**THE UNITED STATES DISTRICT COURT**
**EASTERN DISTRICT OF LOUISIANA**

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| P.A., on behalf of minor child, **A.A.**; *et al.* | * | CIVIL ACTION NO.: 2:23-cv-2228 |
| *Plaintiffs,* | * | JUDGE BRANDON S. LONG |
| v. | * | MAGISTRATE JUDGE JANIS VAN MEERVELD |
| **DORIS VOITIER**, *et al.* | * | |
| *Defendants.* | * | SECTION O |

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**PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION TO COMPEL DISCOVERY**

Under Federal Rule of Civil Procedure ("FRCP") 37, Plaintiffs respectfully move this Court to compel Defendants to produce documents responsive to Plaintiffs' First Set of Interrogatories ("Interrogatories") and Requests for Production ("RFPs"). Despite Plaintiffs' good faith attempts to resolve outstanding discovery issues, Defendants continue, without substantial justification, to refuse to produce relevant and proportional discovery requested by Plaintiffs.

The disputed discovery at issue includes: (1) information relevant to school years before or after 2022-2023; (2) correspondence, including emails; and (3) responses to RFP 9 and RFP 22. The first two disputes are relevant to multiple RFPs and Interrogatories, where (1) Defendants have refused to produce any information from the 2018-2019, 2019-2020, 2020-2021, 2021-2022, or 2023-2024 school years; and (2) Defendants have refused to provide relevant communications, including emails, in response to Plaintiffs' RFPs, even after Plaintiffs limited the scope of communications at issue and offered to prioritize receiving communications to RFPs 2-6. And finally (3), Defendants have refused to provide usable data on the relevant student bodies, even though such data is available and cited in their Answer (RFP 9); and further have refused to provide

a sample of redacted student records relevant to Plaintiffs' claims of unjustified isolation (RFP 22). The disputed discovery is further outlined below.

## I. Procedural Background

### a. Case History

On June 27, 2023, Plaintiffs A.A. and B.B. filed this lawsuit against Doris Voitier, in her official capacity as Superintendent of St. Bernard Parish Public Schools ("SBPPS"), and the St. Bernard Parish School Board ("SBPSB") (collectively, "Defendants"). Plaintiffs challenge Defendants' use of their alternative school program to arbitrarily and discriminatorily isolate and segregate students with disabilities in a highly restrictive educational setting at C.F. Rowley Alternative ("Rowley"). Plaintiffs allege violations of the United States and Louisiana Constitutions, state statutes, Title II of the Americans with Disabilities Act ("ADA"), Section 504 of the Rehabilitation Act of 1974 ("Section 504"), and the Individuals with Disabilities Education Act ("IDEA"). Plaintiffs amended their Complaint on December 12, 2023, adding Plaintiff C.C.; and Plaintiffs' Motion for Leave to file a Second Amended Complaint, which seeks to add additional plaintiffs, is currently pending before this Court. Docs. 19 & 26. Also pending before this Court is Defendants' motion for judgment on the pleadings. Doc. 22. Plaintiffs have opposed that motion. Doc. 25.

This Court issued a Scheduling Order with discovery deadlines on October 13, 2023. Doc. 12. The Order states that all discovery, including depositions, shall be completed no later than August 23, 2024. *Id*. at 2.

### b. Discovery negotiations between the Parties to date

On November 3, 2023, Plaintiffs served their First Set of Interrogatories and Requests for Production (collectively, "discovery requests") on Defendants by email. Ex. A at 9; *see also* Ex.

B (Interrogatories); Ex. C (RFPs). Plaintiffs' discovery requests included twenty-five (25) requests for production of documents, and eighteen (18) interrogatories.

On December 4, 2023, Defendants served their initial Responses and Objections ("discovery responses") to Plaintiffs' discovery requests by email. Ex. A at 8.

On January 15, 2024, Plaintiffs sent Defendants an email detailing several deficiencies in the discovery responses. Ex. D at 21-23. Defendants did not respond to this email.

