



July 10, 2018

Debra Skul, Chief Academic Officer  
Summit Academy Secondary  
2800 Shady Run Road  
Youngstown, Ohio 44502

**RE: FAPE**

Dear Ms. Skul,

On March 5/6, 2018, the Office for Exceptional Children (OEC) conducted an onsite review at Summit Academy Secondary (IRN#000303). During this visit, along with the visit to the Children's Residential Centers (CRCs), on March 22, 2018, that also fall under the IRN#000303, the OEC/ SST team noted the following substantial non-compliance with governing laws and rules/regulations. A Corrective Action Plan must be in place to correct these items within 15 school days of notification to ensure compliance with the requirements of the Individuals with Disabilities Act (IDEA), its implementing regulations in Title 34 of the Code of Federal Regulations (CFR), Chapters 3301-24 and 3301-51 of the Ohio Administrative Code (OAC), and Chapter 3323 of the Ohio Revised Code (ORC).

ORC Section 3323.02 mandates school districts to ensure all requirements of Part B of IDEA are met. For purposes of Chapter 3323, a community school is considered to be a school district.<sup>1</sup>

This letter has been updated and is being sent with an updated Monitoring Review Summary Report. Please note that this letter serves merely as an overview of our findings of non-compliance and the required corrective actions you must take. You should also refer to the Monitoring Review Summary Report for full details on the required corrective actions needed to bring you into compliance with FAPE and other IDEA requirements.

**Summary of Non-Compliance:**

1. **Continuum of Alternative Placements (34 C.F.R. 300.115):** Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. Summit Academy Secondary is not offering a continuum of alternative placements to students based on their least restrictive environment (LRE) and individual learning needs.

**Correction:**

Summit Academy Secondary must offer the full continuum of alternative placements to meet the specific needs of children with disabilities for special education and related services within their LRE.

**Required Services for Students with Multiple Disabilities (34 C.F.R. 300.8(c)(7)):** Students identified as having multiple disabilities were not receiving services and supports commensurate with the requirements of this definition, within their LRE in a classroom for students identified under this disability category. These students were receiving the same services as students without disabilities would receive in a general education classroom. A classroom for students with multiple disabilities shall include at least one full-time paraprofessional.<sup>2</sup> In a classroom serving only

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<sup>1</sup> See ORC 3323.012

<sup>2</sup> See OAC 3301-51-09(I)(2)(e)(iii)

students with multiple disabilities, there shall be no more than 8 students during any one instructional period.<sup>3</sup>

**Correction:**

Summit Academy Secondary must review all Evaluation Team Reports (ETRs) that determined the category of multiple disabilities and ensure that the determination process meets the definition contained in 3301-51-01(B)(10)(d)(vii), specifically that a student identified as having multiple disabilities has "such severe needs that they cannot be accommodated in a special education program solely for one of the impairments." Summit Academy Secondary must also offer a classroom/LRE specifically designed to meet the learning needs of these students.

2. **Specially Designed Instruction (SDI) (34 C.F.R. 300.39(C)(3)):** Students are advocating for their own SDI and/or being denied SDI rather than school ensuring the proper provision of services. The responsibility is on the school to ensure that SDI is individualized and adapted to the needs of each student. SDI must be properly outlined in Section 7 of the student's IEP and must be implemented in the same manner.

**Correction:**

Summit Academy Secondary must provide SDI to all students as prescribed in Section 7<sup>4</sup> of their IEPs. The responsibility is on the school, not the students, for the proper provision of education services. SDI must be individualized and adapted to the needs of the student. The IEP should include the amount of time/frequency, location and person responsible for the delivery of service. SDI is designed to ensure access to the general education curriculum so that the child can meet the educational standards that apply to all children within the jurisdiction of the school district. It should not be designed to fit class scheduling, lack of appropriate staff to deliver services or be uniform across a disability category.

3. **Non-Compliance with the Curriculum Plan as Outlined in the School-Sponsor Agreement<sup>5</sup>:** There is no evidence of a formal curriculum aligned to the Ohio Learning Standards as agreed upon by Summit Academy Secondary in the School-Sponsor Agreement, including no evidence of consideration for the High School grades which the school serves, the co-teaching model, pacing guide or any type of formal planning/outline being provided for the teachers. Teachers indicated that they were not aware of the Ohio Learning Standards Extended that are to be utilized for students identified as having significant cognitive disabilities.

**Correction:**

Summit Academy Secondary must define what curriculum will be implemented into daily instruction in a systematic and organized manner with oversight to ensure alignment to Ohio's Learning Standards. The curriculum must be board adopted and be evidenced through instructional materials, lesson plans and assessment for all students including those with exceptionalities. Board adopted curriculum that has been signed by the board president indicating his involvement and awareness of developing a formal curriculum is required.

