

NEW YORK STATE
DEPARTMENT OF HEALTH
DIVISION OF FAMILY HEALTH
BUREAU OF EARLY INTERVENTION

Annual Performance Report for the NYS Early Intervention Program

2007 - 2008

April 2009



New York State Department of Health

Division of Family Health

Bureau of Early Intervention

Part C

Annual Performance Report (APR) for

FFY 2007 – July 1, 2007 through June 30, 2008

Submitted April 7, 2009

Overview of the Annual Performance Report Development:

Development of the Annual Performance Report:

Data used in this Annual Performance Report (APR) and New York's revised State Performance Plan (SPP) were collected through the following process, which is described in greater detail in the SPP. Data necessary to meet the 618 reporting requirements are generated primarily from the Kids Integrated Data System (KIDS), which is an application used by municipalities to collect, maintain and update local data regarding the statewide Early Intervention Program (EIP). Required data are submitted by municipalities to the New York State Department of Health (Department) five times each year by all 58 localities on or before specified timeframes required through the Department's contract with municipalities for funds to administer the EIP.

Data submissions are monitored to ensure that they are submitted by municipalities with sufficient time for the Department to follow up late submissions, complete data analyses, and submit timely reports. The submissions are then reviewed for accuracy, completeness, potential problems with the data, and/or inconsistencies from one data transfer to the next. Problems with file transfers and data submissions are identified, investigated and corrected with municipalities, as appropriate.

Additional data used in the revised SPP and APR come from other Department software applications, including those used to process claims from municipalities for reimbursement of the State share of the costs for early intervention services (the Fiscal System – "EIFS"), a provider approval application which maintains data on provider information and status, and data obtained from the Department's monitoring contractor resulting from on-site monitoring reviews. Collectively, these data sets provide the Department with a wealth of data on New York State's EIP. Data submitted in this report reflect the period from July 1, 2007 through June 30, 2008.

In addition to submitting a revised SPP and APR, IDEA requires each State to annually report on the performance of local programs. In New York, local programs are defined as the 57 counties and New York City, which are responsible for the local administration of the EIP. Sampling or monitoring data are being used for indicators #3, 4 and 8. For these sampled indicators, each municipality's performance will be examined and reported to the public once during the six-year period covered by the SPP.

Data analysis, monitoring, technical assistance and training and other quality improvement activities are being implemented on an ongoing basis with all local programs required to improve local performance. These improvement activities are further described in the SPP and APR.

The FFY 2007 APR was presented to the New York State Early Intervention Coordinating Council (EICC) at its quarterly meeting on December 3, 2008. Details regarding the APR development were explained, targets reviewed, and statewide rates for the indicators were discussed. The data for New York State's FFY 2007 APR were approved by the EICC, which has agreed to use the APR in lieu of its required annual report.

SPP/APR Dissemination and Reporting on Local Program Performance:

The APR is the mechanism that New York will use to report on progress in meeting the measurable and rigorous targets established in its SPP.

The revised SPP and APR will be distributed in print to members of the EICC, provider representatives and municipalities for dissemination to EIP providers and parents. Public notice of the revised SPP and APR, in print and media format, will also be promulgated by the Department. Printed and electronic copies of the revised SPP and APR will be available at no cost to any citizen of the State requesting the document. The revised SPP and APR will be posted on the Department's public web site at: http://www.health.ny.gov/community/infants_children/early_intervention/index.htm. The web page is easily located through a search of the website or by following content-specific links.

Local performance data for FFY 2005 and FFY 2006 are available on the Department's public web site at the following address: (http://www.health.ny.gov/statistics/community/infants_children/early_intervention/).

Local programs were also issued determinations indicating their compliance with the requirements of IDEA for FFY 2007 reporting period in December 2008. Each municipality received one of the following determinations: "meets requirements," "needs assistance," "needs intervention," or "needs substantial intervention." The determinations were based upon each local program's performance with the required federal indicators. New York required correction for every instance in which local programs were not substantially compliant at the 100 percent level, and this correction is required to occur within one year.

Technical Assistance Obtained by New York

At the direction of OSEP, as part of its determination that New York needs assistance for the second consecutive year in order to comply with the requirements of IDEA, New York is required to report on the technical assistance sources from which the State received assistance and the actions New York has taken as a result. New York has obtained technical assistance as part of its efforts to improve with Indicators 1, 7, 8C and 9. The following is a summary of the technical assistance obtained in these areas and the actions taken as a result.

New York has obtained technical assistance from the following sources in the last year:

Data Accountability Center (DAC) for Indicators 1, 8C and 9
Northeast Regional Resource Center (NERRC) for Indicators 1,7, 8C and 9
U.S. Department of Education, Office of Special Education Programs (OSEP) for Indicators 1,7, 8C and 9
Numerous websites including <http://www.rfcnetwork.org/>

APR Template – Part C (4)

New York
State

The following chart details focused occasions on which technical assistance was provided by one or more of these sources:

Date:	Sponsor:	Description:
2/20/08	NERRC	State to Local Work Group conference call
3/19/08	NERRC	TA conference call
4/9/08	OSEP	TA conference call with States - APR
4/16/08	NERRC	State to Local Work Group Conference Call
5/8/08	RRC/OSEP	TA conference call with States – APR & determinations
5/21/08	NERRC	TA conference Call
5/30/08	NERRC	Regional Data Managers conference call
6/12/08	OSEP	TA conference call – APR & determinations
6/18/08	NERRC	State to Local Work Group conference call
6/2-3/08	NERRC	Two-day meeting – NYS transition issues
7/10/08	OSEP	TA conference call – APR & determinations
7/30/08	OSEP	TA conference call for States – APR & determinations
8/5/08	OSEP	Conference call with States receiving verification visit
8/20/08	NERRC	State to Local Work Group conference call
8/21/08	OSEP	Verification visit conference call
8/28/08	OSEP	Verification visit conference call
9/10/08	OSEP	Verification visit conference call
9/15/08	OSEP	Verification visit conference call
9/17/08	NERRC	State to Local conference call
9/24/08	OSEP	Verification visit conference call
9/29/08	OSEP	Verification visit conference call
10/1/08	OSEP	Verification visit conference call
10/6/08	OSEP	Verification Visit
10/7/08	OSEP	Verification Visit
10/8/08	OSEP	Verification Visit
10/15/08	NERRC	State to Local Conference Call
10/30/08	OSEP	TA conference call – verification visit & APR
11/17/08	NERRC	TA conference call with DAC regarding APR
11/19/08	NERRC	State to Local Conference Call
11/24/08	OSEP	TA conference call regarding APR
11/25/08	NERRC	Webinar – APR Part C Indicators
12/11/08	OSEP	SPP/APR TA conference call with States
12/17/08	NERRC	State to Local conference call
12/18/08	OSEP	TA conference call regarding APR
1/8/09	OSEP	TA conference call regarding SPP/APR

As a result of technical assistance, New York has made several modifications, many of which are further described within specific Indicator sections of this APR, including:

- Modifying the method of calculating Indicator 1 to reflect OSEP’s direction
- Modifying the definition of timely services for Indicator 1 from 21 days to 30 days
- Modifying the tool used to collect data for indicators 8A, 8B and 8C to address revised understanding of the requirements for transition under IDEA
- Revised understanding of requirements for timely transition conferences under Indicator 8C
- Revised method of reporting findings of noncompliance as part of Indicator 9
- Initiating plans for a summit with DAC and NERRC to obtain recommendations on ways to reduce redundancies in New York’s General Supervision System as reported in Indicator 9

Part C State Annual Performance Report (APR) for 2007-2008

Monitoring Priority: Early Intervention Services In Natural Environments

Indicator 1: Percentage of infants and toddlers with Individualized Family Services Plan (IFSPs) who receive the early intervention services on their IFSPs in a timely manner.

(20 U.S.C. 1416(a)(3)(A) and 1442)

Measurement:

Percent = [(# of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner) divided by the (total # of infants and toddlers with IFSPs)] times 100.

Account for untimely receipt of services.

FFY	Measurable and Rigorous Target
<u>2007</u> <u>(2007-2008)</u>	100%

Actual Target Data for FFY 2007:

During the October 2008 verification visit to New York State, OSEP informed New York State that it was incorrectly calculating the percentage for this indicator. OSEP staff clarified that it was not correct to calculate this indicator based upon the total number of services provided. Instead, for a child receiving multiple services, if even one of those services was not timely and cannot be discounted due to extraordinary family reasons, the child is to be counted as having received late services. Therefore, for this reporting period, New York has revised its calculation methodology to reflect this new guidance.

