

Taking the Wheel: Commonalities and Lessons from Mayoral and State Takeovers of Urban School Districts

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Abstract

As an increasingly common method of reform, state governments and mayors take control over failing schools away from local school boards. The strongest restructuring sanctions that No Child Left Behind Act requires, including state and mayoral takeovers, will be activated in many schools after the 2007-2008 school year. This paper examines the implementation and effects of takeovers through case studies of Philadelphia and Chicago, with comparisons to other urban districts. The analysis gleans commonalities of mayoral and state takeovers from scholarly research and presents original proposals to instruct leaders who are considering a governance change or facing a takeover.

I. Introduction

"Kids lost today. I've never seen so many people celebrate so much over complete dysfunction."¹ In April of 2006, former Maryland governor Robert Ehrlich made this comment in response to the state takeover that the Maryland legislature blocked because of strong pressure from Baltimore officials and constituents.² The state board of education ordered new management of eleven schools, making Maryland the first state to exercise its authority to seize control of failing schools under the No Child Left Behind Act of 2001.³ The legislature immediately passed a bill to delay the takeover, and the governor vetoed that bill but his veto was overridden.⁴ Baltimore and many other urban school districts face a crisis of plummeting student achievement, and consistently failing reform initiatives. Takeovers of elected school boards are

¹ Nicholas Sohr, *Legislative Session Ends With Veto Overrides and BGE Deal Unfinished*, Capital News Service (Washington D.C.), April 11, 2006. Maryland was the first state to invoke the most drastic penalty under No Child Left Behind, and the state board of education ordered new management of 11 failing schools. State lawmakers representing Baltimore acted quickly and pushed a bill through to block the takeover. Governor Ehrlich vetoed the bill, but the legislature overrode that veto. Baltimoreans celebrated the legislative decision to postpone the takeover, while the state superintendent questioned whether the decision would affect federal funding. One education expert said, "If I were another big-city district I would be following this very carefully." See Lesli A. Maxwell, *State Steps in Under NCLB*, Educ. Wk. (Bethesda, Md.) Apr. 5, 2006.

² Vaishali Honawar, *Md. Lawmakers Fight School Takeover Plan*, Educ. Wk., April 12, 2006 (Baltimore's caucus in the legislature argued there is little proof that state takeovers help low-performing schools).

³ *Id.*

⁴ *Id.*

increasing in number and scope,⁵ and provisions in No Child Left Behind forecast more after the law's fifth year.⁶ Takeovers have prompted the question of which method of reform is most effective for struggling city schools – mayor-centric or state-centric? Every urban area has different characteristics and historical background, preventing a universal answer. However, city and state takeovers have common features and effects that politicians and educators should consider when implementing a takeover. State and mayoral takeovers have had mixed results overall, but certain cities, including Chicago and Philadelphia, have seen substantial improvement.

Twenty-four state legislatures have already enacted laws giving the state permission to take control or grant control to the mayor.⁷ A state takeover can be configured in several ways: a state agency removes and replaces a local board, a state/district partnership where the state appoints a team to oversee district improvement, third-party management, or reconstitution of individual schools.⁸ The No Child Left Behind Act of 2001 mandates state intervention for persistently failing schools.⁹ If a school fails to make adequate yearly progress for a fourth consecutive year, the state must take corrective action.¹⁰ After a fifth year, the school district

⁵ See Kenneth K. Wong and Francis X. Shen, *Measuring the Effectiveness of City and State Takeover as a Reform Strategy*, 78 Peabody J. of Educ. 89, 2003 [hereinafter Wong and Shen]; Peter Burns, *Regime Theory, State Government, and a Takeover of Urban Education*, 25 Journal of Urban Affairs 285, 303 (2003) [hereinafter Burns Regime Theory].

⁶ No Child Left Behind Act of 2001, Pub. L. No. 107-110, §1116(a)(8), 115 Stat. 1425, 1485 (2001) (providing that a school district must restructure after it has failed to make Adequate Yearly Progress (AYP) for five consecutive years, using data for the 2001-2002 year as the starting point for measurement).

⁷ Todd Ziebarth, *State Takeovers and Reconstitutions Policy Brief* (Educ. Comm'n of the States, Denver, CO), 2002, available online at <http://www.ecs.org> [hereinafter Ziebarth].

⁸ *Id.*

⁹ See No Child Left Behind Act of 2001, P.L. 107-110, §1116, 115 Stat. 1425, 1483-86 (2001).

¹⁰ U.S. Department of Education, Office of Elementary and Secondary Education, *No Child Left Behind: A Desktop Reference*, Washington, D.C., 2002. "The state must take corrective actions that must include at least one of the following: deferring programmatic funds or reducing administrative funds; implementing a new curriculum (with professional development); replacing personnel; establishing alternative governance arrangements; appointing a receiver or trustee to administer the district in place of the superintendent and school board; or abolishing or restructuring the school district. The state may also authorize students to transfer to higher-performing public schools operated by another school district (with transportation). States must provide information to parents and the public on any corrective action the state takes with school districts." *Id.*

must initiate plans to fundamentally restructure the school.¹¹ Takeover case studies are of national consequence because the most serious sanctions of NCLB come into play after the 2007-2008 school year, and more districts with low-performing schools are likely to opt for the strongest intervention required by the legislation.¹²

Mayoral takeover is a form of state takeover, but will be considered separately for the purposes of this paper because of the perceived trend toward this approach.¹³ The faults and successes of mayoral takeovers in Baltimore, Chicago, Detroit, Boston, Cleveland and Washington D.C. have been widely publicized.¹⁴ Many states have implemented mayoral takeover in its strictest form, shifting decision-making power away from an elected school board to the mayor.¹⁵ The role of City Hall expands and mayors are accountable for district improvements and major decisions, such as selecting the superintendent of the school district.¹⁶

Part II of this paper will discuss the implementation and effects of a state takeover as a reform method. The Philadelphia case study will instruct on the background circumstances and tactics in executing the takeover that has led to positive results for students. The accounts of state takeovers in other urban school districts will highlight different situations that arise with a state's intervention. Those issues include the prioritization of takeover goals, the issue of privatization, the political climate and the structure of the law authorizing the state to intervene.

Part III of this paper will examine the implementation and effects of a mayoral takeover as a reform method. This section will investigate why Chicago's takeover continues to be a model for

¹¹ *Id.* This restructuring may include reopening the school as a charter school, replacing all or most of the school staff who are relevant to the failure to make adequate progress, or turning over school operations either to the state or to a private company with a demonstrated record of effectiveness. *Id.*

¹² See Eva F. Travers, *Philadelphia School Reform: Historical Roots and Reflections on the 2002-2003 School Year under State Takeover*, Urb. Educ. J., (Research for Action, Philadelphia, PA), Fall 2003, at 1.

¹³ Jennifer Kitson, *Reconceptualizing Education Reform Through Mayoral Takeover Policy Brief*, (Pat Brown Institute of Public Affairs, Los Angeles, CA), 1 (2006), available online at <http://www.patbrowninstitute.org/pdf/20060216-ppb.pdf>.

¹⁴ See *generally* *Mayors in the Middle: Politics, Race, and Mayoral Control of Urban Schools*, (Jeffrey R. Henig & Wilbur C. Rich eds., 2004) [hereinafter *Mayors in the Middle*].

¹⁵ *Id.*

¹⁶ See Ziebarth, *supra* note 7.

other districts that are considering a shift to mayoral control. This section will also consider why other cities have had less success, even negative results, when a mayor gained control of the school district. The level of influence that a mayor has during a takeover varies, as do relationships with state branches of government and community groups, affecting the progress of takeover initiatives.

Part IV of this paper is a novel approach to assessing commonalities between the two methods of takeover governance. This section will attempt to use existing scholarly research to draw lessons from the distinctions and common experiences of urban school districts that have been taken over. Certain factors can suggest that a mayoral takeover will be more effective than a state takeover, and vice versa. Since there is no uniform answer as to which type of takeover is best for every urban district, these recommendations can instruct leaders considering a governance change or facing a takeover.

