## Lawsuit Filed by *Research on Reforms, Inc.*To Compel LA Department of Education to Release De-Identified Student Data

Dr. Barbara Ferguson, Board Chair and Attorney Charles Hatfield, Co-Founder and Researcher Research on Reforms, Inc. – April 2013

Research on Reforms, Inc. is not interested in obtaining privileged student-level data. What Research on Reforms, Inc. wants from the LA Department of Education is the same student-level data that the Department has released to other entities. It is called de-identified student level data, meaning that the data has "dummy student identification" codes. The data is used to determine, for example, if graduation rates have increased, if dropouts have decreased, and if student achievement is improving. Without external review of the Department of Education's assertions that it is so effective, then its assertions are questionable. Since the Department of Education has refused to release the raw de-identified student level data related to its assertions, a lawsuit was filed by Research on Reforms, Inc.

## The Lawsuit

The lawsuit against the Louisiana Department of Education (LDOE) was filed by *Research on Reforms, Inc.* co-founders, Dr. Barbara Ferguson and Charles Hatfield, in the 19<sup>th</sup> Judicial District Court of Baton Rouge on October 12, 2012. *Research on Reforms, Inc.* (ROR) was incorporated in 2007 by Dr. Barbara Ferguson and Charles Hatfield. Dr. Raynard Sanders joined ROR shortly thereafter. *Research on Reforms, Inc.* is a nonprofit, dedicated to conducting scholarly research to study the effectiveness of the state takeover of failing New Orleans public schools, which occurred following Hurricane Katrina in 2005. The lawsuit alleges the LDOE's failure to comply with Louisiana's public records act.

In the years immediately following the state takeover, *i.e.*, the 2006-07 and 2007-08 school years, *Research on Reforms, Inc.* requested and received de-identified student level data from the Louisiana Department of Education. The research conducted, using that data during those years, did not always demonstrate that the state takeover was effective.

Following the 2006-07 and 2007-08 years, the LDOE has refused to produce the de-identified student level data to *Research on Reforms, Inc.* In addition, the LDOE is becoming increasingly less transparent through its recent actions to modify its website, removing historical databases and removing actual current school enrollment counts.

## Background

Of the 127 public schools in New Orleans in 2005, the state took-over 107 of them because they were labeled as failing schools. The remaining 20 schools stayed with the Orleans Parish School Board. Thus, there became two governing bodies over the public schools in New Orleans: the local Orleans Parish School Board, and the Louisiana Board of Elementary and Secondary Education. Each governing body is a publicly-elected body. The Orleans Parish School Board consists of locally elected officials, whereas, the Louisiana Board of Elementary and Secondary Education consists of state-wide elected officials, plus three persons appointed by the Governor.

The state takeover was the plan developed by the Louisiana Board of Elementary and Secondary Education for improving failing schools. This plan was developed in connection with the federal No Child Left Behind Act<sup>iii</sup>, which required a series of interventions to assist failing schools, then required an ultimate sanction for schools that continued to fail. While the federal law listed various types of interventions and sanctions, the specific interventions and sanctions used were determined by each state. Louisiana chose to sanction failing schools by taking them over. This was, in essence, the accountability plan enacted for the improvement of failing schools in Louisiana.<sup>iv</sup>

To implement the plan, the Louisiana Department of Education and the Louisiana legislature had to write into law the definition of a "failing school." Thus, the definition of a failing school was written as having two components: (1) the school had to have a school performance score rating of "unsatisfactory" and (2) the "unsatisfactory" rating had to be in place for a given number of consecutive years. vi

The Louisiana Board of Elementary and Secondary Education could have divided the New Orleans school district into several smaller districts. Or, they could have removed the elected Orleans Parish School Board members and replaced them with appointed members. These and other options were available through No Child Left Behind. Each state could do what it thought was best to improve failing schools. Louisiana decided on the state takeover. The Louisiana Department of Education was given the authority to take over the failing schools and to govern them through its newly established Recovery School District. However, the Recovery School District (RSD) did not intend to operate the schools directly, but intended to find charter operators so that they could become charter schools. However, the RSD could not find charter operators for all of the failing schools, primarily for the five, largest, worst performing high schools in New Orleans. Thus, the RSD had to operate these schools directly. Charter school governance was the preferred method to govern the failing schools; however, the option of charter school governance was not limited to the failing schools. Many of the successful magnet schools that remained with the Orleans Parish School board became charter schools, also. Vii

## Data Needed To Determine If State Takeover Is Working

Following the state takeover, the failing schools were turned into charter schools, except for the failing schools that could not obtain charter operators. Louisiana law created charter schools for the purpose of serving "the best interests of at-risk pupils," and the law refers to charter schools as an "experiment." Never mind, that experimenting with children and youth is unconscionably immoral, the LDOE chose this path even though there was no empirical, applied, or academic research to conclude that a state takeover was an effective way to improve student achievement. Rather, the limited research on state takeovers indicates the opposite. Ix

Because Louisiana's state takeover of public schools was an experiment in how to improve failing schools, data had to be collected, aggregated and analyzed to determine whether the experiment was working or not. While the Louisiana Department of Education collected, and continues to collect, the raw student level data needed for analysis, the LDOE has developed its own rules for releasing this data.

It is anticipated that through this lawsuit, the LDOE will be compelled to release the raw deidentified student level data to *Research on Reforms, Inc.* for analysis. Additional information on this lawsuit will be made available at the time such information can be disclosed.

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<sup>&</sup>lt;sup>i</sup> See Research on Reforms website: <a href="www.researchonreforms.org">www.researchonreforms.org</a>. Articles on the state takeover, on the website, include the following: "Equal Access Denied to At-Risk Students;" "State Takeover Not Working for New Orleans High Schools."

At the time of the state takeover, in 2005, a "failing school" was defined as a school with a SPS of 60 or below for four consecutive years. Six weeks after Hurricane Katrina, and immediately prior to the state takeover, the legislature, upon recommendation by the Department of Education, changed the definition of a failing school so that more schools could be labeled failing and thus taken-over by the state. Prior to this change, only schools with an SPS of 60 or below could be taken-over. After Katrina, with the new law, schools with an SPS below the state average of 87.4 could be taken over. Had schools with an SPS of 60 been taken over, the state would have taken over 80 New Orleans schools. With the legislative change, the state took-over an additional 27 schools, for a total of 107 schools taken-over.

No Child Left Behind Act of 2001. P.L. 107-110, 20USC6311. See Title I: "Improving the Academic Achievement of the Disadvantaged."

iv Louisiana Department of Education: "Louisiana's Accountability Workbook"

<sup>&</sup>lt;sup>v</sup> School Performance Score (SPS) consists primarily of norm-referenced and criterion-referenced standardized tests, along with attendance and dropout rates. See Louisiana Department of Education Website for specific calculation formulas.

vi Louisiana Revised Statutes: La R.S. 17: 10 and La. R. S. 17:3991 et. seq.

vii Orleans Parish School Board's successful schools that became charter schools include Benjamin Franklin High School, Lusher Charter School, and Warren Easton Charter School.

viii La. R.S. 17:3972-3973. In 1999, the Louisiana legislature authorized charter schools that would allow for "experimentation by school districts to establish innovative kinds of independent public schools." It was "the intention of the legislature that charter schools serve the best interests of at-risk pupils."

See articles on state takeovers in cities, such as, Philadelphia, Pennsylvania; Oakland, California; Bridgeport, Connecticut and Roosevelt, New York.