On January 24, 2024, Plaintiffs requested a meet-and-confer to discuss Defendants' deficient discovery responses. The issues discussed included: (1) Defendants only producing documents from the 2022-2023 school year; (2) Defendants refusing to produce communications; and (3) unanswered or incomplete answers to Plaintiffs' Interrogatory 13 and RFPs 2, 8, 9 and 22. *Id*. The Parties met on January 30, 2024 to discuss these issues.

At the meet-and-confer, Defendants articulated the following positions: (1) despite Plaintiffs' offer to prioritize receiving documents from the 2020-2021 school year to date, Defendants decline to produce documents outside of the 2022-2023 school year, citing statutes of limitations; (2) without any estimate of the actual cost or specific burden of production—and despite an offer by Plaintiffs to prioritize the receipt of emails and text messages only, as well as to help Defendants create appropriate search terms—Defendants declined to produce communications as defined in the discovery requests, claiming that it would be too expensive and burdensome; and (3) although the Parties were able to work collaboratively to address other specific requests, Defendants continued to object to Plaintiffs' RFP 9 and RFP 22 based on relevance, overbreadth, and burden. Defendants also objected to RFP 22, claiming that the information requested was irrelevant and overly burdensome; that the response would contain personally identifiable information of students; and that it would take too much time to redact these

documents. In a good faith effort to resolve the outstanding issues and streamline the volume of documents for Defendants to produce immediately, Plaintiffs identified priority documents to be produced.

On January 31 and February 2, 2024, Plaintiffs emailed Defendants summarizing their position on the outstanding discovery requests. Ex. D at 11-14. Defendants agreed to respond by February 7, 2024, but did not. *Id*. at 10-11. Instead, on February 16, 2024, Defendants filed a motion for judgment on the pleadings under Federal Rule of Civil Procedure 12(c). Doc. 22.

On February 19, 2024, Plaintiffs emailed Defendants again requesting a response. Ex. D at 10-11.

On February 21, 2024, Defendants provided some supplemental responses but did not completely respond to Plaintiffs' requests.[1] *Id.* at 7-8.

On February 23, 2024, in an attempt to address burdensomeness concerns related to the still-disputed discovery, Plaintiffs provided a draft, standard ESI protocol to Defendants. *Id.* at 5-6; *see also id*. at 24-44 (draft standard ESI protocol). The proposed agreement provided a procedure by which the Parties could agree upon mutually agreeable search terms for electronic discovery such as, for example, email production. *Id*. at 32-33. In the event a party claims undue burden resulting from the use of a search term, the protocol allows the producing party to provide a Search Term hit report, including the number of documents that hit on each term, the number of unique documents that hit on each term (documents that hit on a particular Search Term and no other Search Term on the list), and the total number of documents that would be returned by using

[1] On February 21, 2024, Defendants emailed Plaintiffs a partial update to RFP 8 and clarifying questions regarding Interrogatory 13. Ex. D at 7-8. On February 23, 2024, Plaintiffs emailed Defendants explaining that the partial update to RFP 8 was insufficient and that they were still requesting that Defendants respond fully to the discovery request. Plaintiffs also provided Defendants with an example of the type of documents they are seeking regarding Interrogatory 13. *Id*. at 5-6. On March 4, 2024, Defendants provided additional responses to RFP 8, and on March 14, 2024, Defendants made an additional response to Interrogatory 13. *Id*. at 4-5.

the proposed Search Term list. *Id*. Defendants rejected this offer as well and still failed to provide any specific reasons for their ongoing burdensomeness objections to outstanding discovery. *Id*. at 1-8.

To date, Defendants have failed to produce relevant documents outside of the 2022-23 school year; have failed to provide relevant communications in relation to Plaintiffs' discovery requests; and have not produced any documents relevant to RFP 9 or 22. These issues thus remain unresolved between the parties.

