ABL O CON   N

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ABL O A O
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TABLE OF AUTHORITIES
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M C

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C F R

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C F R

C F R

C F R

C F R

Fed R C P

L M NA Y   A   M N

n he f er   h of   rr c ne   r n   he Lo s n Dep r   en of Ed c   on h s

fforded o he r peers ho c d s ⬤ es nd hey c n no onger   o see   n end o he

e Defend n s neg ec   nd n c on

phe ⬤re d h nd e en of he   e Defend n s   o   ons of he r gh s of s den s   h

d s ⬤   es s ref ec ed n P   n ffs se en proposed s ⬤c sses E ch s ⬤c ss con ends h

s ng e po cy or pr c ce of he   e Defend n s h s res ed n   despre d o   ons of r gh s

g r n eed ⬤y he DEA ec on   or p e   P n ffs respec f y req es h   he Co r

cer fy he r proposed s ⬤c sses

OC D ` AL  O `

P n ffs co ▼   A o ▼   ▼ ʃp R   r   s c pes n o   fey ▼

)3.15789(q)-10.97536(a)3.15789(c)3.150.18l2(D)0.622527(E)-10.18of EA, P375976(I)12.3882(D)0.6225( )-0.478208

▼ ▼

Under *Wal-Mart* he co   on   y nq ry foc ses on he n for   y of he defend n s

 c ons or n c ons   C   n c ses n o   ng he r gh s of nd d s   h

d s   es co   on   y s de ons r ed   here he defend n   c s or f s o c n   y

  n for   y ffec ng he en re c ss reg rd ess of ne   e   r   ons n he ypes nd se er y

of d s   y   ong c ss   e   ers *See, e.g. Lane v. Kitzhaber*   F R D   D Or

h s he ze nd co pe ence o represen he c ss h he proposed c ss represen e

de ons r es he ngness nd b y o e n c e ro e n nd con ro he g on nd

h no conf c s of n eres e s] be een he

ss e of c ss cer f c on spec f c y co on y for proposed c ss of ch dren eg ng sys e c f res nd s r c r def c enc es n pe s fos er c re sys e *M.D.*

F d h e he F f h C rc den ed cer f c on of h descr bed s he p n ffs orpho s s per c he co r e pressed ppro for cer f c on hro gh he se of s bc sses e press y dop ng he ppro ch fo o ed by he econd C rc n *Marisol A. v. Giuliani* F d d C r *See M.D.* F d n h c se he econd

BCLA ¶ Present and future New Orleans residents who have requested b no been provided with special education ... on and ns ... d g ... ec on
P n

Representative Plaintiffs: P B A D p nd

BCLA ¶ Present and future New Orleans residents h d s b es ending R D d rec r n or type ch r er schoo s ho h e been or be re o ed for ore h n d ys n schoo ye r ho he e y pro s on of he d sc p n ry s feg rds req red by he DEA

Representative Plaintiffs: D B L M nd L

BCLA ¶ Present and future New Orleans residents h d s b es ho h e no or no be pro ded re ed ser ce h s con ned n he r nd d zed Ed c on Progr s EPs

Representative Plaintiffs: N F nd L M

BCLA ¶ Present and future New Orleans residents h d s b es ho h e been

F pp d   D D C   Moreo er   s e es ▮ shed h p ren s h e

c se of c on o enforce h s o▮ g   on nder he DEA *Forest Grove Sch. Dist. v. T.A.*

M

        h e EAs yp c   y de eg e he e ec   on of spec f c Ch d F nd c   es o oc

ed c on   genc es LEAs   h s does no re e he   e Defend n s of he   e

s   ory respons ▮ y o ens re h Ch d F nd s   p e   en ed *See Forest Grove Sch. Dist.,*

