

**ANALYSIS OF 2005-2006  
APRs Indicators 16, 17 and 19  
and  
SPP Indicator 18**

CADRE

Richard Zeller, Aimee Taylor, Phil Moses, Anita Pierce, John Reiman & Marshall Peter

This document summarizes 2005-06 State Annual Performance Reports for the dispute resolution indicators under Part B. These include:

- APR Indicator 16: 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.
- APR Indicator 17: Percent of fully adjudicated due process hearing requests that were fully adjudicated within the 45-day timeline or a timeline that is properly extended by the hearing officer at the request of either party.
- SPP Indicator 18: Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements.
- APR Indicator 19: Percent of mediations held that resulted in mediation agreements.

**METHODOLOGY:**

CADRE compiled from each state report either verbatim or edited text explaining system structure and comments regarding baseline, target achievement and explanations of progress or slippage, as well as discernible improvement strategies. Information was compiled only from the APR for the APR indicators. Thus, improvement strategies referenced in the APR to the SPP without any other explanation may not be reflected in this summary.

Five individuals were involved in compiling the data. As a check on reliability, about 20% of the state reports were reviewed by two raters and their results compared. The criteria for agreement was (1) whether the content as a whole was accurately reflected and (2) whether the improvement strategies for a given indicator resulted in the same strategy coding. Reliability for content and improvement coding of strategies averaged about 90%. Coding for SPP revisions reported, baseline and targets was more than 95%. We believe that this process ensured reasonably reliable coding of each indicator within states. Differences in how states report (e.g., paragraph form without clear reference to individual activities or strategies vs. table-based activity lists and reports)

make it difficult to compile comparable summaries across states. Reviewers attempted to ensure that any improvement strategy reported or strongly implied was reflected in the summary.

The numbers recorded for this summary are from the text section of the APR. The numbers states report in the text of the APR and SPP are not necessarily the same as the numbers reported in Table 7. As of this writing, CADRE is still working with states to verify data reported in Table 7.

## SUMMARY AND ANALYSIS:

### Baseline Data, Targets and Performance

#### Timeliness of complaint investigations and due process hearings

All states established 100% targets for both of these indicators. Of the 60 states and other entities reporting, 54 states (90%) reported Indicator 16 (complaints) performance data from 2005-06. Only 25 states/entities (42%) reported change data from 2004-05 to 2005-06. For Indicator 17 (due process), of the 60 states reporting, 52 (87%) states reported indicator performance for 2005-06, with only 21 states/entities (37%) providing 2004-05 baseline data. Table 1 displays the ranges of performance on baseline (2004-05) and current year (2005-06).

Table 1: Complaints and Hearings Timeliness				
	Indicator 16		Indicator 17	
Performance:	# States Reporting 04-05 Baseline	# States Reporting Actual 05-06 Data	# States Reporting 04-05 Baseline	# States Reporting Actual 05-06 Data
Blank or N/A	35	5	38	8
≤ 50%	1	3	3	1
>50% & ≤75%	4	0	2	5
>75% & ≤85%	3	4	2	3
>85% & ≤100%	7	12	5	7
100%	10	36	10	36
Total n =	60	60	60	60

The range of performance for 2005-06 for Indicator 16 (complaints timelines) showed 36 states reporting 100% on time performance, with 5 states reporting no activity. Of the 19 states reporting less than 100% on-time performance, all but 2 are larger states. Of the 25 states reporting data for both 2004-05 and 2005-06, 4 showed lower performance in 2005-06, with 8 maintaining 100% for both years, and 13 states showing improved performance. For the 55 states reporting on Indicator 16, the average reported on-time rate was 94%. This is not a national on-time rate but an average of state reported rates.

For Indicator 17 (hearing timelines), 36 states reported 100% on-time performance, with 8 states not reporting or reporting no activity. Of the 16 states reporting less than 100% on-time performance, again, all but 2 are larger states. For the 52 states reporting on Indicator 17, the average of those state reported numbers was 93%. This is not a national on-time rate but an average of state reported rates. Of the 21 states reporting data for both 2004-05 and 2005-06, 3 showed lower performance in 2005-06, with 8 maintaining 100% for both years, and 10 states showing improved performance.