II. State Takeover as a Method of Comprehensive School District Reform

Research on state takeovers suggests that a well-planned effort can produce positive results in student achievement. State takeovers remove some amount of authority from elected local school boards with the long-term objective of building capacity to return the schools to local control.¹⁷ These takeovers generally cause tension because of that shift in voting power away from community residents.¹⁸ Some activists say the takeovers provide opportunity for state and local officials to combine resources and knowledge to improve the district.¹⁹ States have privatized schools as a takeover tactic, yielding mixed results with regard to student achievement.²⁰ In general, state takeover research shows they seem to be producing more

¹⁷ *Myths and realities: The impact of the state takeover on students and schools in Newark*, (Cmt. Training and Assistance Ctr., Boston, MA) May 2002, <http://www.ctacusa.com/the-newark-report.pdf> [hereinafter CTAC Newark Report].

¹⁸ *State Takeovers and Reconstitutions*, Policy Update (Nat'l Ass'n of State Bds. of Educ., Alexandria, VA), March, 2002, at 2 (noting, "In sixteen states, the Voting Rights Act requires state officials to seek approval from the Justice Department before changing any law or procedures that affects voting).

¹⁹ See Ziebarth, *supra* note 7.

²⁰ See generally "The Hazards of Making Public Schooling a Private Business," 112 Harv. L. Rev. 695 (1999) (highlighting the negative results of privatization experiments); *But see* Travers, *supra*

positive changes in central office activities such as management and finance, than in educational programming or curriculum practices.²¹ A state government should consider the particular needs of the district, past reform attempts, and the political climate of the city while compiling a takeover plan.

a. Success Story: Philadelphia State Takeover

A study of Philadelphia schools since 2001 shows that state takeover can have positive effects if the state government cooperates with city officials. The experiment is still young, but widespread support for the takeover has already led to favorable developments in the city school district.²² The statistics since the takeover indicate an undeniable improvement in student performance on standardized testing since the state's intervention.

Along the road to takeover, city officials made several attempts at reforming Philadelphia public schools, but all failed to reach intended goals. In 1994, officials implemented the Children Achieving Action Design, a comprehensive systemic change targeting all components of the school system.²³ Initiatives of that plan included setting high expectations for students, shrinking bureaucracy, and providing sustained professional training to teachers and staff, among many others.²⁴ Though the program was successful in some areas, it depleted the district finances and led to a battle between the superintendent and the state legislature.²⁵ The next step in education reform, the Education Empowerment Act, passed in 1998.²⁶ That Act provided that the state can

note 10, at 10 (concluding that no private provider has been uniformly successful or unsuccessful in Philadelphia).

²¹ See Ziebarth, *supra* note 7; See Travers, *supra* note 12.

²² See generally Travers, *supra* note 12.

²³ Philadelphia School District, Children Achieving Action Design Executive Summary, http://www.phila.k12.pa.us/Children_Achieving/exec_summary.html (last visited Dec. 8, 2006).

²⁴ *Id.*

²⁵ Superintendent David Hornbeck set forth three separate lawsuits to be taken against the State: the first claimed that the state had violated its constitutional obligation to provide a “thorough and efficient” education for all children in Pennsylvania; the second charged the state with a federal civil-rights violation; and the third argued that the state should pay the city extra funds to support the desegregation remedies mandated by Judge Smith in *Pennsylvania Human Relations Commission v. The School District of Philadelphia*. See Philadelphia School District Press Release, *Realities Converge: This Year is Different*, February 1997.

²⁶ Pa. Stat. Ann. tit. 24, § 6-696 (West 2006).

take over a public school that is both academically and financially distressed.²⁷ The law considers a school academically distressed when it fails to provide an educational program that complies with the regulations of the State Board of Education or standards of the Secretary of Education.²⁸ A school is considered financially distressed when certain circumstances concerning the district's finances arise, including when a district has "accumulated and operated with a deficit...for two successive years."²⁹ The Education Empowerment Act legally paved the way for state takeover.

Compromise of branch leaders was an integral part of the initial takeover, and the spirit of partnership between state and local governments made the implementation of takeover plans more effective. Shortly after Governor Mark Schweiker took office in 2001, he advised that the beleaguered school district enter into a \$101 million contract that gave Edison Schools, Inc. managerial control.³⁰ Mayor John Street tacitly encouraged protest of such extensive privatization, and hundreds of activists blocked the streets of Philadelphia and walked out of classes.³¹ After that initial protest from Mayor Street and the public, the state revised its plan for wholesale privatization to appease Philadelphia and develop a working relationship with Mayor Street.³²

The governor and the mayor negotiated for weeks over the structure of the takeover bill that they would present to the legislators. The leaders discussed the role that Edison would have in the administration of schools and how much money would be necessary to run the district.³³

²⁷ Pa. Stat. Ann. tit. 24, § 6-696 (West 2006).

²⁸ § 6-691(c)(4).

²⁹ § 6-691(a)(6).

³⁰ Lewis D. Solomon, *Edison Schools and the Privatization of K-12 Public Education: A Legal and Policy Analysis*, 30 Fordham Urb. L.J. 1281, 1287 (2003).

³¹ *Id.*

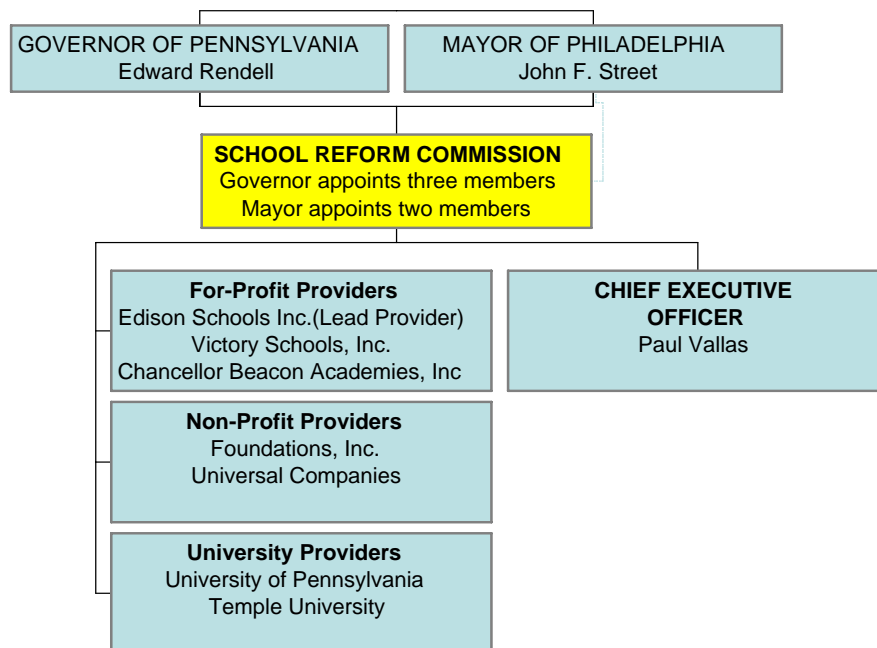
³² Len Reiser, *Understanding the State Takeover of Philadelphia Schools*, (Philadelphia Public School Notebook, Philadelphia, PA) Summer 2003, www.thenotebook.org (last visited Dec. 8, 2006). The takeover law, while drastic, has also turned out to have some flexibility. And city residents have found that, when there is a grass roots protest or pressure is applied, even points that seem to be certainties may be open to negotiation. *Id.*

³³ Solomon, *supra* note 30, at 1287.

Finally, the leaders reached an agreement and the Pennsylvania legislature passed a statute that replaced the elected Philadelphia school board with an appointed School Reform Commission (SRC).³⁴ The statute laid out the composition of the SRC: “four members appointed by the Governor, and one member appointed by the mayor of the city coterminous with the school district.”³⁵ Presumably in response to pressure from Philadelphia, Governor Schweiker agreed to allow the mayor to appoint two SRC members rather than one, though the law only required one mayoral appointment. The takeover also created a contract with Edison Schools, Inc. to commandeer twenty schools, the largest block privatization of public schools ever attempted.³⁶ The grant of an additional appointment and the downsizing of the Edison contract set the tone of concession and cooperation between city and state. Figure A shows the top of the governance structure in Philadelphia.

