

## 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 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, including alternate 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 conducting and reporting on alternate assessments have been in effect since July 1, 2000.<sup>1</sup>

During the Department's Verification Visit to Kentucky the week of November 17, 2003, the Department became aware that no alternate assessment was conducted for the Norm Reference Test (NRT) administered Statewide to children in grades 3, 6 and 9, and that the Kentucky Department of Education (KDE) failed to ensure the participation of students with disabilities in the NRT testing at grades 3, 6, and 9 for those students requiring an alternate assessment as required by 20 U.S.C. 1412(a)(16)(C).

According to the information reported to the Department in the Annual Performance Report (APR) for Federal Fiscal Year (FFY) 2003 and the data provided in Kentucky's State Performance Plan for FFY 2004, Kentucky failed to ensure the participation of students with disabilities in the NRT testing at grades 3, 6, and 9 for those children requiring an alternate assessment format during the 2003-04 and 2004-05 school years, as required by Part B of the Individuals with Disabilities Education Act (Part B). Therefore, 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 FFYs 2004 and 2005 grant awards under Part B. The Special Conditions attached to Kentucky's FFY 2005 grant awards required that Kentucky demonstrate, by May 15, 2006 that it had developed and implemented guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments for all areas and grades in which nondisabled children are assessed, as required at 20 U.S.C. 1412(a)(16)(C), and that it was reporting publicly and to the Secretary on the participation and performance of children with disabilities on alternate assessments for those students requiring an alternate

---

<sup>1</sup> The Individuals with Disabilities Education Improvement Act of 2004 provides that "[a]ll children with disabilities must be included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs." 20 U.S.C. 1412(a)(16)(A) (emphasis added). This requirement applies to all general State and districtwide assessment programs, not just those required or administered under the No Child Left Behind Act.

assessment format for the NRT administered in grades 3, 6, and 9, as required at 20 U.S.C. 1412(a)(16)(D). The State failed to inform the Department that it had satisfied this Special Condition by that time.

On March 20, 2006, the State submitted to the Department a status report on the results of its General Supervision Enhancement Grant (GSEG) awarded to the State to assist in the development of its alternate assessment system for students with disabilities. That report described the State's efforts to revise its alternate assessment system to address all of the content and grades assessed through its regular assessment program, and its 2005-2006 pilot of its revised alternate assessment program. The State further informed the Department by letter on June 30, 2006 of the changes that are to be implemented during the 2006-07 school year in its assessment system, including changes regarding when the NRT tests would be administered. With regard to the development of its alternate assessment system generally, Kentucky stated in its June 30, 2006 letter: ". . .[b]y the end of June 2007, Kentucky will have Statewide data from an alternate assessment based on alternate achievement standards, which assesses all grades and the content areas of reading, math and possibly science assessed by the general education. During implementation, Kentucky will be working toward adding other content areas that are included in our State assessment system."

Because Kentucky has failed to satisfy the Special Conditions attached to its FFY 2005 Part B grant awards and has not yet demonstrated that it is conducting alternate assessments for all areas and grades assessed and reporting publicly and to the Secretary on the participation and performance of children with disabilities in those assessments, the Department is imposing Special Conditions on Kentucky's FFY 2006 awards under Part B under 34 CFR §80.12.

## **2. Nature of the Special Conditions**

By June 1, 2007 Kentucky must demonstrate that: (1) it has developed and implemented guidelines for the participation of children with disabilities in alternate assessments in all areas for all grades assessed, as required at 20 U.S.C. 1412(a)(16)(C); (2) has administered alternate assessments for students who cannot take the regular assessments in all areas for all grades assessed; and (3) is reporting publicly and to the Secretary on the participation and performance of children with disabilities in all alternate assessments in all areas for all grades assessed, as required at 20 U.S.C. 1412(a)(16)(D).

The State must:

- Submit to OSEP by September 1, 2006, a written plan detailing the steps and timelines for administering and reporting publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments for all grades and areas assessed, by June 1, 2007 in accordance with 20 U.S.C. 1412(a)(16)(C)-(D). The plan must ensure that Kentucky has developed and implemented guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments for all areas and grades in which nondisabled children are assessed, 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.
- Submit a progress report on February 1, 2007 with the FFY 2005 APR and a final submission on June 1, 2007.

## **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 administer and report publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments in all areas for all grades assessed.

**4. Method of Requesting Reconsideration**

The State can write to the Office of Special Education Programs Director, Alexa Posny, 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 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