

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 2019-6895

DIVISION "G"

DARNETTE DANIELS, ET AL.

VERSUS

STATE OF LOUISIANA, ET AL.

FILED: _____
DEPUTY CLERK

PLAINTIFFS' THIRD AMENDED AND SUPPLEMENTAL PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, come Named Plaintiffs/Proposed Class Representatives **DARNETTE DANIELS, ET AL.**, who file this Third Amended and Supplemental Petition for Damages, after conducting discovery, to provide additional material facts supporting Plaintiffs' causes of action against Defendants; to affix supporting documents for the allegations set forth herein; and to identify the insurance companies providing coverage for the type of harm alleged by the Plaintiffs.

PARTIES

NAMED PLAINTIFFS/PROPOSED CLASS REPRESENTATIVES

AMENDED PARAGRAPH 1.

Plaintiffs are parents and students of John F. Kennedy Senior High School at Lake Area ("Kennedy") for the 2017-2018 academic school year, 2018-2019 academic school year, and 2019-2020 academic school year. The parents and students seek damages awards from Defendants New Beginnings Schools Foundation (NSBF) and the Louisiana Department of Education (LDOE) for the financial losses, lost opportunities, and emotional distress sustained by them resulting from: 1) intentional and/or negligent acts of grade changing by administrators and staff at Kennedy; and 2) negligent failure to adhere to mandatory requirements as set forth by LDOE and BESE for students to matriculate towards eligibility for a TOPS Diploma.

All of the foregoing actions and/or omissions resulted in graduating seniors of the class of 2019 not being able to receive diplomas and transcripts in a timely manner; many students at Kennedy, including seniors, having to take remedial classes either in summer school or during the academic school year; and many students being required to take end of course exams out of sequence with coursework, all in an effort to properly certify graduates in 2019. Underclassmen

at Kennedy have been adversely impacted in the same way that seniors have been impacted, albeit to a lesser degree. Many underclassmen have had to complete additional coursework to make up lost credits and complete End-Of-Course Exams. The stigma of what has occurred on Kennedy since the 2018-2019 Academic School Year has affected ALL KENNEDY STUDENTS and their parents.

The Named Plaintiffs/Proposed Class Representatives are the following persons:

- A. **DARNETTE DANIELS** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother of current John F. Kennedy Student and Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON**. She brings a claim for damages against Defendants individually and on her own behalf her minor child (17 years old). **DARNETTE DANIELS** will be proposed as a Class Representative. **TAYLER MCCLENDON** will be proposed as a Class Representative.
- B. **ANTHONY MCCLENDON** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. He is the biological father of current John F. Kennedy Student and Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON**. He brings a claim for damages against Defendants individually and on his own behalf his minor child (17 years old). **ANTHONY MCCLENDON** will be proposed as a Class Representative. **TAYLER MCCLENDON** will be proposed as a Class Representative.
- C. **ANUSICA BANKS** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother of former John F. Kennedy Student and Named Plaintiff/Proposed Class Representative **AMBER BROWN**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **ANUSICA BANKS** brings a claim for damages against Defendants individually. **AMBER BROWN** brings a claim for damages against Defendants individually. **ANUSICA BANKS** will be proposed as a Class Representative. **AMBER BROWN** will be proposed as a Class Representative.
- D. **LARRY BROWN, SR.** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. He is the biological father of former John F. Kennedy Student and Named Plaintiff/Proposed Class Representative **AMBER BROWN**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **LARRY BROWN** brings a claim for damages against the Defendants individually. **AMBER BROWN** brings a claim for damages against Defendants individually. **LARRY BROWN** will be proposed as a Class Representative. **AMBER BROWN** will be proposed as a Class Representative.
- E. **AYANNA JORDAN** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **ELIJAH JORDAN**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **AYANNA JORDAN** brings a claim for damages against the Defendants individually. **ELIJAH JORDAN** brings a claim for damages against the Defendants individually. **AYANNA JORDAN** will be proposed as a Class Representative. **ELIJAH JORDAN** will be proposed as a Class Representative.
- F. **CHELETIA HERRING** is a person of the full age of majority and domiciled in the Parish of St. Tammany, State of Louisiana. She is the biological mother of two former John F. Kennedy Students, namely: Named Plaintiff/Proposed Class Representative **JEREMIAH GAINES**, a person of the full age of majority and domiciled in the Parish of St. Tammany, State of Louisiana, and Named Plaintiff **DANIEL TERRELL**, a minor child on whose behalf **CHELETIA HERRING**

brings a claim. **CHELETIA HERRING** also brings a claim for damages against the Defendants individually. **JEREMIAH GAINES** brings a claim for damages against the Defendants individually. **CHELETHIA HERRING** will be proposed as a Class Representative. **JEREMIAH GAINES** will be proposed as a Class Representative. **DANIEL TERRELL** will not be proposed as a Class Representative.

- G. **JEREMIAH GAINES** is a person of the full age of majority and domiciled in the State of New Jersey. He brings a claim for damages against the Defendants on his own behalf, and on behalf of his minor child, former John F. Kennedy Student **DANIEL TERRELL**. **JEREMIAH GAINES** will not be proposed as a Class Representative due to his residency in the State of New Jersey.
- H. **CLARISSA SMITH** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother of former John F. Kennedy Student Named Plaintiff/Class Representative **TRINITY BARNES**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **CLARISSA SMITH** brings a claim for damages against the Defendants individually. **TRINITY BARNES** brings a claim for damages against the Defendants individually. **CLARISSA SMITH** will be proposed as a Class Representative. **TRINITY BARNES** will be proposed as a Class Representative.
- I. **KENA ROSS** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother of former John F. Kennedy Student Name Plaintiff/ Proposed Class Representative **JOHN ROSS**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **KENA ROSS** brings a claim for damages against the Defendants individually. **JOHN ROSS** brings a claim for damages against the Defendants individually. **KENA ROSS** will be proposed as a Class Representative. **JOHN ROSS** will be proposed as a Class Representative.
- J. **RACQUEL YOUNG** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **JESSICA YOUNG**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **RACQUEL YOUNG** brings a claim for damages against the Defendants individually. **JESSICA YOUNG** brings a claim for damages against the Defendants individually. **RACQUEL YOUNG** will be proposed as a Class Representative. **JESSICA YOUNG** will be proposed as a Class Representative.
- K. **SHARLENE SULLIVAN** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **LEDREKIA SMOTHERS**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **SHARLENE SULLIVAN** brings a claim for damages against the Defendants individually. **LEDREKIA SMOTHERS** brings a claim for damages against the Defendants individually. **SHARLENE SULLIVAN** will be proposed as a Class Representative. **LEDREKIA SMOTHERS** will be proposed as a Class Representative.
- L. **SHEILA WISE** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **ANTHONY WISE**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **SHEILA WISE** brings a claim for damages against the Defendants individually. **ANTHONY WISE** brings a claim for damages against the Defendants individually. **SHEILA WISE** will be proposed as a Class Representative. **ANTHONY WISE** will be proposed as a Class Representative.
- M. **SHEQUITA MCFARLAND** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **MADISON**

JACQUE, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **SHEQUITA MCFARLAND** brings a claim for damages against the Defendants individually. **MADISON JACQUE** brings a claim for damages against the Defendants individually. **SHEQUITA MCFARLAND** will be proposed as a Class Representative. **MADISON JACQUE** will be proposed as a Class Representative.

- N. **CYNTHIA BEE** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **MICHAEL BEE**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **CYNTHIA BEE** brings a claim for damages against the Defendants individually. **MICHAEL BEE** brings a claim for damages against the Defendants individually. **CYNTHIA BEE** will be proposed as a Class Representative. **MICHAEL BEE** will be proposed as a Class Representative.
- O. **CRYSTAL WEST** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **LAUDRICK BARROW**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **CRYSTAL WEST** brings a claim for damages against the Defendants individually. **LAUDRICK BARROW** brings a claim for damages against the Defendants individually. **CRYSTAL WEST** will be proposed as a Class Representative. **LAUDRICK BARROW** will be proposed as a Class Representative.
- P. **DONNA LEWIS** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **MICHAEL LARVINETTE**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **DONNA LEWIS** brings a claim for damages against the Defendants individually. **MICHAEL LARVINETTE** brings a claim for damages against the Defendants individually. **DONNA LEWIS** will be proposed as a Class Representative. **MICHAEL LARVINETTE** will be proposed as a Class Representative.
- Q. **MARINVIA DAVIS** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **MALCOLM DAVIS**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **MARINVIA DAVIS** brings a claim for damages against the Defendants individually. **MALCOLM DAVIS** brings a claim for damages against the Defendants individually. **MARINVIA DAVIS** will be proposed as a Class Representative. **MALCOLM DAVIS** will be proposed as a Class Representative.
- R. **MARY ELLIS** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **RYAN BROWN**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **MARY ELLIS** brings a claim for damages against the Defendants individually. **RYAN BROWN** brings a claim for damages against the Defendants individually. **MARY ELLIS** will be proposed as a Class Representative. **RYAN BROWN** will be proposed as a Class Representative.
- S. **MELISSA KING** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **MYA HARRIS**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **MELISSA KING** brings a claim for damages against the Defendants individually. **MYA HARRIS** brings a claim for damages against the Defendants individually. **MELISSA KING** will be proposed as a Class Representative. **MYA HARRIS** will be proposed as a Class Representative.

- T. **TRENELL THOMAS** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **DONTAYE BARNES**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **TRENELL THOMAS** brings a claim for damages against the Defendants individually. **DONTAYE BARNES** brings a claim for damages against the Defendants individually. **TRENELL THOMAS** will be proposed as a Class Representative. **DONTAYE BARNES** will be proposed as a Class Representative.
- U. **NICOLE JONES** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **TY'JON JONES**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **NICOLE JONES** brings a claim for damages against the Defendants individually. **TY'JON JONES** brings a claim for damages against the Defendants individually. **NICOLE JONES** will be proposed as a Class Representative. **TY'JON JONES** will be proposed as a Class Representative.
- V. **DAWN ROSS** is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **DWAYNE GREEN**, who is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. **DAWN ROSS** brings a claim for damages against the Defendants individually. **DWAYNE GREEN** brings a claim for damages against the Defendants individually. **DAWN ROSS** will be proposed as a Class Representative. **DWAYNE GREEN** will be proposed as a Class Representative.

DEFENDANTS¹

AMENDED PARAGRAPH 2.

Made defendants herein are:

- A. Defendant **NEW BEGINNINGS SCHOOLS FOUNDATION (“NBSF”)** is a Louisiana Corporation with the capacity to sue and be sued. It is the charter network that operated Kennedy at all times pertinent to this lawsuit.
- B. Defendant, **LOUISIANA DEPARTMENT OF EDUCATION (“LDOE”)**, a political subdivision of the State of Louisiana, charged with the responsibility for student and school performance records, including, but not limited to, student and school standards, assessment, accountability, and assistance.
- C. Defendant, **INDIAN HARBOR INSURANCE COMPANY (“INDIAN HARBOR”)**, a foreign insurance company, that provided a policy of Educators Legal Liability and Employment Practices Liability Insurance Coverage to NBSF bearing policy number ELL0950364 for the policy period of July 1, 2018 through July 1, 2019 and bearing policy number ELL0950364-1 for the policy period of July 1, 2019 through July 1, 2020.
- D. Defendant, **NOVA CASUALTY COMPANY (“NOVA”)**, a foreign insurance company, that provided a policy of Commercial General Liability Insurance to NBSF bearing policy CF1-ML-10001394-01 for the policy period of July 1, 2018 through July 1, 2019 and bearing policy number CF1-ML-10001394-03 for the policy period of July 1, 2019 through July 1, 2020.

¹ Plaintiffs contend that the Orleans Parish School Board should be a Defendant. However, the District Court granted the OPSB’s Exception of No Cause of Action. Plaintiffs have filed a writ with the Fourth Circuit Court of Appeal of the dismissal of the OPSB, with prejudice. At the time of this filing, the Fourth Circuit has not ruled.

AMENDED PARAGRAPH 3.

As a result of the combined acts of negligence and/or intentional acts of the Defendants, the Plaintiffs have suffered and will continue to suffer damages.

VENUE

AMENDED PARAGRAPH 4.

Pursuant to a. La. C.C.P. Art. 74, Orleans Parish is the proper venue to bring this action because it is the parish where wrongful conduct occurred or where damages were sustained.

JURISDICTION

AMENDED PARAGRAPH 5.

The action is within the jurisdiction of the Court and Orleans Parish has jurisdiction over the subject matter of this lawsuit pursuant to La. C.C.P. Art. 42, 73, and 74. Each of the defendants contributed to Plaintiffs' damages.

EDUCATIONAL ACCOUNTABILITY FRAMEWORK/SPECIFIC DUTIES OF NBSF

Mandate of The Louisiana Constitution

AMENDED PARAGRAPH 6.

The Preamble to Article VIII of the Louisiana Constitution states: "The goal of the public educational system is to provide learning environments and experiences, at all stages of human development, that are humane, just and designed to promote excellence in order that every individual may be afforded an equal opportunity to achieve his full potential."

Mandates of The Louisiana Board of Elementary and Secondary Education (BESE)

AMENDED PARAGRAPH 7.

The Louisiana Board of Elementary and Secondary Education has the constitutional and statutory authority to make policy decisions that govern the public education system of the state. It also exercises budgetary responsibility for all funds appropriated or allocated by the state for schools under its jurisdiction.

AMENDED PARAGRAPH 8.

Acting in its capacity as a quasi-legislative body, the Board adopts policies and regulatory rules which have the force and effect of law. The regulatory policies adopted by the Board are contained in the bulletins compiled by the Department of Education or BESE. In

accordance with La. R.S. 49:950 et seq., the Administrative Procedure Act, all regulatory policies adopted by BESE are advertised as Notices of Intent and Rules in the *Louisiana Register*. Rules become part of the *Louisiana Administrative Code*, the official compilation of administrative rules published by state agencies and boards, when they are promulgated in the Louisiana Register. Title 28, Education, Part I (Board of Elementary and Secondary Education) of the *Louisiana Administrative Code* contains additional policies and operational procedures.

AMENDED PARAGRAPH 9.

Policies passed by BESE govern the operation of public elementary, middle and secondary schools.² The public school system established under the Louisiana Constitution shall operate in accordance with the standards set by BESE.³

AMENDED PARAGRAPH 10.

Pursuant to La. R.S. §17.10.7.1, and in accordance with BESE Bulletin 126 and OPSB Policy HAC, Local Education Agency Status, a type 1, 3, or 3 B charter school under the OPSB's jurisdiction may be its own Local Education Agency ("LEA") for funding purposes and statutory definitions. John F. Kennedy High School at Lake Area is a Type 3 B Charter School that operates under the auspices of the OPSB.⁴

AMENDED PARAGRAPH 11.

Charter Schools, including Kennedy, shall have control over and responsibility for delivery of the Educational Program and attainment of the academic performance standards as set forth in OPSB HB, Oversight and Evaluation of Charter Schools⁵ and the "Charter School Accountability Framework (CSAF).⁶ For example, they must also adopt Pupil Progression Plans consistent with BESE's Bulletins 1566, 741 and 1706, which set forth educational standards in the State of Louisiana. Additionally, BESE sets forth course requirements to earn at TOPS University Diploma⁷ or a TOPS Tech Career Diploma.⁸ At all times pertinent to this lawsuit,

² Title 28, Education, Bulletin 741 §101.

³ Title 28, Education, Bulletin 741 §301.

⁴ Exhibit 1, Deposition Transcript of Raphael Gang dated 09/03/2020 at p. 25, lines 5-25; p. 26, lines 1-18

⁵ Exhibit 2, OPSB's Policy Handbook

⁶ Exhibit 3 – OPSB's Charter School Accountability Framework

⁷ Exhibit 4, BESE's Requirements for a TOPS University Diploma

⁸ Exhibit 5, BESE's Requirements for a TOPS Tech Career Diploma

NBSF failed to offer Kennedy students the option to pursue a TOPS Tech Career Diploma in violation of BESE's policies.

The Louisiana Department of Education (LDOE)

AMENDED PARAGRAPH 12.

The Louisiana Department of Education (LDOE) is the administrative arm of the Board of Elementary and Secondary Education. It is charged with enforcing BESE's policies.

NBSF'S CONTRACTUAL OBLIGATIONS PURSUANT TO THE CHARTER SCHOOL OPERATING AGREEMENT/SPECIFIC DUTIES OF NBSF

Mandates of the Charter School Operating Agreement (Contractual Obligations)

AMENDED PARAGRAPH 13.

Pursuant to the Charter School Agreement between the OPSB and NBSF, specifically provision 1.4 entitled "Effective Date and Term," NBSF was intended to hold the charter for Kennedy until **June 30, 2024**, unless the contract was terminated or extended.⁹

AMENDED PARAGRAPH 14.

The Superintendent of the Orleans Parish School Board, Dr. Henderson Lewis, Jr., recommended that Kennedy receive a five-year contract extension in December 2018.¹⁰ The district allegedly conducted a review of Kennedy in the fall of 2018. The review allegedly included site-visit observations, a review of teacher certifications and background checks and a review of five special education files. The district employee also sat in a few classes, observing teachers' techniques. However, it did not appear that there was any attempt to evaluate Kennedy's course offerings or student transcripts to ascertain whether Kennedy was following the State's standards for graduation. It does not appear that the OPSB reviewed Kennedy's Pupil Progression Plan. There are several areas that the OPSB marked as compliant that the LDOE Final Report of Kennedy would find was out of compliance for years at Kennedy.¹¹

AMENDED PARAGRAPH 15.

Pursuant to Section 2.1 of the Charter School Agreement, NBSF had control over, and responsibility for, delivery of the educational program at Kennedy, but it had to achieve

⁹ Exhibit 6, Charter School Operating Agreement, Section 1.4

¹⁰ Exhibit 7, OPSB's Recommendation to Renew NBSF's Charter of Kennedy for 5 years in December 2018

¹¹ Exhibit 8, OPSB's Fall 2018 Evaluation Documents for Kennedy

“academic performance standards as set forth in the OPSB Policy Handbook and the OPSB’s
“Charter School Accountability Framework (CSAF).”¹²

AMENDED PARAGRAPH 16.

According to Raphael Gang, NBSF’s Board President, the CSAF has a ‘pretty specific set of requirements around performance of students in them, and NSBF was expected to raise the letter grade performance of the school overall over a period of the charter contract. The OPSB’s CSAF delineates “an accountability framework that they have developed that aligns with their goals and their values as an authorizer.” The CSAF, in fairly specific terms, sets forth different metrics that the OPSB expects charter schools to achieve over the course of the charter term. The most important of which is raising the letter grade of the school performance score.’¹³

AMENDED PARAGRAPH 17.

According to Mr. Gang’s testimony the OPSB exerts pressure upon charter schools to ‘raise the letter grade performance of the school over a period of the charter contract.’ That is exactly what falsifying grades to increase the number of graduating seniors was all about at Kennedy. Grades were changed to increase the number of seniors who graduated to manipulate the school performance score. The wrongful conduct occurred to increase the overall school performance scores to stay in favor with the OPSB to maintain a charter. Mr. Gang testified regarding the correlation between school performance scores and graduation rates, as follows:

- Q. So you mentioned earlier school performance scores. In this case, it's my understanding that Kennedy, in the 2018-2019 academic school year, was graded F based on standardized test performance alone, but its graduation rate score was 84.9, which is a B. So, overall, the school was rated C. And that would have won you charter renewal. Would you agree with me that the more students that Kennedy had to graduate, the better your performance score would have been?
- A. I would say that's a mathematical reality of the way that the accountability system is set up for all schools, which is that, the greater the number of students that graduates on time, the higher the score the school receives overall. And that's any school in the State of Louisiana.¹⁴

¹² Exhibit 2, OPSB’s Policy Handbook; Exhibit 3, OPSB’s Charter School Accountability Framework

¹³ Exhibit 6, Charter School Operating Agreement, Section 2.1; Exhibit 1, Deposition Transcript of Raphael Gang dated 9/03/2020 at p. 31, lines 21-25; p. 32, lines 1-25; p. 33, lines 1-25; p. 1; p. 141, lines 13-20

¹⁴ Exhibit 1, Deposition Transcript of Raphael Gang dated 9/03/2020 at p. 52, lines 14-25; p. 53, lines 1-7.