Figure A:
Source: Philadelphia Public Schools

PHILADELPHIA PUBLIC SCHOOLS ORGANIZATIONAL STRUCTURE AS OF FALL 2006



³⁴ Pa. Stat. Ann. tit. 24, § 6-696(a).

³⁵ *Id.*

³⁶ Travers, *supra* note 12, at 6.

Instead of a decisively centralizing power, the Philadelphia takeover has also decentralized governance in some of its lowest-performing schools. Governor Schweiker advertised the “diverse providers strategy,” a reform tactic aimed at improving education through market-based mechanisms designed to improve quality and efficiency, and lobbied the approach to the state legislature.³⁷ Proposal of the diverse providers strategy created controversy because of its profit-driven influence on public education, but it is proving to be an effective experiment.³⁸ 45 out of 265 public schools were privatized, giving corporations control over the management and operation of some of Philadelphia’s worst performing schools.³⁹ The public/private partnership is promising because the threat of canceling performance contracts is a very strong incentive for the private companies.⁴⁰ The model emphasizes accountability because the school board has the option of renewing contracts according to the level of satisfaction with the service provider’s performance.

An additional benefit to the diverse providers strategy is the increased flexibility in selecting for-profit service providers. Immediately after appointment, Philadelphia’s SRC began soliciting offers to manage Philadelphia’s lowest performing schools from for-profit and nonprofit educational management organizations and local universities.⁴¹ The SRC called for an open process to select the service providers, seeking to avoid the public relations nightmare and labor problems that neighboring Chester Upland School District experienced when it experimented with private management.⁴² The SRC also accepted bids for contracts to provide services that the

³⁷ See Travers, *supra* note 12, at 5 (Philadelphia’s model involved outsourcing school management and other services to a variety of private sector ‘providers’-including for-profit Educational Management Organizations (EMOs), local universities, and local nonprofit organizations).

³⁸ See Travers, *supra* note 12, at 8 (CEO Vallas planned to expand to more providers in the Spring of 2003, putting faith in the decentralized and privatized approach to improving education).

³⁹ See Jane Hannaway, *Contracting as a Mechanism for Managing Education Services*, (Consortium for Policy Research in Educ., Philadelphia, PA) November 1999.

⁴⁰ *Id.*

⁴¹ Travers, *supra* note 12, at 4.

⁴² The Chester Upland School District contracted Edison to manage eleven of its fourteen schools. Resistance – and in some cases outright sabotage – from the local teachers’ union,

District's Central Office had historically overseen, including transportation, food service and facilities management.⁴³ The public/private partnership model maximizes the school district's ability to choose contractors and the ideal result is to expand efficiency through competition between providers. An open call for contracts is also a way of engaging community businesses and cultivating their interest in the success of the school district.

The current reform system in Philadelphia is not the product of a unified theory, but rather the combination of several distinct theories.⁴⁴ The SRC hired Paul Vallas as Chief Executive Officer of the school district, who brought his own ideas to Philadelphia. Philadelphia was one of many school districts that sought the services of Vallas.⁴⁵ He earned a respectable reputation in education reform through his tireless management work in Chicago schools.⁴⁶ He vocalized district-wide plans for a stronger focus on academic standards, school accountability, and professional development.⁴⁷ He also announced a zero-tolerance discipline policy.⁴⁸ So while Vallas accepted and supported the diverse providers strategy that the SRC had developed, he added his own initiatives.

The attitude of compromise and the resulting public/private partnerships bode well for the plan's long-term success, and have already been successful in the short-term. The privatized schools show impressive statistical improvement in student performance. Overall, Edison's 20 schools in Philadelphia averaged a gain of 10 percentage points in the portion of proficient students last year, compared with an average annual gain of less than half a percentage point in

though, ensured that Edison never had a chance to succeed. See e.g., Dale Mezzacappa, *District's Chief Urges Edison's Departure*, Phila. Inquirer, February 16, 2005.

⁴³ Travers, *supra* note 12, at 5.

⁴⁴ See Bulkley, Mundell and Riffer, *Contracting Out Schools: The First Year of the Philadelphia Diverse Provider Model*, Urb. Educ. J., (Research for Action, Philadelphia, PA), May 2004, at 1.

⁴⁵ Alexander Russo, *Political Educator: Paul Vallas pays the price of leadership*, Education Next, (Hoover Inst., Stanford, CA) Winter 2003.

⁴⁶ Travers, *supra* note 12, at 7.

⁴⁷ *Id.* at 8.

⁴⁸ *Id.*

the previous seven years before Edison took over, company officials said.⁴⁹ Pennsylvania's annual Adequate Yearly Progress report (AYP) showed 160 of Philadelphia's 265 schools met AYP standards in the 2003-2004 school year.⁵⁰ That number increased almost three hundred percent from 58 schools that met the standard in the previous year.⁵¹ Outside management partners run 23 of the city schools making the AYP list.⁵²

The SRC and the diverse providers strategy appear to be working and doing well for the city after the state takeover. Pennsylvania's innovative way of replacing the district's board could be especially significant because No Child Left Behind will call for more school district restructuring. Districts and schools receiving Title I funding that do not make AYP must take corrective action and ultimately restructure.⁵³ Restructuring options include turning over operation to the state, or a private company with a demonstrated record of effectiveness.⁵⁴ Philadelphia's method of combining state and private management preceded No Child Left Behind sanctions, but would qualify as a "restructuring" that the federal law will soon mandate for other districts.

b. The Experience and Effects of State Takeover in Other Cities

The takeover laws vary from state to state with regard to the amount of local influence they take away. New Jersey's takeover law gives a high level of control to the state.⁵⁵ State officials fire local school board members and high-level administrators and appoint replacements to manage the school district.⁵⁶ Connecticut's law also provides that a state board of trustees is

⁴⁹ Jay Mathews, *Philadelphia Shows Progress In Schools Run By Companies*, Wash. Post, November 9, 2004.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Lisa Snell, *Privatization Produces Gains in Philadelphia*, School Reform News (The Heartland Inst., Chicago, IL) Oct. 1, 2004. The average test-score gain in Philadelphia increased at a rate that far surpassed the average rates for the entire state on the 2004 Pennsylvania System of Schools Assessment (PSSA) in reading and math. *Id.*

⁵³ No Child Left Behind Act of 2001, Pub. L. No. 107-110, §1116(a)(8), 115 Stat. 1425, 1485 (2001), See also U.S. Department of Education, Office of Elementary and Secondary Education, *No Child Left Behind: A Desktop Reference*, Washington, D.C., 2002.

⁵⁴ *Id.* at 18.

⁵⁵ N.J. Stat. § 18A: 7A-14 (West 2006).

⁵⁶ See Ziebarth, *supra* note 7.

to replace the local school board.⁵⁷ In Maryland, however, the state legislature entered into a partnership with the city of Baltimore to run the schools in 1997.⁵⁸

If the state does not set clear and manageable goals for the takeover, the district could have trouble sustaining new programs. For example, following the takeover in Newark, NJ, the state-appointed board commenced a large number of programs across the district.⁵⁹ The new superintendent and her team addressed too many concerns simultaneously, and never established the core priorities of the takeover, other than emphasizing educational programming over financial reform.⁶⁰ Schools were overwhelmed and under-funded leaving them ill equipped to take on the excessive range of initiatives.⁶¹ While parents felt satisfied because the schools made progress in numerous educational areas, the district incurred staggering debt.⁶² The system operated with an \$85 million surplus during 1996-1997, the school year after the takeover, but had a \$58 million deficit by the beginning of 2000.⁶³ Basic economic principles say that such spending is untenable for the long-term.

Political conditions, such as widespread corruption at the local level, can encourage a strictly formatted takeover law, as in New Jersey. In *Abbott v. Burke*, the New Jersey Supreme Court held that certain districts provided inadequate and unconstitutional education to the plaintiff class of schoolchildren, and issued a series of orders for reform.⁶⁴ The Governor lacked confidence in local governments who did not institute the necessary reforms, and could not stand idly by an unconstitutional education system.⁶⁵ In Jersey City, NJ, the state board of education charged the school district administrators with “patronage in hiring, violation of state contract-bidding laws, political interference in the schools and general mismanagement that affected

⁵⁷ Conn. Spec. Acts 97-4.

