number of students with IEPs, ages 15-21, enrolled in the school districts sampled during 2012-13 was 68,600. The total number of IEPs reviewed from these representative school districts was 3,184. Of the IEPs reviewed, 2,743 were found to have been in compliance with all IEP transition requirements; and 441 had one or more transition planning requirements that were not appropriately addressed in the students' IEPs.

Of the 109 school districts:

- No school districts reported that 0 percent of their students' IEPs that were reviewed were in compliance with the IEP transition requirements. This is an improvement from the prior year report of 1 school district in this category.
- 11 school districts (10.1 percent) reported between 1 and 49 percent of the students' IEPs that were reviewed met the transition requirements, an improvement from the 6 school districts reported last year in this category.
- 10 school districts (9.2 percent) reported between 50 and 79 percent of their IEPs that were reviewed met the transition requirements. This is slightly less than the 10.3 percent reported in this category last year.
- 22 school districts (20.2 percent) reported between 80 and 99 percent of IEPs that were reviewed met the transition requirements, showing significant improvement over the 15.9 percent reported last year.
- 66 school districts (60.6 percent) reported 100 percent of IEPs that were reviewed were in compliance with all transition planning requirements, a 6.7 percent slippage from the prior year.

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.

[30] The State conducts the review of the NYC IEPs using the same template as the self-review protocol.

Indicator 13 - Transition IEP FFY 2012 Data						
RSE-TASC* Region	Total # of School Districts Reviewed in FFY 2012	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	24	0	5	2	4	13
Central	6	0	1	1	2	2
Long Island	17	0	2	3	6	6
Lower Hudson	6	0	0	2	1	3
Mid-Hudson	7	0	2	1	2	2
Mid-South	13	0	1	0	0	12
Mid-State	5	0	0	0	3	2
Mid-West	11	0	0	0	2	9
NYC	1	0	0	1	0	0
West	19	0	0	0	2	17
Totals	109	0	11	10	22	66

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

Improvement Activities Completed in 2012-13

- 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.

- State Education Department staff reviewed information and resources, including but not limited to information available through the following Office of Special Education Programs (OSEP) technical assistance centers: National Post-School Outcome Center, 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 correction 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.

- In 2012-13, the RSE-TASC Regional Special Education Training Specialists delivered a total of 40 regional three-day training programs to CSE chairpersons across the State. These trainings focused on meaningful and effective parent involvement and the IEP development process.

- The Offices of Special Education and Adult Career and Continuing Education Services (ACCES) collaborated 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 162 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 to provide 35 joint training and/or information sessions for parents across the State. A variety of topics were addressed, including transition planning.

- In 2012-13, the RSE-TASC Transition Specialists provided locally developed training sessions within their regions on the following topics: Transition in the IEP, Graduation Requirements, Transition Curricula, the Student Exit Summary, Work-Based Learning, Self-Determination, Building Capacity, and Student-Centered Planning, reaching 592 of the 747 NYS school districts/NYC clusters through some form of training or a combination of events. A total of 522 districts participated in regional training events, 185 were provided with direct technical assistance, and 362 participated in interagency meetings.

- In 2012-13, the Transition Services PDSC provided professional development to the RSE-TASC Transition Specialists through three network meetings and five webinars. Topics included Transition Assessment, Self-Determination, Data Collection and Decision-Making, Work-Based Learning, and Interagency Collaboration. The PDSC

provides direct technical assistance, on an ongoing basis, to the Transition Specialists to support their work with school districts.

- The PDSC website, www.transitionsource.org, was updated to include additional resources pertaining to supports and services for families, students and schools. The website also served as a vehicle for professional development for the Transition Specialists through the use of discussion threads and the sharing of resources and materials.

- Specialists from the RSE-TASC delivered 333 regional training sessions for school districts during 2012-13. These trainings included, but were not limited to, the following topics: Parent Member of the CSE, Testing Accommodations, Chairperson Training, IEP Development, Educational Benefit, Progress Monitoring, and the Special Education Process for Principals.

Correction of FFY 2011 Findings of Noncompliance:
Level of compliance (actual target data) State reported for FFY 2011 for this indicator: 89.4 percent

1. Number of findings of noncompliance the State made during FFY 2011 (the period from July 1, 2011 through June 30, 2012)	97 findings (53 school districts)
2. Number of FFY 2011 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)	94 findings (50 school districts)
3. Number of FFY 2011 findings not verified as corrected within one year [(1) minus (2)]	3 findings (3 school districts)

Actions Taken if Noncompliance Found in FFY 2011 Is Not Corrected:

In two of the districts, the State provided technical assistance to district staff after sending three-, six- and nine-month electronic notices. During the 2011-12 school year, a follow-up review was conducted and a corrective action plan was issued. Follow-up activities were conducted to assess the district's progress in completing the corrective actions specified in the plan. The resolution of the identified noncompliance in these two districts was verified during the 2012-13 school year.

In the third district, the State's monitoring staff met regularly with the district to discuss areas of identified noncompliance, review and analyze trend data pertaining to the areas of transition planning which are systemically noncompliant and identify strategies to address the noncompliance. The district was also required to submit a strategic action plan to the State that focused on the development of transition plans and transition planning activities consistent with regulatory standards.

Verification of Correction of FFY 2011 Noncompliance (either timely or subsequent):

The State verified that each LEA with noncompliance identified in FFY 2011 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.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2011:

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 Any Remaining Findings of Noncompliance from FFY 2010 or Earlier (if applicable):

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2010 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 2011, the State must report on the status of correction of noncompliance identified in FFY 2011 for this indicator.	All findings from FFY 2011 have been verified as corrected.
When reporting on the correction of noncompliance, the State must report in its FFY 2012 APR that it has verified that each LEA with noncompliance identified in FFY 2011 for this Indicator: (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,	See narrative above.

