



OFFICE OF SPECIAL EDUCATION

PRESENTATION TO THE LONG ISLAND ASSOCIATION OF SPECIAL EDUCATION ADMINISTRATORS

SEPTEMBER 22, 2022



New York State
EDUCATION DEPARTMENT
Knowledge > Skill > Opportunity



Office of Special Education Updates

AMENDMENT OF THE COMMISSIONER'S REGULATIONS RELATING TO THE DISABILITY CLASSIFICATION EMOTIONAL DISTURBANCE

- March 2022 - NYSED proposed to amend Commissioner's Regulations to replace the term "emotional disturbance" with "emotional disability"
- Spring of 2022 - Public hearings held and comment received on the proposed change
- July 2022 - Board of Regents approved amendment of Commissioner's Regulations to change the term "emotional disturbance" to "emotional disability," effective July 27, 2022
 - ✓ No change made to existing definition of "emotional disturbance"
 - ✓ Committees on Special Education (CSE) are not required to amend IEPs already developed for the 2022-23 school year
 - ✓ CSEs must use the term "emotional disability" for IEPs developed or amended on or after July 27, 2022, and in other related documents (e.g., prior written notice, meeting minutes, etc.)

STUDENTS WITH DISABILITIES ALL GRADES CERTIFICATE

At the September 2022 Board of Regents meeting, the proposal to amend regulations relating to establishing the Students with Disabilities All Grades certificate was adopted.

Previous

Initial SWD certificates are issued in the following three grade bands:

- Birth-Grade 2
- Grades 1-6
- Grades 7-12

Current

Issue SWD certificates in the following two grade bands, after a transition period:

- Birth-Grade 2
- All Grades (PK-Grade 12)

LEGISLATION: CHAPTER 812 OF THE LAWS OF THE 2021

- Permits parents to request immediate appointment of an Impartial Hearing Officer (IHO) to issue an order of relief for special education due process complaints awaiting appointment of an IHO for 196 days
- Proposed order of relief is submitted by the parent identifying appropriate and individualized programs and services for the student
- School districts must report annually to the Commissioner, Governor and multiple members of the legislature on the number of complaints seeking this relief, the relief sought, and the resolution of complaints

AMENDMENT TO COMMISSIONER'S REGULATIONS TO CONFORM TO CHAPTER 812 (CON'T)

- Accelerated Review is available if the parent files due process complaint notice seeking a due process hearing specific to:
 - Failure to evaluate;
 - Educational placement;
 - Educational services; or
 - Provision of a Free Appropriate Public Education
- Accelerated Review is NOT available when the due process complaint involves:
 - Initial identification of a student as a student with a disability
 - Manifestation Determination

AMENDMENT TO COMMISSIONER'S REGULATIONS TO CONFORM TO CHAPTER 812 (CON'T)

- Establishes Timelines and Procedures:
 - Appointment of IHO – Within one business day of receipt of a parent request to issue an order of relief
 - District Notification to Parents Regarding Eligibility for Accelerated Relief – Within 5 business days of the 196 days from the filing of a due process complaint
 - Completion of Accelerated Review – Maximum of 21 business days
 - Accelerated Review is Conducted:
 - ✓ In place of the hearing procedures
 - ✓ Exclusively on the written record and via email. There are no in-person hearings.

ADDITIONAL AMENDMENT OF THE COMMISSIONER'S REGULATIONS SPECIFIC TO DUE PROCESS

- Adopted at the September 2022 Regents meeting and will become effective on September 28, 2022
- Addresses the rotational selection process for assignment of IHOs (NYC only)
- Aligns the date of decision with the distribution date and case closure date
- Addresses how IHO's must handle conflicts of interest

LEGISLATION: CHAPTER 516 OF THE LAWS OF 2022

- Chapter 516 of the Laws of 2022 – Added a new section 9 to Education Law section 4402
 - ✓ Requires each school district to develop a procedure to notify a student with a disability's parent or person in parental relation on the same day a physical or mechanical restraint is used on the student, or the student is placed in a time-out room.
 - ✓ When the student's parent or person in parental relation cannot be contacted after reasonable attempts are made, the principal shall record and report such attempts to the committee on special education.
- Signed into law on August 17, 2022 - effective immediately
- Guidance from NYSED is forthcoming

NEWSDAY - LI SCHOOL DISTRICTS ADD 4,200 NEW PREKINDERGARTEN SEATS THIS SCHOOL YEAR

[September 2022](#)
[Newsday article published:](#)

“More than 4,200 new prekindergarten seats have been added at Long Island school districts for this academic year.

Nearly 90 school districts across Long Island have received funding to expand prekindergarten either for the first time or to grow an existing program this school year.

On Long Island, there has been a \$27 million increase in prekindergarten funding to support more than 4,200 new seats, according to Governor Kathy Hochul's office.”

PRESCHOOL INCLUSION IN UPK

- Joint guidance was issued in July 2021 titled “School District Responsibilities for Preschool Inclusion in Publicly Funded Prekindergarten (PreK) Programs.”
- This guidance outlines that publicly funded PreK programs must be leveraged to meet preschool least restrictive environment (LRE) responsibilities and ensure meaningful preschool inclusion.
- School districts must ensure that preschool students with disabilities have full access to participate PreK programs and receive their special education programs and services.
- NYSED plans to support school districts in implementation by issuing future guidance based on questions from the field. Questions may be submitted to SPECED@nysed.gov





THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

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July 2021

To: District Superintendents
Superintendents of Schools
Public School Administrators
Directors of Special Education
Directors of Pupil Personnel Services
Chairpersons of Committees on Preschool Special Education
Administrators of State-Administered Prekindergarten Programs
Approved Preschool Special Education Programs
Organizations, Parents and Individuals Concerned with Special Education

From: Christopher Suriano 
Marybeth Casey 

Subject: School District Responsibilities for Preschool Inclusion in Publicly Funded Prekindergarten Programs

The purpose of this field advisory is to supplement and clarify existing New York State (NYS) and federal guidance pertaining to the expectations for the inclusion of preschool students with disabilities in prekindergarten programs operated or administered by a school district (PreK) including State-administered prekindergarten programs¹ and district prekindergarten programs that are government-funded and free for those who attend it. The continued expansion of these early learning opportunities offers high-quality, developmentally, culturally, and linguistically appropriate educational environments for young children to learn and grow. As of July 1, 2021, NYS will be investing \$970 million into State-administered prekindergarten programs. This figure will most likely be \$1 billion by the end of the 2023-24 school year due to expansion grants.

School districts must ensure resident preschool students with disabilities have equal access to enroll and attend the district's public PreK programs in accordance with NYS and federal expectations for the provision of a free appropriate public education (FAPE) in the

¹ As of the date of this memo, there are four State-Administered Prekindergarten programs for three- and four-year old children in New York State including Targeted Prekindergarten (TPK), Universal Prekindergarten (UPK), Statewide Universal Full-Day Prekindergarten (SUFDPK), and Federal-Funded Expanded Universal Prekindergarten.

