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FROM: Dale Bailey, Ken Swindol, William Swindol
Independent Monitors

DATE: June 16, 2020

RE: IMs addressing Plaintiffs' counsel concerns related to the School Selection
Databases from an electronic mail submitted on October 25, 2019.

The IMs submitted a report to all parties on September 10, 2019 detailing our findings regarding errors in school selections for NOLA/OPSB Charter Schools targeted for on-site monitoring under the provisions of the CJ. Based on these findings, plaintiff's counsel submitted a follow-up inquiry to the IMs on October 25, 2019 (attached). Their concerns center on what the selection databases reveal about the delivery of services to students with disabilities in the New Orleans public schools.

This document contains our specific responses for each item listed in the October 25, 2019 email. In addition, information submitted by the LDOE Director of Special Education was used to address some of the items listed below. The Director's written responses have been included as an attachment. If we can provide any additional clarification regarding the submitted information, please contact us. All information contained in this letter will be included in the forthcoming IM final status report submitted to all parties and to the Court.

As requested, the IMs have reviewed and analyzed the LDOE school selection databases concerning IDEA identification rates, enrollment stability, related service provisions, and discipline outcomes across all operating NOLA/OPSB charter schools for the 2014-2015 to 2018-2019 school terms. It is important to note that these data sources were agreed upon by the

parties as a data-based method for selecting charter schools for targeted monitoring as outlined in the CJ and were not specifically intended to be utilized for conducting empirical investigations to identify potential correlations related to service provision outcomes for students with disabilities. Furthermore, these data sources are not believed to be valid or reliable predictors of potential deficiencies in a school's child find and/or other service provision responsibilities mandated by the IDEA. Therefore, any attempt to utilize these data to make inferences regarding potential correlations and/or causation related to service provision outcomes for students with disabilities would be inappropriate.

With this in mind, our ad-hoc data analyses includes only a summary of descriptive statistics that are intended to simply describe the annual status and/or trends related to Child Find, Discipline, Related Services and Enrollment Stability outcomes among NOLA/OPSB Charter schools. In some cases, the IMs also gathered additional data to further investigate the concerns raised by plaintiff's counsel. Finally, when appropriate, the IMs offer what are believed to be plausible explanations to address questions/concerns raised by plaintiff's counsel. Finally, although LDOE staff and the IMs have collaborated to formally respond to questions/concerns raised by Plaintiff's counsel as outlined in the inquiry below, the research, analyses, calculations and comments contained in our summary of findings reflects the work of the IMs as it relates to our objective and unbiased role under the CJ.

Listed below (shaded) are the follow-up concerns/questions submitted by plaintiff's counsel followed by the IMs summary of data analyses and related comments.

Question #1. Data Analysis

We are asking your team to consider the following question: What does the data in the school selection databases say about the uniform delivery of special education services in New Orleans public schools?

There are several data elements in the school selection databases that have led us to make this request. Some of these elements were also highlighted in your most recent report. The concerning data include:

- New student identification rates under 2%. Most schools have identification rates under 2%, and there are multiple schools with 0% identification rates.
- Disparities in the percentage/number of students with disabilities enrolled in schools. The attached spreadsheet shows that the range in the percentage enrollment of students with disabilities spans from 0.78% to 30.13%.

IMs Response:

In an attempt to formally investigate the concern raised by plaintiff's counsel related to the wide range of variability in new IDEA identification rates, the IMs gathered data that reflect the average new IDEA identification rates annually among all NOLA/OPSB charter schools from the 2014-2015 to 2018-2019 school terms. These findings are presented below:

Table 1. Five-year trend of average new IDEA annual identification rates among NOLA/OPSB charter schools.

School Year	Total Number of New IDEA Eligibilities	Average New IDEA Identification Rate Pre-K-12 (Average Percentage of Total School Enrollment Identified Under the IDEA Across <u>All</u> NOLA Charter Schools)
2014-2015	739	1.94%
2015-2016	609	1.57%
2016-2017	613	1.24%
2017-2018*	537	1.1%
2018-2019	583	1.2%
Five-Year Annual Average	616	1.41%

*Note. Data derived from LDOE databases entitled "SPP Indicator 11*Data: Summary by LEA & Site-OPSB & Charter Schools in Orleans parish" for the 2014-2015 to 2018-2019 school terms. Also, data for students (ages 3-5) who were identified by OPSB Central Office staff but who were not enrolled in a NOLA/OPSB charter school were excluded.*

**2017-2018 enrollment for Benjamin Franklin High, McDonogh 42 Charter School, Einstein Charter at Village D'Lest, Joseph Clark Preparatory Charter School, Booker T. Washington High, KIPP Renaissance and NOLA Charter for Science and Mathematics derived from LDOE.*

The following observations are made based on the data presented in Table 1 above:

- An average of 616 students (range = 537 to 719) were identified annually under the IDEA from 2014-2015 to 2018-2019.

- An average of 1.8% (range=1.2% to 2.2%) of K-12 student enrollment was identified under the IDEA annually across all NOLA/OPSB charter schools from 2014-2015 to 2018-2019.

When considering the IM's were unable to identify any national or state standard that reflects an "average" or "typical" new IDEA annual identification rate, perhaps the metric that best reflects the status of child find activities is the percentage and stability of IDEA enrollment reported by all charters across numerous school years. With this in mind, to further investigate this identified issue, the IMs gathered additional data available that reflect the average enrollment of students with disabilities (i.e. percentage of total school enrollment identified under the IDEA) across NOLA/OPSB charter schools from 2016-2017 to 2019-2020. These findings are presented below.

Table 2. Average percentage of combined total enrollment for students with disabilities served under the IDEA from 2016-2017 to 2019-2020.

