

From Correctional Education to School Reentry: How Formerly Incarcerated Youth Can Achieve Better Educational Outcomes

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I. INTRODUCTION

Though education may be essential to reducing the risk of recidivism, research shows that many formerly incarcerated youth still experience dismal educational outcomes.¹ Each year, approximately 100,000 youths are discharged from juvenile justice facilities and return to their communities² to face a myriad of challenges, including difficulties with high school reentry³ and diploma attainment.⁴ Many released juveniles do not return to school.⁵ By contrast, eighty-eight percent of the general U.S. population graduates from high school or has a GED.⁶ These outcomes suggest an ineffective continuum of correctional education and school-reentry processes. This Note seeks to identify how correctional education, school-reentry processes, and education-transition programs contribute to the educational outcomes of formerly incarcerated youth. This Note also provides recommendations on how stakeholders can achieve better educational outcomes for youths who have been in correctional settings.

II. YOUTH AT REENTRY

Formerly incarcerated youths are more likely to experience distinct personal and academic challenges at reentry. They are more likely have been involved in child welfare systems, as well as being relatively more likely to be a racial minority or male.⁷ They are more likely to have

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¹ JENNIFER LOWMAN & SHARI A. MAMAS, EDUC. L. CTR. – PA, EDUCATIONAL AFTERCARE & REINTEGRATION TOOLKIT FOR JUVENILE JUSTICE PROFESSIONALS 15 (2009).

² ASHLEY NELLIS & RICHARD HOOKS WAYMAN, YOUTH REENTRY TASK FORCE OF THE JUV. JUST. AND DELINQ. PREVENTION COALITION, BACK ON TRACK: SUPPORTING YOUTH REENTRY FROM OUT-OF-HOME PLACEMENT TO THE COMMUNITY 5 (2009).

³ *Infra* Part II.

⁴ *Infra* Part IV.

⁵ NAT'L CONF. OF STATE LEGIS., REENTRY & AFTERCARE: JUVENILE JUSTICE GUIDE FOR LEGISLATORS 4 (2011).

⁶ CAMILLE L. RYAN & KURT BAUMAN, U.S. CENSUS BUREAU, EDUCATIONAL ATTAINMENT IN THE UNITED STATES: 2015 1 (2016).

⁷ See PETER LEONE & LOIS WEINBERG, CTR. FOR JUV. JUST. REFORM, ADDRESSING THE UNMET EDUCATIONAL NEEDS OF CHILDREN AND YOUTH IN THE JUVENILE JUSTICE AND CHILD WELFARE SYSTEMS 6-7 (2012) (“Over the course of a year, almost 800,000 abused or neglected

experienced trauma and neglect before incarceration, and to have significant need for mental health services and substance abuse treatment.⁸ They are also more likely to experience poverty and to have financial responsibilities,⁹ with one in eleven reporting having children of their own.¹⁰

Formerly incarcerated youths also face academic challenges. Twenty-three percent of incarcerated youth have learning disabilities, though experts suspect the actual figure may be higher.¹¹ These youths are likely to be behind in literacy and schooling when they enter the juvenile justice system; an estimated seventy-five percent of the 150,000 youth in detention in 2009 were high school dropouts, and many were not fully literate.¹² Correctional education often does not get students up to speed, in part because it may lack sufficient services for special education, English Language Learner (ELL) programs, and remedial education.¹³ Furthermore, incarceration during youth—a crucial point of intellectual development—has a fundamentally disruptive effect on education attainment.¹⁴

All of these factors place formerly incarcerated youth reentering their communities at a high risk of recidivism; over half are re-incarcerated within three years of release.¹⁵ In 2015, Former Attorney General Loretta Lynch said of the challenges facing formerly incarcerated people: “[T]oo often, justice-involved individuals who have paid their debt to society confront daunting obstacles to good jobs, decent housing, adequate health care, [and] quality education.”¹⁶ To successfully

children in the United States are in the foster care system. . . . [S]tatistics show that 19.5 Black children per 1,000 [Black children] are in foster care compared to 16.5 American Indian and Alaskan Native children, 16.1 Pacific Islander children, 10.8 White children, and 10.7 Hispanic children. . . . [And] data suggest that girls are less likely to be detained and committed than boys for most categories of delinquent offenses[.]”.

⁸ U.S. DEP'TS OF EDUC. & JUST., GUIDING PRINCIPLES FOR PROVIDING HIGH-QUALITY EDUCATION IN JUVENILE JUSTICE SECURE CARE SETTINGS 1 (2014) (discussing trauma and neglect); *Re-entry: Reform Trends*, JUV. JUST. INFO. EXCHANGE, <http://jjie.org/hub/reentry/reform-trends/> [<https://perma.cc/5Y3R-M7PZ>] (“Over half the youth in the justice system have been found to suffer from mental health or substance use disorders.”).

⁹ NAT'L CTR. FOR JUV. JUST. & U.S. DEP'T OF EDUC. OFF. OF JUV. JUST. AND DELINQ. PREVENTION, JUVENILE OFFENDERS AND VICTIMS: 2014 NATIONAL REPORT 7 (Melissa Sickmund & Charles Puzanchera eds., 2014).

¹⁰ NAT'L CONF. OF STATE LEGIS., *supra* note 5, at 4.

¹¹ See U.S. DEP'T OF EDUC., PROTECTING THE CIVIL RIGHTS OF STUDENTS IN THE JUVENILE JUSTICE SYSTEM 3 (2016) (noting that students with disabilities represent 12% “of all students in public high schools served by the Individuals with Disabilities Education Act (IDEA)”).

¹² Ed Risler & Tom O'Rourke, *Thinking Exit at Entry: Exploring Outcomes of Georgia's Juvenile Justice Educational Programs*, 60 J. CORRECTIONAL EDUC. 225, 225–29 (2009).

