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By Email and United States Mail

Ms. Vanita Gupta
Principal Deputy Assistant Attorney General
United States Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W. – R.F.K.
Washington, D.C. 20530

Re: Georgia Network for Educational and Therapeutic Support

Dear Deputy Assistant Attorney General Gupta:

Just over a year ago, the United States Department of Justice (“DOJ”) sent a letter of findings (“Findings Letter”) to the State of Georgia regarding the administration of the Georgia Network for Educational and Therapeutic Support (“GNETS”). Since that time, Georgia has continued to dedicate material resources and attention to analyzing, planning, and implementing changes designed to improve the GNETS program and to serve in the general education environment each student who is likely to benefit from receiving education and related services in that environment. The GDOE intends for GNETS to serve its intended purpose: providing an educational option that prevents students from leaving their families and communities for residential placement. This letter is to provide you with an update about the serious work being performed on behalf of Georgia’s students who avoid secluded, residential education services because of GNETS.

At the direction of the State School Superintendent and the State Board of Education, the Georgia Department of Education (“GDOE”), its staff, and its legal counsel, have implemented significant mechanisms to determine the status of the GNETS population, services, and facilities. To these ends, these persons are conducting a comprehensive review of each GNETS classroom and every student enrolled in the GNETS program. As part of this review process, the IEP of every student enrolled in the GNETS program is being reviewed. GDOE has also asked each GNETS program to provide systemic information regarding the current educational and therapeutic services being provided to GNETS students by the Local Education Agencies (“LEAs”). Although this state-wide review process has not yet been completed, GDOE has made substantial progress in collecting the data necessary to conduct a comprehensive evaluation.

In addition, GDOE hired an architectural firm to inspect each GNETS facility and make recommendations regarding any necessary structural improvements. As discussed more fully below, the GDOE recently notified the appropriate GNETS

programs and LEA officials that the GDOE and State Board of Education expect students currently enrolled in nine (9) GNETS facilities to be transferred to a different facility for the beginning of the 2016-2017 academic year. GDOE is working with the GNETS programs and the LEAs to facilitate this transition, including a review of the individualized education programs (“IEPs”) for the impacted students.

1. GDOE’s Authority.

It is important to bear in mind the responsibility and authority the Georgia Constitution and General Assembly has provided to the GDOE and LEAs, respectively. As the GDOE is the sole state agency named in the Findings Letter, it is the only agency represented in this matter. It is, therefore, crucial to clarify GDOE’s role pertinent to GNETS. Unlike what the DOJ has discussed regarding other states, the GDOE lacks significant operational control over the GNETS program. Local school systems are statutorily empowered and charged with providing special educational programs, and they may do so “either by establishing and maintaining such educational facilities [e.g., GNETS facilities] ... or by contracting with other *local* school systems, *regional* educational service agencies, or other qualified public or private institutions.”¹ These local school systems are separate entities created by the Georgia Constitution and are empowered with almost exclusive authority to operate Georgia’s K-12 public education system.²

By contrast, the GDOE’s role is to “provide for the funding which has been approved by the General Assembly.”³ And, the GDOE’s authority is quite limited in scope to: (1) providing grants; (2) authorizing contracts between local school to contract with third parties; (3) entering into contracts with other states or their political subdivisions where appropriate; and (4) promulgating rules and regulations governing state aid.⁴ The only direct operational authority the legislature has delegated to the GDOE involves the Georgia School for the Deaf, the Georgia Academy for the Blind, and the Atlanta Area School for the Deaf.⁵ This statutory jurisdiction is strictly construed and may not be expanded by implication.⁶ Thus, and despite the inferences and conclusions of the DOJ (and some in the advocate community inside and outside of Georgia), the GDOE does not have direct control over how a particular GNETS program is managed. Put simply, the GDOE is not administering services.

From this perspective, the DOJ should consider an important classification of the GDOE’s efforts regarding GNETS. The first is a Strategic Plan & Self-Assessment Rubric

¹ O.C.G.A. § 20-2-152(b) (emphasis added).

² Ga. Const. Art. 8, Sec. 5, Par. 2; see also *Gwinnett Cty. Sch. Dist. v. Cox*, 289 Ga. 265, 265-66 (2011).

³ *Id.*

⁴ O.C.G.A. § 20-2-152(c).

⁵ O.C.G.A. § 20-2-152(c)(1)(E).

⁶ See *HCA Health Servs., Inc. v. Roach*, 263 Ga. 798, 800 (1994) *rev’d on other grounds by Marsh v. Clarke Cty. Sch. Dist.*, 292 Ga. 28, 29 (2012) (applying laches defense to mandamus actions).