School Year	All NOLA/OSPB Charter Schools*	All Louisiana Public Schools*	All U.S. Public Schools*
2016-2017	13.3%	11.8%	13.3%
2017-2018	13.1%	12.1%	13.5%
2018-2019	13.7%	12.9%	13.9%***
2019-2020	13.5%	13.0%	Unavailable
Four Year Average	13.4%	12.4%	NA

*Includes all students ages 3-21 identified and served under the IDEA in all regular Louisiana Public Schools or other educational facilities.

** All enrollment data are based on October 1 IDEA student Counts

***Average computed based on projected U.S. general education enrollment counts

Sources:

LDOE website-Special Education Reporting: Students with disabilities and gifted/talented enrollment counts (<https://louisianabelieves.com/resources/library/special-education-reporting-and-funding>)

U.S. Department of Education: <https://www2.ed.gov/programs/osepidea/618-data/static-tables/index.html#partb-cc>

The following observations are based on the data presented in Table 2 above:

- An average of 13.4% (range = 13.1% to 13.7%) of total NOLA/OPSB school enrollment was comprised of students with disabilities from 2014-2015 to 2018-2019.
- An average of 12.4% (range = 11.8% to 13.0%) of total Louisiana public school enrollment was comprised of students with disabilities from 2014-2015 to 2018-2019.
- An overall slight increase in trend for total IDEA enrollment was observed for NOLA/OPSB and total Louisiana public schools from 2016-2017 to 2019-2020.
- The average IDEA student enrollment reported across all NOLA/OPSB schools exceeded the total average IDEA student enrollment count across all Louisiana public schools from 2016-2017 to 2019-2020 school terms.
- The average IDEA student enrollment count reported across all NOLA/OPSB schools was equal to or slightly below total average IDEA student enrollment counts reported across all U.S. public schools from 2016-2017 to 2018-2019 school terms.

To further investigate plaintiff's counsel's concern regarding NOLA/OPSB charter schools with a low IDEA enrollment, the following data were gathered to compare the percentage of NOLA/OSPb charter schools reporting a less than 5% IDEA student enrollment with the Louisiana state average in this regard from 2016-2017 to 2019-2020. These findings are presented below:

Table 3. Percentage of NOLA/OPSB and Louisiana Public Schools reporting a less than 5% enrollment for students with disabilities.

School Year	NOLA/OSPb Charter Schools	All Louisiana Public Schools
2016-2017	6.0% (5 schools)	5.3% (74 schools)
2017-2018	5.8% (5 schools)	5.0% (69 schools)
2018-2019	4.8%	4.4%

	(4 Schools)	(61 schools)
2019-2020	2.8% (2 Schools)	3.6% (49 schools)
Four Year Average	4.85%	4.58%

Note: All enrollment counts are based on October 1 IDEA student counts reported for all NOLA/OPSB and total Louisiana public school sites

Source: LDOE website-Special Education Reporting: Students with disabilities and gifted/talented enrollment counts (<https://louisianabelieves.com/resources/library/special-education-reporting-and-funding>).

The following observations are based on the data presented in Table 3 above:

- An average of 4.85% (range: 2.8% to 6.0%) of NOLA/OPSB charter schools reported annual IDEA enrollments of less than 5% from 2016-2017 to 2019-2020.
- An average of 4.58% (range: 3.6% to 5.8%) of all Louisiana public schools reported IDEA enrollments of less than 5% from 2016-2017 to 2019-2020.
- A decreasing trend is observed for the total number/percentage of school sites reporting a less than 5% IDEA enrollment across all NOLA/OPSB charter schools and all Louisiana public schools from 2016-2017 to 2019-2020.
- The percentage of NOLA/OPSB charter schools reporting an IDEA student enrollment of less than 5% of total school enrollment slightly exceeded the Louisiana state average for the 2016-2017 to 2018-2019.
- The percentage of NOLA/OPSB charter schools reporting an IDEA student enrollment of less than 5% of total school enrollment was slightly below the Louisiana state average in this regard for the 2019-2020 school term.

In relation to the NOLA/OPSB sites reporting low (i.e. less than 5%) IDEA enrollment rates from 2016-2017 to 2019-2020, the IMs also collected school-level data to examine the IDEA school enrollment trends for these charter school sites. These data are presented below:

Table 4. NOLA/OPSB charter schools reporting less than a 5% IDEA student enrollment between 2016-2017 and 2019-2020 school terms.

School Year	Benjamin Franklin HS*	Lusher Charter School*	Foundation Preparatory HS**	International School of Louisiana***	Robert Russa Moton Charter****	Einstein Charter at Village D'Lest****
2016-2017	0.63%	4.0%	0.90%	4.4%	3.67%	7.3%
2017-2018	0.69%	4.0%	2.7%	3.4%	4.0%	6.0%
2018-2019	0.78%	3.51%	8.8%	5.1%	4.0%	4.9%
2019-2020	0.80%	3.11%	14.1%	5.6%	6.6%	6.0%
Four Year Average	0.73%	3.66%	6.63%	4.63%	4.57%	6.05%
Change from 2016-2017 to 2019-2020	25% Increase	22.3% Decrease	94% Increase	27% Increase	79.8% Increase	17.8% Decrease

NOTE: Values represent percentage of total school enrollment comprised of students with Disabilities

Charter schools listed in bold print have undergone Child Find on-site targeted monitoring and found to have no systemic issues of IDEA noncompliance.

*Selective admissions charter school

**Slow growth charter high school (one grade added annually)

***Language immersion Charter

**** Regular Charter School

Sources: LDOE Child Find and Related Services Databases for 2016-2017 to 2019-2020

LDOE Website: <https://www.louisianabelieves.com/resources/library/student-attributes>

The following observations were made based on the data presented in Table 4 above concerning identified NOLA/OPSB charter schools reporting an IDEA student enrollment less than 5% between 2016-2017 and 2019-2020:

- The four-year average IDEA enrollment rate across identified NOLA/OPSB charter schools ranged from 0.73% to 6.63% from 2016-2017 to 2019-2020.