¹³ See, e.g., U.S. DEP'T OF EDUC., *supra* note 11 (highlighting national issues in providing services to youths in correction and spotlighting San Bernardino County).

¹⁴ See AMBER FERN & JILL ADAMS, CTR. FOR JUV. JUST. REFORM, EDUCATION AND INTERAGENCY COLLABORATION: A LIFELINE FOR JUSTICE-INVOLVED YOUTH 5 (2016) (“Juvenile justice involvement, such as attending court hearings during school hours, can disrupt students' school experience.”).

¹⁵ DAVID M. ALTSCHULER ET AL., THE URBAN INST., THE SUSTAINABILITY OF JUVENILE PROGRAMS BEYOND SECOND CHANCE ACT FUNDING: THE CASE OF TWO GRANTEES 1 (2016).

¹⁶ *Department of Justice to Launch Inaugural National Reentry Week*, U.S. DEP'T OF JUST. (Apr.

divert from this pipeline, youth need the necessary knowledge and skills to secure employment, which will help them to reintegrate into their communities.¹⁷

Beyond the devastating effects of insufficient education experienced by formerly incarcerated youth, communities may face negative fiscal impact from low rates of high school graduation. A 2009 study by the Center for Labor Market Studies at Northeastern University found that each high school dropout costs taxpayers over \$292,000 in lost tax revenues, incarceration costs, and social services.¹⁸ Investing in better correctional and reentry education is thus sound fiscal policy that may yield long-term savings. Indeed, in a 2014 joint letter to state education officials, the Attorney General and Secretary of Education encouraged states to prudently allocate taxpayer dollars to improve correctional education and expand access to vocational education to help improve educational outcomes for justice-involved youth.¹⁹

III. RELEVANT FEDERAL POLICIES

There is no federal policy on school reentry regarding formerly incarcerated youth. Youth over the age of sixteen are not always required by state law to return to school.²⁰ The Juvenile Justice and Delinquency Prevention Act of 1974 does not explicitly address the educational needs of students exiting the juvenile justice system.²¹

Other laws based on different federal policies may apply to students in or exiting the juvenile justice system. The McKinney–Vento Homeless Assistance Act of 1987 provides educational guarantees for any homeless youth.²² The protections of the Individuals with Disabilities Education Act of 1990 (IDEA) guarantee all youth with special needs a “free and

22, 2016), <https://www.justice.gov/opa/pr/department-justice-launch-inaugural-national-reentry-week> [<https://perma.cc/B9KC-BA89>].

¹⁷ See *id.* (discussing formerly incarcerated persons generally).

¹⁸ ANDREW SUM ET AL., CTR. FOR LABOR MKT. STUDS., *THE CONSEQUENCES OF DROPPING OUT OF HIGH SCHOOL* 16 (2009).

¹⁹ Policy Letter, U.S. DEP'TS OF EDUC. & JUST. (Dec. 8, 2014), <https://www2.ed.gov/policy/elsec/guid/secletter/141208.html> [<https://perma.cc/T5BS-CAWX>].

²⁰ *Compulsory school attendance laws, minimum and maximum age limits for required free education, by state: 2017*, NAT'L CTR. FOR EDUC. STATS. (2015), https://nces.ed.gov/programs/statereform/tab5_1.asp [<https://perma.cc/6LA9-KB47>] (indicating some states do not require students to attend schools past age sixteen).

²¹ *Re-entry: Reform Trends*, *supra* note 8 (discussing the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, 88 Stat. 1109, and noting that “[w]hile JJDPA funds may be used by states for re-entry services, few states use it for that purpose because they need to direct the limited federal dollars available to comply with the core requirements”); CAMPAIGN FOR YOUTH JUSTICE, *YOUTH IN THE ADULT SYSTEM FACT SHEET 2* (2014) (“Although the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) requires that youth in the juvenile justice system be removed from adult jails or be sight-and-sound separated from other adults, these protections do not apply to youth prosecuted in the adult criminal justice system.”).

²² LEONE & WEINBERG, *supra* note 7, at 23 (discussing the McKinney–Vento Homeless Assistance Act of 1987, Pub. L. 100-77, 101 Stat. 482).

appropriate public education,²³ and require adult transition planning for youth with disabilities beginning at age fourteen.²⁴ The No Child Left Behind Act of 2001 established standards for education that apply to the education received in the juvenile justice system.²⁵ The Every Student Succeeds Act of 2015, which replaced the No Child Left Behind Act,²⁶ requires states to ensure certain protections for students in or exiting the juvenile justice system.²⁷

IV. CORRECTIONAL EDUCATION

Though juvenile justice facilities are legally required to educate youth in placement under age seventeen,²⁸ the quality of correctional education may differ between jurisdictions. The oversight bodies for correctional education, for example, vary by state: in forty-one states, juvenile justice staff, public education agencies, and private education providers together oversee correctional education; in six states, juvenile justice staff solely oversee it; in three states, public education agencies solely oversee it.²⁹ Education providers also vary by state and facility. Teachers from local school districts in some cases may deliver correctional education.³⁰ In other cases, private contractors, education-department staff, or juvenile justice staff deliver it.³¹ Private providers frequently execute Memoranda of Understanding with state education departments to provide particular and limited services.³² Given the variations in delivery and oversight, the quality of correctional education likely varies by jurisdiction and site, and in some cases this variation may

²³ Lauri Goldkind, *A Leadership Opportunity for School Social Workers: Bridging the Gaps in School Reentry for Juvenile Justice System Youths*, 33 CHILD. & SCHS. 229, 232 (2011) (discussing the Individuals with Disabilities Education Act, Pub. L. 101-476, 104 Stat. 1142 (1990)).