New York State has revised its definition of timely initiation of services for the purposes of the APR from 21 days to a standard of 30 days from the date of parental consent.

In FFY 2007, of the 35,603 children/families receiving EI services in New York, 27,151 or **76.3%** received all services within 30 days of the date of parental consent. These data include children reporting new services based on a non-interim IFSP within the reporting period of July 1, 2007 to June 30, 2008. This percentage does not reflect discounting of children whose services were delayed due to family circumstances or other exceptional issues beyond the control of the program, since New York does not currently collect the data necessary to calculate the impact to these children at this time. The Department estimates that approximately 10% of children considered for this indicator had late services due to family circumstances or some other exceptional reason that was beyond the control of the local program (such as illness, missed appointments, problems locating or contacting the family). This estimate is based upon data from other comparable states that reported the percentage of delays that were due to such circumstances, and also on New York data describing the reasons for delays for initial IFSP meetings, since such data are available for that indicator. In addition to the delays due to family reasons outlined above, some children had delays due to assigning a service provider, authorizing EI services, and transportation difficulties.

New York conducted additional data analyses and verified that, as of January 2009, of the 8,452 (23.7%) children who experienced at least one late service, **8,451** children received all their IFSP services within one year of the authorizing IFSP, representing nearly full correction of these instances of noncompliance.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2007:

Using the new methodology clarified by OSEP, New York also re-calculated the data for this indicator for the FFY 2006 reporting period to determine whether there was progress or slippage from the previous reporting period to this reporting period. The re-calculation resulted in 26,503 (of 38,982) or **68.0%** children in FFY 2006 who received services the parent gave written consent to within 30 days of the date of the start of the applicable IFSP period. Thus, New York made progress for this indicator, namely an 8.3 percentage point gain from FFY 2006 to FFY 2007.

During this reporting period, New York State completed a number of improvement activities that have demonstrated, and are anticipated will continue to demonstrate, steady progress for this indicator. A technical assistance conference call with local programs was held on April 23, 2008 to discuss this indicator and share ideas and provide guidance and technical assistance. In addition, written guidance was issued to municipalities regarding the importance of maintaining appropriate documentation when any service the parent gave written consent to begins after the 30-day State standard. Included in this guidance were specific reasons for late initiation of services providers and local programs (municipalities) should use when documenting late service in the child's record, and descriptions of when to use each in an appropriate and consistent manner.

New York also continued its efforts to design and develop a new data system (NYEIS) to replace the current data system (KIDS). Migration to the new system continues to be on schedule and is planned to begin in the Spring 2009. The new system will include data fields to capture reasons for the late initiation of IFSP services for this indicator and improve the Department's capacity to analyze, interpret, and implement appropriate actions to address factors contributing to the delays in delivery of IFSP services.

Compliance with Indicator #1 was a major factor in the local program determinations issued by the Department during this reporting period. Written notices of local determinations for FFY 2005 were sent to local programs on January 31, 2008 and included notification of their findings for federal compliance Indicators 1, 2, 5, 6, 7, and 8 A – C, with accelerated corrective action based on the determination rating the local program received. Local programs that received a determination of "Needs Intervention," for instance, were directed to submit a Corrective Action Plan developed in conjunction with their local Early Intervention Coordinating Councils, and to revise and submit to the Department for approval their policies and procedures with respect to this indicator.

Correction of noncompliance in FFY 2007:

In its review of Indicator #1 for New York's FFY 2006 APR, OSEP advised that it was unable to determine the extent to which timely correction of noncompliance occurred for the 32.0% (**12,479**) of children (based on the re-calculated rate for FFY 2006) who experienced at least one late service. New York has verified, through additional data analyses and direct contact with local programs, that **100%** of these children did receive all the services authorized in their IFSPs within one year of the authorizing IFSP.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2007: [If applicable]

None

Monitoring Priority: Early Intervention Services In Natural Environments

Indicator 2: Percent of infants and toddlers with IFSPs who primarily receive early intervention services in the home or programs for typically developing children.

(20 U.S.C. 1416(a)(3)(A) and 1442)

Measurement: Percent = [(# of infants and toddlers with IFSPs who primarily receive early intervention services in the home or programs for typically developing children) divided by the (total # of infants and toddlers with IFSPs)] times 100.

FFY	Measurable and Rigorous Target
<u>2007</u> (2007-2008)	89.76%

Actual Target Data for FFY 2007:

Based on the October 1, 2008 child count of 29,765 infants and toddlers with IFSPs, **91.2%** (27,148) children received services primarily in natural environments (the home or programs for typically developing children).

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2007:

New York State's performance for this indicator (91.2%) exceeded its target (89.76%). The remaining 8.8% (2,617) of eligible children appropriately received the majority of their services in restricted settings due to the complexity of their needs.

This year, New York made improvements to the KIDS data application by removing several ambiguous service location data entry selections. New York is also developing guidance to provide clearer definitions of service location terms and descriptions of when it is appropriate to select each location choice. Finally, a conference call with local programs will be held to discuss this indicator when the written guidance is issued.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2007: [If applicable]

None

Monitoring Priority: Early Intervention Services in Natural Environments

Indicator 3: Percent of infants and toddlers with IFSPs who demonstrate improved:

- A. Positive social-emotional skills (including social relationships);
- B. Acquisition and use of knowledge and skills (including early language/communication); and
- C. Use of appropriate behaviors to meet their needs.

(20 USC 1416(a)(3)(A) and 1442)

INFORMATION ABOUT THIS INDICATOR CAN BE FOUND IN THE REVISED NEW YORK STATE PERFORMANCE PLAN SUBMITTED TO OSEP ON FEBRUARY 2, 2009.

Monitoring Priority: Early Intervention Services in Natural Environments

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)

- A. **Measurement:** Percent = # of respondent families participating in Part C who report that early intervention services have helped the family know their rights divided by the # of respondent families participating in Part C times 100.
- B. Percent = # of respondent families participating in Part C who report that early intervention services have helped the family effectively communicate their children’s needs divided by the # of respondent families participating in Part C times 100.
- C. Percent = # of respondent families participating in Part C who report that early intervention services have helped the family help their children develop and learn divided by the # of respondent families participating in Part C times 100.¹

¹ New York State is using a modified version of the Family Survey/Family Impact Scale developed by the National Center for Special Education Accountability Monitoring (NCSEAM) to measure the OSEP-required family outcomes. As recommended by NCSEAM, analyses were completed using the WINSTEPS Rasch Model statistical software package, which yields person measures for each family participating in the family survey. Person measures are aggregated across all families for reporting purposes. The NCSEAM standards, used to derive percentages, are as follows:

Indicator 4: Percent of families participating in Part C who report that early intervention services have helped the family:

- A. Know their rights: NCSEAM standard is the percent of families with a person measure at or above 539 (95% likelihood of a response across the three categories of agree, strongly agree, and very strongly agree to the item “Know about my child’s and family’s rights concerning Early Intervention Services”)
- B. Effectively communicate their children’s need: NCSEAM standard is the percent of families with a person measure of 556 (95% likelihood of a response across the three categories of agree, strongly agree, and very strongly agree to the item “Communicate more effectively with the people who work with my child and family”)
- C. Help their children develop and learn: NC SEAM standard is the percent of families with a person measure of 516 (95% likelihood of a response across the three categories of agree, strongly agree, and very strongly agree to the item “Understand my child’s special needs”)

FFY	Measurable and Rigorous Target
2007 (2007-2008)	<p>4a. The percent of respondent families participating in Part C who report that early intervention services have helped the family know their rights will increase by 1% to 73.2%.</p> <p>4b. The percent of respondent families participating in Part C who report that early intervention services have helped the family effectively communicate their children’s needs will increase by 1% to 67.69%.</p> <p>4c. The percent of respondent families participating in Part C who report that early intervention services have helped the family help their children develop and learn will increase by 1% to 84.41%.</p>

Actual Target Data for FFY 2007:

Indicator	Percent of Families At or Above NCSEAM standard
A. Percent of respondent families participating in Part C who report that early intervention services have helped their family know their rights.	71% (=693/976) (95% CI 68.05%, 73.84%)
B. Percent of respondent families participating in Part C who report that early intervention services have helped the family effectively communicate their children’s needs.	66.09% (=645/976) (95% CI 63.02%, 69.06%)
C. Percent of respondent families participating in Part C who report that early intervention services have helped the family help their children develop and learn.	80.53% (=786/976) (95% CI: 77.91%, 82.97%)
NYS Person Mean on the NCSEAM Family Impact Scale	626.26

In accordance with the sampling procedures described in the State Performance Plan, a state random sample of 4,720 families whose children exited the EIP between July 1, 2007 – December 31, 2008, and those who were not closed but turned three years of age between January 1, 2008 and June 30, 2008 (32,411) and would be exiting the program by August 31, 2008, were selected to receive the New York State modified version of the *(NCSEAM Family Survey/Family Impact Scale)*, developed under the Department’s General Supervision Enhancement Grant (GSEG) on enhancing Part C outcome indicators and methods for analyzing Part C outcome indicators. This random sample included the State sample of 1,483, and locally representative samples for medium-sized counties (counties with less than 300 families referred annually to the EIP) and New York City. State and local sample sizes were calculated with a confidence level of 1.96 for 95% confidence, a precision level of .05, and an estimated response rate of 25%. Systematic sampling procedures with proportional geographic representation were used to capture a representative sample for New York State. A total of 976 families responded to the survey (for a response rate of 20%).

When comparing respondents to all children and families participating in the EIP in the relevant program year, no significant differences were found in age at exit, sex, or length of time in the program. A significant difference was found in race, with a higher than expected response rate from Caucasian families, and a lower than expected response rate from African-American and Hispanic families. Families whose children were referred when between birth and one year of age had a lower, and families whose children were referred between two and three years of age, had a higher response rate than expected. While these differences were significant, in absolute terms, there were 40 fewer families of children referred between ages birth to one year, and 29 more families of children referred when between two and three years of age, who responded to the survey than would have been expected. Families of children with a delay in only one area of development had a higher than expected response rate, and families of children with a diagnosed condition had a lower than expected response rate. These differences were also small in absolute terms, with 44 more families of children with one delay, and 45 fewer families of children with a diagnosed condition, responding to the survey than would have been expected.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2007:

New York State did not meet its targets for family outcomes for FFY 2007. However, it is important to note that although the percentage of families achieving these three outcome indicators decreased, examination of the confidence intervals associated with each of the three measures indicates the changes in family outcomes results were not statistically significant.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for (FFY 2007)

As part of the GSEG, staff collaborated with families, EIP providers, local and state government EIP staff to identify New York State child and family outcomes using concept mapping methodology. During the summer 2007, in collaboration with Dr. Batya Elbaum, University of Miami, child and family outcomes identified through the concept mapping process were used to develop a new *Impact on Child scale* and integrate New York State items into the *NCSEAM Impact on Family Scale*. A NYS Family Survey, consisting of 133 items, was successfully piloted in a field study conducted in Nassau and Suffolk Counties. The Rasch Measurement Model was used for scale development and data analyses. The two scales were found to be highly reliable, robust and unidimensional in nature.

Subsequent to the completion of the field study, staff collaborated with Dr. Elbaum to develop a short form of the NYS Family Survey for use at the State level, including the modified *Impact on Family Scale* used to measure OSEP-required family outcomes, the New York State *Impact on Child Scale*, and the *NCSEAM Family-Centered Services Scale* (included in the updated SPP, revised as of February 2, 2009).

The NYS Family Survey involves families in a meaningful way in the measurement of family and child outcomes. The survey has yielded a rich data set for analyzing the relationship between family and child outcomes, and the impact of family-centered services on these outcomes. The NYS Family Survey has enabled the Department to supplement ongoing data collection efforts to meet OSEP reporting requirements to include family and child outcomes of special interest to NYS stakeholders.

In 2009, Department staff in collaboration with staff from the Universities at Buffalo and Binghamton will pilot a new, secure web-based method of administering the NYS Family Survey. Families will have the option of completing and returning a paper survey form, or completing the survey on the NYS EIP Child and Family Outcomes website maintained by the University at Binghamton. The purpose of this pilot will be to determine the extent to which the response rate is maintained or improved by offering a web-based option to families, while reducing costs and improving the efficiency of survey administration.

BEI staff, in collaboration with staff from the Universities at Buffalo and Binghamton, will conduct additional data analyses to identify factors contributing to the lower than expected response rate to the survey among African-American and Hispanic families, families of children referred between birth and one

year of age, and families of children with a diagnosed condition; and, will develop training, technical assistance, and outreach strategies to improve the response rate among these families.

BEI staff, in collaboration with staff from the University at Buffalo, will complete additional analyses of the data from the NYS Family Survey to guide State and local program improvement efforts. These analyses will examine the extent to which child, family and service delivery characteristics influence family outcomes, and identify specific areas where program improvements can be made to assist NYS and its localities in meeting family outcome targets for next year. These data will be shared and discussed with the GSEG Advisory Group on Child and Family Outcomes, the Early Intervention Coordinating Council and with municipal Early Intervention Officials (EIOs), to identify specific strategies that can be implemented at the State and local levels to improve family outcomes in NYS. In addition, the Department will be convening an internal work group of staff to develop a plan to use the NYS Family Survey Results to implement State-level activities to improve child and family outcomes.

Monitoring Priority: Effective General Supervision Part C / Child Find

Indicator 5: Percent of infants and toddlers birth to 1 with IFSPs compared to:

- A. Other States with similar eligibility definitions; and
- B. National data.

(20 U.S.C. 1416(a)(3)(B) and 1442)

Measurement:

A. *Percent = [(# of infants and toddlers birth to 1 with IFSPs) divided by the (population of infants and toddlers birth to 1)] times 100 compared to the same percent calculated for other States with similar (narrow, moderate or broad) eligibility definitions.*

B. Percent = [(# of infants and toddlers birth to 1 with IFSPs) divided by the (population of infants and toddlers birth to 1)] times 100 compared to National data.

FFY	Measurable and Rigorous Target
2007 (2007-2008)	1.16%

Actual Target Data for FFY 2007:

New York State reports the percent of infants under age one with IFSPs is **1.04%**. Using the October 1, 2007 child count, 2,555 infants under the age of one had IFSPs in the New York EIP. The number of children under the age of one in the entire New York State population for that time period was 245,202.

A. New York State’s eligibility definition falls within the federal category of “moderate” along with the following states and territories: Alaska, Colorado, Delaware, Guam, Illinois, Indiana, Kentucky, Louisiana, Minnesota, New Jersey, North Carolina, Puerto Rico, Rhode Island, and South Dakota. The percentage of children under the age of one with an IFSP in these states/territory ranges from 0.62% to 2.29% for December 1, 2007. Compared to these thirteen other states/territory with comparable (moderate) eligibility, New York falls in the middle, in terms of the percentage of children under age one having an IFSP in the New York EIP.

B. New York State is slightly below the national average baseline percent of children under the age of one (1.05%) with an IFSP.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2007:

New York State performance for this indicator misses the FFY 2007 target of 1.16% by 0.12 percentage point, which corresponds to approximately 280 children. While this nominal decrease is relatively insignificant in light of the magnitude of the overall infant state population (245,202), performance also decreased slightly from FFY 2006 (1.09% in FFY 2006 to 1.04% in FFY 2007). The Department has identified several local programs it intends to work with due to their lower percentages of children under the age of one served through the program. The individual technical assistance will focus on the hospitals within these municipalities, to improve EI referral rates and referral processes for children under one year old.

In the spring of 2008, BEI worked with staff from New York State's Newborn Screening Program to link EI data with their data on children suspected as having congenital hypothyroidism for the purpose of investigating a possible link with autism. While this hypothesized link was not established, the analysis did show that a disproportionately large number of children with congenital hypothyroidism were later being enrolled in the EIP. Since congenital hypothyroidism is detectable and treatable, this has raised concerns about a potential gap in New York's treatment system for this condition, and further analyses of these data are ongoing.

New York's EIP was recently awarded a grant from the CDC that will be used to enhance surveillance systems for NYS's Newborn Hearing Screening program. A focus of this grant is to decrease the number of children who are lost to follow-up in the Newborn Hearing Screening process, which will require linking of NBHS and EIP data. It is hoped that this analysis will lead to specific policy recommendations that will maximize the number of newborns in NYS who receive follow-up audiological evaluations when needed.