        M   q o ng   M C   *Schaffer v. Weast*   M

Hawkins ex rel. D.C. v. District of Columbia   F   pp   d   D D C

        phe   e Defend n s h e ▮d c ed he r ff r   e Ch d F nd respons ▮   es for

Ne Or e ns s den s n hree   ys   ▮y f ng o   p e en   co prehens e Ch d F nd

po cy h ens res h   s ng e Ne Or e ns en   y s respons ▮ e for den fy ng nd e   ng

s   den s r ns   on ng ▮e   een schoo s or re no enro ed n   schoo   ▮y enforc ng   po cy

 n con r en on of he DEA req r ng s den s o co p e e   Response o n er en on

progr   ▮efore ▮e ng e   ed for spec   ed c   on e g ▮   y nd   ▮y doc   en ng nd

sys e   c   s   ng   For so   e ch r er schoo s   he

o r h E p Rep   phe   e Defend n s h   e s ed h   ny co n s h   ry o

fro   hese s e de den f c on] percen ges re orr so e o s E   ph s he o er

r e of Ne Or e ns s den s   h d s   es s ppor s n nference h spec ed c on nder

den f c on s occ rr ng nd ffec ng s ze   e pop   on of s den s

Add on y s den s n Ne Or e ns r ns on   e een LEAs   ery h gh r es E

O er   LEAs s   e s   of he r s den pop   on r ns on o   e een

he   nd he   schoo ye rs   e n ng h   hey e her enro ed n ne LEA

or ere s   p y no enro ed n Ne Or e ns p   c schoo   o e schoo s repor ed p r c   r y

h gh r ns on n   bers For e   p e   ohn McDonogh Ch r er choo   ppro   e y

s den s   d d no reenro   nd   oseph   C r Ch r er choo   ppro   e y

s den s   d d no re enro *Id*   B sed on he n   ber of

n den f ed s den s n Ne Or e ns nd he n   ber of ch dren   ho r nsfer   e een LEAs

he co   on sense ss   p on s h   h s s   c ss s s ffc en y n   ero s o s   sfy R e

s e de Ch d F nd reg ory sche e h on s f ce o es he r gh s of nenro ed nd

r ns on ng s den s n he decen r zed Ne Or e ns sys e the represen e P n ffs

c s r se he fo o ng co on con en ons h re c p le of c ss de reso on

> he her he e Defend n s h e f ed o pro g e nd enforce Ch d F nd
> po cy o ens re h e ery ch d h d s l y n Ne Or e ns ho s no n
> schoo or ho s r ns on ng le een LEAs s den f ed oc ed nd e ed

> he her he e Defend n s f re o pro g e nd enforce n for Ch d
> F nd po cy h s res ed n he s lc ss e lers le ng den ed he oppor n y o
> le den f ed oc ed nd e ed

 the e Defend n s f re o pro g e co prehens e Ch d F nd po cy for Ne

Or e ns n q e decen r zed s r c re s he g e n ng he s lc ss s f c nd eg

c s *See Wal-Mart* C *see also M.D.* F d ho d ng h

p ern or pr c ce of gency c on or n c on nc d ng f re o correc s r c r

def c ency h n he gency s s ff c en o gener e co on c ss c

F r her ore reso on of hese co on con en ons does no req re nd d zed

de er n ons lo he P n ffs e g l y for spec ed c on R her he proposed c ss

e lers h e s ffered he s e n ry hey h e been depr ed of he ery oppor n y o le

den f ed nd e ed f er ng s ch req es lec se no one en y ens res h h s

occ rs th s n ry c n le re ed ed hro gh s ng e n nc on order ng he e Defend n s o

de e op co prehens e Ch d F nd po cy ens r ng h e s one en y h s respons l y o

r ns   on   ong LEAs re oc ed nd e   ed *See Lane*   F R D

B   e pon e   n   en on   c

P   n ffs req es h   h s Co r cer fy s c ss of *present and future New Orleans students who have requested but not been provided with a special education evaluation because they have not completed a "Response to Intervention" program.* P   n ffs P B   nd A   re he n ed represen   es for h s s c ss he c   co   on o he s c ss s h   he   e Defend n s h   e pro   g ed po cy   n con r en on of he DEA req r ng s den s o co p e e   Response o n er en on   R p   progr   before rece ng n e   on for spec   ed c on e g y   ph s po cy pre en s Ne Or e ns s den s fro   rece   ng he spec   ed c on e   ons o h ch hey re en   ed nder he DEA