²⁴ Heather M. Boltadano, et al., *Transition of Incarcerated Youth with Disabilities Across Systems and Into Adulthood*, 13 EXCEPTIONALITY 103, 104 (2005).

²⁵ See, e.g., No Child Left Behind Act of 2001 § 1414(c)(19), Pub. L. No. 107-110, 115 Stat. 1425 (2002) (codified as amended at 20 U.S.C. § 6434 (2012)) (“[T]he program under this subpart will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. § 5601 *et seq.*) or other comparable programs, if applicable.”).

²⁶ See, e.g., Jason P. Nance, *Students, Police, and the School-to-Prison Pipeline*, 93 WASH. U. L. REV. 919, 940 n.103 (2016) (noting replacement).

²⁷ Every Student Succeeds Act § 1401(4)(A)(ii), Pub. L. No. 114-95, 129 Stat. 1802 (2015) (codified as amended at 20 U.S.C. § 6435) (noting the purpose of this part of the law is to “prevent at-risk youth from dropping out of school, and to provide dropouts, and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education and the involvement of their families and communities”).

²⁸ LOWMAN & MAMAS, *supra* note 1, at 15.

²⁹ COUNCIL OF STATE GOV'TS JUST. CTR., LOCKED OUT: IMPROVING EDUCATIONAL AND VOCATIONAL OUTCOMES FOR INCARCERATED YOUTH 2 (2015).

³⁰ *Id.*

³¹ *Id.*

³² THOMAS G. BLOMBERG ET AL., FLA. STATE U. CTR. FOR CRIM. AND PUB. POL'Y RES. THE JUVENILE JUSTICE NO CHILD LEFT BEHIND COLLABORATION PROJECT 61 (2008).

keep youth from closing the gap in their educational achievement relative to their peers.

While correctional education curricula and standards might be most effective if aligned with state academic standards,³³ this may not always be the case. Students frequently do not earn credit transferrable to public schools for courses completed in detention.³⁴ Correctional education programs also offer fewer math and science courses than public secondary schools.³⁵ Academic standards in correctional education may fall short because of the many challenges teachers face in shaping a curriculum for students with different situations and educational needs: students have different lengths of sentences; students may transfer detention facilities abruptly due to lack of space;³⁶ many students need remedial and special education;³⁷ and, due to limited staffing, students across grade levels and languages often share a classroom.³⁸

Students in juvenile detention are also disadvantaged by lower attendance by and less interaction with their teachers. While technologies such as computer exercises are meant only to enhance correctional education,³⁹ they may sometimes detrimentally replace in-person teacher instruction.⁴⁰ In addition, a report by the Department of Justice's Civil Rights Division found that correctional teachers are eight percent more likely to be absent from the classroom for over ten days than teachers in public high schools.⁴¹ Students may also face disciplinary measures that interfere with class attendance; for example, youth offenders with disabilities sued Contra Costa County Juvenile Hall in California for frequent use of solitary confinement that resulted in "miss[ing] hundreds of hours of education combined," violating protections of IDEA.⁴²

³³ Paul Hirschfield, *Effective and Promising Practices in Transitional Planning and School Reentry*, 65 J. CORRECTIONAL EDUC. 84, 87 (2014).

³⁴ *Id.*

³⁵ U.S. DEP'T OF EDUC., *supra* note 11, at 1.

³⁶ BLOMBERG ET AL., *supra* note 32, at 56.

³⁷ COUNCIL OF STATE GOV'TS JUST. CTR., *supra* note 29, at 1 ("At least one in three incarcerated youth is identified as needing or already receiving special education services—a rate nearly four times higher than youth attending school in the community.")

³⁸ U.S. DEP'TS OF EDUC. & JUST., *supra* note 8, at 3 ("Secure care facilities typically do not have the capacity to provide a 'traditional' school setting with individual grade-level classrooms and core subject teachers. Instead, education staff often must provide instruction to students at a variety of ages and academic levels in one room at the same time.")

³⁹ MICHELLE TOLBERT, U.S. DEP'T OF EDUC., *A REENTRY EDUCATION MODEL: SUPPORTING EDUCATION AND CAREER ADVANCEMENT FOR LOW-SKILL INDIVIDUALS IN CORRECTIONS* 6 (2010).

⁴⁰ BLOMBERG ET AL., *supra* note 32, at 51 ("[O]ne state reported that the result of using the internet to address highly qualified teacher needs has been mixed. Although online classes have allowed each program to address its individual highly qualified teacher needs, one state found that the online instruction has not been as effective as in-person classroom instruction. Specifically, engaging students is more difficult in a virtual classroom."); U.S. DEP'TS OF EDUC. & JUST., *supra* note 8, at 4 ("[T]echnology should not be used as a substitute for teachers and classroom instruction in a secure setting any more than it would replace classroom teaching and engagement in a regular educational setting.")

⁴¹ See U.S. DEP'T OF EDUC., *supra* note 11, at 1 ("While 27% of teachers nationally are absent more than 10 school days per year for reasons unrelated to school activities, 35% of teachers at justice facilities are absent more than 10 days per year.")