⁵⁸ Md. Senate Bill 795 (1997 Sess.).

⁵⁹ CTAC Newark Report, *supra* note 17, at 74.

⁶⁰ *Id.* at 75.

⁶¹ *Id.*

⁶² *Id.* at 7.

⁶³ Burns Regime Theory, *supra* note 5, at 297.

⁶⁴ See *Abbott v. Burke*, 149 N.J. 145 (N.J. 1997); *Abbott v. Burke*, 153 N.J. 480 (N.J. 1998); *Abbott v. Burke*, 181 N.J. 311 (N.J. 2004).

⁶⁵ Burns Regime Theory, *supra* note 5, at 288.

students and their abilities to learn.⁶⁶ The state's Education Department conducted an investigation that revealed dismal corruption, soaring dropout rates and poor scores in Jersey City, leading to the nation's first state takeover in 1989.⁶⁷ Similar corruption also plagued Newark schools prior to the takeover, diverting valuable resources away from the children and the classrooms.⁶⁸ To partner with the corrupt local governments in Jersey City and Newark would have been an unwise political step for state officials, so they created a statute that allowed the state to fully replace the local school boards.⁶⁹

City officials that concede to a state takeover, but propose their own takeover plan to the legislature could see better results than a city that protests or passively awaits the takeover. Prior to the 1997 state takeover, Hartford schools suffered from economic mismanagement and political instability due to racial and ethnic divisions.⁷⁰ The Governor stepped in under Special Act 97-4 and appointed a seven-member board of trustees that is principally responsible for managing the schools.⁷¹ Hartford officials recommended that the new board appoint a local advisory group to counsel them in matters of curriculum, attendance, parental involvement and student achievement.⁷² Essentially, Hartford uses a two-board system, one for economic development and one for education policies, though the board of trustees is ultimately responsible for the district.⁷³ This method has produced small test score gains in some subjects,

⁶⁶ Ziebarth, *supra* note 7.

⁶⁷ Lydia G. Segal, *Battling Corruption in American Public Schools*, 29 (Northwestern University Press, 2004).

⁶⁸ See Burns Regime Theory, *supra* note 5, at 290. See also Segal, *supra* note 68, at 29 (oversight in Jersey City was a charade).

⁶⁹ N.J. Stat. §18A: 7A-14.

⁷⁰ Peter Burns, *The Intergovernmental regime and public policy in Hartford, Connecticut*, 24 *Journal of Urban Affairs* 55-73, 64 (2002) [hereinafter Burns Hartford]. In 1998, Hartford's population was 39% Latino (predominantly Puerto Rican), 38% African American, and 22% white. Hartford is a one-party city where registered Democrats outnumber registered Republicans and unaffiliated voters by a count of 44,322 to 18,187. *Id.* at 59.

⁷¹ Conn. Spec. Acts 97-4. See also Conn. State Bd. of Educ., *An Act Concerning Hartford Public Schools*, Mar. 2001 <http://www.sde.ct.gov/sde/lib/sde/PDF/Equity/hartford/marqr.pdf> (last visited December 7, 2006).

⁷² *Id.*

⁷³ *Id.* at 68.

no gains in science, but large gains in math and reading.⁷⁴ The state appointment of mostly Hartford residents to the board of trustees, and the involvement of city officials in the takeover plan was likely helpful in the smooth transition to the new management system.

Privatization as a tactic of state takeover creates controversy, and while it has been initially successful in Philadelphia, private companies have had limited gains in student achievement elsewhere. Baltimore officials have experimented with private sector educational management, notably Education Alternatives, Inc. (EAI) and Edison Schools, Inc.⁷⁵ Vagueness in the contract opened the door for EAI to use inappropriate discretion.⁷⁶ EAI transferred all counselors and specialists, including teachers of art, music, physical education and special education out of the nine schools it managed.⁷⁷ Furthermore, EAI was unable to deliver the promised increase in student performance on standardized testing.⁷⁸ Edison took over three Baltimore elementary schools in 1999: Templeton, Gilmore and Montebello. Each school improved in student standardized test scores up until 2006, when they declined.⁷⁹ Gilmore continues to be listed in a category of the lowest-performing schools in the state. Baltimore representatives vigorously opposed the state's proposed privatization of more middle schools in 2006.⁸⁰ The recent drop in test scores adds to the city's skepticism of the effectiveness of privatization, but it will also weaken Edison's position in negotiating a new contract in Baltimore.⁸¹ State and company officials argue that overall student achievement, school culture, and parental satisfaction have all improved since Edison took control of the three schools.⁸² If a state takeover includes

⁷⁴ See Wong and Shen, *supra* note 5, at 105 (table).

⁷⁵ "The Hazards of Making Public Schooling a Private Business," 112 Harv. L. Rev. 695, 700 (1999).

⁷⁶ *Id.*

⁷⁷ *Id.* at 699.

⁷⁸ Mayors in the Middle, *supra* note 14, at 45.

⁷⁹ Edison Schools, Inc., Student Achievement Data, <http://www.edisonschools.com/design/d23.html> (last visited Dec. 8, 2006).

⁸⁰ Honawar, *supra* note 2. ("Baltimore school officials fought the takeover plan, claiming to have been surprised because the city has been working on reform plans, particularly for the high schools, that were approved by Ms. Grasmick. They also decried the lack of an opportunity to participate in the state's plan").

⁸¹ Liz Bowie, *Edison Schools see drop in scores*, Balt. Sun, Jul. 13, 2006.

⁸² *Id.*

privatization, the new board should carefully negotiate contracts and consider using multiple providers (for-profit and not-for-profit) to create competition for best results.

III. Mayoral Takeover as a Method of Comprehensive School District Reform

The literature on mayoral takeovers cites a number of reasons for a shift to a mayor-centric system, including bureaucratic dysfunction, decreasing faith in urban school boards, and increasing pressure from No Child Left Behind to improve student achievement.⁸³ Some proponents say mayoral control of education reform is logical since the mayor is responsible for the best interests of the city's inhabitants.⁸⁴ As one scholar notes, "a strong mayor can build coalitions, hold them together, and resist capture by unions or by corporations."⁸⁵ Opponents claim that takeovers unfairly redistribute control away from minority voters, and critics dispute that there are actual benefits of the shift.⁸⁶ After high-profile mayoral takeovers in several major metropolitan districts, other urban school systems are looking toward this approach to reform their schools.⁸⁷

a. Success Story: Chicago Mayoral Takeover

In 1987, the United States Secretary of Education called Chicago public schools "the worst in the nation."⁸⁸ Today, the Chicago Public School System is a model for mayor-controlled reform and centralized policy. More than a decade after Mayor Richard M. Daley took control of the city's education, data reveals clear improvements in student test performance.⁸⁹ Though Chicago schools still lag behind the rest of the state and the majority of the nation with regard to

⁸³ See Kitson, *supra* note 13; See also Wong and Shen, *supra* note 5; See also Ziebarth, note 7.

⁸⁴ Kitson, *supra* note 13 ("Given that the mayor holds ultimate responsibility for the well-being of the city's citizens, mayoral oversight of education is the logical next step"); See also Mayors in the Middle, *supra* note 14, at 7 ("Mayoral control, it is asserted, is likely to promote efficiency because it puts decisions about spending in the hands of the same actors who must make decisions about taxation and other forms of revenue").

⁸⁵ Richard C. Schragger, *Can Strong Mayors Empower Weak Cities? On the Power of Local Executives in a Federal System*, 115 Yale L.J. 2542, 2571 (2006).

⁸⁶ See generally Stefanie Chambers, *Mayors and Schools* (Temple University Press, 2006); See also Kitson, *supra* note 13.

⁸⁷ See Kitson, *supra* note 13.

⁸⁸ Katherine P. Knowles, *Lessons of Reform: The Chicago Public Schools*, (Harvard Education Letter, Cambridge, MA) 2003.

