

Office of the Independent Monitors
P.B., et al., v. John White, et al. (Civil Case No. 2:10-cv-04049)

Fluency Plus, LLC
215 N. Bolivar Ave
Cleveland, MS 38732
www.fluencyplus.com
fluencyplusinfo@gmail.com
(662) 843-2322

TO: Angela Randle, Director of Special Education Programs
Chris Fruge and Joan Hunt, Legal Counsel
Louisiana Department of Education

Wayne Stewart
Legal Counsel, Orleans Parish School Board (OPSB)

Neil Ranu, Victor Jones, Jasmine Bolton and Zoe Savitsky
Legal Counsel for Plaintiff Class

Cc: Pam Starns
Career Law Clerk to the Honorable Jay C. Zainey

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

DATE: September 10, 2019

RE: Summary of findings for IM concerns related to OPSB/NOLA charter schools selected for targeted monitoring under the PB v White Consent Judgement for the fall, 2017 and fall 2018 monitoring cycles.

Background

On May 21, 2019, the IMs received an email correspondence from Southern Poverty Law Center (SPLC) legal counsel requesting information utilized by the LDOE for selecting NOLA/OPSB charter schools for targeted monitoring during the fall, 2017 and fall, 2018 monitoring cycles. Specifically, SPLC counsel requested the following information:

1. The rates at which each LEA in NOLA identified new students eligible for services under the IDEA and the student data used to calculate these rates as outlined in the Consent Judgement (CJ) and in Addendum A of the CJ.
2. The rates at which each LEA in NOLA provided related services to students eligible for such services under the IDEA and the student data used to calculate the rates as outlined in the CJ and Addendum A of the CJ.
3. The rates at which each LEA in NOLA removed students with disabilities for disciplinary purposes for more than ten (10) cumulative days in an academic year and the student data used to calculate these rates as outlined in the CJ and the Addendum of the CJ.
4. The rate at which students with disabilities chose not to re-enroll at each LEA in NOLA each school year and the student data used to calculate these rates as outlined in the CJ and the Addendum of the CJ.

Upon conferring with LDOE legal counsel regarding the abovementioned request, the IMs directed SPLC counsel, per LDOE data-sharing regulations, to file a formal public records request directly with LDOE legal counsel.

In the meantime, to be prepared to respond to any questions posed by the Plaintiff's counsel in a timely manner, the IMs conducted a review of the school selection databases from 2015-2016 to 2017-2018 and to also gather information related to potential quantifiable data trends for (a) new IDEA identification rates, (b) related service provisions (i.e. average number of minutes per week/per pupil), (c) discipline removal rates (i.e. greater than ten (10) days of exclusionary discipline removals) and (d) Enrollment Stability rates (i.e. rates of students choosing to not re-enroll) across all NOLA/OPSB charter school sites from 2015-2016 to 2017-2018.

During our initial review, the IMs observed potential data errors on the 2017-2018 LDOE database from which NOLA/OPSB schools were selected for targeted monitoring that would have, if confirmed, likely resulted in charter school(s) being incorrectly selected for

targeted monitoring in the area of Related Services in fall, 2018. Once these potential school selection errors were observed, the IMs contacted Dr. Chauncey McElwee, LDOE Coordinator of PB v White Consent Judgement (CJ) Monitoring, via phone on June 4, 2019, to discuss our initial concerns. After a brief conversation regarding this matter, Dr. McElwee indicated that she would contact Angela Randall, LDOE Director of Special Education Programs and members of the LDOE Data Team to discuss our initial concerns. The IMs were then informed on June 10, 2019 that Mrs. Randall reported that the several key data-team members were at a conference and that she would discuss the IMs concerns with the data-team members when they returned.

In the meantime, the IMs conducted a comprehensive review of all LDOE databases from which NOLA/OPSB charter schools were selected for targeted monitoring for the fall, 2017 and fall, 2018 school terms and discovered additional potential data errors that, if confirmed, would have also resulted in incorrect selections for NOLA/OPSB charter schools required to undergo targeted monitoring in the areas of Child Find, Related Services, and Enrollment Stability.