⁴² Sarah Cate, *The Politics of Prison Reform: Juvenile Justice Policy in Texas, California, and*

Data on student performance and educational outcomes while in correctional education programs is sparse and incomplete. One source of data stems from a mandate from the No Child Left Behind Act,⁴³ which required states to report standardized test scores for youth who have been in custody for one academic year,⁴⁴ but excludes the test scores of many other students.⁴⁵ As of 2006, only thirty of forty-three states surveyed by the Center for Criminology and Policy Research had implemented the formal evaluations of their correctional education programs as required by the Act.⁴⁶ Another source of data comes from efforts by some states to track attainment of transferrable credits, high school diplomas, and GEDs by incarcerated youth in correctional education:⁴⁷ as of 2015, twenty-seven states tracked attainment of transferrable post-secondary credits; forty-six tracked high school diploma attainment; and eighteen tracked attainment of post-secondary degrees.⁴⁸

V. EDUCATION REENTRY TRANSITION SERVICES AND PROGRAMS

Some states provide transition services to support youth reentering their communities. Research shows that engagement is the most important factor for youth during the transition process, and that the type of reentry program—educational, vocational, or community-oriented—is less important to diversion from recidivism than engagement.⁴⁹ One of the earliest developed and most commonly used models for reentry programs is the Intensive Aftercare Program (IAP), developed in 1994 by researchers David Altschuler and Troy Armstrong.⁵⁰ IAP includes reentry services commonly considered best practices today, such as continuity of care, family involvement, and cultural competency.⁵¹ Evaluations of IAP, however, still show relatively high recidivism rates for participating youth that are equivalent to rates of the control group.⁵²

Pennsylvania 139 (Jan. 1, 2016) (Ph.D. dissertation, University of Pennsylvania), <https://repository.upenn.edu/cgi/viewcontent.cgi?article=3425&context=edissertations>.

⁴³ No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425 (2002).

⁴⁴ Peter Leone & Candace Cutting, *Appropriate Educations, Juvenile Corrections, and No Child Left Behind*, 29 BEHAVIORAL DISORDERS 260, 263 (2004).

⁴⁵ *Id.*

⁴⁶ BLOMBERG ET AL., *supra* note 32, at 17, 43.

⁴⁷ LOCKED OUT, *supra* 29, at 7.

⁴⁸ *Id.*

⁴⁹ William H. Barton & G. Roger Jarjoura, *Applying a Developmental Lens to Juvenile Reentry and Reintegration*, 1 J. OF JUV. JUST. 95, 97-98 (2012).

⁵⁰ *Id.* at 95.

⁵¹ See, e.g., *Re-entry: Reform Trends*, *supra* note 8 (“The IAP model focused on ‘the identification, preparation, transition, and re-entry of ‘high-risk’ juvenile offenders from secure confinement back into the community in a gradual, highly structured, and closely monitored fashion.’ This model was one of the first to acknowledge that effective aftercare planning must begin from the moment a young person enters a correctional facility.”).

⁵² Barton & Jarjoura, *supra* note 49, at 95-96.

To work toward better educational outcomes, states must commit sufficient resources to reentry planning. Texas is among the states that appear to have invested significantly in such planning. The Texas Juvenile Justice Department's (TJJD) education goal is to "provide each youth quality academic and vocational experiences in order to better equip them for a successful reentry into community life."⁵³ TJJD begins reentry planning at the moment of intake by creating the plan by doing "a comprehensive and accurate assessment," and continues these assessments "at regular intervals during the youth's time in" custody.⁵⁴ TJJD also employs Education Reentry Liaisons and Workforce Development Re-entry Specialists in both its facilities and parole offices to assist with navigating the school reentry process, preparing for GED exams, finding vocational training opportunities, and otherwise achieving a post-secondary education.⁵⁵ Texas has also pursued additional programs in the past, such as the now-discontinued Gang Intervention Treatment: Reentry Development for Youth (GitRedy) initiative in Houston that had some success in developing strategies for reentry services.⁵⁶

A state may also use federal funding for its youth reentry services, though availability of such funding is limited. The Department of Labor formerly offered some funding through Youth Opportunity Grants as part of the Workforce Investment Act of 1998.⁵⁷ The thirty-six grants under this program ranged in amount between \$3.1 and \$43.8 million and served more than 90,000 youths aged fourteen to twenty-one in high-poverty communities.⁵⁸ In 2007, the Second Chance Act⁵⁹ provided the Department of Justice with \$53 million to fund state and local reentry programs and the evaluation of correctional education, meant to reduce recidivism among youth and adults.⁶⁰

The federal government recently issued voluntary guidelines meant to help states decrease the school dropout rate and improve reentry transitions. In 2012, the Department of Education issued a Reentry Education model as an evidence-based approach to aligning correctional and educational services.⁶¹ The model recommends staff training, data

⁵³ *TJJD Strategic Plan 2015-2019*, TEX. JUV. JUST. DEP'T (Apr. 11, 2017), <https://www.tjjd.texas.gov/programs/education.aspx> [<https://perma.cc/67KB-EJVS>].

⁵⁴ TEX. JUV. JUST. DEP'T, COMPREHENSIVE REPORT: YOUTH REENTRY AND REINTEGRATION 7 (2012).

⁵⁵ *TJJD Strategic Plan*, *supra* note 53, at 52.

⁵⁶ ALTSCHULER ET AL., *supra* note 15, at 5 ("Since the end of the Second Chance Act grant in September 2014, GitRedy has not continued funding the staff positions of project reentry specialist and gang intervention specialist, and as such the program has been formally terminated.")

⁵⁷ LINDA HARRIS, CTR. FOR L. AND SOC. POL'Y, LEARNING FROM THE YOUTH OPPORTUNITY EXPERIENCE 3 (2006); *see also* Workforce Investment Act of 1998 § 169, Pub. L. 105-220, 112 Stat. 936 (codified at 29 U.S.C. § 2811) (section entitled "Youth Opportunity Grants").

⁵⁸ HARRIS, *supra* note 57 at 3-4.

⁵⁹ Second Chance Act of 2007, H.R. 1593, 110th Cong. (2008).

⁶⁰ *Attorney General Loretta E. Lynch Delivers Remarks at Second Chance Act - Justice and Mental Health Collaboration Program National Conference*, U.S. DEP'T OF JUST. (Dec. 16, 2015), <https://www.justice.gov/opa/speech/attorney-general-loretta-e-lynch-delivers-remarks-second-chance-act-justice-and-mental> [<https://perma.cc/CF29-G7JU>].