R p s gener   ed c on progr   o pro de rese rch sed n er en ons for s r gg ng s den s ho re f ng o respond o rd on c ssroo   ns r c on *See generally Michael P. v. Dep't of Educ.*   F d   h C r   Mos R p   ode s n o e hree

Despite the DEA's clear Child Find mandate and OSEP's guidance to the contrary, Louisiana has a policy explicitly requiring students to participate in the RtI process before receiving an initial evaluation for special education under the LEA. A specific Louisiana policy states that each LEA shall identify students as suspected of having disabilities *only after* the student has participated in an RtI process that produces sufficient data for the School Building Level Committee] to recommend that a comprehensive individual evaluation be conducted under the LEA. As emphasis is added:

The effect of this policy is that New Orleans students with disabilities are being conditioned on entering school information that no eyers in the RtI process who are being evaluated in accordance with the DEA and the other requests for DEA evaluations denied in the RtI process runs its course as

LDOE enforces and New Orleans LEAs implement this unlawful policy[

• As March LDOE's new system for school districts services that LDOE has] received many inquiries from parents whose children have been diagnosed as] and the school districts refuse to evaluate them as the students have progressed through tiers of intervention. The new system especially discusses LEAs to more fully engage in RtI as so that students should give responses and progress through the process in accordance with the policy in conflict with the DEA LDOE explains that fully engaged parents are highly unlikely to obtain evaluations districts for failure to comply with the DEA E

• LDOE's RtI Coordinators stated in an email that teachers in general agree when it would be inappropriate to evaluate the RtI process requirements unless the school building level committee] evaluates that this strong evidence to indicate that the student has no coincidence disability E

• The R D's RtI policies states that for interventions that have been implemented with integrity for the prescribed period of time that how effective results she very

e   ne he ppropr eness of referr ng he s den for n e   on for spec
ed c on ser ces E   DEF   As res   of he R D s s den s
ng sh n he os n ens e er of R͞p p̄ er   desp e he R D s recogn on h
he de r e s of s den s n p̄ er   no ore h n   E   DEF

Co po nd ng he h r o ch dren n he proposed s b c ss R͞p s no proper y

p e en ed n Ne Or e ns s e denced by repor fro he Lo s n pec Ed c on

Or e ns s den s   be referred o he R p process E   And s no ed bo e   of

R D s den s n he R p process re n p er   nd bes pr c ce nd c es h   he p er

s den s re hose os   e y n need of n DEA e   on ph s   co   on sense

ss   p on s h of he   ny h ndreds of Ne Or e ns s den s n R p   nc d ng hose

ng sh ng n p er   ho   n DEA referr   e o er   s den s re en   ed o h e

no rece ed   spec   ed c on e   on *See Susan J.*   F R D   *R.P.-K. ex rel.*

C.K. ⊤ F R D   ⊤   Moreo er he proposed s bc ss nc des f   re n no n s den s

ng o nder   pr c c e *See Jack*   F d   *Jones*   F d

⊤ ⊤

s DEA e   on po cy *Wal-Mart*   C

yp c

phe c   s of he represen   e P   n ffs P B   nd A   re yp c   of he proposed

s bc ss n h   h e een s   r y den ed   spec   ed c   on e   on h e hey re

req   red o co   p e e he R p process   ph s n ry s e   s fro   s ng e po cy   nd h s he

The DEA and section   re co p e en ry s   es n h   hey bo h se ob g ons pon p b c schoo s for s den s   h d s b es   o e er he ey d fference s h   DEA e g b   y e ends o s den s hose d s b es d erse y ffec he r c de c perfor nce ec on   se s no s ch s nd rd F r her ore he s   es h e d fferen go s nd d fferen s b s n e nd proced r req re en s As descr bed *infra* p   ec on   s n n d scr n on s   e   h he pr nc p ob ec e of ens r ng h   nd d s   h d s b es rece e he s e re   en s hose   ho d s b es free of he pre d ced   des or gnor nce of o hers *School Bd. of Nassau Cty. v. Arline*   M   See also M C   *Traynor v. Turnage*   M   *Chandler v. City of Dallas*   F d

he s   ory sche e he schoo d s r c s no free o choose h ch s   e prefers   f

s den s e g ● e nder DEA ppropr e ser ces   sh ● e pro ded *Yankton Sch. Dist. v.*

