

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

Annual Performance Report for the NYS Early Intervention Program

2010 - 2011

Revised April 2012



New York State Department of Health

Division of Family Health

Bureau of Early Intervention

Part C

Annual Performance Report (APR) for

FFY 2010 – July 1, 2010 through June 30, 2011

Submitted February 1, 2012 / Revised April 2012

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.

Starting in mid-2010, New York State began deploying the New York Early Intervention System (NYEIS). NYEIS is a state-of-the-art, web-based data system. NYEIS was initially launched in two municipalities in October 2010. Since then, several municipalities have begun using NYEIS each month. As of December 2011, 56 municipalities are using the NYEIS system and the remaining 2 municipalities are scheduled to be launched in January 2012. Upon launch, most municipalities began entering data for new referrals to the EIP into NYEIS, while data for children who were already entered into KIDS continued to be entered into KIDS.

Additional data used in the 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 Federal Fiscal Year (FFY) 2010, from July 1, 2010 through June 30, 2011.

In addition to submitting an 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 at least once during the eight-year period covered by the SPP.

Data analysis, monitoring, technical assistance/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 2010 APR was presented to the New York State Early Intervention Coordinating Council (EICC) at its quarterly meeting on December 6, 2011. 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 2010 APR were approved by the EICC, which has agreed to use the APR in lieu of its required annual report. The appropriate form, signed by the New York State EICC's chairperson, is included in New York State's submittal to OSEP.

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 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 FFYs 2005, 2006, 2007, 2008, and 2009 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 the FFY 2009 reporting period in January 2012. 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 fully 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 third 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 Indicators # 1, 7, 8 A-C, and 9. The following is a summary of the technical assistance obtained in these areas and the actions taken as a result.

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

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

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

2010

| Date | Sponsor | Description |
|-------------|---------------------------|---|
| 1/14/10 | OSEP | Conference Call w/H Tabor Review APR Changes |
| 1/14/10 | OSEP | SPP/APR TA Conference Call w/R Ryder |
| 1/25/10 | OSEP | TA Conference Call: ARRA Discussion |
| 3/11/10 | OSEP | SPP/APR TA Conference Call w/Ruth Ryder |
| 3/17/10 | NERRC | SPP/APR TA Conference Call w/Ruth Ryder – MOE Issues & ITCA IDEA |
| 3/29/10 | OSEP | TA Conference Call w/M Diefendorf – NY Expanding Opportunities |
| 4/6/10 | OSEP | TA Conference Call w/Hillary Tabor – APR During Clarification |
| 4/12/10 | NECTAC | Webinar: Early Identification & Part C Eligibility |
| 5/4/10 | NERRC | NECTAC EO Conf Calls – For SPP/APR State Staff – Indicator B-4 |
| 5/11/10 | NECTAC | NECTAC EO Conf Call w/Martha J. Diefendorf |
| 5/13/10 | OSEP | MSIP TA Conference Call w/Ruth Ryder |
| 5/19/10 | NERRC | NY Part C TA Conference Call w/Kristin Reedy |
| 5/26/10 | NERRC | NY Part C TA Conference Call w/Kristin Reedy |
| 6/4/10 | OSEP | TA Conference Call w/Hillary Tabor – Grant Application |
| 6/10/10 | OSEP | SPP/APR OSEP MSIP TA Conference Call Re: TBA w/Ruth Ryder |
| 6/11/10 | NECTAC | ECO/NECTAC Call 'Public Reporting of Local Child Outcomes Data' |
| 6/14/10 | OSEP | NERRC Reg Teleconf w/Part C Lead Agencies IDEA Implementation |
| 6/17/10 | OSEP | Conf Call - RE: Specific Assurance for FFY 2010 Grant Application w/Hillary Tabor |
| 6/28/10 | NERRC | TA Conference Call w/DAC/NERC |
| 7/19/10 | NERRC | TA Conference Call w/DAC/NERC |
| 7/22/10 | OSEP | Key Points for Understanding OSEP Early Childhood Transition FAQ |
| 8/1-8/4 | TACC | Early Childhood Conference/Mega Collaboration Leadership Conference |
| 8/1/10 | NECTAC | States Webinar: OSEP Early Childhood Transition FAQ |
| 8/12/10 | OSEP | SPP/APR TA Call – Identification & Correction for Part C |
| 9/3/10 | OSEP | Monthly TA Conf Call w/Hillary Tabor |
| 10/1/10 | OSEP | Monthly TA Conf Call w/Hillary Tabor |
| 10/13/10 | NERRC | State TA Needs Assessment Visit-NY Part C |
| 10/14/10 | OSEP | SPP/APR TA Call w/Ruth Ryder – Revised SPP/APR Forms |
| 11/1/10 | NERRC | Parent Survey (Part B&C) Data & Improvement Activities |
| 11/8/10 | Amer Acad'y of Pediatrics | Part C Coordinators Nat'l Conference Call: Coordinating Care between EI & the Primary Care Medical Home |
| 11/10/10 | NECTAC | NECTAC Webinar Series: reviewing APR Indicators |
| 11/29/10 | OSEP | TA Conference Call w/Hillary Tabor |
| 12/9/10 | OSEP | SPP TA Conference Call w/Ruth Ryder, e.t. |
| 12/14/10 | NECTAC | Web Conference: NY Part C Annual Cycle of Activities w/Kristin Reedy |
| 12/28/10 | OSEP | TA Conference Call w/Hillary Tabor |

2011

| Date | Sponsor | Description |
|-------------|-------------------------|--|
| 1/10/11 | WESTED | State Special Educ Advisory Panels (SAPs) & State Interagency Coord Councils (SICCs) |
| 1/13/11 | NERRC | Teleconf: NY Part C's Ann'l Calendar of SPP/APR General Supervision Activities |
| 1/31/11 | OSEP | APR/SPP TA Conf Call w/Hillary Tabor |
| 2/25/11 | OSEP | APR/SPP TA Conf Call w/Hillary Tabor |
| 3/10/11 | OSEP | APR/SPP TA Conf Call w/Ruth Ryder |
| 3/21/11 | WESTED | State Agency & Parent Ctr Collaboration increasing ID of under-served Infants, Toddlers & Young Children |
| 4/15/11 | OSEP | Conf Call w/Alma McPherson: NYS Part C State's Opportunity for Clarification of SPP/APR Data |
| 5/16/11 | WESTED | ESEA Reauthorization & Implications for Students w/Disabilities |
| 6/15/11 | OSEP | Conf Call w/Hillary Tabor: Use of ARRA EI NYS Funds for Direct Services |
| 6/22/11 | NECTAC | ECO Webinar: Analyses of 2009-10 Child Outcomes Data for Pt C (C3) |
| 7/13/11 | CADRE | Teleconf: Engaging w/Stakeholders: Exemplary Practices |
| | Dispute Resolution Ctr | |
| 7/25/11 | NERRC | On-site Visit: Dialogue w/Part C Coordinators & Staff Re: Local EIPs & Budgets |
| 7/26/11 | Div for Early Childhood | Webinar for Part C Coordinators: Role of Spec Instruction in EI |
| 8/1-3/11 | OSEP | Attend OSEP Leadership Mega Conference, Arlington VA |
| 9/6/11 | OSEP | Conf Call w/Educ Sec'y: IDEA Part C Final Regs |
| 9/22/11 | ICAAP | Conf Call: Part C Coord Nat'l Training-Coordinating Care between EI & Primary Care Medical Home |
| 9/22/11 | ITCA | Conf Call: New Finance Regulations |
| 9/23/11 | ITCA | Conf Call: RTT Early Learning Challenge |
| 9/26/11 | ITCA | Conf Call: Child Find/Public Awareness & Evaluation & Assessment New Regulations |
| 10/3/11 | ITCA | IFSP & Transition New Regulations |
| 10/4/11 | NERRC & NEPACT | Joint Webinar for Lead Agency Coord on New Part C Regulations |
| 10/13/11 | OSEP | Conf Call for Lead Agency Coord |
| 10/19/11 | AMCHP | Conf Call for Region II: Updates-Legislative, Operations, Autism |
| 10/26/11 | OSEP | Conf Call: Implementing New Part C Regs: Use of Public Benefits or Insurance & Private Insurance |
| 11/2/11 | NERRC | Conf Call: State to Local Monitoring Workgroup |
| 11/10/11 | OSEP | TA Conf Call to Part C Coordinators |
| 11/14/11 | OSEP | APR/SPP TA Conf Call w/Hillary Tabor |
| 11/16/11 | OSEP | All Day Webinar: Part C Regs |

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| | | |
|----------|-----------|---|
| 12/6/11 | OSEP | APR/SPP TA Conf Call w/Hillary Tabor |
| 12/8/11 | OSEP/MSIP | Conf Call: Changes FFY 2010 Part C&B SPP/APR Pkgs |
| 12/16/11 | NERRC | Teleconf: Discuss Part C Requirements |

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 tool used to collect data for Indicator # 8 B to collect data on parents opting out of CPSE notification, under an OSEP-approved policy that was in effect during FFY 2010
- Revised method of reporting findings of noncompliance as part of Indicator # 9
- Revision of the CAP process for on-site monitoring findings made, including implementation of a two pronged verification of correction of noncompliance system, which includes, a self assessment process, on-site follow up reviews, provision of individualized technical assistance and submission of a subsample of child records.

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

Monitoring Priority: Early Intervention Services In Natural Environments

Indicator 1: Percent of infants and toddlers with 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, including the reasons for delays.

| FFY | Measurable and Rigorous Target |
|--------------------------------------|--------------------------------|
| FFY 2010 (2010 - 2011) | 100% |

Actual Target Data for FFY 2010:

85.1%

Infants and Toddlers with IFSPs who receive Early Intervention Services in a Timely Manner:

| | |
|---|--------------|
| a. Number of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner | 45218 |
| b. Total number of infants and toddlers with IFSPs | 53104 |
| Percent of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner (Percent = [(a) divided by (b)] times 100) | 85% |

These data include all children reporting new services based on a non-interim Individualized Family Service Plan (IFSP) within the reporting period of July 1, 2010 to June 30, 2011. New York State's new data system, NYEIS had been launched in most municipalities by the end of FFY 2010 and data on 1,533 children counted in the denominator of this calculation were captured in NYEIS. Data for the remaining 51,571 children were captured in KIDS.

NYEIS captures reasons for service delays, while KIDS does not. Of the 1,533 children whose data were obtained from NYEIS, 88 had at least one of their services delayed due to exceptional family circumstances (delayed family response or consent for appointment, family missed or canceled appointment, difficulty scheduling appointments due to family reasons). These 88 children had all of their remaining services delivered within the 30-day timeline. The children are counted as being delayed due to exceptional family circumstances, and were included in both the numerator and denominator of this rate calculation as allowed by OSEP. In addition to the delays due to family reasons outlined above, some children had delays receiving their services due to difficulties in assigning a service provider, authorizing EI services, and transportation issues.

New York conducted additional data analyses and verified that, as of December 2011, all of the 7,886 (14.9%) children who experienced at least one late service in FFY 2010 received all of their IFSP services within one year of the authorizing IFSP, representing full timely correction of these instances of noncompliance.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

There was a slight increase of **8.9** percentage points for this indicator from FFY 2009 (**76.2%**) to FFY 2010 (**85.1%**). New York State did not achieve the 100% compliance target.

During this reporting period, New York State completed a number of improvement activities intended to improve performance on this indicator. Technical assistance was provided to local programs regarding the importance of maintaining appropriate documentation when any service for which the parent gave written consent began after the 30-day State standard. Targeted technical assistance was provided as needed as a result of monitoring findings as well.

Local determinations based on FFY 2009 local data have been sent to local programs. The determinations were heavily weighted toward the compliance indicators. Local programs with poor performance on this indicator were required to take corrective action based on their determination:

- These local programs were also required to participate in all Department sponsored bimonthly all-county conference calls.
- Local programs who received a determination of “Needs Assistance” were also required to examine, revise, and upon request submit to the Department, revised policies and procedures with respect to the relevant indicators.
- Local programs who received a determination of “Needs Assistance (2)” as a result of continued low rates of local data were additionally required to contact a specifically assigned Bureau of Early Intervention (BEI) staff member to obtain technical assistance on revising policies and procedures related to the relevant indicators. These local programs were also required to convene a meeting of their LEICC to review the determination and obtain input on revising policies and procedures related to the relevant indicators and to submit to the Department within 90 days the LEICC meeting agenda, list of attendees and meeting minutes with an assurance that the policies and procedures were revised in order to improve performance and come into compliance with federal requirements within one year.
- Local programs who received a determination of “Needs Intervention” were additionally required to submit to BEI within 60 days a corrective action plan (CAP) including revised policies and procedures and the steps the County will take to come into compliance with federal requirements within one year.

As discussed earlier, NYEIS will include data fields to capture reasons for the late initiation of IFSP services. In future years, a larger proportion of children counted in Indicator # 1 will have data from the NYEIS system, and New York State will be able to better measure the number of children whose services are delayed due to exceptional family circumstances. The richness of new data that NYEIS will make available will improve the level of detail that can be used in root cause analyses of the reasons for service delays.

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Correction of FFY 2009 Findings of Noncompliance (if State reported less than 100% compliance):
Level of compliance (actual target data) State reported for FFY 2009 for this indicator: **76.2%**

| | |
|---|----------|
| 1. Number of findings of noncompliance the State made during FFY 2009 (the period from July 1, 2009, through June 30, 2010) | 3 |
| 2. Number of FFY 2009 findings the State verified as timely corrected (verified as corrected within one year from the date of notification to the local program of the finding) | 3 |
| 3. Number of FFY 2009 findings <u>not</u> verified as corrected within one year [(1) minus (2)] | 0 |

Correction of FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance) and/or Not Corrected:

| | |
|---|----------|
| 4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above) | 0 |
| 5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline (“subsequent correction”) | 0 |
| 6. Number of FFY 2009 findings <u>not</u> verified as corrected [(4) minus (5)] | 0 |

Actions Taken if Noncompliance Not Corrected:

N/A

Verification of Correction of FFY 2009 noncompliance (either timely or subsequent):

Systemic noncompliance is identified and correction is verified at the local program level by monitoring reviews, analysis of local data, and dispute resolution. For Indicator # 1, there were 3 findings (1 from provider monitoring, and 2 from dispute resolution) of noncompliance issued in FFY 2009. All 3 of these findings were verified to have been corrected within one year. The methods used to verify correction of these 3 findings are discussed in the next section. All three findings were verified as corrected at 100% compliance at the systemic level based on a subset of child records reviewed. Additionally, for each child with the original finding of noncompliance identified, it was also verified that this child received all of their EI services, although beyond the 30 day timeline.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2009:

New York State has fully implemented its rigorous verification of correction process which consists of the following:

- Identification of findings of noncompliance with IDEA requirements are determined during on-site monitoring reviews conducted by New York State’s contractor;

- All findings of noncompliance are identified and formal reports of findings are issued within 90 days of the on-site review;
- While conducting the on-site review, the contractor determines that each individual case of noncompliance, unless the child is no longer within the jurisdiction of the local program, has been corrected within one year, for example, that the CPSE was notified within 120 days of the child’s potential transition to preschool services; or the child is no longer within the jurisdiction of the EI program;
- Providers who have findings of noncompliance identified, are required to submit a CAP within 45 days of receipt of their monitoring report, which requires all information that is described earlier in this section, including root cause of noncompliance and activities they will implement to correct the noncompliance;
- All CAPs are reviewed and approved by New York State staff within 60 days of receipt, and providers are notified in writing, if their CAP is approved or not;
- Written technical assistance is provided by New York State staff which is included in CAP response letters, as needed;
- Targeted technical assistance is provided via phone call by New York State staff for providers or municipalities who demonstrate difficulty in providing sufficient activities to correct their noncompliance;
- New York State contract staff conducted on-site verification reviews within 60-90 days subsequent to approval of the CAP for those providers with significant findings of noncompliance, to determine if CAP activities have been fully implemented and correction of noncompliance at 100% can be verified. A subset of additional child records were reviewed to verify correction of noncompliance;
- New York State also requires submission of a subset of child records within 90-100 days of approval of the CAP, for those providers who have minimal findings of noncompliance, to determine if CAP activities have been fully implemented and correction of noncompliance can be verified at 100%.

Correction of Remaining FFY 2008 Findings of Noncompliance (if applicable):

| | |
|---|-----------|
| 1. Number of remaining uncorrected FFY 2008 findings of noncompliance noted in OSEP’s June 2011, FFY 2008 APR response table for this indicator | 77 |
| 2. Number of remaining FFY 2008 findings the State has verified as corrected | 23 |
| 3. Number of remaining FFY 2008 findings the State has NOT verified as corrected [(1) minus (2)] | 54 |

Verification of Correction of Remaining FFY 2008 findings:

For Indicator # 1, there were 77 findings (22 from municipality monitoring, 1 from provider monitoring and 54 from local data) of noncompliance in FFY 2008 that remained uncorrected as of the FFY 2009 APR. Twenty-three of these findings (22 from municipality monitoring and 1 from provider monitoring) have been verified as subsequently corrected (i.e. they were corrected, but not within one year of notification).

The remaining 54 FFY 2008 findings (all from local data) for Indicator # 1 remain uncorrected at this time. They will continue to be tracked on and their status will be reported in a future APR.

At the time that the FFY 2007 and FFY 2008 findings were issued, guidance on what was considered a finding, how and when notification should take place, and what was required to verify correction was not available. Specifically, it was not clear that findings to the same local program for the same issue in the subsequent year were not required to be reissued. As a result, New York State reissued many “duplicate” local data findings (findings to the same local program for the same issue) in FFYs 2007 and 2008.