4. **Student Caseload Ratio (O.A.C. 3301-51-09(I)):** Special education intervention specialists and service providers are assigned numbers of children with disabilities that exceed the caseload standards and exceed the workload determinations referenced in O.A.C. 3301-51-09(I)(1) through (3). As an example, there were only two intervention specialists assigned to Summit Academy Secondary, one oversaw reading and the other oversaw math, with a total of 102 students identified as having a disability.

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<sup>3</sup> See OAC 3301-51-09(I)(2)(e) and Paragraph 4 of this Report.

<sup>4</sup> Section 7 of the IEP is a mandated state template.

<sup>5</sup> See School-Sponsor Agreement Educational Plan, Paragraphs (1)(c), (d) and (g) and Monitoring Review Summary Report at Paragraph 4.

**Correction:**

Summit Academy Secondary must determine the proper workload/caseload for each intervention specialist and related service provider working under the same citation. Additionally, Summit Academy Secondary must take immediate steps to bring special education workloads and caseloads into compliance. Summit Academy Secondary must submit documentation indicating workload/caseload ratio for each intervention specialist within the guidelines outlined in the O.A.C.

5. **Evaluation Procedures (34 C.F.R. 300.304, 300.305 and 300.306):** Of the 29 records that were reviewed, a total of 21 records were found not to have addressed all areas related to the suspected disability category as required under these federal regulations. ETRs were found to be noncompliant due to the lack of appropriate testing being conducted to make an informed decision on the eligibility determination for a specific disability category. In some instances, disability categories were changed without having conducted the appropriate assessments by qualified professionals. ETRs were "adopted" that had their effective start dates changed, thereby extending the three-year period of the ETR and lengthening the requirement that an ETR must occur at least once every 3 years. It should be noted that ETRs are not allowed be amended once adopted.

Teachers indicated they were asked to conduct assessments on students they did not have or were not comfortable doing because they didn't feel qualified. When the teachers questioned this process, they were told by administration/IEP coordinator, to "make the information up" to meet specific deadlines.

**Correction:**

Each of the 29 records that were initially reviewed by OEC will be reevaluated, in their entirety, using a third-party school psychologist(s) and related service providers as approved by the Office for Exceptional Children and paid for by the redirection of IDEA Part B funds allocated to Summit Academy Secondary with the involvement of Summit Academy Secondary staff as appropriate until such a time that the ODE/OEC deems Summit Academy Secondary in full compliance with this rule.

6. **IEP/ETR Requirements (O.R.C. 3323.013, 34 C.F.R. 300.305, 300.321, 300.323, 300.324 and 300.172):** Through record reviews and observations, it was evident that the information which was being utilized to determine eligibility for special education services and to develop an IEP for students was not being conducted in accordance with the governing law and rules/regulations. 21 out of the 29 ETRs reviewed did not have documentation of required professional participation in the determination of whether the child is eligible for special education services. It was determined that 14 out of the 29 records reviewed did not have documentation that the appropriate team members were present during the IEP meeting. During the interview process, it was brought to the attention of OEC/SST that unqualified professionals were running IEP meetings. It was disclosed that Instructional Assistants (IAs) were running IEP meetings, however, it appeared on paper as if the appropriate members were present, based on signatures.

**Correction:**

The district will reconvene the IEP team for all students receiving special education services. The IEP team will develop a plan for compensatory time/services the student is entitled to receive. The revised IEPs as well as the number of compensatory hours determined by the IEP team will be forwarded to OEC for review. OEC/SST #5 will attend meetings where compensatory services are being discussed. A policy will be created with assistance from SST #5 and approved by OEC to implement compensatory time. Services need to be based on each student's needs. Transportation must be provided for students to have access to services. Students cannot be removed from their scheduled classes in order to provide compensatory services. Services must be above and beyond the typical school day. All services as outlined in Section 7 of the IEP (SDI) must be provided by the provider as listed in the IEP. Multiple modes of service delivery must be offered.

A State Support Team Region 5 consultant will be in attendance at every ETR/IEP meetings to ensure procedures are being appropriately followed. These ETRs will be part of the 29 records being reevaluated as stated in item 7 above. Summit Academy Secondary will submit documentation indicating that the SST consultant was present at every ETR/IEP meeting beginning June 21, 2018.

- 7. Home Instruction (O.R.C. 3323.12):** Home instruction must be provided to children with disabilities who are at least three years of age and less than twenty-two years of age and who are unable to attend school, even with the help of special transportation. Through the information that was reported in EMIS for students attending Summit Academy Secondary and partnering CRCs, students are not being serviced according to how their enrollment is being coded in EMIS for "home instruction". If the students are, in fact, receiving home instruction as they are coded within EMIS, they are to receive 1:1 instruction for a duration of time that meets the stipulations of their IEP. Students who are enrolled at the CRCs are receiving their academic instruction as a whole group and therefore, should not be coded as home instruction in the EMIS reporting system.

