

Enclosure D

Special Conditions (Assessments)

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. On October 30, 2007, 34 CFR §300.160, the Department's final regulation clarifying the requirements of 20 U.S.C. 1412(a)(16), took effect.

To address the Special Conditions attached to the State's July 2, 2007 Part B grant award letter, the State submitted a link to its website where there was a separate report of Statewide data on participation and performance of students with disabilities on the State's alternate assessment. The State did not provide, and OSEP could not locate on the State's website, information demonstrating that the State publicly reports with the same frequency and in the same detail (i.e., in its Statewide, media, district and school reports) the disaggregated numbers of students with disabilities, if any, who participated in the: 1) regular assessment and the number of those who were provided accommodations that did not result in an invalid score; 2) alternate assessment based on grade-level academic achievement standards; 3) alternate assessment based on modified academic achievement standards; and 4) alternate assessment based on alternate academic achievement standards. Therefore, the Department has concluded that Kentucky is not in full compliance with 20 U.S.C. 1412(a)(16) and 34 CFR §300.160 and is imposing Special Conditions on Kentucky's Federal Fiscal Year 2008 awards under Part B.

2. Nature of the Special Conditions

By May 15, 2009, Kentucky must demonstrate to the Department that that the State publicly reports with the same frequency and in the same detail (i.e., in its Statewide, media, district and school reports) the disaggregated numbers of students with disabilities, if any, who participated in the: 1) regular assessment and the number of those who were provided accommodations that did not result in an invalid score; 2) alternate assessment based on grade-level academic achievement standards; 3) alternate assessment based on modified academic achievement standards; and 4) alternate assessment based on alternate academic achievement standards, as required by 20 U.S.C. 1412(a)(16) and 34 CFR §300.160.

3. Evidence Necessary for Conditions to Be Removed

The Department will remove these 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) and 34 CFR §300.160, that the State publicly reports with the same frequency and in the same detail (i.e., in its Statewide, media, district and school reports) the disaggregated numbers of students with disabilities, if any, who participated in the: 1) regular assessment and the number of those who were provided accommodations that did not result in an invalid score; 2) alternate assessment based on grade-level academic achievement standards; 3) alternate assessment based on modified academic achievement standards; and 4) alternate assessment based on alternate academic achievement standards.

4. Method of Requesting Reconsideration

The State may write to the Office of Special Education Programs Acting Director, William W. Knudsen, 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: Jill Harris
400 Maryland Ave., SW
Washington, DC 20202-2550