All of the 54 outstanding FFY 2008 local data findings for Indicator # 1 are duplicative of the 54 FFY 2007 local data findings from Indicator # 1. As a result, it appears that New York State has 108 uncorrected local data findings between FFYs 2007 and 2008 if the duplicated findings are not removed. In fact, New York State actually has only 54 unduplicated local data findings from FFYs 2007 and 2008.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2008:

There were no local data findings for Indicator # 1 in FFY 2009. There were 3 instances of local programs with noncompliance based on Indicator # 1 local data for FFYs 2007, 2008, and 2009. Notifications of these findings were sent to the local programs in December 2011. Due to the date of notification, these findings are considered FFY 2011 findings and will be addressed in the FFY 2012 APR. Notification of findings based on noncompliance in FFY 2007 and 2008 local data was initially delayed. New York State received technical assistance from DAC and NERCC, including collaborating to develop a timeline to notify local programs of these findings. At this point, local data findings have been issued for all possible FFYs, and a timeline has been established to ensure that future local data findings are issued in a timely manner.

New York State’s general process for verifying correction of local data findings is:

- Verification of Child-specific Correction - Child-specific noncompliance was verified primarily through the state data system. All children who had received a service later than 30 days after the authorizing IFSP were confirmed through the KIDS system that the service had been provided within 365 days of the authorizing IFSP and by implication within one year of notification of the finding. In extremely rare cases, direct contact with local program staff was required in order to access information not available through the data system.
- Verification of Systemic Correction - Local data findings are based on local data measured for a given FFY. Local programs with a rate less than 100% for a compliance indicator are notified in writing of their noncompliance. Local data for subsequent years are checked, and local programs that are found to have a rate of 100% in a subsequent year for that compliance indicator are counted as having corrected the noncompliance. The finding is counted as timely corrected (within one year of notification) if the 100% rate was in the FFY subsequent to the date of notification. The finding is counted as subsequently corrected (i.e. corrected, but not timely) if the local program has a rate of 100% in a later FFY, but had not been timely corrected. If a finding is found to be corrected, but had a rate less than 100% in a FFY after the correction, the later noncompliance will result in a finding in the FFY in which notification occurred, and will be addressed in the appropriate APR.

The other specific methods that were used to verify correction of the FFY 2008 findings of noncompliance are outlined in the FFY 2009 APR, and are similar to those outlined in an earlier section on methods of verification of FFY 2009 findings.

APR Template – Part C (4)

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In New York State, findings arise from four different sources: provider monitoring, municipality (local program) monitoring, local data for each FFY for the compliance indicators, and due process. Each of these has a verification procedure that confirms that the noncompliance has been corrected at both child-specific and systemic levels.

Correction of Any Remaining Findings of Noncompliance from FFY 2007 or Earlier (if applicable):

For Indicator # 1, there were 54 findings (all from local data) of noncompliance in FFY 2007 that remained uncorrected as of the FFY 2009 APR. None of these findings have been verified as subsequently corrected (i.e. corrected, but not within one year of notification). The remaining 54 FFY 2007 findings (all from local data) for Indicator # 1 remain uncorrected at this time. They will continue to be tracked on and their status will be reported in a future APR.

At the time that the FFY 2007 and FFY 2008 findings were issued, guidance on what was considered a finding, how and when notification should take place, and what was required to verify correction was not available. Specifically, it was not clear that findings to the same local program for the same issue in the subsequent year were not required to be reissued. As a result, New York State reissued many “duplicate” local data findings (findings to the same local program for the same issue) in FFYs 2007 and 2008.

All of the 54 outstanding FFY 2008 local data findings for Indicator # 1 are duplicative of the 54 FFY 2007 local data findings from Indicator # 1. As a result, it appears that New York State has 108 uncorrected local data findings between FFYs 2007 and 2008 if the duplicated findings are not removed. In fact, New York State actually has only 54 unduplicated local data findings from FFYs 2007 and 2008.

Additional Information Required by the OSEP APR Response Table for this Indicator (if applicable):

| Statement from the Response Table | State’s Response |
|--|--|
| <p>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, in the FFY 2010</p> | <p>New York State is undertaking extensive efforts to correct outstanding findings of noncompliance from FFYs 2007 and 2008 and to verify their correction.</p> <p>All local programs with outstanding findings of noncompliance have received intensive technical assistance and direct contact with BEI staff with the purpose of correcting the noncompliance. New York State has incrementally stepped-up enforcement actions with local programs that have continuing noncompliance, especially for local programs who are not demonstrating significant improvement in the areas of their noncompliance. New York State has worked with NERCC and DAC to develop methods to address outstanding findings. In addition to its own efforts, New York State has followed all guidance from OSEP, DAC, and NERCC on addressing outstanding findings.</p> <p>New York City has specifically received rigorous attention from the New York State EIP, as New York City’s program accounts for approximately half of New York State’s EIP enrollment and is therefore a major cause of New York State’s noncompliance. In addition to continuing to receive direct technical assistance and monthly conference calls, New York City will received stepped-up enforcement action as a result of being determined to “Need Intervention” based on their FFY 2009 local data, for the third year in a row. Specifically, New York City’s EIP is being required to:</p> |

| | |
|---|---|
| <p>APR, that it has corrected this noncompliance.</p> | <ul style="list-style-type: none"> • <i>Immediately, engage the resources of a management consultant to advise the municipality on strategies to streamline processes and procedures to increase timeliness and efficiency.</i> • <i>Immediately assemble and convene a task force of municipal staff, with support from the Department, to work with the consultant to identify the root causes of poor performance within the municipality’s processes and procedures, and develop strategies to improve performance.</i> • <i>Within 15 days contact staff from the BEI Quality Assurance and Technical Assistance Unit to coordinate the work of the task force with Department staff.</i> • <i>Immediately convene a meeting of the LEICC to review the determination, and work with the task force to identify the root cause(s) of poor performance, and obtain input on strategies related to the relevant indicators.</i> • <i>Review the work of the task force with the LEICC on a quarterly basis at minimum, solicit input, and submit a participant list and meeting minutes to the Department for each quarterly meeting.</i> • <i>Prepare a compliance plan to include the following items:</i> <ul style="list-style-type: none"> ○ <i>Detailed identification of the factors within municipal procedures which contribute to lack of timeliness.</i> ○ <i>Detailed identification of strategies to address each factor contributing to lack of timeliness. Include specific strategies and systems changes for each delay factor identified in the above areas.</i> • <i>Submit quarterly reports to the Department to include the following data:</i> <ul style="list-style-type: none"> ○ <i>Timeliness of surrogacy assignments</i> ○ <i>Timeliness of multidisciplinary evaluation review</i> ○ <i>Timeliness of start of services when a bilingual service provider is needed</i> ○ <i>Timeliness of EIOD approval of assignment of service providers</i> ○ <i>Other data as identified by Department staff during enforcement activities</i> • <i>Prepare an improvement plan which addresses the experience of parents in the New York City Early Intervention Program. Include consideration of the following factors in the identification of root causes and strategies for improvement in this area:</i> <ul style="list-style-type: none"> ○ <i>EIOD responsiveness to parents</i> ○ <i>Service Coordinator responsiveness to parents</i> ○ <i>Empowerment of parents in the process of IFSP development</i> <p>New York State has diligently attempted to correct all historical findings of noncompliance, and will continue to do so.</p> |
|---|---|

APR Template – Part C (4)

New York
State

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 (if applicable):

None

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

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 community-based settings.

(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 community-based settings) divided by the (total # of infants and toddlers with IFSPs)] times 100.

| FFY | Measurable and Rigorous Target |
|--------------------------------------|--------------------------------|
| FFY 2010 (2010 - 2011) | 89.97% |

Actual Target Data for FFY 2010:

Based on the October 1, 2010 child count of 30,982 infants and toddlers with IFSPs, 28,952 (**93.4%**) children received services primarily in natural environments (the home or programs for typically developing children). New York State’s performance for this indicator (93.4%) exceeded its target (89.97%).

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

The FFY 2010 rate for this indicator (93.4%) is a decrease of 0.3 percentage points from 93.7% in FFY 2009.

The remaining 6.6% (2,030) of eligible children appropriately received the majority of their services in restricted settings due to the complexity of their needs.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010:

None

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

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

Measurement:

Outcomes:

- 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.

Progress categories for A, B and C:

- a. **Percent of infants and toddlers who did not improve functioning = [(# of infants and toddlers who did not improve functioning) divided by (# of infants and toddlers with IFSPs assessed)] times 100.**
- b. **Percent of infants and toddlers who improved functioning but not sufficient to move nearer to functioning comparable to same-aged peers = [(# of infants and toddlers who improved functioning but not sufficient to move nearer to functioning comparable to same-aged peers) divided by (# of infants and toddlers with IFSPs assessed)] times 100.**
- c. **Percent of infants and toddlers who improved functioning to a level nearer to same-aged peers but did not reach it = [(# of infants and toddlers who improved functioning to a level nearer to same-aged peers but did not reach it) divided by (# of infants and toddlers with IFSPs assessed)] times 100.**
- d. **Percent of infants and toddlers who improved functioning to reach a level comparable to same-aged peers = [(# of infants and toddlers who improved functioning to reach a level comparable to same-aged peers) divided by (# of infants and toddlers with IFSPs assessed)] times 100.**
- e. **Percent of infants and toddlers who maintained functioning at a level comparable to same-aged peers = [(# of infants and toddlers who maintained functioning at a level comparable to same-aged peers) divided by (# of infants and toddlers with IFSPs assessed)] times 100.**

Summary Statements for Each of the Three Outcomes (use for FFY 2010 reporting):

Summary Statement 1: Of those infants and toddlers who entered or exited early intervention below age expectations in each Outcome, the percent who substantially increased their rate of

growth by the time they turned 3 years of age or exited the program.

Measurement for Summary Statement 1:

Percent = # of infants and toddlers reported in progress category (c) plus # of infants and toddlers reported in category (d) divided by [# of infants and toddlers reported in progress category (a) plus # of infants and toddlers reported in progress category (b) plus # of infants and toddlers reported in progress category (c) plus # of infants and toddlers reported in progress category (d)] times 100.

Summary Statement 2: The percent of infants and toddlers who were functioning within age expectations in each Outcome by the time they turned 3 years of age or exited the program.

Measurement for Summary Statement 2: **Percent = # of infants and toddlers reported in progress category (d) plus [# of infants and toddlers reported in progress category (e) divided by the total # of infants and toddlers reported in progress categories (a) + (b) + (c) + (d) + (e)] times 100.**

Measurable and Rigorous Targets and Actual Target Data for FFY 2010:

APR Template – Part C (4)

New York
State

| Summary Statements | Targets FFY 2010 (% of children) | Actual FFY 2010 (% of children) |
|---|----------------------------------|---------------------------------|
| Outcome A: Positive social-emotional skills (including social relationships) | | |
| 1. Of those infants and toddlers who entered or exited early intervention below age expectations in Outcome A, the percent who substantially increased their rate of growth by the time they turned 3 years of age or exited the program. | 62.8% | 64% |
| 2. The percent of infants and toddlers who were functioning within age expectations in Outcome A by the time they turned 3 years of age or exited the program. | 50.4% | 52% |
| Outcome B: Acquisition and use of knowledge and skills (including early language/communication and early literacy) | | |
| 1. Of those infants and toddlers who entered or exited early intervention below age expectations in Outcome B, the percent who substantially increased their rate of growth by the time they turned 3 years of age or exited the program. | 71.2% | 71% |
| 2. The percent of infants and toddlers who were functioning within age expectations Outcome B by the time they turned 3 years of age or exited the program. | 50.5% | 50% |
| Outcome C: Use of appropriate behaviors to meet their needs | | |
| 1. Of those infants and toddlers who entered or exited early intervention below age expectations in Outcome B, the percent who substantially increased their rate of growth by the time they turned 3 years of age or exited the program. | 68.3% | 73% |
| 2. The percent of infants and toddlers who were functioning within age expectations in Outcome 3 by the time they turned 3 years of age or exited the program. | 44.8% | 49% |

| A. Positive social-emotional skills (including social relationships): | Number of children | % of children |
|--|--------------------|---------------|
| a. Percent of children who did not improve functioning | 62 | 3% |
| b. Percent of children who improved functioning but not sufficient to move nearer to functioning comparable to same-aged peers | 443 | 24% |
| c. Percent of children who improved functioning to a level nearer to | 374 | 20% |

APR Template – Part C (4)

New York
State

| | | |
|--|------|------|
| same-aged peers but did not reach | | |
| d. Percent of children who improved functioning to reach a level comparable to same-aged peers | 518 | 28% |
| e. Percent of children who maintained functioning at a level comparable to same-aged peers | 450 | 24% |
| Total | 1847 | 100% |
| B. Acquisition and use of knowledge and skills (including early language/communication): | | |
| a. Percent of children who did not improve functioning | 49 | 3% |
| b. Percent of children who improved functioning but not sufficient to move nearer to functioning comparable to same-aged peers | 401 | 22% |
| c. Percent of children who improved functioning to a level nearer to same-aged peers but did not reach | 480 | 26% |
| d. Percent of children who improved functioning to reach a level comparable to same-aged peers | 645 | 35% |
| e. Percent of children who maintained functioning at a level comparable to same-aged peers | 272 | 15% |
| Total | 1847 | 100% |
| C. Use of appropriate behaviors to meet their needs: | | |
| a. Percent of children who did not improve functioning | 46 | 2% |
| b. Percent of children who improved functioning but not sufficient to move nearer to functioning comparable to same-aged peers | 397 | 21% |
| c. Percent of children who improved functioning to a level nearer to same-aged peers but did not reach | 497 | 27% |
| d. Percent of children who improved functioning to reach a level comparable to same-aged peers | 709 | 38% |
| e. Percent of children who maintained functioning at a level comparable to same-aged peers | 198 | 11% |
| Total | 1847 | 100% |

New York State exceeded its target for FFY 2010 for outcome 1 (positive social-emotional skills (including social relationships)); virtually met its target for outcome 2 (acquisition and use of knowledge and skills (including early language/communication)); and, exceeded its target for outcome 3 (use of appropriate behaviors to meet needs).

The collection of early childhood outcomes data is a collaborative effort among the BEI, municipal administrators of the EIP, service coordinators, evaluators, service providers, and families. New York uses a sampling methodology approved by OSEP to collect child outcomes data for children enrolled in child outcomes samples at their initial IFSP meetings and at exit from the EIP (exit data are collected only for children who receive early intervention services for at least six months). The National Early Childhood Outcomes Center's child outcome summary form (COSF) is used to collect these data. Summary

statement and progress data presented here are for the 1,847 children included in child outcomes samples who exited the EIP between July 1, 2010 and June 30, 2011.

The BEI maintains a memorandum of understanding (MOU) with the University at Buffalo, School of Public Health and Health Professions (UB-SPH), to assist the BEI in management of child outcomes data, including data cleaning, entry, and analyses. The University at Buffalo subcontracts with the Institute for Child Development, University at Binghamton (ICD-UBN), to provide technical assistance to municipalities, providers, and families on child outcomes data collection.

The BEI and University at Buffalo use a tracking and reporting system to help ensure that COSF exit forms are completed and submitted for all children in outcomes samples who receive early intervention services for at least six months. For those children for whom COSF exit forms have not been completed and returned, municipalities report reasons why no exit data are available for the child. This reporting system is assisting BEI and the university team in identifying municipalities who are in need of technical assistance to improve the completeness of child outcome data.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

- There are no proposed revisions to targets for child outcomes. The SPP was revised in FFY 2009 to include targets for two additional years (2012 and 2013), as requested by OSEP.

In collaboration with ECO, the BEI, UB-SPH, and ICD a webinar was hosted in spring 2011 to initiate the process of sharing child outcomes data with local administrators of the EIP. The presentation focused on data quality issues, using pattern-checking analyses. State data were shared on the webinar, and each county received an individualized report with its own data. The webinar was very well attended and received, and resulted in a number of follow-up contacts from counties seeking individual assistance.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010:

- The MOU with the UB-SPH, which ends in December, 2011, is being renewed for another four years, to ensure continued support for municipalities, EIP providers, families, and State staff in collection and analyses needed to report child outcome data to OSEP.
- A second webinar is being planned, to be held in 2012, to provide training and technical assistance to municipalities on improving data quality.
- The UB-SPH will maintain its partnership with the ICD-UBN, to continue to provide technical assistance and support to municipalities, EIP providers, and families related to the collection of entry and exit child outcome data in each of the three outcome areas, including: maintaining a website, 800 number support line, and email support for the “Guiding Progress... Shaping Futures” outcomes reporting initiative; refining COSF training materials based on feedback from municipalities, families, and providers; refining and expanding the developmental milestones checklists; and, developing an in-service training package on the COSF for use by municipalities in training their staff and providers.
- In addition to the COSF data, the NYS Impact on Child Scale, created as part of New York’s General Supervision Enhancement Grant, has been incorporated into the annual family survey. The scale measures the extent to which early intervention services have helped children to achieve a range of developmental outcomes, based on parent report. Thus, New York now has two sources of data on child outcomes that can be used for program evaluation and quality improvement purposes.
- BEI, in collaboration with UB-SPH, ICD-UBN, and Dr. Batya Elbaum, University of Miami, will continue to analyze child outcome and service delivery parameters to determine whether specific factors can be identified as important to achieving improved outcomes for children in each of the three child outcome areas for use in quality improvement efforts.

- BEI, in collaboration with the UB-SPH, ICD-UBN, and Dr. Batya Elbaum, University of Miami, will use data from the COSF and family survey to develop child and family outcomes performance reports for local programs for use in quality improvement efforts.
- The BEI, in collaboration with UB-SPH, ICD-UBN, and Dr. Batya Elbaum, University of Miami, successfully competed for a R-40 Research Grant, funded by the federal Maternal Child Health Bureau, to evaluate the impact of early intervention services on children with autism spectrum disorders and their families. The overarching goal of the three-year research project is to model an approach to evaluating the impact of participation in early intervention programs that can be used for program evaluation and quality improvement. The project was initiated in September, 2010 and is funded through August 31, 2013.

BEI and Division of Family Health staff; Universities at Buffalo and Binghamton project staff; ECO staff; municipalities, EIP providers, families; EICC.

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

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

Measurement:

- A. 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.

