

North Dakota Part B FFY 2005 SPP/APR Response Table

Monitoring Priorities and Indicators	Status	OSEP Analysis/Next Steps
Monitoring Priority: FAPE in the LRE		
<p>1. Percent of youth with IEPs graduating from high school with a regular diploma compared to percent of all youth in the State graduating with a regular diploma.</p> <p>[Results Indicator]</p>	<p>The State's reported data for FFY 2005 are 76.54%. This represents slippage from FFY 2004 data of 84.14%. The State did not meet its target of 85.10%.</p> <p>The State reported these data were incomplete, with 30 school districts not included.</p>	<p>State reported that the data were incomplete and would not be completed until March 2007. State reported that 30 schools (14.7%) had not submitted data. In addition to the missing data, the State did not submit raw data and the State must provide the required data in the FFY 2006 APR, due February 1, 2008.</p> <p>OSEP looks forward to the State's data demonstrating improvement in performance in the FFY 2006 APR, due February 1, 2008.</p>
<p>2. Percent of youth with IEPs dropping out of high school compared to the percent of all youth in the State dropping out of high school.</p> <p>[Results Indicator]</p>	<p>The State's reported data for FFY 2005 are 22.87%. This represents slippage from FFY 2004 data of 15.86%. The State did not meet its target of 14.98%.</p> <p>The State reported these data were incomplete, with 30 school districts not included.</p>	<p>State reported that the data were incomplete and would not be completed until March 2007. State reported that 30 schools (14.7%) had not submitted data. In addition to the missing data, the State did not submit raw data and the State must provide the required data in the FFY 2006 APR, due February 1, 2008.</p> <p>OSEP looks forward to the State's data demonstrating improvement in performance in the FFY 2006 APR, due February 1, 2008.</p>
<p>3. Participation and performance of children with disabilities on statewide assessments:</p> <p>A. Percent of districts that have a disability subgroup that meets the State's minimum "n" size meeting the State's AYP objectives for progress for disability subgroup.</p> <p>[Results Indicator]</p>	<p>The State's FFY 2005 reported data for this indicator are 93%. This represents progress from FFY 2004 data of 92.4%. For reading, the State did not meet its target of 95.5% for FFY 2005.</p> <p>The State's FFY 2005 reported data for this indicator are 94.2%. This represents</p>	<p>OSEP looks forward to the State's data demonstrating improvement in performance in the FFY 2006 APR, due February 1, 2008.</p>

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	slippage from FFY 2004 data of 95.4%. For math, the State did not meet its target of 97.2% for FFY 2005.	
<p>3. Participation and performance of children with disabilities on statewide assessments:</p> <p>B. Participation rate for children with IEPs in a regular assessment with no accommodations; regular assessment with accommodations; alternate assessment against grade level standards; alternate assessment against alternate achievement standards.</p> <p>[Results Indicator]</p>	<p>The State's reported data for FFY 2005 are 98.1% for math and reading. The State met its target of 95% for FFY 2005.</p>	<p>The State met its target and OSEP appreciates the State's efforts to improve performance.</p>
<p>3. Participation and performance of children with disabilities on statewide assessments:</p> <p>C. Proficiency rate for children with IEPs against grade level standards and alternate achievement standards.</p> <p>[Results Indicator]</p>	<p>The State's FFY 2005 reported data for this indicator are 54.3% for reading. This represents progress from FFY 2004 data of 48.1%. For reading, the State did not meet its FFY 2005 target of 55%.</p> <p>For math, the State met its target of 50%. The State's reported data for FFY 2005 are 50.2%.</p>	<p>The State did not meet its target for reading.</p> <p>For math, the State met its target and OSEP appreciates the State's efforts to improve performance.</p> <p>OSEP looks forward to the State's data demonstrating improvement in performance for reading in the FFY 2006 APR, due February 1, 2008.</p>
<p>4. Rates of suspension and expulsion:</p> <p>A. Percent of districts identified by the State 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; and</p> <p>[Results Indicator]</p>	<p>The State's reported data for FFY 2005 are 0%. The State met its target of 0.97%. It appears the State is comparing total number of incidents and not rates. If so, the State must revise its measure.</p>	<p>The State met its target.</p> <p>The State was instructed in Table B of OSEP's March 20, 2006 SPP response letter to revise its plan and activities to describe how the State reviewed, and if appropriate revised (or required the affected LEAs to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure compliance with the IDEA, as required by 34 CFR §300.170(b) (previously at §300.146). The State indicated that it required the affected LEAs to review, and if appropriate</p>