⁸⁹ See Chambers, *supra* note 86, at 166.

student achievement, education scholars and political leaders praise the mayoral takeover as the reason for its progress.⁹⁰

The impetus for school reform in Chicago began with the fiscal crisis in 1979-1980. The system failed to meet its payroll and required a financial bailout to keep the schools open, generating strong concerns about the economic stability of Chicago Public Schools (CPS).⁹¹ Reforms of the 1980's focused on decentralization of governance, on-site management, and appointment of a finance oversight committee to approve school budgets.⁹² In March 1988, the committee adopted a tentative agreement to expand early childhood programs, establish school-based management councils at every school, and pursue ways to enhance teacher professionalism.⁹³ In 1988, the Illinois State Legislature passed the Chicago School Reform Act, which radically decentralized the structure of CPS by creating Local School Councils.⁹⁴ The new law placed 10-member elected councils in charge of 542 of Chicago's public schools.⁹⁵ When current Mayor Richard M. Daley took office in 1989, he moved to recentralize CPS and the 1995 reform legislation allowed him to take control of the entire school system.⁹⁶

Mayor Daley sits alone at the top of the organizational structure of CPS (see Figure B).⁹⁷ Daley appoints each of the members of the Chicago school board and the chief executive officer, making him the only official presiding over the system that is accountable to district voters.⁹⁸ The mayor accepted this great responsibility with open arms, and tried to ensure the accessibility of

⁹⁰ *Id.* at 63.

⁹¹ *Decentralization: Why, How and Toward What Ends?*, Policy Brief (N. Cent. Reg'l Educ. Lab., Naperville, IL) Apr. 26, 1995 [hereinafter NCREL Policy Brief].

⁹² See Chambers, *supra* note 86, at 53.

⁹³ *Id.*

⁹⁴ See NCREL Policy Brief, *supra* note 83.

⁹⁵ *Id.*

⁹⁶ See Chambers, *supra* note 86, at 58. The reasons why the Illinois legislature allowed the Chicago School Reform Act of 1995 to pass are debated, but some say the Republican-run legislature was frustrated with financially bailing out CPS and also wanted the Democratic mayor to fail in his bold endeavor to take over. *Id.*

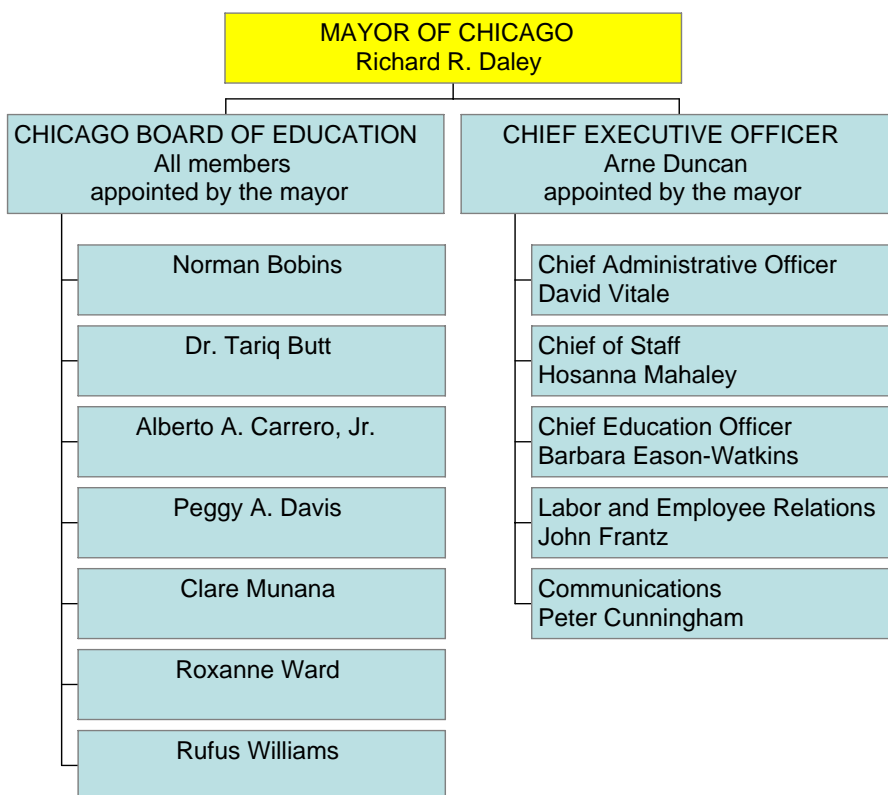
⁹⁷ Segal, *supra* note 68, at 49.

⁹⁸ See Mayors in the Middle, *supra* note 14, at 59.

the board through monthly board meetings open to the community.⁹⁹ One theory supporting an appointed board over an elected board is that appointed members will not be focused on re-election and special interest group issues, so they can concentrate on institutional reform.¹⁰⁰ The small board has a limited role, but includes the duties of approving contracts and broad policy changes.¹⁰¹ Daley continues to personally issue statements about the state and progress of CPS, as he did throughout the takeover.¹⁰² The mayor is the face that Chicago citizens connect with the school reform, and Daley has been re-elected four times as the schools have been improving.

Figure B:
Source: Chicago Public Schools

CHICAGO PUBLIC SCHOOLS ORGANIZATIONAL STRUCTURE AS OF FALL 2006



⁹⁹ See Chambers, *supra* note 86, at 139.

¹⁰⁰ Donald McAdams, *What School Boards Can Do: Reform Governance For Urban Schools*, 10 (Teachers College Press, 2006).

¹⁰¹ See Chambers, *supra* note 86, at 141.

Daley greatly emphasized the fiscal health of the school district as the first step of the takeover.¹⁰³ Daley favors a corporate management structure and no member of the board is required to have education credentials.¹⁰⁴ Current board members have abundant business training and experience, including finance, banking and hospital management.¹⁰⁵ Daley appointed Paul Vallas as Chief Executive Officer of the district, a non-traditional choice since Vallas was a businessman rather than an educator.¹⁰⁶ He concentrated on eliminating wasteful practices to get the budget in order. The new CEO eliminated a projected four-year shortfall of \$1.3 billion within two years and balanced the system's budget each year thereafter.¹⁰⁷ Vallas ordered the principals, teachers, and classified staff of poorly performing high schools to reapply for their jobs.¹⁰⁸ Vallas and his team removed those who received a poor evaluation from the schools to replace them with staff that would use funds more efficiently.¹⁰⁹ Vallas made a choice to run CPS like a large business, with a top-down management style and clear sanctions for poor performance.

Since the takeover, Chicago students have improved scores on state standardized tests in most subjects and grades, and the rate of improvement has outpaced the rest of Illinois.¹¹⁰ In some grades, students improved reading and math scores by as much as fifty percent.¹¹¹ Student attendance has also soared, likely due to the two comprehensive attendance improvement program initiated by the board in 1996 and 2003.¹¹² The program rewards students with exceptional attendance and works with parents and social service support to reach out to

¹⁰² See e.g. Chicago Public Schools Press Release, *Mayor Daley Describes New Steps to Turn Around Chronically Underperforming High Schools* (Sept. 20, 2005), <http://www.cps.k12.il.us>.

¹⁰³ See Michael W. Kirst, *Mayoral Influence, New Regimes, and Public School Governance*, Research Report, (Consortium for Policy Research in Educ., Philadelphia, PA) 2002 [hereinafter Kirst]. The district's rising budgets and cuts in state aid due to the state's financial difficulties caused concern among city leaders (especially the mayor). *Id.* at 15.

¹⁰⁴ See Mayors in the Middle, *supra* note 12, at 67.

¹⁰⁵ Chambers, *supra* note 86, at 139.

¹⁰⁶ See Kirst, *supra* note 103, at 10.

¹⁰⁷ See Russo, *supra* note 45.

¹⁰⁸ Ziebarth, *supra* note 7.

¹⁰⁹ *Id.*

¹¹⁰ See Chambers, *supra* note 86, at 167-172.

¹¹¹ *Id.* at 172.