New York intends to continue matching EIP data with other Department of Health sources in order to analyze and set policy. Congenital Malformations and Fetal Alcohol Syndrome are specific programs of interest.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2007: *[If applicable]*

None

Monitoring Priority: Effective General Supervision Part C / Child Find

Indicator 6: Percent of infants and toddlers birth to 3 with IFSPs compared to:

- A. Other States with similar eligibility definitions; and
- B. National data.

(20 U.S.C. 1416(a)(3)(B) and 1442)

Measurement:

A. *Percent = [(# of infants and toddlers birth to 3 with IFSPs) divided by the (population of infants and toddlers birth to 3)] times 100 compared to the same percent calculated for other States with similar (narrow, moderate or broad) eligibility definitions.*

B. *Percent = [(# of infants and toddlers birth to 3 with IFSPs) divided by the (population of infants and toddlers birth to 3)] times 100 compared to National data.*

FFY	Measurable and Rigorous Target
2007 (2007-2008)	4.095%

Actual Target Data for FFY 2007:

New York State reports the percent of infants and toddlers birth to three with IFSPs is **4.11%**.

Using the October 1, 2007 child count, 29,765 infants and toddlers birth to three had IFSPs in the New York EIP. The number of children aged birth-to-three in the general New York State population for that time period was 723,851.

A. New York State’s eligibility definition falls within the federal category of “moderate” along with the following states and territories: Alaska, Colorado, Delaware, Guam, Illinois, Indiana, Kentucky, Louisiana, Minnesota, New Jersey, North Carolina, Puerto Rico, Rhode Island, and South Dakota. The percentage of the birth-to-three population with an IFSP in these states/territories ranges from 1.46% to 4.61% for December 1, 2007. Compared to these thirteen other states/territories with comparable (moderate) eligibility, New York is the second highest, in terms of the percentage of children under age three having an IFSP.

B. New York greatly exceeds the national average baseline percent of the birth-to-three population with an IFSP, which is 2.53%.

New York met its FFY 07 target (4.095%) for this indicator.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2007:

New York reports a 4.11% rate for this indicator. This is a decrease of 0.13 percentage point from 4.24% in FFY 2006

The Department has implemented a number of program management activities to enhance statewide oversight and guidance in implementation of the Early Intervention Program (EIP), two of which have gradually affected the overall census of children participating in the program after they were phased in by local programs:

- In 2005, the Department issued a guidance document “Standards and Procedures for Evaluation, Evaluation Reimbursement, and Eligibility Requirements and Determination Under the Early Intervention Program” to the field. This document provides clarification on procedures, statutory and regulatory requirements for determining children’s eligibility and ongoing eligibility for the EIP. The consistent statewide implementation of these requirements is important, as it ensures that evaluations are appropriately performed, and eligibility is appropriately established and documented, for all children and families participating in the EIP. State wide training to EI stakeholders and parents on these eligibility requirements and procedures was also held.

- In 2005, the Department also issued another guidance document, “Transition of Children from the Early Intervention Program” in conjunction with the New York State Education Department, which discusses the transition of children from the early intervention program to preschool special education programs and services, other state delivery systems, or early childhood services available to support children and families. This document presents the regulatory and statutory components of the transition process and the importance of following the required transition timelines to ensure that transition processes are followed and children leave the program appropriately when they turn three years of age and leave the EIP or have an IEP in place by their third birthday. In addition to the issuance of the document, ongoing statewide training on transition procedures to EI stakeholders, parents and local education programs is occurring.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2007: *[If applicable]*

None

Monitoring Priority: Effective General Supervision Part C / Child Find

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 U.S.C. 1416(a)(3)(B) and 1442)

Measurement:

Percent = [(# of eligible infants and toddlers with IFSPs for whom an evaluation and assessment and an initial IFSP meeting was conducted within Part C’s 45-day timeline) divided by the (# of eligible infants and toddlers evaluated and assessed)] times 100.

Account for untimely evaluations.

FFY	Measurable and Rigorous Target
2007 (2007-2008)	100%

Actual Target Data for FFY 2007:

During FFY 2007, of the 31,409 children referred to the New York Early Intervention Program, **77.5%** (24,336) had an initial IF SP meeting that was completed within 45 days. This includes 8,029 children whose initial IFSPs were late and there was documentation that the meeting was delayed due to exceptional family circumstances, not in the control of the local EI program. In these situations it was confirmed that all such delays were limited and directly attributable to documented exceptional circumstances that were beyond the control of the lead agency and the early intervention service program. Of the 7,073 late IFSPs that were delayed due to non-discountable reasons, New York reports that 2,401 were late due to the delayed receipt of an evaluation report, 2,100 were late due to an evaluator backlog or delay, 2,495 were late due to local program administrative reasons, and 77 were late due to extreme weather circumstances.

New York State conducted additional data analyses and verified that as of January 2009, of the 22.5% (7,073) of children who did not have an initial IFSP meeting completed within 45 days, 7,071 children had received their initial IFSP within one year of referral to the EIP, representing nearly full correction of the instances of noncompliance.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2007:

There was an increase of 6.2 percentage points for this indicator from FFY 2006 (71.3%) to FFY 2007 (77.5%).

Since the statewide performance is heavily influenced by the performance in New York City, numerous technical assistance efforts during this reporting period have focused on the New York City program. Department staff conducted monthly conference calls with New York City and made several site visits to

New York City during this reporting period. New York City worked closely with its local Early Intervention Coordinating Council, and developed a plan in collaboration with the Department to address this indicator. That plan is being closely monitored and includes:

- An internal assessment and modification of IFSP scheduling protocols
- The development and issuance of routine performance reports for providers detailing the timeliness of evaluations
- Revision of policy to no longer require the performance of blood lead level tests prior to scheduling an initial IFSP meeting
- Review of data to obtain more complete reasons for delayed IFSP meetings
- Obtaining funding for additional local program staff
- A provider workgroup to determine ways to streamline evaluation practices

These efforts have resulted in steady progress: New York City performance increased 9.3% from FFY 2006 to FFY 2007, which greatly contributed to the overall state performance increase of 6.2% for this same period.

New York State also completed several other improvement activities that has demonstrated, and is anticipated will continue to demonstrate, steady statewide progress for this indicator:

- A technical assistance conference call with all local programs was held on May 12, 2008 to discuss this indicator and share ideas and provide guidance and technical assistance.
- In an effort to continue to improve data for this indicator, New York State made improvements to the KIDS data application by removing several ambiguous/invalid IFSP delay reason code (e.g. "other" "not eligible at first evaluation") selections. Written guidance was issued to provide clearer definitions of IFSP delay reason codes and descriptions of when it would be appropriate to select each selection. Additional guidance was issued on how to appropriately enter data for children who have multiple referrals into the Early Intervention Program. The KIDS User Manual was updated to reflect these changes and has been made available electronically on the Department's Health Information Network, accessible to local program users.

Compliance with Indicator #7 was a major factor in the local program determinations issued by the Department in January 2008. Written notices of local determinations for FFY 2005 were sent to local programs on January 31, 2008 and included notification of their findings for federal compliance Indicators 1, 2, 5, 6, 7, and 8 A – C, with accelerated corrective action required, based on the determination rating the local program received. Local programs that received a determination of "Needs Intervention" were directed to submit a Corrective Action Plan (CAP) and revised policies and procedures for this indicator to the Department for approval. The CAP and policies and procedures had to be developed in conjunction with their local Early Intervention Coordinating Councils.

Correction of noncompliance in FFY 2007:

In its review of Indicator #7 for New York's FFY 2006 APR, OSEP advised that it was unable to determine the extent to which timely correction of noncompliance occurred for the **28.7%** (8,431) children who did not have their initial IFSP meeting completed within the federally-required 45 day timeframe. New York has verified, through additional data analyses and direct contact with local programs, that **100%** of these children did receive their initial IFSPs within one year of referral.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2007: *[If applicable]*

None

Monitoring Priority: Effective General Supervision Part C / Effective Transition

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:

- A. IFSPs with transition steps and services;
- B. Notification to the local educational agency (LEA), if child potentially eligible for Part B; and
- C. Transition conference, if child potentially eligible for Part B.

