

# MANAGING INNOVATION

Models for Governing the System  
of Public Schools in New Orleans

MAY 2010



## THE BUREAU OF GOVERNMENTAL RESEARCH

is an independent, non-profit, non-partisan organization dedicated to informed public policy making and the effective use of public resources for the improvement of government in the Greater New Orleans area. More information on BGR and its work, including this report, can be found at [www.bgr.org](http://www.bgr.org).

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# INTRODUCTION

During the decades preceding Hurricane Katrina, the New Orleans public school system was in severe crisis. In the last academic year before the storm, the district ranked second to last for student performance in Louisiana, which in turn ranked second to last in the nation. Nearly two-thirds of the public schools in the city were deemed academically unacceptable.<sup>1</sup> Only 79% of seniors graduated – placing Orleans Parish in a tie for the worst record in the state.<sup>2</sup>

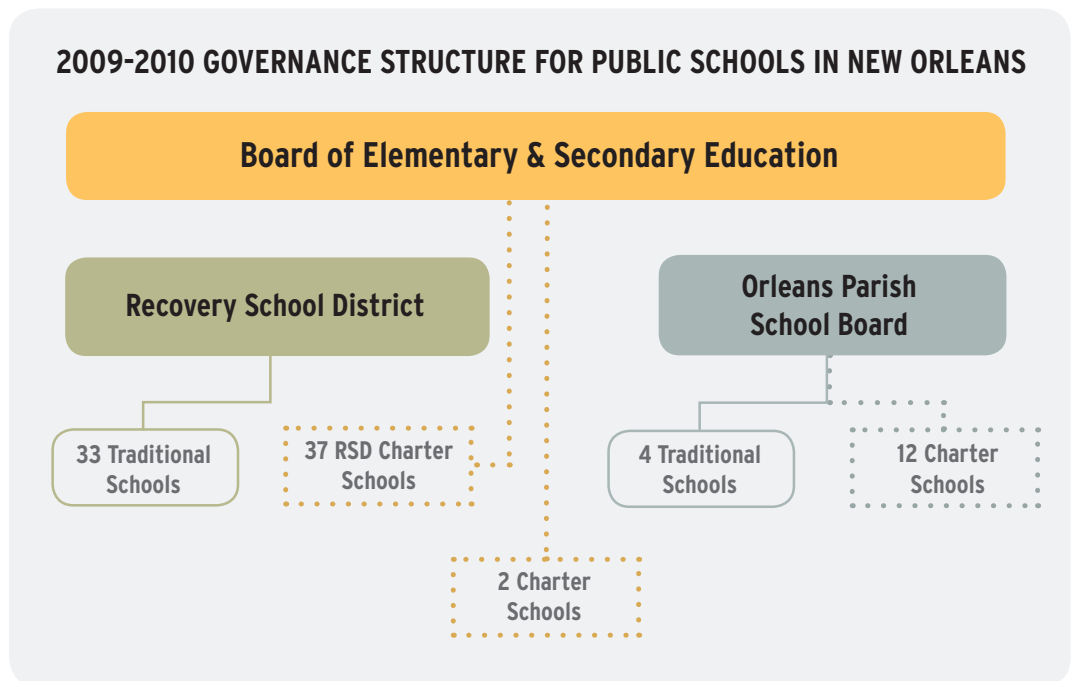
Prompted by the education crisis in New Orleans, Louisiana voters in 2003 approved a constitutional amendment that allowed the state to take over failing schools. The State Legislature established the Recovery School District (RSD) to provide for the management and operation of such schools. Prior to the hurricane, a handful of New Orleans schools were transferred to the district and re-opened as charter schools.

Hurricane Katrina acted as a catalyst to radically transform the structure of public education in New Orleans. In the wake of the disaster, the State Legislature greatly enhanced the state’s authority to take over low-performing schools. Shortly thereafter, the RSD took control of 107 schools in the city.<sup>3</sup> This left the Orleans Parish School Board (OPSB) with only 17 schools, most of which the OPSB chose to charter. On the RSD’s recommendation, the State Board of Elementary and Secondary Education (BESE) began converting large numbers of the schools taken over by the RSD to charter schools.<sup>4</sup> In late 2010, BESE must decide whether to return the schools it took

after Hurricane Katrina to local control or to keep them for additional time.<sup>5</sup>

New Orleans is now in the midst of a sweeping reform movement, the scale of which has been seen in few cities. At the core of the movement is an explosion in the number of charter schools operating in the city. Of the 88 public schools operating in New Orleans in the 2009-2010 school year, 51 are charter schools. The OPSB is the authorizer, or chartering authority, for 12 of these, and BESE is the authorizer for 39. The remaining 37 schools are directly operated by either the OPSB (4 schools) or the RSD (33 schools). In the 2010-2011 school year, four new charter schools will open and six RSD traditional schools will convert to charter schools. In addition, a number of traditional schools in the RSD are expected to close or merge. With these changes, charter schools will outnumber traditional schools in New Orleans by more than 2 to 1.

The following diagram illustrates the governance structure for public schools in New Orleans for the 2009-10 school year.



While the reform movement is still in its infancy, it holds great promise. New Orleans' schools have shown overall growth in state standardized test scores for three consecutive years. The District Performance Score for New Orleans increased by nearly 14 points from 2005 to 2009, while the state average rose by only 3.6 points. The percentage of seniors graduating also improved dramatically, rising 10 percentage points since the last academic year before the storm.<sup>6</sup>

The transformation of the school system has also created new problems and challenges. This is hardly surprising, given that the explosion of charter schools occurred in a very short time frame under extreme conditions. There was inadequate time to anticipate the issues presented by the radically transformed system, much less to develop an appropriate governance framework for dealing with them.

Developing a governance framework that addresses these problems and promotes and sustains high quality schools is critical to the long-term success of the reform movement. Developing such a framework is also extraordinarily challenging, since the structure must bring strategic coherence to the system while preserving the diversity and independence of the individual schools. In a sense, the challenge is similar to the one faced by our country's leaders after the American Revolution: how to transform a loose federation of entities into a well functioning whole. It is a delicate balancing act and a challenge for which there is little precedent in the educational realm.

In this report, we provide five potential models for education governance in New Orleans and discuss the advantages and disadvantages of each. These options do not represent the totality of potential options for governance, and none is perfect. Our hope is that the presentation of these options will inform and inspire a thoughtful conversation about school governance in New Orleans. We plan to offer recommendations later, after the conversation has unfolded.

## A WORD ON METHODOLOGY

To prepare this report, we conducted extensive research on school governance and school reform efforts around the United States. The research included a review of works by experts in the education field, as well as case studies. We collected additional information from newspaper articles, interviews with those working within the school system, and a recent opinion poll of voters and parents commissioned by the Cowen Institute.<sup>7</sup> We also collected information by monitoring education entities and participating in working groups dealing with education issues.

Few cities have been as thoroughly devastated as New Orleans was in 2005. At the same time, few cities have had such a major opportunity to rethink how public schools are operated, organized, and held accountable for student learning. It is time to create a governance structure that encourages and supports excellent schools for all children.

## ASSUMPTIONS AND GUIDING PRINCIPLES

RSD control of schools was conceived as an interim measure for turning around failing schools. For the purposes of this report, we have assumed that the RSD will continue to serve as a temporary repository for failing schools. We have also assumed that once New Orleans has a long-term governance structure in place, BESE will release control of the schools taken after Hurricane Katrina. This report focuses on the development of the governance framework into which the released schools will be incorporated.

In addition, the models we present assume that New Orleans will continue to have a hybrid system of public schools, with a mixture of charter schools and traditional schools. They also assume that charter schools will

continue to play a major role in public education in New Orleans. We have made these assumptions for three reasons. First, while returning to a system of district-operated schools is always an option, such a move would create tremendous turmoil without the promise of commensurate benefits. Second, the charter school movement is still in its infancy. While inadequate time has elapsed to assess the results fairly, there are signs of improvement. Third, critical steps needed to give the reforms a fair chance – such as developing an appropriate governance framework – have not yet been taken. Terminating the charter movement under those circumstances would be premature.

What are the hallmarks of a governance framework that would give New Orleans’ education reforms a chance to succeed and flourish? First and foremost, it should provide individual schools with the independence and flexibility they need for creativity and experimentation. It should impinge on school autonomy only to the extent necessary to address major issues that transcend individual schools. Subject to that overarching principle, it should also:

- Clearly define each entity’s or entities’ roles and responsibilities.
- Promote strategic interaction between governing entities.
- Produce effectiveness and efficiency at both the system and school levels.
- Protect charter schools from a bias toward district schools, and vice-versa.
- Resolve equity issues relating to funding and facilities.
- Promote coordination and economies of scale where appropriate.
- Encourage the proper blend of expertise within the entity or entities overseeing the system.