- Three identified NOLA/OPSB charter schools are either selective admission charters (Benjamin Franklin High School and Lusher Charter School) or language immersion charters (International School of Louisiana) charters that may have few applications from students with disabilities.
- An increase in IDEA enrollment (range= 25% to 94%) is observed for four of six targeted NOLA/OPSB charter schools from 2016-2017 to 2019-2020. It should be noted that Foundation Preparatory Charter is a slow growth charter that added an additional grade each year from 2016-2017 to 2019-2020.
- Two targeted NOLA/OPSB charter schools (Einstein Charter School at Village D'Lest and Lusher) evidenced a decrease of 17.8% and 22.3% in IDEA enrollment from 2016-2017 to 2019-202, respectfully.
- Two identified NOLA/OPSB charters (Benjamin Franklin High School and Foundation Preparatory) have participated in on-site targeted monitoring under the CJ and were found to have no systemic issues of noncompliance.

Finally, to assess the status and trends of enrollment stability, the IMs gathered data to reflect the average percentage of students with disabilities choosing not to re-enroll annually across all NOLA/OPSB charter schools from 2014-2015 to 2018-2019. These data are presented in the Table below:

Table 5. Trend analysis of enrollment stability for NOLA Charter Schools-2014-2015 to 2018-2019

School Year	Total Number of Students with Disabilities Choosing to Not Re-Enroll in Previously Attended School Site by October 1 from Previous School Year (All NOLA/OPSB Regular Charter Schools)*	Total October 1 IDEA Enrollment	Average Percentage of Students with Disabilities Choosing to Not Re-Enroll in Previously Attended School Site by October 1 from Previous School Year (All NOLA/OPSB Charter Schools)
2014-2015	1134	4837	23%
2015-2016	1176	5071	23%

2016-2017	1222	5537	22%
2017-2018**	1333	5750	23%
2018-2019	1181	5875	20%
Five-Year Annual Average	1209	5414	22%

NOTE: Excludes re-enrollment data for alternative schools and detention center.

**Data derived from LDOE database entitled "Rate at Which Students with Disabilities (SWD) Choose Not to Enroll" for 2013-2014 to 2018-2019 school terms.*

The following observations are based on the data presented in Table 5 above:

- An average of 1,209 students with disabilities (range: 1,181 to 1333 did not re-enroll in the NOLA/OPSB charter school attended the prior year from 2014-2015 to 2018-2019.
- An average of 22% of students with disabilities (range: 20% to 23% of total IDEA enrollment) did not re-enroll in the NOLA/OPSB charter school attended the prior year from 2014-2015 to 2018-2019.
- The trend for the average percentage of total IDEA enrollment across all NOLA/OPSB charter schools remained stable from 2014-2015 to 2017-2018 with a 3.0% decrease of total IDEA student enrollment not re-enrolling in the charter school previously attended from 2017-2018 to 2018-2019. This reflects an approximate 11% decrease in the number of students with disabilities not re-enrolling in the charter school attended during the 2017-2018 school term.

In summary, as the parties are well aware, with the exception of apparent low incident disabilities and/or parental referrals, the decision to recommend and conduct an evaluation to determine eligibility under the IDEA is made on a case-by-case basis following numerous prescribed state and federal regulations, including MTSS/RTI academic and/or behavioral interventions, if appropriate, prior to parents and school officials making the decision to proceed with a formal IDEA evaluation. As such, given the diversity of the student populations in NOLA/OPSB charter schools and the range of unique student needs across school buildings, variability in annual new IDEA identification within NOLA/OPSB or any large school system will likely be observed across school sites.

There are other plausible explanations for the observed variability in new IDEA annual identification rates among many NOLA/OPSB charter schools. First, this variability may be related to the fact that the vast majority of students with disabilities are initially identified during

elementary or middle school. As such, although there are certainly occasions when a high school student may be initially identified as having a disability under the IDEA, the annual percentage of student enrollment receiving an initial IDEA eligibility in grades 9-12 is typically expected to be relatively low.

Second, there are numerous factors (i.e., open-enrollment structure, socioeconomic diversity, early childhood opportunities, academic entrance requirements, student mobility, etc.) that may also help to explain the variability in new IDEA identification rates and/or IDEA enrollment across NOLA/OPSB charter schools. Given the factors mentioned above, it seems reasonable to expect that numerous NOLA/OPSB charter schools may have unique homogeneous student enrollments inherently present with unusually high or unusually low risk for experiencing learning, behavioral and/or emotional difficulties, thus affecting the number of students being referred for an IDEA evaluation.

For example, NOLA/OPSB charter schools that have academic admission requirements or language immersion charters likely have an annual enrollment of students who demonstrate average to above average aptitudes for academic achievement with few, if any, students who may be considered for an IDEA evaluation. In relation, given the academic admission standards required in these selective admission/language immersion charter schools, there may be a relatively low number of applications for admission made by students with disabilities annually. However, in contrast, numerous NOLA/OPSB charter schools, may have a relatively large percentage of their student enrollment who are performing academically well below expected for their age and/or grade placement, thus increasing the likelihood that a higher percentage of the student enrollment may be referred for an evaluation under the IDEA to determine whether specialized instruction is appropriate.

With specific regard to variability in IDEA enrollment, a review of the average annual IDEA identification rates for NOLA/OPSB charter schools has generally remained stable and has exceeded the Louisiana state average for IDEA enrollment each year since 2016-2017. In relation, when comparing the percentage of NOLA/OPSB charter schools reporting less than a 5% IDEA enrollment with the number/percentage of all Louisiana public schools in this regard, the findings of our data analysis indicates that the percentage of NOLA/OPSB reporting less than a 5% annual IDEA student enrollment slightly exceeded the Louisiana state average in this regard from 2016-2017 to 2018-2019. However, during the 2019-2020 school term, the percentage of NOLA/OPSB charter schools reporting less than a 5% IDEA enrollment fell below the percentage of all Louisiana public schools in this regard.