(20 U.S.C. 1416(a)(3)(B) and 1442)

Measurement:

- A. *Percent = [(# of children exiting Part C who have an IFSP with transition steps and services) divided by the (# of children exiting Part C)] times 100.*
- B. *Percent = [(# of children exiting Part C and potentially eligible for Part B where notification to the LEA occurred) divided by the (# of children exiting Part C who were potentially eligible for Part B)] times 100.*
- C. *Percent = [(# of children exiting Part C and potentially eligible for Part B where the transition conference occurred) divided by the (# of children exiting Part C who were potentially eligible for Part B)] times 100.*

FFY	Measurable and Rigorous Target
2007 (2007-2008)	A. 100% B. 100% C. 100%

Sampling Methodology Description

New York State collected the data for Indicators 8 A, B and C by using a stratified sample of 2,576 children who exited the Part C program during July 2006-June 2007. These children were selected from the 25,344 children who exited the program during this reporting period and had an IFSP.

Sample cases were not selected at the same rate in different municipalities. This is a standard statistical practice called stratified sampling. The purpose of using stratified sampling is to have sufficiently large samples for local programs, which results in statistically valid rates for selected local programs as well as for the state as a whole. In order to accurately represent the state performance as a whole, it is necessary to use statistical weighting when calculating the performance rate.

Samples were selected independently from different municipalities at different sampling rates. In order to capture locally representative sample data for the Medium County group per the schedule above, sample cases were selected at a sample proportion of approximately 75% for this reporting period. (In other words, every four children in the population were represented by three sample cases for a medium

county.) In addition, the NYC/Long Island and Small County groups were oversampled in order to have sufficiently accurate data to compare to performance in previous years. The NYC/Long Island group was sampled at a proportion of approximately 2%, and the Small County group was sampled at a proportion of nearly 100%. The remainder of the sample was selected from the rest of the counties at a proportion of around 0.6%. These sampling proportions were designed to produce rates for local programs that were sufficiently accurate while requiring review of a minimum number of sample cases. In order to gather locally representative data, each municipality will be oversampled once during the FFY 2005-2010 period, according to this schedule listed in the State Performance Plan.

Local programs were required to complete a self-assessment tool developed by the Department for the children identified to them by the Department. The FFY 2007 tool was revised from the tool used in the past, and was more rigorous, breaking down several of the previous questions and providing explicit criteria and guidance for each question, to eliminate misinterpretation by responders. The FFY 2007 tool was also tested at a local program by both State and local program staff to ensure that it would capture required data and for usability before it was sent to all other local programs.

Analysis was conducted to ensure the statewide sample was representative of the population as a whole. The sample and the population were compared using the variables of gender, race/ethnicity, reason for eligibility, duration of EI services, age at referral to the EIP, and age at exit from EIP. For each value of each variable, the sample proportion and the population proportion were compared at the 95% confidence level. These comparisons indicated that the sample was appropriately representative of the population as a whole.

Weighted vs. Unweighted Rates

As a result of its FFY 2006 APR review, OSEP informed New York State that it was incorrectly calculating this indicator. New York State had determined the rates for Indicator 8 using a weighted calculation. OSEP informed New York that rates for this indicator must be determined using an unweighted calculation. New York believes that, due to the diversity in size of New York State (especially between New York City and the other local programs), that a weighted methodology should be used. Therefore, New York is providing the rates based on both unweighted and weighted calculations in this APR.

Indicator 8A - Steps and Services:

Actual Target Data for Indicator 8A for FFY 2007:

Of the 2,576 children in the sample who exited Part C during this reporting period, 2,089 had IFSPs containing documentation of transition steps and services. Using the OSEP-required *unweighted* calculation, this results in a rate of **81.1%**.

The appropriately *weighted* calculation shows that **87.9%** of children with IFSPs who exited Part C during this reporting period contained documentation of transition steps and services.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for Indicator 8A for FFY 2007:

New York State reports that 81.1% (unweighted) and 87.9% (weighted) of children leaving the Early Intervention Program in FFY 2007 had IFSPs that contained transition steps and services.

In order to determine progress or slippage between FFY 2006 and FFY 2007, New York re-calculated this indicator for FFY 2006 using the OSEP unweighted methodology. New York reports that 87.1% of children in FFY 2006 (re-calculated and unweighted) had an IFSP that contained documentation of transition steps and services, compared to 81.1% in FFY 2007. Comparing unweighted data for the two

years ignores proportional representation of this state's large municipalities like New York City. This results in an apparent slippage. However, using the weighted methodology that accurately reflects true performance, New York can report effectively no change on this indicator from FFY 2006 to FFY 2007 (88.2% to 87.9%). This small decrease is not statistically significant.

It was determined that a major reason for noncompliance in this area is a lack of understanding of the need to document transition steps and services in every record, not just for children eligible for the Preschool Special Education Program. Significant technical assistance was provided to local programs regarding this requirement and additional written guidance is under development that will be disseminated to the field shortly.

New York will continue to use its data to work closely with specific local programs identified as needing substantial improvement in this area to ensure they take meaningful steps to improve their practices in this area.

Indicator 8B - Notification to the LEA (if child potentially eligible for Part B):

Actual Target Data for Indicator 8B for FFY 2007:

Of the 2,576 sample children with IFSPs who exited Part C during the reporting period, 786 were not potentially eligible for Part B. In addition 32 children were no longer receiving Part C services at the time notification should have occurred (due to family moved, delay resolved, child died). Of the remaining 1,758 children, 1,584 had documentation of notification to the LEA. Using the OSEP-required *unweighted* calculation, this results in a rate of **90.1%**.

The appropriately *weighted* calculation shows that **79.0%** of children with IFSPs who were potentially eligible for Part B had documentation of notification to the LEA.

New York disagrees with OSEP's statement that New York does not have an approved opt-out policy on file with OSEP. New York's statute and regulations have been on file with OSEP since 1993. In addition the document *The Transition of Children from the New York State Department of Health Early Intervention Program to the State Education Preschool Special Education Program or Other Early Childhood Services* was officially submitted to OSEP on June 20, 2005 as part of the relevant policies and procedures newly required as part of the Part C grant application at that time. The statute, regulations and guidance document cite that parental consent is required to notify the LEA of potential eligibility. OSEP has never expressed concerns to New York with this "opt out" policy and has effectively approved it as part of each and every application submitted since then. Nevertheless, at OSEP's request, New York has not counted the children for whom LEA notification did not occur due to lack of parent consent as having timely LEA notification in the calculation above.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for Indicator 8B for FFY 2007:

New York State reports that 90.1% (unweighted) and 79.0% (weighted) of children leaving the Early Intervention Program in FFY 2007 had documentation of notification to the LEA.

Due to the disagreement with OSEP's opt-out policy and corresponding change in methodologies between FFY 2006 and FFY2007, New York is unable to recalculate the difference between last year and this year.

Indicator 8C - Transition Conference (if child potentially eligible for Part B):**Actual Target Data for Indicator 8C for FFY 2007:**

Of the 1,790 children in the sample who were potentially eligible for Part B, there were 68 children who were no longer receiving Part C services at the time the transition conference should have occurred (48 due to family moved, 14 due to delay resolved, 6 due to child death). There were also 833 children whose families did not consent to a transition conference. (In 37 of these cases, the parent was not able to be contacted, and the remaining 796 had explicit documented approval that the parent did not give consent for the transition conference.) 701 children had records that contained documentation of a transition conference. Using the OSEP-required *unweighted* calculation, this results in a rate of **78.9%**.

The appropriately *weighted* calculation shows that **58.4%** of children who had either a documented transition conference, or for whom a transition conference did not occur due to documented family reasons.

In the calculation, cases were considered “Timely transition conference not possible due to exceptional family circumstances” where there was documentation for such instances as: family had moved before the transition conference held, family refused a transition conference, child/family member illness. These exceptional family cases are included in both the numerator and denominator.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for Indicator 8C for FFY 2007:

New York State reports that 78.9% (unweighted) and 58.4% (weighted) of the children leaving the Early Intervention Program in FFY 2007 who were potentially eligible for Part B had a documented timely transition conference.

Direct comparison of the FFY 2006 and 2007 rates for Indicator 8C is not appropriate due to the differing methodologies used to calculate this rate.

In order to determine progress or slippage between last reporting period and this one, New York re-calculated this indicator for FFY 2006 using the unweighted methodology required by OSEP. Using this methodology, New York can report that 53.7% of children in FFY 2006 (re-calculated and unweighted, but not reflecting discounting based on OSEP’s April 2009 guidance) had an IFSP that contained documentation of transition steps and services, compared to 78.9% in FFY 2007, which shows significant improvement. Using the weighted methodology that reflects true performance, New York also shows major improvement for this indicator, from 44.6% in FFY 2006 to 58.4% in FFY 2007.

