

Double Punished: Locked Out of Opportunity

How Education Policy Fails Students Behind Bars

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Executive Summary

Today, and on any given day, tens of thousands of students are attending school behind bars. Although all incarcerated youth are entitled to education opportunities under federal and state laws, very few of them receive the kinds of high-quality programs that they need. For many of them, this may be their last, and their best, chance to prepare for a healthy transition to adulthood. And it's being squandered.

Despite the steady decline in youth incarceration during the past two decades, the best estimate suggests that there were nearly a quarter of a million instances of a young person being detained or committed to a juvenile facility in 2019. Students in juvenile justice education programs are disproportionately youth of color, youth who are (or who are perceived to be) LGBTQIA+, and students with disabilities. Juvenile justice education fails many of these students every day, leading to serious long-term consequences for many of our most vulnerable and marginalized youth.

State policymakers are responsible for creating the policy conditions that ensure these programs are effective, but the task is a difficult one, given that the underlying policy design of juvenile justice education is fundamentally flawed. Although juvenile justice education programs are operated by local education agencies (LEAs) and are called schools, the waivers, exceptions, and fragmentation of leadership in juvenile justice settings makes it nearly impossible for educators to create conditions that approach those of “a school,” let alone to provide high-quality education programming.

Although we believe it is most effective to provide education and rehabilitative services to youth when they are in their communities rather than behind bars, we are pragmatic and understand that the practice of incarcerating kids is occurring in every state today, and that there are children who are being educated in those environments. To that end, we reviewed juvenile justice education policies in all 50 states, Washington, D.C., and Puerto Rico. We focused on three areas of policy that must be coherent, interlocking, and mutually reinforcing to create functional education programs: governance, accountability, and finance.

Governance policies describe who is responsible for providing education services to youth in custody. Accountability policies determine how programs are evaluated and what happens when they aren't delivering. And finance policies explain how state funding is allocated to the government agencies responsible for operating programs in juvenile facilities.

Designing more effective governance, accountability, and finance policies can produce the conditions necessary for creating high quality juvenile justice education programs. However, our review of current state juvenile justice education policies shows that there is much to improve.

KEY FINDINGS

Governance models for juvenile justice education vary widely across states, but “fragmentation” is the most common policy design.

State governance models dictate who is responsible for providing education services to incarcerated youth and is the structure within which decisions like hiring and firing teachers, selecting curriculum, and rules about course assignment and credit accrual are made. Effective governance models provide clarity for all stakeholders in terms of who is responsible for education, and they create mechanisms that promote consistent and clear communication across government agencies.

We found that most states clearly define in state statutes which agencies are ultimately responsible for providing education services to youth in custody; however, that is where the clarity ends. Within states, governance models assigning responsibility to deliver education can range from state agencies that contract with LEAs, public charter schools, or education nonprofits, to systems where the state's custodial agency provides for and oversees the education program. There are also many models in between where the state may assign responsibility to a county or other municipal entity or to the geographic school district where the building is located.

In many states, we found that multiple agencies are involved in supporting juvenile justice education, creating a system of fragmented responsibility. In fact, in at least 28 states the agency responsible for providing education services in local detention centers is not the agency responsible for education in state-run facilities. In some states, one agency is responsible for providing direct instruction in a juvenile facility, while another agency controls funding for the education program. Fragmented systems of responsibility like these work against creating and sustaining high-quality educational programming for students, and they also weaken the power of accountability incentives. Moreover, when agencies are responsible for students only temporarily, it can create a disincentive for investing the resources needed to provide high-quality programming.

Accountability for juvenile justice education programs varies widely across states and ranges from nonexistent to non-applicable to overwhelming.

Accountability policies are the mechanism by which the state ensures quality across programs, regardless of the governance model. This set of tools can include assessment and attendance data, teacher evaluations, school visits, and other data-collection strategies, as well as the interventions that follow when a program is not meeting expectations. At their most powerful, accountability strategies include the authority to close failing schools or force turnarounds. The most effective accountability systems set clear and attainable goals for programs, ensure educators have the capacity and resources to deliver high-quality education, provide timely technical assistance and support to low-performing programs, and create powerful incentives via enforcement mechanisms.

Given the fragmentation that exists in many state governance models, it is not surprising that we found juvenile justice education programs are often required to submit data to multiple government agencies. When the goals set by different agencies are not the same or conflict with one another, it can weaken accountability incentives and result in programs pursuing many more goals than is feasible to achieve.

We also found that states use a wide range of indicators to assess the performance of juvenile justice education programs, but very few are aligned to students' real

experiences. In many states, the indicators used to evaluate the quality of these programs are simply not applicable to the student populations that the programs serve, mostly because many students are incarcerated for short and unpredictable amounts of time. As a result, we know very little about whether these programs are achieving the goals they set for themselves or that are set by state policymakers.

Perhaps most problematically, we found that only about a third of states have policies for what happens if these programs underperform, including nine states that intervene directly in poor-performing programs. Most states say little or nothing at all about the methods they take to evaluate programs and to hold them accountable to meet the needs of the students they serve. The lack of consequential accountability means there are few incentives for these programs to improve the quality of education services students receive, or for governing agencies to invest more financial resources to improve these programs.

Funding juvenile justice education is primarily a state and local responsibility, and the sources of that funding and the designs for budgeting vary significantly.

Financing structures create the means by which resources are allocated for programs and can be designed to incentivize those behaviors that may otherwise be difficult to regulate. Effective finance structures provide adequate funding and incentivize those responsible for providing education services to invest the resources needed to operate high-quality education programs.

The financial responsibility to provide education services to youth in custody varies across and within states. LEAs and state agencies take on the bulk of funding, while many states receive some federal funding through the Every Student Succeeds Act (ESSA), federal legislation governing public education in the United States. However, the design of those funding structures is highly varied. A few states have established special funds to provide education services to youth in custody, whereas others create shared arrangements to cover the costs of educating youth committed to state facilities.

Most states appropriate funding for juvenile justice education programs, and many use the same funding formulas for traditional education programs. In many states, money is appropriated to these programs directly by the state legislature using per-pupil funding formulas, or by allocating money directly to state agencies that are responsible for providing education services.

Having LEAs pay for the education services of their incarcerated students can create perverse incentives to only do the bare minimum required by law — as opposed to all that is necessary for the long-term success of students. This is the reality in the 17 states where LEAs are financially responsible for education services to youth in custody. These financial policies may create disincentives for LEAs to invest the resources necessary to deliver a high-quality education program with all the supports and services needed for this unique population. LEAs may also lack the will to invest in providing high-quality education services to students who do not belong to their district and are only temporarily their responsibility, especially if they are not held accountable for program effectiveness.

RECOMMENDATIONS

State policymakers are responsible for creating the policy conditions that ensure juvenile justice education programs are effective.

