



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE DEPUTY SECRETARY

MAR 30 2000

Honorable William K. Callender, M.D., FACOG
Commissioner-Designee
Department of Health
48 Sugar Estate
St. Thomas, U.S. Virgin Islands 00802

Honorable Ruby Simmonds
Commissioner
Department of Education
No. 44-46 Kongens Gade
Charlotte Amalie, U.S. Virgin Islands 00802

Dear Commissioner Callender and Commissioner Simmonds:

I am writing with regard to the status of the special conditions that were placed on a number of the grants in Federal education programs that your agencies are administering. These conditions were placed on the grants received from this Department as a result of serious concerns that we have about the lack of proper accountability, that were specifically identified and discussed in a letter to you dated September 23, 1999, from then-acting Deputy Secretary Marshall Smith. We asked that your agencies give these matters immediate attention to ensure appropriate accountability and that we work together, so that the programs could be operated in full compliance with applicable grant requirements and that students of the Virgin Islands could receive the benefits that these programs were designed to deliver in an effective and efficient manner.

The special conditions included various reporting requirements on the issues that produced the original concerns, and indicated that as of March 30, 2000, we would assess whether "significant progress" was being made in meeting the special conditions. If significant progress was not being made, we indicated that we would consider additional conditions to address the problems, including mechanisms such as making grant payments on a "reimbursement basis," and enlisting the assistance of a third party to improve the fiscal accountability of the programs.

As you know, to complete our assessment for March 30, we recently sent a team to the Virgin Islands to meet with you and your staffs and other officials of the Virgin Islands government, including the Governor and the Commissioner of Finance. I appreciate the courtesy and cooperation that you extended during their visit to help make it a most productive one. Among the objectives was to give your agencies and the Virgin Islands government the opportunity to demonstrate how you are addressing the special conditions. We believe that we accomplished this goal fully and gave your agencies and

the Virgin Islands government a complete opportunity to provide information and discuss the underlying issues.

We were encouraged by some of the progress made, especially with regard to the steps your agencies took to address the so-called "Year 2000 (Y2K) problem" for your computer systems. Based on the steps taken there appeared to be no Y2K problems.

Unfortunately, as our team discussed at the conclusion of the visit, significant gaps still exist in addressing some of the other accountability problems and special conditions, and further conditions will be necessary to ensure appropriate accountability and full compliance with applicable requirements. As explained more fully during the visit, these gaps include the following:

- No separate accounts have been established for the Federal education grants as set forth in the special conditions.
- Reports provided some relevant information, but did not adequately provide information to: (a) determine the allowability of the expenditures under the Federal education programs; and (b) determine the time between the drawdown of funds and the liquidation of expenditures.
- While some progress has been made in producing Single Audit Act audits, the audit for Fiscal Year (FY) 1998 is late, and the audit for FY 1999 has not been started and is behind schedule. The audits for FY 1996 and 1997 have not begun. These independent audits are important means of ensuring appropriate accountability and program management.
- Additionally, the problems identified in findings in an audit conducted by the U.S. Department of Interior, Office of Inspector General have not been satisfactorily addressed. These findings indicate that (a) program funds administered by your agencies are "drawn down" from the U.S. Department of Education and are not always promptly spent, in violation of the Cash Management Improvement Act; and (b) various units of the Virgin Islands government have made improper "interfund transfers" of funds (including funds from your agencies) between various Federal accounts.

While we are concerned about the seriousness of these and other related problems that will be addressed more fully in the attached additional conditions to the program grant awards, we are also interested in continuing to provide needed Federal education assistance for the students in the Virgin Islands. I know that you share our concerns to make the education programs as effective as possible and serve the students for whom the program benefits are intended. During the visit, the team concluded that based on the information provided by Virgin Islands officials, a reimbursement system of payment at this time would hamper the ability of the Virgin Islands to participate in the Federal education programs and negatively affect the students of the Virgin Islands.