Schramm F d   ⌐ h C r   ⌐ ● he EA ● e rs   e respons ● y for

ens r ng h LEAs re co p y ng   h he DEA s Ch d F nd req re en s h ch nc des

ens r ng h LEAs re no d sreg rd ng hese o ● g   ons n f   or of he ess r goro s nd o er

cos ec on   e g ● y process E   B son Dep   ⌐ λ

⌐ ● he   e Defend n s h e ho y ● d c ed he r   on or ng nd co p   nce

respons ● es   h respec o he proposed s ● c ss ⌐ ● he   e Defend n s on y   on or he

  e ness   h h ch LEAs co p e e spec   ed c on e   ons hey do no   on or

 he her s den s   h d s ● es re e er den f ed or oc ed n he f rs p ce E   Coo

 ● Dep   λ   λ   λ   λ   E ⌐ Bo on ● Dep ⌐ ⌐ λ   ⌐ λ

λ

⌐ ● he   e Defend n s h e ong ● een on no ce h Ne Or e ns LEAs sys e c y

 o er re y on ec on   P ns o   o d pro d ng req red spec   ed c on e   ons λ

  • A   repor ● y he Ed c on   ppor ys e s on   Ne Or e ns ch r er schoo s
    fo nd h   n s on sh ng n ● er of   p ns h d

n s o nd ng of s s den s LDOE recogn zed h]here ppe rs o be rge n ber] of R D schoo s h ery h gh n bers *Id.*

P n ffs e per Dr o r h conc ded h h s proper o er re nce by Ne Or e ns LEAs

on ec on p ns con r b es o he sys e c nder den f c on of Ne Or e ns ch dren

nder he DEA E o r h E p Rp phe e per ences of he n ed P n ff

represen es s r e he prob e

•

e ers   ng o nder pres   p e y   pr c c e

Co   on y

he proposed s c ss s sf es he co   on   y req re en ec se s c   s sh re
co   on con en on he   e Defend n s h e f ed o   on or or o her   se correc he Ne
Or e ns LEAs desp e e ng on no ce h Ne Or e ns LEAs   ere n ppropr e y re y ng on
ec on   p ns n e of cond c ng DEA e   ons h s n c on o es he   e
Defend n s e p c o g on o ens re h s den s h d s es re den f ed oc ed
nd e   ed *See supra* p   C]o   on ss es r se here defend n s h e c ed or f ed
o c n for y o rd he proposed c ss sed on he r po c es nd c of po c es n p ce

N.B. ex rel. Buchanan v. Hamos   L   N D   M y

LDOE s f   re o   on or nd correc he sys e c   s se of ec on   P ns n Ne
Or e ns nd o ens re co p   nce   h DEA s Ch d F nd   nd es pro des he g e   n ng
P n ffs f c   nd eg c   s *See Wal-Mart*   C   he s c ss s c   s
so gener e co   on ns er   h s ng e n nc on h s Co r c n req re he   e
Defend n s o   on or Ne Or e ns LEAs   se of ec on   P ns nd ens re h   ec on
P ns re no   sed s s s e for cond c ng   ore r goro s DEA e   ons

yp c y

yp c y s s sf ed ec se he represen   e P n ffs P B A   D p nd
possess he e   c   Defenpe   c
s Defe   ofe   p pp n   n e s   d P   Mo   en

