



February 23, 2022

(VIA: E-MAIL ONLY)

Gates School
Stephanie Sams, Planning Committee Chair
Summer Brown, Principal
5010 Wetland Crossing Road
North Charleston, SC 29418

RE: Notice of Waiver of Transfer Policy Deadline and School Compliance Status

To School Leader and Board Members,

The Charter Institute at Erskine (“Charter Institute” or “Institute”) is the charter school sponsor and authorizer of your School, Gates School (“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.

As you are aware, at the January 19, 2022 Institute Board Meeting, the Board granted a one-time waiver of the September 1st School Transfer Policy deadline for your School’s October 11, 2021 transfer request. This one-time waiver is based on extenuating circumstances arising from the Institute Board adopting the Transfer Policy at its August meeting immediately following receipt of the July 2021 Legislative Audit Council Report and the policy deadline, which aligned with State mandated timelines for authorizers to submit annual budget requests to the General Assembly, being approximately one month later.

The Institute has requested the Institute Board place your School’s transfer request on the agenda for its March 16, 2022 board meeting. The Institute’s duty as an authorizer is to hold each of their school’s accountable for their performance and legal and fiscal compliance.

To keep our accountability philosophy in mind, the Institute is preparing a “Compliance Summary” for each school seeking to transfer, which includes the School’s compliance status. This letter provides a summary of the same and will be provided to the Institute Board for consideration of the School’s Transfer Request. In addition, the Institute has included a “School Snapshot” as a summary of the School’s compliance background with supporting documents - which can also be found on our website. <https://erskinecharters.org/transfer-out-updates/>

Compliance Background & Current Compliance Status

On October 1, 2021, the Institute issued the School a Notice of Noncompliance and Corrective Action Plan (“CAP”) based on identified serious violations of federal and state law related to special education, Title III, and equitable admissions. Due to the serious and grave concerns for special education noncompliance, the Institute immediately froze student enrollment for the School until the compliance concerns related to services for students with disabilities were resolved. Additionally, the Institute noted that the School’s continued failure to comply with the requirements of the Notice and CAP could result in further corrective action and initiation of charter revocation procedures in accordance with state law.

On November 12, 2021, the Institute sent the School a letter notifying the School that it had not fulfilled any of the requirements of the CAP and had missed the November 1, 2021 deadline. As a result of the School’s

continued disregard for the requirements of the law, on November 4, 2021, the Institute requested the South Carolina Department of Education, Office of Special Education Services (“SCDE”) provide technical assistance to the Institute by conducting an audit of Gates’ special education processes and procedures to confirm whether Gates’ students were receiving a free and appropriate education (“FAPE”), as required by law.

On January 13, 2022, SCDE issued its audit findings, which confirmed the same deficiencies and systematic patterns of noncompliance at Gates School that had been previously identified by the Institute. As part of its findings of noncompliance, SCDE issued a corrective action plan to the Institute directing it to take corrective action to remedy the noncompliance at the School.

On January 19, 2022, the Institute sent the School a letter with SCDE’s audit findings and notified the School that the Institute would be sending the School a combined CAP on January 21, 2022, which fulfilled the requirements of SCDE’s corrective action plan for the Institute. (**Exhibit A**) Additionally, the Institute notified the School that the Institute would be hiring a special education consultant for the School with the experience and capacity to support the School as it worked to complete the CAP and remedy the noncompliance.

On February 1, 2022, the Institute received a Letter of Resolution (“LOR”) from SCDE with findings against the Institute arising from a complaint filed by a Gates parent to SCDE claiming the School: (i) failed to provide services required by the student’s IEP; (ii) failed to include specially designed instruction when the student’s IEP was developed; and (iii) failed to develop and follow required procedures in the IEP process, as required by federal regulations. SCDE’s findings in the LOR further confirmed and aligned with the Institute’s findings of systemic patterns of noncompliance and violations of law by the School. (**Exhibit B**) The Institute would note that although it notified the School about these same concerns in August 2021, the School has not remedied the concerns and in fact has continued to violate the law.