## GLOSSARY

### CHARTER SCHOOLS:

Autonomous public schools that operate with freedom from many of the regulations that apply to traditional public schools. Charter schools are governed by independent boards and operate under a written contract with a state, school district or other approved entity.

### CHARTER SCHOOL AUTHORIZERS:

Entities charged by the law to approve, monitor and evaluate charter schools. Authorizers determine whether or not the charter or contract allowing a charter school to operate should be renewed or revoked.

### MINIMUM FOUNDATION PROGRAM (MFP):

A block grant from the State of Louisiana to parish and city school districts. The MFP provides school districts with the cost of a minimum foundation program of education in public elementary and secondary schools and helps to allocate the funds equitably to parish and city school systems.

### OPSB CHARTER SCHOOLS:

Schools that are authorized by the Orleans Parish School Board.

### RECOVERY SCHOOL DISTRICT (RSD):

A special school district administered by the Louisiana Department of Education. Created by legislation passed in 2003, the RSD is designed to take underperforming schools from their local districts and transform them into successful places for children to learn.

### RSD CHARTER SCHOOLS:

Schools that were taken over by the RSD and converted to charter schools.

### SCHOOL SYSTEM:

For the purposes of this report, all public schools in New Orleans, regardless of school district or school type.

### TRADITIONAL SCHOOLS:

Schools that are directly operated by the RSD or the OPSB.

## UNIQUE SYSTEM, UNUSUAL ISSUES

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Since the early 20th century, most school systems in the U.S. have consolidated decision-making authority for all public schools under a single governing entity. While the specifics vary by district, in a classic system a locally elected school board is responsible for all aspects of school governance, including operating the schools, managing facilities and finances, and establishing system-wide policies and procedures.

The reform measures in New Orleans have moved it far beyond the classic model. Two school districts – one run by the OPSB and the other by the RSD – are operating in the same area. In addition, nearly 60% of students attended charter schools that operate independently of the districts in the 2008-2009 school year.<sup>8</sup> This is extraordinary. In most districts with charter schools, those schools are niche players. In the handful of districts in the nation where charter schools have a significant market share, that share does not exceed 36%.<sup>9</sup> Only in New Orleans are charter schools the predominant type of public school.

The current fractured governance structure has led to a lack of clarity as to the roles and responsibilities of the various entities involved in school governance in New Orleans. Additionally, with two school districts and more than 30 charter school operators (including charter management organizations that oversee a number of schools and individual charter school operators) coordination between and among schools and districts has suffered. The current situation has also created inequities, as well as new challenges for parents. These issues, which are explained below, must be considered when formulating a long-term governance structure.

## SERVING ALL STUDENTS

Currently, each school district and charter school establishes its own policies and procedures in areas

## WHAT ARE CHARTER SCHOOLS?

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Charter schools are public schools that operate independently from local school districts. These schools are free from many of the regulations that apply to traditional public schools, such as union contracts and instructional mandates. However, like traditional schools, charter schools must meet all state accountability standards.

In Louisiana, charter schools receive the right to operate from two types of “authorizers:” BESE and local school boards. The terms of the relationship between the charter operator and the authorizer are spelled out in a contract. A comprehensive charter agreement outlines the school’s mission, program and population. It clearly states the degree of autonomy the school will receive, expected outcomes, the evaluation process, consequences for non-performance, and the regulatory and procedural terms of the agreement.<sup>10</sup> It also sets forth the roles and responsibilities of the school operator and the charter authorizer with regard to personnel, services, facilities, curriculum and finance.

Once charter schools are operational, authorizers monitor and evaluate schools’ performance and take action if they do not meet requirements and standards set forth in law or the charter. Enforcement actions may include warnings, interventions allowed under the charter and, if necessary, the revocation or non-renewal of the charter at the end of its term. The length of charter terms vary, but most are for three to five years.

such as student enrollment, transfers and discipline. No single entity oversees the process or serves as a source of information on all of the schools. As a result, once-routine tasks, such as enrolling a child in school, have become complex and at times daunting. Recognizing the problem, RSD traditional and charter schools now use a common application, allowing families to use the same application at a number of schools. However, most OPSB

schools – traditional and charter – do not participate in this. Much more cooperation and coordination is needed.

The proliferation of charter schools has also led to information, oversight and coordination gaps. Currently, the state collects information from all schools on enrollment, discipline and academic performance, but it does not systematically share the information with the public or school operators. No entity tracks all students to make sure that they are enrolled in school. This fragmentation increases the risk of students falling through the cracks and of discrimination against students who are more difficult or expensive to educate. For example, it is unclear who is responsible for educating students expelled from a school. The RSD often becomes responsible for such students. RSD traditional schools also have a disproportionately higher number of special education students.

In addition, no entity sets policies that affect all public school students in New Orleans or speaks for the educational system as a whole. As a result, other government agencies, parents and community members must deal with several entities on education issues. There is also no entity performing strategic planning for the system. For example, no one is monitoring schools to ensure that they offer the right mix of grade levels to meet the needs of the community.

## **FUNDING ISSUES**

While all public schools receive money from the state’s Minimum Foundation Program (MFP), different operators and schools receive unequal amounts per pupil. This is due to the manner in which state law allocates funds to different types of charter schools.<sup>11</sup> The OPSB’s traditional schools and the RSD’s traditional and charter schools are responsible for a portion of pre-Katrina debt; the OPSB’s 12 charter schools are not.<sup>12</sup> As a result of this disparity, some schools can devote more public money to instruction than others. Legislation

intended to address this has been filed during the current legislative session.

Currently, the OPSB is responsible for legacy costs – such as retiree health care costs, workers’ compensation claims and legal fees incurred by it when the system was unified and much larger. It is currently meeting those obligations out of its reserves. As things stand now, once those reserves are exhausted, the obligation will have to be met out of the OPSB’s operating funds. Unless the problem is addressed by expanding the burden to other schools, this has the potential to reduce the funding available per pupil for the OPSB’s traditional schools.

High transportation costs also draw money away from instruction in some schools. All traditional schools and most charter schools are required by law to provide transportation for their students. The cost of meeting this obligation has increased dramatically post-Katrina as a result of several factors, including a school choice policy that allows students to attend schools outside of their neighborhoods. The problem has been compounded by a loss of economies of scale. Currently, many charter schools are arranging for their own transportation rather than coordinating with other schools. Some schools spend much higher percentages of their budgets on transportation than is typical.

Financial difficulties are further aggravated by a mismatch between expenditures and revenues in the first half of the school year. Schools incur a disproportionate amount of their expenses in the first half of the year, but do not receive local funds until the second half of the year. This is usually not a problem for traditional schools with access to school district reserves. It is, however, for young charter schools without reserves. These schools sometimes have to bridge the gap with short-term borrowings. Legislation intended to address this is currently before the State Legislature.

## SCHOOL FACILITIES

Another area riddled with uncertainties and inequities is that of school facilities. Currently, the OPSB continues to own all school buildings and has control of the facilities occupied by its traditional and charter schools. The RSD has control of the buildings that were occupied by the schools it took over after Katrina. The RSD's control includes all powers associated with ownership, other than the right to sell or dispose of the property.

The nature and scope of charter schools' obligations with respect to repairs, operating costs and insurance vary. Some schools pay for repairs themselves, while others arrange for the districts to make repairs. Some schools are housed in high-quality facilities, while others struggle in poor-quality facilities. The OPSB pays property insurance for its traditional and charter schools. The State of Louisiana pays it for all RSD schools.

The vast majority of charter schools in New Orleans occupy facilities controlled by either the OPSB or the RSD. The process for assigning use of those facilities to charter schools is opaque. In many cases, schools are assigned to facilities on a temporary basis, creating uncertainty about how long a school will be able to remain in a particular location. A number of schools have been moved multiple times in the last four years.

Some of the problems described above can be addressed through voluntary arrangements among schools and school districts. Others will be resolved only by changes in governance and law.

## CREATING A GOVERNANCE STRUCTURE

In the educational context, governance refers to the structures and rules that define the roles and responsibilities of entities and individuals involved in the operation of a school system. It defines who the

players are and the basic rules of the game.<sup>13</sup> It covers all levels of authority within the system.

Most discussions relating to school governance focus on issues of control, such as the method of selecting board members. In New Orleans, with its dozens of public charter schools, there is a more fundamental issue: How should the system be structured to allow the reform movement to succeed and prosper?

The inquiry must begin with the basics. This includes identifying functions critical to the operation of the school system in New Orleans and determining whether responsibility for those functions should be consolidated in one entity or divided between two or more.

In this section of the report, we identify the functions and present five models that distribute responsibility for them. We also examine the advantages and disadvantages of various governing entities and reform models.