¹¹² *Id.* at 171.

chronically truant students.¹¹³ Educators, activists and politicians from other cities rightfully look toward Chicago to learn about the governance model.

b. The Experience and Effects of Mayoral Takeover in Other Cities

The experience of Detroit illustrates many of the problems that can accompany a mayoral takeover and prevent its intended results. Michigan's Republican Governor Engler assessed Detroit's plummeting test scores, astronomical dropout rates, and the school board's mismanagement of funds, and asked Democratic Mayor Archer to take control in 1999.¹¹⁴ A key problem arose when Archer resisted the responsibility,¹¹⁵ and the Republican-controlled legislature still went forward with the takeover bill to give the mayor "power to disband local school boards."¹¹⁶ The governor appointed one member of the new board and the mayor appointed the other six, but the governor's appointee had veto power over the rest of the appointments.¹¹⁷ If an outside person or entity can veto the choices of the mayor, the system is only under mayoral control in name because the mayor lacks the decisive power to take strong reform measures.

Persistent financial woes can aggravate union trouble and impede efforts to improve student achievement. The new Detroit board appointed a CEO who had experience as an educational leader in 1999.¹¹⁸ CEO David Adamany could not reach common ground with the teachers union, and teachers went on strike merely six months after the mayor assumed control of the school district.¹¹⁹ Section IV.c discusses the union and racial struggles in Detroit in more detail. The board chose another educator, CEO Kenneth Burnley, to replace Adamany in 2001, just as the

¹¹³ *Id.* The program rewards include tickets to sporting events and concerts, clothing and computers. *Id.*

¹¹⁴ See *Mayors in the Middle*, *supra* note 14. Among other reforms, the state passed a \$1.5 billion bond issue to improve the educational infrastructure in Detroit, but the school board failed to spend it in an expeditious manner. *Id.* at 124.

¹¹⁵ Robert C. Johnston, *Engler Proposes Takeover Plan for State's Urban Districts*, *Educ. Wk.* (Bethesda, Md.), February 3, 1999 ("Mayor Dennis Archer has long maintained that he is not interested in running the 180,000-student district").

¹¹⁶ Mich. Pub. Act 10 (1999).

¹¹⁷ See *Mayors in the Middle*, *supra* note 14, at 134.

¹¹⁸ *Id.* at 135 ("A distinguished scholar, [David] Adamany had served as president of Wayne State University for seventeen years").

¹¹⁹ *Id.* at 136.

national economy slowed to hand Burnley an uphill battle to stabilize the budget.¹²⁰ Burnley cut jobs in order to create revenue, re-fueling the community protest against the takeover.¹²¹ The Mackinac Center for Public Policy in Michigan reported in July 2004 that Detroit's inflation-adjusted per-pupil spending rose from \$8,830 in 1996-1997 to over \$11,000 in 2003-2004.¹²² After five years under mayoral control, the test score gap between Detroit and the rest of Michigan persisted, the financial disarray remained, and enrollment continued to steadily fall.¹²³ A 2005 city referendum in Detroit voted to oust the reform board and the first elected board took control in January of 2006.¹²⁴

Baltimore's system departs from the standard idea of mayoral control of education. The city had a long history of a mayor-appointed school board from 1899 until 1997 when the state decided to limit the role of the mayor by creating a city-state partnership on education.¹²⁵ The governor and the mayor jointly appointed a nine-member board of school commissioners.¹²⁶ Failed pilot projects under Mayor Schmoke (1987-1999) led to his complaints about inadequate state funding and a class action lawsuit, which the state countered with a request for the courts to order more state management of BCPSS.¹²⁷ The resulting summary judgment decision ordered more state funding, but also more state control.¹²⁸ Currently, the mayor and governor must agree on each of the nine school board members, but state and local leaders continue to battle for authority.¹²⁹

¹²⁰ *Id.* at 141 ("Since the Michigan government is legally bound to have a balanced budget, the governor and legislators had to cut promised increases for local schools to keep within the law").

¹²¹ *Id.*

¹²² *Takeover of Detroit Schools Shows Few Intended Results*, Educ. Report (Mackinac Center for Pub. Policy, Midland, MI), January 19, 2006.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Mayors in the Middle*, *supra* note 14, at 38-39.

¹²⁶ Ziebarth, *supra* note 7.

¹²⁷ *Mayors in the Middle*, *supra* note 14, at 39.

¹²⁸ *Md. State Bd. of Educ. v. Bradford*, 387 Md. 353, 364 875 A.2d 703, 709 (Md. 2005) (referring to the 1994 class action of BCPSS students against the state, and the resulting 1996 consent decree ordering the restructure of BCPSS and additional state funding for FY 1998-2002).

¹²⁹ Doug Donovan and Andrew A. Green, *Candidates swap barbs on schools*, Balt. Sun, Aug. 18, 2006.

The adversarial relationship between branches stymied subsequent reform efforts for Baltimore, as recently as 2006.¹³⁰ Baltimore representatives in the Maryland General Assembly pushed House Bill 1215 through the legislature to stop a state takeover.¹³¹ The 2006 gubernatorial race intensified polarization of state and local branches because Baltimore's Mayor O'Malley ran against Governor Ehrlich, and the candidates zealously debated education policy.¹³² Now that O'Malley occupies the governor's seat, hopefully he will form a more cooperative partnership with Baltimore's new mayor for the betterment of the city's public schools.

A mayoral takeover can unify a school district, reduce conflict caused by fragmented programming, and improve the public image of the schools if student test scores rise.¹³³ Parental (and thus public) perception of districts is inextricably linked to student performance on standardized tests.¹³⁴ In the Boston mayoral takeover of 1996, Mayor Flynn actively pursued the governance change, even more publicly than Daley did in Chicago, despite the political liability of running dysfunctional schools.¹³⁵ CEO Thomas Payzant focused on higher standards for students and staff, increased professional development and training for teachers, and school report cards for standardized tests.¹³⁶ Test scores in Boston have improved substantially since the takeover, especially in high schools, leading to favorable media coverage.¹³⁷ Boston parents, and

¹³⁰ Liz Bowie and Sarah Neufeld, *Md. Acts to Seize 11 Schools*, Balt. Sun, Mar. 29, 2006. On March 24, 2006, the Maryland board of education voted to allow the state to intervene in eleven schools under the authority of the No Child Left Behind Act. City officials and state officials representing the city opposed the takeover fervently, arguing that it would impede a 4-year improvement effort that had not yet had enough time to flourish. *Id.*

¹³¹ Honawar, *supra* note 2. Within two days of the state board's proposal, the Maryland General Assembly had approved a one-year moratorium to put the takeover plan on indefinite hold. *Id.*

¹³² Donovan and Green, *supra* note 129.

¹³³ Michael R. Kirst and Katrina E. Bulkley, *Mayoral Takeover: The Different Directions Taken In Different Cities*, Consortium for Policy Research in Educ., Philadelphia, PA) 2001 [hereinafter Kirst and Bulkley]. See also Wong and Shen, *supra* note 5.

¹³⁴ See Wong and Shen, *supra* note 5, at 102. In Boston, Cleveland and Chicago, parents overwhelmingly agree that requiring public test scores were a good way to hold schools accountable. *Id.*

¹³⁵ See Kirst and Bulkley, *supra* note 133. Current Mayor Menino succeeded Flynn and appointed Thomas Payzant as Chief Executive Officer, a nationally known education leader. *Id.*

¹³⁶ *Id.* at 28 ("His focus on teaching and learning issues involved relying to some extent on professional norms as a means to increased performance, rather than sanctions").

¹³⁷ See Wong and Shen, *supra* note 5 at 103. See e.g. Fred Hiatt, *A Case Study for Washington's New Mayor*, Wash. Post, Nov. 6, 2006.

especially grandparents, are more satisfied¹³⁸. Boston has joined Chicago as a promising example of a mayor-controlled district able to make positive impact in the classroom, not just improve the central office functions.¹³⁹

IV. Commonalities of Mayoral and State Takeovers and Recommendations for Forthcoming Takeovers

Though mayoral and state takeovers differ in important structural ways, urban takeover districts have enough in common to draw basic lessons for the future. Takeovers of low-performing city schools often present new leadership with the following issues that should be addressed as early as possible: (1) discord between city and state branches of government; (2) public outcry over loss of local control; (3) racial conflicts and teachers union protests; and (4) fiscal problems due to debt or corruption within the school district. Several cities have dealt with each issue, to the benefit or detriment of takeover plans. The recommendations of this section are the collective lessons from these example cities.

a. Improving the school district demands compromise and cooperation among branches of government.