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		<p>revise policies and procedures, but did not indicate that the review, and if appropriate revision covered policies, procedures and practices relating to development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. This represents noncompliance with 34 CFR §300.170(b). To correct this noncompliance the State must demonstrate in the FFY 2006 APR, due February 1, 2008, that for those districts where it identified significant discrepancies, it has reviewed, and if appropriate revised (or required the affected LEAs to revise) policies, practices and procedures relating to each of the following topics: development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards.</p>
<p>4. Rates of suspension and expulsion: B. 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. [Results Indicator; New]</p>		<p>Based upon our preliminary review of all State submissions for Indicator 4B, it appears that the instructions for this indicator were not sufficiently clear and, as a result, confusion remains regarding the establishment of measurements and targets that are race-based and for which there is no finding that the significant discrepancy is based on inappropriate policies, procedures, or practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. As a result, use of these targets could raise Constitutional concerns. Therefore, OSEP has decided not to review this year's submissions for Indicator 4B for purposes of approval and will revise instructions for this indicator to clarify how this indicator will be used in the future. Based upon this, OSEP did not consider the submissions for Indicator 4B in making determinations under section 616(d). It is also important that States immediately cease using Indicator 4B measurements and targets, unless they are based on a finding of inappropriate policies, procedures, or practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards.</p>
<p>5. Percent of children with IEPs aged 6 through 21: A. Removed from regular class less than 21% of the day;</p>	<p>For Indicator 5A, the State met its FFY 2005 target of 78%. The State's reported data for FFY 2005 are 78.62%.</p>	<p>For Indicators 5A and 5B, the State met its targets and OSEP appreciates the State's efforts to improve performance. OSEP looks forward to the State's data demonstrating improvement in performance for Indicator 5C in the FFY 2006 APR, due February 1, 2008.</p>

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<p>B. Removed from regular class greater than 60% of the day; or</p> <p>C. Served in public or private separate schools, residential placements, or homebound or hospital placements.</p> <p>[Results Indicator]</p>	<p>For Indicator 5B, the State met its FFY 2005 target of 4%. The State's reported data for FFY 2005 are 3.94%.</p> <p>For Indicator 5C, the State did not meet its FFY 2005 target of 2%. The State's FFY 2005 reported data for this indicator are 2.14%. This represents progress from FFY 2004 data of 2.33%.</p>	
<p>6. Percent of preschool children with IEPs who received special education and related services in settings with typically developing peers (i.e., early childhood settings, home, and part-time early childhood/part-time early childhood special education settings).</p> <p>[Results Indicator]</p>	<p>The State's FFY 2005 reported data for this indicator are 52%. The State met its FFY 2005 target of 51%.</p>	<p>The State met its target and OSEP appreciates the State's efforts to improve performance.</p> <p>Please note that, due to changes in the 618 State-reported data collection, the measurement for this indicator will change for the FFY 2006 APR, due February 1, 2008. States will be required to describe how they will collect valid and reliable data to provide baseline and targets in the FFY 2007 APR, due February 1, 2009.</p>
<p>7. Percent of preschool children with IEPs who demonstrate improved:</p> <p>A. Positive social-emotional skills (including social relationships);</p> <p>B. Acquisition and use of knowledge and skills (including early language/communication and early literacy); and</p> <p>C. Use of appropriate behaviors to meet their needs.</p> <p>[Results Indicator; New]</p>	<p>Entry data not provided. The State provided a plan that will not be implemented statewide until June 2008.</p>	<p>The State did not submit the data required by the instructions for the SPP/APR, due February 1, 2007, including: (1) entry data; (2) instruments and method to get baseline data for this indicator; (3) a sampling plan or indication how it would collect its data; and (4) definition of comparable to same aged peers. The State's plan not to implement its system statewide until June 2008 will not ensure that the State can submit this information and provide baseline data, targets, and improvement activities in the FFY 2006 APR, due February 1, 2008. The State must meet the February 1, 2008 timeline.</p>
<p>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</p>	<p>The State's FFY 2005 reported baseline data for this are 92.8%.</p>	<p>The State provided baseline data, targets and improvement activities. In the FFY 2006 APR, due February 1, 2008, the State must demonstrate that the response group is representative of the State.</p>

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children with disabilities. [Results Indicator; New]		
Monitoring Priority: Disproportionality		
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. [Compliance Indicator; New]	The State's FFY 2005 reported baseline data are 3.02% as "potentially having disproportional identification."	The State indicated that: The 2005 - 2006 data indicate that 6 school districts (3.02%) were identified... as potentially having disproportional identification. ...The student identification practices of each of the 6 school districts identified in the 2005 - 2006 data as potentially having disproportionate representation of all disability categories and racial and ethnic groups in special education and related services have been reviewed by NDDPI staff. Letters will be sent to special education unit directors and school district superintendents detailing corrective actions necessary. The NDDPI will monitor the actions taken by school districts and offer technical assistance where necessary. The State identified six districts with disproportionate representation of racial and ethnic groups in special education and related services but it appears that the State has not identified disproportionate representation that was the result of inappropriate identification, as required by 34 CFR §300.600(d)(3). The State must provide, in its FFY 2006 APR, baseline data from FFY 2005 on the percent of districts identified with disproportionate representation of racial and ethnic groups in special education and related services that was the result of inappropriate identification, and describe how the State made that determination (e.g., monitoring data, review of policies, practices and procedures, etc.). The State must also provide data, in its FFY 2006 APR, on the percent of districts identified in FFY 2006 with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification, and describe how the State made that determination, even if the determination occurs in the fall of 2007. In addition, the State must indicate the racial or ethnic groups for which disproportionate representation is the result of inappropriate identification.
10. Percent of districts with disproportionate	The State's FFY 2005	The State indicated that:

