

Table A – New York Part C

Issues Identified in the State Performance Plan

SPP Indicator	Issue	Required Action
<p>Indicator 1: Percent of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner. (20 USC 1416(a)(3)(A) and 1442)</p>	<p>Noncompliance: The State reported an 82 % level of compliance for Indicator 1 in the SPP, specifically the requirements at 34 CFR §§303.340(c), 303.342(e), and 303.344(f)(1). The baseline data reported for Indicator 1 represents the FFY 2003-2004 performance period.</p> <p>Other: The State reported as its timely standard early intervention services begin “within 21 days from the parent consent on the initial IFSP.” This standard suggests that the State’s baseline data may only measure the timeliness of early intervention services for children with initial IFSPs and not all children with IFSPs. The Part C regulations at 34 CFR §§303.342(e) and 303.344(f)(1) require that the lead agency provide the early intervention services that are consented to by the parent as soon as possible after the IFSP meeting.</p>	<p>The State did not provide FFY 2004 baseline data in the SPP in response to this indicator. The State must include, in the FFY 2005 APR, due February 1, 2007, both base line data from FFY 2004 (July 1, 2004 through June 30, 2005) and progress data from FFY 2005 (July 1, 2005 through June 30, 2006). Failure to include both types of these data will affect OSEP’s determination in 2007 of the State’s status under section 616(d) of the IDEA.</p> <p>Noncompliance: The State must revise its timely standard and may use a starting point consistent with the Part C regulations, such as when a parent consents to the provision of early intervention services under 34 CFR §303.404(a)(2). Alternatively, the State may use “IFSP initiation date” as its standard but must monitor the implementation of this standard to ensure that this date is reasonable when applied to individual IFSPs. The State must submit its revised standards and data in the FFY 2005 APR due February 1, 2007. 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.</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.</p>

SPP Indicator	Issue	Required Action
<p>Indicator 2: Percent of infants and toddlers with IFSPs who primarily receive early intervention services in the home or programs for typically developing children.¹ (20 USC 1416(a)(3)(A) and 1442)</p>	<p>Other: The State in its discussion of the baseline data for this performance indicator identified noncompliance relative to a related requirement that is discussed in Indicator 9 in this table.</p>	<p>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>The State must respond to the required action specified in Indicator 9 in this table, in the APR, due February 1, 2007.</p>
<p>Indicator 4: Percent of families participating in Part C who report that early intervention services have helped the family: A. Know their rights; B. Effectively communicate their children's needs; and C. Help their children develop and learn. (20 USC 1416(a)(3)(A) and 1442)</p>	<p>Other: OSEP could not determine if NYDOH plans to use sampling in collecting data for this indicator. If so, it is important that the State have a technically sound sampling plan to ensure that data used for entry, baseline, or to report on progress are valid and reliable. The submission of invalid data is inconsistent with Federal statute and regulations, including section 616(b)(2)(B) of the IDEA, and will affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p>	<p>If NYDOH intends to collect information through sampling, your SPP must include sampling methodology to ensure the collection of valid and reliable data on which to base your targets and improvement activities. The State must submit the revised sampling methodology that describes how data were collected with the State's FFY 2005 APR that is due February 1, 2007. If NYDOH decided not to sample, but rather gather census data, please inform OSEP and revise your SPP accordingly.</p>

¹ At the time of the release of this package, revised forms for collection of 618 State reported data had not yet been approved. Indicators will be revised as needed to align with language in the 2005-2006 State reported data collections.

SPP Indicator	Issue	Required Action
<p>Indicator 7: Percent of eligible infants and toddlers with IFSPs for whom an evaluation and assessment and an initial IFSP meeting were conducted within Part C's 45-day timeline. (20 USC 1416(a)(3)(B) and 1442)</p>	<p>Noncompliance: The State reported a 61.53% level of compliance for Indicator 7 in the SPP, specifically the requirements at 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a). The State reviewed approximately 1000 child records and the analysis of the data indicated that 20% of the delays were due to program issues, while the remaining 80% were due to family circumstances. The State identified improvement strategies to ensure compliance with this requirement.</p>	<p>Noncompliance: 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. 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>

