
Improving Educational Access, Performance, and Outcomes for Students with Disabilities

Monitoring and Support for Continuous Improvement
in the New Orleans Public Charter Schools

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Authors and Contributors

CPRL Team

William Koski

Kyle Kate Dudley

Jack Quaglino

Graduate and Professional Student Team

Nathnael Alazar

Insia Ali Zaidi

Sewit Beraki

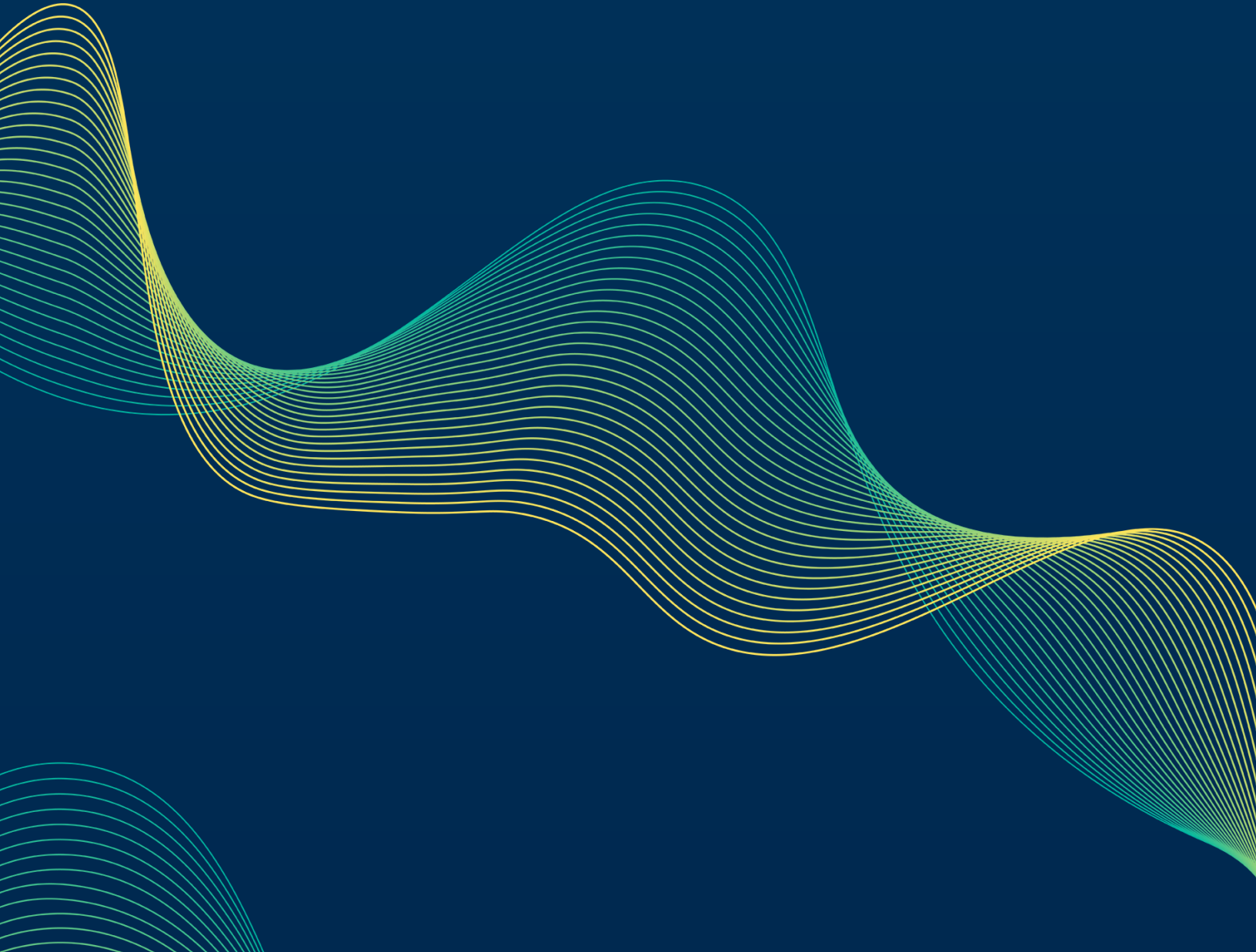
Emefa Kumaza

Carrie Mannino

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EXECUTIVE SUMMARY



In the years following Hurricane Katrina, the New Orleans public school system took the bold step of re-imagining its public schools to provide parents and families with more choice and to provide school leaders and educators with more autonomy to design schools that would best meet the needs of the children of New Orleans.¹ Though many lauded the move toward decentralization and choice, it soon became apparent that many students with disabilities were not well served by the decentralized system.² Many New Orleans schools failed to identify and serve students with disabilities, suspended students with disabilities at alarming rates, and failed to provide students with disabilities access to school options.³ In 2010, the Southern Poverty Law Center (SPLC), among others, brought a federal class-action lawsuit on behalf of students with disabilities to address these problems. That case resulted in a consent decree with the Orleans Parish School Board (OPSB) and the Louisiana Department of Education (LDOE) that sought to improve special education accountability and performance in New Orleans schools.⁴

Now that OPSB and LDOE have asked that judicial monitoring of the case come to a close, SPLC is exploring alternative monitoring solutions to ensure that the charter schools in the New Orleans Public Schools (NOLA-PS) continue to be held accountable for compliance with the Individuals with Disabilities Education Act (IDEA) and improved service to students with disabilities. Accordingly, SPLC has asked the Center for Public Research and Leadership (CPRL) to make recommendations to improve oversight and support of special education services in New Orleans public schools such that LDOE and NOLA-PS are able to: (1) ensure compliance with special education mandates on an ongoing basis and (2) support continuous improvement of special education services for students across the system.

Pursuant to its obligation as a state education agency (SEA) under the IDEA, LDOE has established: (1) a monitoring and general supervision system that aims to ensure that local education agencies (LEAs) in the state comply with the IDEA and improve outcomes for students with disabilities and (2) a complaints management system that aims to allow students with disabilities and their families to seek resolution and redress for the failure of the children's LEA to comply with the IDEA and provide appropriate services.⁵ Similarly, NOLA-PS, as a charter school authorizer, has implemented charter authorization, annual monitoring, and charter renewal policies and procedures that seek to ensure access and appropriate services to students with disabilities.⁶

CPRL has conducted a comprehensive evaluation of available information regarding those existing structures and processes for oversight and support of special education services in New Orleans public schools. We evaluated both LDOE and OPSB's structures and processes in light of practices across the country. Our research has consisted of an analysis of relevant scholarly literature and other materials, over 20 semi-structured interviews with experts and other stakeholders, and case studies of various agency practices in special education monitoring and oversight. Through this research,

we have identified oversight practices and support frameworks that states, school districts, and charter school authorizers in different regions of the country have designed to ensure compliant and high-quality special education services, with a particular focus on unique issues related to the oversight and support of autonomous charter schools. CPRL aims to build upon the work of LDOE, NOLA-PS, the charter schools in the district, and advocates, families, and other stakeholders to provide recommendations for improvement of those oversight systems.

Our research confirms what many policy-makers, administrators, and educators already know: monitoring and oversight structures that focus merely or substantially on compliance with legal mandates are not enough to ensure that students with disabilities are properly served and achieve better outcomes. Nor are they enough to ensure that local education agencies continuously improve service delivery. Through our interviews with experts in the field and case study analyses, we conclude that effective monitoring and oversight systems must focus on performance and outcomes, while ensuring that any monitoring and intervention activities are designed to facilitate continuous improvement. Moreover, it is critical that oversight agencies, such as SEAs and charter authorizers, provide or support quality technical assistance to often under-resourced and over-stretched LEAs. This is particularly the case with small LEAs, like many of the charter schools in New Orleans, that do not have the economies of scale or resources to address all of the needs of their diverse learners.⁷

CPRL has identified opportunities for improving on the existing systems to ensure ongoing compliance with mandates and enhance the quality of services provided. Our report provides a summary of all of our recommendations to LDOE and NOLA-PS regarding the improvement of special education monitoring and oversight in New Orleans. Here we highlight selected key recommendations.

Key recommendations to improve LDOE’s monitoring and oversight of New Orleans charter schools’ compliance with the IDEA and ensure improved outcomes and performance for students with disabilities

The IDEA requires SEAs to establish an effective system to monitor and supervise LEAs’ implementation of the IDEA and to provide a complaints management system that allows families to seek redress for alleged violations of the statute. While monitoring is necessary to ensure legal compliance, it also provides an opportunity for SEAs to work with LEAs to improve outcomes and performance of students with disabilities, as well as continuously improve service delivery. LDOE has adopted a risk-based approach to monitoring that seeks to identify LEAs with the greatest compliance and performance challenges and provide those LEAs with targeted support and intervention. LDOE also has established a complaints management system. Because those systems are essential to ensure legal compliance and improvement in NOLA-PS after court jurisdiction is terminated, we offer recommendations to improve both those systems in our report. Here we highlight several key recommendations.

Monitoring frequency and focus

LDOE’s risk-based monitoring system seeks to conserve monitoring resources by targeting those LEAs in the state with the greatest need. That said, a risk-based approach is potentially unreliable with small LEAs—such as the charter schools in New Orleans—due to the “small-n” problem (relatively few students with disabilities in each small LEA) and the risk that LEAs will be improperly selected or passed over for further monitoring and support. To address that issue:

- Instead of a risk-based approach in NOLA-PS, LDOE should implement a three-year monitoring cycle, including site visits, for all of the LEAs in NOLA-PS.
- Nonetheless, LDOE should not ignore significant compliance or performance issues identified through annual data collection in the NOLA-PS charter schools and should address those problems through a targeted approach.

Data collection and reporting

While LDOE is required to collect data annually for each of the performance and compliance indicators required under its State Performance Plan/Annual Performance Report (SPP/APR indicators), LDOE should collect additional data elements and publicize those data to address specific concerns regarding enrollment, retention, and service delivery in the NOLA-PS charter schools:

- LDOE should collect: (1) annual re-enrollment rates of students with disabilities at each school; (2) chronic absenteeism rates for all students at each school; and (3) a meaningful measure of parent involvement in their children’s educational decision-making process.
- LDOE should publish the following on its website and require each LEA to annually publish on their websites: (1) LEA “annual determinations” from LDOE, (2) performance on each of the SPP/APR indicators, and (3) performance on the additional data elements recommended here.
- To ensure public confidence in LDOE’s data collection, LDOE should publish the methods it uses to verify that the data it collects are valid and reliable.
- To ensure local confidence in and accountability for data collection, LDOE should ensure that all LEAs have a functioning Special Education Advisory Committee and that the LEA report to the Committee on an annual basis regarding the LEA’s performance on the SPP/APR indicators and any and all monitoring activities.

Data analysis for further monitoring activities

While we recommend that LDOE employ a cyclical monitoring approach in NOLA-PS, LDOE should nonetheless improve its risk-based monitoring system as follows:

- To provide transparency to both LEAs and the public, LDOE should specifically identify each of the indicators in the formula/rubric it uses to select LEAs for targeted monitoring, eliminate the catch-all Risk Indicator 5, and annually publish the specific formula/rubric it uses to select LEAs for targeted monitoring.

- To ensure that LDOE analyzes its data to identify for further monitoring those LEAs with the greatest need, LDOE should use most or all of the SPP/APR indicators in its selection formula/rubric, but place greater emphasis on the IDEA's monitoring priorities and those indicators most related to free appropriate public education (FAPE) in the least restrictive environment (LRE), student performance and outcomes, racial disproportionality, Child Find, and school discipline.
- To address specific issues identified in the NOLA-PS charter schools, LDOE should consider adding to the monitoring system formula / rubric additional indicators for annual re-enrollment rates, chronic absenteeism, and meaningful parent participation.

Monitoring activities

For those LEAs selected for targeted monitoring and for all LEAs in NOLA-PS that are monitored through the cyclical approach, in addition to the self-review and on-site monitoring activities it currently employs or recommends, LDOE should require (if not already required) the following continuous improvement monitoring activities to better focus those activities on continuous improvement of student performance and outcomes.

Further data collection

- To better understand the contours and causes of the issues identified in the LEA's annual data collection and to identify additional performance and outcome challenges, LDOE should require the collection of qualitative data at the LEA and school-site level, including parent/stakeholder interviews, surveys, and/or focus groups; classroom observations; and interviews with school leaders and educators.
- LDOE should require that desk-top reviews of student files include both compliance and performance measures over a period of at least three years, rather than a static "snapshot" of students' files. To assist in the proper development of a continuum of services for every student with disabilities in the district, we recommend that LDOE consider including an "educational benefit" review in its monitoring, which would offer a data picture of student progress toward goals over a period of time and the district's response to that progress (or lack of progress). Note, an educational benefit review does not involve changing any components of a student's IEP or goals and objectives.
- LDOE should require further analysis of quantitative data, particularly for those areas of compliance and performance concerns.
- LDOE should require a policies and procedures review in each LEA to ensure that the LEA has comprehensive and compliant policies in place.

- LDOE should develop clear, user-friendly protocols and instructions for each of the data collection activities and provide technical support for each of the activities.

Data analysis

- To ensure multiple perspectives and stakeholder participation, LDOE should require that LEAs form a stakeholder committee that includes administrators, educators, service providers, and parents to analyze the data to determine the "root cause(s)" of compliance and performance concerns.
- LDOE should develop clear, user-friendly protocols and instructions and technical support for this root-cause analysis.

Planning for continuous improvement

- To ensure strategic and comprehensive planning for continuous improvement, LDOE should require the aforementioned LEA stakeholder committee to develop a theory of action and plan for improvement that addresses the primary areas of compliance and performance concerns.
- The plan should include measurable goals and outcomes for improvement, prioritization of goals and initiatives, specific activities/tasks, and timelines.
- LDOE should develop clear, user-friendly protocols and instructions for each planning activity, and provide technical support for each of the activities.

Implementation and iteration

- LDOE should require that the LEA implement its continuous improvement plan, monitor its implementation, and require that modifications be made to the plan if it is not achieving its goals.

Technical support and assistance

- It is imperative that LDOE provide technical support and assistance to the charter schools in NOLA-PS to participate in these continuous improvement activities. Due to the economies of scale and resource challenges that the LEA charter schools face, LDOE should either provide the support and assistance directly or provide the resources for the LEAs to secure technical support and assistance from a list of LDOE-approved providers.

Key recommendations to improve NOLA-PS's charter school authorization, monitoring, and renewal practices to ensure compliance with the IDEA and improved outcomes and performance for students with disabilities

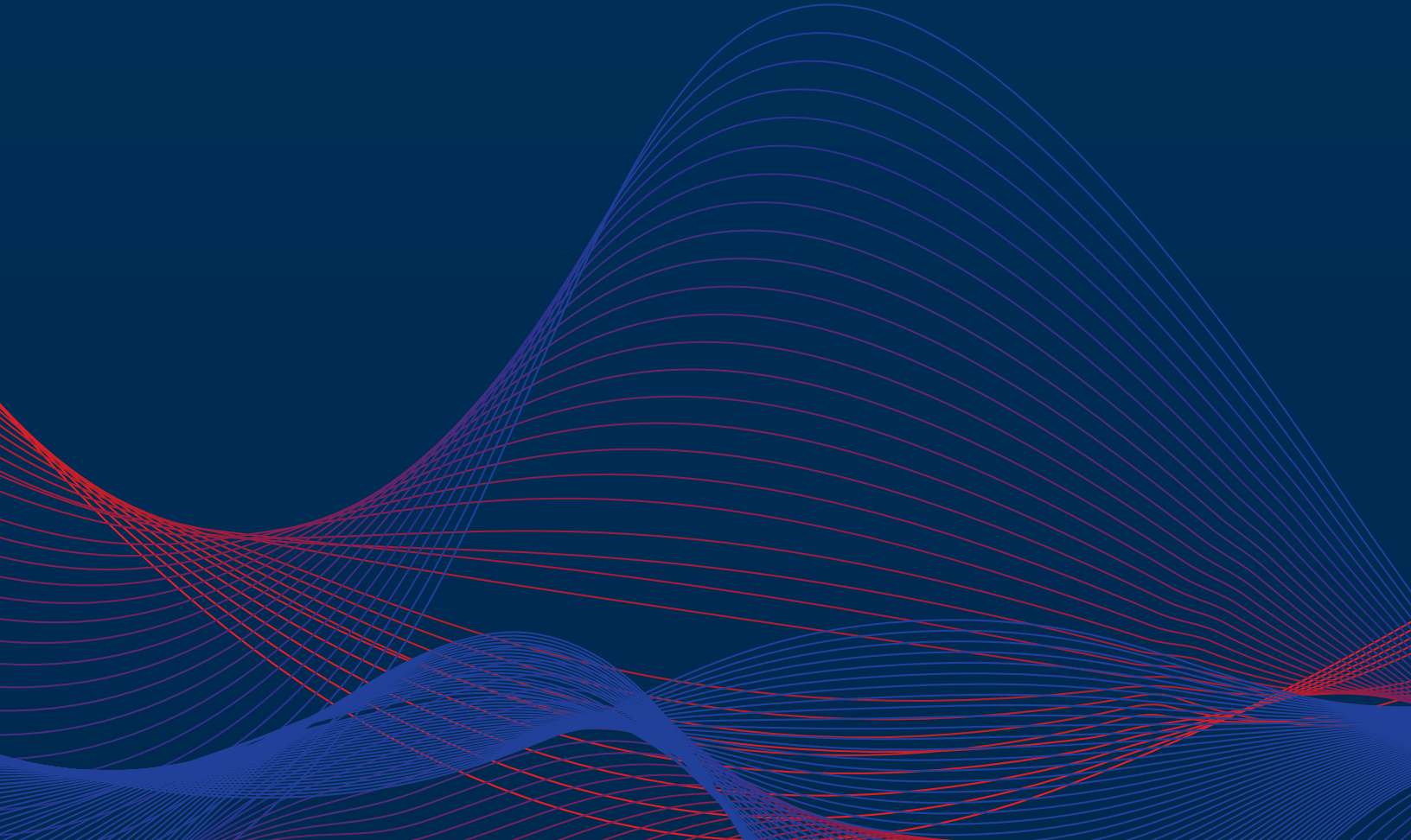
Charter school authorizers have the potential to significantly influence the landscape of special education service delivery in their schools through their mechanisms for authorizing, monitoring, and renewing charters. While there is always room for improvement, we acknowledge that NOLA-PS currently engages in some promising practices in authorization, monitoring, and renewal, and that our recommendations build upon those practices. Our report summarizes all of our recommendations for charter authorization, oversight, and renewal. Here we highlight selected key recommendations regarding oversight of charters to improve special education compliance and service delivery.

Monitoring and oversight during the charter term is essential to improving service delivery for students with disabilities. NOLA-PS already annually conducts site visits and carries out desktop reviews to monitor schools. NOLA-PS also produces summaries of these reviews. These monitoring procedures could be improved through more systematic data collection and more qualitative data-gathering during site visits.

- To improve data collection and understand more about the students charter schools are serving, we recommend that NOLA-PS actively and more closely monitor school-level enrollment and retention rates of students with disabilities. Note, we are not recommending that NOLA-PS use this data to track individual students' enrollment or truancy. NOLA-PS should track school-level data that would hold charter schools responsible for detrimental barriers to enrollment that special education students and families face.
- We recommend that NOLA-PS establish more robust on-site and desktop monitoring procedures, including file reviews that focus on student performance and monitoring of special education records to ensure their continued creation and maintenance.
- To assist in the proper development of a continuum of services for every student with disabilities in the district, we recommend that NOLA-PS consider including an "educational benefit" review in its monitoring, which would offer a data picture of student progress toward goals over a period of time, as opposed to a single snapshot in time. Note, an educational benefit review does not involve changing any components of a student's IEP or goals and objectives.
- To ensure effective Child Find procedures, we recommend that NOLA-PS also monitor identification of and timely intervention for struggling students and students with disabilities, as well as the performance of students with disabilities on both mandated assessments and alternative assessment structures.
- To provide additional, accurate, and current information to families in the school-selection process, NOLA-PS should, in a user-accessible manner, annually publish on its website and ensure that each LEA annually publishes on its own website (1) a description of the special education placements, services, and supports offered in the LEA; (2) the LEA's "annual determination" from LDOE, (3) the LEA's performance on each of the SPP/APR indicators; (4) LDOE and NOLA-PS monitoring results; and (5) corrective action plans and findings of non-compliance issued to the LEA (if any).
- We recommend that NOLA-PS establish a more robust complaints management system that addresses complaints from all charters it authorizes and examine documentation and resolution of school-level complaints about students with disabilities as part of its charter renewal process.

NOLA-PS, despite its promising monitoring and renewal practices, has several practices that seem borne out of a focus on legal compliance. The concern with compliance-oriented accountability measures for charter schools is that they do not encourage continuous improvement of charter school special education service delivery, but merely require schools to "check boxes." We recommend that NOLA-PS focus its efforts on practices that will encourage continuous improvement of charter school special education service delivery and offer schools technical assistance to shift schools' focus away from compliance and toward improving educational experiences and outcomes for students with disabilities.

INTRODUCTION



In the years following Hurricane Katrina, the New Orleans public school system transformed from a traditional centralized school district into a decentralized public charter school system.⁸ Though many lauded the move to decentralize, it soon became apparent that students with disabilities were poorly served by the decentralized system.⁹ Those problems included the failure to identify students with disabilities, exclusionary school discipline practices, the failure to provide services, and the lack of access to school options.¹⁰ In 2010, the Southern Poverty Law Center (SPLC), among others, brought a federal class-action lawsuit on behalf of students with disabilities to address these problems.¹¹ That case resulted in a consent decree with the Orleans Parish School Board (OPSB) and the Louisiana Department of Education (LDOE) that sought to improve special education accountability and performance in New Orleans schools.¹² Now that OPSB and LDOE have asked that judicial monitoring of the case come to a close, SPLC is exploring alternative solutions to ensure the charter schools in the New Orleans Public Schools (NOLA-PS)—which carries out administrative functions for OPSB (we refer to NOLA-PS and OPSB collectively as NOLA-PS)—continue to be held accountable for compliance with the Individuals with Disabilities Education Act (IDEA) and improved service to students with disabilities.

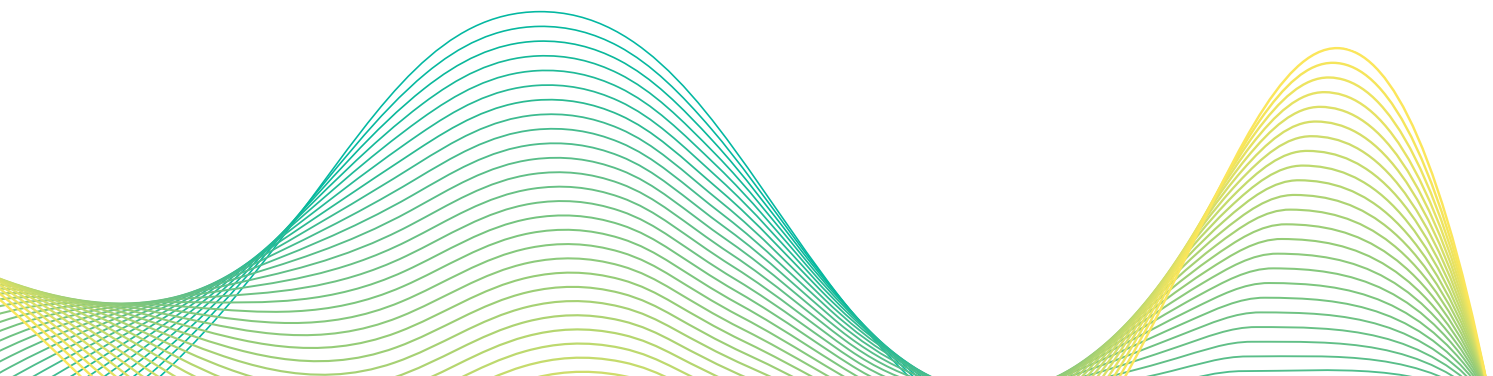
Accordingly, SPLC has asked the Center for Public Research and Leadership (CPRL) to make recommendations to improve oversight and support of special education services in New Orleans public schools such that LDOE and NOLA-PS are able to: (1) ensure compliance with special education mandates on an ongoing basis and (2) support continuous improvement of special education services for students across the system. The ultimate goal is the creation of a system that is sustainable and supports all students and their rights.

Pursuant to its obligation as a State Education Agency (SEA) under the Individuals with Disabilities Education Act (IDEA), LDOE has established: (1) a monitoring and general supervision system that aims to ensure that local education agencies (LEAs) in the state comply with the IDEA and improve outcomes for students with disabilities and (2) a complaints management system that aims to allow students with disabilities and their families to seek resolution and redress for the failure of the children's LEA to comply with the IDEA and provide appropriate services.¹³ Similarly, pursuant to its obligations under Louisiana law as a charter school authorizer, NOLA-PS has implemented charter authorization, annual monitoring, and charter renewal policies and procedures that seek to ensure that the charter schools it authorizes provide access and appropriate services to students with disabilities.¹⁴

CPRL has conducted a comprehensive evaluation of available information regarding those existing structures and processes for oversight and support of special education services in New Orleans public schools. Both LDOE and OPSB have oversight authority, and CPRL has evaluated both agencies' structures and processes in light of practices across the country. CPRL has identified opportunities for improving on the existing systems to ensure ongoing compliance with mandates and enhance the quality of services provided. Our research has consisted of an analysis of relevant scholarly literature and other materials, over 20 semi-structured interviews with experts and other stakeholders, and case studies of various agency practices in special education monitoring and oversight. Through this research, we have identified oversight practices and support frameworks that various states, school districts, and charter school authorizers designed to ensure compliant and high-quality special education services, with a particular focus on unique issues related to the oversight and support of autonomous charter schools. Our aim is to build upon the work of LDOE, NOLA-PS, the charter schools in the district, and advocates, families, and other stakeholders to provide recommendations for improvement of those oversight systems.

Our research confirms what many policy-makers, administrators, and educators already know: monitoring and oversight structures that focus merely or substantially on compliance with legal mandates are not enough to ensure that students with disabilities are properly served and achieve better outcomes. Nor are they enough to ensure that local education agencies continuously improve their service delivery. Rather, through our interviews with experts in the field and case study analyses, we have concluded that effective monitoring and oversight systems must focus on performance and outcomes, while ensuring that any monitoring and intervention activities are designed to facilitate continuous improvement. Moreover, it is critical that oversight agencies, such as SEAs and charter authorizers, provide quality technical assistance to often under-resourced and over-stretched LEAs. This is particularly the case with small LEAs, like many of the charter schools in New Orleans, that do not have the economies of scale or resources to address all of the needs of their diverse learners.¹⁵

With the goal of providing actionable recommendations for improving the oversight systems of LDOE and NOLA-PS, this report proceeds as follows: Part One describes the unique decentralized context for serving students with disabilities in New Orleans. Part Two focuses on SEA monitoring practices, including the IDEA's legal framework for monitoring, the LDOE's monitoring and complaints management practices, and the identification of practices in other jurisdictions. We conclude that section with our detailed recommendations for improvement of LDOE's monitoring system. Part Three pivots to charter authorizers and examines the oversight and monitoring of special education service delivery in Louisiana and NOLA-PS, as well as the identification of practices of charter authorizers in other jurisdictions. We conclude that section with our detailed recommendations regarding NOLA-PS's oversight of special education service delivery. In Part Four, we summarize our recommendations.



OVERALL RESEARCH STRATEGY AND METHODS

Our research strategy to provide actionable recommendations for the on-going monitoring and oversight of special education services in New Orleans was multi-pronged.

1

First, to provide the historical background and current context of how New Orleans charter schools serve students with disabilities, we conducted a literature review regarding the transformation of the New Orleans public school system; reviewed current, publicly available information on the system; reviewed documents in the *P. B. v. Pastorek* legal record; and interviewed a limited number of local education policy experts and parent/community stakeholders and advocates.

2

Second, to understand how LDOE implements its IDEA monitoring and general supervision obligation and how NOLA-PS uses its charter authorizer authority to ensure students with disabilities are properly served by charter schools in the district, we reviewed publicly available information on those subjects and materials provided by SPLC that were obtained in the context of the litigation. To ensure the accuracy of our work, we asked SPLC to provide the list of materials and resources that we consulted to LDOE and NOLA-PS and requested that the agencies provide any additional documents regarding their policies, procedures, and practices for special education monitoring and oversight that were not included in the list. It is our understanding that SPLC provided that list to LDOE and NOLA-PS and they have not responded with further information. As a result, LDOE and NOLA-PS may have additional policies, practices, and procedures of which we are unaware.

3

Third, to establish the practices of other SEAs and charter authorizers in jurisdictions outside of Louisiana, we reviewed the scholarly literature relevant to special education monitoring; interviewed more than a dozen experts in special education monitoring and charter school authorization practices; and conducted case studies of states and other jurisdictions based on publicly available information.

PART ONE

THE CONTEXT FOR SERVING STUDENTS WITH DISABILITIES IN NEW ORLEANS

In this section you will find:

- Post-Katrina Public Education in New Orleans
- An all-charter public school system and the challenge of providing special education services
- The *P.B. v. Pastorek* litigation
- Continued barriers and challenges that families face in accessing appropriate services for students with disabilities

The New Orleans public school system is the only major school system in the U.S. that is now composed entirely of charter schools.¹⁶ This unique system provides school leaders and educators the autonomy to design and implement novel educational practices and provides families the opportunity to select a school that best meets their children's needs and interests. But the system has allowed many students with disabilities to fall through the cracks.¹⁷ To best provide recommendations on how to seal those cracks and better serve students with disabilities, it is important to first understand the recent history and current structure of schooling in New Orleans.

