

New York Part B FFY 2012 SPP/APR Response Table

Part B SPP/APR Indicators

1. Percent of youth with IEPs graduating from high school with a regular diploma. [Results Indicator]
2. Percent of youth with IEPs dropping out of high school. [Results Indicator]
3. Statewide assessments: A. Percent of the districts with a disability subgroup that meets the State’s minimum “n” size that meet the State’s AYP/AMO targets for the disability subgroup. [Results Indicator] B. Participation rate for children with IEPs on statewide assessments. [Results Indicator] C. Proficiency rate for children with IEPs against grade level, modified and alternate academic achievement standards. [Results Indicator]
4. Rates of suspension and expulsion A. Percent of districts that have a significant discrepancy in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; [Results Indicator] B. Percent of districts that have: (a) a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and (b) policies, procedures or practices that contribute to the significant discrepancy and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. [Compliance Indicator]
5. Percent of children with IEPs aged 6 through 21 served: A. Inside the regular class 80% or more of the day; B. Inside the regular class less than 40% of the day; or C. In separate schools, residential facilities, or homebound/hospital placements. [Results Indicator]
6. Percent of children aged 3 through 5 with IEPs attending a: A. Regular early childhood program and receiving the majority of special education and related services in the regular early childhood program; and B. Separate special education class, separate school or residential facility. [Results Indicator]
7. Percent of preschool children age 3 through 5 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. [Results Indicator]
8. Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities. [Results Indicator]
9. Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification. [Compliance Indicator]

10. Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification. [Compliance Indicator]
11. Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe. [Compliance 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. [Compliance Indicator]
13. Percent of youth with IEPs aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the IEP Team meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority. [Compliance Indicator]
14. Percent of youth who are no longer in secondary school, had IEPs in effect at the time they left school, and were: A. Enrolled in higher education within one year of leaving high school; B. Enrolled in higher education or competitively employed within one year of leaving high school. C. Enrolled in higher education or in some other postsecondary education or training program; or competitively employed or in some other employment within one year of leaving high school. [Results 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. [Compliance Indicator]
18. Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements. [Results Indicator]
19. Percent of mediations held that resulted in mediation agreements. [Results Indicator]
20. State reported data (618 and State Performance Plan and Annual Performance Report) are timely and accurate. [Compliance Indicator]

Timeliness of State Complaint and Due Process Hearing Decisions
(Collected as Part of IDEA Section 618 Data rather than through an SPP/APR Indicator)

Timely Resolution of State Complaints: 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, or because the parent (or individual or organization) and the public agency agree to extend the time to engage in mediation or other alternative means of dispute resolution, if available in the State.

Timely Adjudication of Due Process Hearing Requests: Percent of adjudicated due process hearing requests that were adjudicated within the timeline or a timeline that is properly extended by the hearing officer at the request of either party or in the case of an expedited hearing, within the required timelines.

New York Part B FFY 2012 SPP/APR Results Data Summary

INDICATOR	FFY 2011 DATA	FFY 2012 DATA	FFY 2012 TARGET
1. Graduation	47.5%	47.7%	≥ 55% ¹
2. Drop Out	16.0%	15.7%	≤ 12% ²
3. A. Percent of Districts Meeting AYP for Disability Subgroup	44.3%	44.3%	≥ 31%
B. Statewide Assessment Participation Rate – Reading (3-8)	98%	98%	≥ 95%
B. Statewide Assessment Participation Rate – Reading (HS)	97%	97%	≥ 95%
B. Statewide Assessment Participation Rate – Math (3-8)	98%	98%	≥ 95%
B. Statewide Assessment Participation Rate – Math (HS)	97%	97%	≥ 95%
C. Proficiency Rate	See Attached Table	See Attached Table	See Attached Table
4. A. Percent of Districts with Significant Discrepancy in Suspension/Expulsion	4.8%	6.3%	≤ 2% of districts with suspension rate for students with disabilities of ≥ 2.7%
5. Educational Environment for Children with IEPs 6-21			
A. In Regular Education 80% or More of Day	56.9%	57.5%	≥ 60%
B. In Regular Education Less than 40% of Day	22%	21.3%	≤ 20%
C. In Separate Schools, Residential Facilities, or Homebound/Hospitals	6.4%	6.5%	≤ 5.8%
6. Percent of children aged 3 through 5 with IEPs attending:			
A. Regular early childhood program and receiving majority of special education and related services in regular early childhood program;	42.2%	43.47%	≥ 42.7%
B. Separate special education class, separate school or residential facility.	26.8%	23.51%	≤ 26.3%
7. Preschool Outcomes	See Attached Table	See Attached Table	See Attached Table
8. Parents Reporting Schools Facilitated Parent Involvement	93.2%	92.4%	≥ 90%
14. Percent of Youth No Longer in School, within One Year of Leaving High School:			
A. Enrolled in Higher Education	42%	42.1%	≥ 44%

