

Enclosure D

Special Conditions (Alternate Assessment)

1. Basis for Requiring Special Conditions

The requirements that States ensure that children with disabilities participate in State- and districtwide assessment systems; develop and administer alternate assessments, if necessary; and report publicly on the participation and performance of children with disabilities on statewide and districtwide assessments, are crucial to ensuring that children with disabilities are provided access to high-quality instruction in the general curriculum, and that States and districts are held accountable for the progress of these children. 20 U.S.C. 1412(a)(15)-(16). The requirements regarding performance goals and indicators and the participation of children with disabilities in, and reporting on, participation and performance of children with disabilities on regular assessments have been in effect since July 1, 1998; the requirements regarding reporting on alternate assessments have been in effect since July 1, 2000.

During the Office of Special Education Programs' (OSEP's) onsite verification visit to Kentucky the week of November 17, 2003, the Department became aware that no alternate assessments were conducted for the Norm Reference Tests (NRT) administered Statewide to children in grades 3, 6 and 9. OSEP concluded that the Kentucky Department of Education (KDE) had failed to ensure the participation of those students with disabilities who require an alternate assessment to the NRT at grades 3, 6, and 9, as required by 20 U.S.C. 1412(a)(16)(C). In addition, KDE also was unable to report to the public the participation and performance of children with disabilities on alternate assessments, as required by 20 U.S.C. 1412(a)(16)(D).

The FFY 2006 Special Conditions required that Kentucky demonstrate, by June 1, 2007, that it was reporting publicly on the participation and performance of children with disabilities on alternate assessments, as required by 20 U.S.C. 1412(a)(16)(D). The State did not meet that timeline and has not met the requirements of 20 U.S.C. 1412(a)(16)(D). Specifically, in its June 1, 2007 letter, the State informed the Department that it will not be able to provide documentation demonstrating compliance until after August 2007. Therefore, the Department is imposing Special Conditions on Kentucky's Federal Fiscal Year 2007 awards under Part B.

2. Nature of the Special Conditions

By June 1, 2008, Kentucky must demonstrate to the Department that it is reporting publicly the participation and performance of children with disabilities on alternate assessments, as required by 20 U.S.C. 1412(a)(16)(D).

The Department also is imposing the following reporting requirements:

- By September 30, 2007 the State must submit, either documentation demonstrating that it is reporting to the public the participation and performance of children with disabilities on alternate assessments with the same frequency and in the same detail as it reports on the assessment of nondisabled children, or, in the alternative, a written plan detailing the steps and timelines for reporting publicly the participation and performance of children

with disabilities on alternate assessments, with such reporting to occur no later than June 1, 2008.

- To the extent that the State has not previously submitted documentation demonstrating compliance with 20 U.S.C. 1412(a)(16)(D), Kentucky must submit a progress report that describes the status of compliance on February 1, 2008 (along with its submission of the FFY 2006 Annual Performance Report); and, submit a final report on June 1, 2008 that demonstrates full compliance with 20 U.S.C. 1412(a)(16)(D).

3. Evidence Necessary for Conditions To Be Removed

The Department will remove the Special Conditions if, at any time prior to the expiration of the grant year, Kentucky provides documentation, satisfactory to the Department, that it is meeting the requirements of 20 U.S.C. 1412(a)(16)(D), to report publicly the participation and performance of children with disabilities on alternate assessments.

4. Method of Requesting Reconsideration

The State can write to the Office of Special Education Programs Acting Director, Patricia J. Guard, at the address below, if it wishes the Department to reconsider any aspect of these Special Conditions. The request must describe in detail the changes to the Special Conditions sought by the State and the reasons for those requested changes.

5. Submission of Reports

All reporting required under these Special Conditions should be submitted to:

U.S. Department of Education
Office of Special Education Rehabilitative Services
Attn: Hugh Reid
400 Maryland Ave., SW
Washington, DC 20202-2550