On June 18, 2019, the IMs received an email correspondence from Angela Randall, LDOE Director of Special Education Programs, indicating that LDOE staff were ready to discuss our initial concerns related to potential data errors and NOLA/OPSB school sites potentially being incorrectly selected for targeted monitoring in the area of Related Services during the fall, 2018 school term.

As such, the IMs and LDOE monitoring staff and legal counsel held a conference call on June 20, 2019 to further discuss our initial concerns, as well as, the additional potential data errors observed by the IMs which, if confirmed, would have likely resulted in subsequent errors in the process of selecting schools for targeted monitoring as specified in Addendum A of the CJ.

During the June 20, 2019 conference call, LDOE staff confirmed the IMs initial data error/school selection inquiry reported to the LDOE on June 4, 2019 (i.e. related service minutes calculated using total student enrollment rather than IDEA enrollment). LDOE staff indicated the LDOE monitoring staff and the LDOE data team staff would review and immediately correct any errors in the database, identify NOLA/OPSB charter school(s) that were selected in error, identify the charter schools that should have been initially selected for monitoring in Fall, 2018 and conduct additional on-site targeted monitoring for these charter school sites in the fall, 2019 school term. During the June 20, 2019 phone conference, the IMs also reported to LDOE staff and Legal counsel that, after a thorough review of the 2016-2017 and 2017-2018 LDOE school selection datasets, other potential selection errors were observed for fall, 2017 targeted monitoring selections in the areas of Child Find, Related Services and Enrollment Stability.

After a brief discussion regarding the additional potential school selection errors, LDOE staff requested, based on the complex nature of the IMs additional inquiries, that the IMs summarize all additional school selection concerns in writing so that LDOE data department could be consulted to further investigate the IMs specific concerns. As such, the IMs submitted a summary overview of their inquiries related to numerous potential school selection errors to all parties, via email, on June 25, 2019. The LDOE monitoring/data team staff conducted a review of concerns submitted by the IMs and provided initial, as well as, follow-up responses to the IMs, via email and/or phone conference, from July 11, 2019 to September 6, 2019.

After a thorough review of all school selection data and numerous communications with LDOE staff via email and phone conferences, the IMs provide below a summary of each identified concern discovered during our data and school selection inquiry along with any related recommendations for corrective remedies.

Observed Concern 1. 2017-2018 LDOE school selection database for Related Service Minutes contained enrollment figures for the total school population rather than the IDEA student counts across all OPSB/NOLA school sites.

During a review of the LDOE database titled “2017-2018 Related Service Minutes Provided to Eligible Students under the IDEA OPSB & New Orleans Parish”, the IMs observed that the database appeared to reflect the enrollment figures for total school enrollment rather than enrollment counts solely for students with disabilities across all NOLA and OPSB schools. The IMs reported this potential error to LDOE staff and legal counsel and further indicated that if these enrollment figures were, in fact, incorrect the schools selected for fall 2018 targeted monitoring in the area of Related Services would be invalid.

After a brief phone conference, LDOE personnel indicated that an oversight did, in fact, occur and the total student enrollment counts rather than enrollment figures for students with disabilities was used to calculate the metric from which schools were selected for monitoring. Further, the LDOE reported all enrollment figures would be corrected and the data would be re-calculated to identify the schools that should have been selected for Related Services monitoring in the fall of 2018.

LDOE legal counsel submitted an updated (corrected) database on June, 24, 2019 for the IMs review. Based on a review of the updated LDOE 2017-2018 Related Services database and follow-up communications with LDOE staff, the IMs confirmed that two charter schools (Robert Moton Charter School and Lusher Charter School) were incorrectly chosen for targeted monitoring during the Fall, 2018 targeted monitoring cycle.