AMENDED PARAGRAPH 18.

There was also a financial incentive offered to Principal Brian Gibson to increase the school's performance score. In Mr. Gibson's "Offer Letter" from NBSF, the following language appears:

"I am pleased to offer you the position as Principal of John F. Kennedy High School with New Beginnings Schools Foundation. This position is FLSA exempt and will report directly to the Chief Executive Officer. You will receive two stipends of \$2,500.00 during the 2018-2019 school year, pending the attainment of performance expectations identified and agreed upon by the CEO. The 1st stipend will be disbursed at the end of the 1st semester in December 2018 and the 2nd stipend will be disbursed at the end of the 2nd semester in May 2019."¹⁵

When NBSF Board President Raphael Gang was asked about this financial incentive in Mr. Gibson's offer letter, Mr. Gang said that he did not know about it.¹⁶

AMENDED PARAGRAPH 19.

According to Section 2.3 of the Charter School Operating Agreement, the OPSB had the responsibility to evaluate NBSF's performance at Kennedy for the purposes of contract extension, renewal, revocation decisions, and other evaluations in performance in conformity with the standards set out in the CSAF and OPSB policy Handbook.¹⁷

AMENDED PARAGRAPH 20.

Pursuant to Section 2.4 of the Charter School Agreement, "the charter school shall adopt a Pupil Progression Plan consistent with the Louisiana Board of Elementary and Secondary Education Bulletins 1566, 741 and 1706." Mr. Gang testified that he was assured by the NBSF's CEO that the Pupil Progression Plans were up to date; however, the LDOE determined, after the graduation scandal in 2019, that Pupil Progression Plans at Kennedy were outdated and did not comply with state law.¹⁸ Based upon the OPSB's Notice Non-compliance letters to NBSF,¹⁹ and the LDOE's Final Report regarding Kennedy, the administrators and staff

¹⁵ Exhibit 9, NBSF's Offer Letter to Brian Gibson [Bates Stamped 4182]

¹⁶ Exhibit 1, Deposition Transcript of Raphael Gang dated 9/03/2020 at p.112, lines 16-21.

¹⁷ Exhibit 6, Charter School Operating Agreement, Section 2.1

¹⁸ Exhibit 6, Charter School Operating Agreement, Section 2.4; Exhibit 1, Deposition Transcript of Raphael Gang dated 9/03/2020 at p. 42, lines 14-25; p. 43, lines 1-12; Exhibit 10, LDOE's Final Report regarding Class of 2019

¹⁹ Exhibit 11, Letter of Notice of Non-Compliance from OPSB Superintendent Henderson Lewis to NBSF Board President Raphael Gang dated 6/07/2019; Exhibit 12, Letter from Dr. Kelli Peterson to Raphael Gang and Kevin George re: Notice of Non-Compliance Letter dated 06/25/2019; Exhibit 13, Letter from Dr. Kelli Peterson to Raphael Gang re: Third Notice of Non-Compliance, Level 2: Contractual Obligations – Outstanding Submissions dated 7/03/2019

and Kennedy had been failing to create up-to-date Pupil Progression Plans consistent with BESE's Bulletins 1566, 741 and 1706.

AMENDED PARAGRAPH 21.

Pursuant to Section 5.1 of the Charter School Agreement, "the Orleans Parish School Board has authority to monitor and require corrective actions by charter school, in accordance with State law in OPSB police section HB."²⁰

AMENDED PARAGRAPH 22.

Pursuant to Section 7.2 of the Charter School Agreement, the OPSB had the authority and power to renew or to revoke NBSF's charter to operate Kennedy.²¹ The grounds for revocation are clearly set forth in the agreement.

FACTUAL ALLEGATIONS SUPPORTING NEGLIGENCE AND "BREACH OF DUTY" BY NBSF IN FAILING TO SATISFY THE MANDATES OF BESE AND LDOE REGARDING EDUCATIONAL REQUIREMENTS TO OBTAIN A TOPS UNIVERSITY DIPLOMA OR TOPS TECH CAREER DIPLOMA

Historical Problems at Kennedy – Foreseeability

AMENDED PARAGRAPH 23.

Plaintiffs have discovered in the public domain reports that 144 U.S. History exams at Kennedy were voided after students were given the wrong version of the test in Spring 2018. According to a report issued by the LDOE, 144 voided tests at Kennedy accounted for one-fifth of testing irregularities state-wide. The tests are also called "End-Of-Course exams," which are administered by the state. Of the 144 exams at Kennedy, four were completely voided and did not count as part of the school's 2018 state performance score, which was a C overall.²² Based upon this occurrence, the LDOE, NSBF Board and administrators at Kennedy, knew or should have known, that negligence was occurring at Kennedy in failing to satisfy requirements for graduation eligibility at Kennedy.

AMENDED PARAGRAPH 24.

Ashlei Delarge was employed as a guidance counsellor at Kennedy during the 2015-2016 Academic School Year. She continued to serve as a guidance counsellor at Kennedy until the close of the 2018-2019 Academic School Year. She has testified that during the summer of the

²⁰ Exhibit 6, Charter School Operating Agreement, Section 5.1

²¹ Exhibit 6, Charter School Operating Agreement, Section 7.2

²² Exhibit 14, BESE's Test Security Irregularities Report for the 2017-2018 Academic School Year; Exhibit 15, April 10, 2019 Article by Marta Jewson in The Lens entitled "Kennedy High School voided 144 state exams last year, after giving wrong test"

2016-2017 Academic School Year she performed a Student Transcript System Audit of the transcripts for all Kennedy students. Her audit revealed that a large number of students were missing core curriculum requirements from their transcripts, and she noted that Kennedy lacked transcripts for many transfer students in their student records. She also noted a computer software glitch in the transfer of data from JCampus to PowerSchool, which was not transferring academic transcript information for 11th and 12th grade students. When Kennedy changed software systems during the 2015-2016 Academic School year, student data did not transfer between the two software programs. Ms. Delarge recognized that there were many students who were missing required core curriculum credits for 9th and 10th grade and End-of-Course exams. She also recognized that, if Kennedy did not address these deficits, the students would not get caught up with their classmates to graduate in four years. She began to develop a spreadsheet indicating what core curriculum requirements and End-of Course examinations were needed for specific students.²³

AMENDED PARAGRAPH 25.

Upon recognizing the problems with student matriculation towards graduation at Kennedy, Ms. Delarge sounded the alarm to administrators at Kennedy. First, she alerted Kennedy Principal Darren Lewis that a large number of 9th graders were missing core curriculum credits for Math, English and Physical Science. The Principal's solution was to schedule those missing core curriculum classes for 10th grade year. However, Darren Lewis was no longer the Principal when the students progressed to 10th grade during the 2017-2018 Academic School Year.²⁴

AMENDED PARAGRAPH 26.

At the outset of 2017-2018 Academic School Year, Ms. Delarge alerted newly hired Principal Dr. Bethel Cager and NBSF CEO Michelle Blouin-Williams of the problems with student matriculation towards graduation at Kennedy. Ms. Delarge provided both Cager and Blouin-Williams with all of the STS Transcripts by grade level, along with each student's PowerSchool Transcript, and a copy of the spreadsheet that she had prepared. She continued to update the spreadsheet as she discovered new problems for student matriculation towards

²³ Exhibit 16, Deposition Transcript of Ashlei DeLarge dated 9/02/2020, at p. 16, lines 8-25; p. 17, lines 1-25; p. 18, lines 1-23.

²⁴ Exhibit 16, Deposition Transcript of Ashlei DeLarge dated 9/02/2020, at p. 18, lines 24-25; p. 19, lines 1-25; p. 20, lines 1-25

graduation. She identified the problems per graduating class on the spreadsheet, *i.e. Class of 2015-2016; Class of 2016-2017; Class of 2017-2018; and Class of 2018-2019*. Deficiencies in student matriculation towards graduation eligibility were noted for ALL grade levels on Ms. Delarge's spreadsheet. Ms. Delarge testified that a copy of this document remained at Kennedy when her contract was not renewed. She also maintained a personal copy of the document.²⁵

AMENDED PARAGRAPH 27.

Ms. Delarge testified that the way that students were scheduled for course offerings kept changing with each new Principal. So, moving from a 7 to 8 period day, to a 4 x 4 schedule where you take four classes from August to December and then take another four classes from January to May, adversely impacted scheduling. Changes in how students were scheduled for courses resulted in missing core curriculum requirements for Kennedy students. The solution offered by the administration was for students to take missing credits in Physical Health and World History, as well as any other missing core curriculum, on GradPoint – a credit recovery program.²⁶

AMENDED PARAGRAPH 28.

Ms. Delarge testified that the student matriculation problems at Kennedy did not emerge overnight in 2019 just for the graduating Class of 2019. Rather, she said: "This was a problem that adults were trying to rectify collectively. This is something that was ongoing.... This is something we foresaw a while ago. And we worked to try to fix it."²⁷

AMENDED PARAGRAPH 29.

The 2018-2019 Academic School Year at Kennedy brought with it a new Principal. Ms. Delarge testified that when Brian Gibson became the Principal, and Nicole Cooper became the Assistant Principal, the spreadsheet of deficiencies was shared with them. It was also shared with Lauren Coleman and Lisa Knight, who were newly hired for the 2018-2019 Academic School Year. In response to being alerted to the deficiencies, Mr. Gibson advised Ms. Delarge that Lauren Coleman, in her position as Curriculum Coordinator, will be responsible for getting

²⁵ Exhibit 16, Deposition Transcript of Ashlei DeLarge dated 9/02/2020, at p.20, lines 2-25; p. 21, lines 1-3; 7-25; p. 30, lines 5-25; p. 31, lines 1-25; p. 32, lines 15-25.

²⁶ Exhibit 16, Deposition Transcript of Ashlei DeLarge dated 9/02/2020, at p.22, lines 1-13.

²⁷ Exhibit 16, Deposition Transcript of Ashlei DeLarge dated 9/02/2020, at p. 32, lines 10-21.

Kennedy students back on track to graduate. Ms. Delarge advised NBSF CEO Michelle Blouin-Williams of the conversation that she had with Mr. Gibson on the subject.²⁸

AMENDED PARAGRAPH 30.

Ms. Delarge testified that when she saw the master schedule for the 2018-2019 Academic School Year, there were freshman scheduled to take classes that did not make sense to her. Some were taking two English courses and two Maths at the same time. She also noticed a problem with senior scheduling. Seniors were not scheduled for necessary courses to graduate. She voiced these problems to the new administrators several times (Brian Gibson, Lauren Coleman, and Taisha Payne – a second Assistant Principal hired mid-year) and her concerns were summarily dismissed. Again, she was advised that Lauren Coleman would handle the problem.²⁹

AMENDED PARAGRAPH 31.

When asked how Kennedy found itself facing the problems half of the Class of 2019 lacking graduation eligibility, Ms. Delarge testified:

“I think we got to this problem by adults not listening to other adults. I think we got to this problem by adults coming in, taking over a school, wanting to demand their authority and wanted others to respect them. I can't say that children weren't taken into consideration, though it seems that way. I want to believe that administration put children first, but it just does not seem that way.”³⁰

AMENDED PARAGRAPH 32.

Based upon the foregoing testimony from Ashlei Delarge, Kennedy administrators/staff and NSBF's CEO Michelle Blouin-Williams had actual knowledge that Kennedy students were not matriculating towards graduation eligibility for TOPS University Diploma beginning in 2016-2017, and negligently failed to take steps to provide students with required core curriculum and End-Of-Course exams to get them back on track.

²⁸ Exhibit 16, Deposition Transcript of Ashlei DeLarge dated 9/02/2020, at p. 36, lines 18-25; p. 37, lines 1-25; p. 39, lines 1-25; p. 40, lines 1-10 and 21-25.

²⁹ Exhibit 16, Deposition Transcript of Ashlei DeLarge dated 9/02/2020, at p. 46, lines 18-25; p. 47, lines 1-25; p. 48, lines 1-11.

³⁰ Exhibit 16, Deposition Transcript of Ashlei DeLarge dated 9/02/2020, at p. 48, lines 23-25; p. 49, lines 1-11.

FRAUDULENT/INTENTIONAL ACTS OF GRADE CHANGING
FIRST KENNEDY GRADE CHANGING SCANDAL

When Past is Prologue to the Future...

AMENDED PARAGRAPH 33.

In 2016, Brian Gibson, who later became the Principal at Kennedy for the 2018-2019 academic school year, was suspended with pay, amid a cheating probe at Landry Walker and a State Inspector General's Investigation into test scores. Taisha Payne, who later became the Assistant Principal at Kennedy for the 2018-2019 academic school year, was suspended with pay, amid the same cheating scandal at Landry- Walker. An investigation yielded inconsistencies in students' class grades compared to state test scores and the school's performance plummeted the following year after more testing monitors were placed at Landry Walker.³¹ Both Gibson and Payne were ultimately fired for intentionally changing grades at Kennedy in May 2019 Dr. King had accused of them changing grades in January 2019.

AMENDED PARAGRAPH 34.

According to the testimony of Mr. Gang, it came to his attention that Brian Gibson and Taisha Payne had been accused of grade changing at another charter school that the OPSB exercised supervision and oversight over -- Landry Walker. However, he allowed NBSF CEO Michelle Blouin-Williams to hire Mr. Gibson and Ms. Payne, despite his concerns. Mr. Gang has alleged that LDOE was negligent in allowing these educators to maintain educational licenses to teach children in the State of Louisiana, after the Landry-Walker scandal. The relevant testimony follows:

- Q. Mr. Gang, were you ever made aware that Brian Gibson and Taisha Payne were accused of doing something very similar when they worked at Landry-Walker?
- A. I was not made aware of that directly. When they were -- when -- I was not made aware of when Miss Payne was even hired. I didn't know that Miss Payne had been hired until allegations were actually made against Miss Payne, because she started mid-year at John F. Kennedy. When Mr. Gibson was hired, I was told by our CEO at the time that I might hear some rumors, and -- but I should ignore those rumors, that he is an excellent teacher, an excellent leader, and he is exactly what the school needed. Having no other reason to doubt our CEO, and again, not wanting to violate our board policies of being interfering with personnel decisions outside of our CEO, I told our CEO that, you know, the board has one employee, that person is you, we trust you as the leader of this organization to hire and bring the right people in to

³¹ Exhibit 17, Article dated 2/15/2016 by Marta Jewson of The Lens entitled "Landry-Walker principal, other administrators, suspended with pay amid cheating probe"; Exhibit 18, Article by Danielle Dreillinger of NOLA.Com entitled "New Orleans high school Landry-Walker's sky-high test scores plunged after cheating probe" dated 2/11/2016

lead our schools, and we are going to hold you accountable for what happens underneath those individuals.

- Q. Have you all brought criminal charges against Brian Gibson, Taisha Payne and Lauren Coleman in connection with what they have done here at Kennedy, so that they don't get hired to do this again someplace else?

MR. CLARK:

I'm going to object to that, just to the sense that Mr. Gang can't bring criminal charges. It's up to the state to do that. But go ahead and answer, please.

THE WITNESS:

Yeah, that was going to be my answer, Mr. Clark. I do not have the authority to bring criminal charges. I do not have the authority to revoke their teacher licenses or certifications. I do not have the authority to ensure that they are never in classrooms again with students. You know, I wish I -- I have my own personal desires. What I would say is that there is -- you know, there is certainly cause for action by other entities, should they choose to decide to do that, and I, unfortunately, am not in charge of those entities.³²

...

- Q. Okay. Are you aware of any actions, or lack thereof, by the Department of Education that contributed to or caused the malfeasance that you just mentioned that made the records, student records, unreliable at Kennedy in 2019?

- A. **The only thing that I would say is that the Department of Education has at its disposal the ability to remove teacher certification and teacher licenses. Some of the individuals that were involved in this process had been accused or implicated in similar sets of activities at previous places. If those individuals had had their teacher certifications revoked, or teacher licenses removed, prior, as relates to those previous instances by the Department of Education, it is less likely that they would have been employed in education.**³³

...

- Q. So to clarify, I'm not talking about right now everything you know, you know, the teachers that you wish their certification would get revoked. I'm asking in the context of your answer that some of these teachers should not have been there in the first place, and potentially that's an action that LDOE failed to take or -- you know, prior to all of this. And I just want to know which particular educators you were referring to?

- A. **Yeah. So I'll say two things. So the two individuals that I know were implicated in previous allegations of cheating or malfeasance were Miss Taisha Payne and Mr. Brian Gibson. They were implicated. There were news stories about them. If you Google them, you can see them. I would go further and just say that any person that is being credibly accused of malfeasance with regard to students or with regard to the public trust broadly, does not deserve to have a place in Louisiana classrooms. And I believe that the Department of Education has the ability and responsibility to take action when they have credible allegations.**³⁴

³² Exhibit 1 – Deposition Transcript of Raphael Gang dated 9/03/2020 at p. 70, lines 9-25; 71, lines 1-8.

³³ Exhibit 1 – Deposition Transcript of Raphael Gang dated 9/03/2020 at p. 158, lines 8-25; p. 159, line 1.

³⁴ Exhibit 1 – Deposition Transcript of Raphael Gang dated 9/03/2020 at p. 171, lines 23-25; 172, 1-25

The Beginning of the End to NBSF...

AMENDED PARAGRAPH 35.

Discovery conducted in this case has already proven that on January 28, 2019, 11th and 12th grade guidance counsellor Kimberly Owens-Heath informed NSBF Human Resources Director Michael Washington that grade changes occurred without her knowledge or the knowledge of the School Data Manager Rachel Banks. *Ms. Owens-Heath was advised by students that they no longer needed to repeat the failing course, and that their grades were changed so that they would be able to advance to the next course progression in an effort to satisfy graduation requirements by May 2019.* Ms. Owens-Heath requested from school leaders a list of students whose grades were altered.³⁵

Ms. Owens-Heath's discovery is problematic and evidence of intentional fraudulent conduct and a breach of duty on the part of Kennedy administrators. Pursuant to Title 17, La. R.S. 17:414.2, school administrators have no authority to change grades. Teachers are the official holders of the academic grade/record assigned to their teaching certificates. Therefore, a change in grade, without approval and rationale for grade changes is an illegal and unethical violation. Plaintiffs aver intentional grade changes constitute fraud.

AMENDED PARAGRAPH 36.

Discovery efforts revealed that, on January 29, 2019, Dr. Taisha Payne sent to Ms. Owens-Heath a list of 17 students with altered grades, all of which were not approved by their Algebra III teacher, Dr. Gloria Love. Dr. Love had retired before the grades were altered. Students enrolled in Dr. Love's Algebra III course, all assigned a grade of F in the course of the second quarter, had their grades changed to D in Dr. Love's absence. In Dr. Payne's email, she admitted that the grades were changed, but attributed it to having to "recalibrate and adjust" grades due to weights in PowerSchool.³⁶

³⁵ Title 17, La. R.S. 14:414.2; Exhibit 19, Email from Kimberly Owens-Heath to Michael Washington dated 1/28/2019 [Bates Stamped NBSS 3030]; Exhibit 20, Dr. Runell King's statement to Mr. Michael Washington dated 2/03/2019 at p. 2 [Bates Stamped NBSS 3064-3066]

³⁶ Exhibit 21, Email from Dr. Taisha Payne dated 1/29/20 [Bates Stamped NBSS 3030]; Exhibit 20, Dr. Runell King's statement to Mr. Michael Washington dated 2/03/2019 at p. 2 [Bates Stamped NBSS 3064-3066]

Plaintiffs are prepared to prove that this allegation by Ms. Payne is patently false. If this were the case, statistically, each student enrolled in each section of Algebra III would have benefitted from a higher grade than he/she initially earned, when the weights were recalibrated. However, the evidence will show that there are some students in various sections of Algebra III whose grades remained unaltered --- the passing grades remained untouched. This proves that the grades were manually and intentionally changed for some students and not for others. Dr. Runell King and Ms. Rachel Banks (Data Manager) audited students' grades and noted that the exact same students that Dr. Payne admitted to "adjusting and recalibrating grades" were initially on the list of students who were deemed to have failed senior year.³⁷

AMENDED PARAGRAPH 37.

