



## Returning Schools to Local Control: An Analysis of the Recovery School District (RSD) Return Policy and Its Implications

The Recovery School District (RSD) currently enrolls the majority of public school students in New Orleans, both in the schools it directly operates and the charter schools it oversees. Following Hurricane Katrina, Louisiana passed legislation that allowed for massive state intervention into the overwhelmingly poor-performing New Orleans Public Schools. In November 2005, 114 of the public schools in New Orleans were placed in the state-run RSD. As expressed under state law, the RSD's control of local schools is intended to be temporary. The RSD is charged with turning around chronically low-performing schools and returning them to local control once academic performance is acceptable. However, under current State Board of Elementary and Secondary Education (BESE) policy, after an initial five years under the RSD, New Orleans schools that are no longer failing are given the opportunity to choose to return to the Orleans Parish School Board (OPSB) or to remain under RSD jurisdiction.

December 2011 marks the first time that individual public schools in New Orleans will be eligible to make the choice to stay within the jurisdiction of the RSD or to return to the jurisdiction of the OPSB. Schools' decisions, this year and in the future, will have an impact on the governance of public schools in New Orleans for years to come. Therefore, a full understanding of the BESE return policy, the RSD and OPSB processes, and their implications is vital. In this brief, the Scott S. Cowen Institute for Public Education Initiatives will review the issues that have arisen from the implementation of the policy that governs the eventual return of schools to local control. We will analyze the key issues which impact schools, the RSD, the OPSB, and the community, and will provide recommendations for how the policy, and its implementation, can be improved.

### Summary of the Return Policy

In December 2010, BESE approved a policy to guide the process of returning schools under the RSD to

local control. The central concept of the policy, titled *Conditioning for Success: A Policy Framework to Transfer Schools Placed in the Recovery School District*, is that schools meeting certain performance standards will be eligible to vote to return to the OPSB (or an unspecified alternative governing authority) if they choose. Under this policy, schools will be eligible for transfer at the conclusion of the 2011-12 school year. The policy, which is applicable to both charter and traditional schools, contains guidelines for the return of non-failing schools as well as schools that fail to improve after their initial five years under the jurisdiction of the RSD.

### Timeline for the Return to Local Control, 2011-2012

- **September 30, 2011** (9 Months before End of Initial Five-Year Term) – the Louisiana Department of Education must report to BESE on the status of each school under the RSD's jurisdiction.
- **December 31, 2011** (6 Months before End of Initial Five-Year Term) – BESE must act on whether or not schools that choose to return to local control are allowed or whether or not the OPSB has been approved to take control of any failing schools it applies to take back.
- **April 1, 2012** – All involved parties must agree to the conditions of return. This includes new charter agreements for Type 3 and 4 charter schools and new Memorandums of Understanding for direct-run schools.
- **July 1, 2012** – Schools returning to the OPSB begin operation under their new governing entity.



## Non-Failing Schools

Schools that have been under the RSD's jurisdiction for at least five years and have a School Performance Score (SPS) at or above 80.0 for the last two years are eligible to return to the OPSB. For a charter school, the school's governing board may vote on whether or not to return to local control; if the charter board chooses to return, they are required to negotiate a new charter with the OPSB. For a direct-run school, the RSD Superintendent, in consultation with the staff and parents of the school, may make a recommendation to BESE to return the school to local control. BESE is required to give final approval to all transfers that involve direct-run schools.

Direct-run schools that are returned to the OPSB may continue to be operated directly by the OPSB and will do so under a Memorandum of Understanding (MOU) between the OPSB and BESE of at least three years in duration. The MOU must address the preservation of school autonomy, continued performance standards, the budget, and recourse for violating the MOU. Both direct-run and charter schools may also return to local control under new charter agreements with either the OPSB as a Type 3 or BESE as a Type 4.\*