REMOTE INSTRUCTION DURING EMERGENCY CLOSURE

Commissioner's Regulations

- Amendments to sections 100.1 155.17 and 175.5 of were permanently adopted for [public schools and BOCES in September 2022](#).
- Amendments to section 200.7, 200.16, and 200.20 were adopted on an emergency basis for [ASEPs in September 2022](#).

Remote Instruction

- Remote Instruction is allowed on days school would otherwise be closed due to emergency.
- Remote instruction is defined in Part 100.1(u) of Commissioner's regulations with expectation that asynchronous instruction is supplementary to synchronous instruction.

Emergency Conditions

- Emergency defined as, including but not limited to, extraordinary adverse weather conditions, impairment of heating facilities, insufficiency of water supply, shortage of fuel, destruction of a school building, or a communicable disease outbreak.

EMERGENCY REMOTE INSTRUCTION PLAN FOR 2023-2024

Requirements for the emergency remote instruction plans include:

- policies and procedures to ensure access to computing devices and internet connectivity, or other means for students to participate in remote instruction;
- expectations for time spent in synchronous instruction, with the expectation that asynchronous instruction is supplementary to synchronous instruction;
- description of how instruction will occur for those students for whom remote instruction by digital technology is not available or appropriate; and
- description of how special education and related services will be provided to students with disabilities.



Multi-Tiered System of Supports-Integrated (MTSS-I)

MTSS-I CENTER: SUPPORTS TO DISTRICTS

MTSS-I Center supports approximately 80 schools in 30 districts:

- delivering onsite and virtual training and coaching; and
- conducting and monitoring fidelity of implementation of evidence-based practices by coaches and teachers in participating districts.

MTSS-I CENTER

MTSS-I Center focuses on:

- training teachers in effective practices;
- training other professionals in the educational community on the infrastructure necessary to assure effective teacher practice for improved student results; and
- building capacity in the Office of Special Education (OSE) Educational Partnership.

MTSS-I CENTER: SUPPORTS TO DISTRICTS

The MTSS-I Center, in collaboration with OSE Educational Partnership, will provide three years of direct support to each district and designated schools.

Direct support will include:

- Year One - 5 professional development days
- Year Two - 5½ professional development days
- Year Three - 6 professional development days
- 10 on-site coaching sessions each year

LONG ISLAND SCHOOL DISTRICT PARTICIPATION

District	Cohort
Riverhead CSD	Cohort 1 Began Summer 2022
West Islip UFSD	Cohort 2 Begins Summer 2023

OFFICE OF SPECIAL EDUCATION (OSE) EDUCATIONAL PARTNERSHIP

<https://osepartnership.org/>

**89 Professional
Development Packages**

48 online

27 Resources and Tools

**Including
MTSS-I**

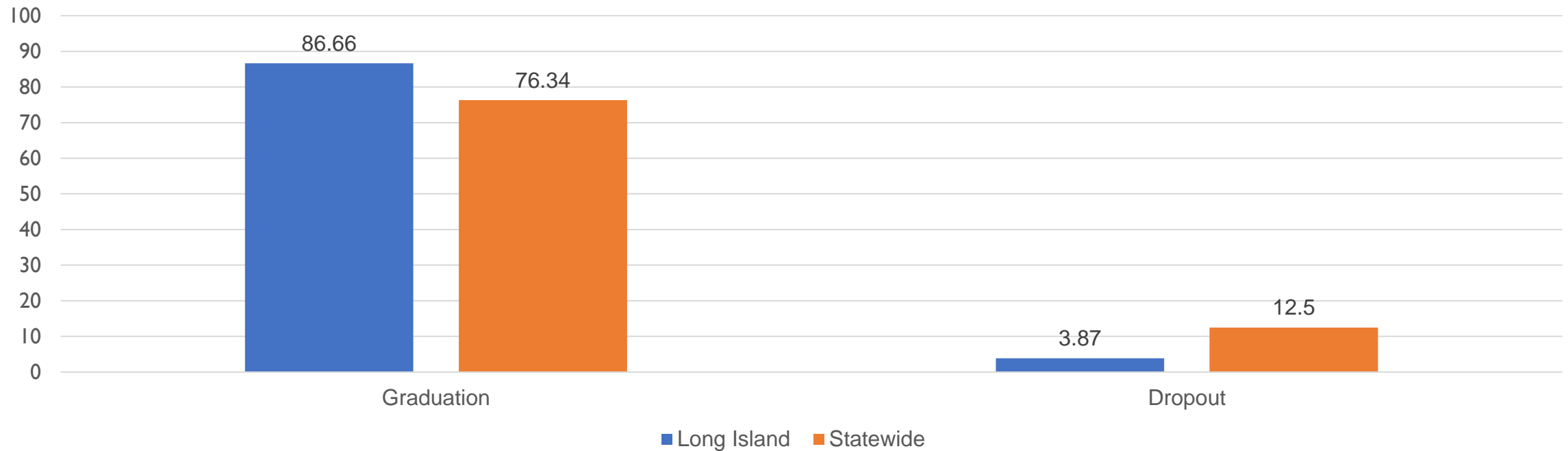
**42 Federal Technical
Assistance Resources**



State Performance Plan/Annual Performance Report

FFY 2020 SPP INDICATORS 1 & 2

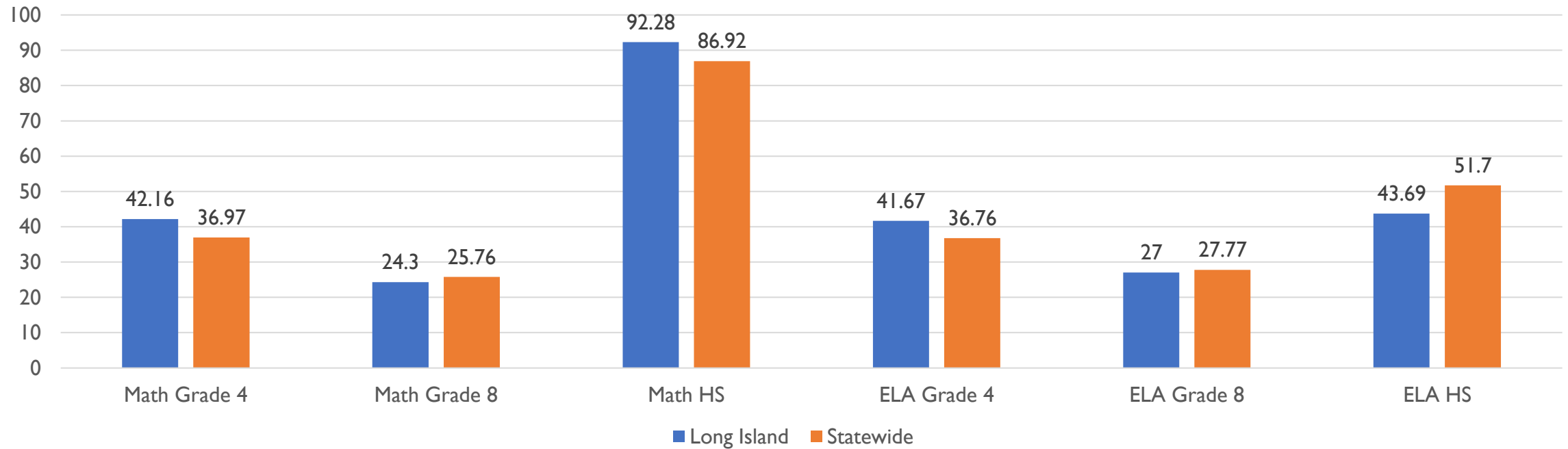
Students Exiting Special Education as a Result of Graduation or Dropping Out



