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April 22, 2019

Patty Mathews, Esq.
Mathews & Fox
1925 Aspen Drive
Suite 301
Santa Fe, NM 87505

Sent via email: pmathews@matthewsfox.com

Re: Alma d'Arte, Response to Letter of Concern

Dear Ms. Matthews;

During the PEC's review of the school's renewal application, it became apparent that the school was not meeting the needs of its EL students and students with disabilities. The PEC informed the school that it needed to present to the PEC a Corrective Action Plan to address these immediate problems. Alma d'Arte presented the CAP to the PEC in February, 2019, and the PEC, relying upon the review of PED Language and Culture Bureau and the Special Education Bureau, concluded that the CAP was not sufficient. As a result, the PEC issued a Notice of Concern (dated March 21, 2019).

To its credit, the school has taken steps to resolve the PEC's concerns by submitting a revised CAP. However, the Notice of Concern did not request a revised CAP, but instead requested more specific information from the school on how it would address PED's comments to the CAP, with dates by which the PED concerns would be addressed. The school will need to continue to implement its CAP in addition to responding to the Notice of Concern. The PED Language and Culture Bureau, and the Special Education Bureau reviewed the revised CAP that was provided to the PEC on April 12, 2019. The comments from each Bureau are attached to this letter. The PEC is

requesting that the school provide a narrative on how it will address these concerns. This narrative will be considered by the PEC when deciding whether or not the school has met the issues raised in the Notice of Concern.

The Language and Culture Bureau identified the following concerns for Alma d'Arte's EL program.

1. Identification/Screening

B. If it shows in STARS that the student has taken the ELP assessment (ACCESS for ELLs) in prior years, please check the composite scores reported. If the ELP composite score(s) is under 5 then the student is a current EL. If there is a composite score of 5 or higher, the student has exited EL status and is reclassified fluent English proficient. If the prior ELP 'Composite' score is 5 or higher, the student has an exited EL status and is reclassified fluent English proficient (RFEP). If the prior ELP 'Composite' Score is less than 5, the student has and EL status and is an English Language Learner.

E. Confirm that Alma d'Arte will use the WIDA Screener, and not another assessment. The school also must include an option to opt out of EL services. If the parent opts out of service, the student must still be tested annually on the WIDA ACCESS until or unless the student scores 5.0 or better.

2. Placement

B. Placement decisions based on WIDA screening or annual WIDA Access must be made within less than 14 days. PEC suggestion is 5 days.

3. Servicing ELs

A. Beginner Block: Ensure that EL students are not missing content classes. In content classes teachers must use language supports so that EL students have access to and learn all grade-level content.

A. Intermediate/Advanced Block: Ensure that EL students are not missing content classes. In content classes teachers must use language supports so that EL students have access to and learn all grade-level content.

These proposals have a 2019-2020 SY implementation date. How are current EL students being supported?

4. Exiting ELs

B. How will the school ensure that exited EL students will continue to be monitored for academic progress for at least two years to insure that they are not struggling and receive adequate support?

5. Staffing and Professional Development

Please identify the school's ELD Coordinator. What new qualified staff, Coordinators, or administrators will be hired, list their qualifications, describe how is the school recruiting EL Staff including how many applicants, and status of hiring? The delay in recruiting and hiring EL staff is one of the issues for PEC underlying the Notice of Concern. Qualified staff must be in place!

The Special Education Bureau identified the following concerns for Alma d'Arte's Special Education program.

Timely IEPs and Evaluations

There is a general concern that the school still does not demonstrate that it grasps a fundamental concept of IDEA, that special education and related services are based on the *needs of the student* **NOT** the model of services the LEA offers. It appears the school is moving students around to meet whichever model the charter is currently trying (Study Skills class, Learning Lab, and now self-contained class). **This should not be occurring as decisions to make those types of moves are an IEP team decision.** The IEP team also decides what type of services the student requires, and how and when compensatory services will be provided, **NOT** the administration. Self-contained classrooms are the most restrictive and the school seems to have unilaterally decided to move all students into self-contained classrooms for math and English, without adequate consideration of alternatives for each student, and not in compliance with IEP prior written notice requirements.

A review of existing evaluation data (REED) is the process of looking at a student's existing data to determine if additional data are needed as part of an initial evaluation (if appropriate) or as part of a reevaluation. Was a REED completed to make the move to self-contained classroom? If a student requires inclusion rather than self-contained, it must be offered to the student.

All IEPs must be individualized based on the student's needs not administrative convenience.

Services should be tracked via service logs or another method in which the charter chooses. Services received must equal services indicated in each student's IEP. The LEA must be able to demonstrate it is servicing students as indicated in their IEP.

Compensatory Services

Offering "make-up" afterschool on Tuesdays and Thursday ("Compensatory services are offered after school on Tuesday and Thursday from 4 to 6 p.m.") does not comply with requirements under IDEA and NMAC. The IEP team needs to make this decision for each student. Also the notice of compensatory services and the parental consent (or non-consent) check-off does not comply with IDEA notice requirements. The school must provide a schedule for IEP team meetings, and demonstrate that compensatory services are provided and they are part of the unique plan for each student before the end of the school year, and use a system to track compensatory services so there is monitoring of the services required, timeline, and when they were received.

In her email dated April 12, 2019 Ms. Matthews asked how to best respond to resolve the issues in the Notice of Concern. I recommend that the school provide a narrative addressing the issues that were identified by the two PED Bureaus. The PEC shall review that document and take action at the May, 2019 PEC meeting. The Commission will consider whether the

narrative resolves the issues that lead to the Notice of Concern. If the Commission is satisfied that the school has implemented requirements for EL and SpEd programs for this year, and has a compliant plan moving forward, it may restore the school to “good standing”. The school will still be expected to continue to implement the CAP, since the details in the CAP require change to current systems that will need to be maintained into the next school year, and adopted as best practices.

The proposed timeline for the school to work with CSD, Language and Culture Bureau, and Special Education Bureau with additional questions or guidance, and present the final formal response to the Notice of Concern to the PEC by May 1, 2019 is reasonable. That way the questions about the Notice of Breach can be considered at the May 10, 2019 PEC Meeting. Please copy myself and Ami Jaeger on all communications with CSD and the PED Bureaus.

I am happy to answer additional questions regarding the process.
Sincerely,

s/ Patricia Gipson

Patricia Gipson
Chair, PEC

enc.

cc: Alan Brauer, Director, Charter School Division (alan.brauer@state.nm.us)
Ami S. Jaeger, Counsel to PEC (asj@bio-law.com)