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: NCSEAM 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 |
|--|--|
| <p>FFY 2010 (2010-2011)</p> | <p>4 A. 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 76.2%.</p> <p>4 B. 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 70.69%.</p> <p>4 C. 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 87.41%.</p> |

Actual Target Data for FFY 2010:

| Indicator | Percent of Families At or Above NCSEAM standard |
|---|---|
| <p>A. Percent of respondent families participating in Part C who report that early intervention services have helped their family know their rights.</p> | <p>77.02% (878/1140) (74.46% , 79.43%)</p> |
| <p>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.</p> | <p>72.63% (828/1140) (69.94% , 75.20%)</p> |
| <p>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.</p> | <p>84.04%(958/1140) (81.78% , 86.12%)</p> |
| <p>NYS Person Mean on the NCSEAM Family Impact Scale</p> | <p>652.19 (643.17, 666.21)</p> |

In accordance with the sampling procedures described in the SPP, a random sample of 4,970 families whose children exited the EIP between July 1, 2010 – December 31, 2011, and those who were not closed but turned three years of age between January 1, 2010 and June 30, 2011 and would be exiting the program by August 31, 2011, 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. A total of 1,140 families responded to the survey (for a response rate of 23%, an improvement over last year's response rate of 19%). When comparing respondents to all children and families participating in and who exited the EIP in the relevant program year, no significant differences were found in length of stay in the EIP, age at exit or age at referral. A significant difference was found in the sex of the participant, with a higher than expected response rate from males than females. There were 36 more male respondents than expected who returned the survey, while there were 35 fewer female respondents. In addition, a significant difference was found in race, with a higher than expected response rate from Caucasian families (+65 respondents) and Hispanic families (+11 respondents). The expected rate was lower than expected for African-American families (-56 respondents). African-American families represented 7.38% of all respondents (in comparison with 11.64% of all families in the sample frame). A significant difference was also found in the dominant language spoken in the household of the respondent. A higher than expected rate was found in respondents who spoke Spanish (+34 respondents), while a lower expected rate was found in respondents who spoke a language other than the thirteen language categories for which data are collected (-25 respondents)(language response categories are English, Spanish, Chinese, Haitian, Vietnamese, Korean, Italian, Hebrew, French, Portuguese, Bengali, Thai, Sign, Other, and Unknown).

Finally, the level of developmental delay at entry to the EIP was also significant. Parents of children with a diagnosed condition and those with delays in only one area had a higher than expected response rate, while a lower than expected response rate was found for parents of children with three or more delays.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

New York met its targets for two of the three family outcomes for FFY 2010 (indicators A and B), and nearly met its target for Indicator C when considering confidence intervals (target= 87.41%; actual data with confidence intervals are 84.04% (81.78%, 86.12%)).

The response rate to the family survey this year was 23%, which is a substantial increase over last year's response rate of 19.3%. There was also improvement in the response rate from Hispanic and Spanish-speaking families this year, with a significantly higher than expected response rate from families in these demographic categories.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010:

The NYS Family Survey developed under the GSEG project completed in 2008, including New York's *Impact on the Child Scale*, modified NCSEAM Impact on the Family Scale, and NCSEAM family-centered services scale, continues to be used to collect family outcome data. This process involves families in a meaningful way in measuring family outcomes, the extent to which early intervention services have helped children participating in the program to attain developmental outcomes, and the extent to which early intervention services are family-centered. The combined data set gives New York State a powerful tool to examine the relationship between child and family outcomes; family-centered services and child and family outcomes; and, the impact of service delivery parameters (e.g., type of service, intensity of services, service provider) on family and child outcomes.

In addition, 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.

BEI staff, in collaboration with staff from the Universities at Buffalo and Binghamton, will continue to conduct additional data analyses to identify factors contributing to the lower than expected response rate to the survey by respondents, and work with municipalities to develop improvement strategies to increase the response rate among these families.

BEI staff, in collaboration with staff from the University at Buffalo, will continue to work on additional analyses of the data from the NYS Family Survey to guide State and local program improvement efforts. When completed, 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.

Since the BEI initiated data collection with the revised family survey, responses have been accrued from over 5,100 families. The BEI is beginning to use these data to examine differences in families' experiences with EIP service providers, including developing strategies for sharing these data with EIP service providers and municipalities and ways to use the data to improve the quality of services being delivered to infants and toddlers and their families.

As mentioned under Indicator # 3, the BEI, in collaboration with UB-SPH, ICD-UBN, and Dr. Batya Elbaum, University of Miami, successfully competed for an R-40 Research Grant funded by the federal Maternal Child Health Bureau to evaluate the impact of early intervention services on children with autism spectrum disorders and their families. The overarching goal of the three-year research project is to model an approach to evaluating the impact of participation in early intervention programs that can be used for program evaluation and quality improvement. The project was initiated in September, 2010 and is funded through August 31, 2013, and will examine the impact of early intervention services on both child and family outcomes. In the first year of this project, concept mapping was used with State and national stakeholders to identify child and family outcomes expected to result from early intervention services for children with ASDs and their families. Data generated from the concept mapping project are being used to develop a modified version of the New York Family Survey which will incorporate child and family outcomes specific to ASD. Subject recruitment will begin in January, 2012.

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

Monitoring Priority: Effective General Supervision Part C / Child Find

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

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

Measurement: **Percent = [(# of infants and toddler 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 |
|--------------------------------------|--------------------------------|
| FFY 2010 (2010 - 2011) | 1.22% |

Actual Target Data for FFY 2010:

The percentage of infants under age one with IFSPs in New York State is **1.16%**. Using the October 1, 2010 child count, 2,692 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 231,872.

New York State is above the national average baseline percent of children under the age of one (1.03%) with an IFSP.

The rate of 1.16% for this indicator is slightly below the FFY 2010 target of 1.22%.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

This represents a slight decrease from FFY 2009, when 1.17% of infants under the age of one in NYS had IFSPs. New York State is committed to Child Find efforts for infants.

Several factors that are not specifically related to children under the age of one had a significant impact on this rate:

- Overall enrollment in New York State’s EIP experienced a decrease of just over 5% from FFY 2009 to FFY 2010.
- In addition, the denominator for this rate decreased dramatically as well, declining by nearly 6.5% from 247,880 to 231,872. This is approximately the same as the national (50 states and D.C.) decline of more than 7% in the population of children under the age of one, likely due to the benchmarking of population estimate data to the 2010 Census.

APR Template – Part C (4)

New York
State

Due to these two significant factors, it is difficult to determine if the change in New York State's rate for this indicator actually reflects a change in the proportion of children under the age of one who are enrolled in the NYS EIP.

As a result of technical assistance provided during the determinations to local programs that had lower percentages of children under the age of one served through the program, local programs increased their outreach activities, which contributed to the increase in services provided statewide to infants under age one.

The Department was awarded a grant from the Centers for Disease Control and Prevention to design, develop, and implement a tracking and surveillance system for NYS's Early Hearing Detection and Intervention (EHDI) program. This will be the first time that NYS has collected individualized data on newborn hearing screening results as well as results on follow-up for those infants who do not pass their newborn screening. Both the EHDI information system and the early intervention system contain fields that will facilitate linkage and allow analysis to decrease the loss of follow-up of infants with suspected hearing loss.

New York State intends to continue matching EIP data with other Department sources in order to assess other policy modifications that impact this performance measure. Newborn Metabolic Screening, the Congenital Malformations Registry and newly awarded grant for Fetal Alcohol Syndrome surveillance are other specific program areas in the Department that BEI staff will collaborate with that may further increase performance for this indicator in New York.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010:

None

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

Monitoring Priority: Effective General Supervision Part C / Child Find

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

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

Measurement: **Percent = [(# of infants and toddler 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 |
|--------------------------------------|--------------------------------|
| FFY 2010 (2010 - 2011) | 4.095% |

Actual Target Data for FFY 2010:

The percentage of infants and toddlers from birth to three with IFSPs in FFY 2010 is **4.47%**. Using the October 1, 2010 child count, 30,982 infants and toddlers birth to three had IFSPs in the New York State EIP. The number of children aged birth to three in the general population in New York State for that time period was 693,268.

New York greatly exceeds the national average baseline percent of the birth to three population with an IFSP, which was 2.82%. New York also exceeded its FFY 2010 target (4.095%) for this indicator.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

New York reports a rate of 4.47% for this indicator in FFY 2010. This is an increase of 0.06 percentage points from 4.41% in FFY 2009.

As was discussed in Indicator # 5, several factors that are not specifically related to children under the age of three had a significant impact on this rate:

- New York State’s EIP experienced a decrease of just over 5% from FFY 2009 to FFY 2010.
- In addition, the denominator for this rate decreased dramatically as well, decreasing by nearly 6.5% from 745,143 to 693,268. This is approximately the same as the national (50 states and D.C.) decline of slightly less than 7% in the population of children under the age of three, likely due to the benchmarking of population estimate data to the 2010 Census.

Due to these two significant factors, it is difficult to determine if the change in New York State’s rate for this indicator actually reflects a change in the proportion of children under the age of three who are enrolled in the NYS EIP.

APR Template – Part C (4)

New York
State

The Department continues to provide technical assistance to local programs on outreach efforts to ensure appropriate enrollment of all eligible children in the EIP. Local program outreach efforts as a result of specific technical assistance provided in collaboration with local determinations has also contributed to a steady increase in the population of children served in the EIP.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010:

None

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

Monitoring Priority: Effective General Supervision Part C / Child Find

Indicator 7: Percent of eligible infants and toddlers with IFSPs for whom an initial evaluation and initial 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 infants and toddlers with IFSPs for whom an initial evaluation and initial assessment and an initial IFSP meeting was conducted within Part C’s 45-day timeline) divided by the (# of infants and toddlers with IFSPs evaluated and assessed for whom an initial IFSP meeting was required to be conducted)] times 100.

Account for untimely evaluations, assessments, and initial IFSP meetings, including the reasons for delays.

| FFY | Measurable and Rigorous Target |
|--------------------------------------|--------------------------------|
| FFY 2010 (2010 - 2011) | 100% |

Actual Target Data for FFY 2010:

85.2%

Infants Evaluated and Assessed and provided an Initial IFSP meeting Within Part C’s 45-day timeline:

| | |
|---|--------------|
| a. Number of 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 | 24246 |
| b. Number of infants and toddlers with IFSPs evaluated and assessed for whom an initial IFSP meeting was required to be conducted | 28456 |
| 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 (Percent = [(a) divided by (b)] times 100) | 85% |

These data include all children reporting who were newly referred to the EIP within the reporting period of July 1, 2010 to June 30, 2011. New York State's new data system, NYEIS had been launched in most municipalities by the end of FFY 2010 and data on 2,238 children counted in the denominator of this calculation were captured in NYEIS. Data for the remaining 26,218 children were captured in KIDS.

Both KIDS and NYEIS capture reasons for delayed IFSPs. The numerator includes 6,558 children whose initial IFSPs were late and there was documentation that the meeting was delayed due to exceptional family circumstances. Of the remaining 4,210 late IFSPs that were delayed due to non-discountable reasons, 1,131 were late due to the delayed receipt of an evaluation report, 1,103 were late due to the municipal representative (EIOD) being unavailable for the IFSP meeting, 928 were late due to an evaluator backlog or delay, and 1,048 were late due to other local program administrative reasons.

As of December 2011, of the 14.8% (4,210) of children who did not have an initial IFSP meeting completed within 45 days, all 4,210 of these children received their initial IFSP within one year of referral to the EIP, representing full timely correction of the instances of noncompliance.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred in FFY 2010:

There was an increase of 1.7 percentage points for this indicator from FFY 2009 (**83.5%**) to FFY 2010 (**85.2%**). New York State did not achieve the 100% compliance target.

New York State's performance issues for this indicator continue to be primarily concentrated in New York City. New York City's Indicator # 7 rate was 73.8% in FFY 2010, compared to the rest of the state, where the rate was 96.2% in FFY 2010. New York City's low performance on this rate, and a lack of significant improvement, were a major reason that the local program was determined to "Need Intervention". This is the third consecutive year that New York City has received this determination, and consequently will receive increased enforcement action.

Since statewide performance is heavily influenced by performance in New York City, extensive technical assistance efforts have focused on the New York City program. Since New York City's rate for this indicator continues to be significantly below the rate for the rest of New York State, the following enforcement actions will be implemented again:

- 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 and procedures that included no longer requiring 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

Local determinations based on FFY 2009 local data have been sent to local programs. The determinations were heavily weighted toward the compliance indicators. Local programs with poor performance on this indicator were required to take corrective action based on their determination:

- These local programs were also required to participate in all Department sponsored bimonthly all-county conference calls.
- Local programs who received a determination of "Needs Assistance" were also required to examine, revise, and upon request submit to the Department, revised policies and procedures with respect to the relevant indicators.
- Local programs who received a determination of "Needs Assistance (2)" as a result of continued low rates of local data were additionally required to contact a specifically assigned BEI staff member to obtain technical assistance on revising policies and procedures related to the relevant indicators.

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These local programs were also required to convene a meeting of their LEICC to review the determination and obtain input on revising policies and procedures related to the relevant indicators and to submit to the Department within 90 days the LEICC meeting agenda, list of attendees and meeting minutes with an assurance that the policies and procedures were revised in order to improve performance and come into compliance with federal requirements within one year.

- Local programs who received a determination of “Needs Intervention” were additionally required to submit to BEI within 60 days a CAP including revised policies and procedures and the steps the County will take to come into compliance with federal requirements within one year.

Correction of FFY 2009 Findings of Noncompliance (if State reported less than 100% compliance):

Level of compliance (actual target data) State reported for FFY 2009 for this indicator: **83.5%**

| | |
|---|---|
| 1. Number of findings of noncompliance the State made during FFY 2009 (the period from July 1, 2009, through June 30, 2010) | 7 |
| 2. Number of FFY 2009 findings the State verified as timely corrected (corrected within one year from the date of notification to the local program of the finding) | 6 |
| 3. Number of FFY 2009 findings <u>not</u> verified as corrected within one year [(1) minus (2)] | 1 |

Correction of FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance) and/or Not Corrected:

| | |
|---|---|
| 4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above) | 1 |
| 5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline (“subsequent correction”) | 1 |
| 6. Number of FFY 2009 findings <u>not</u> verified as corrected [(4) minus (5)] | 0 |

Actions Taken if Noncompliance Not Corrected:

N/A

Verification of Correction of FFY 2009 noncompliance (either timely or subsequent):

Systemic noncompliance is identified and correction is verified at the local program level by monitoring reviews, analysis of local data, and dispute resolution. For Indicator # 7, there were 7 findings of noncompliance issued in FFY 2009, all from provider monitoring. Six of these findings were verified to have been corrected within one year at 100% compliance at the systemic level. The 1 remaining finding was verified to have been corrected, but more than one year after notification. Additionally, each child record was reviewed for the original finding and it was determined that although their IFSP meeting was held beyond the 45 day timeframe, an initial IFSP meeting was held. The methods used to verify correction of these findings are discussed in the next section.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2009:

New York State has fully implemented its rigorous verification of correction process which consists of the following:

- Identification of findings of noncompliance with IDEA requirements are determined during on-site monitoring reviews conducted by New York State’s contractor;
- All findings of noncompliance are identified and formal reports of findings are issued within 90 days of the on-site review;
- While conducting the on-site review, the contractor determines that each individual case of noncompliance, unless the child is no longer within the jurisdiction of the local program, has been corrected within one year, for example, that the CPSE was notified within 120 days of the child’s potential transition to preschool services; or the child is no longer within the jurisdiction of the EI program;
- Providers who have findings of noncompliance identified, are required to submit a CAP within 45 days of receipt of their monitoring report, which requires all information that is described earlier in this section, including root cause of noncompliance and activities they will implement to correct the noncompliance;
- All CAPs are reviewed and approved by New York State staff within 60 days of receipt, and providers are notified in writing, if their CAP is approved or not;
- Written technical assistance is provided by New York State staff which is included in CAP response letters, as needed;
- Targeted technical assistance is provided via phone call by New York State staff for providers or municipalities who demonstrate difficulty in providing sufficient activities to correct their noncompliance;
- New York State contract staff conducted on-site verification reviews within 60-90 days subsequent to approval of the CAP for those providers with significant findings of noncompliance, to determine if CAP activities have been fully implemented and correction of noncompliance at 100% can be verified. A subset of additional child records were reviewed to verify correction of noncompliance.
- New York State also requires submission of a subset of child records within 90-100 days of approval of the CAP, for those providers who have minimal findings of noncompliance, to determine if CAP activities have been fully implemented and correction of noncompliance can be verified at 100%.

Correction of Remaining FFY 2008 Findings of Noncompliance (if applicable):

| | |
|---|-----------|
| 1. Number of remaining FFY 2008 findings of noncompliance noted in OSEP’s June 2011, FFY 2009 APR response table for this indicator | 40 |
| 2. Number of remaining FFY 2008 findings the State has verified as corrected | 10 |
| 3. Number of remaining FFY 2008 findings the State has NOT verified as corrected [(1) minus (2)] | 30 |

Verification of Correction of Remaining FFY 2008 findings:

For Indicator # 7, there were 40 findings (8 from municipality monitoring and 32 from local data) of noncompliance in FFY 2008 that remained uncorrected as of the FFY 2009 APR. Ten of these findings (8 from municipality monitoring and 2 from local data) have been verified as subsequently corrected (i.e. they were corrected, but not within one year of notification). The remaining 30 FFY 2008 findings (all from local data) for Indicator # 7 remain uncorrected at this time. They will continue to be tracked and their status will be reported in a future APR.

At the time that the FFY 2007 and FFY 2008 findings were issued, guidance on what was considered a finding, how and when notification should take place, and what was required to verify correction was not available. Specifically, it was not clear that findings to the same local program for the same issue in the subsequent year were not required to be reissued. As a result, New York State reissued many “duplicate” local data findings (findings to the same local program for the same issue) in FFYs 2007 and 2008.