Post-Katrina Public Education in New Orleans

Prior to 2005, the New Orleans school system was believed to be “among the worst of any big city school systems in the U.S.”¹⁸ In the 2004-2005 school year, more than half of Orleans Parish fourth graders were not proficient in reading and only one in four were proficient in math.¹⁹ The impacts of Hurricane Katrina “compounded already existing inadequacies in Orleans parish schools” which led to the deconstruction and restructuring of the education system.²⁰ Many schools in the district were damaged by the storm.²¹ Due to the displacement of families and the shortage of resources and viable school options, the district “briefly lost its typical students and students with disabilities population.”²²

After Hurricane Katrina, the state took over responsibility and control of low performing schools previously controlled by OPSB through the state's Recovery School District (RSD). Officially, the Louisiana Board of Elementary and Secondary Education (BESE) oversaw RSD. Initially, the RSD took over responsibility for all but sixteen schools. By the time SPLC filed the *P.B. v. Pastorek* lawsuit in 2010, RSD was directly operating twenty-three schools and had overseen the chartering of forty-nine charter schools. Also in 2010, the district received over \$2.1 billion in funding from the Federal Emergency Management Agency (FEMA) and the Community Development Block Grant to rebuild the schools and community and, ultimately, RSD returned authority to OPSB and NOLA-PS.²³ In the process of rebuilding, the district transformed into a decentralized, all-charter school system that aims to allow families to “select a school anywhere in the city that is the right fit for their student's needs, interests, and learning preferences.”²⁴

An all-charter public school system and the challenge of providing special education services

Public schools in New Orleans are now governed by a four-part system: (1) OPSB, which is the publicly elected school board for Orleans Parish and has policy-making authority in the district; (2) NOLA-PS, which is the district's “central office” and carries out administrative functions

for OPSB; (3) the agencies that now serve as charter school authorizers in the district, OPSB and BESE, and (4) the governing boards of the charter schools themselves.²⁵

Seven elected officials who represent seven geographic districts in Orleans Parish govern OPSB.²⁶ Their duties include setting policy, approving the annual district budget, and hiring and overseeing the Superintendent of Schools.²⁷ The Superintendent hires and manages staff in the Central Office.²⁸ NOLA-PS is responsible for “carrying out OPSB policies, holding schools to high, consistent standards, and providing support services for system-wide initiatives, such as Early Childhood programs and Child Nutrition programs.”²⁹ “It also identifies and manages systemwide resources to aid its school community, including the System Wide Needs Program (SWNP), Special Education, and state and federal education grants.”³⁰ Finally, NOLA-PS administers the district's centralized and unified school application and admissions process, as well as its centralized school discipline process.³¹

Nonprofit boards run charter schools in New Orleans. Charter boards have authority and responsibility for the “academic, financial, and organization performance of the school and the fulfillment of its charter operating agreement.”³² Charter management organizations (CMOs), or nonprofit organizations that operate one or more charter schools, operate many of the charter schools in the district.³³ The charter schools within a CMO typically have a shared mission and operational services. By the 2019-2020 academic year, CMOs managed two thirds of New Orleans schools.³⁴ National networks such as the Knowledge is Power Program (KIPP), as well as local CMOs including, but not limited to, Greater New Orleans Collaborative of Charter Schools (GNOCCS), FirstLine Schools, Algiers Charter, and InspireNOLA, serve students in New Orleans.³⁵ But a single CMO cannot oversee more than 15% of the District's total students—a policy that aims to provide a “diversity of education models available for families.”³⁶ Notably, charter schools are required to comply with state and federal law with respect to civil rights and individuals with disabilities.³⁷ As such, charter schools in

New Orleans need to “serve students with disabilities attending those charter schools in the same manner as [the state] serves students with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the LEA has a policy or practice of providing such services on the site of its other public schools.”³⁸

The all-charter, decentralized, school system poses structural challenges for LDOE and the district in implementing effective oversight and accountability of special education services. In 75 schools across 32 CMOs, OPSB and LDOE are tasked with the challenge of ensuring that special education services are being offered, including collecting and evaluating enrollment of students with disabilities, ensuring access to skilled and knowledgeable special education staff across the school system, enforcing data reporting on school sites and LEAs, and identifying and providing targeted support to non-compliant schools and LEAs, while also allowing charters schools to maintain their autonomy. Public charter schools are tasked with the challenge of developing their economies of scale for special education service delivery and maintaining expertise in special education supports and services — “this challenge is particularly acute for public charter schools operating as independent LEAs because they are responsible for offering a full continuum of special education and related services to . . . students with disabilities.”³⁹ NOLA-PS, with the assistance of the Center for Learner Equity, is beginning to address this economies of scale challenge.⁴⁰

An additional concern is that OPSB primarily has used school closures as an accountability mechanism for underperforming charter schools, which disrupts the educational experience for families and contributes to the number of transfers that families and their students with disabilities must undergo to find appropriate placement.⁴¹

Governance in the district is further complicated by the fact that charter schools in NOLA-PS are authorized by and held accountable to either OPSB or BESE, the district’s two charter authorizers.⁴² OPSB and BESE, as charter authorizers, are charged with holding charter schools accountable by setting rigorous standards, implementing oversight systems, and sharing information with the public.⁴³ OPSB’s performance standards are outlined in its Charter School Accountability Framework, and BESE’s standards are outlined in the Louisiana Charter School Performance Compact.⁴⁴ Under Louisiana charter school law, charter schools fall into six categories: Type 1, Type 2, Type 3, Type 3B, Type 4, and Type 5.⁴⁵ The local school board—here, OPSB—authorizes and is responsible for the oversight of Type 1 and Type 3 charter schools.⁴⁶ LDOE is responsible for BESE-authorized charter schools that are Type 2, Type 4, and Type 5.⁴⁷ Type 1–3 and 5 charter schools have a board of

directors that “governs finances, operations, and administration.”⁴⁸ Type 4 schools are governed by their local school board.⁴⁹

For 2023-2024, the governance structure is as follows⁵⁰:

- 68 schools under the jurisdiction of NOLA PS
- 6 schools under the direct management of BESE
- 1 school under the state legislature⁵¹

Charter school types in Louisiana⁵²

School Type	Description	Authorizer
Type 1	New School	Local school board
Type 2	New or conversion school	BESE
Type 3	Conversion school	Local school board
Type 3B	Former Type 5 charter school transferred from Recovery School District back to local school system	Local school board
Type 4	New or conversion school	Local school board and BESE
Type 5	Recovery School District school	BESE

The P.B. v. Pastorek litigation

In *P.B. v. Pastorek*, the plaintiffs—ten students representing a class of 4,500 students with disabilities—sued Paul Pastorek, then Louisiana State Superintendent of Education, in his official capacity, LDOE, and BESE (Defendants) for the following reasons: (1) public schools were denying students with disabilities entrance because the schools were not equipped with the necessary services; (2) the state was not providing students with disabilities the educational experience they were entitled to under the IDEA and Section 504 of the Rehabilitation Act of 1973; (3) the state’s failure to develop and implement effective child find procedures in the district; (4) students with disabilities were not fully provided the related services and Individualized Education Programs (“IEPs”) to which they were entitled; and (5) students with disabilities were being punished for the manifestations of their disabilities and being excluded from educational programs.⁵³

The Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act

The IDEA is a federal law enacted in 1975 that aims to protect the rights of students with disabilities and support their access to educational opportunities.⁵⁴ The law guarantees that students with disabilities in the U.S. are provided with a free and appropriate public education (FAPE) in the least restrictive environment (LRE) and access to the general education curriculum.⁵⁵ The law has a far reaching impact of over 7.5 million individuals, and it governs how states and public agencies provide early intervention, special education, and related services to students with disabilities.⁵⁶ The IDEA's stated purposes are to "ensure that the rights of students with disabilities and parents of such students are protected," to "assist States, localities, educational service agencies, and Federal agencies to provide for the education of all students with disabilities," and "to assess, and ensure the effectiveness of, efforts to educate students with disabilities."⁵⁷ The statute, among other things, aims to protect students with disabilities from exclusionary practices in the school setting and to ensure that schools have proactive identification policies and procedures for students with disabilities—otherwise known as the "child find mandate."⁵⁸ The IDEA also protects students with disabilities from experiencing harsh disciplinary practices in response to actions that are a manifestation of their disabilities. BESE and LDOE are responsible for ensuring IDEA compliance for all public schools in Louisiana.⁵⁹ If deficiencies in IDEA compliance exist in Louisiana's policies, procedures, and practices, the state has an affirmative duty to intervene.⁶⁰

Under Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act, public schools, as public entities, are also prohibited from discriminating and/or excluding students with disabilities from school programming, activities, and benefits.⁶¹ If public entities fail to meet this standard, it constitutes disability discrimination. Furthermore, each student with a disability must be provided with reasonable accommodations and modifications to provide meaningful access to avoid discrimination on the basis of disability.⁶²

In response to the complaint, the defendants filed multiple motions to prevent the case from moving forward.⁶³ After the court denied the defendants' motions, the plaintiffs followed with a motion to certify the class. The case was soon after stayed for settlement negotiations. Following the breakdown of settlement negotiations and the court's denial of defendants' motion for judgment on the pleadings, the plaintiffs engaged in fact discovery, which was completed in March 2013.⁶⁴ Although it was not a party to the litigation initially, OPSB moved to intervene as "Defendant-Intervenor" on March 20, 2012. The parties were engaged in negotiations until August 2013. The parties notified the court that they had reached a settlement on December 9, 2014.⁶⁵ On January 8, 2015 the parties proposed a consent decree to the court that requires, among other things, the following:

1. Defendants would develop a schedule allocating responsibility for identifying, locating, and evaluating children suspected of having a disability;
2. Defendants would ensure that the charter application and renewal process require schools to provide a description of plans for offering the full array of related services and a description of the staff and personnel responsible for providing those services;
3. Defendants would provide annual written guidance on the responsibilities of Child Find;
4. Defendants and Defendant-Intervenor would provide technical assistance and professional development regarding prohibited disciplinary practices;
5. Defendants and Defendant-Intervenor would review for compliance the codes of conduct or discipline policies of each school in New Orleans;
6. Defendants and Defendant-Intervenor would require schools to annually update the written descriptions of each of their special education programs to be made available to parents of students with disabilities;
7. Defendants and Defendant-Intervenor would require schools to develop a written complaint investigation protocol; and
8. Defendants would also implement a monitoring protocol through which defendants would annually select 10-12 local education agencies in New Orleans for targeted monitoring and potentially corrective action.⁶⁶

The parties agreed that the court would retain jurisdiction over the case to enforce the provisions of the consent decree. The consent decree provided for the appointment of an independent monitor to evaluate compliance with the agreement.⁶⁷ The role of the monitor is to determine the state of compliance for the provisions of the decree as either “Substantial Compliance” or “Noncompliance” by reviewing pertinent documents and interviewing necessary staff.⁶⁸ Additionally, the monitor is also responsible for “independently verifying representations from the state defendants or Defendant-Intervenor regarding progress toward compliance, and examining supporting documentation.”⁶⁹ The monitor’s reports need to be issued every 180 days with a draft for comments made available to the Parties at least 14 days prior to issuance.⁷⁰

Fluency Plus LLC was selected and approved by the court to serve as independent monitors.⁷¹ They filed the Status Reports from Spring 2016 to Summer 2018 regarding LDOE and BESE’s compliance with the consent decree provisions.⁷² Notably, the reports found defendants and Defendant-Intervenors to be in substantial compliance even though there had been identified episodes of non-compliance.⁷³

In light of the possibility that the defendants had achieved substantial compliance and might seek to be released from the consent decree, and at the judge’s request, the plaintiffs sent a proposal for proactive compliance and improved monitoring to LDOE and OPSB on January 8, 2021.⁷⁴ The proposal was informed by the Consent Decree, the data from the monitoring process, and the public’s response to the Consent Decree, as well as families, advocates, and academics engaged in the New Orleans special education system.⁷⁵ Local special education advocates and the National Center for Special Education in Charter Schools also vetted the plaintiffs’ recommendations.⁷⁶ The proposal identified ways that OPSB and LDOE could improve by ⁷⁷:

1. Increasing frequency of monitoring; creating separate risk indicators for child find, service provision, discipline, and student mobility;
2. Ensuring transparency and accessibility of data and reports;
3. Conducting targeted audits and review of schools special education programming during renewal;
4. Creating an independent Office of Ombudsman within NOLA-PS to resolve conflicts between schools and families;
5. And increasing trainings that schools and families receive on special education.

Pursuant to the Court’s request that the parties discuss steps defendants could take to ensure compliance proactively, plaintiffs updated and summarized these requests in an April 27, 2023 memorandum to the defendants.⁷⁸ The plaintiffs proposed the creation of an independent office of Ombudsman within NOLA-PS to standardize the complaint system and to assist families in navigating dispute resolution. The proposal requested an increased frequency of in-person visits and to make the monitoring results publicly available, incorporation of onsite monitoring to the risk-based monitoring process, and the adoption of anonymous parent surveys and interviews. The plaintiffs suggested that NOLA-PS provide relevant Special Education Program information on individual school pages, and require ongoing tiered technical assistance and professional development for charter schools based on the Risk Based Monitoring Rubric and the Annual School Quality Profile results. The proposal was focused on ensuring that families can easily access the available resources and complaints process, that LDOE and NOLA-PS make concerted and consistent effort to host family outreach and information sessions regarding special education programs available in Orleans Parish, and that LDOE and NOLA-PS could effectively and equitably monitor charter schools in New Orleans.⁷⁹

Initially, LDOE and NOLA-PS only outlined their current practices in response to plaintiffs’ proposal. Recently, LDOE responded by promising to create an ombudsman position, emphasized the sufficiency of its current monitoring system, identified the channel for communication between LDOE’s Division of Statewide Monitoring and Division of Diverse Learners in order to provide schools with technical compliance assistance, and highlighted its partnership with Families Helping Families.⁸⁰ NOLA-PS, in turn, explained how certain members of its central office personnel perform the duties of an ombudsman, committed to a more transparent complaints management system, and detailed how it provides charters support through the Diverse Learners team.⁸¹ That said, the defendants did not adopt many of the plaintiffs’ recommendations.

Continued barriers and challenges that families face in accessing appropriate services for students with disabilities

As discussed above, under the legal requirements of IDEA, schools have a duty to provide students with disabilities an education that is consistent with the experience of other students and to promote a culture that is supportive of students with disabilities. By most accounts, the school system in New Orleans is failing to meet these standards.⁸² As the court monitors’ reports indicate, the schools are not able to meet the basic

requirements of the IDEA.⁸³ As of fall 2019, 70 percent of all schools showed systemic non-compliance in initial monitoring.⁸⁴ And schools were systemically noncompliant at rates of 50 percent and 60 percent.⁸⁵ Related services had the highest rates of non-compliance at 69 percent.⁸⁶ When placed under corrective action plans (CAPs), schools showed improvement, but approximately 20 percent of schools, or more (as high as 75 percent of schools—have remained in non-compliance post-CAP.⁸⁷ As of 2019, at least 50 percent of New Orleans schools had been identified for the academic underperformance of their students with disabilities.⁸⁸ For two or more years, these schools earned “F” level evaluations based on the performance of students with disabilities.⁸⁹ School discipline is also a concern. Students with disabilities are suspended at a rate of 1.53 times more than their peers.⁹⁰ In addition to the disproportionate punitive practices, families of students with disabilities report student experiences of exclusionary practices.⁹¹

We recognize the unique challenges that small LEAs, like most New Orleans charters, face in providing special education services. They do not enjoy the economies of scale of large school districts, and often do not have the resources to meet the complex needs of children, particularly those with low-incidence disabilities.

We also recognize the efforts that NOLA-PS has made to address those issues. For example, in 2021, Orleans Parish School Board administrative staff applied for the Reimagine School Systems Initiative grant aiming to decrease transportation barriers, increase support, opportunities, and resources for families and students, and to streamline the application process.⁹² It is unclear from publicly available documents, however, whether these funds were applied in this way.

Subsequently, NOLA-PS in collaboration with the Center for Learner Equity, developed a guide that highlights the city’s specialized programs, the application processes, the referral process, and pledges to use “central office resources to help families connect with the programs.”⁹³ The guide lists the available programs and does not assess their quality. Moreover, the district and some charters have considered undergoing a funding formula change to improve special education services, and some schools like Morris Jeff Community School purport to have created deep, rich curriculums in critical thinking and global learning to everyone.⁹⁴

Beyond the challenge of special education service delivery, for decades Orleans Parish schools have been segregated from neighboring school districts along racial and socioeconomic lines.⁹⁵ NOLA-PS’s student population consists of 99 percent students of color and 86 percent of students from economically disadvantaged backgrounds. A majority of the students are Black (94.0%), three percent are Latinx, and white students make up only two percent.⁹⁶ Even within the district, the “State of Public Education in New Orleans” (SPE-NO) 2023 report found that 75 percent of white students attend “A” or “B” grade schools while only 24 percent of Black students and 33 percent of Latinx students attend “A” or “B” grade schools.⁹⁷ The high-performing and selective schools have a disproportionate percentage of white students from high-income households, as compared to the demographic makeup of NOLA.⁹⁸ New Orleans has one of the highest rates for private school enrollment at a projected 25 percent.⁹⁹ White students account for a small percentage of public school enrollment, seeming to indicate that white affluent parents are opting out of the public charter school system, unless the school is highly ranked.¹⁰⁰

Finally, the process of finding general enrollment information and disability services offered by charter schools is a convoluted experience for families. The publicly available information is accessible via Excel Spreadsheets and PDFs that are found on sub-tabs on LDOE’s website.¹⁰¹ The parent then needs to search for a specific school or LEA to narrow the search from Louisiana to a specific district of interest.¹⁰² Information about special education programs offered at the schools should be available on LDOE, OPSB, and school websites, but families need to know where and how to locate it.¹⁰³ Families find this information helpful, but it is not enough to make enrollment decisions.¹⁰⁴ Accurate and current information on special education offerings is particularly important because students with disabilities have high transfer rates.¹⁰⁵ In the 2017-2018 school year, at least at half the schools, over 20 percent of students with disabilities chose not to re-enroll.¹⁰⁶ Furthermore, there were 12 schools where 40 percent of students with disabilities chose not to re-enroll. On average, 1 in 5 students with disabilities are choosing not to re-enroll in the same school the following school year.¹⁰⁷

PART TWO

SEA MONITORING OF SPECIAL EDUCATION IN LEAS

Legal requirements under the IDEA and SEA practices in Louisiana and other jurisdictions

In this section you will find:

- The U.S. Department of Education's oversight of state education agencies (SEAs) through state performance plans and annual performance reporting
- The statutory and regulatory framework for SEA monitoring of local education agencies (LEAs)
- SEA monitoring and complaints management practices outside of Louisiana
- LDOE's annual performance review under the IDEA, system of monitoring and support under the IDEA, and system of complaints management
- Recommendations to improve LDOE's monitoring and oversight of LEAs' compliance with the IDEA and ensure improved outcomes and performance for students with disabilities

In this section we first outline the IDEA’s requirements for U.S. Department of Education (USDOE) oversight of states’ provision of special education services to students with disabilities and the statute’s specific mandate that states monitor and supervise LEAs in their provision of services to students with disabilities. We then describe monitoring and complaints management practices in states outside of Louisiana, as well as the LDOE’s monitoring and complaints management practices. We conclude the section by offering our recommendations for improvement of LDOE’s monitoring and complaints management practices.

The U.S. Department of Education’s oversight of SEAs through state performance plans and annual performance reporting

The USDOE’s Office for Special Education Programs (OSEP) is tasked with ensuring state compliance with the IDEA through various methods, including on-site monitoring, review of state plans, and assessment of performance indicator data. The primary elements of OSEP’s results-driven accountability and monitoring system are the requirement that states develop a state performance plan (SPP) and annual performance reports (APRs) and OSEP’s “annual determinations” regarding each state’s performance on several key indicators.

Every state that receives federal funds under IDEA must submit a SPP to OSEP every six years and an annual APR that demonstrates the state’s adherence to, and strategies for enhancing its implementation of the IDEA.¹⁰⁸ The SEA reviews the SPP annually and may amend it as needed. OSEP uses the SPP to determine whether states are complying with IDEA.

The SPP serves as an accountability measure for SEAs and LEAs. SPPs rely on 17 performance indicators established by the federal Secretary of Education with input from stakeholders. Below is a table that lists and describes each of the 17 performance indicators.¹⁰⁹

Monitoring Priorities and Indicators

Monitoring Priority: FAPE in the LRE

1. Percent of youth with Individualized Education Programs (IEPs) exiting special education due to graduating with a regular high school diploma. (20 U.S.C. 1416 (a)(3)(A))
2. Percent of youth with IEPs who exited special education due to dropping out. (20 U.S.C. 1416 (a)(3)(A))
3. Participation and performance of children with IEPs on statewide assessments:
 - a. Participation rate for children with IEPs.
 - b. Proficiency rate for children with IEPs against grade level academic achievement standards.
 - c. Proficiency rate for children with IEPs against alternate academic achievement standards.
 - d. Gap in proficiency rates for children with IEPs and for all students against grade level academic achievement standards. (20 U.S.C. 1416 (a)(3)(A))
4. Rates of suspension and expulsion:
 - a. Percent of local educational agencies (LEA) that have a significant discrepancy, as defined by the State, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and
 - b. Percent of LEAs that have: (a) a significant discrepancy, as defined by the State, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and (b) policies, procedures or practices that contribute to the significant discrepancy, as defined by the State, and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. (20 U.S.C. 1416(a)(3)(A); 1412(a)(22))

5. Percent of children with IEPs aged 5 who are enrolled in kindergarten and aged 6 through 21 served:

- a. Inside the regular class 80% or more of the day;
- c. Inside the regular class less than 40% of the day; and
- d. In separate schools, residential facilities, or homebound/hospital placements. (20 U.S.C. 1416(a)(3)(A))

6. Percent of children with IEPs aged 3, 4, and aged 5 who are enrolled in a preschool program attending:

- a. Regular early childhood program and receiving the majority of special education and related services in the regular early childhood program;
- b. Separate special education class, separate school or residential facility.
- c. Receiving special education and related services in the home. (20 U.S.C. 1416(a)(3)(A))

7. Percent of preschool children aged 3 through 5 with IEPs who demonstrate improved:

- a. Positive social-emotional skills (including social relationships);
- b. Acquisition and use of knowledge and skills (including early language/ communication and early literacy); and
- c. Use of appropriate behaviors to meet their needs. (20 U.S.C. 1416 (a)(3)(A))

8. Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for students with disabilities. (20 U.S.C. 1416(a)(3)(A))

Monitoring Priority: Disproportionate Representation

9. Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification. (20 U.S.C. 1416(a)(3)(C))

10. Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification. (20 U.S.C. 1416(a)(3)(C))

Monitoring Priority: Effective General Supervision Part B

11. Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that time frame. (20 U.S.C. 1416(a)(3)(B))

12. Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays. (20 U.S.C. 1416(a)(3)(B))

13. Percent of youth with IEPs aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the IEP Team meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency that is likely to be responsible for providing or paying for transition services, including, if appropriate, pre-employment transition services, was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority. (20 U.S.C. 1416(a)(3)(B))

14. Percent of youth who are no longer in secondary school, had IEPs in effect at the time they left school, and were:

- a. Enrolled in higher education within one year of leaving high school;
- b. Enrolled in higher education or competitively employed within one year of leaving high school;
- c. Enrolled in higher education or in some other postsecondary education or training program; or competitively employed or in some other employment within one year of leaving high school. (20 U.S.C. 1416(a)(3)(B))

15. Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements. (20 U.S.C. 1416(a)(3)(B))**16. Percent of mediations held that resulted in mediation agreements. (20 U.S.C. 1416(a)(3)(B))****17. State Systemic Improvement Plan that includes information about stakeholder involvement in Phase 1 (data analysis), Phase 2 (infrastructure development and evaluation) and Phase 3 (ongoing evaluation and revisions to the SSIP).**

OSEP then utilizes data from the SPP/APR, insights garnered from monitoring visits, and publicly available information to annually ascertain whether the state:

1. Complies with the goals and objectives of the IDEA;
2. Requires support in implementing the requirements of Part B or Part C of the IDEA;
3. Needs intervention in implementing the requirements of Part B or Part C of the IDEA;
4. Requires substantial intervention in implementing the requirements of Part B or Part C of the IDEA.¹¹⁰

Each state must establish specific percentage target goals for each of the performance indicators within the three priority areas.¹¹¹ As part of this monitoring system, these performance indicators serve as the foundation for establishing data-driven, decision-making targets, reflecting the expected level of performance for each priority area.¹¹² All compliance components are set at a level of 100 percent. Other performance indicators must have targets that are quantifiable, relevant, achievable yet challenging, and attainable within a specific time frame. The targets are established by creating baseline data for each performance indicator and determining a challenging yet achievable goal, as identified by stakeholders. OSEP evaluates each state's compliance with these standards and IDEA requirements while each state should rigorously assess its individual school districts' adherence to these standards.¹¹³

The U.S. Secretary of Education determines a state's compliance with IDEA requirements by reviewing its SPP.¹¹⁴ It should be noted that an

SEA may assess whether a school district has met IDEA requirements by comparing the district's data to each of the performance indicator targets established by the SEA for the 17 performance indicators in the SPP.¹¹⁵ Subsequently, each SEA must annually publish its performance in relation to the indicator targets in the state SPP.

Following a thorough collection and review of federal data, officials evaluate each state's compliance status, categorizing them as meeting requirements, needing assistance, requiring intervention, or necessitating substantial intervention.¹¹⁶ At the state level, the SEA undertakes a meticulous assessment of every LEA's performance across all compliance indicators. This process demands ensuring the accuracy, dependability, and promptness of data received from these school districts.

Furthermore, the SEA conducts reviews of school districts to identify any lingering non-compliance issues flagged during previous audits or monitoring visits.¹¹⁷ Should the Department conclude that an SEA requires "assistance" over two consecutive years, it becomes mandatory for them to implement one or more enforcement actions. These actions may include seeking technical assistance, designating the state as a high-risk grantee, or directing the use of state set-aside funds in areas where assistance is crucial. In cases where a state necessitates intervention for three or more consecutive years, specific enforcement actions become obligatory for the Department to enact.

In addition to the SPP/APR indicators, including those for "significant discrepancy" in school discipline and "disproportionate representation" in identification on the basis of race and ethnicity, IDEA section 618(d) requires States to collect and examine data to determine if "significant

disproportionality' based on race and ethnicity is occurring in the SEA and the LEAs of the State with respect to: "(A) the identification of children as students with disabilities, including the identification of children as students with disabilities in accordance with a particular impairment; (B) the placement in particular educational settings of such children; and (C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions."¹¹⁸ When a SEA identifies an LEA as having "significant disproportionality," the SEA "must annually: (1) provide for the review and, if appropriate, revision of policies, practices, and procedures within the LEA to ensure compliance with the requirements of IDEA; (2) require the LEA to publicly report on the revision of policies, practices, and procedures consistent with the requirements of the Family Educational Rights and Privacy Act and its implementing regulations in 34 CFR Part 99, and Section 618(b)(1) of the IDEA; and (3) require the LEA to set aside 15 percent of its IDEA, Part B (sections 611 and 619) funds to provide comprehensive coordinated early intervening services (comprehensive CEIS) to address factors contributing to the significant disproportionality."¹¹⁹

Importantly, in 2014, OSEP spearheaded an initiative called "Results Driven Accountability" (RDA).¹²⁰ This initiative signifies a departure from the previous focus on mere compliance to a renewed emphasis on achieving tangible academic and functional outcomes for students with disabilities. Embedded within OSEP's RDA approach are the guiding principles of fostering partnerships with stakeholders, ensuring transparency and comprehensibility for educators and families alike, driving improvements in tangible outcomes, safeguarding the interests of children and families, providing differentiated incentives and support to states, encouraging states to allocate resources strategically while reducing administrative burdens, and responsiveness to the dynamic needs of the educational landscape.¹²¹

The Results Driven Accountability work is comprised of three key components:

- SPP/APR reports, which are instrumental in measuring both results and compliance. Concurrently, states are in the process of formulating State Systematic Improvement Plans, strategically designed to enhance outcomes in targeted areas.
- Determinations that reflect a state's performance not only in compliance, but also in yielding meaningful results.
- Differentiated monitoring and support, tailored to all states but particularly emphasizing assistance for low-performing states.

The statutory and regulatory framework for SEA monitoring of LEAs

Overview of IDEA's statutory and regulatory provisions regarding SEA monitoring and general supervision responsibilities

SEA's legal responsibilities under parts B and C of the IDEA (general supervision)

IDEA Part B requires that students with disabilities, ages three through 21, receive a FAPE.¹²² IDEA Part C requires States to provide early intervention services to infants and toddlers with disabilities and their families. These oversight rules apply to SEAs under IDEA Part B and the State lead agency (LA) under IDEA Part C that are responsible for implementing a general supervision system. SEA general supervision systems oversee LEAs under Part B and early intervention service (EIS) programs and providers under Part C.

OSEP has released updated and consolidated guidance interpreting the general supervision requirements of States under the Individuals with Disabilities Education Act. It considers a reasonably designed SEA general supervision system to include eight integrated components which include the following:¹²³

1. Integrated monitoring activities;
2. Data on processes and results;
3. The SPP/APR;
4. Fiscal management;
5. Effective dispute resolution;
6. Targeted TA and professional development;
7. Policies, procedures, and practices resulting in effective implementation; and
8. Improvement, correction, incentives, and sanction.

Prioritization of monitoring areas as outlined in the statute

The legal requirements for SEA monitoring of LEAs are outlined in Section 1416 of the IDEA¹²⁴ and in the Code of Federal Regulations.¹²⁵ The requirements highlight two key monitoring objectives: (1) enhancing educational achievements and practical outcomes for students with disabilities, and (2) guaranteeing compliance with the program requirements of the statute.¹²⁶ States are mandated to oversee LEAs by employing measurable benchmarks to assess performance in each of the following three priority domains¹²⁷:

1. Provision of FAPE in the LRE;
2. Exercise of general supervisory authority, including child find, effective monitoring, the use of resolution sessions, mediation, voluntary binding arbitration, and a system of transition services; and
3. Disproportionate representation of racial and ethnic groups in special education and related services, to the extent that the representation is the result of inappropriate identification.

Requirement for effective data collection and analysis by SEA

States utilize data systems for various purposes, including as a component of an effective general supervision system.¹²⁸ At a minimum, states must have data systems for collecting and reporting valid and reliable data.¹²⁹ As part of its general supervision system, an SEA must also assess how it will examine the information in its data system to determine compliance and incorporate into its monitoring policies the use of that data review to identify noncompliance.¹³⁰ The SEA should ensure that its policies do not postpone the identification of noncompliance until the submission of SPP/APR data or the state's annual determination process.¹³¹ The State's general supervision system should be reasonably structured to ensure the SEA regularly assesses data collected through its data system to determine LEA or EIS program or provider compliance with IDEA requirements (e.g., monthly, quarterly, or annually). This involves reviewing data collected to fulfill the IDEA reporting requirements under the SPP/APR and IDEA Sections 616 and 642. States should inform LEAs or EIS programs or providers of when and how the data system is being utilized for the purposes of determining compliance and identifying noncompliance.¹³²

Statutory and regulatory requirements for complaints management

Complaints management system requirements

The regulations outlined in IDEA require SEAs to adopt minimum state complaints management procedures that provide for an "independent determination" on whether an SEA is violating any provision of Part B of the Act or its corresponding regulations.¹³³ Notably, the federal regulations do not compel parents to assert a substantial breach or one that causes educational harm; they only necessitate an allegation of a public agency violating any requirement of Part B of the Act or its related sections.¹³⁴ Consequently, state complaints are appropriate for accusations of solely procedural violations, even if they are not suitable for due process proceedings.