## KEY SYSTEM-LEVEL FUNCTIONS

For the purposes of this report, we have grouped school governance functions into five broad categories:

- ***Operating district schools.*** The tasks associated with operating district schools include determining their curriculum and monitoring academic progress, setting school policies, hiring and firing district school-based staff, and developing school budgets. It also includes arranging for support services, such as transportation, food and janitorial services. In some systems all of these tasks are performed by the district's central office. In other systems, tasks are delegated in varying degrees to schools.
- ***Authorizing and holding charter schools accountable.*** Entities known as authorizers are responsible for selecting and overseeing charter school operators. Authorizers work with applicants to prepare their charters and enter into performance contracts with the selected operators. Authorizers



monitor and evaluate school performance against the contract and state standards and take enforcement action against schools that fail to live up to their commitments. This includes revoking charters.

- **Managing system finances.** Tasks associated with financial management include identifying the financial needs of the school system; raising funds (including taxes and issuing bonds) to meet those needs; receiving, managing, allocating and distributing funds; managing and meeting pre-Katrina obligations, such as the OPSB’s debt and legacy costs; and preparing a budget for the system as a whole.
- **Managing facilities.** Responsibilities associated with managing facilities include procuring the facilities needed for schools through purchase, lease or new construction; allocating facilities and capital, maintenance, and repair funds to schools; managing leases with schools; maintaining and repairing facilities or assigning this responsibility to schools; insuring facilities; and implementing and overseeing facilities master planning. It could also include owning the facilities.
- **System-wide planning, policymaking, coordination and enforcement.** Responsibilities include the development of system-wide policies and procedures for matters with ramifications outside of an individual school as well as system-wide goals; the monitoring and enforcement of those policies and nondiscrimination laws; and the monitoring of the performance of the system as a whole. It also includes responsibility for ensuring that there are schools to meet the needs of all children, including those with special needs, those forced to transfer and those who enter the system during the school year. In addition, it involves coordinating functions that cross school lines, such as managing student records; establishing a comprehensive, system-wide data system; coordinating and overseeing the enrollment program for public schools; interfacing

with intergovernmental entities as well as parents and the community; recruiting and maintaining a pool of qualified personnel for the system; and conducting long-term planning for the system as a whole. The latter responsibility includes providing guidance to charter school authorizer(s) as to the number, types and locations of schools needed.

Establishing the proper scope of common policies and procedures is likely to be controversial. Inherent in the charter school model is freedom from many of the rules and regulations affecting traditional schools. However, the freedom to set policies and procedures is not an absolute. It must be defined in light of competing rights and needs of the public school body as a whole and may be judiciously limited where a school’s policies produce unintended consequences for the system. For the purposes of this study, we recognize the need for common policymaking as a general concept without defining the scope of that policymaking.

## DISTRIBUTION OF FUNCTIONS

There are numerous ways of allocating responsibility for the five functions described above. The combinations range from the highly consolidated, with one entity performing all five functions, to the highly dispersed, with different entities performing each of the five functions.

After considering the range of possibilities for the future, we have chosen five models for detailed analysis. The first model closely resembles the pre-Katrina governance structure, with one entity responsible for all aspects of the public school system. The other four models introduce additional governing entities. Each addresses one or more issues encountered in the current arrangement; each suffers from shortcomings.

This section begins by describing the current system. It then describes the five models – moving from the most

consolidated to the most dispersed. It also discusses the advantages and disadvantages of each.

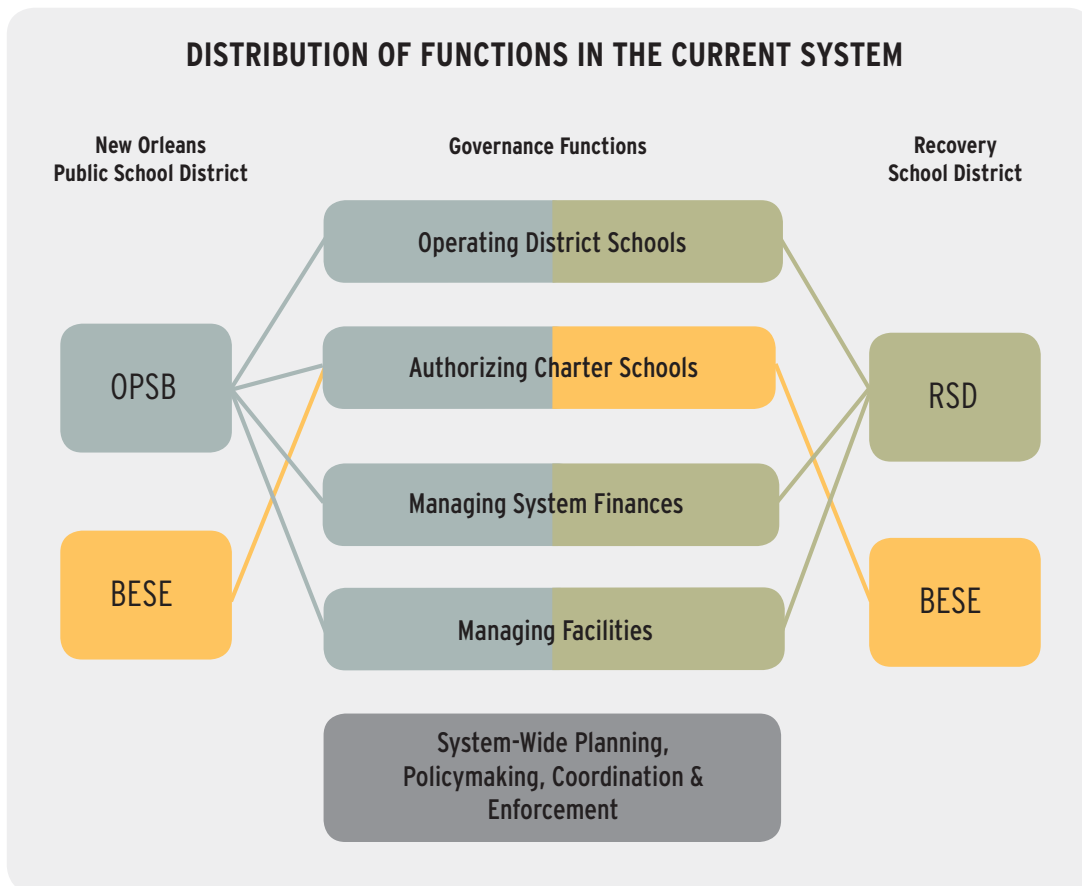
All of our models assume that BESE would interact with New Orleans as it does other districts. For example, it would continue to authorize Type 2 charter schools<sup>14</sup> and to hear appeals when a local authorizer denies a charter request. It would also still have the right to take over chronically failing schools and place them in the RSD. The RSD would continue to operate those schools and manage the related finances and facilities on a temporary basis.

Our models deal with the highest level of governance – governance of the system as a whole. They do not address issues relating to the governance of individual schools, such as the allocation of responsibilities among the district school operator, its central office and its schools and the allocation of responsibilities between charter school boards and charter school administrators.

### The Current Model

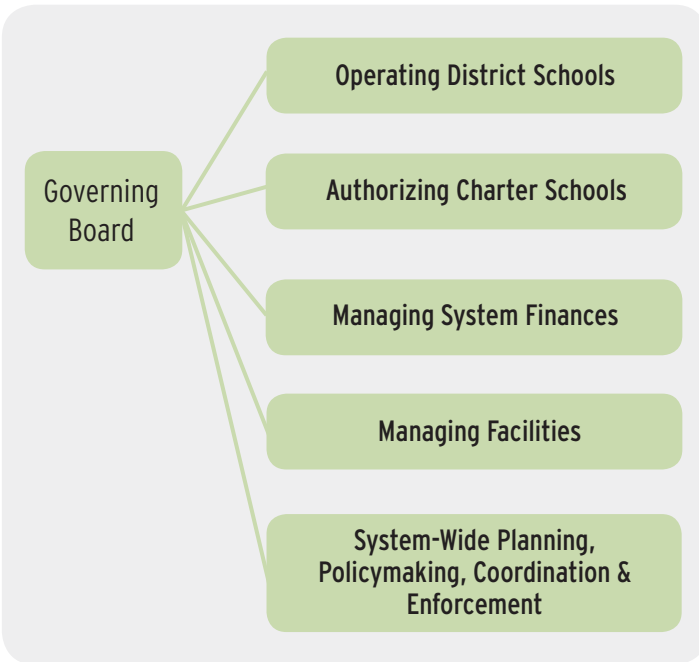
Currently, both the RSD and the OPSB directly operate schools. The OPSB and BESE both have the power to authorize charter schools, although the OPSB has not exercised its authority to award new charters since 2006. The OPSB manages facilities for its traditional and charter schools. The RSD manages facilities for its traditional and charter schools, as well as vacant school properties. By virtue of its control of most school facilities in New Orleans, the RSD also has primary responsibility for implementing the facilities master plan approved by BESE and the OPSB in 2008. The OPSB and RSD each manage some aspects of finance. With the exception of facilities planning, no entity is performing system-wide planning, policymaking, coordination and enforcement.

