



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

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

December 9, 2015

**VIA US AND ELECTRONIC MAIL** (cbrock@wcsd.k12.sc.us)

Mrs. Carrie C. Brock  
Interim Superintendent  
Williamsburg County School District  
423 School Street  
Kingstree, South Carolina 29556

Re: Willowglen Academy Students

Dear Mrs. Brock:

During the investigation of the complaints filed by a parent against the Williamsburg County School District (District) on September 9, 2014, and September 19, 2014, the South Carolina Department of Education (SCDE) identified systemic issues of noncompliance that relate to the educational programs and services for all students with disabilities at Willowglen Academy (Willowglen). In addition to corrective actions that addressed issues of noncompliance specific to the individual student named in the complaint, the SCDE included corrective actions in the November 10, 2014, letter of resolution (LOR) related to the similarly-situated students at Willowglen. Subsequent to the issuance of the LOR, the SCDE identified additional issues of noncompliance and concerns that were explained in correspondence dated July 27, 2015, and September 28, 2015. Additional concerns were discussed during a meeting at Willowglen on October 21, 2015, and during a visit and discussion with you later that day at Kingstree Senior High School (KSHS).

In correspondence dated December 4, 2015, the SCDE notified you that the systemic issues of noncompliance would be addressed in separate correspondence. The purpose of this letter is to address the outstanding requirements in the November 10, 2014, LOR for corrective action numbers nine through thirteen that relate to the systemic issues of noncompliance. Please take note of each outstanding requirement and the applicable revised timeline for compliance with each corrective action. This correspondence also includes specific requirements and timelines that the District must comply with to correct the additional issues of noncompliance and concerns identified in the SCDE's September 28, 2015, correspondence and any issues of noncompliance identified by the SCDE subsequent to the issuance of that letter. The issues of noncompliance and corrective actions identified in the LOR are addressed in this letter. Additionally, the issues of noncompliance and concerns set forth in the Willowglen Educational Program Review document that was enclosed with the SCDE's September 28, 2015, correspondence was updated and a copy is enclosed.

**Corrective action number nine required the following:**

The District **must** reconvene the individualized education program (IEP) team for each of the other students with disabilities at Willowglen, as soon as possible, but in no case later than **Wednesday, January 7, 2015**, and review and revise each student's IEP as necessary to correct all issues of noncompliance, ensure that each IEP complies with the IDEA, determine if any additional data are necessary to determine each individual student's educational needs, and develop appropriate educational programs that take into account each student's unique and individualized needs and afford each student a free appropriate public education (FAPE) in the (LRE). The District must consider the full continuum of placement options for each student and submit detailed documentation of this process.

As explained in detail in the SCDE's July 27, 2015, and September 28, 2015, correspondence, the SCDE has been vigorously attempting to obtain the District's compliance with this corrective action since the issuance of the November 10, 2014, LOR. More than three months after the deadline for conducting IEP meetings for each of the forty Willowglen students, and following the SCDE's April 22, 2015, email reminder that the documents were still outstanding, the District submitted IEPs for seventeen of the students. The SCDE received the packet of IEPs on April 24, 2015.

The SCDE conducted a thorough review of each IEP included in the packet; and determined that **all of the identified issues of noncompliance were still outstanding**. There were no documents submitted that evidenced each student's IEP team took into consideration that specific student's academic and functional needs and what is required to provide each student a FAPE in the LRE. There was no documentation that any of the IEP teams considered a full continuum of placement options and no documentation of compliance with the directive to collect meaningful data to update the students' IEPs and engage in appropriate IEP development. There was no evidence of conducting appropriate assessments to address the students' post-secondary transition needs and provide appropriate and relevant transition goals for the applicable students.

Consequently, the SCDE participated in a conference call with the District's former director of special services, lead school psychologist, lead social worker, and other District staff to provide technical assistance and review the continued issues of noncompliance in the seventeen IEPs submitted by the District. The SCDE responded to questions posed by District personnel, provided examples of how to correct the identified problems, and explained the next steps. On May 29, 2015, and June 12, 2015, the SCDE sent emails to the former director requesting the status of the IEP team meetings. On June 17, 2015, the SCDE received another eighteen IEPs that were not included in the initial submission. This submission evidenced the same problems and failures to comply with corrective action nine. Unfortunately, no headway was made during the summer in satisfying this corrective action.