2019-20 School Year Data

FFY 2020 SPP INDICATORS 3A

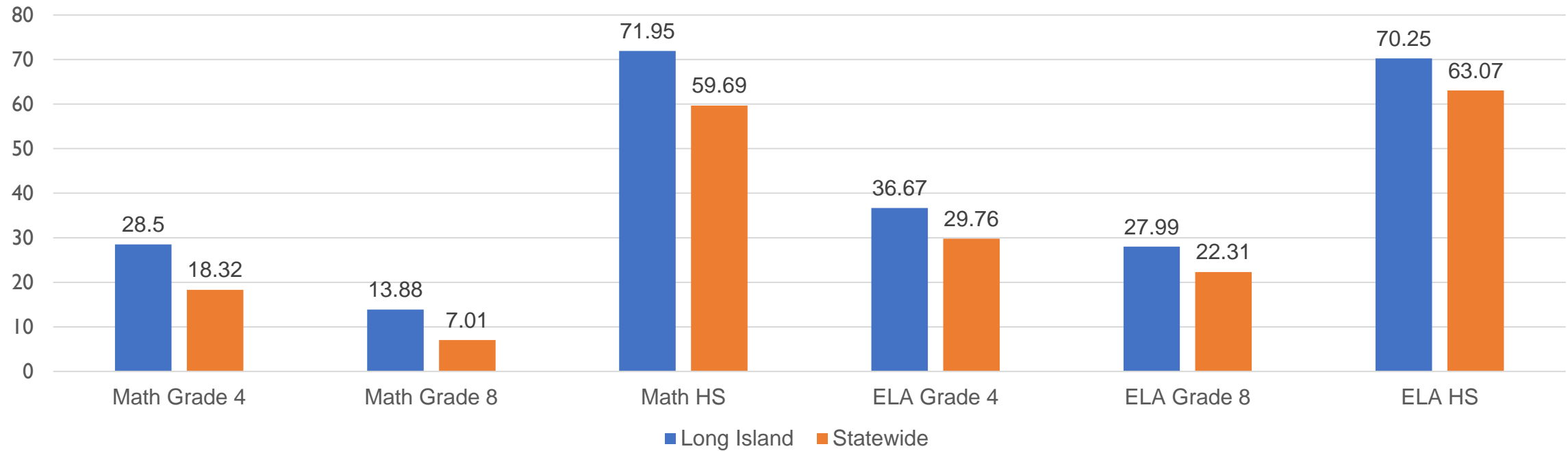
Participation Rates for Students with Disabilities



2020-21 School Year Data

FFY 2020 SPP INDICATORS 3B

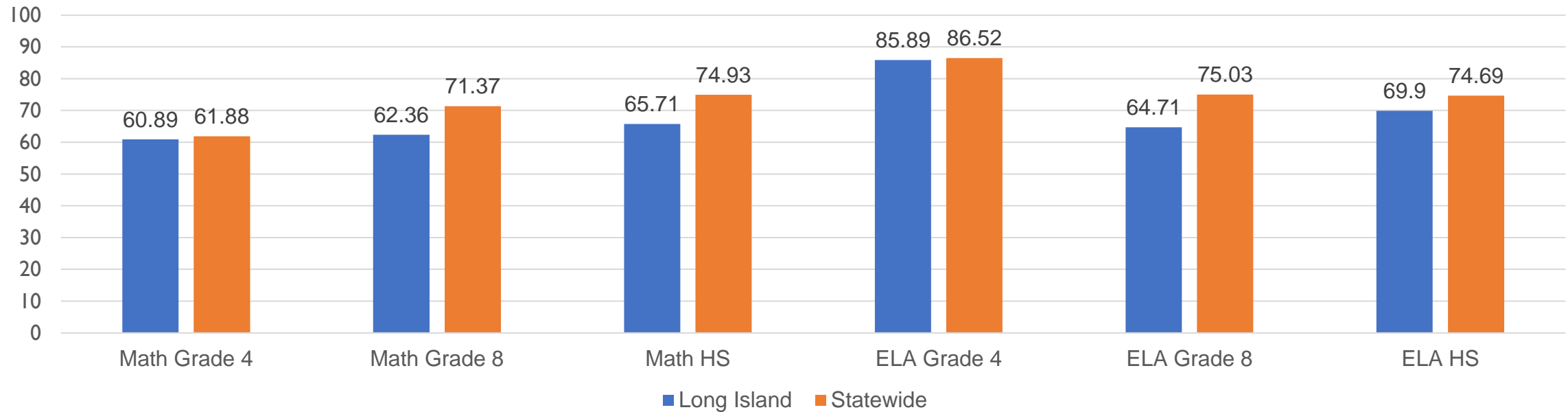
Proficiency Rates for Students with Disabilities



2020-21 School Year Data

FFY 2020 SPP INDICATORS 3C

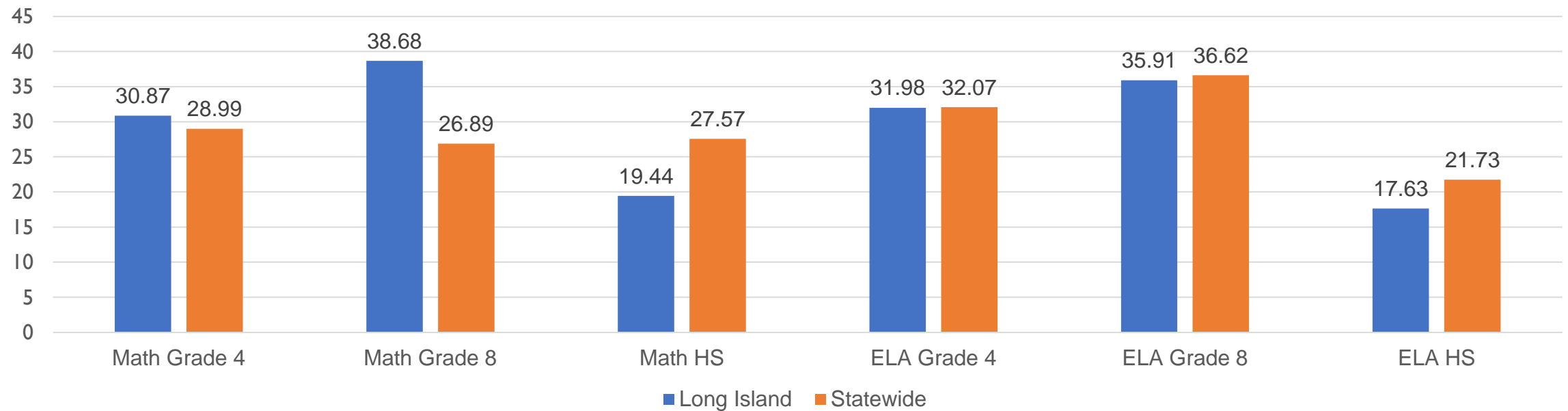
Proficiency rates for students with disabilities against alternate achievement standards (NYSAA)



