

## **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. According to the information reported to the Department in the New York's Biennial Performance Report for the 2000-2001 school year, New York is not reporting publicly on the participation and performance of children with disabilities on alternate assessments as required by Part B of the Individuals with Disabilities Education Act (IDEA).

Therefore, New York has not complied with all the terms and conditions of the Federal Fiscal Year 2001 awards under Part B of IDEA. Under the authority of the Education Department General Administrative Regulations, 34 CFR §80.12, the Department is imposing these Special Conditions on New York's Federal Fiscal Year 2002 awards under Part B of the IDEA.

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

By May 30, 2003, New York must demonstrate that it is reporting to the public and to the Secretary on participation and performance on alternate assessments as required at 20 U.S.C. 1412(a)(17); 34 CFR §300.139.

a. By September 30, 2002, New York will submit a plan detailing the steps and timelines for reporting publicly and to the Secretary on the participation and performance of children with disabilities on alternate assessments by May 30, 2003. The plan must ensure that students with disabilities, including students who take the alternate assessment, are assessed in the same grades as non-disabled students and that the results of their assessments are reported in the same frequency and detail as non-disabled students.

b. New York will submit progress reports on November 29, 2002, January 31, 2003, March 28, 2003 and the final submission due on May 30, 2003. The final submission that includes information on the reporting on the participation and performance of children with disabilities on alternate assessments is to be submitted on

the Biennial Performance Report format provided by OSEP. (This format is available at [http://www.ed.gov/offices/OSERS/OSEP/Monitoring/.](http://www.ed.gov/offices/OSERS/OSEP/Monitoring/))

**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 York provides documentation, satisfactory to the Department, that it has fully met the requirements to report on the participation and performance of children with disabilities on alternate assessments. This information is to be submitted on the Biennial Performance Report format provided by OSEP. (This format is available at [http://www.ed.gov/offices/OSERS/OSEP/Monitoring/.](http://www.ed.gov/offices/OSERS/OSEP/Monitoring/))

**4. Method of Requesting Reconsideration**

The State can write to Assistant Secretary Robert H. Pasternack if it wishes the Department to reconsider any aspect of these Special Conditions. Any request of this sort should 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 York to the Department under the Special Conditions should be submitted to:

Michael F. Slade  
Office of Special Education Programs  
330 C Street SW, Room 3624  
Washington, DC 20202