At the same time, we believe that further safeguards are necessary to ensure that Federal education funds appropriately benefit the students of the Virgin Islands. Therefore, we are now prepared to allow a limited amount of funds to be drawn from your grant accounts but to provide more funds only when a separate account has been established for the Federal education grants, and when proper documentation is provided to show that the funds are being spent for allowable purposes and that the funds drawn down are being spent in a timely manner with appropriate certifications. These expenditures and the documentation will also be subject to further monitoring and review. These conditions will be detailed in the attachments to this letter in accordance with the regulations governing "high risk" grantees in 34 CFR §80.12. We will periodically evaluate your agencies' progress under these conditions, their progress in developing mechanisms in conjunction with other Virgin Island agencies that ensure full accountability without the need for special conditions, or the possible need for further conditions such as a third party arrangement.

The special conditions are being imposed because of our concern that the fiscal and related problems mentioned above are preventing us from being assured that there is a proper expenditure of grant funds for the various intended beneficiaries in the Virgin Islands. Although we understand that the Virgin Island Departments of Health and Education, as lead agencies for our grants, may not be directly responsible for all of the problems, grantees must be able to properly account for and manage the federal grant funds in order to continue as grant recipients. You may also receive letters from specific offices within the Department responsible for these programs, if there are special issues that they need to address.

While we are attaching special conditions to the grants, we encourage you to work with the other governmental units in the Virgin Islands and with our Department to help solve the underlying problems. Deputy Assistant Secretary for Intergovernmental and Interagency Affairs Leo Coco at (202) 260-4031 will be available to answer any questions about this letter. Please let him know if you would like our assistance on any of the matters in this letter. We wish you success in the administration of your programs.

Sincerely,

Frank S. Holleman III
Deputy Secretary

Attachments

cc: Honorable Charles Turnbull, Governor, U.S. Virgin Islands
Honorable Bernice Turnbull, Commissioner of Finance
Honorable Donna M. Christian-Christensen, Delegate, U.S. House of
Representatives

Virgin Islands Department of Education – Special Conditions

PREAMBLE: These special conditions are imposed under the Department's regulations governing "high risk" grantees in 34 CFR §80.12 on all of the Virgin Islands Department of Education's (VIDE's) grant awards from the U.S. Department of Education (Department) for which there are funds are still available for expenditure or liquidation. The special conditions are imposed to help ensure that the VIDE awards are expended in accordance with applicable legal requirements, and appropriate fiscal accountability measures and management practices and controls.

I. EXPLANATION OF HIGH RISK STATUS

Under the authority of the Education Department General Administration Regulations (EDGAR), 34 CFR §80.12, the Department has determined that VIDE is a "high risk" grantee for purposes of all of its grant awards because of problems in its fiscal accountability. Our conclusion is based on the following findings:

- 1) The Virgin Islands is not in compliance with the Single Audit Act, and has not provided a single audit since ones covering Fiscal Years (FYs) 1994 and 1995. The FY 1995 audit report, which we recently received, was long overdue, and there has been no single audit covering VIDE funds since FY 1995. Although work is underway on the audit for (FY) 1998, it is late; and the audit for FY 1999 has not been started and is behind schedule. Work on the audits for FY 1996 and 1997 have also not begun. These independent audits are important means of ensuring appropriate accountability and program management.
- 2) No separate accounts have been established for the Federal education grants as required by the previous special conditions that were contained in various program grant awards issued by the Department.
- 3) Special conditions outlining various reporting requirements designed to ensure proper accountability for the program funds that were set forth in various program grant awards were not met by VIDE. The reports submitted by the VIDE to address these conditions provided some relevant information, but did not adequately provide information to: (a) determine the allowability of the expenditures under the Federal education programs; and (b) determine the time between the drawdown of funds and the liquidation of expenditures.
- 4) Additionally, the problems identified in findings in an audit conducted by the U.S. Department of Interior, Office of Inspector General for FY 1998 have not been satisfactorily addressed. These findings indicate that (a) program funds administered by VIDE are "drawn down" from the U.S. Department of Education and are not always promptly spent, in violation of the Cash Management Improvement Act; and (b) various units of the Virgin Islands government have made improper "interfund transfers" of funds (including funds from VIDE) between various Federal accounts.

II. SPECIAL CONDITIONS

A. Separate Account

All Federal education grant funds received from the Department must be deposited in and spent from a separate account used solely for the appropriate purposes under each Federal education program authority. These funds are not to be commingled with other local, territory or Federal (non-Department) funds.