2020-21 School Year Data

FFY 2020 SPP INDICATORS 3D

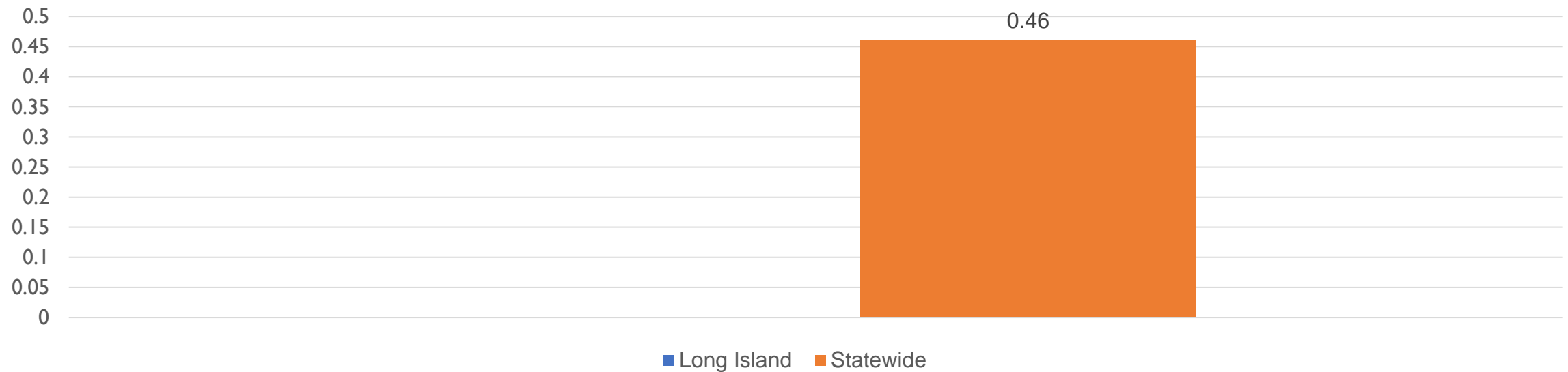
Gap in proficiency rates for students with disabilities against grade level achievement standards



2020-21 School Year Data

FFY 2020 SPP INDICATOR 4A

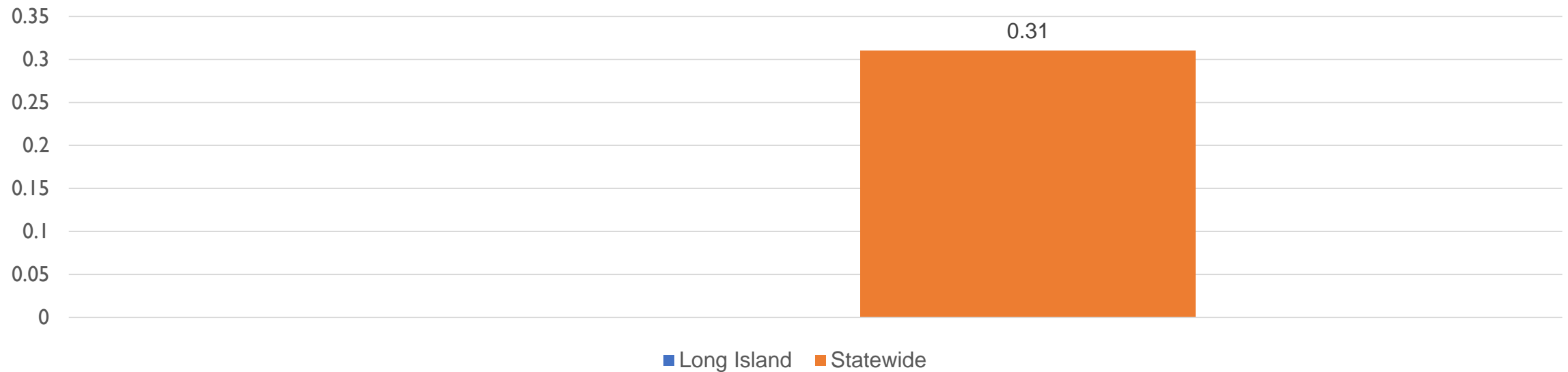
Percent of local educational agencies (LEA) that have a significant discrepancy, as defined by the State, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs



2019-20 School Year Data

FFY 2020 SPP INDICATOR 4B

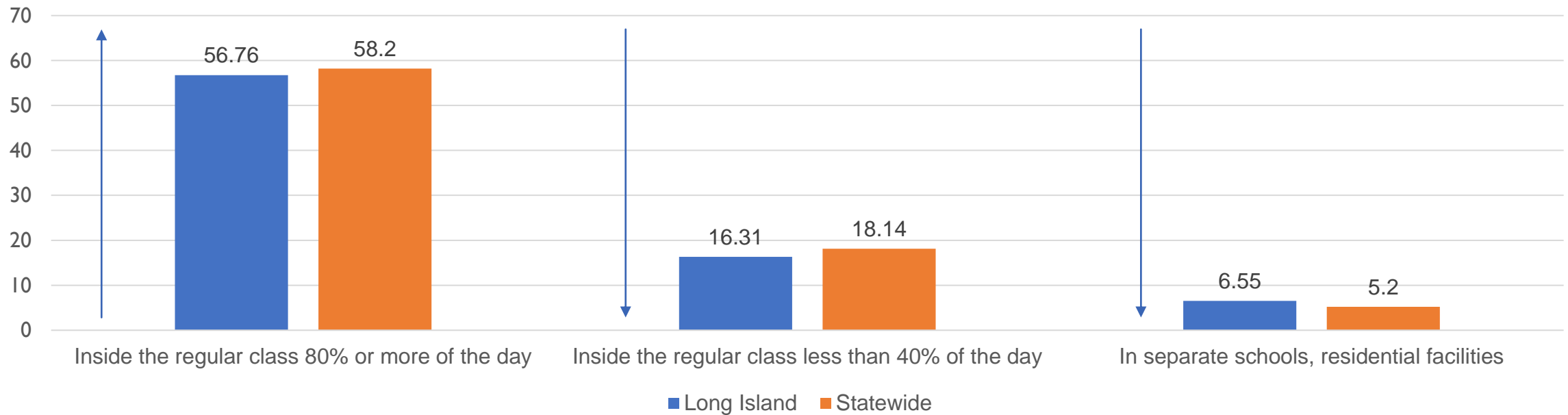
Percent of LEAs that have: (a) a significant discrepancy, as defined by the State, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and (b) policies, procedures or practices t