¹ As used in this table, the symbol “≥” means that, to meet the target, the State’s data must be greater than or equal to the established target.

² As used in this table, the symbol “≤” means that, to meet the target, the State’s data must be less than or equal to the established target.

INDICATOR	FFY 2011 DATA	FFY 2012 DATA	FFY 2012 TARGET
B. Enrolled in Higher Education or Competitively Employed	68%	66.3%	≥ 65%
C. Enrolled in Higher Education or Other Postsecondary Education or Training or Competitively Employed or in Some Other Employment	79%	76.4%	≥ 80%
18. Hearing Requests Resolved through Resolution Session Agreements	8.78%	5.98%	≥ 10.78%
19. Mediations Held that Resulted in Mediation Agreements	86%	92%	≥ 97%

3.C Statewide Assessments:

Proficiency rate for children with IEPs against grade level, modified and alternate academic achievement standards.

Grade Level & Subject	Performance Index ³ FFY 2011	Performance Index FFY 2012	FFY 2012 Target
3-8 ELA	97	97	101
3-8 Math	116	116	122
High School ELA	100	100	97
High School Math	77	77	82

³ The State reports its data and targets for Indicator 3.C as performance indices, rather than percentages.

7. Percent of Preschool Children Aged 3 through 5 with IEPs Who Demonstrate Improved Outcomes

Summary Statement 1⁴	FFY 2011 Data	FFY 2012 Data	FFY 2012 Target
Outcome A: Positive social-emotional skills (including social relationships) (%)	88.5%	90.9%	≥ 85.5%
Outcome B: Acquisition and use of knowledge and skills (including early language/ communication) (%)	88.3%	92.1%	≥ 87%
Outcome C: Use of appropriate behaviors to meet their needs (%)	86.7%	91.1%	≥ 84.5%
Summary Statement 2⁵	FFY 2011 Data	FFY 2012 Data	FFY 2012 Target
Outcome A: Positive social-emotional skills (including social relationships) (%)	48.5%	48.2%	≥ 55.7%
Outcome B: Acquisition and use of knowledge and skills (including early language/ communication) (%)	49.2%	48.8%	≥ 55.6%
Outcome C: Use of appropriate behaviors to meet their needs (%)	55.5%	55.4%	≥ 63.5%

⁴ **Summary Statement 1:** Of those preschool children who entered or exited the preschool program below age expectations in each Outcome, the percent who substantially increased their rate of growth by the time they turned 6 years of age or exited the program.

⁵ **Summary Statement 2:** The percent of preschool children who were functioning within age expectations in each Outcome by the time they turned 6 years of age or exited the program.

New York FFY 2012 Results Data Summary Notes

INDICATOR 3A: The State is reporting AYP data used for accountability reporting under Title I of the Elementary and Secondary Education Act (ESEA) as a result of ESEA flexibility. The State is reporting on data from the 2011-12 school year consistent with its approved ESEA flexibility waiver.

INDICATOR 3B: The State provided a Web link to 2012 publicly-reported assessment results.

INDICATOR 3C: The State provided a Web link to 2012 publicly reported assessment results.

INDICATOR 4A: The State reported its definition of “significant discrepancy.”

The State reported that 43 districts were identified as having a significant discrepancy in the rate of suspensions and expulsions of greater than ten days in a school year for children with IEPs.

The State reported that 118 of 682 districts did not meet the State-established minimum “n” size requirement of 75 students with disabilities.