B. Funding, Reporting Requirements, Liquidations and Purpose of Expenditures

The Department will allow VIDE to drawdown a limited amount of funds from its grant accounts, based on its past patterns of drawdowns for Department grants for one month. The Department will allow VIDE to drawdown additional grant funds only after VIDE establishes a separate account for the Federal education grants as set forth in section II(A) above, and the following documentation is provided to show that the funds are being spent for allowable purposes and that the funds drawn down are being spent in a timely manner with appropriate certifications. These expenditures and the documentation will also be subject to further monitoring and review. VIDE will provide periodic reports (see section III(B below), containing:

1. Details of each expenditure (and each liquidation of obligations) of Department program funds, with the date of expenditure (or liquidation), number of days from drawdown of funds from the Department to actual disbursement and liquidation, and the purpose of the expenditure (or liquidation). Expenditures (or liquidations) may be grouped by category (e.g., purchase of computers, professional development, etc.) or by date, but the information must be provided for each Federal program separately and in sufficient detail for the Department to determine the allowability of the expenditure (or liquidation).
2. A certification signed by an authorized official of VIDE, attesting, under penalty of Federal law, to the accuracy and completeness of the report, including verification that the expenditures made were for authorized purposes under each of Federal education programs.

C. Single Audit

1. VIDE shall report to the Department within forty-five days of the date of this document, on efforts of VIDE and the Virgin Islands government to make progress on arrangements for single audits for FYs 1998 and 1999. It is understood that the Government of the Virgin Islands will execute a contract on a timely basis with an independent auditor to conduct a complete single audit for the FY 1999. The single audit for FY 1998 should have been completed and the report published by December 31, 1999.

2. Beginning with the report for FY 1999, the Government of the Virgin Islands is required to produce comprehensive annual financial reports within 120 days after the end of each fiscal year, as required by the Insular Areas Act of 1982. VIDE should submit a copy of this report for FY 1999 to the Department on a timely basis.

3. Beginning with the FY 1999 report, the Government of the Virgin Islands' independent auditors will perform a complete single audit and publish the report within nine months after the end of each fiscal year as required by the Single Audit Act of 1984 and subsequent amendments.

D. Resolving audit findings

1. VIDE should have already provided a full response to the findings made by Department officials in a program determination letter dated September 28, 1998, to resolve the FY 1994 single audit. The VIDE has failed to provide a complete response to all of the findings. This response should be provided to the Department within forty-five days of the date of this document.

2. VIDE shall report within forty-five days of the date of this document to the Department on progress towards resolving the Department of Interior Audit Report No. 98-I-670 (Sept. 1998) on all matters affecting Department funds.

3. If there are any additional audit findings that cover funds under this grant program, made by the Department of Interior or any other Federal agency, VIDE shall promptly report such findings to the Department and outline the corrective actions to be taken.

E. Prompt Access to Records

VIDE will promptly provide the Department any requested records and information.

F. Failure to Comply with Conditions and Assessment of Progress

We will periodically evaluate your agencies' progress under these conditions, their progress in developing mechanisms in conjunction with other Virgin Island agencies that ensure full accountability without the need for special conditions, or the possible need for further conditions. If the U.S. Department of Education determines that VIDE is not making satisfactory progress in meeting the Special Conditions contained in section II, paragraphs A-E above, then the U.S. Department of Education will decide if further funding will be provided, and if it is, the Department may apply additional conditions, such as the following:

1. VIDE would receive further funds under this grant award only on a reimbursement basis; and

2. VIDE would have to contract with a third party, who must be approved by the U.S. Department of Education, to assist in financial management of this grant award. The third party would, at a minimum, assist in preparing the vouchers to be submitted to the U.S. Department of Education for reimbursement, and would verify their accuracy and legitimacy as an appropriate expenditure under these grant awards.

III. OTHER TERMS

A. Enforcement

If VIDE fails to meet any of the above special conditions, the Department will take appropriate enforcement action. These terms and conditions do not preclude the Department from taking any otherwise authorized enforcement or other action at any time.