## Failing Schools

Direct-run schools that have been under the jurisdiction of the RSD for at least five years and that continue to be labeled Academically Unacceptable, or "failing," according to state accountability standards are also eligible to return to local control. If a school fits these criteria and is not already undergoing a charter conversion or phase-out by the RSD, the OPSB can submit a proposal to BESE to operate the school. This proposal must be approved by BESE for the transfer to occur. Similarly, charter school operators may also submit applications to BESE to take control of a chronically failing RSD direct-run school and operate it as a Type 5 charter school. If a transfer is approved by BESE, it would take place under a new Type 5 charter agreement or an MOU between BESE and the OPSB. If no proposals to take over the school are received or approved, the RSD must submit a plan to BESE to improve the school's

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\* Under Louisiana law, Type 3 charter schools are schools that are converting to charter status (or are changing charter status) and are authorized by a local school district. Type 4 charter schools are schools established according to a charter agreement between a local school district and BESE, which acts as the authorizer.

performance.

In addition to the requirements outlined above, the State Superintendent may also impose additional conditions for school transfers. The policy stipulates that when more than 25 percent of the OPSB's former schools are under the jurisdiction of the RSD, the State Superintendent may impose additional requirements that the local school board must meet in order for schools to transfer back to its jurisdiction. According to the policy, these may include, but are not limited to, issues related to enrollment, facilities, and coordination between the RSD and OPSB.

## Analysis of Key Issues

The policy governing the return of schools to local control is being implemented for the first time this school year. There are both issues with the policy itself as well as some lingering questions and ambiguities that may have an impact on the policy's successful implementation and the future return of schools to local control.

Issue No. 1: The process for return lacks clarity for schools and the local school board.

The eligibility criteria, timeline, and transfer conditions and process laid out in the return policy provide little clarity for schools interested in or electing to return to the OPSB.

First, there are some ambiguities and contradictions in the conditions specified for a school to be eligible to exit the jurisdiction of the RSD. According to Louisiana law (R.S. 17: 10.7), BESE is required to act on the recommendations of the RSD for return of eligible schools at least six months prior to the end of a school's first five years in the RSD. Thus, for schools that opened during the 2007-08 school year or earlier, BESE must act by December 31, 2011 and schools must notify BESE of their choice to exit the RSD by December 2011. However, the policy states that the earliest transfers would occur July 1, 2012, based on a School Performance Score data for the 2010-11 and 2011-12 school years. Since official SPSS would not be available until October 2012, it is unclear how a school's eligibility should be determined.

The RSD reported in October 2011 that eight schools met the criteria to be eligible to choose to remain in

the RSD or transfer to the OPSB for the 2012-13 school year. These schools have been under the jurisdiction of the RSD for a minimum of five years and reported an SPS above 80 for the past two school years (2009-10 and 2010-11). However, there are three additional schools (Langston Hughes Academy, Lafayette Academy, and O. Perry Walker High School) that have also been under the jurisdiction of the RSD as charter schools for a minimum of five years and reported an SPS above 80 in 2010-11, though not in 2009-10. According to the return policy, it is unclear if these schools should also be eligible to transfer if they have an SPS above 80 for the 2011-12 school year, information that will not become available until after the decision deadline.

Additionally, the policy allows the State Superintendent of Education, with the approval of BESE, to require additional conditions on the local school board if more than 25 percent of its schools are in the RSD simultaneously. These conditions can include enrollment, facilities, and coordination with the RSD, as well as any other issues as determined by the superintendent. As a result, the superintendent can limit schools' ability to choose to return to the OPSB based on conditions BESE places on the OPSB. Because there is no specified timeline for when the superintendent must identify these conditions, nor any limit on what these conditions might be, the superintendent could, under current policy, identify these conditions after schools have made their decisions.

In addition to the ambiguities in eligibility criteria, the return policy leaves a number of questions unanswered regarding the process once BESE approves a school's decision to return to the OPSB. In particular, it is not evident whether the school will be able to remain in its current facility. The RSD has all rights of ownership of the school buildings, and the OPSB has no facilities to offer schools if they choose to return. If schools are required to leave their facilities upon transfer to the jurisdiction of the OPSB, they could risk losing current students due to the change in location. Additionally, if a school's current facility cannot be retained, relocation would likely be difficult and costly.