Importance of robust complaints system

Not only do regulations related to minimum state complaint procedures require the investigation of complaints and the issuance of findings concerning both substantive and procedural violations of the IDEA, but they are also essential for an SEA's broader oversight responsibilities to "monitor activities under the Federal award to ensure compliance with the applicable Federal requirements and achievement of performance expectations [covering] each program, function, or activity."¹³⁵

A well-functioning complaints management system is also essential for tracking those LEAs that repeatedly violate the same substantive and procedural protections for special education students.¹³⁶ If there isn't a system in place to find and keep track of procedural rule-breaking, the SEA won't have the information it needs. This information is crucial to closely watch school districts that repeatedly break procedural rules in certain aspects. This monitoring is part of the SEA's responsibility under the IDEA. It means they might need to watch these districts more closely, even if they don't have to take action for each specific rule breach.

SEA monitoring and complaints management practices outside of Louisiana

States are given much discretion in how they fulfill their monitoring and general supervision obligations under the IDEA. In the broadest terms, states hold LEAs accountable for compliance and performance improvement under the IDEA through the establishment of: (1) monitoring systems to achieve compliance and continuous improvement and (2) a complaints management system that handles complaints from families and advocates. In this section, we describe and analyze SEA practices for monitoring complaints management.

SEA monitoring and complaints management: research strategy

To provide actionable recommendations for how LDOE may monitor New Orleans charter schools to ensure improved performance, outcomes and ensure continuous improvement of service delivery for students with disabilities, we (1) conducted a review of the relevant literature; (2) interviewed experts in special education monitoring practices; and (3) conducted case studies of how other SEAs implement their monitoring obligations under the IDEA.

We chose states and SEAs for case studies based on two primary factors: (1) special education experts' recommendations and (2) similarities to Louisiana (e.g., with regard to population size and/or demographics and geographic region). Through that process, we identified the following 14 states to analyze their monitoring and complaints management practices: California, Connecticut, Georgia, Illinois, Massachusetts, Michigan, Nevada, Ohio, Oregon, Pennsylvania, South Carolina, Virginia, and Washington. In particular, experts recommended that we take a closer look at monitoring practices in California, Massachusetts, Oregon, Virginia, and Washington. We chose Georgia, Mississippi, and South Carolina based on geographic proximity and similarity to Louisiana. We selected Illinois due to its similarities to Louisiana, particularly in the context of dominant education systems. In Louisiana, the New Orleans Public School system is influential due to its size relative to most other LEAs, while in Illinois, it is the Chicago school system that represents a major educational influence. We selected Pennsylvania, Michigan, Nevada, and Ohio because like Louisiana, they have a mix of urban, suburban, and rural districts, each facing unique challenges and results in a wide range of educational experiences and outcomes within each state. We chose Connecticut based on similar diversity index scores (Louisiana 58.6% and Connecticut 55.7%).¹³⁷ The WiseVoter Diversity Index score is calculated using the percentages of White, Black, and Hispanic or Latino populations in a given area. Below is a comprehensive summary of monitoring and complaints management in all 14 states. Detailed summaries of each state case study can be found in Appendices A and B.

SEA monitoring and general supervision practices

As noted above, our research confirms what many policy-makers, administrators, and educators already know: monitoring and oversight structures that focus merely or substantially on compliance with legal mandates are not enough to ensure that students with disabilities are properly served. Nor are they enough to ensure that local education agencies continuously improve their service delivery. Rather, effective monitoring and oversight systems must focus on performance and

outcomes, while ensuring that any monitoring and intervention activities are designed to facilitate continuous improvement. Moreover, it is critical that oversight agencies, such as SEAs, provide quality technical assistance to often under-resourced and over-stretched LEAs.

Accordingly, based on our interviews with experts, practices in various states, and OSEP's RDA approach, we apply the following analytic framework to evaluate SEA monitoring systems to achieve improved student performance and outcomes through monitoring and support activities designed for continuous improvement:

1. Monitoring frequency and focus (who gets monitored and how often)
2. Data collection (what data are collected and how are the data verified)
3. Data analysis (how data are analyzed and LEAs identified for further monitoring and support)
4. Monitoring activities for continuous improvement (including (a) to further quantitative and qualitative data collection, (b) data and root-cause analysis targeted at identified compliance and performance issues, (c) planning for improvement, (d) implementation, measuring success, and iteration)
5. Technical assistance (provided or facilitated by the SEA)

Notably, states such as California, Connecticut, Massachusetts, Oregon, and Washington have established systems that embody these fundamental elements, focus on student performance and outcomes, and aim for continuous improvement.

Monitoring frequency and focus

SEAs must initially decide which LEAs to monitor, and the intensity, frequency and rigor of such monitoring. States routinely collect data (including SPP indicator data) for all SEAs, but the intensity and frequency of SEA monitoring differs among states and even within states. Since the publication of the "Chicago White Paper" in 1997,¹³⁸ many states have adopted a "focused" (or "risk-based") monitoring system that collects data from all LEAs, but selects those with greater needs for additional monitoring activities and support. Such systems are often "tiered" to provide several levels of intervention based on the magnitude of the LEA's needs. This focused approach allows an SEA to conserve and deploy its resources in those LEAs that are facing the greater challenges. California, Georgia, Illinois, Massachusetts, Ohio, Oregon and South Carolina, for example, use risk-based approaches.¹³⁹

Some SEAs—in addition to or in lieu of focused/tiered monitoring—employ annual monitoring of all LEAs or cyclical monitoring of LEAs. In Pennsylvania and South Carolina, SEAs are monitored at least once over a six year cycle,¹⁴⁰ while Virginia monitors SEAs every five years.¹⁴¹

Some states use a combined approach of focused/tiered monitoring and cyclical monitoring. States using a combined approach include California, Oregon, South Carolina, and Virginia.¹⁴² For example, California uses a focused/tiered monitoring approach for large LEAs and a three-year cyclical monitoring approach for small LEAs.¹⁴³ That cyclical approach for small LEAs is designed to address the “small-n” problem; that is, the problem presented by LEAs with small numbers of students with disabilities whose performance and compliance data can be skewed by just a few cases.¹⁴⁴ Such skewing may cause underlying problems to be missed or may falsely identify problems that don’t exist. Regardless of the frequency of monitoring, as we discuss below, many SEAs use a Continuous Improvement Monitoring (CIM) process with monitoring activities that go beyond mere data collection and identification of compliance and performance concerns to emphasize continuous assessment, improvement, and support.

Data collection and verification

Data collection is the foundation of SEA monitoring and general supervision practices. SEAs are required to collect from all LEAs the SPP/APR indicator data which are focused on the IDEA’s monitoring priorities. SEAs use those data to evaluate LEAs’ performance based on the state’s SPP goals. Beyond those data elements, SEAs may choose to collect additional data to evaluate SEA performance, such as data regarding chronic absenteeism, restraint and seclusion, and demographic information such as English Learner and foster care status of children. To achieve the goals of both ensuring compliance with the IDEA and improving the performance and outcomes of students with disabilities, SEAs naturally collect both compliance and performance and outcome data and ensure that those data are valid and reliable through verification practices.

Compliance indicators

Compliance indicators are used to ascertain whether LEAs are adhering to legal and regulatory requirements. Their primary focus is on compliance with specific rules, procedures, and standards. For example, they ensure that IEPs are annually developed for each student with disabilities and include legally required components such as goals and objectives designed to meet student needs. These indicators monitor the timeliness of evaluations, ensuring that assessments of students’ needs are conducted within legally mandated timeframes. They may

determine whether IEPs include necessary services and supports to meet students’ needs. At the same time, as we learned from several experts, over-reliance on compliance indicators creates a “compliance mentality” that risks the reduction of monitoring to a “box checking” exercise rather than an opportunity for growth.

Performance indicators

Performance indicators are metrics designed to assess the effectiveness of educational programs and teaching methods. The primary concern of performance indicators is to evaluate how well students are learning and progressing in their educational environment. Performance indicators take various forms such as student test scores, graduation rates, and proficiency levels in key subjects like reading and math.¹⁴⁵ They might also include progress toward IDEA objectives such as least restrictive environment and reduction of racial disparities in identification, placement, and discipline of students with disabilities. Different states employ unique approaches to these indicators. For instance, Massachusetts emphasizes the effectiveness of educational programs and resource provision in special education. Massachusetts evaluates LEAs along several special education criteria aligned with SPP indicators, which are divided into universal and targeted standards.¹⁴⁶ These criteria encompass more than adherence to legal requirements; they assess the efficacy of special education service delivery through a rubric including multiple detailed sources of information.¹⁴⁷ Pennsylvania conducts interviews with administrators, teachers, parents, and students in addition to file reviews, which can provide qualitative data to provide insight into whether the “LEA involves parents and professionals in required processes (e.g., IEP development), whether effective programs and services are being provided, and whether the LEA provides training to enhance knowledge.”¹⁴⁸ These approaches ensure that the resources and programs are not only compliant but also effective in meeting the educational needs of students with disabilities.

Outcome measures

Outcome measures are essential tools used to evaluate the long-term results and impacts of educational programs on students. The primary focus of outcome measures is to look beyond the immediate academic performance of students. They delve into the broader impacts on a student’s life and future, encompassing various aspects of personal and professional development. In addition to academic results, common examples of outcome measures include post-graduation employment rates, success in post-secondary education, social and life skills development, and overall quality of life improvements for students with disabilities. The implementation of these measures varies across states, each adopting distinct methodologies to gauge the effectiveness of their

educational programs.¹⁴⁹ For instance, California conducts educational benefit reviews and analysis in their data collection procedures, reviewing such criteria as whether the IEP “impacted involvement and progress in the general curriculum” and whether the “intended [student] progress is being achieved” including review of non-academic goals such as behavioral, social, and emotional goals.¹⁵⁰ While conducting file reviews, Massachusetts reviews reports of assessment results, histories of students’ educational progress in the general curriculum, and proactively offers a technical assistance guide supporting post-secondary outcomes entitled *Technical Assistance Advisory SPED 2016-2: Promoting Student Self-Determination to Improve Student Outcomes*.¹⁵¹ Ohio asks five questions about postsecondary outcomes in their monitoring for Tier 2 and Tier 3 IDEA Monitoring Review.¹⁵² Washington state also includes a Post-School Outcomes Survey and data on early childhood outcomes in their annual monitoring data collection.¹⁵³

Data verification

The IDEA requires that verification to ensure the validity and reliability of information. Data verification requires ongoing collaboration, meticulous planning, and a commitment to maintaining accuracy and transparency in the education of students with disabilities.

State practices in verifying data involve several strategies. Many states use standardized reporting systems to maintain consistency in data collection and reporting. These systems are designed with specific formats and guidelines to ensure uniformity. Additionally, states frequently conduct audits and reviews of LEAs to verify the accuracy of reported data, which may include on-site visits and examination of records. For example, Michigan’s on-site verification activities include sampling of records, personnel records review, and review of complaints and hearings.¹⁵⁴ Pennsylvania’s data verification procedures include a file review, parent and teacher interviews, administrative interviews, classroom observations, a parent survey, a teacher survey, and a student survey.¹⁵⁵ SEAs also provide training and support to LEAs to aid in accurate data collection and reporting, encompassing guidance on methodologies, tools, and understanding of legal requirements.¹⁵⁶ The implementation of technology systems also plays a significant role in tracking and analyzing data efficiently, often incorporating mechanisms to identify data inconsistencies or errors.¹⁵⁷

Data analysis

Data analysis is pivotal in identifying specific compliance and performance problems and the stratification of LEAs into different tiers for monitoring purposes. Data analysis can be done in multiple ways, but a common example is a root-cause analysis of data received from

LEAs. California, Connecticut, Georgia, Massachusetts, Oregon and Washington all conduct root-cause analyses of LEA data as part of their IDEA monitoring.¹⁵⁸ Because states use the analysis of LEA data to select districts for further monitoring and intervention activities, it is important to emphasize in the selection process/formula those data elements that are most associated with the IDEA’s monitoring objectives and priorities: Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE), improvement of outcomes for students with disabilities, and reduction of racial and ethnic disproportionality.¹⁵⁹ In addition, consistent with OSEP guidance, it is imperative that the SEA be transparent about its selection process/formula so that educators and families alike can understand why an LEA is being selected for further monitoring and intervention.¹⁶⁰

Monitoring activities for continuous improvement

After an SEA has been selected an LEA for further monitoring activities and intervention (either through a risk-based determination or cyclical monitoring), in many jurisdictions, the SEA and the LEA undertake several steps aimed at identifying and correcting non-compliance and, importantly, facilitating continuous improvement in compliance, performance, and outcomes. That continuous improvement process conceptually consists of four distinct steps:

1. Further data collection—both quantitative and qualitative data—and investigation focused on the identified performance and compliance problems;
2. Analysis of those data through various means, including data “drill-downs,” root-cause analyses, and policy and procedure reviews;
3. Development of improvement plans that address the root cause of the deficiencies ideally with measurable outcomes goals; and
4. Implementation of the improvement plans, further data collection and analysis of outcomes, revision and iteration of the plans, and so forth.

SEAs either require LEAs to conduct further data collection, or they directly engage in further data collection themselves, including both compliance and performance indicators as an integral component. Deeper data collection which goes above compliance measures and can contribute to continuous improvement often includes file reviews, preferably over a period of time to determine the efficacy of students’ assessments, goals and objectives, services and placements (sometimes referred to as an “educational benefit review”), rather than a single snapshot in time of a student’s file. California, Pennsylvania, and South

Carolina conduct such a review.¹⁶¹ Deeper data collection may also include qualitative information such as parent, administrator, teacher, and service provider interviews (with a structured protocol), classroom observations (again, with a protocol), and parent and stakeholder surveys and focus groups. Examples of states who conduct these activities include Pennsylvania, which publishes interview protocols and surveys and conducts classroom observations, and Ohio, which conducts interviews with several types of educators and administrators.¹⁶² Such qualitative data allows the SEA to get inside the “black box” of service delivery to help determine the root cause of the LEAs problems. SEAs may also collect information on LEAs’ policies and procedures, ongoing priorities and initiatives, and budget and staffing.

The LEA and SEA must then make sense of those data to determine the root cause(s) of the presenting problems. Root-cause determinations involve comprehensive assessment and regular evaluations to delve into the underlying reasons for student outcomes or performance. It is helpful to have a team of stakeholders, including families, in this process of brainstorming and analysis. Some SEAs suggest rigorous data “drill down” activities, various approaches to root cause analysis (e.g., a “fishbone” analysis), along with policy, budget, and initiative reviews. As noted above, at least six of our case study states conduct root-cause analyses of LEA data as part of their IDEA monitoring.¹⁶³

Having identified the root cause(s), planning for improvement is a key phase wherein SEAs should provide targeted technical assistance and support to assist LEAs, particularly those in lower tiers with limited resources to develop performance improvement plans. This process may involve the setting of specific performance goals and the required steps to correct non-compliance (as required by the IDEA).

Finally, the LEA will implement and iterate. This involves adaptive monitoring processes that may span multiple years, incorporating phases or steps for comprehensive assessment and implementation within LEAs, further data collection and analysis, and revision of improvement plans. Implementation and follow-up are crucial steps involving cyclical monitoring of LEAs, especially those in lower tiers, commonly with cycles of at least 2 years, to allow for the identification, resolution, and verification of issues. Georgia, Massachusetts, and California are examples of states that conduct iterative continuous improvement cycles including continuous improvement plans.¹⁶⁴

Technical assistance

All of this should be accompanied by significant on-the-ground technical assistance. SEAs offer technical assistance and support to LEAs to aid in compliance with legal standards and improve practices either through their own personnel or by contract with outside vendors. For instance,

Georgia’s Division for Special Education Services notes that technical assistance is an essential component of their monitoring process which has an “emphasis . . . on continuous improvement”; thus the Division offers technical assistance on topics such as data analysis, improvement planning, identification of promising practices, training in identified needs, and “other requests for resources that would facilitate program improvement.”¹⁶⁵ Ohio has created a 4-part Special Education Process Course that includes the following modules: Evaluation Team Report, Individualized Education Program, Secondary Transition Plan Compliance, and Establishing an Internal Monitoring Team and Process.¹⁶⁶

Complaints management practices

The inception of the written state complaint as a dispute resolution method within IDEA was envisioned as a transformative tool for parents.¹⁶⁷ It aimed to guarantee that schools would be accountable to families for delivering a free and appropriate education for their students. The 2006 regulations, addressing the revised IDEA, highlighted the significance of these complaint procedures. They were emphasized as pivotal in providing parents, organizations, and individuals with an accessible and crucial avenue to ensure that the educational requirements of students with disabilities were met. Moreover, these procedures empowered SEAs by furnishing them with a potent mechanism to identify and rectify any noncompliance issues concerning Part B of the IDEA.¹⁶⁸

One organization, the Council of Parent Attorneys and Advocates (COPAA), has taken a long look at state complaints management systems.¹⁶⁹ COPAA is an independent association that includes parents of students with disabilities, attorneys, advocates, and related professionals. Its mission focuses on protecting the legal and civil rights of students with disabilities and their families. It provides resources, training, and information to assist in obtaining equal educational opportunities for students with disabilities, as mandated by federal law. COPAA undertook the complaints management system study to improve the quality and quantity of legal assistance for parents of students with disabilities, while also addressing the federal and state agencies’ responsibilities in enforcing the civil rights of students and their families. The COPAA report aims to answer crucial questions centered around states’ complaint management systems by thoroughly analyzing various components. It does so by scrutinizing the research concerning written state complaints, federal guidance related to these complaints, and the effectiveness of oversight mechanisms within the system. Additionally, it evaluates each state’s performance in resolving issues brought forth through this process. To augment these insights, the report incorporates the outcomes of a nationwide survey involving parents and advocates, focusing on their experiences with the written state complaint process.

Drawing from these extensive examinations and discoveries, the report offers a comprehensive array of recommendations. The following standard practices were identified from the COPAA report, and they constitute the framework for managing complaints under IDEA across different states, to ensure a consistent and effective approach to addressing concerns in special education.¹⁷⁰

1. **Written complaint requirements:** Complaints must include specific details, such as a statement indicating a public agency's non-compliance with IDEA, a description of the violations, suggestions for resolution, the child's name and school (if applicable), and the complainant's signature and contact information. If parents lack detailed knowledge of the legal requirements, SEAs have the responsibility to ensure compliance with IDEA. While SEAs typically do not directly assist in writing complaints, they often provide resources and guidance on how to file a complaint. This can include templates, checklists, or detailed instructions explaining what information needs to be included.
2. **SEA responsibilities:** SEAs are required to have written procedures for resolving complaints. These procedures must allow the complainant to submit additional information, offer the public agency a chance to respond and propose resolutions, and may include an independent on-site investigation if necessary. SEAs must also review all relevant information and issue a written decision addressing each allegation in the complaint.
3. **Timelines for resolution:** SEAs are typically mandated to complete investigations within 60 days of receiving a complaint. This timeline ensures prompt responses to issues raised by complainants.
4. **Monitoring and reporting:** States are responsible for monitoring LEAs and administering dispute resolution programs. They are required to collect and report data on dispute resolution activities to the U.S. Department of Education. This data is publicly accessible and helps in overseeing the effectiveness and efficiency of the complaint resolution process.
5. **Technical assistance and training:** The U.S. Department of Education, through entities like the Center for Appropriate Dispute Resolution in Special Education (CADRE), provides technical assistance and training related to dispute resolution processes. This support is crucial for SEAs, LEAs, and parents, ensuring that the complaint process is understood and effectively managed.
6. **Evaluation metrics:** States use various metrics to evaluate complaint resolution processes. These include the percentage of complaints dismissed or withdrawn, the percentage resulting in findings of non-compliance, the

ratio of reports with findings of non-compliance to those without, and the timeliness of investigations.

7. **Oversight responsibilities:** The U.S. Department of Education oversees states' activities under IDEA, including dispute resolution activities. This oversight ensures that states are meeting their obligations and focuses on improving educational results and functional outcomes for all students with disabilities.

Moreover, the Office of Special Education and Rehabilitative Services (OSERS), part of the U.S. Department of Education, released a lengthy Guidance in 2013 entitled *Dispute Resolutions under Part B of the Individuals with Disabilities Education Act (Part B)* and highlighted that through "its Part B State complaint procedures, each State has a powerful tool to address noncompliance with Part B of IDEA and its implementing regulations in a manner that both supports and protects the interests of children and their parents and facilitates ongoing compliance by the State and its public agencies . . ."¹⁷¹

There are four elements to a standard complaints management system: (1) accessibility, (2) a strong investigation process, (3) well trained staff and comprehensive training for investigators, and (4) specific sanctions for non-compliance related findings. Among others, states such as California, Georgia, Illinois, Massachusetts, and Washington have established systems that exemplify these standard elements.

It is a common practice for states to have easy accessibility of complaint forms.¹⁷² These forms are designed to be easily accessible, allowing individuals to voice their concerns without barriers. States such as Mississippi provide clear instructions, a structured format, and multiple submissions options such as mail, fax, and email to facilitate a streamlined process. Moreover, standard systems prioritize inclusivity by offering multilingual support, comprehensive language assistance, and phone support in numerous languages also evidenced by Mississippi's complaints management system. It is also a frequent practice to provide a glossary of education-related terms, while specialists are on hand ensuring various contact avenues and accommodation for individuals with disabilities.¹⁷³ Similarly, states may provide a detailed FAQ section which has more guidance, such as an exemplar of a complaint that individuals can model their complaint after.

A strong investigation process follows a meticulous path aimed at addressing complaints effectively.¹⁷⁴ State complaint management

systems frequently have a dedicated complaint support unit that handles complaints, with thorough reviews conducted by trained investigators.¹⁷⁵ Similar to the systems in California and Virginia, complaint management systems often incorporate a reconsideration process, similar to an appeals process, to ensure fairness and accuracy. In addition, states like Georgia promise timely technical assistance to LEAs for corrective actions while maintaining impartiality and transparency. In Georgia, the Division for Special Education Services conducts a thorough investigation, including interviews, observations, site visits, and other pertinent activities based on the nature of the allegations. Moreover, like in Washington, the scope of many state investigations covers both student-level and system issues. SEAs implement corrective measures for non-compliance, involving collaborations and self-assessments to rectify identified issues.

With regard to staffing and training for investigators, it is standard that SEAs have skilled investigators who are proficient in evaluating complaints.¹⁷⁶ Additionally, a team of well-trained investigators with expertise in special education protocols ensures a comprehensive assessment of reported issues. Further, the systems offer a directory of legal and advocacy services, often organized by location, providing information and support to those involved.¹⁷⁷

Findings and compliance determinations are crucial aspects of the process, outlining specific sanctions and corrective measures for non-compliance. The system mandates particular actions to rectify identified non-compliance issues, emphasizing prompt implementation based on complaint findings. Specific consequences are delineated for non-compliance ensuring a streamlined process for resolution. For instance, in Illinois, although corrective actions are not punitive, public agencies still have to address the needs of students.¹⁷⁸ Doing so may involve training for public agency staff, compensatory education services, monetary reimbursement, or the agency publicly declaring that the non-compliance has been adequately addressed.

LDOE's annual performance review under the IDEA, system of monitoring and support under the IDEA, and system of complaints management

Given the ongoing challenges faced by New Orleans families in accessing appropriate educational services for their students with disabilities and in light of the eventual discontinuation of judicial oversight of special education services in the school district, it is important to understand how the Louisiana Department of Education (LDOE) fulfills its monitoring obligations under the IDEA to improve performance of students with disabilities and continuously improve special edu-

cation service delivery in New Orleans charter schools. This section accordingly discusses the U.S. Department of Education's (USDOE's) annual determination of LDOE performance under the IDEA, LDOE's accountability system for all LEAs and schools in the state, and LDOE's special education monitoring system.

USDOE's annual performance review of LDOE

As discussed above, the IDEA provides the legal framework under which USDOE holds states accountable for compliance with the IDEA and improved outcomes for students with disabilities, as well as the monitoring obligations that states must fulfill to ensure LEA compliance with the law and improved performance of and outcomes for students with disabilities.¹⁷⁹ In making its annual determinations regarding state IDEA compliance, OSEP has designated Louisiana in the "needs assistance" category for Part B compliance (relating to K-12 education) since at least 2017, according to the OSEP website.¹⁸⁰ It should be noted that, despite the IDEA's requirement that the state's annual determination letter be published to the public, it is very difficult to locate LDOE's annual determination letter on the LDOE website. The department has an archive of past documents, including State Systemic Improvement Plans and State Performance Plans/Annual Performance Reports, but it requires sifting through a number of links and documents to find the material.¹⁸¹

LDOE's oversight of general education in Louisiana's school districts

Pursuant to Louisiana law, LDOE is charged with oversight of all LEAs within the state¹⁸² and is thus accountable for all students'--including students with disabilities'--performance and outcomes.¹⁸³ Specifically, LDOE must develop and implement an accountability system for all schools that provides for

the development and implementation of a school and district accountability system which requires and supports student achievement in each public school... assurance to the citizens that the quality of education in each public school is monitored and maintained at levels essential for each student to receive a minimum foundation of education...clear standards and expectations for schools and school systems so that assessment of their effectiveness will be understood...[and] information that will assist schools and school systems in order that energies and resources may be focused on student academic achievement.¹⁸⁴

To implement that mandate, the statute also establishes the state accountability framework and statewide letter grading system.¹⁸⁵

These performance grades are based on student achievement with assessment metrics that depend on the grade level of schooling. For example, elementary schools are measured by student mastery of grade-level content, achievement growth, and dropout rates, and a metric labeled “interests and opportunities,” which includes arts, extracurriculars, STEM and language opportunities.¹⁸⁶ High schools are evaluated by the foregoing metrics alongside graduation rates, “strength of diploma,” which includes metrics related to student preparation for college or careers, and ACT/WorkKeys scores.¹⁸⁷ LDOE makes the grades public and available to parents and families choosing a school. LDOE also publishes breakdowns for each school in terms of how well it serves specific subgroups in comparison to other schools in Louisiana. One such subgroup is students with disabilities.¹⁸⁸ This subgroup includes all students identified under the IDEA except “gifted and talented” students and does not include students who are eligible for Section 504 supports.¹⁸⁹ However, the progress scores for this subgroup do not factor into the overall school grade.¹⁹⁰ These performance scores are available online, and are part of Louisiana’s Every Student Succeeds Act (ESSA) plan.

Schools are identified through this system for intervention and required to submit a plan to correct issues if they receive a D or F grade.¹⁹¹

We did not find evidence that suggests that this grading system for schools is integrated with LDOE’s system for monitoring LEAs for IDEA compliance and performance. Consequently, there is a risk that LEAs will feel overburdened by multiple accountability systems, that the systems may create conflicting incentives, or that LEAs will focus on one system, while largely ignoring the other. Some SEAs have begun the process of better integrating their special education monitoring systems with their other school accountability systems (e.g., California has taken steps toward using its general accountability system—the school “dashboard”—in its monitoring under the IDEA).

With that background, we turn to LDOE’s system for monitoring SEAs under the IDEA.

LDOE’s risk-based special education monitoring system¹⁹²

Overview of the system

LDOE seeks to comply with its monitoring and general supervision obligations under the IDEA through implementation of its Continuous Improvement Monitoring System (CIMS), a tiered, “risk-based” monitoring system that targets LEAs with greater compliance and performance issues for more intensive monitoring. LDOE has explained the purpose of this risk-based monitoring system as a means to best utilize limited resources because it does not have sufficient staff to conduct universal or even cyclical intensive monitoring of all schools.¹⁹³ As discussed above, such “risk-based” or “focused” or “targeted” monitoring systems that select for more intensive monitoring those LEAs with greater compliance and performance concerns is a standard monitoring practice in many states. In this section, we discuss the risk-based monitoring system, and will not be including the additional LDOE “targeted” monitoring practices required by the Consent Judgment, as it is our understanding that LDOE does not intend to voluntarily continue those practices.

Selection of LEAs for targeted monitoring

On an annual basis, LDOE collects and analyzes data from each LEA based on five performance indicators or “risk factors” related to students with disabilities:

1. English Language Arts (“ELA”) statewide assessment scores;
2. Math statewide assessment scores;
3. Graduation rates;
4. Dropout rates; and
5. LEA determination, which groups a number of factors into an overall score.¹⁹⁴

The factors in the fifth indicator are not explicitly weighted or transparent. LDOE states that the “[f]actors weighted [in the fifth indicator] include: disproportionality, early childhood transition, child find, timely and accurate submission of data, high school transition compliance, audit findings, and other areas as determined by the State to be an annual determination priority.”¹⁹⁵ LDOE also states that child find, related services, and long-term suspensions are all taken into account in the risk-based monitoring system,¹⁹⁶ though how these factors are included is not specified or clear. Although an earlier pilot version of this relatively new risk-based system from the 2015-2016 school year included discipline as a sixth indicator when calculating risk, that indicator was removed from the implemented review process.¹⁹⁷

LDOE also states that the risk indicators are reviewed annually in consultation with a group of external experts who are supposed to meet with LDOE at least once a year, according to the Compliance Monitoring Procedures set forth in the BESE Bulletin 1922.¹⁹⁸ These meetings are supposed to result in the selection of specific indicators to determine LEA performance, and the group is meant to present any updates to the Special Education Advisory Panel.¹⁹⁹ This group is supposed to produce annual indicators for monitoring, but we did not find evidence that these meetings took place or that the group produced annual indicators.

The tiers of risk in the risk-based monitoring system are “Low,” “Moderate-Low,” “Moderate-High,” and “High.” Each triggers a different level of monitoring:

- **Low** risk indicates that students with disabilities are performing well according to the observed metrics, and no required monitoring procedures are listed.
- **Moderate-Low** risk indicates that the school system has overall met compliance and might have an isolated area of non-compliance; this is the rank most often given to school systems. It triggers a mandatory self-assessment.
- **Moderate-High** risk indicates that the school system did not meet compliance requirements and usually means negative performance in multiple risk indicators. This level triggers a mandatory comprehensive desk audit, though we were unable to find details regarding what the desk audit covers.

- **High** risk indicates that the school system is not meeting compliance requirements or performance expectations. This is the highest level of risk, and it triggers on-site monitoring.²⁰⁰

LDOE uses a straightforward analysis of the five risk factors in selecting LEAs for each of these risk categories. It has cut points for each indicator that splits the percentile change over two years for ELA and math assessment data and the percent change over two years for graduation and dropout rates.²⁰¹ These measures are split into quartiles for each factor. A score in quartile four earns 4 points; quartile 3 earns 2 points; quartile 2 and quartile 1 both earn 0 points. The fifth factor, LEA Determination, is split into four categories: Meets Requirement, Needs Assistance, Needs Intervention, and Needs Substantial Intervention. The earned points from quartiles and the points from LEA Determination are added together and then divided by the total points available to calculate the LEA’s overall score. LEAs with low risk earn a score of 78-100%; moderate low risk is 50-77%; moderate high risk is 23-49%; and high risk is 0-22%.²⁰² The monitoring rubric is attached in Appendix A.

