

**Office of the Independent Monitors**  
**P.B., et al., v. John White, et al. (Civil Case No. 2:10-cv-04049)**  
**Bi-Annual Status Report**  
**November 7, 2016**

Pursuant to Section V (8) of the Consent Judgment (CJ), the Independent Monitors shall file with the Court and provide the Parties with reports describing the steps taken by the State Defendants and the Defendant-Intervenor to implement the Agreement and evaluate the extent to which the State Defendants and the Defendant-Intervenor have complied with each substantive provision of the Agreement. Pursuant to Section V (8)(a), the Monitor shall issue an initial report every 120 days after the implementation of the Agreement, and then every 180 days thereafter. The reports shall be provided to the Parties in draft form for comment at least 14 days prior to their issuance. The Monitor shall consider the Parties' responses and make appropriate changes, if any, before issuing the report. These reports shall be written with due regard for the privacy interests of the students. Pursuant to Section V (8)(b) of the CJ, the Independent Monitors shall evaluate the state of compliance for each relevant provision of the Agreement using the following standards: (1) Substantial Compliance and (2) Noncompliance. In order to assess compliance, the Monitor shall review a sufficient number of pertinent documents to accurately assess compliance and interview any necessary staff or personnel. The Monitor shall be responsible for independently verifying representations from the State Defendants or Defendant-Intervenor regarding progress toward compliance, and examining supporting documentation. Each Monitor report shall describe the steps taken by the Monitor to assess compliance, including documents reviewed and individuals interviewed, and the factual basis for each of the Monitor's findings. Pursuant to Section V (9) of the CJ, reports issued by the Monitor shall not be admissible against the State Defendants and the Defendant-Intervenor

in any proceeding other than a proceeding related to the enforcement of this Agreement initiated and handled exclusively by the State Defendants, the Defendant-Intervenor, or the Plaintiff's counsel.

The IM bi-annual status report addresses several activities as required by the CJ. First, the LDOE and/or OPSB have developed several model documents designed to meet specific requirements of the CJ. These model documents include the Child Find Written Guidance Model Template, Special Education Program Description Model Template, Procedural Safeguards Checklist – Disciplinary Removal of Students with Disabilities Model Template, Model Discipline Policy for Students with Disabilities, Undocumented Suspension Guidance Model Template, Parent FAQs: Special Education in Charter Schools Model Template, Enrollment Discrimination Policy Guidance Model Template, Disability Discrimination Complaint Procedures Model Template.

As previously stated in the IM status report to the Court dated June 3, 2016, the parties have approved the content contained within each of these documents. In relation, these model documents were presented to the Court in Appendix A attached to the IM Status Report dated June 3, 2016. The CJ requires that charter LEAs provide evidence that they have reviewed or, when relevant, disseminated this information each school year. As such, the IMs provide an update regarding the status of the model documents, additional documents (e.g., Student Codes of Conduct, LEA Handbooks, Model PBIS documents, etc.), and related activities for the 2016- 2017 school year in each relevant section of this bi-annual status report. In addition, related documents (e.g., revised Child Find Written Guidance Model Template for RSD and OPSB LEAs for the 2016-2017 school year, Office of Civil Rights Complaint and Investigation Document for the 16-17 school year, school

links to Special Education Program Descriptions for RSD and OPSB LEAs) are located in Appendix A for review by the parties.

Second, the CJ requires that the LDOE engage in monitoring activities for LEAs selected for targeted monitoring annually. As such, the IMs report the activities and decisions made by the LDOE as related to the required targeted monitoring activities in each relevant section of the bi-annual status report. However, an overview of the monitoring procedures used by the LDOE is provided here to assist readers in understanding the process that was used to complete targeted monitoring as required by the CJ. Additional information is also included in each relevant section of the bi-annual status report. School selection for each area of targeted monitoring was completed by LDOE legal counsel, LDOE monitoring personnel and LDOE technology/data personnel using calculation rates outlined in Addendum A of the CJ (p. 1 for Child Find, p. 3 for Related Services, p. 4 for Discipline, p. 6 for Enrollment Stability) on November 30, 2015. Each LEA selected for targeted monitoring from the 2014-2015 school year was sent a notification email from LDOE Director of State-wide Monitoring from January 18-21, 2016. This notification provided an overview of the requirements for targeted monitoring pursuant to the CJ, the specific areas in which the charter was being monitored, methods of monitoring (e.g., student file selection, staff interviews, desk file reviews), LDOE contact personnel, the specific date of phone interviews with staff, call in phone numbers and instructions, and copies of the staff interview questions and student file review protocols. Copies of these monitoring notification emails are located in Appendix B for review. Planning phone calls were conducted by LDOE monitoring personnel from January 25-29, 2016, with each LEA in order to assist the school personnel in understanding the CJ requirements for targeted monitoring, provide guidance in

submission of required documents in a secure format as outlined by specific checklists developed by the LDOE for each area (e.g., Child Find Documentation Checklist, Discipline Student Documentation Checklist, Related Services and Enrollment Stability Monitoring Checklist), and to answer any questions or address any concerns. These checklists are provided in Appendix B for review. LDOE monitoring personnel submitted the staff interview schedule to the IMs on February 4, 2016. LDOE monitoring personnel and IMs conducted staff interviews via phone using a Side-by-Side Interview Tool developed by the LDOE across two weeks from February 16-26, 2016. This interview tool included three components (e.g., specific protocol items from each area included in Addendum A of the CJ; a listing of required components used to address the protocol item; comments provided by the school personnel). A list of interviewees and copies of the completed interview tool for each LEA are located in Appendix B for review. The IMs did not participate in staff interviews on 2/18/16 due to attending a meeting at the LDOE with all parties. LDOE monitoring personnel conducted desk file audits for each of the targeted LEAs from March 22, 2016 – May 5, 2016 using protocol items from each area of Addendum A to the CJ. The IMs reviewed the documents provided by the LEAs to complete the desk file reviews and the protocols completed by the LDOE monitoring personnel and completed independent reviews. Outcomes from the LDOE desk file audits are located in Appendix B. With regard to compliance determinations issued based on findings of targeted monitoring, the LDOE reported to the IMs that noncompliance for an individual student case was judged based on whether a majority of specific IDEA requirements being assessed were found to be inadequate (e.g., 3 of 5 goals observed to be unmeasurable). In relation, systemic noncompliance was issued when less than 80% of the student files reviewed revealed noncompliance for any specific IDEA standard assessed. The issue of determining

individual and systemic compliance or noncompliance was discussed further during an on-site meeting with the IMs and the parties on September 22, 2016 where it was agreed upon by the IMs and the parties that compliance determinations for individual students shall be consistent with the 100% compliance standard outlined in the IDEA. That is, during all future targeted monitoring activities, any single finding of noncompliance for any specific IDEA standard being assessed for an individual student in the areas of Child Find, Related Services, Discipline and Enrollment Stability will be judged to reflect noncompliance and will require immediate individual corrective remedy (i.e. Individual Corrective Action Plan). Similarly, in terms of systemic concerns, it was agreed upon by all parties that systemic noncompliance would be determined for any IDEA standard assessed when less than 80% of the student sample reviewed fails to meet the 100% individual student compliance standard for any IDEA requirement evaluated and would result in mandatory systemic remedy (i.e. Corrective Action Plan) for the LEA.

In relation, specific outcomes are discussed in each relevant section of the bi-annual stats report. LDOE monitoring personnel submitted cover letters, complete monitoring reports with recommendations for improvement, specific findings of noncompliance in relation to IDEA violations, and Corrective Action Plan or Recommendation Plan templates to each LEA and the IMs on June 8, 2016. LDOE monitoring personnel provided technical assistance to school personnel from targeted LEAs regarding the monitoring reports, initial development of

Corrective Action Plans (CAPs) or Recommendation Plans, and to address questions and/or concerns from June 23, 2016 through July 20, 2016. The IMs and LDOE monitoring personnel discussed edits to CAPs or Recommendation Plans on July 26, 2016. LDOE

monitoring personnel provided additional technical assistance to targeted LEAs regarding final development of CAPs or Recommendation Plans based on receipt of feedback from the IMs on August 3-4, 2016. The final CAPs or Recommendation Plans for each LEA are located in Appendix B. In relation, any rubrics submitted to the LEAs by LDOE monitoring personnel to assist them in addressing the requirements of the CAP or Recommendation Plan are also located in Appendix B for review. Follow-up on-site monitoring visits will be conducted by LDOE monitoring personnel and IMs for each LEA using the CJ protocols. The follow-up on-site visits for schools selected for targeted monitoring are tentatively scheduled to occur during February 2017. Results of the follow-up on-site monitoring visits will be submitted in subsequent IM bi-annual status reports.

The IM bi-annual status report is organized by each Substantive Provision section of the CJ and each section begins with the language taken directly from the Agreement identified in italics. Where appropriate, language from Addendum A (Monitoring Protocols) to the CJ is also incorporated into the status report. The IMs then provide a report of current findings based on a review of materials submitted by the Louisiana Department of Education (LDOE), Recovery School District (RSD), Orleans Parish School Board (OPSB), and each charter school association or charter school with particular focus on information submitted to the IMs from January 15, 2016 through October 14, 2016. A status of compliance section and a recommendations section follows each report of current findings in the status report.

**Section IV(A) Child Find (pp. 6-8 of the CJ)**

1. *The State Defendants, after conferring with the Defendant-Intervener, shall develop a schedule identifying the assignment of Child Find responsibilities within New Orleans (p. 6*

*of the CJ).*

*a. The schedule shall allocate responsibility for identifying, locating, and evaluating individuals, aged 3 - 21, suspected of having a disability, including individuals who are: not currently enrolled in school; enrolled in a non-public school in New Orleans; detained in a juvenile detention center or adult correctional facility in New Orleans; and/or housed in a public or private hospital, institution, or other health care facility in New Orleans (p. 6 of the CJ).*

*b. The schedule shall include procedures for ensuring that an evaluation initiated at one New Orleans LEA is completed within applicable timelines, even where a child moves to another New Orleans LEA (p. 7 of the CJ).*

*c. Within thirty (30) days of the assignment of an Independent Monitor, the State Defendants shall submit the schedule to the Independent Monitor for review and approval. The Independent Monitor will provide comments on the schedule to the Parties within twenty-one (21) days. The Parties may provide comments on the Independent Monitor's comments within seven (7) days. The Independent Monitor will consider the Parties' comments, mediate any disputes, and approve documents with any changes within fifteen (15) days (p. 7 of the CJ).*

### **Current Findings**

As previously reported in the IM status report submitted to the Court on June 3, 2016, the LDOE was judged to be in **Substantial Compliance** with Section IV (A)(1) (a-c) of the CJ for the 2015-2016 school year based on a review of the template entitled, *PB v White - Child Find Written Guidance* and verification of the receipt of the document by the LEAs.

For the 2016-17 school year, Plaintiff's counsel submitted proposed changes to the *PB v White – Child Find Written Guidance* template to the LDOE and IMs on June 15, 2016 specifically to address concerns related to the failure to conduct comprehensive evaluations when a student is suspected of having a disability under IDEA, timely completion of initial evaluations, evaluations for transfer students and types of records that should be submitted to a receiving LEA when a student transfers within the RSD. The LDOE submitted the revised document to OPSB on July 19, 2016 for review and revision. The suggested revisions submitted by the Plaintiff's counsel on June 15, 2016 were accepted by LDOE and OPSB. In addition, OPSB added language regarding the creation of Type 3b charter schools returning to the jurisdiction of OPSB. Revised versions of the *PB v White – Child Find Written Guidance* template were submitted to the IMs by LDOE on August 4, 2016 and OPSB on August 12, 2016. Both versions of the revised *PB v White Child Find Written Guidance* template are located in Appendix A for review by the parties.

### **Status of Compliance**

As of August 9, 2016, the document has been disseminated to all RSD LEAs, and the school principals or school leaders have submitted signed attestations that they will adhere to the guidelines contained within the revised *PB v White – Child Find Written Guidance* template. Based on a review of the revised document and receipt of signed attestations from each LEA school principal or school leader, the LDOE is judged to be in

### **Substantial Compliance with**

Section IV (A) (1) (a-c) of the CJ for the 2016-2017 school year.



As of August 26, 2016, the document has been disseminated to all OPSB LEAs, and the school principals or school leaders have submitted signed attestations that they will adhere to the guidelines contained within the revised *PB v White – Child Find Written Guidance* template.

Based on a review of the revised document and receipt of signed attestations from each LEA school principal or school leader, the OPSB is judged to be in **Substantial Compliance** with Section IV (A) (1) (a-c) of the CJ for the 2016-2017 school year.

### **Recommendations**

The LDOE and OPSB shall continue to require each charter school to submit the revised *PB v White - Child Find Written Guidance* template by August 1<sup>st</sup> for the 2017-2018 school year and subsequent schools years for the duration of the CJ. The IMs will continue to verify that school principals or school leaders of each LEA have submitted signed attestations and adhere to the guidelines.

2. *The State Defendants shall require that the charter application and renewal processes for Type 2 and Type 5 charter schools in New Orleans require each organization seeking issuance or renewal of a charter to provide a description of the charter school staff and/or outside contractors who will provide pupil appraisal services, including a description of qualified pupil appraisal personnel designated to serve on each organization's School Building Level Committee (p. 7 of CJ).*

### **Current Findings**

As previously reported in the IM status report submitted to the Court on June 3, 2016, the LDOE was judged to be in **Substantial Compliance** with Section IV(A)(2) for the 2015-2016

school year as all LEAs provided descriptions, through the *Special Education Program Description* template, of the school's staff and/or outside contractors providing pupil appraisal services.

For the 2016-17 school year, the LDOE provided the IMs with an excel worksheet on August 4, 2016 which contained the website links to the *Special Education Program Description* template for each LEA under the jurisdiction of the Recovery School District New Orleans Charter Schools (55 total LEAs) and the Board of Elementary and Secondary Education (5 total LEAs) for the 2016-2017 school year. The LDOE informed the IMs that four LEAs (e.g., KIPP Renaissance, Pierre Capdau, Lake Area New Technology High School, Mary D. Coghill Accelerated) transitioned to OPSB jurisdiction for the 2016-2017 school year. The IMs verified that the final versions of the *Special Education Program Description* template, including the description of charter school staff and/or outside contractors who will provide pupil appraisal services, and a description of qualified pupil appraisal personnel for each LEA were placed on each school website on August 10, 2016. In relation, the IMs confirmed that links to each LEA template were located online at the LDOE website and that the LDOE link was located online at the enrollnola website. A table of website links is located in the Appendix A for review by the parties.

Dr. Wayne Stewart, OPSB counsel, provided a revised copy of the *Special Education Program Description* template for OPSB on June 30, 2016 and the Type 3b Charter School Association,

Friends of King, on July 13, 2016. A review of these documents by the IMs revealed that the descriptions of the school's staff and/or outside contractors providing pupil appraisal

services components of (Section D of the 2016-2017 school year version) the *Special Education Program Description* template was completed as required by Sections Section IV(A)(2) of the CJ. The IMs verified that the 2016-2017 school year version of the *Special Education Program Description* template for both OPSB and the Friends of King School District were located online on August 10, 2016. As of October 14, 2016, the IMs have reviewed each OPSB LEA website to evaluate the status of placement of the link to the OPSB program description. This review also included schools that transferred to the jurisdiction of the OPSB for the 2016-2017 school year (e.g., Mary Coghill, Lake Area New Technology, Pierre A Capdau, KIPP Renaissance). Based on this review, a total of 24 of 28 (86%) LEAs have successfully provided a link to the OPSB *Special Education Program template* on their respective websites. To date, only four (4) OPSB LEAs were not observed to have a link established from their individual school websites to the OPSB *Special Education Program Description*. These four (4) schools included Eleanor McMain Charter School (7-12), McDonogh #35 Middle School, McDonogh #35 High School, and Robert R. Moton Charter School (PK-7). Based on the IMs communication with OPSB officials, these school sites are currently in the process of constructing their respective school- based websites. Correspondence was received from OPSB counsel on October 14, 2016, indicating that McDonogh #35 Middle and High Schools and Eleanor McMain Charter School would be sending home physical copies of the template with students on that date; however, this action, while notable, does not meet the availability requirements achieved by other LEAs.

### **Status of Compliance**

Based on completion of the 2016-2017 version of the *Special Education Program Description* template by LEAs under the jurisdiction of RSD and placement of the completed

template on each LEA website, LDOE website, and link established from the enrollnola website, the LDOE is judged to be in **Substantial Compliance** with Section IV (A) (2) of the CJ for the 2016-2017 school year.

The 2016-2017 school year version of the *Special Education Program Description* template has also been completed by OPSB and the Friends of King School District and placed on the OPSB district website. The OPSB Executive Director of Exceptional Children's Services, submitted a letter to the IMs on August 8, 2016 reporting that the school leaders have been provided the link to the OPSB district website and have attested to complying with adding the link to the 2016- 2017 school year version of the OPSB *Special Education Program Description* template to their individual school websites. However, as noted previously, a review by the IMs on August 31, 2016; October 7, 2016, and October 14, 2016 revealed that a majority (i.e., 24 of 28) of the LEAs have successfully established the required link to the OPSB *Special Education Program Description* for the 2016-2017 school year. As noted previously, only four LEAs (i.e., Eleanor McMain Charter School, McDonogh #35 Middle School, McDonogh #35 High School, and Robert R. Moton Charter) are currently in noncompliance with this dissemination requirement of the CJ. However, given the vast majority of OPSB LEAs have complied with this dissemination provision of the CJ, a compliance determination in this regard will be reserved until the end of the fall 2016-2017 school year and reported in the IMs bi-annual status report. As such, to achieve a "substantial compliance" for this required CJ dissemination activity for the 2016-2017 school year, all LEAs under OPSB's jurisdiction shall have the link established to the OPSB *Special Education Program Description* by December 15, 2016.

## **Recommendations**

The LDOE and OPSB shall continue to require each charter school to submit a *Special Education Program Description* template by August 1<sup>st</sup> for the 2017-2018 school year and each subsequent year for the duration of the CJ. The IMs will continue to review all completed *Special Education Program Description* templates for existing charter schools, new charter schools, or charter schools scheduled for renewal during the 2017-2018 school year prior to the LDOE's recommendations to BESE at the intervals designated above to ensure that the template meets compliance with this section of the CJ. Further, the IMs will continue to verify the public availability of completed documents (i.e., placement on each LEA website, placement on the LDOE website, placement on the enrollnola website).