Discovery efforts have revealed that final grades were turned in by all teachers in October 2018 for report cards printed on January 16, 2019. In an Algebra III class taught by Dr. Gloria Love, the printed report card grades did not match her grade verification forms that she submitted in October 2018. After a final review of all students in Dr. Love's class, Dr. King and Ms. Banks determined that 21 students' grades were altered; therefore, providing an unfair academic advantage as compared to their peers.³⁸

AMENDED PARAGRAPH 38.

On February 3, 2019, Dr. Runell King provided a very detailed letter to NBSF Human Resources Director Michael Washington explaining why he was certain that grade changing occurred at Kennedy between January 7, 2019 through January 15, 2019. He provided documentation to prove that after Principal Brian Gibson directed Kennedy's Data Manager Rachel Banks to grant full access to the school's grading system PowerSchool to Dr. Taisha Payne (Assistant Principal), Ms. Nicole Cooper (Assistant Principal), and Ms. Lauren Coleman (Curriculum Coordinator), grade changes were made using the login of a former Kennedy Data Manager, Roxanne Watts.³⁹ Ms. Watts was no longer employed at Kennedy when the grade

³⁷ Exhibit 20, Dr. Runell King's statement to Mr. Michael Washington dated 2/03/2019 at p. 2 [Bates Stamped NBSS 3064-3066]

³⁸ Exhibit 20, Dr. Runell King's statement to Mr. Michael Washington dated 2/03/2019 at p. 2; [Bates Stamped NBSS 3064-3066] Exhibit 22 - in globo, Report cards printed on 1/16/2019 that show notations to change the grades [Bates Stamped NBSS 3031, 3036, 3039, 3044]; Exhibit 23, Documentation of the grades that were changed indicated by highlights [Bates Stamped 3122-3128]

³⁹ Exhibit 24, PowerSchool grade changes using Roxanne Watts' login between 1/07/2019 through 1/15/2019 [NSBSS 3091]

changes were made using her login. Other changes were made using Nicole Cooper's PowerSchool login, which she admittedly shared with Dr. Taisha Payne and Ms. Lauren Coleman. The change in access gave these individuals the unfettered ability to make historical grade changes. The evidence will show that the issuance of report cards was delayed by Kennedy administrators to alter the grades.⁴⁰

AMENDED PARAGRAPH 39.

Dr. Gloria Love's deposition testimony makes it clear that her grades were changed without her permission, knowledge and consent. As a seasoned educator, she was outraged at what occurred at Kennedy. According to Dr. Love, she was 'misled and used' by NBSF CEO Michelle Blouin-Williams and NBSF Human Resource Director Michael Washington, who encouraged her to put grades in a roll book based upon what was reflected in PowerSchool, after the grades had already been changed. She later learned that the grades she put into the roll book from PowerSchool were inaccurate from what she submitted in October 2018. She pleaded with Kennedy's administrators and NSBF's staff to do the honorable thing and change her grades back to the grades earned by the students. The following testimony constitutes relevant excerpts from Dr. Gloria Love's deposition:

Q. So this is a Quarter 1 grade for Algebra III for (Named Plaintiff/Student) is recorded as a D, and the Quarter 2 grade for (Named Plaintiff/Student) is recorded as an F on his Semester 1 report card. What I would like to ask you is --is this your handwriting suggesting that the Quarter 2 grade should be changed to a D?

A. No.

Q. And you see at the bottom it says "Love-D"? That's not your handwriting either?

A. No.

Q. I'd like to mark for identification NBSS-3031 as Exhibit B to the deposition. (Exhibit B was marked.) I'd like to show another report card, which is designated as NBSS-3036. This is the report card for student (Named Plaintiff/Student). As you can see, "Algebra III" is listed, "Teacher, Gloria Love." For Quarter 1, the grade is a D; for Quarter 2 the grade is an F. Again, I'm going to ask you if that's your handwriting suggesting that the grade should be changed to a D?

A. Definitely not.

Q. I'd like that mark this as Exhibit C for the record. (Exhibit C was marked.) Dr. Love, I'm showing you the report card for the student (Named Plaintiff/Student). As you can see, Algebra III is on the fourth

⁴⁰ Exhibit 20 - Dr. Runnell King's statement to Mr. Michael Washington dated 2/03/2019 at p. 2 [Bates Stamped NBSS 3064-3066]

line of the report card, "Teacher, Gloria Love, Quarter 1, D; Quarter 2, F." Did you make that handwritten notation that that grade should be changed to a D?

A. No, I did not.

Q. I'd like to mark that as Exhibit D to the deposition. For the record it is Bates stamped -- I'm having trouble showing y'all the Bates stamp -- Bates stamped 3039. (Exhibit D was marked.) Dr. Love, I'm showing you the report card of (Named Plaintiff/Student). As you can see on the third line of the report card, it's Algebra III; Teacher, Gloria Love; Quarter 1 grade a C; Quarter 2 grade a D. Did you make that handwritten suggestion that the grade should be changed to a C?

A. I never made -- no.

Q. I'd like that mark that as Exhibit E for the record. (Exhibit E was marked.) The portions you see blacked out, Dr. Love, are the students we're not discussing.

A. Okay. Thank you.

Q. So Dr. Love, I'd like to show you -- let me just ask you this. Did you authorize any changes to any of your students' grades after your resignation in January of 2019?

A. No, I did not.

Q. Did anyone from Kennedy consult you about a weight problem or calculation problem in PowerSchool with your grades before January 16 of 2019?

A. No....

Q. Were you contacted by Taisha Payne to discuss the fact that grades from your Algebra III class had to be recalibrated due to a weighting issue in PowerSchool?

A. No, I was not....

Q. Dr. Love, it appears from the number of entries that 17 of your students' grades were changed for your Algebra III course from Fs to Ds. Is it your testimony that this was done without your knowledge and consent?

A. Yes. Completely without my knowledge....

Q. Dr. Love, did you learn after your resignation -- I think you just said you did -- that several of your grades had been changed?

A. Yes, I did. ...

Q. And Michelle Blouin-Williams called you at some point and asked you to turn in your notebook because you had done such a wonderful job previously, but she didn't --

A. That was an email. It was in an email.

Q. All right. But she did not tell you about the pending investigation with regard to the grade changing?

A. No. No.

Q. And Mr. Washington did not tell you about the pending investigation with regard to the grade changing?

- A. No.
- Q. And then sometime after Runell King was fired, it's my understanding that he contacted you?
- A. Yes, he did.
- Q. And that was your first notice of the grade-changing allegation?
- A. Right.
- Q. Okay. And then that prompted you to go back and check your final grade verifications that you had signed?
- A. Yes.
- Q. And then upon comparing what you had downloaded off the computer to what you had previously turned in as a final grade verification, that's how you noticed that the grades were different?
- A. Yes.
- Q. Dr. Love, you were not interviewed at any time by Michael Washington or Ms. Monica Boudouin in connection with the investigation?
- A. No, I was not. I did not know about it. ...
- Q. Dr. Love, I thought I heard you testify previously that you were surprised at some of the students that were placed in your Algebra III class because they had not had other courses that would be considered prerequisites for Algebra III. Is that correct?
- A. I don't know if they had that, but I know that I was told that I was teaching special ed, and I told them I wasn't qualified for that. And that's what was in my Algebra III class. ...
- Q. Dr. Love, I'd like to show you an email dated March 15, 2019, that is from you to Michael Washington and a bunch other people, including Michelle Blouin-Williams. And it says, "My roll book has problems and is not accurate. I found my copies of the Quarter 1 grades that I signed and turned in October 15, 2018. They are not the same as the digital downloaded grades from PowerSchool, which means something is wrong. The Quarter 1 and Quarter 2 grades that I placed in the grade book all came from PowerSchool. Any and all changes affected the final grades. Students should have failed if they had unexcused multiple absences, which was not reflected on the download, but I submitted the absences in the roll book. I bring to your attention a student" -- and then you stated who the student was and something about that student. "The question to be answered is why are changes happening and by whom. It is not professional to change grades. Please make wise decisions for students watch and learn from everything we do. I would like to think that PowerSchool is the digital problem for the changes. I tried to call." Do you remember sending this email to --
- A. Definitely. Yes. ...After I received the phone call then started -- and heard what was going on, I said okay. So, in other words, I'm being used as a guinea pig, and the guinea pig wasn't there anymore. So I wanted to be sure that whatever it was that I turned in was accurate. And so I went to my records, because I always keep a copy of my records with my signature on it. And they were not the same.
- Q. So you're providing them your grades with your signed signature dated October 15, 2018. Correct?

- A. Yes.
- Q. And those are the correct grades that you actually gave?
- A. Yes. For Quarter 1.... And then it looks like you sent two emails to him on that same day, because you sent another one later in the afternoon at 2:31.
"Mr. Washington, I respectfully request the following actions as soon as possible: Put all grades in PowerSchool Quarter 1, Quarter 2, and Semester 1, including the grades for students with too many unexcused absentees 'F', Louisiana Attendance Policy and the attached NBSF Attendance Policy." So you're citing to that?
- A. Yes.
- Q. "Notify parents of grade changes in the event students have to repeat in the summer or otherwise, (urgent). 3. Acknowledge the error of the replacement by the individual who performed this unprofessional and disrespectful act (without disturbing my reputation as a professional)" -- and then you cite to something. And then No. 4 you say, "Note that neither phone calls or meetings are acceptable with me at this time. You are aware of my situation with family illnesses and more. Please copy/email all changes from my records as soon as possible. Dr. Olivier's grades were never changed by me. I demand the same respect. I gave you all; students, administrators, staff, teachers, and custodians all of me. Please do the same. Thanks in advance for your cooperation. God bless, Gloria." So could you explain to me based upon what you recall and based upon what we see here what you were attempting to communicate and why you reacted with the request that you asked for in your March 19, 2019, email?
- A. I wanted to cite to them -- actually, the URLs that you see reflect all of the rules and regulations from the school, the state -- from the state for administrators not changing grades, and the reasons why the rules from the state as to why administrators cannot change grades. The other one was for attendance and all, and that was to verify anything that was on my grades, and the fact that it's not professional for an administrator to change grades. The only -- (Witness' audio freezes.)
- Q. You said that it's unprofessional for an administrator to change grades, and then you faded off.
- A. Yeah. Administrators are not supposed to change grades. And especially if the grades have already been turned in, you know. And the only persons that could change grades were those administrators who had access to PowerSchool. I no longer had access to PowerSchool, and I just wanted to bring them to be aware that whatever happens if an administrator changes grades of a student and the teacher has not done it and the teacher is not there, that it was unprofessional and it was not acceptable by the state nor the city of New Orleans.
- Q. So you were referencing the actual policies?
- A. I wanted them to go read the policies for themselves.
- Q. Okay. And, again, you were asking them to restore your grade to what you had --
- A. That's right.
- Q. Okay.
- A. And that was the reason for "trust, respect, and" -- pull it up a little bit -- "trust, respect, and honor." And that's what I was calling on. Their trust, their respect, and their honor.
- Q. Was this disturbing for you?

A. Yes, it was. This has never happened to me before.⁴¹

AMENDED PARAGRAPH 40.

In connection with the First Kennedy Grade Changing Scandal, the NSBF concluded its internal investigation very swiftly by stating that the evidence was “inconclusive.” However, contrary to this assertion, on February 26, 2019, Dr. Taisha Payne and Ms. Nicole Cooper received a written reprimands from Michael Washington requiring them to watch two videos on General Ethics and Password Security Basics in connection with the investigation. It took them a total of 24 minutes each to satisfy this reprimand. Nicole Cooper also received a 1 day suspension, without pay, in connection with the examination.⁴² On February 27, 2019, Lauren Coleman received a written reprimand from Mr. Washington requiring her to watch three videos on General Ethics, Password Security Basics and Communication Styles and Skills in connection with the investigation. It took her 33 minutes to satisfy the reprimand.⁴³ Curiously, the whistleblower, Dr. Runell King, received a written reprimand letter on February 27, 2019. He was disciplined with a two-day suspension, without pay, and having to watch two videos.⁴⁴ It is interesting that the employee who reported the intentional grade changing conduct received the harshest discipline from NSBF.

AMENDED PARAGRAPH 41.

After Dr. King blew the whistle on the First Kennedy Grade Changing Scandal, the same individuals who he accused of grade changing [Brian Gibson, Nicole Cooper, Taisha Payne, and Lauren Coleman], and who were ultimately terminated in connection with the Second Kennedy Grade Changing Scandal, provided statements against Dr. King which resulted in his termination

⁴¹ Exhibit 25, Deposition Transcript of Dr. Gloria Love dated 9/08/2020 at p. 15, lines 6-25; p. 16, lines 1-25; p. 17, lines 1-24; p. 19, lines 1-5; p. 20, lines 12-23; p. 29, lines 13-25, p. 30, line 1-18; p. 34, lines 23-25; p. 35, lines 1-2; p. 37, lines 16-25; p. 38, lines 1-2; p. 40, lines 20-25; p. 41, lines 1-25; p. 48, lines 22-25; 49, lines 1-25; p. 50, lines 1-25; p. 51, lines 1-25; p. 52, lines 1-6

⁴² Exhibit 26, Letter from Michael Washington dated 2/26/2019 to Dr. Taisha Payne [Bates Stamped NBSS 3163]; Exhibit 27, Certificates of Completion for Taisha Payne [Bates Stamped 3164-3165]; Exhibit 28, Letter from Michael Washington dated 2/26/2019 to Nicole Cooper [Bates Stamped NBSS 3166]; Exhibit 29, Certificates of Completion for Nicole Cooper [Bates Stamped NBSS 3167-3168]

⁴³ Exhibit 30, Letter from Michael Washington dated 2/26/2019 to Lauren Coleman [Bates Stamped NBSS 3170]; Exhibit 31, Certificates of Completion for Lauren Coleman [Bates Stamped 3171-3173]

⁴⁴ Exhibit 32, Letter from Michael Washington to Dr. Runell King dated 2/27/2019 [NBSS 3178]

for alleged “mishandling of ACT materials.”⁴⁵ On March 13, 2020, Dr. King was terminated.⁴⁶

The next day, on March 14, 2020, Ms. Tamika Duroncelay sent an email to Michael Washington, Michelle Blouin-Williams and Monica Boudouin stating the “missing” ACT materials were “found.”⁴⁷

AMENDED PARAGRAPH 42.

The OPSB also conducted its own internal investigation of the First Kennedy Grade Changing Scandal. In a media statement issued on September 26, 2019, the OPSB stated that the results of its investigation were “inconclusive.” The district found that grades had been changed but could not find a valid explanation for those changes. District officials said they were “unable” to interview Dr. Gloria Love in connection with the incident. However, Plaintiffs’ Counsel had no problems communicating with Dr. Love and conducting her deposition in this lawsuit.⁴⁸

“Inconclusive” means “not leading to a firm conclusion; not ending doubt or dispute. Plaintiffs aver that fraudulent grade changing actually did occur in January 2018 at Kennedy, and the OPSB and NSBF confirmed it.⁴⁹ The fact that grade changing did occur at Kennedy in January 2018 rendered it foreseeable that grade changing would occur in May 2019 at Kennedy. NBSF and the OPSB intentionally “covered up” and concealed the wrongful deeds (grade changing) by calling their investigations “inconclusive” and terminating the whistleblower, Dr. Runell King. They protected Brian Gibson, Taisha Payne and Lauren Coleman from grade changing in January 2019, when their wrongful actions should have triggered their termination and not a slap on the wrist by NSBF. What may have constituted intentional conduct by employees of NBSF resulted in negligent conduct by other NBSF board members and staff members by maintaining the employment of wrongdoers at Kennedy to cause harm to students.

⁴⁵ Exhibit 33, Investigation Status Internal Document Only regarding the FIRST grade changing investigation [NBSS 3174-3176]

⁴⁶ Exhibit 34, Letter from Michael Washington to Dr. Runell King terminating him from employment dated 3/13/2019 [Bates Stamped NBSS 3177]

⁴⁷ Exhibit 35, Email from Tamika Duroncelay to Michael Washington, Michelle Blouin-Williams and Monica Boudouin stating the ACT materials were “found” dated 3/14/2019 [Bates Stamped 3240]

⁴⁸ Exhibit 36 - Public Media Statement Released by OPSB on September 26, 2019

⁴⁹ Exhibit 35, NOLA Public Schools Internal Memorandum from Dr. Kelli Peterson to Dr. Henderson Lewis, Jr. dated 9/25/2019

**FRAUDULENT CONCEALMENT OF A “SENIOR GRADUATION PROJECT” WHICH
AMOUNTED TO DAMAGE CONTROL AND UNEARTHING OF COMPLETE
DYSFUNCTION AT KENNEDY BY TENSQUARE**

AMENDED PARAGRAPH 43.

In March 2019, news reporter David Hammer broke a story regarding students’ grades being changed at Kennedy. The grade fixing allegations surfaced after Dr. Runell King alleged he was wrongfully terminated for alerting the board that employees at Kennedy had manually changed grades for several students who took former-Kennedy teacher Gloria Love’s Algebra III class. King accused employees of changing F’s to D’s and D’s to C’s on the students’ records. Love had left her position before the allegations were made public.

AMENDED PARAGRAPH 44.

On April 1, 2019, NBSF suspended CEO Michelle Blouin-Williams with pay, in connection with allegations regarding fraudulently altered board meeting minutes and a fraudulently confected bus contract. NBSF also hired investigators with the law firm Adams and Reese to look into the allegations about fraudulent grade-changing, the fraudulent board meeting minutes, and the fraudulent bus contract. NBSF empowered Board President Raphael Gang to hire an educational management service. He entered into a contract with TenSquare on April 11, 2019. Pursuant to the contract, TenSquare was paid \$90,000, plus expenses, for three months of work trying to certify seniors for graduation eligibility at Kennedy.⁵⁰

AMENDED PARAGRAPH 45.

TenSquare hit the ground running and quickly uncovered a myriad of problems at Kennedy facing the graduating Class of 2019 and underclassmen. Emails issued in April and May 2019 evidence a frantic scramble to help seniors to satisfy BESE’s requirements for graduation eligibility. On April 17, 2019, Lauren Coleman sent an email to Andrew Touchette at Tensquare stating that several seniors did not have final grades for the fourth quarter; they are working on a graduation list; and they are trying to identify seniors who need to take End-Of-Course exams to graduate.⁵¹ In an April 26, 2019 email, Meghan Turner (employee of Tensquare) told Principal Brian Gibson the team still needed information. “As you can see

⁵⁰ Exhibit 37, Article by Marta Jewson of The Lens entitled “New Beginnings CEO Placed on paid leave during investigation into grade inflation, falsifying records” dated 4/01/2019; Exhibit 38, TenSquare Contract dated April 11, 2019

⁵¹ Exhibit 39, Email from Lauren Coleman to Andrew Touchette dated 4/17/2019 re status of senior graduation project

below, we are missing several reports needed to identify seniors' graduation status and incomplete items." Brian Gibson then forwarded the email to his team at Kennedy. "Guys please give me an update on your parts of this. I need this behind us."

AMENDED PARAGRAPH 46.

