

ENCLOSURE C

SPECIAL CONDITIONS

1. Basis for Requiring Special Conditions

The Department has determined that Missouri was not compliant with all of the terms and conditions of the Federal Fiscal Year (FFY) 2003 awards under Part B of IDEA, and, under the authority of the Education Department General Administrative Regulations, at 34 CFR §80.12, is imposing Special Conditions on Missouri's FFY 2004 grant awards under Part B.

During the week of December 8, 2004, the Office of Special Education Programs (OSEP) conducted a verification visit to the Missouri Department of Elementary and Secondary Education (DESE). As part of that verification visit, OSEP staff met with DESE administrators and staff who are responsible for ensuring participation in, and the reporting of student performance on, State-wide assessments. In the May 27, 2004 letter to DESE reporting on the results of the verification visit, OSEP made the following findings of noncompliance with the requirements of Part B relating to State-wide and district-wide assessments:

1. The State had not complied with the requirements of 34 CFR §300.139¹ regarding reporting on the performance of children with disabilities on the the MAP-A, the State's alternate assessment. DESE informed OSEP that although DESE reports each year to the public on the performance of children on the MAP (general assessment), through its website and press releases, the State has not, since 2002, included the performance of students with disabilities on the MAP-A (alternate assessment) in this public reporting, or reported to the public on their performance in any other manner.
2. The State had not complied with the requirements of 34 CFR §§300.138 and 300.347(a)(5), to ensure that: (a) all children with disabilities participate in State-wide assessments; and (b) if the individualized education program (IEP) team determines that a child with a disability will not participate in a particular State-wide assessment of student achievement (or part of an assessment), the child's IEP must include a statement of why the assessment is not appropriate for the child and how the child will be assessed. Specifically, OSEP found that that DESE had not ensured that children with disabilities participated, through either the general assessment or the alternate assessment, in all parts of the State-wide assessments. DESE informed OSEP that, in order to meet the requirements of 34 CFR §300.347(a)(5), the IEP team for each child determines whether a child with a disability will participate in the MAP or the MAP-A. Then, without convening an IEP meeting, the child's special education teacher selects four of the six assessment areas (i.e., communication arts, mathematics, social studies, science, health

¹ The Part B regulations require, at 34 CFR §300.139(a), that the State must, in implementing the requirements of 34 CFR §300.138, make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following information: (1) the number of children with disabilities participating-(i) in regular assessments; and (ii) in alternate assessments; and (2) the performance results of those children described in paragraph (a)(1) of this section if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children.

/physical education, and fine arts), and—for each of those four areas—selects a goal from the child’s IEP that will be used for the MAP-A. Thus, although third-grade children participate in the third-grade general communication arts MAP, the State does not require that each third-grade child with a disability who does not participate in the communication arts MAP, participate in the communications arts MAP-A. The teacher could, instead, choose to assess the child on goals that relate to: (1) mathematics (although there is no mathematics MAP administered in the third grade); (2) science (even if the district has not elected to assess third-grade students in the general science MAP); (3) social studies (although there is no social studies MAP for the third grade); and (4) fine arts (although there is no current administration, at any grade, of a fine arts MAP).

3. The State had not met the requirements of 34 CFR §§300.138, 300.139, and 300.347(a)(5), with respect to youth with disabilities in Division of Youth Services (DYS) facilities. DESE officials informed OSEP that youth in DHS facilities (both youth with and without disabilities) do not participate in the MAP or MAP-A.² In a December 18, 2003 letter to DESE Assistant Commissioner Melodie Friedebach, DHS Assistant Deputy Commissioner Dennis M. Gregg stated that DHS would administer the MAP to “approximately 400 youth [in the spring of 2004].”
4. The State had not ensured compliance with the requirements of 34 CFR §§300.138, 300.139, and 300.347(a)(5) as they apply to district-wide assessments. DESE special education and assessment administrators and staff informed OSEP that: (a) DESE does not monitor to ensure compliance with those Part B requirements as they relate to district-wide assessments, and does not know to what extent districts that have district-wide assessments are in compliance with those requirements; and (b) DESE has informed school districts that it is not appropriate to use the MAP-A as an alternate for district-wide assessments, and does not know to what extent districts with district-wide assessments have developed alternate assessments for those assessments.

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 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.

² Title I of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001, also includes a number of requirements related to including children with and without disabilities in State assessment programs and reporting on their participation and performance on regular and alternate assessments that in many instances are more specific than requirements in the IDEA. This attachment does not, and should not be interpreted to, address Missouri’s compliance with requirements of Title I.

2. Nature of the Special Conditions

Pursuant to these Special Conditions, by July 26, 2004, the State must, as directed in OSEP's May 27, 2004 letter, submit to OSEP either: (1) documentation that DESE has corrected all of the noncompliance with the requirements of 34 CFR §§300.138, 300.139, and 300.347(a)(5) as they apply to both State-wide and district-wide assessments described in the May 27, 2004 letter and set out above; or (2) for each area of noncompliance that the State has not yet corrected, the State's plan for documenting, within one year from the date on which OSEP accepts the plan, that the State has corrected such noncompliance, including interim (within six months) and final (not later than 30 days after the one year timeline) reports to OSEP.

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, Missouri provides documentation, satisfactory to the Department, that it has fully met the above-specified Part B requirements related to State-wide and district-wide assessments.

4. Method of Requesting Reconsideration

The State can write to Dr. Troy Justesen, designated to act as the Assistant Secretary for the Office of Special Education and Rehabilitative Services (OSERS), 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 Missouri to the Department under the Special Conditions should be submitted to:

Angela McCaskill, Missouri State Contact
Office of Special Education Programs
U.S. Department of Education
Room 4005, 550 12th Street, SW
Washington, DC 20202