The following diagram illustrates the distribution of functions in the current two-district system.



## Option 1: Consolidating All Functions

The first governance option gives one entity responsibility for all aspects of school governance. Prior to Hurricane Katrina, this was the basic governance structure in New Orleans, with the OPSB performing all five functions. BESE also had the power to authorize charter schools in New Orleans.



The OPSB could serve as the Governing Board in this option. Alternatively, the role could be filled by a newly established entity (New School Board). In the case of the OPSB, there is no reason to think that consolidating authority under it without implementing major governance reforms would produce different results for New Orleans' schools than those in the past. Nor is it clear that major governance changes would be sufficient to transform the board into a high-performing entity. In the following section of this report, we discuss possibilities for improving the OPSB's governance and mitigating potential conflicts of interest. Establishing a new body would have the advantage of providing a clean organizational slate and distance from the dysfunction that has plagued the OPSB.

**What would change.** If this model were adopted, responsibility for the governance of public schools in New Orleans would be vested in a single entity. The oversight of all charter schools in New Orleans (other than Type 2 charters) would eventually be transferred to the Governing Board. That board would fill the gap in planning, policymaking, coordination and enforcement.

**Advantages and disadvantages.** Consolidated governance offers the greatest potential for strategic coherence and planning. This is because the entity conducting the planning bears responsibility for all aspects of the system. If governance is divided among multiple entities – for example, with one entity managing facilities and another managing finances – the entities must work assiduously to coordinate their efforts in pursuit of common goals. They must resist the tendency to develop and protect fiefdoms.

Consolidated governance also facilitates planning, accountability and coordination. One local entity is in charge of public school governance in New Orleans. The public knows whom to approach with questions and concerns and whom to hold accountable if things go wrong.

However, there are serious downsides to consolidating governance in a single entity. Most importantly, this model has failed in many large urban school districts. It tends to strengthen entrenched interests, perpetuate the status quo and work against innovation. In addition, it creates the potential for conflicts of interest. The conflicts stem from vesting significant powers over matters that affect charter schools in an entity that operates its own schools.

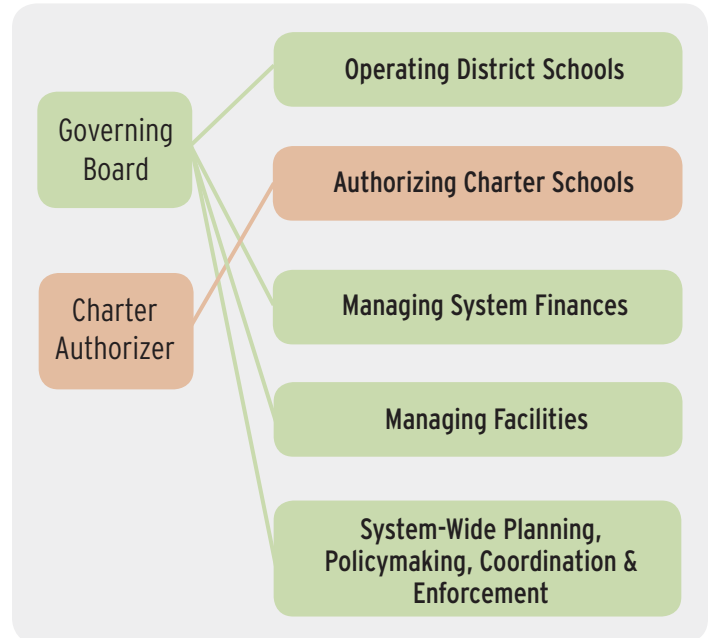
Ideally, a governing entity would recognize that traditional and charter schools are all public schools and focus on operating the system in a way that raises overall performance. However, people have a tendency to feel more invested in, and protective of, institutions over which they have greater influence. Thus, an

entity operating its own schools might be reluctant to authorize charter schools, since those schools would compete for resources with the traditional schools. Even if it authorized them, the operator might be inclined to apply school policies across the board to traditional schools and charter schools, limiting charter schools' freedom to innovate. Finally, an entity that operates its own schools might be tempted to favor those schools over charter schools in allocating facilities or funding.

There are ways of mitigating the risks of favoritism and discrimination. These include enacting legislation to govern key areas, such as funding and cost sharing. Another possibility, discussed later, is to adjust the composition of the board, so that it includes appointees who represent charter schools. Yet another approach is to require the governing entity to hire a contractor to run traditional schools. This would put equal distance between the governing entity and the daily operations of all types of schools.

## Option 2: Separating Authorization

Option 2 separates the authorization of charter schools from other governance functions, increasing the number of entities involved in school governance to two. In this model, one entity operates district schools, manages finances and facilities, and performs planning, policymaking, coordination and enforcement for all schools in the city. A second entity authorizes charter schools.



As in the previous model, the OPSB or New School Board could serve as the Governing Board. A newly created local or state entity or an “alternative authorizer” could serve as the Charter Authorizer. For a discussion of the advantages and disadvantages of different types of authorizers, see p. 19.

**What would change.** If this model were adopted, responsibility for most governance functions would be vested in the Governing Board. A separate entity, the Charter Authorizer, would serve as the authorizer for all charter schools in New Orleans (other than the city’s few Type 2 charter schools). The OPSB would lose its chartering authority. The Governing Board would fill the

current gap in planning, policymaking, coordination and enforcement.

**Advantages and disadvantages.** Making charter authorization an independent function allows the authorizer to concentrate its resources on the viability of charter applicants and the success of charter schools. A number of research studies have commented favorably on the performance of independent authorizing entities.<sup>16</sup>

Separating out charter authorization limits some of the potential for conflicts of interest when one entity both operates district schools and authorizes charter schools. As noted above, the governing entity may be reluctant to support charter schools that will compete with it for students and resources or may unduly restrict the freedom of charter schools. Separating the authorizing function from others would eliminate this potential problem. It could also mitigate the implementation of restrictive board policies that hamper the independence and creative potential of charter schools. Separating the authorizing function from others does not, however, eliminate other aspects of conflict of interest, such as the potential for favoritism in the allocation of facilities and funds.

While separating the authorizing function helps to mitigate some conflicts, it also introduces coordination issues. Addressing those issues is particularly important for a system like New Orleans', where large numbers of traditional public schools have been converted into charter schools. Given that charter schools will educate more than 70% of the students in the 2010-2011 school year, the Charter Authorizer would have to work closely with the Governing Board to ensure that the needs of the public school student body as a whole are met. This includes ensuring appropriate accommodations for special needs students, alternative facilities for troubled youth and an appropriate geographic distribution of schools.

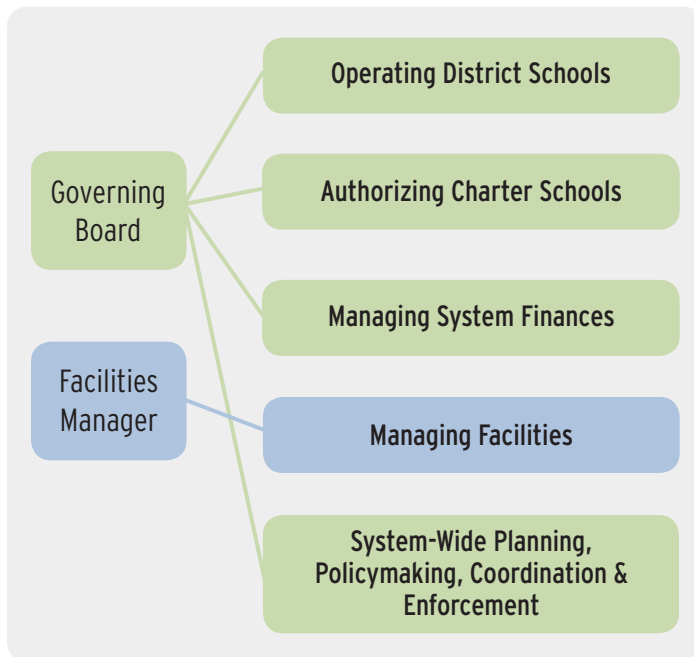
Devising a framework that provides the necessary coordination is challenging and requires difficult decisions related to the allocation of powers. For example, should the Charter Authorizer have total freedom to approve a charter school, or should it be required to operate within a strategic framework established by the Governing Board? If the Governing Board identifies a need for a new school, should it have discretion as to whether to fill the need with a district or charter school? What rules should guide the Governing Board in allocating facilities or upgrading and repairing them? These and many other coordination issues would have to be addressed if New Orleans took this route.