Therefore, the SCDE notified you of the need for an on-site visit and meeting with District personnel involved in the development and implementation of the IEPs and educational programs for these students. In preparation for the visit, there was a telephone call with Fred Moore, Jr., PhD, the current director of special services on August 28, 2015, where Dr. Moore notified us that the location for the educational program was the Willowglen facility at Camp Harmony, which is physically located in Clarendon County, rather than at the residential treatment facility (RTF) in the District.

On August 31, 2015, OGC staff conducted an on-site review of the District's educational program and building at Camp Harmony and confirmed that the District was depriving the Willowglen students of the rights provided to them under the Individuals with Disabilities Education Act (IDEA), State Board of Education (SBE) regulations, and the Elementary and Secondary Education Act of 1965, as amended (ESEA) solely on the basis of their placement in the RTF. The District was notified of each finding and the reason for this conclusion. We also provided recommendations to address both academic and fiscal concerns from District personnel.

During the visit, we discussed the District's responsibilities under the IDEA and the current RTF Proviso. We explained how the continued failure to provide the Willowglen students access to the general education curriculum tied to the State's academic standards; provide these students the opportunity for participation in any educational and non-academic programs with their non-disabled peers; provide an opportunity for participation in any classes eligible for educational credit toward a high school diploma; and provide special education, related services, and supplementary aids and services, based on peer-reviewed research to the extent practicable, violates both federal and state requirements. We conducted a section-by-section review of several students' IEPs, discussed the issues of noncompliance with each, and engaged District personnel in discussions regarding the necessary steps to address the student-specific issues of noncompliance.

Additionally, we discussed the problems with the building that were identified by the State Fire Marshal's Office and the SCDE, Office of School Facilities, and the resulting agreement in January 2010 that only allowed for a short-term use of the education building at Camp Harmony. The use was not to exceed eighteen months while Willowglen worked on finding a location compliant with all building, fire, and other applicable standards, codes, and regulatory requirements. Moreover the RTF Proviso in the General Appropriation Act only allows students to be educated on-site at the RTF if the space meets the LRE requirements under the IDEA and is adequate and comparable to educational space in the District, including appropriate electrical and Internet accessibility.

Based upon the unresolved issues of noncompliance related to the LOR; the identification of additional violations of federal and state statutory and regulatory requirements; and significant concerns for the health, safety, and welfare of these students because of the use of the education building at Camp Harmony, the SCDE conducted a subsequent on-site visit. The visit was on September 4, 2015, and included persons from the SCDE, Office of School Facilities, the State Fire Marshal's Office, and the Clarendon County Fire Department.

### **Location of Educational Program**

In response to the report issued by the State Fire Marshal's Office and the lack of another educational space, the students were moved from Camp Harmony on October 1, 2015, to schools within the District. While there were issues with communication between the District and Willowglen concerning the timeline and process for the relocation of the students' educational programs and the District did not implement any of SCDE's 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.

The SCDE commends the District for change the physical location of the students' educational program. The SCDE made it very clear, however, that the expectation was for more than just a change in the location of where the students are found during the school day. The SCDE notified the District that significant changes in the development and implementation of the students' educational programs were both expected and necessary.

### **Appropriateness of Educational Program**

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 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 physical education (PE); related arts classes, such as music; and other general education courses with their nondisabled peers.

