

Enclosure C
Specific Condition¹

1. Basis for Requiring a Specific Condition

Section 612(a)(14)(A) of the Individuals with Disabilities Education Act (IDEA Part B) requires each State Educational Agency to have in effect policies and procedures to ensure that the State establishes and maintains qualifications to ensure that personnel necessary to carry out IDEA Part B are appropriately and adequately prepared and trained and have the content knowledge and skills to serve children with disabilities.² 20 U.S.C. 1412(a)(14)(A) and 34 CFR §300.156(a). It is essential that special education teachers have the necessary qualifications in order to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities.

Since the IDEA was reauthorized and amended in 2004, IDEA has required all States to have in effect policies and procedures to ensure that special education teachers have specific qualifications. In 2015, when Congress passed the Every Student Succeeds Act (ESSA) and amended several provisions of IDEA, these special education teacher qualification requirements were retained, but were moved from the former Section 602(10)(b) to Section 612(a)(14)(C) of IDEA. Section 612(a)(14)(C)(iii) of IDEA continues, as in the past, to require that each public school special education teacher in elementary school, middle school, or secondary school holds at least a bachelor's degree. 20 U.S.C. 1412(a)(14)(C)(iii). IDEA also continues to require that each public school special education teacher has obtained full State certification as a special education teacher (including certification obtained through an alternate route to certification as a special educator, if such alternate route meets minimum requirements described in 34 CFR §200.56(a)(2)(ii) as such section was in effect on November 28, 2008), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher. Further, as in the past, the teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis. 20 U.S.C. 1412(a)(14)(C)(i) and (ii).³

In FFY 2016, the Republic of Palau (ROP) informed the Office of Special Education Programs (OSEP) that its current policies and procedures require that individuals employed as special education teachers hold an associate's degree, that only seven of its special education teachers hold a bachelor's degree, and that its remaining special education teachers hold an associate's degree. Further, the ROP informed OSEP in an email sent on March 3, 2016, that it could not provide a "yes" response to Assurance 14 in its FFY 2016 IDEA Part B grant application because its policies and procedures were

¹ Pursuant to the requirements in 2 CFR §200.207, the term "Specific Condition" is used, rather than "Special Condition" for an FFY 2018 IDEA Part B grant award that is issued subject to additional requirements. In this Enclosure, the term "Special Condition" is used when referencing the State's IDEA Part B grant award and required reporting associated with the receipt of those funds for FFY 2017.

² As used in this enclosure, the term "State" refers to the Republic of Palau (ROP).

³ On June 30, 2017, the Department amended the IDEA Part B regulations in 34 CFR Part 300 to incorporate the amendments to the IDEA made by ESSA. The Qualifications for special education teachers are in 34CFR §300.156(c).

not consistent with the special education teacher certification requirements in IDEA Section 602(10)(B) even prior to the enactment of ESSA.

In a memorandum dated May 20, 2016, OSEP informed the ROP that in light of this noncompliance, it must check “no” to Assurance 14 in its FFY 2016 Part B application and specify a date, not later than June 30, 2017, by which it will revise its policies and procedures to ensure they are consistent with the requirements in Section 612(a)(14)(C). OSEP also requested that the ROP provide a plan describing the steps the ROP will take during FFY 2016 to ensure that all special education teachers will hold at least a bachelor’s degree in school year (SY) 2017-2018. Because the ROP failed to take the necessary steps to revise its special education teacher qualifications policies and procedures in FFY 2016 to be consistent with Section 612(a)(14)(C) of IDEA, pursuant to the authority in IDEA Section 616(g) and 2 CFR §200.207, OSEP imposed a Special Condition on the ROP’s FFY 2017 IDEA Part B grant award.

The FFY 2017 Special Condition required the ROP to provide a plan describing the steps it would take during FFY 2017 to ensure that: (i) all special education teachers will hold at least a bachelor’s degree by SY 2018-2019, consistent with Section 612(a)(14)(C)(iii) of IDEA; and (ii) provisional certificates are awarded only to special education teachers who hold a bachelor’s degree and are participating in an alternate route to certification as a special educator that meets the requirements in 34 CFR §200.56(a)(2)(ii), consistent with Section 612(a)(14)(C)(i) of IDEA. OSEP required the ROP to submit Progress Reports detailing its progress in meeting the Special Condition, and the ROP’s submissions were timely. The ROP’s first Progress Report submitted on February 1, 2018, included the ROP’s draft amendment to 22 PNC 151 with the components for a “Standards-Based Professional Certification and Performance System for Teachers in the Ministry of Education.”