Statement from the OSEP Response Table	State's Response
consistent with OSEP Memo 09-02. In the FFY 2012 APR, the State must describe the specific actions that were taken to verify the correction.	

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 *[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

of New York in Potsdam, NY. When possible, interviews with each identified Exiter were conducted by telephone, but the survey was also 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 who dropped out during the academic year being reviewed.

Survey pool is the total number of Exiters from the school districts surveyed in FFY 2012.

Response pool means those students from the survey pool who were able to be reached for an interview or who completed the written survey 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.

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

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

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.

Federal Fiscal Year (FFY) (school year students left)	Measurable and Rigorous Target
FFY 2012 (2011-12 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. **80** percent will be enrolled in higher education or in some other postsecondary education or training program, or competitively employed or in some other employment within one year of leaving high school (note: target C includes targets for B and A).

Actual Target Data for FFY 2012 (2011-12 School Year Exiters)

A. **42.1** percent were enrolled in higher education for at least one complete term.

B. **66.3** percent were enrolled either in higher education or competitively employed.

C. **76.4** percent were enrolled in higher education or in some other postsecondary education or training program, or competitively employed or in some other employment within one year of leaving high school.

A	Percent enrolled in higher education for at least one complete term	42.1% (701/1,664)
B	Percent enrolled either in higher education or being competitively employed (note: target for B includes target for A)	66.3% ([701+402]/1,664)
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)	76.4% ([701+402+130+38]/1,664)

The calculation of FFY 2012 outcomes was based on the following. Each responder is counted once in the highest category.

- There were 26,644 Exiters in FFY 2012 from all school districts in NYS.
- There were 3,820 Exiters in the survey pool for FFY 2012.
- There were 1,664 responders. Each responder is counted once in the highest category.
  - 701 were enrolled in higher education for at least one complete term.
  - 402 students were competitively employed.
  - 130 were in some other postsecondary education or training program.
  - 38 students were in some other employment.
  - 393 were not engaged in any of the above.

Representativeness of FFY 2012 Response Pool

Table 1 addresses the representativeness of the response pool compared with the statewide information on students exiting special education (VR-10 report). The response pool is comprised of the Exiters who were able to be reached for an interview or who completed the written survey at least one year after leaving school. The response pool is fairly representative of all groups, with minority and dropout students showing the highest percentage of over- and under-representation, respectively, in the response pool. A low response rate from students who drop out is expected and may be a factor in the under-representation.

Table 1: Representativeness of Response Pool Compared to Total Exiters for All NYS Schools During 2011-12, as reported in VR10 Data Reports

	Statewide Demographic Representativeness						
Statewide	**Learning Disabilities**	**Emotional Disabilities**	**Intellectual Disabilities**	**All Other Disabilities**	**Female**	**Minority**	**Dropout**
Exiters (n = 26,644)	55.3%	10.6%	4.3%	29.8%	36.1%	49.0%	20.8%
Response Pool (n=1,664)	55.5%	9.1%	3.8%	31.5%	35.2%	52.5%	17.6%
Difference	0.2%	-1.5%	-0.5%	1.7%	-0.9%	3.5%	-3.2%

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

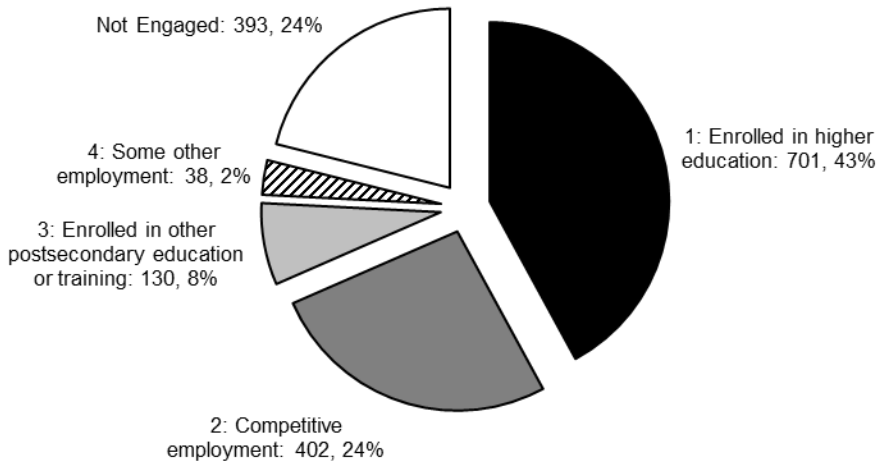
Post-School Outcomes by Type of Exit

Table 2 displays post-school outcomes by Exit Type. At 85 percent, those who graduated from high school with Regents, local or GED diplomas have the highest rate of the four post-school outcomes while those who dropped out or exited with an IEP Diploma have the lowest rate at 51 percent.

Table 2 – 2011-12 Post-School Outcomes by Type of Exit										
2011-12 Post-School Outcome* within one year of leaving high school	**Survey Pool Responses 2011-12**		**Diploma (Regents, Local, GED)**		**Certificate or Modified Diploma (IEP Diploma)**		**Dropped Out**		**Other Exit Reasons****	
	N	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
Total in category	1,644	100%	1,187	71%	259	16%	167	10%	51	3%
All Post-school Outcomes	1,271	77%	1,014	85%	132	51%	86	51%	39	76%
1. Enrolled in higher education	701	43%	663	56%	54	21%	10	6%	13	25%
2. Competitively employed but not enrolled in higher education	402	24%	274	23%	56	22%	61	37%	13	25%
3. Enrolled in some other postsecondary education or training program but neither enrolled in higher education nor competitively employed	130	8%	54	5%	7	3%	10	6%	10	20%
4. In some other employment, but neither enrolled in higher education, nor some other postsecondary education or training program and not competitively employed	38	2%	23	2%	15	6%	5	3%	3	6%
None of the above	393	24%	173	15%	127	49%	81	49%	12	24%

* "Post-school outcomes" are defined in the definition section of the State Performance Plan (SPP) for Indicator 14 and are consistent with 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 for exit were not reported.