### Resolution Settlement Agreement Rates - Targets and Performance

Table 2 summarizes baseline data (2005-06) on Indicator 18 and targets set through 2010-2011 for Indicator 18. Forty-five entities (75%) reported baseline data, with only one of those states reporting 0%. That is, 44 states that had at least one resolution meeting, also had at least one settlement agreement. Non-reporting states (n = 15, or 25%) indicated that they either had no hearing requests that would trigger a resolution meeting, that the state was only able to track resolution meetings which did end in agreement (e.g., incomplete data collection), or that they were not prepared yet to collect the data on resolution meetings and their outcomes.

The reported rates for Indicator 18 (resolution meetings resulting in a settlement agreement) end to be lower than reported mediation agreement rates. A resolution settlement agreement is defined as a written, legally binding agreement that is achieved within the 30 day resolution period. Reporting on these agreements may be compromised by the narrowness of this definition, although most states explicitly note this limit in the reported numbers. The average of state rates for Indicator 18 was 60%; this may be a high estimate, because some states were unable to report accurately the number of resolution meetings held. Settlements that occur after the 30 days, as well as settlements achieved through mediation are not counted here. A more complete picture of how due process complaints are resolved in a given state will require a combined look at resolution settlement agreements, mediation agreement rates related to due process, and the report of due process complaints “resolved without a hearing.”

Performance:	# States Reporting 05-06 Baseline	# States Reporting 06-07 Target	# States Reporting 07-08 Target	# States Reporting 08-09 Target	# States Reporting 09-10 Target	# States Reporting 10-11 Target
Blank or N/A	15	18	18	18	18	19
≤ 50%	17	14	14	13	11	11
>50% & ≤75%	13	16	16	16	18	13
>75% & ≤85%	1	4	4	5	5	8
>85% & ≤100%	5	5	5	5	5	6
100%	9	3	3	3	3	3
Total n =	60	60	60	60	60	60

The most commonly stated reason for not establishing targets was that the state/entity had experienced fewer than 10 resolution meetings and was not required to establish a target until they had more activity. While a few states set 100% targets, some states set targets based on their experience with mediation (75-85%). Most states, however, set targets in line with their initial experience with resolution meetings. More experience with the relative contribution that resolution meetings make toward settling the issues raised in hearing requests will allow more realistic and meaningful target setting for this indicator.

### Mediation Agreements - Target and Performance

Table 3 displays how states reported on baseline (2004-05) and 2005-06 target and actual performance measures for mediation agreements. Only 24 states reported baseline prior to the current year, allowing a comparison of performance across years. Seventy percent of states that set mediation agreement targets (37 out of 53), set target rates of 75% or higher. Only 24 states out of 44 reporting 05-06 data achieved rates of 75% or higher, with no states reporting a 100% agreement rate.

Performance:	04-05 Baseline	05-06 Target	Actual 05- 06 Data
Blank or N/A	36	7	16
≤ 50%	1	2	3
>50% & ≤75%	5	14	17
>75% & ≤85%	7	20	17
>85% & ≤100%	7	11	7
100%	4	6	0
Total n =	60	60	60

The mean of state reported mediation agreement rates was 76% for the 05-06 target and 72% for the actual 05-06 actual performance. This is not a national rate but an average of state reported rates. Forty-three (43) states reported both a target and performance for Indicator 19 in 2005-06. Of these, 22 states met or exceeded their target; 21 states fell short of their target.

### **Involvement of OSEP Funded TA Agencies Reported by States:**

#### CADRE and Other TA Project Involvement Reported by States:

CADRE identified 45 instances where states named TA centers in their APRs. These mentions of TA agencies were in 25 of the 60 APRs reviewed. For these 4 indicators, only CADRE and RRCs (NERRC, MSRRC, SERRC, MPRRC, WRRC) were referenced clearly (participation or reference to a specific sponsored activity) or explicitly named.

CADRE was named a total of 36 times by 19 states. Most states did not acknowledge or reference participation in activities for which CADRE has recorded their participation.

