

Enclosure D

Special Conditions

1. Basis for Requiring Special Conditions

Pursuant to 34 CFR §80.12, the Office of Special Education Programs (OSEP) is imposing Special Conditions on New Hampshire's Federal Fiscal Year (FFY) 2006 grant award under Part B of the Individuals with Disabilities Education Act (Part B), related to the New Hampshire Department of Education's (NHDOE) general supervisory responsibilities concerning the requirement for timely evaluations and reevaluations. Specifically, NHDOE has had a longstanding issue with the failure to ensure that evaluations and reevaluations are timely, consistent with 20 U.S.C. §§1414(a)(1)(C) and 1414(a)(2).

OSEP's November 10, 2004 FFY 2002 Annual Performance Report (APR) letter to NHDOE required the State to include in the FFY 2003 APR that was due March 31, 2005, data and analysis demonstrating progress toward compliance with timeliness of evaluations and provide a final Progress Report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but not later than 30 days following one year after the date of that letter.

The August 31, 2005 FFY 2003 APR letter directed the State to submit in the State Performance Plan (SPP) or by December 10, 2005, final documentation of correction of noncompliance regarding timely evaluations and reevaluations.

NHDOE submitted a Progress Report and data analysis to OSEP on December 9, 2005. The data indicated that 71% of initial evaluations and 83% of reevaluations were completed within the required timelines.

In the March 20, 2006 SPP letter, OSEP required NHDOE to provide a Progress Report demonstrating compliance with sections 1414(a)(1)(C) and 1414 (a) (2) of the IDEA, by June 1, 2006.

In the June 1, 2006 letter to OSEP, NHDOE provided data and analysis for the time period July 1, 2005 through June 30, 2006 (data as of May 9, 2006) showing that 73% of initial evaluations were timely, and 84% of reevaluations were timely. NHDOE's 4th quarter data, covering April 1, 2006 through May 9, 2006, indicated a slight increase in timely evaluations and reevaluations, with 77% of initial evaluations and 89% of reevaluations reported as timely. Although the most recent data is beginning to show an upward trend, NHDOE is not yet in full compliance with the timely evaluations and reevaluations requirements.

2. Nature of the Special Conditions

The State must, pursuant to these Special Conditions, provide two Progress Reports, the first with the FFY 2005 Annual Performance Report (APR) that it will submit by February 1, 2007¹, and the second by June 1, 2007.

¹ In addition to the specific reporting requirements set forth with this enclosure, the State must also, as part of its FFY 2005 APR, due by February 1, 2007, provide the required data for Part B Indicator 11 for the reporting period of July 1, 2005 - June 30, 2006.

A. In the first Progress Report, due on February 1, 2007 with its FFY 2005 APR, the State must provide, with separate data for evaluations and reevaluations:

(1) The number and percentage of local entities where noncompliance was identified between July 1, 2004 and June 30, 2005, and of those local entities, the number and percentage for which the State has verified correction by December 31, 2006. For any findings of noncompliance that were not corrected by December 31, 2006, a description of the actions that the State has taken, including enforcement actions, to ensure correction of the finding(s) (this should include the results of the State's analysis of factors that have contributed to any continuing noncompliance, and of the strategies that the State has implemented to address those factors); and

(2) The number of local entities monitored between July 1, 2006 and December 31, 2006 for compliance with 20 U.S.C. §§1414(a)(1)(C) and 1414(a)(2), and the number and percentage of entities for which noncompliance was identified. To the extent that the State continues to identify systemic noncompliance, the State must include the actions that the State is taking to prevent such noncompliance.

B. In the second Progress Report, due on June 1, 2007, the State must provide the following updated information, with separate data for evaluations and reevaluations:

(1) For noncompliance identified between July 1, 2004 and June 30, 2005, and not corrected by December 31, 2006, the number and percentage of local entities for which the State has verified correction by April 30, 2007.

For any findings of noncompliance that were not corrected by April 30, 2007, a description of the actions that the State has taken, including enforcement actions, to ensure correction of the finding(s) (this should include the results of the State's analysis of factors that have contributed to any continuing noncompliance, and of the strategies that the State has implemented to address those factors); and

(2) The number of local entities monitored between January 1, 2007 and April 30, 2007, and the number and percentage of local entities for which noncompliance was identified. To the extent that the State continues to identify systemic noncompliance, include the actions that the State is taking to prevent such noncompliance.

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, New Hampshire provides documentation, satisfactory to the Department, that it has submitted data demonstrating compliance with timely evaluations and reevaluations.

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 New Hampshire to the Department under the Special Conditions should be submitted to:

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