The State reported that it reviewed the districts’ policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure compliance with the IDEA, as required by 34 CFR §300.170(b) for the districts identified with significant discrepancies in FFY 2012. The State identified noncompliance through this review.

The State reported that it revised (or required the affected districts to revise), the districts’ policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure compliance with the IDEA, pursuant to 34 CFR §300.170(b) for the districts identified with significant discrepancies in FFY 2012.

The State reported that noncompliance identified in FFY 2011 through the review of policies, procedures, and practices, pursuant to 34 CFR §300.170(b), was corrected.

INDICATOR 4A:

REQUIRED ACTIONS

The State must report, in its FFY 2013 APR, on the correction of noncompliance that the State identified in FFY 2012 as a result of the review it conducted pursuant to 34 CFR §300.170(b). When reporting on the correction of this noncompliance, the State must report that it has verified that each LEA with noncompliance identified by the State: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02.⁶ In the FFY 2013 APR, the State must describe the specific actions that were taken to verify the correction.

⁶ OSEP Memorandum 09-02 (OSEP Memo 09-02), dated October 17, 2008, requires that the State report that it verified that each LEA with noncompliance: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated such as data subsequently

INDICATOR 7:

REQUIRED ACTIONS

The State must report progress data and actual target data for FFY 2013 in the FFY 2013 APR.

collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA.

New York Part B FFY 2012 SPP/APR Compliance Summary

INDICATOR	FFY 2011 DATA	FFY 2012 DATA	FFY 2012 TARGET	CORRECTION OF FINDINGS OF NONCOMPLIANCE IDENTIFIED IN FFY 2011
4B. Significant disproportionality in suspension/expulsion by race/ethnicity, and policies, procedures or practices that contribute to the significant discrepancy and do not comply with specified requirements.	2.2%	1.6%	0%	The State reported that ten of 39 findings of noncompliance identified in FFY 2011 were corrected in a timely manner. The State reported on the actions it took to address the uncorrected noncompliance.
9. Disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.	0.4%	0.6%	0%	The State reported that all 33 of its findings of noncompliance identified in FFY 2011 were corrected in a timely manner.
10. Disproportionate representation by disability of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.	0.9%	0.4%	0%	The State reported that all 20 of its findings of noncompliance identified in FFY 2011 were corrected in a timely manner.
11. Timely Initial Evaluation	90.1%	92.4%	100%	The State reported that 102 of 106 findings of noncompliance identified in FFY 2011 were corrected in a timely manner and that the remaining four findings were subsequently corrected by February 1, 2014.
12. Early Childhood Transition	87.5%	82.4%	100%	The State reported that nine of 11 findings of noncompliance identified in FFY 2011 were corrected in a timely manner and that the remaining two findings were subsequently corrected by February 1, 2014.

INDICATOR	FFY 2011 DATA	FFY 2012 DATA	FFY 2012 TARGET	CORRECTION OF FINDINGS OF NONCOMPLIANCE IDENTIFIED IN FFY 2011
13. Secondary Transition	89.4%	86.1%	100%	The State reported that 94 of 97 findings of noncompliance identified in FFY 2011 were corrected in a timely manner. The State reported on actions it took to address the uncorrected noncompliance.
15. Timely Correction	93.5%	95.9%	100%	The State reported that 1114 of 1227 findings of noncompliance identified in FFY 2011 were corrected in a timely manner and that 63 findings were subsequently corrected by February 1, 2014. The State reported on the actions it took to address the uncorrected noncompliance.
20. Timely and Accurate Data	95.7%	100%	100%	

New York Part B FFY 2012 State Complaint and Hearing Data from IDEA Section 618 Data Reports

REQUIREMENT	FFY 2011 DATA	FFY 2012 DATA
Timely resolution of complaints	100%	100%
Timely adjudication of due process hearing requests	85.7%	83.3%

New York FFY 2012 Compliance Data Summary Notes

INDICATOR 4B: The State reported its definition of “significant discrepancy.”

The State reported that 14 districts were identified as having a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions of greater than ten days in a school year for children with IEPs.