B. Submission of Reports

All reports that are required to be submitted by VIDE to the Department under these special conditions should be submitted to:

Philip Maestri
Office of the Chief Financial Officer
U.S. Department of Education
Room 4C135 FB 6
400 Maryland Avenue, S.W.
Washington, DC 20202

C. Reconsideration and Modifications

At any time, VIDE may request reconsideration of the above special conditions by contacting the Department and stating reasons why VIDE believes particular conditions are no longer needed. Additionally, the Department may impose additional special conditions or modify these special conditions as appropriate. The Department will remove the special conditions at such time as VIDE meets, to the Department's satisfaction, the conditions identified above.

D. Relationship to Other Special Conditions

The special conditions outlined above supersede the special fiscal conditions specified in other grant awards issued by the Department. They do not supersede compliance agreements between the Department and VIDE.

Dated: 03-31-00

Signature: 

Michael Cohen
Assistant Secretary ..
for Elementary and Secondary
Education

Virgin Islands Department of Education – Special Conditions

PREAMBLE: These special conditions are imposed under the Department's regulations governing "high risk" grantees in 34 CFR §80.12 on all of the Virgin Islands Department of Education's (VIDE's) grant awards from the U.S. Department of Education (Department) for which there are funds are still available for expenditure or liquidation. The special conditions are imposed to help ensure that the VIDE awards are expended in accordance with applicable legal requirements, and appropriate fiscal accountability measures and management practices and controls.

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Dated: 3/31/2020

Signature: 

Bouy Te, Deputy Director
Office of Bilingual Education and
Minority Languages Affairs

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Dated: 3/31/2000

Signature: 
Claudio R. Prieto
Acting Assistant Secretary
for Postsecondary Education

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The Department will allow VIDE to drawdown a limited amount of funds from its grant accounts, based on its past patterns of drawdowns for Department grants for one month. The Department will allow VIDE to drawdown additional grant funds only after VIDE establishes a separate account for the Federal education grants as set forth in section II(A) above, and the following documentation is provided to show that the funds are being spent for allowable purposes and that the funds drawn down are being spent in a timely manner with appropriate certifications. These expenditures and the documentation will also be subject to further monitoring and review. VIDE will provide periodic reports (see section III(B below), containing:

1. Details of each expenditure (and each liquidation of obligations) of Department program funds, with the date of expenditure (or liquidation), number of days from drawdown of funds from the Department to actual disbursement and liquidation, and the purpose of the expenditure (or liquidation). Expenditures (or liquidations) may be grouped by category (e.g., purchase of computers, professional development, etc.) or by date, but the information must be provided for each Federal program separately and in sufficient detail for the Department to determine the allowability of the expenditure (or liquidation).
2. A certification signed by an authorized official of VIDE, attesting, under penalty of Federal law, to the accuracy and completeness of the report, including verification that the expenditures made were for authorized purposes under each of Federal education programs.

C. Single Audit

1. VIDE shall report to the Department within forty-five days of the date of this document, on efforts of VIDE and the Virgin Islands government to make progress on arrangements for single audits for FYs 1998 and 1999. It is understood that the Government of the Virgin Islands will execute a contract on a timely basis with an independent auditor to conduct a complete single audit for the FY 1999. The single audit for FY 1998 should have been completed and the report published by December 31, 1999.

2. Beginning with the report for FY 1999, the Government of the Virgin Islands is required to produce comprehensive annual financial reports within 120 days after the end of each fiscal year, as required by the Insular Areas Act of 1982. VIDE should submit a copy of this report for FY 1999 to the Department on a timely basis.

3. Beginning with the FY 1999 report, the Government of the Virgin Islands' independent auditors will perform a complete single audit and publish the report within nine months after the end of each fiscal year as required by the Single Audit Act of 1984 and subsequent amendments.

D. Resolving audit findings

1. VIDE should have already provided a full response to the findings made by Department officials in a program determination letter dated September 28, 1998, to resolve the FY 1994 single audit. The VIDE has failed to provide a complete response to all of the findings. This response should be provided to the Department within forty-five days of the date of this document.

2. VIDE shall report within forty-five days of the date of this document to the Department on progress towards resolving the Department of Interior Audit Report No. 98-I-670 (Sept. 1998) on all matters affecting Department funds.

3. If there are any additional audit findings that cover funds under this grant program, made by the Department of Interior or any other Federal agency, VIDE shall promptly report such findings to the Department and outline the corrective actions to be taken.