New York Statewide IDEA Part B SPP/APR Indicator 14: Post-School Outcomes for 2011-12 School Year Exiters



■ 1: Enrolled in higher education
■ 2: Competitive employment
■ 3: Enrolled in other postsecondary education or training

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

- 56 percent of Exiters with Regents, Local or GED diplomas report they are in a two- or four-year college or university, and five percent report participation in other types of postsecondary education[31].
- Only six percent of those who dropped out report they are in a two- or four- year college or university, and six percent report participation in other types of postsecondary education.
- For those with IEP diplomas, 21 percent report they are in a two- or four-year college or university, and three percent report participation in other types of postsecondary education or training programs.

Examination of employment outcomes shows:

- Only 28 percent of students exiting with IEP diplomas were competitively employed or employed in some other situation.
- Only 40 percent of students who dropped out of school were competitively employed or employed in some other situation.

[31] 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.

Explanation of Progress or Slippage

NYS met its target for measurement B and narrowly missed its targets for measurements A and C.

Compared to the data for FFY 2011:

- There was one percentage point improvement in the number of students with disabilities enrolled in higher education for at least one complete term.

- There was a two percentage point decrease in the percent of students with disabilities competitively employed but not enrolled in higher education.

- There was a one percentage point increase in the percent of students with disabilities enrolled in some other postsecondary education or training program but neither enrolled in higher education nor competitively employed.

- There was a one percentage point decrease in the percent of students with disabilities in some other employment, but neither enrolled in higher education, nor some other postsecondary education or training program and not competitively employed within one year of leaving high school categories.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that Occurred for FFY 2012:

Improvement Activities Completed during 2012-13

- During 2012-13, a total of 282 professional development sessions on the topics of Transition Assessments, Transition for Families, and Transition in the IEP were delivered statewide.

- Direct technical assistance was provided in 404 sessions statewide to assist districts in improving transition planning. Topics included Transition in the IEP, Building Capacity, Strategic Planning, Collaborative Planning, Transition Assessment, Graduation Requirements, Program Evaluation, Work-Based Learning, and Student-Centered Planning.

- Transition Specialists facilitated 162 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 35 jointly-delivered training and or information sessions for parents on transition planning and services.

- RSE-TASC transition specialists reached 592 of the 747 NYS school districts and New York City clusters through regional training events, direct technical assistance, interagency meetings, or a combination of events.

Also see improvement activities described in Indicator 13.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 *[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 the State's general supervision system (including monitoring, State complaints, hearings, etc.).

Federal Fiscal Year (FFY)	Measurable and Rigorous Target
FFY 2012	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 2012:

90.8 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.

PART B INDICATOR 15 WORKSHEET

Indicator/Indicator Clusters	General Supervision System Components	# of LEAs Issued Findings in FFY 2011 (7/1/11 to 6/30/12)	(a) # of Findings of noncompliance identified in FFY 2011 (7/1/11 to 6/30/12)	(b) # of Findings of noncompliance from (a) for which correction was verified no later than one year from identification
1. Percent of youth with IEPs graduating from high school with a regular diploma. 2. Percent of youth with IEPs dropping out of high school. 14. Percent of youth who had IEPs, are no longer in secondary school and who have been competitively employed, enrolled in some type of postsecondary school or training program, or both, within one year of leaving high school.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	0	0	0
	Dispute Resolution: Complaints, Hearings	0	0	0
3. Participation and performance of children with disabilities on statewide assessments. 7. Percent of preschool children with IEPs who demonstrated improved outcomes.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	2	2	1
	Dispute Resolution: Complaints, Hearings	0	0	0
4A.[32] 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. 4B. 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	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	14	124	92
	Dispute Resolution: Complaints, Hearings	0	0	0

[32] 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 LEAs Issued Findings in FFY 2011 (7/1/11 to 6/30/12)	(a) # of Findings of noncompliance identified in FFY 2011 (7/1/11 to 6/30/12)	(b) # of Findings of noncompliance from (a) for which correction was verified no later than one year from identification
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 children with IEPs aged 6 through 21 - educational placements.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	54	127	121
6. Percent of preschool children aged 3 through 5 – early childhood placement.	Dispute Resolution: Complaints, Hearings	62	111	106
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	6	7	7
	Dispute Resolution: Complaints, Hearings	18	23	23
9.[33] 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	11	53	53
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	0	0	0

[33] When the same compliance issue is identified for a school district both for Indicators 9 and 10, both compliance issues are reported, but the district is reported only once in Indicator 15.

Indicator/Indicator Clusters	General Supervision System Components	# of LEAs Issued Findings in FFY 2011 (7/1/11 to 6/30/12)	(a) # of Findings of noncompliance identified in FFY 2011 (7/1/11 to 6/30/12)	(b) # of Findings of noncompliance from (a) for which correction was verified no later than one year from identification
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.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	68	106	102
	Dispute Resolution: Complaints, Hearings	0	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	11	11	9
	Dispute Resolution: Complaints, Hearings	0	0	0
13. Percent of youth aged 16 and above with 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 service needs.	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	53	97	94
	Dispute Resolution: Complaints, Hearings	0	0	0
Other areas of noncompliance: Behavior Intervention Plans	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	54	180	149
	Dispute Resolution: Complaints, Hearings	14	28	28
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	2	4	4
	Dispute Resolution:	9	11	11

