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Previously-Identified Issues

Issue	State Submission	OSEP Analysis	Required Action
Indicator 4 OSEP's October 2005 APR letter required NYSED to submit either: ▪ Evidence demonstrating that it was meeting the requirements of 34 CFR §300.146 to examine data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities: ▪ Among local educational agencies in the State; or ▪ Compared to the rates for children without disabilities within the agencies; and ▪ Evidence that it had reviewed and, if appropriate, revised (or required the affected State agency or LEA to revise) its policies, procedures and practices relating to the development and implementation of the IEP, the use of behavioral interventions and procedural safeguards, to ensure that these policies, procedures and practices complied with IDEA, if discrepancies were occurring, as required under 34 CFR §300.146; or ▪ A plan to ensure correction of the noncompliance with 34 CFR §300.146.	NYSED's November 21, 2005 letter: ▪ Provided information stating that an examination of the data to determine if significant discrepancies were occurring in the rate of long-term suspensions and expulsions of children with disabilities among LEAs in the State had been conducted; and ▪ Indicated that it would provide a plan, including strategies, proposed evidence of change, targets and timelines in the SPP (pp. 31-33) to ensure correction of the noncompliance.	In the SPP: ▪ The State reported 17 districts (2.5% of 684) with significant discrepancies. These data were not considered final as of the date of submission of the SPP, since the data had not been verified by the State. The State indicated that an update would be provided before July 1, 2006 (p. 31); and ▪ In the SPP, the State included improvement strategies, timelines and resources supporting the requirement for those districts to conduct a self-review of policies, procedures and practices relating to the development and implementation of the IEP, the use of behavioral interventions and procedural safeguards, to ensure that these policies, procedures and practices comply with IDEA (pp. 31-33).	The State must ensure this noncompliance is corrected and include data in the APR, due February 1, 2007, that demonstrate compliance with the requirements of 34 CFR §300.146. Failure to demonstrate compliance at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.

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Issue	State Submission	OSEP Analysis	Required Action
Indicators 9 and 10 OSEP's October 5, 2005 letter required NYSED to, not later than the submission of the SPP, either: ▪ Provide documentation demonstrating that it was meeting the requirements of 34 CFR §300.755; or ▪ Submit a plan including strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance as soon as possible and not more than one year after OSEP accepted the plan; NYSED was also required to provide: ▪ A Progress Report including data and analysis demonstrating progress toward compliance, no later than six months from the date of the October 5, 2005 letter (no later than April 5, 2006).	NYSED's November 21, 2005 letter: ▪ Indicated that a review of the policies, procedures and practices was completed as required by NYS Chapter 405 of the Laws of 1999; ▪ Cited the establishment of a 2003 NYS policy whereby any district identified as having significant disproportionality would: ▪ Automatically become targeted for intensive technical assistance; ▪ Be required to address the issues in its personnel development plan; and ▪ Be required to conduct root-cause analysis associated with the personnel development plan that includes an intensive evaluation of policies, procedures and practices related to disproportionality.	The State's November 21, 2005 response demonstrated full compliance with the requirement at 34 CFR §300.755. OSEP appreciates the State's efforts in ensuring compliance with this requirement. Additionally, in the SPP, the State provided a plan with strategies, proposed evidence of change, targets and timelines designed to ensure continued compliance (pp 62, 63).	No further action required. OSEP looks forward to reviewing data in the APR, due February 1, 2007, demonstrating continued compliance with this requirement.
Indicator 12 OSEP's October 2005 APR letter required NYSED to: ▪ Provide updated data and information demonstrating compliance with the requirements at 34 CFR §§300.132 and 300.342(c).	NYSED's November 21, 2005 response to OSEP's October 2005 APR letter provided: ▪ Data and analysis indicating that, in one of its school districts, as of October 31, 2005, 99.5% of preschool students receive timely preschool special education	The State's November 21, 2005 response indicated 99.5% compliance in the district with the problem related to the requirement for timely preschool special education services for children with disabilities as required at 34 CFR §§300.132 and 300.342(c).	The State must continue to report on its statewide performance on indicator 12 in the APR due February 1, 2007. OSEP looks forward to reviewing data in that APR that demonstrate full compliance with this requirement.