Showdowns between state and local officials slow the overhaul of management practices, drain resources from educational reforms and reinforce community resentments.¹⁴⁰ Leaders at both government levels in Chicago and Philadelphia actively pursued a takeover plan that both factions could sponsor comfortably. The takeover experiences in Detroit and Baltimore teach that partisan conflict over a takeover can affect the degree of support for new initiatives. In Detroit, Republican Governor Engler asked Democratic Mayor Dennis Archer to take control of the school board.¹⁴¹ The mayor opposed the takeover for fear that the takeover would intensify existing divisions within the governing structure.¹⁴² The legislature, which had a Republican majority in

¹³⁸ Hiatt, *supra* note 127 (“[Menino’s] commitment has aided him politically; grandparents especially applaud”).

¹³⁹ See Kirst and Bulkley, *supra* note 133, at 31 (“Historically governance change has not had much effect on classrooms, but Chicago and Boston demonstrate the crucial differential impact of local context for school improvement strategies”).

¹⁴⁰ See Ziebarth, *supra* note 7.

¹⁴¹ See Mayors in the Middle, *supra* note 14.

¹⁴² Dennis Archer, *State of the City Address, Parts 1 and 2*, *Detroit News*, Feb. 16, 1999.

the House and the Senate, united on enacting Public Act 10 of 1999, and the takeover became effective in that year in spite of the mayor's resistance.¹⁴³ Local and state leaders must compromise and cooperate for a takeover to succeed, because a reform plan that only one faction creates will naturally meet resistance from the other faction.

When state and local leaders disagree on how progress should be made, they leave students in limbo. One study led researchers to conclude, "when takeovers produce administrative and political turmoil, student achievement suffers."¹⁴⁴ To establish a causal link, the study used school-level data analyzing the relationship between academic performance and district takeovers in Boston, Chicago, Lawrence, Massachusetts and Compton, California.¹⁴⁵ The research on Lawrence showed a period of "city-state squabbling" ran concurrently with a period of decline in student achievement as determined by standardized test scores and failing grades.¹⁴⁶ Partisanship over a takeover also leads to negative publicity, as exemplified by Baltimore's 2006 gubernatorial campaigns, each candidate touting the failures of the other with regard to Baltimore schools.¹⁴⁷ To avoid such drawbacks, city and state officials should heed each other's input, and negotiate swiftly to arrive at a takeover plan they can project favorably to the public.¹⁴⁸

b. The new controlling body should inform and engage the community in some decision-making in order to assuage the loss of local control and voting power.

Loss of local control is a downside to any takeover reform because a major overhaul means that the elected school board consistently failed to provide effective leadership for the

¹⁴³ *Id.*

¹⁴⁴ See Wong and Shen, *supra* note 5, at 22.

¹⁴⁵ *Id.* at 21.

¹⁴⁶ *Id.* at 22.

¹⁴⁷ See Donovan and Green, *supra* note 129. See also Honawar, *supra* note 2 ("Education observers said it appears that the state failed to smoothly handle the politics behind the takeover, resulting in the current political standoff...They also questioned if Maryland has a clear-cut plan for the schools").

¹⁴⁸ As described in Sections II and III, Hartford and Philadelphia officials offered their own plans to their respective state officials, and both cities have improved in student achievement.

schools and the students in the district.¹⁴⁹ The “success” of Philadelphia and Chicago schools must be put in perspective because they are only successful when compared with previous performance, which was so deplorable that it led to a takeover. The Supreme Court of the United States said in Milliken v. Bradley, “no single tradition in public education is more deeply rooted than local control over the operation of schools.”¹⁵⁰ When local autonomy is lost, community concern and support for local public schools can decrease.¹⁵¹ A community’s dedicated involvement in school operations characterizes schools that show progress, and schools with poor achievement rarely show similar engagement.¹⁵² Leaders must inform the public of the statutory duties of the state and the reasons for the takeover, in order to foster support and reduce the confusion that often surrounds a state intervention.

Opponents of takeovers see them as covert attempts to reduce local control of school districts, and this resistance can cause a rift in the community.¹⁵³ Even when the takeover district shows great strides of improvement, some voters and parents who have lost control will protest. Some parent activists in Chicago argue that mayoral control has shut parents off entirely from the decision-making process, and the mayors have not delivered the greater accountability and transparency they promised.¹⁵⁴ Chicago parents expressed dissatisfaction even though they elected Local School Councils to manage individual schools by creating the school’s budget, selecting the principal, and developing an annual improvement plan.¹⁵⁵ In Newark, the lack of clear priorities obstructed community involvement in the first years of the takeover, but

¹⁴⁹ Ziebarth, *supra* note 7 (“In addition to academic problems within a school district, states also take over school districts due to fiscal mismanagement, inept administration, corrupt governance and crumbling infrastructure”).

¹⁵⁰ 418 U.S. 717, 741 (1974).

¹⁵¹ *Id.*

¹⁵² See CTAC Newark Report, *supra* note 17, at 75.

¹⁵³ See Kitson, *supra* note 13.

¹⁵⁴ District Dossier, *Activists Slam Mayoral Control*, Educ. Wk. (Bethesda, Md.), June 21, 2006.

¹⁵⁵ Chicago Public Schools, Office of School and Community Relations, http://www.cps.k12.il.us/AboutCPS/Departments/OSCR/local_school_councils.html (last viewed Dec. 8, 2006).

engagement has increased significantly because administrators have since reached out to parents.¹⁵⁶

Local communities play an important role in improving low-performing school districts, and their engagement can be accomplished in different ways.¹⁵⁷ A strong and influential mayoralty offers the benefit of focused accountability that a more diffuse structure lacks.¹⁵⁸ Citizens can focus on a single official. Mayors who sought responsibility for the school district and for the shortcomings of the reform had more support from the community.¹⁵⁹ Chicago and Boston both had strong mayors long before their respective takeovers, and since schools have improved they have gained more trust and support of the public.¹⁶⁰ For cities with a strong and popular mayor who seek control of low-performing schools, mayoral takeover may be the best method of takeover because of the proximity of the mayor to city voters.

In a situation of integrated governance there is no single leader to focus on, so the new leaders must be creative and find another way for the local community to be involved. In Philadelphia, the SRC made an open, public call for contract bids, making local organizations participate directly in the school reform through contracts.¹⁶¹ Whether improvement initiatives are developed centrally or on-site at individual schools, they must involve parents and district constituents. In a city where voting rights is likely to be an explosive issue,¹⁶² leaders should take the greatest care to foster support from local groups like parents and minority activists.

c. Race relations and teachers union conflicts often complicate takeovers.

Racial conflict can be a negative result of a takeover, whether it is a city or state takeover, because of the consequent power redistribution in an urban area. Opponents of takeovers argue that appointed boards reallocate power away from minority parents to the

¹⁵⁶ See CTAC Newark Report, *supra* note 17, at 75.

¹⁵⁷ See Ziebarth, *supra* note 7.

¹⁵⁸ Schragger, *supra* note 75, at 2571.

¹⁵⁹ See generally Mayors in the Middle, *supra* note 12; See Kirst and Bulkeley, *supra* note 133.

¹⁶⁰ Kirst, *supra* note 103 at 12.

¹⁶¹ Travers, *supra* note 12.

¹⁶² See Michael Casserly, *Why the Mayor Shouldn't Take Over D.C.'s Schools*, Wash. Post, Nov. 26, 2006 ("In a city such as Washington, where voting rights are such a hot-button issue, city leaders might find a community response more like Detroit's than Boston's").

citywide or statewide electorate that comprises a whiter, more affluent population.¹⁶³ Takeovers often provoke lawsuits asserting that the overhaul targeted predominantly minority districts and violated voters' rights.¹⁶⁴ In most of the takeover cities, including Baltimore, Chicago, Hartford and Detroit, race played a divisive role to varying degrees.¹⁶⁵ In the Baltimore takeover that weakened the mayor's control, many black leaders vigorously opposed the partnership and denounced it as an inappropriate usurpation of local autonomy.¹⁶⁶ Some black leaders also protested the Hartford state-appointed board's initial support of a Puerto Rican superintendent. The Greater Hartford African American Alliance pressured the board to choose an African American instead.¹⁶⁷ Such racial strife at the outset of a takeover can weaken support for policy initiatives, and appointing a racially representative board is a step in the right direction.

