

## 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 Biennial Performance Report for the 2000-2001 school year, Colorado was not reporting 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, the Department determined that Colorado had not complied with all the terms and conditions of the Federal Fiscal Year 2001 and 2002 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 Colorado's Federal Fiscal Year 2003 awards under Part B. Those Special Conditions required that Colorado demonstrate, by May 31, 2004, that it was reporting publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments, as required at 20 U.S.C. 1412(a)(17) and 34 CFR §300.139. The State did not meet that timeline and has not yet met the requirements of 20 U.S.C. 1412(a)(17) and 34 CFR §300.139. The State has not met those requirements for the following reasons:

1. Colorado has reported publicly on the 2004 Grade 3 regular assessment for reading-lectura, but the State has not yet reported publicly on the 2004 Grade 3 reading alternate assessment. The State must report to the Secretary and to the public on the 2004 Grade 3 reading alternate assessment as soon as possible, and the State must submit to OSEP an assurance that it will report on the Grade 3 reading regular and alternate assessments at the same time for the 2005 assessments, and thereafter, as required by 20 U.S.C. §1412(a)(17) and 34 CFR §300.139.
2. Aside from reporting on the 2004 reading-lectura regular assessment for Grade 3, Colorado has not reported on the other 2004 regular and alternate assessments. The State has informed OSEP that Colorado will report fully on the participation and performance of students in all grade levels taking

the 2004 regular and alternate assessments, including the on-line assessments. Colorado must report to the Secretary and to the public on the participation and performance of all students taking the alternate and on-line assessments with the same frequency and in the same detail as it reports on the assessment of nondisabled children, as required by 20 U.S.C. §1412(a)(17) and 34 CFR §300.139.

3. Colorado administers the ACT as a State-wide test for 11<sup>th</sup> grade students. Colorado currently administers an online assessment in Reading, Writing and Math to 11<sup>th</sup> grade students who cannot participate in the ACT. However, the ACT also has Science Reasoning and English components. Colorado must either explain how its current alternate assessments cover the content of those other subject areas, or develop, administer and report on an alternate assessment for the Science Reasoning and English components of the ACT.

Therefore, the Department is imposing Special Conditions on Colorado's Federal Fiscal Year 2004 awards under Part B.

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

As described above, by May 30, 2005, Colorado must demonstrate that it is reporting publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments, as required at 20 U.S.C. 1412(a)(17) and 34 CFR §300.139(a). The State must submit information on reporting publicly on the participation and performance of children with disabilities in alternate assessments in the Annual Performance Report format provided by OSEP. (This format is available at <http://www.ed.gov/policy/speced/guid/idea/monitor/index.html>.)

The State must:

- a. Submit to OSEP by December 1, 2004, a written plan detailing the steps and timelines for reporting publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments by May 30, 2005. The plan must ensure that students with disabilities, including students who take the alternate assessment, are assessed in the same grades as nondisabled students 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.
- b. Submit progress reports on January 31, 2005, March 28, 2005, and a final submission on May 30, 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, Colorado provides documentation, satisfactory to the Department, that it has fully met the requirements to report publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments. This information is to be submitted in the Annual Performance Report format provided by OSEP. (This format is available at <http://www.ed.gov/policy/speced/guid/idea/monitor/index.html>.)

**4. Method of Requesting Reconsideration**

The State can write to Troy R. Justesen, Ed, D., delegated the authority to perform the functions of Assistant Secretary of Special Education and Rehabilitative Services, 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 Colorado to the Department under the Special Conditions should be submitted to:

Attn: Margaret Romer, Colorado State Contact  
U.S. Department of Education  
Office of Special Education Rehabilitative Services  
400 Maryland Avenue, SW  
Washington DC 20202-2640