# Making the New Orleans Charter School Experiment Work for At-Risk Students

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"Without good schools, none of America's hopes can be realized." These words, from the memorable report, "A Nation At-Risk," underline the critical importance for all schools to be good schools.

Many schools, charter and non-charter, have been opened during these years of the New Orleans charter school experiment. But, the data shows that not all are good. Student academic performance has improved in some schools, and dwindled in others. Continuing with what works and changing what does not work will eventually lead to success with the charter school experiment. But, changing what does not work will require strong, dedicated leaders who understand that the at-risk children, who the movement was intended to serve, have become, in fact, the least served. "

New Orleans' percentage of at-risk students has always exceeded the state's average. For years, New Orleans educators have been criticized for failing to educate its at-risk population. Fed up that New Orleans' test scores were dragging down the state average, the legislature decided to intervene in 1999. The first charter school law was enacted so that schools could be removed from local control and operated by charter entities. As stated in the 1999 law, the primary intention of the charter school law was "to serve the best interests of at-risk pupils." (*LaR.S.17:3972(A*))

The first page of the charter school law states its intent that charter schools are to serve the best interests of at-risk students, but, this intent is not conveyed in the body of the law. Rather, following many sections, the charter law gives the mandates concerning charter schools and at-risk students. And, basically, there is no mandate that requires those seeking a charter to serve at-risk students.

The law states that pre-existing schools can become charter schools without requiring the school to serve any at-risk students. A pre-existing school serving no at-risk students, or a minimal number of at-risk students, can receive a charter, and then continue to serve no at-risk students or the same minimal number of at-risk students in the future. Only new schools that apply for a charter have to serve a certain percentage of at-risk students. (LaR.S.17:3991(B))

Since charter schools do not have to serve a certain percentage of at-risk students, most schools previously termed 'magnet schools" or "citywide access schools" have become charter schools.

Thus, for valid reasons, New Orleans educators doubt whether charter schools were really conceived to serve "the best interests of at-risk pupils."

### Louisiana's Original Charter School Law

Charter schools were first introduced into state law in 1999 for the purpose of allowing "experimentation by city and parish school boards, with the primary intention of serving the best interests of <u>at-risk</u> pupils." (*LaR.S.17:3973(1)*) The law defined at-risk pupils as those meeting one or more of the following criteria:

1. <u>Poverty</u>: Students eligible for free/reduced price lunch.

2. <u>Academic</u>: a) High school students who failed any portion of the graduation exit exam, or b) 8<sup>th</sup> grade students who read below grade level.

3. Drop-out: Any student under 20 year of age who has dropped out of school.

4. Parent: Any student who is a parent.

5. Special Education: Special education students (excluding gifted and talented).

The Orleans Parish School Board (OPSB) was required to accept proposals from interested charter school operators, and to make vacant school facilities available to them. Universities and nonprofit entities were eligible to become charter operators. The charter schools for the at-risk students could either be new schools (Type 1) or pre-existing public schools converted into charter schools (Types 2 or 3). (*LaR.S.17:3973(2)(b)*)

The intent of the legislature and the State Board of Elementary and Secondary Education (BESE) to create charter schools for at-risk students was noble. Long ago, BESE and most of the New Orleans community lost faith in the OPSB's ability to educate the New Orleans children and youth. Ineffectiveness, mismanagement and internal bickering characterized the OPSB.

Thus, this first charter school law encouraged universities and nonprofits to apply for charters to open new schools for the purpose of serving a majority of at-risk students. However, few realized then that most of the charters would not be for new schools to serve a majority of at-risk students, but for pre-existing schools to serve their existing population.

Complicating matters, the legislation also allowed charter schools to set admission requirements. (*LaR.S.17:3991B(3)*) This meant that charter schools could exclude and/or deny continued enrollment to students based on academics or discipline. Thus, while some charter schools could claim to admit at-risk students because the students qualified for "free/ reduced price lunch," these same schools could deny admission to those "free/ reduced price lunch" students who did not meet their academic and/or discipline standards.

#### Failing Schools and a Failing School District

The No Child Left Behind (NCLB) Act requires each state to establish standards for both schools and school districts. (*PL 107-110*) Not only can schools be labeled as failing, but school districts can be labeled as failing, also. NCLB requires that each state establish benchmarks and growth targets for both the schools and the school districts. Schools that

consistently fail to achieve Annual Yearly Progress (AYP) can eventually be labeled as failing schools. Similarly, when a certain percentage of the schools in a school district are failing, the school district can eventually be labeled as a failing school district. In Louisiana, New Orleans is the only failing school district.

