

RENEW CHARTER MANAGEMENT ORGANIZATION



INVESTIGATIVE AUDIT  
ISSUED MAY 28, 2014

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LOUISIANA LEGISLATIVE AUDITOR  
DARYL G. PURPERA, CPA, CFE

May 28, 2014

**MR. GARY ROBICHAUX, CHIEF EXECUTIVE OFFICER  
AND MEMBERS OF THE BOARD OF DIRECTORS  
RENEW CHARTER MANAGEMENT ORGANIZATION**  
New Orleans, Louisiana

We have audited certain transactions of the ReNew Charter Management Organization. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain financial transactions.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*.

The accompanying report presents our findings and recommendations as well as management's response. This is a public report. Copies of this report have been delivered to the Orleans Parish District Attorney and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE  
Legislative Auditor

DGP/ch

RENEW 2014



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## EXECUTIVE SUMMARY

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### **Charter Operator Provided Inaccurate Information to the Teachers' Retirement System (TRSL) to Allow Ineligible Employees to Participate in TRSL**

From January 2012 through September 2013, ReNew Charter Management Organization (ReNew) provided inaccurate information to TRSL to allow 21 ineligible employees at five of its schools to participate in the public retirement system. In addition, ReNew failed to enroll 41 eligible employees from Reed Elementary who were required to participate in TRSL. Had these 41 eligible employees been properly enrolled in TRSL during this period, ReNew would have been required to remit retirement contributions totaling \$376,643 to TRSL. By providing inaccurate information to allow ineligible employees to participate in TRSL and failing to enroll eligible employees in TRSL, ReNew may have violated its charter agreements and state law.



## BACKGROUND AND METHODOLOGY

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ReNew Charter Management Organization (ReNew) was incorporated on June 6, 2009, as a Louisiana non-profit corporation. ReNew has charter agreements with the Louisiana Board of Elementary and Secondary Education (BESE) to operate six public charter schools within the Louisiana Recovery School District (RSD). These schools include SciTech Academy, Batiste Cultural Arts Academy, Reed Elementary, Accelerated High School #1 - City Park Campus, Accelerated High School #2 - West Bank Campus, and Schaumburg Elementary. Each school is an independent public school sponsored by ReNew and publicly funded by BESE and the Louisiana Department of Education.

ReNew's initial charter contract was signed in June 2010 to operate SciTech Academy as a charter school in the RSD. In this agreement, ReNew elected to have SciTech Academy participate in the Teachers' Retirement System of Louisiana (TRSL). However, on August 18, 2011, BESE approved an amendment to SciTech Academy's charter agreement authorizing the school to withdraw from TRSL. At this time, ReNew indicated that all SciTech Academy employees who wanted to continue to participate in TRSL would be assigned to Reed Elementary, whose charter agreement elected to have eligible employees participate in TRSL. Reed Elementary's charter agreement is approved through 2016. The five remaining ReNew charter schools, including SciTech Academy, elected not to participate in TRSL.

In August 2013, the Louisiana Legislative Auditor received information from TRSL indicating that ReNew may have provided inaccurate information to TRSL to enroll ineligible employees in the public retirement system. This audit was initiated to determine the credibility of this information. The procedures performed during this audit included:

- (1) interviewing ReNew's employees;
- (2) interviewing other persons as appropriate;
- (3) examining ReNew's documents and records;
- (4) gathering and examining external parties' documents; and
- (5) reviewing applicable state laws and regulations.