There are other logistical issues that need to be resolved as well. All RSD charter and direct-run schools are required by BESE policy to participate in

the RSD's new unified enrollment system beginning next school year. Participation by OPSB schools is optional. Parents will use the new system in Spring 2012 to enroll in the 2012-13 school year. At this time, schools that wish to return to the OPSB will still be governed by the RSD and will be negotiating their return during the application period for students. How, or if, schools seeking to return to the OPSB will participate in the enrollment system is not clear.

Additionally, property insurance, data and reporting systems, funding streams, and other administrative and operational processes are different under the OPSB than the RSD. These matters will need to be negotiated. The return policy does not provide any guidelines to schools or the districts for navigating this process, nor have the districts made public their own processes for transitioning schools between governing entities.

Finally, just because a school chooses to return to the OPSB as a charter school does not guarantee that the OPSB will approve its charter. In addition to operating a school directly under an MOU with BESE, the OPSB can either approve a returning school as a Type 3 charter school or apply to BESE to operate the charter school as a Type 4. Thus, a school may choose to return to the OPSB but find that the OPSB will not approve its charter. Furthermore, it is unclear if the OPSB has the necessary policies in place to allow it to bypass the usual approval process for a new charter contract, allowing it to do so under the limited timeline.

All negotiations, including the new charter, must be complete no later than April 1<sup>st</sup> prior to the transfer, giving schools and the districts three months to work out these details; if an agreement is not reached by the April 1<sup>st</sup> deadline, the school returns to the jurisdiction of the RSD for another five years.

Issue No. 2: There are additional considerations for direct-run schools or Type 5 charter schools that will be converting to Type 3 or Type 4 charter schools that need to be addressed.

There are significant differences between charter types that can impact the school's decision to return to local control. Type 5 charter schools, should they elect to return to the OPSB, must negotiate a new Type 3 charter school with the OPSB or become a Type 4 charter school, with the OPSB entering into a new charter agreement with BESE. There are two

major differences between the charter school types that may significantly impact school operations: the distribution of government funds and the potential to set admissions requirements for students.

Returning to local control may impact schools financially. Federal and state funds are passed through local school boards to fund Type 3 and 4 charter schools. Type 5 charter schools receive federal funds directly, as they are considered to be their own local education agencies (LEA). Type 5 charter schools converting to Type 3 schools under the OPSB would be required to relinquish their ability to receive state and federal funds directly, giving up some fiscal autonomy. Additionally, local boards can and do charge fees on federal funds for charter schools. The possibility of such fees could directly impact the amount of funding available to schools for teacher salaries and classroom needs.

Another potential issue related to funding is the difference in the school-level funding formula. Funding formulas consider student needs when distributing funds. Student needs are weighted differently for RSD schools compared to Type 3 and 4 charter schools. While the RSD receives a set amount of funding per-pupil from the state's Minimum Foundation Program (MFP), it distributes this money to schools based on a weighted student formula that considers individual student characteristics; schools that serve students with higher needs receive more state and local funding. Local school boards, on the other hand, are governed by different rules with respect to funding their charter schools. The OPSB is required to distribute local and state funds to charter schools based on the per-pupil average for the district, not based on the student population at individual schools. This could result in some schools receiving less per-pupil funding than they had previously received under the RSD.

In addition to the difference in the distribution of funds, RSD schools returning to the OPSB as Type 3 or 4 charters will be subject to different policies regarding student admissions requirements. In particular, OPSB charter schools may institute admissions requirements for students that are consistent with their schools' missions, while RSD charter schools must admit any student eligible to attend a school in that district so long as the school has capacity. Admissions standards must be set by a charter school operator in the contract with its

authorizer. It is unclear whether either BESE or the OPSB would approve a Type 3 or 4 charter for the conversion of an open admissions direct-run or Type 5 charter school that would include provisions to limit enrollment in any way. Regardless, it is an area of concern for schools, BESE, the OPSB, and the community during the negotiation of terms for schools' return.

Issue No. 3: Allowing schools to choose their governing body may compromise the oversight role of those bodies.