Of the 30 outstanding FFY 2008 local data findings for Indicator # 7, 29 local data findings are duplicative of the 29 FFY 2007 local data findings from Indicator # 7. As a result, it appears that New York State has 59 uncorrected local data findings between FFYs 2007 and 2008 if the duplicated findings are not removed. In fact, New York State actually has only 30 unduplicated local data findings from FFYs 2007 and 2008.

As has been mentioned previously, noncompliance in this Indicator is highly concentrated in New York City, and extensive corrective efforts are being focused on this local program. Of the 30 unduplicated local data findings from FFYs 2007 and 2008 that remain uncorrected as of this report, 25 have Indicator # 7 rates between 90% and 99.9%, 2 have rates between 80% and 89.9%, and 3 have rates between 70% and 79.9%. This indicates that, despite historical noncompliance that remains uncorrected, most local programs in New York State are performing well on IFSP timeliness.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2008:

New York State’s general process for verifying correction of local data findings is:

- Verification of Child-specific Correction - Child-specific noncompliance was verified primarily through the state data system. All children who had received their initial IFSP later than 45 days after referral to the EIP were confirmed through KIDS that the IFSP meeting had occurred within 365 days of the referral and by implication within one year of notification of the finding. In extremely rare cases, direct contact with local program staff was required in order to access information not available through the data system.
- Verification of Systemic Correction - Local data findings are based on local data measured for a given FFY. Local programs with a rate less than 100% for a compliance indicator are notified in writing of their noncompliance. Local data for subsequent years are checked, and local programs that are found to have a rate of 100% in a subsequent year for that compliance indicator are counted as having corrected the noncompliance. The finding is counted as timely corrected (within one year of notification) if the 100% rate was in any FFY up to one year after the date of notification. The finding is counted as subsequently corrected (i.e. corrected, but not timely) if the local program has a rate of 100% in a later FFY, but had not been timely corrected. If a finding is found to be corrected at one point, but later had a rate less than 100% in a FFY after the correction, the later noncompliance will result in a finding in the FFY in which notification occurred, and will be addressed in the appropriate APR.

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The other specific methods that were used to verify correction of the FFY 2008 findings of noncompliance are outlined in the FFY 2009 APR, and are similar to those outlined in an earlier section on methods of verification of FFY 2009 findings.

In New York State, findings arise from four different sources: provider monitoring, municipality (local program) monitoring, local data for each FFY for the compliance indicators, and due process. Each of these has a verification procedure that confirms that the noncompliance has been corrected at both child-specific and systemic levels.

Correction of Any Remaining Findings of Noncompliance from FFY 2007 or Earlier (if applicable):

For Indicator # 7, there were 31 findings (all from local data) of noncompliance in FFY 2007 that remained uncorrected as of the FFY 2009 APR. Two of these findings (both from local data) have been verified as subsequently corrected (i.e. they were corrected, but not within one year of notification). The remaining 29 FFY 2007 findings (all from local data) for Indicator # 7 remain uncorrected at this time. They will continue to be tracked and their status will be reported in a future APR.

At the time that the FFY 2007 and FFY 2008 findings were issued, guidance on what was considered a finding, how and when notification should take place, and what was required to verify correction was not available. Specifically, it was not clear that findings to the same local program for the same issue in the subsequent year were not required to be reissued. As a result, New York State reissued many “duplicate” local data findings (findings to the same local program for the same issue) in FFYs 2007 and 2008.

Of the 30 outstanding FFY 2008 local data findings for Indicator # 7, 29 local data findings are duplicative of the 29 FFY 2007 local data findings from Indicator # 7. As a result, it appears that New York State has 59 uncorrected local data findings between FFYs 2007 and 2008 if the duplicated findings are not removed. In fact, New York State actually has only 30 unduplicated local data findings from FFYs 2007 and 2008.

Additional Information Required by the OSEP APR Response Table for this Indicator (if applicable):

| Statement from the Response Table | State's Response |
|--|---|
| <p>The State's failure to correct longstanding noncompliance raises serious questions about the effectiveness of the State's general supervision system. The</p> | <p>New York State is undertaking extensive efforts to correct outstanding findings of noncompliance from FFYs 2007 and 2008 and to verify their correction.</p> <p>All local programs with outstanding findings of noncompliance have received intensive technical assistance and direct contact with BEI staff with the purpose of correcting the noncompliance. New York State has incrementally stepped-up enforcement actions with local programs that have continuing noncompliance, especially for local programs who are not demonstrating significant improvement in the areas of their noncompliance. New York State has worked with NERCC and DAC to develop methods to address outstanding findings. In addition to its own efforts, New York State has followed all guidance from OSEP, DAC, and NERCC on addressing outstanding findings.</p> <p>New York City has specifically received rigorous attention from the New York State EIP,</p> |

| | |
|---|---|
| <p>State must take the steps necessary to ensure that it can report, in the FFY 2010 APR, that it has corrected this noncompliance.</p> | <p>as New York City's program accounts for approximately half of New York State's EIP enrollment and is therefore a major cause of New York State's noncompliance. In addition to continuing to receive direct technical assistance and monthly conference calls, New York City will received stepped-up enforcement action as a result of being determined to "Need Intervention" based on their FFY 2009 local data, for the third year in a row. Specifically, New York City's EIP is being required to:</p> <ul style="list-style-type: none"> • <i>Immediately, engage the resources of a management consultant to advise the municipality on strategies to streamline processes and procedures to increase timeliness and efficiency.</i> • <i>Immediately assemble and convene a task force of municipal staff, with support from the Department, to work with the consultant to identify the root causes of poor performance within the municipality's processes and procedures, and develop strategies to improve performance.</i> • <i>Within 15 days contact staff from the BEI Quality Assurance and Technical Assistance Unit to coordinate the work of the task force with Department staff.</i> • <i>Immediately convene a meeting of the LEICC to review the determination, and work with the task force to identify the root cause(s) of poor performance, and obtain input on strategies related to the relevant indicators.</i> • <i>Review the work of the task force with the LEICC on a quarterly basis at minimum, solicit input, and submit a participant list and meeting minutes to the Department for each quarterly meeting.</i> • <i>Prepare a compliance plan to include the following items:</i> <ul style="list-style-type: none"> ○ <i>Detailed identification of the factors within municipal procedures which contribute to lack of timeliness.</i> ○ <i>Detailed identification of strategies to address each factor contributing to lack of timeliness. Include specific strategies and systems changes for each delay factor identified in the above areas.</i> • <i>Submit quarterly reports to the Department to include the following data:</i> <ul style="list-style-type: none"> ○ <i>Timeliness of surrogacy assignments</i> ○ <i>Timeliness of multidisciplinary evaluation review</i> ○ <i>Timeliness of start of services when a bilingual service provider is needed</i> ○ <i>Timeliness of EIOD approval of assignment of service providers</i> ○ <i>Other data as identified by Department staff during enforcement activities</i> • <i>Prepare an improvement plan which addresses the experience of parents in the New York City Early Intervention Program. Include consideration of the following factors in the identification of root causes and strategies for improvement in this area:</i> <ul style="list-style-type: none"> ○ <i>EIOD responsiveness to parents</i> ○ <i>Service Coordinator responsiveness to parents</i> ○ <i>Empowerment of parents in the process of IFSP development</i> |
|---|---|

| | |
|--|--|
| | New York State has diligently attempted to correct all historical findings of noncompliance, and will continue to do so. |
|--|--|

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 (if applicable):

None

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

Monitoring Priority: Effective General Supervision Part C / Effective Transition

Indicator 8A: 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

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

Measurement:

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.

Data Collection:

The rates for Indicators # 8 A-C are calculated based on data collected from a monitoring self-assessment that was completed by each of the 58 local programs. The children for each local program's self-assessment were selected randomly from the group of all children in the municipality who had left the EIP between July 1, 2010 and June 30, 2011. The number of children selected from each local program was determined by the size of the local program and the extent of noncompliance in the FFY 2009 self-assessment. In addition, New York State restarted its cycle of oversampling local programs in order to obtain locally representative data. For FFY 2010, New York City and the two Long Island local programs were oversampled. The number of children from each local program was typically between 5 and 30 children.

New York State collected data for Indicators # 8 A-C by using a stratified sample of 846 children who exited the Part C program between July 1, 2010 and June 30, 2011. These children were selected from the 31,199 children who exited the program during this reporting period and had an IFSP.

Sample cases were selected at different rates in different municipalities using 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 statewide performance rate.

In order to gather locally representative transition data, each local program was scheduled to be oversampled at least once during the FFY 2005-2010 period, according to the schedule listed in the SPP. As the end of the period covered by the SPP approached, OSEP, with input from the states, extended the original SPP period through FFY 2012. As outlined in the revised SPP, New York State restarted its oversampling schedule and oversampled New York City and the two Long Island local programs in FFY 2010.

Local programs were required to complete a self-assessment tool developed by the Department for the children identified to them by the Department.

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 the 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 Indicators # 8 A-C. New York State had determined the rates for Indicators # 8 A-C using a weighted calculation. OSEP informed New York that rates for this indicator must be determined using an unweighted calculation. New York State 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 State is providing both unweighted and weighted calculations in this APR.

| FFY | Measurable and Rigorous Target |
|--------------------------------------|--------------------------------|
| FFY 2010 (2010 - 2011) | 100% |

Actual Target Data for FFY 2010:

Of the **846** children in the sample who exited Part C between July 1, 2010 and June 30, 2011, **758** had IFSPs containing documentation of transition steps and services. Using the OSEP-required *unweighted* calculation, this results in a rate of **89.6%**.

The *weighted* calculation shows that **84.4%** of children with IFSPs who exited Part C during this reporting period contained documentation of transition steps and services.

New York State did not achieve the 100% compliance target.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred in FFY 2010:

The unweighted rate had minor slippage of 0.6 percentage point for this indicator from FFY 2009 (**90.2%**) to FFY 2010 (**89.6%**). However, use of unweighted data ignores proportional representation of this state's large municipalities like New York City, so the unweighted calculation does not accurately reflect true performance.

Based on the weighted calculation that reflects true performance, New York showed slippage of 10.2 percentage points from FFY 2009 to FFY 2010 (**94.6%** to **84.4%**).

Local determinations based on FFY 2009 local data have been sent to local programs. The determinations were heavily weighted toward the compliance indicators. Local programs with poor performance on this indicator were required to take corrective action based on their determination:

- These local programs were also required to participate in all Department sponsored bimonthly all-county conference calls.
- Local programs who received a determination of "Needs Assistance" were also required to examine, revise, and upon request submit to the Department, revised policies and procedures with respect to the relevant indicators.

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- Local programs who received a determination of “Needs Assistance (2)” as a result of continued low rates of local data were additionally required to contact a specifically assigned BEI staff member to obtain technical assistance on revising policies and procedures related to the relevant indicators. These local programs were also required to convene a meeting of their LEICC to review the determination and obtain input on revising policies and procedures related to the relevant indicators and to submit to the Department within 90 days the LEICC meeting agenda, list of attendees and meeting minutes with an assurance that the policies and procedures were revised in order to improve performance and come into compliance with federal requirements within one year.
- Local programs who received a determination of “Needs Intervention” were additionally required to submit to BEI within 60 days a CAP including revised policies and procedures and the steps the County will take to come into compliance with federal requirements within one year.

Correction of FFY 2009 Findings of Noncompliance (if State reported less than 100% compliance):

| | |
|---|---|
| 1. Number of findings of noncompliance the State made during FFY 2009 (the period from July 1, 2009, through June 30, 2010) | 8 |
| 2. Number of FFY 2009 findings the State verified as timely corrected (corrected within one year from the date of notification to the local program of the finding) | 6 |
| 3. Number of FFY 2009 findings <u>not</u> verified as corrected within one year [(1) minus (2)] | 2 |

Correction of FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance) and/or Not Corrected:

| | |
|---|---|
| 4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above) | 2 |
| 5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline (“subsequent correction”) | 2 |
| 6. Number of FFY 2009 findings <u>not</u> verified as corrected [(4) minus (5)] | 0 |

Actions Taken if Noncompliance Not Corrected:

N/A

Verification of Correction of FFY 2009 noncompliance (either timely or subsequent):

Systemic noncompliance is identified and correction is verified at the local program level by monitoring reviews, analysis of local data, and dispute resolution. For Indicator # 8 A, there were 8 findings of noncompliance issued in FFY 2009, all from provider monitoring. Six of these findings were verified to have been corrected within one year. The 2 remaining findings were verified to have been corrected, but more than one year after notification. Additionally, for each child for whom the original finding of noncompliance was made, it was verified that they were no longer in the jurisdiction of the EI program. The methods used to verify correction of these findings are discussed in the next section.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2009:

New York State has fully implemented its rigorous verification of correction process which consists of the following:

- Identification of findings of noncompliance with IDEA requirements are determined during on-site monitoring reviews conducted by New York State’s contractor;
- All findings of noncompliance are identified and formal reports of findings are issued within 90 days of the on-site review;
- While conducting the on-site review, the contractor determines that each individual case of noncompliance, unless the child is no longer within the jurisdiction of the local program, has been corrected within one year, for example, that the CPSE was notified within 120 days of the child’s potential transition to preschool services; or the child is no longer within the jurisdiction of the EI program;
- Providers who have findings of noncompliance identified, are required to submit a CAP within 45 days of receipt of their monitoring report, which requires all information that is described earlier in this section, including root cause of noncompliance and activities they will implement to correct the noncompliance;
- All CAPs are reviewed and approved by New York State staff within 60 days of receipt, and providers are notified in writing, if their CAP is approved or not;
- Written technical assistance is provided by New York State staff which is included in CAP response letters, as needed;
- Targeted technical assistance is provided via phone call by New York State staff for providers or municipalities who demonstrate difficulty in providing sufficient activities to correct their noncompliance;
- New York State contract staff conducted on-site verification reviews within 60-90 days subsequent to approval of the CAP for those providers with significant findings of noncompliance, to determine if CAP activities have been fully implemented and correction of noncompliance at 100% can be verified. A subset of additional child records were reviewed to verify correction of the noncompliance;
- New York State also requires submission of a subset of child records within 90-100 days of approval of the CAP, for those providers who have minimal findings of noncompliance, to determine if CAP activities have been fully implemented and correction of noncompliance can be verified at 100%.

Correction of Remaining FFY 2008 Findings of Noncompliance (if applicable):

| | |
|---|---|
| 1. Number of remaining FFY 2008 findings of noncompliance noted in OSEP’s June 2010, FFY 2008 APR response table for this indicator | 6 |
| 2. Number of remaining FFY 2008 findings the State has verified as corrected | 4 |
| 3. Number of remaining FFY 2008 findings the State has NOT verified as corrected [(1) minus (2)] | 2 |

Verification of Correction of Remaining FFY 2008 findings:

For Indicator # 8 A, there were 6 findings (2 from municipality monitoring and 4 from local data) of noncompliance in FFY 2008 that remained uncorrected as of the FFY 2009 APR. Four of these findings (2 from municipality monitoring and 2 from local data) have been verified as subsequently corrected (i.e. corrected, but not within one year of notification). The remaining 2 FFY 2008 findings (all from local data) for Indicator # 8 A remain uncorrected at this time. They will continue to be tracked and their status will be reported in a future APR.

At the time that the FFY 2007 and FFY 2008 findings were issued, guidance on what was considered a finding, how and when notification should take place, and what was required to verify correction was not available. Specifically, it was not clear that findings to the same local program for the same issue in the subsequent FFY were not required to be reissued. As a result, New York State reissued many “duplicate” local data findings (findings to the same local program for the same issue) in FFYs 2007 and 2008.

Of the 2 outstanding FFY 2008 local data findings for Indicator # 8 A, 1 is duplicative with the 2 FFY 2007 local data findings from Indicator # 8 A. As a result, it appears that New York State has 4 uncorrected local data findings between FFYs 2007 and 2008 if the duplicated findings are not removed. In fact, New York State actually has only 3 unduplicated local data findings from FFYs 2007 and 2008.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2008:

There were no local data findings for Indicator # 8 A in FFY 2009. There were 15 instances of local programs with noncompliance based on Indicator # 8 A local data for FFYs 2007, 2008, and 2009. Notifications of these findings were sent to the local programs in December 2011. Due to the date of notification, these findings are considered FFY 2011 findings and will be addressed in the FFY 2012 APR. Notification of findings based on noncompliance in FFY 2007 and 2008 local data was initially delayed. New York State received technical assistance from DAC and NERCC, including a timeline to notify local programs of these findings. At this point, local data findings have been issued for all possible FFYs, and a timeline has been established to ensure that future local data findings are issued in a timely manner.

New York State’s general process for verifying correction of local data findings is:

- Verification of Child-specific Correction - Child-specific noncompliance cannot be corrected for Indicators # 8A-C, as the child is no longer within the jurisdiction of the local program by the time that the noncompliance is detected.
- Verification of Systemic Correction - Local data findings are based on local data measured for a given FFY. Local programs with a rate less than 100% for a compliance indicator are notified in writing of their noncompliance. Local data for subsequent years are checked, and local programs that are found to have a rate of 100% in a subsequent year for that compliance indicator are counted as having corrected the noncompliance. The finding is counted as timely corrected (within one year of notification) if the 100% rate was in any FFY up to one year after the date of notification. The finding is counted as subsequently corrected (i.e. corrected, but not timely) if the local program has a rate of 100% in a later FFY, but had not been timely corrected. If a finding is found to be corrected at one point, but later had a rate less than 100% in a FFY after the correction, the later noncompliance will result in a finding in the FFY in which notification occurred, and will be addressed in the appropriate APR.

The other specific methods that were used to verify correction of the FFY 2008 findings of noncompliance are outlined in the FFY 2009 APR, and are similar to those outlined in an earlier section on methods of verification of FFY 2009 findings.

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State

In New York State, findings arise from four different sources: provider monitoring, municipality (local program) monitoring, local data for each FFY for the compliance indicators, and due process. Each of these has a verification procedure that confirms that the noncompliance has been corrected at both child-specific and systemic levels.

