

Enclosure D

Special Conditions

1. Basis for Requiring Special Conditions

The requirements that States ensure that children with disabilities participate in State- and district-wide assessment systems; develop and administer alternate assessments, if necessary; and report publicly on the participation and performance of children with disabilities in State- and district-wide 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 in 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.

In the FFY 2004 grant award letter, dated September 23, 2004, the following two issues were identified by OSEP: Kentucky was not reporting the results of the alternate portfolio in the same detail as the State reported on assessments of nondisabled students and based on the verification visit to Kentucky the week of November 17, 2003, the Department became aware that no alternate assessment is administered for the Norm Reference Test (NRT) administered in grades 3, 6 and 9. The NRT is administered statewide in these grades. KDE had failed to ensure the participation of students in the NRT testing at grades 3, 6, and 9 for those children requiring an alternate assessment format pursuant to 20 U.S.C. 1412(a)(16)(C).

The Department determined that Kentucky had not complied with all the terms and conditions of prior awards under Part B of IDEA, and, under the authority of the Education Department General Administrative Regulations, 34 CFR §80.12, the Department imposed Special Conditions on Kentucky's Federal Fiscal Year 2004 awards under Part B. The Special Conditions required that Kentucky (1) report publicly and to the Secretary on the performance data at the District level on students taking the alternate portfolio, where reporting would not disclose personally identifiable information and (2) submit either (a) documentation that it already had a plan for developing, administering, and reporting on performance and participation on an alternate assessment for those students requiring an alternate assessment format for the NRT administered in grades 3, 6, and 9; or (b) its plan for developing, administering, and reporting on that alternate assessment as soon as possible but no later than May 17, 2005.

The State is reporting to the Secretary and the public on its website on the performance data at the District level on students taking the alternate portfolio, where reporting would not disclose personally identifiable information. In its August 6, 2004 letter to OSEP, KDE stated that it was not agreeable to making immediate changes in its alternate assessment process. KDE indicated its willingness to review its system and research the possibility of change as part of its General Supervision Enhancement Grant. However, the State did not submit a plan for developing, administering, and reporting on performance and participation on an alternate assessment for those students requiring an alternate assessment format for the NRT by May 17, 2005, and has not yet met the

requirements of 20 U.S.C. 1412(a)(16)(C). Therefore, the Department is imposing Special Conditions on Kentucky's Federal Fiscal Year 2005 awards under Part B.

2. Nature of the Special Conditions

As soon as possible and not later than May 15, 2006, Kentucky must demonstrate that it has developed and is administering and reporting publicly and to the Secretary on the participation and performance of children with disabilities on alternate assessments for those students requiring an alternate assessment format for the NRT administered in grades 3, 6, and 9, as required at 20 U.S.C. 1412(a)(16)(C).

The State must:

- Submit to OSEP by September 1, 2005, a written plan detailing the steps and timelines for developing, administering and reporting publicly and to the Secretary on the participation and performance on an alternate assessment for those children with disabilities requiring an alternate assessment format for the NRT administered in grades 3, 6, and 9. The plan must ensure that students with disabilities, including students who take the alternate assessment, are assessed in the same grades as nondisabled students and that their participation in such assessments and the results of their assessments are reported with the same frequency and in the same detail as nondisabled students by May 15, 2006.
- Submit a progress report on December 2, 2005 in the State's Performance Plan, and a final submission on May 15, 2006.

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 has fully met the requirements to report publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments.

4. Method of Requesting Reconsideration

The State can write to Troy R. Justesen 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 reports that are required to be submitted by Kentucky to the Department under the Special Conditions should be submitted to:

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