Confoundingly, the state's choice to take custody of a child rarely results in a heightened expectation of care for that child. Instead, the responsibilities are typically relaxed to a bare-minimum standard of health and safety. This compliance orientation, combined with fear-based politics, means that responsibility is diffused to the point of being meaningless. A child in the custody of a state agency is entrusted to the care of the government, and the authors believe that creates a heightened moral responsibility (and arguably a legal one) for policymakers to provide that student with the highest-quality educational opportunities.

Functional governance, accountability, and finance policies are essential for creating the conditions that allow high-quality education to flourish in every system, including in juvenile facilities. To that end, we offer policymakers six recommendations for leveraging those three policies to improve the quality of juvenile justice education:

1. Reduce the fragmentation of responsibility that exists in juvenile justice education governance.

In many states, more than one agency is responsible for providing education to students in juvenile facilities, creating a system of fragmented responsibility. At its best, a fragmented governance model disrupts student learning for days and weeks, and at its worst, students stop learning altogether. There are several ways that states can create a continuity of responsibility for students from the moment they enter a juvenile facility all the way through their transition back into their communities. Those methods include making one agency responsible for always providing students with education services in all facilities; creating a coordinating entity; and developing high-quality contracts that clearly state who is responsible for providing education services. Regardless of what approach is taken, states must ensure that decision-making authority is clear enough to allow agencies to meet their minimum compliance standards.

2. Create meaningful accountability systems and consolidate multiple accountability structures.

States with nonexistent accountability for juvenile justice education programs need to create a system from scratch, whereas many states must consolidate the number of accountability structures to which these programs are subjected. When the goals set by different agencies are not the same or conflict with one another, it can undermine accountability incentives, especially when the goals are impossible to achieve. Thoughtful governance and finance policy should guide how and where state policymakers consolidate accountability structures.

3. Define clear goals that are tailored to the purpose of juvenile justice education programs.

Many of the indicators used to hold juvenile justice education programs accountable are not applicable or relevant to students in these programs, especially those who are incarcerated for short durations. States should take a more tailored approach that is aligned to students' grade level, their length of time in confinement, and their transition back into the community. We recommend setting goals for these programs that focus on short-term academic growth toward grade level and successful transitions back

into the community. States can learn from the construction of college and career accountability indicators in many states when it comes to aggregating accountability indicators across all students within an individual program — a necessary element for effective accountability policy design.

4. Invest in creating innovative assessment and data-collection tools, uniform student record databases, and strong data-sharing practices.

States must invest in developing data infrastructure and innovative assessment tools that provide the information needed to answer the questions that the accountability system is asking about juvenile justice education programs. This includes developing innovative assessment systems that can serve multiple functions, building uniform student record databases, and crafting strong data-sharing practices across government agencies. All of this will require that states invest in the advancement of juvenile justice data systems, much like investments that many states have made in understanding traditional K-12 programs.

5. Publicly report data on juvenile justice education programs to enhance transparency and enable rigorous research on these programs.

States must commit to publicly reporting data on juvenile justice education programs and avoid the excuses of small n-sizes, inadequate measurement tools, and other technicalities that create loopholes to evade accountability. Right now, we know very little about what goes on inside these programs — from how much per-pupil funding is spent on educational services, to the quality of education inputs, to whether the education services provided to students are effective. Without the necessary information, we have no way of understanding the true scope of the problem, nor do researchers have the necessary information to assess the efficacy of any solutions.

6. Ensure that the design of finance policy is dictated by the governance model and accountability system — not the other way around.

There is a familiar refrain in policy work: The budget is the policy. Each of these recommendations must be supported by aligned finance policy. When finance policy is aligned to governance and accountability, funding is managed by the

people responsible for operating juvenile justice education programs and held accountable for program effectiveness. The people responsible for overseeing or operating these programs are best positioned to know where funding is needed the most. The greater the disconnect between finance and governance, the greater the chance that funding is not allocated for the right things. Similarly, when the agency in control of finance is not the same as the one held accountable for results, it creates a disincentive for allocating the resources necessary to create high-quality programming for students.

CONCLUSION

We believe states that adopt these recommendations can create the conditions that are most likely to ensure students receiving education in juvenile facilities are afforded the highest-quality opportunities. That said, the most effective policy reform would be to keep kids in their communities rather than putting them behind bars. This approach would have significant and lifelong benefits for young people, families, and communities and could be achieved through a range of additional public safety policies, such as limiting police presence on school campuses, court reforms centered on diversion and sentencing, and investments in direct anti-poverty programs that reduce stress, lessening its effects on healthy development. All of these policies are supported by robust bodies of research.

Although students in juvenile facilities may have presented behavioral and/or academic challenges in their home schools, the K-12 system cannot abdicate responsibility for student learning just because a child is challenging. In fact, many students in juvenile facilities describe early and chronic experiences with school failure as the origin of their alienation — and we know that improving school quality and instructional practice helps to keep kids out of these systems in the first place. However, we recognize that there are students being educated in these programs today, and probably will be for the foreseeable future. We cannot abandon them today under the pretense of advocacy for the future. Instead, policymakers must ensure these education programs make good use of the time they have with students while they are incarcerated so that they return to their communities on a new trajectory toward a healthy transition to adulthood.

Introduction

If you set out to design an education program that would intentionally deprive young people of learning opportunities, limit their future choices, and entrench inequities, you would probably create something that resembles the education programs offered to the tens of thousands of students behind bars every day.

This reality is not a result of bad choices made by individual ill-intentioned adults inside juvenile facilities. In fact, these education programs¹ are often full of thoughtful, committed educators who work tirelessly to bridge the chasm between what their students get and what they deserve — and are legally entitled — to receive. Although we often refer to juvenile justice education programs as “schools,” the reality is that the design of juvenile facilities makes it nearly impossible to create the conditions necessary for effective teaching and learning.

Instead, the problems are much more entrenched because these are education programs created by a set of ordinary state policy mechanisms — the same policy mechanisms that interlock and reinforce one another in any well-functioning school district: governance, accountability, and finance.

Governance policies describe who is responsible for providing education services to youth in custody. Accountability policies determine how programs are evaluated and what happens when they aren't delivering. And finance policies explain how state funding is allocated to the government agencies responsible for operating programs in juvenile facilities.

These three types of policies, however, become so distorted by the design of the juvenile justice system that they *cannot* function in ways that produce high-quality learning environments. In other words, we believe two things to be true: It is imperative to make meaningful structural reforms to these systems; and we believe that no student can reach their full educational potential behind bars.