Adeq cy o ep e en on

For he re sons s ed *supra* p he P n ffs nd nders gned co nse f r y

nd deq e y pro ec he n eres s of he s bc ss P n ffs nd he s bc ss possess n

den c n eres n he e Defend n s on or ng Ne Or e ns LEAs for he r se of ec on

P ns nd ens r ng hey h e no been s bs ed for cond c ng DEA e ons

Co r s recogn ze h c ss re en nder R e b s p r c r y ppropr e n

c ses s ch s h s one h see sys e c refor of go ern en gency s po c es nd

pr c ces *See Jones v. Diamond*

choo s h   e h s or c   y sed he d sc p n ry process o e c   de or p sh o   s   den s for

beh   or   n fes   ons of he r d s b   es

ch r er schoo s o pro de hese fo r d sc p n ry s feg rds ♭ LDOE h s f ed o e

e n ngf re ed c on As he res of on s e DEA on or ng s s LDOE c ed he

R D d rec r n schoo s for sys e c non co p nce h he DEA n he fo o ng re s

•

more than generous in not noting non-compliance." E   e ph s s dded   A depos on

LDOE d   ed h s   s   proper E   McE   ee Dep

phe   e Defend n s req red he R D d rec r n nd pype ch r er schoo s o

p e en hree consec   e correc e c on p ns o ddress he r   despre d non co p nce

h he DEA s d sc p n ry s feg rds b   hese LEAs con n   y f   ed o de ons r e

pro e en   *See* E   *see also* E   o   r h E p Rp   n f c   n Feb r ry

LDOE no ed   L   e progress h s been   de by

R D d rec r n nd type ch r ers ongo ng sys e c nonco p nce he e Defend n s dr s c y sc ed b c he r DEA on or ng c es nd co p nce e s res F rs LDOE red ced he scope of he type ch r ers CAP Or g n y he CAP pp ed o type ch r ers n Ne Or e ns E McE ee Dep B n h gh r n ng LDOE off c s s p y dec ded n er y nd ho d sc ss on h he CAP o d no pp y on y o he dozen nd d ch r ers h LDOE on ored on s e nd c ed for non co p nce E McE ee Dep ph s c re o ed o er Ne Or e ns LEAs fro he scope of he n ens e correc e c on p n

econd n he schoo ye r LDOE s opped s on s e DEA on or ng progr oge her nd no re es so e y on p per b sed re e s no n s des d s o s sfy s DEA on or ng ob g ons E McE ee Dep E Osborn Dep ph s ne y dop ed po cy s nd rec conf c h s e reg ons on DEA co p nce on or ng A des d pro des no e dence h proced r s feg rds re c y p e en ed E McE ee Dep E o r h E p Rp n s ch ng o des d sys e LDOE spec ed c on s ff no ed h benef of re o ng on s e on or ng s o e e h gh o e of LEAs fro go ng nder CAPs E

M s ng des d LDOE c e red he R D d sc p n

d sc p n ry s feg rds   ongs R D d rec r n nd ̄ρype   ch r er LEAs For ns nce he

R D d rec r n nd ̄ρype   ch r er LEAs   p c ed n he   CAP re o ed   s den s

h d s ♭   es hro gh o   of schoo s spens ons d r ng he   schoo ye r E   And

n de er   n ng ongo ng non co p nce n Feb♭r ry   LDOE re ed pon   s den records

nd c ed o er one h ndred s den   o   ons ♭ sed on hose records E   DEF   ̄

̄ρh s he proposed s ♭c ss   h ch nc des n no n f   re   e ♭ers s s ff c en y

n   ero s o render   o nder   pr c c ♭ e

Co   on   ̀y

̄ ̄

s den   h d s   y ho h s een re o ed   ore h n en d ys n   schoo ye r   nd h s

reso   on of he s   c ss s c   does no req re nd   d   zed de er   n ons

yp c   y

he proposed s   c ss s   sf es he yp c   y req re en   bec se n   ed P   n ffs D B

L M   nd L   h e s ffered he s   e n   ry s he proposed s   c ss   depr   on of he