The takeover in Detroit decreased the democratic representation of African-Americans because the board was appointed rather than elected. The chosen board members were mostly white and Detroit's electorate was predominantly black.¹⁶⁸ The loss of democratic power spurred public outcry and immediately made the takeover a race issue in the Detroit media.¹⁶⁹ Voters felt disenfranchised and angry, and so they opposed the initiatives of the takeover.¹⁷⁰ Many Detroit residents saw the takeover as state politicians attempting to end their ability to choose school leaders, while ignoring some predominantly white school districts that had problems as serious as Detroit's.¹⁷¹ One report says that steps and rationale for a takeover are often poorly understood and insufficiently communicated.¹⁷² If the district voters have ample and clear information on the

¹⁶³ See Kitson, *supra* note 13.

¹⁶⁴ Beth Reinhard, *Racial Issues Cloud State Takeovers*, Educ. Wk. (Bethesda, Md.), January 14, 1998.

¹⁶⁵ See Kitson, *supra* note 13.

¹⁶⁶ See Mayors in the Middle, *supra* note 14, at 47.

¹⁶⁷ See Burns Hartford, *supra* note 70, at 59.

¹⁶⁸ Mayors in the Middle, *supra* note 14.

¹⁶⁹ Lekan Oguntoyinbo, *NAACP Opposed to School Takeover*, Detroit Free Press, Feb. 17, 1999; See Cameron McWhirter, *Most Blacks Oppose Engler Plan, Poll Finds*, Detroit News, Feb. 21, 1999.

¹⁷⁰ Cameron McWhirter and Brian Harmon, *Parents Say Archer Let Down Students*, Detroit News, Feb. 16, 1999.

¹⁷¹ See Mayors in the Middle, *supra* note 14, at 132.

¹⁷² CTAC Newark Report, *supra* note 17, at 13.

reasons for the takeover (including No Child Left Behind requirements), they may be less likely to focus on racial implications.

The racial conflicts caused by the takeovers also reflect in teacher union protests, since an urban public school system has typically been an important source of employment for minorities since the civil rights movement.¹⁷³ Takeover may reduce the political power of teachers unions and job security of teachers, so the unions staunchly oppose the shift.¹⁷⁴ Mayoral overhauls caused teacher's union protests and strikes in Detroit, New York City, and Baltimore that impeded student progress and has continued after mayoral control ended in some cases.¹⁷⁵ In Chicago, Richard J. Daley (Daley Sr.) was mayor from 1955 until 1976 and settled teachers union strikes with money that the system did not have - borrowing money from future years' tax receipts and partially causing the district's financial collapse in 1979.¹⁷⁶ When his son (Daley Jr.) came into power in 1995, he made sure the new takeover law gave the district the right to privatize and vastly strengthened the board's bargaining position with the union.¹⁷⁷ Paul Vallas leveraged the two rival unions against each other and threatened to privatize schools if they did not make concessions.¹⁷⁸ This approach worked and should be a directive for future takeovers with a similar set of circumstances.

Teachers unions have tremendous power to impede takeover success through strikes. Teachers are in increasingly short supply in urban school districts, especially schools that are failing under No Child Left Behind.¹⁷⁹ Nationwide, the lack of highly trained teachers is most acute in urban, rural, low-income, and high minority schools – the same schools that are probable

¹⁷³ See Kitson, *supra* note 13.

¹⁷⁴ See Mayors in the Middle, *supra* note 14.

¹⁷⁵ *Id.* Detroit has a history of trouble with teachers unions, and in 1994 Illinois even passed anti-teacher union legislation depriving teachers of their most effective way to demand better salaries and working conditions. *Id.* at 143.

¹⁷⁶ See Chambers, *supra* note 86, at 50.

¹⁷⁷ *Id.* at 168.

¹⁷⁸ *Id.*

¹⁷⁹ Lorna Jimerson, *Making It Worse: How No Child Left Behind Magnifies Challenges of Recruiting and Retaining Qualified Teachers in High poverty Rural Schools*, Policy Paper (Cent. on Educ. Policy, Washington, D.C.) Sept. 13, 2005.

candidates for drastic shifts in governance like a takeover.¹⁸⁰ New management should act quickly to gain the teachers as allies, as Daley, Jr. and Vallas did in Chicago. Daley and his team immediately negotiated a deal and relative peace with the union broke the pattern of teacher strikes that had been going on for years.¹⁸¹

d. A takeover district needs a balanced budget and strong financial leadership.

Savvy financial leadership including the elimination of apparent corruption and waste should be a priority in a takeover. Data from mayoral takeovers suggests a trend of appointing more non-teacher managers.¹⁸² Administrators appointed by a mayor or governor might lack expertise on instructional and curriculum issues, paying more attention to standardized test achievement and fiscal issues.¹⁸³ Both success stories examined above involve the leadership of Paul Vallas as Chief Executive Officer, showing that a leader with experience from outside the education sector can be quite effective in addressing budget problems. In Chicago, he immediately hired a team to concentrate on investigating and weeding out dishonest and incompetent personnel.¹⁸⁴ His no-nonsense management style and rapid budgetary improvements earned him national acclaim.¹⁸⁵ Balancing the budget of a school district seems to be a more effective first step than reform of educational programs and curriculum.

School districts are often burdened with large amounts of debt at the point when they are taken over, and successful takeover leaders have cleaned up district finances. Chicago, Boston, and Compton all experienced a decrease in per-pupil expenditures following takeover by a diversified management team, and increased test scores.¹⁸⁶ In Boston, CEO Tom Payzant faced a financial crisis that was less dire than Vallas faced upon his appointment in Chicago, and Mayor

¹⁸⁰ *Id.*

¹⁸¹ Steve Drummond, *When States - And Mayors - Take Over Schools*, www.npr.org (last viewed Dec. 8, 2006).

¹⁸² Wong and Shen, *supra* note 5, at 114.

¹⁸³ *Id.* at 90.

¹⁸⁴ See Segal, *supra* note 68, at 168.

¹⁸⁵ See Russo, *supra* note 45.

¹⁸⁶ See Wong and Shen, *supra* note 5, at 100.

Menino's close ties with the business community helped eliminate blatant budget problems.¹⁸⁷ Critics say that Boston Mayor Menino and CEO Tom Payzant were too methodical and not revolutionary enough because test scores are still frighteningly low, but the scores have improved.¹⁸⁸ The Newark takeover did not prioritize financial soundness over innovative education programs,¹⁸⁹ and the state-appointed administrators incurred a \$70 million deficit while test scores fluctuated.¹⁹⁰ These examples suggest that balancing the budget *before* initiating novel educational programming will better serve students.

V. Conclusion

Takeovers represent the new trend in urban education policy, but no governance model alone can produce better schools.¹⁹¹ Like most major educational reforms, experience with mayoral and state takeovers presents promise and doubt. Every city presents diverse circumstances, and proposals for restructuring an urban school district need to be examined in the local and historical context of that particular city. After that cautionary step, takeovers have the potential to turn a failing school district around when certain factors align favorably. As the fifth school year under No Child Left Behind arrives and more low-performing urban districts consider turning over control to the state or mayor, they should take guidance from the mistakes and successes of their predecessors. Boston School District CEO Payzant condensed the optimistic view of a takeover, "the good news is there can be significant improvement. It can be done."

¹⁸⁷ See Kirst and Bulkley, *supra* note 133.

¹⁸⁸ See Hiatt, *supra* note 127 ("This fall Boston won the Broad Prize for Urban Education awarded annually to the city school system that has made the most progress overall and in reducing achievement gaps among ethnic and income groups").

¹⁸⁹ Burns Regime Theory, *supra* note 5, at 294-95

Goals of the Newark takeover included teacher training, evaluation of teachers, principals and vice-principals, restructuring of elementary education, and reaching students at risk of dropping out).

¹⁹⁰ See Ziebarth, *supra* note 7; see also CTAC Newark Report, *supra* note 15.

¹⁹¹ Burns Regime Theory, *supra* note 5, at 288.

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