The State reported that it reviewed the districts’ policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure compliance with the IDEA, as required by 34 CFR §300.170(b) for the districts identified with significant discrepancies in FFY 2012.

The State also reported that 11 districts were identified as having policies, procedures or practices that contribute to the significant discrepancy and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards.

The State reported that 118 of 682 districts did not meet the State-established minimum “n” size requirement of 75 students with disabilities.

The State reported that it revised (or required the affected districts to revise), the districts’ policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure compliance with the IDEA, pursuant to 34 CFR §300.170(b) for the districts identified with significant discrepancies in FFY 2012.

The State reported that 18 of 24 findings of noncompliance identified in FFY 2009 were corrected. The State reported on the actions it took to address the uncorrected noncompliance.

REQUIRED ACTIONS

Because the State reported less than 100% compliance (greater than 0% actual target data for this indicator) for FFY 2012, the State must report on the status of correction of noncompliance identified in FFY 2012 for this indicator. The State must demonstrate, in the FFY 2013 APR, that the districts identified with noncompliance in FFY 2012 have corrected the noncompliance, including that the State verified that each district with noncompliance: (1) is correctly implementing the specific regulatory requirement(s) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02. In the FFY 2013 APR, the State must describe the specific actions that were taken to verify the correction.

The State reported that noncompliance identified in FFY 2011 and FFY 2009 as a result of the review it conducted pursuant to 34 CFR §300.170(b) was partially corrected. When reporting on the correction of noncompliance, the State must demonstrate, in the FFY 2013 APR, that it has verified that each district with remaining noncompliance identified in FFY 2011 and FFY 2009: (1) is correctly implementing the specific regulatory requirement(s) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02. In the FFY 2013 APR, the State must describe the specific actions that were taken to verify the correction.

INDICATOR 9: The State reported that 12 districts were identified with disproportionate representation of racial and ethnic groups in special education and related services. The State also reported that four districts were identified with disproportionate representation of racial and ethnic groups in special education and related services that was the result of inappropriate identification.

The State provided its definition of “disproportionate representation.”

The State reported that 118 of 682 districts did not meet the State-established minimum “n” size requirement of at least 75 students with disabilities enrolled, a minimum of 30 students of a particular race/ethnicity enrolled, at least 75 students of all other race/ethnicities enrolled, and at least 10 students with disabilities of a particular race/ethnicity enrolled, and were excluded from the calculation.

REQUIRED ACTIONS

Because the State reported less than 100% compliance for FFY 2012 (greater than 0% actual target data for this indicator), the State must report on the status of correction of noncompliance identified in FFY 2012 for this indicator. The State must demonstrate, in the FFY 2013 APR, that the districts identified in FFY 2012 with disproportionate representation of racial and ethnic groups in special education and related services that was the result of inappropriate identification are in compliance with the requirements in 34 CFR §§300.111, 300.201, and 300.301 through 300.311, including that the State verified that each district with noncompliance: (1) is correctly implementing the specific regulatory requirement(s) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02. In the FFY 2013 APR, the State must describe the specific actions that were taken to verify the correction.

INDICATOR 10: The State reported that 13 districts were identified with disproportionate representation of racial and ethnic groups in specific disability categories. The State also reported that three districts were identified with disproportionate representation of racial and ethnic groups in specific disability categories that was the result of inappropriate identification.

The State provided its definition of “disproportionate representation.”

The State reported that 118 of 682 districts did not meet the State-established minimum “n” size requirement of at least 75 students with disabilities enrolled, a minimum of 30 students of a particular race/ethnicity enrolled, at least 75 students of all other race/ethnicities enrolled, and at least 10 student with disabilities of a particular race/ethnicity and disability enrolled, and were excluded from the calculation.

The State reported that none of the two findings of noncompliance identified in FFY 2010 were corrected. The State reported on the actions it took to address the uncorrected noncompliance.