2019-20 School Year Data

FFY 2020 SPP INDICATOR 5

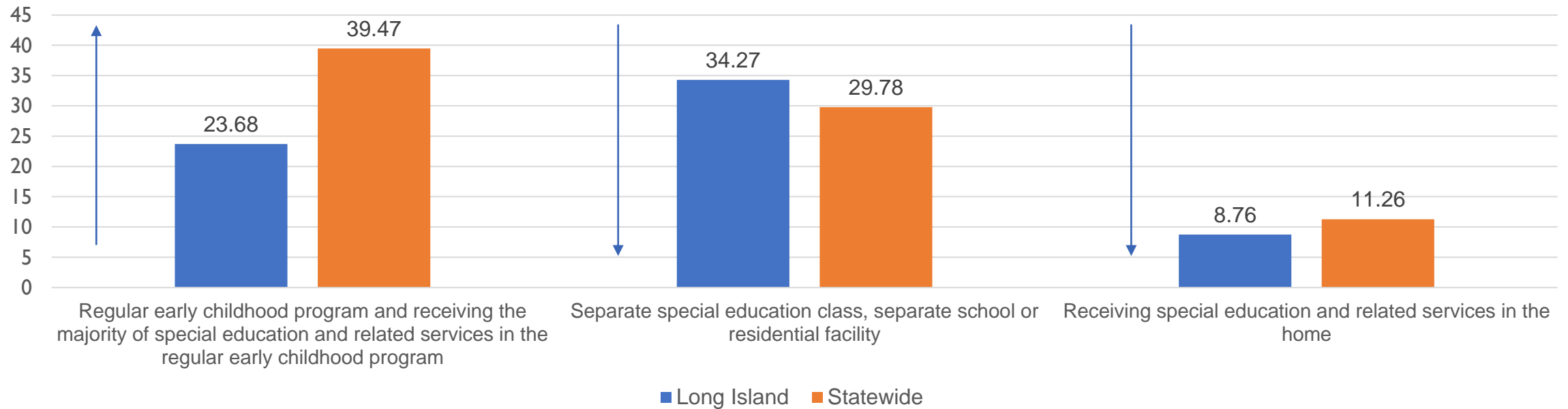
Percent of children with IEPs
aged 5 who are enrolled in kindergarten and aged 6 through 21 served:



2020-21 School Year Data

FFY 2020 SPP INDICATOR 6

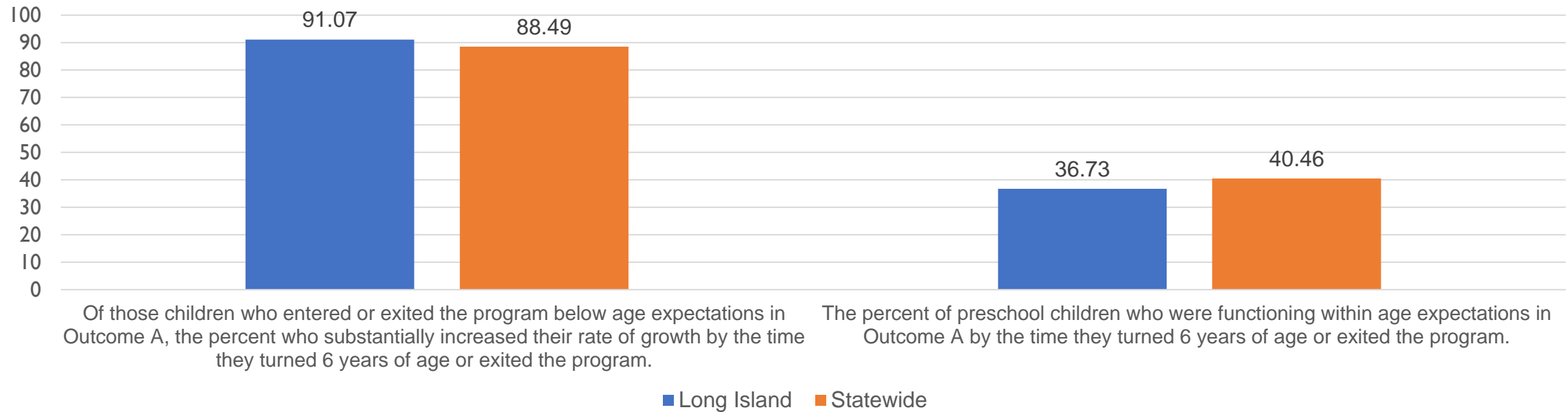
Percent of children with IEPs aged 3, 4, and aged 5 who are enrolled in a preschool program attending a:



2020-21 School Year Data

FFY 2020 SPP INDICATOR 7A

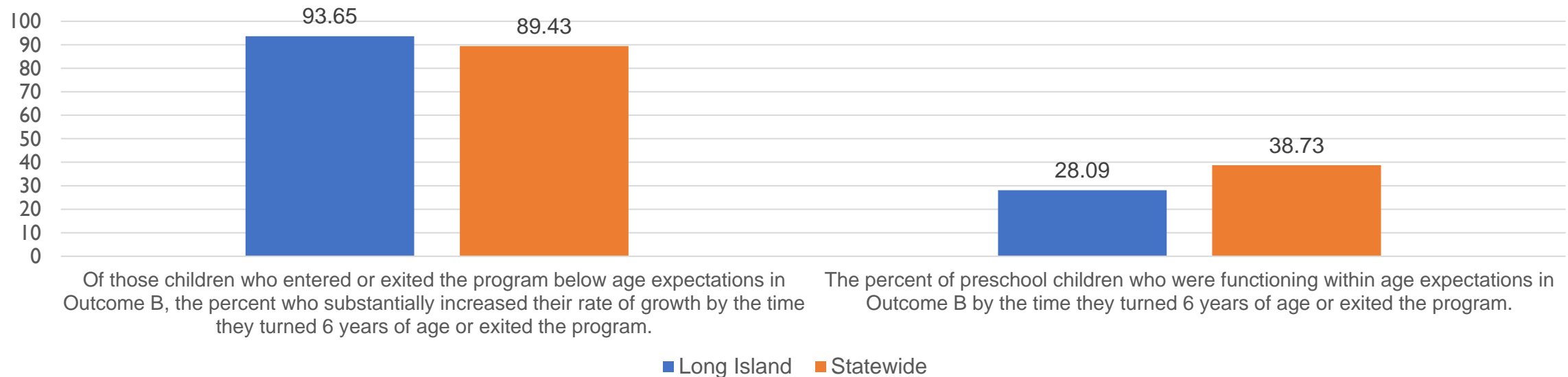
Percent of preschool children aged 3 through 5 with IEPs who demonstrate improved positive social-emotional skills (including social relationships)