Indicator/Indicator Clusters	General Supervision System Components	# of LEAs Issued Findings in FFY 2011 (7/1/11 to 6/30/12)	(a) # of Findings of noncompliance identified in FFY 2011 (7/1/11 to 6/30/12)	(b) # of Findings of noncompliance from (a) for which correction was verified no later than one year from identification
	Complaints, Hearings			
Other areas of noncompliance: Discipline	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	28	105	86
	Dispute Resolution: Complaints, Hearings	6	6	5
Other areas of noncompliance: Educational Facilities	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	6	9	8
	Dispute Resolution: Complaints, Hearings	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	29	65	64
	Dispute Resolution: Complaints, Hearings	35	56	52
Other areas of noncompliance: Personnel Qualifications	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	2	2	2
	Dispute Resolution: Complaints, Hearings	2	2	2
Other areas of noncompliance: Unique Situations	Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other	42	56	53
	Dispute Resolution: Complaints, Hearings	29	42	42
Sum of the numbers down Column a and Column b			1227	1114
Percent of noncompliance corrected within one year of identification = (column (b) sum divided by column (a) sum) times 100.			**(b) / (a) X 100 =**	90.79054

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.

Selected 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.

In 2013-14, the State initiated a reapproval review process of approved preschool providers. Each year 50, or approximately 10 percent of all preschool providers, will be reviewed.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2012:

Explanation of Progress or Slippage

The State did not meet its target of 100 percent. In FFY 2011, the State reported that 93.5 percent of noncompliance issues identified through the State's general supervision system (including monitoring, State complaints, hearings, etc.) were corrected within one year of identification. The FFY 2012 data show a 90.5 percent correction rate.

NYS requests consideration by Office of Special Education Programs (OSEP) of the effect of Hurricane Sandy on results for this indicator. In the fall of 2012, Hurricane Sandy caused extensive devastation of property and infrastructure damage to many communities in NYS, particularly in the Long Island, Lower Hudson and NYC regions of the State. Many schools were temporarily closed, many students were temporarily displaced from their residences from one school district to another school district and many families became temporarily homeless. In NYC alone, 57 schools received extensive damage and some remained close for an extensive period. As a result, many school districts were not able to focus attention on correction of compliance issues.

Improvement Activities Completed in 2012-13

- 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 2013 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 to Local 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 monitoring staff sent out reminder notices 30 days before a corrective action due date and followed up with telephone calls in order to facilitate the correction in a timely manner.

- Monitoring staff initiated 19 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.

- In 2012-13, monitoring staff initiated 49 preschool reapproval reviews and three compliance reviews to determine if NYS' approved preschool providers are in compliance with federal and State laws and regulations regarding the provision of special education programs and services for preschool students with disabilities. The efficiency of each provider's service delivery model was also assessed during the re-approval reviews. Special Education Quality Assurance (SEQA) staff met regularly with preschool providers to address questions regarding special education requirements, program efficiencies, and outstanding program needs in various regions of the State.

- The NYC Regional Office (NYCRO) monitoring staff met NYC Department of Education cluster and network personnel on a monthly basis to provide technical assistance in the areas of timely provision of special education programs and services, requirements for providing IEPs to teachers and service providers, transition plans, IEP development, positive behavioral interventions and supports, and the timely evaluation of preschool and school-age students.

Timely Correction of FFY 2011 Findings of Noncompliance (corrected within one year from identification of the noncompliance):

1. Number of findings of noncompliance the State identified in FFY 2011 (the period from July 1, 2011 through June 30, 2012) (Sum of Column a on the Indicator B15 Worksheet)	1227
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)	1114
3. Number of findings not verified as corrected within one year [(1) minus (2)]	113

FFY 2011 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance and/or Not Corrected):

4. Number of FFY 2011 findings not timely corrected (same as the number from (3) above)	113
5. Number of FFY 2011 findings the State has verified as corrected beyond the one-year timeline ("subsequent correction")	63
6. Number of FFY 2011 findings not yet verified as corrected [(4) minus (5)]	50

Verification of Correction for findings of noncompliance identified in FFY 2011 (either timely or subsequent):

For all FFY 2011 noncompliance verified as corrected, NYS verified that each local educational agency (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 2011 (including any revisions to general supervision procedures, technical assistance provided and/or any enforcement actions that were taken):

The State verified the correction of 1,177 out of 1,227 findings of noncompliance, timely or subsequent.

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 had been corrected for all students (i.e., subsequent data show 100 percent compliance with specific 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:

There were a total of 52 findings identified in 2011 that were not timely or subsequently corrected. These findings persist in just six schools/districts, four of which are located in regions impacted by Hurricane Sandy. As stated above, NYS requests consideration of the effects of Hurricane Sandy on schools'/districts' ability to prove and the State's ability to verify correction of findings of noncompliance in the 2012-13 school year.

Following is a description, by school/district identified by letters A-F below, 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 52 instances of noncompliance found in six public school districts and two approved private schools.

School/District A:

Nature of the noncompliance: Transition plans developed by the CSE of the approved private school were not in accordance with regulatory requirements; not all teachers were appropriately certified for their teaching assignments.

Why the noncompliance has persisted: This approved private school has two findings of continuing noncompliance. Upon review, the State found that the CSE was not knowledgeable about the regulatory requirements relating to transition plans and planning. For certification issues, the State found that the teachers were pursuing certification but the length of time necessary for teachers to complete their courses of study to become certified contributed to the persistence of the noncompliance.

Actions taken: The State issued three updates to the school's corrective action plan and conducted two on-site monitoring visits; provided ongoing technical assistance via telephone communication; is monitoring the school's transition plans to determine if improvements have been made since the school hired a consultant to provide ongoing professional development related to regulatory transition plans and transition planning activities; and is also monitoring the school's recruitment efforts to obtain appropriately certified staff.