This data collection and risk-based selection process is not only opaque, it also fails to ensure that LEAs are selected for poor performance based on indicators most associated with FAPE in the LRE, student performance, and student outcomes. Because LDOE does not sufficiently describe its fifth (“LEA Determination”) risk indicator, the performance metrics that comprise the indicator, or how those metrics are weighted and analyzed, LEA administrators might be concerned about their being selected based on this indicator and the selection formula. Even more troubling is that the remaining four risk indicators are not those most associated with FAPE in the LRE or improved outcomes for students with disabilities.

Moreover, they do not address the IDEA’s focus on racial disproportionality in identification, placement, and discipline of students with disabilities. This is despite the fact that LDOE is required to collect data on all seventeen of the SPP indicators, including child find, racial disproportionality, LRE, school discipline, and parent involvement. Put simply, the LDOE’s risk-based system runs the clear risk of improperly selecting LEAs for further monitoring, support, and intervention.

In addition, the risk-based selection system, like any targeted or focused monitoring system that uses district-level performance indicators to select for further monitoring activities, is ill-suited to selection of small LEAs with few students with disabilities. This is the “small n-size” problem. A small number of students with disabilities in an LEA with few students with disabilities may cause that LEA’s metrics to vacillate wildly based on the performance of just a small handful of students (or even just one student). Moreover, LEAs may be improperly selected for further monitoring activities based on just a few students’ performance which may not indicate any underlying systemic performance problems. Because NOLA-PS has many small LEA charter schools, this problem cannot be ignored. Fortunately, the problem can be addressed by routine, cyclical monitoring of all small LEAs (as California has adopted in addition to its data-driven monitoring of larger LEAs).

Targeted monitoring activities

LDOE conducts several monitoring activities that may be recommended for all LEAs and required for those selected for targeted monitoring under the risk-based system.

Self-assessment monitoring.

LDOE has developed a self-assessment protocol for LEAs to evaluate their own compliance and performance under the IDEA.²⁰³ The purpose of the self-assessment is the “identification of areas of non-compliance and technical assistance needs for those who participate in the development and implementation of Individualized Education Programs (IEP),” and the LDOE states that they “expect this activity will be helpful in identifying the root causes of performance and compliance issues in your school system.”²⁰⁴ LDOE also states that, after submission, they will conduct “spot checks” to ensure the assessments are accurate.²⁰⁵ The self-assessment tool outlines how schools should choose a sample of students whose files they will review. It also outlines the checklist of assessment activities, including both required activities and recommendations to go alongside the overall required activity. For example, the first required activity is “Special Education Director selects team members to participate in the self-assessment process,” and the Recommendations and Action Steps column for that activity states: “Identify a team leader to oversee the self-assessment process and a team of individuals to conduct the review. The team should include individuals from multiple

disciplines. This may include, but is not limited to: special education teachers; guidance counselors; social workers; behavior interventionists; general education teachers; school psychologists; related service personnel.”²⁰⁶

The remaining required activities are: “(2) Conduct an initial meeting with team members to discuss process timelines and assign responsibilities; (3) Identify student files to review; (4) Complete required self-assessment; (5) Convene a review team meeting to discuss the findings; (6) Compile results; (7) Submit completed self-assessment to Louisiana Department of Education.”²⁰⁷ There are six content components for review: (1) Child Find; (2) Least Restrictive Environment; (3) Delivery of Services; (4) Discipline; (5) Secondary Transition; and (6) Early Childhood Special Education; each component has its own set of questions.²⁰⁸ A seventh component, Alternate Assessment Participation, is also included in the toolkit and final summary, though not listed in the introduction. The results of these components are compiled into a Results Summary Report, which must be submitted to LDOE if the LEA is required to self-assess.²⁰⁹ LDOE encourages self-assessment by all LEAs, but only requires LEAs to complete and submit self-assessments if the risk-based monitoring system ranks the LEA as moderate-low to moderate-high risk, according to the monitoring rubric from the 2018-19 school year, which is the most recent protocol we were able to find.²¹⁰

We note that, due to the unique nature of the New Orleans school system, the majority of LEAs are individually responsible for Child Find. OPSB is responsible for schools under its jurisdiction, but otherwise the OPSB and BESE-authorized LEAs are responsible for their own Child Find.²¹¹ If LEAs cannot provide evidence that they are in compliance in the six designated areas, they have to identify steps they will take to rectify the non-compliance.²¹²

There are two forms of non-compliance: systemic or individual. Individual non-compliance is a specific finding of non-compliance for an individual student—usually detected by a desk-top file review—that can be corrected on a single-case basis, whereas systemic issues are broader and affect multiple students, and may require a follow-up visit to ensure systemic change has occurred.²¹³ When school systems are out of compliance, they have to immediately develop and submit a correc-

tive action plan to LDOE. LDOE then conducts follow-up monitoring on individual non-compliance and conducts random reviews to monitor systemic issues.²¹⁴ During the compliance process, an LDOE monitoring leader is supposed to regularly check in on the LEA and collect evidence. LDOE encourages LEAs to make the results of their monitoring processes public while they are being reviewed, but does not require that they do so.²¹⁵

The self-monitoring protocol is not robust. It requires the special education director to select a team, review a select number of student files, and then review policies and procedures at the LEA. There is no required qualitative data collection or observation to see what service delivery actually looks like in practice, and the protocol only requires LEAs to review a small portion of student files at a single moment in time. Though the document indicates that the team conducts “root cause analysis,” this analysis is only described as a discussion to “identify patterns and/or factors which may have contributed to lack of growth in student achievement,”²¹⁶ based on the limited procedural information reviewed.²¹⁷ The review is compliance-oriented and only shows a snapshot in time for a handful of students, without indicating whether students are making progress.

Mandatory desk-top monitoring by LDOE.

For those LEAs designated moderate-high risk, LDOE performs a “mandatory comprehensive desk-top audit” of the LEA. LDOE selects the individual students whose files will be reviewed. In compliance with a checklist, the LEA submits documentation for each such student. The checklist includes:

- Current IEP (first and last signature pages only);
- Initial Evaluation and/or Reevaluation;
- Transition Agency Invitation Letters and Transition Assessment Results;
- Parental Contact Logs and Notification Letters;
- IEP Participant Excusal Form (if applicable);
- Progress Reports;
- Report Cards;
- Evidence of Services (sampling of the measurement of student progress in educational need areas identified in the IEP—monthly progress notes, academic progress updates, and/or other relevant information);
- Discipline Reports;
- Functional Behavioral Assessment/Behavior Intervention Plan;
- Manifestation Determination Review and Results of disciplinary hearing indicating number of days assigned to discipline center with start/end dates;
- Extended School Year Program Eligibility Determination Letter;
- Documentation used to determine if the student met the eligibility criteria for an alternative pathway to promotion or graduation per Act 833 (2014);
- Goals and objectives for specific courses (high school) or content areas (K-8) where individual performance criteria for an alternate pathway to promotion or graduation are applied.²¹⁸

The most recent IDEA Monitoring Protocol linked on the LDOE website is from 2017, and consists of a checklist including Initial Evaluation, Re-Evaluation, Act 833 Student Review, IEP, Disciplinary Procedures, and Transition Services.²¹⁹ This more comprehensive (but still compliance-oriented) checklist is linked alongside the previous checklist, but it is not explicit as to when this second protocol is utilized (eg. for desk-top or on-site reviews).

On-site monitoring.

The highest level of monitoring—on-site monitoring—is triggered by the high risk designation. Such monitoring involves an LDOE monitor²²⁰ going to the school to meet with the special education director and school staff, and to conduct classroom observations, file reviews, and root-cause analyses of non-compliance.²²¹ The statute indicates that the monitors review data related to: child identification; individual evaluation; IEP development; provision of FAPE; participation in statewide assessment; transition at different programming levels; placement in the LRE; professional development and personnel standards; program comparability; facility accessibility and comparability; procedural safeguards; extended school year programming; and discipline procedures.²²² It also states that data will be collected before the visit related to performance profiles; LEA application for IDEA Part B funds; complaint logs; files indicative of technical assistance to the LEA by the LDOE; information relative to the state’s accountability system which is school-site specific; school improvement plans; data relative to statewide assessment for participation and performance; data derived from the district composite reports; information relative to certifications and professional development activities provided to personnel and parents; and “any other data the LDOE determines is necessary to review as part of a comprehensive data review of the LEA.”²²³ This pre-visit analysis is meant to identify the locations within the LEA that the LDOE monitor should visit, the number and types of records to be reviewed,

the makeup of the monitoring team,²²⁴ and the methods the monitors will use (the method examples listed are interviews, record review and classroom observation).²²⁵

There is also supposed to be a meeting beforehand with the team members to review the data and the qualitative information specified for this on-site visit, to address any questions or extenuating circumstances, and assign team members specific tasks.²²⁶ During the on-site visit, the team is required to host a focus group meeting for parents to collect information on their satisfaction with the services their children have received, and are supposed to schedule a town hall forum to engage with parents.²²⁷ The team visits the school sites, conducts observations and personnel interviews, and reviews student records, as well as meets with the special education director.²²⁸ The documentation checklist used for the desktop review previously mentioned is also implemented at the on-site review.²²⁹ The 2021-2022 LDOE Monitoring Results document also contains a checklist for compliance monitoring, which lists:

- Desk review of fifteen (15)²³⁰ student records
- Interviews with school site and central office personnel
- Academic Progress Review for students with academic/behavioral issues
- Behavior Intervention Plan (BIP) (if applicable)
- Current Initial Evaluation/Reevaluation
- Current Parental Notification Letter
- Discipline reports (if applicable)
- Extended School Year (ESY) Services Eligibility Determination Letter
- Functional Behavior Assessment (FBA) (if applicable)
- Manifestation Determination Review (MDR) (if applicable)
- Parental contact log
- Progress reports
- Report cards
- Current Individualized Education Program (IEP)
- Transition Plan pages²³¹

The protocol for an onsite visit includes more detailed checklists outlining student file review items related to: Related Services, Child Find, and Discipline.²³² This protocol is attached in Appendix B.

Following the on-site visit, the LDOE team meets with LEA representatives, drafts a Summary of Findings within 10 business days, and mails it to the LEA within 60 business days. The LEA then has 20 business days to respond, and another 15 business days to develop a corrective action plan (CAP) addressing the findings in collaboration with LDOE. The CAP has to indicate “how the LEA will: (1) correct each individual case of noncompliance; and (2) correctly implement the specific regulatory requirement.”²³³ The LEA must develop a timeline demonstrating the noncompliance will be corrected within one year, and LDOE has the discretion to provide funds to support the LEA to do so.²³⁴ The monitoring team will draft a Summary of Findings and provide it to the LEA in at most 60 business days after the on-site visit, and the LEA will develop a corrective action plan alongside LDOE to address the noncompliance. Evidence of compliance in the established timeline must be sent to LDOE, and LDOE will conduct on-site visits to follow-up if necessary.²³⁵

Although the on-site monitoring is supported by LDOE staff and is much more robust than other monitoring activities, it appears that on-site monitoring still largely consists of in-person desk-top review procedures. Alongside the required documentation that follows the same protocol as the desktop review, on-site monitoring requires a review of a sample of files to document the following: IEP dated within one calendar year; evaluation or waiver dated within 3 years; student exceptionality on IEP aligns with evaluation; IEP is signed by all Required Parties; Evidence of service minutes provided in accordance with current IEP for previous and current semester; and most recent two progress reports are present in the folder and signed by the parent.²³⁶ It is unclear if the more qualitative monitoring activities (such as parent focus groups and class observations) are occurring, especially because the latest state performance plan from FY 2021 states that: “Since the COVID-19 Pandemic, on-site monitoring events were changed to desk reviews.”²³⁷ Finally, although regulations require the monitoring team to schedule a town hall for parents,²³⁸ we found no evidence of protocols for such meetings or information on how those meetings should be used in the monitoring process.

LDOE's special education complaints management system

In addition to its risk-based monitoring system, LDOE has established a complaints management system.²³⁹

LDOE's complaints management process

LDOE has adopted five dispute options for parents/guardians of students with disabilities, three of which are federally mandated (mediation, formal complaint, and due process hearing) and two of which are optional (informal complaints and IEP facilitation).²⁴⁰

LDOE strongly encourages parents to utilize the informal complaint process it has developed. LDOE describes it as a “community-centered model,” and refers to it as an Early Resolution Process (ERP).²⁴¹ Under Louisiana law:

[a]ll LEAs, including charters, must establish an internal ERP to include:

- designation of a local (LEA) ERP representative and notice of the name, address, telephone number and other contact information
- management of an informal complaint within 15 calendar days of the LEA receiving the complaint, or an extended period agreed upon by the parties in writing
- advising the parent of the availability of other dispute resolution processes available through the LDOE if a resolution cannot be agreed upon.²⁴²

In accordance with this process, families send written informal complaints to their ERP representative. If it is unclear who their ERP representative is at their child's school, an LDOE email is provided, and the protocol states that the LDOE's Intake Coordinator will send the complaint to the designated school district or charter ERP representative. However, we found that it is difficult to determine who to contact based on a review of many charters' websites. Following submission of the complaint, the parents and school district either sign a written resolution agreement within 15 days indicating that the issue has been resolved or sign an extension agreement.²⁴³ If the issue is not resolved, the ERP representative is supposed to provide the parent information regarding other dispute resolution options to address their concern.²⁴⁴

If parents waive the ERP process, or their complaint is not resolved through the informal process, they can file a formal complaint. The for-

mal complaint process requires that a written, signed formal complaint be sent to LDOE by email or mail, and must also be sent to the school district or charter school at the same time.²⁴⁵ The requirement that formal complaints are in writing and signed was an issue in the most recent legislative audit of the complaints system, explained further below. This audit found that LDOE reported that it did not address the allegations in 42 emails because the complaints were not signed.²⁴⁶ Though signatures are required via the IDEA formal complaint protocols, OSEP also instructs states not to ignore allegations of potential non-compliance,²⁴⁷ and LEAs should try to contact complainants to provide missing necessary information. Louisiana also allows complaints to be submitted orally,²⁴⁸ which can be confusing for parents if the complaints then require a signature. Even after a formal complaint is filed, the LDOE begins the complaint process by providing an informal complaint resolution window of 15 days, unless parents/guardians waive the ERP period. After 15 days, the investigator reviews the complaint.²⁴⁹ The investigator independently decides if they will conduct an onsite visit and/or interviews. After 60 days, the investigator will provide a written determination to all parties.²⁵⁰

Concerns about the complaints management system

LDOE is responsible for designing an accessible complaints management system, investigating complaints, and determining whether LEAs are in compliance.

The COPAA report, as discussed above, found that Louisiana was “the only state that appeared in the bottom decile for each of the four metrics analyzed for both the most recent year as well as the three-year period.”²⁵¹ These metrics included: (1) number of complaints withdrawn or dismissed; (2) findings of noncompliance; (3) ratio of findings of non-compliance vs. no finding; and (4) extended time required.²⁵²

In September of 2023, the Louisiana Legislative Auditor published a report in response to legislative concern regarding services for students with disabilities. It is the first of a forthcoming series of reports evaluating state oversight of services for students with disabilities in Louisiana.²⁵³ This evaluation focused on the LDOE's complaints management system and found that LDOE only investigated about 60 percent of the

complaints it received in the 2021-2022 school year.²⁵⁴ The audit also found that there are low levels of trust in the complaint process among parents and families, and only about half of parents and guardians were aware of the complaints process at all, which could depress the number of complaints LDOE received. Parents also stated that LDOE always took the side of the school system, and less than a third of parents surveyed believed their dispute was handled fairly.²⁵⁵ On the other hand, the vast majority of Special Education directors surveyed reported that disputes were handled fairly.²⁵⁶

The complaint process is also not clear. Though Louisiana regulation allows complaints to be filed via phone,²⁵⁷ there is no information as to how a parent can do so. This is an accessibility concern because the current system appears to require parents to have access to the internet. The phone number listed on the website is the general LDOE number, and the audit found that 9/10 of the calls they attempted to make to this call center provided incorrect information.²⁵⁸

LDOE's "informal" complaint system encourages parents to submit informal complaints before escalating to a formal complaint. This system makes it difficult to track the actual number of complaints parents have submitted to the state.²⁵⁹ The informal complaint process is intended to be internal between families and schools without involving the state,²⁶⁰ and schools are not even required by state law to post information about the informal complaints process on their website.²⁶¹ Due to the difficulties with filing complaints, parent advocates have pushed for the institution of an ombudsman in NOLA to receive parent concerns, since parents are often unsure whom to contact.²⁶² NOLA has not established a local ombudsman, but LDOE has agreed to establish such a position.²⁶³ The specific authority and responsibilities of this ombudsman are unclear.²⁶⁴

In addition, LDOE appears to have a practice of refusing to investigate and/or issue non-compliance findings for complaints that allege purely procedural violations.²⁶⁵ This practice regarding allegations of procedural violations in state complaints not only deprives parents of an important tool provided under federal law for holding an LEA accountable in such circumstances, but also deprives LDOE of its ability to ensure that LEAs comply with procedural requirements, thereby undermining its own duty to provide supervision and oversight for the LEAs under its jurisdiction and guarantee the protection of the rights of students with disabilities.²⁶⁶

Of note, the Louisiana Board of Elementary and Secondary Education (BESE) is hearing public comment until February 10, 2024 regarding proposed revisions to Bulletin 1573 – Complaint Management Procedures.²⁶⁷ It is unclear whether the proposed changes will address issues of refusal to investigate certain types of complaints,

however the proposed changes appear to address a number of the issues identified in the September 2023 Legislative Auditor report, in addition to the aforementioned Council of Parent Attorneys and Advocates (COPAA) report.²⁶⁸

Recommendations to improve LDOE's monitoring and oversight of LEAs' compliance with the IDEA and ensure improved outcomes and performance for students with disabilities

The IDEA requires SEAs to establish an effective system to monitor and supervise LEAs' implementation of the IDEA and to provide a complaints management system that allows families to seek redress for alleged violations of the statute. While monitoring is necessary to ensure legal compliance, it also provides an opportunity for SEAs to work with LEAs to improve outcomes and performance of students with disabilities, as well as continuously improve service delivery. LDOE has established a risk-based approach to monitoring that it uses to identify LEAs with the greatest compliance and performance challenges and provide those LEAs with targeted support and intervention. LDOE also has established a complaints management system. Because those systems are essential to ensure continued legal compliance and improvement in NOLA-PS after court jurisdiction is terminated, we offer the following recommendations to improve those systems.

Recommendations for improvement of LDOE's special education monitoring system

Monitoring frequency and focus

LDOE's risk-based monitoring system is one approach to ensuring that monitoring resources are conserved and targeted to those LEAs in the state with the greatest need. That said, a risk-based approach is likely unreliable with small LEAs—such as the charter schools in New Orleans—due to the “small-n” problem (relatively few students with disabilities in each small LEA) and the risk that LEAs will be improperly selected or passed over for further monitoring and support. Accordingly, LDOE should continue to conduct its current annual data collection for all LEAs and continue to use its risk-based approach for LEAs outside of NOLA-PS. However, instead of a risk-based approach in NOLA-PS, LDOE should implement a three-year monitoring cycle, including site visits, for all of the LEAs in NOLA-PS. But LDOE should not ignore significant compliance or performance issues identified in the NOLA-PS charter schools' data. If any NOLA-PS LEA demonstrates significant compliance or performance problems on any of the indicators, LDOE should investigate the problem, even in those years that the LEA is not being monitored on the cycle. Those problems should be addressed through a targeted approach.

Data collection

In addition to the data LDOE is required to collect for purposes of the State Performance Plan/Annual Performance Report, LDOE should collect the following data from NOLA-PS's charter schools: (1) annual attrition rates of students with disabilities at each school; (2) chronic absenteeism rates for all students at each school; (3) a meaningful measure of parent involvement in their children's educational decision-making process; and (4) restraint and seclusion incidents at each school. LDOE should publish on its website and require each LEA to annually publish on their websites LEA annual determinations from LDOE, performance on each of the SPP/APR indicators, and performance on the additional data elements recommended here. LDOE should also publish the methods it uses to verify that the data it collects are valid and reliable, as we were unable to identify any publicly available information on LDOE's methods for ensuring data validity and reliability. LDOE should ensure that all LEAs have a functioning Special Education Advisory Committee and that the LEA report to the Committee on an annual basis the LEA's performance on the SPP/APR indicators and any and all monitoring activities.

Data analysis for further monitoring activities

While we recommend that LDOE employ a cyclical monitoring approach in NOLA-PS, LDOE should nonetheless improve its risk-based monitoring system as follows: (1) specifically identify each of the indicators in the formula/rubric it uses to select LEAs for targeted monitoring and eliminate the catch-all Risk Indicator 5; (2) annually publish the specific formula/rubric it uses to select LEAs for targeted monitoring; (3) use most or all of the SPP/APR indicators in the selection formula/rubric, but place greater emphasis on those indicators most related to FAPE in the LRE, student performance and outcomes, racial disproportionality, Child Find, and school discipline; and (4) consider adding to the formula/rubric additional indicators for annual attrition rates, chronic absenteeism, and restraint and seclusion incidents.

Monitoring activities

For those LEAs selected for targeted monitoring and for all LEAs in NOLA-PS that are monitored through the cyclical approach, in addition to the self-review and on-site monitoring activities it currently employs, LDOE should use the following continuous improvement monitoring activities, develop clear, user-friendly protocols and instructions for each activity it uses, and provide technical support for each of the activities (we recognize that LDOE may already use some of these activities for targeted monitoring, but suggest that all of these activities be required for targeted and cyclical monitoring):

Further data collection

LDOE should require the collection of qualitative data at the school site, including parent/stakeholder interviews, surveys, and/or focus groups; classroom observations; and interviews with school leaders and educators. Desk-top reviews of student files should include both compliance and performance measures over a period of at least three years (e.g., an "educational benefit review").²⁶⁹ LDOE should require further analysis of quantitative data, particularly for those areas of compliance and performance concerns. LDOE should require a policies and procedures review.

Data analysis

LDOE should require that LEAs form a stakeholder committee that includes administrators, educators, service providers, and parents to analyze the data to determine the "root cause(s)" of compliance and performance concerns.

Planning for continuous improvement

LDOE should require the stakeholder committee to develop a theory of action and plan for improvement that addresses the primary areas of compliance and performance concerns. The plan should include measurable goals and outcomes for improvement, prioritization of goals and initiatives, specific activities, tasks, and timelines.

Implementation and iteration

LDOE should require that the LEA implement its continuous improvement plan, monitor its implementation, and require that modifications be made to the plan if it is not achieving its goals.

Technical support and assistance

It is imperative that LDOE provide technical support and assistance to the charter schools in NOLA-PS to participate in these continuous improvement activities. Due to the economies of scale and resource challenges that the LEA charter schools face, LDOE should either provide the support and assistance directly or provide the resources for the LEAs to secure technical support and assistance from a list of LDOE-approved providers.

Recommendations For Improving LDOE's Complaints Management System

We recognize and support the LDOE's decision to establish an "ombudsman" to assist families in resolving concerns they have with special education service delivery for their children. To further improve LDOE's special education complaints management system, we support the recommendations made by the Louisiana Legislative Auditor's Office in its report, "Complaints Process for Students with Disabilities Receiving Special Education Services" (Sept. 20, 2023) and make/emphasize the following recommendations:

Accessibility

LDOE should provide a user-friendly form and process for complaints. The form should include clear instructions. There should be multiple submission options for the form such as mail, email, and a web-based portal. The form should be offered in at least the three most-used languages in Louisiana. LDOE should provide phone support in numerous languages. LDOE should provide a glossary of education-related terms, detailed FAQ sheet, and an exemplar of a complaint. LDOE should publish on its website the results of investigations completed (ensuring that the identity of the complainant and student are protected).

Investigation process

LDOE should develop a database to comprehensively track complaints, including the date received, name of complainant, school involved, allegation type, date of decision (if any), and disposition/outcome of the complaint. LDOE should contact the complainant during the process to gather additional information, if any. LDOE should establish an independent appeals process for complainants.

Staffing and training

LDOE should review its staffing of the complaints management office and ensure that it has sufficient personnel to manage all complaints. Investigative staff should be provided sufficient training for the position.

PART THREE

CHARTER AUTHORIZER OVERSIGHT AND MONITORING OF SPECIAL EDUCATION SERVICE DELIVERY

Practices in Louisiana and other jurisdictions

In this section you will find:

- Charter school authorization, monitoring, and renewal processes generally
- Practices in charter authorization, monitoring, and renewal
- NOLA-PS oversight of charter schools' compliance with the IDEA and continuous improvement of special education service delivery in New Orleans charter schools
- Recommendations to improve NOLA-PS's charter school authorization, monitoring, and renewal practices to ensure compliance with the IDEA and improved outcomes and performance for students with disabilities

Charter authorizers (authorizers) are responsible for approving new charter schools, monitoring charter school operations during the term of the charter, and making renewal or revocation determinations based on certain criteria. Using their authority, authorizers have the potential to ensure compliance with the IDEA and do even more. If they go beyond just compliance measures, authorizers could play a large part in improving outcomes for students with disabilities and supporting charter schools' continuous improvement of special education service delivery.²⁷⁰

Charter school authorization, monitoring, and renewal generally

Because charter schools are freed from many regulations and given a great deal of operational autonomy, it is essential for authorizers to actively ensure that charter schools have the capability to properly serve students and to hold charter schools accountable for their performance, particularly for students with disabilities. The accountability process starts at the charter school's application and runs until its renewal or revocation. It involves continuous assessment, site visits, transparent reporting to stakeholders, technical assistance, and engagement with various parties, including students, parents, and regulatory bodies. Authorizers play a critical role in providing quality educational opportunities to students around the country.²⁷¹

Practices in charter authorization, monitoring, and renewal

The National Association of Charter School Authorizers (NACSA) is a nationwide organization that promotes charter school authorization quality as “essential to creating sustainable, equitable, innovative, high-quality educational opportunities for more students.”²⁷² The federal Office of the Charter School Programs (CPS) funds NACSA, which in turn offers guidance, grantee technical assistance, and high-quality resources for charter schools and authorizers.²⁷³ In 2013, NACSA released a guide called *Core Performance Framework and Guidance: Academic, Financial, and Organizational Frameworks for Charter School Accountability*.²⁷⁴ This guide sets forth recommended standard practices for authorizers—both Local Education Agencies (LEAs) and State Education Agencies (SEAs)—to “establish, maintain, and enforce high performance standards for all schools in their portfolios.”²⁷⁵ In both the 2013 and updated 2023 framework documents, NACSA emphasizes that authorizers pay close attention to specific student groups, as opposed to viewing student performance in the aggregate, with particular attention paid to special education obligations.²⁷⁶ To this end, NACSA developed the *Rubrics*

for Assessing Special Education in Charter Schools.²⁷⁷

In 2012, the National Charter School Resource Center (NCSRC) released a report entitled “Charter School Authorizer Rubrics for Assessing Special Education Capacity” to provide technical assistance to Authorizers and “build their capacity to support development and maintenance of high-quality special education programs” in charter schools.²⁷⁸ In 2016, NCSRC released a state of the field report compiling research, case studies, and toolkits in support of charter schools' work to serve students with disabilities.²⁷⁹ This report included an 8-year survey in which peer organization NACSA annually surveyed charter school authorizers entitled *Authorizing Data in Depth: Special Education*.²⁸⁰

Our report uses these national resources as frameworks for examining practices in charter authorization, oversight, and renewal that have the potential to improve charter school service delivery for students with disabilities. While authorizers can face many challenges in using their authority to ensure charter schools' continuous improvement of special education service delivery, there are national, state, and local agencies that have recommendations for how to do so, or have implemented policies for this purpose. We explore some practices below.

Authorization, monitoring, and renewal practices: research strategy

To provide actionable recommendations for how NOLA-PS can use its authorizer authority to guarantee improved performance and outcomes for students with disabilities and ensure continuous improvement of service delivery, we: (1) conducted a review of the relevant literature; (2) interviewed experts in charter authorization practices and charter school operations; and (3) compiled case studies of how authorizers in jurisdictions outside of New Orleans use their authorizer authority to ensure students with disabilities are properly served in their charter schools.

We chose certain authorizers to explore as case studies in a few ways: (1) we selected some authorizers based on expert recommendations of

strong service delivery practices in those authorizer jurisdictions; (2) we chose some LEAs and SEAs based on the list of LEAs and SEAs with the highest charter enrollment, according to the National Alliance for Public Charter Schools Data Digest²⁸¹ and (3) we reviewed SEAs and LEAs recognized by the National Association of Charter School Authorizers as having “smart, proactive authorizing” practices.²⁸²

Through this process, we identified the following eight local authorizers (nearly all LEAs) and seven state authorizers to explore as case studies. We explored the practices of Albuquerque Public Schools in New Mexico, Anne Arundel County Public Schools in Maryland, Broward County Public Schools in Florida, Chicago Public Schools in Illinois, Colorado Association of Charter School Authorizers (which creates policies for several local authorizers in Colorado), El Dorado Charter SELPA in California, Rockford Public Schools in Illinois, and Washington D.C. Public Charter School Board (an Independent Charter Board) as local authorizers. We investigated the practices of the California Department of Education, Colorado Department of Education, Idaho State Department of Education, Massachusetts Department of Elementary and Secondary Education, Minnesota Department of Education, New Jersey Department of Education and the New Mexico Public Education Department as state authorizers. To understand practices in local jurisdictions and state agencies, we reviewed agency, government, and organization websites, frameworks, guides, application templates and rubrics, articles, handbooks, and statutes.

Below is a comprehensive summary of our findings of how authorizers use their charter application review and authorization practices, monitoring and oversight practices, and renewal practices to ensure positive performance and outcomes for students with disabilities.

Application review and authorization practices in jurisdictions outside of New Orleans

To assess which practices can be used to improve special education compliance and service delivery in the application review and authorization phase, we began with practices that at least two of the above guides (the NACSA frameworks, NACSA rubric, or the NCSRC rubric) recommended. Next, we identified those agencies that include those recommended practices in their oversight of charter schools.