2020-21 School Year Data

FFY 2020 SPP INDICATOR 7B

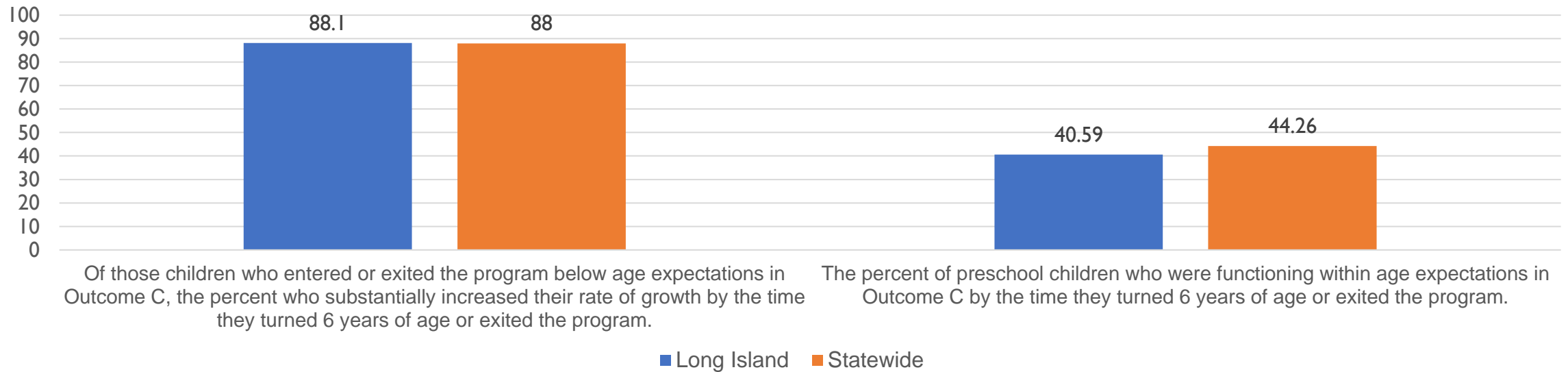
Percent of preschool children aged 3 through 5 with IEPs who demonstrate improved acquisition and use of knowledge and skills (including early language/ communication and early literacy)



2020-21 School Year Data

FFY 2020 SPP INDICATOR 7C

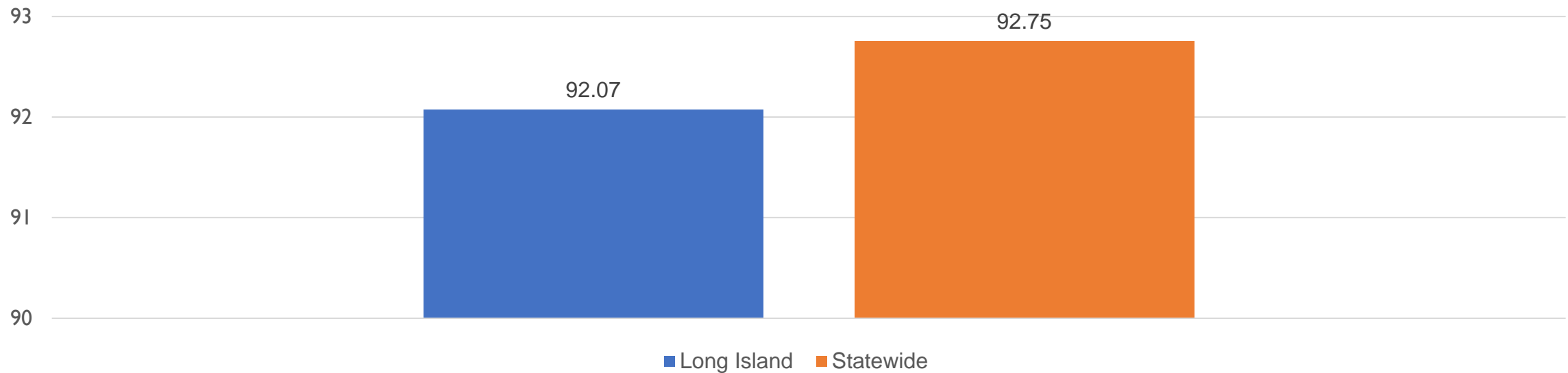
Percent of preschool children aged 3 through 5 with IEPs who demonstrate improved acquisition and use of knowledge and skills (including early language/ communication and early literacy)



2020-21 School Year Data

FFY 2020 SPP INDICATOR 8

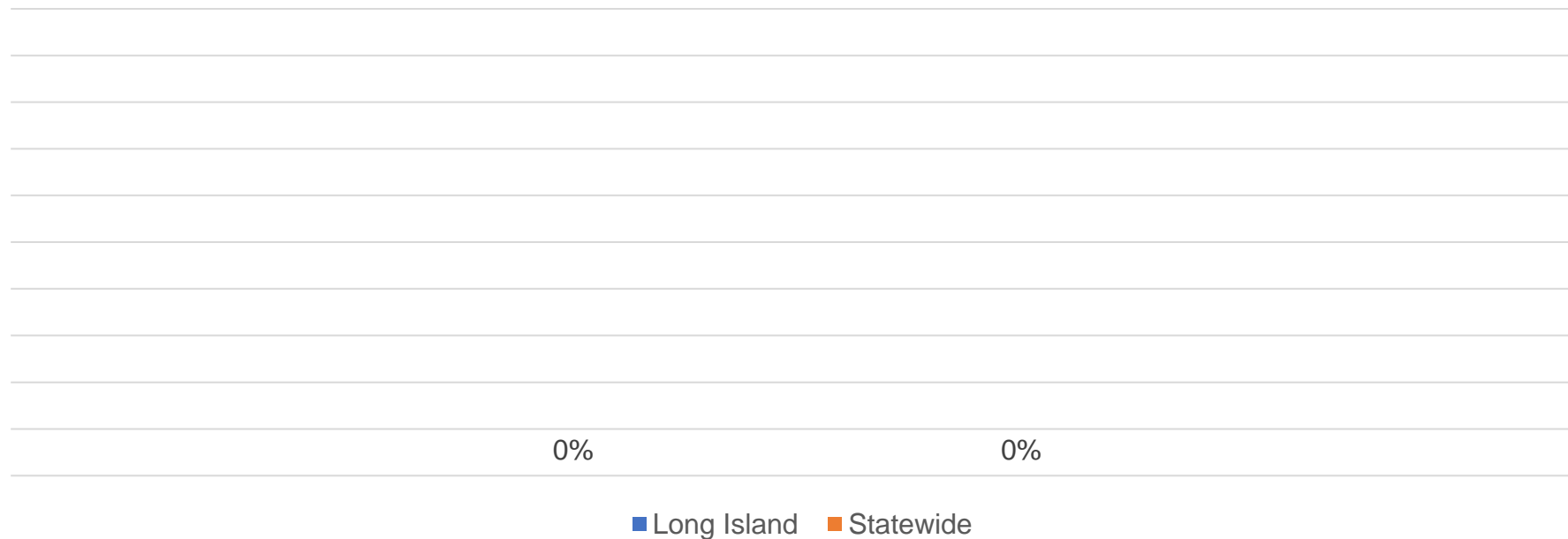
Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities



2020-21 School Year Data

FFY 2020 SPP INDICATOR 9

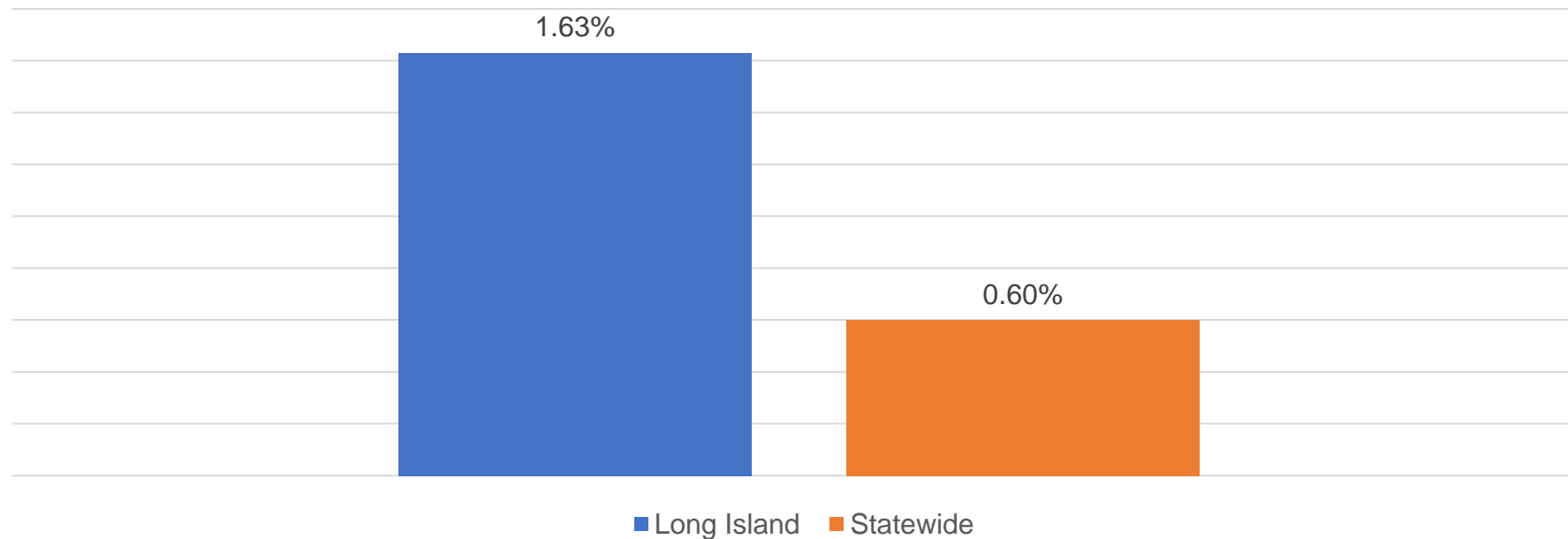
Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.



2020-21 School Year Data

FFY 2020 SPP INDICATOR 10

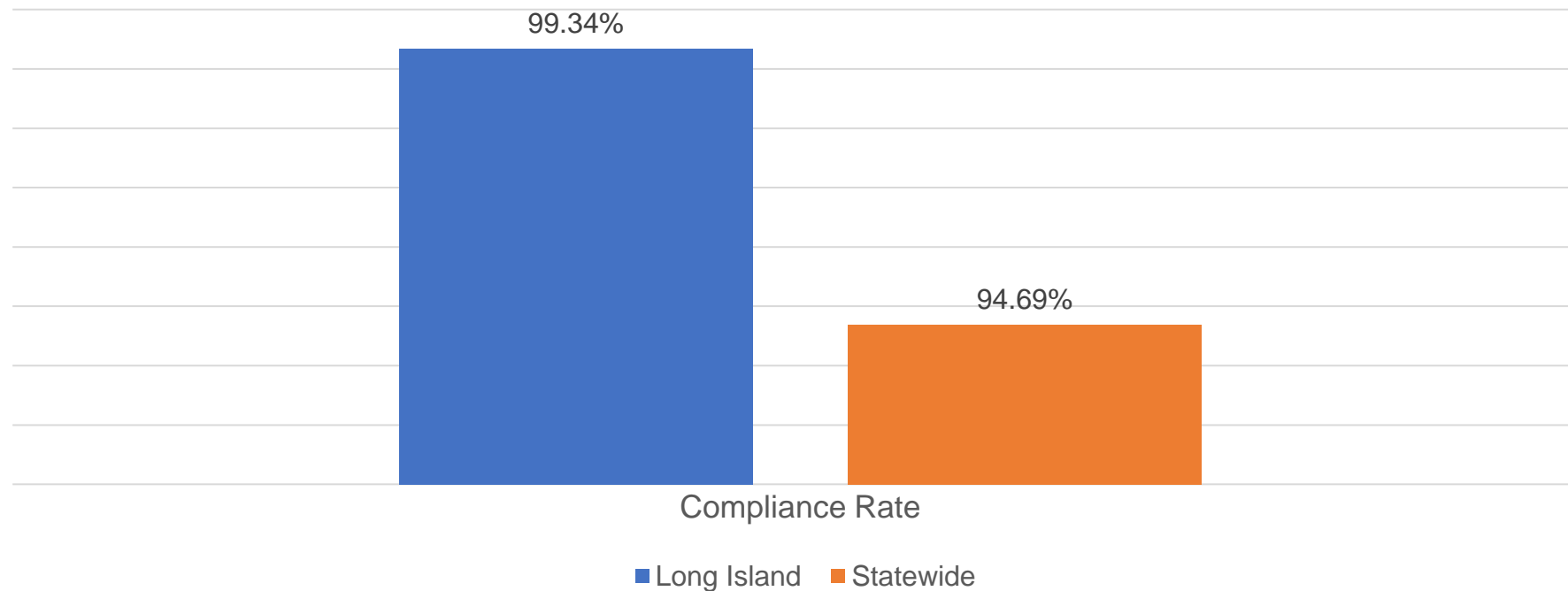
Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.



