

**Compliance Agreement
Between Maurice J. Moyer Academic Institute and
Exceptional Children Resources
of the Delaware Department of Education**

WHEREAS, the Delaware Department of Education (“DDOE”) exercises general supervision of local school districts and charter schools (“LEAs”) to ensure the proper implementation of Part B of the Individuals with Disabilities Education Act (“IDEA”) and corresponding Delaware regulations related to the education of children with disabilities. The DDOE monitors the implementation of Part B of the IDEA, enforces the requirements of Part B in accordance with its authority, and reports annually on the performance of LEAs and the State in selected areas. The primary focus of the DDOE’s monitoring activities is on improving educational results and functional outcomes for children with disabilities and ensuring that public agencies are meeting the program requirements under Part B of the IDEA.

WHEREAS, the DDOE is required to notify LEAs in writing of any findings of noncompliance with state and federal special education regulations. All noncompliance must then be corrected by the LEA within one year from the date of receiving notice. Within the year timeframe, the DDOE must also conduct a second review of student records and/or additional evidence to verify that all noncompliance has been corrected by the LEA.

WHEREAS, the DDOE has identified regulatory noncompliance at The New Moyer Academy (“Charter School”) related to the implementation of special education regulations.

WHEREAS, this Agreement is intended to address the current findings of noncompliance pending against the Charter School under Part B of the IDEA and establish revised timelines for the correction of noncompliance.

Section One: CURRENT FINDING OF NONCOMPLIANCE REQUIRING CORRECTION

A. The current findings pending involve the areas of eligibility determination, IEP development, LRE, secondary transition, and IEP meeting participants. The findings were identified during the DDOE’s January-February 2014 on-site student record review. The DOE also noted additional concerns identified during the monitoring process in the following areas: provision of special education services and procedural safeguards.

B. The findings are identified under federal regulations implementing the IDEA as follows:

Eligibility Determination		
#	Regulation:	Citation:
1	Special education eligibility reevaluations must be conducted at least once every three years.	34 C.F.R. § 300.303; 14 DE Admin. Code § 925.3.0

2	A variety of sources must be used to determine special education eligibility.	34 C.F.R. § 300.306; 14 DE Admin. Code § 925.4.0
3	Evaluation Summary Reports ("ESR") must document that the IEP Team ruled out lack of appropriate instruction in reading/math or Limited English Proficiency ("LEP") as determinant factor for eligibility determination.	34 C.F.R. § 300.306; 14 DE Admin. Code § 925.6.0
4	ESRs must document the evaluation and eligibility determination, including specific requirements for students with a learning disability (as applicable).	34 C.F.R. §§ 300.306, 300.311; 14 DE Admin. Code §§ 925.6.0, 925.11.0
5	For students without a Learning Disability ("LD"), eligibility must be determined by a group of qualified professionals (IEP Team) and the parent.	34 C.F.R. § 300.306; 14 DE Admin. Code § 925.6.0
6	For students with a Learning Disability, eligibility must be determined by the parent and a group of qualified professionals, including: 1) the student's regular education teacher or, if the student does not have a regular education teacher (or preschool teacher), a regular education teacher (or preschool teacher) qualified to teach a student of similar age, and 2) at least one person qualified to conduct individual diagnostic examinations of students, such as a School Psychologist, Speech-Language Pathologist, or Remedial Reading Teacher.	34 C.F.R. § 300.308; 14 DE Admin. Code § 925.8.0
IEP Meeting Participants		
7	Parents must attend IEP meetings or be afforded the opportunity to participate.	34 C.F.R. §§ 300.322, 300.501; 14 DE Admin. Code §§ 925.22.0, 926.1.0
8	If the student is or may be participating in the general education environment, a regular education teacher of the student must attend the IEP meeting. A regular education teacher's attendance may be excused only if: 1) parent and the LEA agree in writing that the regular education teacher's attendance is not necessary because his/her curriculum area will not be modified or addressed at the meeting, or 2) the regular education teacher is excused with prior written consent of parent, the LEA, and the regular education teacher provided written input into the development of the IEP prior to the meeting.	34 C.F. R. § 321; 14 DE Admin Code § 925.21.0
9	A special education teacher of the student must attend IEP meetings or, where appropriate, not less than one special education provider for 3 to 5 year old students. A special education teacher's attendance may be excused only if: 1) parent and the LEA agree in writing that the special education teacher's attendance is not necessary because his/her curriculum area will not be modified or addressed at the meeting, or 2) the special education teacher is excused with prior written consent of parent, the LEA, and the special education teacher provided written input into the development of the IEP prior to the meeting.	34 C.F. R. § 321; 14 DE Admin Code § 925.21.0

