



INSTITUTE APPEAL TEAM

1201 Main Street, Suite 300, Columbia, SC 29201

24 August 2021

RE: Institute Appeal Team Recommendation to the Superintendent

The Charter Institute at Erskine (“Institute” or “Sponsor”) received a student appeal request on August 13, 2021, filed by [REDACTED] on the behalf of [REDACTED]. The parent requested the appeal based on the decision made by the Gates School (“School”) to revoke admission of the student in May 2021. The parent states that the need for the appeal is due to, “Gates School’s board is discriminating against our [REDACTED] by revoking [REDACTED] placement at Gates School; Gates School’s board has violated our parental rights to be part of the appeal process; and Gates School’s board has not acted in good faith to the mission of the school.”

The Institute appeal team consisted of the following members: Celina Patton, Chief of Student Services, Laura Merrick, Executive Director of Student Services, and Christina Junkins, Chief of Authorization and Accountability. The appeal team met on August 24, 2021 to review all school level submitted documentation (*See Appendix A*), parent documentation (*See Appendix B*), and Institute level documentation (*See Appendix C*) as related to the appeal.

Appeal Authority

The Institute appeal team reviewed the Charter Schools Act S.C. Code § 59-40-50 (“Act”), Gates’ charter contract (*See Charter Contract item 6.6. Appendix C*) and the Gates charter (*See Gates Charter. Appendix C*). All documents clearly state that the decision to deny enrollment to a student at the charter school may be appealed to the sponsor. The Act only limits offering the appeal in the case of denying enrollment where it is a circumstance related to the school’s lottery and space limitations. This student was not granted acceptance of admissions through the school’s lottery process. The student was accepted by the school through an open enrollment process, or on a first-come, first-serve basis. At the time of the student’s acceptance in December 2021, the number of applications did not exceed capacity. Gates’ Charter shows the growth plan for the school and in this first year of operation the school’s projected enrollment is 25 second grade students (*See Gates Charter. Appendix C*). According to Powerschool as of August 24, 2021, Gates’ current student enrollment for second grade has a total of 12 students enrolled, leaving 13 unfilled seats that are available for additional second grade students. The school has not requested or completed a charter amendment to adjust the enrollment projections for the school to the sponsor therefore, the school should be actively seeking to fill these seats. According to the school’s charter, “if Gates School does not reach its enrollment goal by the deadline date, applications will be time stamped and accepted on a first-come first served basis until the enrollment target is met” (pg 93).

Appeal Review

Criteria for Enrolling Students as described in Gates Charter:

Gates charter, Page 92: (*See Appendix C*)

“Gates School is...an Alternative Education Campus (AEC) charter school with an explicit mission and purpose of providing an exceptional, evidence-based, multisensory education for students with dyslexia and other primary reading disabilities to open the gates to their individual academic potential in an environment that empowers students to develop a positive and socially conscious self-image. With this in mind and in accordance with Section 59-40-50, the focus of the school will be on students K-8th grades who have been given a medical/psychological diagnosis of dyslexia or a primary reading disability, have characteristics that are primarily and foremost consistent with dyslexia or have demonstrated need for such specific services through, but not limited to, documentation in an

IEP, 504 plan, or documentation from previous schools that the student is not meeting grade specific standards in literacy as a primary area of deficit.”

Findings of Fact:

- The school states in its email response to the Institute on August 3, that, “...at no time did the parent produce any valid documentation of the student having a primary diagnosis of dyslexia.” The school received documentation of a medical diagnosis for the child on May 7th. However, the school continually calls into question the validity of this diagnosis by Dr. Robert Melillo. The charter process only requires that the parent produce medical documentation of a diagnosis, it does not allow for the school to evaluate the validity of the doctor’s diagnosis or credentials. This is beyond the scope of the authority and expertise of the Board Chair, school Executive Director, or any other school level personnel who are not trained medical experts to call into question any doctor’s findings and diagnosis of his/her patient (in this case, the student). The parent supplied medical documentation and therefore fulfilled this requirement and met the standard for the enrollment process.
- The school and parent produced a chain of emails from May 2021 through July 2021 from the school to the parent that documents the school continually requesting that the family provide the student IEP records as another form of documentation. However, the parent informed the school that the student was undergoing an Independent Education Evaluation (IEE) from the local school district and that without the completion of the new assessment and the data collected, the student’s current IEP may not be reflective of the student’s current educational diagnosis or needs. The school continued to ask for this second form of documentation demonstrating a lack of understanding of the IDEA and the intention of the IEE. This request for incomplete data from the school should not have been used as a roadblock for the parent to continue to enroll the child since the school **already** had medical documentation stating the child had a diagnosis of dyslexia or other reading difficulties. If the school had conflicting data, the school also could have scheduled a screening session as listed in the charter (pg 94), but no evidence was submitted indicating the school followed that portion of the enrollment process. When the school was provided with the completed IEE from Dr. Bodzy at the end of June 2021, the school again called into question the findings of the assessment and the validity of the diagnosis despite the parent producing another form of medical documentation that diagnosed the student as having dyslexia and other reading difficulties. The school continued to reiterate its decision to the parent via email to revoke the child’s enrollment on July 2, 2021.