The kinds of CADRE assistance referenced included:

- Use of the CADRE web site and the “Continuum of Dispute Resolution” in planning for expanded dispute resolution options in the state
- Participation in CADRE symposia
- Participation in the SERRC/7PAK regional conference on dispute resolution systems improvement
- Use of the CADRE systems planning tools in reviewing state dispute resolution system operations
- Involvement of CADRE in conducting in-state training or technical assistance
- Use of CADRE state data summaries in examining state dispute resolution system performance
- Distribution of CADRE materials (e.g., *Special Education Mediation – A Guide for Parents*)

State Participation in CADRE Activities as Registered by CADRE:

Table 4 summarizes the number of states by indicator for which CADRE has records that they have participated in CADRE TA.

CADRE cataloged participation by states in the various types of CADRE provided TA. CADRE operates ListSers on which most states have representatives. There are ListSers addressing mediation/dispute resolution in general, state written complaints, and due process hearings. CADRE’s widest ranging delivery vehicles are information oriented. All states/entities have at least one representative on the “dispute resolution

Table 4: CADRE Records of State Participation in TA				
	Indicator 16	Indicator 17	Indicator 18	Indicator 19
A. <u>Information</u> – via mail, telephone, listserv, communities of practice	49	45	60	60
B. <u>Conference</u> – the State attended a CADRE conference/symposium	45	44	36	44
C. <u>Regional or State Group Assistance</u> – small group assistance to the State	16	16	8	16
D. <u>Consultation</u> – on-going consultation on-site in the State	6	6	4	6

coordinators/mediation” ListServ. The CADRE web-site averages over 1,300 unique visitors per day from throughout the country. In addition, CADRE has provided SPP/APR data summaries and CADRE publications to every entity. The assignment of a state to other types of TA receipt was based on symposia registration figures, contact form tracking of information requests and records of direct consultation with the state over the course of the current CADRE funding period (since October 1, 2003). Symposia participation (TA type B) is based on participation of individuals from a state agency or contracted program in three CADRE Symposia (2004, 2005, and 2006).

## **Improvement and Maintenance Practices Reported**

States approached the reporting of improvement achievements and future activities very differently. In some cases, states combined their SPP and APR, so that referencing back and forth was a simple matter of turning a few pages. This format seemed easier to read and more informative than separate reports. Most states submitted separate SPP and APR documents. In some cases, the APR referenced the SPP (e.g., “continue to implement SPP improvement strategies”) with no specific indication of what had been implemented in the past year. Based on clarifying direction from OSEP, CADRE did not attempt to follow every reference in a state’s APR back to text in the SPP. That is, we read the APR as if it was a stand-alone document. Other differences are apparent in how states report, with some using tables to clearly separate improvement activities carried out, planned, etc., and others providing paragraphs of text in which activities have been more or less explicitly described. The summaries we provide are based on trying to bring these differing styles into a common summary format.

### Reports of Upstream and Early Resolution Activities

From its initial funding, CADRE has stressed the importance of agreement reaching and collaborative problem solving by parents and schools. The “CADRE Continuum” (<http://www.directionservice.org/cadre/continuum>) represents the range of dispute resolution activity we observe across states, from formal, required processes, to informal, collaboratively oriented activities. For this analysis, CADRE distinguished between “early resolution” activities (those that are conditioned upon a formal dispute filing – a written complaint, or a due process complaint) and “upstream” activities (aimed at providing parents and schools improved capability to resolve differences without resorting to formal processes). In this APR/SPP summary, CADRE identified 25 states that reported some form of these activities: 16 states reported upstream activities (e.g., parent and school training on communications skills and interest based negotiation, IEP facilitation on demand) and 13 states reported “early resolution” processes (e.g., IEP facilitation available only after a due process or complaint filing, early complaint resolution consultation after a written complaint filing). Ten states reported both upstream and early resolution activities.

This level of alternate dispute resolution reporting constitutes a substantial change from

previous years. Prior to this APR/SPP cycle, states tended not to report activities other than those strictly required. CADRE knows, however, of a number of states that did not report such activities in the APR that have very active early resolution and upstream programs.

Frequency of Improvement Strategy Types Reported by States

Table 5 displays the number of states that CADRE coded as having reported a type of improvement strategy under a given indicator. CADRE coding of state activity averaged 5 or 6 “improvement strategy” codes per state per indicator.