NCLB requires a series of interventions before schools or school districts can be sanctioned for failing. When schools or school districts do not meet their AYP benchmarks, the schools or school districts are characterized by phrases, such as, 'needs improvement,' or 'corrective action.' Numerous interventions must be provided to the schools and school districts before they are sanctioned.

After all of the interventions, if the schools or school districts have not improved, they are labeled as failing. In Louisiana, the schools are labeled 'academically failing,' and the districts are labeled 'academically in crisis.' (*LaR.S.17:10.6(A)*)

NCLB offers a variety of sanctions to be imposed on failing schools and failing districts. The decision of what sanction to use is determined by the state board of education, or in Louisiana, by BESE. The sanctions range from dividing the school district into smaller districts, to replacing the local board of education, to taking over the schools. (PL 107-110.11(c) (7)(C)) In Louisiana, BESE opted for school takeover.

Thus, in the 2005-06 school year, the failing schools in the failing New Orleans public school district were transferred to the RSD. The school takeover occurred the same year as Hurricane Katrina.

#### The Recovery School District

The Recovery School District (RSD) was created by Act 9 of 2003 and amended by Act 35 of 2006.

Act 9 transfers failing schools to the RSD. (*LaR.S.17:10.7(A*)) A school that is labeled as academically unacceptable for four consecutive years is a "failing school." The school is to be removed from the jurisdiction of the local school board and transferred to the jurisdiction of the RSD.

Act 35 transfers all failing schools in a failing school district to the jurisdiction of the RSD. All failing schools in an "academically-in-crisis" school district must be transferred to the jurisdiction of the RSD.

The RSD has the authority to either operate or charter the transferred failing schools. When the RSD charters one of its failing schools, the school is referred to as a Type 5 charter school. (LaR.S.17:3973(2)(b)(v)) Act 9 stated that only universities and nonprofits could serve as charter operators for Type 5 charter schools. (LaR.S.17:1990(a)(2)(a)) This same requirement pertained to all of the charter operators at the time.

Thus, BESE had the authority to authorize charter operators for the failing New Orleans Public Schools as early as the 2003 year. However, BESE granted few charters simply because few nonprofits or universities came forward. The same difficulty that BESE had finding operators for its schools with the greatest number of at-risk students is the same difficulty that the OPSB has had for decades in staffing these same schools.

Thus, because BESE was having so much difficulty in finding nonprofits or universities to charter the failing schools, the charter law was amended in 2006, allowing for-profit entities to become charter operators. For the first time, the charter operator could be a for-profit entity.

With the state takeover of the public schools, following Hurricane Katrina, and with the authority to grant charters to for-profits, the RSD again attempted to secure charter operators for the failing schools. Initially, the RSD was successful. The few schools that opened in 2005-06, following Hurricane Katrina, were all charter schools. The "Bring New Orleans Back Education (BNOB) Committee," formed in the aftermath of Hurricane Katrina, recommended an all-charter model for the RSD. In its final report, the BNOB Education Committee recommended a model, where schools would be "operated by multiple providers, with strong decision-making and budget authority at the school level and requisite accountability."

The RSD continued to seek charter operators for all of the failing schools over which it had jurisdiction. However, even with this advantage of being able to grant charters to forprofit entities, the RSD could not find an ample number of charter operators for its schools serving at-risk students.

By this time the number of students returning to New Orleans was growing. Since the RSD only had a small number of charter operators, it could not serve the hundreds of students returning to the city in the aftermath of Hurricane Katrina. Adding to the woes, the existing charter schools were able to cap their enrollment, thereby, denying admission to the returning students. The RSD began placing the students on a waiting list while still attempting to find additional charter operators. However, when the Times-Picayune reported that over 300 RSD students were not in school, but on a waiting list, the public outcry was overwhelming. Thus, the RSD was forced to open and operate schools.