Recommended Corrective Remedies

The LDOE and IMs each reviewed the updated rankings on the “2017-2018 Related Service Minutes Provided to Eligible Students under the IDEA OPSB & New Orleans Parish” database and collaborated to identify the NOLA/OPSB charter schools that should have been selected for targeted monitoring in the area of Related Services during the fall, 2018 monitoring cycle. Based on our review, the LDOE staff and IMs agreed that New Orleans Charter Science and Mathematics High School and International High School of New Orleans reported the lowest related service (i.e. average minutes per week/per pupil) provision rates during the 2017-2018 school term and should have been selected for on-site targeted monitoring in the Fall, 2018. However, given the fact that International High School had recently been monitored in the area of Related Services in Spring, 2018, the IMs and LDOE staff agreed to select ReNew Accelerated Academy, the OPSB/NOLA charter school reporting the next lowest ranking of related service provisions during the 2017-2018 school term. The table below summarized the NOLA/OPSB charter schools that were incorrectly chosen and the charter schools that should have been selected for targeted monitoring in the area of Related Services during the fall, 2018 monitoring cycle.

Charter schools monitored in the area of Related Services during Fall, 2018	Charter schools that should have been monitored in the in Fall, 2018
Edna Karr High	Edna Karr High (correctly selected after data correction)
Robert Moton	New Orleans Charter Science & Mathematics High School
Lusher Charter School	ReNew Accelerated High School

As a remedy to address this situation, the LDOE proposed that the LDOE monitoring staff and IMs conduct additional on-site targeted monitoring reviews for the abovementioned NOLA/OPSB charter schools during September, 2019. As such, the LDOE submitted official notifications to school leaders for New Orleans Charter Science and Mathematics High School and ReNew Accelerated High School on August 22, 2019 of a mandated on-site monitoring visit during the week of September 23-27, 2019.

In addition, to proactively address the concerns described above, the IMs recommended that LDOE monitoring staff collaborate with the LDOE data team to develop a protocol for verifying that all datasets used for future selections of NOLA/OPSB charter schools under the provisions of the CJ include additional safeguards to ensure all data metrics (i.e. enrollment figures, sorting/rankings) are appropriate and correct. After briefly discussing this matter, LDOE monitoring staff agreed with this IM recommendation.

As a final remedy for addressing the above-mentioned concern, prior to any school selections, LDOE staff and the IMs have agreed to collectively reviewing all relevant annual school selection datasets for potential concerns. Secondly, the LDOE staff and the IMs agreed to collectively reviewing the annual LDOE datasets used to select schools for targeted (Related Services) monitoring and mutually agreeing (via phone conference) on which current and future NOLA/OPSB charter schools meet the criterion for targeted monitoring in the area of Related Services as outlined in the CJ Addendum.

Please note that LDOE staff and IMs have previously collaborated to review and agree on school selections prior to conducting targeted monitoring visits. However, for the fall, 2017 monitoring cycle, the IMs were not provided with any of the school selection databases for the fall, 2017 monitoring cycle until the morning of December 4, 2017, the first day of targeted monitoring for that cycle. As such, a member of the IM team did conduct a very brief cursory review of the school selection database and, unfortunately, did not recognize the school selection errors at that time.

Observed Concern 2. The incorrect Einstein Charter School was monitored in the area of Enrollment Stability during the Fall, 2017 targeted monitoring cycle

The IMs review of the school selection database titled “Rates at Which Students with Disabilities (SWD) Chose Not to Reenroll Between 2015-2016 to Oct. 1, 2016: OPSB & Charter Schools in Orleans Parish” indicated that Einstein Charter School at Village De L’Est was selected for targeted monitoring in the fall of the 2017-2018 school term as a result of enrollment stability concerns (42.1% rate of students choosing not to reenroll). However, based on the IMs review of schools actually monitored in Fall, 2017 in the area of Related Services indicated the Einstein charter school site that was actually monitored (on-site) was Einstein Charter Middle School at Sara Towles Reed.

Recommended Corrective Remedies

After inquiring about this concern, LDOE staff indicated this was an inadvertent error and agreed that Einstein Charter School at Village De L’Est, rather than Einstein Charter Middle School at Sara Towles Reed, should have undergone targeted monitoring in the area of Enrollment Stability during the fall, 2017 school term. As such, the LDOE submitted official notification letters to Einstein Charter School at Village De L’Est school leaders on August 22, 2019 informing them of an upcoming, mandatory on-site monitoring visit during the week of September 24-27, 2019.