3. *The State Defendants shall annually calculate the rate at which each LEA in New Orleans identifies new students as eligible for services under the IDEA ("annual new identification rate"). Using this rate, the State Defendants shall annually select LEAs for targeted monitoring. As part of targeted monitoring, the State Defendants shall conduct file reviews of a random, representative sample of students who: have Section 504 Plans; are in the RTI process; are under consideration by a School Building Level Committee; failed two (2) or more academic subjects in the prior school year; or are subject to more than ten (10) days of disciplinary removal during the school year. LEA selection, student file selection, file reviews, staff interviews, and school site visits shall be conducted consistent with the processes detailed in Addendum A. If the State Defendants' targeted monitoring results in the identification of noncompliance, the State Defendants shall require each LEA with validated noncompliance to undertake corrective actions sufficient to remedy the noncompliance and to reasonably ensure that such noncompliance does not*

*reoccur, as detailed in Addendum A (p. 7 of CJ).*

*a. The annual new identification rate for each LEA shall be calculated by dividing the number of students each LEA identifies for initial eligibility under the IDEA between July 1 and June 30 by the total number of students enrolled in the LEA on October 1 (p. 7 of CJ).*

*b. b. The targeted monitoring activities described above and in Addendum A shall supplement, not supplant, the annual monitoring activities undertaken by LDOE pursuant to its general supervisory responsibilities under the IDEA. The monitoring of an LEA pursuant to the monitoring obligations identified in this Agreement shall not influence LDOE's selection of that LEA for monitoring pursuant to LDOE's general IDEA monitoring protocols (p. 7 of CJ).*

### **Overview of Status of Compliance for Monitoring Activities for the 2015-2016 School Year**

The IMs review of compliance with this section of the CJ consisted of evaluation of the three components of the LDOE's monitoring activities. Specifically, the components being assessed for compliance included: (1) Identification of the charter schools selected for monitoring (e.g., determination of the annual new identification rate for each LEA and evaluation of the LDOE calculations); (2) Completion of targeted monitoring activities by the LDOE as established by the CJ and Addendum to the CJ (e.g., completion of appropriate monitoring activities by the LDOE, appropriate selection of student files, appropriate completion of the monitoring protocols, and correct identification of systemic or individual compliance and/or noncompliance) and (3) Development of appropriate corrective actions "sufficient to remedy the noncompliance and to reasonably ensure that such noncompliance does not reoccur." (p. 7 of CJ). As previously reported in the IM status report submitted to

the Court on June 3, 2016, the LDOE was judged to be in **Substantial Compliance** with Section IV(A)(3)(a) of the CJ for the 2015-2016 school year based on a review of the documents submitted by LDOE and verification of the calculations in the excel spreadsheet by the IMs.

As previously reported in the IM Status Report submitted to the Court on June 3, 2016, Section IV(A)(3)(b) and Addendum A of the CJ and Section A(2)(a) the LDOE was judged to be in **Noncompliance** for the 2015-16 school year as the result of the targeted LEA's failure to submit the required random, representative sample of students. After reviewing the LDOE Monitoring Reports, IDEA Monitoring Results Summary, and the plans for corrective action for Joseph A. Craig Charter School, Lake Area New Technology Early College High School, and Sophie B. Wright Charter School, the LDOE is judged to be in **Substantial Compliance** with the corrective actions requirement under this section of the CJ for the 2015- 2016 school year. However, regardless of the LDOE's demonstration of compliance with conducting targeted monitoring activities in the area of Child Find, the fact that only students with Section 504 plans were selected for review significantly limited the IMs and LDOE monitor's ability to reliably assess required ongoing Child Find activities across targeted NOLA Type 2 and Type 5 Charter LEAs. As such, the LDOE shall be required to demonstrate two consecutive years of compliance with regard to targeted monitoring in the area of Child Find as required by the CJ. Additional information for each required component under this section of the CJ is reported below.

#### **Current Findings – Noncompliance Determinations and Corrective Actions for**

## **the 2015-2016 School Year**

### ***Identification of Schools Selected for Targeted Monitoring***

The IMs and Plaintiff's counsel received correspondence from the LDOE on January 20, 2016 providing a list of charter schools identified for targeted monitoring during the spring 2016 term and confirmation that each charter was sent a notification email listing the requirements for targeted monitoring pursuant to the CJ, the specific areas in which the charter was being monitored, methods of monitoring (e.g., student file selection, staff interviews, desk file reviews), LDOE contact personnel, the specific date of phone interviews with staff, call in phone numbers and instructions, and copies of the staff interview questions and student file review protocols during January 2016. The targeted monitoring notification email for each LEA is located in Appendix B for review by the parties. The LDOE also conducted planning calls with each identified charter during late January 2016 to assist them in preparing for the staff interviews, student file submission process in a secured format, and desk file review process. The IMs also received an excel file from the LDOE on April 26, 2016 that included a column listing all Type 2 and Type 5 charter schools. The "New Identification %" column used the formula specified in Addendum A of the CJ. A review of the spreadsheet and related materials from the LDOE by the IMs revealed that the following three charter schools were selected for targeted monitoring as required in this section of the CJ. The three schools identified for targeted monitoring during the spring 2016 semester in the area of Child Find included Joseph A. Craig Charter School, Lake Area New Tech Early College High School, and Sophie B. Wright Charter School.

### ***School Staff Interviews***



As mentioned in the previous IM report dated June 3, 2016, each LEA selected for targeted monitoring during the spring 2016 in the area of Child Find (e.g., Joseph A Craig Charter School, Lake Area New Technology Early College High School, Sophie B. Wright Charter School) was required to participate in a school staff conference call and submit materials for a desk review. The required pre-monitoring staff conference call was conducted with each LEA during the weeks of February 15-19, 2016 or February 22 -26, 2016 to obtain information from the school staff at each LEA regarding the practices and procedures as related to the area of Child Find. A standard bank of interview questions taken directly from the Addendum to the CJ was utilized by LDOE monitoring personnel (e.g., Director of State-wide Monitoring, Section Leader of IDEA Monitoring, Education Program Consultant Level 3) to probe responses in the identified areas of interest and responses were encouraged from all staff members in the conference call. A review of participants revealed that a school administrator, special education administrator, general education teacher, and special education teacher participated in the staff interview process for Joseph A. Craig Charter School. A review of participants revealed that the chief executive officer, a school administrator, and the special education administrator participated in the staff interview process for Lake Area New Technology Early College High School. A review of participants revealed that the charter director, assistant charter director, a school administrator, the special education administrator, a general education teacher, and an outside agency professional participated in the staff interview process for Sophie B. Wright Charter School. Specific information regarding the participants involved in the interview process and outcomes of staff interviews is located in Appendix B. The LDOE concluded that the “[r]esults of this interview process revealed no findings of non-compliance during the interview process. The responses provided by the school staff satisfactorily addressed

all interview questions” (p. 3 of the LDOE Monitoring Report dated June 8, 2016) for Lake Area New Technology School. The LDOE concluded that the “[r]esults of this interview process revealed concerns in the following areas: SBLC referral process, RTI process, implementation and selection of interventions, special education initial evaluation process, determination of eligibility for IDEA and 504, and timely completion of initial evaluations for student transfers” (p. 3 of the LDOE Monitoring Report dated June 3, 2016) for Sophie B. Wright. Finally, the LDOE concluded that the “[r]esults of this interview process revealed concerns regarding implementation of research-based academic interventions, the behavioral referral process and types of behavioral screeners/assessments administered for students with behavioral concerns” (p. 3 of the LDOE Monitoring Report dated June 3, 2016) for Joseph A. Craig. Additional information may be obtained from the monitoring reports attached for each LEA in Appendix B.

### ***Student Desk File Reviews***

For the desk reviews, a protocol, developed from the Addendum of the CJ, was used by the LDOE monitoring personnel to analyze and rate each student file from March 22, 2016 through May 5, 2016. Specifically, the Child Find Monitoring Protocol included 12 items which were taken directly from the Child Find Monitoring protocol in Addendum A of the CJ and rated as “Yes”, “No”, or “N/A”. In relation, a LDOE monitoring team member (e.g., Director of State- wide Monitoring, Section Leader of IDEA Monitoring, Education Program Consultant Level 3) was assigned to lead the special education monitoring activities which included a review of student files and other relevant documentation. Prior to the desk file review, each school was provided with a rubric explaining what the LDOE required from the school in order to evaluate compliance during the desk audit (e.g., LDOE Child Find

Documentation Checklist located in Appendix A). In relation, the results of the LDOE desk file reviews for each LEA are located in Appendix B for review by the parties. The IMs conducted independent desk reviews of the student files submitted by the LDOE using the Child Find Monitoring Protocol for each targeted LEA, and compared their evaluation of the files with LDOE monitors' assessments. The results of the desk file reviews are presented below.

As indicated in the IM Status Report submitted to the Court on June 3, 2016, the sample of 31 files from the three (3) LEAs (e.g., Joseph A. Craig, Lake Area New Technology, and Sophie B. Wright) consisted of only students with Section 504 plans. Furthermore, ten (10) of the 31 student files selected were classified as initial Section 504 evaluations and the remaining 21 student files were classified as Section 504 re-evaluations. The restriction of the Child Find sample to only Sections 504 students significantly diminished the number of applicable items on the Child Find Protocol that could be utilized during targeted Desk Reviews. Specifically, for the Section 504 files, Child Find protocol items #2, #4, #7, and #8 each pertain to various forms of "parent permission or parent notice" (i.e., obtaining consent for an initial evaluation, parent request for an initial evaluation, parent notice describing procedures, and/or obtaining parent consent within reasonable time limits). Further, Child Find protocol items #10 and #11 were considered as being "not applicable" as these items were relevant only to students for whom the IDEA eligibility process was completed (i.e., variety of assessment tools were utilized to make eligibility decisions, etc.), and the IDEA re-evaluation process (i.e., data reviewed to confirm continued eligibility).

The sample of initial Section 504 student files included seven (7) students from Sophie B.

Wright and three (3) students from Joseph A. Craig. No students from Lake Area New Technology were included in the comparison review as this LEA only submitted students who were being re-evaluated for Section 504 services. However, the LDOE monitoring staff did complete case file reviews for the purpose of making recommendations regarding corrective actions for individual students or potential systemic concerns.

When considering the abovementioned concerns with the utility of the Child Find protocol for reviewing only students with Section 504 Accommodation Plans, the comparative analysis between the LDOE and the IMs findings was limited to Child Find Protocol items #1 (i.e., presence of appropriate school personnel in SBLC meetings), #3 (i.e., appropriate intervention and screening activities), and #5 (i.e., evaluation of effectiveness of intervention procedures within the RTI process). With regard to student files who represented re-evaluations under Section 504, only item #12 of the Child Find Protocol (i.e., determination of the need of specially designed instruction) was used for comparative purposes. All other Child Find Protocol items were considered “not applicable” for Section 504 initial evaluations or re-evaluations.

With regard to targeted monitoring findings related to LEAs convening SBLC meetings with appropriate team members (i.e., classroom teacher, teacher who referred the student, and principal or designee) to make informed decisions regarding student’s educational or behavioral needs, the LDOE monitoring staff and IMs each identified Lake Area New Technology Charter School as demonstrating noncompliance across a majority of student files with this Child Find activity as related to Section 504 requirements. The LDOE’s review of Joseph A. Craig’s procedures for convening SBLC meetings with appropriate

team members, revealed compliance in eight (8) of nine (9) files reviewed. In contrast, the IMs review of student files in this regard revealed compliance in zero (0) of three (3) applicable files reviewed. Similar findings were observed for Sophie B. Wright as the findings of LDOE monitoring staff revealed compliance in nine (9) of nine (9) student files reviewed. However, the IMs observed this LEA to convene SBLC meetings with required team members in only two (2) of eight (8) student files reviewed.

In terms of Child Find activities related to intervention and screening activities (i.e. Child Find Protocol item #3), it should be noted both LDOE monitoring staff and the IMs observed noncompliance across a majority of student files for two LEAs (i.e. Joseph A. Craig and Lake Area New Technology Charter School) in relation to Section 504 requirements. However, LDOE desk files reviewed for students with Section 504 accommodation plans enrolled in Sophie B. Wright Charter School revealed compliance in six (6) of seven (7) applicable student files reviewed. In contrast, a concurrent review of these student files revealed compliance for employing appropriate interventions and/or screening procedures in zero (0) of 8 (eight) applicable files reviewed. With regard to effectively evaluating student response to intervention (i.e. Child Find Protocol item #5), it should be noted that targeted desk reviews of selected student files conducted by both LDOE monitoring staff and the IMs consistently revealed noncompliance across a majority of students for Joseph A. Craig, Lake Area New Technology and Sophie B. Wright Charter Schools in relation to Section 504 requirements. Finally, with regard to appropriately determining whether LEAs gathered sufficient data for determining whether students being evaluated under Section 504 required specialized instruction (i.e. Child Find Protocol item # 12), both the LDOE staff and IMs observed noncompliance across a majority of student files for Joseph A. Craig, Lake Area

New Technology Charter School and Sophie B. Wright Charter Schools.

The IMs and LDOE monitoring personnel discussed potential explanations for the above-mentioned Child Find protocol scoring discrepancies during June-August, 2016, which surrounded three major concerns. First, the current Child Find protocol includes a limited number of items applicable for students with Section 504 accommodation plans as well as other student samples specified in the CJ (i.e. students considered by SBLC, students failing two or more subjects, etc.), and generally addresses procedural requirements for students who have been evaluated under the IDEA. Therefore, to address this issue, the IMs, during a September 22, 2016 meeting with the parties, discussed their concerns related to the limitations of the Child Find protocol. Specifically, the IMs expressed concern to the parties that a limited number of items used to assess the broad range of activities required under Child Find requirements would likely result in an unreliable assessment in this area. As such, the IMs recommended making modifications to the current Child Find protocol to allow for a more reliable assessment of Child Find activities occurring across LEAs targeted for monitoring in this area. However, LDOE legal counsel indicated a preference to continue utilizing the Child Find protocol originally approved by the parties in the Addendum to the CJ. LDOE counsel further indicated that by selecting an appropriate random sample of students across at-risk categories as specified in the CJ the approved Child Find protocol would be appropriate and serve as an adequate tool for appropriately measuring Child Find activities. As such, all parties agreed to continue using the approved Child Find protocol for the duration of the CJ. However, the IMs did indicate they would utilize the requirements of LA Bulletin 1508 and 1706 to assist in assessing applicable Child Find protocol items when conducting on site targeted monitoring. However, please note that all judgements by the IMs

regarding compliance or noncompliance in the area of Child Find will be based on the applicable items located in the Child Find protocol located in Appendix A of the CJ.

A second factor that helps to better explain the discrepancies in targeted monitoring findings between the IMs and LDOE monitoring staff is related to the fact that only students with current Section 504 plans were chosen by the LDOE for review during targeted monitoring in the area of Child Find during the spring term of the 2015-2016 school year. Regardless of the limitations of the Child Find protocol approved in the CJ, this significantly limited the sample of students from which compliance with Child Find activities could be reliably judged. The IMs discussed this matter with LDOE monitoring staff during June-July, 2016 as well as with LDOE legal counsel during the September 22, 2016 meeting to ensure a representative sample of students would be selected for each LEA targeted for all future Child Find monitoring that is consistent with the requirements outlined in the CJ.

A final factor that resulted in discrepancies in protocol review findings is related to the application of inconsistent standards of determining compliance or noncompliance for individual student cases reviewed. That is, the IMs consistently judged protocol items as compliant only when 100% of the IDEA requirements (e.g., 4 of 4 required screening methods observed) reviewed in a given student file was judged to be adequate. However, LDOE monitoring staff judged a protocol item as compliant when the majority of IDEA requirements (e.g., 3 of 4 sufficient screening methods) were observed to be compliant. As such, as mentioned previously, to increase consistency and reliability in protocol scoring and issuing compliance determinations, the IMs also discussed with LDOE counsel and monitoring staff a standardized scoring procedure that adheres to the 100% compliance standard required for individual students with disabilities under the IDEA. As previously

mentioned, it was agreed up by all parties that during all future monitoring activities any individual student file reviewed that is judged to reflect less than 100% compliance for any applicable IDEA standard will reflect noncompliance and will require individual corrective action(s) (i.e., Individual CAP).

Finally, the IMs and LDOE personnel reviewed the plans for on-site school visits and selection criteria and scoring of protocols again during on-site meetings and/or phone conferences during the fall 2016 term in order to ensure that students are selected based on requirements established within the CJ.

***Corrective Actions to Address Noncompliance***

On June 8, 2016, the LDOE submitted the cover letters, complete monitoring reports with recommendations for improvement, specific findings of noncompliance in relation to IDEA violations, IDEA Monitoring Results Summaries to address findings of noncompliance for identified students and Recommendation Plan templates directly to the LEAs and the IMs. The cover letters, LDOE Monitoring Reports and Recommendation Plans are located in the Appendix B for review by the parties. Based on a “comprehensive review of the special education programming and compliance requirements,” the LDOE observed “no identified areas of systemic non-compliance under the IDEA Part B program” (p. 4 of the LDOE monitoring report dated June 8, 2016) for Sophie B. Wright, Lake Area New Technology High School or Joseph A. Craig. However, the LDOE, despite only reviewing Sections 504 accommodations plans, found that the LEAs “procedures used to identify, locate, and evaluate students for special education and related services lack comprehensive and rigorous decision-making.” Also, strong concerns were expressed regarding their efforts to involve



parents in the process. Therefore, each LEA was required to develop a Recommendation Plan for the 2016-2017 school year to address areas of noncompliance identified for individual students and related Child Find activities under IDEA. The LDOE referred to these school-based plans as Recommendation Plans because the student sample only consisted of Section 504 students and did not include students who were being considered for eligibility or services under IDEA.

The Recommendation Plans for Sophie B. Wright, Lake Area New Technology High School, and Joseph A. Craig were submitted by the LDOE to the IMs on July 11 and 12, 2016. In addition, LDOE monitoring personnel submitted correspondence via email to the IMs on July 12, 2016 that they provided technical assistance (TA) to each LEA during June 2016 to assist them with Recommendation Plan development. This TA consisted of a telephone conference call with the Special Education Director at each school to review the findings of the LDOE Monitoring Reports, IDEA Summary Reports, and inclusion of appropriate activities in the Recommendation Plans to effectively address areas of concern and appropriate scheduling and planning to ensure all areas of concern were addressed in a timely manner throughout the school year. The discussion also reportedly addressed the provision of appropriate training early during the school year on relevant policies and procedures. Special education personnel were also encouraged to seek assistance from LDOE monitoring personnel throughout the school year to address any questions or concerns related to special education programming. After reviewing the Recommendation Plans proposed by the LDOE, the IMs discussed their concerns with the Section Leader of IDEA Monitoring and recommended additional solutions to address the concerns noted by the IMs across the three (3) LEAs selected for targeted monitoring in the area of Child Find. The IMs

and LDOE monitoring personnel collaborated during the month of July 2016 to add additional professional development and implementation activities to the Recommendation Plans in order to address concerns observed during the monitoring process to ensure that each of the plans addressed appropriate identification and service provisions under IDEA, Section 504 and the Response to Intervention (RTI) process. Each Recommendation Plan includes the following components: (1) Activities and Action Steps to Address Concerns Identified in the LDOE Monitoring Report, (2) Date Activity Begins, (3) Person(s) Responsible, (4) Documentation to Be Submitted to Statewide Monitoring, (5) Documentation Due Date and (6) Documentation Status. Overall, the Recommendation Plans include specific activities designed to address the provision of professional development, consistent implementation of policies and procedures related to Child Find, and actions designed to address concerns related to student specific findings. A copy of the Recommendation Plan for each LEA selected for targeted monitoring in the area of Child Find is located in Appendix B for review by the parties. Based on a review of the Recommendation Plans for the charter schools, the IMs have concluded that the plans are sufficient to remedy identified areas of noncompliance as required by this section of the CJ.