As of the date of this letter, Gates School has not completed the CAP. (**Exhibit C**) Therefore, the School’s status with the Institute is **Non-Compliant**.

Additionally, the Institute has concerns about the next authorizer being the **second authorizer** for Gates School in **two years**, and the transfer request being made in the first few months of the School’s operation and after the Institute notified the School of the serious violations of federal and state law.

The Institute looks forward to supporting the School as it works to resolve the noncompliance and complete the CAP. Nevertheless, the Institute will present the School’s Compliance Status, including this letter and any updates or progress by the School to the Institute Board for its consideration of your School’s Transfer Request.

The Charter Institute is available to answer questions or talk through School plans for resolution to the outstanding areas of concern. Thank you in advance for your cooperation in this matter.

Sincerely,



Vamshi Rudrapati

cc: Cameron Runyan, Superintendent
Sarah Timmons, Counsel
Dr. Tom Hellams, Institute Board Chair
Joe Bowers, Coordinator of Authorization



Appendix A

CELINA PATTON
Chief of Student Services

1201 Main Street, Suite 300, Columbia, SC 29201

January 19, 2022

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

To School Leader and Board Members,

On November 4, 2021 the Institute requested that the South Carolina Department of Education, Office of Special Education Services (OSSES) provide technical assistance to the Institute as the Local Education Agency (LEA) with fulfilling its obligation to ensure the students with disabilities enrolled at Gates are receiving a Free and Appropriate Public Education (FAPE) as required by the Individuals with Disabilities Education Act (IDEA). As the State Education Agency, OSSES conducted an audit that included a review of Gates students' IEPs and has issued a formal response (*See Appendix A, Findings Letter*). Consequently, the SCDE has issued a corrective action plan to the Institute detailing the identified deficiencies and systematic patterns of noncompliance at Gates School. (*See Appendix A, Findings Letter pg.3*).

The Department's letter confirms the findings of noncompliance identified by the Institute and are aligned with the issues the Institute has addressed with the School since August 2021. In an effort to ensure the School is able to correct these deficiencies and fulfill its legal obligations to its students as required by federal law, the School must:

1. Based on the SCDE's CAP developed for the LEA, the Institute will develop a **new School level corrective action plan** with clear requirements and timelines prioritizing the correction of identified issues in a timely manner. The new School CAP will be sent to the School by January 21, 2022.
2. As the School continues to struggle with IDEA and the appropriate implementation of federal laws, the Institute requires that the School hire a special education consultant with the experience and capacity to implement charter school special education compliance. The Institute will assign a consultant to the School and will notify the School of next steps no later February 4, 2022.

Gates' current position and approach to Special Education along with the continued non-compliance has resulted in the School's continued enrollment freeze. However, if the School complies with the above requirements including the corrective action plan, the Institute will prioritize the items that need to be completed in order to determine when the enrollment freeze will be lifted. We are looking forward to moving forward positively for the benefit of the students and families at Gates School

Sincerely,

A handwritten signature in blue ink that reads "Celina Patton".

Celina Patton
Chief of Student Services

CC: Cameron Runyan, Superintendent
Vamshi Rudrapati, Director

Appendix A



STATE OF SOUTH CAROLINA
DEPARTMENT OF EDUCATION

MOLLY M. SPEARMAN
STATE SUPERINTENDENT OF EDUCATION

January 13, 2022

Vamshi Rudrapati, Director (Director@erskinecharters.org)
Charter Institute at Erskine
1201 Main Street, Suite 300
Columbia, SC 29201

Re: Request for Technical Assistance Findings

Dear Mr. Rudrapati:

The Charter Institute at Erskine (“Charter Institute”) is the charter school sponsor of Gates School (the “School”). To fulfill this role and comply with the South Carolina Charter Schools Act of 1996 as amended and located at S.C. Code Ann. § 59-40-10 *et seq.* (the “Act”), the Charter Institute has a responsibility to regularly monitor the performance and legal and fiscal compliance of the School. The Charter Institute is a local educational agency (LEA) and Gates is a charter school within that LEA. As a recipient of Individuals with Disabilities Education Act (IDEA) funding, the Charter Institute is responsible for ensuring compliance from all of its schools with all requirements IDEA.

