

# State Performance Plan

## Indicator 16: Mediation



### Description of Stakeholder Engagement Activities and Results:

The New York State Education Department (NYSED) is currently developing the State Performance Plan/Annual Performance Report (SPP/APR) for the new six-year cycle for federal fiscal year (FFY) 2020-2025. NYSED obtained stakeholder input using two central approaches:

- Broad public engagement and input through online surveys between October and November 2021; and
- Virtual meetings with stakeholder groups in November 2021.

The Office of Special Education (OSE) created a [Stakeholder Involvement](#) webpage with SPP/APR resources to promote feedback and engagement. This included a message from New York State Board of Regent member, Regent Cea, about the [SPP Stakeholder Meetings](#), an [SPP Stakeholder Invitation Letter](#), [At-a-Glance State Performance Plan Summary of Indicators 1-17](#), [Getting to Know New York's SPP/APR Handout](#), and SPP/APR FFY 2020-2025: [General Overview Presentation](#).

For Indicator 16, the OSE created the following resources designed to engage stakeholders and build capacity in data analysis, evaluating progress in meeting New York State targets, the consideration of existing improvement activities, and the development of potential new improvement activities:

#### Resource Links

##### [Indicator 16: Mediation Agreement Handout](#)

*A summary of the data used to measure this Indicator and existing and proposed improvement activities.*

##### [Introduction](#)

*An overview of frequently used terms and key information regarding mediation in New York State.*

##### [Measurement](#)

*A description of how this indicator is measured.*

##### [Data](#)

*Past trend data of reported mediation agreement performance from New York State, comparable states, and national data to evaluate New York State's progress in this Indicator.*

##### [Improvement Activities](#)

*Presentation of NYSED's current and proposed improvement strategies for Indicator 16.*

##### [Target Setting](#)

*Presentation of NYSED's proposed Indicator 16 targets and methodology used to establish baseline and targets.*

##### [Closing](#)

*Additional resources to provide feedback and to evaluate school district performance on this Indicator.*

# Soliciting Public Input:

## *Virtual Stakeholder Meetings*

Five virtual stakeholder meetings were held for Indicator 16. Meetings occurred both during the day and in the evening to accommodate different schedules. A total of 43 stakeholders participated in the meeting, including 12 parents. The meetings included an overview of the SPP/APR and viewing of the pre-recorded webinar modules. Each session sought stakeholder feedback on the trend data and how to use this data to evaluate New York State's progress to inform target-setting and improvement activities including what activities could be installed, maintained, or strengthened to address improvements in the use of mediation and mediation outcomes and whether the proposed SPP targets for Indicator 16 were rigorous and attainable.

## *Online Survey*

Between October to November 2021, a total of 44 stakeholders completed the online survey for Indicator 16. The Indicator 16 online survey sought stakeholder feedback to evaluate the effectiveness of potential new improvement activities in increasing the number and quality of mediations held and whether the proposed SPP targets for Indicator 16 were rigorous and attainable.

Themes of the stakeholder feedback received in the virtual meetings and online surveys on Indicator 16 included:

- The importance of increasing public awareness and outreach to districts, parents and parent advocates regarding the benefits, effectiveness and availability of special education mediation.
- The importance of increasing training to Committee on Preschool Special Education (CPSE) and Committee on Special Education (CSE) Chairpersons regarding the benefits, effectiveness and availability of special education mediation.
- The necessity of increasing efforts to ensure that parents with language barriers have equal access to mediation as a dispute resolution option.
- The need to promote awareness of the differences between impartial hearings and mediation and encourage mediation as an initial dispute resolution option.
- The use of data to better evaluate the performance of the Community Dispute Resolution Centers (CDRCs) and lead to focused training opportunities.

Following the collection of stakeholder feedback from the online survey and virtual meetings, internal workgroups comprised of NYSED OSE and Information and Reporting Services staff reviewed stakeholder responses to identify where recommendations for target-setting and/or improvement strategies could be amended to better align with the input received from parents, school administrators, educators, mediators, advocacy organizations, community members and other interested parties. The results of the OSE's incorporation of stakeholder feedback and evaluation

## Stakeholder Meetings and Online Survey

Five virtual stakeholder meetings were held to discuss Indicator 16

Nov. 3<sup>rd</sup> 9:00 – 11:30 AM

Nov. 10<sup>th</sup> 9:00 – 11:30 AM

Nov. 10<sup>th</sup> 6:00 – 8:30 PM

Nov. 18<sup>th</sup> 1:00 – 3:30 PM

Nov. 18<sup>th</sup> 6:00 – 8:30 PM

A total of 43 stakeholders participated in the meetings, including 12 parents.

An online survey was published to collect stakeholder feedback over a six-week period.