**Correction:**

A comprehensive plan of how services will be provided to students who are coded as home instruction (IE-20) in a 1:1 setting must be submitted to OEC that meets the stipulations of the Child's IEP goals and services.

- 8. Need for Further Technical Assistance and Training Opportunities:** There is a lack of training and technical assistance being provided to teachers at Summit Academy Secondary. During teacher interviews, the teachers stated they were "left in the dark" and expected to complete documentation without appropriate training and assistance that was being considered in the ETR/IEP process. The lack of training and support left the teachers feeling very isolated and without support.

**Correction:**

All required and requested professional development and technical assistance training will be provided to Summit Academy Secondary by SST5.

- 9. Lack of appropriate behavior goals and/or a Functional Behavior Assessments (FBA) and Behavior Intervention Plans (BIP):** Through the record review OEC conducted, there was no evidence of appropriate behavior goals, or Functional Behavior Assessments (FBA) and Behavior Intervention Plans (BIP) for students with clearly described behavioral needs and concerns. For example, in section 2 of a student's IEP (Special Instructional Factors), the record review indicated that the child has behavior which impedes his/her learning or the learning of others, however, the extent to which that was documented throughout the IEP was either non-existent, or at minimum, an organization/on-task goal. This information is crucial in developing behavior goals as well as building consistency within the student's educational programming as to how their behavioral needs will be managed, documented and serviced within their IEP.
- 10. Alternate Assessment Participation Percentages (34 C.F.R. 300.160):** In some instances, students did not qualify as students having the most significant cognitive disabilities and appeared to be placed on the assessment strictly based on behavioral needs, previous test performance and disability category, which are never to be used as determining factors for eligibility. Of the 29 records reviewed, five students were identified as taking the alternate assessment. The corresponding IEPs for these five students, however, did not seem to demonstrate a need or meet the criteria for Alternate Assessment participation.

**Correction:**

Technical assistance will be provided through SST Region #5 on how to properly identify students who qualify for the Alternate Assessment for Students with a Significant Cognitive Disability (AASCD) and making an informed team decision, with parental involvement and input when determining eligibility.

- 11. Highly Qualified Teachers (HQT) (O.R.C. 3319.074(A)(3)):** During the review process, OEC/SST was made aware that all subjects are not being taught by highly qualified teachers. It was stated on multiple

occasions in different interview groups that Summit Academy Secondary was using IAs (Intervention Assistants/ Paraprofessionals) to teach classes due to lack of staffing. At the CRCs, there are teachers of record who are responsible for instruction of students that they are not qualified to teach based on the grade band and content area as delineated on their Ohio licensure.

**Correction:**

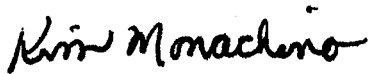
Summit Academy Secondary must develop a comprehensive recruitment plan to address the need for highly qualified teachers and identify resources to support the retainment of highly qualified teachers. The need to provide appropriately qualified teachers and support staff cannot be avoided due to financially-driven decisions. Summit Academy Secondary, must also place highly qualified teachers as the teacher of record and in the classrooms providing instruction to the appropriate grade levels and subject areas based on their certification and license.

**CORRECTIVE ACTION DUE DATE:**

Directed Corrective Action Plan components are being presented to the district at the time of the Summary Report. The district must include these components within their CAP and complete additional areas of the CAP by **September 11, 2018** indicating how it will ensure compliance with the requirements as detailed in this letter and the accompany Monitoring Review Summary Report. Additionally, the district must submit compliant IEPs for the 29 students/records reviewed to OEC by **November 19, 2018**.

Please submit all required documentation to Steven Moran and Dean Scheiderer, OEC Lead Consultants at [steven.moran@education.ohio.gov](mailto:steven.moran@education.ohio.gov) and [dean.scheiderer@education.ohio.gov](mailto:dean.scheiderer@education.ohio.gov)

Sincerely,



Kim Monachino, Director  
Office for Exceptional Children

Cc: Erica Richley, Executive Director of Special Education- Summit Academy Management  
Meghann Fuhrer, Regional Director of Special Education- Summit Academy Management  
Kevin Sheely, Principal- Summit Academy Secondary- Youngstown  
Eric Jones, President- Summit Academy Secondary- Youngstown School Board President  
Apyrl Morin, Director of Community Schools/Sponsor- ESC of Lake Erie West  
Kristi Hayward, Academic Services Team Leader- ESC of Lake Erie West  
Kim Monachino, Director- Office for Exceptional Children  
Karl Koenig, Director- Office of Community Schools  
Michele Moore, Director - State Support Team Region 5

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