 DEA s d sc p n ry s feg rds   nd sh re   co   on n eres n ens r ng h   he   e

Defend n s co p y   h he r d y o rec fy he sys e   c f   res o pro de s ch s feg rds n

also Doe v. Maher F d   h C r   *Todd D.,*   F d

n h s c se he   e Defend n s h e orches r ed he cre   on of   ndependen LEAs

n co p c r n re   e   ng e ch LEA f   y respons b e o d rec y pro de   re ed

ser ces con e   p ed nder he   *See Kruelle v. New Castle Cnty. Sch. Dist.*   F d

d C r   A   yp c   schoo   d s r c   benef s fro   econo   es of sc e spre d ng

cos s   nd org n z ng ser ces   cross   p e schoo s *See* Rober A G rd *Culture Clash:*

Special Education in Charter Schools   N C L Re   M rch   o e er e ch

nd d   Ne Or e ns LEA   h   ed s ff nd reso rces   s b e b e o pro de he f

rr y of re   ed ser ces for ny s den   h d s b y ho enro s on ny g en d y G rd

N C L Re   e Defend n s re f y   re h   he de   ery nd   b y of

re   ed ser ces n he Ne   Or e ns LEAs presen s   s gn f c n probe

N F   nd L M h   e e per enced hese prob e s

- P   n ff N F s EP c   ed for or en   on nd   ob y ser   ces nd   ded c   ed

by he Defend n s n c on by no rece ng one or ore re ed ser ces h he r EP e

de er ned   s necess ry As descr bed bo e P n ffs req es ed n nc e nd dec r ory

re ef ddresses he c   s co   on o he s bc ss

CO   O LD C   Y LA N   O   O O   D

As den h d s b y c n es b sh c nder ec on nd p e n he ed c on con e by sho ng h he h s been den ed re son b e cco od ons necess ry o rece e he f benef s of he schoo progr *Stewart* F d s er he her he p b c en y e p c y ref sed o e re son b e cco od ons or s p y eng ged n profess on y n s f b e cond c *Id.* ch profess on y n s f b e cond c nc des b o h ff r e c s nd he f re o c *Id.*

phe e Defend n s h e f ed o co p y h he r respons b es nder ec on nd p e n o ys he e Defend n s h e f ed o ens re h Ne Or e ns schoo s co p y h he n d scr n on nd es of ec on nd p e n he schoo enro en process nd he e Defend n s ho con ro he b d ngs nd he nd pon h ch he s or y of Ne Or e ns schoo s oper e h e f ed o re edy he sys e c s r c r b rr ers nh b ng s den s h o b y re ed d s b es fro cce ss ng hose ed c No h c opp er n p e o b p d r n d p s

As p c rec p en of feder f nds he e D

h e   hor zed nd d   Ne Or e ns ch r er LEAs o   e ndependen enro   en

dec s ons   h ch n rn en b es LEAs o deny or d sco r ge s den s   h d s b   es fro

pp y ng P ren s of s den s   h d s b   es re s gn f c n y d s d n ged b y h s sys e   nd

re forced o s   p e schoo s n order o f nd n LEA h s   ng o ccep nd s

c p b e of ser ng he r ch d E

    phe   e Defend n s h e perpe   ed he d scr   n

c se b s s e   ng he go   of p r sh   de non d scr   n ory enro   en nreso ed P n ffs

e per Dr   o   r h re   ed he record of enro   en d scr   n on co p ns nd   e

Defend n s   c ons nd conc ded h   Ne   Or e ns LEAs c n   rn   y or d sco r ge

s den s fro   pp y ng   h   p n y bec se by n   re nd ery   e y by des gn   ny

 ns nces of h s ype of d scr   n   on go nrepor ed   E   o   r h E p Rp

        F r her ore he   e Defend n s perpe   ed scr   n ory enro   en pr c ces by

f   ng o ens re h   Ne   Or e ns LEAs pro de he s   e ed c   on   op ons o s den s   h

d s b   es s re pro ded o gener   ed c   on s den s   pec f c   y P n ffs e per Dr

   e Me d conc ded h   he   e h s f ed o ens re n for   y n he   b   y of spec

ed c   on nd re   ed ser ces   h ch ncre ses nc den s of LEA d scr   n ory enro   en

pr c ces E   Me d E p Rp   F nd ng s gn f c nce n he o   ch r er enro   en of

 he os se ere y d s b ed ch dren Dr Me d fo nd   corre   on   h ch r er con ro o er