10	An LEA representative must attend IEP meetings and be: 1) qualified to provide, or supervise the provision of, specially-designed instruction to meet the unique needs of students with disabilities, 2) knowledgeable about the general education curriculum, 3) knowledge about the availability of resources of the public agency, and 4) authorized to commit agency resources and be able to ensure that IEP services are provided. An LEA representative's attendance may be excused only if: 1) parent and the LEA agree in writing that the LEA representative's attendance is not necessary because his/her curriculum area will not be modified or addressed at the meeting, or 2) the LEA representative's attendance is excused with prior written consent of parent, the LEA, and the LEA representative provided written input into the development of the IEP prior to the meeting.	34 C.F. R. § 321; 14 DE Admin Code § 925.21.0
IEP Development		
11	IEPs must contain a statement of special education and related services and supplementary aids and services, based upon peer-reviewed research to the extent practicable, to be provided to the student, and a statement of the program modifications or supports for school personnel.	34 C.F.R. § 300.320; 14 DE Admin. Code § 925.20
12	IEPs must contain a statement of frequency, duration and location of services and modifications.	34 C.F.R. § 300.320; 14 DE Admin. Code § 925.20
13	IEPs must contain a statement of the student's present levels of academic achievement and functional performance ("PLEP"), a description of how the student's progress toward meeting his/her annual goal will be measured, and a statement of the student's measurable annual goal, including academic and functional goals.	34 C.F.R. § 300.320; 14 DE Admin. Code § 925.20
Secondary Transition		
14	For students of transition age, with the consent of the parents or a student who has reached the age of 18, the LEA must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.	34 C.F.R. § 300.321; 14 DE Admin Code § 925.21.0
15	For students of transition age, the student must be invited to the IEP meeting.	34 C.F.R. § 300.321; 14 DE Admin Code § 925.21.0
16	For students of transition age, if the student did not attend the IEP meeting where appropriate postsecondary goals and transition services were considered, the LEA must take other steps to ensure that student's strengths, preferences, and interests are considered.	34 C.F.R. § 300.321; 14 DE Admin Code § 925.21.0
17	For students of transition age who are, or may be, participating in a Career and Technical Education ("CTE") program, a CTE teacher of the student or a CTE coordinator must attend the IEP meeting.	14 DE Admin Code § 925.21.0
18	For students of transition age, age-appropriate assessments must be conducted annually related to training, education, employment, and independent living skills.	34 C.F.R. § 300.320; 14 DE Admin Code § 925.20.0

19	For students of transition age, the IEP must include appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to employment after high school.	34 C.F.R. § 300.320; 14 DE Admin Code § 925.20.0
20	For students of transition age, the IEP must include appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to education or training after high school.	34 C.F.R. § 300.320; 14 DE Admin Code § 925.20.0
21	For students of transition age, the IEP must include appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to independent living skills.	34 C.F.R. § 300.320; 14 DE Admin Code § 925.20.0
22	For students of transition age, the IEP must contain courses of study to assist the student in reaching postsecondary goals.	34 C.F.R. § 300.320; 14 DE Admin Code § 925.20.0
23	For students of transition age, the IEP must include transition services and activities needed to assist the student in reaching the postsecondary goals.	34 C.F.R. § 300.320; 14 DE Admin Code § 925.20.0
Least Restrictive Environment		
24	IEPs must contain an explanation of the extent, if any, to which the student will not participate with non-disabled children in the regular class.	34 C.F.R. § 300.320; 14 DE Admin. Code § 925.20

