

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: :

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. 6

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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:

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