Table 5: # States Reporting Improvement Strategies by Strategy Type and Indicator				
Improvement Strategies Reported:	Ind. 16	Ind. 17	Ind. 18	Ind. 19
A. Improve data collection and reporting	22	24	34	17
B. Improve systems administration and monitoring	29	31	25	18
C. Provide training/professional development	38	41	37	43
D. Provide technical assistance	10	8	14	11
E. Clarify /examine/develop policies & procedures	23	21	27	20
F. Program development	6	3	3	8
G. Collaboration/coordination	7	7	8	6
H. Evaluation	15	14	13	19
I. Public Awareness	14	9	20	22
J. Increase/Adjust FTE	21	14	7	11
Grand Total (# states/entities reporting at least one strategy for the indicator)	53	52	54	55

As might be expected in an educational system, training was a predominant theme of improvement strategies. Data collection, improving system administration and monitoring, and clarifying/developing policies and procedures were also common across indicators and states.

Table 6 displays the same information as in Table 5 but by percent of states that CADRE coded as having reported a type of improvement strategy under a given indicator. Increases or adjustments in FTE were most common under Indicator 16. On-time performance appears to be better for Indicator 16 (complaint reports completed within timelines) than for Indicator 17 (hearings completed within timelines). The more frequent use of FTE adjustment for Indicator 16 may reflect the more direct control that Special Education divisions have over the process of written complaints investigation and reporting.

Table 6: % States Reporting Improvement Strategies by Strategy Type and Indicator				
Improvement Strategies Reported:	Ind. 16	Ind. 17	Ind. 18	Ind. 19
A. Improve data collection and reporting	42%	46%	63%	31%
B. Improve systems administration and monitoring	55%	60%	46%	33%
C. Provide training/professional development	72%	79%	69%	78%
D. Provide technical assistance	19%	15%	26%	20%
E. Clarify /examine/develop policies & procedures	43%	40%	50%	36%
F. Program development	11%	6%	6%	15%
G. Collaboration/coordination	13%	13%	15%	11%
H. Evaluation	28%	27%	24%	35%
I. Public Awareness	26%	17%	37%	40%
J. Increase/Adjust FTE	40%	27%	13%	20%

It is hard to imagine that some activity wouldn't be occurring under each of these types of improvement strategies, although what is reported may reflect only what some states consider "changes" or "improvements" in ongoing activities. For example, "Public Awareness" is an activity to some extent in all states – at a minimum, states must make available information on procedural safeguards. The relatively low reporting of public awareness activities, per se, suggests that these reflect states with more activity, or states with more complete reporting.

Examples of Specific Activities by Improvement Strategy Code:

After compiling and coding all identified improvement strategies, two CADRE reviewers examined the compilation for examples of specific activities typical of each improvement strategy type. CADRE used the "improvement strategy types" provided by OSEP for a

framework, then identified where several states had reported an approach that represented activity under that strategy.

A. Improve data collection and reporting: Improve the accuracy of data collection and school district/service agency accountability via technical assistance, public reporting/dissemination, or collaboration across other data reporting systems. Developing or connecting data systems. Example activities:

- Set up tracking for timelines and process specific to an indicator
- Integrate timelines, process and outcomes tracking across DR options
- Add specific elements to data collection (e.g., resolution process data)
- Implement new or conduct major overhaul of existing data systems
- Combine/align data systems with monitoring (e.g., to ensure Corrective Action Plan [CAP] implementation)
- Analyze issues within or across dispute resolution options (e.g., common issue taxonomy)

B. Improve systems administration and monitoring: Refine/revise monitoring systems, including continuous improvement and focused monitoring. Example activities:

- Use tracking system to manage work flow (e.g., planning assignment of complaints staff or hearing officer)
- Use tracking system to monitor corrective actions, hearing decisions, or (rarely) mediation/resolution agreement implementation
- Use tracking system to provide timeline/process reminders to dispute resolution practitioners
- Conduct overall system reviews (typically quarterly or annually)
- Use data on DR practitioner performance (e.g., timeliness, mediation agreement rates, participant satisfaction) in personnel evaluation and contract renewal
- Integrate information on DR outcomes (e.g., HO decisions, CAP implementation) with SEA monitoring system
- Design resolution process systems (e.g., responsibility for oversight [LEA, HOs, other]; data elements to be collected [timeliness, issues, agreements, process]; reports [to LEAs, HOs, parents])

