

ENCLOSURE C

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)(16)-(17); 34 CFR §§300.137-300.139. 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 2003 grant award letter, dated July 1, 2003, OSEP indicated that Kentucky was not reporting publicly on the performance of children with disabilities taking alternate assessments. Kentucky has made progress on reporting publicly on the alternate portfolio that is provided to students who require an alternate assessment format for the Kentucky Core Content Tests in that Kentucky is reporting on the State level performance data for students taking the alternate portfolio. However, the results of the alternate portfolio must be reported in the same detail as the State reports on assessments of nondisabled students. Kentucky must report on the disaggregate performance data at the district level on students taking the alternate portfolio, where the reporting would not disclose personally identifiable information regarding students.

In addition, during the Department's 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 State-wide in these grades. KDE has 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 34 CFR §300.138(a).

Therefore, the Department has determined that Kentucky has not complied with all the terms and conditions of the Federal Fiscal Year 2003 award under Part B of IDEA, and, under the authority of the Education Department General Administrative Regulations, 34 CFR §80.12, the Department is imposing Special Conditions on Kentucky's Federal Fiscal Year 2004 awards under Part B.

2. Nature of the Special Conditions

Pursuant to these Special Conditions, by November 30, 2004, Kentucky must report publicly and to the Secretary on the performance data at the District level on students

taking the alternate portfolio, where the reporting would not disclose personally identifiable information regarding students.

In addition, as specified in OSEP's May 17, 2004 letter, Kentucky must submit to OSEP, either (1) documentation that it already has 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 Norm Reference Test administered in grades 3, 6, and 9; or (2) its plan for developing, administering, and reporting on that alternate assessment as soon as possible but no later than May 17, 2005.

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 above-specified Part B requirements related to State-wide assessments.

4. Method of Requesting Reconsideration

The State can write to Stephanie Smith Lee, Director, Office of Special Education Programs, 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: Martin Benton, Room 4002
550 12th Street, SW
Washington, DC 20202-2600