REQUIRED ACTIONS

Because the State reported less than 100% compliance for FFY 2012 (greater than 0% actual target data for this indicator), the State must report on the status of correction of noncompliance identified in FFY 2012 for this indicator. The State must demonstrate, in the FFY 2013 APR, that the districts identified in FFY 2012 with disproportionate representation of racial and ethnic groups in specific disability categories that was the result of inappropriate identification are in compliance with the requirements in 34 CFR §§300.111, 300.201, and 300.301 through 300.311. Further, the State must demonstrate, in the FFY 2013 APR, that the remaining district identified in FFY 2010 with disproportionate representation of racial and ethnic groups in specific disability categories that was the result of inappropriate identification, is in compliance with the requirements in 34 CFR §§300.111, 300.201, and 300.301 through 300.311. In demonstrating the correction of the noncompliance identified in FFY 2012 and FFY 2010, the State must report, in the FFY 2013 APR, that the State verified that each district with noncompliance: (1) is correctly implementing the specific regulatory requirement(s) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02. In the FFY 2013 APR, the State must describe the specific actions that were taken to verify the correction.

INDICATOR 11:

The State reported that Hurricane Sandy had a strong negative impact on its FFY 2012 compliance for this indicator, and requested that OSEP consider the impact of the emergency on the State's compliance. The State explained that the hurricane caused significant delays in completing initial evaluations, as school staff was not available to conduct evaluations and review the results of evaluations, many schools were temporarily closed, many students were temporarily displaced from their residences from one school district to another school district, and many families became temporarily homeless. On pages 74 and 78 of the FFY 2012 APR, the State reported that it took into account the number of students whose evaluations were completed past the State-established timelines due to the effects of Hurricane Sandy when calculating the required measurement for this indicator.

REQUIRED ACTIONS

Because the State reported less than 100% compliance (greater than 0% actual target data for this indicator) for FFY 2012, the State must report on the status of correction of noncompliance identified in FFY 2012 for this indicator. The State must demonstrate, in the FFY 2013 APR, that the districts identified with noncompliance in FFY 2012 have corrected the noncompliance, including that the State verified that each district with noncompliance: (1) is correctly implementing the specific regulatory requirement(s) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district, consistent with OSEP Memo 09-02. In the FFY 2013 APR, the State must describe the specific actions that were taken to verify the correction.

INDICATOR 12: The State reported that that Hurricane Sandy had a strong negative impact on its FFY 2012 compliance for this indicator, and requested that OSEP consider the impact of the emergency on the State's compliance. The State explained that the hurricane caused significant delays in completing and implementing IEPs by children's third birthdays, as school staff was not available to develop and implement IEPs, many schools were temporarily closed, many students were temporarily displaced from their residences from one school district to another school district, and many families became temporarily homeless. On page 87 of the FFY 2012 APR, the State reported that it took into account the number of students who did not have their IEPs timely implemented due to the effects of Hurricane Sandy when calculating the required measurement for this indicator.

The State also reported that for FFY 2012, the actual target data for delays in the evaluation and placement of preschool students was impacted by personnel shortages of bilingual personnel, particularly in New York City and the other Big Four cities, and that the State and New York City are implementing court settlement actions under the Jose P. court case relating to the availability of professionals in personnel shortage areas (e.g., speech and language and bilingual evaluators).

The State reported that one finding of noncompliance identified in FFY 2010 was corrected.

The State was identified as being in need of assistance for two consecutive years based on the State's FFY 2010 and FFY 2011 APRs, was advised of available technical assistance, and was required to report, with the FFY 2012 APR, on: (1) the technical assistance sources from which the State received assistance; and (2) the actions the State took as a result of that technical assistance. The State reported on the technical assistance sources from which the State received assistance for this indicator and reported on the actions the State took as a result of that technical assistance.

REQUIRED ACTIONS

Because the State reported less than 100% compliance for FFY 2012, the State must report on the status of correction of noncompliance identified in FFY 2012 for this indicator. When reporting on the correction of noncompliance, the State must report, in its FFY 2013 APR, that it has verified that each LEA with noncompliance identified in FFY 2012 for this indicator: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02. In the FFY 2013 APR, the State must describe the specific actions that were taken to verify the correction.

INDICATOR 13: The State was identified as being in need of assistance for two consecutive years based on the State's FFY 2010 and FFY 2011 APRs, was advised of available technical assistance, and was required to report, with the FFY 2012 APR, on: (1) the technical assistance sources from which the State received assistance; and (2) the actions the State took as a result of that technical assistance. The State reported on the technical assistance sources from which the State received assistance for this indicator and reported on the actions the State took as a result of that technical assistance.

