



VAMSHI RUDRAPATI

Director

1201 Main Street, Suite 300, Columbia, SC 29201

12 November 2021

Gates School
Stephanie Sams, Chairman of the Board of Directors
Summer Brown, Principal
5010 Wetland Crossing Road
North Charleston, SC 29418

RE: CAP Letter of Response

To School Leader and School Board Members,

Gates School (the “School”) is a charter school and Alternative Education Campus in its first year of operation and serves students with dyslexia and reading difficulties in grades 1 through 5. The Charter Institute at Erskine (“Charter Institute”) is the charter school sponsor and authorizer of your School. In accordance with the South Carolina Charter Schools Act of 1996 as amended located at S.C. Code Ann. § 59-40-10 *et seq.* (the “Act”), the sponsor of the charter is the charter school’s local education agency (“LEA”) and a charter school is a school within that LEA. To fulfill its role and comply with the Act, the Charter Institute has a responsibility to regularly monitor the performance and legal and fiscal compliance of the School. This specifically includes conducting oversight activities, notifying a school of perceived problems, and taking appropriate corrective actions or exercising sanctions in response to identified deficiencies, including requiring a school to develop and execute a corrective action plan within a specified timeframe (S.C. Code Ann. § 59-40-55(B)).

Since the School opened in August 2021, the School has failed to demonstrate it has the capacity to serve students with disabilities and has failed to fulfill its obligations and requirements pertaining to students with disabilities in a manner consistent with federal and state requirements, its Charter, and its Contract. As you are aware, on October 1, 2021, the Charter Institute issued the School a Notice of Noncompliance and Corrective Action Plan (“CAP”) based on identified serious violations of federal and state law relating to special education, Title III, and equitable admissions.

The Act makes very clear that the School is not exempted from federal law as it pertains to students with disabilities. Specifically, S.C. Code § 59-40-50(B)(1) provides, “**A charter school must adhere to the same health, safety, civil rights, and disability rights requirements as are applied to public schools** operating in the same district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located.” S.C. Code § 59-40-50(B)(1) (emphasis added).

The CAP outlined six corrective actions the School was required to complete by November 1, 2021:

1. Immediately hire appropriately credentialed special education teacher(s) and any support staff that will serve the students according to their IEPs and create schedules that are reflective of all services outlined in every student’s IEP. Submit evidence of completion to the Institute by November 01, 2021.
2. Audit all IEP records, determine and calculate what services have not been provided for every student. Submit evidence of completion to the Institute by November 01, 2021.
3. Submit service logs for all students with IEPs to the Institute by November 01, 2021.

4. After approval of the above corrective actions by the Institute, the School will hold any potential denial of Free and Appropriate Education (FAPE) IEP team meetings to determine all necessary compensatory services as identified following Institute guidance. Submit evidence of completion to the Institute by November 01, 2021.
5. Obtain all students' Home Language Surveys, complete all necessary processes for identification and placement for any applicable students. Submit evidence of completion by November 01, 2021.
6. Submit the School's admission and enrollment process and procedures that aligns with its charter, including details for each part of the process. List names and titles of school staff who are responsible for each part of the process. Submit evidence of completion by November 01, 2021.

(See 10.1.2021 Notice of Noncompliance.)

The deadline to complete the CAP was November 1, 2021. As of November 11, 2021, the School has **not** fulfilled the requirements of the CAP as explained in greater detail below. The Charter Institute is in receipt of the letter from the School Board Chair, Ms. Sams dated October 26, 2021; however, Ms. Sams' letter does not change our determination that the School has not complied with the CAP.

- 1. Immediately hire appropriately credentialed special education teacher(s) and any support staff that will serve the students according to their IEPs and create schedules that are reflective of all services outlined in every student's IEP. Submit evidence of completion to the Institute by November 01, 2021.**

Status: Not Compliant. The School has not hired any appropriately credentialed special education teacher or support staff that will serve the students according to their IEPs. The School did not create or submit schedules that are reflective of all services outlined in every student's IEP.

The School states that the Principal, Dr. Brown, will oversee Special Education. This does not fulfill the requirement of federal law or the role of a certified special education teacher who **delivers** specially designed instruction to the students with disabilities as aligned with students' IEPs. No evidence has been provided that the students with disabilities are receiving the services required in each student's IEP from a certified special education teacher. Therefore, the School has not complied with this Corrective Action.

- 2. Audit all IEP records, determine and calculate what services have not been provided for every student. Submit evidence of completion to the Institute by November 01, 2021.**

Status: Not Compliant. Although the School claims it conducted an audit of IEP records, the School did not produce any evidence of the calculation of individual services that were removed for students in the transfer process in order to determine what potential compensatory services would be owed to students. The "audit" provided by the School is insufficient to satisfy this Corrective Action, because it does not include the required information or calculations necessary to determine what potential compensatory services would be owed to students.

The School claims it has completed the process by sending a Google form to families to request that parents complete the form if they ". . .believe that your child has been denied any services...." The process used by the School speaks to the lack of capacity of the Board and its leadership to implement the IDEA as required by federal law. All decisions made about a child's IEP and the required services therein are required to be done **in an IEP team meeting**, not in a Google survey or otherwise. Additionally, these decisions to modify a student's IEP must be based on individual student **data** reviewed by the IEP team, in a team meeting, not based on the School's beliefs about its teaching methodology or the parents' beliefs about their student's education.