#### The Status of the Charter Experiment Regarding At-Risk Students

The great charter experiment, to open charter schools "with the intention of serving the best interests of at-risk students," failed with regard to the at-risk criterion. From the onset, charter schools had only to serve the same number of at-risk students that it served in the year before the charter, if, in fact, it served any at-risk students at all. In addition, charter schools could enact admission requirements that allowed for the denial of admission to students based on academics or behavior. Charter schools came to be viewed as selective schools, *i.e.*, schools with upfront admission requirements, and/or those with the more subdued "continued admission requirements."

The newly formed charter schools, while not necessarily serving at-risk students, were a source of hope for New Orleans' children and families. Following the devastation of Hurricane Katrina, the city longed for new beginnings. The charter schools captured the interest of community leaders, educators and parents. With charter schools, the local school community finally had direct control over the budget along with the ensuing quality of the education program and the school facility. The charter school operators, mostly universities and nonprofits, comprised of parents and community members, had oversight of the budgets, the education programs, and eventually the outcomes. Sitebased management was on the horizon at last.

With each new charter school, the business sector and philanthropic community became more involved. Previously, the business sector and private foundations kept their distances from the public schools. Always, the OPSB was embroiled in controversy, and the failure of its fiscal management was known statewide. For decades, poor test scores, dilapidated school buildings and mismanagement characterized the OPSB. Charter schools were a new day, a new beginning. Finally, parents had a choice of schools where students had good learning environments and where school buildings were safe and attractive. Most charter schools were being operated by parents and community leaders, whose members were keenly interested in the quality of education, the overall school program and the condition of the facility.

However, with all of their successes, charter schools still came under criticism because of their failure to serve at-risk students.

#### **Resolving the Inequities and Moving Forward**

Selective schools are defined as those that are able to deny admission and/or continued enrollment to students. Charter schools that are able to select students and/or to remove students who do not meet certain academic and/or behavior standards are granted a benefit not granted to the other schools. Selective schools are able to remove students, without ever having to take back the students they remove. (*LaR.S.17:3991(F)*) Nonselective schools are required to admit the students removed by the selective schools.

Selective schools are granted authority that nonselective schools are not granted. The authority predisposes the selective schools to better student performance. Thus, the achievement of students in selective schools should be measured by the achievement of students in other selective schools. And, likewise.

When BESE compares selective schools with nonselective schools, the data is faulty. The data, without being disaggregated, disparages the work and efforts of the students and teachers in the nonselective schools.

We can all understand why selective schools, when compared with nonselective schools, perform better. Schools that can select certain students, retain only students with certain grade point averages, refuse to admit special education students, and retain only students whose behaviors are appropriate, have a definite advantage when calculating their

performance scores. In addition, selective schools can remove students, who then are enrolled in nonselective schools. But, selective schools can never be mandated to accept students who were removed from other schools.

The gross inequity that results when the test scores of selective and nonselective schools are listed side-by-side comes by way of erroneous public perception. The public looks at the scores, not realizing that some schools are selective and others are not, and faults the poorer performing schools. When the New Orleans public school district was deemed "academically in crisis," BESE was legislatively authorized to "takeover" the failing schools in the district. The few schools in the district that were not failing schools were the schools with selective admissions. Being able to control the student population by setting academic and behavioral standards promotes higher school performance scores.

But, being able to control the student population through selection criteria is not what public schools are all about. The measure of the success of the New Orleans education system is in its performance in serving all of the children.

One of the significant findings in Brown vs. Board of Educations (*Brown v. Bd. of Educ.*, 347 U.S. 483 (1954)) was the Court's conclusion that segregating students affects their ability to learn. The U.S. Supreme Court concluded:

"Segregation of white and colored in the public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Nero group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to retard the educational and mental development of Negro children and deprive them of some of the benefits they would receive."

Similarly, when students are divided into selective and nonselective schools, with the nonselective schools always reporting the poorest test scores, students develop a sense of inferiority based upon their status in this system. The feelings of inferiority about their schools, always the lowest performing schools, can similarly affect their motivation to learn. To change this perception that their schools are inferior, their schools need to be compared with similar schools. That is, schools with admission standards need to be compared to schools with admission standards. And, schools without admission standards.

Using the above approach, schools would be judged based on their growth, rather than on a constant standard that does not take into account the advantage given to schools that can remove students not meeting the standard. But, because BESE does not require schools to report whether they have selective admission criteria, defined as admissions criteria and/or continued enrollment criteria, this approach cannot be used. To move forward, BESE would need to change its data collection system accordingly.