Further, when reviewing school-level trends, our analysis indicates a marked decrease in the number of NOLA/OPSB charters reporting less than a 5% IDEA enrollment from 2016-2017 to

2019-2020. In addition, our analysis also indicates that five of six of these identified charter school sites also reported a marked increase in IDEA enrollment from 2016-2017 to 2019-2020.

Finally, with regard to students not re-enrolling in the charter school attended the previous year, the data presented above indicates that the average rate of students with disabilities failing to re-enrolled has decreased annually. The most plausible explanation to account for these relatively high levels of student non re-enrollment may likely be the result of the inherent mobility of students and families in New Orleans. This is, despite relatively high average levels of student's failing to re-enrolled annually, the average annual IDEA enrollment counts across NOLA/OPSB has generally remained stable since 2016-2017.

In summary, our analysis here indicates that Child Find outcomes across NOLA/OPSB charter schools are generally consistent with the Louisiana state averages in relation to the percentage of schools reporting less than a 5% IDEA enrollment and average IDEA enrollment. Although our analysis does not reveal any data to suggest that NOLA/OPSB charter schools are systemically failing to fulfill their child find responsibilities under the IDEA, there may be child find concerns that may arise for individual students across charters. Fortunately, in addition to ongoing OPSB compliance monitoring and LDOE risk-based monitoring, there are other safeguards (i.e. Child Find Guidance policies, annual attestations from school leaders/administrators and local/state complaint procedures, etc.) that provide parents with children or youth suspected of a disability numerous avenues for securing an IDEA evaluation in cases when a charter school may fail to address the educational needs of students suspected of having a disability under the IDEA.

- Wide range of related services minutes offered. Your most recent report indicates that for the fall 2017 school selection cycle, the range of related services minutes spanned from 0 to 218 minutes (see page 13 of your report).
- Related services minutes averaging under 5 minutes per week. Your most recent report indicates that for the fall 2017 school selection cycle, there were multiple schools that offered less than 5 minutes of related services per pupil per week on average (see page 13 of your report).

IMs Response:

To address this reported concern related to variability in related service minutes provided, the IMs gathered available data to evaluate the status and trend of related service provisions for NOLA/OPSB charter schools reporting an average of less than 25 minutes of related services per pupil/per week during the 2016-2017 school term.

Table 6. Related Service provision trends across identified NOLA/OPSB charter schools reporting an average per pupil/per week less than 25 minutes during the 2016-2017 school term.

Charter School	Date of RS Monitoring	2016-2017 N=16	2017-2018 N=14	2018-2019 N=14
Eleanor McMain Charter	Fall 2019	0	52.3	52.6
McDonogh 35 Charter	NA	2.73	72.5	58.60**
Lusher Charter School	Fall 2018*	3.86	34.0	65.23
Einstein Charter at Village D'Lest	Fall 2019*	3.95	58.4	93.91
NOLA Charter for M/S	Fall 2019*	3.95	18.4	15.79
Lake Forest Charter	Fall 2019*	4.13	48.8	37.05
Benjamin Franklin HS	Fall 2019	5.0	144.4	25.0
Einstein Charter School at Sherwood Forest	Fall 2019	6.21	60.0	142.4
Einstein Charter Middle School at Sarah Towles Reed	NA	9.29	47.0	70.68
Milestone Academy	NA	10.22	Closed	Closed
Edna Karr High School	Fall 2018	16.73	25.5	21.09
Wilson Charter School	NA	18.57	71.3	75.60
New Orleans Military & Maritime Academy	Fall 2016*	22.57	24.7	38.41
McDonogh #32 Literacy Charter School	NA	22.74	36.1	10.61 Closed May 2019
Alice M. Harte Elementary Charter School	NA	24.38	72.4	62.68

Algiers Technology Academy	Spring 2016*	24.71	Closed	Closed
Average Cumulative Minutes Per Pupil/Per Week		11.19	54.7	54.87

Data values reflect average related service minutes per pupil/per week

**Placed on Corrective Action (CAP)*

***Charter reduced a grade during 2018-2019*

NA-Charter has not undergone targeted monitoring

The following observations are based on the data presented above regarding NOLA/OPSB charter schools reporting less than an average of 20 minutes provisions per pupil/per week during the 2016-2017 school term:

- The rate of related service provisions across NOLA/OPSB targeted charter schools increased significantly from a cumulative average of 11.19 minutes per pupil/per week to an average of 54.87 minutes per pupil/per week from 2016-2017 to 2018-2019.
- A total of 13 of 14 (93%) targeted NOLA/OPSB charter schools reported an increase in related service provisions from 2016-2017 to 2018-2019.
- Ten of sixteen (63%) identified NOLA/OPSB charter schools have participated in on-site targeted monitoring (Related Services) monitoring under the CJ from fall 2016-2017 to fall 2018-2019.
- Six of ten (60%) targeted NOLA/OPSB charter schools participating in on-site Related Services monitoring were placed on Corrective Action Plans (CAPs) to address systemic noncompliance from 2016-2017 to 2019-2020.

Table 7. Trend analysis for related service provisions in NOLA/OPSB charter schools from 2014-2015 to 2018-2019.