The return policy introduces a new concept in school governance: schools' selection of their governing entity. For the first time, schools in the RSD that meet certain requirements are able to choose their school district and charter authorizer (in the case of charter schools). Letting schools choose their district or authorizer may compromise the oversight role of the districts and authorizers. Charter schools and their authorizers are especially vulnerable to this potential problem. Charter schools receive increased autonomy (relative to traditional public schools) in exchange for increased accountability. Thus, one of the primary roles of a charter authorizer is to hold schools accountable. In fact, the National Association of Charter School Authorizers has developed three core principles for charter authorizers, and two of the three principles relate to accountability: maintain high standards for schools and protect student and public interests.

The new policy of allowing charter schools to choose their authorizer, by electing to remain under the RSD and authorized by BESE or convert to a charter authorized by the OPSB, may put pressure on BESE and the OPSB to change the nature of the oversight they provide to schools. Both boards may feel that they are in competition with the other to have control over more schools and to increase their stature and may lower the level of oversight in order to be more attractive to charter schools, some of whom may feel that complying with regulations related to oversight takes time and energy away from operating their schools. An authorizer may do this in a direct manner, by instituting lower fees and funding a smaller oversight staff, or it may do it in a more subtle way, by, for example, doing less rigorous site visits so that it develops a reputation as being a laidback authorizer. Despite good intentions on the part of both BESE and the OPSB, there is a possibility

that competition for schools may result in a “race to the bottom” among authorizers.

## Recommendations

Based on our analysis of the policy governing the return to local control and the key issues impacting schools, the RSD and OPSB, and the community, we recommend the following considerations be addressed immediately:

**1. The clause allowing the State Superintendent to impose additional conditions for returning schools to the OPSB should be removed from the policy.** As a local school district, the OPSB is the entity charged with operating schools in New Orleans under the state constitution. The policy guiding the return of schools should include only requirements that are absolutely necessary to help ensure a smooth transition back to local control.

**2. The RSD should allow schools to remain in their current facility (or permanent assignment under the School Facilities Master Plan) if they choose to return to the OPSB.** The potential loss of a facility should not be a factor when a school makes its decision. When schools change facilities, it is disruptive for students, parents, and school staff; the school community should not be punished for deciding to return to local control by having its facility taken away.

**3. The OPSB should establish a transparent process, in advance of any schools making the choice to return, that guides what happens after those decisions have been made.** This process should include informing schools about what to expect once they are under the OPSB’s jurisdiction, including any changes to funding streams. Additionally, this process should involve outlining for all eligible schools the specific differences between Type 3 and 4 charters as compared to Type 5 charters, as well as the process for approval of a new charter agreement. A timeline for deliverables should be established and made available to schools and the community.

**4. BESE should set minimum oversight standards for local districts authorizing charter schools. Standards should include initial approval, oversight, and subsequent renewals, especially in**

**the area of student performance.** While some schools may always choose to remain under the jurisdiction of the charter authorizer with the less rigorous oversight and approval processes, BESE can continue to ensure that all schools are held to high standards by establishing required minimum standards for local board authorizers that are equal to those of BESE itself.

## Considerations Going Forward

While there are a number of issues that must be addressed immediately to ensure a smooth transition process for schools that might choose to return to the OPSB, there are additional long-term considerations about the future governance of public schools in New Orleans. The New Orleans community has already begun this conversation of determining what sort of school governance it would like to see in the long-term. This conversation must continue and the issues discussed in this paper should be addressed.

Given the issues raised in terms of charter school accountability, as well as concerns about OPSB’s process and preparedness, BESE may need to reconsider allowing schools to choose their governing entity. Additionally, the differences between Type 3 and 4 charter schools and Type 5 charter schools and the difficulties schools may face when transitioning between the two suggests the Louisiana Legislature may need to consider creating an additional charter school type that would allow RSD charter schools return to the OPSB, but continue to be local education agencies and be prohibited from having admission requirements.

Lastly, the fact that schools can choose to remain under the RSD raises questions about the long-term role of the RSD in New Orleans. When the RSD was created, the vision was that schools would eventually return to local control. This return policy allows schools to choose to remain in the RSD for additional periods of up to five years, which raises concern as to whether all schools will ever be returned to local control. RSD Superintendent John White has made clear his intentions to phase out or charter the remaining direct-run schools under the RSD’s jurisdiction, meaning within the next few years the RSD will not be directly operating any schools. The RSD will need to establish what its roles and responsibilities will be in that capacity.