⁶¹ MICHELLE TOLBERT & LAURA RASMUSSEN FOSTER, U.S. DEP'T OF EDUC., REENTRY

tracking of long-term student outcomes, and formal evaluation of correctional education.⁶² The model's stated goal is "long-term employment in living-wage occupation without recidivating."⁶³

State divisions may also directly collaborate on improving reentry services. The Family Court and the Department of Human Services in Philadelphia, for example, led a 2005 reintegration initiative to improve correctional education and reentry processes.⁶⁴ Not long before the improvements, as little as ten percent of youth placed in the Philadelphia juvenile justice system graduated from Philadelphia public schools.⁶⁵ As a result of the collaboration, the city established a "streamlined" record transferal process, created a dual-credit program with a local community college, accelerated high schools for older youth, and evening programs for students with daytime jobs.⁶⁶ By 2008, thirty-one percent of the youth released from placement received a high school diploma, GED, or both.⁶⁷

VI. OBSTACLES TO SCHOOL REENTRY

Certain state laws can hinder or disincentivize reenrollment. The maximum age until which free public education is guaranteed, for example, is lower in some states than others; as of 2015, the maximum age was seventeen in one state, nineteen in two states, twenty in nine states, and twenty-one or older in thirty-one states.⁶⁸ See Figure 1. The age until which school attendance is compulsory is higher in some states than others; as of 2015, this age was sixteen in fifteen states, seventeen in eleven states, and eighteen in twenty-four states.⁶⁹ See Figure 2.

EDUCATION FRAMEWORK: GUIDELINES FOR PROVIDING HIGH-QUALITY EDUCATION FOR ADULTS INVOLVED IN THE CRIMINAL JUSTICE SYSTEM 6 (2016).

⁶² TOLBERT, *supra* note 39, at 5.

⁶³ TOLBERT, *supra* note 61, at 5.

⁶⁴ ROBERT G. SCHWARTZ, JUV. L. CTR., PENNSYLVANIA AND MACARTHUR'S MODELS FOR CHANGE: THE STORY OF A SUCCESSFUL PUBLIC-PRIVATE PARTNERSHIP 18 (2013); PATRICK GRIFFIN & MARY HUNNINEN, NAT'L CTR. FOR JUV. JUST., PENNSYLVANIA PROGRESS: PREPARING YOUTH FOR PRODUCTIVE FUTURES 2 (2008).

⁶⁵ GRIFFIN & HUNNINEN, *supra* note 64, at 3 (noting that a study between 2000 and 2005 found that "in one cohort analyzed, 90% of those with a juvenile justice placement never graduate from the Philadelphia School system, [with] some of them complet[ing] school in placement [but with] the vast majority simply dropp[ing] out").

⁶⁶ *Id.* at 3, 6.

⁶⁷ *Re-entry: Reform Trends*, *supra* note 8.

⁶⁸ *Compulsory school attendance laws*, *supra* note 20 (noting that Texas has the highest age until which free education is offered, at twenty-six).

⁶⁹ *Id.*

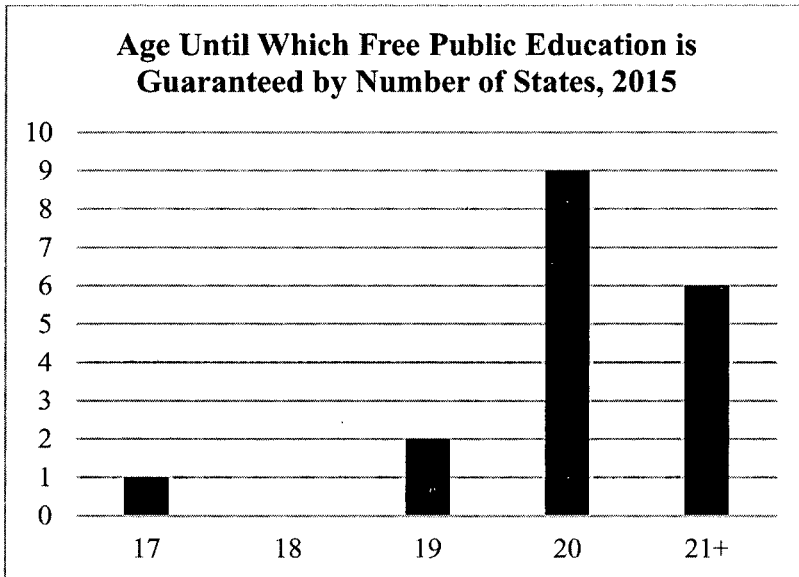


Figure 1

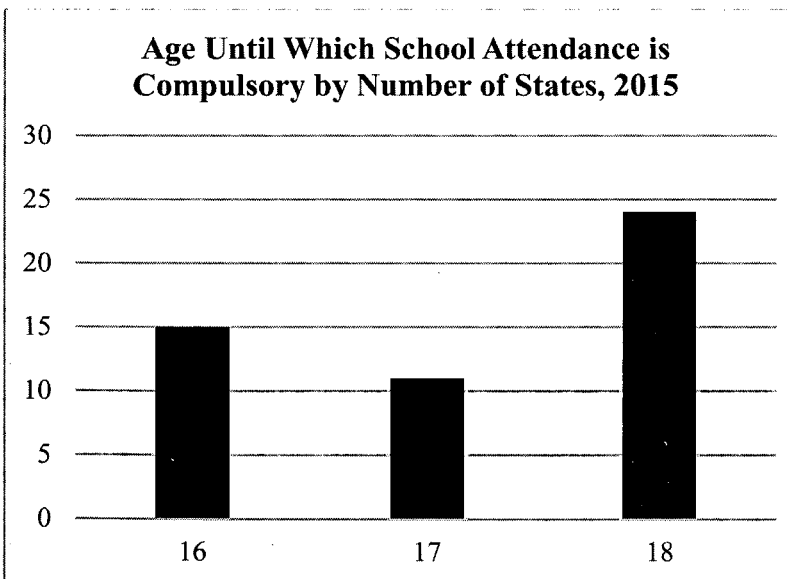


Figure 2

Administrative practices within local school districts may also be complicated. Some local school districts do not always grant students course credit for correctional education.⁷⁰ More difficult record transfer procedures, in place partly due to the privacy protections of student