## II. **Legal Standard**

When a party fails to provide answers or produce documents in response to discovery requests, the Federal Rules of Civil Procedure permit the party seeking discovery to "move for an order compelling an answer, designation, production, or inspection." *See* Fed. R. Civ. P. 37(a)(3)(B)(iii)–(iv). For the purposes of a motion to compel, "an evasive or incomplete disclosure, answer, or response must be treated as a failure to disclose, answer, or respond." Fed. R. Civ. P. 37(a)(4). District courts have "broad discretion" to decide motions to compel, and "such discretion will not be disturbed [ ] unless there are unusual circumstances showing a clear abuse." *See Moore v. CITGO Ref. & Chemicals Co., L.P.*, 735 F.3d 309, 315 (5th Cir. 2013) (holding that courts have "broad discretion in all discovery matters").

The party filing a motion to compel bears the burden of establishing that the information requested is within the scope of discovery. *See Humphrey v. LeBlanc*, 2021 WL 3560842, at *2 (M.D. La. 2021) (citations omitted). Information is discoverable when it is "relevant to any party's claim or defense" and "proportional to the needs of the case." *See* Fed. R. Civ. P. 26(b)(1). Relevancy is "broadly construed" for discovery purposes, and discovery requests "should be considered relevant if there is 'any possibility' that the information sought may be relevant to the

claim or defense of a party." *Camoco, LLC v. Leyva*, 333 F.R.D. 603, 606 (W.D. Tex. 2019) (internal citations omitted). In determining whether a discovery request is proportional to the needs of a case, courts consider the importance of the issues at stake, the amount in controversy, the importance of discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. *See* Fed. R. Civ. P. 26(b)(1).

"Once the moving party establishes that the materials requested are within the scope of permissible discovery, the burden shifts to the party resisting discovery to show why the discovery is irrelevant, overly broad or unduly burdensome or oppressive, and thus should not be permitted." *LeBlanc*, 2021 WL 3560842, at *2 (internal citations omitted). To overcome a motion to compel, the party resisting discovery must "specifically object and show that the requested discovery does not fall within Rule 26(b)(1)'s scope of proper discovery (as now amended) or that a discovery request would impose an undue burden or expense or is otherwise objectionable." *Carr v. State Farm Auto. Ins. Co.*, 312 F.R.D. 459, 469 (N.D. Tex. 2015) (citing, *inter alia*, *McLeod, Alexander, Powel & Apffel, P.C. v. Quarles*, 894 F.2d 1482, 1485 (5th Cir. 1990)).

## III. Argument

### 1. Plaintiffs are entitled to discovery concerning all school years that Plaintiffs attended Rowley.

Except where otherwise specified, Plaintiffs' discovery requests seek information from "the current 2023-2024 school year" and "all school years" in which Plaintiffs attended Rowley from "the 2018-2019 school year through the 2022-2023 school year." *See* Ex. B at 4 (defining "relevant time period"); Ex. C at 4 (same). Defendants have refused to produce documents or answer interrogatories before or after the 2022-23 school year, arguing that such information is not relevant or otherwise discoverable because it is outside of the relevant statute of limitations. *See* Ex. E at 1-2; Ex. F at 1-2. This objection is meritless.

Nothing in the FRCP limits discovery to the statute of limitations period. *Lewis v. Bd. of Supervisors of Louisiana State Univ. & Agric. & Mech. Coll.*, No. CV 21-198-SM-RLB, 2023 WL 3509691, at *6 (M.D. La. May 17, 2023) ("[S]eparate and apart from the . . . continuing violation doctrine, acts that fall outside of the statute of limitations, though not actionable, . . . may be used as relevant background evidence in support of a timely claim." (alterations and citations omitted)); *Mullenix v. Univ. of Texas at Austin*, No. 1-19-CV-1203-LY, 2021 WL 1647760, at *4 (W.D. Tex. Apr. 26, 2021) ("Courts commonly extend the scope of discovery to a reasonable number of years both before and after [ ] a liability period. While the relevant time frame is case-specific, courts generally have limited the discovery period to two to five years prior to the liability period." (citations omitted)); *see also Johnson v. Charps Welding & Fabricating, Inc.*, No. 14-CV-2081 (RHK/LIB), 2015 WL 13883903, at *6 (D. Minn. May 14, 2015) ("At the discovery stage, . . . the mere fact that information pertains to a time period beyond a possibly applicable limitations period does not render it undiscoverable . . . ." (emphasis in original)); *Stanzler v. Loew's Theatre & Realty Corp*., 19 F.R.D. 286, 288 (D.R.I. 1955) ("[I]t is permissible and proper to compel answers concerning defendants' activities for some period beyond the statutory period of limitations . . . ."). Even if Defendants have correctly construed the applicable limitations period, Plaintiffs are therefore entitled to relevant discovery before the limitations date.

