

South Carolina Table B – Part B
Previously Identified Issues

Issue	State Submission	OSEP Analysis	Required Action
<p>Indicator 4 34 CFR §§300.121(d)(3)(ii), 300.520 and 300.522</p> <p>OSEP's September, 15, 2004 letter and September 22, 2005 response to the State's FFY 2003 APR required the State to submit, by October 15, 2005, data and analysis demonstrating compliance with the requirements at 34 CFR §§300.121(d)(3)(ii), 300.520 and 300.522 (appropriate personnel make determination as to services and appropriate settings for students with disabilities who have been suspended and expelled).</p>	<p>In its October 2005 Progress Report, SCDE indicated that it cited one of the 22 districts that it monitored during the 2003-2004 school year for noncompliance with these requirements, and that the district corrected the noncompliance within one year.</p>	<p>The State reported data showing full correction of the previously-identified noncompliance with the requirements at 34 CFR §§300.121(d)(3)(ii), 300.520 and 300.522. OSEP appreciates the State's efforts in ensuring compliance with this requirement.</p>	<p>No further action required.</p>
<p>Indicator 4A 34 CFR §300.146</p> <p>In its FFY 2003 APR, the State provided information and data on the suspension/expulsion rates of children with disabilities, but did not determine if there was a significant discrepancy among the rates from different local education agencies (LEAs) as required by 34 CFR §300.146. OSEP's September 22, 2005 response required SCDE to provide data and analysis demonstrating compliance with 34 CFR §300.146 or a plan to correct the noncompliance as soon as possible and not more than one year after OSEP accepts the plan.</p>	<p>On pages 1 and 2, Indicator 4A, of the SPP, the State defined "significant discrepancy," and indicated that it was using a percentage to accurately represent the extent to which students with disabilities were suspended/expelled in an LEA in comparison across LEAs. The State reported that it would ensure compliance in the LEAs identified as having significant discrepancies through its monitoring process. The State ranked LEAs based on the percentage of students with disabilities who were suspended or expelled greater than 10 days. On page 3 of Indicator 4A of the SPP, the State reported that 10 LEAs were significantly above the State average 1.60% for suspensions/expulsions for the 2004-2005 reporting period and six districts were significantly above the State average of 1.17%.</p> <p>The State also reported the actions it has undertaken to comply with 34 CFR §300.146, indicating that it would review and revise existing regulations and policies regarding discipline of students with disabilities.</p>	<p>SCDE provided data and information indicating that significant discrepancies are occurring in the rate of long-term suspensions/expulsions of children with disabilities among local education agencies (LEAs) in the State.</p> <p>The State included in its SPP a plan to conduct the review required by 34 CFR §300.146(b), but had not yet complied with that requirement when it submitted its SPP.</p>	<p>The State must ensure that the noncompliance with 34 CFR §300.146(b) is corrected and include documentation in the APR, due February 1, 2007, that demonstrates 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>

Issue	State Submission	OSEP Analysis	Required Action
<p>Indicator 9 34 CFR §300.755</p> <p>The State's FFY 2003 did not include the results of its review of policies, procedures, and practices used in the identification and placement of students with disabilities to ensure that they were consistent with the requirements of Part B and were race-neutral, for those districts with significant disproportionality. In its September 22, 2005 response, OSEP concluded that the State was not complying with the requirements of 34 CFR §300.755, and required the State to submit, by December 2, 2005, a plan to ensure correction of the noncompliance.</p>	<p>On pages 3 and 4, Indicator 9, of the SPP, the State indicated that it would incorporate a review process into the focused monitoring framework, which would include a review of district policies, procedures, and practices, a self-assessment and on-site folder reviews. The State also provided additional information that could be reviewed during the process.</p> <p>The State indicated that data from different sources would be used to triangulate data to identify systemic issues involved in disproportionate representation due to inappropriate identification.</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 the noncompliance with §300.755(b) is corrected and provide data 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>
<p>Indicator 12 34 CFR §300.132(b)</p> <p>OSEP's January 2005 letter, responding to SCDE's November and December 2004 Progress Reports, accepted SCDE's plan to ensure compliance with the requirement to make FAPE available to Part B eligible children by their third birthday. In its FFY 2003 APR, the State reported that 10 of the 20 districts it monitored in 2003-2004 failed to have services in place by the child's third birthday, especially for children with summer birthdays. OSEP's September 22, 2005 response to the APR required the State to submit, by October 15, 2005, data and analysis (including revised monitoring documents) demonstrating compliance with this requirement.</p>	<p>In its October 2005 Progress Report (Attachments 2 & 3), SCDE provided OSEP with a copy of the interview questions it added to its monitoring protocols regarding whether extended school year (ESY) services were available to children with disabilities who turn three during the summer and whether evaluations were administered in a timely manner to ensure that IEPs are in effect by the child's third birthday. The State further reported that 17% of three-year old children with disabilities received ESY services during the summer of 2005.</p> <p>SCDE reported that, in 2003-2004, it cited 14 of the 23 districts it monitored for noncompliance in the area of services in effect by the third birthday, and that 11 had corrected this issue within one-year. The State reported that 3 districts are still receiving follow-up to correct this noncompliance and that it would not release IDEA allocations until issues of noncompliance is corrected.</p>	<p>The SPP required the State to provide the percentage of eligible children transitioning from Part C who had an IEP in effect by their third birthday. As further discussed in Table A, the State did not provide baseline data that were consistent with the required measure for Indicator 12. Therefore, OSEP could not determine from the SPP the extent to which the State has ensured statewide compliance with the requirements of 34 CFR §300.132(b).</p> <p>The State reported that 20 of the 23 districts that it monitored were in compliance with the requirements of 34 CFR §300.132(b). This shows an 87% level of compliance, based on the percentage of districts in compliance.</p>	<p>The State must ensure that the noncompliance it identified in its monitoring is corrected and include data in the APR, due February 1, 2007, that demonstrate compliance with this requirement. 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>