On April 29, 2019, updates to the "Senior Graduation Project Tracker" show how many issues TenSquare and Kennedy's administrators/staff were scrambling to address before graduation.⁵²

AMENDED PARAGRAPH 47.

On April 30, 2019, in the midst of a crisis at Kennedy, the 11th and 12th grade guidance counsellor, Kimberly Owens-Heath suddenly resigned without warning and without citing a reason.⁵³

AMENDED PARAGRAPH 48.

On May 7, 2019, in the wake of accusations of fraudulent board meeting minutes and a fraudulently approved bus contract, and in the midst of a crisis at Kennedy, NBSF CEO Michelle Blouin Williams tendered her resignation. Mr. Gang sent a letter to all NBSF families advising them of her resignation.⁵⁴

AMENDED PARAGRAPH 49.

On May 8, 2019, Kennedy Assistant Principal Nicole Cooper sent an all-staff email at 1:32pm titled "URGENT: Senior teachers – grade verification sheets needed by 2 pm." Upon information and belief, there were a total of approximately 177 seniors in the 2019 class at this time.⁵⁵

AMENDED PARAGRAPH 50.

On May 9, 2019, one month after the board hired TenSquare, Meghan Turner and Laney French (TenSquare employees) identified nine distinct issues at Kennedy that had to be resolved in order for seniors to graduate:

Issue #1 – Students with failing Second Quarter Grades. Laney French was assigned to go through the F's list and check the students' current grades in PowerSchool. After the grades have been stored, Mr. French was directed to print "updated" transcripts with final Second Quarter grades to reflect final grades and put those in the graduation files.

⁵² Exhibit 40, Emails re Senior Graduation Tracker dated 4/29/2019

⁵³ Exhibit 41, Email regarding the sudden resignation of Kimberly Owens on 4/30/2019

⁵⁴ Exhibit 42, Letter from Raphael Gang to NBSF families re: resignation of Blouin Williams dated 5/07/2019

⁵⁵ Exhibit 43, Email from Nicole Cooper to senior teachers re grade verification sheets dated 5/08/2019

Issue #2 - Students with incorrect coding from classes taken at Kennedy including:

A – Health/PE issue from 2017-2018

B – Semester 1 classes/grades from 2018-2019 that were not stored

C – Spanish 1 coded twice for a student when the student was enrolled in Spanish II

D – Arts classes that need to be confirmed to have the state course code to meet the arts requirement

Issue #3 - Student transcripts missing required courses that were made up on GradPoint

Issue #4- End-Of-Course scores pending for students

Issue #5- Transcripts incomplete from prior years at non-Kennedy school (this is for the students missing credits on their PowerSchool transcripts who took the course and somehow it did not get onto their Kennedy transcript, or was not coded correctly on their transcript, but we have a physical copy of the credit given)

Issue #6 - Students who are, at this moment, still working on completing work for graduation requirements.

Issue #7- Final grades for Semester 2 are not stored in PowerSchool

Issue #8- Some teachers have not submitted grade verification forms

Issue #9- Seat time makeup (attendance issues)⁵⁶

In this email and others issued May 9, Meghan Turner laid out a plethora of problems at Kennedy. The school would need to address students with failing grades and others who had incorrect coding for their classes. They had to add GradPoint courses and grades into their course history; clean up a transcript issue from the 2017-2018 where Kennedy students were given 2.0 credit for their classes instead of 1.0 credit; remove credit for homeroom that was mistakenly given to some students in 2017-2018; added dual enrollment credits when they had not been added; corrected the course code for the dual enrollment English IV course; fixed the Health/PE class miscoding for the students from this group who had that issue. Some students' transcripts failed to note they had previously made up coursework in Kennedy's remedial program, GradPoint. Others were still actively making up course work. Some students who transferred to Kennedy mid-way through high school had incomplete transcripts. Other students lacked final grades from previous semesters or were waiting on final grades in the spring semester. Some were waiting for results from end-of-course exams. Students are required to pass three end-of-course exams to graduate in Louisiana. They must pass English, Math and either Social Studies

⁵⁶ Exhibit 44, in globo, Emails to and from Meghan Turner re 9 issues that must be resolved for students to graduate dated 5/09/2019

of Science. Internal emails indicate that there was confusion regarding who would serve as testing coordinator and have the difficult task of talking to seniors about their test scores. Additionally, some students had exceeded the state's absence limit. Internal emails indicate that Kennedy's policies on makeup seat time were unclear.

AMENDED PARAGRAPH 51.

On May 9, 2019, one week before graduation, Tensquare Partner Kathy Padian, emailed Brian Gibson to explain how senior certification was progressing. "Due to the sudden departure of your counselor and her apparent lack of completion of many tasks prior to leaving, I asked Meghan and later Delaney French to assist" in certifying seniors for graduation, Padian wrote: "We have concerns about the lack of data for many students and even though we are very late in the game, with graduation happening next week, we must do everything possible to confirm which students have and have not met the requirements." That day, Brian Gibson asked the team to focus on transcripts and graduation eligibility for the top 15 students.⁵⁷

AMENDED PARAGRAPH 52.

On May 14, 2019, three days before graduation, Laney French said 95 seniors were eligible to graduate, 30 had not met requirements, and she had 50 left to verify."⁵⁸ She continued with that task and gave another report on May 15, 2019, stating that the final 52 seniors have been divided among the group for review.⁵⁹

AMENDED PARAGRAPH 53.

On May 16, 2019, the day before graduation, Laney French, who was feverishly reviewing Kennedy's student transcripts, sent an email to NBSF administrators including lists of 15 "pending" graduates and 12 "non-grads." It said, "Please tell me asap if I am wrong about any student's status."⁶⁰

AMENDED PARAGRAPH 54.

On graduation day, May 17, 2019, Brian Gibson sent an email to NBSF Board President Raphael Gang, Andrew Touchette, and Kathy Padian that shows the level of frustration and dysfunction at Kennedy. He said:

⁵⁷ Exhibit 45, Email from Kathy Padian to Brian Gibson re lack of student data and impending graduation dated 5/09/2019

⁵⁸ Exhibit 46, Email from Laney French regarding the status of her senior transcript review dated 5/14/2019

⁵⁹ Exhibit 47, Email from Laney French regarding 52 senior transcripts left to review dated 5/15/2019

“I am writing to express my feelings as it relates to this process that we have been going through with TENSQUARE. I am very appreciative of all the work that has been done to help close out this year, and prepare for next year; however, I would be remised if I didn’t speak on how I believe we’ve gotten to this point. **At the outset of my employment with New Beginnings, our team was met with many challenges. We were challenged with getting accurate data, up-to-date student records and financial budgets/reports. Moreover, all of our attempts to address these concerns were thwarted. What we discovered was blatant mismanagement and incompetence in the data management and counseling departments.** In addition to these challenges, there has been a clear attempt to sabotage this administration, which I believe is evident by the continued presentation of false allegations and attempted character assassination. The incredible collaborative work done to produce our graduation class by TenSquare and this administration, was done without the assistance of both our senior counselor and data manager who both resigned without producing many records at all. I’m certain that this is not something that could be done without the multitude of skill sets that this group has exhibited.”⁶¹

AMENDED PARAGRAPH 55.

Also, on graduation day, May 17, 2019, Brian Gibson and Meghan Turner exchanged a series of emails that were very telling about the negligence of adults in causing students not to graduate. In an attempt to help a senior graduate, Gibson admits that Kennedy was negligent and caused the senior not to meet graduation requirements. His first email stated:

“(Unidentified student) is currently a 12th grade student who has been determined ineligible for graduation based on not meeting EOC requirements. (Unidentified student) has a unique situation in that he was told by the former District Test Coordinator (Dr. Runell King) and his Guidance Counsellor (Ashlei DeLarge) that he passed the Biology EOC. The aforementioned Guidance Counsellor has corroborated this statement. Additionally, (Unidentified Student) and his mother were provided with a passing Biology score at that time. Records show that (Unidentified Student) has not sat for the Biology EOC since 2016, missing several opportunities to demonstrate proficiency on said test.”

Ms. Turner replied:

“I agree that this is an unfortunate situation. The student was flagged on our transcript audit for several reasons. We were told that the parent was aware of the EOC situation and your team was working to clarify the student number issue. However, the student does not qualify for graduation. Nine other students that did not pass an EOC test were told they could not participate in graduation. Allowing this student to participate would be inconsistent with the policy used for other students that did not pass the EOC. I would encourage you to be consistent with the policy used for the other students.”

In response, Mr. Gibson stated:

“We understand the policy and stand by the decision regarding students not being able to participate in graduation based on not meeting requirements. (Unidentified Student)’s situation brings into question the overall policy regarding testing because he was not afforded every opportunity to sit for the EOC test. We definitely want to abide by all policies, but please

⁶¹ Exhibit 48, Email of Brian Gibson to TenSquare re reasons for dysfunction dated 5/17/2019

understand that the school was negligent because unlike every other student, he was not afforded every opportunity to demonstrate proficiency on this exam. We do not agree with this decision and feel the decision is wrong. Our administrative team collectively agree that he should be allowed to participate in the ceremony.”⁶²

AMENDED PARAGRAPH 56.

Three hours before graduation, Assistant Principal Nicole Cooper wrote to Lacy French about her concern over how the valedictorian and salutatorian’s grade point averages were calculated. “I don’t know what to advise,” French replied. “Historical grade data is riddled with errors that might be affecting the GPA but I can’t be certain because this is not something I’ve dealt with before.” French advised waiting until the audit was complete but acknowledged that couldn’t be achieved by 3 pm when the graduation ceremony began.”⁶³

The foregoing email shows that one hour and twenty minutes before the graduation ceremony, the school staff were emailing back and forth about a student who was missing an English III end-of-course test. And, even the top students at Kennedy, had questionable graduation status and class rank.

AMENDED PARAGRAPH 57.

In the days leading up to the graduation ceremony, seniors and their parents were advised that most of the class would not be receiving diplomas at graduation because they had credits to make up. At the “graduation ceremony” held on May 17, 2019, the school’s blue-and-gold graduation program lists 155 names under the heading “John F. Kennedy High School Class of 2019.” Brian Gibson advised that students were not going to be issued diplomas; instead, they were advised that their diplomas could be picked up at the school the following Monday. At 9 p.m. that night, six hours after graduation, TenSquare told Brian Gibson diplomas could not be issued on Monday. “No diplomas will be issued until everything is verified and resolved.” On graduation day, emails show that determinations of ineligibility to graduate were still occurring.

AMENDED PARAGRAPH 58.

On May 18, 2019, Brian Gibson wrote to Meghan Turner asking why Kennedy administrators had lost access to PowerSchool, Kennedy’s online gradebook. Again, the blame game and dysfunction was evident in the language of the email:

⁶² Exhibit 49, Email from Brian Gibson to TenSquare re Administrative Concerns; let this student graduate because the school was negligent dated 5/17/2019

⁶³ Exhibit 50, Email from Laney French to Nicole Cooper re calculations for valedictorian and salutatorian

“First and foremost, please advise why PowerSchool access has been taken from all of the Admins at JFK without any notice or communication. Secondly, I’m very concerned about how this narrative is playing out regarding the 2019 candidates for graduation. My team and I, have only served as a constant and in a lot of cases the only support to Laney’s attempt at creating an accurate graduation list. This is and should’ve always been the work of the counselors and data manager. Prior to TenSquare coming around aboard, the counsellors (Mrs. Owens & Ms. DeLarge) in conjunction with the data manager (Rachel Banks), with oversight from Mr. Matthews was given the charge of creating a potential graduate list. This list new materialized. In fact when you joined us, you were still asking for that very list. **Since you came on Mrs. Owens quit and provided very little for Laney to work with and offered no help. Rachel Banks worked sparingly and resigned after taking off close to two weeks straight and left with very little done to help this process. I believe that what these ladies did was always what they had intended to do, which was to leave this senior cohort in complete disarray.**

Despite our many challenges, our team remained committed to ensuring that our students would not be negligently impacted by the lack of professional displayed by the aforementioned. In our very first meeting with Laney, a list was presented by you and Mr. Matthews that had many questions about seniors. I shared with you and others that we had been working proactively to produce a list that could be used as a reference. The conclusion from that meeting was the team had presented a lot of information for Laney to begin her progress. Since then, my team in isolation of the established process. Somewhere in this last two or three weeks, my team became the owners of this work in conjunction with Laney, when this was and should’ve always been the work of the counsellors, data manager and Devon. To now put this work under soo much scrutiny, as if we were the only owners of it, doesn’t feel right.

Lastly, the email referencing several questions about student graduates also doesn’t feel right, as we were only attempting to provide Laney with the answers to questions, while providing students with the opportunity to complete work until the agreed upon deadline. There was nothing done in the absence of anyone, that I’m aware of. The email sent by Mr. Matthews a few hours before graduation, referencing a child who had been determined as eligible for graduation, not meeting the graduation requirements felt very disingenuous. Throughout the process, communication with Laney has been very fluid which is why it is very concerning that if Mr. Matthews had a question about any student(s) that would lead to additional research, that information would not be shared with the team. We have and will always work in the best interest of the children we serve, which is why since January we have tried to stay up on this work, while the people who were responsible resigned or did very little. Please be prepared to have an honest conversation about all of this on Monday.”⁶⁴

AMENDED PARAGRAPH 59.

Students had been told to pick up diplomas from Kennedy on May 20, 2019, the Monday after graduation. But that date kept getting pushed back. Diplomas were not issued the week of May 20 or the week after that. On May 28, 2019, at a NBSF Board Meeting, students and parents were begging for diplomas, transcripts and information. Students and parents advised the Board

⁶⁴ Exhibit 51, Email from Brian Gibson to Meghan Turner re Kennedy administrators locked out of PowerSchool dated 5/18, 2019

that they needed transcripts as proof of graduation before enrolling in college or finalizing financial aid. At that meeting, Raphael Gang, told parents and students that he was not aware of the problem with the transcripts. After going into special session, Raphael Gang read a statement saying:

“Our investigation into the malfeasance at John F. Kennedy High School is continuing, and we are pursuing all the implications of that investigation. We are also determining whether there are implications for any students in the graduating class of seniors. We don’t have all the answers yet, and our team is working as fast as possible to get them. It is our commitment to keep students, families and the community up to date with what we know, when we know it. We want to express our deepest apologies to every student and family at John F. Kennedy High School. We are frustrated that our students and families have been put in this situation and we are determined to make it right as soon as possible.”

Despite Mr. Gang’s polite statement, Plaintiffs -- Students and parents of Kenney -- are still waiting for NBSF to “MAKE IT RIGHT.”⁶⁵

AMENDED PARAGRAPH 60.

Pursuant to emails issued, on May 21, 2019, Kennedy had still not cleared up the status and confusion over GradPoint credits, transfer transcript corrections and updates on class credits for Spanish courses.⁶⁶

AMENDED PARAGRAPH 61.

On May 24, 2019, Mr. Gang issued a letter to all Kennedy families advising them that NBSF fired Adams and Reese law firm to conduct an investigation into recent allegations of grade inflation and other issues with student credits. He told them that: “While the final report will be delivered next week, we were presented with strong evidence of improper conduct by members of our staff and we took decisive action. As of today, the principal and four members of the JFK Leadership Team are no longer employees of NBSF. We are still going through their records of each of our students in detail. We will follow-up with each affected student and family as soon as possible.”⁶⁷

AMENDED PARAGRAPH 62.

During the summer of 2019, fifty-three (53) seniors attended summer school to remedy deficiencies in their course work that rendered them ineligible to graduate. All seniors who were

⁶⁵ Exhibit 52, Article by Marta Jewson of The Lens entitled “Kennedy High School seniors await transcripts as charter board investigates ‘malfeasance’” dated 5/28/2019

⁶⁶ Exhibit 53, Email from Laney French to Ashlei Delarge dated 5/21/2019

⁶⁷ Exhibit 54, Letter from Raphael Gang to all Kennedy families re: hiring Adams and Reese and firing administrators at Kennedy dated 5/24/2019

advised that they were ineligible to graduate did NOT attend summer school. After the students completed summer school, they continued to make demands upon the administration of NBSF to provide certified transcripts and diplomas. Months elapsed without the transcripts and diplomas being produced. At a hearing held on August 6, 2019 on a writ of mandamus filed by undersigned counsel, Jennifer Baird of the Louisiana Department of Education advised the Court and counsel that not all fifty-three (53) seniors who attended summer school are eligible to graduate. Of the fifty-three (53) students, approximately thirty-three (33) were still ineligible to graduate because they did not take the correct coursework in summer school or otherwise continued to have deficiencies on their transcripts.

FRAUDULENT/INTENTIONAL ACTS OF GRADE CHANGING
SECOND KENNEDY GRADE CHANGING SCANDAL

Where There is Smoke... There is Fire

AMENDED PARAGRAPH 63.

What students and their families did not know, and were not told until much later, is that Kennedy was dealing with a SECOND Grade Changing Scandal on the eve of graduation that involved the same people that Dr. Runell King had previously accused of grade changing in January 2019. The second grade changing allegations of this lawsuit have been confirmed to be true by NBSF Board President Raphael Gang and in documents procured by Plaintiffs' Counsel in the public domain.

AMENDED PARAGRAPH 64.

Mr. Gang admitted under oath on September 3, 2020 that Brian Gibson and several other Kennedy administrators were terminated in May 2019, when it came to light that they intentionally changed graduating seniors' grades to inflate the number of graduating seniors to improve school performance scores. He admitted that these grade changes occurred within 72-96 hours of the graduation ceremony held on May 17, 2019. Mr. Gang admitted that the grade changes resulted in a painstaking review of each senior's transcript, which delayed certification by LDOE and delayed the issuance of diplomas to the graduating class of 2019. An excerpt of his relevant testimony follows.

Q. What I want to know is, what did you learn after the first investigation, okay, that prompted you to continue to investigate this?

A. Yeah. So directly prior to the graduation process, we received information from the team that there had been individuals that were accessing our

data systems improperly. And this was literally, I believe 48 to 72 hours prior to graduation happening. When we found out about these allegations, the board worked with our lawyers, with Adams and Reese, and with the team to investigate and learn more about this separate instance where there was grade changing that appeared to be happening, that we couldn't confirm, but that we saw things that were very suspicious that were happening in the data systems directly prior to graduation. At that point, we locked down the system so that no one could tamper with the data in the system any further. We – and this was directly prior to graduation, on the day of graduation, that this happened, and launched a second investigation into what had happened during the course of, basically 72 to 96 hours prior to graduation. What was revealed to us in that separate investigation, that was not on our radar at all when the initial investigation happened, was that there was a series of individuals who had been accessing and altering student records and data improperly, and that those individuals were doing that specifically to help students graduate who were otherwise ineligible to graduate. When we received this information, and it was confirmed to us that a certain set of individuals had done that, we immediately terminated those employees.

Q. Okay.

A. And launched a further investigation, where we then audited every single student record to ensure that every student that was graduating and had received a diploma was correctly receiving a diploma and was correctly getting what they were entitled to. And that was what then made a lot of newspaper headlines, which said that half of John F. Kennedy's class was ineligible to graduate/

Q. Okay. Now I understand –

A. And all of that – all that happened – I want to just be really clear about this point. All of that happened within, basically, 72 to – not even 96 hours, 72 hours of graduation happening. And so, the things that were happening in March and December with the allegations that were made around the initial grade changes by Dr. King, and the bus contract, those were two completely separate events that had nothing to do, in our minds, and that we were un --- that there was no connection between that and the things that were happening directly around graduation. That expanded the scope of the investigation, though, to cover all of the things that were happening in and around graduation. And that process took significantly more time and resources because it involved many, many more students, many many more people, much more complex data systems and things like that.

Q. So I guess the ramification or the result of what was done in the last 96 hours before graduation was to increase the number of students that were on the list as being eligible to graduate?