One reason for the progress in this indicator from FFY 2006 to FFY 2007 was improvement in the data collection tool. The FFY 2006 tool asked if the child’s record contained documentation that the parent consented or opted out of a transition conference and did not determine, with accuracy, whether or not lack of documentation indicated parental declination. The revised tool used in FFY 2007 required an affirmative response that the parent had opted out of the transition conference. As a result, more cases were discounted from the calculation of the 8C rate, causing a significant rise in the FFY 2007 rate for 8C.

New York State’s rate for this indicator continues to reflect the difficulty encountered by local EI programs when coordinating transition with the myriad of local school districts which are responsible for the 619 Preschool Special Education Program and fall under the purview of the New York State Education Department (SED). Previous low rates were influenced by the unavailability of LEA staff to participate in the EI transition conference, which was not within the control of the local EI program. To address this issue, the Department worked with SED and clarified that the LEA representative must be invited to, but does not have to attend, the EI transition conference in order for the conference to be considered viable for this indicator. Written guidance to this effect will be issued to the field.

The Department also collaborated with SED, the National Early Childhood Technical Assistance Center (NECTAC), and the Northeast Regional Resource Center (NERRC) to improve both EI and Preschool transition activities in New York State. A two-day meeting was held in Albany, New York on June 2 and 3, 2008 to discuss strengths and weaknesses of the transition process in the State and to develop a plan that includes a summit of stakeholders who will discuss ways to improve performance for transition activities in the Part C and Part B programs.

Correction of uncorrected noncompliance for Indicator #8C identified in FFY2005 APR:

New York State reported noncompliance of 62.9% of children in FFY 2005 who were potentially eligible for Part B for whom a documented timely transition conference did not occur. (Note that this is based on the rate of 37.1% for 8C from the revised data in New York's appeal.) Correction for these children is not possible because the children left the jurisdiction of the local programs. This noncompliance, however, occurred in 3 local programs, which New York re-sampled in FFY 2007. While results showed that none of the 3 programs have yet demonstrated correction at 100% compliance, after significant technical assistance efforts and clarification of transition requirements, all 3 programs demonstrated major improvements for this indicator (showing gains between 55 and 79 percentage points). New York plans to continue to work with and monitor these 3 programs and report on their compliance status for this indicator in the 2010 APR.

General Indicator 8 Improvement Activities Completed for FFY 2007:

New York State participated in numerous OSEP and NERRC-sponsored technical assistance conference calls (see APR introduction), which has provided guidance and allowed for sharing of ideas among the states for transition and other areas covered by State Performance Plan and Annual Performance Report.

New York also continued its efforts to design and develop a new data system (NYEIS) to replace the current data system (KIDS). Unlike KIDS, NYEIS will capture data for transition requirements and the Department will use these data to more easily monitor compliance with transition requirements and target technical assistance efforts. Migration to the new system continues to be on schedule and is planned to begin in the spring 2009.

Compliance with Indicator #8 was a major factor in the local program determinations. For instance, local programs that received a determination of "Needs Intervention" (based on their performance on federal Indicators 1, 2, 5, 6, 7, and 8 A - C) were directed to comply with additional corrective actions, including submitting a Corrective Action Plan, developed in conjunction with their local Early Intervention Coordinating Councils, and revising their policies and procedures with respect to this indicator. New York State will continue to use appropriate data to identify which local programs need to work more diligently to improve in these transition areas.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2007: [if applicable]

None

Monitoring Priority: Effective General Supervision Part C / General Supervision

Indicator 9: 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)

Measurement:

Percent of noncompliance corrected within one year of identification:

- A. # of findings of noncompliance.
- B. # of corrections completed as soon as possible but in no case later than one year of identification.

Percent = [(b) divided by (a)] times 100.

For any noncompliance not corrected within one year of identification, describe what actions, including technical assistance and/or enforcement that the State has taken.

<i>FFY</i>	<i>Measurable and Rigorous Target</i>
2007 (2006-2007)	100% of noncompliance in federal priority areas will be identified and corrected within one year of identification.

Actual Target Data for FFY 2007:

10 out of 11 (91%) instances of noncompliance in a federal priority area were identified and corrected within one year of identification. The one instance of noncompliance that was not timely corrected was ultimately corrected within 13 months of the finding.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2007:

For 2006-07, information used for indicator #9 to demonstrate the rate of correction of noncompliance within one year was obtained from the Department’s comprehensive on site monitoring of providers, and from findings of noncompliance identified through due process activities, specifically investigations of written complaints.

The Department verifies that correction of noncompliance was achieved within 1 year by:

Reviewing and approving all corrective action plans required to be developed and submitted for all findings of noncompliance;

APR Template – Part C (4)

New York
State

Evaluation and approval of revised written policies and procedures, as a result of on-site monitoring, describing how the provider will implement program requirements on the local level;

Requiring a rigorous immediate remediation process to be followed when serious noncompliance affecting health and safety of children are identified;

Conducting follow-up focused onsite monitoring reviews when serious or multiple findings of noncompliance are determined;

Providing written and verbal technical assistance through a monitoring contractor and the Department's program staff during the corrective action process and the immediate remediation process to ensure an understanding of program requirements;

Requiring attendance at Department-sponsored EI training, if numerous or repeat findings of non compliance are determined during subsequent monitoring reviews.

During July 1, 2006 and June 30, 2007, 51 local early intervention programs were monitored by the Department's contractor which performed onsite reviews of contracted individual or agency providers.

When noncompliance is determined, providers are required to submit corrective action plans (CAPs) within 45 days of receipt of notification of noncompliance. The CAP is required to include action steps to be taken to correct the noncompliance; a timeline to correct the non compliance, which must be within one year of notification; a description of internal quality assurance methods that will ensure that the noncompliance will not recur; submission of policies, procedures and training programs which reflect activities to address the area of noncompliance; and verification of attendance or a commitment to attend Department sponsored training, when required.

All CAPs are reviewed and approved by Department program staff and written responses are developed, which may include extensive written technical assistance for providers to revise their policies and procedures. Additionally, extensive verbal technical assistance is provided when providers need to resubmit their CAPs due to a lack of understanding of program requirements. Serious noncompliance must be immediately corrected, which is verified by a follow up focused on-site monitoring review within 60 days from the date of the Department's written CAP response to the provider. Referral to Department sponsored training may also be required subsequent to the focused review. The Department's monitoring contractor conducted 41 focused reviews in this program year within one year of notification of findings of noncompliance, to follow up on significant and multiple areas of noncompliance determined during previous monitoring reviews, and to ensure the corrective action plan was implemented and the noncompliance was corrected.

Additional enforcement actions for findings of noncompliance for instances in which the use of unqualified personnel was identified during onsite monitoring includes recovery of funds paid to the provider for EI services rendered during the time period that they did not meet the requirements of the EI program for qualified personnel.

Based on guidance received from OSEP during their verification visit in October 2008, New York has identified additional areas of IDEA violations determined through our comprehensive monitoring process which are not identified as key indicators reported in the Indicator 9 table. We have identified these additional indicators which are designated as "Other", and included all appropriate findings of noncompliance for these indicators in the Indicator 9 Table included in this APR, based on provider monitoring activities. Additionally, based on further guidance from OSEP, we are currently participating in monthly TA conference calls with our OSEP State Contact, participating in conference calls with other Technical Assistance centers including the Data Accountability Center (DAC) and Northeast Regional Resource Center, and have requested individual assistance from DAC to revise our current monitoring process. Our plan is to revise our onsite monitoring protocol to eliminate duplicate processes for identifying findings of noncompliance which are captured through other different reporting methods, such as data reporting, and self assessments. This technical assistance will be used to develop modifications to New York's General Supervision System beginning with the July 1, 2009 – June 30, 2010 program year.

All future findings of IDEA violations determined through monitoring will be reported in subsequent APR's, as well as verification of the correction of noncompliance. Discussions with OSEP in the October 2008 verification visit also determined that New York needs to modify its method of verifying correction of noncompliance to comply with guidance newly issued by OSEP in 2008. Verification of noncompliance will be accomplished by different methods, including: on-site follow up reviews within 90 days of notification of noncompliance, requirement of self assessments completed by local providers and early intervention programs, data reporting, submission of partial child records, or other documents that demonstrate correction of noncompliance at the individual child level. New York will work with OSEP, DAC and NERRC to refine a protocol for its verification of correction of noncompliance to be implemented effective July 1, 2009.