School Term	Total Minutes of Related Services Provided Weekly Across all NOLA Charter School Sites	Total Hours of Related Services Provided Weekly Across all NOLA Charter School Sites	Average Number of Minutes of Related Services Provided Weekly Per Pupil*
2014-2015	302,605	5043	57

2015-2016	332,813	5546	58
2016-2017	335,021	5584	59
2017-2018	386,405	6440	65
2018-2019	434,461	7241	71
Five-Year Annual Average	358,261	5971	62

**Averages are based on total number of weekly minutes of documented related service provisions divided by the October 1 IDEA enrollment counts annually.*

***Data derived from LDOE databases Entitled “Related Service Minutes per Week per Student Provided to Eligible Students Under IDEA: OPSB and Charter Schools of New Orleans” for the 2014-2015 to 2018-2019 school terms.*

The following observations are based on the data presented in the Table above:

- An average of 358,261 total minutes of weekly related service provisions (range= 302,605 to 434,462 minutes) were reported across for NOLA/OPSB charter schools from 2014-2015 to 2018-2019.
- In relation, an average of 5971 total hours of weekly related service provisions (range= 5,043 to 5,971 hours) were reported across for NOLA/OPSB charter schools from 2014-2015 to 2018-2019.
- An average of 62 minutes per pupil/per week of related service provisions (range: 57 to 71 minutes) were reported across NOLA/OPSB charter schools from 2014-2015 to 2018-2019.
- An average 14-minute increase in the average per pupil/per week related service minutes provided across NOLA/OPSB charter schools was observed from 2014-2015 to 2018-2019. This represents an approximate 25% increase in the average number of related services minutes reported per pupil/per week since 2014-2015.

When interpreting the data summarized above, it is important to first consider the fact there is no national or state standard that reflects a “typical” or “appropriate” average number of related service minutes provided per pupil/per week. Second, a determination for the need of related service provisions under the IDEA to ensure FAPE is made based on the unique needs of students with disabilities and will vary across school sites, inherently affecting related service

provision rates (i.e. average minutes per pupil/per week) across school buildings. Third, the method outlined in the CJ used to calculate the average per pupil/per week related service minutes provided may be likely confounded due to the fact that related service minutes are averaged across all students with disabilities. When considering the majority of students with disabilities generally do not generally require related services to ensure FAPE, the average per pupil/per week related service minutes across NOLA/OPSB charter schools could likely be skewed based on the variability in total IDEA enrollment and/or the unique enrollment of students with disabilities across charter school sites who are more likely to require related service provisions (i.e. low incidence disabilities). Fourth, NOLA/OPSB charter schools reporting a low average number of per pupil/per week related service minutes may be the result a large percentage of IDEA student enrollment across unique charter school sites (e.g., selective admission charters, language emergence) that may typically not require any measure of related service provisions to ensure the provision of FAPE. A final plausible explanation, specifically with regard to middle/high schools, is related to the fact that many students may receive related services in elementary school (e.g., speech/language, counseling) and may not require such services when entering middle/high school, thus affecting the average related service minutes per pupil/per week.

In sum, our analysis of related service provisions generally revealed an increasing trend for the average number of related services provided per pupil/per week from 57 minutes (2014-2015) to 71 minutes (2018-2019) from 2014-2015 to 2018-2019.

Question #2.

Please note that we made these observations based on a cursory review of the data. We have not conducted an in-depth review across databases. We believe it would be valuable if you analyzed the databases. Some of the specific questions that arise under this broader inquiry include:

- What trends does the data show in each monitoring area across the years? Is there stability, upward movement, downward movement? Are there large shifts in reported data between years? If so, what is the significance?

IMs Response:

Our review of the LDOE school selection databases revealed generally acceptable and stable and/or increasing trend for average IDEA enrollment, increasing trend in the average per pupil/per week minutes of related service provisions, and stable or decreasing trends for prevalence for students experiencing greater than ten days suspension/expulsion and enrollment stability.

- What does the range of data in each monitoring area suggest about the availability of services across schools (i.e. disparities in SWD population, child find rates, student stability rates, related services rates)?

IMs Response:

In our view, the data metrics used for selecting schools for targeted monitoring are not valid or reliable predictors for determining the availability of services across NOLA/OPSB charter schools. However, a review of all NOLA/OPSB Special Education Program Descriptions indicates that appropriate services are available and/or a plan exists for securing additional services, if needed. Further, for charter school sites participating in on-site targeted monitoring under the CJ, the IMs have observed a wide-range of available services (i.e. behavioral/emotional supports, related services, academic supports) across all charter schools visited.

- In what monitoring areas does the reported data suggest deficiencies in SPED services? How low does a rate of new student identification have to be to indicate that child find obligations are not being fulfilled? How low does the average related services minutes offered need to be to indicate that a school is not offering related services appropriately? How low does the enrollment percentage of student with disabilities need to be before we question whether a school is just not serving these students?

IMs Response:

As noted previously, the data used for school selection are metrics agreed upon by all parties as a data-based method for identifying schools for targeted monitoring and cannot be used to reliably predict possible deficiencies in the delivery of special education services. Secondly, as noted previously, there is no national standard that specifies an “average” or “typical” new identification rate or provisions of related service minutes. However, the average annual IDEA enrollment across all NOLA/OPSB charter schools has increase annually since 2019-2020. Also, five of six charter schools previously IDEA enrollment rates under 5% have reported a marked increase in IDEA enrollment since 2016-2017. Third, in terms of related service provision rates, as discussed previously, related service provisions are prescribed on a case-by-case basis based on individual student needs. As such, since charter schools serve diverse population of students with disabilities, the related services afforded to students with disabilities will vary across charter schools. Third, as discussed previously, the enrollment rates of students with disabilities is confounded by dependence on numerous factors and cannot be used as a reliable predictor of whether or not a school site is fulfilling its child find obligations under the IDEA.

- What does the enrollment of students with disabilities look like across schools? Are there schools with low enrollment percentages of students with disabilities? Are there schools with high levels of enrollment? Do schools in these groups share any characteristics?