Charter organizations should show that they are considering enrollment of students with disabilities and have a detailed Child Find process in place

Three of the national guidance reports recommend this practice in the application review and authorization phase.²⁸³ Chicago Public Schools requires an explanation of “how the school will attract and retain all students including those with disabilities [and] students with Individualized Education Plans (IEPs).”²⁸⁴ The New Mexico Public Education Department (NMPED, the SEA in New Mexico) recommends that charter schools include, in both their planning and application, information on how they will identify students with disabilities and how they will assess special education eligibility.²⁸⁵ In Massachusetts, the Department of Elementary and Secondary Education (MA DESE, the SEA in Massachusetts) approves charter enrollment policy to ensure an inclusive process for students with disabilities.²⁸⁶ The New Jersey Department of Education (NJDOE, the SEA in New Jersey) requires charter schools to provide a specific description of how they will ensure that all students with disabilities have access to a FAPE and how the school will meet the needs of special education students in their charter school applications, including a description of location of students, identification of students, and determination of eligibility.²⁸⁷ When applying for a charter through Rockford Public Schools (RPS, an LEA in Illinois) charter schools must “[e]xplain the plan for student recruitment and marketing that will provide equal access to interested students and families” including “the plan for outreach to . . . students with disabilities.”²⁸⁸

Charter organizations should show that they have a plan to accommodate or modify curriculum delivery for students with disabilities or an outline of resources for students with disabilities or those at-risk

Two of the national guidance reports recommend this practice in the application review and authorization phase.²⁸⁹ Albuquerque Public Schools (APS, an LEA in New Mexico) and some other local and state agencies are examples of implementation. APS requires charter school applications to include “a description of the way a charter school’s educational program will meet the individual needs of the students, including those students determined to be at risk.”²⁹⁰ The Idaho State Department of Education (ISDE) requires new charter schools to respond to the *New Charter Special Education Verification Questionnaire* along with its verification process. In the Verification Questionnaire, schools must provide “examples of how the school will offer a continuum of services and appropriate settings for students with disabilities.”²⁹¹

RPS in Illinois expects prospective charter schools to outline the resources available to students with IEPs or Section 504 plans, English Language Learners, and those at risk of academic challenges or dropping out.²⁹² The charter schools need to describe how they will identify students with varying needs, the monitoring and evaluation process, and the staffing plan.²⁹³ New Mexico Public Education Department (NMPED, the SEA in New Mexico) recommends that charter schools map out the management and implementation of service delivery, including the provision of related services and aligning curriculum with state standards.²⁹⁴ NJDOE requires charter schools to provide a specific description of Child Study Team services, IEP development, special education placement options, and implementation of IEPs in their charter applications.²⁹⁵

Charter organizations should show they have additional performance measures specifically designed for students with disabilities and/or accommodation plans for assessments

Two of the national guidance reports recommend this practice in the application review and authorization phase.²⁹⁶ Broward County Public Schools in Florida requires charter schools to detail plans for monitoring and evaluating the progress of students with disabilities, aligning with IEP or 504 plans, with a focus on strategies for promoting graduation in high schools.²⁹⁷

The Colorado Association of Charter School Authorizers (CACSA) is an association with the mission to “promote and support best practices in charter school authorizing and to help all Colorado charter school authorizers develop, adopt, and implement practices that improve results for all students.”²⁹⁸ Twenty-three Authorizers, including Denver Public Schools, Boulder Valley School District, and a portion of Colorado Springs are CACSA members.²⁹⁹ CACSA developed several resources to support authorizers in the state, grounded in Colorado’s Standards for Charter Schools and Charter School Authorizers.³⁰⁰ CACSA also stresses the pivotal role of assessment planning, with a focus on early detection mechanisms for struggling students and the integration of assessment results into curriculum development.³⁰¹ NJDOE requires charter schools to provide a specific description of their annual review of students and re-evaluation of students with disabilities as part of their charter applications.

Charter organizations should show they have budgeting and cost projections for financing special education programs, including allocation of federal, state, local, and Medicaid funds

Two of the national guidance reports recommend this practice and many authorizers implement it in their application criteria.³⁰² Two examples of implementation are Minnesota Department of Education’s recommendations for authorizers and New Mexico’s NMPED.

In Minnesota’s Special Education Primer for Charter Schools and Authorizers, the DOE recommends that “at a minimum, authorizers should ask applicants to articulate a basic plan regarding governance, service delivery, and financing of special education.”³⁰³ MDOE goes further, noting that “[i]t is critical that applicants demonstrate in their application that they have a well-conceived, feasible plan to assess the capacity they will need to meet their legal responsibilities related to special education services.”³⁰⁴ NMPED suggests that charter schools indicate cost projections of financing special education programs, including “child find, student identification, evaluation and planning; and [the cost] of providing special education services.”³⁰⁵

Charter organizations should show they have teacher training to modify curriculum and supports for students with disabilities

Two of the national guidance reports recommend this practice and several authorizers consider professional development and teacher readiness as a measure in the initial charter application.³⁰⁶

NMPED in New Mexico recommends that charter schools describe their plan for special education personnel as well as disability-specific credentialing and professional development for educators.³⁰⁷ CACSA in Colorado recommends specific planning with regard to staffing appropriately to support students with disabilities, including determining teacher qualifications, and maintaining an inclusive student-to-service provider ratio.³⁰⁸ Colorado Department of Education (CDE) deems professional development for both special education and general education teachers critical, and prospective operators are encouraged to collaborate with existing professional development programs or networks operated by the school district or the state.³⁰⁹

Monitoring and oversight practices in jurisdictions outside of New Orleans

To assess which practices can be used to improve special education compliance and service delivery in the monitoring and oversight phase, as before, we began with practices that at least two of the above frameworks (the NACSA framework, NACSA rubric, or the National Charter School Resource Center rubric) recommend. Next, we examined implementation of these recommended practices based on agencies that are actively using them.

Authorizers should monitor enrollment and retention rates of students with disabilities

Three of the national guidance reports recommend this practice and NACSA asserts that these rates should be “at rates similar to the local community where the charter school is located,” despite the fact that enforcement of such a measure can be challenging.³¹⁰

As to implementation, RPS in Illinois requires that charter schools’ enrollment numbers are published annually in their state report cards, including the number of students with IEPs and students with disabilities (categories which the state disaggregates). RPS monitors these indicators during the charter term in a Charter School Accountability Record summarizing compliance with those requirements.³¹¹ The NJDOE also obligates charter schools to provide an annual report and requires “an annual external audit as well as spot checks associated with verifying enrollment.”³¹² In this annual report, New Jersey charter schools are required to produce information on all special education requirements, including maintenance of a student register that reflects enrollment.³¹³ The enrollment count is measured in NJDOE’s Charter School Enrollment system, which has a specific enrollment count for students with IEPs.³¹⁴ The MA DESE authorizes charter schools in Massachusetts.³¹⁵ MA DESE conducts a five-year accountability cycle with schools filing a report and a financial audit annually, and the Board conducting multiple site visits during the five-year cycle for charters in their first term, and targeted site visits for charters open longer than five years.³¹⁶ The MA DESE developed a Charter School Performance Criteria rubric, on which it evaluates charter schools “through the use of quantitative and/or qualitative data as well as affirmative evidence presented by the school, compiled over the course of the school’s charter term.”³¹⁷ According to the Performance Criteria, a key indicator of access and equity is that “[t]he school annually updates and receives approval for a student recruitment and retention plan that includes deliberate, specific strategies the school will use to ensure the ongoing provision of equal educational opportunity to students during and after enrollment.”³¹⁸

Authorizers should monitor IEP records creation and maintenance

Two of the national guidance reports recommend this practice.³¹⁹ For over ten years, Massachusetts has used a web-based approach to Special Education compliance monitoring, including monitoring of charter schools’ compliance.³²⁰ In the year prior to an onsite review, a charter must conduct a self-assessment wherein it reviews a set of students’ special education records “selected from across grade levels, disability categories, and levels of need.”³²¹ The NJDOE holds itself responsible as an SEA for ensuring that authorizers are assessing IEP development and monitoring, noting that “SEA personnel need to determine how they will ensure that charter schools in their state have an IEP development process in place that will meet the needs of students with disabilities.”³²² To this end, NJDOE makes detailed recommendations for state officials conducting special education monitoring of charter schools, including development of policy around monitoring of IEPs and other records deemed to be binding on charter schools.³²³ Washington D.C.’s Public Charter School Board (D.C. PCSB) monitors charters using a Performance Management Framework as well as special education compliance reports produced by the Office of the State Superintendent of Education (D.C. OSSE).³²⁴ D.C. OSSE requires all LEAs, including individual Charter LEAs, to submit an annual Special Education Performance Report (SEPR).³²⁵ The SEPR contains several measures rating both LEA compliance and student progress, one being “[t]imeliness of IEP development by age 3.”³²⁶

Authorizers should monitor identification of and timely intervention for struggling students and students with disabilities, as well as alternative assessment

Two of the national guidance reports recommend this practice.³²⁷ Additionally, one D.C. charter leader expressed concerns about the dire effects of late identification of students with disabilities and the need for authorizers to monitor early intervention.³²⁸

As to implementation, MA DESE publicly publishes one of its monitoring components, the Public School Coordinated Program Review, which includes reporting on identification and timely intervention for students with disabilities.³²⁹ Charter schools in New Jersey are generally obligated to collect data on students with disabilities such as SPP indicators, which include the proficiency rate for students with IEPs measured “against grade level standards and alternate achievement standards.”³³⁰ In addition, charter schools must report on “what steps the school has taken, or plans to take, to ensure progress” for students with disabilities among other subgroups.³³¹ D.C. OSSE’s annual Special Education Performance Report also requires charters to report on rates of timely initial evaluation and reevaluation.³³²

Authorizers should monitor whether discipline and behavior management minimize exclusion

Three of the national guidance reports recommend this practice.³³³

With regard to implementation case studies, the El Dorado County, California, Charter SELPA; MA DESE; and Washington D.C. OSSE and D.C. PCSB are good case studies.

In California, Special Education Local Plan Areas (SELPAs) are consortiums mandated by the California Education Code to provide for the special education service needs of students within the regional boundaries of the particular SELPA.³³⁴ SELPAs can support school districts or LEAs generally or charter schools specifically. One such “Charter SELPA” is the El Dorado County Charter SELPA, which, according to their Policies and Administrative Regulations, continuously monitors special education practices and data for charter schools in the region.³³⁵ Included in the data points that El Dorado County Charter SELPA continuously monitors is “evidence of exclusionary practices.”³³⁶ In addition, member LEAs in the El Dorado Charter SELPA are required to consistently report suspension and expulsion rates to the California Department of Education (CDE), which requires reporting through a digital Special Education Information System (SEIS), as part of their SELPA monitoring.³³⁷ A key indicator of access and equity in the MA DESE Performance Criteria is a “review of the school’s rates of in-school and out-of-school suspensions and emergency removals compared to the state and compared to the school’s rates for all students” disaggregated by subgroup, including students with disabilities.³³⁸ Washington D.C. OSSE’s aforementioned annual Special Education Performance Report, which D.C. Public Charter School Board uses for monitoring, requires that all charter schools report on “[s]ignificant discrepancy in the rates of suspensions and expulsions of greater than 10 days in a school year for children with individualized education programs (IEPs) due to inappropriate policies, procedures or practices.”³³⁹

Authorizers should provide technical assistance during monitoring or support charters in getting technical assistance from third parties

Two of the national guidance reports recommend this practice.³⁴⁰

Several LEAs and SEAs put this practice into action. Albuquerque Public Schools (APS) requires charter schools to have a detailed special education plan including a section on “securing necessary technical assistance and training.”³⁴¹ In addition, APS’ Charter/Magnet School Department is obligated to “[c]oordinate all requests for assistance and information from, to, or about both locally authorized and state authorized charter schools.”³⁴² NJDOE offers that charter schools can consult with monitors during the self-assessment process and notes that technical assistance can be sought from at least five entities, including the NJDOE.³⁴³ NJDOE also provides technical assistance for report

completion to support charter schools in developing the annual report it obligates them to provide.³⁴⁴ Rockford Public Schools (RPS) developed a detailed intervention protocol for response to Charter “underperformance and noncompliance” which includes points when the authorizer will “intervene” and provide technical assistance.³⁴⁵ In Washington, DC, the D.C. Public Charter School Board (D.C. PCSB) offers support to charter schools with a mission that those services “directly impact student outcomes and address school needs” and evaluates those services for their own continuous improvement, along with revisiting their accountability standards.³⁴⁶ As part of that technical assistance, D.C. PCSB takes community complaints “to ensure that the school has (a) followed its complaint process in order to address the person’s grievance (b) is in compliance with its charter agreement; and (c) has not violated any applicable laws.”³⁴⁷ D.C. PCSB publishes a Community Complaint Policy with clear contact details including three methods of filing a complaint and tight timelines for (1) notifying schools of the complaint (two business days), (2) school response to D.C. PCSB (five business days), and (3) D.C. PCSB follow up with the complainant by phone or email (seven business days).³⁴⁸

Charter Renewal Practices in Jurisdictions Outside of New Orleans

To assess which practices can be used to improve special education compliance and service delivery in the charter renewal phase, as before, we began with practices that at least two of the above frameworks (the NACSA framework, NACSA rubric, or the National Charter School Resource Center rubric) recommend. Next, we examined implementation of these recommended practices based on localities who are actively using them.

Authorizers should publish renewal protocols and conduct site visits for renewal

Two of the national guidance reports recommend that authorizers develop frameworks and targets for renewal.³⁴⁹ NACSA’s *2023 Guide to Performance Frameworks* recommends that authorizers communicate “performance expectations” to their charter schools and develop performance targets and indicators, as well as conduct site visits.³⁵⁰

Colorado CACSA, MA DESE, NJDOE, RPS and others have published detailed renewal protocols including recommendations and requirements for serving students with disabilities that charter schools can use as frameworks for improvement of their special education service delivery.³⁵¹ All three of the listed authorizing agencies also conduct site visits in renewal, and CACSA recommends them.³⁵² The Washington D.C. Public Charter School Board publishes a several page set of Charter Renewal Guidelines and conducts a Qualitative Site Review (QSR).³⁵³

Authorizers should assess whether policies to support struggling learners, such as Response to Intervention (RTI), Multi-Tiered System of Supports (MTSS), or differentiated instruction exist and are followed

Two of the national guidance reports recommend this practice in the charter renewal phase.³⁵⁴ In Rockford Public Schools (RPS), Illinois, the charter renewal process occurs in the final year of a charter school's term with a "Renewal Score" derived from the average of Annual Performance Reports over the three preceding years.³⁵⁵ A formal renewal site visit is conducted in the year before the renewal application, during which RPS staff follow a detailed protocol, review documentary evidence, and conduct classroom observations and interviews.³⁵⁶ In its renewal site visit protocol, RPS assesses whether "the school has a process for identifying struggling and at-risk students and systematically monitors student progress and program effectiveness."³⁵⁷ During the site visit, schools are also required to make available a "description of the school's Multi-Tiered System of Supports (MTSS) or Response to Intervention (RTI) system" and "RTI meeting minutes or agendas and sample student intervention plans."³⁵⁸

Anne Arundel County Public Schools in Maryland requires charter schools to submit a renewal application which includes renewal indicators in seven categories. In the Education Performance category, schools must show evidence of "[i]mplementation of differentiated instruction for students, particularly of those below grade level" as well as "[i]mplementation of specialized instruction for exceptional learners," including student progress reports.³⁵⁹

The Massachusetts Department of Elementary and Secondary Education (MA DESE) conducts a 5-year accountability cycle with all schools receiving a renewal inspection in the fifth year.³⁶⁰ Both during the charter term and at renewal, MA DESE holds charter schools accountable to the Charter School Performance Criteria, which has a detailed key indicator related to "support for all learners."³⁶¹ This indicator includes schools maintaining: (1) a "proactive system to effectively identify and address all students' strengths and needs for academic, behavioral, and social-emotional development through a tiered support model" and (2) use of data and progress monitoring "to ensure that all students across all subgroups have equal access and equitable support, interventions, and resources."³⁶²

Authorizers should assess whether the school has methods to track the progress of students with disabilities outside of standardized testing

Both NACSA and NCSRC recommend tracking the progress of students with disabilities in an alternative way to standardized testing and mention this as a measure to revisit during renewal.³⁶³

RPS uses a detailed renewal site visit protocol with data collection along four domains. In the Instruction domain, RPS reviews whether students with disabilities "receive assessment accommodations that allow them to reveal their understandings"; and in the Students' Opportunities to Learn domain, RPS reviews multiple indicators of progress monitoring outside of standardized assessments with a particular focus on supporting special education students and students "who are struggling or at risk."³⁶⁴

Authorizers should examine documentation and resolution of complaints or problems

Both the NACSA and the NCSRC rubrics recommend that upon renewal, authorizers review how each charter documents and resolves complaints related to educating students with disabilities.³⁶⁵ The MA DESE's Renewal Inspection Protocol includes review of any "findings issued by the Problem Resolution System Office" and a school's application for renewal must include "actions taken to correct past problems," and provide information about the charter's "plans for improvement in the future."³⁶⁶ Charter schools in Washington, D.C. submit a charter renewal application after 15 years to the D.C. Public Charter School Board (PCSB), which will take into account the school's Special Education compliance reports produced by the Office of the State Superintendent of Education (OSSE).³⁶⁷ These Special Education Performance Reports are annual and one of the metrics of student progress that OSSE tracks each year is the "rate of resolution of due process and state complaints prior to formal dispute resolution."³⁶⁸

NOLA-PS oversight of charter schools' compliance with the IDEA and continuous improvement of special education service delivery in New Orleans charter schools

OPSB authorizes—through a process administered by NOLA-PS—three types of charter schools in New Orleans: Type 1, Type 3, and Type 3b.³⁶⁹ Accordingly, NOLA-PS has the authority to ensure that those charter schools comply with the IDEA and provide appropriate services to students with disabilities through its charter authorization, continued oversight, and charter renewal authority. In this section, we discuss how NOLA-PS exercises that authority and responsibility. While we note that BESE authorizes a number of charter schools that operate within the Orleans Parish, our analysis and recommendations pertain only to those charter schools that OPSB/NOLA-PS authorizes.

NOLA-PS's authorization and application practices that aim to ensure that charter school applicants are prepared to serve students with disabilities

Louisiana's basic legal requirements for local charter school authorizers, such as NOLA-PS, pertaining to students with disabilities

Louisiana law provides that local school boards have charter authorizing authority, so long as they comply with Louisiana's chartering process by type and act "within time lines established by the State Board of Elementary and Secondary Education that are consistent with national best practices in charter school authorizing."³⁷⁰ Type 1 (new school) and Type 3 (conversion school) charters must first apply to local school boards such as OPSB (NOLA-PS) who may approve or deny these types of charters.³⁷¹ NOLA-PS is able to deny charters if applicant schools do not outline a clear plan for serving all student populations. If NOLA-PS denies a charter or requires conditions that the chartering organization finds unacceptable, the organization can apply to the Board of Elementary and Secondary Education for a Type 2 charter.³⁷² NOLA-PS is the primary authorizer in New Orleans,³⁷³ overseeing 68 charter schools, five of which operate under the NOLA-PS LEA, and the rest of which operate as independent LEAs.³⁷⁴

NOLA-PS processes for charter application and authorization

In compliance with and building upon Louisiana's basic legal requirements for considering students with disabilities in the charter application process, NOLA-PS has established its own policies for accepting and reviewing charter applications. Here we discuss that process and how NOLA-PS aims to ensure that students with disabilities are served in the process. NOLA-PS uses an annual Charter Request for Applications (RFA) Cycle for new schools that want to apply for a charter.³⁷⁵ In the application, all proposed charter schools must list several student demographic percentages in the other schools they operate, including a percentage of students with disabilities in each school.³⁷⁶ Charter schools must describe the various types of assessments the school will use to evaluate student progress, including "the alignment to special education assessments."³⁷⁷ NOLA-PS also requires new charter schools to "describe how instructional leaders and teachers will use the assessment data to inform programmatic and instructional planning decisions and adjust instruction, curricula, and professional development."³⁷⁸

NOLA-PS's New Operator Charter Application also has a section on "Diverse Learners and Student Supports" which requires charter schools to discuss:

- a. How the school will determine and identify which students are struggling within the context of a Response to Intervention (RTI) program;
- b. Clearly define the term "struggling student" as it would be applied in the school;
- c. The strategies, programs, supports, resources, and personnel the school will devote to assisting struggling students within the general education setting;
- d. The process the school will use to evaluate the efficacy of the program;
- e. The system the school will use to monitor the demographic data of the students identified as struggling students and the approach that will be taken if data suggests disproportionate or over-identification of any sub group; and
- f. The school plan for providing trauma-informed care, administering mental health screeners, and providing other supports.³⁷⁹

NOLA-PS also regularly promulgates District Authorizing Priorities which are aligned with a handful of OPSB Board Goals.³⁸⁰ One of the current authorizing priorities is "[i]ntentional instructional models, supports, and services for students with low-incidence disabilities with an inclusive setting that is designed and executed to allow all students to reach their individual academic, social, and emotional goals."³⁸¹

Applications for charters undergo review by internal and community review teams following a public hearing.³⁸² There is the possibility of review by a third party contractor, though when and how this occurs is unclear. According to a letter written by former NOLA-PS Superintendent Dr. Henderson Lewis, Jr. to the Louisiana Legislative Auditor on March 12, 2021,

NOLA-PS has a robust approach to reviewing charter applications that involves three review teams:

1. **NOLA Public Schools Internal Review Team:** content experts in each area of the application: facilities, finance, special education, etc.
2. **Community Review Team:** comprised of community members from the Superintendent’s advisory groups (parents, students, teachers, and faith-based community members).
3. **Independent Review Team:** third-party contractor.³⁸³

The letter does not state what information is provided to the internal review team, but the specific area of the NOLA-PS New Charter Operator Application relating to special education requires applicants to submit

the school’s methods and strategies for identifying and serving students with exceptionalities in compliance with all federal laws and regulations without regurgitation of the law, including:

- a. The process for identifying students with disabilities (child find), within the context of the school’s RTI process;
- b. The resources, personnel (including administrative responsibilities), and direct and related services the school is likely to provide both within general education classrooms and in other settings (e.g., collaborative team teaching (“CTT”), Special Education Teacher Support Services (“SETSS”), speech therapy, physical therapy, occupational therapy, counseling, planning time, instructional materials, technology, professional development, staff and consultants, etc.);
- c. The process for coordination between general education teachers and special education teachers or service providers;
- d. The process that will be used to monitor the achievement and progress of students with exceptionalities;
- e. The process that will be used to evaluate the efficacy of the program and ensure that the needs of these students are being met; and
- f. The system the school will use to monitor the demographic data of the students identified as students with exceptionalities and the approach that will be taken if data suggests disproportionate or over-identification of any subgroup.
- g. Specific professional development for identifying, supporting and evaluating the progress of special education students.³⁸⁴

OPSB holds schools accountable through publicly available Charter Operating Agreements.³⁸⁵ These agreements require schools to have both “an educational model for the delivery of special education services and/or accommodations for students with disabilities that complies with federal and state law and regulations” and “a special education coordinator . . . responsible for monitoring individual case management of all students.”³⁸⁶

NOLA-PS’s practices for monitoring and oversight of charter schools’ provision of special education services

Statutory law regarding charter monitoring and oversight

Louisiana law provides for the collection and reporting of data regarding students with disabilities from all LEAs. Accordingly, NOLA-PS and all LEAs in New Orleans are required to collect general testing data and discipline data disaggregated by disability status to comply with federal data collection requirements from the Office of Civil Rights.³⁸⁷ However, NOLA-PS is given leeway to collect “[s]uch other data as the board may approve.”³⁸⁸

Under the same statute, LDOE must annually collect “data elements for students with an exceptionality by each disability classification, including breakouts of each speech or language impairment category and breakouts of each intellectual disability category . . . for each city, parish, or other local public school board.”³⁸⁹ They collect the following disability data disaggregated by race, gender, age, and sex: “(i) Setting, (ii) Exit code, (iii) Participation in each assessment type by grade and subject, (iv) Scoring at the proficient level on each test administered pursuant to the school and district accountability program by grade and subject, (v) Eligibility for an extended school year program, (vi) Attending extended school year program, [and] (vii) Receiving initial evaluations, re-evaluations and waivers from evaluations.”³⁹⁰

The statute also provides for collection of student discipline data for each public school, including these disability-specific data: “(v) Restraint procedures, (vi) Seclusion procedures, [and] (vii) Unilateral removals to an interim alternative educational setting by school personnel by disability classification and by reason for removal.”³⁹¹

As noted, NOLA-PS and charter school LEAs must also comply with their SPP/APR annual reporting obligations under the IDEA.

NOLA-PS practices for charter monitoring and oversight

NOLA-PS has statutory authority to monitor charter schools during their charter term through its authority as an authorizer.³⁹² NOLA-PS uses an analogous framework to LDOE’s Charter School Performance

Compact that is called the Charter School Accountability Framework (CSAF).³⁹³ The district's Office of School Performance conducts annual monitoring through seven activities, including:

1. an annual site visit
2. an annual facilities, health, and safety review
3. school handbook and website review
4. high school credit accumulation review
5. charter board governance review
6. review of financial documents and records
7. analysis of student and school-level data, and
8. receipt and assessment of family and community concerns.³⁹⁴

The student and school level data section of the framework explicitly mentions special education as an example area “for which the district may review data on an ongoing basis.”³⁹⁵ Site visit activities may also include a review of special education records, but only in the “School-Based Compliance Review” section of the site visit activities.³⁹⁶ These activities are for the express purpose of providing the district “an opportunity to review and provide feedback on school compliance with federal, state, and local laws and policies as well as with contractual obligations.”³⁹⁷ NOLA-PS also indicates that “[t]he length and content of the visit is differentiated based on the school's academic performance and compliance concerns,” and identifies the annual site visit as “an opportunity to review day-to-day school practices and documentation housed at the school.”³⁹⁸

In Appendix B of the CSAF, NOLA-PS outlines “Organizational Effectiveness and Financial Health Expectations,” one of which includes “Special Populations: Schools provide all special populations with services and supports in a manner that ensures academic success and maintains compliance with applicable law and policy.”³⁹⁹

Part four of the CSAF is entitled “Continuous Improvement of NOLA-PS's Accountability Standards and Processes” and it states that “[t]he district believes that all school systems - at the district, school, and classroom levels - should continuously reflect on past practices and identify areas for continued growth and improvement.”⁴⁰⁰ To this end, NOLA-PS notes that the district's accountability standards and processes evolve and adapt based on “data-driven learning and reflection” and that, though the CSAF is adopted by the district, “the district may still revisit and revise the framework” to reflect what's happening in the field and with stakeholders.⁴⁰¹

Annual monitoring is affected by how well schools score on their accountability metrics as outlined in the framework. NOLA-PS uses a metric they call the “School Performance Renewal Index (SPRI)” for renewal, however they focus on the School Performance Score (SPS) issued by the state, among other measures to determine annual monitoring activities.⁴⁰² NOLA-PS notes that as the annual state School Performance Scores for each school site become available, they “take specific actions to monitor academic performance for schools based on their SPS or PRI or Progress letter grade, ELPT Progress Assessment Index Letter Grades, subgroup performance” and other factors.⁴⁰³ All schools, including those that have been given A, B or C state School Performance Score grades, are subject to annual site visits consisting of an “Annual School-Based Compliance Review,” “School Walkthrough,” and “School Leader Conversation.”⁴⁰⁴ Schools that have received D and F ratings are also subject to “Classroom Observations” and “Conversations with the Board Chair and School Leader/CMO Leader.”⁴⁰⁵

NOLA-PS's Office of Accountability conducts annual site visits to review school practices and onsite documentation. The site visit includes NOLA-PS's specific monitoring of special education compliance, which includes metrics related to IEPs and evidence of service minutes and progress. A Director of Accountability reviews at least seven student files, and both student-specific and systemic non-compliance are recorded. If the school's compliance is less than 80 percent under the metrics for the onsite monitoring, then a follow-up visit is scheduled in 3 weeks.⁴⁰⁶ The file review is primarily focused on paper-legal compliance rather than student performance and educational benefit.

“The compliance part is important, but if you're just focusing on compliance and requesting that they [charter schools] do self monitoring, it's not going to show anything. It really has to focus on the student outcomes.” –Special education expert and parent advocate.

If OPSB finds that a charter school is not in compliance, it is issued a noncompliance notice and must follow the process for corrective action as outlined in the Charter School Accountability Framework. There are three levels of non-compliance: Level 1 is a notice for a non-recurring and non-intentional instance of non-compliance that does not cause student harm; Level 2 is a notice for a persistent or recurring problem that is determined to be intentional or causes harm to students; and

Level 3 is for failure to follow through on remedies required from a Level 2 noncompliance.⁴⁰⁷ Charter schools that are issued a Level 2 notice may be placed on a performance improvement plan by the district and the non-compliance notices for Levels 2 and 3 will be shared on the OPSB website. At Level 3 non-compliance, the district is supposed to directly communicate with the school's families to alert them to the noncompliance.⁴⁰⁸

NOLA-PS On-Site File Review: Special Education Compliance Indicators

- IEP dated within one year
- Evaluation date or waiver within three years
- Student exceptionality on IEP aligns with evaluation
- IEP signatures from all parties
- Evidence of service minutes provided
- Two recent progress reports reviewed

NOLA-PS's consideration of students with disabilities in the charter renewal process

Statutory law regarding charter renewal

Another point at which charter schools may be held accountable for special education service delivery is at the charter renewal process. This is a moment in a charter's life in which the charter authorizer is required to determine whether the charter school is fulfilling its responsibilities, and can revoke the school's charter if it isn't living up to its obligations. Both OPSB and BESE derive their charter renewal authority from state law. Unless revoked by a local board or BESE, charters have an initial period of four years which can be extended to five years, "contingent upon the results of a review conducted after the completion of the third year. . ." ⁴⁰⁹ Charter renewal is subject to a "thorough review" by the chartering authority and charters may be renewed for not less than three nor more than ten years.⁴¹⁰ Each chartering authority must provide charters with the criteria and procedures that they will use for renewal.⁴¹¹ Similar to the initial application, if a local board and a charter school cannot agree on terms for charter renewal, the school may petition the state board to become a Type 2 charter school.⁴¹²

NOLA-PS's process for charter renewal

NOLA-PS considers two basic questions for renewal of both traditional and alternative charter schools: (1) "Is this school demonstrating academic success and progress on overall performance metrics?" and (2) "Is this school organizationally effective and fiscally sound?"⁴¹³ Within organizational efficacy, NOLA-PS considers whether the operator has received notices of concern or non-compliance regarding serving students with disabilities.⁴¹⁴

As noted above, NOLA-PS uses a metric they call the "School Performance Renewal Index (SPRI)" for renewal. In a school's initial renewal, "the school's SPRI is its most recent state issued" School Performance Score (SPS), whereas in subsequent renewals, NOLA-PS calculates the school's SPRI "using the school's SPS outcomes in the two most recent school years."⁴¹⁵ Renewal performance measures also include something called the "Progress Index" which NOLA-PS characterizes as a numerical score in some resources and a letter grade in others.⁴¹⁶ These metrics assist NOLA-PS in making renewal decisions based on outcomes from the school year preceding the Charter's extension or renewal recommendation.⁴¹⁷ The CSAF includes a chart that shows the term lengths for which charters are eligible, depending on a combination of their SPRI letter grade and Progress Index.⁴¹⁸ In addition to academic review upon renewal, NOLA-PS can determine that a charter school is eligible for renewal "if there has been a significant, consistent, or material violation. . . of student/family rights, in areas such as special education, discipline, or enrollment."⁴¹⁹

NOLA-PS complaints management and support systems

NOLA-PS has established a complaints management system that is designed to resolve concerns that families have with special education service delivery in the charter schools for whom NOLA-PS serves as the LEA (which is only a handful of the charter schools in the district). The NOLA-PS Accountability Team responds to compliance concerns for charter schools within its LEA received via phone or email,⁴²⁰ and the Charter Operating Agreement requires charter operators to report complaints to OPSB.⁴²¹ The operating agreements also require independent charter LEAs to have internal complaint procedures.⁴²²

NOLA-PS states that there is a staff member who serves as the liaison for students with disabilities to assist in enrollment procedures.⁴²³ However, this person is not easily identifiable on the NOLA-PS website.