The areas of noncompliance identified through monitoring of providers for this reporting period is included in the following chart and is reported as grouped instances of noncompliance for Indicators #1 and #7, and reported as individual provider determinations of noncompliance for item #9, "Other". "Other" relates to findings of noncompliance based on the evaluator or knowledgeable representative participated in the IFSP meeting.

The system complaint finding of non compliance included in #1 is reported at the specific child level. The system complaint report issued to the provider agency in March 2007 required a written Corrective Action Plan, which was accepted July 2007, thereby verifying correction within one year.

Please refer to the chart below for Indicator 9:

APR Template – Part C (4)

New York
State

Indicator	General Supervision System Components	# of EIS Programs Issued Findings in FFY 2006 (7/1/06 to 6/31/07)	a. # of Findings of noncompliance identified in FFY 2006 (7/1/06 to 6/30/07)	b. # of Findings of noncompliance from a. for which correction was verified no later than one year from identification	c. # of Findings of noncompliance from a. for which correction was subsequently verified	d. # of Findings of noncompliance from a. for which correction has not been verified
#1: Percent of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner.	Monitoring: Onsite monitoring	51	3	3	0	0
	Dispute Resolution-system complaints		1	1	0	0
#2: Percent of infants and toddlers with IFSPs who primarily receive early intervention services in the home or community-based settings.	Monitoring: Onsite monitoring	51	0	0	0	0
#5: Percent of infants and toddlers birth to 1 with IFSPs.	Monitoring: Onsite monitoring	0	0	0	0	0
#6: Percent of infants and toddlers birth to 3 with IFSPs.		0	0	0	0	0
#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.	Monitoring: Onsite monitoring	51	1	1	0	0
	Dispute Resolution-system complaints	0	0	0	0	0

APR Template – Part C (4)

New York
State

Indicator	General Supervision System Components	# of EIS Programs Issued Findings in FFY 2006 (7/1/06 to 6/31/07)	a. # of Findings of noncompliance identified in FFY 2006 (7/1/06 to 6/30/07)	b. # of Findings of noncompliance from a. for which correction was verified no later than one year from identification	c. # of Findings of noncompliance from a. for which correction was subsequently verified	d. # of Findings of noncompliance from a. for which correction has not been verified
#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:						
A. IFSPs with transition steps and services	Record Review	0	0	0	0	0
B. Notification to LEA, if child potentially eligible for Part B	Record Review	0	0	0	0	0
C. Transition conference, if child potentially eligible for Part B	Record Review	0	0	0	0	0
#9: Other: The evaluator or knowledgeable representative participated in the IFSP meeting.	Monitoring: Onsite monitoring	51	6	5	1	0
TOTALS:			11	10	1	0

Note: # programs = # munis; finding = date report sent to provider; correction = CAP accepted within 1 year from date report sent to provider

Monitoring Priority: Effective General Supervision Part C / General Supervision

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)

Measurement: Percent = [(1.1(b) + 1.1(c)) divided by 1.1] times 100.

<i>FFY</i>	<i>Measurable and Rigorous Target</i>
2007 (2007-2008)	100% of all systems complaints filed will be completed within the federally required 60-day time line.

Actual Target Data for FFY 2007:

96% (22 out of 23) of all systems complaints with reports issued were completed within the federally required 60 day time line or a timeline extended for exceptional circumstances with respect to a particular complaint. See Table 4 in Appendix 1.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2006:

Data Analysis:

96% represents significant progress from the 82% data submitted for FFY 2006 and 0% submitted for 2005.

During FFY 2007, NYS received 27 system complaints of which three complaints were withdrawn or dismissed. Twenty-three complaint investigations were completed and a report issued. One complaint is pending a due process hearing decision.

One report was issued on the 80th calendar day.

Two complaints had their timeline extended for exceptional circumstances. Both involved an extensive investigation and the necessity to coordinate a response with a relevant corrective action plan. One complaint involved a large municipality, multiple service issues, multiple interviews, review of policy & procedures, multiple data runs and a record review of a representative sample of child records. Another complaint involved a large municipality, provider capacity issues and billing/payment issues unique to a provider but also systematic. Billing/payment issues specific to the provider were resolved prior to the end of the investigation but the complainant also was concerned with how the municipality functioned. The investigation required a review of policies and procedures, multiple data runs, requests for specific child and billing records and subsequent review, and multiple interviews.

Improvement activities implemented during FFY 2007 and progress on meeting targets:

New York has made a substantial improvement in the reports issued in a timely manner since FFY 2005 to 96% of reports issued in a timely manner in FFY 2007. For 2007, increased efforts continued to improve the efficiency of the complaint process. The efficiency of the complaint process is demonstrated by the near 100% indicator compliance rate for APR 2007.

Under state public health law and EI regulations the New York State Department of Health established procedures to resolve disputes regarding services as well as complaints filed by organizations or individuals alleging that a public agency or private provider is violating federal or state statute and regulations. Multiple individuals share in the responsibility of making sure parents are aware of their right to file a system complaint. Service coordinators and EIOs have primary responsibility. Municipalities, providers and the general public are informed about the right to file written complaints through various training initiatives and information on our public website.

There is an established system complaint procedure for the timely resolution of a complaint. The procedure ensures that all allegations are addressed, that a report is issued, and if a Corrective Action Plan (CAP) is necessary that it is received, is appropriate and implemented

NYS has a due process unit responsible for investigating system complaints. To ensure timely resolution of complaints, the unit operates as a team utilizing the skills of support staff and professional staff. There is an increased commitment from all levels of the Department: to address investigations an additional investigator was added to the due process unit, to ensure the timeliness of reports additional clerical support was provided by the Bureau's administrative unit, to provide standard CAP reports template language was provided by monitoring unit staff, and multiple levels of the Department (Bureau, Center, Division) adhered to a prescribed task timeline.

The final response receives multiple reviews at the Bureau level as well as the center & division level of the DOH to ensure that each allegation has been addressed. The final CAP response is also reviewed by multiple levels to ensure that violations have been addressed.

To ensure coverage, all investigative staff involved in the due process unit are capable of assuming each others responsibilities as the need arises, however, specific responsibilities are initially assigned to individual staff. NYS also recognized the need for support staff back-up and trained two additional backup staff. Three staff are now available for investigating system complaints. One staff person is now responsible for ensuring the submission, approval & implementation of a CAP. NYS found this to be an effective way to address the timely resolution of complaints.

Lack of progress, slippage and plans to address this:

There was no slippage or lack of progress for this reporting period.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2007: [If applicable]

None

Monitoring Priority: Effective General Supervision Part C / General Supervision

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)

Measurement: Percent = [(3.2(a) + 3.2(b)) divided by 3.2] times 100.

<i>FFY</i>	Measurable and Rigorous Target
2007 (2007-2008)	100% of all due process hearing requests were filed within the federally required 30 day time frame

Actual Target Data for FFY 2007:

100% compliance. There was one fully adjudicated hearing to report for this reporting period and it was held within the required 30 day time frame. See Table 4 in Appendix 1.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2007:

Data Analysis:

There was one fully adjudicated hearing for this reporting period. There were 12 hearing requests, eleven of which were resolved without a hearing. The one remaining hearing was held within the required time frame.

Improvement activities implemented during FFY 07 and progress on meeting targets:

Early intervention officials and service coordinators must ensure that families are informed of, and, to the extent possible, understand their due process rights, including the right to request an impartial hearing to resolve a dispute regarding early intervention services. Municipalities, providers and the general public are informed about the due process hearing process through various training initiatives and information on our public website.

To ensure that the hearing process occurs in a timely manner, NYS has a due process unit responsible for the facilitation of hearing requests. One staff person is assigned this responsibility. There is an established procedure to ensure the establishment of a hearing date, informing the parent of their right to mediation, and implementation of the final decision.

Requests for impartial hearings are submitted by families to the Director of Early Intervention (a form letter is in the Early Intervention Program’s Parent Guide). The request is then referred to the Division of Legal Affairs, Bureau of Adjudication. An Administrative Law Judge is assigned. The notice of hearing provides parent information regarding the availability of mediation. The early intervention official and service coordinator are responsible for modifying the Individualized Family Service Plan no later than five working days after receipt of the written or oral decision, whichever is issued sooner.