Based on information and evidence from a recent data collection, the Charter Institute notified the School on October 1, 2021 of deficiencies related to the provision of special education services, accommodations, and support as required by students’ individual education programs (IEPs) in the following areas:

- **Failure to provide special education services as required by IEPs;**
- **Failure to amend or change IEPs appropriately (removing services in the IEP unilaterally); and**
- **Failure to follow its own charter with respect to special education staff.**

On October 30, 2021, the Office of Special Education Services (OSES) staff met with Charter Institute staff to discuss a request for technical assistance. The OSES agreed to review data related to special education processes, implementation and documentation of special education services, progress monitoring, and compensatory services issues at the request of the Charter Institute. The OSES met with the Charter Institute on December 16, 2021 to discuss the data review. The following is a summary of the results of that review.

Policies and Procedures

Based on the policies and procedures review, the OSES determined that the applicable provisions of the Charter Institute's policies and procedures comply with state and federal law. As a result, no policy and procedure revisions are required at this time. Some instances of failure to follow the policies and procedures were noted. Attention must be given to following applicable policies and procedures.

Individualized Education Program (IEP) Development

The OSES team identified items that are non-compliant according to the IDEA for individual students. The individual student items are identified, along with the required individual student corrective actions, on the IEP development spreadsheet that is attached.

In addition to individual student corrections, the review team identified areas that require systemic correction by the Charter Institute. Systemic findings are issued when the OSES determines that the findings from individual student IEPs constitute a pattern of noncompliance. The authorizer of the School, in the role as LEA, will need to review all of the IEPs in the School to determine if there are similar patterns and to correct errors of noncompliance that are identified. Based on the data from the IEP development reviews and other information gathered in the review process, the specific IEP development areas in need of corrective action for the School include:

- Adherence to timelines and procedures for evaluations, reevaluations, IEP amendments, and comparable services decisions based on current data [34 C. F. R. §§ 300.303-300.311; C.F.R. § 300.323 and C.F.R. § 300.324];
- Development of present levels of academic and functional performance (PLAAFP), including academic and functional strengths and needs, a description of the impact of the disability, and findings that include baseline data [34 C.F.R. § 300.320(a) and 34 C.F.R. § 300.324];
- Development of appropriate, measurable annual goals consistent with current baseline data [34 C.F.R. § 300.320(a)];

- Identification of special education and related services, accommodations, and modifications based on specific student needs [34 C.F.R. § 300.320(a)];
- Designation of least restrictive environment (LRE) that includes removal justifications [34 C.F.R. § 300.320(a)(5); 34 C.F.R. § 300.114(a); 34 C.F.R. § 300.116(e)]; and
- Completion of prior written notices (PWNs) that are complete and individualized [34 C.F.R. § 300.503].

Relative to both individual and systemic areas of noncompliance, the team noted that there are a lack of data provided or described used to determine individual student services and documentation of the provision of indirect services to students. There are also statements describing the nature of the school program rather than the needs of the individual student used as the basis of service decisions.

IEP Implementation

During the review, the OSES team reviewed general practices and procedures for implementation of IEPs. In some instances, the School is not providing specialized instruction and related services as delineated in IEPs. It was noted that the School is not consistent in providing appropriate sufficient progress information supported by data on the student progress reports.