### **Recommendations**

For targeted monitoring during the 2016-17 school year, the LDOE shall identify the new identification rate for each LEA following the requirements established on p. 7 of CJ and p. 1 of the Addendum of the CJ. IMs will continue to evaluate the proper calculation of the new students who are eligible for IDEA services rate and select LEAs for targeted monitoring by reviewing the excel worksheet and related information submitted by the LDOE following timelines established in the CJ. As reported in the IM Status Report dated June 3, 2016, the

LDOE has agreed to ensure that the identified LEAs submit the proper student files in accordance with Section IV(A)(3)(b) of the CJ and Sections (A)(2)(a) – (5)(a) of the Addendum to the CJ during the 2016-2017 school year and all subsequent years for the duration of the CJ. In relation, IMs will continue to participate in the protocol review and staff interview process and verify completion of required activities by the LDOE as outlined in the CJ. All school staff interviews and student file reviews shall be conducted on-site at each LEA by the LDOE monitoring staff and IMs during the fall 2016 school term and spring 2017 school term using the approved CJ protocol. The on-site visits for the fall 2016 term are scheduled to occur from November 9-10, 2016 and November 14-17, 2016. In addition, the LDOE shall continue to review the documentation submitted by LEAs selected for targeted monitoring during the 2015-2016 school year at designated timelines outlined in the Recommendation Plans. In relation, the LDOE and IMs shall perform on-site monitoring visits during late January or early February 2017 to evaluate the status of policies and practices to ensure that each LEA is engaging in “corrective actions sufficient to remedy the noncompliance and reasonably ensure that such noncompliance does not reoccur” (p. 7 of CJ). In cases where individual or systemic noncompliance is observed, the LDOE shall require individual Corrective Action Plans to address student specific areas of noncompliance and school-based Corrective Action Plans to address areas of systemic noncompliance in all future monitoring reviews in order to meet the requirements established by this CJ.

4. *The State Defendants shall annually disseminate written guidance to New Orleans LEAs explaining the Child Find responsibilities of Louisiana LEAs. The guidance shall be consistent with the schedule identified in Paragraph IV.A.1 (p. 8 of CJ).*

a. *The guidance shall also explain that when a parent requests an evaluation for special education, the LEA must: (1) conduct an initial evaluation of the child; or (2) provide written reason(s) why a disability is not suspected. This guidance shall reference the general sixty (60) business day timelines for an initial evaluation in Louisiana Bulletin 1706, §302(C) and Louisiana Bulletin 1508. If the LEA does not suspect a disability, this guidance shall explain that the LEA must provide the parent written reasons for its decision within thirty (30) business days of the parent request for evaluation (p. 8 of CJ).*

b. *The written guidance shall explain that an evaluation cannot be delayed because of the student's current or potential participation in a Response to Intervention (RTI) program (p. 8 of CJ).*

c. *The guidance shall further explain that a Section 504 Plan is not a substitute for a child who is in need of an evaluation under the IDEA (p. 8 of CJ).*

d. *The guidance shall be provided to the chief executive of each LEA in New Orleans annually by August 1 for the duration of this Agreement (p. 8 of CJ).*

e. *The State Defendants shall provide the guidance to the Independent Monitor for review and approval annually by May 1 for the duration of this Agreement. The Independent Monitor will provide comments on the guidance to the Parties within twenty-one (21) days. The Parties may provide comments on the Independent Monitor's comments within seven (7) days. The Independent Monitor will consider the Parties' comments, mediate any disputes, and approve documents with any changes within fifteen (15) days (p. 8 of CJ).*

## **Current Findings**

As previously reported in the IM status report submitted to the Court on June 3, 2016, the LDOE was judged to be in **Substantial Compliance** with Section IV(A)(4) for the 2015-2016 school year based upon attestation of receipt of the 2015-2016 version of *PB v White - Child Find Written Guidance* document.

Recommendations provided by the Plaintiff's counsel to the *PB v White - Child Find Written Guidance* document regarding specific considerations under the General Requirements for Special Education Evaluations (e.g., "LEAs may not refuse a comprehensive evaluation for a student suspected of having a disability under the IDEA and instead offer that student a 504 Plan or Individualized Accommodation Plan (IAP) under Section 504 of the Rehabilitation Act. If the LEA suspects the student has a disability which adversely affects the student's educational performance, then a comprehensive evaluation is required to confirm or rule out IDEA eligibility. If the evaluation does not result in the student's eligibility under the IDEA, then an LEA may evaluate the student for accommodations under Section 504."). These recommendations have been accepted by the LDOE and OPSB for the 2016-2017 school year. As of August 9, 2016, the revised document, including the language from the Plaintiff's counsel, has been disseminated and all LEAs, and IMs have received signed attestations that they will adhere to the guidelines contained within the revised document. In relation, attestations from OPSB were received on August 26, 2016 for each LEA under OPSB jurisdiction.

### **Status of Compliance**

As of August 31, 2016, the 2016-2017 school year version of the *PB v White - Child Find Written Guidance* document has been disseminated to all RSD and OPSB LEAs, and they have submitted signed attestations that they will adhere to the guidelines contained within. It is the opinion of the IMs that the LDOE and OPSB are in **Substantial Compliance** with Section IV (A) (1) (a-c) of the CJ for the 2016-2017 school year.

### **Recommendations**

The LDOE and OPSB shall continue to require each charter school to submit the revised *PB v White - Child Find Written Guidance* document by August 1 for the 2017-2018 school year and each subsequent school year under the CJ. The IMs will continue to verify the LEAs have signed attestations indicating the obligation to adhere to the guidelines scheduled for renewal during each school year.

**SECTION IV(B) RELATED SERVICES (pp. 8-9 of the CJ)**

1. *The State Defendants shall require that the charter application and renewal processes for Type 2 and Type 5 charter schools in New Orleans require each organization seeking issuance or renewal of a charter to provide a description of:*

*a. the organization's plans for offering the full array of related services to students with qualifying disabilities who are or may come to be enrolled at the charter school, including without limitation the following categories of related services: physical therapy, occupational therapy, counseling services, orientation and mobility services, speech-language pathology, audiology services, school health/nurse services, special transportation, and adaptive physical education; and*

*b. the charter school staff and/or outside contractors who will provide such services (p. 8 of CJ).*

**Current Findings**

As mentioned in the previous IM status report dated June 3, 2016, a review of Section D of the *Special Education Program Description Template* by the IMs during the spring 2016 school term revealed that the document satisfied the requirements listed in Sections IV.B(1)(a) and IV.B(1)(b) of the Consent Judgment listed above. In relation, the Plaintiff's counsel reported in a letter to the LDOE dated February 1, 2016 that they had no additional concerns with the template document as related to these two sections of the Agreement. In addition, a review of all completed templates by the IMs revealed that 59 of 59 (100%) charter schools completed the related service components of Section D of the 2015-2016 school year version of the Special Education Program Description Template as directed in the accompanying LDOE overview and

instructions document and as required by Sections IV(B)(1)(a) and IV(B)(1)(b) of the CJ. The IMs also evaluated the accuracy of the information contained within Section D of the template and provided specific feedback for each LEA to the LDOE on June 2, 2016 for dissemination to the charter schools during the summer 2016 term. The LDOE submitted revised templates to the IMs for review on July 5, 2016 and the IMs submitted additional written recommendations for each LEA to the LDOE on July 8, 2016. The LEAs were instructed by the LDOE to make any final revisions based on IM feedback to the template and to place the 2016-2017 school year version of the template on their school website. The LDOE provided the IMs with an excel worksheet on August 4, 2016 which contained the website links to the *Special Education Program Description* template for each LEA under the jurisdiction of the Recovery School District New Orleans Charter Schools (55 LEAs) and the Board of Elementary and Secondary Education (5 LEAs) for the 2016-2017 school year. The IMs verified that the final versions of the *Special Education Program Description* template for each LEA were placed on each school website on August 10, 2016. In relation, the IMs confirmed that links to each LEA template were located online at the LDOE website and that LDOE link was located online at the enrollnola website.

Dr. Wayne Stewart, OPSB counsel, provided a revised copy of the OPSB *Special Education Program Description* template on June 30, 2016 and the Type 3b Charter School Association, Friends of King, on July 13, 2016. A review of these documents by the IMs revealed that the related service components of Section D of the 2016-2017 school year versions of the *Special Education Program Description* templates were completed as required by Sections IV(B)(1)(a) and IV(B)(1)(b) of the CJ. The IMs verified that the 2016-2017 school year version of the



*Special Education Program Description* templates for both OPSB and the Friends of King School District were located online on the OPSB district website on August 10, 2016. In relation, the OPSB Executive Director of Exceptional Children's Services, reported in a letter to the IMs dated August 8, 2016 that school principals or school leaders from each school have been provided the link and have attested to adding the link to the OPSB *Special Education Program Description* template to their school websites. As of October 14, 2016, four (4) schools under OPSB jurisdiction still need to establish a link to the current OPSB Special Education Program Description. These schools include McDonogh #35 Middle School, McDonogh #35 High School, Eleanor McMain, and Robert Moton.

### **Status of Compliance**

The LDOE and OPSB were judged by the IMs to be in **Substantial Compliance** with Section IV(B)(1)(a-b) of the CJ for the 2015-2016 school year as reported in the IM status report dated June 3, 2016. Based on the submission of *Special Education Program Description* templates to the IMs during the summer 2016 term and placement of the templates on the required websites, the LDOE is judged to be in **Substantial Compliance** with Section IV(B)(1)(a-b) of the CJ for the 2016-2017 school year. However, as noted previously, a review by the IMs on August 31, 2016; October 7, 2016, and October 14, 2016 revealed that a majority (i.e., 24 of 28) of the LEAs have successfully established the required link to the OPSB *Special Education Program Description* for the 2016-2017 school year. As noted previously, only four LEAs (i.e., Eleanor McMain Charter School, McDonogh #35 Middle School, McDonogh #35 High School, and Robert R. Moton Charter) are currently in noncompliance with this dissemination requirement of the CJ. However, given the vast majority of OPSB LEAs have complied with this dissemination

provision of the CJ, a compliance determination in this regard will be reserved until the end of the fall 2016-2017 school year and reported in the IMs bi-annual status report. As such, to achieve a “substantial compliance” for this required CJ dissemination activity for the 2016-2017 school year, all LEAs under OPSB’s jurisdiction shall have the link established to the OPSB *Special Education Program Description* by December 15, 2016.

### **Recommendations**

The LDOE and OPSB shall continue to require each charter school to submit a *Special Education Program Description* template by August 1 each school year for the duration of the CJ. The IMs will continue to review all completed *Special Education Program Description* templates for existing charter schools, new charter schools, or charter schools scheduled for renewal during the 2016-2017 and 2017-2018 school years prior to the LDOE’s recommendations to BESE at the intervals designated above to ensure that the templates meet compliance with this section of the CJ. The IMs will continue to ensure that the templates are placed online at required websites each year.

2. *The State Defendants shall annually calculate the rate at which each LEA in New Orleans provides related services to students eligible for such services under the IDEA (“service provision rate”). Using this rate, the State Defendants shall annually select LEAs for targeted monitoring. As part of targeted monitoring, the State Defendants shall conduct file reviews of a random, representative sample of students with disabilities at the selected LEAs. LEA selection, student file selection, file reviews, staff interviews, and school site visits shall be conducted consistent with the processes detailed in Addendum A. If the State Defendants’ targeted monitoring results in the identification of noncompliance, the State Defendants shall*

*require each LEA with validated noncompliance to undertake corrective actions sufficient to remedy the noncompliance and to reasonably ensure that such noncompliance does not reoccur, as detailed in Addendum A (p. 9 of CJ).*

*a. The service provision rate shall be calculated by dividing the total number of minutes of related services per week identified in the IEPs of each student with a disability in an LEA on October 1 by the total number of students with disabilities enrolled in the LEA on October 1 (p. 9 of CJ).*

*b. The targeted monitoring activities described above and in Addendum A shall supplement, not supplant, the annual monitoring activities undertaken by LDOE pursuant to its general supervisory responsibilities under the IDEA. The monitoring of an LEA pursuant to the monitoring obligations identified in this Agreement shall not influence LDOE's selection of that LEA for monitoring pursuant to LDOE's general IDEA monitoring protocols (p. 9 of CJ).*

### **Overview of Status of Compliance for Monitoring Activities for the 2015-2016 School Year**

The IMs review of compliance with this section of the CJ consisted of evaluation of the three components of the LDOE's monitoring activities. Specifically, the components being assessed for compliance included: (1) Identification of the charter schools selected for monitoring (e.g., determination of the annual new identification rate for each LEA and evaluation of the LDOE calculations); (2) Completion of targeted monitoring activities by the LDOE as established by the CJ and Addendum to the CJ (e.g., completion of appropriate monitoring activities by the

LDOE, appropriate selection of student files, appropriate completion of the monitoring protocols, and correct identification of systemic compliance and/or noncompliance) and (3) Development of appropriate corrective actions “sufficient to remedy the noncompliance and to reasonably ensure that such noncompliance does not reoccur.” (p. 9 of CJ). As previously reported in the IM status report submitted to the Court on June 3, 2016, the LDOE was judged to be in **Substantial Compliance** with Section IV(B)(2)(a) of the CJ and Section B(1)(a-c) of the Addendum to the CJ for the 2015-2016 school year based on a review of the documents submitted by LDOE and verification of the calculations in the excel spreadsheet by the IMs. As previously reported in the IM status report submitted to the Court on June 3, 2016, the LDOE was judged to be in **Substantial Compliance** with the targeting monitoring sections of the CJ and Addendum of the CJ for the 2015-2016 school year. Specifically, the LDOE completed the staff interviews and student file reviews using the Related Services protocol during the spring 2016 term as designated in Section IV(B)(2)(b) of the CJ and Sections B(3)(a), B(4)(a), B(4)(b), B(5)(a) on pages 3-4 of the Addendum to the CJ for the 2015-2016 school year. After reviewing the LDOE monitoring reports, IDEA Monitoring Results Summary, CAPs or Recommendation Plan for Algiers Technology High School, International High School of New Orleans and Landry Walker High School, the LDOE is judged to be in **Substantial Compliance** with Section IV(B)(2)(b) of the CJ and Sections B(3)(a), B(4)(a), B(4)(b), B(5)(a) on pages 3-4 of the Addendum to the CJ for the 2015-2016 school year based on the activities performed to date.

## **Current Findings – Noncompliance Determinations and Corrective Actions for the 2015-2016 School Year**

### ***Identification of Schools for Targeted Monitoring***

The IMs and Plaintiff's counsel received correspondence from the LDOE on January 20, 2016 providing a list of charter schools identified for targeted monitoring during the spring 2016 term and confirmation that each charter was sent a notification email listing the requirements of the related requirements for targeted monitoring pursuant to the CJ, the specific areas in which the charter was being monitored, methods of monitoring (e.g., student file selection, staff interviews, desk file reviews), LDOE contact personnel, the specific date of phone interviews with staff, call in phone numbers and instructions, and copies of the staff interview questions and student file review protocols during January 2016. The targeted monitoring notification email for each LEA is located in Appendix B for review. The LDOE also conducted planning calls with each identified charter during January 2016 to assist them in preparing for the staff interviews, student file submission process in a secured format, and desk file review process. The IMs also received an excel file from the LDOE on April 26, 2016 that included a column listing all Type 2 and Type 5 charter schools along with three additional columns populating the Related Service Minutes per Week, October 2014 IDEA Student Count, and Related Service Minutes Per Week Per Student using the formula specified on page 3 in Addendum A of the CJ. A review of the database and related materials from the LDOE by the IMs revealed that three charter schools were selected for targeted monitoring as required in this section of the CJ. The three schools identified for targeted monitoring during the spring 2016 semester in the area of Related Services included Algiers Technology Academy, International High School of New Orleans, and Landry- Walker High School.

### ***School Staff Interviews***

As mentioned in the previous IM report dated June 3, 2016, each LEA selected for targeted monitoring in the area of Related Services (e.g., Algiers Technology Academy, International

High School of New Orleans, Landry-Walker High School) during the spring 2016 school term was required to participate in a school staff conference call and submit materials for a desk review. The required pre-monitoring staff conference call was conducted with each LEA during the weeks of February 15-19, 2016 or February 22-26, 2016 to obtain information from the school staff at each LEA regarding the practices and procedures related to the area of Related Services. A standard bank of interview questions taken directly from the Addendum of the CJ was utilized by LDOE monitoring personnel (e.g., Director of State-wide Monitoring, Section Leader of IDEA Monitoring, Education Program Consultant Level 3) to probe responses in the identified areas of interest and responses were encouraged from all staff members in the conference call. A review of participants revealed that the special education administrator, general education teacher, special education teacher, exceptional student services coordinator, exceptional support specialist, speech therapist supervisor, speech pathologist assistant, social work supervisor, social worker, health services administrator and an adapted physical education teacher participated in the staff interview process for Algiers Technology Academy. A review of participants revealed that a school administrator, special education administrator, general education teacher, special education teacher, and director of curriculum and instruction participated in the staff interview process for International High School of New Orleans. A review of participants revealed that the special education administrator, special education teacher, general education teacher, exceptional student support coordinator, exceptional student support specialist, speech pathologist coordinator, speech therapist, social worker supervisor, social worker, and health services administrator participated in the interview process for Landry- Walker High School. Specific information regarding the participants involved in the interview process and outcomes of staff interviews is located in Appendix B for review by the parties. The LDOE concluded that the “[r]esults of this interview process revealed no findings

of non-compliance with regard to policies, practices, and procedures in the area of Related Services” (p. 3 of the LDOE Monitoring Report dated June 8, 2016) for Algiers Technology Academy, International High School and Landry-Walker High School. The LDOE also concluded that “the responses provided by the school staff satisfactorily addressed all interview questions” (p. 3 of the LDOE Monitoring Report dated June 8, 2016) across all three LEAs selected for targeted monitoring during the 2015-2016 school year. Additional information may be obtained from the LDOE Monitoring Reports attached for each LEA in Appendix B.