### MULTIPLE CHARTER AUTHORIZERS

Some states, including Louisiana, allow multiple authorizers. Louisiana, for example, empowers both BESE and local school boards to act as authorizers. For simplicity, our models contemplate that there would be only one authorizer for schools in Orleans Parish. Limited evidence suggests that a single authorizer makes for better results.<sup>15</sup> However, multiple authorizers are a possibility. The State Legislature is currently considering legislation that would establish a separate statewide commission to authorize charter schools.

### Option 3: Separating Facilities Management

The third model is similar to the second in that it separates one governance function from all the others. In this case, however, the separated function is facilities management. Two entities are again involved in governance: one operates district schools, authorizes charter schools, manages finances, and performs planning, policymaking, coordination and enforcement for all schools in the city; the other manages facilities.



As in the previous models, the OPSB or the New School Board could serve as the Governing Board. A newly created local entity or the OPSB (if it were not the Governing Board) could serve as the Facilities Manager. For more information on the Facilities Manager, see p. 21.

**What would change.** If this model were adopted, responsibility for most functions relating to public school governance in New Orleans would be vested in the Governing Board. The oversight of all charter schools in New Orleans (other than the city’s few Type 2 charter schools) would be transferred to the Governing Board. The management of all school facilities would be placed with a Facilities Manager. The Facilities Manager also

could own the facilities. The Governing Board would fill the gap in planning, policymaking, coordination and enforcement.

**Advantages and disadvantages.** The entity that manages school facilities and assigns them to schools plays an important role in determining whether a school can come into existence and its potential for expansion. The entity controlling facilities also has the ability to favor or handicap types of schools through the allocation of facilities. For example, the entity managing facilities could assign higher-quality or better-located facilities to charter schools or to traditional schools.

Separating facilities management from school operation and authorization would limit the potential for discrimination in the distribution of facilities. Because of the limited scope of its mission, an independent facilities manager is more likely than a school operator or authorizer to be indifferent as to whether the occupant of a building is a traditional or charter school. This could reduce the risk that one type of school would be assigned disproportionately to poor-quality facilities or short-changed on capital repairs. In addition, a facilities manager could establish a system-wide procedure for fairly allocating debt and legacy costs and for leasing district-owned facilities.

A facilities manager would be able to focus exclusively on facilities management. As a result, it could develop expertise and specialized capacity in real estate development and management. As a single-purpose entity with the necessary expertise, the facilities manager could focus intently on managing this long-neglected aspect of New Orleans schools, pursuing different asset-management approaches and working more aggressively to maximize the value of the school system’s real estate holdings. While all of this could be done by a consolidated entity, using a single-purpose entity ensures that the formidable task of facilities management is not lost among other demands.

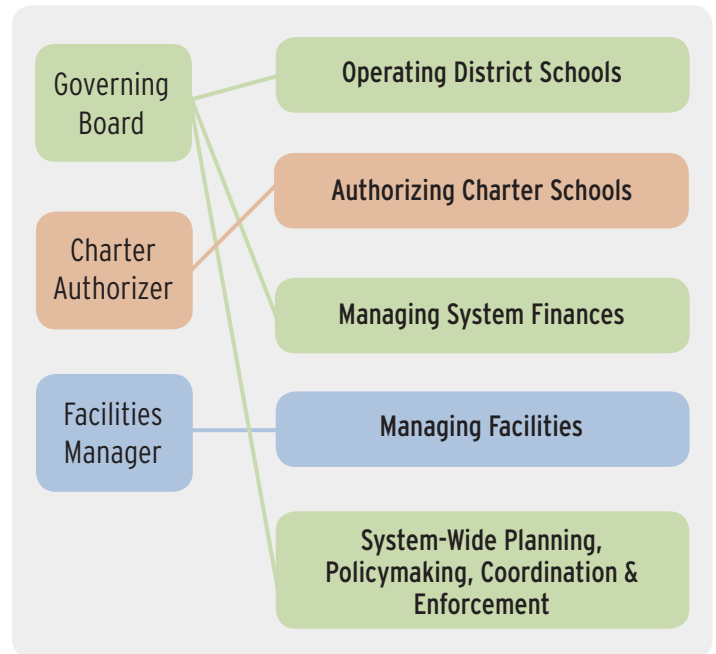
However, separating facilities management from other governance functions could hinder strategic facilities planning and lead to conflict over resources. Facilities, funding, education and planning are all interrelated. Decisions in one area can have ramifications for the others. Decisions to invest in facilities can affect the availability of funds for educational programs, and vice versa. The design and location of school facilities must correspond with demand and education strategy. The Governing Board and Facilities Manager would have to work closely to function strategically.

Achieving that collaborative relationship requires a careful definition of the rights and responsibilities of both the Governing Board and the Facilities Manager. Should the Facilities Manager have an independent revenue source to support some or all of its activities? If so, what type? Who should decide on the allocation of resources to facilities and school operation? How much say should the Governing Board have in the design and location of schools? How should conflicting views be resolved? These and other issues would have to be addressed if this model were implemented.

We are not aware of any entity that plays the broad role envisioned in this report for the Facilities Manager. In the few cities with school facilities-related entities, the entities play a more limited role. New York City’s School Construction Authority, for example, plans and builds facilities, but does not manage them.

### Option 4: Separating Both Authorizing and Facilities Management

This model involves three governing entities. One operates district schools, manages finances, and performs planning, policymaking, coordination and enforcement for all schools in the city; another authorizes charter schools; and a third manages school facilities.



As in previous models, the Governing Board could be the OPSB or the New School Board. The Charter Authorizer could be a new local or state entity or an alternative authorizer. The Facilities Manager could be a new local entity or the OPSB (if it is not the Governing Board).

**What would change.** If this model were adopted, responsibility for three functions would be vested in the Governing Board. A separate entity, the Charter Authorizer, would serve as the authorizer. The OPSB would lose its chartering authority. The management of all school facilities would be transferred to the Facilities Manager.

**Advantages and disadvantages.** The advantages and disadvantages are, for the most part, the same as those discussed under the second and third options. There

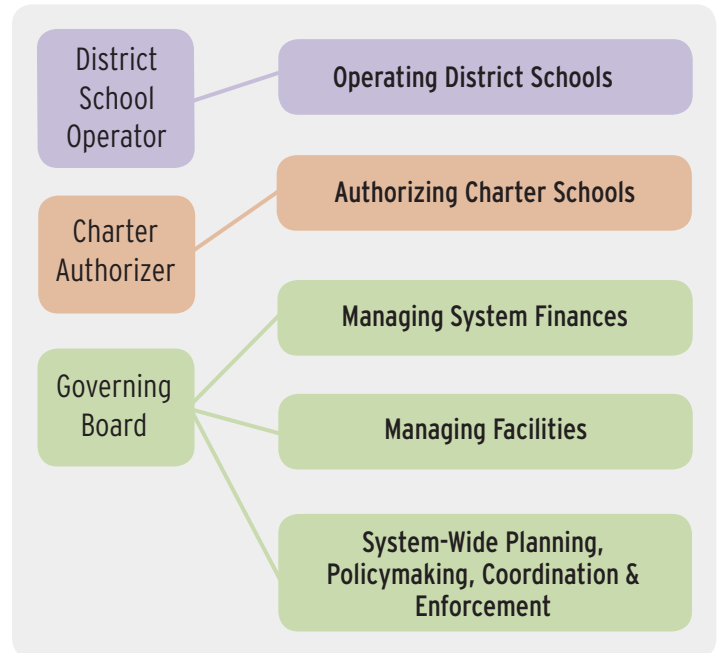
are, however, additional downsides to having three entities involved in school governance. Without proper coordination, the involvement of multiple entities could lead to disparate visions and priorities. It could slow down decision making and implementation. And it could lead to redundant bureaucracies and increased administrative cost. If responsibilities are not clearly delineated, multiple entities could also create accountability problems, allowing entities to deflect blame for problems and allowing responsibilities to fall through the cracks.

Finally, involving multiple entities in school governance can be confusing for the public. Parents may be unsure which entity to approach with questions and concerns, or whom to hold responsible for decisions with which they disagree.

Establishing a coherent system becomes even more challenging when three entities are involved. The kinds of questions raised in Options 2 and 3 have to be resolved. In addition, the relationship between the Charter Authorizer and the Facilities Manager would have to be defined. How much say should the Charter Authorizer have in the design and location of schools? How should conflicting views of the Governing Board, the Charter Authorizer, and the Facilities Manager be resolved? These and other issues would have to be addressed if this model were implemented.

