

Table B – Part B
Previously Identified Issues

Issue	State Submission	OSEP Analysis	Required Action
<p>Indicator 3: OSEP’s May 17, 2004 letter, regarding the results of the OSEP’s November 2003 verification visit to Kentucky identified noncompliance with the requirement at 34 CFR §300.138 that the State develop and conduct alternate assessments for those children with disabilities in grades 3, 6, and 9 who require an alternate in order to participate in statewide administration of the Norm Referenced Test (NRT). The Special Conditions to the State’s FFY 2004 Part B grant awards, issued on September 23, 2004, required that the State submit a plan to ensure compliance by May 17, 2005. This was not done. The Special Conditions to the State’s FFY 2005 Part B grant awards, issued July 5, 2005, required that Kentucky submit a progress report on December 2, 2005 and a final status report on May 15, 2006 demonstrating progress and full compliance, respectively, with the requirement that it develop, administer and report publicly and to the Secretary on the participation and performance of children with disabilities on alternate assessments for those students requiring an alternate assessment format for the NRT administered in grades 3, 6, and 9, as provided in 20 U.S.C. 1412(a)(16)(C).</p>	<p>On March 20, 2006, the State submitted a plan to implement alternate assessments intended to address the 2005 Special Conditions. The plan sets out activities including the proposed implementation and reporting of participation and performance of children with disabilities on alternate assessments in grades 3-12, which includes all the Kentucky Core Content Test (KCCT) and the NRT testing years, by June 2007.</p>	<p>The proposed plan includes strategies and activities including activities conducted under the State’s General Supervision Enhancement Grant, intended to result in the development of alternate assessments and reporting on the participation and performance of children with disabilities on alternate assessments in grades 3 through 12. OSEP recognizes the efforts that are required to develop and implement new Statewide alternate assessments and appreciates the State’s submission of its plan in this regard. However, this is an area of long-standing noncompliance and the State’s proposed timelines fall outside the requirements of the FFY 2005 Special Conditions.</p>	<p>Under the FFY 2005 Special Conditions, by no later than May 15, 2006, the State must report on the status of the development and implementation of alternate assessments to the NRT for children with disabilities in grades 3, 6 and 9 who require such alternate format. Continued failure to comply with the requirements of 20 U.S.C. 1412(a)(16)(C) will affect OSEP’s determination of the State’s status under section 616(d) of the IDEA, which may include the continuation of high-risk status with Special Conditions and/or other enforcement options provided under law.</p>
<p>Indicator 4A: OSEP’s July 20, 2005 letter in response to Kentucky’s FFY 2002 APR, submitted March 29, 2004, required the State, 60 days from the date of the letter, to demonstrate compliance with 34 CFR §300.146 by examining all data on the rate of long-term suspensions and expulsions of children with disabilities for all LEAs to determine whether significant discrepancies were occurring in the LEAs based on</p>	<p>In the December 2, 2005 SPP, the State reported data for Indicator 4A, on significant discrepancies among the LEAs in the rate of suspensions of children with disabilities for more than 10 days.</p> <p>The State’s December 13, 2005 letter reiterated the information in the SPP,</p>	<p>The State did not demonstrate that it is in compliance with the requirement at 34 CFR §300.146 (20 U.S.C. 1412(a)(22)).</p>	<p>In the FFY 2005 APR, due February 1, 2007, the State must demonstrate compliance with 34 CFR §300.146 (20 U.S.C. 1412(a)(22)) by reporting on the results of its reviews, and if appropriate, revision of</p>