As an additional remedy for addressing the above mentioned concern, LDOE staff and the IMs agreed to collectively reviewing the annual LDOE datasets used to select schools for targeted (Enrollment Stability) monitoring and mutually agreeing (via phone conference), prior to monitoring, on which current and future NOLA/OPSB charter schools meet the criterion for targeted monitoring in the area of Enrollment Stability as outlined in the CJ Addendum.

Observed Concern 3. Inaccurate enrollment figures for Audubon Charter School and ReNew McDonogh City Park Academy; Audubon Charter School incorrectly chosen for targeted monitoring during fall, 2018.

Based on the IMs review of the data set provided by the LDOE titled “Rates at Which Students with Disabilities (SWD) Chose Not to Reenroll Between 2016-2017 to Oct. 1, 2017: OPSB & Charter Schools in Orleans Parish”, Audubon Charter School (LEA/Site Code-036005) was listed as having a total of only one (1) student with a disability who was enrolled on October 1, 2017. Further, when considering that a reported 17 students did not reenroll as of October 1, 2017, this resulted in a very unusual and highly elevated (1700%) non-reenrollment rate for the 2017-2018 school term. Further, a review of the 2015-2016 student data base (see LDOE database titled “Rates at Which Students with Disabilities (SWD) Chose Not to Reenroll Between 2015-2016 to Oct. 1, 2016: OPSB & Charter Schools in Orleans Parish”) indicates that Audubon Charter School had a total of 72 students enrolled with an IEP as of the October 1, 2016 Public IDEA Student Count. As such, the IMs reported a concern to the LDOE suggesting that it appeared very unlikely that Audubon Charter School had only one student with a disability as of the October 1, 2017 Pubic IDEA Student Count.

After further investigation, the LDOE responded to the IMs indicating that school site code changes were noted during the years 2016-2017 and 2017-2018. As such, only one student remained documented as enrolled at Audubon under their old or prior year site code 036005, thus resulting in a 1700% rate of students choosing not to re-enroll. The additional students were accounted for under Audubon’s new site code (WAZ001). LDOE staff acknowledged this error and agreed that Audubon Charter School was incorrectly chosen to undergo on-site monitoring in the area of Enrollment Stability based on an inaccurate non-enrollment rate.

An additional concern was reported to the LDOE regarding the unusual discrepancy observed for the Renew McDonogh City Park Academy October 2016 IEP count and students choosing not to re-enroll for the 2017 school term. More specifically, this charter school site reported a total student count of 209 students with disabilities (October 1, 2016). However, the number of students with disabilities who were reported as not re-enrolling as of October 2017 was 308.

The LDOE submitted a response to the IMs indicating that ReNew McDonogh City Park Academy was a school closure. Therefore, since this charter school closed and no students were recorded as enrolled, this resulted in an unusually high rate of students choosing to not re-enroll in the fall, 2017 school term. Further, in relation to the observation that more students chose to not re-enroll in 2017 than were actually enrolled as of October 1, 2016, LDOE staff noted that between Oct 1, 2016 and the end of the 2016-2017 school term McDonogh City Park Academy enrolled an additional 100+ preschool students with disabilities, thus explaining the enrollment discrepancy.

Recommended Corrective Remedies

LDOE staff and the IMs reviewed the enrollment database (i.e. “Rates at Which Students with Disabilities (SWD) Chose Not to Reenroll Between 2016-2017 to Oct. 1, 2017: OPSB & Charter Schools in Orleans Parish”) to determine which NOLA/OPSB charter school, rather than Audubon Charter, should have been chosen for on-site targeted monitoring in the area of Enrollment Stability. The table below summarizes the NOLA/OPSB charter school sites reporting the highest rankings for students choosing to not-enroll from 2016-2017 to October 1, 2017:

OPSB/NOLA Charter School	2017 Non- Re-enrollment rate	School Status and Reason Not Selected for Targeted Monitoring
Menard Nelson Elementary School	63.6%	Appropriately Selected and Monitored in Fall, 2018
William J. Fischer Accelerated Academy	62.2%	Appropriately Selected and Monitored in Fall, 2018
Sylvanie William College Preparatory Charter	55%	School Closure
Robert Russa Moten	50%	Monitored in fall, 2018
McDonogh 32 Literacy Charter School	45.9%	School Closure
Sophie B. Wright Charter School	45.7%	Cleared ICAP-Spring 2019
Einstein Charter School at Village De L’Est	42.9%	Already scheduled for on-site monitoring in the area of enrollment in September, 2019

Dr. Martin Luther King Charter for Science/Technology	38.2%	Selected for Targeted Monitoring in the area of Enrollment Stability in September, 2019
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As indicated in the table above, the five NOLA/Charter schools with the highest rates of students choosing not to re-enroll during the 2017-2018 school term were not selected to replace Audubon Charter School due to the following factors: (a) charter school closed, (b) charter was monitored and cleared ICAP in spring 2018 and/or (c) the charter school was previously selected for additional on-site monitoring in September, 2019 or December, 2019 in the area of Enrollment Stability.

Therefore, after reviewing the database to determine which NOLA/OPSB charter reported the next highest rates of students choosing not to re-enroll during the 2017-2018 school term, LDOE staff and the IMs collectively agreed to select Dr. Martin Luther King Charter for Science/Technology to undergo on-site targeted monitoring in the area of Enrollment Stability in September, 2019. As such, LDOE staff submitted a monitoring notification letter to Martin Luther King Charter for Science/Technology school officials on August 22, 2019 informing them of an upcoming on-site targeted monitoring visit in the area of Enrollment Stability during the week of September, 23, 2019.

To avoid such concerns in the future, LDOE officials reported that the LDOE data office has begun adding a note to the bottom of the data files provided to explain such anomalies (i.e. "OPSB sites reassigned site codes in 2017-18 SY will be under their new site code unless they had any reported students under their old site code in the Oct 2017 IDEA count.") LDOE officials further indicated this type of data error has previously not represented a concern. Instead, this data anomaly resulted in site code changes and the manner in which data was provided to LDOE between school terms.

In addition, to proactively address the concerns described above, the IMs recommended that LDOE monitoring staff collaborate with the LDOE data team to develop a protocol for verifying that all datasets used for future selections of NOLA/OPSB charter schools under the provisions of Addendum A of CJ include additional safeguards to ensure all data metrics (i.e. enrollment figures, sorting/rankings) are appropriate and correct. After briefly discussing this matter, LDOE monitoring staff agreed with this IM recommendation.

As a final remedy for addressing the above-mentioned concern, prior to any school selections, LDOE staff and the IMs have agreed to collectively reviewing all relevant annual school

selection datasets for potential concerns. The LDOE staff and the IMs have also agreed to collectively reviewing the annual LDOE datasets used to select schools for targeted (Related Services) monitoring and mutually agreeing (via phone conference) on which current and future NOLA/OPSB charter schools meet the criterion for targeted monitoring in the area of Related Services as outlined in the CJ Addendum.

Observed Concern 4. **The 2016-2017 LDOE Child Find was observed by the IMs to be sorted by LEA site code numbers (lowest to highest) rather than ranked by the “New IDEA Identification Rates” (lowest to highest) reported by each NOLA/OPSB charter school for the 2016-2017 term. As such, the IMs investigated this potential concern to determine whether the NOLA/OPSB elementary, middle and high school charter reporting the lowest (2016-2017) new IDEA identification rate was correctly selected for targeted monitoring during the fall, 2017 Child Find monitoring cycle.**

Following a thorough review of the LDOE Child Find dataset (i.e. “SPP Indicator 11 Data: Summary by LEA and Site OPSB and Charter Schools in New Orleans”) and discussions with LDOE officials regarding this specific issue, the IMs verified that NOLA/OPSB charter schools were selected in error for the Fall, 2017 (Child Find) monitoring cycle. The school selection error occurred as the result of the LDOE Child Find dataset being sorted by charter school ID codes (from lowest to highest) rather than being sorted by “New IDEA Identification Rates” (lowest to highest) reported by NOLA/OPSB charter schools for the 2016-2017 school term. That is, during the school selection process, LDOE staff selected the first OPSB elementary, middle and high school charter site listed on the database as requiring targeted monitoring in the area of Child Find. As such, school selections were not based on the NOLA/OPSB elementary, middle and high school charter site that reported the lowest “new IDEA identification rate” for the 2016-2017 school term as required under the Child Find school selection criteria outlined in the Addendum A of the CJ.