Corrections and Verifications

To address the identified issues of noncompliance, the District is directed to complete the following corrective actions:

- Provide School staff professional learning opportunities relative to IEP development based on timelines and procedures required by IDEA;
- Provide School staff professional learning opportunities relative to IEP Implementation based on timelines and procedures required by IDEA;
- Develop and maintain a documentation system for data used for service decisions and the documentation of provision of services;
- Review, revise, and submit for verification the individual IEPs as described in the IEP Development Shared Report spreadsheet; and
- Review and revise all of the IEPs in the School to correct errors of noncompliance that are identified.

Pursuant to the Office of Special Education Programs (OSEP) Memorandum 09–02 dated October 17, 2008, all noncompliance items (individual student and systemic) must be corrected and verified as soon as possible, but in no case later than one year from the date of this letter.

Vamshi Rudrapati, Director

Page 4

January 12, 2022

The OSES is committed to supporting the Charter Institute's efforts to improve results for students with disabilities and looks forward to working with you over the next year. If you have any questions or want to request technical assistance please contact Ann C Moore at acmoore@ed.sc.gov or 803-734-8006, or Carmen Willm at cwillm@ed.dsc.gov , or 803-734-1281.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca C. Davis". The signature is written in a cursive style.

Rebecca C. Davis, Director
Office of Special Education Services

Attachment: IEP development spreadsheet

cc: Laura Merrick, Executive Director of Student Services (LMerrick@erskinecharters.org)

Since August 2021, the School has continued findings of non-compliance toward fulfilling the requirements of IDEA.

Timeline of Noncompliance:

1. October 1, 2021- Institute Issued Non-Compliance Notification and a 30 day Corrective Action Plan
2. November 1, 2021- School did not comply with the Corrective Action Plan
3. November 4, 2021- Institute requested SCDE to assist due to the ongoing and systematic issues
4. January 18, 2022- SCDE fulfilled Technical Assistance, issued findings and Corrective Action Plan
5. February 1, 2022- Parent Complaint- Letter of Resolution and Corrective Action Plan

<p>Institute Findings 10/1/2021</p>	<p>SCDE Technical Assistance Findings 1/18/2022</p>	<p>Parent Compliant-LOR Findings 2/1/2022</p>
<p>After multiple emails, phone calls and conversations, the Charter Institute officially notified the School on October 1, 2021, of deficiencies related to the provision of special education services, accommodations, and support as required by students' individual education programs (IEPs) in the following areas:</p>	<p>Per the request of the Institute, the South Carolina Department of Education Office of Special Education Services reviewed data related to special education processes, implementation and documentation of special education services, etc. The following deficiencies were identified:</p>	<p>A parent of a student enrolled at Gates School filed a state complaint on 11/9/2021. The Letter of Resolution sent to CIE on 2/1/2022 found the following areas of deficiencies:</p>
<p>Failure to provide special education services as required by IEPs;</p>	<p>Failure to provide special education services as required by IEPs;</p>	<p>Failure to provide special education services as required by IEPs;</p>
<p>Failure to develop student IEPs based on the individualized need of the students rather than the school program</p>	<p>Failure to develop student IEPs based on the individualized need of the students rather than the school program</p>	<p>Failure to develop student IEPs based on the individualized need of the students rather than the school program</p>
<p>Failure to follow Institute policies and procedures in IEP process and development</p>	<p>Failure to follow Institute policies and procedures in IEP process and development</p>	<p>Failure to follow Institute policies and procedures in IEP process and development</p>
<p>Result of Findings: Institute Corrective Action Plan</p>	<p>Result of Findings: SCDE Corrective Action Plan</p>	<p>Result of Findings: SCDE Corrective Action Plan</p>

Findings Conclusion: All findings of noncompliance are consistent in the review of the SPED programming at Gates by both the Institute, and the South Carolina Department of Education. The school has systematically failed to develop and implement student IEPs and ultimately failed to adhere to federal law.