The information sought by Plaintiffs from before and after the limitations date, as construed by Defendants, is discoverable because it is relevant and proportional. Plaintiffs have alleged a pattern or practice of discrimination and constitutional violations by SBPPS. In such cases, courts frequently allow parties to seek discovery dating back several years before and after the liability period. *See Mullenix*, 2021 WL 1647760, at *4; *see also, e.g.*, *Hernandez v. Clearwater Transp., Ltd.*, No. 1:18-CV-319 RP, 2021 WL 148053, at *3 (W.D. Tex. Jan. 15, 2021) (approving a four

year discovery period before the discriminatory incident); *Adams v. City of New Orleans*, 2017 WL 713853, at *2 -*3 (E.D. La. Feb. 23, 2017) (allowing discovery for events that occurred five years before and five years after alleged constitutional violation). Meanwhile, Defendants have not shown any undue burden if required to produce responses, as requested, from the 2018-2019 school year to the present. To the extent the requested timeframe poses any undue burden, Defendants must describe that burden with particularity. *See McLeod,* 894 F.2d at 1485. Defendants have lodged only conclusory objections, however, and this is insufficient to block discovery. *Id*.

Information from the current school year (2023-2024) is also relevant to Plaintiffs' claims, and no basis exists to withhold it. Defendants contend that this discovery is not relevant because no allegations in the Complaint pertain to the 2023-2024 school year. Ex. E at 1-2; Ex. F at 1-2. This is inaccurate. The operative complaint[2] contains allegations of discrimination and due process violations during the 2023-2024 school year. Doc. 19 ¶¶ 97, 117, 118-127.[3] Indeed, C.C. was placed at the alternative school *only* in the 2023-2024 school year. *Id*. ¶¶ 118-127. And again, all Plaintiffs allege a pattern or practice of discrimination and due process violations; therefore, Defendants' continued conduct is relevant to whether such a pattern or practice exists. *See Mullenix*, 2021 WL 1647760, at *4. Finally, Defendants' ongoing conduct is relevant to Plaintiffs' requested injunctive relief, which seeks changes to Defendants' policies, practices, and procedures to prevent arbitrary and discriminatory placement at Rowley and ensure appropriate

[2] At the time the discovery requests were initially served, the original complaint was operative. Doc. 1. The discovery request, however, does not limit the requests to that complaint and Defendants are aware of their obligation to seasonably supplement under Rule 26, where, after the First Amended Complaint (Doc. 19) was filed, they agreed to provide C.C.'s school records. Ex. D at 15-16.

[3] Similar allegations are included in the Second Amended Complaint that Plaintiffs propose to file. *See also* Doc. 26-1 ¶¶ 101, 122, 123-132, 141-144, 152-156, 165-166.

accommodations for Plaintiffs. Defendants cannot deny Plaintiffs the discovery required to address timely pled violations and to obtain forward-looking, injunctive relief.

