Table A – New York Part B

Issues Identified in the New York State Performance Plan

SPP Indicator	Issue	Required Action
Indicator 1: Percent of youth with IEPs graduating from high school with a regular diploma compared to percent of all youth in the State graduating with a regular diploma. (20 U.S.C. 1416 (a)(3)(A))	The State used FFY 2003 data for baseline information in response to this indicator. The New York State Education Department (NYSED) indicated, on page 8 of the SPP, that the data for the 2004-2005 school year (SY) would become available by December 2005, at which time the SPP will be revised.	The State must include, in the FFY 2005 APR, due February 1, 2007, both baseline 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 these data will affect OSEP's determination of the State's status under section 616(d) of the IDEA.
Indicator 3: Participation and performance of children with disabilities on statewide assessments: A. Percent of districts meeting the State's AYP objectives for progress for disability subgroup. B. Participation rate for children with IEPs in a regular assessment with no accommodations; regular assessment with accommodations; alternate assessment against grade level standards; alternate assessment against alternate achievement standards. C. Proficiency rate for children with IEPs against grade level standards and alternate achievement standards. (20 U.S.C. 1416 (a)(3)(A))	The State used FFY 2003 data for baseline information in response to this indicator. NYSED indicated, on pages 23-25 of the SPP, that the data for the 2004-2005 SY would become available by December 2005, at which time the SPP will be revised.	The State must include, in the FFY 2005 APR, due February 1, 2007, both baseline 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 these data will affect OSEP's determination of the State's status under section 616(d) of the IDEA.
Indicator 4 Rates of suspension and expulsion: A. Percent of districts identified by the State as having a significant discrepancy in the rates of suspensions and expulsions of children with disabilities for greater than 10 days in a school year; and B. Percent of districts identified by the State as	**Noncompliance: See Table B**	**See Table B**

Table A – New York Part B

Issues Identified in the New York State Performance Plan

SPP Indicator	Issue	Required Action
having a significant discrepancy in the rates of suspensions and expulsions of greater than10 days in a school year of children with disabilities by race and ethnicity [20 U.S.C. 1416(a)(3)(A); 1412(a)22]		
Indicator 7: Percent of preschool children with IEPs who demonstrate improved: A. Positive social-emotional skills (including social relationships); B. Acquisition and use of knowledge and skills (including early language/ communication and early literacy); and C. Use of appropriate behaviors to meet their needs. (20 U.S.C. 1416 (a)(3)(A))	An evaluation of the sampling plan for indicator 7 indicated that it was not technically sound (see OSEP's February 14, 2006 memorandum). Data will lack validity if based on a sampling plan that is not technically sound. OSEP is concerned because your plan is to use these invalid data to establish baseline data for this indicator. 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.	As indicated in OSEP's February 14, 2006 memorandum, if a revised sampling plan has not been accepted by OSEP by the time the State submits its FFY 2005 APR, due February 1, 2007, the State must submit a revised sampling methodology, with its FFY 2005 APR, that describes how data were collected. In the FFY 2005 APR, you must explain how your State addressed the deficiencies in the data collection noted in the attachment to the OSEP memorandum. If you decide not to sample, but rather gather census data, please inform OSEP and revise your SPP accordingly.
Indicator 12: Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays. (20 U.S.C. 1416(a)(3)(B))	**Noncompliance: See Table B** **Other:** On page 76 of the SPP, NYSED indicated that the State does not collect data using the same specific measurement required by OSEP. NYSED indicated the required baseline data would be reported in the APR, due February 2007. The State did not provide baseline data in the SPP in response to this indicator.	**See Table B** The State must include, in the FFY 2005 APR, due February 1, 2007, both baseline 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 these data will affect OSEP's determination of the State's status under section 616(d) of the IDEA.
Indicator 15: 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.	**Noncompliance: See Table B**	**See Table B**

Table A – New York Part B

Issues Identified in the New York State Performance Plan

SPP Indicator	Issue	Required Action
(20 U.S.C. 1416 (a)(3)(B))		
Indicator 16: 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))	**Noncompliance: See Table B**	**See Table B**
Indicator 17: Percent of fully adjudicated due process hearing requests that were fully adjudicated within the 45-day timeline or a timeline that is properly extended by the hearing officer at the request of either party. (20 U.S.C. 1416(a)(3)(B))	On page 104 of the SPP, the State reported an 83.5% level of compliance for indicator 17, specifically the requirements at 34 CFR §300.511.	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.
Indicator 20: State reported data (618 and State Performance Plan and Annual Performance Report) are timely and accurate. (20 U.S.C. 1416(a)(3)(B))	While the State provided information indicating that all State-reported data (under section 618 of the IDEA, in the SPP and in the APRs) is 100% accurate, information provided under other indicators of the SPP (e.g., indicators 1, 3, 4A, and 12) reported that the data provided were not completely accurate and/or complete.	The State should reconsider the baseline data provided for indicator 20 of the SPP and provide accurate information, including improvement activities, in the APR, due February 1, 2007. Failure to accurately report information in this indicator may affect OSEP's determination of the State's status under section 616(d) of the IDEA.