IMs Response:

To address this question, the IMs collected IDEA enrollment data for the 2018-2019 school year across all NOLA/OPSB Charter schools. These data are presented in the Table below:

Table 8. Percentage of IDEA Enrollment NOLA/OPSB Charter Schools (2018-2019)

Percentage of IDEA Enrollment	Number of Charter Schools and Range of IDEA Enrollment	Percentage of Total Charter Schools
8.1% or Less (Greater than one standard deviation below the mean)	7 (Range = 0.8% to 6.6%)	9%
8.2% to 18.8% (Within one standard deviation below to one standard deviation above the mean)	62 (8.3% to 18.3%)	81%
18.9% and above (Greater than one standard deviation above the mean)	8 (19% to 38%)	10%

Mean IDEA Enrollment: 13.5% - Standard Deviation: 5.3%

The following observations are based on the data presented in Table 8 above:

- A total of seven NOLA/OPSB charter schools (9% of total charters) reported IDEA enrollment rates (range = 0.8% to 6.6%) that fall greater than one standard deviation below the mean IDEA enrollment rate of 13.5%. Four of seven (57%) charters falling into this category have are either selective admission or are language immersion charters.
- A total of 62 NOLA/OPSB charter schools (81% of total charters) reported IDEA enrollment rates (range = 8.3% to 18.3%) that fall less than one standard deviation above or below the mean IDEA enrollment rate of 13.5%

- A total of eight NOLA/OPSB charter schools (10% of total charters) reported IDEA enrollment rates (range = 19% to 38%) that fall greater than one standard deviation above the mean IDEA enrollment rate of 13.5%. Two of eight charters falling into this category (25%) are alternative school sites.

As noted above, a relatively large percentage (57%) of NOLA/OPSB charter schools reporting IDEA enrollment greater than one standard deviation below the mean of total IDEA enrollment are selective admission or language immersion charters. These sites generally attract students with a high aptitude for academics and/or for acquiring a foreign language. As such, it may be likely that these sites receive a relatively low number of applications from students with disabilities. Secondly, although students with disabilities may apply for admission to these sites and receive accommodations during the admission/assessment process, a student with a disability may not meet the approved requirements for admission. No other characteristics were observed among charter schools falling in this category.

In relation to NOLA/OPSB charter schools reporting IDEA enrollment rates falling greater than one standard deviation above the mean of 13.5%, two of eight charter sites (25%) falling in this category are alternative school sites with IDEA enrollment rates of 19.3% and 24.3%. One plausible explanation for these unusually high IDEA counts may be related to the fact that these two alternative sites (NET Charter and NET 2 Charter) serve students from across all NOLA/OPSB charter sites, including students with disabilities who were placed as the result of an expulsion, students who previously dropped out of school and returned to complete their course of study and/or students with other individual circumstances. No other characteristics were observed among charter schools falling in this category.

- What is the relationship between the enrollment of students with disabilities and school performance scores? What is the average percentage of students with disabilities enrolled in A-rated schools? B-rated schools? C-rated schools? D-rated schools? F-rated schools?

IMs Response:

Table 9. Summary of School Performance Ratings and median IDEA enrollment across NOLA/OPSB Charter Schools (2018-2019)

School Performance Ranking	Number/Percentage of Combined Charter Schools in Category	Median IDEA Enrollment*
A	6 (8%)	7.20%

B	11 (15%)	11.6%
C	32 (44%)	13.05%
D	16 (22%)	13.45%
F	8 (11%)	10.75%

NOTE: Includes only charter schools receiving an annual performance rating

**Median rankings were used to guard against skewing as the result of extreme high or low IDEA enrollment rates.*

Standard Deviation: 2.23

The following observations are based on the data presented in Table 9 above:

- The median percentage of IDEA enrollment is generally consistent (range = 10.75% to 13.45%) across all NOLA/OPSB charter schools receiving B, C, D and F school ratings in 2018-2019. All median IDEA enrollments across charter schools receiving B, C, D, and F school ratings are within one standard deviation (SD = 2.23).
- The median percentage of IDEA enrollment for NOLA/OPSB charter schools receiving an A performance rating of 7.2% (range = 0.80% to 10%) is approximately 1.97 standard deviations below the median enrollment for charter schools receiving a B performance rating in 2018-2019.
- The median percentage of IDEA enrollment for NOLA/OPSB charter schools receiving an A performance rating of 7.2% (range = 0.80% to 10%) is 2.62 and 2.80 standard deviations below the median enrollment for charter schools receiving C and D ratings, respectively.
- The median percentage of IDEA enrollment for NOLA/OPSB charter schools receiving an A performance rating of 7.2% (range = 0.80% to 10%) is approximately 1.50 standard deviations the median enrollment for charter schools receiving an F rating.

In general, the median IDEA student enrollments are relatively equal in their distribution across NOLA/OPSB charters receiving B to F school performance ratings. However, the median IDEA

enrollment across charter school sites receiving an A rating is greater than one standard deviation (range = 1.50 to 2.80) below the median IDEA enrollment across a charter school sites receiving B to F school performance ratings. Again, as previously discussed, this disparity can likely be explained by the fact that three of the six NOLA/OPSB charters achieving an A performance rating are selective admission charters. Again, based on their admissions process, these sites may likely attract a homogenous group of students with high academic/language aptitudes and may receive limited applications from students with disabilities. Although any student with a disability may apply for admission to these sites and receive accommodations in the application/assessment process, many of these students may not meet the eligibility requirements for admission. As such, these sites traditionally have a relatively low IDEA enrollment when compared to other NOLA/OPSB charters. Otherwise, there appears to be no meaningful relationship between school performance ratings and IDEA enrollment.

- What is the graduation rate of students with disabilities? How does it compare with non-disabled students? The attached Equity Report indicates that in 2016, students with disabilities had the lowest graduation rate of all subgroups in the district at 47.1% (see page 10 of the Equity Report).

IMs Response:

To evaluate this question, the IMs collected graduation rates for NOLA/OPSB charter sites from 2016-2017 to 2018-2019.

Table 10. NOLA/OPSB Graduation Rates From 2016-2017 to 2018-2019.

School Term	Percentage of All Students Graduating from NOLA/OPSB Charters	Percentage of Students with Disabilities Graduating from NOLA/OPSB Charters	Graduation Gap
2016-2017	72.1%	47.1%	25%
2017-2018	72.9%	55.3%	17.6%
2018-2019	77.8%	65.8%	12%

Source: Louisiana Department of Education

NOTE: Graduation requirements for students with disabilities vary across states. As such, no national comparisons were attempted.