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Issue	State Submission	OSEP Analysis	Required Action
	services; and ▪ Strategies and activities to continue progress toward meeting the requirements related to the provision of transitioning services for the identified school district.		
Indicators 15A & 15B OSEP's October 2005 letter required NYSED to: ▪ Include data and analysis, in the SPP, demonstrating full compliance with requirements 34 CFR §300.600 and 20 U.S.C. 1232d(b)(3); and ▪ If the State was unable to demonstrate such compliance, include a plan, with strategies, proposed evidence of change, targets and timelines, designed to achieve compliance as soon as possible, but no later than one year after OSEP approved the plan.	NYSED's November 21, 2005 letter provided data and analysis indicating that, during the 2003-2004 SY, 84.1% of the 1,367 issues identified as areas of noncompliance through monitoring activities were corrected within one year of identification. In the SPP, the State provided data and information indicating an additional 8% of the issues were corrected as of November 2005. To address the noncompliance, the State: ▪ Submitted a plan with strategies, targets, evidence of change and timelines designed to achieve compliance as soon as possible; and ▪ Projected a February 1, 2006 timeline for correction of outstanding 2003-2004 compliance issues.	In the SPP, NYSED reported a 92.1% level of compliance with the requirement at 34 CFR §300.600 and 20 U.S.C. 1232d(b)(3). 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. Contact was made with the State regarding any updates related to its February 1, 2006 timeline for correction of all outstanding 2003-2004 compliance issues. The State indicated that additional monitoring activities have resulted in an increase in the level of compliance with the requirement at 34 CFR §300.600 and 20 U.S.C. 1232d(b)(3) and that those updates would be forwarded to OSEP by mid-March 2006.	OSEP looks forward to reviewing data in the APR, due February 1, 2007, that demonstrate full compliance with this requirement.
Indicator 15C OSEP's October 2005 letter required NYSED to:	NYSED's November 21, 2005 letter provided data and analysis indicating	The State reported a 76.59% level of compliance with the requirements at 34	The State must ensure that this noncompliance is corrected and include

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Issue	State Submission	OSEP Analysis	Required Action
▪ Include, in the SPP, data and analysis demonstrating full compliance with requirements of 34 CFR §300.660; and ▪ If the State was unable to demonstrate such compliance, include a plan, with strategies, proposed evidence of change, targets and timelines, designed to achieve compliance as soon as possible, but no later than one year after OSEP approved the plan.	that during the 2003-2004 SY, 71.4% of 408 issues identified as areas of noncompliance through complaint investigations were corrected within one year of having been identified. In the SPP, the State provided data and information indicating an additional 5.19% of the issues identified were corrected as of November 2005. To address the noncompliance, the State: ▪ Submitted a plan with strategies, targets, evidence of change and timelines designed to achieve compliance as soon as possible; and ▪ Projected a February 1, 2006 timeline for correction of outstanding 2003-2004 compliance issues.	CFR §300.660. OSEP contacted the State regarding any updates related to its February 1, 2006 target for correction of all outstanding 2003-2004 compliance issues as indicated in its November 21, 2005 letter. The State indicated that additional monitoring activities have resulted in an increase in the level of compliance with the requirement at 34 CFR §300.600 and 20 U.S.C. 1232d(b)(3). Those updates will be forwarded to OSEP by mid-March 2006.	data in the APR, due February 1, 2007, that demonstrate compliance with this requirement. Failure to submit this information may affect OSEP's determination on the State's status under section 616(d) of the IDEA.
Indicator 16 OSEP's October 2005 letter required NYSED to: ▪ Include data and analysis in the SPP, demonstrating full compliance related to 34 CFR §300.661; and ▪ If the State was unable to demonstrate such compliance, submit a plan, including strategies, proposed evidence of change, targets and timelines, designed to achieve compliance as soon as	NYSED's November 21, 2005 letter provided data and analysis indicating that, during the 2004-2005 SY, 96.74% of 246 complaints that required resolution were resolved within the 60-day timeline or a timeline extended for exceptional circumstances with respect to an individual complaint. To address the noncompliance, the State submitted a plan with strategies, evidence of change, targets and timelines designed to achieve	In the SPP, the State reported a 96.74% level of compliance with the requirement at 34 CFR §300.661. 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.	OSEP looks forward to reviewing data in the APR, due February 1, 2007, that demonstrate full compliance with this requirement.

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possible, but no later than one year from identification; and ▪ Provide a final report to OSEP, including data and analysis demonstrating compliance as soon as possible, but no later than November 5, 2006.	compliance as soon as possible.		