### Option 5: Consolidating System-wide Functions

This model involves three governing entities: one to operate district schools; another to authorize charter schools; and a third to perform all system-wide governance functions.



In this model, we have assigned responsibility for the functions that impact all schools to the Governing Board and responsibility for operating district schools to a District School Operator. Either of these roles could be filled by the OPSB or the New School Board. In yet another variation, the OPSB could be eliminated completely and the operation of schools assumed by another new entity. The role of the Charter Authorizer could be filled by any of the entities previously identified as potential candidates for that function.

**What would change.** If this model were adopted, the Governing Board would assume responsibility for facilities management, system-wide finances, and planning, policymaking, coordination and enforcement functions. The OPSB would lose its role as charter authorizer, and the Charter Authorizer would assume responsibility for all charter schools in New Orleans (other than the city’s few Type 2 charters). Unless the



OPSB were the Governing Board, it would also give up responsibility for facilities management and finances.

**Advantages and disadvantages.** Placing responsibility for finance, facilities management, and planning, policymaking, coordination and enforcement in a single entity that neither operates nor authorizes schools enables it to focus exclusively on system-wide issues. It also removes the potential for micromanagement of operations at the school level. Removing responsibility for operating district schools or authorizing charter schools from the entity with system-wide responsibilities limits the potential for favoritism in the distribution of facilities and finances, as well as in policymaking. At the same time, it increases the potential for strategic system-wide planning that takes into account the state of the system’s finances and facilities.

Vesting responsibility for charter authorization and district school operation in single-purpose entities allows them to focus their attention on these critical functional areas.

As noted in the preceding model, there are downsides to having three entities involved in governance. These include redundant bureaucracies, increased administrative costs and coordination issues.

As in the case of the preceding models, creating a coherent, aligned system is not easy. Powers and responsibilities would have to be carefully defined. Should the Charter Authorizer be required to operate within a strategic framework established by the Governing Board when authorizing schools? Should the Governing Board be able to require the District Operator to open a district school? What rules should guide the Governing Board in allocating facilities or upgrading and repairing them? How much say should the District School Operator and the Charter Authorizer have in the design and location of schools? How should conflicting views be resolved? These and many other coordination issues would have to be addressed if New Orleans took this route.

### SUMMARY OF THE ISSUES ADDRESSED BY THE FIVE OPTIONS

*As noted above, each of the options presented addresses one or more of the issues encountered in the current school system; each suffers from shortcomings. The following chart summarizes how well each option addresses issues in the current system.*

OPTIONS	ISSUES ADDRESSED				
	Limits Conflict of Interest	Strategic Coherence	Accessibility for Public	Accountability	Specialization
Option 1: Consolidating All Functions		High	High	High	
Option 2: Separating Authorizing	Med	Med	Med	Med	Med
Option 3: Separating Facilities Management	Med	Med	Med	Med	Med
Option 4: Separating Authorizing & Facilities Management	Med				High
Option 5: Consolidating Systemwide Functions	High				High

**KEY**



## IMPLEMENTATION

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Restructuring governance is a complicated process that would require action at many levels of government. In some cases, implementing a model or reform would require a constitutional amendment. Such an amendment would be necessary, for example, to replace the OPSB with a New School Board. Legislative amendments would be necessary to implement changes in other areas. For example, the state chartering law would have to be modified to place all New Orleans charter schools (other than the city's Type 2 charter schools) under one authorizer. Legislation would be required to establish a Facilities Manager. Legislation and/or cooperative endeavor agreements would be necessary to clarify the powers and responsibilities of various entities and the protocols for their interaction.

In addition, various contractual obligations would have to be addressed. For example, a significant portion of the OPSB's millage and part of its sales tax revenue is pledged to some of its bondholders. That millage could be transferred to another entity only if the rights of those bondholders were respected. This would require a potentially expensive refunding of the debt.

## STRUCTURING GOVERNING ENTITIES

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The preceding section focused on the structure of the system as a whole. This is an important first step in devising a workable governance arrangement. It is, however, only a first step. A structure that offers great potential will fail to deliver on its promise unless it is well governed.

The OPSB has not been well governed. Rather it has been plagued by governance problems at both the board and administrative levels. These problems must be addressed through effective reforms if the OPSB is to participate in the future governance of the school

system. These issues must be avoided if a New School Board is created. Otherwise, the models – regardless of their merit – will not succeed.

This section examines options for reforming the OPSB. It also discusses the prospects for the success of a New School Board, as well as options for a Charter Authorizer and Facilities Manager.

## WHAT ARE THE OPTIONS FOR REFORMING THE ORLEANS PARISH SCHOOL BOARD?

Prior to Hurricane Katrina, the OPSB failed to attract and maintain stable and effective leadership. Between 1998 and 2005, three different superintendents and five different interim superintendents led the district. The district also struggled with financial mismanagement and corruption. By 2005, it was crippled by debt and operating at a deficit. Under threat of a total state takeover, in July 2005 the OPSB hired an outside firm to overhaul its finances.

The dysfunction of the OPSB posed a major hindrance to the effective and successful operation of New Orleans' public schools. Members bickered in public with each other, the superintendent and other government officials. Some members used their position as a stepping-stone to higher political office.<sup>17</sup> One pleaded guilty to taking bribes in return for supporting the award of a contract to a vendor.<sup>18</sup>

Given the poor performance of New Orleans' public schools under the OPSB, few would advocate for giving that board a role in school governance unless it can be effectively reformed. This section discusses common approaches to school board reform. These include changing the way that board members are selected and redefining their powers and responsibilities.

## Selecting OPSB Members

OPSB members are currently elected, as required by the Louisiana Constitution. State law gives the OPSB the power to fix the number of its members at between five and nine, to determine whether its members are elected at-large or by sub-district, and to establish the boundaries of the sub-districts.<sup>19</sup> Currently, the seven members of the OPSB are elected by sub-district.

Reform options include: switching on whole or in part from sub-district to at-large elections, adding some appointed members, or shifting to an entirely appointed board. Each option has its advantages and disadvantages, and none guarantees success. Adding appointed members or shifting to an entirely appointed board would require amendment of the Louisiana Constitution. Any change in the size of the OPSB or its election process is subject to review by the U.S. Department of Justice or a federal court under the Voting Rights Act.<sup>20</sup>

The control of education by locally elected school boards is a deeply rooted American tradition. Of the 14,000 local school boards in the U.S., the vast majority (93%) are elected.<sup>21</sup> Of the remainder, 2.8% are wholly appointed, and another 3.8% have a mixture of elected and appointed members.

Electing board members enables voters to hold officials accountable for the performance of the system. However, elected boards have come under attack for good reasons in some places. They have been known to attract candidates who are poorly versed in educational matters, use the position as a launching pad for higher public office, are overly ideological or see the board as an opportunity to control patronage.<sup>27</sup>

Even well-intentioned board members sometimes lack the necessary range of skills to provide effective oversight.<sup>28</sup> Some misapprehend the role of the school board, replacing the concept of broad trusteeship with a focus on serving special interest groups. Some of the disadvantages of electing board members can be

mitigated. For example, establishing minimum education or professional experience requirements can increase the skill set of members. The State Superintendent of Education pursued similar reforms unsuccessfully in 2009. The State Legislature is considering similar reforms again this year.

Shifting to an appointed board can eliminate a number of the problems associated with an elected board. Members can be selected based on experience, ensuring that the board as a whole has the relevant knowledge and skill set to effectively govern – although, as with elected

### SUB-DISTRICT VS. AT-LARGE ELECTIONS

Over the last 40 years, many communities turned to sub-district elections in order to increase diversity on their boards.<sup>22</sup> Across the U.S., 57% of elected school board members serve at-large and 41% represent sub-districts.<sup>23</sup> Some districts have a combination of the two. A small number of municipalities use cumulative voting, which allows voters to spread or concentrate their votes among at-large candidates.

The OPSB participated in the trend to switch to sub-district elections. In 1987, the board expanded from five members elected at-large to seven members, five of which were elected by sub-districts and two at-large. In 1992, the board replaced the two at-large positions with sub-district ones.

Proponents of at-large elections believe that they allow school board members to escape the narrow constituencies of sub-district elections and focus on the needs of the school district as a whole.<sup>24</sup> Proponents of sub-district elections maintain that sub-district representation enables members to better know and respond to the needs of their constituents and the schools within their districts.<sup>25</sup> Critics assert that sub-district representation tends to increase politicization, fractiousness and micromanagement.<sup>26</sup>

board members, minimum education requirements could aid this effort.<sup>29</sup> In addition, appointees can be immediately removed for inappropriate or illegal behavior. With longer appointments, appointees can bring greater continuity to reform initiatives and reduce sudden shifts in policy.