Correction of Any Remaining Findings of Noncompliance from FFY 2007 or Earlier (if applicable):

For Indicator # 8 A, there were 4 findings (3 from local data and 1 from due process) of noncompliance in FFY 2007 that remained uncorrected as of the FFY 2009 APR. One of these findings (from local data) has been verified as subsequently corrected (i.e. corrected, but not within one year of notification). The remaining 3 FFY 2007 findings (2 from local data and 1 from due process) for Indicator # 8 A remain uncorrected at this time. They will continue to be tracked on and their status will be reported in a future APR.

At the time that the FFY 2007 and FFY 2008 findings were issued, guidance on what was considered a finding, how and when notification should take place, and what was required to verify correction was not available. Specifically, it was not clear that findings to the same local program for the same issue in the subsequent FFY were not required to be reissued. As a result, New York State reissued many “duplicate” local data findings (findings to the same local program for the same issue) in FFYs 2007 and 2008.

Of the 2 outstanding FFY 2008 local data findings for Indicator # 8 A, 1 is duplicative with the 2 FFY 2007 local data findings from Indicator # 8 A. As a result, it appears that New York State has 4 uncorrected local data findings between FFYs 2007 and 2008 if the duplicated findings are not removed. In fact, New York State actually has only 3 unduplicated local data findings from FFYs 2007 and 2008, in addition to 1 FFY 2007 due process finding.

Additional Information Required by the OSEP APR Response Table for this Indicator (if applicable):

| Statement from the Response Table | State's Response |
|---|--|
| <p>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, in</p> | <p>New York State is undertaking extensive efforts to correct outstanding findings of noncompliance from FFYs 2007 and 2008 and to verify their correction.</p> <p>All local programs with outstanding findings of noncompliance have received intensive technical assistance and direct contact with BEI staff with the purpose of correcting the noncompliance. New York State has incrementally stepped-up enforcement actions with local programs that have continuing noncompliance, especially for local programs who are not demonstrating significant improvement in the areas of their noncompliance. New York State has worked with NERCC and DAC to develop methods to address outstanding findings. In addition to its own efforts, New York State has followed all guidance from OSEP, DAC, and NERCC on addressing outstanding findings.</p> <p>New York City has specifically received rigorous attention from the New York State EIP, as New York City's program accounts for approximately half of New York State's EIP enrollment and is therefore a major cause of New York State's noncompliance. In addition to continuing to receive direct technical assistance and monthly conference calls, New York City will received stepped-up enforcement action as a result of being determined to “Need Intervention” based on their FFY 2009 local data, for the third year</p> |

| | |
|--|--|
| <p>the FFY 2010 APR, that it has corrected this noncompliance.</p> | <p>in a row. Specifically, New York City's EIP is being required to:</p> <ul style="list-style-type: none"> • <i>Immediately, engage the resources of a management consultant to advise the municipality on strategies to streamline processes and procedures to increase timeliness and efficiency.</i> • <i>Immediately assemble and convene a task force of municipal staff, with support from the Department, to work with the consultant to identify the root causes of poor performance within the municipality's processes and procedures, and develop strategies to improve performance.</i> • <i>Within 15 days contact staff from the BEI Quality Assurance and Technical Assistance Unit to coordinate the work of the task force with Department staff.</i> • <i>Immediately convene a meeting of the LEICC to review the determination, and work with the task force to identify the root cause(s) of poor performance, and obtain input on strategies related to the relevant indicators.</i> • <i>Review the work of the task force with the LEICC on a quarterly basis at minimum, solicit input, and submit a participant list and meeting minutes to the Department for each quarterly meeting.</i> • <i>Prepare a compliance plan to include the following items:</i> <ul style="list-style-type: none"> ○ <i>Detailed identification of the factors within municipal procedures which contribute to lack of timeliness.</i> ○ <i>Detailed identification of strategies to address each factor contributing to lack of timeliness. Include specific strategies and systems changes for each delay factor identified in the above areas.</i> • <i>Submit quarterly reports to the Department to include the following data:</i> <ul style="list-style-type: none"> ○ <i>Timeliness of surrogacy assignments</i> ○ <i>Timeliness of multidisciplinary evaluation review</i> ○ <i>Timeliness of start of services when a bilingual service provider is needed</i> ○ <i>Timeliness of EIOD approval of assignment of service providers</i> ○ <i>Other data as identified by Department staff during enforcement activities</i> • <i>Prepare an improvement plan which addresses the experience of parents in the New York City Early Intervention Program. Include consideration of the following factors in the identification of root causes and strategies for improvement in this area:</i> <ul style="list-style-type: none"> ○ <i>EIOD responsiveness to parents</i> ○ <i>Service Coordinator responsiveness to parents</i> ○ <i>Empowerment of parents in the process of IFSP development</i> <p>New York State has diligently attempted to correct all historical findings of noncompliance, and will continue to do so.</p> |
|--|--|

APR Template – Part C (4)

New York
State

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 (if applicable):

None

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

Monitoring Priority: Effective General Supervision Part C / Effective Transition

Indicator 8B: 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 Notification to LEA, if child potentially eligible for Part B;

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

Measurement:

Percent = [(# of children exiting Part C and potentially eligible for Part B where the notification to the LEA occurred) divided by the (# of children exiting Part C who were potentially eligible for Part B)] times 100.

Data Collection:

The rates for Indicators # 8 A-C are calculated based on data collected from a monitoring self-assessment that was completed by each of the 58 local programs. The children for each local program's self-assessment were selected randomly from the group of all children in the municipality who had left the EIP between July 1, 2010 and June 30, 2011. The number of children selected from each local program was determined by the size of the local program and the extent of noncompliance in the FFY 2009 self-assessment. In addition, New York State restarted its cycle of oversampling local programs in order to obtain locally representative data. For FFY 2010, New York City and the two Long Island local programs were oversampled. The number of children from each local program was typically between 5 and 30 children.

New York State collected data for Indicators # 8 A-C by using a stratified sample of 846 children who exited the Part C program between July 1, 2010 and June 30, 2011. These children were selected from the 31,199 children who exited the program during this reporting period and had an IFSP.

Sample cases were selected at different rates in different municipalities using 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 statewide performance rate.

In order to gather locally representative transition data, each local program was scheduled to be oversampled at least once during the FFY 2005-2010 period, according to the schedule listed in the SPP. As the end of the period covered by the SPP approached, OSEP, with input from the states, extended the original SPP period through FFY 2012. As outlined in the revised SPP, New York State restarted its oversampling schedule and oversampled New York City and the two Long Island local programs in FFY 2010.

APR Template – Part C (4)

New York
State

Local programs were required to complete a self-assessment tool developed by the Department for the children identified to them by the Department.

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 the 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 Indicators # 8 A-C. New York State had determined the rates for Indicators # 8 A-C using a weighted calculation. OSEP informed New York that rates for this indicator must be determined using an unweighted calculation. New York State 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 State is providing both unweighted and weighted calculations in this APR.

| FFY | Measurable and Rigorous Target |
|--------------------------------------|--------------------------------|
| FFY 2010 (2010 - 2011) | 100% |

Actual Target Data for FFY 2010:

Of the 846 children in the sample who exited Part C between July 1, 2010 and June 30, 2011, 148 were explicitly identified as not potentially eligible for Part B. Of the remaining 698 children, 565 had documentation of notification to the LEA and 63 had documentation that the parent opted out of CPSE notification. An additional 40 children were not potentially eligible for Part B due to other documented reasons (32 due to case being closed prior to notification being required, 3 due to parent reasons, 3 due to late referrals to the EIP, and 2 due to family moved). Using the OSEP-required *unweighted* calculation, this results in a rate of **95.0%**.

The *weighted* calculation shows that **94.2%** of children with IFSPs who were potentially eligible for Part B had documentation of notification to the LEA.

New York State did not achieve the 100% compliance target.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred in FFY 2010:

The unweighted rate had progress of 7.3 percentage points for this indicator from FFY 2009 (87.7%) to FFY 2010 (95.0%). However, use of unweighted data ignores proportional representation of this state's large municipalities like New York City, so the unweighted calculation does not accurately reflect true performance.

Based on the weighted calculation that reflects true performance, New York showed a significant increase of 15.6 percentage points from FFY 2009 to FFY 2010 (78.6% to 94.2%).

APR Template – Part C (4)

New York
State

Local determinations based on FFY 2009 local data have been sent to local programs. The determinations were heavily weighted toward the compliance indicators. Local programs with poor performance on this indicator were required to take corrective action based on their determination:

- These local programs were also required to participate in all Department sponsored bimonthly all-county conference calls.
- Local programs who received a determination of “Needs Assistance” were also required to examine, revise, and upon request submit to the Department, revised policies and procedures with respect to the relevant indicators.
- Local programs who received a determination of “Needs Assistance (2)” as a result of continued low rates of local data were additionally required to contact a specifically assigned BEI staff member to obtain technical assistance on revising policies and procedures related to the relevant indicators. These local programs were also required to convene a meeting of their LEICC to review the determination and obtain input on revising policies and procedures related to the relevant indicators and to submit to the Department within 90 days the LEICC meeting agenda, list of attendees and meeting minutes with an assurance that the policies and procedures were revised in order to improve performance and come into compliance with federal requirements within one year.
- Local programs who received a determination of “Needs Intervention” were additionally required to submit to BEI within 60 days a CAP including revised policies and procedures and the steps the County will take to come into compliance with federal requirements within one year.

New York has amended regulations to accommodate an opt-out option for those children whose parents do not wish to have the LEA notified of the child’s potential eligibility for Part B. This policy was approved by OSEP, and was in full effect for the time period covered by these data. As a result 63 children for whom timely notification of the LEA did not occur due to the parent opting out of notification were discounted from the rate calculation for Indicator # 8 B.

Correction of FFY 2009 Findings of Noncompliance (if State reported less than 100% compliance):

| | |
|---|----------|
| 1. Number of findings of noncompliance the State made during FFY 2009 (the period from July 1, 2009, through June 30, 2010) | 0 |
| 2. Number of FFY 2009 findings the State verified as timely corrected (corrected within one year from the date of notification to the local program of the finding) | 0 |
| 3. Number of FFY 2009 findings <u>not</u> verified as corrected within one year [(1) minus (2)] | 0 |

Correction of FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance) and/or Not Corrected:

| | |
|---|----------|
| 4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above) | 0 |
| 5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline (“subsequent correction”) | 0 |
| 6. Number of FFY 2009 findings <u>not</u> verified as corrected [(4) minus (5)] | 0 |

There were no new findings of noncompliance for this indicator in FFY 2009.

Actions Taken if Noncompliance Not Corrected:

N/A

Verification of Correction of FFY 2009 noncompliance (either timely or subsequent):

N/A

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2009:

N/A

Correction of Remaining FFY 2008 Findings of Noncompliance (if applicable):

| | |
|---|-----------|
| 1. Number of remaining FFY 2008 findings of noncompliance noted in OSEP’s June 2011, FFY 2009 APR response table for this indicator | 26 |
| 2. Number of remaining FFY 2008 findings the State has verified as corrected | 26 |
| 3. Number of remaining FFY 2008 findings the State has NOT verified as corrected [(1) minus (2)] | 0 |

Verification of Correction of Remaining FFY 2008 findings:

For Indicator # 8 B, there were 26 findings (25 from municipality monitoring and 1 from local data) of noncompliance in FFY 2008 that remained uncorrected as of the FFY 2009 APR. All 26 of these findings (25 from monitoring and 1 from local data) have been verified as subsequently corrected (i.e. they were corrected, but not within one year of notification).

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2008:

New York State’s general process for verifying correction of local data findings is:

- Verification of Child-specific Correction - Child-specific noncompliance cannot be corrected for Indicators # 8A-C, as the child is no longer within the jurisdiction of the local program by the time that the noncompliance is detected.
- Verification of Systemic Correction - Local data findings are based on local data measured for a given FFY. Local programs with a rate less than 100% for a compliance indicator are notified in writing of their noncompliance. Local data for subsequent years are checked, and local programs that are found to have a rate of 100% in a subsequent year for that compliance indicator are counted as having corrected the noncompliance. The finding is counted as timely corrected (within one year of notification) if the 100% rate was in any FFY up to one year after the date of notification. The finding is counted as subsequently corrected (i.e. corrected, but not timely) if the local program has a rate of 100% in a later FFY, but had not been timely corrected. If a finding is found to be corrected at one point, but later had a rate less than 100% in a FFY after the correction, the later noncompliance will result in a finding in the FFY in which notification occurred, and will be addressed in the appropriate APR.

The other specific methods that were used to verify correction of the FFY 2008 findings of noncompliance are outlined in the FFY 2009 APR, and are similar to those outlined in an earlier section on methods of verification of FFY 2009 findings.

In New York State, findings arise from four different sources: provider monitoring, municipality (local program) monitoring, local data for each FFY for the compliance indicators, and due process. Each of these has a verification procedure that confirms that the noncompliance has been corrected at both child-specific and systemic levels.

Correction of Any Remaining Findings of Noncompliance from FFY 2007 or Earlier (if applicable):

For Indicator # 8 B, there was 1 finding (from local data) of noncompliance in FFY 2007 that remained uncorrected as of the FFY 2009 APR. This finding has not yet been verified as subsequently corrected (i.e. corrected, but not within one year of notification). This remaining FFY 2007 finding (from local data) for Indicator # 8 C remains uncorrected at this time. It will continue to be tracked and its status will be reported in a future APR.

Additional Information Required by the OSEP APR Response Table for this Indicator (if applicable):

| Statement from the Response Table | State's Response |
|---|--|
| <p>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, in the FFY 2010 APR, that it has corrected this noncompliance.</p> | <p>New York State is undertaking extensive efforts to correct outstanding findings of noncompliance from FFYs 2007 and 2008 and to verify their correction.</p> <p>All local programs with outstanding findings of noncompliance have received intensive technical assistance and direct contact with BEI staff with the purpose of correcting the noncompliance. New York State has incrementally stepped-up enforcement actions with local programs that have continuing noncompliance, especially for local programs who are not demonstrating significant improvement in the areas of their noncompliance. New York State has worked with NERCC and DAC to develop methods to address outstanding findings. In addition to its own efforts, New York State has followed all guidance from OSEP, DAC, and NERCC on addressing outstanding findings.</p> <p>New York City has specifically received rigorous attention from the New York State EIP, as New York City's program accounts for approximately half of New York State's EIP enrollment and is therefore a major cause of New York State's noncompliance. In addition to continuing to receive direct technical assistance and monthly conference calls, New York City will receive stepped-up enforcement action as a result of being determined to "Need Intervention" based on their FFY 2009 local data, for the third year in a row. Specifically, New York City's EIP is being required to:</p> <ul style="list-style-type: none"> • <i>Immediately, engage the resources of a management consultant to advise the municipality on strategies to streamline processes and procedures to increase timeliness and efficiency.</i> • <i>Immediately assemble and convene a task force of municipal staff, with support from the Department, to work with the consultant to identify the root causes of poor performance within the municipality's processes and</i> |

| | |
|--|---|
| | <p><i>procedures, and develop strategies to improve performance.</i></p> <ul style="list-style-type: none"> • <i>Within 15 days contact staff from the BEI Quality Assurance and Technical Assistance Unit to coordinate the work of the task force with Department staff.</i> • <i>Immediately convene a meeting of the LEICC to review the determination, and work with the task force to identify the root cause(s) of poor performance, and obtain input on strategies related to the relevant indicators.</i> • <i>Review the work of the task force with the LEICC on a quarterly basis at minimum, solicit input, and submit a participant list and meeting minutes to the Department for each quarterly meeting.</i> • <i>Prepare a compliance plan to include the following items:</i> <ul style="list-style-type: none"> ○ <i>Detailed identification of the factors within municipal procedures which contribute to lack of timeliness.</i> ○ <i>Detailed identification of strategies to address each factor contributing to lack of timeliness. Include specific strategies and systems changes for each delay factor identified in the above areas.</i> • <i>Submit quarterly reports to the Department to include the following data:</i> <ul style="list-style-type: none"> ○ <i>Timeliness of surrogacy assignments</i> ○ <i>Timeliness of multidisciplinary evaluation review</i> ○ <i>Timeliness of start of services when a bilingual service provider is needed</i> ○ <i>Timeliness of EIOD approval of assignment of service providers</i> ○ <i>Other data as identified by Department staff during enforcement activities</i> • <i>Prepare an improvement plan which addresses the experience of parents in the New York City Early Intervention Program. Include consideration of the following factors in the identification of root causes and strategies for improvement in this area:</i> <ul style="list-style-type: none"> ○ <i>EIOD responsiveness to parents</i> ○ <i>Service Coordinator responsiveness to parents</i> ○ <i>Empowerment of parents in the process of IFSP development</i> <p>New York State has diligently attempted to correct all historical findings of noncompliance, and will continue to do so.</p> |
|--|---|

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010 (if applicable):

None

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

Monitoring Priority: Effective General Supervision Part C / Effective Transition

Indicator 8C: 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:

C. Transition conference, if child potentially eligible for Part B.

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

Measurement:

Percent = [(# of toddlers with disabilities exiting Part C where the transition conference occurred at least 90 days, and at the discretion of all parties, at least nine months prior to the toddler's third birthday for toddlers potentially eligible for Part B) divided by the (# of toddlers with disabilities exiting Part C who were potentially eligible for Part B)] times 100.

Account for untimely transition conferences, including reasons for delays.

Data Collection:

The rates for Indicators # 8 A-C are calculated based on data collected from a monitoring self-assessment that was completed by each of the 58 local programs. The children for each local program's self-assessment were selected randomly from the group of all children in the municipality who had left the EIP between July 1, 2010 and June 30, 2011. The number of children selected from each local program was determined by the size of the local program and the extent of noncompliance in the FFY 2009 self-assessment. In addition, New York State restarted its cycle of oversampling local programs in order to obtain locally representative data. For FFY 2010, New York City and the two Long Island local programs were oversampled. The number of children from each local program was typically between 5 and 30 children.