**2. Plaintiffs are entitled to relevant communications.**

Parties may obtain discovery if it is relevant to a party's claim or defense and proportional to the needs of the case. *See* Fed. R. Civ. P. 26. Plaintiffs have requested, in addition to documents, communications as relevant to the following:[4]

- RFP 2: All documents and communications relating to Plaintiffs, including but not limited to the full and complete student record for each Plaintiff.
- RFP 3: All documents and communications relating to policies, practices, procedures, standards, and guidelines, written or unwritten, formal or informal, used to determine when, and under what circumstances, a student may be assigned to Rowley.
- RFP 4: All documents and communications relating to your policies, practices, and procedures, written or unwritten, formal or informal, for conducting Expulsion and/or Alternate Placement Hearings, including all policies, practices and procedures around waiver of such hearings.
- RFP 5: All documents and communications relating to your policies, practices, and procedures for student placement at Rowley, written or unwritten, formal or informal, pursuant to this SBPSB policy: "Students who are arrested or charged with felony violations of criminal law, or who would have been charged with a felony if an adult, may be removed from the traditional educational settings and placed at the alternative school by the Superintendent."
- RFP 6: All documents and communications relating to your policies, practices, and procedures, written or unwritten, formal or informal, for students exiting Rowley and returning to a non-alternative school environment.

[4] Although other RFPs also seek communications, Plaintiffs, in the interest of addressing any burdensomeness concerns and to facilitate efficient discovery, have asked Defendants to prioritize the above. Ex. D at 22.

Ex. C at 6-7. These communications are relevant, yet Defendants refuse to provide them.[5] For RFP 2, the communications are part of the student's "education record" under the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C.A. § 1232g(a)(4), and, more importantly, are essential to Plaintiffs' ADA and Section 504 act claims, especially failure to accommodate claims and damages claims requiring proof of intentional discrimination. *See Miraglia v. Bd. of Supervisors of La. State Museum*, 901 F.3d 565, 574-75 (5th Cir. 2018) (to recover compensatory damages under the ADA, plaintiff must show the discrimination was intentional, and intent requires the defendant have actual notice of a violation); *see also, e.g.*, *Moore v. Baylor Scott & White Health*, No. A-18-CV-363-LY, 2019 WL 2642466, at *1 (W.D. Tex. June 5, 2019) (granting motion to compel, *inter alia*, manager's communications about employee bringing failure to accommodate claim); *S.C. State Conf. of NAACP v. McMaster*, 584 F. Supp. 3d 152, 163 (D.S.C. 2022) (finding "communications . . . relevant to the intentional discrimination element").

Similarly, the communications requested in RFPs 3, 4, 5, and 6 are relevant to whether Defendants have a policy and practice of procedural due process denials in school discipline, as well as whether they employ methods of administration that discriminate against students with disabilities and unjustifiably isolate them from other, non-disabled students. *See Edwards v. Hooks*, No. 5:21-CT-3270-D, 2022 WL 17367183, at *8 (E.D.N.C. Nov. 28, 2022) (granting motion to compel "[a]ny and all communications concerning or refering [sic] to the Plaintiff" and "[a]ny and all communications concerning the policy, practice, or procedure" at issue in civil rights case alleging ADA, Section 504, and constitutional violations). The communications in RFP 6 further are relevant to the same ADA and Section 504 issue.

[5] Defendants have provided one set of email correspondence from on or around March 29, 2023 relating to A.A.'s retaliation claim in response to RFP 1. This email correspondence contains redactions that are not explained. No other communications about A.A. or any other Plaintiff have been provided.

Defendants have also claimed burden and overbreadth.[6] But Defendants have not described with any particularity the burden posed by this request, despite Plaintiffs' provision of a draft ESI protocol that provided a procedure for the parties to identify search terms and address burden based on the number of responsive "hits."[7] *See supra* § I.b. Rather, Defendants have continued to describe their "burden" only in very general terms when presented with offers to negotiate the scope of the request. This is insufficient to block an otherwise relevant discovery request. *See McLeod*, 894 F.2d at 1485. Any specific burden Defendants may now claim, moreover, is proportionate to this multi-plaintiff litigation, which alleges a school district-wide pattern and practice of due process violations, as well as systemic disability discrimination in the operation of the alternative school program.