A. There was a public-facing record, which was basically the graduation, you know, um, pamphlet that was handed out to families that said your child is going to graduate. That document was handed out weeks ahead of graduation. What became clear to us was that the students – there were students that were on that list who were not eligible to graduate, and that various individuals inside John F. Kennedy knew were ineligible to graduate and were going to falsify records in order to make them eligible to graduate. When we caught them doing this, that then called into question every student in the class and whether they were eligible to graduate, because we couldn't distinguish between which students they had falsified and which students they hadn't falsified records for. So then we did any extremely thorough, I cannot emphasize that enough, audit

of every single student's transcripts, literally from the moment they entered high school to the moment they graduated. I don't think an audit as thorough as that has ever been conducted on student transcripts at that scale in the State of Louisiana. And the goal of that audit was to ensure that every student who received a diploma was entitled to that diploma and was correctly receiving it. And if a student wasn't eligible yet to receive a diploma, we had clear information about what the gaps were in their transcripts, so that then we could take appropriate action to get their diploma and get them ready to graduate as soon as possible. Without accurate data, we, as an organization, had no way of helping the students. And so the audit was extremely, extremely thorough, and it revealed lots and lots of challenges for many students.

Q. Wow. Well, that helps me to understand the delay in getting these people their diplomas and transcripts a little better.

A. I mean –

Q. Yeah. I mean –

A. -- I'll just say that, like, last summer when you were requesting information for specific students and wanting those students to be able to graduate and things like that, the amount of work that our team was putting in on the back end for those students was Herculean, but it was just a tremendous number of students that we discovered challenges with. And it went – it – the amount of damage that those individuals did to those students was significant. And it called into question everything, which forced us to do an extremely thorough process so that we could have certainty and make sure that when we told students, this is what you need to do to graduate, there was absolutely no doubt that this is what they needed to do to graduate. We could not bear the thought of giving inaccurate information to families, after they had already been through such an ordeal. And we recognized that that caused them pain because they were being forced to wait, but we thought that the only thing that would probably be worse than forcing them to wait was to give them inaccurate information, for them to arrive at a college campus or arrive at somewhere that they wanted to be, and then still not have a diploma because the State Department of Education would not certify that the student was actually eligible to graduate. Because the state ultimately has to verify that the student is eligible to graduate. And if the state didn't do that, then that student was – you know, wasn't going to be able to be on campus and do the things anyway. So the most important thing for us to do, once we found out what those individuals had been doing, was to take action at a level that was honestly pretty unprecedented.⁶⁸

AMENDED PARAGRAPH 65.

Mr. Gang admitted that administrators at Kennedy were terminated in connection with the Second Kennedy Grade Changing Scandal.

Q. It's my understanding that Michelle Blouin Williams resigned on May 6, 2019, formally, with her letter of resignation, and that within days of her doing that, five administrators at Kennedy were no longer employees of the network. Can you tell me which five administrators were no longer employees of the network?

⁶⁸ Exhibit 1, Deposition Transcript of Raphael Gang dated 09/03/2020 at p. 81, lines 8-25; p. 82, lines 1-25; p. 83, lines 1-25; p. 84, lines 1-25; p. 85, lines 1-25, p. 86, lines 1-25; p. 87, lines 1-25; p. 88, lines 1-25; p. 89, lines 1-25; p. 90, lines 1-25; p. 91, lines 1-25; p. 92, lines 1-25; and p. 93, lines 1-12

A. I honestly don't remember off of their names at this point. It's been over a year. And since I wasn't familiar with them to begin with, I – I don't remember all of them. I believe some of them were Taisha Payne, Brian Gibson, Miss Coleman. I don't remember the other names.

Q. Okay. And were they terminated or did they resign?

A. They were terminated.⁶⁹

These are the same educators accused of changing grades in January 2019 by Dr. Runell King.

AMENDED PARAGRAPH 66.

On May 24, 2019, Mr. Gang sent a letter to Kennedy families stating that they hired Adams and Reese to conduct an investigation into recent allegations of grade inflation and other issues with student credits. He goes on to inform them that: "While the final report will be delivered next week, we were presented with strong evidence of improper conduct by members of our staff and we took decisive action. As of today, the principal and four members of the JFK leadership team are no longer employees of NBSF."⁷⁰

AMENDED PARAGRAPH 67.

On May 24, 2019, NBSF's Human Resources Director, Mr. Michael Washington issued a termination letter to Brian Gibson in connection with allegations of improper/inaccurate grade adjustments. The letter stated:

"During the investigation, it became clear that you engaged in activities that violated your duties to the students and violated school policies and procedures as it relates to grading and grade adjustments. Accordingly, effective May 24, 2019, you are terminated from your employment with New Beginnings Schools Foundation."⁷¹

AMENDED PARAGRAPH 68.

After the Second Grade Changing Scandal at Kennedy, then the OPSB decided to actually provide oversight and supervision at Kennedy, pursuant to the Charter School Operating

⁶⁹ Exhibit 1 - Deposition Transcript of Raphael Gang dated 09/03/2020 at p. 81, lines 8-25; p. 82, lines 1-25; p. 83, lines 1-25; p. 84, lines 1-25; p. 85, lines 1-25, p. 86, lines 1-25; p. 87, lines 1-25; p. 88, lines 1-25; p. 89, lines 1-25; p. 90, lines 1-25; p. 91, lines 1-25; p. 92, lines 1-25; and p. 93, lines 1-12

⁷⁰ Exhibit 55, Letter from Raphael Gang to Kennedy families about grade changing investigation and terminations of principal and four other administrators at Kennedy dated 5/24/2019

⁷¹ Exhibit 56, Letter from Michael Washington to Brian Gibson re termination dated 5/24/2019

Agreement. The OPSB imbedded employees at Kennedy to oversee, monitor and supervise the certification of seniors for graduation eligibility.⁷²

AMENDED PARAGRAPH 69.

On June 7, 2019, OPSB Superintendent Henderson Lewis issued a Notice of Non-Compliance to NBSF Board President Raphael Gang.⁷³ In the letter, the OPSB sets forth the reasons why it may revoke NBSF's charter for Kennedy. Among the reasons set forth appears the following language:

“As provided by law, your operating agreement may be revoked upon a determination of the following non-exhaustive list of actions:

The board committed material violation of the Operating Agreement;

- Failure to follow law and policy as it relates to maintaining accurate student records;
- Failure to follow law and policy as it relates to maintaining accurate public records (i.e. board meeting minutes)

Egregious and/or consistent violation of applicable federal, state or local law or OPSB polices:

- Multiple incidents of grade changes/alterations

Gross mismanagement of public funds

- Award of a contract without following charter board policy

Commission of financial malfeasance

- Award of a contract without following appropriate policy

Imminent threat to the health, safety and/or welfare of students

- **The grade changes affecting the current graduating class have prevented the students from receiving diplomas or transcripts which prevents the students from progressing to the next phase in their academic futures (i.e. college or other continuing academics)”**

That last section surely is a finding that NBSF's actions caused damages to the plaintiffs.

AMENDED PARAGRAPH 70.

On June 25, 2019, OPSB Senior Equity and Accountability Officer, Dr. Kelli Peterson, issued a Notice of Non-Compliance, Level 2 to NBSF Board President Raphael Gang setting forth numerous ways that the OPSB breached its Charter Operating Agreement with the OPSB, and threatening to revoke the charter for Kennedy.⁷⁴

⁷² Exhibit 57, NOLA Public Schools Internal Memorandum from Dr. Kelli Peterson to Dr. Henderson Lewis, Jr. dated 9/25/2019

⁷³ Exhibit 11 - Letter from OPSB Superintendent Henderson Lewis, Jr. to Raphael Gang dated 6/07/2019. NBSF failed to produce this document in discovery to Plaintiffs.

⁷⁴ Exhibit 12, Letter from Dr. Kelli Peterson to Raphael Gang re Notice of Non-Compliance, Level 2, dated 6/25/2019

AMENDED PARAGRAPH 71.

On that same date, June 25, 2019, at a public board meeting, Dr. Henderson Lewis, Jr. blasted the Kennedy administration and staff and NSBF. He called for a **criminal investigation** into the school and said the district will continue a student record audit of every Orleans Parish school district high school. His public statement follows:

“First and foremost, on behalf of the district, I would like to apologize. Due to the **careless and reckless actions of the adults you trusted at JFK**, you would be celebrating your senior graduation this month, but instead, you have been forced to question the certainty of your future.”

He called the incident “shameful and intolerable.” He also announced that he had sent a letter to State Inspector General Stephen B. Street, Jr. asking him to “conduct his own independent investigation into this matter to assess if any criminal wrongdoing has occurred.” Then, he made an announcement with citywide implications – the district will expand the student record audit to all high schools in the city. He said: “We cannot allow this travesty to happen again. We will audit student records at every high school, working with experts in the field to help us design high school quality auditing tools.”⁷⁵

AMENDED PARAGRAPH 72.

On July 19, 2019, Dr. Henderson Lewis, Jr. issued a letter to all NBSF families advising them that the OPSB has accepted the decision of NBSF to surrender charters for Kennedy and Pierre A. Capdau Charter Schools at the end of the 2018-2019 Academic School Year. He advised them that the schools would remain open for the 2019-2020 Academic School Year under new management.⁷⁶

AMENDED PARAGRAPH 73.

As of August 2, 2019, newly appointed NBSF CEO Kevin George issued a letter to “JFK Stakeholders” advising them that:

“The Louisiana Department of Education is working through the verification process. We are in touch and working with them to reach completion as soon as possible. Once this is complete, we will advise parents and students of our next steps. If any students have college deadlines approaching, please contact us and provide your college name,

⁷⁵ Exhibit 58, Article by Marta Jewson of The Lens entitled “Orleans schools superintendent calls for criminal investigation into Kennedy High School, announces citywide audit of high school student records” dated 6/27/2019

⁷⁶ Exhibit 59, Letter from Dr. Henderson Lewis, Jr. to all NBSF Families advising them that NBSF surrendered its charter dated 7/19/2019

contact person, email and phone number. We will reach out to your college immediately.”⁷⁷

AMENDED PARAGRAPH 74.

On September 26, 2019, Tania Doll, Director of Communications for NOLA Public Schools, issued a Press Release delivered to the OPSB by Dr. Henderson Lewis, Jr. at the board meeting on September 25, 2019. The statement read, as follows:

Tonight I would like to provide an update on John F. Kennedy High School, as I have prioritized monthly over the past several board meetings because I believe our community deserves to be informed about the status of the students who participated in the graduation at JFK for the 2018-2019 school year and our ongoing oversight of the work being done with current students.

Tonight I would like to share that a final report has been completed by NOLA public schools staff. The report summarizes our review of the incidents that occurred at JFK and subsequent actions taken by our administration in response. This report has also been shared with the state Office of Inspector General and the board president for New Beginnings Schools Foundation.

And while our review into this matter is complete given our authority and responsibilities, it should be mentioned the state inspector general is still in the process of conducting its own investigation.

In short, based upon information gathered and reviewed, our investigation into grade change allegations raised in February was ultimately inconclusive. However, a second grade change scheme was reported to OPSB in May. This second incident resulted in some students who participated in the 2018-2019 graduation at JFK not being certified.

These actions taken by JFK officials at the time resulted in:

- 1. Graduating seniors not being able to receive diplomas and transcripts in a timely manner,**
- 2. Some students being required to take additional courses over the summer, and**
- 3. Some students being required to take end of course exams during the summer, all in an effort to properly certify graduates.**

Over the course of our review, the OPSB administration decided to seek revocation of new beginnings' charter given the non-compliance uncovered. Almost simultaneously, the New Beginnings Schools Foundation (NBSF) charter board voted to surrender the charters for both John F. Kennedy at Lake Area High School and Pierre A. Capdau Charter School at Avery Alexander effective at the end of the 2019-2020 school year.

This outcome was an appropriate reaction and was accepted due to the fact that the staff who were involved in the non-compliance issues were no longer with the organization, and such a transition at the end of this school year would provide for a more stable, long-term transition for the students to a new operator. Additionally, this surrender allowed my team to focus

⁷⁷ Exhibit 60, Letter from CEO Kevin George to “JFK Stakeholders” re: still in grade verification process dated 8/02/2019

our energies immediately upon the graduating class of 2019 and students returning for this school year.

Although this report summarizes the district's review of facts and even though NBSF voted to surrender its charters, there is still an open notice of Non-compliance, Level 2 that is currently being monitored.

During the district's review of grade changing allegations, OPSB also became aware of an allegation that the CEO for NBSF altered minutes from a NBSF board meeting which led to a transportation contract being awarded that may not have gone through the appropriate approval process. However, the allegation has not been confirmed to date.

In response to this concern, among other actions, our administration now monitors NBSF management and financial reports, we receive copies of all contracts issued and payments in excess of \$10,000. And any outstanding compliance issues that are a part of the open notice of non-compliance will be addressed through our usual charter school accountability framework. Which includes assessing, tracking noncompliance notices, sharing those notices publicly at board meeting, and taking appropriate action.

At this time, our focus is twofold with regards to JFK: working to support students within the class of 2019 to resolve any outstanding academic issues and ensuring current JFK students are set up for success.

I'm happy to report that the new CEO of NBSF and current JFK staff have proven to be cooperative and committed to doing what is best for students through this transition, and I applaud their efforts. And I have also assigned my team members to schools, to offer support and be heavily engaged in daily operations at the school, including continued monitoring of student records for accuracy.

As for the class of 2019, I have a detailed update to share regarding those students specifically:
Of the 155 students who participated in the graduation at JFK for the 2018-2019 school year:

- Initially only 85 students were eligible to graduate in May
- Since then 52 more students were verified by LDOE including summer school completion and waivers approved for a total of 137 graduates.

That leaves 18 students. 14 of these students are in various stages:

- Some students are eligible for a waiver that needs to be submitted by NBSF
- Some are enrolled in high school
- A few students only need EOC exam
- Some students were previously enrolled in credit recovery, but the LDOE has identified issues that shall be reviewed and remedied
- While a few students are simply still enrolled in credit recovery

As for the remaining students - we are urgently and consistently reaching out to them. Our focus is these 18 students and ensuring that they can move forward in their journeys. And, I remain committed to supporting the current students at JFK as well as the staff to achieve great things this school year. Working together on behalf of our children is what NOLA Public Schools is truly about.

Moving forward, I fully expect to hear and report positive things about what students and staff will accomplish at JFK this year and beyond. Additionally, I want to share that our accountability team has been engaging with other high schools across the city and report that what happened at JFK is not, I repeat not, a widespread problem.

We are proud of our high schools and the work they are doing to help prepare our children for college, careers, and beyond.

THE LOUISIANA DEPARTMENT OF EDUCATION'S FINDINGS REGARDING EDUCATIONAL DEFICIENCIES IN STUDENT MATRICULATION FOR THE CLASS OF 2019 WHICH RENDERED HALF OF THEM INELIGIBLE TO GRADUATE

AMENDED PARAGRAPH 75.

Problems verifying seniors' eligibility to graduate at Kennedy, and allegations of grade changing, prompted the LDOE to conduct an audit of every seniors' transcript at Kennedy. On May 31, 2019, LDOE Assistant State Superintendent Kunjan Narechania advised OPSB Superintendent Henderson Lewis, Jr. of LDOE's intention to perform an audit.⁷⁸

AMENDED PARAGRAPH 76.

On June 30, 2019, the LDOE issued a Final Report after it completed its review of the 2019 graduating class.⁷⁹ The LDOE reported confirmed many of the deficiencies in student matriculation that Ms. Delarge recognized during the 2016-2017 Academic School Year. It also found numerous other areas of deficiencies at Kennedy. In summary, the review found that Kennedy inappropriately used credit recovery courses, offered classes that did not meet state requirements, and found problems with how the school was educating students with special needs. More specifically, LDOE determined that :

- There were a total of 178 seniors in the 2018-2019 academic school year
- 23 students were not included in the graduation ceremony on May 17, 2019, and did not meet graduation requirements
- 155 students participated in the 2019 graduation ceremony based on the list provided by JFK
- 85 students who participated in the graduation ceremony had fulfilled graduation requirements as established by BESE
- 70 students who participated in the graduation ceremony did not meet at least one graduation requirement and must address at least one deficiency in order to graduate
- 14 seniors who participated in the graduation ceremony did not meet End of Course requirements
- 81 seniors participated in 154 GradPoint courses. GradPoint is an online learning platform that hosts curriculum focused on intervention and remediation strategies⁸⁰

⁷⁸ Exhibit 61, Letter from LDOE Assistant State Superintendent Kunjan Narechania to OPSB Superintendent Henderson Lewis, Jr. re: LDOE review at Kennedy dated 5/31/2019

⁷⁹ Exhibit 10 - LDOE's Final Report based upon its review of the 2019 Graduating Class at Kennedy

⁸⁰ Exhibit 10 - LDOE Final Report regarding Class of 2019 Graduating Class

AMENDED PARAGRAPH 77.

LDOE’s findings regarding Pupil Progression Plans:

Every public school in Louisiana must have a pupil progression plan that adheres to Bulletin 1566: Pupil Progression Policies and Procedures. These plans must clearly outline guidelines local education agencies (LEAs) have established for the promotion and retention for each student. The LDOE found “gaps” in the PPP and ordered that “prior to the start of the 2019-2020 academic year, NBSF either address the gaps in their current PPP or with an addendum or create an entirely new PPP.”⁸¹

AMENDED PARAGRAPH 78.

LDOE’s findings regarding Individual Graduation Plans:

School personnel must ensure that students plan for success in high school and beyond. As such, students must develop Individual Graduation Plans (IGP) with the support and guidance of their families and school guidance counsellors. When applicable, the students Individualized Education Plan (IEP) team shall assist in developing the IGP. The plan informs the coursework selections for the following academic year and guides secondary and post-secondary decisions. LDOE mandated that NSBF create and/or revise ALL individual graduation plans for students enrolled in 2019-2020.⁸²

AMENDED PARAGRAPH 79.

LDOE’s findings regarding Online Learning and Credit Recovery:

JFK utilized GradPoint and Rosetta Stone, an education technology software company that develops language, literacy and brain-fitness software, for instruction in both credit recovery programs and for full courses. In order to provide meaningful computer-based instruction, LDOE stated that the NBSF should:

- Research best practices for distance learning and credit recovery;
- Provide meaningful professional development in asynchronous learning;
- Use appropriate courses for delivering online instruction, including sequential or virtual course for online instruction and prescriptive coursework for credit recovery; and

⁸¹ Exhibit 10 - LDOE Final Report regarding Class of 2019 Graduating Class

⁸² Exhibit 10 - LDOE Final Report regarding Class of 2019 Graduating Class

- Hire appropriate, qualified teachers to monitor progress and provide instruction.⁸³

AMENDED PARAGRAPH 80.

LDOE also stated that credit recovery is an instructional program for courses students have already failed, yet several NBSF students were enrolled in the credit recovery program for classes they had never taken. NBSF should follow state guidelines as they create credit recovery policies.

LDOE recommended that NBSF:

- Label credit recovery courses on the official student transcript;
- Use a BESE-approved Course Choice provider for credit recovery courses;
- Staff credit recovery courses with teachers who are certified in the appropriate subject area;
- Award credit to students based on assessments that have been approved by the school system and using state assessments when applicable; and
- Limit the number of high school credits any student may earn in credit recovery throughout his or her high school experience to six credits.⁸⁴

AMENDED PARAGRAPH 81.

LDOE's findings regarding Graduation Requirements:

LDOE recommended that NBSF enroll all ninth and 10th grade students in a common set of foundational courses and adopt procedures to ensure that all 11th and 12th grade students have access to the courses they need to complete their chosen graduation pathway. Kennedy was granting AP credit to students who had not completed the entire AP course.