In fact, one of the most effective juvenile justice diversion strategies also supports students to stay in their traditional school and reach their full potential: good instruction. Many students in juvenile facilities describe early and chronic experiences with school failure as the origin of their alienation.² As a student once told us, “When you can't do the work, it's easier to get kicked out of class than risk getting called on to read out loud.” While students in juvenile facilities may present challenges in their home schools, our K-12 systems cannot abdicate responsibility for student learning just because a child is challenging.

The most effective juvenile justice reforms keep kids in their communities while addressing the underlying conditions that lead children to encounter law enforcement and the juvenile court system.³ While efforts are underway to dismantle or reduce the use of juvenile facilities and develop community-based approaches in their place,⁴ we recognize that children are in these education programs today and will be for the foreseeable future. We cannot



abandon the kids who are in juvenile facilities today, or who will be tomorrow, next week, or next year. It is state policymakers, acting in the place of parents, who are morally (and, arguably, legally) responsible for ensuring students are provided with a high-quality education program while incarcerated.

Unfortunately, most state policymakers see their primary responsibility as ensuring the bare-minimum health and safety standards are met within juvenile facilities. This compliance-oriented mindset, coupled with fear-based politics that exploit stereotypes about correctional facilities and who inhabits them, has created a policy environment built entirely around a public safety orientation. Rather than being the focal point in juvenile facilities, education programs in these settings must contort themselves to fit within this system. State policymakers have the power to reorient juvenile justice facilities around providing high-quality education to students, and we believe governance, accountability, and finance policy are the levers they should use to make this shift.

This report begins by describing the state of juvenile justice education (see Sidebar 1 for a brief definition), the factors that make it distinct from traditional school settings, and the ways that many of these systems continually fail to provide students with high-quality educational experiences. We then look closely at policies around school governance, accountability, and finance to understand the interdependent policy mechanisms necessary for functional juvenile justice education programs and describe what these policies look like in all 50 states, Washington, D.C., and Puerto Rico. We conclude by offering recommendations to state and local policymakers for improving the design of juvenile justice education policy.

Tens — maybe hundreds — of thousands of students go to school behind bars.

At last count, 36,479 young people were incarcerated across the U.S., a number that has steadily declined from a peak of more than 100,000 in the 1990s.⁵ However, this one-day count⁶ does not include youth who have been arrested but haven't had a court hearing. As a result, The Sentencing Project asserts, "at least 80% of incarcerated youth are excluded from the one-day count." In other words, the one-day count should not be mistaken for an

SIDEBAR 1

"Juvenile justice education" is a catch-all term used to describe education programs provided to students who are in the custody of a public agency after being accused of or adjudicated for delinquent behavior.

Until the late 19th century, state legal systems treated everyone the same regardless of their age. Children and adolescents could be charged and tried for the same crimes as adults and incarcerated in the same facilities if convicted. It wasn't until 1899 that Illinois became the first state to create a juvenile court, and nearly every state in the country had developed one by 1925.⁷ A distinguishing feature of juvenile courts is that all youth eventually return to their communities. As a result, a central duty of the juvenile justice system is to rehabilitate youth while in the custody of the state;⁸ education is a core component of that rehabilitation function. As such, when a child is in custody, the government acts *in loco parentis*: in place of the parent.

Every state has some kind of legal protection by statute, constitution, or case law that guarantees youth who are committed to state custody will have access to education as part of that rehabilitative function⁹ — but how students receive education services varies widely across the U.S. based on each state's system of public agencies, funding streams, and public safety rules. The design of education programs can also vary across juvenile facilities within states. We use the term "facilities" to describe the secure¹⁰ buildings that house young people who are under the care of a public agency like a juvenile justice or youth-services department, recognizing that there are scenarios that fall outside the typical categorization.

The agencies running these facilities typically have two sets of responsibilities: ensuring the care and safety of young people in custody while providing rehabilitation services. Education is one (but not the only) rehabilitative element, and it may be managed and delivered by the same agency as the one that runs the custodial operations, or the responsibilities may be bifurcated.

annual total count of youth who experience incarceration. The Sentencing Project estimates there were at least 240,000 instances of a young person being detained or committed in 2019, a number that may also be a significant underestimate, for reasons outlined above.¹¹

Despite the decline in youth incarceration during the past two decades, students in the custody of juvenile justice systems are still disproportionately Black and American Indian,¹² youth who are (or who are perceived to be) LGBTQIA+, and students with disabilities (see Figure 1).

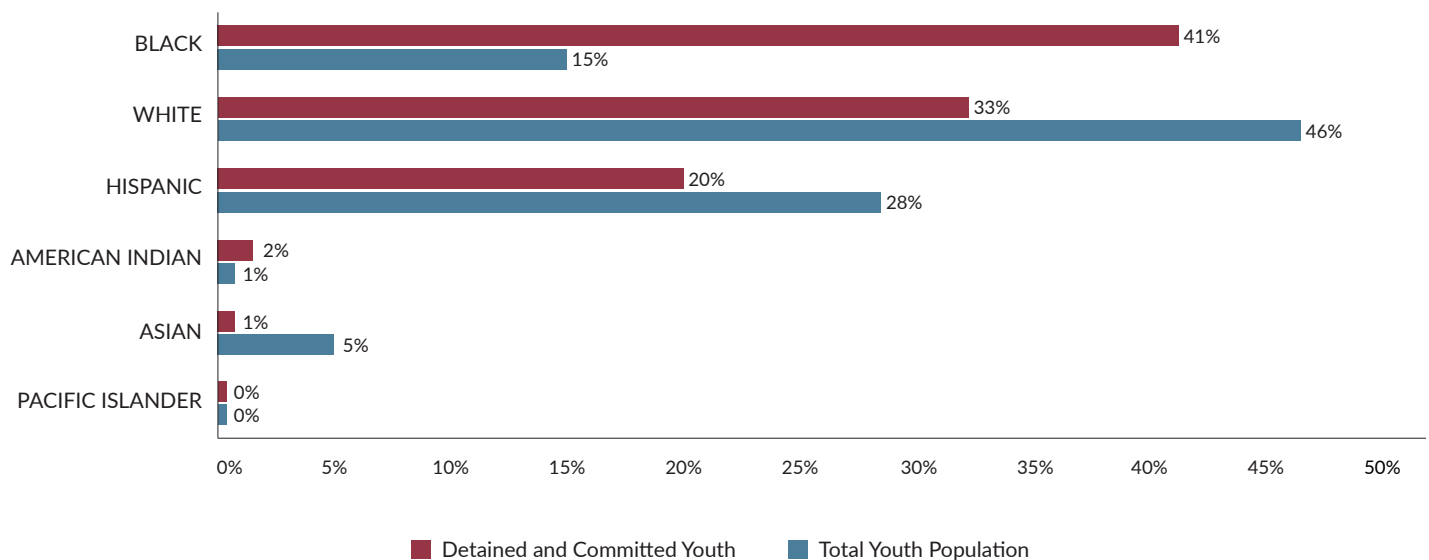
In 2019, 43% of youth in detention or confinement were Black or American Indian or Alaskan Native while making up just 16% of all public school students in the U.S.¹³ Although estimates vary, several studies indicate that the percentage of youth in the juvenile justice system who are LGBTQIA+ is more than double the percentage in the general public.¹⁴ Similarly, one study found that the average percentage of students in juvenile corrections receiving special education services was 33% across all states, which is more than double the percentage of students receiving special education services in traditional schools.¹⁵

In some states, children as young as fifth grade are locked up, and some states allow the juvenile system to hold youth as old as 25. The length of stay for incarcerated youth can range anywhere from just a day or two in a short-term pre-adjudication detention facility to multiple years in post-adjudication confinement. Whether by federal guarantee or state law, all of them are entitled to education opportunities — but very few of them receive the kinds of high-quality programs that they need and deserve.

