

1. Students with disabilities are not provided the special education and related services- designed to ensure the provision of a free appropriate public education (FAPE) and meet each student's unique needs. [34 C.F.R. § 300.17]

- The educational program provided for students from the residential treatment facility (RTF) at Willowglen Academy (Willowglen) in Kingstree, but physically located at Camp Harmony in Greelyville, is not based on each student's unique and individualized educational needs and does not meet the minimum federal and state requirements to ensure the provision of a FAPE to meet the needs of each student.

In response to the findings in the report issued by the State Fire Marshal's Office that the Camp Harmony facility does not comply with building, fire, and other applicable standards, codes, and regulatory requirements, and the lack of appropriate educational space at the RTF, the students were moved from Camp Harmony on October 1, 2015, to schools within the Williamsburg County School District (District). While there were issues with communication between the District and Willowglen concerning the timeline and process for the relocation of the educational programs and the District did not implement any of South Carolina Department of Education (SCDE) recommendations for preparing the students for the transition from Camp Harmony, the overall feedback concerning how the students have adapted to the move is very positive.

- During the August 31, 2015, on-site review of the education program, SCDE personnel from the Office of General Counsel (OGC) found the three teachers placed at Camp Harmony by the District to be hardworking, caring, and committed to providing services to these students as best they can with the resources provided by the district or purchased and provided by the teachers. There are approximately forty Willowglen students who range in ages from ten to nineteen years old. The services that each student receives, however, is limited to what is available and what the teachers have time to provide, rather than what each student needs to benefit from his or her educational program. The District does not provide services to the students from Willowglen that are comparable to the services it provides to students whose parents live in the District.

The three teachers from the Camp Harmony facility were assigned to Kingstree Senior High School (KSHS), where the high school-age students were transferred. The classrooms where the teacher's classrooms were placed are much more appropriate in size, safety, and location. As of the SCDE's October 21, 2015, visit to KSHS, the teachers were very pleased with their classrooms, however, the District still had not provided the teachers with updated instructional materials and an appropriate curriculum aligned to state standards. During an interview, one of the teachers stated that the Internet and self-obtained materials are the basis for lesson plans and instruction in that teacher's class. The out-of-date textbooks from the early 1990's were still present. The KSHS principal stated that he was unaware that these students and their teachers were to receive the same materials, computers, curriculum, and other instructional and nonacademic benefits as the other students in his school.

- District and Willowglen personnel reported that students from the RTF are grouped in the educational setting at Camp Harmony based on their behaviors in the RTF or behaviors that manifested in the home settings prior to placement in the RTF, rather than based upon academic and functional strengths and needs, present levels of academic achievement and functional performance (PLAAFP), or similar age and grade levels. The number of students on each teacher's caseload, the extent of the age-ranges of the students in each class, the vast differences in the student's abilities and disabilities, limited space, and the lack of appropriate education support for each teacher at Camp Harmony prevents the teachers from providing effective, differentiated instruction, as needed to address the varied functioning abilities of the students within each class.

According to documentation provided by the District and conversations with District personnel, subsequent to the SCDE's August 31, 2015, on-site visit and the October 1, 2015, relocation of the students' educational program the District engaged in a process of conducting IEP meetings for the Willowglen students to address their access to the general education curriculum and participation with their non-disabled peers in the least restrictive environment (LRE). The District provided the SCDE with schedules for the students that indicated that in addition to receiving special education and related services, the students were enrolled in physical education (PE); related arts classes, such as music; and other general education courses with their nondisabled peers.

During the SCDE's October 21, 2015, on-site visit at KSHS, we discovered that the students' schedules were not an accurate reflection of the students' participation with non-disabled peers, access to the general education curriculum, or instruction. Contrary to what was reflected in the District's documentation. Contrary to the District's initial statements that the Willowglen high school students were divided between the two KSHS campuses on the basis of the IDEA LRE requirements, the SCDE determined decisions were made based upon the assigned grade level for each student. The assignment of the students to the east and west campuses was in no way related to the amount, type, or frequency of interaction with the students' non-disabled peers; the type or location of general education classes that the students were expected to participate in, or the individualized needs of the students.