Section Two: CORRECTIVE ACTION

The Charter School shall implement corrective action to ensure that staff are properly implementing the requirements of Part B of the IDEA related to eligibility determination, IEP development, LRE, secondary transition, IEP meeting participants, and provision of special education services and procedural safeguards. The corrective actions shall include:

A. School-Wide

1. Enter into a Memorandum of Understanding with the DDOE to participate in the Positive Behavior Support project to develop and establish a Multi-Tiered System of Behavioral Supports including establishing a school-based team, which includes an administrator, attendance at all schedule professional development, participation in on-site coaching, and other as identified.
2. Complete 6 hours of professional development relating to best practice in instruction of students with disabilities. This training will be provided by the DDOE by June 1, 2015.

B. School Administrators:

1. Complete 6 hours of professional development relating to IEP development, transition services, procedural safeguards for parents and children, and discipline procedures as outlined in the Delaware Administrative Code. Training will be provided by the DDOE on **August 7, 2014** (9:00 a.m. – 4:00 p.m.)
2. Develop a process to provide building level support to the educational diagnosticians when scheduling and coordinating IEP meetings.
3. Identify strategies to use when parents do not respond to school staff attempting to schedule IEP meetings, or when parents cannot or do not attend IEP meetings;
4. Establish scheduling practices to ensure participation of general education and CTE teachers at IEP meetings.
5. Use relevant administrative complaint decisions and administrative hearing officer decisions, which are available on the DDOE's website, in professional development trainings with staff.
6. Provide ongoing professional development for all staff relating to students with disabilities and achievement through PLCs.
7. Develop and implement a process to measure the effectiveness of the professional development and technical assistance activities and an effective way to measure implementation as described in this Agreement, which may include, but not be limited to, collecting an evaluation summary and feedback from the participants following the professional development.
8. Attend professional development provided through Special Education Leadership meetings on **September 10, 2014, December 3, 2014, and March 11, 2015**. School leadership is also strongly encouraged to attend all Teaching and Learning Cadre meetings provided by the DDOE.
9. Attend professional development provided through Charter School Special Education Director meetings on **October, 27, 2014, February 2, 2015, and April 27, 2015**.
10. Enter into a Memorandum of Understanding with the DDOE to participate in Standards-Based IEP training including attendance of special education teachers, Director of Curriculum, and Educational Diagnostician at all scheduled professional development, participation in on-site coaching, and other as identified/needed.
11. Submit a written plan to the DDOE outlining a system of accountability to ensure compliance with IDEA, provision of special education services and procedural safeguards, along with a process to monitor student records and staff practices for regulatory compliance across the school. This written plan shall be due to the DDOE by **September 30, 2014**.
12. Submit a written report to the DDOE relating to special education units earned and a detailed description of how funds were allocated. This report shall be due to the DDOE by **October, 30, 2014**.

C. Educational Diagnostician:

1. Complete 6 hours of professional development relating to IEP development, transition services, procedural safeguards for parents and children, and discipline procedures as outlined in the Delaware Administrative Code. Training will be provided by the DDOE on **August 7, 2014** (9:00 a.m. – 4:00 p.m.)
2. Complete 15 hours of IEP Plus training. This training will be provided by the DDOE on **August 14 – 15, 2014**, and **October 8, 2014** (9:00 a.m. – 3:00 p.m.).
3. Attend 3 hours of professional development with school psychologists relating to the IEP process and eligibility determination. This training will be provided by the DDOE on **August 19, 2014** (9:00 a.m. – 12:00 p.m.)
4. Attend 5 hours of IEP Plus training with special education staff. This training will be provided by the DDOE on **August 27, 2014** (9:00 a.m. – 3:00 p.m.).

D. School Psychologist:

1. Complete 3 hours of professional development relating to evaluation, evaluation procedures, and eligibility determination as outlined in the Delaware Administrative Code. Training to be provided by the DDOE on **August 19, 2014** (9:00 a.m. – 12:00 p.m.)

E. Special Education Teachers:

1. Complete 6 hours of professional development relating to the IEP Process and transition services. This training will be provided by the DDOE beginning on **August 7, 2014** (1:00 – 4:00 p.m.) to be completed in its entirety by **June 1, 2015**.
Complete 5 hours of IEP Plus training. This training will be provided by the DDOE on **August 27, 2014** (9:00 a.m. – 3:00 p.m.).

