

North Carolina

Table B – Part B

Previously Identified Issues

Issue	State Submission	OSEP Analysis	Required Action
<p><b>Indicator 3</b>  <b>34 CFR §§300.138, 300.139 and 300.347(a)(5)</b></p> <p>In its October 24, 2005 verification visit letter, OSEP found that NCDPI had not ensured compliance with the requirements of 34 CFR §§300.138, 300.139 and 300.347(a)(5), as they apply to districtwide assessments. NCDPI special education and assessment administrators and staff informed OSEP that: (1) while NCDPI is aware that some school districts administer districtwide assessments (in addition to the required statewide assessments), NCDPI did not know which districts administer such districtwide assessments; and (2) NCDPI has not monitored to ensure compliance with the requirements of 34 CFR §§300.138, 300.139 and 300.347(a)(5) as they apply to districtwide assessments. OSEP's letter required the State to submit, within 60 days from the date of the letter, either: (1) documentation that NCDPI has corrected this area of noncompliance; or (2) the State's plan for ensuring, within one year from the date on which OSEP approves the plan, that NCDPI is monitoring to ensure that school districts that administer districtwide assessments are complying with the requirements of 34 CFR §§300.138, 300.139 and 300.347(a)(5), as they apply to districtwide assessments.</p>	<p>In its December 24, 2005 Progress Report, the State indicated that information regarding the need to offer alternate assessments for students with disabilities who are unable to take the regular paper and pencil test and the need to report the results for students assessed with alternate assessments on district-wide assessments has been presented by the State at several statewide conferences. The State has also shared information about the OSEP finding with local superintendents at various regional meetings across the state. Regional Accountability Coordinators (RACs) have shared similar information with their respective LEA Test Coordinators.</p> <p>The NCDPI anticipates developing a survey after the first of January 2006 that will be completed by the LEAs to determine the extent to which the IDEA requirements are being followed.</p> <p>The State also described other steps that it is taking to ensure compliance.</p>	<p>The State has set forth a plan to ensure compliance.</p>	<p>As part of its submission for Indicator 3 in the APR due February 1, 2007, the State must include documentation that shows that the State is ensuring compliance with the requirements of 34 CFR §§300.138, 300.139 and 300.347(a)(5), as they apply to districtwide assessments. That documentation must include a description of the State procedures for monitoring regarding such compliance, a summary of the State's findings, and, for any findings of noncompliance, the status of correction.</p>