School/District B:

Nature of the noncompliance: Placement decisions for students including placing students in the least restrictive environment.

Why the noncompliance has persisted: This district has one finding of continuing noncompliance. The noncompliance has persisted because the district has resisted changing its practice of placing specific groups of students in approved private schools when lesser restrictive placements were available, even after enforcement actions have been imposed. During follow-up reviews, the State found reoccurring noncompliance related to LRE placement decisions by the district. The district initiated a lawsuit regarding the State's findings. In January 2014, the State prevailed in the State Supreme Court.

Actions taken: The district was required to meet with State education officials, publicize the State's review findings, submit paper applications with all required documentation to request reimbursement for placements at three approved private schools, and reconvene additional CSE meetings. The State has not approved State aid reimbursement in cases where the State found the district did not comply with LRE requirements for individual students. In 2013, the State identified the district as needing intervention. The findings of a recent review by the State are being analyzed to determine if the district has remaining noncompliance. If noncompliance is present, the State may require the district to comply with additional enforcement actions during the 2013-14 school year.

School/District C:

Nature of the noncompliance: Suspension of students with disabilities

Why the noncompliance has persisted: This district has two findings of continuing noncompliance. Reasons for persistence of noncompliance include lack of resources, administrative issues and a dysfunctional governance structure.

Actions taken: The district was identified as needing intervention. In April 2013, the Commissioner initiated a special investigation of the district to determine the reasons the district has not been able to resolve the noncompliance. The final report has not yet been issued. The State continued to request and review documents, perform site visits and provide technical assistance in an effort to help the district resolve its issues of noncompliance. The district was required to redirect a portion of its 2012-13 IDEA funds to hire a special education consultant to assist the district in developing an action plan to revise its policies, practices and procedures. The State is also conducting a review of the district's IDEA grant expenditures. New enforcement actions will be determined based on the final report of the special investigation.

School/District D:

Nature of the noncompliance: Inappropriate policies, procedures and practices relating to the suspension of students with disabilities.

Why the noncompliance has persisted: The district has 29 findings of noncompliance. The district was found to have a less than adequate system for data collection and system for tracking of suspensions of students, insufficient oversight and accountability of suspension procedures, as well as insufficient guidance provided to schools regarding the implementation of suspensions. The noncompliance has persisted, in part, due to the size of the district and the challenge of district administration to ensure all of its schools are using appropriate practices consistent with district guidance. The district's failure to correct these issues, in part, also stemmed from redirection of administrative and staff attention to issues resulting from Hurricane Sandy and a bus strike that impacted student school attendance for a protracted period of time.

Actions taken: In 2012-13, the State identified the district as needing intervention, in part because of continuing noncompliance. An updated corrective action plan was issued and monthly meetings were held with district administrators and staff to discuss proactive strategies that could effectively reduce the number of suspensions. The State's Technical Assistance Center on Disproportionality provided professional development on root cause analysis, understanding data, and the provision of culturally responsive education to several schools within the district. The State has been actively engaged with the district on the implementation of an improvement plan that addresses behavior. The plan involves issuing clear policy on behavioral supports and interventions, including when to consider implementing a functional behavioral assessment (FBA) and a behavioral intervention plan (BIP); using data to identify schools in need of professional development and support; identifying school staff who will be responsible for monitoring the work related to behavior supports and interventions; establishing behavior support teams within targeted schools; providing professional development and coaching within targeted schools to improve practices related to FBAs and BIPs; and conducting regularly scheduled reviews of IEPs, FBAs, and BIPs.

School/District E:

Nature of noncompliance: Eleven (11) findings of noncompliance related to disproportionality based on inappropriate policies, procedures and practices related to the suspension of students with disabilities.

Why the noncompliance has persisted: The district lacks sufficient policies, practices and procedures regarding the discipline and suspension of students with disabilities. Additional reasons for persistence of noncompliance include lack of resources and a lack of efficient communication between top level district administration and school building leadership. In addition, the district is lacking consistent and systemic positive behavioral supports. Student engagement in the classroom is an area of concern as not all teachers are effectively supported and trained in explicit instruction.

Actions taken: The State identified the district as needing assistance, in part as a result of continuing noncompliance. The district was required to obtain technical assistance and implement a corrective action plan. The State is monitoring the implementation of the plan and improvement activities to address the instructional and behavioral supports provided to students with disabilities.

School/District F:

Nature of noncompliance: Seven findings of noncompliance related to disproportionality by race/ethnicity in suspensions of students with disabilities due to inappropriate policies, procedures and practices.

Why the noncompliance has persisted: The district has not engaged in improvement activities as identified by the State's Technical Assistance Center on Disproportionality. This district is located in the region of the State impacted by the effects of Hurricane Sandy in 2012, which may have resulted in a redirection of the district's attention to other matters.

Actions taken: The State identified the district as needing assistance, in part as a result of continuing noncompliance. The State conducted a comprehensive review of the district's practices and provided technical assistance during that time. A corrective action plan was issued and systemic changes in practice were required to address the noncompliance. The State is monitoring the district's implementation of the corrective action plan.

Correction of Remaining FFY 2010 Findings of Noncompliance (if applicable):

1. Number of remaining FFY 2010 findings noted in Office of Special Education Program's (OSEP) July 2013 FFY 2011 APR response table for this indicator (2010-11)	26
2. Number of remaining FFY 2010 findings the State has verified as corrected	13
3. Number of remaining FFY 2010 findings the State has not verified as corrected [(1) minus (2)]	13

Verification of Correction of Remaining 2010 findings:

In 2012-13, the State verified the correction of 13 findings of noncompliance that were first identified in FFY 2010. The State verified that the school/district: (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):

In 2012-13, the State verified the correction of 13 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 13 findings of noncompliance that remain uncorrected were identified in two school districts and one approved out of state schools (identified below as G, H, and I). Two of the districts with continuing noncompliance also have uncorrected FFY 2011 findings 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 13 instances of noncompliance found in two public school districts and one approved private school.

