

N.O. school officials reach settlement in special education lawsuit; monitor to oversee reforms



Advocate staff photo by JOHN McCUSKER -- The new Orleans Parish School Board was inaugurated at Edward Hynes Charter School Monday January 14, 2013. The board is comprised of Nolan Marshall, Woody Koppel, Seth Bloom, Stanley Smith, interim superintendent (not a board member) Leslie Ellison, Sarah Usdin, Cynthia Cade and Ira Thomas. .MAGS OUT / INTERNET OUT/ONLINE OUT/NO SALES/TV OUT/FOREIGN OUT/ LOUISIANA BUSINESS INC./GREATER BATON ROUGE BUSINESS REPORT/225/10/12/IN REGISTER/LBI CUSTOM PUBLICATIONS OUT/MANDATORY CREDIT THE ADVOCATE/ JOHN McCUSKER

If judge OKs deal, N.O. faces consent decree

By Andrew Vanacore

avanacore@theadvocate.com

Lawyers representing a group of students and their families in New Orleans have reached a landmark deal with public school officials on improving special education services — a settlement that will require close scrutiny of practices among the city's independent [charter schools](#).

If a federal judge approves [the agreement](#), it would be the third time in as many years that a local institution has been placed under a court-ordered reform plan. The New Orleans Police Department and the Orleans Parish Prison are both subject to similar agreements, known as consent decrees.

The schools agreement touches on one of the most controversial aspects of the charter movement that has transformed education in New Orleans over the past few years. All

but a handful of public schools in New Orleans now operate as independent nonprofits, and they have often been accused of shutting out students with special needs or failing to provide adequate services for them.

The agreement announced Friday will resolve a lawsuit brought by 10 families and the Southern Poverty Law Center. Among other things, it requires the state Department of Education to keep close track of how schools in New Orleans identify, serve and discipline students with special needs.

When data collected from schools suggest potential problems in those areas, education officials will have to conduct “targeted monitoring,” including “file reviews, staff interviews and school site visits.”

The Orleans Parish School Board will have to carefully document special education policies at schools under its jurisdiction, develop protocols for investigating complaints and provide technical assistance to make sure schools know what their legal obligations are.

The state and the School Board also will have to pay a total of \$800,000 in attorneys’ fees to the plaintiffs.

An independent monitor will keep track of progress on implementing the plan, issuing reports every six months.

A joint statement by the Poverty Law Center, the state and the School Board said, “The agreement puts in place a plan to ensure that all public schools in New Orleans uphold the educational rights of students with disabilities.”

It continued: “All parties appreciate the progress New Orleans schools have achieved in recent years and look forward to the day when all New Orleans students, especially those of historically disadvantaged backgrounds, have access to an excellent education.”

The plaintiffs filed their lawsuit in 2010, raising questions about the wisdom of a charter school movement that was already well on its way to taking over nearly the entire school system in New Orleans.

Both the state’s Recovery School District, which absorbed most of the city’s schools after Hurricane Katrina, and the School Board, which kept a few campuses, had turned day-to-day operations at most schools over to charter groups.

Initially, every charter school in the city handled its own enrollment. By law, most charter schools have always been required to accept all comers, but a number of them were accused of refusing to enroll students whose disabilities would require extra resources and attention.

For instance, the lawsuit claims that one student with dyslexia, identified in court

documents only as “T.J.,” was “denied admission to a number of schools that post low enrollment rates for students with disabilities.”

The lawsuit also claimed that even when schools did accept students with special needs, they often did not provide services required under federal law. It describes a student known as “A.J.” who was diagnosed with attention deficit hyperactivity disorder and got suspended for 40 days. His mother asked for an evaluation that would have determined whether he qualified for special services, according to the lawsuit, but “well over one year later, the evaluation has not occurred.”

Data on the school system sometimes appeared to back up such claims. For years, the dwindling number of traditional, non-charter schools, where students often ended up when they could not get a seat at a charter school, saw test results and other measures of academic success lag. They also tended on average to enroll a greater number of students designated as special-needs.

Nevertheless, charter school proponents have consistently denied accusations of mistreatment or cherry-picking. Some charter schools enroll a much higher proportion of special-needs students than the city as a whole. And most welcomed a new system, known as the OneApp, that centralized the enrollment process in 2012, assigning students using a sophisticated algorithm.

It’s not yet clear how much the settlement reached on Friday will change how schools and the state officials who oversee them interact. The state already plays a role in enforcing laws designed to prevent schools from excluding students.

In one recent example, the RSD accused the Martin Luther King Jr. Charter School of trying to keep certain students out, a charge the school vigorously denied. The state agreed to renew the school’s charter but made the school sign a pledge to accept all students enrolled through OneApp.

Still, the settlement does spell out specific protocols the state will have to follow every year to track whether schools in New Orleans are following the law.

One section, for instance, says the state every year will track how many students each school is identifying as eligible for services under the federal Individuals with Disabilities Education Act. Using those figures, the state will do “targeted monitoring” with a random sample of students. Where deficiencies are found, the state will require schools to take “corrective actions.”