NOLA-PS also acknowledges and supports the recommendation from the Independent Monitor’s October 2020 Status Report that “OPSB (NOLA PS) should continue their proactive efforts to provide all NOLA PS/OPSB Charter LEAs with ongoing training and technical assistance required for addressing ongoing compliance with IDEA mandates and regulations...[and] conduct focused trainings targeted at improving the compliance rates for specific IDEA mandates.”⁴²⁴ It identifies two levels of support, universal and targeted intensive. Universal support is indicated by general requests, while targeted intensive support indicators include but are not limited to LEA determination, the results of LDOE monitoring, NOLA PS Hearing Office data, mobility rates, subgroup indicators, complaints, and disproportionality.⁴²⁵ The supports offered for the universal tier include annual training, office hours, and quarterly meetings. For the targeted intensive tier, supports include an approved vendor list, self-assessment tools, technical assistance, and support for the implementation of corrective action plans where necessary.⁴²⁶

According to the current strategic plan for OPSB, NOLA-PS is responsible for the sharing and publicizing of system level data related to enrollment on OneApp and the Charter School Accountability Framework.⁴²⁷

Recommendations to improve NOLA-PS’s charter school authorization, monitoring, and renewal practices To ensure compliance with the IDEA and improved outcomes and performance for students with disabilities

Charter school authorizers have the potential to significantly influence the landscape of special education service delivery in their schools through their mechanisms for authorizing, monitoring, and renewing charters. Students with disabilities can become an afterthought for both charter schools and authorizers, to the detriment of students in special education and general education alike. While there is always room for improvement, we do want to acknowledge that NOLA-PS currently engages in some promising and effective practices in authorization, monitoring, and renewal, and that our recommendations build upon those practices. To build on NOLA-PS’s promising practices, we recommend that NOLA-PS employ or strengthen the following practices to improve special education compliance and service delivery.

Application review and authorization practices

Authorizers have significant control over whom they allow to open a charter school, and NOLA-PS is capable of supporting students with disabilities in important ways during the application review and authorization phase.

NOLA-PS already has some promising practices in charter application review and authorizing which we recommend continue. NOLA-PS already contemplates charter schools’ plans for serving students with disabilities in the charter application section entitled “Diverse Learners and Student Supports” and through the current District Authorizing Priority that centers around instructional supports, and services “for students with low-incidence disabilities within an inclusive setting.”⁴²⁸ We recommend that NOLA-PS improve this consideration by including a requirement that charter schools explicitly describe their plans to provide accommodations and modifications of curriculum delivery for students with disabilities.

NOLA-PS should continue to require charter schools to show that they have a “process that will be used to monitor the achievement and progress of students with exceptionalities”, however, we recommend that they go further by requiring charter schools to show that they have additional performance measures specifically designed for students with disabilities, and monitor graduation and school discipline rates.⁴²⁹

Finally, NOLA-PS requires charter school applicants to mention identification of students with disabilities in its New Operator Charter Application, but focuses largely on compliance by asking charter schools to discuss the “methods and strategies for identifying and serving students with exceptionalities in compliance with all federal laws and regulations without regurgitation of the law.”⁴³⁰ In this section, the application asks the charter school to explain their child find process generally.

Because child find was a central issue in the P.B. v. Pastorek litigation, more attention should be given to this matter.⁴³¹ In order to support continuous improvement and charter school accountability for child find, we recommend that during the application review and authorization phase, NOLA-PS sets out detailed requirements that charter schools articulate their procedures to identify students who are struggling behaviorally or academically, the root cause of those challenges, and any processes prior to referral for evaluation. NOLA-PS should also require the LEA to submit its communication materials regarding student and parent rights and procedural safeguards under the IDEA.

There are also practices that NOLA-PS should adopt to improve service delivery and outcomes for students with disabilities. With regard to the financial impact of special education, NOLA-PS should require charter schools to show that they have budgeting and cost projections for financing special education programs specifically, including allocation of federal, state, local, and Medicaid funds. These budget components should include projected cost of child find procedures and professional learning for such procedures, costs of student evaluation and then subsequent planning when students have Individualized Education Plans (IEPs), as well as the projected cost of related services for those students.

In NOLA-PS's New Charter application, professional development to serve students with disabilities is contemplated only a few times, and particularly with regard to the charter school's "methods and strategies for identifying and serving students with exceptionalities in compliance with all federal laws and regulations without regurgitation of the law."⁴³² Instead of centering professional development for special education on legal compliance, NOLA-PS should require charter schools to articulate their professional development strategy with more depth, particularly with regard to specialized training for certain educators (such as related service providers and paraprofessionals) and skills training to support both general and special education teachers in instructional strategy differentiation which can facilitate student progress as part of a continuum of supports. Furthermore, schools should have plans for professional development for general education teachers on how to interpret and implement IEPs and ways to modify curriculum and supports for students with disabilities.

Monitoring and oversight practices

Monitoring and oversight during the charter term is essential to improving service delivery for students with disabilities. NOLA-PS already annually conducts site visits and carries out desktop reviews to monitor schools, and produces summaries of these reviews. These monitoring procedures could be improved through more systematic data collection and more qualitative data gathering during site visits.

To this end, we recommend that NOLA-PS actively monitor enrollment and retention rates of students with disabilities. While NOLA-PS notes in its Charter School Accountability Framework (CSAF) that it may review data through ongoing oversight including "enrollment data, attendance data, suspension and expulsion data (inclusive of information to support expulsions), [and] student information submitted regarding students with disabilities," this potential monitoring may not effectively hold charter schools accountable.⁴³³ NOLA-PS should monitor enrollment and retention data more closely. Note, we are not

recommending that NOLA-PS use this data to track individual students' enrollment or truancy. NOLA-PS should track school-level data that would hold charter schools responsible for detrimental barriers to enrollment that special education students and families face, including "counseling out" of new students, intentional push-out, and lack of retention of students with disabilities. These damaging practices that often force students from school to school have the potential to happen more frequently in the unique entirely choice-based system that NOLA-PS has established. If NOLA-PS is not more active in tracking enrollment and retention of students with disabilities, individual schools may avoid the responsibility of retaining students with exceptional needs or may encourage these populations not to enroll at all.

While the Charter School Accountability Framework notes that NOLA-PS "may analyze and/or audit" several types of data to assess school performance and student outcomes, it is unlikely that vague or imprecise data monitoring would have a continuous-improvement effect on service delivery for students with disabilities.⁴³⁴ To this end, we recommend that NOLA-PS establish more robust on-site and desktop monitoring procedures, including file reviews that focus on student performance and monitoring of special education records to ensure their continued creation and maintenance. We recommend that NOLA-PS consider including a process of educational benefit review, which would offer a data picture of student records and progress over a period of time, as opposed to a single record.⁴³⁵

To ensure effective Child Find procedures, we recommend that NOLA-PS also monitor identification of and timely intervention for struggling students and students with disabilities, as well as the performance of students with disabilities on both mandated assessments and alternative assessment structures, which are instrumental in supporting the progress of students who do not excel on traditional standardized tests.

To provide additional, accurate, and current information to families in the school-selection process, NOLA-PS should annually publish on its website and ensure that each LEA annually publishes on its own website (1) a description of the special education placements, services, and supports offered in the LEA; (2) the LEA's "annual determination" from LDOE, and (3) the LEA's performance on each of the SPP/APR indicators; (4) LDOE and NOLA-PS monitoring results; and (5) corrective action plans and findings of non-compliance issued to the LEA (if any).

While NOLA-PS may look at some data from some schools related to suspension, expulsion, and possibly to Least Restrictive Environment, it is hard to tell if these specifics are monitored on any regular basis. The Charter School Accountability Framework (CSAF) states that "[d]ata

that may be reviewed through ongoing oversight includes: enrollment data, attendance data, suspension and expulsion data (inclusive of information to support expulsions), student information submitted regarding students with disabilities, English learners, and staff profiles (i.e. certification status).⁴³⁶ Monitoring measures may also include the collection of state-required data.⁴³⁷

To support the Least Restrictive Environment principle and go beyond compliance, NOLA-PS should actively monitor whether discipline, service delivery, and behavior management minimize exclusion. This includes potentially looking at quantitative measures regarding student placement in separate classes or other removal of students with disabilities from the general educational environment. It would also potentially include a review of each school's rates of in-school and out-of-school suspensions and emergency removals disaggregated by student disability status as well as manifestation determinations. It might also include a review of whether students removed from the classroom had a history of challenging behaviors and whether those behaviors had been addressed by a functional behavioral analysis and behavioral intervention plan.

These more specific data would allow NOLA-PS to support charter schools in minimizing exclusion that occurs based on manifestations of students' disabilities or based on inappropriate provision of services and supports.

NOLA-PS should provide technical assistance during monitoring or support charters in getting technical assistance from third parties to ensure that struggling schools get the support that they need to provide adequate services and supports for students with disabilities.

We finally recommend that NOLA-PS establish a more robust complaints management system that addresses complaints from all charters it authorizes, similar to the D.C. Public Charter School Board's system. D.C. PCSB's system includes an easily accessible complaint policy with guidelines and timelines to support families, students, and charter schools, and offers this complaints management assistance in addition to the services of the D.C. Office of the Ombudsman.⁴³⁸

Charter renewal practices

The renewal phase can also be instrumental in supporting charter school special education service delivery. NOLA-PS includes an appendix to its *Charter School Accountability Framework called Measures Used for Renewal and Extension Recommendations for Traditional and Alternative Schools*.⁴³⁹ These measures are largely compliance oriented, as noted above. To this end, we recommend that NOLA-PS publish more

detailed renewal protocols to guide schools in special education service delivery, and conducts site visits with protocols established specifically for renewal. In renewal site visits and desktop reviews, NOLA-PS should assess whether the strong special education policies that it requires upon application (such as those to support struggling learners) exist at the school site and are followed.

We recommend that NOLA-PS develop a specific renewal review component on practices for struggling learners, such as Response to Intervention (RTI), Multi-tiered System of Supports (MTSS), or differentiated instruction. To further support struggling learners, we recommend that NOLA-PS use charter renewal as an opportunity to assess whether the charter school uses methods to track the progress of students with disabilities outside of standardized testing.

Filing complaints is a vital method that students with disabilities and their families can use to get their needs met, gain access to curriculum, and receive the educational supports to which they are entitled.

We propose that as a complement to the establishment of a more robust complaints management system, during the charter renewal phase, NOLA-PS should examine documentation and resolution of school-level complaints or problems related to students with disabilities. NOLA-PS should ask for documentation of the complaints and any informal or formal procedures used to resolve them. NOLA-PS might also look at data on whether complaints have gone to due-process, and how those more formal situations were handled. NOLA-PS should look at how transparent the school's complaint policies are and how easy the complaint process is for families to navigate. Finally, NOLA-PS should consider upon charter renewal how the school proactively seeks to cooperate with families on the resolution of concerns about evaluations, placement, provision of FAPE, LRE, and transition planning for students' post-school life.

A final note on compliance vs. continuous improvement

Even where agencies like NOLA-PS place some emphasis on students with disabilities in their charter authorization, monitoring, and renewal practices, authorizer expectations are often too general, lack clarity for charter schools, or can be largely compliance-oriented. Despite its efforts in charter authorization, monitoring and renewal practices, NOLA-PS has several practices that seem borne out of a focus on legal compliance. For example, the NOLA-PS New Charter Application section on serving students with disabilities includes a preamble that the following components of each charter school's "methods and strategies for identifying and serving students with exceptionalities" should be

discussed within the context of their “compliance with all federal laws and regulations without regurgitation of the law.”⁴⁴⁰ In monitoring, NOLA-PS’s annual school site visit activities may include a review of special education records, but only in the “School-Based Compliance Review” section of the site visit activities.⁴⁴¹ Renewal decisions are focused largely on academic progress and the charter school’s financial health, but NOLA-PS can determine that a charter school is ineligible for renewal “if there has been a significant, consistent, or material violation . . . of student/family rights, in areas such as special education, discipline, or enrollment.”⁴⁴² This focus on significant, consistent, and material rights violations indicates an emphasis on legal compliance, as opposed to a focus on improving educational experiences and outcomes for students with disabilities.

The concern with compliance-oriented accountability measures for charter schools is that they do not encourage continuous improvement of charter school special education service delivery, but merely require schools to “check boxes.” Both the national organization NACSA and the Colorado-based CACSA have noted a need to move away from mere compliance, with CACSA arguing that “[e]mphasis should not be placed on minimal compliance but equity, programming, and full accountability.”⁴⁴³ NACSA also advocates for “quality measures” over compliance measures, as “quality measures go beyond basic legal requirements and set a higher expectation.” Isn’t a higher expectation what every authorizer should have for their schools, and what every parent hopes for their child’s education?⁴⁴⁴

PART FOUR

SUMMARY OF RECOMMENDATIONS TO IMPROVE LDOE'S AND NOLA-PS'S MONITORING AND OVERSIGHT OF NEW ORLEANS CHARTER SCHOOLS

In this section you will find:

- Recommendations to improve LDOE's monitoring and oversight of New Orleans charter schools' compliance with the IDEA and ensure improved outcomes and performance for students with disabilities
- Recommendations to improve NOLA-PS's charter school authorization, monitoring, and renewal practices to ensure compliance with the IDEA and improved outcomes and performance for students with disabilities

CPRL has identified opportunities for improving on the existing systems to ensure ongoing compliance with mandates and enhance the quality of services provided. As such, we recommend the following regarding special education monitoring and oversight in New Orleans.

Recommendations for LDOE

The IDEA requires SEAs to establish an effective system to monitor and supervise LEAs' implementation of the IDEA and to provide a complaints management system that allows families to seek redress for alleged violations of the statute. While monitoring is necessary to ensure legal compliance, it also provides an opportunity for SEAs to work with LEAs to improve outcomes and performance of students with disabilities, as well as continuously improve service delivery. LDOE has adopted a risk-based approach to monitoring that seeks to identify LEAs with the greatest compliance and performance challenges and provide those LEAs with targeted support and intervention. LDOE also has established a complaints management system. Because those systems are essential to ensure legal compliance and improvement in NOLA-PS after court jurisdiction is terminated, we offer the following recommendations to improve those systems.

Recommendations for improvement of LDOE's special education monitoring system

Monitoring frequency and focus

LDOE's risk-based monitoring system seeks to conserve monitoring resources by targeting those LEAs in the state with the greatest need. That said, a risk-based approach is likely unreliable with small LEAs—such as the charter schools in New Orleans—due to the “small-n” problem (relatively few students with disabilities in each small LEA) and the risk that LEAs will be improperly selected or passed over for further monitoring and support. To address that issue:

- LDOE should continue to conduct its current annual data collection for all LEAs and continue to use its risk-based approach for LEAs outside of NOLA-PS.
- Instead of a risk-based approach in NOLA-PS, LDOE should implement a three-year monitoring cycle, including site visits, for all of the LEAs in NOLA-PS.
- LDOE should not ignore significant compliance or performance issues identified through annual data collection in the NOLA-PS charter schools and should address those problems through a targeted approach.

Data collection and reporting

While LDOE is required to collect data annually for each of the performance and compliance indicators required under its State Performance Plan/Annual Performance Report, LDOE should collect additional data elements and publicize those data to address specific concerns regarding enrollment, retention, and service delivery in the NOLA-PS charter schools:

- LDOE should collect: (1) annual re-enrollment rates of students with disabilities at each school; (2) chronic absenteeism rates for all students at each school; and (3) a meaningful measure of parent involvement in their children's educational decision-making process.
- LDOE should publish the following on its website and require each LEA to annually publish on their websites: (1) LEA annual determinations from LDOE, (2) performance on each of the SPP/APR indicators, and (3) performance on the additional data elements recommended here.
- To ensure public confidence in LDOE's data collection, LDOE should publish the methods it uses to verify that the data it collects are valid and reliable.
- To ensure local confidence in and accountability for data collection, LDOE should ensure that all LEAs have a functioning Special Education Advisory Committee and that the LEA report to the Committee on an annual basis the LEA's performance on the SPP/APR indicators and any and all monitoring activities.

Data analysis for further monitoring activities

While we recommend that LDOE employ a cyclical monitoring approach in NOLA-PS, LDOE should nonetheless improve its risk-based monitoring system as follows:

- To provide transparency to both LEAs and the public, LDOE should specifically identify each of indicators in the formula/rubric it uses to select LEAs for targeted monitoring, eliminate the catch-all Risk Indicator 5, and annually publish the specific formula/rubric it uses to select LEAs for targeted monitoring.
- To ensure that LDOE analyzes its data to select those LEAs with the greatest need, LDOE should use most or all of the SPP/APR indicators in its selection formula/rubric, but place greater emphasis on the IDEA's monitoring priorities

and those indicators most related to free appropriate public education (FAPE) in the least restrictive environment (LRE), student performance and outcomes, racial disproportionality, Child Find, and school discipline.

- To address specific issues identified in the NOLA-PS charter schools, LDOE should consider adding additional indicators for annual re-enrollment rates, chronic absenteeism, and meaningful parent participation to the formula/rubric.

Monitoring activities

For those LEAs selected for targeted monitoring and for all LEAs in NOLA-PS that are monitored through the cyclical approach, in addition to the self-review and on-site monitoring activities it currently employs, LDOE should use the following continuous improvement monitoring activities to better focus those activities on continuous improvement of student performance and outcomes. We recognize that LDOE may already use or suggest some of these activities for targeted monitoring, but we recommend that all of these activities be required for targeted and cyclical monitoring.

Further data collection

- To better understand the contours and causes of the issues identified in the LEA's annual data collection and to identify additional performance and outcome challenges, LDOE should require the collection of qualitative data at the LEA and school-site level, including parent/stakeholder interviews, surveys, and/or focus groups; classroom observations; and interviews with school leaders and educators.
- LDOE should require that desk-top reviews of student files include both compliance and performance measures over a period of at least three years, rather than a static "snapshot" of students' files. To assist in the proper development of a continuum of services for every student with disabilities in the district, we recommend that LDOE consider including an "educational benefit" review in its monitoring, which would offer a data picture of student progress toward goals over a period of time and the district's response to that progress (or lack of progress). Note, an educational benefit review does not involve changing any components of a student's IEP or goals and objectives.
- LDOE should require further analysis of quantitative data, particularly for those areas of compliance and performance concerns.
- LDOE should require a policies and procedures review in each LEA to ensure that the LEA has comprehensive and compliant policies in place.

- LDOE should develop clear, user-friendly protocols and instructions for each of the data collection activities and provide technical support for each of the activities.

Data analysis

- To ensure multiple perspectives and stakeholder participation, LDOE should require that LEAs form a stakeholder committee that includes administrators, educators, service providers, and parents to analyze the data to determine the "root cause(s)" of compliance and performance concerns.
- LDOE should develop clear, user-friendly protocols and instructions and technical support for this root-cause analysis.

Planning for continuous improvement

- To ensure strategic and comprehensive planning for continuous improvement, LDOE should require the stakeholder committee to develop a theory of action and plan for improvement that addresses the primary areas of compliance and performance concerns.
- The plan should include measurable goals and outcomes for improvement, prioritization of goals and initiatives, specific activities/tasks, and timelines.
- LDOE should develop clear, user-friendly protocols and instructions for each planning activity, and provide technical support for each of the activities.

Implementation and iteration

- LDOE should require that the LEA implement its continuous improvement plan, monitor its implementation, and require that modifications be made to the plan if it is not achieving its goals.

Technical support and assistance

- It is imperative that LDOE provide technical support and assistance to the charter schools in NOLA-PS to participate in these continuous improvement activities. Due to the economies of scale and resource challenges that the LEA charter schools face, LDOE should either provide the support and assistance directly or provide the resources for the LEAs to secure technical support and assistance from a list of LDOE-approved providers.

Recommendations for improving LDOE's complaints management system

We recognize and support the LDOE's decision to establish an "ombudsman" to assist families in resolving concerns they have with special education service delivery for their children. To further improve LDOE's special education complaints management system, however, we support the recommendations made by the Louisiana Legislative Auditor's Office in its report, "Complaints Process for Students with Disabilities Receiving Special Education Services" (Sept. 20, 2023) and make/emphasize the following recommendations:

Accessibility

To ensure that the complaints process is user-friendly and accessible to families, the LDOE should provide the following:

- A form should include clear instructions.
- Multiple submission options for the form such as mail, email, and a web-based portal.
- The form should be offered in at least the three most-used languages in Louisiana.
- Telephone support in numerous languages.
- A glossary of education-related terms, detailed FAQ sheet, and an exemplar complaint.
- LDOE should publish on its website the results of investigations completed (ensuring that the identity of the complainant and student are protected).

Investigation process

- To ensure that complaints are adequately tracked and resolved, LDOE should develop a database to comprehensively track complaints, including the date received, name of complainant, school involved, allegation type, date of decision (if any), and disposition/outcome of the complaint.
- To ensure that families are included in the investigation process, LDOE should contact the complainant during the process to gather additional information, if any.
- To provide additional due process and ensure that any errors are corrected, LDOE should establish an independent appeals process for complainants who wish to appeal.

Staffing and training

- LDOE should review its staffing of the complaints management office and ensure that it has sufficient personnel to manage all complaints.
- Investigative staff should be provided sufficient training for the position.

Recommendations for NOLA PS

Charter school authorizers have the potential to significantly influence the landscape of special education service delivery in their schools through their mechanisms for authorizing, monitoring, and renewing charters. While there is always room for improvement, we acknowledge that NOLA-PS currently engages in some promising and effective practices in authorization, monitoring, and renewal, and that our recommendations build upon those practices. To build on NOLA-PS's promising practices, we recommend that NOLA-PS employ or strengthens the following practices to improve special education compliance and service delivery.

Recommendations for improving NOLA-PS's application review and authorization practices

NOLA-PS already has some promising practices in charter application review and authorizing which we recommend continue with some suggestions for improvement.

- NOLA-PS already contemplates charter schools' plans for serving students with disabilities in their charter application. We recommend that NOLA-PS improve this consideration by including a requirement that charter schools explicitly describe their plans to provide accommodations and modifications of curriculum delivery for students with disabilities.
- NOLA-PS should continue to require charter schools to show that they have a "process that will be used to monitor the achievement and progress of students with exceptionalities", however, we recommend that they go further by requiring charter schools to show that they have additional performance measures specifically designed for students with disabilities, and monitor graduation, and school discipline rates.
- To address district-wide concerns about the potential push-out of students with disabilities, we recommend that during the application review phase, NOLA-PS sets out detailed requirements that charter schools articulate their procedures to identify students who are struggling behaviorally or academically, the root cause of those challenges, and any processes prior to referral for

evaluation. NOLA-PS should also require the LEA to submit its communication materials regarding student and parent rights and procedural safeguards under the IDEA.

There are also practices that NOLA-PS should adopt to improve service delivery and outcomes for students with disabilities.

- In order to ensure that charter schools thoroughly consider the financial impact of special education, NOLA-PS should require charter schools to show that they have budgeting and cost projections for financing special education programs specifically, including allocation of federal, state, local, and Medicaid funds.
- While NOLA-PS's charter school application asks about professional development in a few general ways, NOLA-PS should require charter schools to articulate their professional development strategy with more depth, particularly with regard to specialized training for certain educators (such as related service providers and paraprofessionals) and skills training to support both general and special education teachers in instructional strategy differentiation which can facilitate student progress as part of a continuum of supports.
- We also recommend that schools show plans for professional development for general education teachers on how to interpret and implement IEPs and ways to modify curriculum and supports for students with disabilities.

Recommendations for improving NOLA-PS's monitoring and oversight practices

Monitoring and oversight during the charter term is essential to improving service delivery for students with disabilities. NOLA-PS already annually conducts site visits and carries out desktop reviews to monitor schools. NOLA-PS also produces summaries of these reviews. These monitoring procedures could be improved through more systematic data collection and more qualitative data gathering during site visits.

- To improve data collection and understand more about the students charter schools are serving, we recommend that NOLA-PS actively monitor school-level enrollment and retention rates of students with disabilities more closely. Note, we are not recommending that NOLA-PS use this data to track individual students' enrollment or truancy. NOLA-PS should track school-level data that would hold charter schools responsible for detrimental barriers to enrollment that special education students and families face.
- We recommend that NOLA-PS establish more robust on-site and desktop monitoring procedures, including file

reviews that focus on student performance and monitoring of special education records to ensure their continued creation and maintenance.

- To assist in the proper development of a continuum of services for every student with disabilities in the district, we recommend that NOLA-PS consider including an "educational benefit" review in its monitoring, which would offer a data picture of student progress toward goals over a period of time, as opposed to a single snapshot in time. Note, an educational benefit review does not involve changing any components of a student's IEP or goals and objectives.
- To ensure effective Child Find procedures, we recommend that NOLA-PS also monitor identification of and timely intervention for struggling students and students with disabilities, as well as the performance of students with disabilities on both mandated assessments and alternative assessment structures.
- To provide additional, accurate, and current information to families in the school-selection process, NOLA-PS should, in a user-accessible manner, annually publish on its website and ensure that each LEA annually publishes on its own website (1) a description of the special education placements, services, and supports offered in the LEA; (2) LEA's "annual determination" from LDOE, and (3) the LEA's performance on each of the SPP/APR indicators; (4) LDOE and NOLA-PS monitoring results; and (5) corrective action plans and findings of non-compliance issued to the LEA (if any).
- While NOLA-PS may look at some data from some schools related to suspension, expulsion, and possibly to Least Restrictive Environment, it is hard to tell if these specifics are monitored on any regular basis. To support the Least Restrictive Environment principle and go beyond compliance, NOLA-PS should actively monitor whether discipline, service delivery, and behavior management minimize exclusion.
- Finally, we recommend that NOLA-PS provide technical assistance during monitoring or support charters in getting technical assistance from third parties to ensure that struggling schools get the support that they need to provide adequate services and supports for students with disabilities. We recommend that NOLA-PS establish a more robust complaints management system that addresses complaints from all charters it authorizes.

Recommendations for improving NOLA-PS's charter renewal practices

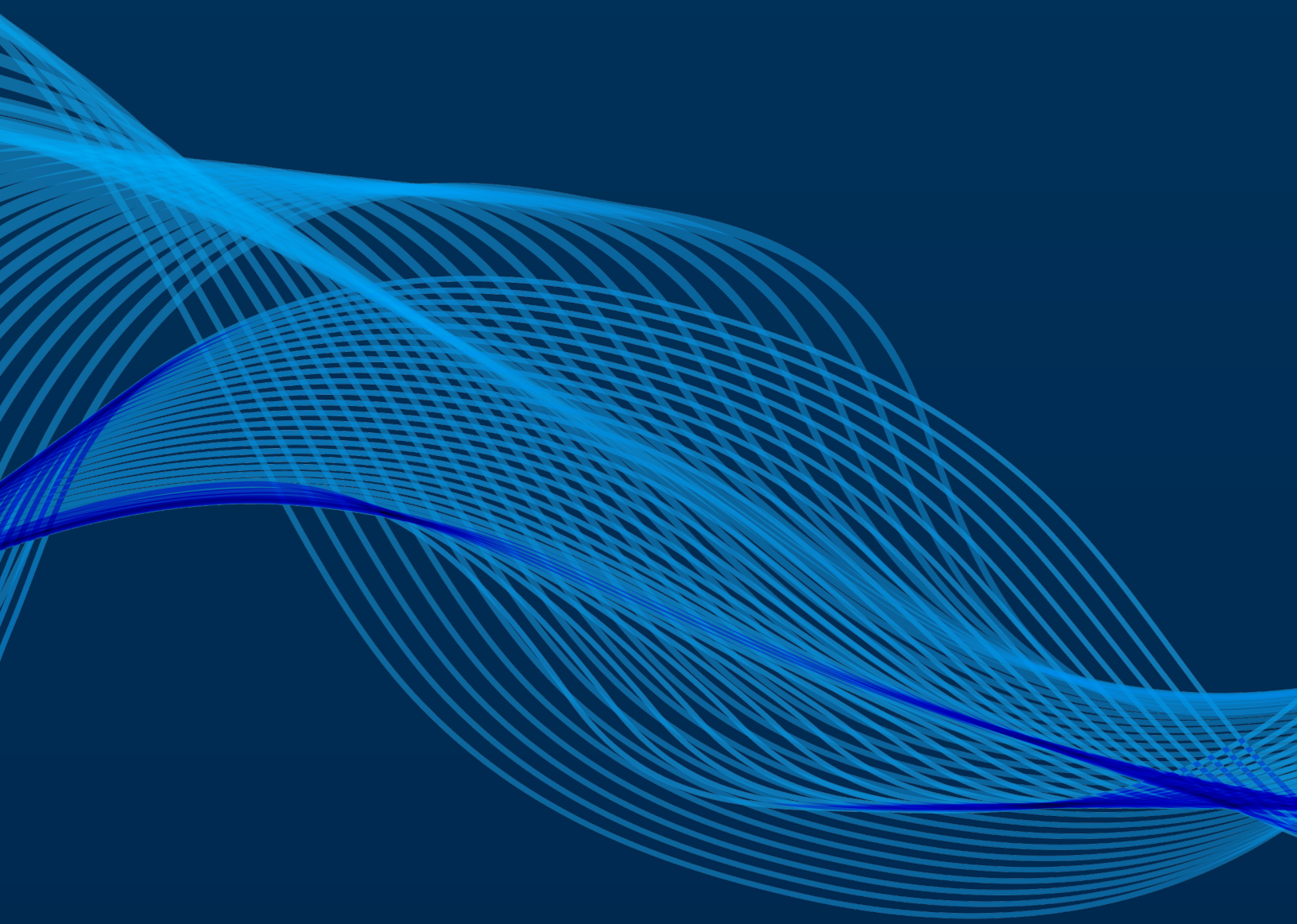
The renewal phase can also be instrumental in supporting charter school special education service delivery. NOLA-PS includes an appendix to its Charter School Accountability Framework called Measures Used for Renewal and Extension Recommendations for Traditional and Alternative Schools. These measures are largely compliance oriented, as noted above.