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<p>representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.</p> <p>[Compliance Indicator; New]</p>	<p>reported baseline data are 13.57% having “potentially disproportional identification.”</p>	<p>The NDDPI staff will notify both the superintendent and the special education directors in each school district identified and outline the corrective actions and timelines specific to this indicator, including a review of policies and procedures used for identifying specific disability categories. Letters of notification will also inform the school district of the availability of technical assistance, if desired or necessary. The NDDPI staff will then monitor corrective action plans to ensure completion within one year.</p> <p>The State identified districts with disproportionate representation of racial and ethnic groups in specific disability categories but it appears that the State did not determine if the disproportionate representation was the result of inappropriate identification, as required by 34 CFR §300.600(d)(3). The State must provide, in its FFY 2006 APR, baseline data from FFY 2005 on the percent of districts identified with disproportionate representation of racial and ethnic groups in special education and related services that was the result of inappropriate identification, and describe how the State made that determination (e.g., monitoring data, review of policies, practices and procedures, etc.). The State must also provide data, in its FFY 2006 APR, on the percent of districts identified in FFY 2006 with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification, and describe how the State made that determination, even if the determination occurs in the fall of 2007.</p>
<p>Monitoring Priority: Effective General Supervision</p>		
<p>11. Percent of children with parental consent to evaluate, who were evaluated within 60 days (or State-established timeline).</p> <p>[Compliance Indicator; New]</p>	<p>The State’s FFY 2005 reported baseline data for this are 88.09%.</p>	<p>The State provided baseline data, targets and improvement activities and OSEP accepts the SPP for this indicator. The State reported data based on the Federal timeline within which the evaluation must be conducted.</p> <p>OSEP looks forward to reviewing data in the FFY 2006 APR, due February 1, 2008 that demonstrate compliance with the requirements of 34 CFR §300.301(c)(1), including data demonstrating correction of noncompliance identified in FFY 2005.</p>
<p>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</p>	<p>The State did not provide baseline data or actual target data. The State did not</p>	<p>OSEP’s October 18, 2005 FFY 2003 response letter noted that the State did not report the State’s overall percentage of children found eligible for preschool special education services who received services by their third</p>

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<p>implemented by their third birthdays. [Compliance Indicator]</p>	<p>monitor for this requirement.</p>	<p>birthday. OSEP directed the State to submit responsive baseline data regarding the percentage of children referred by Part C prior to age 3, who are found eligible for Part B and receive special education and related services by their third birthdays, in the SPP. It did not do so. OSEP instructed the State in OSEP's March 20, 2006 SPP response letter to include data in the APR, due February 1, 2007, that demonstrate the State is measuring compliance with the early childhood transition requirements as set out in Indicator 12 and that it is ensuring correction of any identified noncompliance within one year of identification. The State did not submit baseline data, target data, or any other data or information to show compliance with this indicator. As part of its reporting under Indicator 15, the State indicated that it did not review school districts for compliance with the requirements related to this indicator. The State proposed a pilot data collection under its monitoring system for this indicator for "a small section of ND school districts during the 2007-2008 school year." It also proposed to disseminate an Excel spreadsheet to collect data for this indicator in the Fall of 2006 but did not indicate whether this occurred. Therefore the State remains out of compliance with the transition requirements of 34 CFR §300.124 (previously 34 CFR §300.121) and the monitoring requirements of 20 U.S.C. 1232d(b)(3)(E), and 34 CFR §§300.149 and 300.600.</p> <p>The State must review its improvement activities and revise them to ensure they will enable the State to include data in the FFY 2006 APR, due February 1, 2008, that demonstrate compliance with the requirements of 20 U.S.C. 1232d(b)(3)(E), and 34 CFR §§300.124, 300.149 and 300.600.</p>
<p>13. Percent of youth aged 16 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. [Compliance Indicator; New]</p>	<p>The State's reported FFY 2005 baseline are 0%.</p>	<p>The State provided baseline data, targets and improvement activities and OSEP accepts the SPP for this indicator.</p> <p>The State used six questions on the NSTTC Transition Requirement checklist as a measure for this indicator. Although the State reported that a review of student files from five Special Education Units showed compliance for the majority of components, the State concluded noncompliance with this indicator when any component was not met. The State must review its improvement activities and revise, if appropriate, to ensure they will enable the State to include data in the FFY 2006 APR, due February 1, 2008, that demonstrate full compliance with this requirement.</p>
<p>14. Percent of youth who had IEPs, are no</p>	<p>The State provided a plan that</p>	<p>The State provided a plan that describes how data will be collected. The</p>