- During the school day, there are a number of Willowglen personnel on-site at Camp Harmony. These persons, however, do not provide any educational instruction, assistance, or support to the students. They do not collect educational or behavioral data for the teachers and in no manner take on the roles, duties, or responsibilities of typical District employees. These persons are behavior managers employed by Willowglen, as required for licensure and Medicaid billing purposes, who sit in the classrooms or other areas of the building in the event a student experiences a behavior crisis. The District only provides one support person to assist the three teachers in the educational program.

Willowglen is reportedly providing approximately nineteen behavior managers to accompany the students to school, which exceeds its requirements. On the other hand, as

of October 21, 2015, it was evident that the District had not made appropriately-trained support personnel available in all cases to meet the educational needs of the students. The District has not provided any documentation since the October 21, 2015, on-site visit to substantiate that it is working to address the deficit in this area.

- Despite the inclusion of Braille in the individualized education program (IEP) for a student with a visual impairment in the educational program, during the SCDE's site visit, the student was not receiving any instruction in the use of Braille or other training to address his communication and functional skill deficits, such as the appropriate use of the restroom or feeding himself. Additionally, although the IEP states the student is learning to use a cane and is able to use a cane to travel around the school buildings and grounds, there was no observation of the student using or being taught to use a cane. [34 C.F.R. § 300.324(a)(2)(iii)]
  - While District personnel assured SCDE personnel during the on-site visit that the student received both instruction from a teacher of the visually impaired and orientation and mobility services through the South Carolina School for the Deaf and the Blind (SCDB) outreach program, SCDE personnel obtained confirmation later that same week that the student was not receiving these services and the District had not yet signed a contract with the SCDB.
  - The consideration of special factors section of the student's IEP indicates the student's behavior does not impede the student's learning or the learning of others, he does not exhibit behaviors that require a functional behavioral assessment, and he does not exhibit behaviors that require a behavior intervention plan (BIP). Additionally, there are no special education or related services that address behavior in the student's IEP, yet the student does not participate in a general education setting with his non-disabled peers.

As of October 21, 2015, the District was not providing this student with appropriate instruction. On November 24, 2015, a consultant for Willowglen reported that the student was reevaluated and the District is in the process of implementing an educational program for this student. The District, however, has not provided the SCDE with documentation that verifies any actions taken by the District to provide this student with the instruction, services, and supports necessary to provide him a FAPE in the LRE.

- Although the students are transported from the RTF program at Willowglen and arrive at 7:30 am for breakfast, and the school day reportedly ends at 3:00 pm, not all students receive a program of instruction that meets the requirements for length of school day and class periods. [R43-231, R43-232, R43-234, and R43-172]
  - The classroom where the District places Willowglen students with significant cognitive impairments (i.e., multiple disabilities, autism, vision impairment, and intellectual disabilities) is not always staffed by a certified teacher. The lead teacher, who is the only teacher assigned to this class of typically ten to twelve

students, is required to leave the students in a section of the building that is not approved for the District to use as educational space by the State Fire Marshal's Office or the SCDE, OSF. She leaves the class with a teacher's aide (the only one provided by the District) to teach two class periods in another part of the building.

- During the on-site visit, SCDE personnel were informed that the students in this class start winding down after lunch, which does not include the receipt of direct specialized or other instruction. The students are scheduled for lunch from 12:00 p.m. to 12:30 pm.

The students are currently attending schools within the District for a full school day, with the exception of Wednesdays. While the District never reported the early dismissal, the SCDE witnessed the shortened day during the October 21, 2015, on-site visit.

- The District unilaterally discontinued speech-language (SL), occupational therapy (OT), and physical therapy (PT) services for Willowglen students despite the inclusion of these services in the student's IEPs.

The District has not provided the SCDE with the requested documentation that evidences the implementation of the mandated corrective actions requirements to address this violation of federal and state law.