- We recommend that NOLA-PS publishes more detailed renewal protocols to guide schools in special education service delivery, and conducts site visits with protocols established specifically for renewal.
- In renewal site visits and desktop reviews, NOLA-PS should assess whether the strong special education policies that it requires upon application exist at the school site and are followed.
- We recommend that NOLA-PS develop a specific renewal review component on practices for struggling learners, such as Response to Intervention (RTI), Multi-tiered System of Supports (MTSS), or differentiated instruction.
- To further support struggling learners, we recommend that NOLA-PS use charter renewal as an opportunity to assess whether the charter school uses methods to track the progress of students with disabilities outside of standardized testing.
- We propose that as a complement to the establishment of a more robust complaints management system, during the charter renewal phase, NOLA-PS should examine documentation and resolution of school-level complaints or problems related to students with disabilities. NOLA-PS should ask for documentation of the complaints and any informal or formal procedures used to resolve them. NOLA-PS might also look at data on whether complaints have gone to due-process, and how those more formal situations were handled.
- NOLA-PS should look at how transparent the school's complaint policies are and how easy the complaint process is for families to navigate.
- Finally, NOLA-PS should consider upon charter renewal how the school proactively seeks to cooperate with families on the resolution of concerns about evaluations, placement, provision of FAPE, LRE, and transition planning for students' post-school life.

Filing complaints is a vital method that students with disabilities and their families can use to get their needs met, gain access to curriculum, and receive the educational supports to which they are entitled.

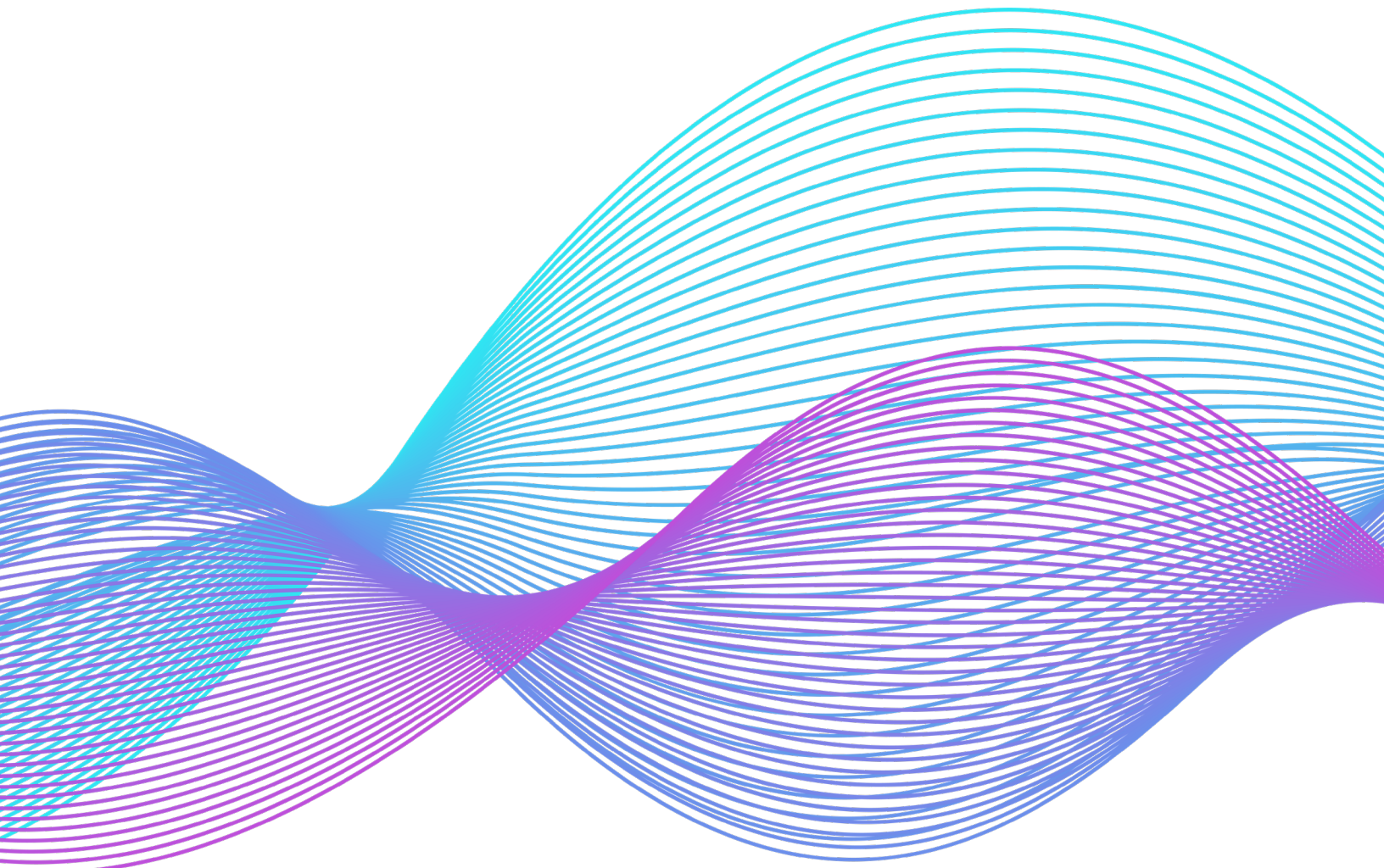
NOLA-PS, despite its existing monitoring and renewal practices, has several practices that seem borne out of a focus on legal compliance. The concern with compliance-oriented accountability measures for charter schools is that they do not encourage continuous improvement of charter school special education service delivery, but merely require schools to "check boxes." We recommend that NOLA-PS focus its efforts on practices that will encourage continuous improvement of charter school special education service delivery and offer schools technical assistance to shift schools' focus away from compliance, toward improving educational experiences and outcomes for students with disabilities.

CONCLUSION

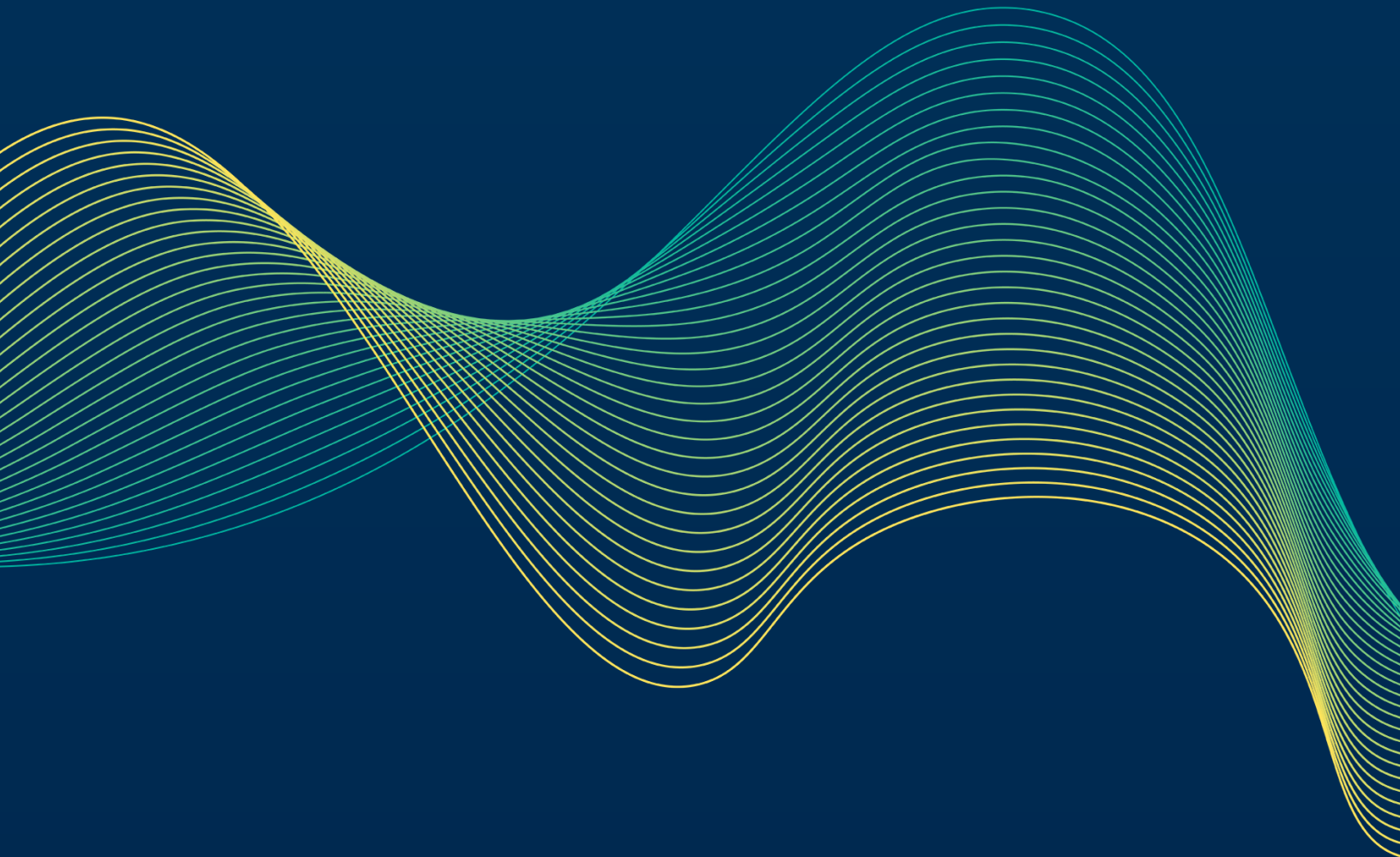


Out of the devastation of Hurricane Katrina, the New Orleans public school system took the bold step of re-imagining its public schools to provide parents and families with more choice and to provide school leaders and educators an opportunity to design schools that would best meet the needs of the children of New Orleans. While that transformation produced much success, it also created challenges, particularly for families with students with disabilities, who sued the state and school district to provide access to and better service in the city's schools. Now NOLA-PS and the LDOE have another opportunity to transform their monitoring and support practices to improve the performance and outcomes of students with disabilities and continuously improve the special education services provided by New Orleans public charter schools.

To that end, and the request of SPLC, CPRL has made recommendations to improve oversight and support of special education services in New Orleans public schools such that LDOE and NOLA-PS are able to (1) ensure compliance with special education mandates on an ongoing basis and (2) allow for continuous improvement of special education services for students across the system. The ultimate—and shared goal—is the creation of a system that is sustainable and supports all students and their rights.



APPENDICES



Appendix A

LDOE's Selection System for Risk-Based Monitoring

Louisiana Department of Education, "Division of Statewide Monitoring--IDEA Monitoring Rubric SY 2018-2019." (Filed 6/26/20 in Case 2:10-cv-04049-JCZ-KWR; On file with CPRL).



Division of Statewide Monitoring – IDEA Monitoring Rubric SY 2018-2019

Local Education Agency Boudin Parish Schools					Site Code:		000
Monitoring Risk Indicators		Point Value					Points Earned
RISK 1– Statewide Assessment - English Language Arts Percentile Change							
<p>Measurement: Two consecutive years of statewide assessment data are compared to determine the percentile change for the students with disabilities subgroup in all tested grades. Percentile change is calculated and divided into quartiles to determine growth or decline. Growth ranking in Q3 and Q4 are eligible to earn points during monitoring selection. *NEW: In some instances, growth was noted in Q2. One point will be assigned to any LEA showing growth in Q2. Performance scores include students with disabilities scoring Basic and above in tested grades 3-11.</p>							
Cut Points - SWDs All Tested Grades		2017-2018	Percentile	2016-2017	Percentile	Percentile Change	Points Earned
Quartile 4 = 12 to 76	4	75	89	70	85	4	2
Quartile 3 = 1 to 11	2						
Quartile 2 = -8 to 0	0						
Quartile 1 = -77 to -9	0						
RISK 2 – Statewide Assessment - Mathematics Percentile Change							
<p>Measurement: Two consecutive years of statewide assessment data are compared to determine the percentile change for the students with disabilities subgroup in all tested grades. Percentile change is calculated and divided into quartiles to determine growth or decline. Growth ranking in Q3 and Q4 are eligible to earn points during monitoring selection. *NEW: In some instances, growth was noted in Q2. One point will be assigned to any LEA showing growth in Q2. Performance scores include students with disabilities scoring Basic and above in tested grades 3-11.</p>							
Cut Points - SWDs All Tested Grades		2017-2018	Percentile	2016-2017	Percentile	Percentile Change	Points Earned
Quartile 4 = 13 to 70	4	42	45	48	50	-5	0
Quartile 3 = 2 to 12	2						
Quartile 2 = -9 to 2	0						
Quartile 1 = -98 to -10	0						
RISK 3 – Graduation Rate							
<p>Graduate Rate Measurement: Two consecutive years of Cohort graduation rates are compared to determine the percent of change for the students with disabilities subgroup. Percent of change is calculated by subtracting the difference in dropout rates over two year consecutive years. The difference in actual change (not percentile change) is applied to cut points, then divided into quartiles to determine whether the SWDs subgroup made growth, remained stagnant, or declined in dropout rates. Growth ranking in Q3 and Q4 are eligible to earn points during monitoring selection. Any LEA having earned a 100% graduation rate for two consecutive year will earn the maximum points in this category.</p>							
Cohort Graduation SWD Subgroup			2016-2017	2015-2016	Percent of Change	Points Earned	
Quartile 4 = 17.9 to 100	4	70	65	5	2		
Quartile 3 = 3.6 to 17.8	2						
Quartile 2 = -2.6 to -3.5	0						
Quartile 1 = -66.7 to -3.9	0						
RISK 4- Dropout							

<p>Dropout Rates: Two consecutive years of dropout rates are compared to determine the percent of change for the students with disabilities subgroup. Percent of change is calculated by subtracting the difference in actual dropout rates over two year consecutive years. The difference in actual change (<i>not percentile change</i>) is applied to cut points then divided into quartiles to determine whether the SWDs subgroup made growth, remained stagnant, or declined in dropout rates. Negative change indicates a decrease in the percent of students with disabilities that dropped out of school. A positive change indicates an increase in the percentage of students with disabilities dropping out of school. Growth ranking in Q3 and Q4 are eligible to earn points during monitoring selection.</p>					
SWD Dropout Rates		2017-2018	2016-2017	Percent of Change	Points Earned
Quartile 4= -9.5 to -7.5	4	12	10	2	0
Quartile 3 = -3 to -7.7	2				
Quartile 2 = 0 to 0	0				
Quartile 1 = 1.2 to 66.7	0				
RISK 5 – LEA Determination					Points Earned
<p>LEA Determination: The most current annual LEA Determination is weighted as monitoring risk-indicator. Under the Individuals with Disabilities Education Act (IDEA), States are required to make annual determinations about the performance of the LEAs using the following categories: Meets Requirements Needs Assistance Needs Intervention Needs Substantial Intervention. Factors weighted include: disproportionality, early childhood transition, child find, timely and accurate submission of data, high school transition compliance, audit findings, and other areas determined by the State to be an annual determination priority.</p>					
Meets Requirement	15				10
Needs Assistance	10				
Needs Intervention	5				
Needs Substantial Intervention	0				
LEA Accumulated Points					14
TOTAL POINTS AVAILABLE					31
*Total points available is the sum of the maximum points available in each area of risk.					
LEA Percentage Earned					45%
*Percentages are derived by dividing the total points earned across applicable risk indicators by the total points possible.					
Low Risk - (100-78 percent)	LR	Quartile Descriptors			M H R
Moderate Low Risk - (77-50 percent)	MLR				
Moderate High Risk - (49-23 percent)	MHR				
High Risk - (22-0 percent)	HR				
		Q4 = Significant Growth (4 points)	Q2 = Slight Growth, No Change, or Decline (0 points or 1 point if growth is noted)		
		Q3 = Growth (2 points)	Q1 = Significant Decline (0 points)		

Louisiana Department of Education Risk-based Monitoring Oversight Structure



Monitoring Overview

The Louisiana Department of Education (LDOE) recognizes its duty as a state education agency to ensure statutory and regulatory requirements related to federal education programs are followed and program activities, supports, and services are achieving intended outcomes. Particularly, under the Individuals with Disabilities Education Act (IDEA), the LDOE revised its special education monitoring oversight model to one that evaluates every school system every year for monitoring support. This revised model of monitoring support evaluates compliance, performance, and effective program implementation. For every school system serving students with disabilities, the LDOE annually engages in targeted data reviews, places school systems into tiered categories for annual monitoring, and differentiates monitoring support and interventions based upon identified needs. The monitoring process described in this document is one that co-exist alongside the prescribed monitoring that schools in Orleans Parish undergo pursuant to the Consent Decree and will continue after the Department of Education is released from the Consent Decree. In other words, the monitoring process described in this document is utilized for all schools and school districts statewide, including those schools subject to monitoring under the Consent Decree.

Addressing the Issue

During the 2015-2016 school year, following extensive consultation with stakeholders and experts and a year-long pilot the LDOE implemented a new risk-based monitoring system. Prior to that time, a cyclical monitoring system existed whereby the state followed a multi-year monitoring schedule on a revolving cycle. The state's previous monitoring process was modeled as a one-sized fits all approach. As concerns arose outside of these scheduled times, targeted monitoring would be arranged, but was often very limited to program specific issues and not with broader considerations and implications taken into account.

The Shift to Risk-Based Monitoring

Risk-based monitoring allows for an evaluation of school system every year against a set of predetermined risk indicators and a two-year comparison of performance data for the students with disabilities subgroup. Risk indicators are determined through annual consultation with stakeholders, experts, and LDOE staff who lead the state's academic planning, accountability, and program support structures. Factors considered during the monitoring selection process currently include a growth analysis component for subgroup performance of students with disabilities on statewide assessments, graduate and dropout rates. Other factors considered during the monitoring selection process may include one or more of the following components: LEA Determinations, federally required compliance indicators, performance indicators, state complaints, fiscal audits, and/or other agency established goals and priorities. Quartiles are used for ranking and assigning points to distribute data into four equal sets. Results are calculated and used to determine an appropriate monitoring experience for school systems. The application of this process yields a monitoring rubric for each school system as the methodology for determining an appropriate monitoring experience.

Monitoring Implementation

The rubric explains how risk indicators are weighted, displays points based on analyzed data, and concludes with rankings that place the school system in low-risk, moderate-low, moderate-high, and high-risk categories for monitoring purposes. The rubric, referred to as the monitoring report card, is also shared with LDOE network teams

Louisiana Department of Education Risk-based Monitoring Oversight Structure



to support coordination across the areas of program compliance and effectiveness in increasing student achievement.

Monitoring is then conducted and differentiated according to levels of risk, ranging from low intensity to high intensity. Monitoring experiences range from on-site monitoring at the most intensive level to mandatory self-assessments, utilizing the LDOE self-monitoring instrument, at the least intensive level. Comprehensive desk reviews are conducted at the moderate ranking levels and supported by the LDOE comprehensive desk audit tool which includes core components of special education programming and implementation. The LDOE utilizes state developed review protocols and self-monitoring tools to ensure monitoring processes at every level are targeted, reliable, and consistent. Self-assessment monitoring is a mandatory type of monitoring triggered by a low-moderate ranking. When flagged for a mandatory self-monitoring, school systems must complete and submit the LDOE comprehensive self-monitoring tool and report evidence of compliance to LDE monitoring staff in seven domains: Child Find, Least Restrictive Environment, Delivery of Services, Discipline, Secondary Transition, Early Childhood Programs, and Alternate Assessment Participation. Results are verified, and follow-up is conducted to ensure plans of correction are being implemented when non-compliance is identified. On-site monitoring is the most intensive form of monitoring which is reserved for any school system with a high-risk ranking. LDOE monitors spend time on-site with the special education director, school system staff, and in schools of interest to determine the root cause of non-compliance and declining growth. Schools are selected based upon areas of need. The results of the on-site monitoring include a synopsis of information gained along with student specific and/or systemic findings requiring immediate correction. If there are no findings after conducting the on-site monitoring, a notice of closure issued. LDOE hosts a parent community meeting during on-site monitoring visits which is a forum to engage with parents and learn about their experiences in the particular school system being monitored. The LDOE also reserves the right to make adjustments to a monitoring experience based on special circumstances.

Non-Compliance and Corrective Action

School systems must immediately develop and submit for LDOE approval a corrective action plan when any findings of non-compliance are noted. The school system is to begin immediately correcting any findings of non-compliance. The LDOE monitoring staff conducts a follow-up monitoring to ensure each individual instance of non-compliance is corrected and also randomly reviews additional information to ensure no systemic issues exist. During the period in which the school system is implementing the corrective action plan, the plan remains under the supervision of the LDOE monitoring team leader who regularly engages in conversations and collects evidence to validate progress toward resolution. Throughout that time, LDOE network teams assigned to support school systems receive copies of corrective action plans so that they may also support and monitor progress as part of a larger effort to ensure that programs implemented are achieving their goals relative to student outcomes. When results of the monitoring process are reviewed, we encourage school systems to make those results available to the public and discuss them at a public meeting of the local school board.

Benefits of Risk-Based Monitoring

This method of monitoring eliminated the one-size-fits-all approach and now provides every school system with more timely opportunities to address non-compliance, improve program management, and increase student outcomes using a results-driven approach to monitoring selection. A standardized set of monitoring protocols is

Louisiana Department of Education Risk-based Monitoring Oversight Structure



utilized by the state to ensure consistency during implementation at every level. Every school system receives written monitoring results with support from the monitoring team after the closure of a monitoring event. The LDOE will continue to work with stakeholders and experts to regularly review the effectiveness of this monitoring system in meeting the state's fiduciary responsibilities and ensuring maximum coordination with other federal programs.

Consent Decree Continuum of Support

For any school system currently selected to participate in monitoring under the requirements of the Consent Decree, a risk-based monitoring assessment is conducted alongside the LDOE/SPLC agreed-upon monitoring process. Each school under the requirements of a Consent Decree is not eliminated from receiving monitoring support. However, if a school system is already scheduled for monitoring under the Consent Decree, then the school would not receive more than one special education monitoring in the same year, unless there was a follow-up monitoring required in another targeted area.

The Department's current structure of monitoring oversight offers a more diverse, hands-on approach to evaluating data, and offers monitoring support to every school system every year. In addition to the risk-based monitoring process, every school system is monitored every year in the following areas as part of the federally required annual performance report: evaluation timelines, discipline, disproportionality, early childhood transition, and secondary transition.

View the monitoring rubric by clicking on the attachment to the email.

Appendix B

LDOE’s IDEA Protocols for File Review, Staff Interviews, and Monitoring

See Peterson, Kelli R. to Doug Evans and Darren Mire. “Attachments to Non-Compliance Notice to Singleton Charter School.” (February 7, 2019; On file with CPRL), *see also* Louisiana Believes. “IDEA Monitoring Protocol.” (June 2017), https://louisianabelieves.com/docs/default-source/students-with-disabilities/idea-monitoring-protocol.pdf?sfvrsn=d3059e1f_3



Related Services File Review Protocol		Yes	No	N/A
Student File Review Protocol				
1.	The parents were invited to the Individualized Education Program (IEP) meeting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	If neither parent was able to attend the IEP team meeting, there is documentation of attempts to ensure parental participation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	The appropriate team members were present at the IEP team meeting (signature provided at IEP Team meeting).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	The IEP for a school-age student includes a statement of present levels of academic achievement and functional performance, including how the student's disability affects involvement and progress in the general education curriculum.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	The IEP contains related services which are reasonably calculated to enable the student to advance appropriately toward attaining annual goals; to be involved in and make progress in the general education curriculum in accordance with the student's present levels of academic achievement and functional performance; to participate in extracurricular and other academic activities; and to be educated and participate with other children with disabilities and nondisabled children in academic and non-academic school activities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	The IEP contains an explanation of the extent, if any, to which the student will not participate with nondisabled students in the general education class and the LEA ensured that to the maximum extent possible the student was educated with nondisabled students.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	The IEP contains descriptions of how progress toward annual goals will be measured, including how often parents will be regularly informed of their child's progress.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	Related services are being provided to the student in the types and frequency specified in the student's IEP.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Related Services Staff Interview Questions	
Questions include but are not limited to the following:	
1.	Describe, in general, how your school determines that a student requires related services in order to provide a particular student with a free, appropriate public education. What factors are considered?
2.	Describe, in general, how related services are provided to students at your school, including identifying the personnel who provide such services, how related services are scheduled into the academic day, and how the school provides services in cases of provider unavailability.
3.	Were any of the identified related service providers unavailable for all or part of the year? Describe the steps, if any, taken to address this unavailability.
4.	Describe the process by which school staff secures related service providers upon the enrollment of new students with specific related service needs. How long does this process take?
5.	Describe the information available to IEP Teams related to the impact of related services on an individual student's functional performance and academic achievement.
6.	Describe any steps taken at your school to minimize the impact of students' removal from general educational activities for the receipt of related services on the students' academic achievement.



Child Find File Review Monitoring Protocol		Yes	No	N/A
Student File Review Protocols				
1.	The School Building Level Committee (“SBLC”) that discussed the student’s academic needs was comprised of at least a classroom teacher, the teacher who referred the student to the SBLC, and the principal of the school or a designee of the principal.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	If the School Building Level Committee referred the student for an initial evaluation, parental consent for an initial evaluation was obtained within a reasonable time following the SBLC’s decision to refer the student.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Sufficient screening, including – if appropriate – participation in the Response to Intervention process, was conducted to identify the student as suspected of having a disability.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	If the student’s parent has requested an initial evaluation, the LEA either (1) requested parental consent to conduct the evaluation or (2) notified the parent in writing that the evaluation would not be conducted and the reasons that the LEA believed that an evaluation of the student was unnecessary.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	If student participated in the RTI process, the school collected sufficient data to determine the effectiveness of the interventions provided to the student.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	If student did not maintain expected progress while participating in the Response to Intervention process, the student was referred to the SBLC for consideration of an initial evaluation within a reasonable amount of time.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	Parental notice was provided describing any evaluation procedures that the agency proposed to conduct.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	Parental consent was obtained to conduct an initial evaluation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	A variety of assessment tools and strategies (not the use of a single measure or assessment as the sole criterion) were used to gather relevant functional, developmental and academic information about the child, including information provided by the parent.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	Existing data (ex: evaluation data and info provided by parent; current classroom based, local or state assessment data; classroom observations and related service provider observations) was reviewed to determine continued eligibility.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11.	A variety of sources (ex: teacher data, parent data, and related services data) were used to determine student eligibility.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12.	For students who are eligible under Section 504 of the Rehabilitation Act, the student’s educational records indicate that the student does not require specially designed instruction.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Child Find Staff Interview Questions	
Questions include but are not limited to the following:	
1.	Describe the processes for conducting SBLC meetings, including the frequency of such meetings, the composition of the SBLC, the types of data considered by the SBLC, and the outcomes of the SBLC, in its normal course of business.
2.	Describe the process by which students at your school are referred to the SBLC. When was the last time a student at your school was referred to the SBLC?
3.	Describe the structure of the RTI process at your school, including the role of SBLC members, regular education teachers, special education staff, and school administrators in the RTI process.
4.	Describe the implementation of the RTI process at your school, including how academic and behavioral interventions are planned, implemented, and assessed for effectiveness. How often is a student's progress in RTI reviewed?
5.	Describe how special education evaluations are initiated at your school, including the process by which school staff refer students for an initial evaluation.
6.	Describe the process by which school staff respond to parental requests for an initial evaluation. Is this process the same if the student is in the RTI process?
7.	Describe, in general, how special education evaluations are conducted at your school, including the personnel responsible for conducting such evaluations.
8.	Describe how determinations are made concerning whether a student should be considered for eligibility under the IDEA or Section 504 of the Rehabilitation Act at your school.
9.	Describe, in general, the process by which the school completes initial evaluations for those students no longer enrolled in the school.



Discipline Student File Review Monitoring Protocol		Yes	No	N/A
Student File Review Protocols				
1.	The Individualized Education Program (IEP) team considered, in the case of a student whose behavior impedes his/her learning, the use of positive behavioral interventions, supports, and/or other strategies to address the behavior.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	Within ten (10) days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, the LEA conducted a manifestation determination.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	The LEA notified the parent on the same day as the date of the removal decision of any removal that constituted a change of placement and provided the parent with a copy of the notice of the procedural safeguards.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	The IEP team considered relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parent, to determine whether the behavior was a manifestation of the student's disability.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	If the IEP team determined that the behavior was not a manifestation of the student's disability and the suspension/expulsion was applied, the student continued to receive services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	If the IEP team determined that the behavior was a manifestation of the student's disability, the student was returned to the current placement, unless the parent and the LEA agree to a change in placement as part of the behavioral intervention plan ("BIP") or unless the behavior is related to weapons, drugs, or serious bodily injury.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	If the student did not have a functional behavioral assessment ("FBA") developed and a BIP implemented prior to the removal, and the behavior was determined by the IEP team to be a manifestation of the disability, the IEP team completed the FBA and developed a BIP as soon as practicable.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	If the student had a BIP, the IEP team reviewed the plan as part of the manifestation determination process and revised it as needed.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Discipline Staff Interview Questions	
Questions include but are not limited to the following:	
1.	Describe any school-wide behavior management programs in place at your school. Does this program differ for students with disabilities? Is the program based upon the use of positive behavioral interventions and supports?
2.	Describe the system that your school uses to record and maintain disciplinary data. Does the system record out-of-school suspensions? In-school suspensions? Time spent in the "behavior room," "cool-down room," or "time-out center"?
3.	Do school staff contact parents or family members and request that they pick up their students early from school for disciplinary purposes? How frequently does this occur? How are these removals recorded?
4.	Describe the procedures that your school implements when recommending a student for suspension or expulsion, including how notice is provided to parents and any procedures available to parents who want to contest the proposed disciplinary actions.
5.	Describe the procedures in place at your school to ensure that the procedural safeguards identified in the IDEA are provided to students with disabilities who are subject to over ten (10) days of disciplinary removal during a school year.
6.	Describe the processes for conducting Manifestation Determination Reviews (MDRs), including the frequency of such meetings, the composition of the participating staff, the types of information considered, and the outcomes.
7.	Describe how your school conducts FBAs and creates BIPs for students, including the circumstances under which an FBA is initiated, the extent to which parents are included in the FBA process, and how BIPs are shared with relevant school staff.
8.	Describe, in general, how your school measures and documents the effectiveness of BIPs and how that information is shared with parents and IEP Team.