Corrective Action Plan (CAP)

The school must complete all actions identified in the CAP. The school must conduct monitoring to determine the progress of implementation of the CAP and retain all documentation demonstrating the completion of the corrective actions. All noncompliance items must be corrected and verified by the Institute as soon as possible. To meet this requirement the school must adhere to any and all timelines defined by the Institute. Failure to correct noncompliance within required timelines may result in elevated interventions or sanctions as referenced by the South Carolina State Board of Education Regulation 43-243, 34 C.F.R §§ 300.149 and 300.600.

Instructions:

1. School Principal and School Sped Coordinator must review all requirements detailed in CAP
2. School Principal, School SPED coordinator, and Insitute Assigned Consultant must meet with Institute SPED team to review all requirements of CAP at an agreed upon date/time.
3. School must submit all evidences via Lets Work Smart and/or Formstack as specified within the CAP and by each specified due date.
4. School must receive approval from the Institute on all individual items listed within the CAP in order for the actions to be considered resolved. Written notification will be provided by the Institute after each item's review.

Failure to Adhere to Corrective Actions as Approved by the Institute:

If the School fails to complete any portion of the corrective measures within the timelines listed in each section of the CAP, the Institute will immediately initiate additional sanctions and recommend the School to the Institute Board for Revocation Review.