### ***Student Desk File Reviews***

For the desk file reviews, a protocol, developed from the Addendum of the CJ, was used by LDOE monitoring personnel to analyze and rate each student file from March 22, 2016 through May 5, 2016. Specifically, the Related Services protocol included nine (9) items taken directly from the Addendum of the CJ which were rated as “Yes”, “No”, or “N/A”. In relation, a LDOE monitoring team member (e.g., Director of State-wide Monitoring, Section Leader of IDEA Monitoring, Education Program Consultant Level 3) was assigned to lead the special education monitoring activities which included a review of student files and other relevant documentation. Prior to the desk file review, each school was provided with a rubric explaining what LDOE required from the school in order to evaluate compliance during the desk audit (e.g., LDOE Related Services Documentation Checklist located in Appendix A). A total ten (10) student files

were reviewed for each LEA selected for targeted monitoring. Ten students who met the CJ selection criteria were receiving related services at International High School and Landry-Walker High School. Five of ten students who met the CJ selection criteria were receiving related services at Algiers High School, and related services were being initiated for one of the

remaining five students based on a review of student needs. The results of the LDOE desk file review for each LEA are located in Appendix B for review by the parties. The IMs conducted independent desk reviews of the student files submitted by the LDOE using the Related Services Protocol for each targeted LEA and compared their evaluation of the files with the LDOE monitors' assessments. The results of the desk file reviews are presented below.

Based on a review of the June 8, 2016 LDOE monitoring report, the desk file review revealed no areas of systemic non-compliance for Algiers Technology Academy with regard to the provision of Related Services. However, results of desk file reviews revealed that although goals were included in the student IEPs, the LDOE monitoring personnel determined that IEP goals for two

(2) of ten (10) students were not written in a measurable format (e.g., contain conditions or "givens" under which the student must perform specific academic tasks or social behaviors, identify the learner who is to perform the task or behavior, identify the specific tasks or defined behavior(s) to be performed, identify the method(s) of measurement for the task or behavior, identify the expected performance criterion, identify the timeframe for mastery of the goal or instructional objective). In contrast, the IMs determined that IEP goals for seven (7) of ten (10) students were not written in a measurable format. A discussion with the LDOE staff revealed that monitoring personnel scored Item 5 on the Related Services protocol (e.g., "The IEP includes measurable, standards-based annual goals, including academic and functional goals.

Benchmarks

or short-term objectives should be included for students who take alternate assessments aligned to alternate achievement standards.") as a "Yes" if a majority of the goals on the IEP were observed to be measurable. However, the IMs scored Item 5 as a "Yes" if all goals on



the IEP

were observed to be measurable. The desk file review revealed systemic areas of non-compliance with regard to §300.17(a.-d.) Free Appropriate Public Education (FAPE) and §300.320(a)(2)(i)(A-B)- Definition of Individualized Education Program (pp. 1-4 of the IDEA Monitoring Results Summary) for International High School. Specifically, the LDOE monitoring personnel reported “that some student goals, including academic and functional goals, were not measurable or designed to meet the student’s needs” (p. 4 of the LDOE monitoring report dated June 8, 2016). In relation, the LDOE monitoring personnel observed that IEP goals were not written in a measurable format on IEPs for five (5) of ten (10) students and the IMs observed that IEP goals were not written in a measurable format on IEPs for seven (7) of ten (10) students. In addition, the LDOE monitoring team reported that “for some of the IEPs reviewed, there was no evidence that the Officially Designated Representative (ODR) participated in the IEP team meeting” (p. 4 of the LDOE monitoring report dated June 8, 2016). Specifically, the ODR was not observed to be present for IEP meetings for three of ten students (30% of the sample).

Finally, the LDOE monitoring team reported that “there was no evidence to show that related services were provided to the student in the frequency and duration noted on the IEP” for one student (10% of the sample) on page 2 of the IDEA Monitoring Results Summary for International High School. The IMs concurred with the LDOE findings regarding ODR presence and provision of related services by related service personnel for these students. The desk file review revealed systemic areas of non-compliance with regard to §300.320(a)(2)(i)(A-B)- Definition of Individualized Education Program (pp. 1-4 of the IDEA Monitoring Results

Summary) for Landry-Walker High School. Specifically, the LDOE monitoring personnel

reported “that some student goals, including academic and functional goals, were not measurable or designed to meet the student’s needs” (pp. 3-4 of the LDOE monitoring report dated June 8, 2016). In relation, the LDOE monitoring personnel observed that IEP goals were not written in a measurable format on IEPs for four (4) of ten (10) students and the IMs observed that IEP goals were not written in a measurable format on IEPs for nine (9) of ten (10) students. The IMs and LDOE monitoring personnel discussed potential reasons for the scoring differences with regard to the evaluation of IEP goals during the summer 2016 and early fall 2016 terms. In relation, the IMs and LDOE personnel reviewed the plans for on-site school visits and selection criteria and scoring of protocols again during on-site meetings and/or phone conferences during the fall 2016 term in order to ensure that students are selected based on requirements established by within the CJ and to ensure that all individuals completing protocol reviews score items in a consistent manner. Finally, all parties met on September 22, 2016 to review school selection criteria, student selection criteria and to discuss protocol scoring procedures.

### ***Corrective Actions to Address Noncompliance***

The LDOE monitoring personnel concluded that “after a comprehensive review of the special education programming and compliance requirements at Algiers Technology Academy there were no identified areas of systemic non-compliance under the IDEA, Part B program” (p. 4 of the LDOE monitoring report dated June 8, 2016). The LDOE recommended that the staff at Algiers Technology Academy “immediately begin correcting the finding(s)” documented in the Monitoring Report Summary and develop a Recommendation Plan to address areas of concern related to development of measurable goals on student IEPs. The LDOE concluded that “after a

comprehensive review of the special education programming and compliance requirements at the International High School of New Orleans, there were identified areas of non-compliance under the IDEA, Part B program” (p. 4 of the LDOE Monitoring Report dated June 8, 2016).

Specific areas of systemic noncompliance were observed with regard to specific IDEA regulations (e.g., §300.17(a.-d.) Free Appropriate Public Education (FAPE) and §300.320(a)(2)(i)(A-B)- Definition of Individualized Education Program). The LDOE also informed the International High School of New Orleans that the school personnel “must immediately begin correcting areas of non-compliance as indicated on the Results Summary Attachment” and that the LEA must submit a formal Corrective Action Plan (CAP) that addresses each finding “immediately but in no case later than thirty days” from receipt of the letter accompanying the LDOE monitoring report dated June 8, 2016. In relation, the CAP “must address the activities the school system will implement to correct all areas of identified non-compliance, as rapidly as possible, and in no case longer than one year from the date of this letter” (p. 4 of the LDOE monitoring report dated June 8, 2016). Finally, the LDOE concluded that “after a comprehensive review of the special education programming and compliance requirements at Landry Walker High School, there were identified areas of non-compliance under the IDEA, Part B program” (p. 4 of the LDOE monitoring report). Specific areas of systemic noncompliance were observed with regard to specific IDEA regulations (e.g., §300.320(a)(2)(i)(A-B)- Definition of Individualized Education Program). The LDOE also informed the Landry-Walker High School that the school personnel “must immediately begin correcting areas of non-compliance as indicated on the Results Summary Attachment” and that the LEA must submit a formal Corrective Action Plan (CAP) that addresses each finding “immediately but in no case later than thirty days” from receipt of the letter accompanying the

LDOE monitoring report dated June 8, 2016. In relation, the CAP “must address the activities the school system will implement to correct all areas of identified non-compliance, as rapidly as possible, and in no case longer than one year from the date of this letter” (p. 4 of the LDOE monitoring report dated June 8, 2016). Overall, the Recommendation Plan for Algiers Technology Academy and CAPs for International High School and Landry- Walker High School included specific activities designed to address the provision of professional development, consistent implementation of policies and procedures related to Related Services, and actions designed to address concerns related to student specific findings. In addition, the CAP for International High School has an additional activity to ensure that appropriate school personnel attend IEP meetings. A copy of the Recommendation Plan for Algiers Technology and CAPs for International High School and Landry-Walker High School are located in Appendix B for review by the parties. In relation, LDOE rubric (i.e., *IEP Evaluation Rubric*) designed to assist school personnel in implementing the Recommendation Plan or CAPs is also located in Appendix B for review by the parties. Based on a review of the plans for each LEA, the IMs have concluded that the plans are sufficient to remedy identified areas of noncompliance as required by this section of the CJ.

### **Recommendations**

The LDOE shall continue to follow the targeted monitoring procedures as outlined in this section of the CJ and on pages 2-4 of the Addendum of the CJ. IMs will continue to review charter selection and verify LDOE calculations as required by this section of the CJ. The LDOE shall also continue to select schools for targeted monitoring and perform student file reviews and staff interviews using the required Related Services protocol as outlined on pages 8-9 of the CJ and on pages 2-4 of the Addendum of the CJ and related documents (e.g., see

Appendix B for a copy of

the *IEP Evaluation Rubric*) during the fall 2016 school term for schools selected for targeted monitoring after reviewing data from the 2015-2016 school year. The IMs will evaluate the status of compliance for the 2016-2017 school year after reviewing the documents submitted by the LDOE and verifying the calculations in the excel spreadsheet during the fall 2016 term. The status of compliance for the 2016-2017 school year will be evaluated by the IMs following the completion of monitoring activities and on-site school visits during the fall 2016 term and an update will be provided in the bi-annual report due to the Court in the next IM bi-annual status report. The on-site monitoring visits for the fall 2016 term are scheduled for November 9-10, 2016 and November 14-17, 2016. The LDOE shall also continue to review the CAPs or Recommendation Plan for the LEAs selected for targeted monitoring during the 2015-2016 school year at designated timelines outlined on these documents. In relation, the LDOE and IMs shall perform on-site monitoring visits during late January or early February 2017 to evaluate the status of policies and practices to ensure that each LEA is engaging in “corrective actions sufficient to remedy the noncompliance and reasonably ensure that such noncompliance does not reoccur” (p. 9 of CJ). The LDOE monitoring personnel and IMs will also review another sample of student IEPs using the Related Service protocol from the CJ Addendum and *IEP Evaluation Rubric* to evaluate the quality of IEP goals during follow-up, on-site visits in the spring 2017 school term. In relation, IMs will continue to participate in the protocol review and staff interview process and verify completion of required activities by the LDOE as outlined in the CJ. In cases where individual or systemic noncompliance is observed, the LDOE shall require individual Corrective Action Plans to address student specific areas of noncompliance and school-based Corrective Action Plans to address areas of systemic noncompliance in all future monitoring reviews in order to meet the requirements established

by this CJ.

**SECTION IV(C) DISCIPLINE (pp. 9-11 of the CJ)**

1. *The State Defendants shall, within 60 days of the implementation of this Agreement, review the code of conduct and/or discipline policy of each Type 2 or Type 5 charter school in New Orleans for compliance with the IDEA. The State Defendants shall require that the codes of conduct and/or discipline policies for each Type 2 or Type 5 charter school in New Orleans contain, at a minimum: (a) a written description of the IDEA's disciplinary procedural protections and procedural safeguards for students with disabilities, which should be written in plain language that parents/guardians, students, and the general public can understand; and (b) a plan for supporting school behavior and discipline in compliance with the requirements of La. Rev. Stat. § 17:251-252 (p. 9 of CJ).*

a. *For the duration of this Agreement, the State Defendants shall, on the anniversary of the initial reviews described above:*

- i. *require each Type 2 or Type 5 charter school in New Orleans to submit a written assurance that the code of conduct and/or discipline policy for the school has not changed since the State Defendants last reviewed the code or policy; or,*
- ii. *review, for compliance with the IDEA, the code of conduct and/or discipline policy of each Type 2 or Type 5 charter school in New Orleans that is unable to provide such an assurance (p. 9 of CJ).*

**Current Findings**

As previously reported in the IM status report submitted to the Court on June 3, 2016, IMs examination of the Discipline Policy & Procedures of Students with Disabilities document revealed the policy did not include language to address the LEAs plan for supporting behavior and discipline pursuant to Section IV (C) (1b). Therefore, the LDOE was judged to be in **Noncompliance** for the 2015-2016 school year. Since the June, 3 2016 report submission, IMs submitted Code of Conduct reviews for the remaining 21 LEAs (6 schools from Algiers Charter School Association, 3 schools from Crescent City Schools, 9 schools from KIPP: New Orleans, and 3 Non-Network Charters including Mary Coghill Accelerated, The NET Charter, and Sophie

B. Wright) that chose not to adopt the LDOE model discipline policy (e.g., *Discipline Policy & Procedures for Students with Disabilities*) to the LDOE on June 29, 2016. The IMs used the 19- item rubric entitled, *Procedural Safeguards Checklist: Disciplinary Removal of Students with Disabilities*, to complete the Code of Conduct reviews. LEAs from Algiers Charter School Association, Crescent City Schools and The NET were observed to have all required elements measured by the 19-item rubric in their respective Codes of Conduct with the exception of item 19 addressing all of the requirements of positive behavior supports in *La. Rev. Stat. § 17:251-*

252. Significant concerns were observed in the Codes of Conduct for KIPP: New Orleans, Mary Coghill Accelerated, and Sophie B. Wright with the omission of language to address most of the items included in the 19-item rubric. In these cases, the IMs recommended provided specific recommendations to each LEA to assist the school personnel in effectively addressing the identified deficiencies. In most cases, the LEAs were encouraged to adopt language directly from the model discipline policy from the LDOE entitled, *Discipline Policy & Procedures for Students with Disabilities*. Even in cases where items were scored compliant

for the other LEAs, the IMs recommended that the LEA adopt language from the model discipline document to assist school personnel in fully understating the intent of each element in the model discipline policy. In relation to the LEAs with observed concerns (e.g., KIPP: New Orleans, Mary Coghill, Sophie

B. Wright), the LDOE reported in a correspondence directly to the IMs on August 12, 2016 that the identified LEAs were making the revisions to the Codes of Conduct for the 2016-2017 school year. The IMs conducted a review of the publicly available Student Handbooks, which contained each of the discipline policies for students with disabilities for KIPP: New Orleans Charters and Sophie B. Wright on October 13, 2016. Using the 19-item rubric entitled, *Procedural Safeguards Checklist: Disciplinary Removal of Students with Disabilities*, KIPP: New Orleans Charters and Sophie B. Wright were observed to have all required discipline components in their respective Student Handbooks. Mary Coghill Charter School has been transferred to OPSB jurisdiction for the 2016-2017 school year and will be addressed accordingly.

In relation to requirements in Section IV(C)(1b), the IMs previously reported that they did not observe clear evidence of each LEAs plan for supporting school behavior and discipline in compliance with the requirements of La. Rev. Stat §17:251-252 in the IM Status Report submitted to the Court on June 3, 2016. The LDOE stated during a phone conference held with the IMs on May 25, 2016 that they would have each charter submit language regarding their PBIS policies and procedures and/or a signed attestation that they will follow the requirements of La. Rev. Stat §17:251-252 for the coming school year. All LEAs were required to submit attestations and model documents demonstrating that their discipline policies reflect the requirements supporting school behavior and discipline in compliance with the requirements of



*La. Rev. Stat. § 17:251-252* for the 2016-2017 school year. The IMs received the signed attestations for each LEA from the LDOE on July 21, 2016 and LDOE model documents addressing positive behavior supports, safe school planning, parental and community involvement, and interagency coordination for students in need of external support on September 27, 2016. In relation, all LEAs submitted signed attestations in August 2016 indicating that their Codes of Conduct meet the discipline requirements under this section of the CJ for the 2016- 2017 school year (i.e., the Code of Conduct continues to include the model LDOE discipline policy or includes language to meet the requirements on the 19-item discipline rubric). The IMs have reviewed and verified the signed attestations and LDOE model documents for the 2016- 2017 school year.

### **Status of Compliance**

Based on the submission of the required documentation related to discipline regulations and safeguards for students with disabilities, the LDOE is judged to be in ***Substantial Compliance*** with Section IV(C)(1)(a-b) of the CJ for the 2016-2017 school year.

### **Recommendations**

There is no specific mandate outlined in the CJ requiring NOLA Charter LEAs to incorporate their adopted model policy for complying with the requirements of *La. Rev. Stat §17:251-252* in their Student Code of Conduct. However, for the purpose of making these policies easily accessible to parents, the IMs strongly recommend that each NOLA Type 2 and Type 5 Charter School incorporate this discipline policy for providing positive behavioral supports in their Student Code of Conduct as well as make this model policy publicly available on their respective websites.

Secondly, all Type 2 and Type 5 Charter LEAs should continue to submit written assurances that the student Code of Conduct has not been modified and/or provide the IMs with a detailed account of any revisions to the student Code of Conduct to the LDOE annually for the duration of the CJ. The LDOE should submit this information to the IMs by August 1st annually. The IMs will continue to review documentation related to this section of the CJ for the 2016-2017 school year and subsequent school years under the CJ.

2. *The Defendant-Intervenor shall, within 60 days of the implementation of this Agreement, review the code of conduct and/or discipline policy of each school under its jurisdiction for compliance with the IDEA. The Defendant-Intervenor shall require that the codes of conduct and/or discipline policies for each school under its jurisdiction contain, at a minimum: (a) a written description of the IDEA's disciplinary procedural protections and procedural safeguards for students with disabilities, which should be written in plain language that parents/guardians, students, and the general public can understand; and (b) a plan for supporting school behavior and discipline in compliance with the requirements of La. Rev. Stat. § 17:251-252 (p. 10 of CJ).*

a. *For the duration of this Agreement, the Defendant-Intervenor shall, on the anniversary of the initial reviews described above:*

- i. *require each school under its jurisdiction to submit a written assurance that the code of conduct and/or discipline policy for the school has not changed since the Defendant-Intervenor last reviewed the code or policy; or,*
- ii. *review, for compliance with the IDEA, the code of conduct and/or discipline policy of each school under its jurisdiction that is unable to provide such an assurance (p.*

*10 of CJ).*

### **Current Findings**

As previously reported in the IM status report submitted to the Court on June 3, 2016, Compliance for Section IV (C) (2) of the CJ could not be evaluated until each charter LEA provided written descriptions of the IDEA's disciplinary procedural protections and procedural safeguards for students with disabilities, and their plan for supporting school behavior and discipline in compliance with the requirements of La. Rev. Stat. § 17:251- 252 (p. 10 of CJ). Therefore, OPSB was judged to be in **Noncompliance** with Section IV (C) (2) for the 2015-2016 school year.

### **Status of Compliance**

During a meeting of all parties on February 28, 2016, Dr. Wayne Stewart, counsel for OPSB, noted all schools in the district will adopt the *Discipline Policy & Procedures of Students with Disabilities* for the 2016-17 school year. In relation, OPSB officials provided the IMs with electronic copies of signed attestations from all principals across all OPSB LEAs regarding adoption of the LDOE *Discipline Policy & Procedures of Students with Disabilities* for the 2016- 17 school year. Further, compliance with the requirements of *La. Rev. Stat. § 17:251-252* was provided to the IMs in the form of an electronic copy of the current *OPSB Student Assistant Team (SAT) Handbook*. Therefore, based on the IMs receipt of signed attestations from 100% of LEA school principals under OPSB's jurisdiction and the submission of the SAT Handbook, the OPSB is judged to be in **Substantial Compliance** with Section IV(C)(2)(a)(i-ii) for the 2016- 2017 school year.