("Strategic Plan"). The Strategic Plan has been discussed already with the DOJ, but it may have been understandably misunderstood as a mechanism that will be implemented by the GDOE. Actually, the Strategic Plan will be implemented by the GNETS directors and their staff in collaboration with LEAs, not the GDOE. The GDOE helped draft the strategic plan to include provisions mandating that the LEAs assure assessments and reassessments of students enrolled in the GNETS program to have clear and obtainable exit criteria that is compliant with the Individuals with Disabilities Education Act and focuses on individualized assessments. Also, the Strategic Plan now has a Positive Behavioral Intervention and Supports ("PBIS") component that is mandatory and monitored twice a year.

The Project Management Plan, by contrast, is implemented by the GDOE. The aims of the two plans are similar and complementary, but they are distinct documents with different means of enforcement. As this letter focuses on the GDOE's efforts, the Project Management Plan is addressed in detail. GDOE has developed the Project Management Plan to address its opportunities to enhance the GNETS program. The Project Management Plan is divided into five categories: (1) department operations; (2) instructional program; (3) therapeutic services; (4) facilities; and (5) funding and allocation. While this letter does not represent all facets of the Project Management Plan, it does provide the DOJ with sufficient information to appreciate the seriousness and depth of the GDOE's efforts. Given the GDOE's authority, the work being performed at the GDOE and the working plan are made all the more significant.

2. Department Operations.

The first category in the Project Management Plan examines the GDOE's operations regarding the GNETS program. The most significant development since the DOJ's Findings Letter is the hiring of Ms. Nakeba Rahming as the Program Director for the GDOE. The DOE hired Ms. Rahming from Tampa, Florida. Ms. Rahming's experience is extensive. Specifically, she has obtained masters and Ed.S degrees in Psychological and Social Foundations, and is nearing completion of her Ed.D in educational administration. She has served as a PBIS coach, professional development master trainer, grant project director, and district supervisor for MTSS-RtI in the Hillsborough County Public Schools. In sum, Ms. Rahming is a bona fide expert and a tremendous addition to the GDOE.

Based on Ms. Rahming's work with GDOE team members, and GDOE's ongoing and comprehensive review of the GNETS program, the GDOE is revising the current GDOE rule regarding the GNETS program.⁷ This process has been extensive and thorough. The GDOE policy subcommittee considered the proposed amendments to the rule on May 14, 2016, and it continues to work through the state and federally-mandated administrative process.

⁷ See Ga. Comp. R. & Regs. 160-4-7-.15.

The GDOE also continues to collaborate with the GNETS directors on updating and revising the Strategic Plan. Meetings have taken place in March, May, June, and July. As a consequence, the Strategic Plan now includes additional accountability activities for GNETS directors and other enhancements. The GNETS directors are scheduled to implement the revised Strategic Plan at the beginning of the 2016-2017 school year.

The GDOE has also created a risk assessment model to provide critical analysis of each GNETS program (the "Model"). The Model includes programmatic, instruction, facilities, and fiscal indicators, as well as policies for corrective action plans and procedures. It also creates a mechanism to track and report performance metrics for the GNETS program, and the performance summaries will be part of the GNETS annual report. The Model has already been embedded into the Strategic Plan and will be completed twice a year. Should the Model reveal a need for corrective action, the GDOE will monitor for compliance. In addition to this accountability measure, the GDOE continues to provide technical assistance to GNETS programs upon requests, and GNETS directors have already been made aware of the Model's scoring guide. The final plan and resource documents have been sent to all GNETS directors, and the first self-assessments are scheduled for December 2016.

In addition, the GDOE has introduced the Trauma Informed Care ("TIC") model to all GNETS directors. Self-assessments have occurred to determine the current status of the GNETS programs' capacity in the area, and working groups have been established with state experts who are providing training and additional support. All GNETS staff will be trained and assessed in TIC competency bi-annually.

Finally, the GDOE has made great progress on establishing a data dashboard. This will be a great resource to the GDOE as well as to the GNETS programs and LEAs. A host site has been identified for each GNETS program. Communications have gone from GDOE to GNETS programs to explain the process for collecting data. Two programs have been selected as pilot sites, and all GNETS programs will have access to their own dashboard at the start of the 2016-2017 school year. Training for program staff is set to commence next month.

These collective efforts are not only a continuation of the GDOE's efforts, but they are also being well received by the GNETS program directors and staff. This collaboration is critical, as a top-down, mandated approach is neither within the GDOE's statutory authority nor likely to lead to the buy-in necessary to achieve successful implementation.

3. Instructional Programs.

The second part of the Project Management Plan relates to GNETS programs' instructional aspects. As discussed above, GDOE is in the process of evaluating the

instructional programs currently being provided by each GNETS program. Additionally, a critical and seminal effort has been to enhance educators' training through Georgia's Teacher Keys Evaluation System ("TKES"). GNETS programs will be provided with technical assistance and professional learning from GDOE staff. The TKES system will determine trends and patterns for upcoming school years, and TKES data will be analyzed by the GDOE to determine what, if any, future plans are necessary and appropriate. While TKES applies to all Georgia educators, GDOE has determined that the program can be better tailored to address the particular needs of GNETS program educators.