## FINDINGS AND RECOMMENDATIONS

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### **Charter Operator Provided Inaccurate Information to the Teachers' Retirement System (TRSL) to Allow Ineligible Employees to Participate in TRSL**

**From January 2012 through September 2013, ReNew Charter Management Organization (ReNew) provided inaccurate information to TRSL to allow 21 ineligible employees at five of its schools to participate in the public retirement system. In addition, ReNew failed to enroll 41 eligible employees from Reed Elementary who were required to participate in TRSL. Had these 41 eligible employees been properly enrolled in TRSL during this period, ReNew would have been required to remit retirement contributions totaling \$376,643 to TRSL. By providing inaccurate information to allow ineligible employees to participate in TRSL and failing to enroll eligible employees in TRSL, ReNew may have violated its charter agreements and state law.<sup>1,2</sup>**

Louisiana Revised Statute (La. R.S.) 17:3997(A)(3) states that employment in any charter school, other than those employees exempted by state law, shall be deemed to be employment in a public school of the state for purposes of eligibility for benefits which would otherwise accrue under state law to the employee. That includes, but is not limited to, the school employees' and teachers' retirement systems. It further provides that participation of the charter school and its employees in such benefit programs shall be contingent upon provisions contained in the school's charter. As such, if a charter school elects to participate in TRSL, then all eligible employees at the school are required to participate in TRSL. However, if a charter school elects not to participate in TRSL then all school employees are ineligible to participate in TRSL.

As of July 2013, the Louisiana Board of Elementary and Secondary Education (BESE) approved charter contracts for the six schools operated by ReNew. Each school functions as an independent public school governed by a separate charter that determines whether the school will participate in TRSL. Since August 2011, only one of ReNew's charter schools, Reed Elementary, contains a provision in its charter to participate (opt in) in TRSL. Based on ReNew's charter contracts and state law, eligible employees from Reed Elementary are required to participate in TRSL and employees from the remaining five schools that elected not to participate in TRSL are ineligible.

### Inaccurate Information Provided to TRSL to Allow 21 Ineligible Employees to Participate in the Public Retirement System

From January 2012 through September 2013, ReNew provided inaccurate information to TRSL to allow at least 21 employees at five schools to improperly participate in the public retirement system. Although these employees--including administrative staff, teachers, and paraprofessionals such as teacher's aides--worked at ReNew charter schools that had opted out of TRSL, ReNew improperly reported them to TRSL as employees of Reed Elementary and allowed them to participate in the retirement system. Monthly salary/contribution reports submitted to TRSL during this period indicated that ReNew had 109 employees working at Reed

Elementary and participating in the retirement system. We compared these reports to personnel rosters, payroll records, and Department of Education Profile of Educational Personnel data and found that 21 of the 109 employees did not work for Reed Elementary. Instead, these 21 employees worked at ReNew charter schools that had opted not to participate in TRSL. As such, it appears that contrary to state law and its charter agreements, ReNew allowed ineligible employees to participate in the public retirement system by falsely reporting them as employees of Reed Elementary.

The following is a summary of ineligible employees allowed to participate in TRSL and the retirement contributions paid to TRSL from January 2012 through September 2013.

**Contributions of Ineligible Employees Paid to TRSL  
(January 1, 2012 to September 30, 2013)**

<u>ReNew Schools Not Participating in TRSL</u>	<u>Number of Employees</u>	<u>Employee Contributions Paid to TRSL</u>	<u>ReNew Employer Contributions Paid to TRSL</u>	<u>Total Contributions Paid to TRSL</u>
Batiste	8	\$35,460	\$108,180	\$143,640
SciTech	4	15,964	48,887	64,851
Accelerated High Schools 1 & 2	6	32,735	99,683	132,418
Schaumburg	3	1,516	4,938	6,454
<b>Total</b>	<b>21</b>	<b>\$85,675</b>	<b>\$261,688</b>	<b>\$347,363</b>

As a result of enrolling 21 ineligible employees in TRSL, ReNew made improper contributions totaling \$347,363 to TRSL which included \$261,688 in employer contributions and \$85,675 in employee contributions. In addition, because these employees were improperly participating in a public retirement system, both the employees and ReNew failed to make the appropriate contributions into Social Security in possible violation of the Social Security Act.