⁷⁰ Hirschfield, *supra* note 33, at 87.

records under the Family Educational Rights and Privacy Act of 1974,⁷¹ can create unintended complications. Long and complex registration procedures can result in postponement of reenrollment until the start of the next school semester.⁷² Certain documentation requirements, such as proof of age, residence, and immunizations, can pose barriers to reenrollment.⁷³ These difficulties and delays can have a dramatic effect on the likelihood that released youths will return to school.

Public school districts may also be reluctant to accept formerly incarcerated youth.⁷⁴ These schools perhaps fear that accepting formerly incarcerated youth will negatively affect standardized test score averages, graduation rates, and school attendance rates. These kinds of concerns may be some of the major issues today in policy discussions around school reentry.

Public school districts may also be concerned about the safety implications of enrolling formerly incarcerated youth,⁷⁵ despite the fact that the majority of the released youth committed only nonviolent offenses.⁷⁶ Some school districts will narrowly elect to not reenroll youth convicted of a sex offense.⁷⁷ More broadly, other school districts may not enroll students who have been expelled for any reason from a school within the system.⁷⁸

These obstacles to school reentry, combined with conditions of release, can push youth into alternatives. Regular school attendance may perhaps be a condition of probation, the violation of which can quickly result in re-incarceration. Such a condition may have the effect of pushing youth who cannot enroll in public schools into alternate education, discussed *infra*, and GED programs.⁷⁹

Released youth, once enrolled, may also lack the means or incentives to stay in school or remain engaged in work. A longitudinal study in Oregon by the Transition Research on Adjudicated Youth in Community Settings (TRACS) project, for example, found a significant drop in continuing enrollment or work engagement shortly after release; findings indicated that at six months after release, forty-seven percent of

⁷¹ LEONE & WEINBERG, *supra* note 7, at 22 (discussing the Family Educational Rights and Privacy Act of 1974, Pub. L. No. 93-380, 88 Stat. 5).

⁷² *Id.* at 25.

⁷³ LOWMAN & MAMAS, *supra* note 1, at 26.

⁷⁴ See *infra* Part VII.

⁷⁵ See, e.g., Michael Bullis et al., *Life on the "Outs"—Examination of the Facility-to-Community Transition of Incarcerated Youth*, 69 EXCEPTIONAL CHILD. 7, 19 (2016) (noting that “there is reason to incarcerate youth who commit certain crimes for the reason of public safety”).

⁷⁶ NELLIS & WAYMAN, *supra* note 2, at 13 (“Nearly two-thirds of juveniles in out-of-home placements are held for nonviolent offenses.”).

⁷⁷ Ashley Nellis, *Addressing the Collateral Consequences of Convictions for Young Offenders*, THE CHAMPION, 24 July/August 2011, at 24.

⁷⁸ JUV. L. CTR., JUSTICE FOR JUVENILES: YOUTH RECOMMENDATIONS TO IMPROVE EDUCATIONAL OUTCOMES FOR YOUTH IN THE JUVENILE JUSTICE SYSTEM 11 (2015) (discussing zero tolerance policies).

⁷⁹ LOWMAN & MAMAS, *supra* note 1, at 21.

the 531 youth participants were engaged in school or work, but at one year after release, only thirty-one percent of the participants remained engaged.⁸⁰ The study also found that participants with learning disabilities experienced worse educational and employment outcomes.⁸¹

VII. ALTERNATIVE SCHOOLS OFFER AN “EASY OUT”

Some school districts may recommend released youth enroll in or transfer to alternative schools. According to a 2008 survey by the Department of Education, forty-two percent of public school districts administered alternative schools and programs meant for students previously arrested or involved in the juvenile justice system.⁸² Some states have no protections limiting the ability of school districts to refuse to enroll previously incarcerated youth in their main school systems.⁸³ Other states may only have certain procedural protections.

Alternative schools and programs are controversial. Some commentators celebrate the success of prominent programs such as the Maya Angelou Public Charter Schools in Washington, D.C.⁸⁴ Others question if alternative school programs consistently provide sufficient educational quality.⁸⁵ On this point, a former director of the Maya Angelou Charter Schools said, “If you want to see really dysfunctional schools, just go visit the designated alternative schools in any city around the country. These schools are just dumping grounds where schools throw kids they don’t want to deal with. . . . [Their] presence just gives everybody an easy out.”⁸⁶

⁸⁰ Bullis et al., *supra* note 75, at 7 (summarizing the Transition Research on Adjudicated Youth in Community Settings (TRACS) project, a longitudinal study published in 2002 that tracked 531 youth released from juvenile justice facilities in Oregon over five years and sought to identify factors that contributed to success upon community reentry).

⁸¹ *See id.* at 18 (“[It] is clear that participants with special education disabilities fared worse than their peers without disabilities.”).

⁸² PRISCILLA R. CARVER ET AL., NAT’L CTR. FOR EDUC. STATS., ALTERNATIVE SCHOOLS AND PROGRAMS FOR PUBLIC SCHOOL STUDENTS AT RISK OF EDUCATIONAL FAILURE: 2007–08 11 (2010).