Juvenile justice education fails many students every day, leading to long-term consequences for many of our most vulnerable and marginalized youth.

For many young people who are incarcerated, juvenile justice education programs represent their last chance, and their best chance, for a better future. The research is clear: Students who receive a high-quality education while incarcerated are more likely to experience positive outcomes when they return to their community.¹⁶ But many programs fall far short of this ideal and, arguably, some don't even try.

FIGURE 1. 2019 ONE-DAY COUNT: DETAINED AND COMMITTED YOUTH BY RACE/ETHNICITY



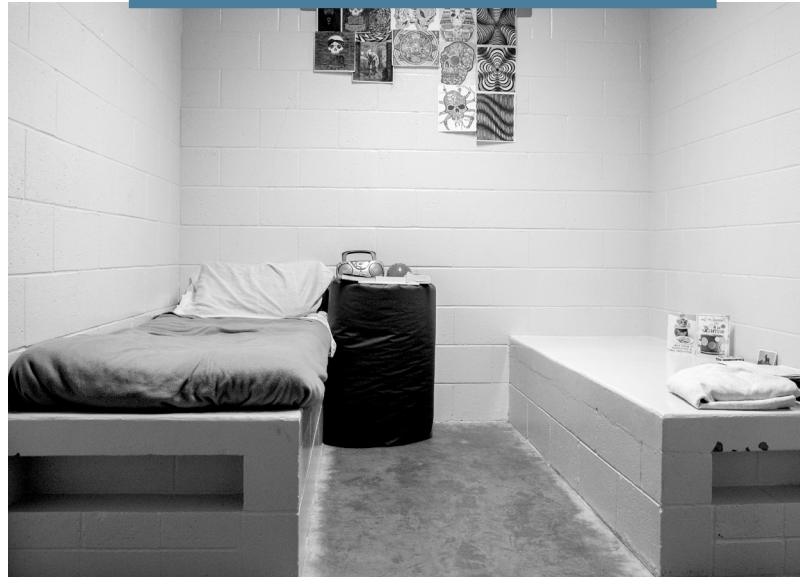
Sources: Sickmund et al., "Easy Access;" National Center for Education Statistics, "Enrollment in Public Elementary and Secondary Schools, by Level, Grade, and Race/Ethnicity: Selected Years, Fall 1999 through Fall 2020," September 2021. Available [here](#).

Many juvenile justice education programs fall short in providing basic educational services to students, let alone high-quality programming. With rare exception, students in these programs are held to lower academic standards than their peers in traditional settings (i.e., schools outside the juvenile justice system), have less access to higher-level coursework, and are taught by educators who have not been adequately prepared or supported.¹⁷

Furthermore, even a few days in detention can disrupt a young person's educational pathway. For example, students generally do not engage in educational activities during their initial days in confinement, can sometimes be disenrolled from their home school (if they are enrolled at the time of admittance), and often do not receive appropriate credit for the coursework they complete while incarcerated. Unsurprisingly, several studies show that many students do not ever return to school after being released from state custody.¹⁸ One 2016 study found that only 16% of youth returned to school after their release from custody.¹⁹ Research also shows that youth who are incarcerated are far less likely to ever graduate from high school than their non-detained peers.²⁰

Failing to provide students in juvenile facilities with high-quality programming results in a double punishment for youth: the punitive experience of incarceration for their alleged offense and the potentially catastrophic disruptions of their educational pathway. The long-term consequences of this corroded system are severe, and they fall disproportionately on young people who are already marginalized.²¹ In regard to health, even individuals who experience less than one month of incarceration in their youth are more likely to experience depressive symptoms as an adult.²²

Research also shows that being incarcerated as a youth reduces lifetime earnings and access to the job market, and increases the probability of lifelong under- and unemployment. One study focused on men found that youth incarceration can reduce wages by \$5 an hour and the number of hours worked at age 40.²³ In addition, many states do not automatically seal juvenile records, which adds another barrier when applying for jobs, housing, and other opportunities.²⁴ And, as is inherent in any discriminatory set of systems, these negative employment effects are all experienced disproportionately by people of color.²⁵



Despite this evidence, very few people are being held accountable for the dismal quality of juvenile justice education, and these systems continue undisturbed. Poorly designed accountability systems and a general lack of government oversight or media attention mean that we know very little about what goes on inside juvenile facilities. As the Southern Education Foundation put it in 2014, at its worst “the juvenile system has become a dumping ground where troubled children and youth are sent beyond the accountable systems of education.”²⁶

Although we call them schools, the reality is that those concepts are effectively meaningless in juvenile justice education.

Juvenile justice facilities are some of the most difficult environments in which to operate education programs. Most juvenile facilities have been designed to prioritize public safety objectives rather than to provide high-quality educational opportunities. As a result, many of them operate in ways that are fundamentally incompatible with everything we know about delivering high-quality education programs for anyone — and they are especially poorly designed for kids who have complicated relationships with school and for those with significant unmet needs. This is true of both short-term pre-adjudication detention and long-term post-adjudication confinement settings; but it is all much worse in short-term detention environments. (See Sidebar 2 for a description of the different pathways students take through the juvenile justice system.)



SIDEBAR 2

Students can take multiple pathways through the juvenile justice system and can receive education services in a wide range of settings.