41 Eligible Employees Not Enrolled in TRSL

According to La. R.S. 17:3997(A)(3), participation of the charter school and its employees in such benefit programs (teachers' retirement) shall be contingent upon provisions contained in the school's charter. In addition, TRSL law<sup>3</sup> requires all eligible employees to become members of the system as a condition of their employment. Since August 2011, only one of ReNew's charter schools, Reed Elementary, contains a provision in its charter to participate (opt in) in TRSL. Based on Reed Elementary's charter agreement and state law, eligible employees from Reed Elementary are required to participate in TRSL.

During January 2012 to September 2013, we identified 41 employees at Reed Elementary who, according to TRSL law, were eligible to participate but were not enrolled in TRSL. Had these 41 employees been properly enrolled in TRSL, ReNew would have been required to remit retirement contributions totaling \$376,643 to TRSL during January 2012 to September 2013. We calculated this amount based on the reported earnings/wages for these employees using the

contribution rates in effect during the period for both the employer (ReNew) and the employees. Of the total, ReNew's share was calculated to be \$285,334 and the employees' share was calculated to be \$91,309.

Mr. Gary Robichaux, ReNew's chief executive officer, and President Kevin Gutterrez both stated that ReNew, as a not-for-profit, has the flexibility to offer TRSL to all employees regardless of where the employees work. Mr. Robichaux acknowledged that there are employees working at opt-out schools that are being reported to TRSL as employees of Reed Elementary. Mr. Gutterrez stated that although ReNew only chose to have one of its six schools participate in TRSL, ReNew allows its employees to choose whether they want to participate in TRSL. He stated that TRSL is offered to all employees and that its "opt-in" charter school (Reed Elementary) serves as a conduit for those employees that prefer TRSL. He stated that regardless of the schools at which the employees work, they can choose between TRSL, ReNew's 401k plan, or nothing.

Based on charter contracts<sup>A</sup> for each of ReNew's schools and state law, it appears that eligible employees working at Reed Elementary were required to participate in TRSL and all other employees from the ReNew schools that elected not to participate in TRSL were ineligible. As such, ReNew did not have the authority to allow employees to choose whether or not they would participate in TRSL. Further, because TRSL is a qualified governmental pension plan under IRS regulations, TRSL must provide definitely determinable benefits to each participant not subject to the discretion of the employer. To exclude a teacher at an opt-in school or include a teacher from an opt-out school would appear to violate the requirement that TRSL provide definitely determinable benefits not subject to the discretion of the employer and possibly jeopardize TRSL's status as a qualified governmental pension plan.

By providing inaccurate information to allow ineligible employees to participate in TRSL and failing to enroll eligible employees in TRSL, ReNew may have violated its charter agreements and state law.<sup>1,2</sup>

### Recommendations

We recommend that management adopt and implement detailed policies and procedures to ensure compliance with state law and its charter agreements. In addition, management should:

- (1) implement detailed policies and procedures to ensure that only eligible employees, as defined by state law and ReNew's charter agreements, are properly enrolled in TRSL;
- (2) implement detailed policies and procedures to ensure that ineligible employees, as defined by state law and ReNew's charter agreements, are not enrolled in TRSL;
- (3) consult with legal counsel about making the appropriate payments to fund Social Security taxes not paid for ineligible employees improperly enrolled in TRSL;

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<sup>A</sup> Since August 2011, only one of ReNew's charter schools, Reed Elementary, contains a provision in its charter to participate (opt in) in TRSL.

- (4) consult with legal counsel about making the appropriate payments to TRSL to fund contributions for eligible employees who were not enrolled in TRSL; and
- (5) always provide accurate and complete information to TRSL.

## LEGAL PROVISIONS

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<sup>1</sup> **Louisiana Revised Statute (La. R.S.) 14:133 (A)** states, “Filing false public records is the filing or depositing for record in any public office or with any public official, or the maintaining as required by law, regulation, or rule, with knowledge of its falsity, of any of the following: (1) Any forged document. (2) Any wrongfully altered document. (3) Any document containing a false statement or false representation of a material fact.”