New York State collected data for Indicators # 8 A-C by using a stratified sample of 846 children who exited the Part C program between July 1, 2010 and June 30, 2011. These children were selected from the 31,199 children who exited the program during this reporting period and had an IFSP.

Sample cases were selected at different rates in different municipalities using 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 statewide performance rate.

In order to gather locally representative transition data, each local program was scheduled to be oversampled at least once during the FFY 2005-2010 period, according to the schedule listed in the SPP. As the end of the period covered by the SPP approached, OSEP, with input from the states, extended the original SPP period through FFY 2012. As outlined in the revised SPP, New York State restarted its oversampling schedule and oversampled New York City and the two Long Island local programs in FFY 2010.

APR Template – Part C (4)

New York
State

Local programs were required to complete a self-assessment tool developed by the Department for the children identified to them by the Department.

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 the 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 Indicators # 8 A-C. New York State had determined the rates for Indicators # 8 A-C using a weighted calculation. OSEP informed New York that rates for this indicator must be determined using an unweighted calculation. New York State 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 State is providing both unweighted and weighted calculations in this APR.

| FFY | Measurable and Rigorous Target |
|---------------------------|--------------------------------|
| FFY 2010 (2010 - 2011) | 100% |

Actual Target Data for FFY 2010:

Of the 846 sample children with IFSPs who exited Part C during the reporting period, 148 were explicitly identified as not potentially eligible for Part B. Of the remaining 698 children, there were 38 children who were not potentially eligible for Part B for other documented reasons (26 due to family moved, 6 due to case being closed prior to the transition conference being required, 3 due to parent reason, 1 due to late transfer, 1 due to a late referral and 1 due to the family being unresponsive). There were also 420 children whose families did not consent to a transition conference. There were 186 children with records that contained documentation of a timely transition conference. Using the OSEP-required *unweighted* calculation, this results in a rate of **77.5%**.

The *weighted* calculation shows that **71.9%** of children with IFSPs who were potentially eligible for Part B had a timely transition conference.

New York State did not achieve the 100% compliance target.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred in FFY 2010:

The unweighted rate had an increase of 2.4 percentage points for this indicator from FFY 2009 (75.1%) to FFY 2010 (77.5%). However, use of unweighted data ignores proportional representation of this state's large municipalities like New York City, so the unweighted calculation does not accurately reflect true performance.

Based on the weighted calculation that reflects true performance, New York showed a small increase of 0.4 percentage points from FFY 2009 to FFY 2010 (71.5% to 71.9%).

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. 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. The Department continues to monitor the effectiveness of the guidance provided to local programs based on effective transition strategies learned in working with the National Early Childhood Technical Assistance Center (NECTAC) as well as NERRC.

Local determinations based on FFY 2009 local data have been sent to local programs. The determinations were heavily weighted toward the compliance indicators. Local programs with poor performance on this indicator were required to take corrective action based on their determination:

- These local programs were also required to participate in all Department sponsored bimonthly all-county conference calls.
- Local programs who received a determination of “Needs Assistance” were also required to examine, revise, and upon request submit to the Department, revised policies and procedures with respect to the relevant indicators.
- Local programs who received a determination of “Needs Assistance (2)” as a result of continued low rates of local data were additionally required to contact a specifically assigned BEI staff member to obtain technical assistance on revising policies and procedures related to the relevant indicators. These local programs were also required to convene a meeting of their LEICC to review the determination and obtain input on revising policies and procedures related to the relevant indicators and to submit to the Department within 90 days the LEICC meeting agenda, list of attendees and meeting minutes with an assurance that the policies and procedures were revised in order to improve performance and come into compliance with federal requirements within one year.
- Local programs who received a determination of “Needs Intervention” were additionally required to submit to BEI within 60 days a CAP including revised policies and procedures and the steps the County will take to come into compliance with federal requirements within one year.

Correction of FFY 2009 Findings of Noncompliance (if State reported less than 100% compliance):

| | |
|---|----------|
| 1. Number of findings of noncompliance the State made during FFY 2009 (the period from July 1, 2009, through June 30, 2010) | 0 |
| 2. Number of FFY 2009 findings the State verified as timely corrected (corrected within one year from the date of notification to the local program of the finding) | 0 |
| 3. Number of FFY 2009 findings <u>not</u> verified as corrected within one year [(1) minus (2)] | 0 |

FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance) and/or Not Corrected:

| | |
|---|----------|
| 4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above) | 0 |
| 5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline (“subsequent correction”) | 0 |

| | |
|---|----------|
| 6. Number of FFY 2009 findings <u>not</u> verified as corrected [(4) minus (5)] | 0 |
|---|----------|

There were no new findings of noncompliance for this indicator in FFY 2009.

Actions Taken if Noncompliance Not Corrected:

N/A

Verification of Correction of FFY 2009 noncompliance (either timely or subsequent):

N/A

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2009:

N/A

Correction of Remaining FFY 2008 Findings of Noncompliance (if applicable):

| | |
|---|-----------|
| 1. Number of remaining FFY 2008 findings of noncompliance noted in OSEP’s June 2011, FFY 2009 APR response table for this indicator | 31 |
| 2. Number of remaining FFY 2008 findings the State has verified as corrected | 29 |
| 3. Number of remaining FFY 2008 findings the State has NOT verified as corrected [(1) minus (2)] | 2 |

Verification of Correction of Remaining FFY 2008 findings:

For Indicator # 8 C, there were 31 findings (26 from municipality monitoring and 5 from local data) of noncompliance in FFY 2008 that remained uncorrected as of the FFY 2009 APR. Twenty-nine of these findings (26 from monitoring and 3 from local data) have been verified as subsequently corrected (i.e. they were corrected, but not within one year of notification). The remaining 2 FFY 2008 findings (both from local data) for Indicator # 8 C remain uncorrected at this time. They will continue to be tracked and their status will be reported in a future APR.

At the time that the FFY 2007 and FFY 2008 findings were issued, guidance on what was considered a finding, how and when notification should take place, and what was required to verify correction was not available. Specifically, it was not clear that findings to the same local program for the same issue in the subsequent FFY were not required to be reissued. As a result, New York State reissued many “duplicate” local data findings (findings to the same local program for the same issue) in FFYs 2007 and 2008.

Of the 2 outstanding FFY 2008 local data findings for Indicator # 8 C, 1 is duplicative with the 3 FFY 2007 local data findings from Indicator # 8 C. As a result, it appears that New York State has 5 uncorrected findings between FFYs 2007 and 2008 if the duplicated findings are not removed. In fact, New York State actually has only 4 unduplicated findings from FFYs 2007 and 2008.

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2008:

New York State's general process for verifying correction of local data findings is:

- Verification of Child-specific Correction - Child-specific noncompliance cannot be corrected for Indicators # 8A-C, as the child is no longer within the jurisdiction of the local program by the time that the noncompliance is detected.
- Verification of Systemic Correction - Local data findings are based on local data measured for a given FFY. Local programs with a rate less than 100% for a compliance indicator are notified in writing of their noncompliance. Local data for subsequent years are checked, and local programs that are found to have a rate of 100% in a subsequent year for that compliance indicator are counted as having corrected the noncompliance. The finding is counted as timely corrected (within one year of notification) if the 100% rate was in any FFY up to one year after the date of notification. The finding is counted as subsequently corrected (i.e. corrected, but not timely) if the local program has a rate of 100% in a later FFY, but had not been timely corrected. If a finding is found to be corrected at one point, but later had a rate less than 100% in a FFY after the correction, the later noncompliance will result in a finding in the FFY in which notification occurred, and will be addressed in the appropriate APR.

The other specific methods that were used to verify correction of the FFY 2008 findings of noncompliance are outlined in the FFY 2009 APR, and are similar to those outlined in an earlier section on methods of verification of FFY 2009 findings.

In New York State, findings arise from four different sources: provider monitoring, municipality (local program) monitoring, local data for each FFY for the compliance indicators, and due process. Each of these has a verification procedure that confirms that the noncompliance has been corrected at both child-specific and systemic levels.

Correction of Any Remaining Findings of Noncompliance from FFY 2007 or Earlier (if applicable):

For Indicator # 8 C, there were 3 findings (all from local data) of noncompliance in FFY 2007 that remained uncorrected as of the FFY 2009 APR. None of these findings have been verified as subsequently corrected (i.e. corrected, but not within one year of notification). The remaining 3 FFY 2007 findings (all from local data) for Indicator # 8 C remain uncorrected at this time. They will continue to be tracked on and their status will be reported in a future APR.

At the time that the FFY 2007 and FFY 2008 findings were issued, guidance on what was considered a finding, how and when notification should take place, and what was required to verify correction was not available. Specifically, it was not clear that findings to the same local program for the same issue in the subsequent FFY were not required to be reissued. As a result, New York State reissued many "duplicate" local data findings (findings to the same local program for the same issue) in FFYs 2007 and 2008.

Of the 2 outstanding FFY 2008 findings for Indicator # 8 C, 1 local data finding is duplicative with the 3 FFY 2007 local data findings from Indicator # 8 C. As a result, it appears that New York State has 5 uncorrected findings between FFYs 2007 and 2008 if the duplicated findings are not removed. In fact, New York State actually has only 4 unduplicated findings from FFYs 2007 and 2008.

Additional Information Required by the OSEP APR Response Table for this Indicator (if applicable):

| Statement from the Response Table | State's Response |
|---|--|
| <p>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, in the FFY 2010 APR, that it has corrected this noncompliance.</p> | <p>New York State is undertaking extensive efforts to correct outstanding findings of noncompliance from FFYs 2007 and 2008 and to verify their correction.</p> <p>All local programs with outstanding findings of noncompliance have received intensive technical assistance and direct contact with BEI staff with the purpose of correcting the noncompliance. New York State has incrementally stepped-up enforcement actions with local programs that have continuing noncompliance, especially for local programs who are not demonstrating significant improvement in the areas of their noncompliance. New York State has worked with NERCC and DAC to develop methods to address outstanding findings. In addition to its own efforts, New York State has followed all guidance from OSEP, DAC, and NERCC on addressing outstanding findings.</p> <p>New York City has specifically received rigorous attention from the New York State EIP, as New York City's program accounts for approximately half of New York State's EIP enrollment and is therefore a major cause of New York State's noncompliance. In addition to continuing to receive direct technical assistance and monthly conference calls, New York City will receive stepped-up enforcement action as a result of being determined to "Need Intervention" based on their FFY 2009 local data, for the third year in a row. Specifically, New York City's EIP is being required to:</p> <ul style="list-style-type: none"> • <i>Immediately, engage the resources of a management consultant to advise the municipality on strategies to streamline processes and procedures to increase timeliness and efficiency.</i> • <i>Immediately assemble and convene a task force of municipal staff, with support from the Department, to work with the consultant to identify the root causes of poor performance within the municipality's processes and procedures, and develop strategies to improve performance.</i> • <i>Within 15 days contact staff from the BEI Quality Assurance and Technical Assistance Unit to coordinate the work of the task force with Department staff.</i> • <i>Immediately convene a meeting of the LEICC to review the determination, and work with the task force to identify the root cause(s) of poor performance, and obtain input on strategies related to the relevant indicators.</i> • <i>Review the work of the task force with the LEICC on a quarterly basis at minimum, solicit input, and submit a participant list and meeting minutes to the Department for each quarterly meeting.</i> • <i>Prepare a compliance plan to include the following items:</i> <ul style="list-style-type: none"> ○ <i>Detailed identification of the factors within municipal procedures which contribute to lack of timeliness.</i> ○ <i>Detailed identification of strategies to address each factor contributing to lack of timeliness. Include specific strategies and systems changes for each delay factor identified in the above areas.</i> |

| | |
|--|---|
| | <ul style="list-style-type: none"> • <i>Submit quarterly reports to the Department to include the following data:</i> <ul style="list-style-type: none"> ○ <i>Timeliness of surrogacy assignments</i> ○ <i>Timeliness of multidisciplinary evaluation review</i> ○ <i>Timeliness of start of services when a bilingual service provider is needed</i> ○ <i>Timeliness of EIOD approval of assignment of service providers</i> ○ <i>Other data as identified by Department staff during enforcement activities</i> • <i>Prepare an improvement plan which addresses the experience of parents in the New York City Early Intervention Program. Include consideration of the following factors in the identification of root causes and strategies for improvement in this area:</i> <ul style="list-style-type: none"> ○ <i>EIOD responsiveness to parents</i> ○ <i>Service Coordinator responsiveness to parents</i> ○ <i>Empowerment of parents in the process of IFSP development</i> <p style="text-align: center;">New York State has diligently attempted to correct all historical findings of noncompliance, and will continue to do so.</p> |
|--|---|

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2011 (if applicable):

None

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

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 from identification.

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

States are required to use the “Indicator 9 Worksheet” to report data for this indicator (see Attachment A).

| FFY | Measurable and Rigorous Target |
|--------------------------------------|--------------------------------|
| FFY 2010 (2010 - 2011) | 100% |

Actual Target Data for FFY 2010:

| FFY | Actual Target Data |
|--------------------------------------|--------------------|
| FFY 2010 (2010 - 2011) | 96.5% |

Describe the process for selecting local programs for monitoring:

For this reporting period, select approved providers in New York State had a comprehensive on-site monitoring review conducted. A total of 560 providers were monitored. The providers were selected based on past monitoring performance (greater than or equal to 20% regulatory violations in previous

monitoring), volume of children served (higher risk to the program) and the date of their previous monitoring review. Providers were also monitored if concerns regarding provision of early intervention services were brought to the attention of New York State from stakeholders, such as parents or municipalities.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

For this reporting period, information used for Indicator # 9 to demonstrate the rate of correction of noncompliance as soon as possible but in no case later than one year of identification, was obtained from the Department's comprehensive on-site monitoring data and from findings of noncompliance identified through due process activities, specifically, investigations of written complaints.

Out of 560+ providers who received on-site monitoring reviews, 279 providers were issued 365 findings that related to a violation of IDEA requirements, as noted in the Indicator # 9 worksheet. Of the 365 findings, 352 findings had correction that was verified no later than one year of identification, at the systemic level and all 365 findings had correction verified for each individual child, unless the child was no longer within the jurisdiction of the EI program. For 10 of these findings, correction was verified later than one year of identification, at the systemic level. There are 3 findings of noncompliance for 3 providers that remain uncorrected, at the systemic level. New York State is currently working with these three providers to provide them with technical assistance in the areas that have not yet been verified as corrected at the systemic level, and will require them to submit current child records or have an on-site follow up review to verify correction.

On site comprehensive monitoring is conducted using monitoring tools that include multiple methods of evaluation of an early intervention program. The monitoring protocol includes the following:

- Review of child records;
- Evaluation and approval of written policies and procedures regarding confidentiality requirements, describing how the provider will implement program requirements to correct confidentiality practices (See Indicator # 9 Worksheet under "Other areas of noncompliance" for specific programs that were issued findings regarding confidentiality practices and correction of noncompliance verified);
- Review of other documents related to the EIP administration, including, personnel record, billing and fiscal records, forms and reports;
- Review of child records to ensure that any finding of noncompliance for an individual child is corrected as soon as possible, or the child is no longer in the jurisdiction of the Early Intervention System;
- Requires a rigorous immediate remediation process to be followed when serious noncompliance relating to use of unqualified personnel or other health and safety issues are identified;
- For every finding of noncompliance regarding a violation of IDEA requirements or NY State requirements, each provider and municipality must submit a CAP which includes the following items;
 - Identification of the root cause which produced the non compliance
 - Identification of Action Steps and Strategies to make improvements
 - Revision of written policies and procedures
 - Discussion of organizational changes that are required to correct the noncompliance
 - Describe a plan to provide updated training
 - Describe supervision and oversight to assure staff will carry out changes in policy correctly
 - Describe documentation which will be maintained to provide evidence of corrected practices

- Describe quality assurance method that will be used to ensure corrections are being implemented
- CAPs are reviewed and approved by Department staff no later than 60 days of receipt. A written CAP response letter which includes suggestions for revision of the CAP and technical assistance is sent to each entity monitored, subsequent to review of their CAP.
- Conducting follow up verification of correction reviews when a finding of noncompliance is made to ensure that correction is achieved at the individual child level and the systemic level;
- Requiring attendance at Department-sponsored EI training, if numerous or repeat findings of noncompliance are determined during subsequent monitoring reviews;
- Participation in targeted technical assistance calls with Department staff to discuss recurrent findings of noncompliance and to brainstorm for root cause of noncompliance and strategies to improve compliance;
- Implementation of a two-pronged verification of correction procedure to verify correction of all findings of noncompliance related to a violation of IDEA requirements at the child-specific level and at the systemic level, through multiple methods, as follows:
 - Having our monitoring contractor conduct subsequent follow-up on site visits to review the child-specific record and a subsequent subset of child records (including IFSPs, session notes, transition plans, etc.) identified through the Department's data system;
 - Conducting interviews with providers to determine understanding of implementation of policies and procedures;
 - Review of revised policies and procedures;
 - Self assessment reviews based on a subset of child records identified through the Department's data system;
 - After acceptance of a CAP; submission of a subset of child records identified through the Department's data system to review for correction of noncompliance at the systemic level and to ensure that ongoing compliance is maintained for each individual child.

Based on this protocol, findings of violations of federal and state regulations are made no later than 90 days from the on-site review. For 2009-10, 266 providers, or 95% of providers were issued reports of violations of IDEA requirements and New York State early intervention regulations within 90 days of their on-site review. Of the remaining 13 providers, 3 were issued reports in 91 days, 2 were issued reports in 92 days, 1 was issued a report in 93 days, 2 were issued reports in 98 days, 1 was issued a report in 99 days, 1 was issued a report in 106 days, 1 was issued a report in 111 days, 1 was issued a report in 112 days, and 1 was issued a report in 120 days. Reasons for delays in reports being issued included complex monitoring findings that needed to be researched and discussed with legal counsel or higher approving authorities within the Department.