The following observations are based on the data presented in Table 10 above:

- Overall graduation rates among all students have increased 5.7% from 2016-2017 (72.1%) to 2018-2019 (77.8%).
- Graduation rates among students with disabilities has increased 40% from 2016-2017 (47.1%) to 2018-2019 (65.8%).
- The graduation gap between all students and students with disabilities has decreased 52% from 2016-2017 (25% gap) to 2018-2019 (12% gap)

To further assess the graduation rates of students with disabilities, the IMs gathered additional data to allow for a comparison with the average graduation rates across Louisiana public schools from 2016-2017 to 2018-2019. These data are presented in the Table below:

Table 11. Comparison of NOLA/OPSB and Louisiana average graduation rates for students with disabilities- 2016-2017 to 2018-2019.

School Term	Percentage of Students with Disabilities Graduating from NOLA/OPSB Charters	Statewide Average Percentage of Students with Disabilities Graduating from Louisiana Public Schools	Difference
2016-2017	47.1%	47%	0.1%
2017-2018	55.3%	52%	3.3%
2018-2019	65.8%	59%	6.8%

Source: Louisiana Department of Education

<https://www.advocacyinstitute.org/blog/?p=871>

The following observations are based on the data presented in Table 11 above:

- NOLA/OPSB graduation rates among students with disabilities has increased 40% from 2016-2017 (47.1%) to 2018-2019 (65.8%).

- The average statewide graduation rates among all students enrolled in Louisiana public schools has increased 25.5% from 2016-2017 (47%) to 2018-2019 (59%).
- Graduation rates among NOLA/OPSB students exceed the average Louisiana graduation rates among all students with disabilities by 0.1% (2016-2017), 3.3% (2017-2018) and 6.8% (2018-2019).

In sum, consistent with national trends, graduation rates among NOLA/OPSB and students enrolled in all Louisiana public schools continue to fall below the average graduation rates among their non-disabled peers. However, as noted previously, this graduation gap for students with disabilities graduating from NOLA/OPSB charter schools has decreased significantly from 2016-2017 (25% gap) to 2018-2019 (12% gap). In relation, when compared to the statewide average for students with disabilities across all Louisiana public schools, the graduation rates for NOLA/OPSB students with disabilities has exceeded the state average by 6.8% since 2016-2017.

- What is the suspension rate for students with disabilities? The attached Equity Report indicates that based on available data, the suspension rate of student with disabilities is the highest of all student subgroups at 15% and it is twice the rate of students without disabilities (see page 30 of the Equity Report).

IM Response:

As an initial comment, the “Equity Report” referenced previously reported suspension prevalence rates for students with disabilities (i.e. 15% of IDEA enrollment). Although this may likely be consistent with the unfortunate national trend of disproportionality among students with disabilities, the rate reported in the “Equity Report” represents the annual prevalence of a particular student group (e.g., African-American students, Students with Disabilities) being suspended/expelled at least one time during a school year. However, the discipline outcome metric (i.e. school selection criterion) outlined in the CJ is based on the prevalence rate of students with disabilities who have experienced a change in placement (i.e. suspended greater than ten (10) days and/or expelled annually).

Presented below is a summary of discipline outcome data indicating the prevalence rates for IDEA students experiencing greater than ten (10) days of cumulative suspension or expulsion annually:

Table 12. Suspension/Expulsion prevalence rates for students with disabilities enrolled in NOLA/OPSB charter schools (2017-2018).

Groups	Total IDEA October 1 (2017) Public School Enrollment	Total Number of Students Experiencing Greater than Ten (10) Cumulative Days of Suspension or Expulsion	Average Prevalence Rate (All LEAs/Buildings)
All Louisiana Public Schools	76,345	1, 653	2.2 % of IDEA Enrollment
OPSB/NOLA (K-12) Charter Schools	5917	45	0.76% of IDEA Enrollment

Sources:

US Department of Education

IDEA Section 618 Data Products: State Level Data Files

Discipline 2017-18

Child Count 2017-18

<https://www2.ed.gov/programs/osepidea/618-data/state-level-data-files/index.html>

Based on a review of the data presented above, the average prevalence rates reported for students enrolled in NOLA/OPSB charter schools (0.76% of IDEA enrollment) fell well below the statewide prevalence rate (2.2% of IDEA enrollment) for students with disabilities experiencing greater than ten (10) cumulative days of suspension or expulsion during the 2017-2018 school term.

In relation, the data presented in the Table below were gathered to further assess the prevalence of suspension/expulsion disciplinary outcomes across all NOLA/OPSB Charter Schools from 2014-2015 to 2017-2018 school terms:

Table 13. Trend analysis for suspension/expulsion prevalence across all NOLA/OPSB charter schools.

School Year	Total Number of Students Suspended/Expelled Greater than 10 Days	Number/Percentage of Charter Schools Reporting One or Greater Students Suspended/Expelled	Average Number of Students Suspended/Expelled Greater than 10 Days for Charter Schools Reporting One or	Percentage of Total IDEA Enrollment Suspended/Expelled Greater than 10 Days*
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		Greater than 10 Days*	Greater Students Suspended/Expelled Greater than 10 Days	
2014-2015	46	22 (24%)	2.09	0.70%
2015-2016	44	25 (31%)	1.76	0.69%
2016-2017	55	27 (32%)	2.0	0.82%
2017-2018	45	26 (29%)	1.8	0.63%
2018-2019	31	13 (15%)	2.4	0.42%
Five-Year Annual Average	44	23 (27%)	2.0	0.65%

NOTE: Includes data from all NOLA Charter Schools, including Alternative School Sites.

