



**CELINA PATTON**  
*Chief of Student Services*

1201 Main Street, Suite 300, Columbia, SC 29201

March 3, 2022

**(VIA: E-MAIL ONLY)**

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

**RE: Notice of Non-Compliance**

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.

To fulfill its mission and comply with the Charter Schools Act, the Charter Institute has the responsibility for monitoring the performance and legal and fiscal compliance of the schools authorized by the Charter Institute; conducting oversight activities; notifying a school of perceived problems if its performance or legal compliance appears to be unsatisfactory; taking appropriate corrective actions or exercising sanctions short of revocation in response to identified deficiencies, including requiring a school to develop and execute a corrective action plan within a specified timeframe; and determining whether each charter contract merits renewal, nonrenewal, or revocation. (S.C. Code Ann. § 59-40-55(B)(4)-(9).)

This letter is to notify the School that, as of the date of this letter and as explained in greater detail below, the School has missed a deadline in the Combined Corrective Action Plan (Combined CAP) and has new instances of noncompliance despite the ongoing escalated levels of tailored support the School has received from the Institute team. At minimum, this constitutes a failure to fulfill the terms of the Combined CAP and constitutes a breach of the contract.

**Background**

As you are aware, on October 1, 2021, the Charter Institute issued the School a Notice of Noncompliance and Corrective Action Plan (the “October 1 CAP”) based on identified serious violations of federal and state law relating to special education, Title III, and equitable admissions. The School failed to complete the requirements of the October 1 CAP.

The Institute then requested that the South Carolina Department of Education (“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. (*See Appendix A*)

On January 13, 2022, SCDE issued its audit findings, which confirmed the same deficiencies and systematic patterns of noncompliance related to special education, as the Institute previously identified. (*See Appendix B*) 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. Consequently, the Institute was required to take corrective actions to remedy the issues

identified. On January 21, 2022, the Institute sent the School a combined Corrective Action Plan (“Combined CAP”), which combined the October 1 CAP with the requirements of SCDE’s corrective action plan for the Institute. (See **Appendix C.**)

### **1. Missed Deadline for Combined Corrective Action Plan**

On February 24, 2022, as part of Corrective Action Items 2a of the Combined CAP, the School was required to develop internal school level procedures that ensured IEP compliance. This requirement is directly related to the School’s Special Education Policies and Procedures and has been due for approval by the Institute since September 2021. The School has been given five (5) opportunities since this time with specific feedback to remedy the noncompliance, but has failed to submit Special Education Policies and Procedures, as required by the law and as necessary for Institute approval.

### **2. IEP Development Noncompliance**

On February 8, 2022, as part of the School’s Combined Corrective Action Plan (“Combined CAP”) the School was required to attend a training session led by the SCDE and the Institute. This training was specifically tailored to address the areas of noncompliance identified in Gates Student’s IEPs. The School’s attendees included Summer Brown, Kaity Flake and Michelle Bishop, the School’s consultant.

This training provided clear, explicit, and direct guidance for the expectations of student IEP development and implementation required by federal law. SCDE emphasized that the law requires that all decisions made by IEP teams must be made based on individual student data and align with the individual needs of students with a disability at the School. More importantly, it was discussed at length with the School that the content of the IEP **should not have standardized statements** that do not reflect the individual student’s needs, nor should any information presented be based on the School’s particular model or methodology of instruction rather than the student’s needs. The SCDE gave direct and explicit guidance that the School should not continue writing generic blanket statements in IEPs that do not address the student’s individual needs both in this training and in the findings of their previous audit as specified in the SCDE’s January 13, 2022 findings letter. (See **Appendix B.**)

As the Institute has continued to closely monitor Gates student IEPs and based upon ongoing information and evidence reviewed, the Institute staff has identified the following new noncompliance by the School:

After the School attended the February 8th training with the SCDE, the School held several student IEP meetings where it continued to include the generic blanket statements in student IEPs that the Institute and SCDE explicitly instructed the School not to include because they constituted a violation of federal law. (See **Appendix D.**) One of the student IEPs that contains the generic blanket statements, also includes another student’s name, further demonstrating these statements are generic and not individualized to each student’s needs.

These new violations are all the more egregious, as some of the same individuals who attended SCDE’s training on February 8th also attended the subsequent student IEP meetings where these IEPs were prepared with the generic blanket statements in violation of federal law.