The school **did** have the necessary documentation needed to show that this child meets the mission of the charter, however the school **did not** adhere to its own requirements for the criteria for enrollment.

Enrollment Process as described in Gates Charter:

Gates Charter, page 94: (See **Appendix C**)

The Application Process is as follows:

1. A parent or guardian completes the Application (including, but not limited to, a medical questionnaire) and signs a records release of information for the submission of all the child’s records from all schools attended by the child.
2. The applicant’s family must also confirm on the form that the student meets the basic eligibility requirements of state residence and legal school age and provide the required documents as proof of SC residency.
3. A parent or guardian submits all available academic and identifying records, including but not limited to IEP, 504, medical/psychological diagnosis/diagnoses, and any prior evaluations completed (checklist under development and TBD). Results of a student’s testing results from an accepted school district approved dyslexia screener such as FastBridge Learning or AIMSweb that indicate a primary reading deficit will also be considered.
4. A qualification screening session is scheduled with the expectation that both the parent or guardian and child shall attend...The Gates School Board of Directors will seek the help of graduate students at a local university to assist in conducting these screenings in addition to Gates School personnel.....(d) Parent or guardian consultation meeting with Gates School Admissions Team (consisting of Special Education Coordinator and/or School Psychologist,

Principal)....The child and a parent or guardian participate in the qualification screening session lasting approximately two hours.

5. If a child already has a diagnosis of dyslexia from a medical/educational professional, or documentation through an existing IEP, 504, results of a student's testing results from an accepted school district approved dyslexia screener such as FastBridge Learning or AIMSweb that indicate a primary reading deficit indicating or characteristics consistent primarily and foremost with dyslexia or primary reading disability that child and parent will not necessarily need to participate in a screening session."

Findings of Fact:

- The parent of [REDACTED] received an email on December 22, 2021 from Stephanie Sams, Chairman of the Board that stated the student had been **accepted** into the 2nd grade at Gates, without any additional language that specified any ongoing conditions for admission for this student.
- The parent submitted evidence of a diagnosis from a medical professional, Dr. Robert Melillo to the school on May 7th as required by the timeline set by the school, this timeline was communicated to all parents in a school newsletter in April. Gates charter enrollment process only requires that the parent produce all available medical documentation; the parent fulfilled the requirement of the process.
- Steps 3 and 4 listed on page 94 of the Gates charter, allows for the school to schedule a "qualification screening session" for a student to ensure the child meets the mission aligned focus of dyslexia or other primary reading disorder. It would stand to reason that if the medical documentation was not sufficient for the school to determine whether the child met the mission of the school, then the school could schedule a screening session with this student. However, no documentation was produced by the school or the parent demonstrating that the school followed this process with the student.
- This admissions process states that "Gates School Board of Directors will seek the help of graduate students at a local university to assist in conducting these screenings in addition to Gates School personnel." It is important to note that the admissions process will allow graduate students and school personnel without any defined level of credentials or certifications to administer assessments and would consider these findings valid in determining whether or not a student met the criteria for dyslexia or other reading difficulties. However, in this student situation, two separate medical documents from two different doctors with a similar diagnosis of the student were **not** considered valid by the school.
- Within this same process, the decision for admissions is to be decided by the "Admissions Team" consisting of the "School Special Education Coordinator, and/or School Psychologist, and Principal" as detailed on page 93 of the Gate School charter. Since the principal and special education coordinator had not been hired at the time of the decision and notification of the student's acceptance, the admissions team clearly could not have been utilized in the decision-making process nor is there evidence that this team was included in the ongoing decision to revoke enrollment. The school again did not produce any evidence that indicates it followed its own enrollment procedures as detailed in its charter as related to the admission team process. The evidence produced by the school indicates Ashley Brooks, Executive Director, and Stephanie Sams, Chairman of the Board, as the primary school level persons engaging with the parent during this decision-making process. Ms. Sams is the current board chair and Ms. Brooks was a former member of the school board and remained on the board until February 2021. Both Ms. Sams and Ms. Brooks were making the decisions on student enrollment without the members of the admission team yet hired. The school could not offer the parent an appropriate grievance process since its own Board members were involved in making the decision to revoke enrollment. The school also did not seek counsel from its LEA (the Institute) prior to its decision to revoke enrollment as explicitly written as part of the process that should have been used in this enrollment process (pg 95).

The school **did not** follow the enrollment process as detailed in the school's approved charter. It is the responsibility of the school to follow its own processes, not the responsibility of the parent.

Fidelity of Implementation of the Enrollment Processes as described in the Charter:

Gates charter, Page 99: (See Appendix C)

"Notification of Qualification: Once the Admission Team has completed the process and determined if the child is a "Qualified Student", the parent or guardian shall be notified of the acceptance or denial of admission within three (3)

working days. The notice shall be sent through certified letter via the USPS to the address given by the parent or guardian on the application forms. The parent will additionally be notified as soon as possible via phone and/or email. The parent or guardian shall have 72 hours (3 days) after the receipt of the notice (tracked via USPS certified letter) to accept admission. If Gates School has had no response to the notice of admission at the end of 48 hours (2 days), a follow up telephone call will be made to remind the potential parent of the pending deadline. If no response is provided, it shall be deemed that the offer of admission has been declined and a certified letter to that effect will be sent to the parent or guardian and student.”