****Cumulative** annual enrollment data derived from LDOE databases entitled “Students with Disabilities: Suspension and Expulsion” for the 2014-2015 to 2018-2019 school terms.*

The following observations are based on the data presented above for suspension outcomes across **all** NOLA/OPSB Charter schools combined from the 2014-2015 to 2018-2019 school terms:

- An average of 44 (range: 31-55) students with disabilities experienced ten (10) or greater cumulative days of suspension or expulsion annually from 2014-2015 to 2018-2019.
- An average of 23 (range: 13-27) NOLA/OPSB Charter schools reported one or more student experiencing ten (10) or greater cumulative days of suspension or expulsion annually from 2014-2015 to 2018-2019. In relation, an average of 27% (range: 15%-32%) of all NOLA/OPSB Charter schools reported one or more student experiencing ten (10) or greater cumulative days of suspension or expulsion annually from 2014-2015 to 2018-2019.

- An average of two (2) students with disabilities experienced a greater than 10 day suspension/expulsion event annually across all NOLA/OPSB schools reporting one or more student who experienced ten (10) or greater cumulative days of suspension or expulsion annually from 2014-2015 to 2018-2019.
- An average of 0.65% (range: 0.42% to 0.82%) of cumulative IDEA enrollment (range: 0.42%-0.82%) across all NOLA/OPSB charter schools experienced ten (10) or greater cumulative days of suspension or expulsion annually from 2014-2015 to 2018-2019.
- Prevalence trends among students with disabilities experiencing ten (10) or greater cumulative days of suspension or expulsion annually remained stable during the 2014-2015 to 2015-2016 school terms. However, a decreasing trend from 0.82% of cumulative IDEA enrollment (27 students) to 0.42% of cumulative IDEA enrollment (13 students) experiencing ten (10) or greater cumulative days of suspension or expulsion annually is observed from the 2016-2017 to the 2018-2019 school term. This reflects a 52% reduction in the number of students with disabilities experiencing the abovementioned discipline outcomes.

Question #2. Data Quality

In addition to these questions related to data interpretation, we also have two separate concerns about data quality:

- In preparing the attached spreadsheet on student enrollment, we discovered that some schools/LEAs were not included in the database that was used to select schools for child find monitoring for the fall 2018 monitoring cycle. Specifically, the database entitled, “SPP Indicator 11* Data: Summary by LEA & Site - OPSB & Charter Schools in Orleans Parish, School Year: 7/1/2017 to 6/30/2018”, did not contain the following schools: Benjamin Franklin High School, McDonogh 42 Charter School, Einstein Charter School at Village De L'Est, Joseph S. Clark Preparatory High School, and KIPP Booker T. Washington. These schools appeared on other databases used to select schools for the fall 2018 monitoring cycle. We are not aware of any reason that they should have been left off the child find database. We have not reviewed all of the databases to see if similar errors have been made with other databases. This leads us to ask:

Have you reviewed the databases for this error of not including all schools in a database?

Have you reviewed the databases for similar errors across the years?

IMs Response:

When the LDOE data department initially ran the annual report to identify new IDEA identification rates for the Fall 2018 monitoring cycle (i.e. “SPP Indicator 11* data report) a software filter was inadvertently activated that resulted in any charter school that failed to initiate any initial IDEA evaluations during the previous school term being automatically excluded from the Child Find school selection database. However, charter schools that reported initiating, but not completing, one or greater initial IDEA evaluation during the time frame that the report was run would have not been a part of that filter and did show up on the report. The referenced report is used for other purposes around monitoring work to identify the number of schools who completed evaluations within the required timelines.

Once recognized, LDOE monitoring staff processed an updated SPP Indicator 11* data report to include all NOLA/OPSB Charter schools inclusive of all relevant information required to identify schools for monitoring. The IMs and LDOE monitoring staff reviewed the updated new IDEA identification rates for all NOLA/OPSB charter schools and collectively selected schools to participate in targeted monitoring during the fall, 2018 monitoring cycle. Please know the LDOE data team has modified the child find (i.e. new IDEA identification rates) software filter structure to include all NOLA/OPSB schools new IDEA identification rates, including charters that fail to initiate or complete zero IDEA evaluations annually.

The IMs have reviewed all other school databases and have verified that all NOLA/OPSB charter schools have been included in the various analyses conducted for selecting schools for targeted monitoring. The IMs will continue to review all LDOE school selection data bases to ensure that all NOLA/OPSB charters are appropriately included in the selection process. The IMs will also continue to work collectively with LDOE monitoring staff to ensure that all charter schools targeted for monitoring are selected appropriately.

Question #3. FAPE in New Orleans

We understand the concerns you raised at the end of your report about the validity of the school selection rates as a method for selecting schools. But, to be clear, we’re not asking for you to examine the rates as method to differentiate between schools for the risk of noncompliance. We’re asking for you to examine the rates and the underlying data to tell us how special education services are being delivered.

The questions we’re raising go directly to the heart of the case we brought before the Court. The state is obligated to design and oversee a school system in New Orleans that ensures

students with disabilities receive a FAPE. We need you to look at the data that has been produced as under the Consent Judgment to see if this actually the case. Answers to these questions will ultimately be considered by the Court when it decides whether to release the defendants.

IM Response:

As discussed numerous times previously, the data reviewed for our analysis is not designed or intended to reliably predict the quality of services and/or IDEA compliance. Perhaps the most reliable assessment available under the CJ to evaluate the trends of compliance outcomes is the annual compliance rates for individual IDEA mandates assessed by the on-site targeted monitoring protocols related to Child Find, Related Services, Discipline and Enrollment.

The IMs are currently in the process of compiling and summarizing the outcomes for the Spring (2018-2019), fall 2019-2020 (Supplemental Charters), December (2019-2020) and spring 2019-2020 (follow up) targeted monitoring visits. Once completed, to gain additional information regarding FAPE, the IMs will summarize the annual IDEA compliance trends across all NOLA/OPSB charter schools that have participated in targeted monitoring from Spring 2016 to Spring 2020 in the areas of Child Find, Related Service and Discipline provisions for students with disabilities.