E. Prompt Access to Records

VIDE will promptly provide the Department any requested records and information.

F. Failure to Comply with Conditions and Assessment of Progress

We will periodically evaluate your agencies' progress under these conditions, their progress in developing mechanisms in conjunction with other Virgin Island agencies that ensure full accountability without the need for special conditions, or the possible need for further conditions. If the U.S. Department of Education determines that VIDE is not making satisfactory progress in meeting the Special Conditions contained in section II, paragraphs A-E above, then the U.S. Department of Education will decide if further funding will be provided, and if it is, the Department may apply additional conditions, such as the following:

1. VIDE would receive further funds under this grant award only on a reimbursement basis; and

2. VIDE would have to contract with a third party, who must be approved by the U.S. Department of Education, to assist in financial management of this grant award. The third party would, at a minimum, assist in preparing the vouchers to be submitted to the U.S. Department of Education for reimbursement, and would verify their accuracy and legitimacy as an appropriate expenditure under these grant awards.

III. OTHER TERMS

A. Enforcement

If VIDE fails to meet any of the above special conditions, the Department will take appropriate enforcement action. These terms and conditions do not preclude the Department from taking any otherwise authorized enforcement or other action at any time.

B. Submission of Reports

All reports that are required to be submitted by VIDE to the Department under these special conditions should be submitted to:

Philip Maestri
Office of the Chief Financial Officer
U.S. Department of Education
Room 4C135 FB 6
400 Maryland Avenue, S.W.
Washington, DC 20202

C. Reconsideration and Modifications

At any time, VIDE may request reconsideration of the above special conditions by contacting the Department and stating reasons why VIDE believes particular conditions are no longer needed. Additionally, the Department may impose additional special conditions or modify these special conditions as appropriate. The Department will remove the special conditions at such time as VIDE meets, to the Department's satisfaction, the conditions identified above.

D. Relationship to Other Special Conditions

The special conditions outlined above supersede the special fiscal conditions specified in other grant awards issued by the Department. They do not supersede compliance agreements between the Department and VIDE.

Dated: 3/3/00

Signature: Patricia W. McNeil
Patricia W. McNeil
Assistant Secretary
for Vocational and Adult
Education

Virgin Islands Department of Education – Special Conditions

PREAMBLE: These special conditions are imposed under the Department's regulations governing "high risk" grantees in 34 CFR §80.12 on all of the Virgin Islands Department of Education's (VIDE's) grant awards from the U.S. Department of Education (Department) for which there are funds are still available for expenditure or liquidation. The special conditions are imposed to help ensure that the VIDE awards are expended in accordance with applicable legal requirements, and appropriate fiscal accountability measures and management practices and controls.

I. EXPLANATION OF HIGH RISK STATUS

Under the authority of the Education Department General Administration Regulations (EDGAR), 34 CFR §80.12, the Department has determined that VIDE is a "high risk" grantee for purposes of all of its grant awards because of problems in its fiscal accountability. Our conclusion is based on the following findings:

- 1) The Virgin Islands is not in compliance with the Single Audit Act, and has not provided a single audit since ones covering Fiscal Years (FYs) 1994 and 1995. The FY 1995 audit report, which we recently received, was long overdue, and there has been no single audit covering VIDE funds since FY 1995. Although work is underway on the audit for (FY) 1998, it is late; and the audit for FY 1999 has not been started and is behind schedule. Work on the audits for FY 1996 and 1997 have also not begun. These independent audits are important means of ensuring appropriate accountability and program management.
- 2) No separate accounts have been established for the Federal education grants as required by the previous special conditions that were contained in various program grant awards issued by the Department.
- 3) Special conditions outlining various reporting requirements designed to ensure proper accountability for the program funds that were set forth in various program grant awards were not met by VIDE. The reports submitted by the VIDE to address these conditions provided some relevant information, but did not adequately provide information to: (a) determine the allowability of the expenditures under the Federal education programs; and (b) determine the time between the drawdown of funds and the liquidation of expenditures.
- 4) Additionally, the problems identified in findings in an audit conducted by the U.S. Department of Interior, Office of Inspector General for FY 1998 have not been satisfactorily addressed. These findings indicate that (a) program funds administered by VIDE are "drawn down" from the U.S. Department of Education and are not always promptly spent, in violation of the Cash Management Improvement Act; and (b) various units of the Virgin Islands government have made improper "interfund transfers" of funds (including funds from VIDE) between various Federal accounts.