Corrective Action Plan (CAP)										Institute Feedback						
School Name: Gates School		School Principal: Summer Brown School SPED Coordinator: Kaity Flake														
Identified Non-Compliance	Corrective Actions (a)	Evidence to Submit	Due Date	Corrective Actions (b)	Evidence to Submit	Due Date	Corrective Actions (c)	Evidence to Submit	Due Date	Date of Received Documentation	Resolved Actions (Y or N)			Comments		
1. Professional Learning (ongoing IEP development and IEP implementation based on timelines, and procedures required by IDEA)	1a. Attend IEP Training hosted at the Institute and led by SCDE on IEP development (Date TBD. Institute will schedule and communicate details once the meeting is scheduled.) <i>Email to School sent on 1/24, SCDE has confirmed 2/8 and 2/10. School must confirm date by 1/25 at 5 p. m.</i>	1b. Attendance and sign in sheets will be collected and stored at the Institute	1/31-2/11 <i>"will be scheduled and confirmed within this timeframe" 2/8 or 2/10, date will be confirmed by the School. School Confirmed date of 2/8.</i>	1b. (1) Complete Compensatory Services SCDE training (2) Create Calendar of ongoing PD, utilizing the assigned consultant, that aligns with identified corrective actions, to include dates, content, etc.	1b. (1) Submit Certification of Completion of SCDE required training (2) Submit calendar with all appropriate details needed to fulfill the requirements listed within to include all areas of deficiencies found in SCDE findings letter, LOR and staff training on FERPA.	2/25/22	1c. (1) Implement training within the PD calendar utilizing the assigned consultant that addresses all identified areas of noncompliance. (2) Submit list of employees who will have access to student IEP records that meets the requirements of FERPA.	1c. (1) Submit all training materials and sign in sheets for ongoing trainings (2) Submit list of employee names for student record access and FERPA training sign in sheets and training materials.	ongoing (all evidence produced no later than 6/1)	1a. Training attended by school on 2/8.	1b.	1c.	1a. Yes	1b.	1c.	
2. IEP Development	2a. Develop Internal school level procedures for ensuring IEP compliance and meeting all IEP related timelines to include compliant content for the IEP Development that meets the Institute and SC State requirements, specifically addressing the identified areas of noncompliance from the Institute and the SCDE.	2a. Submit written procedures to include description of correcting all areas of identified non compliance.	2/24/2022	2b. Implement school level IEP compliance and development procedures.	2b. Submit evidence of ongoing implementation of procedures	4/6/22	2c. (1) Institute Assigned Consultant, School Principal and School SPED coordinator must review current School Level Special Education Policies and Procedures. Identify areas that the school failed to implement the written Institute's policies and procedures. Summarize findings. (2) Make any necessary School Level Policy and Procedures revisions to ensure ongoing special education compliance at Gates.	2c. Submit summary of findings and revised School Policies and Procedures using the Institute's Policies and Procedures for the Institute's review and approval (using Institute's SPED policy and Procedures)	5/6/22	2a.	2b.	2c.	2a	2b	2c	
3. IEP Implementation	3a. Develop and maintain a documentation system for data used for individual student's service decisions addressed in corrective actions.	3a. Submit written procedures and evidence of ongoing implementation of procedures.	2/28/2022	3b. Develop and maintain a system for documentation of provisions of services by developing procedures for the implementation of service logs. Provide training to special education teachers and related service providers on procedures for documenting services.	3b. Submit teacher schedules and related service provider schedules that include student names, service times. Submit procedure and templates that will be used for service logs. Submit evidence of training provided to teacher on documenting services led by Institute assigned consultant.	3/25/21	3c. Implementation of system of service documentation for all service areas listed within student IEPs	3c. Submit service logs for 10 students identified by the Institute.	5/3/21	3a.	3b.	3c.	3a	3b	3c	
4. IEP corrections	4a. Following Institute/SCDE training, School Coordinator and Assigned Consultant must review individual IEPs within the SCDE individual form meetings (7 students) and schedule necessary meetings. Submit drafted corrected IEPs for review to the Institute 72 hours prior to the IEP meeting.	4a. Submit student ID number via formstack 72 hours before all IEP meetings held. Use the IEP review tool provided to complete an internal review prior to submitting to the Institute for review. The Institute will provide feedback.	3/14/22	4b. Make any additional corrections identified by the Institute prior to the IEP meeting.	4b. Once IEP meeting has been completed, submit final copy of IEP to Institute with all signature pages.	3/16/22	4c. (1) Institute Assigned Consultant and School Sped Coordinator must review all remaining student IEPs using the SCDE IEP review tool and (2) After the Institute reviews and approves the findings of the individual IEPs, the School will hold all necessary meetings to make corrections.	4c. Submit student ID number via formstack 72 hours before all IEP meetings held. Use the IEP review tool provided to complete an internal review of the drafted student IEP prior to submitting to the Institute for review.	5/31/22	4a.	4b.	4c.	4a	4b	4c	
5. Parent Complaint- LOR from SCDE	5a. Following Institute/SCDE training, (including compensatory services SCDE moodle course, in order to address the failure to provide SL and OT services in accordance with the Student's IEP), the School shall ensure the appropriate team members attend an IEP team meeting as scheduled and led by the Institute to determine the loss of education opportunity that resulted from the School's failure to provide the SL and OT services in accordance with the Student's IEP	5a. (1) School SPED teams's individual Certifications of Completion with 100% passing of Moodle Course (2) School must submit evidence of contract & paid invoices to provider after completion of any compensatory services determined by IEP (3) Compensatory Services Documentation using SCDE forms and process	3/30/22	5b. (1) School will complete a root cause analysis identifying the cause of the ongoing noncompliance utilizing Institute Assigned Consultants. (2) The School will develop school goals that will address the areas of noncompliance found in the parent complaint AND SCDE findings. This should include goals that address how to school plans to correct the areas of noncompliance long term. (including specific findings that align with LOR and SCDE findings)	5b. (1) School submits Root Cause analysis to the Institute (2) School submits school goals and the ongoing evidence demonstrating the school's ability to meet the goals as aligned with the findings and approved by the Institute.	3/30/22	5c. Submit ongoing evidence that demonstrates the school's progress towards meeting the goals developed in the root cause analysis.	5c. Evidence that correlates with School Developed Goals that demonstrate the School's ability to implement a sustainable Special Education program that adheres to the requirements of the IDEA.	5/31/22	4a.	4b.	4c.	4a	4b	4c	