## **Recommendations**

As mentioned previously, there is no specific mandate outlined in the CJ requiring OPSB LEAs to incorporate the OPSB's parish-wide discipline policy for complying with the requirements of La. Rev. Stat §17:251-252 in their Student Code of Conduct. However, for the purpose of making this parish-wide discipline policy description easily accessible to parents, the IMs strongly recommend that each LEA under OPSB's jurisdiction incorporate this parish-wide discipline policy for providing positive behavioral supports in their respective Student Code of Conduct. In addition, it is also recommended this parish-wide discipline policy be made available on the OPSB website as well as on each OPSB LEA website.

Secondly, LEAs should continue to submit written assurances the student Code of Conduct has not been modified and/or submit a detailed account of any revisions to the student Code of Conduct to the LDOE annually. The OPSB should submit this information to the IMs by August 1 annually for the duration of the CJ. The IMs will continue to review documentation related to this section of the CJ for the 2016-2017 school year and subsequent school years under the CJ.

3. *The State Defendants shall provide annual technical assistance to each Type 2 or Type 5 charter school in New Orleans regarding the prohibited practice of undocumented suspensions and shall develop and broadly disseminate information to parents of students at each Type 2 or Type 5 charter school in New Orleans about the prohibited practice of undocumented suspensions. Additionally, the State Defendants shall provide annual professional development to each Type 2 or Type 5 charter school in New Orleans on disciplinary procedures for students with disabilities and on best practices to reduce*

*suspensions and expulsions for students with disabilities (p. 10 of CJ).*

a. *The State Defendants shall provide the required technical assistance and professional development to each Type 2 or Type 5 charter school in New Orleans annually by October 31 for the duration of this Agreement (p. 10 of CJ).*

b. *The State Defendants shall provide information detailing the methods and materials to be used to provide the required technical assistance and professional development to the Independent Monitor for review and approval annually by June 1 for the duration of this Agreement. The Independent Monitor will provide comments on the materials to the Parties within twenty-one (21) days. The Parties may provide comments on the Independent Monitor's comments within seven (7) days. The Independent Monitor will consider the Parties' comments, mediate any disputes, and approve documents with any changes within fifteen (15) days (p. 10 of CJ).*

### **Current Findings - Technical Assistance**

As previously reported in the IM status report submitted to the Court on June 3, 2016, the LDOE was judged to be in **Substantial Compliance** with Technical Assistance provisions of Section IV (C) (3) for the CJ for the 2015-16 year based on a review of related technical assistance material including the *PB v White – Undocumented Suspension Guidance* template, the *Parent FAQs: Special Education in Charter Schools* template, and verification documents provided by each LEA. It should be noted that the CJ requires broad dissemination of the aforementioned documents each school year. The LDOE provided the IMs with electronic documentation of signed attestations of dissemination of the *PB v White – Undocumented Suspension Guidance* and *Parent FAQs: Special Education in Charter Schools* templates from the school principal or school leader for all (100%) of NOLA Type 2 and Type 5 Charters.

### **Current Findings - Annual Professional Development**

As previously reported in the IM status report submitted to the Court on June 3, 2016, the LDOE was judged to be in **Noncompliance** with regard to the annual professional development provisions of Section IV (C) (3) for the CJ for the 2015-16 year, given a number of concerns in relation to the presentation “Discipline of Students with Disabilities,” and agreement for additional professional development training to be developed by the IMs in coordination with all parties held by all parties on February 28, 2016. The IMs provided half-day professional development workshops entitled “Discipline of Students with Disabilities” to RSD charter schools on September 28-29, 2016. The content of this professional development was approved by all parties prior to delivery of the content to the school personnel.

### **Status of Compliance**

Based on the evidence submitted to the IMs verifying signed attestations from all school principals or school leaders of NOLA Type 2 and Type 5 Charter Schools for the *PB v White – Undocumented Suspension Guidance* and *Parent FAQs: Special Education in Charter Schools* and verification that representatives from each NOLA Type 2 and Type 5 Charter LEA attended a half-day professional development workshop entitled “Discipline of Students with Disabilities” on September 28-29, 2016, the LDOE is judged to be in **Substantial Compliance** with these implementation activities required in Section IV(C)(3)(a-b) of the CJ for the 2015-2016 school year.

### **Recommendations**

NOLA Type 2 and Type 5 Charter LEAs shall continue to disseminate the *PB v White –*

*Undocumented Suspension Guidance and Parent FAQs: Special Education in Charter Schools* annually and submit signed attestations of the review and dissemination of this document to the LDOE by August 1 annually for the duration of the CJ. LEAs shall also continue to complete all annual professional development activities as required in CJ. The IMs will continue to verify these required attestations and annual professional development activities annually as required in Section IV (C) (3) of the CJ for the duration of the agreement.

4. *The Defendant-Intervenor shall provide annual technical assistance to each school under its jurisdiction regarding the prohibited practice of undocumented suspensions and shall develop and broadly disseminate information to parents of students at each school under its jurisdiction about the prohibited practice of undocumented suspensions. Additionally, the Defendant- Intervenor shall provide annual professional development to each school under its jurisdiction on disciplinary procedures for students with disabilities and on best practices to reduce suspensions and expulsions for students with disabilities (pp. 10-11 of CJ).*

a. *The Defendant-Intervenor shall provide the required technical assistance and professional development to each school under its jurisdiction annually by October 31 for the duration of this Agreement (p. 11 of CJ).*

b. *The Defendant-Intervenor shall provide information detailing the methods and materials to be used to provide the required technical assistance and professional development to the Independent Monitor for review and approval annually by June 1 for the duration of this Agreement. The Independent Monitor will provide comments on the materials to the Parties within twenty-one (21) days. The Parties may provide comments on the Independent Monitor's comments within seven (7) days. The Independent Monitor will consider the Parties' comments, mediate any disputes, and approve documents with any*

*changes within fifteen (15) days (p. 11 of CJ).*

### **Current Findings - Technical Assistance**

As previously reported in the IM status report submitted to the Court on June 3, 2016, OPSB was judged to be in **Noncompliance** with the Technical Assistance provisions of Section IV (C) (4) for the CJ for the 2015-2016 school year based on a review of submitted documentation. For the 2016-17 school year, OPSB has attested the LEAs have disseminated the document entitled, *Parent FAQs: Special Education in Charter Schools* through a variety of methods. Attestation of dissemination of document entitled, *PB v White – Undocumented Suspension Guidance* was received by August 31, 2016 from each OPSB LEA. Further, the Executive Director reported in a letter to the IMs, dated August 8, 2016, that OPSB personnel “have provided on-site support to schools through a Compliance Specialist and two Program Coordinators.” These additional support staff have been made available to LEAs under the OPSB’s jurisdiction to provide technical assistance and consultation to address discipline-related concerns of both students with documented and/or suspected disabilities.

### **Current Findings - Annual Professional Development**

As previously reported in the IM status report submitted to the Court on June 3, 2016, OPSB was judged to be in **Substantial Compliance** with the professional development provisions of Section IV (C) (4) for the CJ for the 2015-16 year based on a review of the workshop conducted on “Discipline of Students with Disabilities” and verification that representatives from 100% of OPSB LEAs attended the training. OPSB reported that the Annual Professional Development was conducted September 12, 2016.



### **Status of Compliance**

OPSB school leaders have provided evidence of signed attestations to the dissemination of the *Parent FAQs: Special Education in Charter Schools* document for the 2016-2017 school year. In relation, documentation of signed attestations for the *PB v White – Undocumented Suspension Guidance* have been received by the IMs for each school principal or school leader for 100% of OPSB LEAs for the 2016-2017 school year. Additionally, the IMs have received documentation from OPSB counsel verifying that representatives from all (100%) of OPSB LEAs attended a professional development session on September 12, 2016, using content approved during, and carried over from, the 2015-2016 school year. Based on these findings, the OPSB is judged to be in **Substantial Compliance** with the implementation activities required in Section IV(C)(3)(a-b) of the CJ.

### **Recommendations**

The OPSB shall continue to disseminate the documents entitled, *PB v White – Undocumented Suspension Guidance* and *Parent FAQs: Special Education in Charter School* as planned and provide attestations of the same to the LDOE by August 1 annually. Additionally, the OPSB should continue to provide the required professional development annually as required by the CJ and submit evidence of the provision of this training by August 1<sup>st</sup> annually for the duration of the CJ. The IMs shall continue to verify attestations and provision of professional development activities annually for the duration of the CJ.

5. *The State Defendants shall annually calculate the rate at which each LEA in New Orleans removes students with disabilities for disciplinary purposes for more than ten (10) cumulative days in an academic year (“extended disciplinary removal rate”). Using this rate,*

*the State Defendants shall annually select LEAs for targeted monitoring. As part of targeted monitoring, the State Defendants shall conduct file reviews of a random, representative sample of students with disabilities who received six (6) or more Office Discipline Referrals or three (3) or more suspensions (in- or out-of-school) in a school year. LEA selection, student file selection, file reviews, staff interviews, and school site visits shall be conducted consistent with the processes detailed in Addendum A. If the State Defendants' targeted monitoring results in the identification of noncompliance, the State Defendants shall require each LEA with validated noncompliance to undertake corrective actions sufficient to remedy the noncompliance and to reasonably ensure that such noncompliance does not reoccur, as detailed in Addendum A (p. 11 of CJ).*

*a. The extended disciplinary removal rate shall be calculated by dividing the total number of students with disabilities who experienced disciplinary removals for more than ten (10) cumulative days between July 1 and June 30 by the total number of students with disabilities enrolled in the LEA on October 1 (p. 11 of CJ).*

*b. The targeted monitoring activities described above and in Addendum A shall supplement, not supplant, the annual monitoring activities undertaken by LDOE pursuant to its general supervisory responsibilities under the IDEA. The monitoring of an LEA pursuant to the monitoring obligations identified in this Agreement shall not influence LDOE's selection of that LEA for monitoring pursuant to LDOE's general IDEA monitoring protocols (p. 11 of CJ).*

### **Overview of Status of Compliance for Monitoring Activities for the 2015-2016 School**

**Year** The IMs review of compliance with this section of the CJ consisted of evaluation of the three components of the LDOE's monitoring activities. Specifically, the components being assessed for compliance included: (1) Identification of the charter schools selected for monitoring (e.g., determination of the annual new identification rate for each LEA and evaluation of the LDOE calculations); (2) Completion of targeted monitoring activities by the LDOE as established by the CJ and Addendum to the CJ (e.g., completion of appropriate monitoring activities by the LDOE, appropriate selection of student files, appropriate completion of the monitoring protocols, and correct identification of systemic compliance and/or noncompliance) and (3) Development of appropriate corrective actions "sufficient to remedy the noncompliance and to reasonably ensure that such noncompliance does not reoccur." (p. 11 of CJ).

As previously reported in the IM status report submitted to the Court on June 3, 2016, the LDOE was judged to be in **Substantial Compliance** with Section IV (C) (5a) of the CJ for the 2015-2016 school year as a result of properly calculating the extended disciplinary removal rate as required by the CJ. However, as previously reported in the IM status report submitted to the Court on June 3, 2016, the LDOE was judged to be in **Noncompliance** with Section IV(C)(5b) of the CJ and Sections C(1)(c) and C (2) (a) of the CJ Addendum for the 2015-2016 based on a review of targeted monitoring documents submitted by each identified charter school, and completion of the student file reviews and staff interviews using the required Discipline protocol. Specifically, the determination of noncompliance was based on the fact the selection of students in the area of discipline failed to include a full year of discipline data as outlined in Section C(2)(a) of Addendum A of the CJ. Furthermore, noncompliance was

judged and the result of Crescent Leadership Academy (CLA) being excluded from undergoing targeted desk reviews during the spring 2015-2016 school year. This exclusion reduced the number of LEAs monitored during the spring 2016 term to two (2) schools instead of the required three (3) schools as outlined in Section C(1)(c) of Addendum A of the CJ. However, with regard to the targeted monitoring provisions outlined in the CJ, after reviewing the LDOE monitoring reports, IDEA Monitoring Results Summary, and CAPs for International High School of New Orleans and Cohen College Prep, the LDOE is judged to be in **Substantial Compliance** with Section IV(C)(5b) of the CJ for the 2015-2016 school year. Additional information for each required component under this section of the CJ is reported below.

### **Current Findings – Noncompliance Determinations and Corrective Actions for the 2015- 2016 School Year**

#### ***Identification of Schools for Targeted Monitoring***

The IMs and Plaintiff's counsel received correspondence from the LDOE on January 20, 2016 providing a list of charter schools identified for targeted monitoring during the spring 2016 term and confirmation that each charter was sent a notification email listing the requirements of the discipline requirements for targeted monitoring pursuant to the CJ, the specific areas in which the charter was being monitored, methods of monitoring (e.g., student file selection, staff interviews, desk file reviews), LDOE contact personnel, the specific date of phone interviews with staff, call in phone numbers and instructions, and copies of the staff interview questions and student file review protocols during January 2016. The targeted monitoring notification email for each LEA is located in Appendix B for review. The IMs were provided a sample notification email for review. The LDOE also conducted planning calls with each

identified charter during January 2016 to assist them in preparing for the staff interviews, student file submission process in a secured format, and desk file review process. The IMs also received an excel file from the LDOE on April 4, 2016 that included a column listing all Type 2 and Type 5 charter schools along with three additional columns populating SWD Suspended/Expelled >10 Days, School IDEA Count, and % SWD Suspended/ Expelled >10 Days using the formula specified in Addendum A of the CJ. A review of the spreadsheet and related materials from the LDOE by the IMs revealed that the following three charter schools were selected for targeted monitoring as required in Section (C) (1) of the CJ. These schools included Cohen College Preparatory School, Crescent Leadership Academy, and International High School of New Orleans. Although Crescent Leadership Academy (CLA) was selected for monitoring during the spring 2016 school term, the LDOE elected not to complete desk file reviews for CLA based on a recent monitoring visit conducted the previous school year on March 3, 2015. A letter from LDOE to CLA dated April 4, 2015, indicated there were no findings which required resolution.

### ***School Staff Interviews***

As mentioned in the previous IM report dated June 3, 2016, each LEA selected for targeted monitoring during the spring 2016 in the area of Discipline (e.g., Cohen College Preparatory School, Crescent Leadership Academy, International School of New Orleans) was required to participate in a school staff conference call and submit materials for a desk review. The required pre-monitoring staff conference calls were completed with Cohen College Preparatory School and International High School during the weeks of February 15-19, 2016 and February 22-26, 2016 to obtain information from school staff at each LEA regarding the practices and procedures as related to the area of Discipline. A standard bank of interview questions taken

directly from the Addendum of the CJ was utilized by LDOE monitoring personnel (e.g., Director of State- wide Monitoring, Section Leader of IDEA Monitoring, Education Program Consultant Level 3) to probe responses in the identified areas of interest and responses were encouraged from all staff members in the conference call. A review of participants revealed that a school administrator, special education administrator, dean of special education, academic dean, special education teacher, and general education teacher participated in the staff interview process for Cohen College Preparatory School. A review of participants revealed that a school administrator, general education administrator, special education administrator, general education teacher, and special education teacher participated in the staff interview process for Crescent Leadership Academy. A review of participant revealed that a school administrator, director of curriculum and instruction, special education administrator, general education teacher, and special education teacher participated in the staff interview process for International High School of New Orleans. Specific information regarding the participants involved in the interview process and outcomes of the staff interviews is located in Appendix B for review by the parties. The LDOE concluded that the “[re]sults of this interview process revealed concerns with regard to the monitoring of Behavior Intervention Plans (BIPs) for individual students” for Cohen College Preparatory School (p. 3 of the June 8, 2016 LDOE Monitoring Report). “Recommendations for improvement include ensuring BIPs for each student are monitored on a consistent basis in accordance with timelines that are appropriate for that particular student. In accordance, BIPs should be developed and revised based upon individual student behavioral needs instead of a more school-wide approach to reviewing BIP effectiveness data” (p. 3 of the LDOE Monitoring Report dated June 8, 2016). The LDOE concluded that “[re]sults of this interview process revealed concerns as it relates to informing parents of their procedural safeguards and providing parents a copy of those safeguards” for

International High School (p. 3 of the June 8, 2016 LDOE Monitoring Report). “There were also concerns noted in the school’s procedures and timelines for conducting Manifestation Determination Reviews (MDR). Recommendations for improvement with regard to practices and procedures in the area of Discipline include: establishing a notification system to ensure parents are informed about procedural safeguards, and making available and providing a written copy of the procedural safeguards when the school is considering a disciplinary change of placement for students. Also, the school should consider providing training to school staff on the MDR process to include a discussion on required timelines for conducting MDRs. It would also be beneficial for the school to develop a Behavior Checklist that includes all of the necessary steps school staff should follow for disciplinary removals to ensure proper procedures are adhered to each time a student with a disability is subject to suspensions/expulsions, particularly any removals of greater than 10 days” (p. 3 of the LDOE Monitoring Report dated June 8, 2016). Additional information may be obtained from the monitoring reports attached for each LEA in Appendix B.

### ***Student Desk File Reviews***

For the desk reviews, a protocol, developed from the Addendum of the CJ was used by the LDOE monitoring personnel to analyze and rate each student file from March 22, 2016 to May 5, 2016. Specifically, the Discipline protocol included eight (8) items taken directly from the Discipline Monitoring Protocol in Addendum A of the CJ which were rated as “Yes”, “No”, or “N/A”. In relation, a LDOE monitoring team member (e.g., Director of State-wide Monitoring, Section Leader of IDEA Monitoring, Education Program Consultant Level 3) was assigned to lead the special education monitoring activities which included a review of student files and other relevant documentation. Prior to the desk file review, each school was provided with a

rubric explaining what the LDOE required from the school in order to evaluate compliance during the desk audit (e.g., LDOE Discipline Documentation Checklist located in Appendix A). In relation, the results of the LDOE desk file reviews for Cohen College Preparatory School and International High School of New Orleans are located in Appendix B for review by the parties. As reported in the June 3, 2016 IM status report, Crescent Leadership Academy was unilaterally cleared by the LDOE in an earlier scheduled LDOE monitoring review. The IMs conducted independent desk reviews of the student files submitted by the LDOE using the Discipline Monitoring Protocol for each targeted LEA and compared their evaluation of the files with the LDOE monitors' assessments.

Twenty (20) total student files were selected for review from Cohen College Preparatory School and International High School of New Orleans. The reviews were conducted using the Discipline Monitoring Protocol as outlined in Addendum A to the CJ. In the June 3, 2016 report to the Court, the IMs noted that of the 20 students identified for targeted monitoring in the area of Discipline, only four (4) student files were used for the following analysis as these were the only students selected who met the criteria for requiring a Manifestation Determination Review (MDR). However, after later discussion with LDOE monitoring staff, this number was revised to only three (3) students. Although additional students in the sample met the CJ selection criteria (i.e., students with disabilities who received six (6) or more Office Discipline Referrals or three or more suspensions (e.g., in-school or out-of-school suspension) annually, none of the remaining students selected for targeted monitoring review during the spring 2016 school year received more than 10 days of suspension and/or an expulsion during the 2014-2015 academic year. As such, there is incongruence with the school selection criteria (i.e. students with 10 or more days of suspension or expulsion) and the student selection



criteria (i.e., experiencing six (6) or more office referrals or three (3) or more suspensions) as it relates to the MDR and procedural Due Process focus of the Discipline Protocol. That is, only the first item on the Discipline Monitoring Protocol (i.e. provision of positive behavioral supports) was found to be applicable to all student files selected, as the remaining items are specifically related to MDR activities and outcomes. It is important to note that during desk reviews of selected student files, the IMs observed varying degrees of behavioral supports were consistently provided for all twenty (20) students reviewed in the sample when scoring Item #1 of the Discipline protocol. A total of only three (3) students selected across both Cohen College Preparatory School and International High School of New Orleans met the criteria requiring a MDR. As such, the analysis of the applicable items included in the Discipline protocol will be reported and discussed only for the students meeting the MDR (i.e. change in placement) criteria.