New York State demonstrated significant progress with Indicator # 9 compliance for this program year based on the full implementation of a rigorous verification of correction of noncompliance program. Department staff has participated in conference calls with OSEP technical assistance resources, including NERRC and participated in periodic State to Local Monitoring Workgroup conference calls to obtain technical assistance in this area. The New York State staff worked diligently with its contractor to establish protocols to conduct on-site visits to review additional child records and systems in place at provider locations to ensure correction of noncompliance was verified at each individual case of noncompliance at the child level, unless the child is no longer in the jurisdiction of the EIP and that every program is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on review of child records and other documents. Department staff also conducted a series of self assessment surveys, whereby, a provider or municipality reviews a subset of child records that are identified by the Department's data system. The self assessments require that the provider or municipality review child records and record significant dates of events or activities related to each child, as they progress through the EI system. Self assessments were submitted to New York State staff to

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review and compile. New York State’s monitoring contractor also conducted on-site verification reviews to validate the self assessments. After review of the self assessments and on-site verification reviews, if correction of noncompliance was not achieved at 100%, targeted technical assistance was conducted with each provider and municipality to assist with determination of the root cause of noncompliance and to provide strategies for improvement. Subsequent to the TA provided, providers and municipalities were required to submit a subset of child records that were identified by the Department’s data system to review to ensure correction of noncompliance was achieved. This rigorous process maintained a diligent effort of technical assistance and working closely with providers and municipalities on their findings of noncompliance. This effort has been successful in the significant progress made by New York State’s general supervision system.

Note: For this indicator, report data on the correction of findings of noncompliance the State made during FFY 2009 (July 1, 2009 through June 30, 2010) and verified as corrected as soon as possible and in no case later than one year from identification.

Timely Correction of FFY 2009 Findings of Noncompliance (corrected within one year from identification of the noncompliance):

| | |
|--|------------|
| 1. Number of findings of noncompliance the State made during FFY 2009 (the period from July 1, 2009, through June 30, 2010) (Sum of Column a on the Indicator C 9 Worksheet) | 367 |
| 2. Number of findings the State verified as timely corrected (corrected within one year from the date of notification to the local programs of the finding) (Sum of Column b on the Indicator C 9 Worksheet) | 354 |
| 3. Number of findings <u>not</u> verified as corrected within one year [(1) minus (2)] | 13 |

Correction of FFY 2009 Findings of Noncompliance Not Timely Corrected (corrected more than one year from identification of the noncompliance) and/or Not Corrected:

| | |
|---|-----------|
| 4. Number of FFY 2009 findings not timely corrected (same as the number from (3) above) | 13 |
| 5. Number of FFY 2009 findings the State has verified as corrected beyond the one-year timeline (“subsequent correction”) | 10 |
| 6. Number of FFY 2009 findings <u>not</u> yet verified as corrected [(4) minus (5)] | 3 |

New York State uses several different methods to detect noncompliance by local programs:

- Municipalities/local programs and service providers receive on-site monitoring reviews by the Department’s contractor. These reviews entail monitoring of a subset of child records for a wide range of issues, including compliance with IDEA, adherence to requirements relating to the compliance indicators, and accuracy of reported data. Additionally, the Department’s contractor conducts follow up verification of correction reviews to ensure that all noncompliance identified is corrected at 100% compliance at the systemic level and to ensure correction at the individual child level.
- As required by OSEP, New York State publishes local data on performance of local programs for many of the APR indicators, including Indicators # 1, 7, and 8A-C. Any local program that performs at less than 100% for any of Indicators # 1, 7, and 8A-C is notified of this noncompliance.

- When a system complaint indicates that a local program is in violation of IDEA, the local program is issued a finding of noncompliance.

For each of these different types of findings, the local program is notified of the finding in writing and of the need to correct the finding within one year of notification, and the Early Intervention Program takes steps, indicated in the next section, to verify that the noncompliance is corrected in accordance with OSEP memo 09-02. Although the specific methods used to verify correction for different types of findings may vary, these methods always ensure that both “prongs” (child-specific and systemic noncompliance) are corrected.

Verification of Correction for findings of noncompliance identified in FFY 2009 (either timely or subsequent):

Describe the specific actions that the State took to verify the correction of findings of noncompliance identified in FFY 2009 (including any revisions to general supervision procedures, technical assistance provided and/or any enforcement actions that were taken):

New York State was successful in verification of correction of findings of noncompliance that were corrected one year from identification of the noncompliance with the exception of 13 findings, which remain uncorrected at the systemic level only. For 10 of the 13 findings, correction was determined subsequent to one year of identification. For 6 of these 10 findings determined based on reviews of 2 different providers, both providers no longer render EI services to children in New York State. These 6 findings are notated with an asterisk on the Indicator # 9 Worksheet that follows this section. All of the findings have been corrected at the individual child level, or the child is no longer in the jurisdiction of the EI program.

New York State has fully implemented its rigorous verification of correction process which consists of the following:

- Identification of findings of noncompliance with IDEA requirements are determined during on-site monitoring reviews conducted by New York State’s contractor;
- All findings of noncompliance are identified and formal reports of findings are issued within 90 days of the on-site review;
- While conducting the on-site review, the contractor determines that each individual case of noncompliance, unless the child is no longer within the jurisdiction of the local program, has been corrected within one year, for example, that the CPSE was notified within 120 days of the child’s potential transition to preschool services; or the child is no longer within the jurisdiction of the EI program;
- Providers who have findings of noncompliance identified, are required to submit a CAP within 45 days of receipt of their monitoring report, which requires all information that is described earlier in this section, including root cause of noncompliance and activities they will implement to correct the noncompliance;
- All CAPs are reviewed and approved by New York State staff within 60 days of receipt, and providers are notified in writing, if their CAP is approved or not;
- Written technical assistance is provided by New York State staff which is included in CAP response letters, as needed;
- Targeted technical assistance is provided via phone call by New York State staff for providers or municipalities who demonstrate difficulty in providing sufficient activities to correct their noncompliance;

- New York State contract staff conduct on-site verification reviews within 60-90 days subsequent to approval of the CAP for those providers with significant findings of noncompliance, to determine if CAP activities have been fully implemented and correction of noncompliance at 100% can be verified;
- New York State also requires submission of a subset of child records within 90-100 days of approval of the CAP, for those providers who have minimal findings of noncompliance, to determine if CAP activities have been fully implemented and correction of noncompliance can be verified at 100%.

As required by OSEP, New York State annually reviews its local data, as generated from KIDS/NYEIS, to detect noncompliance. Although this process is performed annually, local data findings from FFYs 2007, 2008, and 2009 were sent to the local programs in December 2011. Due to the date of notification, these findings are considered FFY 2011 findings and will be addressed in the FFY 2012 APR. Notification of findings based on noncompliance in FFY 2007 and 2008 local data was initially delayed. New York State received technical assistance from DAC and NERCC, including a timeline to notify local programs of these findings. At this point, local data findings have been issued for all possible FFYs, and a timeline has been established to ensure that future local data findings are issued in a timely manner.

New York State's general process for verifying correction of local data findings is:

- Verification of Child-specific Correction - Child-specific noncompliance was verified primarily through the state data system. When a service or IFSP was not provided within the appropriate (30-day and 45-day) timeframe, staff verified through KIDS/NYEIS that the child did receive the service or IFSP within 365 days. In extremely rare cases, direct contact with local program staff was required in order to access information not available through the data system. Noncompliance in Indicator # 8 A-C (transition) is, by definition, identified after the child has left the jurisdiction of the EIP. Therefore it is impossible to correct noncompliance, so child-specific correction is not required for these indicators.
- Verification of Systemic Correction - Local data findings are based on local data measured for a given FFY. Local programs with a rate less than 100% for a compliance indicator are notified in writing of their noncompliance. Local data for subsequent years are checked, and local programs that are found to have a rate of 100% in a subsequent year for that compliance indicator are counted as having corrected the noncompliance. The finding is counted as timely corrected (within one year of notification) if the 100% rate was in any FFY up to one year after the date of notification. The finding is counted as subsequently corrected (i.e. corrected, but not timely) if the local program has a rate of 100% in a later FFY, but had not been timely corrected. If a finding is found to be corrected at one point, but later had a rate less than 100% in a FFY after the correction, the later noncompliance will result in a finding in the FFY in which notification occurred, and will be addressed in the appropriate APR.

Correction of dispute resolution findings of noncompliance was verified at the child-specific and systemic level. A specific due process unit staff person is assigned to investigate the complaint and is often speaking to the complainant throughout the investigation. Specific child related issues are usually resolved immediately, occurring at the beginning of a complaint investigation. Parents are also informed of the right to request mediation and/or an impartial hearing to resolve issues which are in dispute. When noncompliance is identified through a system complaint investigation, a final response letter, issued to the complainant and all identified parties, identifies specific actions which must be taken to correct items of noncompliance and steps to ensure continued compliance. A staff person is responsible for ensuring that municipalities and providers submit a CAP within 30 days of the letter of findings. Requests and responses are tracked in a system complaint CAP tracking system. A reminder system is in place to signal the approach of the 30 day timeline. A staff person assists the submitter of the CAP during the development of the CAP. If the CAP is received, but is deficient in some aspects, staff notifies the provider or municipality of the specific areas that the CAP is deficient, requests that a supplemental CAP

be submitted and provides technical assistance until the plan is acceptable. The plans are designed to correct an immediate situation and prevent future reoccurrence. Requirements in a CAP are designed to include changes in policy & procedure, attendance at training offered by BEI, immediate and on-going staff training, and documentation through data runs that change has occurred. There may be responses that require the submission of data or records documenting implementation over a six month period of time until BEI is satisfied change has occurred.

Additionally, outcomes of a system complaint investigation are shared with the BEI Quality Assurance Unit and with municipalities who contract with providers for the provision of EI services. Based on the on-site monitoring schedule, New York State's contractor is provided with a summary of a system complaint, if that provider has an upcoming monitoring review scheduled. New York State's monitoring contractor ensures that compliance has been achieved and reports this data back to New York State staff. If a systems complaint involves multiple significant issues or if a provider or municipality is the subject of multiple complaints, a request may be made to prioritize the subject for a monitoring visit. If the subject has been monitored prior to the instances leading to the complaint, a follow-up monitoring visit may be requested. If no monitoring visit is scheduled, other verification of correction methods are utilized, including review of a subset of additional child records that are requested and/or other relevant documentation and/or through interviews with providers, municipalities and parents.

Actions Taken if Noncompliance Not Corrected:

The remaining 3 findings of noncompliance that have not yet been corrected, at the systemic level, are based on the reviews of 3 different providers. New York State has implemented the following to pursue correction of noncompliance:

- Additional technical assistance has been provided by New York State Staff, based on the specific finding of noncompliance. Technical assistance included working with the provider to determine what the root cause of the noncompliance was, and to provide strategies that the provider can implement to correct these findings at the systemic level;
- A second verification on-site review will be required subsequent to technical assistance provided to determine correction of noncompliance at 100%, or submission of additional and more current child records may be required for review;
- Egregious and ongoing noncompliance may be handled by withholding administrative funds, if a provider continues to have long standing noncompliance and has demonstrated minimal effort to implement activities to correct the noncompliance.

Correction of Remaining FFY 2008 Findings of Noncompliance

New York State fully implemented a rigorous verification of correction of noncompliance process, as detailed above, and which also included requirement of self assessments completed by municipalities who were unable to correct noncompliance identified within one year, on-site verification reviews of providers and municipalities who also were unable to correct noncompliance within one year and required submission of child records from both municipalities and providers. Additionally, targeted technical assistance was provided to those entities that had difficulty achieving correction of longstanding noncompliance. These efforts ensured that of the outstanding findings of noncompliance, which included 112 findings from on-site provider and municipal monitoring, all outstanding findings have been corrected as of January 10, 2012. New York State has diligently worked with New York City, to verify correction of their findings of noncompliance. New York State staff conducted targeted technical assistance with NYC EIP on four separate occasions and required them to submit three subsamples of child records on three different occasions of current children enrolled in the EI system. The child records were reviewed by staff

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and most recently determined that correction was achieved for timely notification to the CPSE of a child's potential eligibility to preschool services.

Local Data Findings

For Indicators # 1, 7, 8 A-C, there were 96 total findings of noncompliance based on local data in FFY 2008 that remained uncorrected as of the FFY 2009 APR. Eight of these findings have been verified as subsequently corrected (i.e. they were corrected, but not within one year of notification). Correction is verified by a local program demonstrating 100% compliance based on a subsequent year's local data. The remaining 88 FFY 2008 local data findings remain uncorrected at this time. They will continue to be tracked and their status will be reported in a future APR.

At the time that the FFY 2007 and FFY 2008 findings were issued, guidance on what was considered a finding, how and when notification should take place, and what was required to verify correction was not available. Specifically, it was not clear that findings to the same local program for the same issue in the subsequent FFY were not required to be reissued. As a result, New York State reissued many "duplicate" local data findings (findings to the same local program for the same issue) in FFYs 2007 and 2008.

Of the 88 outstanding FFY 2008 local data findings for Indicators # 1, 7, and 8 A-C, 85 are duplicative with the 89 FFY 2007 local data findings. As a result, it appears that New York State has 177 uncorrected local data findings between FFYs 2007 and 2008 if the duplicated findings are not removed. In fact, New York State actually has only 92 unduplicated local data findings from FFYs 2007 and 2008, along with 1 unduplicated due process finding from FFY 2007 which remain uncorrected as of this APR.

Correction of Remaining FFY 2007 Findings of Noncompliance

For Indicators # 1, 7, and 8 A-C, there were 92 total findings of noncompliance based on local data in FFY 2007 that remained uncorrected as of the FFY 2009 APR. Three of these findings have been verified as subsequently corrected (i.e. they were corrected, but not within one year of notification). Correction is verified by a local program demonstrating 100% compliance based on a subsequent year's local data. The remaining 89 FFY 2007 local data findings remain uncorrected at this time. They will continue to be tracked and their status will be reported in a future APR.

The FFY 2007 due process finding that remains uncorrected as of the FFY 2010 APR will continue to be tracked, and will be reported on in future a APR. The local program continues to address their transition issues.

At the time that the FFY 2007 and FFY 2008 findings were issued, guidance on what was considered a finding, how and when notification should take place, and what was required to verify correction was not available. Specifically, it was not clear that findings to the same local program for the same issue in the subsequent FFY were not required to be reissued. As a result, New York State reissued many "duplicate" local data findings (findings to the same local program for the same issue) in FFYs 2007 and 2008.

Of the 88 outstanding FFY 2008 local data findings for Indicators # 1, 7, and 8 A-C, 85 are duplicative with the 89 FFY 2007 local data findings. As a result, it appears that New York State has 177 uncorrected local data findings between FFYs 2007 and 2008 if the duplicated findings are not removed. In fact, New York State actually has only 92 unduplicated local data findings from FFYs 2007 and 2008, along with 1 unduplicated due process finding from FFY 2007 which remain uncorrected as of this APR.

Additional Information Required by the OSEP APR Response Table for this Indicator (if applicable):

| Statement from the Response Table | State's Response |
|-----------------------------------|------------------|
|-----------------------------------|------------------|

| Indicator/Indicator Clusters General Supervision System Components | # of Local Programs Issued Findings in FFY 2009 (7/1/09 to 6/30/10) | (a) # of Findings of noncompliance identified in FFY 2009 (7/1/09 to 6/30/10) | (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 verified later than one year from identification |
|--|--|--|--|---|
| 1. Percent of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner. (PI24) | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Monitoring 1 | Provider Monitoring 1 | Provider Monitoring 1 | Provider Monitoring 0 |
| Dispute Resolution: Complaints, Hearings | System Complaints 2 | System Complaints 2 | System Complaints 2 | System Complaints 0 |
| 2. Percent of infants and toddlers with IFSPs who primarily receive early intervention services in the home or community-based settings | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | | | | |
| Dispute Resolution: Complaints, Hearings | | | | |
| 3. Percent of infants and toddlers with IFSPs who demonstrate improved outcomes | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | | | | |
| Dispute Resolution: Complaints, Hearings | | | | |

| | | | | |
|--|--------------------------|--------------------------|--------------------------|---------------------------|
| 4. Percent of families participating in Part C who report that early intervention services have helped the family | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | | | | |
| Dispute Resolution: Complaints, Hearings | | | | |
| 5. Percent of infants and toddlers birth to 1 with IFSPs | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | | | | |
| Dispute Resolution: Complaints, Hearings | | | | |
| 6. Percent of infants and toddlers birth to 3 with IFSPs | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | | | | |
| Dispute Resolution: Complaints, Hearings | | | | |
| 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. (PI14) | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Monitoring 7 | Provider Monitoring 7 | Provider Monitoring 6 | Provider Monitoring 1* |
| Dispute Resolution: Complaints, Hearings | | | | |

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; (PI27)

| | | | | |
|--|--------------------------|--------------------------|--------------------------|---------------------------|
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Monitoring 8 | Provider Monitoring 8 | Provider Monitoring 6 | Provider Monitoring 2* |
| Dispute Resolution: Complaints, Hearings | | | | |

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:
B. Notification to LEA, if child potentially eligible for Part B

| | | | | |
|--|--|--|--|--|
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | | | | |
| Dispute Resolution: Complaints, Hearings | | | | |

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:
C. Transition conference, if child potentially eligible for Part B.