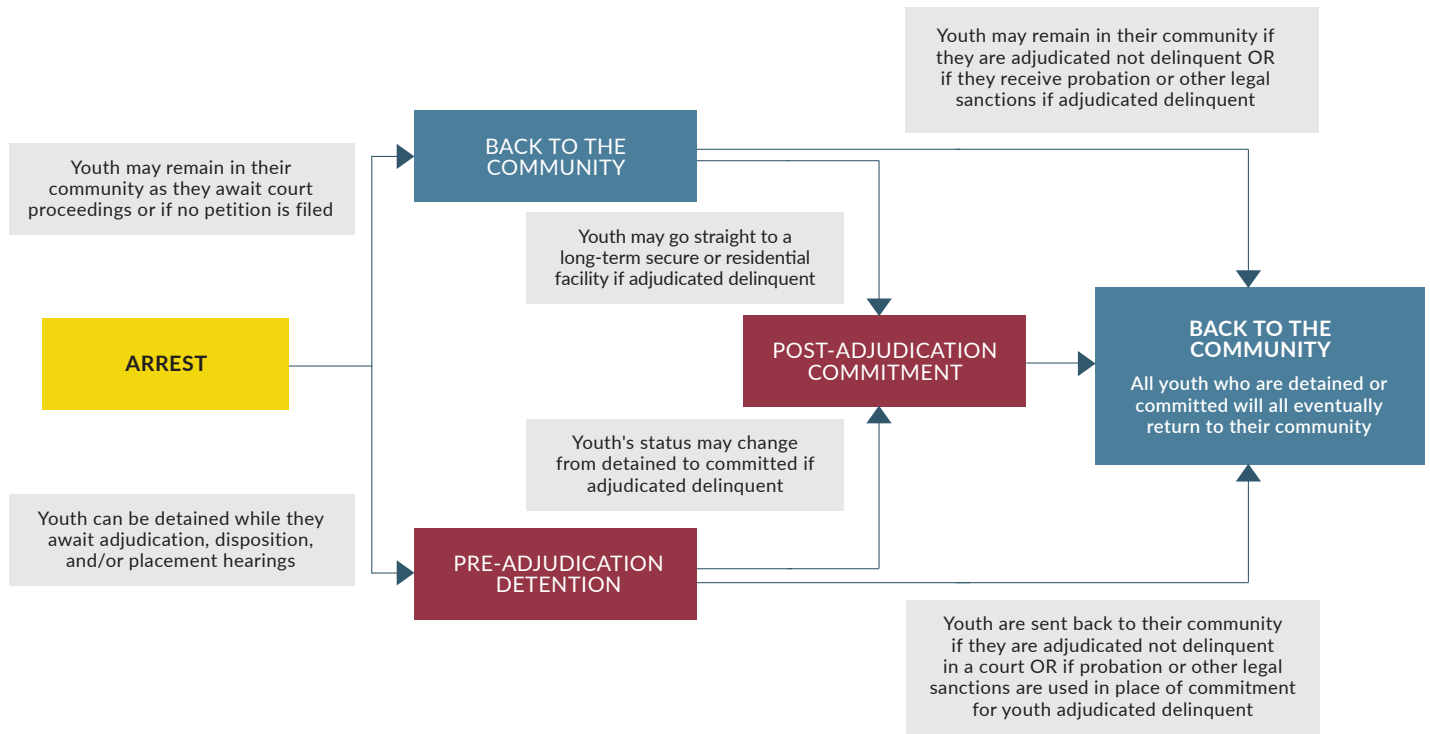
Figure 2 on the next page describes some of the potential pathways students take through the juvenile justice system. Young people first encounter the juvenile justice system when they are referred to a juvenile court for an alleged offense (analogous to a crime in an adult court) or a procedural issue (e.g., missing paperwork, a delay in a placement decision). In some cases, youth awaiting foster care placement are held in detention facilities.

Roughly one-quarter of these students are detained upon arrest as they await simple court proceedings or adjudication (analogous to a conviction), disposition (analogous to a sentence), or other juvenile court hearings.²⁷ During this time, youth are housed in a detention center. Juvenile detention centers are most commonly operated by local public safety authorities and are designed for “short-term” confinement. The adjective “short-term,” however, is used to denote the design of the program, but it does not always describe the length of stay for youth. For example, in a single-day snapshot in 2019, the Census of Juveniles in Residential Placement (the federal government’s biennial data collection) found that 45% of youth in a detention center had been in short-term detention for at least one month, 18% for at least three months, and 7% for at least six months.²⁸

If youth are adjudicated delinquent (analogous to a guilty verdict), they receive a disposition determined by the court, and many are then committed to a secure residential facility designed for long-term confinement of young people. These secure facilities restrict the movement and interactions of young people by use of locked rooms, buildings, fences, and other physical structures.²⁹ These students generally enter long-term confinement from one of two pathways: either from a short-term facility if they were kept in detention since their arrest, or directly from their community if they were not detained prior to the disposition of their case. In other words, for some students their first contact with a juvenile justice education program is in a long-term secure or residential facility after being adjudicated delinquent. In 2019, approximately 38% of youth committed after being adjudicated delinquent were placed in long-term secure facilities, 33% were in residential treatment centers,³⁰ and 11% were in a county detention center.³¹ The remaining 17% were committed elsewhere, including in group homes,³² wilderness camps,³³ and boot camps.³⁴

Although not the focus of this analysis, it is crucial to note that disparities by race and ethnicity not only exist but **grow** at every juncture in the juvenile justice system.³⁵ For example, Black youth are more likely to be arrested, more likely to be detained after being arrested, and more likely to be committed to long-term confinement than white youth, despite very little difference in the prevalence of delinquent behaviors between Black and white youth.³⁶ For example, Black youth are 2.4 times as likely as their white peers to be arrested.³⁷ Black youth (29%) are also more likely to be detained after being arrested than white youth (20%).³⁸ Once detained, Black youth (9.3%) are again more likely to end up committed to long-term confinement than white youth (5.6%).³⁹

FIGURE 2. STUDENTS' POTENTIAL PATHWAYS THROUGH THE JUVENILE JUSTICE SYSTEM



Source: Aleksis P. Kincaid and Amanda L. Sullivan. "Double Jeopardy? Disproportionality in First Juvenile Court Involvement by Disability Status." *Exceptional Children* 85, no. 4 (2019): 453-470.

To help illustrate this point, it is useful to show how some of the typical functions of traditional local education agencies (LEAs)⁴⁰ and schools are fundamentally distorted in juvenile justice education.

First, the responsibilities that fall under the purview of traditional LEAs are often fragmented across several different agencies in juvenile justice facilities.

The common responsibilities⁴¹ that fall under the supervision of traditional LEAs may be dispersed across several different agencies in juvenile justice settings. For example, in many juvenile justice education programs, the state agency responsible for running the facility has control over discipline policy while a local school district provides education services to students. Although the assignment of these responsibilities may be clear in state statutes, dispersed responsibilities can lead to confusion on the ground where, for example, an educator may want to create an inclusive classroom environment by actively using positive-behavior interventions for a disruptive student, while security staff may unilaterally decide to remove that student from the learning environment.