A comparison of desk reviews conducted by the IMs and LDOE monitoring staff for International High School of New Orleans revealed consistent findings of compliance with regard to selected students receiving documented positive behavioral supports (e.g., Discipline protocol item #1). However, although observing a small sample of students, both the LDOE monitoring team and IMs consistently observed varying levels of noncompliance with regard to the LEAs failing to (a) conduct a required MDR in a timely manner for one student after a decision was made to change the student's placement, (b) provide the student's parent with notification of change in placement and procedural safeguards, (c) consider a wide range of information when conducting the MDR, (d) ensure that students continue to receive FAPE when the MDR determined the behavior "was not" a manifestation of the student's disability, (e) return the students to their regular school placement after the MDR determined the behavior

“was related” to the student’s disability (f) provide students with an FBA/BIP after a decision was change his/her placement and (g) review and revise the student’s BIP as part of the MDR process.

A concurrent desk review conducted by the IMs and LDOE monitoring staff for Cohen College Preparatory Charter School also revealed consistent findings of compliance with regard to the students receiving documented positive behavioral supports. As mentioned previously, only one student in this sample met the criteria for requiring a MDR. Therefore, after review of this one case file, both the LDOE monitoring team and IMs observed individual noncompliance with regard to the LEAs failing to (a) conduct a required MDR in a timely manner after a decision was made to change the student’s placement, (b) provide the student’s parent with notification of change in placement and procedural safeguards, (c) consider a wide range of information when conducting the MDR, (d) ensure the student continued to receive FAPE when the MDR determined the behavior “was not” a manifestation of his or her disability, (e) return the student to the regular school placement after the MDR determined the behavior “was related” to the student’s disability and (f) provide the student with an FBA/BIP after a decision was made change his/her placement.

To ensure targeted monitoring in the area of Discipline is consistent with CJ requirements, the IMs and LDOE personnel reviewed LEA selection criteria and discussed on-site school visits during on-site meetings and/or phone conferences during July-September, 2016 term in order to ensure that students are selected based on requirements established within the CJ. Finally, all parties met on September 22, 2016 to discuss concerns related to the utility of the Discipline protocol when reviewing student cases in which a MDR is not mandated. Specifically, the

parties discussed concerns related to the fact that a limited number of students may qualify for a “change in placement” based on the current selection criteria (e.g., student with 6 or more Office Discipline Referrals or 3 or more in- or out-of-school suspensions in school year) in the Addendum of the CJ (p. 5). That is, when considering the current Discipline protocol is designed to measure compliance with IDEA standards related to required MDR procedures and behavioral support mandates, the fact that only a minimum number of students met the criterion for requiring a MDR (i.e. 10 or more days of exclusionary removals or expulsion), this significantly limits the IMs and LDOE monitor’s ability to accurately assess compliance with IDEA Discipline requirements across targeted LEAs. As such, in a September 22, 2016 meeting with all parties, the IMs recommended modifying the LEA selection criterion to ensure that an adequate sample of students meeting the MDR criterion was obtained. However, LDOE counsel stated a preference to continue the LEA selection criterion in the area of Discipline that was agreed upon in the CJ by the parties. As a clarification, in addition to school expulsion, the IMs emphasized that students selected for targeted monitoring who experienced exclusionary discipline removals, whether out-of-school and in-school suspensions, would be considered when determining whether a student reached the 10 day cumulative days of removal criterion requiring a mandated MDR. As such, all parties agreed to proceed with the process as outlined in the CJ for future protocol reviews with the recognition that reviews may be influenced by the small sample size of students meeting the criteria established in the CJ.

### ***Corrective Actions to Address Noncompliance***

On June 8, 2016, the LDOE submitted cover letters, completed monitoring reports with recommendations for improvement, specific findings of noncompliance in relation to

IDEA violations, and CAP templates to the IMs. The cover letters, LDOE Monitoring Reports, and IDEA Monitoring Summaries to address findings of noncompliance for identified students, and Corrective Action Plans (CAPs) are located in Appendix B for review by the parties. A review of the monitoring reports for Cohen College Preparatory School and International High School of New Orleans dated Jun 8, 2016, revealed that the LDOE concluded that there were “no identified areas of systemic non-compliance” in the area of Discipline for either school. However, the LDOE provided specific recommendations to each LEA for addressing identified concerns. The LDOE recommended the following activities for Cohen College Preparatory Academy: Although there was only one student who had more than a 10-day out-of-school suspension that resulted in a change of placement, it is suggested that the school develops and implements practices and procedures for discipline which are consistent with requirement of IDEA, particularly for the Manifestation Determination Review (MDR) process. In keeping with IDEA disciplinary procedures, the LEA should ensure disciplinary actions are followed consistently and implemented for students with disabilities who are suspended and/or expelled to ensure students are receiving a FAPE. Additionally, the LEA should make certain parents are informed of their procedural safeguards and provided a written copy of them when recommending students for suspension and/or expulsion that result in a potential change of placement.” (p. 4 of the LDOE monitoring report dated June 8, 2016). The LDOE recommend the following activities for International High School of New Orleans: “Although there was only one student who had more than 10 days of an out-of-school suspension that resulted in a change of placement, it is suggested that the school address making changes to its disciplinary policies, practices, and procedures, especially for the Manifestation Determination Review (MDR) process. Also in keeping with IDEA

disciplinary procedures, the school should ensure disciplinary actions are consistently followed and implemented for students with disabilities who are suspended and/or expelled to make certain students are receiving FAPE. Additionally, the school should ensure parents are informed of procedural safeguards and given a written copy of those safeguards when recommending students for suspension and/or expulsion that result in a potential change of placement.” (p. 4 of the LDOE monitoring report dated June 8, 2016). Although the LDOE observed “no evidence of systemic noncompliance” for each LEA in the area of Discipline, the LDOE required CAPs for both LEAs targeted for monitoring in the area of Discipline. Specific information regarding the CAP for each LEA is reported in the following section.

The CAPs for and Cohen College Preparatory School and International High School of New Orleans were submitted by the LDOE to the IMs for review on July 11, 2016. In relation, LDOE monitoring personnel submitted correspondence via email to the IMs during the summer 2016 school term revealing that they provided technical assistance (TA) to each LEA during June 2016 and August 2016 to assist the school personnel with CAP development. This TA consisted of a telephone conference call with the Special Education Director at each school to review the findings of the LDOE Monitoring Reports, IDEA Summary Reports and inclusion of appropriate activities in the CAPs to effectively address areas of concern and appropriate scheduling and planning to ensure all areas of concern were addressed in a timely manner throughout the school year. The discussion also reportedly addressed the provision of appropriate training early during the school year on relevant policies and procedures. Special education personnel were also encouraged to seek assistance from LDOE monitoring personnel throughout the school year to address any questions or concerns related to special education programming. After reviewing the CAPs proposed by the LDOE, the IMs discussed their

concerns with the Section Leader of IDEA Monitoring and recommended additional solutions to address the concerns noted by the IMs across the three (3) LEAs selected for targeted monitoring in the area of Discipline. The IMs and LDOE monitoring personnel collaborated during the month of July 2016 to add additional professional development and implementation activities to the CAPs in order to address any concerns observed during the monitoring process. Each CAP includes the following components: (1) Activities and Action Steps to Address Concerns Identified in the LDOE Monitoring Report, (2) Date Activity Begins, (3) Person(s) Responsible, (4) Documentation to Be Submitted to Statewide Monitoring, (5) Documentation Due Date and (6) Documentation Status. Overall the CAPs include specific activities designed to address the provision of professional development, consistent implementation of policies and procedures related to Discipline, and actions designed to address concerns related to student specific findings. A copy of the CAP for each LEA selected for targeted monitoring in the area of Discipline is located in Appendix B for review by the parties. Based on a review of the CAPs for the charter schools, the IMs have concluded that the plans are sufficient to remedy identified areas of noncompliance as required by this section of the CJ.

### **Recommendations**

For targeted monitoring during the 2016-2017 school year, the LDOE shall identify the new identification rate for each LEA following the requirements established in section IV(C)(5)(a) on page 11 of the CJ and section (C)(1) (a-b) on page 4 of the Addendum of the CJ. The IMs shall verify LDOE calculations each year and provide updates in IM Bi-Annual Status Reports. The LDOE shall also continue to select schools for targeted monitoring and perform student file reviews and staff interviews using the required Discipline protocol as outlined in the CJ

and the Addendum of the CJ during the fall 2016 school term for school selected for targeted monitoring during the 2015-2016 school year. In relation, IMs shall continue to participate in the protocol review and staff interview process and verify completion of required activities by the LDOE as outlined in the CJ. All school staff interviews and student file reviews shall be conducted on-site at each LEA by the LDOE monitoring staff and IMs during the fall 2016 school term and spring 2017 school term based on agreements established between LDOE legal personnel, monitoring personnel, and the IMs. The on-site visits are currently scheduled to occur from November 9-10, 2016 and November 14-17, 2016 for the fall 2016 term. The LDOE shall also continue to review the CAPs for the LEAs selected for targeted monitoring during the 2015-2016 school year at designated timelines outlined on these documents. In relation, the LDOE and IMs shall perform on-site monitoring visits for these LEAs during late January or early February 2017 to evaluate the status of policies and practices to ensure that each LEA is engaging in “corrective actions sufficient to remedy the noncompliance and reasonably ensure that such noncompliance does not reoccur” (p. 11 of CJ). LEAs shall submit to the LDOE and IMs copies of the FBA and BIP monitoring rubric used to assess behavior assessments and plans for review. Completed copies of the rubric should be submitted to the LDOE monthly. The LDOE monitoring personnel and IMs will also review another sample of student files using the Discipline protocol from the CJ Addendum during on-site visits in the spring 2017 school term for LEAs selected for targeted monitoring during the spring 2016 school term. In cases where individual or systemic noncompliance is observed, the LDOE shall require individual Corrective Action Plans to address student specific areas of noncompliance and school-based Corrective Action Plans to address areas of systemic noncompliance in all future monitoring reviews in order to meet the requirements established by this CJ.

**SECTION IV (D) ENROLLMENT (pp. 11-15 of the CJ)**

1. *The State Defendants shall annually disseminate to each Type 2 and Type 5 charter school in New Orleans policy guidance describing the legal obligations of each Type 2 and Type 5 charter school in New Orleans to enroll and serve students with disabilities pursuant to federal law. The State Defendants will request that the principal of each Type 2 and Type 5 charter school acknowledge receipt of this guidance. The guidance will, at a minimum, contain:*

*(a) a summary of the legal obligations of the school to provide necessary services and accommodations to students with disabilities; (b) a statement describing the obligations of the school to enroll students with disabilities without regard to their disabilities; (c) a statement advising the school that its staff is prohibited from informing or suggesting to parents of students with disabilities that the parents should not enroll their child in the school because the school does not provide the services or placement necessary for the child or because the child's disability would be better served at another school; and (d) a statement notifying the principal that he or she can incur personal monetary damages for intentional discrimination and operating in bad faith due to noncompliance with Section 504 (pp. 11-12 of CJ).*

a. *The State Defendants shall disseminate the required policy guidance to each Type 2 or Type 5 charter school in New Orleans annually by March 1 for the duration of this Agreement (p. 12 of CJ).*

b. *The State Defendants shall provide the policy guidance to the Independent Monitor for review and approval annually by December 1 for the duration of this Agreement. The Independent Monitor will provide comments on the guidance to the Parties within twenty-one (21) days. The Parties may provide comments on the Independent Monitor's comments within seven (7) days. The Independent Monitor will consider the Parties' comments, mediate any*



*disputes, and approve documents with any changes within fifteen (15) days (p. 12 of CJ).*

### **Status of Compliance**

As reported in the IM Status Report dated June 3, 2016, the LDOE policy document entitled, *Enrollment Discrimination Policy Guidance*, has been approved by all parties and fully meets the required guidelines as outlined in Section IV(D)(1) of the CJ. However, as previously reported, the LDOE was judged to be in **Noncompliance** with this requirement of the CJ for the 2015-2016 school year. Specifically, the LDOE failed to comply with all provisions of Section IV(D)(1) of the CJ which requires the State Defendants to disseminate the *Enrollment Discrimination Policy Guidance* to each principal of NOLA Type 2 and Type 5 charter schools by March 1 annually and request written receipt (i.e., signed attestations) of this guidance (page 12 of CJ).

The LDOE submitted the IMs with signed attestations on July 27, 2016. A review of these documents indicated that 100% of school administrators or school leaders across all NOLA Type 2 and Type 5 Charters submitted signed attestations (e.g., *Attestation of Review of Enrollment Discrimination Policy Guidance*) for the 2016-2017 school year. Based on submission of the signed attestations, the LDOE is judged to be in **Substantial Compliance** with the completion of this implementation activity as required under Section IV (D)(1) of the CJ for the 2016-2017 school year.

### **Recommendations**

The LDOE shall continue to disseminate the approved *Enrollment Discrimination Policy Guidance* document to all principals in NOLA Type 2 and Type 5 Charter LEAs and

document receipt through the signed attestations (e.g., *Attestation of Review of Enrollment Discrimination Policy Guidance*) by March 1 annually for the duration of the CJ. In addition, pursuant to Section IV (D)(1)(b) of the CJ, the LDOE shall provide the policy guidance to the IMs for review and approval annually by December 1 for the duration the CJ.

2. *The Defendant-Intervenor shall annually disseminate to each school under its jurisdiction policy guidance describing the legal obligations of each school under its jurisdiction to enroll and serve students with disabilities pursuant to federal law. The Defendant- Intervenor will require the principal of each school under its jurisdiction to acknowledge receipt of this guidance. The guidance will, at a minimum, contain: (a) a summary of the legal obligations of the school to provide all necessary services and accommodations to students with disabilities; (b) a statement describing the obligations of the school to enroll students with disabilities without regard to their disabilities; (c) a statement advising the school that its staff is prohibited from informing or suggesting to parents of students with disabilities that the parents should not enroll their child in the school because the school does not provide the services or placement necessary for the child or because the child's disability would be better served at another school; and (d) a statement notifying the principal that he or she can incur personal monetary damages for intentional discrimination and operating in bad faith due to noncompliance with Section 504 (p. 12 of CJ).*

*a. The Defendant-Intervenor shall disseminate the required policy guidance to each school under its jurisdiction annually by March 1 for the duration of this Agreement (p. 12 of CJ).*

b. *The Defendant-Intervenor shall provide the policy guidance to the Independent Monitor for review and approval annually by December 1 for the duration of this Agreement. The Independent Monitor will provide comments on the guidance to the Parties within twenty-one (21) days. The Parties may provide comments on the Independent Monitor's comments within seven (7) days. The Independent Monitor will consider the Parties' comments, mediate any disputes, and approve documents with any changes within fifteen (15) days (pp. 12-13 of CJ).*

### **Status of Compliance**

As reported in the IMs Status Report dated June 3, 2016, OPSB has formally adopted the LDOE policy document entitled, *Enrollment Discrimination Policy Guidance*. As previously reported, based on the agreement between all parties, including both Defendant-Intervenor (OSPB counsel) and Plaintiff's counsel, the IMs agree the OPSB *Enrollment Discrimination Policy Guidance* document is consistent with the required guidelines outlined in Section IV(D)(2) of the CJ. However, as noted in the IMs June status update, the OPSB was found to be in **Noncompliance** with this requirement of the CJ for the 2015-2016 school term. Specifically, the OPSB failed to comply with all provisions of Section IV(D)(2) of the CJ which requires the Defendants-Intervenor (OSPB) to disseminate *Enrollment Discrimination Policy Guidance* to each principal of all LEAs under its jurisdiction by March 1 annually and request written receipt (i.e., signed attestations) of this guidance (page 12 of CJ).

Wayne Stewart, OPSB counsel, submitted electronic documentation to the IMs during July-August, 2016 indicating that all (100%) of OPSB school principals signed attestations of

the review of the model policy document entitled, *Enrollment Discrimination Policy Guidance*. As such, the IMs judge the OPSB to be in **Substantial Compliance** with the provisions required under Section IV(D)(2) of the CJ for 2016-2017 school year.

### **Recommendations**

It is recommended that OPSB continue to disseminate the approved *Enrollment Discrimination Policy Guidance* document to all principals under its jurisdiction and document receipt through signed attestation by March 1 annually for the duration of the CJ. In addition, pursuant to Section IV(D)(2)(b) of the CJ, the LDOE shall provide the policy guidance to the IMs for review and approval annually by December 1 for the duration the CJ.

3. *The State Defendants shall require that each Type 2 and Type 5 charter school in New Orleans annually develops a written description of its special education program, including, at a minimum: (a) the name and contact information of the special education coordinator for the school; (b) a description of how pupil appraisal, special education, and related services are provided by the school; (c) a description of how the school plans to provide the continuum of special education placements for students whose IEP placement is outside of the regular education setting; (d) the current enrollment rate of students with disabilities served by the school; (e) the current suspension rate of students with disabilities served by the school; (f) the number of students with disabilities who are removed for disciplinary reasons for more than 10 school days in one academic year; and (g) an indication of the school's accessibility to individuals with mobility impairments.*

*The State Defendants shall require that the program descriptions for all Type 2 and Type 5*

*charter schools in New Orleans are made available to parents of students with disabilities at each school site and on each school's website. RSD's website will provide a link to the descriptions available on each school website, and parents who express an interest will be guided to this portion of RSD's website when completing enrollment at an RSD Family Resource Center (p. 13 of CJ).*

### **Status of Compliance**

The *PB v White – Special Education Program Description Template* revised by the LDOE and IMs on May 11, 2016 was reported in the IMs June, 2016 status report to include the required components as outlined in Section IV(D)(D)(3) in the CJ. Further, as also noted in the IM Status Report dated June, 2016, all (100%) of the NOLA Type 2 and Type 5 Charter LEAs submitted completed program descriptions for the 2015-2016 school year. As such, the LDOE was judged to be in **Substantial Compliance** with the requirements of Section IV(D)(3) for the 2015-2016 school year.