II. SPECIAL CONDITIONS

A. Separate Account

All Federal education grant funds received from the Department must be deposited in and spent from a separate account used solely for the appropriate purposes under each Federal education program authority. These funds are not to be commingled with other local, territory or Federal (non-Department) funds.

B. Funding, Reporting Requirements, Liquidations and Purpose of Expenditures

The Department will allow VIDE to drawdown a limited amount of funds from its grant accounts, based on its past patterns of drawdowns for Department grants for one month. The Department will allow VIDE to drawdown additional grant funds only after VIDE establishes a separate account for the Federal education grants as set forth in section II(A) above, and the following documentation is provided to show that the funds are being spent for allowable purposes and that the funds drawn down are being spent in a timely manner with appropriate certifications. These expenditures and the documentation will also be subject to further monitoring and review. VIDE will provide periodic reports (see section III(B) below), containing:

1. Details of each expenditure (and each liquidation of obligations) of Department program funds, with the date of expenditure (or liquidation), number of days from drawdown of funds from the Department to actual disbursement and liquidation, and the purpose of the expenditure (or liquidation). Expenditures (or liquidations) may be grouped by category (e.g., purchase of computers, professional development, etc.) or by date, but the information must be provided for each Federal program separately and in sufficient detail for the Department to determine the allowability of the expenditure (or liquidation).
2. A certification signed by an authorized official of VIDE, attesting, under penalty of Federal law, to the accuracy and completeness of the report, including verification that the expenditures made were for authorized purposes under each of Federal education programs.

C. Single Audit

1. VIDE shall report to the Department within forty-five days of the date of this document, on efforts of VIDE and the Virgin Islands government to make progress on arrangements for single audits for FYs 1998 and 1999. It is understood that the Government of the Virgin Islands will execute a contract on a timely basis with an independent auditor to conduct a complete single audit for the FY 1999. The single audit for FY 1998 should have been completed and the report published by December 31, 1999.

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1. VIDE should have already provided a full response to the findings made by Department officials in a program determination letter dated September 28, 1998, to resolve the FY 1994 single audit. The VIDE has failed to provide a complete response to all of the findings. This response should be provided to the Department within forty-five days of the date of this document.

2. VIDE shall report within forty-five days of the date of this document to the Department on progress towards resolving the Department of Interior Audit Report No. 98-I-670 (Sept. 1998) on all matters affecting Department funds.

3. If there are any additional audit findings that cover funds under this grant program, made by the Department of Interior or any other Federal agency, VIDE shall promptly report such findings to the Department and outline the corrective actions to be taken.

E. Prompt Access to Records

VIDE will promptly provide the Department any requested records and information.

F. Failure to Comply with Conditions and Assessment of Progress

We will periodically evaluate your agencies' progress under these conditions, their progress in developing mechanisms in conjunction with other Virgin Island agencies that ensure full accountability without the need for special conditions, or the possible need for further conditions. If the U.S. Department of Education determines that VIDE is not making satisfactory progress in meeting the Special Conditions contained in section II, paragraphs A-E above, then the U.S. Department of Education will decide if further funding will be provided, and if it is, the Department may apply additional conditions, such as the following:

1. VIDE would receive further funds under this grant award only on a reimbursement basis; and

2. VIDE would have to contract with a third party, who must be approved by the U.S. Department of Education, to assist in financial management of this grant award. The third party would, at a minimum, assist in preparing the vouchers to be submitted to the U.S. Department of Education for reimbursement, and would verify their accuracy and legitimacy as an appropriate expenditure under these grant awards.

III. OTHER TERMS

A. Enforcement

If VIDE fails to meet any of the above special conditions, the Department will take appropriate enforcement action. These terms and conditions do not preclude the Department from taking any otherwise authorized enforcement or other action at any time.