Unfortunately, as relayed to you during our conversation at KSHS on October 21, 2015, during discussions with personnel 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, the SCDE determined the following:

- The District initially indicated that the Willowglen high school students were divided up between the two KSHS campuses on the basis of the IDEA LRE requirements. In response to the request for an explanation of how LRE was taken into account, you explained that the decisions were made based upon the assigned grade level for each student. The assignment 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.
- There was no linkage between the general education courses listed on the students' schedules; the students' academic and functional strengths and needs; the students' preferences; or data collected concerning the students' unique and individualized post-secondary transition needs.
- The District initially informed the SCDE that the students participate in PE with their nondisabled peers. Upon further questioning, personnel acknowledged that the Willowglen students participate in PE with the other students with disabilities in their classes. As of October 21, 2015, these students were not participating in general education PE classes with their nondisabled peers.
- The students' schedules provided by the District just before the October 21, 2015, visit indicate the students are enrolled in a variety of general education classes, but upon further questioning, the SCDE found that the students remained with their assigned special

education teacher at KSHS and were not participating at all in the general education classes, as reflected in their schedules. We discovered that one of the general education classes listed on the middle school students' schedules did not even have a teacher assigned to the class at the time of our visit.

- While the elementary-age student with a moderate intellectual disability and vision impairment is now placed at an elementary school, as of October 21, 2015, the student was still not receiving services from a teacher certified to provide instruction for students with visual impairments. The District initially notified OGC personnel during the August 31, 2015, on-site visit that these services were already in place and were being provided by the South Carolina School for the Deaf and the Blind (SCSDB). Through contact with the SCDE's vision consultant at the SCSDB, we determined that this was not accurate. The OGC received additional information on November 24, 2015, that these services still were not in place for this student.
- Adaptive PE was still not being provided to the Willowglen students who needed their participation in PE modified to meet their needs.
- Computers and other assistive devices were still not available for the students in the same manner as the District's other students.

As of the date of this correspondence, the District has not provided any additional information or documentation since October 21, 2015, that indicates the District has taken any additional steps to comply with the requirements in corrective action nine. **As a result, the District has yet to complete any of the requirements set forth in corrective action number nine.**

Therefore, **as soon as possible, but no later than Thursday, December 17, 2015**, the District must provide the SCDE with detailed explanations of what additional actions, if any, the District has taken since October 21, 2015, to comply with corrective action number nine. The District must provide documentation that includes, but is not limited to, copies of revised IEPs, conference summaries or meeting minutes, prior written notices (PWNs), signed contracts or memorandum of understanding, revised class schedules, statements from teachers, and detailed invoices as supportive evidence. The District must submit documentation that clearly and thoroughly explains what factors were taken into consideration in relation to the negative impact of each of the identified issues of noncompliance and the final determinations made by IEP teams. How did each IEP team comply with the IDEA? What was the process for determining if any additional data was necessary to determine each individual student's educational needs, and develop appropriate educational programs to meet each student's unique and individualized needs and afford each student a FAPE in the LRE.

Additionally, **as soon as possible, but no later than Thursday, December 17, 2015**, the District must submit an updated copy of the roster of Willowglen students and copies of the students' schedules that reflect revisions, if any, since October 21, 2015. The District must also submit schedules for any new students admitted to Willowglen since October 21, 2015. If these students are still not participating in PE; related arts classes, such as music; and other general education courses with their nondisabled peers, please explain why not. If adaptive PE is still not available, explain why

not. If the students still do not have the promised computers and access to assistive technology and assistive devices, explain why not.

**Corrective action number ten required the following:**

As a part of this process, for any student that the District failed to provide speech and language (SL), occupational therapy (OT), and/or physical therapy (PT) services as a result of the unilateral determination to improperly allow Willowglen to waive these services or as a result of inconvenience or scheduling conflicts for SL therapists during the 2013–14 and 2014–15 school years, the student's IEP team must determine the negative impact of this issue of noncompliance; document the process; determine the appropriate amount of compensatory services due to each student.

As of the date of this correspondence, the District has not provided any additional information or documentation that the District has taken any additional steps to comply with the requirements in corrective action ten. **As a result, the District has yet to complete any of the requirements set forth in corrective action number ten.**

Therefore, **as soon as possible, but no later than Thursday, December 17, 2015**, the District must provide the SCDE with detailed explanations of what additional actions, if any, the District has taken since August 31, 2015, to comply with corrective action number ten. The District must provide documentation that includes, but is not limited to, copies of revised IEPs, conference summaries or meeting minutes that document how each student's IEP team determined the negative impact of this issue of noncompliance that explained in detail the decision-making processes for determining the negative impact on each student and how each IEP team determined the appropriate amount of compensatory services due to each student. The District must submit PWNs that explain the data taken into account and decisions made by IEP teams for each specific Willowglen student who did not receive the SL, OT, or PT services that he or she was entitled to receive. The District may also submit signed contracts with outside providers for the delivery of the compensatory services, detailed invoices verifying the provision of the compensatory services, and other relevant documentation as supportive evidence of actions taken to comply with this corrective action.