NBSF must provide the LDOE the following:

- Provide LDOE with a copy of the school's master schedule, course titles, and course codes by August 2, 2019, refraining from labeling courses in a way that could possibly mislead families or outside entities about the level of rigor;
- Provide LDOE with evidence of training for all administrators and counselors on the requirements for both graduation pathways by August 31, 2019, including courses, credentials, and assessments; and
- Provide LDOE with a list of all credit recovery/online course providers that will provide courses to students in the 2019-2020 school year by August 31, 2019.⁸⁵

⁸³ Exhibit 10 - LDOE Final Report regarding Class of 2019 Graduating Class

⁸⁴ Exhibit 10 - LDOE Final Report regarding Class of 2019 Graduating Class

⁸⁵ Exhibit 10 - LDOE Final Report regarding Class of 2019 Graduating Class

AMENDED PARAGRAPH 82.

LDOE's findings regarding Special Needs Students:

LDOE stated that Kennedy will be labeled Tier III - High Risk for Individuals with Disabilities Education Act (IDEA) and it would receive on-site monitoring by LDOE staff.

Students with disabilities have diploma options that are specific to their individual needs:

- High school students who are eligible under Act 833 can pursue a standard high school diploma by meeting standard graduation requirements through alternate means; and
- High school students who take LEAP Connect can pursue a diploma pathway by meeting alternate requirements.

Based on information in the Special Education Reporting (SER) system, several JFK students had outdated IEPs. Many IEPs were poorly written and/or lacked appropriate goals. To ensure students with special needs receive appropriate services, the LDOE recommends these immediate action steps:

- Identify all students with exceptionalities;
- Conduct a thorough review of all IEP goals to ensure they are current and appropriately aligned with student needs; and
- Ensure any student who is eligible under Act 833 has appropriate course goals that follow policy that have been created within required timelines and meet guidelines on equivalency.⁸⁶

AMENDED PARAGRAPH 83.

The LDOE report highlights numerous deficiencies in the manner in which Kennedy was operating that led to the damages sustained by all Kennedy students. The report drives home the point that the problems at Kennedy had been going on there for years. All of the foregoing findings by LDOE serves as evidence of negligence on the part of NSBF, Kennedy administrators and staff regarding their failure to follow the state mandates of BESE for student matriculation towards a TOPS University Diploma at Kennedy.

AMENDED PARAGRAPH 84.

Additional supporting evidence of negligence on the part of NSBF, Kennedy administrators and staff regarding failure to follow BESE's mandates regarding core curriculum requirements for graduation eligibility are two letters issued on August 22, 2020, requesting and granting waivers for eight Kennedy seniors due to errors committed by Kennedy administrators.

⁸⁶ Exhibit 10 - LDOE Final Report regarding Class of 2019 Graduating Class

1. LDOE's communications exchanged with NBSF CEO Kevin George

On August 22, 2020, NBSF CEO Kevin George issued correspondence to LDOE wherein he asked for waivers for eight students that he felt should receive a diploma. According to the letter, the students did not receive diplomas due to errors made by Kennedy's administration. In the letter, Mr. George stated the following:

Over the past several weeks, we have worked with your staff to address questions about the eligibility of certain John F. Kennedy High School students for graduation. Specifically, we have reviewed the transcripts and other academic records of all students who participated in the school's spring 2019 graduation ceremony, as well as others, for whom questions were raised. This review process has resulted, thus far, in the identification of 8 students who met all requirements for graduation with the exception of up to one Carnegie unit due to administrative error.⁸⁷

For example, one student was "never assigned Health during his/her high school career." Two students took courses in an "unapproved, unauthorized online learning program." Another student "failed .5 unit of United States History, and the John F. Kennedy High School administration failed to reassign the student in the course," according to Mr. George's letter. On the same date, the LDOE granted the waivers to the eight Kennedy seniors. In the letter, LDOE Superintendent John White approved the waivers pursuant to Bulletin 741, Louisiana Handbook for School Administrators:§345. Requesting Waivers of BESE Policy, the Louisiana Department of Education has approved the request submitted for John F. Kennedy High School for a waiver up to one Carnegie unit required for graduation.⁸⁸

These waivers, while a route to a diploma, came with a caveat: students accepting them could be ineligible for TOPS college scholarships, according to an interview that Mr. George gave to *The Lens*.⁸⁹ For poor and middle class students, like those who make up the plaintiff putative class that means they will not be able to afford a college education.

⁸⁷ Exhibit 62 - Letter from NBSF CEO Kevin George to LDOE Policy Director Ryan Gremillion dated 8/22/2019

⁸⁸ Exhibit 63 - Letter from LDOE Superintendent John White to NBSF CEO Kevin George dated 8/22/2019

⁸⁹ Exhibit 78 - Article dated 8/23/2019 by Marta Jewson of *The Lens* entitled "State grants graduation waivers to 8 Kennedy HS students"

AMENDED PARAGRAPH 85.

The LDOE's Final Report also addressed the fraudulent grade changes that occurred at Kennedy.

LDOE's Finding Regarding Grade Changes

According to the local transcript system, there were several changes to final grades in face-to-face classes after the school's deadline for submitting grades.

AMENDED PARAGRAPH 86.

In February 2020, NOLA Public Schools found yet another problem that plagued Kennedy at all times pertinent to this lawsuit. Kennedy had a poorly written grading policy. The district advised Kennedy "to ensure all students' grades – including their first, failed attempts in a course – were included on their transcripts and factored into the GPAS, according to an announcement sent to school leaders. Failing to include all grades in transcripts would violate state policies. Apparently, there was a problem at Kennedy related to how students' grades were recorded after they had repeated courses they had previously failed. School staff improperly recorded classes on students' transcripts in a manner that violated state policy. The 'repeat/delete' policy was against state regulations. The district sent an email stating:

"It has come to our attention that some schools have been following a policy whereby if a student elects to repeat a course that they have already taken with the goal of achieving a better grade, the lower of the two grades will be dropped from the transcript and not included in GPA calculations. This is not in line with [two state regulations] and needs to be rectified as soon as possible. If your school has been allowing students to retake courses and drop the lower grade from their record and/or GPA, please reach out to your Director of Accountability immediately to discuss next steps."

The district highlighted two specific sections in those two policies, BESE Bulletin 1566 and Bulletin 741. They are also in the district's charter operating agreements with each charter school. The district was retroactively reviewing records at Kennedy to see if the weak policy language affected students.⁹⁰

AMENDED PARAGRAPH 87.

In an interview provided to the Lens on February 7, 2020, Kathy Padian at Tensquare stated: "It does not appear anyone ever looked at the pupil progression plan for Kennedy and

⁹⁰ Exhibit 64, Article by Marta Jewson of The Lens entitled "Audit: New Beginnings may have enrolled students outside of New Orleans, jeopardizing funding" dated 2/11/2020

matched it up for what was being offered to students. The pupil progression plan for Kennedy was in no way, shape or form in compliance.”⁹¹

AMENDED PARAGRAPH 88.

On June 30, 2019, Carr Riggs & Ingram, CPAS and Advisors, Released on Independent Auditor’s Report regarding the 2018-2019 Academic School Year at Kennedy.⁹² The deficiencies revealed in the audit included, but were not limited to: 1) seven out of ten classes reviewed were not properly classified on the schedule and 11 high school classes exceeded maximum class size. The size limit for high school core classes is 33 students; and 2) The employees’ experience level did not match what was reported to the state in 17 of 25 employees reviewed.

AMENDED PARAGRAPH 80.

On August 22, 2019, Dr. Henderson Lewis, Jr. publicly announced that KIPP would take over the charter of Kennedy and operate the school in the 2019-2020 academic school year. He said: “In light of recent events at John F. Kennedy High School, I made this decision expeditiously to ensure students knew their future with the school.” This announcement came after Dr. Henderson Lewis received a June 25, 2019 letter of “intent to transform John F. Kennedy High School and Pierre A. Capdau Charter School” from Rhonda Kalifrey-Aulise, KIPP Chief Executive Officer.⁹³

AMENDED PARAGRAPH 81.

On September 30, 2019, Kennedy Principal Harold Clay, who was working at Kennedy for less than six weeks into the 2019-2020 Academic School Year, quit. He was replaced by Alnita Porea to lead the 621-student high school. Clay was the 10th employee to leave the NSBF network, since the Kennedy Graduation Scandal surfaced.⁹⁴ The staff turnovers of Principals at Kennedy continued into the 2019-2020 Academic School Year.

⁹¹ Exhibit 65, Article by Marta Jewson of The Lens entitled “Weak grading policy prompts district review of all high school promotion plans” dated 2/07/2020

⁹² Exhibit 66, Bruno & Tervalon, LLP, CPAS and Advisors, Released on Independent Auditor’s Report regarding Kennedy dated 6/30/2018

⁹³ Exhibit 67, Article dated 8/22/2019 by Marta Jewson of The Lens entitled “KIPP will run Kennedy HS next school year, Orleans superintendent announces”; Exhibit 68, Letter from KIPP CEO Rhonda Kalifrey Aluise to Dr. Henderson Lewis, Jr. dated 7/25/2019

⁹⁴ Exhibit 69, Article by Marta Jewson of The Lens entitled “Newly hired Kennedy HS Principal out six weeks into the school year” dated 9/30/2019

AMENDED PARAGRAPH 82.

On October 7, 2019, NOLA Public Schools announced that it hired an Assistant Director of High School Accountability, a position created in the wake of the Kennedy Graduation Scandal. Max Daigh's job is to ensure students are properly accumulating credits at the districts' charter schools. As his first order of business on the job, Daigh, and his supervisor, Dr. Kelli Peterson, began reviewing student files at Kennedy using the new "credit accumulation compliance review" procedure. The review includes a check of how many credits a student has, whether they've earned those credits through traditional or remedial courses – one of the issues at the heart of the Kennedy Graduation Scandal – and which of several state diplomas they are seeking. Students must also have a state-required "Individual Graduation Plan" that is signed by their parent, counsellor and student themselves. It also calls for the student's name and the name of the district employee who determines whether or not several aspects of the students file are "in compliance," "out of compliance," or somewhere in the middle.⁹⁵ As of October 2019, 68 of the 135 members of the Class of 2020 needed to make up credits to graduate on time in 2020, according to NBSF Kevin George. 50 of those students were regularly attending remedial courses provided by Kennedy.⁹⁶ This statement evidences a continuing tort as NBSF continued to rectify problems adversely impacting students.

AMENDED PARAGRAPH 80.

On February 27, 2020, NBSF CEO Kevin George stated that about 30 percent of the schools Class of 2020 needed to make up courses or End-of Course exams in addition to their normal course work in order to graduate on time. He also stated: "This senior class is probably going to be the most scrutinized senior class anywhere." Many of the Class of 2020 seniors were enrolled in credit recovery courses that allowed them a second attempt at earning credit for a course they had previously failed. Students were taking credit recovery courses under the supervision of a teacher. For the class of 2019, some students did not graduate because credit recovery courses were improperly supervised. And some students were placed in online courses not to make up a failed class – which the program was supposed to be used for – but to take it for the first time. Mr. George stated that the NOLA Public Schools district created student files for

⁹⁵ Exhibit 70, 2019-2010 NOLA Public Schools High School Credit Accumulation Compliance Review; Exhibit 71, Article by Marta Jewson of The Lens entitled "School district's new high school accountability director starts work at Kennedy" dated 10/07/2019

⁹⁶ Exhibit 72, Article by Marta Jewson of The Lens entitled "Some Kennedy HS students move on, others still working toward diplomas" dated 12/23/2019

each 2020 graduating senior to separately track progress. And, District staff were still frequently on-site at Kennedy, a relatively rare occurrence in New Orleans' all-charter system.⁹⁷ This statement evidences a continuing tort as NBSF continued to rectify problems adversely impacting students.

AMENDED PARAGRAPH 80.

On April 17, 2020, NOLA Public Schools stated: "NOLA-PS is continuing to monitor the progress of students by reviewing student records as they complete coursework remotely. NOLA-PS and NBSF Charter Schools are in communication with each other to assure the class of 2020 are meeting graduation requirements." Raphael Gang said: "I think to the extent that it's possible... we should be doing what we can to buffer our community from the worst effects of this situation."⁹⁸ This statement evidences a continuing tort as NBSF continued to rectify problems adversely impacting students.

AMENDED PARAGRAPH 81.

On June 2, 2020, Kennedy held its graduation for the Class of 2020. 93 percent of the students in the Class of 2020 were cleared to graduate. There were 114 names in the commencement program, out of a class of 123. Plaintiffs point to this graduation rate to support their argument of Res Ipsa Loquitur, regarding the Class of 2019.⁹⁹

AMENDED PARAGRAPH 82.

On June 4, 2020, one year after the Kennedy graduation scandal, the NBSF Board quietly voted to dissolve the organization. Plaintiffs are concerned the dissolution is an attempt to avoid any judgment that NBSF may be adjudicated to be responsible to pay to Plaintiffs in this lawsuit. Ironically, Adams and Reese was hired to dissolve the organization.¹⁰⁰

AMENDED PARAGRAPH 83.

On July 1, 2020, KIPP New Orleans took over the charter for Kennedy. InspireNOLA took over the charter of the other NBSF's school, Pierre A. Capdau Charter School.

⁹⁷ Exhibit 73, Article dated 8/22/2019 by Marta Jewson of The Lens entitled "Majority of Kennedy HS seniors 'on track' to graduate on time, CEO says" dated 2/27/2020

⁹⁸ Exhibit 74, Article by Marta Jewson of The Lens entitled "A year after graduation scandal, Kennedy High's governing board prepares to shut down," dated 4/17/2020

⁹⁹ Exhibit 75, Article by Marta Jewson of The Lens entitled "Cap, gown and mask: Kennedy HS seniors graduate in small ceremonies" dated 6/02/2020

¹⁰⁰ Exhibit 76, Article by Marta Jewson of The Lens entitled "One year after Kennedy HS graduation scandal, New Beginnings charter group votes to dissolve" dated 6/05/2020; Exhibit 77, "We're Closed" Screen Shot of NBSF's Website

CAUSES OF ACTION

RES IPSA LOQUITUR

AMENDED PARAGRAPH 84.

Negligence may be presumed from the circumstances. Res ipsa loquitur, Latin for the "thing speaks for itself," is a doctrine of evidence and a rule of pleading that allow the plaintiff to assert an inference that the defendant was negligent in some manner so as to cause the plaintiff's injury, the inference arising from circumstances in which the defendant's negligence is the most likely cause of the events leading to the plaintiff's harm. Based upon the foregoing detailed summary of facts, Plaintiffs aver that there has been a highly unusual act/occurrence surrounding the anomalous events which led to half of the graduating Class of 2019 being ineligible to graduate and all of the students of the having deficiencies in student progress according to BESE's guidelines. Absent negligence in NBSF's failing to adhere to BESE's guidelines, and LDOE failing to enforce BESE's guidelines, the incidents which gave rise to this lawsuit would not have occurred.¹⁰¹

Plaintiffs aver that there is a substantial likelihood that NBSF and LDOE caused the harm suffered by the parents and students of Kennedy and acted negligently.

GENERAL NEGLIGENCE

AMENDED PARAGRAPH 85.

NBSF and LDOE are liable to Plaintiffs pursuant to La. C.C. Art. 2315. Through their respective acts and/or omissions, Defendants have caused damages to the Plaintiffs and they are obligated to compensate them for their damages. Louisiana courts resolve most negligence cases by employing a duty/risk analysis, under which a plaintiff must prove five separate elements: (1) whether the defendant had a duty to conform his conduct to a specific standard of care; (2) whether the defendant's conduct failed to conform to the appropriate standard of care; (3) whether the defendant's substandard conduct was a cause-in-fact of the plaintiff's injuries; (4) whether the defendant's substandard conduct was a legal cause of the plaintiff's injuries; and (5)

¹⁰¹ Lawson v. Mitsubishi Motor Sales of Am., Inc., 938 So.2d 35 (La. 2006).

whether the plaintiff was damaged.¹⁰² "The threshold issue in any negligence action is whether the defendant owed the plaintiff a duty, and whether a duty is owed is a question of law."¹⁰³

AMENDED PARAGRAPH 86.

LDOE and NBSF violated the mandates of Louisiana Revised Statute 17:406.9 which mandates that parents have the right to inspect their child's school records and to receive copies of same. Parents must also be informed if their child's academic performance is such that it could threaten the child's ability to be promoted to the next grade level and to be offered an in-person meeting with the child's classroom teacher and school leader to discuss any resources or strategies available to support and encourage the child's academic performance.

LDOE's Specific Breaches of Duty/Negligence

AMENDED PARAGRAPH 87.

LDOE is the administrative arm of the BESE. It is charged with enforcing BESE's policies. Based upon the foregoing facts and the documents affixed to this Petition, NBSF failed to adhere to BESE's requirements for student matriculation to a TOPS "university" or TOPS "tech" diploma. Each academic school year, public schools, including charter schools, are required to adopt Pupil Progression Plans consistent with BESE's Bulletins 1566, 741 and 1706, which set forth educational standards in the State of Louisiana. Once completed, Pupil Progression Plans must be submitted to LDOE. From the 2015-2016 Academic School Year through 2018 Academic School Year, LDOE negligently failed to recognize that NBSF's Pupil Progression Plan for Kennedy did not comply with BESE's guidelines and LDOE took no action to address that problem. As a direct result of the inaction of LDOE, Plaintiffs suffered damages.

AMENDED PARAGRAPH 88.

LDOE failed to recognize that NBSF was not developing Individual Graduation Plans for Kennedy students with the support and guidance of their families and school guidance counsellors. And, LDOE failed to recognize that NBSF was not developing, when applicable, Individualized Education Plans (IEP) for Kennedy students. LDOE failed to recognize this

¹⁰² S.J. v. Lafayette Parish School Board, 2009-2195, p. 8 (La. 7/6/10), 41 So. 3d 1119, 1125; Brewer v. J.B. Hunt Transport, Inc., 2009-1408, p. 14 (La. 3/16/10), 35 So. 3d 230, 240; Hanks v. Entergy Corp., 2006-0477, p. 20-21 (La. 12/18/06), 944 So. 2d 564, 579

¹⁰³ Hanks, 2006-0477, p. 21, 944 So.2d 564.

problem and take action from the 2015-2016 Academic School Year through 2018 Academic School Year. As a direct result of the inaction of LDOE, Plaintiffs suffered damages.

AMENDED PARAGRAPH 89.

LDOE failed to recognize that NBSF was improperly using Online Learning and Credit Recovery at Kennedy from the 2015-2016 Academic School Year through 2018 Academic School Year. LDOE failed to take corrective action. As a direct result of the inaction of LDOE, Plaintiffs suffered damages.

AMENDED PARAGRAPH 90.

LDOE failed to recognize that NBSF was not enrolling 9th and 10th grade students in a common set of foundational courses. LDOE also failed to recognize that NBSF failed to adopt procedures to ensure that all 11th and 12th grade students had access to the courses they need to complete their chosen graduation pathway. Finally, LDOE failed to recognize that NBSF was granting AP credit to students who had not completed the entire AP course. From the 2015-2016 Academic School Year through 2018 Academic School Year, LDOE failed to take corrective action. As a direct result of the inaction of LDOE, Plaintiffs suffered damages.

AMENDED PARAGRAPH 91.

LDOE failed to recognize that NBSF had outdated IEPs and many were poorly written and lacked appropriate goals to ensure that students with special needs received appropriate services. From the 2015-2016 Academic School Year through 2018 Academic School Year, LDOE failed to take corrective action. As a direct result of the inaction of LDOE, Plaintiffs suffered damages.

AMENDED PARAGRAPH 92.

LDOE failed to take action to suspend and/or revoke the licensure of Brian Gibson and Taisha Payne with regard to their involvement in a grade changing scheme/test irregularity issue at Landry-Walker. As such, they allowed them to continue to commit wrongdoing and harm students in Louisiana public/charter schools.

AMENDED PARAGRAPH 93.

LDOE failed to revoke NBSF's charter to operate Kennedy when it noted testing irregularities regarding 144 U.S. History exams at Kennedy that were voided after students were given the wrong version of the test in Spring 2018. LDOE's failure to take decisive action in Spring 2018 caused Plaintiffs' damages.