On the other hand, appointed board members are at least one step removed from the electorate and may feel more beholden to the person who appointed them than to the community. In addition, if appointing officials do not have the best interests of the school system at heart, the quality of the appointees may suffer and the decisions they make may be every bit as political and dysfunctional as those of an elected board member.<sup>30</sup>

In school districts with appointed boards, the local executive or legislative branch most frequently fills the positions. Other appointing entities include the governor, the superintendent, the state board of education and the state superintendent.<sup>31</sup> In some instances, appointees are drawn from a list of nominees put forward by local organizations.

Appointments could help mitigate the conflicts of interest discussed earlier in this report. The risk of discrimination against one type of school over the other could be mitigated by requiring representatives of both traditional and charter schools on the board. This could be accomplished in a number of ways. For example, the charter school authorizer could be given the power to appoint the representative or to submit a list of nominees for consideration by an elected official.

Whether elected or appointed, the quality of the board depends on the quality of its members. With an elected board, the responsibility is on voters. Some states have tried to make voters' jobs easier by establishing minimum qualifications and continuing education requirements for school board members. With an appointed board, the responsibility is on the official or officials making the appointments. In this case, it

becomes critical for policymakers to ensure that the appointment process has integrity and that appointees are well qualified.

## MAYORAL APPOINTMENT OF THE SCHOOL BOARD

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In a number of high-profile cases, mayors have been given the power to appoint some or all members of a school board. In some cases, the mayor has complete discretion in his appointments; in others, he must choose from a pool of candidates nominated by a committee.

The power to appoint all or a majority of school board members gives the mayor significant control over public education. This control offers a number of advantages for dysfunctional systems. In a city with a strong mayor, it is a means of filling a leadership void and opening the door to reforms that would not be implemented by entrenched school boards. Because mayoral control consolidates diffuse power, it can lead to speedier decision-making and less red tape.<sup>32</sup> Appointing members also can allow for staggered or longer membership terms. This can provide the system with stability and allow time for reforms to play out.<sup>33</sup>

Because mayoral control removes school board members from direct public accountability, critics fear that it limits transparency and disempowers teachers, parents and local communities.<sup>34</sup> Opponents of mayoral control note that mayors have other concerns and responsibilities,<sup>35</sup> and education may not receive the amount of attention needed for effective reform. In addition, because mayoral control concentrates so much power and responsibility in one person, its effectiveness depends on the strengths, judgment and good will of that individual. In the case of a weak mayor, the concentration of power can become a vulnerability.

## Redefining the OPSB's Responsibilities

Regardless of whether a board is elected or appointed, a community can take steps to improve board performance. These include redefining the board's responsibilities.

Education experts propose that school boards function as education policy boards focused on policymaking and oversight without involvement in the daily operation of schools.<sup>36</sup> Such boards are primarily responsible for setting a vision for the school district and goals for achieving it, providing the resources and incentives to achieve those goals, and ensuring accountability. Education policy boards retain limited administrative responsibilities, such as hiring and firing the superintendent, approving budgets and collective bargaining agreements, and contracting with charter schools.

Many of the failings of the OPSB have been attributed to micromanagement. Amending state law to prevent that behavior could help correct the problem. Unfortunately, efforts by the State Superintendent of Education to address the issue failed in the 2009 Legislative Session.

## IS A NEW SCHOOL BOARD MORE LIKELY TO SUCCEED?

Given the history of New Orleans public schools, many New Orleanians lack faith in the OPSB and in its ability to operate the school system. A recent Cowen Institute poll of New Orleans voters found that only 34% supported giving control of the schools taken by the state to the OPSB.<sup>37</sup>

An obvious alternative to the OPSB is a new local entity. Creating such an entity would satisfy the desire of some for local management. It would have the benefit of providing a clean start, increasing the potential for a positive change in the school system's culture and performance.

While the lure of the concept is understandable, it does not necessarily follow that a new entity would perform better than the OPSB. As in the case of the OPSB, the success of a new entity would ultimately depend on the quality of those serving on its governing body. The options for choosing those members are the same as those available for the OPSB. Members can be elected or appointed or a board can consist of a combination of the two. If elected, members can be elected at-large, by sub-districts or by some combination of the two. If appointed, they can be chosen by the same universe of appointing powers. The qualifications of members can be spelled out in state law, and their powers circumscribed by that law.

As noted above, each method has its own set of advantages and disadvantages. None guarantees a high-performing board.

## WHO SHOULD AUTHORIZE CHARTER SCHOOLS?

With the future success of New Orleans public schools tied so closely to the charter school movement, determining who fills the role of authorizer is pivotal. Currently, the OPSB and BESE can authorize and hold accountable charter schools in New Orleans. In the future, one or both could continue to serve in that capacity. Alternatively, a new local or state entity, or an alternative authorizer such as a higher education institution or nonprofit organization, could fill the role of charter authorizer.

There are certain advantages and disadvantages associated with each type of authorizer. Factors influencing performance include: the degree of exposure to political pressure; the number of charters that an entity oversees; the adequacy of resources; an entity's interest in its chartering mission; and conflicting demands.<sup>38</sup> For example, entities that oversee large numbers of charters are in a better position to develop expertise in selecting quality operators, to institute

## ALTERNATIVE AUTHORIZERS

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**Higher Education Institutions.** Higher education institutions can tap into internal expertise to develop and implement the systems needed to select charter operators and oversee the schools. Standing farther outside the political sphere than other authorizers makes them more immune – although not entirely so – to political pressure from government and interest groups.

However, because higher education institutions stand outside of government, a measure of public accountability is lost when they serve as charter school authorizers. Other commitments and responsibilities also place demands on the resources of universities and colleges.

**Municipal Authorizers.** Municipal authorizers, such as a city council or a department within the mayor’s office, are a relatively new development in charter authorizing. Few municipal officers have expressed interest in authorizing charter schools. City offices and council members have little expertise in the area of education, many competing responsibilities and are particularly subject to political pressure.

**Nonprofit Authorizers.** As of 2006, two states – Ohio and Minnesota – allowed nonprofit organizations that meet certain criteria to authorize charter schools. Such authorizers are relatively insulated from outside political pressure.

However, as with the outsourcing of any government responsibility, a measure of public accountability is lost. Organizational agendas might not align with the public interest. Furthermore, a proliferation of such entities would make it harder for the government to hold them accountable.<sup>47</sup>

adequate monitoring systems and to close low performing schools.

### BESE

State education entities with responsibility for authorizing charter schools typically oversee larger numbers of charter schools than local school boards do.<sup>39</sup> This is certainly the case for BESE, which has authorized 39 of the 51 charter schools in New Orleans.

With more experience authorizing charter schools, state education authorities generally have had more success in selecting quality operators, instituting adequate monitoring systems and closing low performing schools. Economies of scale and the size of staff devoted to charter schools work in their favor.<sup>40</sup>

However, state education entities can be poor charter authorizers if they are not provided the necessary resources and staff to add chartering to their other duties.<sup>41</sup> Furthermore, state boards of education are not fully immune to political pressure to keep open a poor performing but popular school or to grant charters to authorizers with political connections.

### The OPSB

While most charter schools in the U.S. are authorized by a local school board, elected local school boards generally are not considered the best authorizers.<sup>42</sup> Political pressure is often more pronounced for elected school boards than other types of authorizers. Since the decision to close a school could draw voters’ wrath, an elected board may hesitate to revoke or not renew a charter.<sup>43</sup> Elected boards may also lack the expertise needed to effectively monitor charter schools and hold them accountable.

### A Statewide Authorizer

The sole purpose of such an entity would be to authorize, support and monitor charter schools across the state. As

a result, it could concentrate its resources on the viability of charter applicants and the success of charter schools. A number of studies have commented favorably on the performance of independent state authorizing boards.<sup>44</sup>

Independent state chartering authorities are typically appointed by governors; appointment power is sometimes shared with state education superintendents or ranking education officials. The boards are not fully insulated from politics.<sup>45</sup> The State Legislature is currently considering a bill to create a statewide authorizer separate from BESE.

### **A Local Authorizer**

As with a statewide authorizer, a local board dedicated to charter authorization would focus solely on the viability of charter applicants and the success of charter schools. As with a school board, the method of selecting members could infuse varying degrees of politics into decisions about opening and closing schools.

### **An Alternative Authorizer**

Alternative charter authorizers include higher education institutions, municipal offices and non-profit organizations. In states where these entities exist, they often play a significant role in authorizing charter schools.<sup>46</sup> The sidebar provides more information on types of alternative authorizers.

