

## Enclosure D

### Special Conditions (Alternate Assessments)

#### 1. Basis for Requiring Special Conditions

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 that 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)(A) and (C). IDEA, as amended by the Every Student Succeeds Act (ESSA), requires that a State's alternate assessments must be aligned with the State's challenging academic content standards under ESEA section 1111(b)(1)(B). 20 U.S.C. 1412(a)(16)(C)(ii)(I). Further, if the State has adopted alternate academic achievement standards permitted under ESEA section 1111(b)(1)(E) and the regulations promulgated under ESEA Title I, Part A, the State's alternate assessments must measure the achievement of students with the most significant cognitive disabilities, as referred to in ESSA section 1111(b)(2)(D), against those standards. 20 U.S.C. 1412(a)(16)(C)(ii)(II)<sup>1</sup>.

Indiana administered a new alternate assessment in the 2015-2016 school year, which occurred in three windows: October 2015 (Window 1); January 2016 (Window 2); and April 2016 (Window 3). Following the three testing windows, the Indiana Department of Education (IDOE) communicated to the Department by e-mail on June 8, 2016, that there were not enough items in Window 2 or Window 3 to set achievement standards for all tested grades. As a result, while students with the most significant cognitive disabilities took alternate assessments during the 2015-2016 school year, the State informed the Department that it was unable to provide data on the performance of students with the most significant cognitive disabilities who took those assessments or to report achievement levels on the alternate assessments publicly or on individual student reports. For this reason, the Office of Special Education Programs (OSEP) imposed Special Conditions on IDOE's federal fiscal year (FFY) 2016 IDEA Part B grant awards on November 16, 2016.

As required in OSEP's November 16, 2016 letter to IDOE, the State submitted a written plan on December 30, 2016, detailing the steps and timelines for meeting IDEA's alternate assessment requirements. Specifically, the plan described how the State would establish alternate academic achievement standards to measure the achievement of students with the most significant cognitive disabilities taking alternate assessments during the 2016-2017 school year. In addition, the plan explained how the State would report the performance results of students with the most significant cognitive disabilities who participate in alternate assessments aligned with Indiana's

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<sup>1</sup> The statutory provision cited above reflects the amendments made to IDEA section 612(a)(16)(C)(ii) by section 9215(ss)(3)(B) of the ESSA. The amendments to the IDEA made by the ESSA, which take effect with IDEA Part B funds awarded to States for FFY 2017, retain the requirements that formed the basis for imposing Special Conditions pursuant to IDEA section 616(g) and 2 CFR §200.207 on Indiana's FFY 2016 IDEA Part B grant award.

alternate academic achievement standards consistent with 20 U.S.C. 1412(a)(16)(D) and 34 CFR §300.160(f). The State also submitted a progress report on February 9, 2017. In that progress report, the State informed OSEP that the vendor selected to deliver ISTAR built the 2016-2017 assessment off a “Two-Part Design,” which includes two testing windows: Part 1 (January 9 – February 3) and Part 2 (April 10 – May 19). In Part 1, all students took the same test form, which included items from a range of all three access levels. Performance on the Part 1 portion of the test design informed placement into the access level for Part 2. Part 2 was developed with linking items. Common items from each access level will be used to link Part 1 with Part 2 and common items will link Access levels 1, 2, and 3. Student performance on items from Part 1 and Part 2 will be combined for the summative score. The vendor prepared a standard setting design for Indiana’s technical advisory committee (TAC) to review at their April 2017 meeting. The State scheduled standard setting meetings for June, 2017. The State also reported that its alternate academic achievement standards will be presented to the Indiana State Board of Education for final approval in July 2017, and that ISTAR test results will be made available to schools and parents in late July/early August 2017. Indiana reported that it administered alternate assessments to students with the most significant cognitive disabilities, as required by IDEA section 612(a)(16)(a) and (c) in the 2016-2017 school year.

However, Indiana has not yet finalized alternate academic achievement standards to measure the achievement of the students who took the alternate assessments. Therefore, Indiana has not yet met the terms and conditions set out in the November 16, 2016 Enclosure that were imposed on its FFY 2016 IDEA Part B grant award, because it has not provided documentation demonstrating that it has conducted fully operational alternate assessments that are capable of measuring the achievement of students with the most significant cognitive disabilities who took alternate assessments during the 2016-2017 school year.

Because Indiana continues to be in violation of 20 U.S.C. 1412(a)(16)(A) and (C) and 34 CFR §300.160(a) and (c), Indiana has failed to meet the terms and conditions of its prior grant award. Therefore, pursuant to IDEA section 616(g) and 2 CFR §200.207, OSEP is continuing to impose Special Conditions on Indiana’s FFY 2017 IDEA Part B grant award.

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

By June 1, 2018, Indiana must demonstrate that during the 2016-2017 school year it administered fully operational alternate assessments to students with the most significant cognitive disabilities that are aligned with Indiana’s alternate academic achievement standards, that Indiana has adopted as permitted under section 1111(b)(1)(E) of the ESEA.

The State must submit to OSEP by August 30, 2017, documentation demonstrating that the State has established and applied alternate academic achievement standards under ESEA section 1111(b)(1)(E) that are capable of measuring the achievement of students with the most significant cognitive disabilities on alternate assessments conducted during the 2016-2017 school year under IDEA section 612(a)(16)(A) and (C) to assess student progress under ESEA Title I.

## **3. Evidence Necessary for Special Conditions to be Removed**

The Department will remove the Special Conditions if, at any time prior to the expiration of the grant year (June 30, 2018), Indiana provides documentation satisfactory to the Department that it has fully met the requirement to administer fully operational alternate assessments aligned with its alternate academic achievement standards to measure the achievement of students with the most significant cognitive disabilities.

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

The State can write to the OSEP's Acting Director, Ruth E. Ryder, at the address below, if it wishes the Department to reconsider any aspect of the 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 Indiana to the Department under the Special Conditions must be submitted to:

Jennifer Wolfsheimer  
Office of Special Education Programs  
U.S. Department of Education  
550 12<sup>th</sup> Street, S.W.  
Washington, DC 20202 or by email to: Jennifer.Wolfsheimer@ed.gov