Issue	State Submission	OSEP Analysis	Required Action
<p>Indicator 15 34 CFR §300.600 OSEP's September 15, 2004 FFY 2002 APR response letter directed the State to provide data and analysis demonstrating progress toward compliance with the requirements at 34 CFR §300.600, such that OSEP could determine whether the State's monitoring system identified all Part B noncompliance and ensured correction within one year of identification. OSEP's September 22, 2005 response to the State's FFY 2003 APR required the State to provide, within 60 days, data and analysis demonstrating compliance with the requirements at 34 CFR §300.600, that the State identify and correct noncompliance identified through its monitoring process.</p>	<p>In its October 17, 2005 Progress Report, the South Carolina Department of Education (SCDE) indicated that it developed a tri-leveled system of proposed sanctions and accountability measures that are being used for noncompliance issues not corrected within one-year.</p> <p>On page 6 of indicator 15 in the SPP, SCDE reported an increase in the percentage of districts that corrected issues of noncompliance from 18.5% to 50% for the 2003-04 school year and that sanctions were issued to four districts that did not meet the one-year timeline.</p> <p>The SPP also included a process and plan of action for addressing systemic issues of noncompliance.</p>	<p>The State reported that during 2003-2004 it ensured correction of noncompliance within one year in only 50% of the LEAs monitored. This demonstrates noncompliance with the State's obligation under 34 CFR §300.600 and 20 USC 1232d(b)(3) to correct identified noncompliance.</p>	<p>The State must ensure that this noncompliance is corrected and include data in the APR, due February 1, 2007, that demonstrate compliance with this requirement for those districts monitored in the 2003-04 school year (as noted in Table A). 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>
<p>Indicator 15 34 CFR §§300.24(b)(2) and (9), 300.300 and 300.347(a)(3) OSEP's September, 15, 2004 letter and September 22, 2005 response to the State's FFY 2003 APR required the State to submit, by October 15, 2005, data and analysis demonstrating compliance with the requirements at 34 CFR §§300.24(b)(2) and (9), 300.300 and 300.347(a)(3) (provision of psychological counseling services in accordance with individualized education programs (IEPs)).</p>	<p>In its October 17, 2005 Progress Report, SCDE reported that eight of the twenty-two districts were cited for noncompliance and five corrected within one year. One completed corrective actions beyond one year and two were still outstanding. SCDE also reported that these two districts have received extensive follow-up with Corrective actions to include training, technical assistance, and follow up folder review. The State further reported that it has imposed sanctions (withholding of IDEA funds) on these districts until full compliance in ensured.</p>	<p>The data provided by the State show a 91% level of compliance with the requirement at 34 CFR §§300.24(b)(2) and (9), 300.300 and 300.347(a)(3) (two of the 22 districts monitored regarding these requirements remain in noncompliance). The State further reported that it has withheld Part B funds from these districts to ensure correction. While this level of compliance is below 100% and requires continued implementation of improvement activities to achieve full compliance, OSEP recognizes the effort made by the State in working toward compliance with this requirement.</p>	<p>OSEP looks forward to reviewing data in the APR, due February 1, 2007, that demonstrate full compliance with this requirement.</p>

Issue	State Submission	OSEP Analysis	Required Action
<p>Indicator 17 34 CFR §300.511</p> <p>OSEP's September 22, 2005 letter required SCDE to submit data and analysis demonstrating compliance with the requirements at 34 CFR §300.511 that due process hearings decisions are issued to parties within timelines.</p>	<p>The State's October 2005 Progress Report included a copy of due process logs demonstrating that all hearings and reviews during the period of 7/1/2003-6/30/2004 resulted in written decisions within required timelines, including extensions. On page 2 of Indicator 2 of the SPP, the State provided data showing that all due process hearings and State level reviews were completed in a timely manner for 2004-05.</p>	<p>The State reported data showing full correction of the previously-identified noncompliance with the requirements at 34 CFR §300.511. 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>