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<p><b>Indicator 4A</b> <b>34 CFR §300.146(b)</b></p> <p>34 CFR §300.146 requires that States examine data to determine if significant discrepancies are occurring in the rates of long-term suspensions and expulsions of children with disabilities either among local education agencies (LEAs) in the State or compared to the rates for nondisabled children within the agencies. Where the State determines that significant discrepancies are occurring, it must review and, if appropriate, revise (or require the affected LEA to revise) its policies, procedures, and practices related to the development and implementation of individualized education programs (IEPs), the use of behavioral interventions, and procedural safeguards to ensure that policies, procedures practices comply with Part B.</p> <p>The State's FFY 2003 APR, however, did not include any information indicating that the State examined data from the LEAs that it used in assembling the State-level data to determine whether significant discrepancies were occurring in the LEAs based on either one of the comparisons described above, as directed by the FFY 2003 APR instructions.</p> <p>OSEP's October 24, 2005 letter required the State to submit, within 60 days, either: (1) evidence that it was complying with the requirements of 34 CFR §300.146; or (2) a plan to ensure correction of the noncompliance as soon as possible and not more than one year after OSEP accepted the plan..</p>	<p>On page 16 of the SPP, the State reported its determination that: (1) 11.3% of the LEAs have significant discrepancies in the rates of suspension and expulsions of children with disabilities when only "traditional" LEAs are included; and (2) 6.1% of the LEAs have significant discrepancies when Charter Schools and traditional LEAs are included. The State also addressed, in its December 24, 2005 Progress Report, its activities related to suspension and expulsion.</p> <p>However, the State did not address, in either document, the provisions of 34 CFR §300.146(b), which requires, where the State determines that significant discrepancies are occurring, that it review and, if appropriate, revise (or require the affected LEA to revise) its policies, procedures, and practices related to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards to ensure that policies, procedures practices comply with Part B.</p>	<p>The State has not provided documentation of compliance with the requirements of 34 CFR §300.146(b).</p>	<p>The State must ensure that this noncompliance is corrected within one year of its identification and include documentation in the APR, due February 1, 2007, that demonstrate compliance with this requirement. This documentation must include the results of the State's review of policies, procedures and practices, as required by 34 CFR §300.146(b). 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. 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><b>Indicator 9</b> <b>34 CFR §300.755(b)</b></p> <p>34 CFR §300.755(b) requires that when a State determines that there is significant disproportionality regarding the identification or educational placement of children with disabilities, the State must provide for the review and, if appropriate, revision of the policies, procedures, and practices comply with the requirements of Part B.</p> <p>OSEP's October 24, 2005 letter responding to NCDPI's FFY 2003 APR required the State to, within 60 days, either: (1) provide documentation of compliance with the review requirements of 34 CFR §300.755(b), and the results of such review; or (2) specify what steps the State would take to implement its plan to report on the results of its review of policies, procedures, and practices, as outlined above, and to ensure correction of the noncompliance.</p>	<p>The State did not provide documentation of compliance with the requirements of 34 CFR §300.755(b), including the results of its review under those requirements. On page 35 of the SPP, the State set forth its plan for reporting on the results of its review of policies, procedures, and practices to ensure correction of the noncompliance. The plan includes resources, targets, and timelines to address the requirement.</p>	<p>The State included in its SPP a plan to conduct the review required by 34 CFR §300.755(b), but had not yet complied with that requirement when it submitted its SPP.</p>	<p>The State must ensure that this noncompliance is corrected within one year of its identification and include documentation in the APR, due February 1, 2007, that demonstrate compliance with this requirement. This documentation must include the results of the State's review of policies, procedures and practices, as required by 34 CFR §300.755(b). 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. 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><b>Indicators 13 and 15</b>  <b>34 CFR §§300.600, 300.344(b)(1), and §300.347(b)</b>  <b>20 U.S.C. 1232d(b)(3)</b></p> <p>OSEP's October 2004 letter directed the State to submit: (1) as part of its FFY 2003 APR, an update, including current supporting data and analysis, regarding its progress in correcting the noncompliance related to inviting students to IEP meetings where a purpose is the consideration of transition service needs or needed transition services (34 CFR §300.344(b)(1)) and transition-related content of IEPs (34 CFR §300.347(b)); and (2) by July 9, 2005, documentation showing that the State corrected both areas of noncompliance.</p> <p>On pages 65 through 68 of the FFY 2003 APR, the State included data and information regarding its monitoring findings related to those requirements. Those data showed that the State continued to find some LEAs in noncompliance in both areas. Neither the APR nor the July 2005 Progress Report included documentation regarding the extent to which the State was effective in ensuring that these LEAs corrected that noncompliance within one year from identification. OSEP's October 24, 2005 response to the APR required the State to provide, within 60 days, data and analysis regarding the extent to which it has been effective in ensuring that LEAs correct the noncompliance within one year from identification.</p>	<p>On page 16 of its December 24, 2005 Progress Report, the State reported that, since September 20, 2005, it had conducted 36 on-site verification visits of LEAs, Charter Schools and State Operated Programs that completed a Self-Assessment in 2000-2001.</p> <p>The Progress Report also provided that: (1) the over all compliance rate for inviting students to IEP meetings is 83%; and (2) the compliance rate for transition related content is 89%.</p>	<p>The State provided data that demonstrate continuing noncompliance with the requirements at: (1) 34 CFR §§300.34 CFR § 300.344(b)(1) (inviting students to IEP meetings where a purpose is the consideration of transition service needs or needed transition services); and (2) 34 CFR 300.347(b) (transition related content of IEPs).</p> <p>The level of compliance reported was: (1) 83% for inviting students to IEP meetings; and (2) 89% for transition-related content of IEPs. OSEP initially identified this noncompliance in NCDPI's June 2002 Improvement Plan.</p>	<p>The State must submit data that demonstrate compliance with these requirements by June 1, 2006. Failure to demonstrate compliance at that time may result in the State being identified as a "high risk" grantee or otherwise affect the State's FFY 2006 grant award.</p>

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<p><b>Indicator 15</b>  <b>34 CFR §§300.600 and 300.550(b)</b>  <b>20 U.S.C. 1232d(b)(3)</b></p> <p>Regulations at 34 CFR §300.550(b) require that each public agency ensure: (1) that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and (2) that special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. In its FFY 2003 APR, the State reported that, as determined through LEAs' self-assessments in 2002-2003 and 2003-2004, "several LEAs were involved in non-compliance with [the requirements regarding placement in the least restrictive environment (LRE)] in the 6-21 age group" for both of those school years. The State did not include any data regarding its effectiveness in ensuring that this noncompliance was corrected within one year from identification. In its October 24, 2005 response to the APR, OSEP required that, within 60 days, the State provide data and analysis regarding the extent to which it was effective in ensuring that LEAs correct noncompliance with Part B's LRE requirements within one year from identification.</p>	<p>The State's December 24, 2005 Progress Report set forth strategies that the State is implementing to ensure compliance with the requirements regarding placement in the LRE and improved performance. The State provided no information, in either the Progress Report or the SPP, regarding the extent to which it was effective in ensuring that LEAs correct noncompliance with Part B's LRE requirements within one year from identification.</p>	<p>The State did not provide the required information regarding the extent to which it has been effective in ensuring that LEAs correct noncompliance with Part B's LRE requirements within one year from identification</p>	<p>The State must submit data that demonstrate compliance with this requirement by April 14, 2006. Failure to demonstrate compliance at that time may result in the State being identified as a "high risk" grantee or otherwise affect the State's FFY 2006 grant award.</p>