## **SELECTING A FACILITIES MANAGER**

Options 3 and 4 in the preceding section separate facilities management from other governance functions. If New Orleans were to pursue this option, it would be breaking new ground.

One of the key issues in establishing a Facilities Manager is the manner of selecting the governing board. Appointments could be made by one or more elected officials, one or more stakeholder groups, or a combination of elected officials and stakeholder groups.

Elected officials who could make appointments include the mayor and members of the city council. Stakeholder groups could include the governing entity for the school system and the charter school authorizer.

### **Appointment by an Elected Official**

There are a number of approaches for elected official appointment of board members.

- Board members could be appointed by a single elected official or by several elected officials. The former approach would give one official significant power over facilities. Under this scenario, the board would potentially be more homogenous, which could lead to an effective board but one that may favor certain schools or approaches. On the other hand, a board appointed by several people would likely be more diverse, which could lead to tensions among board members.
- To ensure that the board has the necessary expertise to manage a portfolio of school facilities, elected officials could be required to appoint board members that meet certain requirements. For example, the official could be required to appoint at least one planner and one person with real estate development expertise. This approach would give the official discretion in the selection of his appointees and allow him to craft a cohesive board while ensuring that the board has the needed expertise.
- An alternative approach would be to have an elected official appoint board members from a pool of candidates nominated by stakeholder and expert groups. This would give the official a degree of discretion in the selection of his appointees while providing an opportunity for outside input.

### **Appointment by Stakeholder and Expert Groups**

Stakeholder and expert groups could directly appoint representatives to the governing board of a Facilities

Manager. This would disperse control over facilities. Representation from diverse constituencies could reduce the potential for conflicts of interest. However, it could also make it difficult for the board to reach consensus.

## CONCLUSION

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There is no perfect solution for school governance in New Orleans. But one thing is clear: We can and must improve upon past governance structures.

The public school system in New Orleans is vastly different than it was prior to Hurricane Katrina. Two main factors have fueled this change: the state takeover of most public schools in New Orleans and an explosion in the number of charter schools operating in the city. While it is still too early to know the long-term effects of these changes, the current hybrid system – in which significant numbers of students attend charter schools – holds great promise. It also presents new challenges and requires a different governance approach than a system of traditional schools.

New Orleans has had a great deal of experience with a wholly elected School Board controlling all aspects of governance. It failed to perform well. Calling on such a body to resume the same role in a drastically changed system would be, *prima facie*, ill-advised.

There are two main options for creating a new governance structure:

- The first is to consolidate governance under a single entity. If the OPSB is that entity, it must be reformed to better equip it for its responsibilities and to avoid potential conflicts of interest. Reform options include appointing some or all members of the OPSB to ensure representation of both charter schools and traditional schools, and clarifying the board’s responsibilities through legislation.

- An alternative is to separate certain aspects of school governance, such as charter authorization or facilities management. If such a course is pursued, determining the structure of the governing entities and how they will work together will be critical. Otherwise, we risk further fragmenting the system through incoherent governance.

New Orleans faces an unprecedented challenge in creating a new governance structure for a system dominated by charter schools. If New Orleans succeeds – if it can ensure the proper blend of expertise within the governing entities overseeing the system; provide a focused mission for all entities; treat charter schools and traditional schools fairly; equitably allocate funds and facilities; and promote coordination and economies of scale where appropriate – it will become a model for school systems nationwide. If it fails, we risk a return to an educational system that routinely fails our children.

Crafting a governance structure will take intellectual rigor, integrity and political will. It will also take time. The process should begin posthaste.





## END NOTES

- <sup>1</sup> Louisiana Department of Education, District Accountability Report Card, 2004-2005.
- <sup>2</sup> Educate Now, "Leslie's Notebook: Spring 2009 Graduation Rates," [www.educatenow.net](http://www.educatenow.net), viewed June 2009.
- <sup>3</sup> Numbers provided by the RSD.
- <sup>4</sup> Some of the transferred schools never reopened.
- <sup>5</sup> Under Louisiana law, the RSD has jurisdiction over a school in its control for at least five school years, not including the school year in which it took over the school. For the schools taken by the state in the aftermath of Hurricane Katrina, the five-year period expires at the end of the 2010-2011 school year. Nine months before the end of its initial five-year period of control, the RSD must report to BESE on the status of each school, including the nature of its faculty and administration, its organizational and management structure, and whether academic performance has improved since its takeover. The RSD is required to make a recommendation as to whether a school should remain in the RSD, close, or be returned to local control. If it remains in the RSD, it can continue to operate as is, or its structure can be changed. Retention in the RSD is for an additional five years, unless otherwise noted. If the school is returned to local control, the RSD must propose stipulations and conditions for its return. BESE must act on the RSD's recommendations at least six months before the expiration of the five-year period. La. Rec. Stat. § 17:10.7(C) (2008).
- <sup>6</sup> Educate Now, "Leslie's Notebook: Spring 2009 Graduation Rates," [www.educatenow.net](http://www.educatenow.net), viewed June 2009.
- <sup>7</sup> *Public Education Through the Public Eye: A Survey of New Orleans Voters and Parents*, The Scott S. Cowen Institute for Public Education Initiatives at Tulane University, December 2009.
- <sup>8</sup> Ziebarth, Todd, "Top 10 Charter Communities by Market Share, Fourth Annual Edition," National Alliance for Public Charter Schools, October 2009.
- <sup>9</sup> Ibid.
- <sup>10</sup> National Association of Charter School Authorizers, *Principles & Standards for Quality Charter School Authorizing*, 2007; US Charter Schools, "Overview," assessed on February 26, 2009, [www.uscharterschools.org/pub/uscs\\_docs/o/index.htm](http://www.uscharterschools.org/pub/uscs_docs/o/index.htm).
- <sup>11</sup> La. Rev. Stat. § 17:3995
- <sup>12</sup> The OPSB's pre-Katrina debt includes legacy pension and health care costs.
- <sup>13</sup> Plecki, Margaret L., Julie McCleery and Michael S. Knapp, *Redefining and Improving School District Governance*, prepared for the Center for the Study of Teaching and Policy at the University of Washington, October 2006.
- <sup>14</sup> Type 2 charter schools are statewide schools and, as such, would remain with BESE in all of the options presented. Type 2 charter schools are the only charter schools in Louisiana that may enroll students from across the state. There are five types of charter schools in Louisiana: Type 1 charter schools are new start-up schools authorized by a local school board. Type 2 charter schools are conversion or start-up schools authorized by BESE. Type 3 charter schools are conversion schools authorized by a local school board. Type 4 charter schools are conversion or start-up schools authorized by BESE via a charter with a local school board. Type 5 charter schools are conversion schools in the RSD authorized by BESE.
- <sup>15</sup> CREDO, *Multiple Choice: Charter School Performance in 16 States*, June 2009; Palmer, Louann Bierlein and Rebecca Gau, *Charter School Authorizing: Are State Making the Grade?*, Thomas B. Fordham Institute, June 2003.
- <sup>16</sup> Gau, Rebecca, *Trends in Charter School Authorizing*, Thomas B. Fordham Institute, May 2006; Mead, Sara and Andrew J. Rotherham, *A Sum Greater Than the Parts: What States Can Teach Each Other About Charter Schooling*, Education Sector Reports, September 2007; Palmer and Gau, 2003.
- <sup>17</sup> Nabonne, Rhonda, "School Board's New Member Seems Born to Life in Politics," The Times-Picayune, January 9, 1997; Grace, Stephanie, "School Board Loses Shea to Council Race; Vice President Resigns to Pursue District A Seat," The Times-Picayune, January 9, 2000.
- <sup>18</sup> Warner, Coleman and Gordon Russell, "Brooks-Simms secretly recorded conversations with Mose Jefferson," The Times-Picayune, June 20, 2007.
- <sup>19</sup> La. Rev. Stat. § 17:121(A)(2)(2008).
- <sup>20</sup> 30 Fed. Reg. 9897 (Aug. 7, 1965), codified at 28 C.F.R. 51 Appendix. See also Department of Justice Civil Rights Division, Voting Rights Section, <http://www.usdoj.gov/crt/voting/>. The federal Voting Rights Act prohibits any changes in a voting standard, practice or procedure in certain states if that change has the purpose or effect of denying or abridging the right to vote on account of race or color. Louisiana is one of those states. There are two methods of compliance with the Voting Rights Act. The first method is by means of a declaratory judgment action filed by the jurisdiction in the United States District Court for the District of Columbia. The second method avoids the potentially lengthy and expensive litigation route by submitting the voting change to the Civil Rights Division of the Department of Justice, to which the Attorney General of the U.S. has delegated the authority to administer the review process.
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- <sup>47</sup> Information in this sidebar is drawn largely from Palmer, 2006.