F. Regular Education Teachers:

1. Complete 6 hours of professional development relating to the IEP Process, provision of special education services, and procedural safeguards. This training will be provided by the DDOE by **June 1, 2015**.

The professional development under this section shall be completed according to the schedule stated. The DDOE, or one of its contracted providers, shall provide all or segments of the professional development. The professional development shall include, but not be limited to, discussion of the following topics:

- (1) Attendance requirements for eligibility and IEP meetings;
- (2) How to conduct an eligibility determination using a variety of sources while ruling out lack of appropriate instruction in reading/math or Limited English Proficiency as a determinant factor;

- (3) How the statement of special education and related services, etc., is based on the student's specific areas of need, and not generalized to the student's disability category;
- (4) How the statement of education and related services, etc., must include a description of the services provided to the special education student that are also being provided to other students in the general education setting, and describe the unique services being provided to the special education student;
- (5) How to determine and document the frequency, duration, and location of services and modifications.
- (6) How to develop PLEPs, benchmarks, and goals based on a student's specific area of need, rather than using grade level achievement or a holistic score from a generalized assessment;
- (7) How to develop PLEPS, benchmarks, and goals that are aligned;
- (5) How to access the range of tools and evaluation measures to assess students with disabilities and determine their specific areas of need;
- (6) How to access and use the school psychologist as a resource in the assessment of students and/or development of IEPs;
- (7) How to access appropriate transition assessments (including information from career cruising, SSPs, etc.) and align the assessment results to postsecondary transition goals and activities, services, and courses of study;
- (8) How to develop appropriate post-secondary transition goals that are reasonably attainable for the student, and use proper semantics in the goal language; and
- (8) How to describe the student's transition courses of study across multiple years through the 12th grade, and through age 18 - 21 programs, as applicable.

See attached calendar for activities and timelines.

Section Three: DDOE's Verification Activities

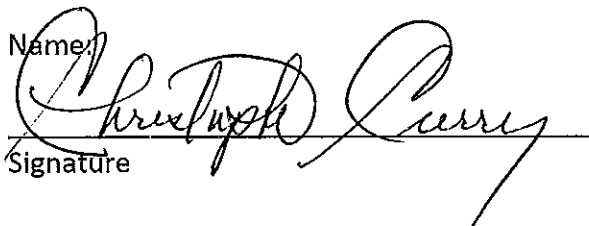
- A. On **September 17 and 19, 2014**, the DDOE shall conduct a verification activity of individual student records to determine if noncompliance has been sufficiently corrected in the regulatory areas of eligibility determination, IEP development, LRE, secondary transition, and IEP meeting participants. The DDOE will review records through a desk audit (i.e., IEP Plus), as well as conduct on-site reviews at the Charter School. The DDOE may also conduct interviews with school staff, or complete classroom observations as part of its verification process.

In addition, the DDOE shall, **between October 17, 2014 and December 19, 2014**, randomly review student and school records to determine if the Charter demonstrates it is correctly implementing the specific regulatory requirement that were previously identified as noncompliant areas of eligibility determination, IEP development, LRE, secondary transition, and IEP meeting participants. The DDOE will review records through a desk audit (i.e., IEP Plus), as well as conduct on-site reviews at the Charter School. The DDOE may also conduct interviews with school staff, or complete classroom observations as part of its verification process.

- B. If the DDOE is able to verify correction of noncompliance in some or all of the regulatory areas, the DDOE will close out the findings of noncompliance that are corrected and notify the LEA in writing. If, however, findings of noncompliance remain open in specific regulatory areas, additional actions will be necessary. Depending on the results of the DDOE's verification activities, the DDOE may increase its enforcement actions in accordance with its authority.

Section Four: Signatures

On behalf of Maurice J. Moyer Academic Institute:

Name: 
Signature

Date: 7/17/14

***On behalf of the Exceptional Children Resources Group of
The Delaware Department of Education:***

Name:

Signature

Date: _____