- Appropriate technology and classroom materials are not available to the students from Willowglen. During the on-site visit, SCDE personnel found that the computers provided for the students' use did not have sufficient Internet access and, in conflict with the school District's technology plan, the educational program provided for these students does not include the use of telecommunications services, hardware, software, and other services needed to provide the students a FAPE.
  - In direct contradiction of the IDEA, Section 504 of the Rehabilitation Act of 1973, the District's technology plan, and other federal, state, and local requirements, District personnel indicated that in the past District administrators responded to requests for additional services, supports, and technology with the statement that there are no funds to grant these requests.
  - The District's technology plan, however, indicates there is a sufficient budget to acquire and maintain hardware, software, professional development, and other services needed to implement its technology plan, physical information technology infrastructure, services, and strategies for the improved education for its students.

As of the SCDE's October 21, 2015, on-site visit, computers and other assistive devices were still not available for the students in the same manner as the District's other students. The District has not provided the SCDE with any documentation that evidences

the provision of computers or assistive technology and devices in a manner consistent with the District's technology plan and in accordance with the students' IEPs.

- Despite the District's technology plan and the submission of an assurance of compliance with the **Child Internet Protection Act (CIPA)**, the history on the one computer that SCDE personnel were able to use to connect to the Internet indicated recent access to Websites for pornography, rap music, YouTube, and other entertainment that were not educationally-relevant. [CIPA 47 U.S.C. § 254(h) and (l)]

The District has not provided the SCDE with a plan to take additional steps to comply with CIPA once the school provides the students with computers for their classrooms.

2. The District does not ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in §§ 300.5 and 300.6, respectively, are made available to each student with a disability, if required as a part of the student's special education under § 300.36; related services under § 300.34; or supplementary aids and services under §§ 300.38 and 300.114(a)(2)(ii)

- As evidenced in the case where the District has failed to complete an assistive technology evaluation, as agreed upon by the student's IEP team and documented in the IEP, and the failure to provide an assistive device to aide in the student's communication, the District does not in all cases consider the communication needs of each student or provide appropriate opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs. [34 C.F.R. § 300.324(a)(2)(iv) and (v)]

As of the SCDE's October 21, 2015, on-site visit, computers and other assistive devices were still not available for the students in the same manner as the District's other students. The District has not provided the SCDE with any documentation that evidences the provision of computers in a manner consistent with the District's technology plan or assistive technology and devices in accordance with the students' IEPs.

3. The District does not ensure that IEP teams make determinations concerning eligibility for extended school year (ESY) services in accordance with the Individuals with Disabilities Education Act (IDEA) regulations at §§ 300.320 through 300.324, and does not ensure that the services are necessary for the provision of a FAPE to the student. [34 C.F.R. § 300.106]

- Students' IEP teams do not use the correct criteria in determining eligibility for ESY services.
- Rather than reviewing each student's IEP periodically during the school year, in accordance with 34 C.F.R. § 300.324(b), to determine whether there is lack of expected progress toward the student's annual goals and in the general curriculum, all students attending Willowglen are provided three weeks of additional services at the end of the school year to address the failure to meet their annual goals during the regular school

year. The IEP teams, however, do not reconvene to review the effectiveness of the services provided during the three-week period to determine whether the students made any additional progress; to determine if additional services were necessary to make further progress toward the students' annual goals; or to update the students' PLAAFP to reflect any progress that the students made toward their goals. [34 C.F.R. § 300.324(b)(1)]

The District has not provided the SCDE with documentation that evidences the implementation of a training plan or corrective actions to address these violations of federal and state law.