This conflict can go beyond the classroom. For example, a recent class-action lawsuit originating in the Contra Costa County Juvenile Hall near Oakland, California, centered on this very issue. While the county's probation agency operated the facility and was responsible for discipline policy, the county office of education was responsible for providing educational services to students, and these two entities disagreed on who was responsible for providing education services in restrictive security programs (i.e., solitary confinement), with each essentially pointing a finger at the other and disclaiming responsibility.⁴² This means that teachers are unable to provide them with the same modality, quantity, or quality of instruction.

“Contrary to their assertions, [neither Contra Costa County Board of Education nor Contra Costa County] can avoid its responsibilities by pointing to the other. They both have independent and shared responsibilities. The students in their charge cannot be responsible for the agencies' failures to meet those legal obligations.”⁴³



Second, accessing student records and constructing academic histories are significant challenges in juvenile justice education programs.

Traditional LEAs and schools have detailed academic and case management records for nearly all their students, and they are able to assign students to the correct classes, award appropriate credits, and plan instruction responsively. Even though some states have systems in place to collect and track data in juvenile justice education programs, this is not the norm — particularly when those data systems are siloed from the local district or when the young people were attending school in a different district than the one where they are confined. Because no one is arrested with their transcript in hand, intake often relies heavily on youths' own recollection of their academic history — including their own recounting of course names and which ones they passed — while the school requests and waits for prior records. When students transition out of the facility, teachers often do not learn that a student has left their program until after the fact. This makes collecting and maintaining data, delivering rigorous and relevant instruction, and planning for student transitions extremely difficult.⁴⁴

“So, on a Friday, we have a kid in our classroom. That child has a court appointment on a Monday morning, and they go to that. They're not in school. Sometimes that's not communicated about where they are, what happened. And then [sometimes] that judge returns them back home or moves them.”⁴⁵

Third, classrooms in juvenile facilities are subjected to circumstances that frequently disrupt teaching and learning.

Traditional LEAs and schools operate from a master schedule with consistent school and classroom hours, making each day predictable for students and teachers. Juvenile justice education programs' defining feature may be their unpredictability: Classrooms in juvenile justice settings are often located in secured settings where frequent facility lockdowns — school closures in response to disruptions like fights, vandalism, misuse of materials, or any other perceived security threat — disrupt teaching and learning. The school day may also be shorter, school hours may be irregular, and students may be pulled out of class for consultations and appointments by service providers, probation officers, courts, or other agency staff unexpectedly and for unknown amounts of time. This unpredictability is problematic in general, but especially so for incarcerated youth who could benefit from greater structure, routine, and predictability.

Policies in secure facilities also can limit opportunities for students to learn. For example, incarcerated students do not have the same level of access to computers or the Internet as their peers in traditional settings. A 2014 survey by RAND found that in nearly half of all states, incarcerated students have no access to the Internet. In 30 states, only teachers have access to Internet connections, and in most states “the use of Internet-based instruction (one-way or interactive) is reported to be limited.”⁴⁶

These technological constraints have made it even more challenging, if not impossible, to provide students with live teaching during the COVID-19 pandemic. For example, a recent lawsuit alleged that some students with disabilities in the Inspiring Youth Programs in the Washington, D.C. jail did not receive any live in-person or remote instruction during the pandemic for more than a year, a violation of their right to a free and appropriate education (FAPE) under the federal Individuals with Disabilities Education Act (IDEA; see more details on page 15). Instead, the lawsuit alleged students were forced to self-direct their learning with paper packets and asynchronous programming delivered on a tablet.⁴⁷

“It seemed like the kids trying to actually get the work done had a hard time because they'd be trying to ask questions and then the teachers wouldn't always be able to help them out. Me and some of my other classmates back then had a hard time trying to get our work done.”⁴⁸

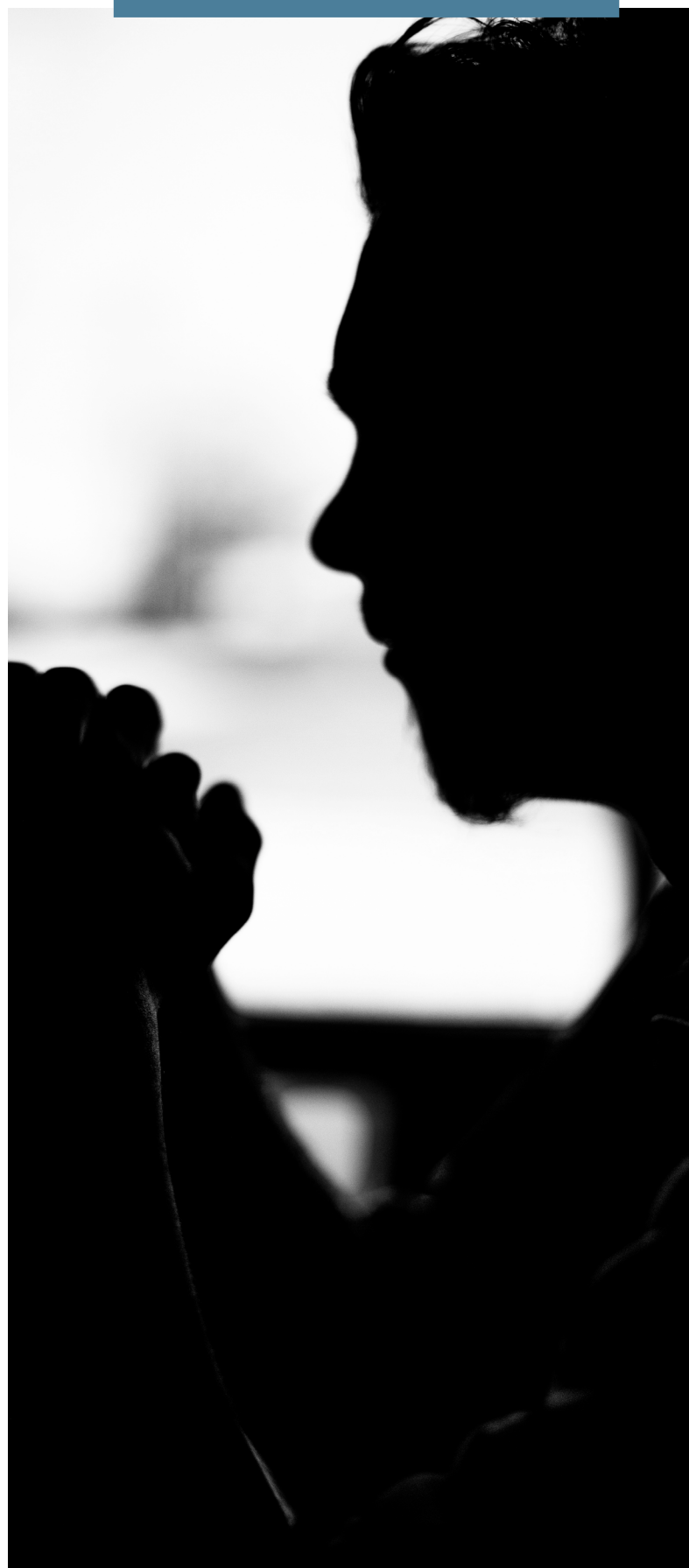
Fourth, the student population in juvenile justice education programs changes nearly every day.