However, as previously reported, the LDOE was found in **Noncompliance** for the 2015-2016 school year for failure to comply with the dissemination requirements outlined in Section IV(D)(3) of the CJ. Specifically, the LDOE was found to be in **Noncompliance** for (a) failing to provide evidence that all NOLA Type 2 and Type 5 Charter LEAs made their respective *Special Education Program Description* template available for parents at each Charter school site, (b) failing to ensure that program descriptions were posted on each LEA's website and (c) failing to post a link of the program descriptions developed for all NOLA Type 2 and Type 5 Charter schools online on the LDOE website and enrollnola website.

As previously reported in the IM Status Report dated June 3, 2016, the *Special Education Program Description* template was revised to include information related to (a) students with orientation/mobility impairments and (b) descriptions of services provisions for students with disabilities who are placed in residential treatment and/or in a juvenile detention facility. The IMs conducted a thorough review each NOLA Type 2 and Type 5 Charter LEA's updated *Special Education Program Description* template and provided the LDOE with feedback and recommended edits for each NOLA Charter LEA reviewed. The LDOE submitted revised program description templates to the IMs on July 22, 2016 for review. A thorough review of *Special Education Program Description* templates for the 2016-2017 school term revealed that all (100%) of the NOLA Charter Type 2 and Type 5 LEAs have revised their program descriptions that include appropriate documentation and descriptions of service provisions as required in Section IV(D)(3) of the CJ. As such, The LDOE is judged to be in **Substantial Compliance** with this provision of the CJ for the 2016-2017 school year.

With regard to the dissemination requirements of Section IV(D)(3) of the CJ, the LDOE submitted the IMs with an electronic copy of signed attestations (e.g., *Attestation of Availability of Special Education Program Description-2016-2017*) on July 27, 2016. A thorough review of these documents conducted by the IMs indicated that 100% of school principals across all NOLA Type 2 and Type 5 Charter LEAs submitted signed attestations.

As mentioned previously, the LDOE notified the IMs on August 4, 2016 that the *Special Education Program Description* templates had been placed online on each LEAs website, as well as, online on the LDOE website with a link posted to the enrollnola website. A review of each

NOLA Type 2 and Type 5 Charter LEA's website indicated that all (100%) of the NOLA Charter LEAs have uploaded their respective *Special Education Program Description* templates to their school websites for the 2016-2017 school year. Similarly, a review of the LDOE website and enrollnola website by the IMs on August 10, 2016 revealed the RSD has successfully created a link for each NOLA Type 2 and Type 5 Charter LEA's *Special Education Program Description* template. Therefore, based on the evidence submitted related to the CJ requirements for the dissemination of special education program descriptions across all NOLA Type 2 and Type 5 Charter LEAs, the LDOE is judged to be in **Substantial Compliance** with the requirements of Section IV(D)(3) of the CJ for the 2016-2017 school year.

### **Recommendations**

The LDOE and OPSB shall continue to require each charter school to submit a *Special Education Program Description* template by the required timelines each school year. Secondly, it is recommended that each Charter LEA update their *Special Education Program Description* templates, as needed, to reflect any changes in (a) Special Education Director contact information, (b) Data Snapshots, (c) Descriptions of how Pupil Appraisal, Special Education and Related Services are provided to students and (d) Descriptions in the LEA's Continuum of Supports. The IMs will continue to review all completed *Special Education Program Description* templates for existing charter schools, new charter schools, or charter schools scheduled for renewal during the 2016-2017 and 2017-2018 school years prior to the LDOE's recommendations to BESE at the intervals designated above to ensure that the templates meet compliance with this section of the CJ. The IMs will also continue review LEA and LDOE websites to ensure all special education program descriptions continue to be accessible online at required websites.

4. *The Defendant-Intervenor shall annually develop a written description of OPSB's special education program, including, at a minimum: (a) the name and contact information of special education contacts at the district level and at the school level; (b) a description of how pupil appraisal, special education, and related services are provided; (c) a description of how the OPSB plans to provide the continuum of special education placements for students whose IEP placement is outside of the regular education setting; (d) the current enrollment rate of students with disabilities served by each OPSB school; (e) the current suspension rate of students with disabilities served by each OPSB school; (f) the number of students with disabilities who are removed for disciplinary reasons for more than 10 school days in one academic year; and (g) an indication of the OPSB schools' accessibility to individuals with mobility impairments. The Defendant-Intervenor shall require that the OPSB special education program description is made available to parents of students with disabilities at each school site, on each school's website under its jurisdiction, and on OPSB's website (p. 13 of CJ).*

### **Status of Compliance**

As previously reported, the Defendant-Intervenor (OPSB) adopted the LDOE draft *Special Education Program Description* template and submitted a completed program description template for OPSB for the 2015-2016 school year. As such, OPSB was found to be in

**Substantial Compliance** with the requirements outlined in Section IV (D) (4) of the CJ for the 2015-2016 school year. However, as a result of OPSB's failure to comply with the dissemination requirements of this Section of the CJ, the OPSB was judged to be in

**Noncompliance** for the 2015-2016 school term. Specifically, the OPSB was judged to be in noncompliance for (a) failing to provide evidence that all OPSB LEAs made the OPSB



*Special Education Program Description* template available to parents at each OPSB school site, (b) failing to post the OPSB *Special Education Program Description*” on the OPSB district website and (c) failing to ensure a link to the OPSB *Special Education Program Description* template was posted on each LEA’s website.

As mentioned previously, Dr. Wayne Stewart, OPSB counsel, provided the IMs with electronic documentation of the OPSB’s revised *Special Education Program Description* template for the 2016-2017 school year on July 30, 2016 for review and comment. The IMs, after a thorough review, verify that the OPSB *Special Education Program Description* template includes all required components and appropriate documentation and descriptions of service provisions for students with disabilities as required in Section IV(D)(4) of the CJ. As such, the OPSB is judged to be in **Substantial Compliance** with this provision of the CJ for the 2016-2017 school year.

With regard to the *Special Education Program Description* dissemination requirements outlined in Section IV(D)(4) of the CJ, the OPSB indicated in a correspondence to the IMs on August 8, 2016 the OPSB *Special Education Program Description* template had been successfully uploaded to the OPSB district website. A review of the OPSB district website conducted by the IMs indicated that the 2016-2017 OPSB *Special Education Program Description* template has been successfully uploaded and is currently available for review. Finally, as noted numerous times previously, a review by the IMs on August 31, 2016; October 7, 2016, and October 14, 2016 revealed that a majority (i.e., 24 of 28) of the LEAs have successfully established the required link to the OPSB *Special Education Program Description* for the 2016-2017 school

year. However, given the vast majority of OPSB LEAs have complied with this dissemination provision of the CJ, a compliance determination in this regard will be reserved until the end of the fall 2016-2017 school year and reported in the IMs bi-annual status report. As such, to achieve a “substantial compliance” for this required CJ dissemination activity for the 2016-2017 school year, all LEAs under OPSB’s jurisdiction shall have the link established to the OPSB *Special Education Program Description* by December 15, 2016.

### **Recommendations**

The OPSB shall continue to submit a *Special Education Program Description Template* to the IMs by the August 1<sup>st</sup> each school year for the duration of the CJ. Secondly, it is recommended the OPSB update the OPSB *Special Education Program Description* template, as needed, to reflect any changes in (a) Special Education Director contact information, (b) Data Snapshots, (c) Descriptions of how Pupil Appraisal, Special Education and Related Services are provided to students and (d) Descriptions in the LEAs Continuum of Supports. The IMs will continue to review the OPSB *Special Education Program Description* template during the 2017-2018 school year and subsequent school years through the duration of the agreement to ensure that the templates meet compliance with this section of the CJ. Finally, the website links and/or Tab to the *Special Education Program Description* templates across numerous OPSB websites are somewhat difficult to locate. As such, it is strongly recommended that each OPSB LEA provide parents of students with disabilities with information detailing the exact website link and/or Tab required for easy access to this document. The IMs will continue to monitor and ensure the OPSB *Special Education Program Description* template is placed online at required websites annually.

5. *The State Defendants shall require each Type 2 and Type 5 charter school in New Orleans to develop a written complaint investigation protocol describing the school's process for investigating allegations of discrimination on the basis of disability. The protocol shall include the contact information of the individual at the school responsible for investigating complaints of alleged discrimination; a process by which parents may make complaints; a timeline for the school to conduct an investigation; the steps to be taken or the process by which the school will conduct the investigation; the process by which the school will disseminate the outcome of the investigation; and corrective action that may be undertaken as a result of noncompliance. A summary description of the protocol shall be widely disseminated to parents of students with disabilities enrolled at the school. The complaint investigation protocols shall be developed for the sole purpose of investigating allegations of enrollment discrimination arising under Section 504 of the Rehabilitation Act or Title II of the ADA and shall not supplant the complaint management system or due process complaint procedures pursuant to the IDEA (pp. 13-14 of CJ).*

a. *The State shall develop a model written complaint investigation protocol that meets the requirements identified in this section. This model will be available to any school upon request, and will be provided to each Type 2 and Type 5 charter school by March 1, 2015 and every school year thereafter (p. 14 of CJ).*

b. *Upon receipt of a complaint related to the enrollment practices of Type 2 and Type 5 charter schools, the State will: (i) provide the complainant in writing, either via electronic or U.S. Mail, with the contact information for the Office of Civil Rights and low cost legal services providers; and (ii) where required under IDEA, initiate an investigation of the complaint (p.*

14 of CJ).

#### **Status of Compliance – Adoption of Complaint Procedures**

As reported in the IM Status Report dated June 3, 2016, all NOLA Type 2 and Type 5 Charter schools have adopted the approved *[LEA] Disability Discrimination Complaint Procedures* template and summary description as required in Section IV(D)(5) and of the CJ. As such, the LDOE was judged to be in **Substantial Compliance** with LEA adoption of the complaint procedures as required in this section of the CJ for the 2015-2016 school year. This **Substantial Compliance** status should continue during 2016-2017 school term as all (100%) of the LEAs have continued to adopt the approved *[LEA] Disability Discrimination Complaint Procedures* template and summary description for the upcoming school term.

#### **Status of Compliance – Widely Disseminated Summary Description**

As reported in the IM Status Report dated June 3, 2016, the LDOE was judged to be in **Noncompliance** with the dissemination requirements outlined in Section IV(D)(5)(b) of the CJ. Specifically, the LDOE failed to provide sufficient evidence that a summary description of the adopted complaint protocol was widely disseminated to parents of students with disabilities enrolled in each NOLA Type 2 and Type 5 Charter LEA during the 2015-2016 school term. Additionally, the LDOE was found to be in noncompliance with Section IV(D)(5)(b) of the CJ for the 2015-2016 school. This provision of the CJ requires the LDOE's to provide evidence that complainants were provided, in writing, with contact information for the Office of Civil Rights and low cost legal service providers; and where required under the IDEA, initiate an investigation. However, the IMs received

correspondence from Candice Forest, LDOE legal counsel, noting the LDOE did not receive any formal or informal IDEA and/or discrimination complaints during the 2015-2016 school. As such, the status of this provision of the CJ should be considered to reflect **Substantial Compliance** for the 2015-2016 school year rather than reflecting the previously judged status of noncompliance.

The IMs received documentation from the LDOE on July 27, 2016 that included each NOLA Type 2 and Type 5 Charter LEAs plan for disseminating the summary description of the *[LEA] Disability Discrimination Complaint Procedures* as required in Section IV(D)(5) and of the CJ. A thorough review conducted by the IMs revealed that all (100%) of the NOLA Type 2 and Type 5 Charter LEAs have developed written dissemination plans including a wide range of methods for distributing complaint procedures to parents along with written assurances the Special Education Director for each Charter Organization would monitor compliance with adopted dissemination and complaint procedures. As such, after verifying that each NOLA Charter LEA has submitted an adequate written plan for distributing written “discrimination complaint” procedures to parents of students with disabilities, LDOE is judged to be in **Substantial Compliance** with the dissemination provisions required in Section IV(D)(5) of the CJ for the 2016-2017 school year.

The LDOE, with regard to the requirements outlined in Section IV(D)(5)(b) (i.e. providing complainants with information for the Office of Civil Rights and low cost legal service providers; and where required under the IDEA, initiate an investigation), submitted a document to the IMs on August 12, 2016 entitled, *Department of Education Office for Civil Rights Contact Information*. This document includes contact information for the U.S. Office of Civil Rights

complaint division, as well as, contact information for filing a complaint with the LDOE. As noted previously, Candice Forest, LDOE counsel, also reported in the correspondence to the IMs that during the 2016-2017 school year to date, the LDOE has received no formal discrimination complaints on behalf of students with disabilities enrolled in NOLA Type 2 or Type 5 Charter Schools. She further indicated this document will be provided to all individuals filing a formal disability discrimination complaint with the LDOE. The document is located in Appendix A. As such, the LDOE is judged to be in **Substantial Compliance** with the provisions of Section IV(D)(5)(b) of the CJ for the 2016-2017 school year. The IMs will closely monitor formal disability discrimination complaints filed with the LDOE during the 2016-2017 and 2017-2018 school years and to subsequent years under the CJ to verify compliance with this requirement of the CJ and report these findings in required status updates.

### **Recommendations**

It is recommended that each NOLA Type 2 and Type 5 Charter LEA continue to comply with their written plan for disseminating the LEA's adopted *Disability Discrimination Complaint Procedures* document to parents of students with disabilities as required in section IV(D)(5) of the CJ. In relation, it is also recommended the LDOE provide evidence of compliance with requirements in Section IV(D)(5)(b) (i.e. providing complainants with OCR contact information, low cost legal services, investigating IDEA complaints) of the CJ by providing the IMs with a report indicating the number of formal disability discrimination complaints filed with the LDOE and evidence that complainants were provided with (a) OCR contact information, (b) contact information for low cost legal service providers and (c) where appropriate under the IDEA, initiated an investigation of the complaint filed. These updates should be submitted to the IMs by January 15 (discrimination complaints filed from August 1-

December 31) and June 1 (discrimination complaints filed with the LDOE from January 1-July 31) annually for the duration of the CJ.

6. *The Defendant-Intervenor shall develop a written complaint investigation protocol describing the Defendant-Intervenor's process for investigating allegations of discrimination on the basis of disability for all schools within its jurisdiction. The protocol shall include the contact information of the division of OPSB responsible for investigating complaints of alleged discrimination; a process by which parents may make complaints; a timeline for the Defendant-Intervenor to conduct an investigation; the steps to be taken or the process by which the Defendant-Intervenor will conduct the investigation; the process by which the Defendant-Intervenor will disseminate the outcome of the investigation; and corrective action that may be undertaken as a result of noncompliance. A summary description of the protocol shall be widely disseminated to parents of students with disabilities enrolled in schools under the jurisdiction of the Defendant-Intervenor. This complaint investigation protocol shall be developed for the sole purpose of investigating allegations of enrollment discrimination pursuant to Section 504 of the Rehabilitation Act and Title II of the ADA, and shall not supplant the complaint management system or due process complaint procedures pursuant to the IDEA (p. 14 of CJ).*

### **Status of Compliance**

As reported in the IM Status Report dated June 3, 2016, the OPSB was found to be in **Noncompliance** with fulfilling the required implementation activities as outlined in Section IV(D)(6) of the CJ for the 2015-2016 school term. Specifically, the OPSB failed to provide written evidence the OPSB had adopted an approved complaint protocol, (b) provided a plan for

dissemination or (c) verified the adopted complaint procedures have been disseminated to parents of students with disabilities.

Dr. Wayne Stewart, Attorney, OPSB counsel, and the OPSB Executive Director of Exceptional Student Services, reported to the IMs in an August 9, 2016 correspondence that the OPSB *Disability Discrimination Complaint Procedures* policy document has been uploaded on the OPSB website along with an optional online complaint procedure that allows complainants to complete the entire complaint process on the website. All complaints are submitted directly to the OPSB IDEA Specialist. The IMs accessed and reviewed the OPSB district website in the Exceptional Children's Services link and reviewed the OPSB *Disability Discrimination Complaint Procedures* document, as well as, the on-line complaint application. This is a very impressive tool that allows for easy access to complaint procedures, the ability to file a complaint electronically, as well as, provides numerous mediums for individuals to contact and discuss the complaint directly with the OPSB IDEA Specialist. It should be noted that the placement of OPSB *Disability Discrimination Complaint Procedures* document on the OPSB district website and LEA websites was not a specific requirement of the CJ. As such, the OPSB should be commended for moving beyond the minimum requirements of the CJ by increasing the accessibility of discrimination complaint procedures for parents of students with disabilities enrolled in OPSB.

In addition, OPSB officials also provided the IMs with each OPSB LEA's written plan for disseminating complaint procedures to parents of students with disabilities for the 2016-2017 school year. The IMs conducted a thorough review of these documents and observed that all



(100%) of the LEAs under OPSB's jurisdiction have developed written plans that include a wide range of methods for disseminating complaint procedures to parents, as well as, signed attestations by each LEA administrator indicating their intention to fully comply with adopted discrimination complaint procedures and dissemination requirements. As such, after verifying required complaint policies and procedures, as well as, complaint dissemination requirements, the IMs judge the OPSB to be in **Substantial Compliance** with the requirements outlined in Section IV(D)(6) of the CJ for the 2016-2017 school year.

### **Recommendations**

Each LEA under OPSB's jurisdiction shall continue to comply with their submitted written plan for widely disseminating a written summary of the OPSB *Disability Discrimination Complaint Procedures* to parents of students with disabilities as required under Section IV(D)(6) of the CJ. The IMs will continue to verify dissemination of the complaint procedures each school year.