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<p>longer in secondary school and who have been competitively employed, enrolled in some type of post-secondary school, or both, within one year of leaving high school.</p> <p>[Results Indicator; New]</p>	<p>describes how data will be collected for submission with the APR, due February 1, 2008.</p>	<p>State must provide baseline data, targets, and improvement activities with the FFY 2006 APR, due February 1, 2008.</p>
<p>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.</p> <p>[Compliance Indicator]</p>	<p>The State did not meet its FFY 2005 target of 100%. The State's FFY 2005 reported data for this indicator are 94.4%. This represents progress from the FFY 2004 data of 87.8%. The State reported data from January to June 2006 indicating 98.96% timely compliance.</p> <p>The State did not report on status of outstanding noncompliance identified in the FFY 2004 SPP.</p>	<p>In OSEP's March 20, 2006 SPP response letter, OSEP instructed the State to ensure that all noncompliance is corrected within one year of identification and include data in the APR, due February 1, 2007, that demonstrate compliance with this requirement. In OSEP's November 3, 2006 verification visit letter, OSEP noted its concern that the State's corrective measures are inadequate and that the State's monitoring may not be sufficiently comprehensive to enable the State to collect adequate data for its APR for Indicator 15A, regarding the percent of noncompliance related to monitoring priority areas and indicators corrected within one year of identification. OSEP also identified a number of concerns with the State's monitoring system, including exercising limited oversight on a statewide basis, placing heavy reliance on Special Education Unit (SEU) internal monitoring procedures, which vary significantly across SEUs, and not requiring SEUs to document the specific noncompliance identified and the evidence of what measures have been taken to correct identified noncompliance. This is consistent with OSEP's analysis for Indicator 12 above, a long-standing compliance indicator where the State has failed to provide compliance data.</p> <p>OSEP required the State to provide a description of how it will collect data for all LEAs during the six-year period covered by the SPP to ensure that they meet the program requirements of Part B of the Act. With its FFY 2005 APR submission, the State included a document titled "<i>ND Special Education IDEA Local Level Internal Monitoring Procedures.</i>" OSEP is in the process of reviewing this document and will respond under separate cover.</p> <p>The State must provide in the FFY 2006 APR, due in February 2008, data demonstrating correction of all previously identified noncompliance, and timely correction of noncompliance identified in 2005-2006, as required by 20 U.S.C. 1232d(b)(3)(E), and 34 CFR §§300.149 and 300.600. The State also must report, in the FFY 2006 APR, on the status of correction of the</p>

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		noncompliance findings identified during FFY 2004 and FFY 2005. In addition, the State must, in reporting on Indicators 11 and 13 in the FFY 2006 APR, report on the correction of the noncompliance identified for those indicators in FFY 2005.
<p>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.</p> <p>[Compliance Indicator]</p>	<p>The State reported FFY 2005 data are 100% and the State met the FFY 2005 target.</p>	<p>The State met its target and OSEP appreciates the State's efforts in achieving compliance.</p>
<p>17. Percent of fully 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.</p> <p>[Compliance Indicator]</p>	<p>The State reported FFY 2005 data are 100% and the State met the FFY 2005 target.</p>	<p>The State met its target and OSEP appreciates the State's efforts in achieving compliance.</p>
<p>18. Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements.</p> <p>[Results Indicator; New]</p>	<p>The State reported that no resolution sessions were held.</p>	<p>The State is not required to provide baseline, targets or improvement activities until any FFY in which 10 or more resolution meetings were held.</p>
<p>19. Percent of mediations held that resulted in mediation agreements.</p> <p>[Results Indicator]</p>	<p>The State reported that no mediations were held.</p>	<p>The State is not required to provide or meet its targets until any FFY in which 10 or more mediations are conducted.</p>
<p>20. State reported data (618 and State Performance Plan and Annual Performance Report) are timely and accurate.</p> <p>[Compliance Indicator]</p>	<p>The State did not provide numerical data but in its narrative reported slippage due to incomplete data for Indicators 1 and 2.</p>	<p>The State reported slippage due to incomplete data for Indicators 1 and 2 and the lack of data for Indicator 12. The State must review its improvement strategies and revise them, if appropriate, to ensure that they will enable the State to include data in the FFY 2006 APR, due February 1, 2008, that demonstrate compliance with the requirements in IDEA section 618 and 34 CFR §§76.720 and 300.601(b).</p>