2020-21 School Year Data

FFY 2020 SPP INDICATOR 11

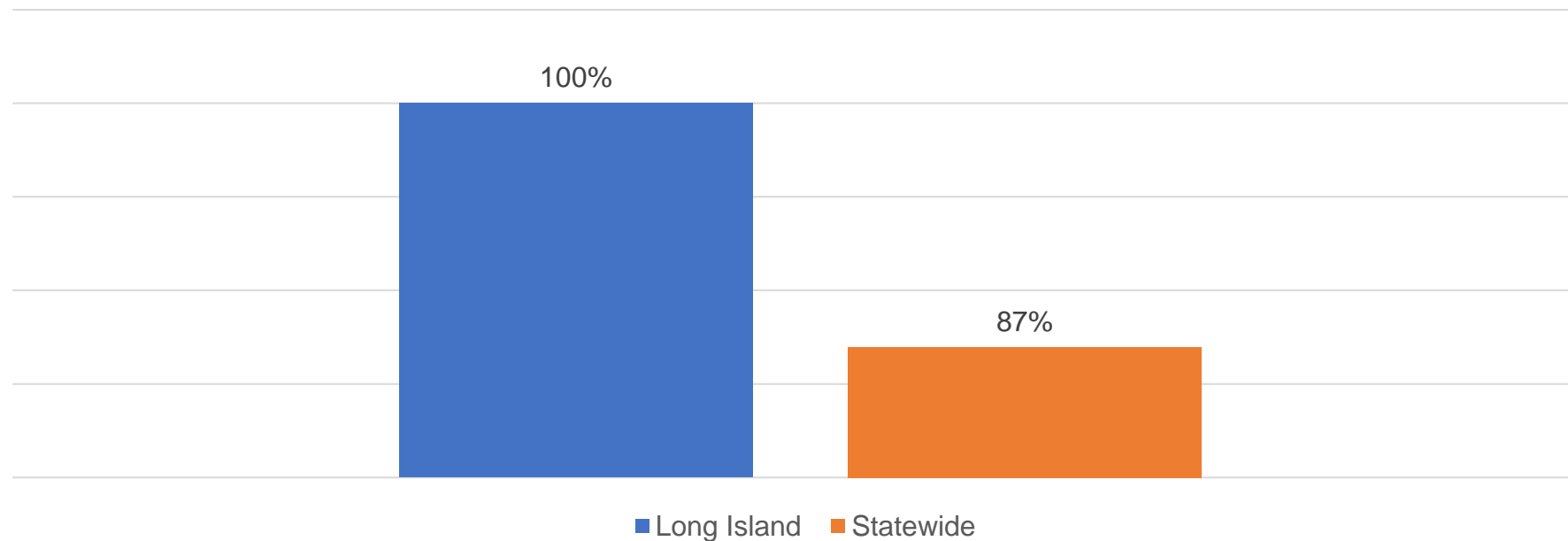
Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation



2020-21 School Year Data

FFY 2020 SPP INDICATOR 12

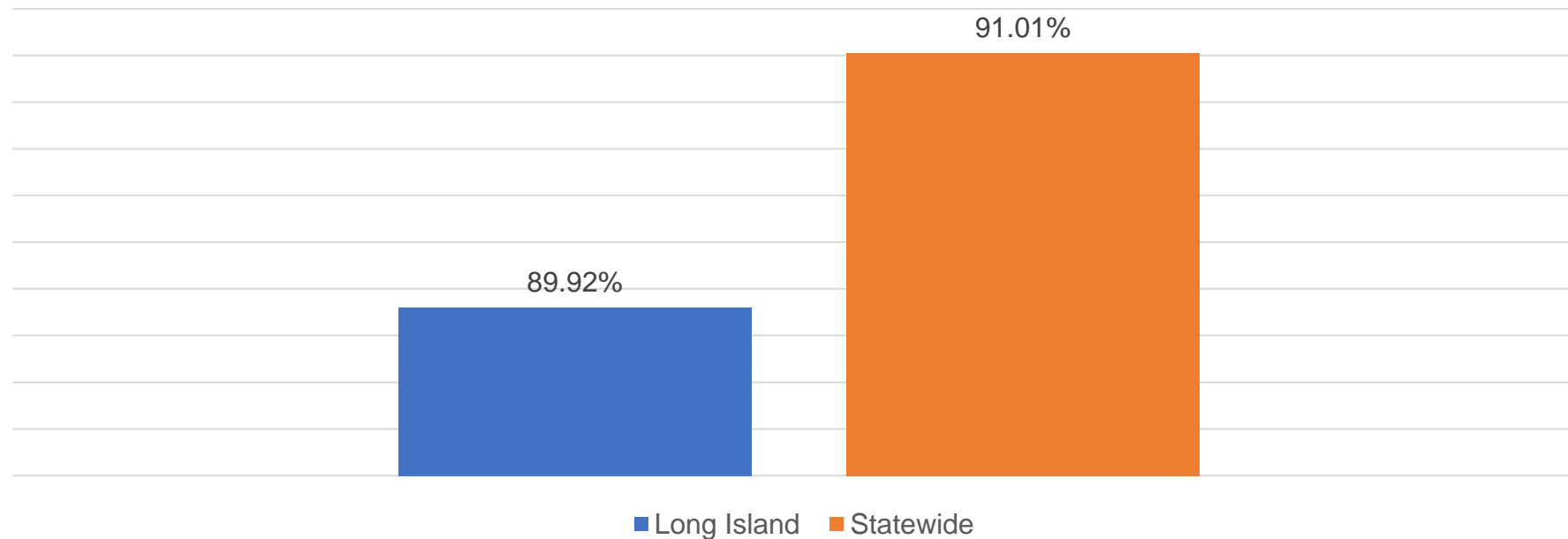
Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays.



2020-21 School Year Data

FFY 2020 SPP INDICATOR 13

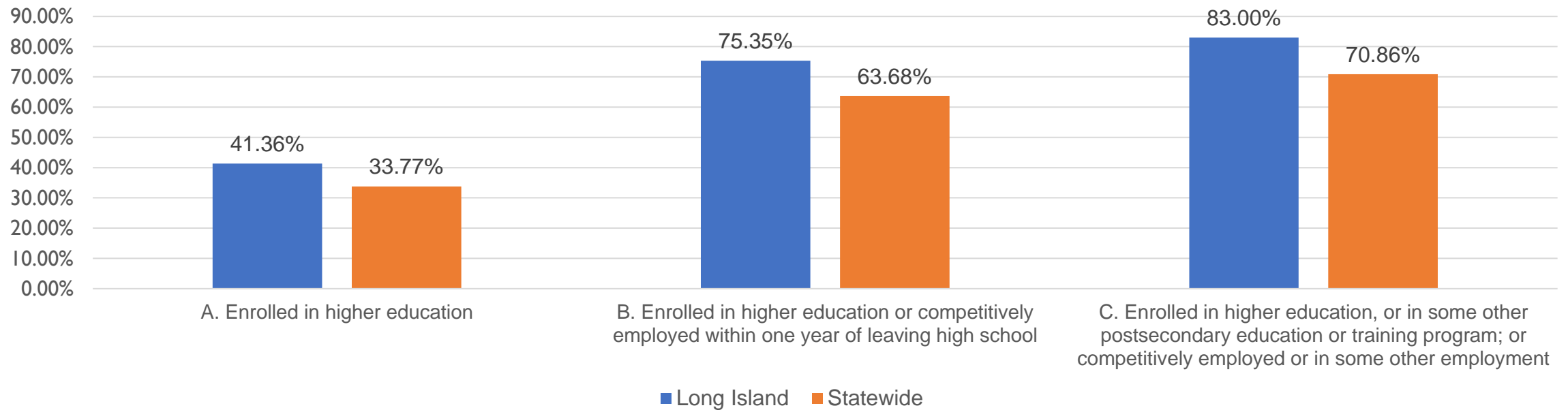
Percent of students with IEPs age 15 and above that have been reviewed and are compliant with requirements for secondary transition



2020-21 School Year Data

FFY 2020 SPP INDICATOR 14

Percent of youth who are no longer in secondary school, had IEPs in effect at the time they left school, and were



Students who left school during the 2019-20 School Year



THANK YOU

Questions?



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EDUCATION DEPARTMENT

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