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<p><b>Indicators 15</b>  <b>34 CFR §§300.600, 20 U.S.C. 1232d(b)(3)</b></p> <p>In its 2001 Self-Assessment, the State reported that “students with disabilities who have behavioral issues are not always receiving appropriate services as evidenced by the high dropout and suspension rates due to teacher shortages, lack of professional training for administrators and general education personnel, and lack of access to appropriate instruction.” OSEP’s October 2004 letter directed the State to submit: (1) as part of its FFY 2003 APR, an update, including current supporting data and analysis, regarding its progress in correcting the noncompliance related to the provision of FAPE to children with disabilities with behavioral issues (34 CFR §300.300); and (2) by July 9, 2005, documentation showing that the State corrected the noncompliance. Neither the FFY 2003 APR nor the State’s July 2005 Progress Report included documentation that the State corrected this area of noncompliance. OSEP’s October 24, 2005 response to the APR and Progress Report required the State to provide, within 60 days, documentation that it ensured full correction of the noncompliance.</p>	<p>On pages 14 and 15 of its December 24, 2005 Progress Report, the State described its efforts to ensure an adequate supply of qualified teachers to meet the needs of children with behavioral issues and ensure that public agencies provide appropriate services to these children. The State also provided data showing improved placement and proficiency data for these students.</p>	<p>As explained in the first column, OSEP identified this area of noncompliance based upon the State’s finding, in its 2001 Self-Assessment, that “students with disabilities who have behavioral issues are not always receiving appropriate services as evidenced by the high dropout and suspension rates due to teacher shortages, lack of professional training for administrators and general education personnel, and lack of access to appropriate instruction.” The State has provided documentation of the improved performance for these students, and of the actions that it has taken to ensure that teachers working with these students have the skills to provide appropriate instruction.</p>	<p>No further action required.</p>

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<p><b>Indicator 17</b>  <b>34 CFR §300.511(a) and (c)</b></p> <p>34 CFR §300.511(a) and (c) require that the final decision in a due process hearing be reached and mailed to the parties not later than 45 days after the receipt of a request for a hearing, and that a hearing officer may grant specific extensions of time beyond that period at the request of either party (in extending the timeline, the hearing officer must specify the new date by which the decision will be reached and mailed to the parties).</p> <p>The State's 2001 Self-Assessment included data showing noncompliance with the due process hearing timeline requirements of 34 CFR §300.511(a) and (c). In its October 28, 2003 letter, OSEP required the State to revise its Improvement Plan to ensure that the State could demonstrate full compliance within a reasonable period of time, not to exceed one year from the date that OSEP accepted the revised Plan. On April 26, 2004, NCDPI submitted to OSEP its revised Improvement Plan. In its June 9, 2004 letter, OSEP accepted the revised Improvement Plan that the State submitted on April 26, 2004, and required the State to submit, no later than 30 days following one year from the date of the letter, documentation that it had corrected the noncompliance.</p> <p>The State's FFY 2003 APR and OSEP's October 24, 2005 verification letter documented continuing noncompliance.</p> <p>OSEP's October 24, 2005 response to the State's FFY 2003 APR required the North Carolina Department of Public Instruction (NCDPI) to submit, within 60 days, updated data, and, to the extent that the State could not demonstrate compliance with those requirements, specific strategies that the State would implement to ensure compliance. OSEP's letter also required the State to submit an additional Progress Report by April 14, 2006.</p>	<p>In its December 24, 2005 Progress Report, the State reported that 21 of the 57 hearing files closed from July 1, 2004 to June 30, 2005 had decisions within 45 days; the State has acknowledged that, for hearings with decisions beyond 45 days, it does not have documentation of specific extensions of the decision timeline at the request of a party. In the Progress Report, the State described the steps it is taking to ensure correction of the noncompliance.</p> <p>Page 82 of the SPP states that: "Twenty due process cases filed during the 2004-2005 school year remained open more than 100 days, and eight cases remained open more than 200 days. Extensions of time were not documented in any of the cases."</p>	<p>The State provided data that demonstrate continuing noncompliance with the requirements at 34 CFR §§300.511(a) and (c), that a final decision in a due process hearing is reached and mailed to the parties not later than 45 days after the receipt of a request for a hearing, and that a hearing officer may grant specific extensions of time beyond that period at the request of either party (in extending the timeline, the hearing officer must specify the new date by which the decision will be reached and mailed to the parties). The level of compliance reported in the SPP was 50%. The plan proposed by the State in the Progress Report would not result in compliance by June 30, 2006</p>	<p>The State must submit data that demonstrate compliance by April 14, 2006. Failure to demonstrate compliance by June 30, 2006, may result in the State being identified as a "high risk" grantee or otherwise affect the State's FFY 2006 grant award.</p>