| | | | | |
|--|--|--|--|--|
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | | | | |
| Dispute Resolution: Complaints, Hearings | | | | |

| | | | | |
|--|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| Other Areas of Noncompliance: | | | | |
| PI12- With parental consent, the evaluator reviewed pertinent records related to the child's current health status and medical history as part of the multidisciplinary evaluation. | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Monitoring 1 | Provider Monitoring 1 | Provider Monitoring 1 | Provider Monitoring 0 |
| Dispute Resolution: Complaints, Hearings | | | | |
| Other Areas of Noncompliance: | | | | |
| PI18 -Parents were offered the opportunity to participate in the family assessment. | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Monitoring 15 | Provider Monitoring 15 | Provider Monitoring 13 | Provider Monitoring 2* |
| Dispute Resolution: Complaints, Hearings | | | | |
| Other Areas of Noncompliance: | | | | |
| PI23– The evaluator or knowledgeable representative participated in the IFSP meeting. | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Monitoring 8 | Provider Monitoring 8 | Provider Monitoring 8 | Provider Monitoring 0 |
| Dispute Resolution: Complaints, Hearings | | | | |
| Other Areas of Noncompliance: | | | | |
| PI25– The ongoing service coordinator coordinated and monitored delivery of services. | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Monitoring 1 | Provider Monitoring 1 | Provider Monitoring 0 | Provider Monitoring 1* |

APR Template – Part C (4)

New York
State

| | | | | |
|---|--|--|--|--|
| Dispute Resolution: Complaints, Hearings | | | | |
|---|--|--|--|--|

| | | | | |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| Other Areas of Noncompliance: | | | | |
| PI34 – The provider participated in the development of the IFSP. | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Monitoring 5 | Provider Monitoring 5 | Provider Monitoring 5 | Provider Monitoring 0 |
| Dispute Resolution: Complaints, Hearings | | | | |
| Other Areas of Noncompliance: | | | | |
| PI15-The multidisciplinary evaluation included an evaluation of the child’s functioning in all five developmental domains using informed clinical opinion and age appropriate instruments and procedures. | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Monitoring 4 | Provider Monitoring 4 | Provider Monitoring 3 | Provider Monitoring 0 |
| Dispute Resolution: Complaints, Hearings | | | | |
| Other Areas of Noncompliance: | | | | |
| PI36 – All early intervention service coordinators shall fulfill those functions and activities necessary to assist and enable an eligible child and parent to receive the rights, procedural safeguards and services that are authorized to be provided under State and federal law, including other services not required under EI, but for which the family may be eligible. | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Monitoring 4 | Provider Monitoring 4 | Provider Monitoring 4 | Provider Monitoring 0 |
| Dispute Resolution: Complaints, Hearings | | | | |

APR Template – Part C (4)

New York
State

| | | | | |
|--|----------------------------|----------------------------|----------------------------|--------------------------|
| <p>Other Areas of Noncompliance: PI42 - Requirements of Title 34 of Code of Federal regulations and other legal requirements for confidentiality were followed.</p> | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Monitoring 265 | Provider Monitoring 265 | Provider Monitoring 265 | Provider Monitoring 0 |
| Dispute Resolution: Complaints, Hearings | | | | |
| <p>Other Areas of Noncompliance: PI 45– Providers maintain current appropriate license and certification as qualified personnel to provider EI services.</p> | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Monitoring 29 | Provider Monitoring 29 | Provider Monitoring 29 | Provider Monitoring 0 |
| Dispute Resolution: Complaints, Hearings | | | | |
| <p>Other Areas of Noncompliance: PI41 – The provider delivered services as authorized in the IFSP.</p> | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Monitoring 5 | Provider Monitoring 5 | Provider Monitoring 5 | Provider Monitoring 0 |
| Dispute Resolution: Complaints, Hearings | | | | |
| <p>Other Areas of Noncompliance: PI20-The Evaluation report and summary includes services appropriate to meet the child’s unique needs.</p> | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or | Provider Monitoring 9 | Provider Monitoring 9 | Provider Monitoring 5 | Provider Monitoring 2 |

APR Template – Part C (4)

New York
State

| | | | | |
|--|--|--|--|--|
| Other | | | | |
| Dispute Resolution: Complaints, Hearings | | | | |
| Other Areas of Noncompliance: Part 303.17- Multidisciplinary means involvement of two or more disciplines or professions in the provision of integrated and coordinated services, including evaluation and assessment activities and development of the IFSP. | | | | |
| Monitoring Activities: Self-Assessment/ Local APR, Data Review, Desk Audit, On-Site Visits, or Other | Provider Evaluation Desk Audit 3 | Provider Evaluation Desk Audit 3 | Provider Evaluation Desk Audit 1 | Provider Evaluation Desk Audit 2 |
| Dispute Resolution: Complaints, Hearings | | | | |

| | | | |
|--|---|--|---------------------------|
| | | | |
| Sum the numbers down by column (a - c) | Provider Monitoring 365 System Complaints 2 | Provider Monitoring 352 System Complaints 2 | Provider Monitoring 10 |
| Percent of noncompliance corrected within 1 year of identification [(b) / (a) x 100] | 96.45% | | |

Notes: *These findings that were verified as corrected are based on two provider agencies that have discontinued providing EI services to children.

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

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.

| FFY | Measurable and Rigorous Target |
|--------------------------------------|--|
| FFY 2010 (2010 - 2011) | 100% of all systems complaints filed will be completed within the federally required 60-day time line |

Actual Target Data for FFY 2010:

91.6% (22 out of 24) 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.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

After demonstrating two straight years of 100% compliance, NYS experienced an 8.4% slippage. Although there was slippage, the system complaint cases not completed within the 60 day timeline are completed: 1 complaint was late by 20 calendar days and one complaint was late by 5 calendar days

During FFY 2010, NYS received thirty-one system complaints of which seven complaints were withdrawn. This is a 72.2% increase of received complaints compared to FFY 2009. During FFY 2010, twenty-four complaint investigations were completed and a report issued. This is a 71.4% increase in complaint investigations compared to FFY 2009. NYS will be undertaking a project to determine the root cause of the increase in mediation and impartial hearing requests, we anticipate that information from that project will help inform NYS as to the reasons for the increase in complaints; however, we do not anticipate focusing on the root cause of complaints during FFY 2011.

Three complaints had their timeline extended for exceptional circumstances. All involved extensive investigation and the necessity to coordinate a response with a relevant CAP. Specific child related issues were resolved within the 60 day period but due to the complexity of the complaints the timelines were extended. All three complaints involved allegations against medium to large volume municipalities, with complex allegations or issues to investigate, numerous interviews that needed to be completed, and a comprehensive review of policies and procedures and child records.

Under state public health law and regulations the Department 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 with service coordinators and early intervention officials having the 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 process to assure the timely completion of complaint investigations. The procedure ensures that all allegations are addressed, that a report is issued, and if a CAP is necessary that it is received, is appropriate and is implemented.

To ensure coverage, all involved investigative staff from the due process unit is capable of assuming each others' responsibilities as the need arises, however, specific responsibilities are initially assigned to individual staff. NYS continues to recognize the need for support staff back-up and maintains backup staff availability when needed. Two staff persons are now available for investigating system complaints with one additional staff person available, if circumstances warrant. 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.

NYS anticipates that it will meet the 100% target for FFY 2011.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010:

Improvement activities for this indicator were reviewed, and no changes were found to be needed at this time.

These activities will be monitored in conjunction with performance, and will be considered for future modification if necessary.

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

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.

| FFY | Measurable and Rigorous Target |
|----------------------------------|---|
| FFY 2010 (2010 - 2011) | N/A. There were no fully adjudicated hearings to report for this reporting period. |

Actual Target Data for FFY 2010:

There were no fully adjudicated hearings to report for this reporting period.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

There were no fully adjudicated hearings for this reporting period. There were fifty-one hearing requests of which fifty-one were resolved without a hearing.

This is a 264.29% increase of received due process hearing requests compared to FFY 2009.

The 264.29% increase in hearing requests can possibly be attributed to a heightened awareness of parental due process rights. During FFY 2011, NYS will analyze this trend to determine the root cause of this increase. 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.

To ensure impartiality of hearing officers, the NYS Division of Legal Affairs, Bureau of Adjudication provides administrative law judges for early intervention hearings. To ensure that decisions are

consistent with IDEA, federal and state regulations, BEI and the Bureau of Adjudication hold joint trainings for the administrative law judges, provide regulations, and other guidance letters and documents.

Requests for impartial hearings are submitted by families to the BEI Director using a form letter contained in the EIP's Parent Guide. The request is then referred to the Bureau of Adjudication, which assigns an Administrative Law Judge. The notice of hearing provides parents with information regarding the availability of mediation. Consistent with federal Part C requirements, all due process hearing requests are to be fully adjudicated within the federally required 30 day time frame. The early intervention official and service coordinator are responsible for modifying the IFSP no later than five working days after receipt of the written or oral decision, whichever is issued sooner.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010:

Improvement activities for this indicator were reviewed, and no changes were found to be needed at this time. These activities will be monitored in conjunction with performance, and will be considered for future modification if necessary.

During FFY 2009, NYS received 14 impartial hearing requests and in the 2010-2011 program year received 51 impartial hearing requests. Along with a noticeable increase in requests from one program year to the next, NYS noticed that a large percentage of impartial requests are ultimately withdrawn prior to being fully adjudicated. NYS will initiate a project to determine the root cause of this trend. We anticipate the project assistance of a Maternal and Child Health graduate student, from the University of Albany School of Public Health. Recommendations from this project will be evaluated, and will potentially be implemented to revise the existing processes of the NYS dispute resolution system.

Part C State Annual Performance Report (APR) for FFY 2009

Overview of the Annual Performance Report Development:

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)

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

| FFY | Measurable and Rigorous Target |
|--------------------------------------|--------------------------------|
| FFY 2010 (2010 - 2011) | n/a |

Indicator # 12 does not apply to New York State.

Actual Target Data for FFY 2010:

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010:

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

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.

| FFY | Measurable and Rigorous Target |
|--------------------------------------|--|
| FFY 2010 (2010 - 2011) | 82% of mediation requests will result in mediation agreements |

Actual Target Data for FFY 2010:

94.89% (130 out of 137) of mediations held resulted in mediation agreements.

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

The FFY 2010 target of 82% was met.

During FFY 2010, there were 208 requests for mediation and, of those, 71 (34.13%) requests were withdrawn. Of the remaining 137 requests, 130 (94.89%) reached agreement.

There is a significant increase (144.7%) in the number (208) of mediations requested during FFY 2010 from the number (85) requests during FFY 2009.

There is a significant increase (195.8%) in the number (71) of mediations not held during FFY 2010 from the number (24) not held during FFY 2009.

There is a significant increase (158.49%) in the number (137) of mediations held during FFY 2010 from the number (53) mediation held during FFY 2009.

The increase in mediation requests can possibly be attributed to a heightened awareness of parental due process rights. During FFY 2011, NYS will analyze this trend to determine the root cause of this increase. 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, the Department 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 statewide mediation system. One staff person is assigned this responsibility. All staff involved in the due process unit is capable of assuming each other's responsibilities as the need arises, however, specific responsibilities are initially assigned to individual staff. The Department has found this to be an effective way to assure the timely resolution of mediation requests.

NYS has a process in place for a timely review of mediation agreements and IFSP to ensure that the terms of the agreement are incorporated into the IFSPs within five working days of the receipt of the written agreement. Each county is responsible for providing BEI with the needed information. Additionally, BEI reviews mediation reports and data from NYSDRA to ensure that mediations are completed within 30 calendar days of the receipt of the request for mediation by the community dispute resolution center.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010:

Improvement activities for this indicator were reviewed, and no changes were found to be needed at this time. These activities will be monitored in conjunction with performance, and will be considered for future modification if necessary.

During FFY 2009, NYS received 85 mediation requests and in the 2010-2011 program year received 208 mediation requests. Along with a noticeable increase in requests from one program year to the next, NYS noticed that a large percentage of mediation requests are ultimately withdrawn. NYS will initiate a project to determine the root cause of this trend. We anticipate the project assistance of a Maternal and Child Health graduate student, from the University of Albany School of Public Health. Recommendations from this project will be evaluated, and will potentially be implemented to revise the existing processes of the early intervention dispute resolution system. This evaluation will be based on the feasibility of implementing the recommendations, as well as the expected improvement to the efficiency and effectiveness of the NYS dispute resolution system.

Part C State Annual Performance Report (APR) for FFY 2010

Overview of the Annual Performance Report Development:

Monitoring Priority: Effective General Supervision Part C / General Supervision

Indicator 14: State reported data (618 and SPP and APR) are timely and accurate.

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

Measurement: State reported data, including 618 data, SPP, and APR, are:

- a. Submitted on or before due dates (February 1 for child count and settings and November 1 for exiting and dispute resolution); and
- b. Accurate, including covering the correct year and following the correct measurement.

States are required to use the “Indicator 14 Data Rubric” for reporting data for this indicator (see Attachment B).

| FFY | Measurable and Rigorous Target |
|--------------------------------------|--------------------------------|
| FFY 2010 (2010 - 2011) | 100% |

Actual Target Data for FFY 2010:

100% of the data, including 618 data, the SPP, and the APR were submitted on time and were accurate.

Regarding the collection and reporting of valid, reliable data, all data provided in the indicated SPP, APR, and 618 tables:

- cover the correct time period
- are consistent with the specified measurement
- are consistent within and between data sources
- are consistent with prior year’s data, or have differences from prior year’s data explained
- use the correct calculation, per OSEP’s instructions
- include all required data for all programs
- passed all edit checks
- included written explanation of significant year-to-year changes to be included as data notes

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

| 2010 SPP/APR Data - Indicator 14 | | | |
|----------------------------------|---|---------------------|-----------|
| APR Indicator | Valid and Reliable | Correct Calculation | Total |
| 1 | 1 | 1 | 2 |
| 2 | 1 | 1 | 2 |
| 3 | 1 | 1 | 2 |
| 4 | 1 | 1 | 2 |
| 5 | 1 | 1 | 2 |
| 6 | 1 | 1 | 2 |
| 7 | 1 | 1 | 2 |
| 8a | 1 | 1 | 2 |
| 8b | 1 | 1 | 2 |
| 8c | 1 | 1 | 2 |
| 9 | 1 | 1 | 2 |
| 10 | 1 | 1 | 2 |
| 11 | 1 | 1 | 2 |
| 12 | N/A | N/A | 0 |
| 13 | 1 | 1 | 2 |
| | | Subtotal | 28 |
| APR Score Calculation | Timely Submission Points - If the FFY 2010 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) = | | 33 |

| 618 Data - Indicator 14 | | | | | |
|--|--------|---------------|--|---------------------------------|-------|
| Table | Timely | Complete Data | Passed Edit Check | Responded to Data Note Requests | Total |
| Table 1 - Child Count Due Date: 2/2/11 | 1 | 1 | 1 | 1 | 4 |
| Table 2 - Program Settings Due Date: 2/2/11 | 1 | 1 | 1 | 1 | 4 |
| Table 3 - Exiting Due Date: 11/2/11 | 1 | 1 | 1 | N/A | 3 |
| Table 4 - Dispute Resolution Due Date: 11/2/11 | 1 | 1 | 1 | N/A | 3 |
| | | | | Subtotal | 14 |
| 618 Score Calculation | | | Grand Total (Subtotal X 2.5) = | | 35 |

| Indicator #14 Calculation | |
|--|--------------|
| A. APR Grand Total | 33.00 |
| B. 618 Grand Total | 35.00 |
| C. APR Grand Total (A) + 618 Grand Total (B) = | 68.00 |
| Total NA in APR | 2.00 |
| Total NA in 618 | 0.00 |
| Base | 68.00 |
| D. Subtotal (C divided by Base*) = | 1.000 |
| E. Indicator Score (Subtotal D x 100) = | 100.0 |

*Note any cell marked as N/A will decrease the denominator by 1 for APR and 2.5 for 618

Discussion of Improvement Activities Completed and Explanation of Progress or Slippage that occurred for FFY 2010:

New York State continues to report 100% compliance with this Indicator.

APR Template – Part C (4)

New York
State

a. State reported data, including 618 data, the SPP, and the APR, 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 (FFY 2010) as follows:

| | | |
|------------------------------|----------------------|----------------------------|
| Table 1 (child count) | Due February 1, 2011 | Submitted February 1, 2011 |
| Table 2 (settings) | Due February 1, 2011 | Submitted February 1, 2011 |
| Table 3 (exiting) | Due November 1, 2011 | Submitted November 1, 2011 |
| Table 4 (dispute resolution) | Due November 1, 2011 | Submitted November 1, 2011 |
| State Performance Plan | Due February 1, 2012 | Submitted February 1, 2012 |
| Annual Performance Report | Due February 1, 2012 | Submitted February 1, 2012 |

In addition, New York State responded to all requests from the DAC for data notes in the preparation and submittal of its 618 reports for FFY 2010.

b. State reported data, including 618 data, SPP, and APR, are accurate, including covering the correct year and following the correct measurement.

Regarding the collection and reporting of accurate, complete data:

- KIDS contains numerous required fields that generate prompts and require the user to include data before moving off the screen. The system 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 the regular data submissions from local programs. Table sizes are checked for missing data and data entry backlogs. Independent matching occurs to detect dropped records from previous submissions. 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.
- As of December 2011, NYEIS has been successfully deployed in all but two local programs and NYEIS is expected to launch in these two programs in January 2012. NYEIS is a state-of-the-art, web-based data system, which has extensive edits and internal controls for the purpose of ensuring data integrity. In addition, NYEIS captures additional data elements that were not previously available in KIDS, which will allow for more thorough data validation and more detailed root cause analysis. In addition, NYEIS captures transition data for all children, which will eventually allow Indicators # 8 A-C to be calculated based on the entire population, rather than by using a monitoring/sampling approach.
- The Department directed its monitoring contractor, as part of its on-site 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 CAPs and correct data

as appropriate. The State monitors the implementation of the CAPs to ensure that the local program corrects the data and improves 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.
- For Indicators # 8 A-C a self-assessment by the local programs for FFY 2010 was used to collect the necessary data. Thorough technical assistance was provided to the local programs on use of the self assessment tool. Customized technical assistance was made available on an as-needed basis to local programs with questions or problems during their self-assessment. All returned data underwent rigorous analysis for inconsistent or questionable responses; any responses that did not pass the extensive edits were reviewed and reconciled with the local program.

Revisions, with Justification, to Proposed Targets / Improvement Activities / Timelines / Resources for FFY 2010:

None

APR Template – Part C (4)

New York
State

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