

## Enclosure D

### Special Condition (Alternate Assessments in Science)

#### 1. Basis for Requiring A Special Condition

The requirements in Part B of the Individuals with Disabilities Education Act (IDEA) that States: (1) ensure that all children with disabilities are included in all general State and districtwide assessment programs, including assessments described in section 1111 of the Elementary and Secondary Education Act of 1965 (ESEA), with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs (IEPs); and (2) develop and conduct alternate assessments consistent with IDEA section 612(a)(16)(C) are crucial to ensuring that children with disabilities are provided access to high-quality instruction in the general education curriculum. 20 U.S.C. 1412(a)(16). IDEA further requires that a State's alternate assessments must be aligned with challenging academic content standards, and if the State has adopted alternate academic achievement standards permitted under the regulations for Title I of the ESEA, the State's alternate assessments measure the achievement of students with disabilities against those standards. 20 U.S.C. 1412(a)(16)(C)(ii).

As set out in the Department's June 17, 2016 letter to Commissioner Stephen Pruitt, the Kentucky Department of Education (KDE) has communicated to the Department that it did not administer an operational alternate assessment in science for students with the most significant cognitive disabilities for the 2014-2015 or 2015-2016 school years, as required by 20 U.S.C. 1412(a)(16)(A) and (C). KDE did not set alternate academic achievement standards for such assessments. Rather, KDE piloted a new alternate assessment in science based on alternate academic achievement standards for students with the most significant cognitive disabilities in 2014-2015 and 2015-2016 based on Kentucky's new academic content standards in science. Accordingly, Kentucky is in violation of 20 U.S.C. 1412(a)(16)(A) and (C) and 34 C.F.R. § 300.160 (a) and (c) for failure to conduct a fully operational alternate assessment in science that is aligned with Kentucky's challenging academic content standards and alternate academic achievement standards, as permitted under the regulations for Title I of the ESEA, for the 2014-2015 and 2015-2016 school years. Therefore, the Department has determined that Kentucky did not comply with all the terms and conditions of prior awards under Part B of IDEA, and, pursuant to the authority in IDEA section 616(g) and 2 C.F.R. § 200.207, is imposing a Special Condition on Kentucky's FFY 2016 IDEA Part B grant award.

#### 2. Nature of the Special Condition

By June 1, 2017 Kentucky must demonstrate that it has administered fully operational alternate assessments in science during the 2016-2017 school year for students with the most significant cognitive disabilities at least once in grades 3-5, 6-9, and 10-12 as required under ESEA and IDEA.

The State must:

- Submit to OSEP by July 15, 2016, a written plan detailing the steps and timelines for administering fully operational alternate assessments in science during the 2016-2017

school year for students with the most significant cognitive disabilities as required under ESEA and IDEA.

- Submit a progress report with the FFY 2015 State Performance Plan/Annual Performance Report (SPP/APR) due on February 1, 2017, and a final submission no later than June 1, 2017.

### **3. Evidence Necessary for Conditions To Be Removed**

The Department will remove the special condition if, at any time prior to the expiration of the grant year (June 30, 2017), Kentucky provides documentation, satisfactory to the Department, that it has fully met the requirements to administer fully operational alternate assessments in science for students with the most significant cognitive disabilities at least once in grades 3-5, 6-9, and 10-12 as required under ESEA and IDEA.

### **4. Method of Requesting Reconsideration**

The State can write to the Office of Special Education Programs Acting Director, Ruth E. Ryder, 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 Kentucky to the Department under the Special Conditions must be submitted to:

Curtis Kinnard  
Office of Special Education and Rehabilitative Services  
U.S. Department of Education  
550 12<sup>th</sup> Street, SW  
Washington, DC 20202