progr   ng nd he p ch or of re d y   b e ser ces   n he Ne   Or e ns ch r er

LEAs *Id.*   P ren s see   ng enro   en   d sco er h   Ne   Or e ns ch r er LEA

does no h e   b e he re   ed ser ces req red for he r ch dren   h ch n   rn c ses he

ch r er o nfor   nq r ng p ren s hey re no c rren y eq   pp

co p n s s e y f r ess h n he n ber of ch dren ho h e c y e per enced

d scr n on E o r h E p Rp B sed on hese n bers co on sense

ss p on s h h s s b c ss s s ff c en y n ero s o s sfy R e *Susan J.*

F R D

    F r her ore o nder s pr c c b e bec se he proposed s b c ss nc des n

n no n n ber of f re e bers nd ro ng e bersh p s s den s s nn y see

enro en or re enro en n Ne Or e ns LEA *See, e.g. Jack,* F d *J.D. v.*

Nagin F R D

Co on y

    T he e Defend n s h e f ed o deq e y on or Ne Or e ns LEAs co p nce

h e c on nd p e nd h e f ed o pro g e nd enforce correspond ng po c es

nd pr c ces o ens re LEA co p nce T h s he

d scr   n   on s hey   e p o pp y or enro   n Ne   Or e ns schoo s *See Wal-Mart C*

yp c   y

The c   s of P   n ffs P B   N F   nd M M   re yp c   of he s   c ss   ec   se hey h   e s ffered he s   e n   ry   den   of eq   ccess o p   c ed c   on n Ne   Or e ns on he   ss of d s   y   den s   h n h s s   c ss c n on y   end he schoo s n Ne   Or e ns

ng o enro   he   n f c   he n   ed P   n ffs e per ences   rror he co   p   n s rece ed   by   e Defend n s fro   Ne   Or e ns f   es of s   den s   h d s   es *See supra* p   .

Adeq   cy o   ep e en   on

For   he re sons s   ed   *supra* p   he P   n ffs nd   nders gned co   nse   f r y   nd   deq   e y pro ec   he n eres s of he s   c ss   P   n ffs nd he s   c ss possess   n   den c   n eres n he   e Defend n s ens r ng h   Ne   Or e ns LEAs   n   n non d scr   n   ory enro   en pr c   ces

The   e Defend n s h   e   c ed on gro nds gener   y   pp c   e o he c ss   here   y   ng f n   n   nc   e nd correspond ng dec r   ory re ef   ppropr   e for he c ss s   ho e P   n ffs nd he proposed s   c ss do no see   one ry d   ges or nd d   zed n nc   e re ef   ns e d P   n ffs req es h   he Co r order he   e Defend n s o de e op   p   n for   on or ng   nd enforc ng Ne   Or e ns LEA co   p   nce   h e c on   nd   e

B   y c Acce   y   c

P   n ffs req es h   h s Co r cer fy   s   c ss of *present and future New Orleans students with mobility impairments who have been or will be denied access to the programs and services of a New Orleans LEA as a result of structural or architectural barriers.* For p rposes of c ss cer f c   on s   den s   h o   y   p r   en s   re hose s   den s   ho se   hee ch rs

be to other children. E   The non father testifies that where schools offering different curricula or instructional techniques are available, the range of choice provided to students should be as broad as or broader than that offered to other students. Id. Moreover, the apparent choice of students should be in school district services are does not encompass the school district from making the appropriate steps are necessary to ensure that its program services and classes are accessible to qualified disabled students. Id.

Here the State Defendants have created a public education system in New Orleans in which charter schools serve as standalone independent LEAs with no scer n be geographic service area. Compl. By abolishing any school system to create a system of independent LEAs the State can no longer scer the each charter accessible schools throughout a single New Orleans service area. The State Defendants have an affirmative obligation to ensure that each LEA in New Orleans is accessible by students that end by y.