IDEA MONITORING PROTOCOL

LEA Parish:	Date of Review:	
Student's Name:	Date of Birth:	Grade:
Exceptionality:	Individual Education Plan (IEP) Date:	
Reviewer:	Multidisciplinary Evaluation (MDE) Date:	

MULTIDISCIPLINARY EVALUATION

Initial Evaluation <i>Students who were recently evaluated for initial special education services. If not recently evaluated, indicate N/A.</i>	YES	NO	N/A	Comments
Parental consent was obtained to conduct an initial evaluation. §300.300(a)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
A variety of assessment tools and strategies (not the use of a single measure or assessment as the sole criterion) were used to gather relevant functional, developmental and academic information about the child, including information provided by the parent. §300.304(b)(1) and §300.304(2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The initial evaluation was conducted within 60 days of parental consent. §300.301 (c)(1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Re-Evaluation	YES	NO	N/A	Comments
Informed parental consent was obtained prior to conducting a reevaluation. §300.300(c)(1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Existing data (evaluation data and info provided by parent; current classroom based, local or state assessment data; classroom observations and related service provider observations) from a variety of sources (teacher data, parent data, and related services data) was used to determine continued eligibility was reviewed to determine continued eligibility. §300.305 and §300.306(c)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The reevaluation was completed by its triennial anniversary date. §300.303 (b)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Act 833 Student Review	YES	NO	N/A	Comments
Is there evidence that Act 833 eligibility was considered?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Has the IEP identified the specific Act 833 Transition related criteria that the student must meet?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Individualized Education Program (IEP)	YES	NO	N/A	Comments
The parents were invited to the IEP meeting. §300.322(a)	○	○	○	
If neither parent was able to attend the IEP team meeting, there is documentation of attempts to ensure parental participation. §300.501(b)	○	○	○	
The appropriate team members were present at the IEP team meeting (signature[s] provided at IEP Team meeting). §300.321(a)-(b)	○	○	○	
If the appropriate team members were not present at the IEP meeting (signature provided at IEP meeting), an excusal form is available for the team member(s). §300.321(a)(7) (e)(1-2)(i-ii)	○	○	○	
The concerns of the parents for enhancing the education of their child were considered in the developing of the IEP. §300.324(a)(ii)	○	○	○	
The IEP for a school-age student includes a statement of present levels of academic achievement and functional performance, including how the student's disability affects involvement and progress in the general education curriculum. §300.320(a)(1)(i)(2)(i)	○	○	○	
The IEP team considered: <ul style="list-style-type: none"> • the strengths of the student; • the academic, developmental, and functional needs of the student; • the results of the initial evaluation or most recent evaluation; and • the results of the student's performance on any state-wide or district-wide assessment. §300.324(a)(1) 	○	○	○	
The IEP team considered, in the case of a student whose behavior impedes his/her learning, the use of positive behavioral interventions, supports, and/or other strategies to address the behavior. §300.324(a)(2)(i)	○	○	○	
The IEP includes measurable annual goals based on content standards for the student's enrolled grade, including academic and functional goals. §300.320(a)(2) and 300.160(5a)(b 2ii) (c-9)	○	○	○	
Benchmarks or short-term objectives should be included for students with disabilities who take alternate assessments aligned to alternate achievement standards. §300.320(a)(ii)	○	○	○	
The IEP contains program modifications or classroom accommodations. §300.320(a)(4)	○	○	○	
The IEP contains appropriate accommodations necessary to measure academic achievement and functional performance on state or district-wide assessments. §300.320(a)(6)(i)	○	○	○	
If the IEP team determined that the student will not participate in the regular state or district-wide assessment, the IEP contains a statement of why the assessment is not appropriate, why the particular alternate assessment is appropriate, and shows notification to the parent of the implications of nonparticipation. §300.320(a)(6)(ii)	○	○	○	

Individualized Education Program (IEP)	YES	NO	N/A	Comments
The IEP contains an explanation of the extent, if any, to which the student will not participate with nondisabled students in the general education class and the LEA ensured that to the maximum extent possible the student with disabilities was educated with nondisabled students. §300.320(a)(5)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The IEP contains a statement of supports for school personnel. §300.320(a)(4)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The IEP contains special education services/specially designed instruction, including location, as well as initiation, duration, and frequency. §300.320(a)(7)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The IEP contains related services. §300.320(a)(4)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The IEP contains supplementary aids and services. §300.320(a)(4)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The student's progress toward meeting the annual goals was measured and the report of progress was provided as often as stated on the IEP. §300.320(a)(3)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The IEP had been reviewed at least annually and revised to address any/all of the following: <ul style="list-style-type: none"> any lack of expected progress toward annual goals and in the general curriculum; results of any re-evaluation conducted; information about the child provided to, or by, the parents; and the child's anticipated needs or other matters. §300.324(b)(1), (6)(ii)(A-E) 	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The IEP contains individual performance criteria per Act 833 (2014) with goals and objectives linked to specific courses (high school students) or content areas (K-8).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Extended school year (ESY) services are considered annually. §300.106 (a)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The IEP includes identified assistive technology to enable the child to be involved in and make progress in the general education curriculum. §300.324(a)(2)(v)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Disciplinary Procedures	YES	NO	N/A	Comments
Within ten (10) days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, the LEA conducted a manifestation determination. §300.530(e)(1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The LEA notified the parent on the same day as the date of the removal decision of any removal that constituted a change of placement and provided the parent with a copy of the notice of the procedural safeguards. §300.530(h)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The IEP team considered relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parent, to determine whether the behavior was a manifestation of the student's disability. §300.530(e)(1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Disciplinary Procedures	YES	NO	N/A	Comments
If the IEP team determined that the behavior was not a manifestation of the student’s disability and the suspension/expulsion was applied resulting in a change in placement, the student continued to receive services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student’s IEP. §300.530(d)(1)(i)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
If the IEP team determined that the behavior was a manifestation of the student’s disability, the student was returned to the current placement, unless the parent and the LEA agree to a change in placement as part of the Behavioral Intervention Plan (BIP) or unless the behavior is related to weapons, drugs, or serious bodily injury. §300.530(f) and (g)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
If the student did not have a Functional Behavioral Assessment (FBA) developed and a BIP implemented prior to the removal, and the behavior was determined by the IEP team to be a manifestation of the disability, the IEP team completed the FBA and developed a BIP as soon as possible. §300.530(d) and (f)(1)(i-ii)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
If the student had a BIP, the IEP team reviewed the plan as part of the manifestation determination process and revised it as needed. §300.530(f)(1)(ii)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
If the student was suspended from school for more than 10 days, the LEA provided services beginning by the 11th day of suspension. §300.530 (b)(2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Transition Services	YES	NO	N/A	Comments
There are age appropriate measurable post-secondary goals that cover training/ education, employment, and as needed independent living. §300.320 and §300.43(1)(2)(b)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The post-secondary goals were reviewed or updated annually. §300.324	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The transition post-secondary goals are based on age appropriate transition assessment. §300.320 and §300.324	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The annual IEP goals are related to the students transition service needs. §300.320(7)(b) (1-2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
There are transition services in the IEP that will reasonably enable the student to meet his or her goals. §300.320	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
There is evidence that the student was invited to the IEP. §300.321 and §300.322	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
There was consent obtained from the parent or student who has reached the age of majority prior to inviting adult agencies to the meeting. §300.321	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
There is evidence that agency representatives were invited to the IEP meeting. §300.321	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The transition services include courses of study that will reasonably enable the student to meet his or her post-secondary goals. §300.320	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Appendix C

LDOE’s IDEA Student Documentation Checklist for Desk-Top and On-Site Monitoring

Louisiana Department of Education. “IDEA Student Documentation Checklist” (June 2017), https://www.louisianabelieves.com/docs/default-source/students-with-disabilities/idea-student-documentation-checklist.pdf?sfvrsn=ee059e1f_3



IDEA STUDENT DOCUMENTATION CHECKLIST

Where applicable, the following information will be reviewed as part of an IDEA desk audit and an on-site monitoring review. The local education agency should use the list below to ensure the appropriate information is available as part of the student file. Please note the LDOE reserves the right to request additional documentation to ensure compliance.

	YES	NO	N/A	Comments
1. Current Individualized Education Program (IEP) - first and last signature pages only	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
2. Initial Evaluation and/or Reevaluation (If an evaluation waiver was completed for the student, include the most current complete evaluation with the waiver).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
3. Transition Agency Invitation Letters and Transition Assessment Results	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
4. Parental Contact Logs and Notification Letters	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
5. IEP Participant Excusal Form (if applicable)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
6. Progress Reports (IEP and Other)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
7. Report Cards	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
8. Evidence of Services (sampling of the measurement of student progress in educational need areas identified in the IEP – monthly progress notes, academic progress updates, and/or other relevant information).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
9. Discipline Reports	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
10. Functional Behavioral Assessment (FBA)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
11. Behavior Intervention Plan (BIP)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
12. Manifestation Determination Review and Results of disciplinary hearing indicating number of days assigned to discipline center with start/end dates	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
13. Extended School Year Program (ESYP) Eligibility Determination Letter	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
14. Documentation used to determine if the student met the eligibility criteria for an alternative pathway to promotion or graduation per Act 833 (2014).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
15. Goals and objectives for specific courses (high school) or content areas (K-8) where individual performance criteria for an alternate pathway to promotion or graduation are applied.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Appendix D

New Orleans Public Schools Overview

NOLA Public Schools, “2023-2024 New Orleans Public Schools Governance Chart,” accessed December 3, 2023, <https://static1.squarespace.com/static/5efbd94a6fb7083aebccb33/t/650596d66e0e9935260b3cbb/1694865111113/2023-2024+Governance+Chart+FI-NAL+SEP+2024.pdf>.

2023-2024

NEW ORLEANS PUBLIC SCHOOLS GOVERNANCE CHART

New Orleans Public Schools (NOLA-PS): 68 Schools

Advocates for Academic Excellence in Education 1 School Benjamin Franklin High School: 9-12	Community Academies of New Orleans 3 Schools Esperanza Charter School: K-8 Foundation Preparatory Charter School: K-8 Lafayette Academy Charter School: PK4-8	French and Montessori 2 Schools Audubon Charter School - Gentilly: PK4-7 Audubon Charter School: PK4-8	Legacy of Excellence, Inc. 1 School Benjamin Franklin Elementary Mathematics and Science School: PK4-8	Success Preparatory Academy 1 School Success at Thurgood Marshall: PK4-8
Advocates for Arts-Based Education 1 School The Willow School: K-12	Community Leaders Advocating Student Success, Inc. 1 School Fannie C. Williams Charter School: PK4-8	Friends of King 1 School Dr. Martin Luther King Jr. Charter School: PK4-12	Living School Charter 1 School Living School: 9-12	The Citizens' Committee for Education 1 School Homer A. Plessy Community School: PK4-8
Advocates for Innovative Schools 1 School Robert Russa Moton Charter School: PK4-8	Crescent City Schools 3 Schools Dorothy Height Charter School: PK4-8 Harriet Tubman Charter School: PK4-8 Mildred Osborne Charter School: PK4-8	Hynes Charter School Corporation 3 Schools Edward Hynes Charter School - Lakeview: PK3-8 Edward Hynes Charter School - Parkview: K-8 Edwards Hynes Charter School - UNO: K-4	Lyceum Schools, Inc. 1 School Delores T. Arthur School for Young Men: 8-11	The Council for Quality Education 1 School Lake Forest Elementary Charter School: K-8
Advocates for Science & Mathematics Education 1 School New Orleans Charter Science and Math High School: 9-12	Educators for Quality Alternatives 3 Schools The NET Charter High School: Central City (Alternative School): 8-12 The NET Charter High School: East (Alternative School): 8-12 The NET Charter High School: Gentilly (Alternative School): 8-12	InspireNOLA 7 Schools Alice M. Harte Charter School: PK4-8 Andrew H. Wilson Charter School: PK4-8 Dwight D. Eisenhower Charter School: PK4-8 Edna Karr High School: 9-12 Eleanor McMain Secondary School: 9-12 McDonogh 35 High School: 9-12 Pierre A. Capdau S.T.E.A.M.: PK4-8	Morris Jeff Community School 1 School Morris Jeff Community School: PK4-12	The Einstein Group 4 Schools Einstein Charter Middle School at Sarah T. Reed: 8 Einstein Charter School at Sherwood Forest: PK4-7 Einstein Charter School at Village de l'Est: PK4-7 Einstein: Sarah T. Reed High School: 9-12
Algiers Charter School Association 2 Schools L.B. Landry High School: 9-12 Martin Behrman Charter School Academy of Creative Arts and Sciences: PK4-8	Elan Academy 1 School Elan Academy: PK4-8	Institute for Academic Excellence 1 School Sophie B. Wright High School: 9-12	NOLA-PS Contract Schools 1 School Travis Hill School: 6-12	Warren Easton Charter High School Foundation 1 School Warren Easton High School: 9-12
Bricolage Academy 1 School Bricolage Academy: PK4-8	FirstLine Schools 4 Schools Arthur Ashe Charter School: K-8 Langston Hughes Academy: PK4-8 Phillis Wheatley Community School: PK4-8 Samuel J. Green Charter School: PK4-8	KIPP New Orleans 8 Schools Booker T. Washington High School: 9-12 Frederick A. Douglass High School: 9-12 John F. Kennedy High School: 9-12 KIPP Believe: PK4-8 KIPP Central City: PK4-8 KIPP East: PK4-8 KIPP Leadership: PK4-8 KIPP Morial: PK4-8	ReNEW 3 Schools ReNEW Dolores T. Aaron Academy: PK4-8 ReNEW Laurel Elementary: PK4-8 ReNEW Schaumburg Elementary: PK4-8	Young Audiences Charter Schools 1 School Young Audiences Charter School at Lawrence D. Crocker: PK4-8
Collegiate Academies 5 Schools Abramson Sci Academy: 9-12 Walter L. Cohen High School: 9-12 G.W. Carver High School: 9-12 Livingston Collegiate Academy: 9-12 Opportunities Academy: 11-12	Institute for Academic Excellence 1 School Sophie B. Wright High School: 9-12	Rooted School 1 School Rooted School: 9-12	Significant Educators, Inc. 1 School Mary McLeod Bethune Elementary Charter School: PK4-8	

BESE: 6 Schools

The Louisiana State Board of Elementary and Secondary Education 6 Schools International High School of New Orleans: 9-12 International School of Louisiana: K-8 Lycee Francais de la Nouvelle-Orleans: PK4-12 New Harmony High: 9-12 New Orleans Military and Maritime Academy: 8-12 Noble Minds Institute for Whole Child Learning: K-8

Other: 1 School

The Louisiana State Legislature 1 School New Orleans Center for Creative Arts: 9-12

2023-2024 OVERVIEW AND CHANGES

OVERVIEW

75 TOTAL SCHOOLS
 COMPARED TO 78 SCHOOLS IN 2022-2023

32 NOLA-PS CMOS

COMPARED TO 35 CMOS IN 2022-2023
 Charter Management Organizations or CMOs are groups that oversee individual or networks of charter schools. Each CMO has its own board. CMOs are responsible for the operations, staffing, finances, and administration of the schools under their purview. They have a contract (or charter) with NOLA-PS, which ensures they are meeting accountability standards.

CHANGES

3 SCHOOL CLOSURES

- Walter L. Cohen College Prep (NOCP)
- Akili Academy of New Orleans (Crescent City Schools)
- Encore Academy (Encore Academy)

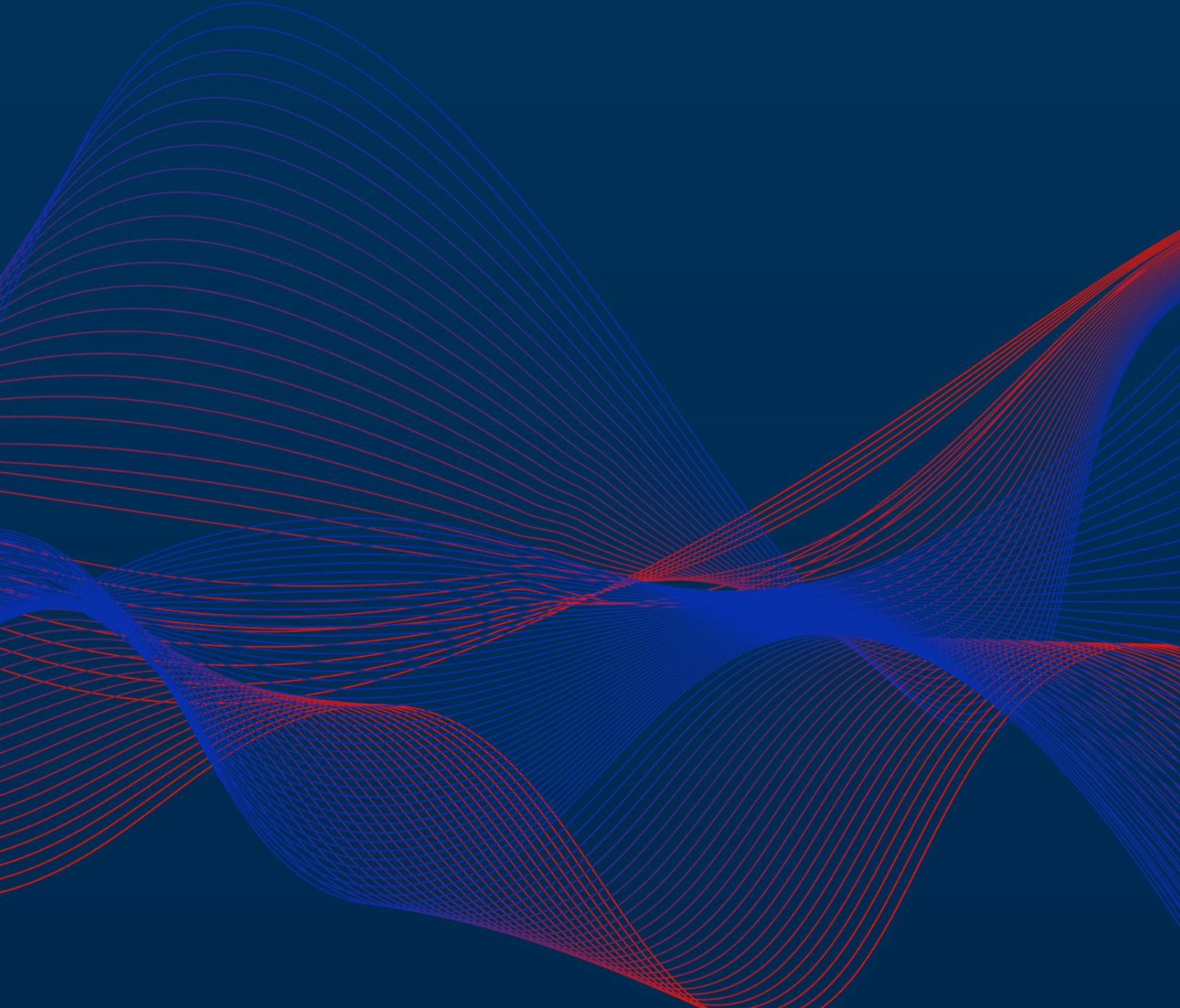
2 SCHOOL MERGERS

- Akili Academy Charter School (Crescent City Schools) and Mildred Osborne (ARISE) merged to become Mildred Osborne Charter School
- McDonogh 42 Elementary Charter School and Pierre A. Capdau Charter School (both of InspireNOLA), merged to become Inspire Capdau S.T.E.A.M.

1 SCHOOL CHANGE

- Rosenwald Collegiate Academy (Collegiate Academies) became Walter L. Cohen High School (Collegiate Academies)

REFERENCES



- 1 *See, e.g.*, Harris, Douglas N. *Charter School City: What the End of Traditional Public Schools in New Orleans Means for American Education*. (Chicago: The University of Chicago Press, 2020).
- 2 *See P.B. v. Pastorek*. Oct. 26, 2010, Case 2:10-cv-04049-JCZ-KWR; *See also* Frazier-Anderson, Pamela N. “Public Schooling in Post-Hurricane Katrina New Orleans: Are Charter Schools the Solution or Part of the Problem?” *The Journal of African American History* 93, no. 3 (2008): 416, <http://www.jstor.org/stable/25609997>; Wolf, Nikki L. “A case study comparison of charter and traditional schools in New Orleans Recovery School District: Selection criteria and service provision for students with Disabilities.” Ph.D. diss., University of Kansas (2008): 79-80, <http://ezproxy.cul.columbia.edu/login?url=https://www.proquest.com/dissertations-theses/case-study-comparison-charter-traditional-schools/docview/287953955/se-2>; Marcell, Elizabeth A. “Choice, Charter Schools, and Students with Disabilities: Special Education Enrollment in Post-Katrina New Orleans Charter Schools. Ph.D. diss., Harvard University (2010): 137, <http://ezproxy.cul.columbia.edu/login?url=https://www.proquest.com/dissertations-theses/choice-charter-schools-students-with-disabilities/docview/857923155/se-2> (accessed February 3, 2024); *See, e.g.* National Public Radio, Morning Edition. “As NOLA Charter Schools Thrive, Tensions Grow.” (March 3, 2009), <https://link-gale-com.ezproxy.cul.columbia.edu/apps/doc/A194914400/AONE?u=columbiau&sid=bookmark-AONE&xid=f95ff342> (as representative of other news stories of the time).
- 3 *P.B. v. Pastorek*. 31. Oct. 26, 2010, Case 2:10-cv-04049-JCZ-KWR;
See also, regarding identification and provision of services: Wolf, Nikki L. “A Case Study Comparison of Charter and Traditional Schools in New Orleans Recovery School District: Selection Criteria and Service Provision for Students with Disabilities. Ph.D. diss., University of Kansas (2008): 62-64, <http://ezproxy.cul.columbia.edu/login?url=https://www.proquest.com/dissertations-theses/case-study-comparison-charter-traditional-schools/docview/287953955/se-2>; Elizabeth Sullivan & Damekia Morgan. “Pushed Out: Harsh Discipline in Louisiana Schools Denies the Right to Education A Focus on the Recovery School District in New Orleans” (2010): 22-23, https://www.nijn.org/uploads/digital-library/resource_1587.pdf.
See also, regarding alarming suspension rates: Louisiana Department of Education. “State Performance Plan / Annual Performance Report: Part B for State Formula Grant Programs under the Individuals with Disabilities Education Act FFY 2020” (February 1, 2022): 26, <https://sites.ed.gov/idea/files/LA-B-SPP-FFY20.docx>. (Stating that in 2005, 26.50% percent of local educational agencies (LEAs) in Louisiana had “significant discrepancy, as defined by the State, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs”.); Danielle Dreilinger. “Unrelenting New Orleans special education problems alleged in new court filings.” *The Times-Picayune* (Aug 3, 2013), https://www.nola.com/news/education/unrelenting-new-orleans-special-education-problems-alleged-in-new-court-filings/article_c017c882-0509-5591-b773-2972f77a1371.html (Stating that “[i]n 2010, 2011 and 2012, the state found that six Recovery School District traditional schools and 14 Recovery School District charters -- including Sarah T. Reed, Joseph Clark High School and schools in the New Beginnings and New Orleans College Prep networks -- failed to sufficiently protect students with disabilities against illegal discipline.”)
See also, regarding lack of choices for students with disabilities: Lanya McKittrick, Robin Lake, and Roohi Sharma, Center on Reinventing Public Education. “Special Education and School Choice in New Orleans.” (December 2019) 4: <https://files.eric.ed.gov/fulltext/ED602921.pdf>. (Stating that the school choice process puts the onus on New Orleans parents “to be knowledgeable about special education and to understand their rights. . . [though] it is not easy to navigate a decentralized system where families are not assigned to any neighborhood school by default.”)
- 4 *P.B. v. Pastorek*. Consent Judgment March 25, 2015 Case 2:10-cv-04049-JCZ-KWR, https://www.splcenter.org/sites/default/files/d6_legacy_files/downloads/case/pb_order.pdf
- 5 *See generally*, Louisiana Department of Education. “Division of Statewide Monitoring--IDEA Monitoring Rubric SY 2018-2019,” accessed December 21, 2023: 1-2. (On file with CPRL); Louisiana Department of Education. “Title 28 Education Part LXI. Bulletin 1573—Complaint Management Procedures.” (July 2003), <https://www.doa.la.gov/media/5dbdmcj1/28v61.pdf>; Louisiana Department of Education, “Dispute Resolution for Students with Exceptionalities,” accessed December 20, 2023,
- 6 *See generally*, NOLA Public Schools. “2023-2024 Charter Request for Applications: New Operator Charter Application.” (2023), <https://nolapublicschools.com/documents/nola-ps-new-operator-charter-application/download>; NOLA Public Schools. “Charter School Accountability Framework.” (August 14, 2023), <https://nolapublicschools.com/documents/opsb-charter-school-accountability-framework-5-18-18/download>; NOLA Public Schools. “Special Education Authorization Monitoring and Support Summary.” (2023), (On file with CPRL).

- 7 See O'Neill, Paul et al. "Serving Students with Disabilities in Charter Schools: Legal Obligations and Policy Options," 169 Ed. L. Rep. 1, 3-4 (2002); see also Morse, Timothy E. "New Orleans Unique School Reform and Its Potential Implications for Special Education," 42 Educ. & Urb. Soc'y (2010): 168, 177; see also Cowen Institute for Public Education Initiatives. "The State of Public Education in New Orleans 2013 Report" (2013): 8, 28, <https://files.eric.ed.gov/fulltext/ED588045.pdf> (stating that "[e]ven as new solutions are put in place, the decentralized system of schools in New Orleans poses ongoing challenges. With each charter operator responsible for purchasing services such as food, transportation, and special education, the lack of economies of scale can keep costs high." (p. 8) Also noting that "though the state provides some additional funding for students with disabilities, small schools often lack the economies of scale to fully serve the wide range of student needs in their buildings." (p. 28))
- 8 See, e.g., Harris, Douglas N. *Charter School City: What the End of Traditional Public Schools in New Orleans Means for American Education*. (Chicago: The University of Chicago Press, 2020).
- 9 See *P.B. v. Pastorek*. Oct. 26, 2010, Case 2:10-cv-04049-JCZ-KWR; See also Frazier-Anderson, Pamela N. "Public Schooling in Post-Hurricane Katrina New Orleans: Are Charter Schools the Solution or Part of the Problem?" *The Journal of African American History* 93, no. 3 (2008): 416, <http://www.jstor.org/stable/25609997>; Wolf, Nikki L. "A case study comparison of charter and traditional schools in New Orleans Recovery School District: Selection criteria and service provision for students with Disabilities." Ph.D. diss., University of Kansas (2008): 79-80, <http://ezproxy.cul.columbia.edu/login?url=https://www.proquest.com/dissertations-theses/case-study-comparison-charter-traditional-schools/docview/287953955/se-2>; Marcell, Elizabeth A. "Choice, Charter Schools, and Students with Disabilities: Special Education Enrollment in Post-Katrina New Orleans Charter Schools. Ph.D. diss., Harvard University (2010): 137, <http://ezproxy.cul.columbia.edu/login?url=https://www.proquest.com/dissertations-theses/choice-charter-schools-students-with-disabilities/docview/857923155/se-2> (accessed February 3, 2024); See, e.g. National Public Radio, Morning Edition. "As NOLA Charter Schools Thrive, Tensions Grow." (March 3, 2009), <https://link-gale-com.ezproxy.cul.columbia.edu/apps/doc/A194914400/AONE?u=columbiau&sid=bookmark-AONE&xid=f95ff342> (as representative of other news stories of the time).
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 See also, regarding lack of choices for students with disabilities: Lanya McKittrick, Robin Lake, and Roohi Sharma, Center on Reinventing Public Education. "Special Education and School Choice in New Orleans." (December 2019) 4: <https://files.eric.ed.gov/fulltext/ED602921.pdf>. (Stating that the school choice process puts the onus on New Orleans parents "to be knowledgeable about special education and to understand their rights. . . [though] it is not easy to navigate a decentralized system where families are not assigned to any neighborhood school by default.")
- 11 *P.B. v. Pastorek*. 31. Oct. 26, 2010, Case 2:10-cv-04049-JCZ-KWR; see also Southern Poverty Law Center. *P.B. Et al. v. Brumley*, accessed February 10, 2024 <https://www.splcenter.org/seeking-justice/case-docket/pb-et-al-v-brumley> (noting that *P.B. v. Brumley* is the current case name though originally filed as *P.B. v. Pastorek*, and including links to several publicly available filings).
- 12 *P.B. v. Pastorek*. Consent Judgment (March 25, 2015) Case 2:10-cv-04049-JCZ-KWR, https://www.splcenter.org/sites/default/files/d6_legacy_files/downloads/case/pb_order.pdf

- 13 *See generally*, Louisiana Department of Education. “Division of Statewide Monitoring--IDEA Monitoring Rubric SY 2018-2019,” accessed December 21, 2023: 1-2. (On file with CPRL); Louisiana Department of Education. “Title 28 Education Part LXI. Bulletin 1573—Complaint Management Procedures.” (July 2003), <https://www.doa.la.gov/media/5dbdmcj1/28v61.pdf>; Louisiana Department of Education, “Dispute Resolution for Students with Exceptionalities,” accessed December 20, 2023, <https://www.louisianabelieves.com/students-with-disabilities/dispute-resolution>.
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- 192 It is important to reiterate here that our description of LDOE’s monitoring and complaints management system is based on documents and information that is publicly available on LDOE’s website or that have been produced in the context of the *P.B. v. Pastorek* litigation. SPLC provided a list of these documents to LDOE and requested that LDOE provide any additional policies, procedures, and/or practice guidance documents for its monitoring and complaints management system that were not included on the list. To date, we understand that LDOE provided no additional documents.

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- 204 Louisiana Department of Education, "IDEA Self-Assessment Monitoring Guide: 2018-2019," accessed December 20, 2023: 3, https://www.louisianabelieves.com/docs/default-source/students-with-disabilities/self-assessment-tool-2018-2019.pdf?sfvrsn=e-b059e1f_3.
- 205 Louisiana Department of Education, "IDEA Self-Assessment Monitoring Guide: 2018-2019," 7.
- 206 Louisiana Department of Education, "IDEA Self-Assessment Monitoring Guide: 2018-2019," 8.
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- 226 La. Admin. Code tit. 28, pt. XCI, § 309 (2017).
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