**Corrective action number eleven required the following:**

For each affected student, the District must develop and maintain an efficient and accurate system for capturing and reporting the provision of compensatory services and any other remedies determined appropriate, and provide this documentation to the SCDE. Provide timesheets or tracking reports documenting the dates and amounts and types of the compensatory or other services provided to each student **beginning no later than Wednesday, January 28, 2015, and the twenty-eighth day of each month thereafter, until the provision of all compensatory services is completed. The District must complete the delivery of all compensatory services and submit documentation to the SCDE as soon as possible, but in no case later than one year from the date of this LOR.**

As of the date of this correspondence, the District has not provided any information or documentation that the students' IEP teams have addressed the District's failure to provide these

services and appropriate remedies to address this issue of noncompliance. **As a result, the SCDE finds the District has yet to complete any of the requirements set forth in corrective action number eleven.**

**Therefore, as soon as possible, but no later than Thursday, December 17, 2015,** the District must submit timesheets or tracking reports documenting the dates and amounts and types of the compensatory or other services provided to each effected student. As required in the LOR, the District must continue to provide this documentation to the SCDE **on the twenty-eighth day of each month, until the provision of all compensatory services is completed.** The District must complete the delivery of all compensatory services and submit verifying documentation to the SCDE **as soon as possible, but no later than May 28, 2016,** that verifies to completion of the delivery of all outstanding compensatory SL, OT, and PT services. The District must submit documentation for students who were not provided with the services they were entitled to receive who are still enrolled in the District and those who have since transferred out of the District, but did not receive their compensatory services prior to the transfers.

**Corrective action number twelve required the following:**

The District must create a corrective action plan that outlines how the District will correct the systemic and individual instances of noncompliance for the development of compliant IEPs and provision of appropriate special education and related services to students with disabilities in Willowglen. The plan must outline the specific steps, with identified timelines, resources, and personnel, the District will use to correct the noncompliance. The plan must specifically address the development of appropriate statements concerning students' Academic and Functional Strengths and Needs and PLAAFP; writing measurable annual goals with appropriate baseline data; the development of appropriate post-secondary transition goals and services; progress monitoring, as it relates to progress toward measurable annual goals; reviewing and revising goals when there is a lack of expected progress toward the Student's annual goals; reporting student progress in compliance with students' IEPs; preparing appropriate PWNs; and the other issues of noncompliance identified during this investigation. Contact the SCDE, OGC prior to implementing the requested training plan, allowing sufficient time to further revise the plan, obtain approval, **and initiate the plan no later than Wednesday, January 7, 2015.**

**The District has yet to respond to this corrective action.** The District has provided no documentation of an attempt to create a corrective action plan to correct the systemic and individual instances of noncompliance for the development of compliant IEPs and provision of appropriate special education and related services specifically to students with disabilities at Willowglen. Therefore, the District remains noncompliant with corrective action number twelve.

As a result of the District's compliance monitoring by the OSES during the 2014–15 school year, Dr. Moore submitted an improvement plan in August 2015 to the OSES to specifically address the issues of noncompliance identified in the monitoring report. The submission of this improvement plan, however, was separate and apart from the plan that remains overdue relative to corrective action number twelve in the November 10, 2014, LOR.

The OSES has provided the District with professional learning opportunities (PLOs) to assist with addressing some of the District-wide issues of noncompliance in the monitoring report. Because the issues of noncompliance identified in the OSES monitoring report are duplicative of the issues of noncompliance that apply specifically to the IEPs and educational programs for the Willowglen students, the District has a starting point for a plan for this complaint. Therefore, **as soon as possible, but no later than Monday, December 14, 2015**, the District must submit a detailed corrective action plan that outlines how the District will correct the systemic and individual instances of noncompliance for the development of compliant IEPs and provision of appropriate special education and related services to students with disabilities in Willowglen.

