

Virginia
Table B – Part B

Previously-Identified Issues

Issue	State Submission	OSEP Analysis	Required Action
<p>Indicator 4</p> <p>The State's FFY 2003 APR provided State-level data comparing the rates of suspensions and expulsions for children with disabilities to children without disabilities. However, the State did not provide any information comparing the rates across school divisions, as required by 34 CFR §300.146(a)(2). OSEP's October 14, 2005 response required the State, no later than December 2, 2005, to either: (1) demonstrate it was complying with 34 CFR §300.146; or (2) submit a plan to ensure the correction of the noncompliance as soon as possible and not more than one year after OSEP accepted the plan. The final report under the plan would be due 30 days following the end of the one-year timeline.</p>	<p>In the SPP, the State provided data showing that it conducted the comparison of district data, as required by 34 CFR §300.146(a). On pages 17-18, the State indicated, as part of its Improvement Activities, that its follow-up with districts with significant discrepancies will include review of their local policies and procedures and revision of those policies and procedures where needed.</p>	<p>In the SPP, the State demonstrated that it is conducting the comparison required by 34 CFR §300.146(a), and that it has a plan to conduct the review (and, if necessary, revision) of policies and procedures required by 34 CFR §300.146(b). The State's plan, however, did not, as required by 34 CFR §300.146(b) also provide for the review of practices.</p>	<p>With its APR, due February 1, 2007, the State must, as part of its response to Indicator 4, report on the results of its review, under 34 CFR §300.146(b), of policies, procedures, and practices related to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that they comply with Part B.</p>
<p>Indicator 9</p> <p>With regard to disproportionality, OSEP's July 22, 2004 response to the State's FFY 2002 APR required the State to include in its FFY 2003 APR, the results of its review of the policies, procedures and practices used in the identification and placement of children with disabilities to ensure they are consistent with Part B, when it identifies significant disproportionality under 34 CFR §300.755. The State's FFY 2003 APR did not include those results. OSEP's October 14, 2005 response to the FFY 2003 APR required the State to submit, not later than December 2, 2005, 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 30 of the SPP, the State indicated that it was researching different methodologies for determining whether disproportionate representation exists for racial and ethnic groups in the population of children with disabilities. The State indicated that: (1) once the methodology is adopted, it would make a decision on how to include a determination as to whether the disproportionate representation is the result of inappropriate identification; (2) data collected from the 2005-2006 school year would be used for the analysis; and (3) the State would review policies, procedures and practices when disproportionate representation is identified. The State explained that follow-up monitoring of changes and revisions to policies, procedures and practices has been, and will continue to be, part of the State's focused monitoring.</p>	<p>The State provided a plan to conduct the required review and to ensure correction of the noncompliance.</p>	<p>The State must ensure that the noncompliance with the requirements of 34 CFR §300.755(b) is corrected, and include the results of its review under this section, in the APR, due February 1, 2007. 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>Indicator 12</p> <p>34 CFR §300.132 requires that children participating in early intervention programs under Part C who will participate in preschool programs under Part B, experience a smooth and effective transition to those preschool programs, and that by the third birthday of such a child, an individualized education program (IEP) or, if consistent with 34 CFR §§300.342(c) and 636(d) of the IDEA, an individualized family service plan (IFSP), has been developed and is being implemented for the child. As noted in OSEP's October 14, 2005 response to the State's FFY 2003 APR, the APR included information showing noncompliance with those requirements. VDOE indicated that, for the 2003-2004 school year, 1,492 children referred by Part C were found eligible for Part B services; however, only 1,256 children were reported served under Part B. VDOE provided no explanation for the other 236 children (15 %). OSEP's letter required the State to submit, no later than December 2, 2005, a plan to ensure correction of the noncompliance as soon as possible, and not later than one year from the date OSEP accepted the plan.</p>	<p>As further explained in the discussion of Indicator 12 in Table A, the State did not include a baseline for this Indicator in its SPP. However, on pages 37-38 of the SPP, the State included a plan to collect data regarding compliance with 34 CFR §300.132(b) and to ensure compliance with that requirement. The State plans to use its 6-year, three-phase monitoring cycle that includes self-assessments, on-site verification visits, and follow-up desk-audits or additional on-site visits to ensure compliance with this requirement. On page 38, the State included, as Improvement Activities for 2005-2006, revising the on-site monitoring process to require local divisions to maintain data, conducting meetings between Part C and Part B personnel to discuss transition issues, disseminating information and guidance regarding transition from Part C to Part B, and updating and disseminating the <i>Early Childhood Transition from Part C Early Intervention to Part B Special Education and Other Services for Young Children with Disabilities</i> document.</p>	<p>The State set forth a plan to ensure correction of the noncompliance with 34 CFR §300.132(b).</p>	<p>The State must ensure that the noncompliance 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>

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<p>Indicator 15</p> <p>OSEP's October 14, 2005 letter required the State to submit, by December 2, 2005, evidence that the State was fully meeting the requirement to ensure the correction of noncompliance within one year of the State's identification of that noncompliance through their monitoring process (34 CFR §300.600, 20 U.S.C. 1232d(b)(3), and 34 CFR §76.770).</p>	<p>On page 46 of the SPP, the State reported, in response to Indicators 15A and 15B, that it had ensured the correction of all noncompliance identified through monitoring within one year from identification. The State reported that 100% of the requirements related to both priority areas and indicators and areas not included in the monitoring priority areas and indicators found in noncompliance were corrected within one year of identification.</p> <p>On page 50, in response to Indicator 15C, the State reported that 91.4% of noncompliance identified through complaints were corrected within one year and that 100% of noncompliance findings in due process hearings were corrected within one-year of identification.</p>	<p>The State reported data showing full correction of the previously-identified noncompliance with the requirements at 34 CFR §300.600, 20 U.S.C. 1232d(b)(3), and 34 CFR §76.770, as they apply to the timely correction of noncompliance identified through monitoring and due process hearings. OSEP appreciates the State's efforts in ensuring compliance with these requirements.</p> <p>The State reported a 91.4% level of compliance with regard to ensuring the timely correction of noncompliance identified through the resolution of complaints. 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>With regard to the timely correction of noncompliance identified through monitoring and due process hearings, OSEP looks forward to reviewing data in the APR, due February 1, 2007, demonstrating continued compliance with these requirements.</p> <p>With regard to the timely correction of noncompliance identified through complaints, OSEP looks forward to reviewing data in the APR, due February 1, 2007, that demonstrate full compliance with these requirements.</p>