4. The District does not take steps, including the provision of supplementary aids and services determined appropriate and necessary by IEP teams, to provide nonacademic and extracurricular services and activities in the manner necessary to afford Willowglen students with disabilities an equal opportunity for participation in those services and activities. Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available. [34 C.F.R. § 300.107]
  - The District does not provide Willowglen students with a comprehensive health education program that meets the requirements of state law. [SC Code Ann. § 59-32-30]
  - The District does not provide a written, standards-based, comprehensive guidance program, including career awareness programs and activities that assist the students at Willowglen in developing and fulfilling individual graduation plans, and prepare them for a seamless transition to relevant employment, further training or post-secondary study. [R43-231, R43-232, R43-234]

The District has not provided the SCDE with the requested documentation that evidences the implementation of corrective actions to address this violation of federal and state law.

5. Physical education (PE) services, including specially-designed if necessary, are not available to every student with a disability from Willowglen in the manner provided to students without disabilities in the same grades at schools within the District. [34 C.F.R. § 300.108]
  - District personnel indicated that in the past a staff member, who is a certified PE teacher, came over to Camp Harmony, but verified no instruction in PE has occurred during the 2015–16 school year for any of the Willowglen students.
  - There is no adaptive PE available for Willowglen students at the Camp Harmony location.

While the students may be receiving PE by a certified teacher, the SCDE determined that as of October 21, 2015, these students were not participating in general education PE classes with their nondisabled peers. Adaptive PE was still not being provided to the Willowglen students who needed their participation in PE modified to meet their needs.

6. Students placed at Willowglen, including students who are in the custody of the state, who are in need of special education and related services, are not appropriately identified, located, and evaluated. Students with disabilities must be evaluated in accordance with §§ 300.300 through 300.311. [34 C.F.R. §§ 300.111 and 300.122]

- During the on-site program review and subsequent document review, school district personnel acknowledged that students who were not previously evaluated before their placement at Willowglen or who were evaluated, but not yet determined eligible as having disabilities under the IDEA, were inappropriately placed with students with disabilities.

The District has not provided the SCDE with documentation or a corrective action plan that evidences the implementation of corrective actions to address this violation of federal and state law

7. Students with disabilities are not provided the opportunity to receive instruction in the LRE. The District does not comply with the LRE mandate in the RTF Proviso or the IDEA requiring that students with disabilities receive their education in the regular classroom environment to the maximum extent appropriate or, to the extent such placement is not appropriate, in an environment with the least possible amount of segregation from the student's nondisabled peers and community. The District does not place these students as close as possible to where they are residing in the RTF; does not consider the possible harmful effects that result from the quality, or lack of quality, of the services offered at Camp Harmony; and does not ensure that the students are not removed from age-appropriate general education classes solely because of the modification, services, or supports (e.g., behavioral supports), that they may need to the general education curriculum. [34 C.F.R. § 300.114 through 118]

- All Willowglen students, with and without disabilities under that IDEA, are removed from the general education environment, regardless of whether the nature or severity of their disabilities are such that education in general education classes with the use of supplementary aids and services can be achieved satisfactorily. The District's failure to provide these students with access to a FAPE in the LRE is based on their placement in the RTF. These students are denied access to any and all programs with their nondisabled peers in a general education setting. [34 C.F.R. §§ 300.114(a)(2)(i)]
- The District does not provide or arrange for the provision of nonacademic and extracurricular services and activities including meals, recess periods, and the services and activities for students with disabilities at Willowglen that provides these students the opportunity to participate with nondisabled students to the maximum extent appropriate to the needs of each particular student. [34 C.F.R. § 300.117]

According to documentation provided by the District and conversations with District personnel, subsequent to the SCDE's August 31, 2015, on-site visit and the October 1, 2015, relocation of the students' educational program, the District engaged in a process of conducting IEP meetings for the Willowglen students to address their access to the general education curriculum and their participation with non-disabled peers in the LRE. The District provided the SCDE with schedules for the students that indicated in addition to receiving special education and related services, the students were enrolled in PE; related arts classes, such as music; and other general education courses with their nondisabled peers.