In traditional settings, teachers have the same set of students in the same set of classes for months at a time. Of course, students leave schools all the time for various reasons, but in many traditional settings this is the exception rather than the norm. Regardless, student mobility has negative effects on student outcomes in traditional settings,⁴⁹ but in the absence of evidence, we believe that effect is likely magnified in juvenile settings.

Students move in and out of classrooms in juvenile facilities constantly, and in detention settings teachers often learn of changes at the same time as students do, making it difficult for teachers to develop and execute long-term academic planning for students. Even where teachers and students may know their release date, those dates rarely correspond with the common academic calendar, and a teacher will be juggling 15 different timespans for existing students even while new students continue arriving on any given day.

As a result, teachers in short-term settings are often tasked with tailoring instruction to a new set of students each week.⁵⁰ This task is made even more difficult when students' academic and case management records are not immediately available, leaving educators and students to figure out the best course of action.

“I feel like I've got the most support when I was in secure care. I was there for a long period of time, so they got to know me very well. I got to know them well, so they knew where my struggles were. The worst one was detention because they just don't really care about you. That's just detention. There, you're either in or you're out, that's it.”⁵¹



Finally, teachers in juvenile justice education programs must tailor instruction to students with a wide range of needs across almost all grade levels.

In an ordinary school setting, most students are enrolled in classes for months at a time with the same students at approximately the same grade level. Teachers in these classrooms have the time necessary to develop an understanding of individual student needs and generate highly structured course plans that guide whole-group, small-group, and individual instruction every day.

On the other hand, a single classroom with a single teacher in a juvenile facility may have students in several grade levels (regardless of age) who are enrolled in different courses, all *simultaneously*.⁵² This is due, in large part, to the underlying public safety orientation of these facilities where students frequently attend school as cohorts with others in their same residential unit, and they were assigned to those residential units through an arithmetic of available space, court orders to separate individuals in the same facility (if there is worry about the potential for violence), risk assessments, and beliefs about safety and predictors of violence.

Teachers must tailor instruction to classrooms of students who may have varied special education needs, a range of fundamental skill gaps in literacy and basic math,⁵³ and different levels of proficiency with the English language. Many students are also likely to have unmet mental, behavioral, and physical health needs as well as multiple adverse childhood experiences and serious, complex trauma histories.

In addition, reform laws around the country are moving younger first-time offenders to community diversion programs and older students out of adult systems and into juvenile programs. This means that these systems serve increasingly older populations who may have more serious, longer sentences and deeper, more enduring unmet academic needs.

“You could be in a classroom with a 12th-grader and a ninth-grader at the same time, and that could be hard for the teacher to really pass out the work that everybody needs. So I feel like if they could work on that I’d be really good.”⁵⁴

Any of these factors alone would make it difficult, but together they make it nearly impossible for educators in juvenile facilities to create conditions that approach “a school.”

We say “nearly” because high-quality juvenile justice education programs do exist in pockets throughout the country. There are countless professionals working tirelessly to create robust and responsive schools out of the flimsiest education policy. For example, the National Partnership for Juvenile Services, a group of educators in juvenile justice facilities, has worked collaboratively to define the key components of high-performing juvenile justice education programs.⁵⁵

What we are arguing is that the professionals who have created these high-quality programs are going far above and beyond what policy requires. Moreover, the existing policy has not supported these efforts; rather, it often inhibits individuals from creating education programs that provide students with a rich educational experience that is aligned to their needs and interests.

“I feel like a good teacher would ask how you’re doing. Ask what you need, help you in every way. And a bad teacher would be like, ‘Do what you can do, I’m not going to help you.’ ... I feel like that’s a bad teacher. Like they don’t really care. And a good teacher, yeah, they care. They want you to succeed. When I was in secure, all my teachers were like that, because they’re there for a reason and there to push us the most they can.”⁵⁶

State policymakers are responsible for creating policies that ensure juvenile justice education programs are effective.

Like K-12 education generally, juvenile justice systems and their academic programming are primarily functions of state law. In many cases, states have delegated authority over these programs to local entities, like counties, or they have contracted them out to LEAs or even nonprofit organizations and private corporations. Ultimately, however, the state itself retains responsibility for the success of these programs.

The contours of any state's authority are complex and guided by state statutes, constitutions, regulations, and funding rules — as well as federal constraints and requirements. The three primary federal education statutes that matter for students in juvenile justice facilities are Title I, Part D of the Every Student Succeeds Act (ESSA), the Juvenile Justice Delinquency Prevention Act (JJDP), and IDEA. All three are federal statutes and place authority to plan and delegate with the state. ESSA and JJDP provide funding specifically for juvenile justice education programs that attach minimum standards to the receipt of those dollars, whereas facilities that serve youth with disabilities are eligible for supplemental funding through IDEA. Table 1 on the next page provides an overview of ESSA, JJDP, and IDEA.

Title I, Part D of ESSA disburses federal grants from the U.S. Department of Education to states specifically for providing “prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk,” which encompasses students incarcerated in the juvenile justice system.⁵⁷ The reauthorization of JJDP in 2018 also provides federal funding to states from the Department of Justice for prevention and improvements of juvenile justice programs, including education. ESSA and JJDP have similar requirements for juvenile justice education programs and collectively comprise the bulk of the federal funding specifically for juvenile justice education, and both essentially set the floor for the education services students are entitled to receive in juvenile facilities. But our review of state ESSA plans in 2018 found that most included vague language and lacked the necessary detail to determine how the stated objectives for incarcerated students would be achieved (see Appendix C). In other words, it appears many states have failed to even define the floor: the minimum guidelines or standards that their juvenile facilities must comply with.

IDEA is an anti-discrimination law guaranteeing that students with disabilities are provided with a FAPE guided by individualized education plans aligned to state education agency standards. Students with disabilities maintain those rights when they are incarcerated in the juvenile justice system. And yet class-action litigation has shown students with disabilities are routinely denied the right to FAPE in juvenile facilities.⁵⁸ As we describe later in this report,

class-action litigation has been instrumental in exposing basic governance issues that make it ambiguous who is responsible for providing education in these facilities.⁵⁹

Juvenile justice education settings lack functional governance, finance, and accountability policies.