School/District G:

Nature of the noncompliance: Disproportionality by race/ethnicity in the classification and placement of students with disabilities due to inappropriate policies, procedures and practices; meeting notice and timely evaluations.

Why the noncompliance has persisted: There are six findings of continuing noncompliance by this district. This is the same district described as district C above. Reasons for persistence of noncompliance include lack of resources, administrative issues and a dysfunctional governance structure.

Actions taken: The district was identified as needing intervention. In April 2013, the Commissioner initiated a special investigation of the district to determine the reasons the district has not been able to resolve the noncompliance. The final report has not yet been issued. The State continued to request and review documents, perform site visits and provide technical assistance in an effort to help the district resolve its issues of noncompliance. The district was required to redirect a portion of its 2012-13 IDEA funds to

hire a special education consultant to assist the district in developing an action plan to revise its policies, practices and procedures. The State is also conducting a review of the district's IDEA grant expenditures. New enforcement actions will be determined based on the final report of the special investigation.

School/District H

Nature of the noncompliance: Placement decisions for students including placing students in the least restrictive environment.

Why the noncompliance has persisted: This district has one finding of continuing noncompliance. The noncompliance has persistent because the district has resisted changing its practice of placing specific groups of students in approved private schools (when lesser restrictive placements are available), even after enforcement actions have been imposed. During follow-up reviews, the State found reoccurring noncompliance related to LRE placement decisions by the district. The district initiated a lawsuit regarding the State's findings. In January 2014, the State prevailed in the State Supreme Court.

Actions taken: The district was required to meet with State education officials, publicize the State's review findings, submit paper applications with all required documentation to request reimbursement for placements at three approved private schools, and reconvene additional CSE meetings. The State has not approved State aid reimbursement in cases where the State found the district did not comply with LRE requirements for individual students. In 2013, the State identified the district as needing intervention. The findings of a recent review by the State are being analyzed to determine if the district has remaining noncompliance. If noncompliance is present, the State may require the district to comply with additional enforcement actions during the 2013-14 school year.

School/district I:

Nature of the noncompliance: Six findings of noncompliance relating to the use of behavioral interventions and provision of instruction during periods of suspension.

Why the noncompliance has persisted: Although the school resolved its student-specific noncompliance that was identified in the complaint, ongoing systemic issues related to policies, practices and procedures have been identified.

Actions taken: The State sent correspondence to the school, conducted site visits, had onsite meetings with school administration and requested additional information to ensure that corrective actions were being implemented. Revisions to practices are currently under review to verify correction of noncompliance for all students.

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

1. Number of remaining FFY 2009 findings noted in OSEP's July 2013 FFY 2011 APR response table for this indicator (2009-10)	27
2. Number of remaining FFY 2009 findings the State has verified as corrected	13

3. Number of remaining FFY 2009 findings the State has not verified as corrected [(1) minus (2)]	14

Verification of Correction of Remaining 2009 findings:

The State verified that each district: (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 2009 (including any revisions to general supervision procedures, technical assistance provided and/or any enforcement actions that were taken):

In 2012-13 the State verified the correction of 13 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 14 findings of noncompliance that remain uncorrected were identified in two school districts (identified as J and K below). Following is a description, by district, 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 14 instances of noncompliance found in two public school districts.

School/district J:

Nature of the noncompliance: There are five findings of inappropriate procedures and practices relating to the suspension of students with disabilities.

Why the noncompliance has persisted: Reasons for persistence of noncompliance include recent top level district administration turn over, lack of resources and a lack of efficient communication between top level district administration and school building leadership. The district has developed an action plan with appropriate policies and procedures to correct the noncompliance. However, the district has been ineffective in implementing the newly developed policies and procedures.

Actions taken: This district was identified by the State as needing intervention, in part because of continuing noncompliance. The State required the district to develop an action plan to correct overdue noncompliance. With the State's guidance and technical assistance, the district was able to correct the majority of its noncompliance reported in the

FFY 2011 APR. The State will issue additional enforcement actions to the district if all noncompliance is not resolved during the 2013-14 school year.

School/district K:

Nature of the noncompliance: Inappropriate policies and procedures relating to the provision of services to students in long term suspensions, lack of behavioral interventions for students whose behavior impedes learning, IEPs inconsistent with regulations, untimely and inappropriate evaluations.

Why the noncompliance has persisted: Reasons for persistence of noncompliance include lack of resources, administrative issues and a dysfunctional governance structure.

Actions taken: The district was identified as needing intervention. In April 2013, the Commissioner initiated a special investigation of the district to determine the reasons the district has not been able to resolve the noncompliance. The final report has not yet been issued. The State continued to request and review documents, perform site visits and provide technical assistance in an effort to help the district resolve its issues of noncompliance. The district was required to redirect a portion of its 2012-13 IDEA funds to hire a special education consultant to assist the district in developing an action plan to revise its policies, practices and procedures. The State is also conducting a review of the district's IDEA grant expenditures. New enforcement actions will be determined based on the final report of the special investigation.

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

1. Number of remaining FFY 2008 findings noted in OSEP's July 2013 FFY 2011 APR response table for this indicator. (2008-09)	51
2. Number of remaining FFY 2008 findings the State has verified as corrected	8
3. Number of remaining FFY 2008 findings the State has not verified as corrected [(1) minus (2)]	43

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 2012-13, the State verified the correction of eight findings of noncompliance that were 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 43 unresolved instances of noncompliance were all found in one school district. This district is one of the same districts with continuing noncompliance identified in FFY 2009, 2010 and 2011. Following is a description 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.