Enlightening the community by accurately assessing student progress will go a long way towards reducing tensions and increasing the chances for the New Orleans schools reform experiment to be viewed as successful for at-risk students

#### To Improve the Performance of All At-Risk Students

The charter school philosophy is based on the assumption that changes to the governance structure will change student performance. Charter schools are not governed by a central school district that controls its funds. Rather, charter schools are governed by charter operators that control the school's funds.

The charter school movement has been successful in changing the governance structure for the charter schools. However, the governance structure has not changed for the majority of the schools serving the at-risk students. Now, instead of being governed by the OPSB, these schools are governed by the RSD. But, this is still central school district governance. The governance structure, viewed as a key to change, has not changed for the majority of at-risk schools.

Charter schools, both those with and without selection criteria, have a decided advantage when compared with non-charter schools because of the governance structure. While each charter school must operate within the context of state law, the charter school's governance structure allows for greater flexibility and site-based control.

The majority of at-risk students continue to be in schools that are operated through a central authority, *i.e.*, the RSD. However, a governance structure that parallels that of charter schools is available to these schools. For decades, schools with large concentrations of at-risk students have qualified for a change in governance structure, wherein faculty and parents operate the school. Specifically, when 40% or more of the school's student population is below the poverty level, the school qualifies for the Schoolwide Program model under NCLB-Title I. (34 CFR Part 200.25, 20 U.S.C. 6314)) Once a school meets the qualifications, the state department of education, *i.e.*, BESE is mandated to make this Schoolwide Program option available to the school.

The Schoolwide Program model allows for site-based decision making through a local governance structure in the form of a school council, comprised of the principal, teachers and parents. All state, local and federal funds are transferred to the control of the local school council. The NCLB act and its precursor acts have always encouraged site-based decision making for schools serving at-risk students. Unfortunately, the OPSB has always opposed the Schoolwide Program model. The RSD must be encouraged to embrace this model, which has a proven record of success in other urban school districts.

One of the greatest advantages of the Schoolwide Program model is that local school site councils can direct the funds to programs that are desperately needed to provide enrichment and support for at-risk students to achieve, such as, after-school care, summer camps, and extended school days. Schools alone cannot transform at-risk students. It

takes a schoolwide, or community approach, wherein at-risk students are provided with the resources that are available in other neighborhoods.

The research report, "A Study of Nine High-Performing, High-Poverty, Urban Elementary Schools," found the Schoolwide Program model to be a common factor among such schools. The study did not seek out schools that used the Schoolwide Program model. Rather, the U.S. Department of Education commissioned the study of nine high- performing urban, public elementary schools where the majority of children met free or reduced-price lunch criteria, to discover what factors caused their scores in reading and mathematics to exceed the average for the schools in the state. The U.S. Department of Education reported that finding such schools to study was not easy. The researchers removed from consideration any schools that had selective admissions criteria. For example, magnet schools that only admitted students with high academic grades were removed from the pool of schools under consideration. The nine schools selected for the study were typical urban, high-poverty schools in every aspect. Following extensive research, the factor that distinguished these schools was that all engaged in the Schoolwide Program model. All nine schools used federal Title I dollars to create school councils and local governance. (*Hope for Urban Education, Dec. 1999*)

A school operating with a Schoolwide Program model must develop a comprehensive plan to improve teaching and learning. Most schools already do this. But, the difference between schools designated as "Schoolwide Programs," and those not so designated, is found in the control of the funds. With Schoolwide Programs, the local school councils control the funds. (34 CFR Part 200.29) The local school council has the authority to consolidate Title I funds with other federal, state, and local funds that the school receives and then to use the funds to implement the comprehensive plan. The school council, just as a charter school operator, would control the funds.

Thus, the same benefits of charter school operators with regard to control of funds could be realized by non-charter schools through establishment of school councils and utilizing the Schoolwide Program model.

## **Concluding**

"Without good schools, none of America's hopes can be realized." These words, from the memorable report, "A Nation At-Risk," underline the critical importance for all schools to be good schools.

Many schools, charter and non-charter, were opened during these years of the New Orleans Charter School experiment. But, the data shows that not all are good. Student academic performance has improved in some schools, and dwindled in others. Continuing with what works and changing what does not work will eventually lead to success with the charter school experiment. But, changing what does not work will require strong, dedicated leaders who understand that the at-risk children, who the movement was intended to serve, have become, in fact, the least served.

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