Even were this not the case, this Court should note that Defendants have rejected reasonable attempts to limit the temporal scope to address any proportionality concerns. *See Brown v. City of Alexandria*, No. 1:20-CV-00541, 2022 WL 951407, at *8 n.12 (W.D. La. Mar. 29, 2022) (noting that "[w]hen faced with a plaintiff's request that is disproportionate to the needs of the case to establish a pattern [and practice under *Monell*], courts often fashion [a] temporal limitation"). The original request is temporally limited to July 1, 2018. Plaintiffs have offered to prioritize receipt of records from the 2022-2023 school year to the present and accept piecemeal production, while Defendants assess the burden of producing the remaining records. But Defendants failed to provide any such information. Defendants plainly wish to block Plaintiffs from accessing this

[6] Defendants also have objected to Plaintiffs' definition of "communications." The RFPs define communications as including "any telephone note, text message, mail, fax, email, or any type of notation, reference, or exchange of information . . . ." Ex. C at 1-2. In an attempt to respond to Defendants' burdensomeness concerns, Plaintiffs offered to prioritize receipt of emails and text messages. Ex. D at 22. That offer remains.

[7] For further explanation of the parties' discussion about the ESI protocol, *see supra* § I.b.

relevant discovery, and the burdensomeness objection obscures that fundamental obtrusiveness to the rules of discovery.

**3. Plaintiffs are entitled to responses to particular RFPs.**

**a. RFP 9: Plaintiffs are entitled to usable data, in the appropriate format, about the composition of the relevant student bodies.**

Plaintiffs have also requested "[a]ll documents and communications sufficient to show data about the age, grade, sex, race, disability status, and number of students who are or were enrolled at Rowley during the relevant period and, for each such student, the reason for the student's placement at Rowley and duration of the student's period of enrollment at Rowley." Ex. C at 7.

Because Plaintiffs have pled the disproportionate placement of Black and Brown students at Rowley, *see* Doc. 19 ¶ 43, and have further pled claims concerning the segregation of students with disabilities at Rowley, in violation of state and federal anti-discrimination statutes, *id*. ¶¶ 48, 54-56, 60-69, 136-143,[8] demographic data about students at Rowley, including the length of and reason for their alternative school placement, is highly relevant and proportional to the needs of the Plaintiffs. Indeed, Plaintiffs allege that students are segregated at Rowley without an exit path and will languish at Rowley far longer than needed. *Id*. ¶¶ 48, 60-69. Defendants dispute the relevance of this request by arguing that this case is only about A.A. and B.B.[9] and thus data concerning a broad swath of students is not relevant. However, Defendants have provided some statistical figures about the exit of special education students from Rowley in support of their answer and affirmative defenses. *See, e.g.*, Doc. 20 ¶ 66 (Answer).

[8] The same allegation is included in the Second Amended Complaint that Plaintiffs propose to file. *See* Doc. 26-1.

[9] Since making that objection, Plaintiffs have added Plaintiff C.C. (Doc. 19) and moved to add Plaintiffs D.D., E.E., and F.F. (Doc. 26-1). Thus, this case is not just about two children. Defendants have not reurged their position, but for purposes of this motion, Plaintiffs assume Defendants would extend their reasoning and argue that this case is only about six students.

Defendants cannot have it both ways: provide system-wide data in their Answer and then refuse to produce the underlying data relied on when responding to discovery. *See Freeny v. Murphy Oil Corp.*, No. 2:13-CV-791-RSP, 2015 WL 11089607, at *2 (E.D. Tex. June 4, 2015) (finding that underlying data with the potential to affect the outcome of the case was discoverable). Defendants clearly understand the relevance of the requested information to Plaintiffs' claims, and Plaintiffs are entitled to the underlying data to test such factual assertions in the Answer.