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<p>either the comparison of rates among LEAs in the State or compared to the rates of non-disabled children within the agencies and that when it identifies significant discrepancies it reviews and, if appropriate, revises (or requires the affected State agency or LEA to revise) its policies, procedures and practices relating to the development and implementation of individualized education programs (IEPs), the use of behavioral interventions, and procedural safeguards, to ensure that these policies, procedures, and practices comply with Part B. OSEP's September 13, 2005 letter extended the time period for the State to submit the required information until the SPP on December 2, 2005.</p>	<p>but did not include any additional data or information on this issue.</p>		<p>LEA policies, procedures and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that these policies, procedures, and practices comply with Part B. Failure to demonstrate compliance with this requirement at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p>
<p>Indicators 9 and 10: OSEP's July 20, 2005 letter in response to the Kentucky's FFY 2002 APR, submitted March 29, 2004, required the State, 60 days from the date of the letter, to provide information indicating that the State, when it identifies significant disproportionality, conducts a review of its policies, procedures and practices used in the identification and placement of children with disabilities, and revises any policies, procedures and practices identified as not educationally appropriate or legally consistent with Part B and other civil rights laws. OSEP's September 13, 2005 letter extended the time period for the State to submit the required information until the SPP on December 2, 2005.</p>	<p>In the SPP, under Indicators 9 and 10, the State submitted a description of the formula for determining significant disproportionality and its process for review. The description of the State's review process only provides for review and, if appropriate, revision of policies and procedures by those LEAs that cannot "demonstrate that, based on individualized circumstances, the data does not result from inappropriate identification." The State also reported a proposal that only LEAs that reported significant disproportionality for two years would undergo a review of "due process folders of minority students" under its focused monitoring.</p>	<p>The description of the State's review process activities and proposed activities appears inconsistent with the requirement at 34 CFR §300.755 (20 U.S.C. 1418(d)), that in the case of a determination of an LEA with significant disproportionality, the State must provide for the review and, if appropriate, revision of the policies, procedures, and practices used by that LEA in the identification and placement of children with disabilities to ensure that such policies procedures and practices comply with the Act.</p>	<p>The State must revise its improvement strategies and activities related to the required review, and if appropriate, revision of policies, procedures and practices to comply with 34 CFR §300.755 (20 U.S.C. 1418(d)). The State must include data and information in the APR, due February 1, 2007, that demonstrate full compliance with this requirement. Failure to demonstrate compliance at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p>

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	<p>The State's December 13, 2005 letter reiterated the information in the SPP, but did not include any additional data or information on this issue.</p>		
<p>Indicator 12: OSEP's July 20, 2005 letter in response to Kentucky's FFY 2002 APR, submitted March 29, 2004 required the State, 60 days from the date of the letter, to: (1) provide data, analysis and a determination of whether the State is meeting the requirement at 34 CFR §300.132(b) that an IEP, or if consistent with State policy, an IFSP, be developed and implemented for all children participating in the early intervention program under Part C of IDEA who are eligible for Part B services by their third birthdays; and (2) if the data demonstrated noncompliance, the State was to include a plan with strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year. OSEP's September 13, 2005 letter extended the time period for the State to submit the required information until the SPP on December 2, 2005.</p>	<p>The State reported a 79.34% level of compliance for Indicator 12 in the SPP, specifically the requirement at 34 CFR §300.132(b). The SPP also included proposed activities to address the noncompliance.</p> <p>The State's December 13, 2005 letter reiterated the information in the SPP, but did not include any additional data or information on this issue.</p>	<p>The State is out of compliance with the requirement at 34 CFR §300.132(b) and has proposed activities to address the noncompliance.</p>	<p>The State should review and, if necessary revise, its improvement strategies included in the SPP to ensure they will enable the State to include data in the APR, that demonstrate full compliance with this requirement. The State must ensure that this noncompliance is corrected within one year of its identification and include data in the APR, due February 1, 2007, that demonstrate compliance with this requirement. Failure to demonstrate compliance at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p>
<p>Indicator 15: KDE submitted an Improvement Plan (IP) to OSEP on July 1, 2002 to address the areas of noncompliance that the State identified in its December 2001 Self-Assessment related to its general supervision oversight of monitoring. The State indicated that the former monitoring system did not ensure correction of identified noncompliance and there were no data to verify that the revised monitoring system (the</p>	<p>The State reported zero compliance for Indicator 15B in the SPP, specifically the requirement at 34 CFR §300.600. KDE reported on page 79 of the SPP that it had no mechanism to ensure that corrective action plans were completed within one year from the date of</p>	<p>The State is not ensuring timely correction of previously identified noncompliance consistent with Indicator 15 and 34 CFR §300.600.</p>	<p>The State should review and, if necessary revise, its improvement strategies included in the SPP to ensure they will enable the State to include data in the APR, that demonstrate full compliance with this requirement. The</p>