In discussing the Child Find selections during several conference calls, LDOE staff acknowledged and confirmed the selection error.

Recommended Corrective Remedies

To address the above-mentioned school selection error, the IMs and LDOE staff, after sorting the 2016-2017 Child Find dataset to identify all NOLA/OPSB charter schools reporting the lowest to highest “new IDEA identification” rates during the 2016-2017 school term, collectively

reviewed the dataset and identified the NOLA/OSPB elementary, middle and charter school site reporting the lowest annual (2016-2017) IDEA identification rates that should have been selected for targeted monitoring in the area of Child Find during the Fall, 2017 monitoring cycle. During our review, it should be noted there were numerous NOLA/OSPB charter high schools reporting a 2016-2018 “new identification rate” of zero (0.0%). As such, the IMs and LDOE staff agreed to select the NOLA/OSPB high school charter site reporting the lowest enrollment of students with disabilities for on-site monitoring.

The table below summarizes the NOLA/OSPB charter school sites that were selected in error and the NOLA/OSPB charters that should have been selected to participate in targeted monitoring in the area of Child Find during the fall, 2017 monitoring cycle.

NOLA/OSPB Charter Schools Incorrectly Selected for Targeted Monitoring (Child Find-Fall, 2017)	NOLA/OSPB Charter Schools that Should have been Selected for Targeted Monitoring (Child Find-Fall, 2017)
Mary Bethune Elementary Charter (1.1% new identification rate-2016-17)	Alice M. Harte Elementary Charter School (0.1% new identification rate-2016-17)
Audubon (Middle) Charter School (1.8% new identification rate-2016-17)	KIPP Central City Academy (Middle School) (0.0% new identification rate-2016-17)
Warren Easton High School (0.1% new identification rate 2016-17)	Benjamin Franklin High School (0.0% new identification rate)

In an attempt to remedy this school selection error, the LDOE has also scheduled additional on-site targeted monitoring visits for Alice Harte Elementary Charter School, KIPP Central City Academy (Middle) and Benjamin Franklin High School during the week of September 24-27, 2019.

Again, as an additional remedy for addressing the above-mentioned concern, LDOE staff and the IMs have agreed to collectively review all relevant annual (Child Find) school selection datasets for potential sorting/ranking errors. Secondly, the LDOE staff and the IMs agreed to collectively reviewing the annual LDOE datasets used to select schools for targeted (Child Find) monitoring and mutually agreeing (via phone conference) on which current and future NOLA/OSPB charter schools meet the criterion for targeted monitoring in the area of Child Find as outlined in the CJ Addendum.

Observed Concern 5. The IMs observed that NOLA/OPSB charter schools were selected for targeted monitoring based on the charter school sites reporting the highest rather than the lowest related service provision rates (i.e. average number of minutes per pupil/per week) as specified in the CJ. As such, this observation represented a potential error in charter schools selected for targeted monitoring in the area of Related Services during the fall, 2017 monitoring cycle.

Based on the IMs review of the LDOE database (i.e. “2016-2017 Related Service Minutes Per Student Provided to Eligible Students under the IDEA: OPSB & Charter Schools in New Orleans Parish”), it appeared to the IMs that the list of NOLA/OPSB charter sites was rank ordered from most-to-least rather than least-to-most in terms of related service minutes provided to students with disabilities during the 2016-2017 school term. That is, the charter schools with the least presumed risk (i.e. highest rates of service delivery) were selected for targeted monitoring rather than the schools with the most presumed risk (i.e. lowest rates of Related Service provisions). After discussion, this concern with school selections was confirmed by LDOE staff. As such, this reflects an error in the NOLA/OPSB charter schools selected for Related Services monitoring during the Fall, 2017 monitoring cycle. Again, LDOE staff described this error as an inadvertent oversight as the result of the related service data (i.e. average minutes per pupil/per week) across all NOLA/OPSB charter schools being sorted from highest to lowest rather than lowest to highest.