AMENDED PARAGRAPH 94.

LDOE failed to revoke NBSF's charter to operate Kennedy when after it conducted its review of the Class of 2019 and noted a myriad of failures to satisfy BESE's guidelines. LDOE's failure to take decisive action in Summer of 2019 caused Plaintiffs' damages.

NBSF's Specific Breaches of Duty/Negligence

AMENDED PARAGRAPH 95.

NBSF took on the statutory and contractual duty to educate the children entrusted to their care, control and custody, according to BESE's guidelines set forth in BESE's Bulletins 1566, 741 and 1706. NBSF took on the statutory and contractual duty to follow BESE's guidelines to assist students matriculation through required curriculum for graduation eligibility. In every possible way, NBSF breached their duties to the children of Kennedy and their parents.

AMENDED PARAGRAPH 96.

Based upon the foregoing facts and the documents affixed to this Petition, NBSF failed to adhere to BESE's requirements for student matriculation to a TOPS "university" or TOPS "tech" diploma. Each academic school year, public schools, including charter schools, are required to adopt Pupil Progression Plans consistent with BESE's Bulletins 1566, 741 and 1706, which set forth educational standards in the State of Louisiana. Once completed, Pupil Progression Plans must be submitted to LDOE. From the 2015-2016 Academic School Year through 2018 Academic School Year, NBSF failed to create a Pupil Progression Plan for Kennedy that complied with BESE's guidelines. As a direct result of NBSF's negligence, Plaintiffs suffered damages.

AMENDED PARAGRAPH 97.

NBSF failed to develop Individual Graduation Plans for Kennedy students with the support and guidance of their families and school guidance counsellors. And, NBSF failed to develop, when applicable, Individualized Education Plans (IEP) for Kennedy students. From the 2015-2016 Academic School Year through 2018 Academic School Year, NBSF failed to adhere to this requirement. As a direct result of NBSF's negligence, Plaintiffs suffered damages.

AMENDED PARAGRAPH 98.

NBSF improperly utilized Online Learning and Credit Recovery at Kennedy from the 2015-2016 Academic School Year through 2018 Academic School Year. As a direct result of NBSF's negligence, Plaintiffs suffered damages.

AMENDED PARAGRAPH 99.

NBSF failed to enroll 9th and 10th grade students in a common set of foundational courses (core curriculum required by BESE). NBSF also failed to adopt procedures to ensure that all 11th and 12th grade students had access to the courses they need to complete their chosen graduation pathway. NBSF was improperly granting AP credit to students who had not completed the entire AP course. From the 2015-2016 Academic School Year through 2018 Academic School Year, NBSF failed to satisfy BESE's requirements. As a direct result of NBSF's negligence, Plaintiffs suffered damages.

AMENDED PARAGRAPH 100.

NBSF failed to develop up-to-date IEPs and many were poorly written and lacked appropriate goals to ensure that students with special needs received appropriate services. From the 2015-2016 Academic School Year through 2018 Academic School Year, NBSF failed to adhere to BESE's requirements. As a direct result of NBSF's negligence, Plaintiffs suffered damages.

NEGLIGENT HIRING, RETENTION AND SUPERVISION

AMENDED PARAGRAPH 101.

With knowledge that Brian Gibson and Taisha Payne had been involved in a previous grade changing scandal at Landry- Walker, NBSF CEO Michelle Blouin Williams and NBSF staff members hired them to serve as administrators at Kennedy. This hiring placed Gibson and Payne in a unique opportunity to commit a tort against the students and parents and Kennedy.

AMENDED PARAGRAPH 102.

With knowledge that Brian Gibson had been involved in a previous grade changing scandal at Landry Walker, NBSF CEO Michelle Blouin Williams and NBSF staff members gave him a financial incentive, in the form of a performance bonus, directly tied to raising Kennedy's school performance score. The incentivized him to commit the same wrongdoing at Kennedy that he had committed at Landry-Walker.

AMENDED PARAGRAPH 103.

In January 2019, when evidence of grade changing was brought to the attention of NBSF CEO Michelle Blouin Williams and NBSF staff members, and it was confirmed that grades were indeed changed, NBSF negligently turned a blind eye to the facts and swept them under the rug with a swift and meaningless investigation that did not even include an interview of Dr. Gloria Love. The meaningless discipline implemented with regard to Taisha Payne, Nicole Cooper, and Lauren Coleman, incentivized them to do it again in May 2019. The negligent retention of Gibson, Payne, Cooper and Coleman after they were caught intentionally changing grades was a direct cause of Plaintiffs' damages.

AMENDED PARAGRAPH 104.

With knowledge that Brian Gibson, Taisha Payne, Nicole Cooper, and Lauren Coleman engaged in grade changing in January 2019, NBSF failed to adequately supervise them to ensure that grade changing would not occur in the future. Instead of performing a deep dive audit into every child's student record in January 2019, NBSF entrusted the foxes to run the hen house. Under the leadership of the foregoing educators the future of every Kennedy student was jeopardized. NSBF failed to put into place methods and processes reasonably adequate to safeguard PowerSchool access and to prevent them from changing grades at Kennedy. By failing to supervise these employees, NBSF's failed to act reasonably to protect the students and parents from harm.

FRAUD

AMENDED PARAGRAPH 105.

Fraud is defined as "a misrepresentation or a suppression of the truth made with the intention either to obtain an unjust advantage for one party or to cause a loss or inconvenience to the other" and can result from silence of inaction. La. C.C.P. 1953. To find fraud from silence, there must be a duty to speak. There are two elements necessary to prove legal fraud: an intent to defraud and resulting damage. "Louisiana law recognizes that the refusal to speak, in the face of an obligation to do so, is not merely unfair, but is fraudulent."¹⁰⁴

¹⁰⁴ Bunge Corporation v. GATX Corporation, 557 So.2d 1376, 1383 (La. 1990); Anderson v. Moreno's Air Conditioning, Inc., 14-27 (La. App. 3 6/4/14), 140 So.3d 841, 852, writ denied, 14-1392 (La. 10/3/14).

AMENDED PARAGRAPH 106.

Specific Allegations of Fraud as to LDOE

LDOE learned in May 2019 that administrators at Kennedy engaged in intentional grade changing. Instead of notifying student and parents of the reason why diplomas and transcripts were being withheld, LDOE joined in a conspiracy of silence to prevent parents and students from knowing what occurred at Kennedy. LDOE had a duty to speak up and to inform the Plaintiffs about the intentional grade changing that occurred at Kennedy. This action constituted fraud.

AMENDED PARAGRAPH 107.

Specific Allegations of Fraud as to NBSF

From the 2016-2017 Academic School Year through the 2018-2019 Academic School Year, NBSF CEO Michelle Blouin Williams and administrators and staff at Kennedy had actual knowledge that there were problems with student matriculation towards graduation eligibility for a substantial number, if not every student, at Kennedy (when you consider that students in the Top 15 of the Class of 2019 went to summer school for remediation). In order to continue receiving their substantial paychecks, they misrepresented and/or suppressed the truth from Plaintiffs with the intention obtain an unjust financial advantage for themselves to the detriment of Plaintiffs. This action constituted fraud.

AMENDED PARAGRAPH 108.

After Dr. Runell King blew the whistle and alerted NBSF of the evidence supporting grade changing allegations in January 2019, and after NSBF confirmed that grade changes occurred, NBSF misrepresented and/or suppressed the truth from Plaintiffs by characterizing the results of the investigation “inconclusive.” NBSF secreted the fact that they actually confirmed that grade changing occurred with the intention obtain an unjust financial advantage for themselves to the detriment of Plaintiffs. This action constituted fraud.

AMENDED PARAGRAPH 109.

NBSF learned in May 2019 that administrators at Kennedy engaged in a second act of intentional grade changing. Instead of notifying student and parents of the reason why diplomas and transcripts were being withheld, NBSF kept silent to prevent parents and students from knowing what occurred at Kennedy. NBSF had a duty to speak up and to inform the Plaintiffs

about the second intentional grade changing that occurred at Kennedy. This action constituted fraud.

EDUCATIONAL MALPRACTICE

AMENDED PARAGRAPH 110.

Kennedy is a public high school entrusted to educate children in accordance with set guidelines promulgated by BESE. NBSF took on the statutory and contractual duty to educate the children entrusted to their care, control and custody, according to BESE's guidelines set forth in BESE's Bulletins 1566, 741 and 1706. NBSF took on the statutory and contractual duty to follow BESE's guidelines to assist students matriculation through required curriculum for graduation eligibility. LDOE took on the statutory duty to enforce BESE's guidelines. This is not a matter of discretion. There are specific, identifiable duties for the implementation of BESE's guidelines. Here, public policy militates in favor of "every individual being afforded an equal opportunity to achieve his full potential," pursuant to the Preamble to Article VIII of the Louisiana Constitution. This goal cannot be accomplished if charter schools have the free will to disregard BESE's requirements for graduation eligibility. Louisiana does not recognize a cause of action for educational malpractice, absent fraud or breach of another specifically assigned duty.¹⁰⁵

AMENDED PARAGRAPH 111.

Based upon the facts of this case, Plaintiffs have established a cause of action of Educational Malpractice, because LDOE and NSBF have committed fraud. NSBF's employees committed intentional and fraudulent acts of grade changing on two separate occasions that caused Plaintiffs harm. NSBF fraudulently concealed the first and second intentional acts of grade changing from the Plaintiffs and LDOE concealed the second intentional acts of grade changing from the Plaintiffs.

AMENDED PARAGRAPH 112.

Based upon the facts of this case, Plaintiffs have established a cause of action for Educational Malpractice because both LDOE and NSBF had specifically assumed duties to the Plaintiffs and breached them.

¹⁰⁵ Miller v. Loyola University of New Orleans, 2002-0518 (La. App. 4 Cir. 9/30/02) (La. App. 4 Cir. 9/30/02); 829 So.2d 1057, writ denied, 2002-3093 (La. 3/14/03), 839 So.2d 38.

**SPECIFIC ALLEGATIONS PERTAINING TO
NAMED PLAINTIFFS/PROPOSED CLASS REPRESENTATIVES**

AMENDED PARAGRAPH 113.

DARNETTE DANIELS and **ANTHONY MCCLENDON** are the biological parents and legal guardians of John F. Kennedy Student Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON**. At the time of filing this amended petition, **TAYLER MCCLENDON** is seventeen (17) years old. **TAYLER** was recruited to transfer from Slidell High to John F. Kennedy in her junior year. She and her parents were advised that she could take online classes through GradPoint and graduate in May 2019 – a year early. Relying upon this representation, Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON** transferred to Kennedy. She worked diligently many nights until midnight taking online classes from the comfort of her home. Her plan was to graduate in May 2019 from Kennedy and to enroll in a full-time program at Aveda to become a licensed hair stylist. Believing that she was graduating, she toured Aveda, completed the applications for enrollment and financial aid. Her applications were just missing her diploma and transcript. Her Aveda classes were scheduled to begin on June 19, 2019.

AMENDED PARAGRAPH 114.

Two days before graduation, Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON** and her mother Named Plaintiff/Proposed Class Representative **DARNETTE DANIELS**, were advised that none of the credits that Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON** had completed online would be recognized because they were not performed in the presence of a certified teacher. Prior to this disclosure, Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON** had never been advised that the online classes needed to be performed in the classroom in front of a certified teacher. All of her hard work, all of her sacrifice, had been performed for nothing. Her transfer to Kennedy had been performed in vain.

AMENDED PARAGRAPH 115.

In anticipation of graduation, Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON**'s family members travelled to New Orleans from other states. The entire family had joyfully anticipated her graduation. She had participated in all of the things seniors enjoy, *i.e. senior pictures... senior rings... senior prom... and, yes, she walked the stage in a*

“graduation ceremony.” People gave her graduation presents and congratulatory words of encouragement. And, then in the weeks after graduation, Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON** was advised that she needed to attend summer school and needed to return to school in August to complete her senior year because she could not make up all of the credits in one summer. Indeed, she had not graduated at all. The ceremony had been no more than a “farce.”

AMENDED PARAGRAPH 116.

Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON** had too many credits to make up in summer school. She was advised that she needed to repeat her senior year. She was not provided a transcript to timely transfer to another high school. She has been forced to return to Kennedy and place her future in the hands of Defendant **NEW BEGINNINGS** again. As the parents of **TAYLER MCCLENDON, DARNETTE DANIELS and ANTHONY MCCLENDON** seek damages for financial losses and emotional distress related to the events described in this petition. **TAYLER MCCLENDON** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 117.

ANUSICA BANKS and LARRY BROWN are the biological mother former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **AMBER BROWN**, who was a “graduating senior of the Class of 2019” and received her diploma on June 10, 2019; however, her scholarship and financial aid were jeopardized at the University of Southern Mississippi, due to the Defendants **NEW BEGINNINGS** and **LDOE**’s negligence in failing to timely provide a certified transcript. As a result of the delays, Plaintiff/Proposed Class Representative **AMBER BROWN** had to miss orientation and college move-in day. She experienced extreme emotional distress while she and her mother waited to learn whether she was “eligible” to graduate and whether the transcript would be produced to USM before the start of the school year. Due to the pressure exerted by this litigation, she received a certified transcript and was able to begin college in Fall of 2019.

As the parent of **AMBER BROWN, ANUSICA BANKS and LARRY BROWN** seek damages for financial losses and emotional distress related to the events described in this

petition. **AMBER BROWN** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 118.

AYANNA JORDAN is the biological mother and legal guardian of former John F. Kennedy Student Plaintiff/Proposed Class Representative **ELIJAH JORDAN**, who was a “graduating senior in the Class of 2019” and was forced to attend the summer program after graduation, which he completed. He had been accepted to Delgado to attend school to be a barber. Due to the failure of Defendants **NEW BEGINNINGS** and **LDOE** to timely produce his transcript, he was unable to continue with his education in the fall of 2019.

As the parent of **ELIJAH JORDAN**, **AYANNA JORDAN** seeks damages for financial losses and emotional distress related to the events described in this petition. **ELIJAH JORDAN** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 119.

CHELETIA HERRING is the biological mother of former John F. Kennedy Students **JEREMIAH GAINES**. Named Plaintiff/Proposed Class Representative **JEREMIAH GAINES** was a “graduating senior at Kennedy, who attended and completed the summer program, after graduation. He was trying to get a job working on the docks and needed a TWIC card. He could not obtain the TWIC card because he did not receive a diploma or certified transcript. Due to the failure of Defendants **NEW BEGINNINGS** and **LDOE** to timely produce a transcript, he lost a job opportunity.

CHELETIA HERRING and **JEREMIAH GAINES** are the biological parents of minor child, **DANIEL TERRELL**, who in May of 2019 was a rising 2020 senior. In view of the allegations of misconduct and educational mismanagement at Kennedy, **CHELETIA HERRING** and **JEREMIAH GAINES** decided to transfer **DANIEL TERRELL** to another high school. They had completely lost faith in the ability of Defendants **OPSB** and **NEW BEGINNINGS** to properly educate their son. They faced extreme difficulty doing so when Defendant **NEW BEGINNINGS** refused to release his educational records in a timely manner.

As the parents of **DANIEL TERRELL**, **CHELETIA HERRING** and **DANIEL TERRELL** seek damages for financial losses and emotional distress related to the events described in this petition. As the parent of **JEREMIAH GAINES**, **CHELETIA** seek damages

for financial losses and emotional distress related to the events described in this petition.

JEREMIAH GAINES seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 120.

CLARISSA SMITH is the biological mother of former John F. Kennedy Student **TRINITY BARNES**, who was the valedictorian of the John F. Kennedy Class of 2019. After a graduation ceremony where she delivered a valedictory address, she learned that she not eligible to graduate and had to attend summer school. **TRINITY'S** full academic scholarship to Rhodes College in Memphis, Tennessee was jeopardized by Defendants **NEW BEGINNINGS** and **LDOE'S** failure to timely produce her certified transcript. When **TRINITY** finally received her certified transcript, it contained unexplained grade changes that adversely affected her final grade point average. There will always be a dark cloud over her status as valedictorian. Additionally, **TRINITY** was deprived of an award of a new computer that she was eligible for as a result of the failure to produce her transcript.

As the parent of **TRINITY BARNES**, **CLARISSA SMITH** seeks damages for financial losses and emotional distress related to the events described in this petition. **TRINITY BARNES** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 121.

KENA ROSS is the biological mother and legal guardian of former John F. Kennedy Student **JOHN ROSS**, who was "graduating senior in the John F. Kennedy Class of 2019." Named Plaintiff/Proposed Class Representative **JOHN ROSS** had dedicated his youth to playing football and earned a full scholarship to play football at Highland Community College in Highland, Kansas. He would have been the first person in his family to attend college. After graduation, Named Plaintiff/Proposed Class Representative **JOHN ROSS** learned he had to attend summer school. He completed summer school which caused him to miss most of football training camp to compete for a starting position on the team. After completing summer school, he went to training camp on July 28, 2019, only to learn that he was directed by Defendant **NEW BEGINNINGS** to take the wrong courses in summer school. He was forced to make up the credits for a second time through his community college in order to obtain a certified transcript. His football scholarship and academic standing remained in jeopardy during most of football

season. Although he was supposed to be a starting player, he had to sit on the bench for six (6) games, while his lawyers fought for his transcript to be released.

As the parent of **JOHN ROSS**, **KENA ROSS** seeks damages for financial losses and emotional distress related to the events described in this petition. **JOHN ROSS** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 122.

RACQUEL YOUNG is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **JESSICA YOUNG**, who was a “graduating senior in the John F. Kennedy Class of 2019,” and had earned a full band scholarship to Stillman College in Alabama. After graduation, Named Plaintiff/Proposed Class Representative **JESSICA YOUNG** learned she had to attend summer school. She completed summer school which caused her to miss Stillman’s band camp. Due to the delays in obtaining her transcript from Defendants **NEW BEGINNINGS** and **LDOE**, she lost her band scholarship to Stillman and lost her federal financial aid. As a direct result of the Defendants’ negligence, she could not attend Stillman or any other college.

As the parent of **JESSICA YOUNG**, **RACQUEL YOUNG** seeks damages for financial losses and emotional distress related to the events described in this petition. **JESSICA YOUNG** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 123.

SHARLENE SULLIVAN is the biological mother of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **LEDREKIA SMOTHERS**, who was “graduating senior in the John F. Kennedy Class of 2019,” and learned that she needed to attend summer school. She attended summer school. Delays in obtaining her transcript from Defendants **NEW BEGINNINGS** and **LDOE** jeopardized her enrollment and federal financial aid to attend Southern University in New Orleans.

As the parent of **LEDREKIA SMOTHERS**, **SHARLENE SULLIVAN** seeks damages for financial losses and emotional distress related to the events described in this petition. **LEDREKIA SMOTHERS** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 124.

SHEILA WISE is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **ANTHONY WISE**, who was a “graduating senior of the John F. Kennedy Class of 2019,” and learned that he needed to attend summer school. He completed summer school. As of this filing, Named Plaintiff/Proposed Class Representative **ANTHONY WISE** still had not obtained a diploma or certified transcript from Defendants **NEW BEGINNINGS** and **LDOE**. He has not been advised regarding his “eligibility” to graduate. He does not know if he should be repeating senior year or registering for college. He had plans to play football at Bayou Prep for the 2019-2020 academic school year but could not do so because of the delays in obtaining his transcript from Defendants **NEW BEGINNINGS** and **LDOE**.

As the parent of **ANTHONY WISE**, **SHEILA WISE** seeks damages for financial losses and emotional distress related to the events described in this petition. **ANTHONY WISE** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 125.