### **3. IEP Implementation Noncompliance**

The IDEA specifies that when a student transfers from one public school to another, the receiving School must take steps to **promptly** obtain the child’s records, including the IEP and supporting documents and any other records relating to the provision of special education and related services to the child. The IDEA also requires when a student with an IEP transfers into a new school, that the school must implement the IEP in order to provide the child with a free appropriate public education (“FAPE”), including services comparable to those described in the previously held IEP. However, in the recent desk audit the Institute identified a student with an IEP who has attended Gates since August 2021; however, the School did not implement the IEP for the student until February 23, 2022. This student had an active IEP when they transferred to Gates that should have been implemented since August as required by law. However, the School failed to follow IDEA and consequently has denied this student a Free and Appropriate Education by not providing the services and support as required by the IEP for over 6 months of this school year. This is in direct violation of Federal Law, specifically the Individuals With Disabilities Education Act, 20 U.S.C. § 1400 (2004).

#### **4. Parents Paying for Tutors During the School Day**

In this same audit, the Institute found that the School is recommending multiple parents pay for private tutors for students during the School day. In review of a student's IEP record, the prior written notice completed by the School documents that, while the School continued to acknowledge the need for this student to receive one-on-one reading support, the School did not provide the service, as the IEP requires, but rather recommended that the parent should pay for a private tutor during the school day to deliver the instruction. The School cannot receive state and federal dollars for a Free and Appropriate Education (FAPE), fail to provide the services, and also recommend parents pay for instruction during school hours. This action further demonstrates the School's lack of capacity to understand its requirements under federal law and lack of commitment to meeting the unique needs of its students.

#### **5. Academic Concerns**

According to Section 59-155-160 of the South Carolina Read to Succeed Act, beginning with the 2017-2018 School Year, a student must be retained in the third grade if the student fails to demonstrate reading proficiency at the end of third grade as indicated by scoring at the lowest achievement level on the state summative reading assessment SC READY. (See S.C. Code § 59-155-160.) Currently, based on projected SC READY scores, Gates School could be required to retain up to 100% of its third grade students. Twenty-four of twenty-four third graders at Gates scored below grade level, at either the projected "Approaches" or "Does Not Meet", on Winter MAP. These scores have decreased since the students took the Fall MAP. In addition, Gates School's fourth grade is projected to have 96.2% of its students scoring below grade level, in either the "Approaches" or "Does Not Meet" categories of SC READY, along with 90.5% of its fifth grade students projected to score in either the "Approaches" or "Does Not Meet" categories of SC READY. 95.8% of Gates School's third, fourth, and fifth grade students are projected to score either "Approaches" or "Does Not Meet" on SC READY based on Winter MAP.

The School has put each of its students with disabilities at a high risk for retention by not providing the services listed in the IEPs as well as not keeping the documentation necessary to ensure that these students could potentially meet the good cause exemption, a clause within the South Carolina Read to Succeed Act that would allow these students to be promoted to fourth grade. The School has 13 students with IEPs in the third grade, this is 54% of the total third grade population. This potential impact and negligence of the School will have a detrimental impact on this particular group of students who already have learning challenges different from their nondisabled peers. Had the School fulfilled its obligations under the law, some of these students could have been promoted and not been subject to the requirements of the third grade mandatory retention.

#### **Conclusion**

The Institute is disappointed that the School has continued to violate the law and failed to comply with the corrective action plan, despite the additional time, training, and support provided by the Institute. The School's continued systemic violation of the law is ultimately a failure of the commitment the School made to its students and the families it serves. Nevertheless, the Institute is required to comply with the law and ensure the School complies with the law. As such, the Institute will continue to closely monitor the School's performance for compliance with the law and expects the School to comply with the Combined CAP. The Institute will send a follow-up letter on additional sanctions for failure to meet the Combined CAP.