⁸³ JUV. L. CTR., *supra* note 78, at 11.

⁸⁴ *See* AMBER FARN & JILL ADAMS, CTR. FOR JUV. JUST. REFORM, EDUCATION AND INTERAGENCY COLLABORATION: A LIFELINE FOR JUSTICE-INVOLVED YOUTH 10–11 (2016) (discussing the successes of students at Maya Angelou Academy at New Beginnings).

⁸⁵ *See* Melinda D. Anderson, *Learning Behind Bars*, THE ATLANTIC (Jun. 6, 2016), <https://www.theatlantic.com/education/archive/2016/06/learning-behind-bars/485663/> [<https://perma.cc/86CJ-SYWX>] (discussing the fact that education quality in correctional settings can vary greatly).

⁸⁶ *See Forever Board*, MAYA ANGELOU SCHOOLS SEE FOREVER FOUNDATION, <http://www.seeever.org/the-foundation/see-forever-board/> [<https://perma.cc/BQ5M-GNAF>] (quoting David Domenici, Director of the Center for Educational Excellence in Alternative Settings).

VIII. RECOMMENDATIONS

1. Implement individualized, long-term educational planning from intake to discharge.

From the moment of intake, correctional staff should develop and implement an individualized educational plan for each student that both targets specific educational outcomes and contains possible routes for school reentry. One example of a model for this approach is Georgia's Student Transition Model, which includes a four-stage timeline for correctional education: intake, ongoing educational activities, review for release, and a formal exit interview.⁸⁷ Correctional staff compiles important documents in a student portfolio, which contains official documentation of previous academic records, completed correctional education, and information on next steps for reenrollment.⁸⁸ To further facilitate education reentry, correctional staff should give the student a transition portfolio consisting of official documentation of completed correctional education and information on next steps for reenrollment, including application timeliness and credit equivalency charts, to facilitate knowledge about the reenrollment process.

2. Encourage greater collaboration between state education agencies, local school districts, and juvenile justice facilities.

Policymakers should encourage greater collaboration on correctional education between state and local education agencies, local school districts, and juvenile justice facilities. Policymakers should help standardize and streamline the education reenrollment process, including increased use of integrated electronic systems. Juvenile justice facilities should work directly with home school districts to timely transfer records and place students immediately upon release. They should also connect the released youth with probation departments, child welfare systems, mental health agencies, and community organizations to help initiate wraparound aftercare services. In particular, similarly focused probation departments may aid the reentry process; Pennsylvania probation officers, for example, improved their rates of reenrolling youth under their supervision in public school after training to advocate education reentry.⁸⁹

⁸⁷ Ed Risler & Tom O'Rourke, *Thinking Exit at Entry: Exploring Outcomes of Georgia's Juvenile Justice Education Programs*, 60 J. CORRECTIONAL EDUC. 225, 230 (2009).

⁸⁸ *Id.*

⁸⁹ See SCHWARTZ, *supra* note 64, at 21 ("Probation officers became education advocates. They

Some private parties help create the necessary connection between education and justice departments. A New York City nonprofit organization, for example, supports reentry by assessing current levels of student education, expediting school reenrollment and record transfer where possible, and tutoring students in reading.⁹⁰ Program data on student outcomes indicate a sixty-six percent student retention rate, on average, from one academic year to the next.⁹¹

3. Align correctional education curricula and standards with local school districts.

Policymakers should align correctional education curricula and standards with those of local school districts. Students should always be able to earn transferrable course credit for schooling completed in detention. State correctional education standards, when fully aligned with local school district standards, could provide benchmarks of quality related to minimum daily hours of classroom instruction, maximum student-teacher ratios, and minimum teacher credentials. Aligned educational standards could also make available professional development opportunities, instruction for English Language Learners in their native language, services for students with learning disabilities and remedial needs, and a more complete offering of core courses.

4. Increase tracking and evaluation of academic outcomes.

Long-term academic outcomes for students who formerly attended correctional education should be tracked. This tracking should include data points that measure performance and completion in correctional courses as well as subsequent secondary and post-secondary courses, attainment rates for high school diplomas and General Education Development (GED) certificates, performance and completion in any vocational training programs, and results from evaluations of the efficacy of local correctional education led by State juvenile justice departments. Policymakers can then use this information to inform and develop policy change and reform.

State juvenile justice departments may vary in evaluation methods for their correctional education programs. If cost permits, state

were much more successful with school enrollment when youth left placement.”).

⁹⁰ CORA ROY-STEVENS, U.S. DEP’T OF JUST., *OVERCOMING BARRIERS TO SCHOOL REENTRY 1-2* (2004) (discussing services available at Community Prep High School, a transitional school for students who are ready to attend community schools on release from custody).

⁹¹ *Id.*

juvenile justice departments may develop their own evaluation methods for correctional education and perform these evaluations on a regular and formal basis; if budgets are constrained, they should at a minimum implement wider use of already available evaluation tools modeled after publicly available options. The State Correctional Education Self-Assessment (SCES) tool developed by the Department of Education, for example, is publicly accessible online to help state governments complete voluntary self-assessments of special education within correctional programs.⁹²

5. Place more social workers in public schools to support youth in transition.

Policymakers should place more social workers in public schools to emphasize transition services around release and to provide integral support to youths. The process of school reenrollment frequently throws youth off-track.⁹³ Social workers can act as liaisons between schools and correctional staff at juvenile justice facilities to smooth the transition and increase reenrollment.

6. Mandate that schools accept formerly incarcerated students.

Due to the poor educational quality of many alternative programs,⁹⁴ state legislators should support legislation to remove barriers to school reenrollment for formerly incarcerated youth. States should follow the lead of Connecticut⁹⁵ and Washington,⁹⁶ which have laws favorable to youths that may allow them to be more easily readmitted or otherwise protect them from being expelled in certain circumstances.