“Failure to complete and return the Gates School Admission Packet within 15 business days of the acceptance notification may result in forfeiture or loss of the space, which will then be offered to the next student on the waiting list. Before offering the space to the next student, every effort will be made to assist the family in completing the requested information and the school will document these efforts.” (pg 97)

Findings of Fact:

- The school did not follow the process nor its own timelines for the notification of qualification, nor did the members of the identified admission team make the determination of qualification prior to sending the acceptance notification to the parent on December 22, 2021.
- The school states that the parent failed to complete the enrollment process as a reason for denying enrollment. However, the parent paid the \$75.00 in enrollment fees to the school via Venmo to secure ■ child’s admission to the school. Also, the school did not produce evidence that it made “every effort to attempt to receive the enrollment packet” nor produce evidence of its “continued efforts to assist the parent with the enrollment process” as stated in the charter as part of the enrollment process (pg.97).
- The school produced a chain of emails from May 2021 through July 2021 between the school to the parent. The school continually states the child does not meet the mission aligned focus of the school. In these emails, the parent was not encouraged or reminded to complete any remaining enrollment paperwork. It should be noted that the school did not submit the evidence of the enrollment packet, so it is unknown as to whether or not the parent did complete the packet. However, this point alone and in isolation of all other facts is not a sufficient reason for denying or revoking admission of this student.
- In review of this same chain of emails that follow the parent’s submission of medical documentation from Dr. Mellilo on May 7th, Ashely Brooks responded on May 11 to the parent via email requesting the parent to forward the child’s IEP with no mention of the issue of the need for the enrollment packet to be completed, which implies the school was still making the decision as to whether or not the child was being considered for enrollment. This email also stated, “We want to ensure that the focus of our program aligns with ■ educational needs.” The parent then responds on May 12 stating that the “IEP is being amended” and the IEE process is ongoing and would provide more information when it becomes available. Then on May 14, Ashley Brooks responds to the parent again and states “As you know, we recently requested additional information including ■ most recent IEP to confirm enrollment eligibility. While you did not provide the information we requested, unfortunately the additional information from Dr. Robert Melillo makes it clear that Gates School simply does not provide the type of special education services that ■ requires...Unfortunately the specific services we provide will not adequately serve the needs of your ■ based on the information you have provided.” And again, on May 25, 2021 in an email to the parent from Ashley Brooks it states, “you disclosed that your ■ is currently being served in a self-contained classroom.. ■ learning needs are not in alignment with Gates capabilities.” A public charter school cannot deny enrollment based on the individualized programs needed by a child to access a free appropriate public education (FAPE) as related to his/her disability. The school’s charter states on page 45 that the school will offer a continuum of special education services in order to meet the needs of its students and guarantees a FAPE for all students accepted to the school. These statements made by the school are discriminatory; while the school is an Alternative Educational Campus intended to serve a specific student population, this designation does not allow the school to create enrollment processes and procedures that violate federal laws.
- In the July 2 email to the parent from the school, Ashley Brooks quotes the description of dyslexia from the *Diagnostic and Statistical Manual of Mental Disorders (DSM-V)*, the handbook used by healthcare professionals that defines the diagnosis of mental disorders, in effort to continue to justify the school’s decision to reiterate its decision to revoke enrollment and negate Dr. Bodzy’s findings. However, this

medical standard is not what the school uses to define dyslexia in its charter, and it has not been applied to every student as the criteria used for admission. The school applied a different, higher, and set of standards that varied from the charter for admissions for [REDACTED]. The DSM-V criterion is not used in determining acceptance for all other students currently attending Gates and in applying this standard to this student without applying it to all students, the school has discriminated against the student.

It is evident that the school **did not** follow its own process and **did not** apply these processes fairly to this student.

Conclusion

Based on the review and evidence submitted, the Institute Appeal Team finds that the school did not adhere to the tenets of its charter and the enrollment procedures detailed within. The school revoked this student's admission without following its rules, written processes, and procedures. The school's decision to revoke the student's acceptance is based upon the school's assertion that the student could not qualify for enrollment because the parent did not complete the enrollment forms and that the student did not meet the mission-aligned focus of the school. However, the parents clearly intended to send their child to Gates as they continued to communicate with the school and paid the school's enrollment fees. The school also continues to have seats available in the second-grade class and should have enrolled this student since the school did not operate a lottery and should have offered the seat to this student on a first-come, first-serve basis as stated in their charter. Lastly, the school received two separate medical reports and documentation from two doctors that both provide a diagnosis for this student of dyslexia and/or reading difficulty. Therefore, the recommendation of the Institute appeal team is to **uphold** the parent appeal.