<sup>2</sup> **La. R.S. 17:3997(A)(3)(a)** states, “Employment in any charter school for all employees other than those provided for in Paragraph (2) of this subsection shall be deemed to be employment in a public elementary or secondary school in the state regarding eligibility for any or all benefits which would otherwise accrue under state law to such an employee in any other elementary or secondary school, including, but not limited to membership in the school employees’ and teachers’ retirement systems. However, participation of the charter school and its employees in such benefit programs shall be contingent upon provisions contained in the school’s approved charter.”

<sup>3</sup> **La. R.S. 11:701 (33)(a)** states, in part, "Teacher, shall mean any of the following: (i) Any employee of a city or parish school board, parish or city superintendent, or assistant superintendent of public schools. (ii)(aa) Any president, vice president, dean, teacher, guidance counselor, or unclassified employee at any state college or university or any vocational-technical school or institution or special school under the control of the State Board of Elementary and Secondary Education, or any educational institution supported by and under the control of the state or any parish school board.”

**La. R.S. 11:721** states, “All teachers shall become members of this system as a condition of their employment.”



## APPENDIX A

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### Management's Response





May 7, 2014

**SENT VIA ELECTRONIC MAIL AND U.S. MAIL RETURN RECEIPT REQUESTED**

Daryl G. Purpera, CPA, CFE  
Louisiana Legislative Auditor  
Post Office Box 94397  
Baton Rouge, Louisiana 70804-9397

Dear Mr. Purpera:

On behalf of the administrators, faculty, staff, parents and students of ReNEW – Reinventing Education (“ReNEW”), we thank you for this opportunity to respond to your most recent Draft Findings and Recommendations. As you accurately write, ReNEW currently manages six charter schools in Orleans Parish. The mission of ReNEW schools is to provide a rigorous, college preparatory education to historically underserved PK-12 students. ReNEW has increased the test scores of our students by a minimum of 10 points per year since taking on each of its schools. Without the dedication of our most important asset, our teachers, our students would not have realized such success.

We recognize that the charter contracts for Sci-Tech Academy, Cultural Arts Academy, Dolores T. Aaron Elementary, Schamburg Elementary, and Accelerated High School provide that these schools will not participate in the Teachers Retirement System of Louisiana. The charter for the sixth School, Reed Elementary, provides that it will participate in TRSL.

ReNEW seeks to recruit the best qualified teachers for its schools no matter their years of experience or retirement needs. In doing so, ReNEW has attempted to treat those teachers needing to participate in TRSL as leased employees from Reed Elementary. For those teachers who do not wish to participate in TRSL, they are assigned to one of ReNEW’s other schools that does not participate in the program and they are leased to Reed.

We believe this practice is within the spirit of the Louisiana charter school law, which is outlined in La. R.S. 17:3972. This statute encourages “a variety of governance, management, and administrative structures” and seeks to “create new professional opportunities for teachers.” There is no statutory prohibition on charter schools leasing teachers from other schools for purposes of TRSL.

It was never our intention to violate the spirit or intent of the law or contract, and we do not believe we have acted in a manner contrary to either. However, after a review of your

findings and our own records, we do believe we could have been more diligent in perfecting an auditable document trail to support our practice.

We intend to address this issue directly with TRSL, and hope to come to an amicable resolution on any issues they may perceive from this report. Moreover, we will consult with the Social Security Administration and the Department of Education to appropriately address any concerns. In working with these entities we hope to find a permanent solution to correct these issues, so we can appropriately account for the needs of the teachers that serve our students so very well. Finally, in reviewing the Draft Findings and Recommendations, we have identified discrepancies in your calculations and teacher participation. We would like to meet with you before the final report is issued to go over these discrepancies so your figures can be adjusted accordingly.

Thank you for the opportunity to respond to your Draft Findings and Recommendations. If you should have any questions, do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Gary Robichaux".

Gary Robichaux  
Chief Executive Officer  
ReNew Charter Management Organization