⁹² U.S. DEP'T OF EDUC. OFF. OF SPEC. EDU. PROGRAMS (OSEP), STATE CORRECTIONAL EDUCATION SELF-ASSESSMENT (SCES) (2014) ("The Office of Special Education Programs (OSEP) has developed a voluntary State Correctional Education Self-Assessment (SCES) to assist States in self-assessing their systems for providing special education and related services to students with disabilities in correctional facilities.").

⁹³ See *supra* Part IV.

⁹⁴ See Anderson, *supra* note 85 (discussing the fact that education quality in correctional settings can vary greatly).

⁹⁵ See Conn. Gen. Stat. § 10-233d (2017) (requiring boards of education to readmit students to the district if such student has been in an out-of-district placement in lieu of expulsion).

⁹⁶ See, e.g., Wash. Rev. Code § 28A.635.020 (protecting students' freedom of speech while in school).

7. Increase investment in and funding for correctional education and reentry programs.

States and the federal government should increase investment and funding for correctional education. This investment may be needed for adequate staffing⁹⁷ and will likely yield long-term savings. A 2009 study by the RAND Corporation found that each dollar invested in adult correctional education returns five dollars in savings during the first three years following release.⁹⁸ Given the importance of education for youth in transition, it seems likely that similar investments in juvenile correctional education would yield similar, if not greater, benefits.

Availability of federal funding should be revisited and increased. For example, the Department of Education in 2016 allocated a small federal grant of \$5.6 million to only four secondary and post-secondary grantees across the country.⁹⁹ Many more programs likely need this kind of funding to improve their correction education. A 2012 report by educational foundations and stakeholders recommended that policymakers amend the Elementary and Secondary Education Act (ESEA) to require states and localities to use ESEA funding in part for educational services for reentering youth, with accountability to the Department of Education.¹⁰⁰ Policymakers could also revisit federal funding formulas¹⁰¹ for state and local education to incentivize spending on reentry services, and expand eligibility for federal Pell grants¹⁰² that support post-secondary education to include funding at the secondary school level.

⁹⁷ See U.S. DEP'T OF EDUC., *supra* note 11, at 1 (“While 27% of teachers nationally are absent more than 10 school days per year for reasons unrelated to school activities, 35% of teachers at justice facilities are absent more than 10 days per year.”).

⁹⁸ LOIS M. DAVIS ET AL., RAND CORP., *HOW EFFECTIVE IS CORRECTIONAL EDUCATION, AND WHERE DO WE GO FROM HERE?: THE RESULTS OF A COMPREHENSIVE EVALUATION* 78 (2014) (“Our meta-analysis results . . . suggest that . . . for every dollar spent on correctional education programs, five dollars are saved in three-year reincarceration costs.”).

⁹⁹ *Education Department Announces New Tools to Support Successful Reentry for Formerly Incarcerated Youth and Adults*, U.S. DEP'T OF EDUC. (Apr. 25, 2016), <https://www.ed.gov/news/press-releases/education-department-announces-new-tools-support-successful-reentry-formerly-incarcerated-youth-and-adults> [<https://perma.cc/BY37-6NMT>].

¹⁰⁰ JUV. LAW CTR. ET AL., *TOOL IX: FEDERAL POLICY RECOMMENDATIONS* 10 (2013) (discussing the Elementary and Secondary Education Act (ESEA), Pub. L. 89-10, 79 Stat. 27 (1965)).

¹⁰¹ For more information on federal funding formulas, see *How Do School Funding Formulas Work?*, URBAN INST. (Nov. 29, 2017), <https://apps.urban.org/features/funding-formulas/> [<https://perma.cc/YWN3-2R4F>].

¹⁰² For more information of federal Pell grants, see *Federal Pell Grant Program*, U.S. DEP'T OF EDUC., <https://www2.ed.gov/programs/fpg/index.html> [<https://perma.cc/VD2X-HHL9>].

8. Implement best practices in the continuum of educational services.

States should consider implementing the following best practices in the continuum of educational services:

First, states should ensure sufficient reentry planning. States should start planning at intake and continue planning through release, identify skill-building opportunities, complete a transition portfolio, and collaborate and share information between agencies during the process.

Second, states should ensure quality correctional education. States should create an individualized case plan with defined outcomes; align curricular with local school districts; offer remedial, ELL, and special education services; offer sufficient core courses; and conduct regular and formal evaluations of their programs.

Third, states should give proper emphasis to transitional services. States should coordinate with probation departments, emphasize engagement, provide access to affordable GED testing and preparation, and provide access to vocational training.

Lastly, states should focus on school reentry services. States should transfer records in a timely manner, reenroll students within two days of release, ensure students earn transferable credits, and provide classes with evening and weekend hours offered at alternative schools.

CONCLUSION

Central to juvenile justice reform are the principles that the rights and welfare of youth in the system matter and that this population is not expendable. Strengthening correctional education and reentry services will provide a powerful and desperately needed means to mend the damage caused by the school-to-prison pipeline and criminalization of underprivileged minorities in the criminal justice system in the United States.¹⁰³ Education must become a higher priority for stakeholders, as it represents a crucial component of how youth involved in the juvenile justice system may work toward better life outcomes and reduce their likelihood of recidivism. The evidence outlined in this Note points to the need for increased investment and innovative solutions that strengthen correctional education, remove barriers to school reentry, and provide released youth with the support and tools they need to succeed.

¹⁰³ See Christopher A. Mallett, *The School-to-Prison Pipeline*, 49 *EDUC. & URBAN SOC'Y* 563, 572–73 (2017) (referencing the connection between race and juvenile corrections).