School/district L:

Nature of the noncompliance: Behavioral assessments and interventions, manifestation determinations, IEP implementation, reevaluations, suspensions, placements in the least restrictive environment, continuum of services, and use of specially designed instruction.

Why the noncompliance has persisted: Reasons for persistence of noncompliance include lack of resources, administrative issues and a dysfunctional governance structure.

Actions taken: The district was identified as needing intervention. In April 2013, the Commissioner initiated a special investigation of the district to determine the reasons the district has not been able to resolve the noncompliance. The final report has not yet been issued. The State continued to request and review documents, perform site visits and provide technical assistance in an effort to help the district resolve its issues of noncompliance. The district was required to redirect a portion of its 2012-13 IDEA funds to hire a special education consultant to assist the district in developing an action plan to revise its policies, practices and procedures. The State is also conducting a review of the district's IDEA grant expenditures. New enforcement actions will be determined based on the final report of the special investigation.

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

1. Number of remaining FFY 2007 findings noted in OSEP's July 2013 FFY 2011 APR response table for this indicator	22
2. Number of remaining FFY 2007 findings the State has verified as corrected	0
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 the 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):

The process the State used for the verification of correction 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:

The remaining 22 findings of noncompliance were in two school districts and one approved private school. Twenty (20) of the 22 findings of noncompliance identified in 2007 were in one school district.

Following is a description 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.

School/district M:

Nature of the noncompliance: Disproportionality by race/ethnicity in the long-term suspension of students with disabilities that are the result of inappropriate policies, procedures and practices; and timely evaluations and placements of preschool students with disabilities.

Why the noncompliance has persisted: Reasons for persistence of noncompliance include lack of resources, administrative issues and a dysfunctional governance structure.

Actions taken: The district was identified by the State as a district in need of intervention. In April 2013, the Commissioner initiated a special investigation of the district to determine the reasons the district has not been able to resolve the noncompliance. The final report has not yet been issued. The State continued to request and review documents, perform site visits and provide technical assistance in an effort to help the district resolve its issues of noncompliance. The district was required to redirect a portion of its 2012-13 IDEA funds to hire a special education consultant to assist the district in developing an action plan to

revise its policies, practices and procedures. The State is also conducting a review of the district's IDEA grant expenditures. New enforcement actions will be determined based on the final report of the special investigation.

School/District N:

Nature of the noncompliance: Teacher certification

Why the noncompliance has persisted: Difficulties in recruitment due to salary differentials with the public sector. Teachers within the program are enrolled in programs leading to certification, which takes time.

Actions Taken: The State met with the school to review its hiring practices and to monitor implementation of the corrective action plan of the school. The school has made significant progress in ensuring its teachers are appropriately certified.

School/District O:

Nature of the noncompliance: Provision of related services

Why the noncompliance has persisted: Personnel shortage area; contractual and union issues. The district has made significant progress in hiring qualified personnel.

Actions Taken: The State conducted monthly meetings with the district to monitor implementation of the corrective action plan and the district's progress in ensuring provision of related services and efforts to recruit qualified staff in personnel shortage areas.

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

NYS does not have any uncorrected noncompliance related to this indicator from FFY 2006.

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 2012 APR, that the remaining 27 findings of noncompliance identified in FFY 2009, 51 findings of noncompliance identified in FFY 2008, 22 findings of noncompliance identified in FFY 2007, that were not reported as corrected in the FFY 2011 APR, were corrected.	The State has corrected: 0 of the 22 findings identified in FFY 2007; 8 of the 51 findings identified in FFY 2008; 13 of the 27 findings identified in FFY 2009; 13 of the 26 findings identified in FFY 2010; & 63 of the 115 findings identified in FFY 2011 The remaining findings of noncompliance are found in just six school districts and two approved private schools (some with

Statement from the OSEP Response Table	State's Response
	uncorrected findings from multiple years). The State described above the progressive enforcement actions it has taken with each school district with continuing noncompliance.
When reporting in the FFY 2012 APR on correction of findings of noncompliance, the State must report that it verified that each LEA with findings of noncompliance identified in FFY 2011 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 2012 APR, the State must describe the specific actions that were taken to verify the correction. In addition, in reporting on Indicator 15 in the FFY 2012 APR, the State must use and submit the Indicator 15 Worksheet.	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.
The State's failure to correct longstanding noncompliance raises serious questions about the effectiveness of the State's general supervision system. The State must take the steps necessary to ensure that it can report, in the FFY 2012 APR, that it has corrected this noncompliance.	Of the total uncorrected number of findings, more than 50 percent were found in one school district. The State is taking progressive enforcement actions with each of the districts/schools as identified above.
Further, in responding to Indicators 4A, 4B, 9, 10, 11, 12 and 13 in the FFY 2012 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.

Revisions, <u>with Justification</u>, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 *[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 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 Department of Education (USDOE) 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 USDOE. States report data on the timeliness of State complaint decisions as part of the data they submit under IDEA section 618. However, because the State was identified as being in need of assistance for two consecutive years, in part as a result of performance relating to Indicator 17, it is required to report on the federal technical assistance sources from which the State received assistance, and the actions the State took as a result of that technical assistance.

Federal Technical Assistance Received in FFY 2012:

Staff from the P-12: Office of Special Education accessed federal technical assistance to further inform its activities to improve due process timelines as follows:

- The State regularly reviews information posted on the CADRE (Center for Appropriate Dispute Resolution in Special Education) website and through its list serve.

- The State arranged for direct technical assistance with CADRE, which conducted a webinar targeted to information requested by the New York State Education Department (NYSED), to discuss Individualized Education Program (IEP) Facilitation. As a result, New York sent two representatives of NYSED to IEP facilitation training to further inform our next steps on bringing IEP facilitation to NYS. The large numbers of

due process complaints filed in this State is one factor in ensuring timely issues. Use of IEP Facilitation in NYS is being considered as a process to reduce the numbers of requests for due process.