The School must immediately end the Google survey and **stop** collecting the Google survey parent responses, this process cannot be used in place of the IEP team meeting and is a flagrant violation of the requirements set forth in the IDEA. Additionally, this constitutes a continued violation of the parents' rights to participate

in the IEP process as defined by the IDEA. Therefore, the School has not complied with this Corrective Action.

3. Submit service logs for all students with IEPs to the Institute by November 01, 2021.

Status: Not Compliant. Although the School submitted service logs, the logs do not contain the level of detail or the proper information related to special education services, which are required to be provided to students in accordance with their respective IEPs by a certified special education teacher. Again, the service logs submitted show that the School uses general education teachers' names on the logs to indicate that special education services were provided. This is not in alignment with the student IEPs and the IDEA. Thus, this is insufficient to satisfy this corrective action because it does not include the required information and the School has not complied with this Corrective Action.

4. After approval of the above corrective actions by the Institute, the School will hold any potential denial of Free and Appropriate Education (FAPE) IEP team meetings to determine all necessary compensatory services as identified following Institute guidance. Submit evidence of completion to the Institute by November 01, 2021.

Status: Not Compliant. The School has admitted that it has potentially denied students a Free and Appropriate Education ("FAPE") through the sending of the Google survey to all parents that states that the School will fulfill compensatory services if a parent "requests." However, this decision must be made in an IEP team meeting. This survey is not a substitute for an IEP team meeting and team decisions made therein. Any "decisions" made in a Google survey do not satisfy the requirements of an IEP team meeting and cannot constitute the basis for changing an IEP or making decisions about compensatory services.

As stated above, the School continues to violate the processes afforded to students and parents under the IDEA by utilizing the Google survey rather than an IEP team meeting, as is required.

Therefore, the School has not complied with this Corrective Action.

5. Obtain all students' Home Language Surveys, complete all necessary processes for identification and placement for any applicable students. Submit evidence of completion by November 01, 2021.

Status: Not Compliant. The School claims it has made progress towards the collection of the Home Language Surveys, the school did not submit evidence of 100% completion, nor has it demonstrated evidence that it has fulfilled its requirements for identification and placement of Multilingual Learners within the required timelines set forth by law. Therefore, the School has not complied with this Corrective Action.

6. Submit the School's admission and enrollment process and procedures that aligns with its charter, including details for each part of the process. List names and titles of school staff who are responsible for each part of the process. Submit evidence of completion by November 01, 2021.

Status: Not Compliant. The School has not provided any of the required information outlined in this Corrective Action. Reference to the School's charter does not satisfy this Corrective Action, as this Corrective Action expressly requested information in addition to the School's charter. The School has not submitted any information to demonstrate that the School's enrollment process and procedures aligns with its charter, state, and federal law.

To the extent there was any confusion by the School as to this Corrective Action, the School should have, but did not seek clarification from Institute staff within the last month in order to ensure it would fulfill this requirement before the deadline. A member of the Institute special education team meets with the School individually on a weekly basis to offer support and answer questions, and at no time did the School ever make a request for clarification or assistance on this CAP requirement.

In conclusion, the School has not complied with the Corrective Action Plan. The School's continued failure to remedy the identified areas of noncompliance by complying with the CAP constitutes a material violation of the School's charter, contract, and state and federal law, and may result in revocation of the charter. Ultimately, as the School is in breach of the terms of its charter and contract it is also in violation of the commitment made to the students and families who attend Gates School.

Pursuant to S.C. Code § 59-40-110(C), "A charter must be revoked . . . by the sponsor if it determines that the charter school: (1) committed a material violation of the conditions, standards, performance expectations, or procedures provided for in the charter application or charter school contract, or both; (2) failed to meet the academic performance standards and expectations as defined in the charter application or charter school contract, or both; (3) failed to maintain its books and records according to generally accepted principles or failed to create an appropriate system of internal control, or both; or (4) violated any provision of law from which the charter school was not specifically exempted."

Due to the continued ongoing unresolved special education noncompliance issues outlined in both this response and in the *Notice of Noncompliance* dated October 1, 2021, the Charter Institute will continue to **freeze student enrollment** for the School until the School demonstrates it has fully complied with the requirements of the CAP, **as approved by the Institute.**

The Institute team will be contacting Ms. Summer Brown to schedule a site visit at the School in order to further evaluate the services that need to be provided to students, interview teachers and staff, and determine next steps related to the School's noncompliance. It is expected that the School will make available all information needed and requested while the Institute is on site. An agenda for the site visit will be sent to the School prior to the visit.

If following the site visit, the School Board would like to meet with the Charter Institute, we are willing to meet via Zoom during the School Board's Executive Session to discuss these issues. However, due to the sensitive information protected by FERPA involving students, parents, and employees, we cannot meet to discuss this in a public board meeting.

The Institute remains committed to providing the support necessary to ensure that all students at the School are served in accordance with the law. The Institute will continue to meet weekly with the School in effort to assist the School with these issues and will continue to provide the tailored support needed to help the School resolve the requirements of the CAP.

Finally, regarding the resolution to transfer the charter of Gates School to another authorizer, the Institute will send a separate letter with the Institute response to the School's Board soon.

Sincerely,



Vamshi Rudrapti, Director
Charter Institute at Erskine

CC Cameron Runyan, Superintendent