

**Enclosure C**  
**Special Conditions**

**1. Basis for Requiring Special Conditions**

Pursuant to IDEA section 616(g) and 34 CFR §80.12, the Office of Special Education Programs (OSEP) is designating Virgin Islands as a “high risk” grantee and imposing Special Conditions on Virgin Islands’ Federal Fiscal Year (FFY) 2011 grant award under Part B of the Individuals with Disabilities Education Act (Part B), related to the Virgin Island’s failure to demonstrate that previously identified noncompliance has been fully corrected and failure to fully meet the terms of the FFY 2010 Special Conditions. The FFY 2010 programmatic Special Conditions attached to the Part B grant award required the Virgin Islands Department of Education (VIDE) to:

- A. Ensure that all children with disabilities are included in general State (Territory) and districtwide assessment programs, including the provision of appropriate accommodations and alternate assessments, as appropriate, and that the VIDE is reporting to the public on the participation of children with disabilities in the assessment program consistent with Part B requirements; and
- B. Ensure that the St. Thomas/St. John district is complying with the requirements of 20 U.S.C. §1412(a)(16) and 34 CFR §300.160 to the extent that the school district is administering a standardized assessment on a districtwide basis.
- C. Ensure that policies and procedures fully address the requirements of 20 U.S.C. §1412(a)(16) and 34 CFR §300.160

***Status of Compliance:*** VIDE submitted documentation on November 18, 2010 and February 1, 2011. OSEP’s analysis of VIDE’s submissions related to the FFY 2010 Special Conditions follows:

- A. Statewide (Territory-wide) Assessments: Under 20 U.S.C. §1412(a)(16) and 34 CFR §300.160(f) the VIDE is required to report publicly and to the Secretary, on the participation of children with disabilities on Statewide (Territory-wide) assessments with and without accommodations and on alternate assessments, as appropriate, based on alternate grade-level achievement standards, and/or alternate achievement standards with the same frequency and in the same detail as it reports on the assessment of nondisabled children. In its FFY 2009 APR, VIDE provided a Web Link to the 2009 publicly reported assessments. Based on OSEP’s review of the VIDE website, OSEP found that the State did not provide the number of students with disabilities participating in the regular assessment who were provided accommodations (that did not result in an invalid score) in order to participate in those assessments at the State, district and/or school levels consistent with the requirements of 34 CFR §300.160(f).

OSEP’s review of VIDE’s VITAL Administration Manual for the Inclusion of Students with Disabilities, indicated that it did address all the requirements of 34 CFR §300.160.

- B. Districtwide Assessments: Under 20 U.S.C. §1412(a)(16) and 34 CFR §300.160, the same requirements that apply to statewide assessments also apply to

assessments administered and reported on a districtwide basis. As required under 34 CFR §300.160(f), in the case of districtwide assessments, a local educational agency (LEA) must 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. On November 18, 2010, VIDE submitted a memorandum stating that the St. Thomas/St. John school district administers the Iowa Test of Basic Skills (ITBS) to students in grade 2 and the Iowa Test of Educational Development (ITED) to students in grade 9 and 10. VIDE further stated that the results of those assessments are used to make changes to classroom instruction and the State “assures that this district assessment program is for diagnostic, internal use only.” OSEP accepts VIDE’s assurance that the administration of this assessment is for diagnostic purposes and instructional planning.

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

- A. By October 1, 2011, VIDE the State must provide a Web link that demonstrates it has reported to the public on the 2009 Territory-wide assessments of children with disabilities in accordance with 34 CFR §300.160(f).
- B. With the Annual Performance Report, due February 1, 2012, VIDE must submit documentation and information that for the 2010 Territory-wide assessment, the State is reporting publicly and to the Secretary consistent with the standards in 20 U.S.C. §1412(a)(16) and 34 CFR §300.160, including, with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the number of children with disabilities participating on Statewide (Territory-wide) assessments with accommodations; the numbers of children with disabilities participating without accommodations; and numbers of children with disabilities participating in the alternate assessment(s).
- C. OSEP also notes that the Department has continued to designate VIDE as a high-risk grantee and has imposed Department-wide Special Conditions on its grants for FFY 2011 (Enclosure D). The Special Conditions require a contract with a third-party fiduciary to address financial management responsibilities concerning the grants, including, but not limited to, processing of payments and disbursements, maintaining financial records, financial reporting, property procurements, and other related financial issues. These IDEA-specific Special Conditions are in addition to, and are not intended to supersede or modify the Department-wide Special Conditions related to financial management responsibilities.

## **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, Virgin Islands provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above, which require Virgin Islands to submit data demonstrating compliance with 20 U.S.C. §1412(a)(16); and 34 CFR § 300.160 that are the same subject of the Special Conditions under Part B.

**4. Method of Requesting Reconsideration**

The State can write to OSEP's Director, Melody Musgrove, Ed.D., 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 reports that are required to be submitted by Virgin Islands to the Department under the Special Conditions should be submitted to:

U.S. Department of Education  
Office of Special Education and Rehabilitative Services  
Attn: Christine Pilgrim  
400 Maryland Ave., SW  
Washington, DC 20202-2550