- The State consulted with nationally recognized technical assistance providers to inform changes to the State's regulations relating to impartial hearings. Changes to State regulations, which in great part related to the timeliness of hearings, were enacted effective on February 1, 2014.

- The State contracted for training for impartial hearing officers (IHOs). One full day on-site training session and three webinars for IHOs were conducted by nationally recognized trainers during the 2012-13 year.

- The State regularly participated in the Northeast Regional Resource Center (NERCC) Legal and Regulatory Workshop where issues relating to due process are discussed.

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

- Reviewed OSEP's July 2013 Question and Answer document on IDEA Part B Dispute Resolution Procedures to enable staff to provide the most current technical assistance on dispute resolution to the field.

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 Department of Education 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 2012 (2012-13 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 2012:

5.98 percent of hearing requests that went to resolution sessions were resolved through resolution session settlement agreements.

7/1/2012 - 6/30/2013 Table 7 Section C: Hearing Requests	
(3) Hearing requests total	6025
(3.1) Resolution sessions	5433
(a) Settlement agreements	325
Percent = 325 [3.1(a)] divided by 5433 (3.1) times 100 = 5.98**%**	

Discussion of Improvement Activities and Explanation of Slippage, if the State did not meet its target, that occurred for FFY 2012:

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 2012-13, the percent of resolution sessions ending in agreement was 5.98 percent, which is 2.8 percentage points less than the prior year. This may be due to the continued number of impartial hearing requests that involve multiple issues, 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 462 additional due process requests where the case was closed as settled or withdrawn within 14 days of the end of the resolution period. In addition, the use of mediation increased in this reporting year, which may have led to a decrease in the use of resolution sessions.

Improvement Activities Completed in FFY 2012

In April and May of 2013, the New York State Dispute Resolution Center (NYSDRA), in collaboration with State Education Department funded Special Education Parent Centers, conducted seven regional forums on early and nonadversarial dispute resolution, including use of resolution sessions and mediation.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 *[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 Department of Education 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 2012 (2012-13 school year)	97 percent of mediations held will result in mediation agreements.

Actual Target Data for FFY 2012:

92 percent of mediation sessions held resulted in mediation agreements.

7/1/2012 - 6/30/2013 Table 7: Section B, Mediation Requests	
(2) Total number of Mediation requests received	319
(2.1) Mediations held	177
(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	172
(i) Mediation agreements not related to due process	158
(2.2) Mediations not held (including pending)	28
Percent = 5[(2.1(a)(i)] + 158[2.1(b)(i)] = 163 divided by 177[2.1] = 0.92 times 100 = 92%	

Discussion of Improvement Activities and Explanation of Slippage, if the State did not meet its target, that occurred for FFY 2012:

Explanation of Progress or Slippage

While the State did not meet its target that 97 percent of mediations held would result in mediation agreements, it demonstrated a six percentage point improvement over last year. The percent of mediation sessions held in 2012-13 that resulted in agreement was 92 percent, compared with 86 percent from the previous year. There were 319 total mediation requests in 2012-13, 66 more than in 2011-12. The increase in requests was possibly due to increased and improved training of new and veteran special education mediators and increased public awareness of special education mediation.

Improvement Activities Completed in 2012-13:

- 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 July 2012 to June 2013, the NYSDRA website had a total of 33,913 individuals visiting the webpage.

- In March, April and May 2013, NYSDRA continued collaboration with the State Education Department (SED)-funded Special Education Parent Centers to deliver seven regional workshops 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.

- NYSDRA provided training to 54 veteran and 45 new mediators. This training curriculum was made accessible (post-training) online.

- During the 2012-13 school year, NYSDRA distributed an estimated 3,350 brochures.

- NYSDRA continued with the 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.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2013 *[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 APRs).
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 2012 (2012-13 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 2012:

100 percent of State reported data, including 618 data and annual performance reports were submitted on or before the due dates and are accurate.

Indicator 20 - SPP/APR Data			
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 2012 APR was submitted on-time, place the number 5 in the cell on the right.		5
	Grand Total – (Sum of the subtotal and Timely Submission Points) =		43.00

Indicator 20 - 618 Data					
Table	**Timely**	**Complete Data**	**Passed Edit Check**	**Responded to Date Note Requests**	**Total**
Table 1 – Child Count Due Date: 2/6/13	1	1	1	1	4
Table 2 – Personnel Due Date: 11/6/13	1	1	1	N/A	3
Table 3 – Ed. Environments Due Date: 2/6/13	1	1	1	1	4
Table 4 – Exiting Due Date: 11/6/13	1	1	1	N/A	3
Table 5 – Discipline Due Date: 11/6/13	1	1	1	N/A	3
Table 6 – State Assessment Due Date: 12/19/13	1	NA	NA	N/A	1
Table 7 – Dispute Resolution Due Date: 11/6/13	1	1	1	N/A	3
Table 8 - MOE/CEIS Due Date: 5/1/13	1	1	N/A	N/A	2
				Subtotal	23
618 Score Calculation			**Grand Total** (Subtotal X 1.8695)=		43

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

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2012:

Explanation of Progress or Slippage

NYS' compliance rate on this indicator is 100 percent.

Improvement Activities Completed in 2012-13

- The State continued its participation in the monthly technical assistance calls hosted by OSEP.

- The State regularly reviewed The Right IDEA website for technical assistance resources, information and documentation that can be utilized to improve SPP 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 assists school districts to accurately report compliance data by providing them technical assistance on regulatory requirements related to the compliance indicators.

Revisions, <u>with Justification</u>, to Proposed Targets/ Improvement Activities / Timelines / Resources for FFY 2013 *[If applicable]*

None