Recommended Corrective Remedies

To address this error in school selection, the IMs and LDOE staff reviewed the LDOE database (i.e., “2016-2017 Related Service Minutes Per Student Provided to Eligible Students under the IDEA: OPSB & Charter Schools in New Orleans Parish” with all NOLA/OPSB charter schools ranked from lowest to highest related service provision rates for the 2016-2017 school term and collaborated (via phone conference) to make the correct selections for NOLA/OPSB charters that should have been designated to participate in targeted (Related Service) monitoring during the Fall, 2017 monitoring cycle.

The table below summarizes the NOLA/OPSB charter schools that were selected in error and the charter sites that should have been selected to participate in targeted monitoring activities in the area of Related Services.

NOLA/OPSB Charter Schools Selected Incorrectly for Targeted Monitoring in the area of Related Services-Fall, 2017	NOLA/OPSB Charter Schools that Should have been Selected for Targeted Monitoring in the area of Related Services-Fall, 2017
Cypress Academy 218.0 average minutes per pupil/per week	Lusher Charter School* 3.86 average minutes per pupil/per week
Livingston Collegiate Charter School 145.5 average minutes per pupil/per week	Eleanor McMain Secondary Charter School 2.73 average minutes per pupil/per week
James M. Singleton Charter School 116.9 average minutes per pupil/per week	McDonogh 35 College Preparatory Charter** 0 minutes per pupil/per week

* *Note: NOTE: Lusher Charter participated in Related Services targeted monitoring in Fall, 2018. As such, the charter site reporting the next lowest rate for related service provisions for 2016-2017 was Lake Forest Charter School. Therefore, this charter site was selected to participate in additional Related Service monitoring in Fall, 2019.*

** *Note: McDonogh #35 Charter Academy was the school site that represented one of the three NOLA/OPSB charters reporting the lowest related service provision rates for the 2016-2017 school term. However, this 9th grade charter has since merged with McDonogh #35 College Preparatory Charter School.*

Again, to initially remedy this school selection error, the LDOE proposed that the LDOE monitoring staff and IMs conduct additional on-site targeted monitoring reviews for the above-mentioned NOLA/OPSB charter schools during September, 2019. As such, the LDOE submitted official notifications to school leaders for Lake Forest Charter School, Eleanor McMain Secondary Charter School, and McDonogh 35 College Preparatory Charter on August 22, 2019 informing them of a mandated on-site monitoring visit during the week of September 24-27, 2019.

Finally as mentioned previously, as an additional remedy for addressing the above-mentioned concern, LDOE staff and the IMs have also agreed to collectively review all relevant annual (Related Services) school selection datasets for potential sorting/ranking errors. Secondly, the LDOE staff and the IMs agreed to collectively reviewing the annual LDOE datasets used to select schools for targeted (Related Services) monitoring and mutually agreeing (via phone conference) on which current and future NOLA/OPSB charter schools meet the criterion for targeted monitoring in the area of Related Services consistent with the requirements outlined in the Addendum A of the CJ.

Summary

The IMs initial inquiry and follow-up investigation of potential errors in the process of selecting schools for targeted monitoring revealed that a total of ten (10) NOLA/OPSB charter school sites were selected in error for the fall, 2017 (eight charter school sites) and fall, 2018 (two charter school sites). Based on a thorough review of LDOE databases/school selection documents, along with numerous communications with LDOE officials (via email and phone conference), the IMs believe these errors occurred as the result of inadvertent data oversights (i.e. enrollment/sorting errors, technicalities in charter school site code changes, and human error) rather than any attempt to circumvent the school selection process.