C. Provide training/professional development to State, LEA and/or service agency staff, families and/or other stakeholders. Example activities:

- Provide training on IDEA law and regulations to internal staff, DR practitioners, parents, school personnel, etc.
- Provide training/awareness on procedural safeguards/DR options to parents and schools
- Train individuals (e.g., mediators, district personnel, others) to facilitate IEP meetings

- Provide process-specific skills training to DR practitioners (e.g., interview techniques for complaints investigators, decision writing for HOs, impasse management techniques for mediators)
- Train stakeholders (parents, school personnel) in skills (e.g., communication skills, interest-based negotiation) that make for more successful participation in resolution meetings, IEP meetings, or mediation processes.

D. Provide technical assistance to LEAs and/or service agencies, families and/or other stakeholders on effective practices and model programs. Example activities:

- Provide TA to family members and parent organizations regarding DR options and collaborative problem solving
- Encourage schools to develop early dispute resolution processes
- Encourage families and schools to use early dispute resolution options
- Support schools and DR practitioners to provide capable IEP facilitation
- Make information on new legal requirements and processes easily accessible through web sites, hot-lines, etc.

E. Clarify, examine, and or develop policies or procedures related to the indicator. Example activities:

- Align state regulations with IDEA
- Revise procedure manuals, guidelines, handbooks, forms and materials
- Develop guidelines, forms, and reporting requirements related to the extension of timelines (primarily re: due process and resolution meetings)
- Develop policies and procedures related to implementing the resolution meeting, especially the role of LEAs and reporting requirements to SEAs

F. Program development: Develop/fund new regional/statewide initiatives. Example activities:

- Implement IEP Facilitation services (e.g., on request of a school or a parent, or contingent upon a complaint filing)
- Establish informal complaints intake, tracking and response systems to get earlier resolution to issues prior to formal filings
- Expand DR other options (usually unspecified, e.g., systemic changes in DP system, “expanded dispute resolution options”)

G. Collaborate/coordinate with families/agencies/ initiatives. Example activities:

- Coordinate with PTIs and other parent groups/organizations
- Convene stakeholder/advisory committees or councils
- Use stakeholder/advisory groups to assess system operations
- Collaborate with parents groups and stakeholders to provide information, technical assistance, and otherwise promote ADR processes and resources

- Improve communication between Special Education and the agency providing due process hearings

H. Conduct internal/external evaluation of improvement processes and outcomes.

Example activities:

- Conduct broader system evaluation, integrating information from all dispute resolution options in review and improvement planning
- Engage stakeholder/advisory/work groups in evaluation and review of dispute resolution options and improvement planning
- Collect participant feedback and evaluation information (most often, but not exclusively, on mediation)
- Collect data from schools and DR practitioners on the effectiveness of dispute resolution options
- Contract with external evaluator to examine specific dispute resolution process (e.g., state written complaints and investigation process, or due process hearings system)

I. Develop/implement public awareness materials/campaign. Example activities:

- Deliver information on dispute options and procedural safeguards through statewide conferences, training programs, teleconferences, state and regional workshops, etc.
- Communicate revisions in state law, regulation, and agency procedures through SEA web sites
- Promote awareness through multi-media campaigns (e.g., radio, television, webinars, videos, internet, newspapers, other printed materials)
- Translate, print and disseminate materials in alternate languages
- Collaborate with parent training and information centers to develop and disseminate awareness materials on dispute resolution options
- Produce and share materials with stakeholders on the efficacy of resolution meetings and mediation.

J. Increase/Adjust FTE: Add or re-assign FTE at State level; assist with the recruitment and retention of LEA and service agency staff. Example activities:

- Add staff to investigate complaints
- Add hearings officers or increase hours contracted to conduct more hearings
- Increase the number of mediators available
- Realign administrative staff to support complaints investigations, track hearings timelines, etc.
- Improve contracting procedures for hearing officers and complaints investigators
- Make resolution facilitators available (resolution meetings, IEP facilitation)