7. *The State Defendants shall annually calculate the rate at which students with disabilities choose not to reenroll at each LEA in New Orleans each school year ("mobility rate"). Using this rate, the State Defendants shall annually select LEAs for targeted monitoring. LEA selection, student file selection, file reviews, staff interviews, and school site visits shall be conducted consistent with the processes detailed in in Addendum A. If the State Defendants' targeted monitoring results in the identification of noncompliance, the State Defendants shall require each LEA with validated noncompliance to undertake corrective actions sufficient to remedy the noncompliance and to reasonably ensure that such noncompliance does not reoccur, as detailed in Addendum A (p. 14 of CJ).*

a. *The mobility rate shall be calculated by dividing the total number of students with disabilities who are enrolled in a nonterminal grade at an LEA in New Orleans between September 1 and May 31 and are not enrolled at the LEA on October 1 of the following school year by the total number of students with disabilities enrolled in the LEA on October 1 (p. 14 of CJ).*

b. *The targeted monitoring activities described above and in Addendum A shall supplement, not supplant, the annual monitoring activities undertaken by LDOE pursuant to its general supervisory responsibilities under the IDEA. The monitoring of an LEA pursuant to the monitoring obligations identified in this Agreement shall not influence LDOE's selection of that LEA for monitoring pursuant to LDOE's general IDEA monitoring protocols (p. 15 of CJ).*

### **Overview of Status of Compliance for Monitoring Activities for the 2015-2016 School Year**

The IMs review of compliance with this section of the CJ consisted of evaluation of the three components of the LDOE's monitoring activities. Specifically, the components being assessed for compliance included: (1) Identification of the charter schools selected for monitoring (e.g., determination of the annual new identification rate for each LEA and evaluation of the LDOE calculations); (2) Completion of targeted monitoring activities by the LDOE as established by the CJ and Addendum to the CJ (e.g., completion of appropriate monitoring activities by the LDOE, appropriate selection of student files, appropriate completion of the monitoring protocols, and correct identification of systemic compliance and/or noncompliance) and (3) Development of appropriate corrective actions "sufficient to remedy the noncompliance and to reasonably ensure that such noncompliance does not reoccur." (p. 14 of CJ). As previously reported in the

IM status report submitted to the Court on June 3, 2016, the LDOE was judged to be in **Substantial Compliance** with Section IV (D) (7) of the CJ and Section D (1) (a), D (1) (b) and D (1) (c) of the Addendum to the CJ for the 2015-2016 school year based on a review of the documents submitted by the LDOE and verification of the calculations in the excel spreadsheet by the IMs. Similarly, based on a review of the documents submitted by each identified NOLA Charter school and the LDOE's completion of the staff interviews and case file reviews using the required Related Services protocol, the LDOE was also judged to be in **Substantial Compliance** with fulfilling the required provisions designated in Section IV(D)(7) of the CJ and Section D(2)(a), D(2)(b), and D(2)(c) on page 6 the Addendum to the CJ for the 2015-2016 school year. Based on a review of LDOE monitoring reports and a review of activities included in the Corrective Action Plans or Recommendation Plans for the three LEAs selected for targeted monitoring, the LDOE is judged to be in **Substantial Compliance** with the selection, monitoring and corrective remedy provisions as required under Sections IV(D)(7), Section D(2)(a), D(2)(b), and D(2)(c) on page 6 the Addendum, Sections G(1)(a), G(1)(b), G(1)(c) and G(2)(a), G(2)(b), G(2)(c), G(2)(d) and G(2)(e) on page 8 of the Addendum of the CJ for the 2015-2016 school year.

## **Status of Compliance – Noncompliance Determinations and Corrective Actions for the 2015-2016 School Year**

### ***Identification of Schools for Targeted Monitoring***

The IMs and Plaintiff's counsel received correspondence from the LDOE on January 20, 2016 providing a list of charter schools identified for targeted monitoring during the spring 2016 term and confirmation that each charter was sent a notification email listing the requirements for

targeted monitoring pursuant to the CJ, the specific areas in which the charter was being monitored, methods of monitoring (e.g., student file selection, staff interviews, desk file reviews), LDOE contact personnel, the specific date of phone interviews with staff, call in phone numbers and instructions, and copies of the staff interview questions and student file review protocols during January 2016. The targeted monitoring notification email for each LEA is located in Appendix B for review by the parties. The LDOE also conducted planning calls with each identified charter during late January 2016 to assist them in preparing for the staff interviews, student file submission process in a secured format, and desk file review process. The IMs also received an excel file from the LDOE on April 26, 2016 that included a column listing all Type 2 and Type 5 charter schools. A student enrollment spreadsheet entitled "*Rate at Which Students with Disabilities (SWD) Choose Not to Reenroll Between 2013-14 to Oct. 1, 2014: OPSB & Charter Schools in Orleans Parish*" was submitted to the IMs on April 26, 2016. This spreadsheet was used to select LEAs for targeted monitoring in the area of Enrollment Stability by calculating the total number of students with disabilities who were enrolled in a nonterminal grade in each LEA from September 1, 2013 to May 31, 2014 and who were not enrolled in the same LEA on October 1, 2014 divided by enrollment of students with disabilities enrolled on October 1, 2014. This method of determining mobility rate was verified by the IMs and determined to be consistent with the guidelines required under Section IV(D)(7) of the CJ and Section D(1)(a) and D(1)(b) on page 6 of Addendum A. As required by the CJ, three schools were identified for targeted monitoring during the spring 2016 semester in the area of Enrollment Stability. The three schools identified for targeted monitoring during the spring 2016 semester in the area of Enrollment Stability included Joseph A. Craig, Mildred Osborne and G.W. Carver Preparatory Academy.

### *School Staff Interviews*

As mentioned in the previous IM report dated June 3, 2016, each LEA selected for targeted monitoring during the spring 2016 term in the area of Enrollment Stability (e.g., G.W. Carver Preparatory Academy, Joseph A. Craig Charter School, Mildred Osborne Charter School) was required to participate in a school staff conference call and submit materials for a desk review. The required pre-monitoring staff conference call was conducted with each LEA during the weeks of February 15-19, 2016 or February 22-26, 2016 to obtain information from the school staff at each LEA regarding the practices and procedures as related to the areas of Enrollment Stability and Related Services. A standard bank of interview questions taken directly from the Addendum to the CJ was utilized by LDOE monitoring personnel (e.g., Director of State-wide Monitoring, Section Leader of IDEA Monitoring, Education Program Consultant Level 3) to probe responses in the identified areas of interest and responses were encouraged from all staff members in the conference call. A review of participants revealed that the special education director, general education teacher, special education teacher, director of intervention, director of scholar support, and scholar support personnel participated in the staff interview process for G.W. Carver Preparatory Academy. A review of participants also revealed that a school administrator, special education administrator, general education teacher, and special education teacher participated in the staff interview process for Joseph A. Craig Charter School. Additionally, a review of participants revealed that a school administrator, special education administrator, general education teacher, and special education teacher participated in the staff interview process for Mildred Osborne Charter School. Specific information regarding the participants involved in the interview process and outcomes of staff interviews is located in Appendix B for review by the parties. The LDOE concluded that the “[r]esults of this interview process revealed there were no areas of concern noted during the interview. The responses

provided by the school staff satisfactorily addressed all interview questions” (p. 3 of the LDOE Monitoring Report dated June 8, 2016) for G.W. Carver Preparatory School. The LDOE concluded that the “[r]esults of this interview process revealed non-compliance in the area of Enrollment Stability” for Joseph A. Craig Charter School. “With regard to practices and procedures in the area of Enrollment Stability, the school will benefit from conducting on- going internal reviews to ensure students are provided related services that enable them to progress in the general education setting” (p. 3 of the LDOE Monitoring Report dated June 8, 2016 for Joseph A. Craig Charter School). The LDOE concluded that the “[r]esults of this interview process revealed no areas of concern for Mildred Osborne Charter School. The LDOE also reported that “[t]he responses provided by the school staff satisfactorily addressed all interview questions” (p. 3 of the LDOE Monitoring Report dated June 8, 2016 for Mildred Osborne Charter School). Additional information may be obtained from the LDOE Monitoring Reports attached for each LEA in Appendix B.

### ***Student Desk Reviews***

For the desk reviews, a protocol, developed from the Addendum of the CJ, was used by the LDOE monitoring personnel to analyze and rate each student file during reviews completed from March 22, 2016 to May 5, 2016. Specifically, the Related Services Protocol was selected for use for the three LEAs involved in targeted monitoring for the spring 2016 term based on requirements outlined in the CJ. The Related Services protocol included nine items which were taken directly from the Related Services protocol in Addendum A of the CJ and rated as “Yes”, “No”, or “N/A.” In relation, a LDOE monitoring team member (e.g., Director of State- wide Monitoring, Section Leader of IDEA Monitoring, Education Program Consultant Level 3) was assigned to lead the special education monitoring activities which included a review of

student files and other relevant information. Prior to the desk file review, each school was provided with a rubric explaining what the LDOE required from the school in order to evaluate compliance during the desk audit (e.g., LDOE Related Services Documentation Checklist located in Appendix A). In relation, the results of the LDOE desk file reviews for each LEA are located in Appendix B for review by the parties. The IMs conducted independent desk reviews of the student files submitted by the LDOE using the Related Services Protocol for each targeted LEA and compared their evaluation of the files with the LDOE monitors' assessments.

Based on the targeted monitoring findings reported by the LDOE, Joseph A. Craig Charter School was issued a formal CAP based on noncompliance with regulation §300.17 (Free and Appropriate Public Education-FAPE). Specifically, the LDOE issued citations related to systemic and individual students concerns related to (a) no evidence of accommodations for behavior, math, and/or ELA and (b) removal of related service provisions without justification. In addition, Joseph A. Craig was also found to be in noncompliance with regulation §300.320(a) (2) (i) (A-B)-Definition of Individualized Education Program. Individual and/or systemic citations of noncompliance were issued by the LDOE for observed concerns across student files reviewed related to (a) inconsistent or conflicting information regarding related service provisions (i.e. logs not matching service minutes on IEP or services listed on IEP but not provided), (b) unmeasurable goals/objectives in ELA, Behavior, Math Communication and/or Self-Help skills, (c) incomplete or missing related service logs and/or (d) failure to follow up with parents to coordinate with external related service providers. Although the above-mentioned findings are generally consistent with the IMs findings after a targeted desk review using the Related Services protocol, the LDOE found no overall major concerns with regard to PLAAFP statements in eight (9) of ten (10) student case files reviewed. In contrast, the

IMs observed concerns with one or more of the PLAAFP statements in six (6) of seven (7) student files assessed. Specifically, the IMs observed concerns with regard to (a) missing PLAAFP statements (b) PLAAFP statements that were not measurable or failed to reasonably describe the student's current level of functioning in data-based terms and/or (c) PLAAFP statements that failed to describe how the student's disability directly affected their ability to participate and progress in the general curriculum. As mentioned numerous times previously during email correspondences and phone conferences with the plaintiff's counsel, as well as, during a meeting with the Parties on September 22, 2016, this discrepancy in findings is primarily the result of a difference in scoring methods used to judge compliance among the LDOE monitoring staff and the IMs. That is, the IMs consistently judged protocol items as compliant only when 100% of the IDEA requirements (e.g. 7 of 7 PLAAFP statements observed) reviewed in a given student file was judged to be compliant. However, LDOE monitoring staff judged a protocol item as compliant when the majority of IDEA requirements (e.g., 6 of 7 PLAAFP statements observed) were observed to be compliant. As noted previously, this difference in scoring methods has been discussed with all parties and it has been agreed upon the 100% compliance rate for individual student files will be the standard for determining compliance in all future protocol reviews. Furthermore, regardless of the fact the LDOE judged the LEAs PLAAFP statements to reflect overall compliance, the Joseph A. Craig Charter School CAP includes required activities to address systemic, as well as, individual remedies to address this issue in addition to other areas of noncompliance. See Appendix B for additional information.

Based on the targeted monitoring findings reported by the LDOE, Mildred Osborne Charter School also required a formal CAP based on systemic noncompliance with regulation §300.17



(Free and Appropriate Public Education-FAPE). Specifically, the LDOE issued citations related to systemic and/or individual students concerns related to (a) failure to provide appropriate related service minutes as stated on the IEP, (b) unmeasurable goals in the areas of Behavior, Writing, Social and/or Math and (c) failure to provide and/or properly document related service provisions that were mandated on IEP. As mentioned previously, although the above-mentioned findings are generally consistent with the IMs targeted review using the Related Services protocol, the LDOE found no overall major concerns with the PLAAFP statements in nine (9) of ten (10) student case files reviewed. In contrast, the IMs observed concerns with one or more of the PLAAFP statements in seven (7) of ten (10) student files assessed. Specifically, the IMs observed concerns with regard to (a) ambiguous PLAAFP statements that were not measurable and/or failed to reasonably describe the student's current level of functioning in data-based terms and/or (b) PLAAFP statements that failed to describe how the student's disability directly affects their ability to participate and progress in the general curriculum. Again, as previously mentioned, this discrepancy in findings between the LDOE monitoring staff and IMs is directly related the difference scoring methods employed by the IMs and LDOE monitoring staff. Further, regardless of these differences, the Mildred Osborne Charter School's CAP incorporates numerous required individual and/or systemic remedies to address PLAAFP statements, as well as, other areas of identified noncompliance. See Appendix B for additional information.

Finally, based on the targeted monitoring findings reported by the LDOE, G.W. Carver Preparatory Academy evidenced no systematic noncompliance in the area of Enrollment Stability Rate using the Related Services protocol as the primary, evidenced-based monitoring tool. The results outlined in G.W. Carver Preparatory Academy's Monitoring Report indicated, with the exception of Communication area, annual goals and short-term

objectives were written in observable and measurable terms across all ten (100%) student files reviewed. As such, the LDOE did not require a formal CAP to address these observed concerns. Instead, the LDOE recommended the LEA immediately review/revise the Communication goals by August 31, 2016, and updated the revised measurable goals in SER on the same date.

However, a concurrent desk review conducted by the IMs revealed concerns related to one or more goals and short-term objectives being unmeasurable in ten (10) of ten (10) student files reviewed in numerous Academic and Behavioral areas, including the area of Communication. In (100%) of the cases reviewed, specific concerns included one or more goals and/or short-term objectives that (a) failed to include the conditions or “givens” required to accomplish the goal, (b) were not objective and measurable, (c) failed to include the method of measurement for evaluation and/or (d) failed to include the time frame for mastery of the goal or short-term objective. In addition, although no findings of systemic or individual noncompliance were noted in the LDOE’s Monitoring Report for G.W. Carver Preparatory Academy with regard to student PLAAFP statements, a concurrent desk review conducted by the IMs indicated relative concerns with PLAAFP statements in seven (7) of ten (10) (70%) student case files reviewed. Specifically, there were consistent concerns observed across all academic areas with regard to (a) limited or vague descriptions of student’s functioning levels, (b) referencing standard scores or other metrics without indicating what these scores reflect in terms of functioning levels and/or (c) how the student’s disability affects his/her participation and progress in the general education curriculum. Again, as previously mentioned, this discrepancy in findings between the LDOE monitoring staff and IMs is directly related the difference in scoring methods employed by the IMs and LDOE monitoring staff. Further, regardless of these differences, the G.W. Carver Charter School Recommendation Plan incorporates numerous required individual, as well as, systemic remedies to address writing compliant measurable goals and PLAAFP statements. See

Appendix B for additional information.

***Corrective Actions to Address Noncompliance***

On June 8, 2016, the LDOE submitted the cover letters, complete monitoring reports with recommendations for improvement, specific findings of noncompliance in relation to IDEA violations, IDEA Monitoring Results Summaries to address findings of noncompliance for identified students and Corrective Action Plan or Recommendation Plan templates directly to the LEAs and IMs. The cover letters, LDOE Monitoring Reports, IDEA Summary Reports and final CAPs or Recommendation Plans for the three LEAs are located in Appendix B for review by the parties.

As noted previously, based on the targeted monitoring findings reported by the LDOE, Joseph A. Craig Charter School required a formal CAP based on noncompliance with IDEA regulation §300.17 (Free and Appropriate Public Education-FAPE). In addition, Joseph A. Craig was also found to be in noncompliance with IDEA regulation §300.320(a) (2) (i) (A-B)-Definition of Individualized Education Program. Similarly, as noted previously, based on the targeted monitoring findings reported by the LDOE, Mildred Osborne Charter School also required a formal CAP based on noncompliance with IDEA regulation §300.17 (Free and Appropriate Public Education-FAPE). However, based on the targeted monitoring findings reported by the LDOE, G.W. Carver Preparatory Academy evidenced no systematic noncompliance in the area of Enrollment Stability Rate.

The CAPs or Recommendation Plans for Joseph A. Craig, Mildred Osborne Charter School and G.W. Carver Preparatory Academy were submitted to the LDOE to the IMs on July 11-12, 2016

for review. In addition, LDOE monitoring personnel submitted correspondence via email to the IMs on July 12, 2016 that they provided technical assistance (TA) to each LEA during June 2016 to assist them with CAP or Recommendation Plan development. This TA consisted of a telephone call with the Special Education Director at each school to review the findings of the LDOE Monitoring Reports, IDEA Summary Reports, inclusion of appropriate activities in the CAPs or Recommendation Plans to effectively address areas of concern and appropriate scheduling and planning to ensure all areas of concern were addressed in a timely manner throughout the school year. The discussion also reportedly addressed the provision of appropriate training early during the school year on relevant policies and procedures. Special education personnel were also encouraged to seek assistance from LDOE monitoring personnel throughout the school year to address any questions or concerns related to special education programming. After reviewing the CAPs or Recommendation Plans proposed by the LDOE, the IMs discussed their concerns with the Section Leader of IDEA Monitoring and recommended additional solutions to address the concerns noted by the IMs across the three (3) LEAs selected for targeted monitoring in the area of Discipline. The IMs and LDOE monitoring personnel collaborated during the month of July 2016 to add additional professional development and implementation activities to the CAPs and Recommendation Plans in order to address concerns observed during the monitoring process. Each CAP or Recommendation Plan includes the following components: (1) Activities and Action Steps to Address Concerns Identified in the LDOE Monitoring Report, (2) Date Activity Begins, (3) Person(s) Responsible, (4) Documentation to Be Submitted to Statewide Monitoring, (5) Documentation Due Date and (6) Documentation Status. Overall, the CAPs include specific activities designed to address the provision of professional development, consistent implementation of policies and procedures related to Enrollment Stability and Related Services, and actions designed to address concerns

related to student specific findings. A copy of the CAP or Recommendation Plan for each LEA selected for targeted monitoring in the area of Enrollment Stability is located in Appendix B for review by the parties. Based on a review of the CAPs or Recommendation Plan for the charter schools, the IMs have concluded that the plans are sufficient to remedy the identified areas of noncompliance as required by this section of the CJ.

### **Recommendations**

The LDOE shall continue to review the CAPs or the Recommendation Plan for the LEAs selected for targeted monitoring during the 2015-2016 school year in the area of Enrollment Stability at designated timelines outlined on these documents. In relation, the LDOE and IMs shall perform on-site monitoring visits during late January 2017 or February 2017 to evaluate the status of policies and practices to ensure that each LEA is engaging in “corrective actions sufficient to remedy the noncompliance and reasonably ensure that such noncompliance does not reoccur” (p. 14 of CJ). The LDOE monitoring personnel and IMs will also review another sample of student IEPs using the Related Service protocol from the CJ Addendum and IEP Evaluation Rubric to evaluate the quality of IEP goals and PLAAPF statements during on-site visits in the spring 2017 school term. The LDOE shall also continue to select schools for targeted monitoring and perform student file reviews and staff interviews using the required Related Services or Discipline protocol as outlined on pages 8-9 of the CJ and on pages 2-4 of the Addendum during the fall 2016 school term for schools selected for targeted monitoring for the 2016-2017 school year. In relation, the IMs will continue to participate in the protocol review and staff interview process and verify completion of required activities by the LDOE as outlined in the CJ. All school staff interviews and student file reviews shall be conducted on-site at each LEA by the LDOE monitoring staff and IMs during the fall 2016 school term and spring 2017

school term based on agreements established between LDOE legal personnel and monitoring personnel and the IMs. On-site monitoring visits for the fall 2016 term are scheduled for November 9-10, 2016 and November 14-17, 2016. In cases where individual or systemic noncompliance is observed, the LDOE shall require individual Corrective Action Plans to address student specific areas of noncompliance and school-based Corrective Action Plans to address areas of systemic noncompliance in all future monitoring reviews in order to meet the requirements established by this CJ.