As already discussed, at the request of GDOE staff, a review of every IEP for all students currently enrolled in a GNETS program is underway. This is an exhaustive, time sensitive, and compliance-driven review that remains ongoing to better GDOE's understanding of the facts on the ground and ability to return students who may be served in a general educational setting.

Working with the GNETS directors, the GDOE has also implemented i-Ready K-12 Diagnostic and K-8 reading and mathematics programs for all GNETS students. These curricula are designed to pinpoint the individual needs of students to the sub-skill level and provide interactive instruction for students on a daily basis. It has embedded diagnostic assessments, ongoing progress monitoring, and end of the year targets.

These new policies are, in many ways, just beginning and already starting to show signs of significant progress. As the DOJ must appreciate, to improve students' educational experiences, the GDOE must first accurately assess the current educational services being provided from both a systemic and individualized perspective. The TKES data review cannot be understated in its significance and ability to allow the GDOE to have the resources it needs to improve the educational opportunities for GNETS students.

4. Therapeutic Services.

GDOE staff are also evaluating and examining the provision of therapeutic services in the GNETS program. GDOE staff have been working with Dr. Daniel Crimmins at Georgia State University's School of Public Health to improve and enhance the quality of the therapeutic services provided in the GNETS program. Dr. Crimmins and his staff regularly provide training to GDOE staff and educators across the state.

In addition, former Associate Superintendent Clara Keith was brought on as a Director at the Georgia Department of Behavioral Health and Developmental Disabilities to provide support and project management for the GDOE regarding programs for students with severe emotional and behavioral disorders. This appointment manifests the State's dedication to including community supports and

service providers to enhance GNETS program services provided in the general education environment and/or in self-contained settings.

GDOE staff have also met with community-based providers to determine how those providers can best interact with the GNETS program and the students being served by it. Those conversations continue, and the collaborative work with the public and private sectors will be further enhanced when the 2016-2017 academic year begins.

Finally, and as mentioned in the introduction, the Strategic Plan now has a PBIS component that is mandatory and will be monitored twice a year. The GDOE is exploring additional opportunities for training to assist the GNETS program directors with the PBIS aspect of students' education.

5. Facilities

As the DOJ knows, the GDOE has undertaken a thorough inspection and review of all of the GNETS program facilities. GDOE staff reviewed all of the facilities and has prioritized some GNETS facilities for independent review by architectural consultants. The consultants have completed a substantial portion of their review. However, there are still some additional GNETS program facilities that remain to be inspected. Based on its review of the architectural consultants' interim report, GDOE has notified the appropriate GNETS programs and LEAs that nine GNETS program facilities need to be relocated before the beginning of the 2016-2017 school year.⁸ GDOE is currently working with the affected school districts to ease the transition for students enrolled in these programs. It is a significant step and regrettable reality, but the transfer of these GNETS students to new facilities plainly demonstrates the GDOE's commitment to children receiving appropriate services in the GNETS program, and the work done pursuant to that commitment remains ongoing.

The GDOE is also preparing a special application form to allow other GNETS facilities to seek funding for physical improvements. In addition to these prospective funds, the GDOE is currently exploring opportunities to allow for the prioritization of GNETS facilities in most need of funds that are already encumbered and not subject to the application process.

In sum, these efforts regarding the physical structures are already yielding positive results for children enrolled in the GNETS program.

⁸ The facilities are Sand Hills at McDuffie County (McDuffie County Schools), Carrollton Burwell Program (Carrollton City Schools), Coastal Academy – Brunswick (Glynn County Schools), Oak Tree Elementary Program (Dougherty County Schools), Cedarwood Program (Toombs County Schools), GNETS of Oconee (Baldwin County Schools), Woodall Center (Muscogee County Schools); Cedarwood Program (Appling County Schools), and Horizon Academy (Tift County Schools).

6. Funding and Allocation.

The GDOE is currently working with the GNETS program directors to make sure that the grant application process is both streamlined and effective and includes provisions for appropriate therapeutic services. This conversation is not limited to the GDOE and the GNETS program, but it includes community-based providers of therapeutic services and other stakeholders.

These efforts are not only significant and meaningful in their own right, but they are also having an impact now. The GDOE's efforts will only be enhanced by the additional data and collaboration that these efforts will yield, and it would be premature to prejudge what the data will reveal or for the GDOE to seek to impose a uniform solution before sufficient information is known and analyzed. But, it is abundantly clear that the GDOE is working diligently to enhance the educational experience for Georgia's children, and it is willing to take bold and decisive action where necessary. We encourage you to meet with the GDOE, including Ms. Rahming, should you want to learn more about the work being performed at the GDOE. We would be happy to assist in that regard.

Kindest regards,



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JB/klm

cc: Alexa R. Ross, Special Assistant Attorney General (by email)
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