As noted previously, the LDOE Director of Special Education Programs/IDEA monitoring, LDOE monitoring staff, and LDOE legal counsel have each acknowledged the abovementioned oversights in making appropriate selections for NOLA/OPSB charter schools required to undergo targeted monitoring during the fall, 2017 and fall, 2018 school terms. Further, in addition to being cooperative and forthcoming regarding these issues, LDOE staff immediately offered, what the IMs believe to be, a reasonable initial remedy for correcting these oversights (i.e. broadening the overall scope of LDOE oversight by conducting additional monitoring for the NOLA/OPSB charter sites that should have been originally selected for targeted monitoring). The LDOE staff and legal counsel have also agreed with IM recommendations for developing proactive safeguards for preventing any future school selection errors and collectively reviewing and agreeing upon schools which NOLA/OPSB charters should be properly selected for any targeted monitoring visits that may be conducted in the future.

In addition to the LDOE's acknowledgment of their role in these oversights in proper school selections summarized above, the IMs, too, equally acknowledge their role in failing to more carefully review the NOLA/OPSB charter school sites selected for targeted monitoring in the fall, 2017 and/or fall, 2018 monitoring cycles. As such, the IMs wish to express their sincere regret to all parties and feel confident that the LDOE and IMs suggested remedies will prove to be successful for avoiding such oversights in the future.

Finally, although these errors did, in fact, result in numerous NOLA/OPSB charter school sites being selected incorrectly for targeted monitoring, the IMs, do not judge these concerns, albeit unfortunate, as compromising the integrity of the process of selecting schools for targeted monitoring as outlined in the CJ. That is, with no intention or attempt whatsoever to minimize the school selection errors that were committed, if the integrity of the school selection process was seriously compromised, one could reasonably predict that the NOLA/OPSB charter schools that were selected in error (i.e. charters with the least presumed risk based on the highest (not

lowest) related service rates, lowest (not highest) rate of enrollment stability and/or higher rates of IDEA identification) would likely demonstrate a higher rate of acceptable IDEA compliance upon initial review. To the contrary, however, when reviewing the fall, 2017 and fall, 2018 compliance outcomes for the abovementioned charter schools selected in error, eight (8) of ten (10) NOLA/OPSB charters (80%) that were verified as being incorrectly selected to undergo targeted monitoring were placed on Corrective Action Plans as the result of systemic noncompliance observed across various IDEA mandates across the areas of Child Find, Related Services and/or Enrollment Stability. These NOLA/OPSB charter schools included:

1. James Singleton Charter School (Related Service- fall 2017)
2. Cypress Academy (Related Services - fall, 2017)
3. Livingston Collegiate Academy (Related Services – fall, 2017)
4. Mary Bethune Charter School (Child Find- fall, 2017)
5. Warren Easton Charter High School (Child Find-fall, 2017)
6. Einstein Middle Charter at Sarah Towles Reed (Enrollment-fall 2017)
7. Audubon Charter School (Related Services-fall, 2018)
8. Lusher Charter School (Related Services-fall, 2018)

These findings are consistent with the overall findings of the systemic noncompliance observed across NOLA/OPSB charter schools selected for initial targeted monitoring reviews during the spring, 2016 and fall, 2016 monitoring cycles. Perhaps this unique observation may reflect inherent concerns with the validity of the selection criterion metrics (i.e. non re-enrollment rates, average related service minutes, new IDEA identification rates) as outlined in Addendum A of the CJ for reliably predicting a charter schools' actual level of risk for IDEA noncompliance and/or further indicates the level of concerns that continue to exist among NOLA/OPSB schools with regard to IDEA compliance, thus suggesting the continued need for LDOE oversight and support under the provisions of the CJ.

In closing, although the IMs agree with the LDOE's suggestion of conducting additional on-site monitoring reviews, it should be noted that regardless of the view of the IMs, there are no provisions outlined in the CJ for such activities (i.e. additional monitoring) serving as a corrective remedy for addressing these unforeseen circumstances. As such, it is recommended that counsel for the plaintiff's class, LDOE legal counsel and OPSB legal counsel meet to discuss this matter further and hopefully come to a reasonable resolution for how to best move forward with completing the required activities outlined in the CJ.