Sincerely,



Celina Patton

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

**From:** [Celina Patton](#)  
**To:** [Davis, Rebecca](#)  
**Cc:** [Laura Merrick](#)  
**Subject:** Request for Assistance  
**Date:** Thursday, November 4, 2021 1:51:10 PM  
**Attachments:** [Gates Letter of Noncompliance.pdf](#)  
[Memo to Erskine Re IDEA Compliance November 2021.pdf](#)  
[October 11 Gates Response.pdf](#)  
[29D3A26498DE43FFB1571614B673896E\[394341581\].png](#)  
[B3B41BFA731D4F44B0FA6FE84E6897EF\[39434161\].png](#)  
[B4CF6359468F431485A04EE7C0C53CBA\[39434160\].png](#)  
[DCDF8C60B2564461A22F5D9319C6C3D9\[39434163\].png](#)  
[E13114FD6BA340EDAC748C59A59ACF46\[39434159\].png](#)

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Dear Ms. Davis,

I am writing to request the assistance from the OSES department at the SC Department of Education. It is important that the State Educational Agency (SEA) is aware of the significant challenges we are facing with one of our schools, Gates School. Gates is an Alternative Education Campus (AEC) whose primary mission is to serve students with dyslexia or other identified reading difficulties. The School recently opened on July 1, 2021 and students began attending in August 2021. Since that time, as an LEA we have been working diligently with the school to ensure that the students with disabilities, (currently 47 students have IEPs) are receiving the services for which they are entitled. However, since the School has opened, the Institute has identified systematic areas of noncompliance to the IDEA. In order to fulfill our statutory obligation, we have issued the attached letter of noncompliance sent from the Institute to the School that includes issuing sanctions and a corrective action plan.

The areas of identified noncompliance are:

- All student's IEPs with academic services have been changed within the first few weeks of school from direct to indirect services without appropriate data. All prior written notices created for each student's transfer IEP contain the same language and statements.
- The school does not have a special education teacher serving the students according to their IEPs.
- Students have not been receiving the services as outlined in their IEPs for over 9 weeks of school.
- Services were unilaterally removed by the school in the transfer process without prior written notice to the parents.

As of November 1, the school was required to take corrective action, which included hiring a certified special education teacher. Attached is the school's response to The Institute's letter of non-compliance. Based on the facts, the Institute's position is that the school has failed to comply with all corrective measures. The school has still yet to hire a special education teacher to serve its students. As an example of the School's continued disregard to the requirements of the law and Institute policy, the school sent a Google survey to all parents as a way to determine the need for whether or not their child would be owed compensatory services, rather than making these decisions individually and in an IEP team meeting (see attached, Gates Response to the Institute)

Each day that passes, students with disabilities continue to not receive the individualized supports and services as required by the IEP. The Institute has exhausted all avenues available to us at this time. This also includes securing the legal counsel and services of Brustein & Manasevit, who recently issued the attached memo specifically providing guidance to the school - however, the school continues to negate its responsibility under the law.

On behalf of the Institute, I would like to request that the SC Department of Education, specifically the Office of Special Education Services, reviews the student IEPs at Gates School and audits any necessary paperwork to make determinations and recommendations that would ensure the children at Gates receive the Free and Appropriate Education to which they are entitled. We will provide the Department with any and all school-level documents available to us and will provide access to our district's Enrich platform so that the Offices of Special Education Services can fulfill this request.

Thank you,



**CELINA PATTON**

*Chief of Student Services*

The Charter Institute at Erskine

Direct: 803.849.2458

1201 Main St., Ste. 300

Columbia, SC 29201

**Follow us!**





**STATE OF SOUTH CAROLINA**  
**DEPARTMENT OF EDUCATION**

**MOLLY M. SPEARMAN**  
*STATE SUPERINTENDENT OF EDUCATION*

January 13, 2022

Vamshi Rudrapati, Director ( [Director@erskinecharters.org](mailto: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

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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](mailto:acmoore@ed.sc.gov) or 803-734-8006, or Carmen Willm at [cwillm@ed.dsc.gov](mailto: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](mailto:LMerrick@erskinecharters.org) )



**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 specfied 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.



[REDACTED] Legal Name of Student      [REDACTED] DOB      [REDACTED] Local ID      [REDACTED] SUNS      [REDACTED] IEP Meeting Date

## NORMAL SCHOOL YEAR SERVICES (EXCLUDES SUMMER MONTHS)

**Category:** [REDACTED]      **Service:** [REDACTED]  
**Location:** [REDACTED]      **Provider:** [REDACTED]  
**Start Date:** 2/28/22      **End Date:** [REDACTED]  
**Direct/Indirect:** [REDACTED]  
**Amount:** [REDACTED]

**Category:** [REDACTED]      **Service:** [REDACTED]  
**Location:** [REDACTED]      **Provider:** [REDACTED]  
**Start Date:** 2/28/22      **End Date:** [REDACTED]  
**Direct/Indirect:** [REDACTED]  
**Amount:** [REDACTED]

### Specific directions, considerations, or delivery methods for special education, other related services, and supplementary aids and services:

**Directions/Delivery:** [REDACTED] will receive [REDACTED] minutes of direct services in general education each month through small group. [REDACTED] will receive [REDACTED] minutes indirect special education services per week. These indirect services will include: consultation with general education teacher, providing resources, and problem solving.