REQUIRED ACTIONS

Because the State reported less than 100% compliance for FFY 2012, the State must report on the status of correction of noncompliance identified in FFY 2012 for this indicator. When reporting on the correction of noncompliance, the State must report, in its FFY 2013 APR, that it has verified that each LEA with noncompliance identified in FFY 2012 for this indicator: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02. In the FFY 2013 APR, the State must describe the specific actions that were taken to verify the correction.

INDICATOR 15: The State reported that 13 of 26 findings of noncompliance identified in FFY 2010, 13 of 27 findings of noncompliance identified in FFY 2009, eight of 51 findings of noncompliance identified in FFY 2008, and none of 22 findings of noncompliance identified in FFY 2007 were corrected. The State reported on the actions it took to address the uncorrected noncompliance.

OSEP notes that the State requested that OSEP consider the effect of Hurricane Sandy on the State's and LEAs' ability to ensure correction of findings of noncompliance. The State explained that: (1) Hurricane Sandy caused extensive devastation of property and infrastructure damage to many communities in the State; (2) many schools were temporarily closed; (3) many students were temporarily displaced from their residences from one school district to another school district and many families became temporarily homeless; and (4) many school districts were not able to focus attention on correction of compliance issues. In light of these challenges to timely correction of findings of noncompliance as the result of the devastating effects of Hurricane Sandy, OSEP has, in calculating the State's FFY 2012 data for Indicator 15 included, in the numerator and both findings that were timely corrected and those that were corrected beyond the one-year timeline.

The State was identified as being in need of assistance for two consecutive years based on the State's FFY 2010 and FFY 2011 APRs, was advised of available technical assistance, and was required to report, with the FFY 2012 APR, on: (1) the technical assistance sources from which the State received assistance; and (2) the actions the State took as a result of that technical assistance. The State reported on the technical assistance sources from which the State received assistance for this indicator and reported on the actions the State took as a result of that technical assistance.

REQUIRED ACTIONS

The State must report, with the FFY 2013 SPP/APR, that it has corrected the remaining 50 findings of noncompliance identified in FFY 2011, 13 findings of noncompliance identified in FFY 2010, 14 findings of noncompliance identified in FFY 2009, and 43 findings of noncompliance identified in FFY 2008, and 22 findings of noncompliance identified in FFY 2007 that were not reported as corrected in the FFY 2012 APR.

When reporting with the FFY 2013 APR on the correction of the remaining findings of noncompliance identified in FFY 2011, FFY 2010, and FFY 2009 the State must report that it verified that each LEA with remaining findings of noncompliance: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memo 09-02.

The State's failure to correct longstanding noncompliance raises serious questions about the effectiveness of the State's general supervision system. The State must take the steps necessary to ensure that it can report, with the FFY 2013 SPP/APR, that it has corrected this noncompliance.

If the State cannot report on correction of the remaining 22 findings of noncompliance identified in FFY 2007 the State must also report with the FFY SPP/2013 APR: (1) the specific nature of the noncompliance; (2) the State's explanation as to why the noncompliance has persisted; (3) the steps that the State has taken to ensure the correction of the remaining finding of noncompliance, and any new or different actions the State has taken, since the submission of its FFY 2012 APR, to ensure such correction; and (4) any new or different actions the State will take to ensure such correction.

In addition, in responding to Indicators 4B, 9, 10, 11, 12, and 13 in the FFY 2013 SPP/APR, the State must report on correction of the noncompliance described in this table under those indicators.

TIMELY DUE PROCESS HEARING DECISIONS: The State was identified as being in need of assistance for two consecutive years based on the State's FFY 2010 and FFY 2011 APRs, was advised of available technical assistance, and was required to report, with the FFY 2012 APR, on: (1) the technical assistance sources from which the State received assistance; and (2) the actions the State took as a result of that technical assistance. The State reported on the technical assistance sources from which the State received assistance for this indicator and reported on the actions the State took as a result of that technical assistance.