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<p>Kentucky Continuous Monitoring Process (KCMP)) ensured correction of identified problems as required by 34 CFR §300.600. The OSEP May 17, 2004 letter regarding the results of its verification visit to the State in November 2003, required the State to report on the effectiveness of its correction system. The State provided OSEP with progress reports in January and June 2004, and responses to the verification letter on August 6, 2004. These submissions did not report that the State was ensuring correction in a timely manner. OSEP's July 20, 2005 letter in response to Kentucky's FFY 2002 APR, submitted March 29, 2004, required the State, 60 days from the date of the letter, to submit evidence that the State's monitoring system ensured correction of any identified noncompliance in a timely manner as required by 34 CFR §300.600 and 20 U.S.C. 1232d(b). OSEP's September 13, 2005 letter extended the time period for the State to submit the required information until the SPP on December 2, 2005.</p>	<p>identification, but that it has taken steps to address this issue.</p> <p>The State's December 13, 2005 letter reiterated the information in the SPP, but did not include any additional data or information on this issue.</p>		<p>State must demonstrate that noncompliance is corrected within one year of its identification and include data in the APR, due February 1, 2007, that demonstrate compliance with this requirement. Failure to demonstrate compliance at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p>
<p>Indicator 16: KDE submitted an Improvement Plan to OSEP on July 1, 2002 to address the areas of noncompliance that the State identified in its December 2001 Self-Assessment including the resolution of complaints within 60 days of receipt or within extensions for exceptional circumstances with respect to a particular complaint as required by 34 CFR §300.661. OSEP's May 17, 2004 verification letter noted that for the period between July 1, 2002 and June 30, 2003, only 55% of complaints had been resolved within federal timelines. However, for the period between July 2003 and November 2003, for the 11 complaints where a decision was due, 10 had been resolved within the 60-day timelines and one had been extended five days to allow for additional information from the parent and district. OSEP's July 20, 2005</p>	<p>Under Indicator 16 in the SPP, the State reported a 91% level of compliance for the 2003-2004 period ending July 1, 2004 and a 62.5% level of compliance for the 2004-2005 period ending July 1, 2005--specifically, with the federal timelines at 34 CFR §300.661.</p> <p>The State's December 13, 2005 letter reiterated the information in the SPP, but did not include any additional data or information on this issue.</p>	<p>Despite its previous progress, the State's SPP submission reported noncompliance with the requirement at 34 CFR §300.661.</p>	<p>The State should review and, if necessary revise, its improvement strategies included in the SPP to ensure they will enable the State to include data in the APR, that demonstrate full compliance with this requirement. The State must ensure that this noncompliance is corrected within one year of its identification and include data in the APR, due February 1, 2007, that demonstrate compliance with this requirement. Failure to</p>

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<p>letter in response to Kentucky's FFY 2002 APR, noted for the 2003-2004 school year, that the State reported 32 complaints where decisions were due, with 30 (94%) issued within federal timelines. OSEP acknowledged the State's significant progress toward full compliance and required the State to submit data and analysis demonstrating full compliance 60 days from the date of the letter. OSEP's September 13, 2005 letter extended the time period for the State to submit the required information until the SPP on December 2, 2005.</p>			<p>demonstrate compliance at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p>
<p>Indicator 17: OSEP's July 20, 2005 letter in response to Kentucky's FFY 2002 APR, submitted March 29, 2004, noted the State's report that for the 2003-2004 school year, four of five hearing decisions were reached within federal timelines. The State's June 2004 Progress Report did not provide sufficient information for OSEP to determine whether the three hearings with continuances were specific extensions granted at the request of a party as required under 34 CFR §300.511. OSEP required the State, 60 days from the date of the letter, to provide data and analysis demonstrating full compliance with 34 CFR §300.511 including documentation that continuances are granted by the hearing officer for a specific period of time at the request of a party. OSEP's September 13, 2005 letter extended the time period for the State to submit the required information until the SPP on December 2, 2005.</p>	<p>Under Indicator 17 in the SPP, the State reported on the continuances in the 2003-2004 data, including efforts undertaken to clarify federal requirements and also reported 2004-2005 data, that four of 19 hearing requests were fully adjudicated and that all four met federal timelines. Therefore, the State reported full compliance with the requirement at 34 CFR §300.511.</p>	<p>OSEP appreciates the State's efforts in ensuring compliance with this requirement.</p>	<p>OSEP looks forward to reviewing data in the APR, due February 1, 2007, demonstrating continuing compliance with this requirement.</p>