Furthermore the State Defendants authorized each of these independent LEAs to offer unique educational programs with array of specialized curricula in areas such as science, technology, business or the arts. By definition these charter schools have complete autonomy over their budget, the hiring and firing of staff, programs curricula schedule and other operations of the school. E Because these schools each offer different curricula or instructional techniques they have an obligation to ensure that the range of choice provided to students should be as broad or as comparable to that offered to other students. E

The State Defendants have decentralized decision making control with respect to the physical accessibility of its New Orleans school facilities. Not only have the State Defendants designed and implemented the current system they also control the buildings and the land upon

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h ch   schoo s n Ne Or e ns   h he e cep on of he OP B schoo s oper e Mnder he

T   T

E en c rsory oo he *New Orleans Parents' Guide to Public Schools: Spring 2013 Edition* sponsored n p r by LDOE nd he R D s r es he dr s c y ed schoo op ons for s den s h o y p r en s *See* E Accord ng o he G de o er h f of he ype ch r er schoo s n Ne Or e ns represen ng LEAs re n ccess e o s den s h o y p r en s s re ype ch r er schoo s n he P r sh phe G de f r her nd c es h here re no R D d rec r n schoo s he on y e r n schoo s n Ne Or e ns ho enro en c ps ccess e o s den s h o y p r en s

phe e per ence of n ed P n ff M M pro des e ng e p e of ho he e Defend n s f res h e ffec ed he proposed c ss

- P n ff M M den f ed nder he DEA s s den h p ed s es s
  non ory req r ng he se of hee ch r M M s o her s ed s d fferen
  schoo s h ere ne r her ho e n n e p o den fy n ccess e schoo On
  p e occ s ons she s o d h he schoo d d no h e ny e per ence or s
  o her se eq pped o ser e M M A one schoo L f ye e Ac de y M M s o her
  s o d h he schoo s s c h o o

N e o y

ph s s c ss s s ffc en y n ero s o e o nder pr c c b e Accord ng o he

e Defend n s d s den s n Ne Or e ns p b c schoo s ere den f ed s

s den s h or hoped c p r en s nder he DEA nd n dd on s den s ere

den f ed s s den s h p e d s b es nder he DEA s ch s represen e P n ff

M M E phe p e c ss so nc de s den s h phys c p r en s h do no

d erse y ffec ed c on perfor nce h s q fy ng he s s den s h d s b es

nder ec on b no nder he DEA nc d ng ch dren ho se hee ch rs ers or

den ed he benef s of he ser ces progr   s nd c   es of he Ne   Or e ns LEAs   phe

c   s of he represen   e P   n ff nd he proposed s bc   ss sh re he fo o   ng co   on

q   es ons of   nd f c c p e of c   ss   de reso   on

s bc ss re no pro ded r nge of schoo cho ce co p r b e o h offered o Ne Or e ns

s den s ho ob y p r en s Moreo er h s co on n ry s d rec y r ce b e o

he s e co rse of cond c he e Defend n s sys e c f re o re edy ccess b rr ers or

o her se ens re h he r nge of schoo cho ce pro ded o s den s h ob y p r en s

s co p r b e o h offered o o her s den s ndeed n p b c cco od ons s

here d s b ed persons ch enge he eg per ss b y of rch ec r des gn fe res he

Ne Or e ns LEAs render ng he   n ccess e o s den s   h   o   y   p r en s   Co p

Pr yer for Re ef   ph s re ef pp es o he s c ss s   ho e *See Gray*

F R D   ho d ng h   p e n nc ons re no necess ry o reso e p   n ffs

ccess   y c   s nder ec on   r her s ng e n nc on co d   e for   ed h

o d   e s ff c en y spec f c nd o d reso e he c ss c   s

CONCL ON

For he forego ng re sons P   n ffs respec f   y req es h   he Co r gr n he r   o on

for c   ss cer f c   on nd cer fy he proposed s   c sses p rs   n o R e   of he

Feder   R   es of C   Proced re

D ed A g s

on Greenb   D C B r No
Brend L   h   Or B r No
LA   YER   COMM ppEE FOR

C   CA   O   C

hereby cer fy h on A g s   r e n