The ROP’s second Progress Report submitted on May 2, 2018, included the statement that the ROP was still awaiting approval of the draft amendment to 22 PNC 151 from Palau’s National Congress. The ROP included with its second Progress Report, a letter from the Minister of Education reiterating the ROP’s commitment to ensuring that the revised teacher certification policy would be approved and implemented. However, by letter dated April 18, 2018 to OSEP, the ROP reported that it could not achieve compliance with IDEA’s special education teacher certification requirements within one year due to the following: 1) most of the ROP’s teachers do not have special education certification; 2) the ROP does not have a special education licensing examination; 3) teachers have very limited access to bachelor’s degree programs; and 4) certification/licensure of the ROP’s teachers outside of Palau is not feasible. The letter and plan does, however, assure that the ROP’s teachers will be provided with high quality professional development programs offered through the Ministry of Education, and teachers will have the opportunity to take college level and professional courses when possible.

It appears to OSEP that the ROP’s revised policies and procedures, including draft amendments to its teacher certification policy under 22 PNC 151, would continue to permit individuals who do not yet hold a bachelor’s degree to be employed as special education teachers in public schools in the ROP, a practice which, if allowed to continue, would be inconsistent with IDEA’s requirements for special education teacher

qualifications. To obtain further clarification, OSEP will follow up with the ROP in the near future to provide technical assistance to ensure that the ROP will revise its special education teacher qualifications policies and procedures in a manner that meets all applicable IDEA requirements before the ROP seeks approval of those revised policies and procedures from its National Congress.

Although the ROP has proposed revisions to its special education teacher certification policies, the ROP has not satisfied the Special Condition imposed on its FFY 2017 IDEA Part B grant award due to its failure to have policies and procedures in place by June 30, 2018 that are consistent with applicable IDEA requirements. Therefore, OSEP has determined that the ROP has not met the terms and conditions of its prior grant award and, pursuant to the authority in IDEA Section 616(g) and 2 CFR §200.207, is imposing a Specific Condition on the ROP's FFY 2018 IDEA Part B grant award.

Nature of the Specific Condition

Pursuant to the Specific Condition, the ROP must continue to report on its actions to achieve compliance by: revising its policies and procedures governing special education teacher qualifications, subject to OSEP's approval, to be consistent with the requirements in Section 612(a)(14)(C) of IDEA and 34 CFR §300.156(c), by June 30, 2019 in the following areas: (A) awarding provisional certificates only to those special education teachers who hold at least a bachelor's degree, consistent with Section 612(a)(14)(C)(i) and 34 CFR §300.156(c)(1)(i); and (B) requiring that all persons employed as special education teachers in public schools in the ROP hold at least a bachelor's degree, consistent with Section 612(a)(14)(C)(iii) of IDEA and 34 CFR §300.156(c)(1)(iii).

OSEP expects that with these actions, all persons employed as special education teachers in public schools in the ROP will hold a bachelor's degree beginning with SY 2019-2020. Accordingly, OSEP requires the ROP to:

- 1) Submit to OSEP for approval by October 31, 2018, revised special education teacher qualifications policies and procedures that meet the requirements in Section 612(a)(14)(C) of IDEA and 34 CFR §300.156(c) to specifically require that all persons employed as special education teachers in public schools in the ROP hold at least a bachelor's degree, and that provisional certificates are only awarded to persons employed as special education teachers in public schools in the ROP who hold at least a bachelor's degree;
- 2) Submit to OSEP by December 31, 2018 a revised plan for implementing these required actions, including the activities the ROP intends to complete by March 31, 2019; and
- 3) To ensure progress towards implementation of the ROP's plan, and to enable OSEP to assess the ROP's progress, provide the Department with progress reports during FFY 2018. The reporting schedule is as follows:
 - a) Pending OSEP's approval of the revised special education teacher qualifications policies and procedures and implementation plan, the ROP must submit Progress Reports documenting progress towards the approval of those revised policies and procedures by the Palau National Congress, any

necessary revisions to the ROP's implementation plan, and the activities it has carried out in its implementation plan. The first Progress Report must be submitted to OSEP on February 1, 2018 with the ROP's FFY 2017 SPP/APR.

- b) A Second Progress Report must be submitted to OSEP on May 1, 2019. This Report must include documentation of the ROP's implementation of its approved special education teacher qualifications policies and procedures and the activities that the ROP has carried out in its implementation plan.

The parties may modify the schedule for the progress reports by mutual, written agreement.

3. Evidence Necessary for the Specific Condition to Be Removed

The Department will remove the Specific Condition if, at any time prior to the expiration of the FFY 2018 grant year, the ROP provides documentation, satisfactory to the Department, that it has met the requirements in IDEA Section 612(a)(14)(C) and 34 CFR §300.156(c), set forth above.

4. Method of Requesting Reconsideration

The ROP can write to OSEP's Acting Director, Ruth E. Ryder, at the address below, if it wishes the Department to reconsider any aspect of this Specific Condition. The request must describe in detail the changes to the Specific Condition sought by the ROP and the reasons for those requested changes.

5. Submission of Reports

The ROP must submit all required reports under the Specific Condition to:

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Attn: Genee Norbert
550 12th St., SW Washington, DC 20202-2550

Or by email at: Genee.Norbert@ed.gov