B. Submission of Reports

All reports that are required to be submitted by VIDE to the Department under these special conditions should be submitted to:

Philip Maestri
Office of the Chief Financial Officer
U.S. Department of Education
Room 4C135 FB 6
400 Maryland Avenue, S.W.
Washington, DC 20202

C. Reconsideration and Modifications

At any time, VIDE may request reconsideration of the above special conditions by contacting the Department and stating reasons why VIDE believes particular conditions are no longer needed. Additionally, the Department may impose additional special conditions or modify these special conditions as appropriate. The Department will remove the special conditions at such time as VIDE meets, to the Department's satisfaction, the conditions identified above.

D. Relationship to Other Special Conditions

The special conditions outlined above supersede the special fiscal conditions specified in other grant awards issued by the Department. They do not supersede compliance agreements between the Department and VIDE.

Dated: 31 Mar 00

Signature: *Cynthia L. Pichler*

Judith E. Heumann
Assistant Secretary
for Office of Special Education
and Rehabilitative Services



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

THE ASSISTANT SECRETARY

JUN 21 2000

The Honorable Delaine Eastin
Superintendent of Public Instruction
State Department of Education
721 Capitol Mall
Sacramento, California 95814

Dear Superintendent Eastin:

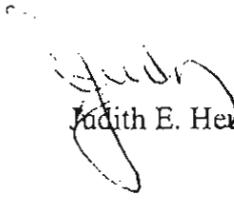
In our 1988, 1992, 1996, and 1999 California Monitoring Reports, we found that the California Department of Education (CDE) had not implemented an effective system for identifying and correcting noncompliance with the requirements of Part B of the Individuals with Disabilities Education Act (Part B), with very serious consequences for children with disabilities. On February 25, 2000, CDE submitted and I approved a corrective action plan that requires, by June 30, 2000, that CDE implement an integrated system that ensures that systemic noncompliance is consistently identified and corrected, including previously identified noncompliance and to take effective enforcement actions to ensure compliance when prior corrective measures have not ensured compliance. During the week of April 24, 2000, the Office of Special Education Programs (OSEP) conducted a follow-up monitoring review to help us to evaluate CDE's efforts and effectiveness in correcting the State's long-standing noncompliance with the requirements of Part B. As part of that visit, we collected data both from CDE staff and in eight school districts.

I want to thank Dr. Alice Parker and her staff for the cordial, professional and collaborative way in which they worked with OSEP staff throughout the visit. Dr. Parker, her staff and their documentation were all readily available. Staff answered our questions in a candid and problem-solving manner that helped us better understand the status of their efforts and promoted a sense of partnership in identifying needs and possible strategies for strengthening the design and implementation of CDE's new Quality Assurance Process.

CDE's intensive efforts to design and implement a system for special education compliance were apparent during our April 2000 visit. It was clear that staff had been working very hard to fulfill the commitments that were part of the corrective action plan. However, as further detailed in the enclosed letter to Dr. Parker, CDE's new Quality Assurance Process is still very much in a developmental stage and will require substantial changes before it can demonstrate its effectiveness. Moreover, we found that much of the noncompliance that we had previously identified in four successive monitoring reports persisted in school districts that we visited. We want to continue to support your efforts to create positive change for children with disabilities in the State. As we have previously informed Chief Deputy Superintendents Leslie Fausset and Scott Hill, we have sent a letter to Governor Davis underlining the importance of appropriating sufficient funds so that CDE will hire, train, and utilize the necessary number of appropriately qualified staff to implement the Quality Assurance Process effectively, meet its general supervisory responsibility under Part B, and ensure compliance throughout the State.

Based upon the data that OSEP collected at the State and local levels during its April visit to California, as well as the reports that CDE has submitted we are unable, at this point, to conclude that CDE is implementing an effective system that consistently identifies and corrects noncompliance. The corrective action plan requires CDE to submit an additional report to OSEP on or before June 30, 2000. We will review that report to determine what additional progress CDE has made in working toward compliance and whether it can then demonstrate that it is implementing an effective system. As with all States, we are also currently reviewing the documents that California has submitted to demonstrate its Part B eligibility for federal fiscal year 2000. We will use all of this information to determine the appropriate next steps to work with CDE in improving educational outcomes for children with disabilities in California.

Sincerely,



Judith E. Heumann

cc:

Chief Deputy Superintendent Leslie Fausset
Chief Deputy Superintendent Scott Hill
Deputy Superintendent Henry Der
Assistant Superintendent Alice Parker

Enclosure