A total of 44 stakeholders completed an online survey, including 14 parents.

NYSED values its partnership with parents and other key stakeholders in our ongoing efforts to improve outcomes for students with disabilities throughout New York State. Thank you to all who participated in a meeting or survey.

of Indicator 16 progress with stakeholders is reflected in NYSED's 2020-2025 SPP/APR targets and OSE's development of improvement strategies as summarized further in this report.

## Feedback on Improvement Strategies:

Following the evaluation of Indicator 16 trend data (past targets and performance), stakeholder presentations included a description of improvement strategies with requested feedback on what activities should be considered, maintained, or strengthened to address improvements in Indicator 16 and increase the quantity and quality of mediations held. The presented information and solicited feedback from a variety of stakeholders, including parents and educators, is intended to increase the number of mediations, improve outcomes and meet the objectives of Indicator 16.

## Improvement Strategies Presented:

*Existing Improvement Activities to Improve Indicator 16 Outcomes:* the OSE presentation included a summary of current improvement activities such as the awarding of two contracts to promote the use of mediation, provide more rigorous training to mediators on special education requirements, and collect and report mediation data; a shift in outreach efforts to a systemic approach using Statewide data to pinpoint specific regions and districts in need of support; the development of a new mediation brochure; a May 2019 Compliance Assurance Plan developed for the New York City Department of Education in which the district identified a plan for increased use of mediation; and a list of documents available on the OSE website, including a sample mediation request form, which provides information about mediation.

*Potential New Improvement Strategies to Improve Indicator 16 Outcomes:* the OSE presented eight potential new improvement activities for stakeholder consideration. These include allowing attorney fees to be mediated, allowing co-mediation as a training tool for new mediators, extending stay-put/pendency protection to mediation, removing the regulatory requirement that disputes at the sub-committee level must be heard at the committee level prior to engaging in mediation, and revising the legal and regulatory requirement that an Individualized Education Program (IEP) be amended when a mediation agreement is reached. In addition, three of the eight items focus on training and professional development including collecting data to help evaluate each CDRC's performance which could lead to more focused mediator trainings, providing training to CPSE and CSE Chairpersons on the use of mediation as a dispute resolution option, and providing training to parents, parent advocates and districts on the benefits of mediation.

## Stakeholder Feedback on Improvement Strategies:

Participants of the virtual meetings and online survey were asked to indicate which proposed improvement activities would be most likely to increase the quantity and the quality of mediations held. The majority of stakeholders, 90 percent of virtual meeting participants and 70 percent of survey respondents, agreed that increasing training to districts, parents, and parent advocates on the requirements and benefits of mediation would be the most effective improvement strategy for the OSE to consider. In addition, 83 percent of virtual meeting participants and 73 percent of online survey respondents indicated that providing training to district CPSE and CSE Chairpersons on the use of mediation as a dispute resolution option would also be a highly valued improvement strategy.

Both online survey participants and virtual meeting participants supported all potential new improvement activities for increasing the *number* of mediations held, with additional support from stakeholders for:

1. Revising the legal and regulatory requirement that an IEP be amended by the CPSE or CSE when a mediation agreement is reached; and
2. Removing the regulatory requirement that disputes at the sub-committee level must be heard at the committee level prior to engaging in mediation.

Both online survey participants and virtual meeting participants supported all potential new improvement activities for increasing the *quality* of mediations held, with additional support from stakeholders for:

1. Allowing co-mediation as a training tool for new special education mediators; and
2. Re-evaluating the types of data collected to better serve the Community Dispute Resolution Centers' (CDRCs') performance and lead to more focused training opportunities.

In addition to the improvement activities presented, stakeholders provided the following for consideration:

- Ensure that all participants in mediation have the authority to enter into agreements.
- Use mediators for IEP meetings and resolution meetings.
- Ensure parents and districts know they can request mediation at any time during an impartial hearing.
- Require school districts to report the number of requests for mediation and encourage districts to use the process more frequently.

**Stakeholder responses will be used by the OSE to identify priority areas for improvement and assist in the development of the strategies that will be implemented to promote the quantity and quality of mediations held and meet performance objectives for Indicator 16 in the 2020-2025 SPP/APR.**

## Responses on Indicator 16 Targets:

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[Indicator 16 Target Setting](#): NYSED proposed the following baseline and targets for Indicator 16:

| Baseline<br>FFY 2019 | FFY       | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 |
|----------------------|-----------|------|------|------|------|------|------|
| 83.33%               | Target >= | 83%  | 83%  | 85%  | 85%  | 88%  | 88%  |

A majority of stakeholders (64.15 percent of received responses) agreed that the Indicator 16 proposed recommended targets were “just right.” **The New York State 2020-2025 SPP/APR will reflect the proposed Indicator 16 targets as the final targets.**