SPP Indicator	Issue	Required Action
<p>Indicator 8: Percent of all children exiting Part C who received timely transition planning to support the child's transition to preschool and other appropriate community services by their third birthday including:</p> <ul style="list-style-type: none"> A. IFSPs with transition steps and services B. Notification to LEA, if child potentially eligible for Part B; and C. Transition conference, if child potentially eligible for Part B. 	<p>Noncompliance:</p> <p>A: The State reported an 81.33% level of compliance for Indicator 8A in the SPP, specifically the requirements at 34 CFR §§303.148(b)(4) and 303.344(h).</p> <p>See Table B for additional discussion of 8A.</p> <p>B: The State reported a 77.38% level of compliance for Indicator 8B in the SPP, specifically the LEA notification requirement at 34 CFR §303.148(b)(1).</p> <p>C: The State reported a 79.0% level of compliance for Indicator 8C in the SPP, specifically the requirement at 34 CFR §§303.148(b)(2)(i).</p> <p>See Table B for additional discussion of 8C.</p> <p>NYDOH identified improvement activities that include modifications to its database system to ensure compliance with this requirement.</p> <p>Other: 8C: In the State's computation of its baseline data for this compliance indicator, the State may have included children for whom the family did not provide approval to conduct the conference or for whom the conference was not timely held due to documented exceptional family circumstances.</p>	<p>Noncompliance: The State must ensure that the noncompliance for Indicators 8A, 8B, and 8C are corrected within one year of its identification 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 the requirements of 8A, 8B, and 8C.</p> <p>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>See Table B for additional discussion of 8A and 8C.</p> <p>Other: 8C: In the FFY 2005 APR, due February 1, 2007, the State should not include in the calculation children for whom the State has identified the lack of a timely conference attributable either to exceptional family circumstances documented in the child's record or lack of family approval for the conference. The State must include in its discussion of data, the numbers it used to determine its calculation under this indicator and report separately the number of documented delays attributable to family circumstances and the number of children for whom the family did not provide approval to conduct the conference.</p>
<p>(20 USC 1416(a)(3)(B) and 1442)</p>		

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<p>Indicator 9B: 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. (20 U.S.C. 1416(a)(3)(B) and 1442)</p>	<p>See Table B for discussion of 9A. Noncompliance 9B: The State in its discussion of the baseline data for Indicator 2 reported a newly-identified area of noncompliance with the requirements that early intervention services are provided, to the maximum extent appropriate in the natural environment, and that an appropriate child-outcome based justification is written on the IFSP when an early intervention service is not provided in the natural environment, as required by 34 CFR §§303.12, 303.18, and 303.344(d)(1)(ii).</p>	<p>See Table B for discussion of 9A. The State must ensure that the noncompliance for this indicator is corrected within one year of its identification 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>
<p>Indicator 10: 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. (20 U.S.C. 1416(a)(3)(B) and 1442)</p>	<p>See Table B for discussion of Indicator 10.</p>	<p>See Table B for discussion of Indicator 10.</p>

SPP Indicator	Issue	Required Action
<p>Indicator 11: Percent of fully adjudicated due process hearing requests that were fully adjudicated within the applicable timeline. (20 U.S.C. 1416(a)(3)(B) and 1442)</p>	<p>Noncompliance: The State reported a 0% level of compliance for Indicator 11, specifically the requirement at 34 CFR §303.423(b). NYDOH stated there were 10 written requests for hearings. Eight requests were withdrawn and one of the eight went to mediation. It appears that the remaining one or two were not timely resolved. The State reported that one hearing was pending at the time of the SPP report.</p> <p>Other: The State reported on page 74 of the SPP that it is granting extensions to due process hearings. Under 34 CFR §303.423(b), when a State adopts under 34 CFR §303.420, the due process procedures under Part C, the hearing decision must be rendered within 30 days of the request for a hearing and no extensions are allowed. Since the State has implemented the Part C due process hearing procedures, a 30-day timeline (without extensions) applies to issuing due process hearing decisions.</p>	<p>The State must ensure that the noncompliance for this indicator is corrected within one year of its identification 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.</p> <p>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>In order to receive its FFY 2006 Part C funds, the State must by June 1, 2006 either submit its revised due process timeline policy to clarify that there are no allowable extensions or submit a written assurance confirming that it is using the 30-day timeline under 34 CFR §303.423(b) (without extensions).</p>

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<p>Indicator 14: State reported data (618 and State Performance Plan and Annual Performance Report) are timely and accurate. (20 U.S.C. 1416(a)(3)(B) and 1442)</p>	<p>Noncompliance: The State reported noncompliance with the requirement to report timely and accurate data, as required by 20 U.S.C. 1416(a)(3)(B) and 1442. NYDOH identified improvement strategies to ensure compliance with this requirement.</p>	<p>The State must ensure that the noncompliance for this indicator is corrected within one year of its identification 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.</p> <p>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>