Lack of progress, slippage and plans to address this:

There was no slippage or lack of progress for this reporting period.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2007

None

Monitoring Priority: Effective General Supervision Part C / General Supervision

Indicator 12: Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements (applicable if Part B due process procedures are adopted).

(20 U.S.C. 1416(a)(3)(B) and 1442)

This indicator is not applicable to New York State

Measurement: Percent = (3.1(a) divided by 3.1) times 100.

<i>FFY</i>	Measurable and Rigorous Target
	<i>Not Applicable to New York State</i>

Actual Target Data for (Insert FFY):

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for (Insert FFY):

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for (Insert FFY)
[If applicable]

Monitoring Priority: Effective General Supervision Part C / General Supervision

Indicator 13: Percent of mediations held that resulted in mediation agreements.

(20 U.S.C. 1416(a)(3)(B) and 1442)

Measurement: Percent = [(2.1(a)(i) + 2.1(b)(i)) divided by 2.1] times 100.

<i>FFY</i>	Measurable and Rigorous Target
2007 (2007-2008)	82% of mediation requests will result in mediation agreements

Actual Target Data for FFY 2007:

97% (31 out of 32) of mediation requests resulted in mediation agreements. See Table 4 in Appendix 1.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2007:

Data Analysis:

During FFY 2007, there were 61 requests for mediation and, of those, 29 requests (48%) were withdrawn. Of the remaining 32 requests, 31 (97%) reached agreement and one could not reach agreement.

New York’s performance of 97% of mediation requests resulting in agreements continues to exceed the target and the recognized reasonable rate of 75-85% and exceeds the national mediation success rate.

Improvement activities implemented during FFY 07 and progress on meeting targets:

Early intervention officials and service coordinators must ensure that families are informed of, and to the extent possible, understand their due process rights, including the right to request a mediation to resolve a dispute regarding early intervention services. Municipalities, providers and the general public are informed about the mediation process through various training initiatives and information on our public website.

Mediation is a voluntary process. Requests for mediation can be submitted by families, or Early Intervention Officials. Mediation requests are submitted to the Early Intervention Official who will arrange for mediation. To ensure that mediators are qualified and impartial, NYS contracts with the New York State Dispute Resolution Association Inc. (NYSdra) to provide early intervention services program mediation. NYSDRA provides oversight and training to the local Community Dispute Resolution centers in each of the 62 counties. NYSDRA administers the program from its central office in Albany, New York.

To ensure that the mediation process occurs in a timely manner, NYS has a due process unit responsible for monitoring the availability of a state-wide mediation system. One staff person is assigned this responsibility. All staff involved in the due process unit are capable of assuming each others responsibilities as the need arises, however, specific responsibilities are initially assigned to individual staff. NYS found this to be an effective way to address the timely resolution of mediation requests.

Lack of progress, slippage and plans to address this:

There was no slippage or lack of progress for this reporting period.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2007:

None

Monitoring Priority: Effective General Supervision Part C / General Supervision

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)

Measurement: State reported data, including 618 data, State performance plan, and annual performance reports, are:
 a. Submitted on or before due dates (February 1 for child count, including race and ethnicity, settings and November 1 for exiting, dispute resolution); and
 b. Accurate (describe mechanisms for ensuring error free, consistent, valid and reliable data and evidence that these standards are met).

<i>FFY</i>	Measurable and Rigorous Target
2007 2007-08	100% State reported data, including 618 data, State performance plan, and annual performance reports, are submitted on time and are accurate.

Actual Target Data for FFY 2007:

100% of the data, including 618 data, State Performance Plans, and Annual Performance Reports, were submitted on time and were accurate.

New York State reports 100% compliance with this indicator

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2007:

State reported data, including 618 data, State performance plan, and annual performance reports, are submitted on or before due dates (February 1 for child count, including race and ethnicity, settings and November 1 for exiting, dispute resolution).

618 data were submitted on time for this reporting period (2007- 2008) as follows:

Table 1 (child count)	Due February 1, 2008	Submitted January 31, 2008
Table 2 (settings)	Due February 1, 2008	Submitted January 31, 2008
State Performance Plan	Due February 1, 2008	Submitted January 31, 2008
Annual Performance Report	Due February 1, 2008	Submitted January 31, 2008

Table 3 (exiting)	Due November 1, 2008	Submitted October 31, 2008
Table 4 (dispute resolution)	Due November 1, 2008	Submitted October 31, 2008

In addition, New York State responded to all requests from the Data Accountability Center (DAC) for Data Notes in the preparation and submittal of its 618 reports for 2007-2008.

Regarding Indicators #8A, B and C, data for these indicators was obtained through completion of a self-assessment survey tool by local programs. In its 2006 APR response, OSEP issued new guidance to New York State regarding how to calculate Indicators #8A, B and C. In this APR, the narratives for Indicators #8A, B and C describe the revised calculation methodology used for this reporting period and last reporting period.

Regarding the collection and reporting of valid and reliable data using the KIDS data system for Indicators #1, #2, #5, #6 and #7:

- KIDS contains numerous required fields that generate prompts and require the user to include data before moving off the screen. KIDS also contains pick lists to limit data entry to appropriate values.
- The State has a system of electronic and manual edit checks in place that identify data anomalies, missing and inconsistent data. Edits are performed against quarterly data submissions from local programs. Record and table size is checked for missing data and data entry backlogs. Year to year change reports are examined and data patterns are analyzed to identify data problems. The system also performs edit checks and issues prompts and/or warning messages to ensure dates and other values are entered correctly. Problems/failed edits are addressed through individual technical assistance from the State's IT Helpdesk and data unit staff. When statewide data issues are identified, data is provided back to local programs and they are required to research and clean questionable and problematic data, and resubmit the data for re-examination. Continued problems are worked on until fully resolved.

In addition to the above data quality assurance steps, the Department directed its monitoring contractor, as part of its onsite monitoring protocol, to compare key data field entries (including those used in the 618 data reports) with source documents in child records, to ensure data entry by local programs is accurate. In instances where this is not the case, local programs are required to submit written corrective action plans and correct data as appropriate. The State monitors the implementation of the corrective action plans to ensure local programs correct data and improve their data quality assurance activities.

New York routinely issues guidance to local programs regarding use of the EI data system to collect and report data. The guidance includes information about data definitions, use of correct codes, and criteria for appropriate data entry selections. This guidance is issued via updates to the data system manual and/or data dictionary, emails and new software application updates. The State also offers local programs the opportunity to discuss new data guidance and answer questions during regularly scheduled (bi-monthly) all-county conference calls.

Specific results are shown using OSEP’s scoring rubric as follows:

SPP/APR Data - Indicator 14				
APR Indicator	Valid and Reliable	Correct Calculation	Followed Instructions	Total
1	1	1	1	3
2	1	1	1	3
3	1	1	1	3
4	1	1	1	3
5	1	1	1	3
6	1	1	1	3
7	1	1	1	3
8a	1	1	1	3
8b	1	1	1	3
8c	1	1	1	3
9	1	1	1	3
10	1	1	1	3
11	1	1	1	3
12	N/A	N/A	N/A	0
13	1	1	1	3
			Subtotal	42
APR Score Calculation		Timely Submission Points - If the FFY2007 APR was submitted on-time, place the number 5 in the cell on the right.		5
		Grand Total - (Sum of subtotal and Timely Submission Points) =		47

618 Data - Indicator 14					
Table	Timely	Complete Data	Passed Edit Check	Responded to Data Note Requests	Total
Table 1 - Child Count Due Date: 2/1/08	1	1	1	1	4
Table 2 - Program Settings Due Date: 2/1/08	1	1	1	1	4
Table 3 - Exiting Due Date: 11/1/08	1	1	1	1	4
Table 4 - Dispute Resolution Due Date: 11/1/08	1	1	1	1	4
				Subtotal	16
618 Score Calculation			Grand Total (Subtotal X 3) =		48

Indicator #14 Calculation	
A. APR Grand Total	47
B. 618 Grand Total	48
C. APR Grand Total (A) + 618 Grand Total (B) =	95
	Total NA or N/A in APR
	Total NA or N/A in 618
	Base
D. Subtotal (C divided by Base*) =	1.000
E. Indicator Score (Subtotal D x 100) =	100.0

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2006
None