SHEQUITA MCFARLAND is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **MADISON JACQUE**, who was a “graduating senior of the John F. Kennedy Class of 2019,” and learned that she needed to attend summer school. She complete summer school. However, due to delays in obtaining her transcript and diploma from Defendants **NEW BEGINNINGS** and **LDOE**, her registration and federal financial aid at Delgado was jeopardized. She was able to register at Delgado at the last minute due to the advocacy of her attorneys on her behalf. She is currently attending classes.

As the parent of **MADISON JACQUE**, **SHEQUITA MCFARLAND** seeks damages for financial losses and emotional distress related to the events described in this petition. **MADISON JACQUE** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 126.

CYNTHIA BEE is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **MICHAEL BEE**, who was advised after graduation that

he was not eligible to graduate and needed to complete coursework. He had planned to attend Southern University in New Orleans to become an electrician. However, due to the failure to produce his diploma and transcript, he could not do so.

As the parent of **MICHAEL BEE**, **CYNTHIA BEE** seeks damages for financial losses and emotional distress related to the events described in this petition. **MICHAEL BEE** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 127.

CRYSTAL WEST is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **LAUDRICK BARROW**, who was advised after graduation that he was not eligible to graduate and needed to complete coursework. He had planned to attend Southern University in Baton Rouge. After much stress, he received his transcript on the eve of school starting.

As the parent of **LAUDRICK BARROW**, **CRYSTAL WEST** seeks damages for financial losses and emotional distress related to the events described in this petition. **LAUDRICK BARROW** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 128.

DONNA LEWIS is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **MICHAEL LARVINETTE**, who was advised after graduation that he was not eligible to graduate and needed to complete coursework. He completed the summer program but did not receive his diploma and transcript in time to register for college.

As the parent of **MICHAEL LARVINETTE**, **DONNA LEWIS** seeks damages for financial losses and emotional distress related to the events described in this petition. **MICHAEL LARVINETTE** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 129.

MARINVIA DAVIS is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **MALCOLM DAVIS**, who was advised after graduation that he was not eligible to graduate and needed to complete coursework. He completed the summer program but did not receive his diploma and transcript in time to register for college. He had planned to attend Southern University.

As the parent of **MALCOLM DAVIS**, **MARINVIA DAVIS** seeks damages for financial losses and emotional distress related to the events described in this petition. **MALCOLM DAVIS** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 130.

MARY ELLIS is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **RYAN BROWN**, who was advised after graduation that he was not eligible to graduate and needed to complete coursework. He completed the summer program but did not receive his diploma and transcript in time to register for college. He had planned to attend Delgado to become a barber.

As the parent of **RYAN BROWN**, **MARY ELLIS** seeks damages for financial losses and emotional distress related to the events described in this petition. **RYAN BROWN** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 131.

MELISSA KING is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **MYA HARRIS**, who was advised after graduation that she was not eligible to graduate and needed to complete coursework. She completed the summer program but did not receive her diploma and transcript in time to register for college.

As the parent of **MYA HARRIS**, **MELISSA KING** seeks damages for financial losses and emotional distress related to the events described in this petition. **MYA HARRIS** seeks

damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 132.

TRENELL THOMAS is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **DONTAYE BARNES**, who was advised after graduation that he was not eligible to graduate and needed to complete coursework. He completed the summer program but did not receive his diploma and transcript in time to register for college.

As the parent of **DONTAYE BARNES**, **TRENELL THOMAS** seeks damages for financial losses and emotional distress related to the events described in this petition. **DONTAYE BARNES** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 133.

NICOLE JONES is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **TY'JON JONES**, who was advised after graduation that he was not eligible to graduate and needed to complete coursework. He completed the summer program but did not receive his diploma and transcript in time to register for college.

As the parent of **TY'JON JONES**, **NICOLE THOMAS** seeks damages for financial losses and emotional distress related to the events described in this petition. **TY'JON JONES** seeks damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

AMENDED PARAGRAPH 134.

DAWN ROSS is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **DWAYNE GREEN**, who was advised after graduation that he was not eligible to graduate and needed to complete coursework. He completed the summer program, but did not receive his diploma and transcript in time to register for college.

As the parent of **DWAYNE GREEN**, **DAWN ROSS** seeks damages for financial losses and emotional distress related to the events described in this petition. **DWAYNE GREEN** seeks

damages for economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages to be shown at trial.

DAMAGES

AMENDED PARAGRAPH 135.

Named Plaintiffs/Proposed Class Representatives and a putative class of persons similar situated seeks damages as follows:

- a) All past, present and future costs and/or expenses of senior year, including senior budgets, senior rings, senior photographs, graduation parties, and other senior year and graduation related expenditures;
- b) All past, present and future mental suffering and emotional distress;
- c) All past, present and future loss of enjoyment of life;
- d) All past, present and future deprivation of college placement and scholarship opportunities;
- e) All past, present and future deprivation of technical school placement and scholarship opportunities;
- f) Loss of job opportunities;
- g) Loss of quality of life;
- h) Damage to reputation;
- i) Damages for not being provided the core curriculum requirements to obtain a Louisiana state diploma;
- j) Damages for not being provided the core curriculum requirements to be ready for college admittance; and
- k) All other forms of relief provided by law or equity together with interest from the date of judicial demand until paid, and costs of these proceedings.

CLASS ALLEGATIONS

AMENDED PARAGRAPH 136.

Named Plaintiffs/Proposed Class Representatives aver that, upon information and belief, there are additional parents and students of John F. Kennedy High School who are similarly situated to them. Upon discovery, if this is the case, Named Plaintiffs/Proposed Class Representatives are entitled to maintain this action as a class action pursuant to La. C.C.P. art. 591, with the following class definition:

Class Definition: All natural persons who are/were parents of students and students of John F. Kennedy Senior High School in New Orleans, Louisiana, who claim to have suffered damages, including, but not limited to, economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages, as a direct and proximate result of the negligent and/or intentional acts of Defendants.

Subclass 1: Parents of Students and Students of the Class of 2019;

Subclass 2: Parents of Students and Students of the Class of 2020;

Subclass 3: Parents of Students and Students of the Class of 2021;

Subclass 4: Parents of Students and Students of the Class of 2022; and

Subclass 5: Parents of Students and Students of the Class of 2023.

AMENDED PARAGRAPH 137.

If, upon discovery, this action is sought to be certified to proceed as a class action, Plaintiffs will prove that class members are over 1000 persons such that joinder is impracticable; there are questions of fact and law that are common to all class member; common issues predominate over individual issues; named plaintiff will fairly and adequately protect the interests of the proposed class; the undersigned attorneys are experienced in the prosecution of class actions and will adequately represent the interests of the class; Plaintiffs and their counsel are aware of no conflicts of interests between them and similarly situated individuals. Plaintiffs have, or can acquire, adequate financial resources to assure that the interests of the potential class will not be harmed. Plaintiffs are knowledgeable concerning the subject matter of this action and will assist counsel in the prosecution of this litigation. And, prosecution of separate actions by individual plaintiffs rather than as a class as proposed would create significant risks of inconsistent or varying judgments.

INSURANCE

AMENDED PARAGRAPH 138.

Defendant, **INDIAN HARBOR INSURANCE COMPANY** (“INDIAN HARBOR”), a foreign insurance company, that provided a policy of Educators Legal Liability and Employment Practices Liability Insurance Coverage to NBSF bearing policy number ELL0950364 for the policy period of July 1, 2018 through July 1, 2019, and bearing policy number ELL0950364-1 for the policy period of July 1, 2019 through July 1, 2020. As such, it is liable for Plaintiffs’ damages on behalf of its insured NBSF.

AMENDED PARAGRAPH 139.

Defendant, **NOVA CASUALTY COMPANY** (“NOVA”), a foreign insurance company, that provided a policy of Commercial General Liability Insurance to NBSF bearing policy CF1-ML-10001394-01 for the policy period of July 1, 2018 through July 1, 2019 and bearing policy number CF1-ML-10001394-03 for the policy period of July 1, 2019 through July 1, 2020. As such, it is liable for Plaintiffs’ damages on behalf of its insured NBSF.

JURY TRIAL DEMAND

AMENDED PARAGRAPH 140.

Plaintiffs and a putative class of similarly situated persons seeks a trial by jury as to all issues set forth herein.

WHEREFORE, Plaintiffs pray that the Defendants, **NBSF, LDOE, INDIAN HARBOR INSURANCE COMPANY** and **NOVA CASUALTY COMPANY** be served and commanded to answer this third amended and supplemental petition for damages, and that after all due proceedings are held, that there be judgment rendered herein against the Defendants for general damages, special damages, and for any costs expended herein, and for pre-judgment interest from the date of Plaintiffs’ filing of this lawsuit, and for all other relief both at law and at equity, to which Plaintiffs show themselves and the putative class to be justly entitled to receive from Defendants.

RESPECTFULLY SUBMITTED BY:



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CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that I have on this 24th day of September, 2020, served the foregoing pleading on all counsel of record herein, by placing a copy of same in the United States mail, properly addressed and first class postage prepaid, or by hand-delivery, facsimile, and/or electronic mail.


SUZETTE BAGNERIS

[SERVICE INSTRUCTIONS ON FOLLOWING PAGE]

PLEASE SERVE:

New Beginnings Schools Foundation,

Through its attorneys:

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INDIAN HARBOR INSURANCE COMPANY

Through its registered agent for service of process:

Louisiana Secretary of State

8585 Archives Avenue

Baton Rouge, Louisiana 70809

NOVA CASUALTY COMPANY

Through its registered agent for service of process:

Louisiana Secretary of State

8585 Archives Avenue

Baton Rouge, Louisiana 70809

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 2019-6895

DIVISION "M"

DARNETTE DANIELS, ET AL.

VERSUS

STATE OF LOUISIANA, ET AL.

FILED: _____
DEPUTY CLERK

PLAINTIFFS' EXHIBITS TO THIRD AMENDED AND SUPPLEMENTAL PETITION

EXHIBIT 1	Deposition Transcript of Raphael Gang dated 09/03/2020
EXHIBIT 2	OPSB's Policy Handbook
EXHIBIT 3	OPSB's Charter School Accountability Framework
EXHIBIT 4	BESE's Requirements for a TOPS University Diploma
EXHIBIT 5	BESE's Requirements for a TOPS Tech Career Diploma
EXHIBIT 6	Charter School Operating Agreement
EXHIBIT 7	OPSB's Recommendation to Renew NBSF's Charter of Kennedy for 5 years in December 2018
EXHIBIT 8	OPSB's Fall 2018 Evaluation Documents for Kennedy
EXHIBIT 9	NBSF's Offer Letter to Brian Gibson [Bates Stamped 4182]
EXHIBIT 10	LDOE's Final Report regarding Class of 2019
EXHIBIT 11	Letter of Notice of Non-Compliance from OPSB Superintendent Henderson Lewis to NBSF Board President Raphael Gang dated 6/07/2019
EXHIBIT 12	Letter from Dr. Kelli Peterson to Raphael Gang and Kevin George re: Notice of Non-Compliance Letter dated 06/25/2019
EXHIBIT 13	Letter from Dr. Kelli Peterson to Raphael Gang re: Third Notice of Non-Compliance, Level 2: Contractual Obligations – Outstanding Submissions dated 7/03/2019
EXHIBIT 14	BESE's Test Security Irregularities Report for the 2017-2018 Academic School Year
EXHIBIT 15	April 10, 2019 Article by Marta Jewson in The Lens entitled "Kennedy High School voided 144 state exams last year, after giving wrong test"
EXHIBIT 16	Deposition Transcript of Ashlei DeLarge dated 9/02/2020
EXHIBIT 17	Article by Marta Jewson of The Lens entitled "Landry-Walker principal, other administrators, suspended with pay amid cheating probe" dated 2/15/2016
EXHIBIT 18	Article by Danielle Dreillinger of NOLA.Com entitled "New Orleans high school Landry-Walker's sky-high test scores plunged after cheating probe" dated 2/11/2016
EXHIBIT 19	Email from Kimberly Owens-Heath to Michael Washington dated 1/28/2019 [Bates Stamped NBSS 3030]
EXHIBIT 20	Dr. Runell King's statement to Mr. Michael Washington dated 2/03/2019 at p. 2 [Bates Stamped NBSS 3064-3066]
EXHIBIT 21	Email from Dr. Taisha Payne dated 1/29/20 [Bates Stamped NBSS 3030]
EXHIBIT 22, in globo	Report cards printed on 1/16/2019 that show notations to change the grades [Bates Stamped NBSS 3031, 3036, 3039, 3044]
EXHIBIT 23	Documentation of the grades that were changed indicated by highlights [Bates Stamped 3122-3128]
EXHIBIT 24	PowerSchool grade changes using Roxanne Watts' login between 1/07/2019 through 1/15/2019 [NSBSS 3091]
EXHIBIT 25	Deposition Transcript of Dr. Gloria Love dated 9/08/2020

EXHIBIT 26	Letter from Michael Washington dated 2/26/2019 to Dr. Taisha Payne [Bates Stamped NBSS 3163]
EXHIBIT 27	Certificates of Completion for Taisha Payne [Bates Stamped 3164-3165]
EXHIBIT 28	Letter from Michael Washington dated 2/26/2019 to Nicole Cooper [Bates Stamped NBSS 3166]
EXHIBIT 29	Certificates of Completion for Nicole Cooper [Bates Stamped NBSS 3167-3168]
EXHIBIT 30	Letter from Michael Washington dated 2/26/2019 to Lauren Coleman [Bates Stamped NBSS 3170]
EXHIBIT 31	Certificates of Completion for Lauren Coleman [Bates Stamped 3171-3173]
EXHIBIT 32	Letter from Michael Washington to Dr. Runell King dated 2/27/2019 [NBSS 3178]
EXHIBIT 33	Investigation Status Internal Document Only regarding the FIRST grade changing investigation [NBSS 3174-3176]
EXHIBIT 34	Letter from Michael Washington to Dr. Runell King terminating him from employment dated 3/13/2019
EXHIBIT 35	Email from Tamika Duroncelay to Michael Washington, Michelle Blouin-Williams and Monica Boudouin stating the ACT materials were "found" dated 3/14/2019 [Bates Stamped 3240]
EXHIBIT 36	Public Media Statement Released by OPSB on September 26, 2019
EXHIBIT 37	Article by Marta Jewson of The Lens entitled "New Beginnings CEO Placed on paid leave during investigation into grade inflation, falsifying records" dated 4/01/2019
EXHIBIT 38	TenSquare Contract dated April 11, 2019
EXHIBIT 39	Email from Lauren Coleman to Andrew Touchette dated 4/17/2019 re status of senior graduation project
EXHIBIT 40	Emails re Senior Graduation Tracker dated 4/29/2019
EXHIBIT 41	Email regarding the sudden resignation of Kimberly Owens on 4/30/2019
EXHIBIT 42	Letter from Raphael Gang to NBSF families re: resignation of Blouin Williams dated 5/07/2019
EXHIBIT 43	Email from Nicole Cooper to senior teachers re grade verification sheets dated 5/08/2019
EXHIBIT 44	Emails to and from Meghan Turner re 9 issues that must be resolved for students to graduate dated 5/09/2019
EXHIBIT 45	Email from Kathy Padian to Brian Gibson re lack of student data and impending graduation dated 5/09/2019
EXHIBIT 46	Email from Laney French regarding the status of her senior transcript review dated 5/14/2019
EXHIBIT 47	Email from Laney French regarding 52 senior transcripts left to review dated 5/15/2019
EXHIBIT 48	Email of Brian Gibson to TenSquare re reasons for dysfunction dated 5/17/2019
EXHIBIT 49	Email from Brian Gibson to TenSquare re Administrative Concerns; let this student graduate because the school was negligent dated 5/17/2019
EXHIBIT 50	Email from Laney French to Nicole Cooper re calculations for valedictorian and salutatorian
EXHIBIT 51	Email from Brian Gibson to Meghan Turner re Kennedy administrators locked out of PowerSchool dated 5/18, 2019
EXHIBIT 52	Article by Marta Jewson of The Lens entitled "Kennedy High School seniors await transcripts as charter board investigates 'malfeasance'" dated 5/28/2019
EXHIBIT 53	Email from Laney French to Ashlei Delarge dated 5/21/2019
EXHIBIT 54	Letter from Raphael Gang to all Kennedy families re: hiring Adams and Reese and firing administrators at Kennedy dated 5/24/2019
EXHIBIT 55	Letter from Raphael Gang to Kennedy families about grade changing investigation and terminations of principal and four other administrators at Kennedy dated 5/24/2019
EXHIBIT 56	Letter from Michael Washington to Brian Gibson re termination dated 5/24/2019

EXHIBIT 57	NOLA Public Schools Internal Memorandum from Dr. Kelli Peterson to Dr. Henderson Lewis, Jr. dated 9/25/2019
EXHIBIT 58	Article by Marta Jewson of The Lens entitled "Orleans schools superintendent calls for criminal investigation into Kennedy High School, announces citywide audit of high school student records" dated 6/27/2019
EXHIBIT 59	Letter from Dr. Henderson Lewis, Jr. to all NBSF Families advising them that NBSF surrendered its charter dated 7/19/2019
EXHIBIT 60	Letter from CEO Kevin George to "JFK Stakeholders" re: still in grade verification process dated 8/02/2019
EXHIBIT 61	Letter from LDOE Assistant State Superintendent Kunjan Narechania to OPSB Superintendent Henderson Lewis, Jr. re: LDOE review at Kennedy dated 5/31/2019
EXHIBIT 62	Letter from NBSF CEO Kevin George to LDOE Policy Director Ryan Gremillion dated 8/22/2019
EXHIBIT 63	Letter from LDOE Superintendent John White to NBSF CEO Kevin George dated 8/22/2019
EXHIBIT 64	Article by Marta Jewson of The Lens entitled "Audit: New Beginnings may have enrolled students outside of New Orleans, jeopardizing funding" dated 2/11/2020
EXHIBIT 65	Article by Marta Jewson of The Lens entitled "Weak grading policy prompts district review of all high school promotion plans" dated 2/07/2020
EXHIBIT 66	Bruno & Tervalon, LLP, CPAS and Advisors, Released on Independent Auditor's Report regarding Kennedy dated 6/30/2018
EXHIBIT 67	Article dated 8/22/2019 by Marta Jewson of The Lens entitled "KIPP will run Kennedy HS next school year, Orleans superintendent announces"
EXHIBIT 68	Letter from KIPP CEO Rhonda Kalifey Aluise to Dr. Henderson Lewis, Jr. dated 7/25/2019
EXHIBIT 69	Article by Marta Jewson of The Lens entitled "Newly hired Kennedy HS Principal out six weeks into the school year" dated 9/30/2019
EXHIBIT 70	2019-2010 NOLA Public Schools High School Credit Accumulation Compliance Review
EXHIBIT 71	Article by Marta Jewson of The Lens entitled "School district's new high school accountability director starts work at Kennedy" dated 10/07/2019
EXHIBIT 72	Article by Marta Jewson of The Lens entitled "Some Kennedy HS students move on, others still working toward diplomas" dated 12/23/2019
EXHIBIT 73	Article dated 8/22/2019 by Marta Jewson of The Lens entitled "Majority of Kennedy HS seniors 'on track' to graduate on time, CEO says" dated 2/27/2020
EXHIBIT 74	Article by Marta Jewson of The Lens entitled "A year after graduation scandal, Kennedy High's governing board prepares to shut down," dated 4/17/2020
EXHIBIT 75	Article by Marta Jewson of The Lens entitled "Cap, gown and mask: Kennedy HS seniors graduate in small ceremonies" dated 6/02/2020
EXHIBIT 76	Article by Marta Jewson of The Lens entitled "One year after Kennedy HS graduation scandal, New Beginnings charter group votes to dissolve" dated 6/05/2020
EXHIBIT 77	"We're Closed" Screen Shot of NBSF's Website
EXHIBIT 78	Article dated 8/23/2019 by Marta Jewson of The Lens entitled "State grants graduation waivers to 8 Kennedy HS students"