During the SCDE's October 21, 2015, on-site visit at KSHS, we discovered that the students' schedules were not an accurate reflection of the students' participation with non-disabled peers, access to the general education curriculum, or instruction. Contrary to what was reflected in the District's documentation and the District's initial statements that the Willowglen high school students were divided between the two KSHS campuses on the basis of the IDEA LRE requirements, the SCDE determined decisions were made based upon the assigned grade level for each student. The students' assignments to the east and west campuses were in no way related to the amount, type, or frequency of interaction with the students' non-disabled peers; the type or location of general education classes that the students were expected to participate in, or the individualized needs of the students.

8. A continuum of alternative placements to meet the needs of students with disabilities for special education and related services has never existed at the Camp Harmony site. The provision for supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with placement in a general education setting is not available. [34 C.F.R. § 300.115]
  - There is no evidence that the teachers provide instruction based on the implementation of current standards.
  - The textbooks found in the school were outdated and no longer in use in South Carolina public schools.
  - There is no educational program available for Willowglen students who are not eligible as students with disabilities under the IDEA. There are no teachers with certification in any areas of secondary education (the core content or any other areas) located on-site at Camp Harmony.
  - For students with no behavioral problems manifested in the school setting, there are no less restrictive educational program options on-site at Camp Harmony.

While the District indicated that it would conduct curriculum and IEP focused meetings with the Willowglen teachers at KSHS every Wednesday afternoon at 1:30 pm, the SCDE's October 21, 2015, visit occurred during this time period on a Wednesday

afternoon and there was no evidence of such a meeting taking place. On November 18, 2015, the SCDE further inquired about the status of these meetings and the status of providing these teachers with the supports, curriculum, materials, and professional development that they need to meet their students' needs. The District has yet to provide the SCDE with the requested update or documentation to evidence what, if any, additional actions were implemented.

The District has not provided the SCDE with documentation or a corrective action plan that evidences the implementation of corrective actions to address this violation of federal and state law.

9. The District does not conduct a full and individual initial evaluation, in accordance with §§ 300.305 and 300.306, before the initial provision of special education and related services to students with disabilities. [34 C.F.R. §§ 301(a)]

- The District provides special education and related services to students without complying with the requirement to obtain informed consent from the parents. A review of the Willowglen roster evidenced that there are three students in the educational program at Camp Harmony served by special education teachers who were never evaluated and determined eligible as students with disabilities under the IDEA. In addition, other students were evaluated, but no determination of eligibility or placements were made.

The District has not provided the SCDE with documentation or a corrective action plan that evidences the implementation of corrective action requirements to address this violation of federal and state law.

10. Students with disabilities at Camp Harmony do not have IEPs that are developed, reviewed, and revised in accordance with the IDEA regulations at §§ 300.320 through 300.324. [34 C.F.R. § 300.112]

- The IEPs, developed by District personnel and reviewed by SCDE personnel, do not include statements of measurable annual goals, including academic and functional goals designed to meet each student's needs that result from the his or her disability; enable involvement and progress in the general education curriculum; and meet each of the other educational needs that result from the disability. [34 C.F.R. § 300.320(a)(2)(i) and (ii)]
- The IEPs do not include statements of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to students and statements of the program modifications or supports for school personnel that will be provided to enable students to advance appropriately toward attaining the annual goals; be involved in and make progress in the general education. Additionally, some students with disabilities are not receiving all of the special education; related services, such as speech and language, occupational therapy, physical therapy, and counseling services; assistive devices; and transition services, required by their IEPs. [34 C.F.R. § 300.320(a)(4)]