Furthermore, Defendants have claimed such a production would be overly burdensome, yet the party claiming the burden must state such concerns with particularity. *McLeod*, 894 F.2d at 1485. Here, Defendants have not provided any justification. And indeed they cannot. Production of the requested information will not be overly burdensome where Plaintiffs requested similar information from the District through Public Record Requests ("PRRs"), *prior* to the filing of this lawsuit. Specifically, Plaintiffs' PRRs requested demographic data in searchable Excel spreadsheets. However, rather than provide the requested information in native format, Defendants produced some of the requested data in a PDF, where disability status was not reported and some characters were unrecognizable through Optical Character Recognition ("OCR") processing and therefore not able to be converted to more user-friendly formats due to apparent printing and scanning manipulations. Ex. D at 22. Producing the underlying spreadsheets in native format should not require significant additional costs or burdens, where the information has already been collected by the district once.

**b. RFP 22: Plaintiffs are entitled to a student record sample sufficient to assess their due process denial claims, as well as systemic discrimination claims under the ADA and Section 504.**

Finally, Plaintiffs have requested, in RFP 22, a sample of Rowley student records. Ex. C at 9-10. At the January 2024 meet-and-confer with Defendants, Plaintiffs offered to narrow the scope

of the request. With that offer, the request is as follows: "All documents, including but not limited to IEPs, 504 Plans, evaluations, assessments, behavior plans, behavior data, Edgenuity completion logs, discipline records, and administrative records *relating to students in Plaintiffs' academic classes,* including virtual classes, at Rowley in the 2022-2023 and 2023-2024 school years, with identifying information redacted." Ex. D at 22 (emphasis added).

Despite Plaintiffs' offer to limit the sample requested in this manner, Defendants continue to oppose production based on burden and overbreadth. But the information is proportional and relevant to Plaintiffs' claims that Defendants violated the ADA and Section 504 by segregating them at Rowley based on their disabilities and then denying them individualized disability-related supports and accommodations. RFP 22 seeks information about the extent to which Plaintiffs are being educated in an integrated environment (with their nondisabled peers), the extent to which children with similar disability types are overrepresented at Rowley, what kinds of accommodations and placements are available to students at Rowley, and the extent to which Defendants' practices and procedures drive the decisions regarding Plaintiffs – all facts that are directly relevant to Plaintiffs' ADA and 504 claims. Indeed, without this information, Plaintiffs will be unable to test their claims. And Plaintiffs cannot rely on Defendants' representation of how many students with disabilities are enrolled at Rowley; rather, Plaintiffs will require the underlying records so they can be subjected to independent analysis. [10]

Defendants have also claimed burden and overbreadth but have not provided Plaintiffs with any estimate of the number of responsive documents or the burden of production. *See McLeod*, 894 F.2d at 1485. These claims are belied by publicly available information Defendants produced

[10] Defendants' counteroffer to provide summaries of the requested sample data is insufficient. Ex. D at 12. The request seeks information not only about the proportion of students with disabilities enrolled at Rowley, but also what accommodations are available and implemented for students at Rowley.

to the Louisiana Department of Education, which shows an average of only twenty (20) students per grade level in each grade at Rowley.[11] Plaintiffs are *not* requesting information relating to the thousands of students enrolled in the school district. Rather, the number of student records responsive to Plaintiffs' request is modest and quite manageable.[12] It is also proportional to the needs of this multi-plaintiff case alleging systemic violations in the operation of Defendants' alternative school program.

## IV. Conclusion

Plaintiffs' outstanding discovery requests are relevant and proportional, obligating Defendants to respond. But they have refused to do so. For the foregoing reasons, Plaintiffs respectfully request that this Court compel Defendants to produce full and complete responses, including responsive documents, to Plaintiffs in accordance with the outstanding discovery requests and Federal Rules of Civil Procedure.

Dated: April 2, 2024

Respectfully submitted,

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[11] *See* Louisiana Dep't of Educ., Oct. 2023 Multi-Stats, https://www.louisianabelieves.com/resources/library/student-attributes.

[12] To the extent Defendants still claim undue burden, Plaintiffs are prepared to limit the records for each student, if needed, to IEPs, 504 Plans, discipline records, Edgenuity records, and administrative records only.

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