**Consideration:** [REDACTED] is attending Gates School. This is a specialized school environment with an AEC designation for children with Dyslexia. This school placement is per parent choice and designed to best-fit [REDACTED] academic needs. [REDACTED] will be provided with direct and indirect services by the Special Education teacher and receive reading instruction by teachers trained to the Classroom Educator Orton-Gillingham level, designed for students with dyslexia in mind.

## ASSESSMENT PARTICIPATION

*Accommodations and modifications must reflect those used in daily classroom instruction*

### District Assessment(s)

Assessment	Participation	Accommodations
MAP, OG, Fastbridge	Yes	[REDACTED]

**NORMAL SCHOOL YEAR SERVICES (EXCLUDES SUMMER MONTHS)**

Category: [REDACTED]  
Location: [REDACTED]  
Start Date: 2/24/22  
Direct/Indirect: [REDACTED]  
Amount: [REDACTED]

Service: [REDACTED]  
Provider: [REDACTED]  
End Date: [REDACTED]

Category: [REDACTED]  
Location: [REDACTED]  
Start Date: 2/24/22  
Direct/Indirect: [REDACTED]  
Amount: [REDACTED]

Service: [REDACTED]  
Provider: [REDACTED]  
End Date: [REDACTED]

**Specific directions, considerations, or delivery methods for special education, other related services, and supplementary aids and services:**

[REDACTED] will receive [REDACTED] minutes of indirect support for ELA skills weekly. Gates School is a specialized school environment with an AEC designation for children with Dyslexia. This school placement is per parent choice and designed to best fit student's academic needs. [REDACTED] can be provided with indirect services by the Special Education teacher and receive instruction by teachers trained to the Classroom Educator Orton-Gillingham level, designed for students with dyslexia in mind. This model is supported by: data derived from the OG model approach, smaller class sizes, parent support in limiting time outside of OG instruction, and student's difficulty in making growth in previous pullout style traditional classroom services.

**ASSESSMENT PARTICIPATION**

*Accommodations and modifications must reflect those used in daily classroom instruction*

**District Assessment(s)**

Assessment	Participation	Accommodations
MAP, OG, Fastbridge	Yes	[REDACTED]

**NORMAL SCHOOL YEAR SERVICES (EXCLUDES SUMMER MONTHS)**

Category: [Redacted]  
Location: [Redacted]  
Start Date: 2/24/22  
Direct/Indirect: [Redacted]  
Amount: [Redacted]

Service: [Redacted]  
Provider: [Redacted]  
End Date: [Redacted]

Category: [Redacted]  
Location: [Redacted]  
Start Date: 2/24/22  
Direct/Indirect: [Redacted]  
Amount: [Redacted]

Service: [Redacted]  
Provider: [Redacted]  
End Date: [Redacted]

**Specific directions, considerations, or delivery methods for special education, other related services, and supplementary aids and services:**

[Redacted] teachers, administrators, and testing coordinators will be consulted by the special education teacher regarding her accommodations and services within the IEP for [Redacted] minutes per year.

[Redacted] will receive [Redacted] minutes of indirect support for ELA skills weekly. Gates School is a specialized school environment with an AEC designation for children with Dyslexia. This school placement is per parent choice and designed to best fit student's academic needs. [Redacted] can be provided with indirect services by the Special Education teacher and receive instruction by teachers trained to the Classroom Educator Orton-Gillingham level, designed for students with dyslexia in mind. This model is supported by: data derived from the OG model approach, smaller class sizes, parent support in limiting time outside of OG instruction, and student's difficulty in making growth in previous pullout style traditional classroom services.

**ASSESSMENT PARTICIPATION**

*Accommodations and modifications must reflect those used in daily classroom instruction*

**District Assessment(s)**

Assessment	Participation	Accommodations
MAP, OG, Fastbridge	Yes	[Redacted]