- The IEPs do not include appropriate measurable post-secondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills and transition services (including courses of study) needed to assist the student in reaching those goals. [34 C.F.R. § 300.320(b)]
  - Although the SCDE provided technical assistance to District personnel in November 2014, regarding this issue of noncompliance; provided an explanation as to why the administration of age-appropriate assessments, including those appropriate to assess students with communication deficits is necessary; and provided examples of commonly used transition assessments, there was a lack of evidence that even after ten months the District had taken any steps to implement the requirement to administer age-appropriate transition assessments related to training, education, employment, and independent living skills that these students need to improve their academic and functional achievement. [34 C.F.R. § 300.320(b)(1)]
  - During the program review, the IEPs for the Willowglen students still did not include transition services that emphasize the acquisition of functional skills and hands-on knowledge, designed to enable students who can enter the workforce or continue education or training to do so and enabling students who can do neither to live as autonomously as possible, given the extent of their disabilities. The District has not sufficiently addressed the students' functional needs in the students' transition goals. Some IEPs indicate the students will obtain employment in areas where there is no reasonable linkage between the students' academic and functional strengths and needs and the areas of employment included in the IEPs. [34 C.F.R. § 300.324(a)(1)(iv)]
  - Transition goals in many of the students' IEP state the students will use the library to conduct research or complete assignments to meet the goal, yet there is no library on-site for the students to utilize in meeting these goals.

The District is required to submit a detailed description of the system and processes that it has established or will establish to immediately address and ensure that the identified issues of noncompliance will not recur. The description of the District's system and processes must include the implementation of a monitoring system for existing and future IEPs for students with disabilities to identify and correct IEPs that are not developed in accordance with federal and state requirements; a monitoring system to ensure that IEPs are implemented as written by IEP teams; and a monitoring system to ensure that appropriate progress reports are issued in accordance with students' IEPs. The District, however, has not provided the SCDE with documentation or a corrective action plan that evidences the implementation of the mandated corrective action requirements to address these violations of federal and state law.

11. In the case of students with disabilities whose behavior impedes the students' learning or that of others, IEP teams do not consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior. [34 C.F.R. § 300.324(a)(2)(i)]

- The consideration of special factors section of IEPs for some Willowglen students indicate the students' behavior impedes the students' learning or the learning of others, yet special education and related services addressing the impeding behaviors were either removed from the students' IEPs or no services have ever been included in the IEPs to address problem behaviors in the school setting.
- Although the IEPs may indicate that data must be collected relative to a student's behaviors or progress, the teachers do not have time to collect this data and the District does not provide support staff to assist the teachers in the implementation of behavioral interventions and supports, and other strategies or to collect the referenced data. As a result, data does not exist to substantiate the students' complete removal from the general education setting.

The District has not provided the SCDE with documentation or a corrective action plan that evidences the implementation of the corrective action requirements to address these violations of federal and state law. As of the date of this correspondence, the District also has not addressed the failure to provide the counseling services included in each student's IEP to address any functional needs that the students may have related to behaviors that interfere with their ability to access their educational programs or increase their participation in the general education curriculum and setting.

12. The District does not ensure that for those cases where an appointment of a surrogate parent is necessary, the District selects a surrogate parent who is not an employee of the District or any other agency that is involved in the education or care of the student; has no personal or professional interest that conflicts with the interest of the student the surrogate parent represents; and has knowledge and skills that ensure adequate representation of the student. During the educational program review, Willowglen personnel reported, and District personnel confirmed, that the District appoints Department of Social Services (DSS) case workers and the Willowglen nurse to sign paperwork as surrogate parents for Willowglen students who are in the custody of the state.

The District has not provided the SCDE with documentation or a corrective action plan that evidences the implementation of corrective action requirements to address this violation of federal and state law.

13. The transportation of students in an RTF is no different than transportation from a student's home to an assigned school. Therefore, the transportation of students from the RTF to another location for educational services is the responsibility of the District. The District may only contract with the RTF if the mode of transportation meets state requirements and satisfies the requirements set forth in Jacob's Law, which was enacted in 2000 to prohibit passenger vans that do not conform to school bus construction standards for transporting students to and from school-related activities. During the program review, there was no evidence of a written agreement between Willowglen and the District relative to either the educational program or transportation of students to the educational program. The agreement that was signed subsequent to the program review and submitted to the SCDE on September

21, 2015, also does not address the responsibility for transporting the Willowglen students in vehicles that meet the requirements set forth in state law. [SC Code Ann. § 56-5-195 and 61-103(H)((1)(e)]

The District is currently providing transportation on a school bus for the students to attend their assigned schools.