**Corrective action number thirteen required the following:**

Additionally, no later than, **Wednesday, January 7, 2015**, the District must 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 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 has yet to respond to this corrective action and unfortunately, has not submitted any documentation that evidences the implementation of effective steps to correct the identified issues of noncompliance. Despite having conducted a number of IEP meetings since the receipt of the LOR, the revised IEPs still contain the same issues of noncompliance. Additionally, subsequent reviews of the educational program for the Willowglen students evidence a recurrence of the noncompliance in the District's practices. **Consequently, the District remains noncompliant with corrective action number thirteen.**

Therefore, **as soon as possible, but no later than Monday, December 14, 2015**, the District must 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 RTF Proviso requires the SCDE to oversee the implementation of the requirements in the Proviso on an ongoing basis. Additionally, in accordance with the IDEA statutory requirements set forth in 20 U.S.C. §§ 1412 and 1416 and the regulatory requirements in 34 C.F.R. §§ 300.149 through 300.152 and 300.600 through 300.604, the SCDE is charged with the general supervision of local educational agencies (LEAs) to ensure compliance with applicable federal and state statutes and regulations governing educational programs for children with disabilities. Under 34 C.F.R. § 300.1, the SCDE is also charged with ensuring that all students with disabilities have a FAPE that emphasizes special education and related services designed to meet their unique needs

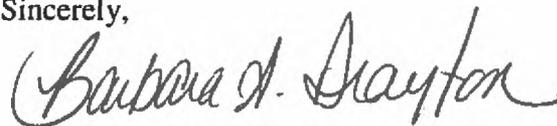
and prepare them for further education, employment, and independent living; ensuring that the rights of children with disabilities and their parents are protected; and assessing the effectiveness of LEA programs for children with disabilities.

As previously stated, this correspondence addresses the systemic issues of noncompliance that relate to the educational programs and services for all students with disabilities at Willowglen. In accordance with the IDEA regulation 34 C.F.R. § 300.151(b), the SCDE included specific requirements in corrective action numbers nine through thirteen in the November 10, 2014, LOR that relates to these students. The District, however, failed to take the necessary steps to correct the identified issues of noncompliance within one year of the date of the issuance of the LOR. The District clearly did not meet this requirement.

A continued failure to comply with the corrective actions may result in additional on-site monitoring, focused monitoring, a lowered IDEA determination, as outlined by 34 C.F.R. § 300.604, and other possible sanctions pursuant to the IDEA and the Education Department General Administrative Regulations (EDGAR) at 34 C.F.R. §§ 80.12 and 80.43. Therefore, it is imperative that the District carefully review this correspondence and comply with each of the requirements and timelines to resolve this matter.

The SCDE expects the District's correction of the issues of noncompliance in an expeditious and effective manner. **To assist the District in reaching this goal, please contact the OGC as soon as possible, or have another administrator within the District contact my office, to schedule a conference call to ensure that the District has an accurate understanding of the requirements included in this correspondence.** If you have questions that you would like addressed prior to the conference call, please do not hesitate to contact me at 803-734-3393.

Sincerely,



Barbara A. Drayton, Deputy General Counsel  
Office of General Counsel

Enclosure

c: Fred Moore, Jr., PhD, District Director of Special Services  
John R. Payne, SCDE, Director, Office of Special Education Services  
Vernie L. Williams, Esq., Attorney for the District  
Holly Pisarik, Governor's Office, Chief Legal Counsel  
Trina Cornelison, LPC, South Carolina Continuum of Care, Executive Director  
Shelly B. Kelly, DHEC, Deputy Director, Health Regulations  
Gwen C. Thompson, DHEC, Bureau Chief, Bureau of Health Facilities Licensing  
Taron Davis, Department of Social Services, Interim Deputy Director, Division of Child Welfare  
Louise K. Johnson, MS, Department of Mental Health, Director of Children's Services  
Steve Von Hollen, Disabilities and Special Needs, Director, Clinical Services Division  
Janet Priest, Disabilities and Special Needs, Director, ID/RD Division