When it comes to delivering on the expectations in federal law as well as its own ambitions codified in state law or other materials, a state has three related sets of policy tools to advance education opportunity: (1) governance, (2) accountability, and (3) finance. These policy tools are crucial for improving outcomes for youth who are incarcerated, and while each tool creates opportunities for reform, designing them to be mutually reinforcing has broader impact at the system level. You can imagine them as three gears in a machine: Each one can spin on its own, but the machine works best when all three of them are working to propel one another.

As in traditional settings, governance, accountability, and finance policies must fit together cohesively to create functional education programs in juvenile facilities. For example, creating strong accountability for low-performing programs can lead to positive change; however, enhanced accountability is most effective when those being held accountable can make the decisions (governance) and have necessary resources (finance) to provide high-quality education opportunities. Similarly, accountability is also weakened by governance models that create systems of fragmented responsibility where several different agencies and individuals are responsible for providing education in juvenile facilities. In these situations, it can be very easy for the buck to stop nowhere, and no one is held accountable for ensuring that some of our country's most vulnerable students continue to receive high-quality learning experiences.

Coherent governance, accountability, and finance policies can alleviate confusion and produce a shared understanding about the goals of juvenile justice education programs as well as who is responsible for providing high-quality education services for incarcerated youth. When these policies reinforce one another, it can also break down silos and help policymakers identify gaps in service, capacity needs, and performance issues that require technical assistance, additional resources, or state interventions.

TABLE 1. AN OVERVIEW OF THE FEDERAL STATUTES THAT INFLUENCE JUVENILE JUSTICE EDUCATION

	Every Student Succeeds Act (ESSA) ⁶⁰	Juvenile Justice Delinquency Prevention Act (JJDP A) ⁶¹	Individuals with Disabilities Education Act (IDEA) ⁶²
Funding Source	United States Department of Education	United States Department of Justice	United States Department of Education
Award Amount	\$48 million in FY 21	\$44.4 million in FY 20	\$2.5 billion in FY 21
Funding Recipients	State education agencies that administer subgrants to other state agencies and LEAs that serve neglected or delinquent youth	State agencies designated by governors that administer subgrants to entities operating education programs in juvenile facilities	State education agencies, institutions of higher education, and nonprofit organizations (states are required to pass most funds on to LEAs)
Funding Mechanism	Office of Elementary and Secondary Education, Office of School Support and Accountability, Title I, Part D	Office of Juvenile Justice and Delinquency Prevention, Title II, Part B Formula Grants Program	Office of Special Education Programs formula-grant programs and discretionary grants, section 611(d)
Purpose	Improve education services, facilitate successful transitions, and prevent at-risk youth from dropping out	Support state and local delinquency prevention and intervention efforts	Anti-discrimination law that guarantees that students with disabilities are provided with a free and appropriate education
Requirements	<p>State plans must describe how they will:</p> <ul style="list-style-type: none"> re-enroll students in school in a timely manner allow students to accrue and transfer credits while incarcerated promptly transfer educational records between schools and correctional facilities hold juvenile justice educational programs accountable 	<p>To receive funding, state agencies must commit to:</p> <ul style="list-style-type: none"> ensuring youth who commit status offenses⁶³ are not held in secure settings separating youth from adult inmates removing youth from adult facilities addressing racial and ethnic disparities 	<p>To receive funding, states must provide students with disabilities a FAPE that includes services that:</p> <ul style="list-style-type: none"> have been provided at the public expense meet the standards of the state education agency are provided at the preschool through secondary levels are guided by an individualized education program

Surveying the Landscape of State Juvenile Justice Education Policy

Below we define governance, accountability, and finance and describe the landscape of these policies across all 50 states as well as Washington, D.C., and Puerto Rico. To conduct the landscape analysis, our team reviewed state statutes, codes, and regulations; recently passed legislation; memoranda of understanding; and other relevant legal documents. We also reviewed the websites of local and state agencies with a role in caring for and educating students in custody. Once we completed our initial research, we identified areas where there were gaps in information and contacted individuals in the state agencies to inquire about the information that was needed. Appendix B provides more details for how we conducted the landscape analysis.

We want to note that trained researchers were, in some cases, unable to reach a definitive conclusion about the policy designs in states even after laborious work. In fact, some of the local leaders we talked to did not have certainty themselves about how specific policies worked or were operating with guidance that contradicted the language of the statute. We believe these limitations serve as evidence of how confoundingly complex and opaque these systems are.

It's also important to acknowledge that each state's starting place, constraints, and even definitions may be different, making it difficult to generate tidy state-to-state comparisons. For example, not all states classify their facilities the same way, which means that one state's rules for a certain type of program might be designed for a different population of young people. Despite those differences, states can learn from one another if they are prepared to think creatively about how to apply ideas and to make modifications where needed.

Finally, in presenting the landscape of juvenile education policies, we are not placing a value judgment on the effectiveness of the policies or programs in these states. Doing so is beyond the scope of this report. Instead, our purpose is to provide the reader with a better



understanding of the policy levers available to state policymakers for improving their juvenile justice education programs. Based on our research and experiences in the education sector, we also offer insight into the advantages, disadvantages, and trade-offs of various state policy approaches.

Governance models for juvenile justice education are commonly fragmented by design, which weakens accountability and responsibility for ensuring that the most vulnerable students receive high-quality learning experiences.

Governance is the term to help us talk about who's in charge; it refers to the agency responsible for providing, or ensuring the provision of, education services to youth who are detained or committed to local or state juvenile facilities. Without a clear governance structure in place, it is difficult to understand who should make decisions about education programs, and, perhaps most important, who to hold accountable for student outcomes, or lack thereof. Effective governance models are aligned with accountability and finance systems so that decisions are being made and money is being spent by the leaders who will be held responsible for the outcomes.

While state education agencies are ultimately accountable for the provision of any education services mandated by federal law or supported by federal dollars, the governance model for juvenile justice education programs is the structure within which decisions like hiring and firing teachers, selecting curriculum, and determining rules about course assignment and credit accrual are decided. Thoughtful governance models with high-quality contracts can create the conditions for successful education programs — but few states currently have effective models in place.

We found that most states clearly define the state agency or agencies responsible for providing education services to youth in custody in state statutes; however, that is where the clarity ends. Aligning with past research,⁶⁴ we found that governance models can range from state systems that contract with LEAs, public charter schools, education nonprofits, or private providers, to systems where the state's custodial agency provides for and oversees the education program. There are also many models in between

where the state may assign responsibility to a county or other municipal entity or to the geographic school district where the building is located. In fact, Figure 3 on the next page shows that at least 16 distinct governance models are employed across the U.S. In the most common model, one employed in seven states, a local education agency is responsible for education in short-term pre-adjudication detention and the department of juvenile justice (or equivalent) is responsible in post-adjudication confinement.

LEAs provide education services to youth in custody in more than half of states, most commonly when youth are detained in local detention centers.

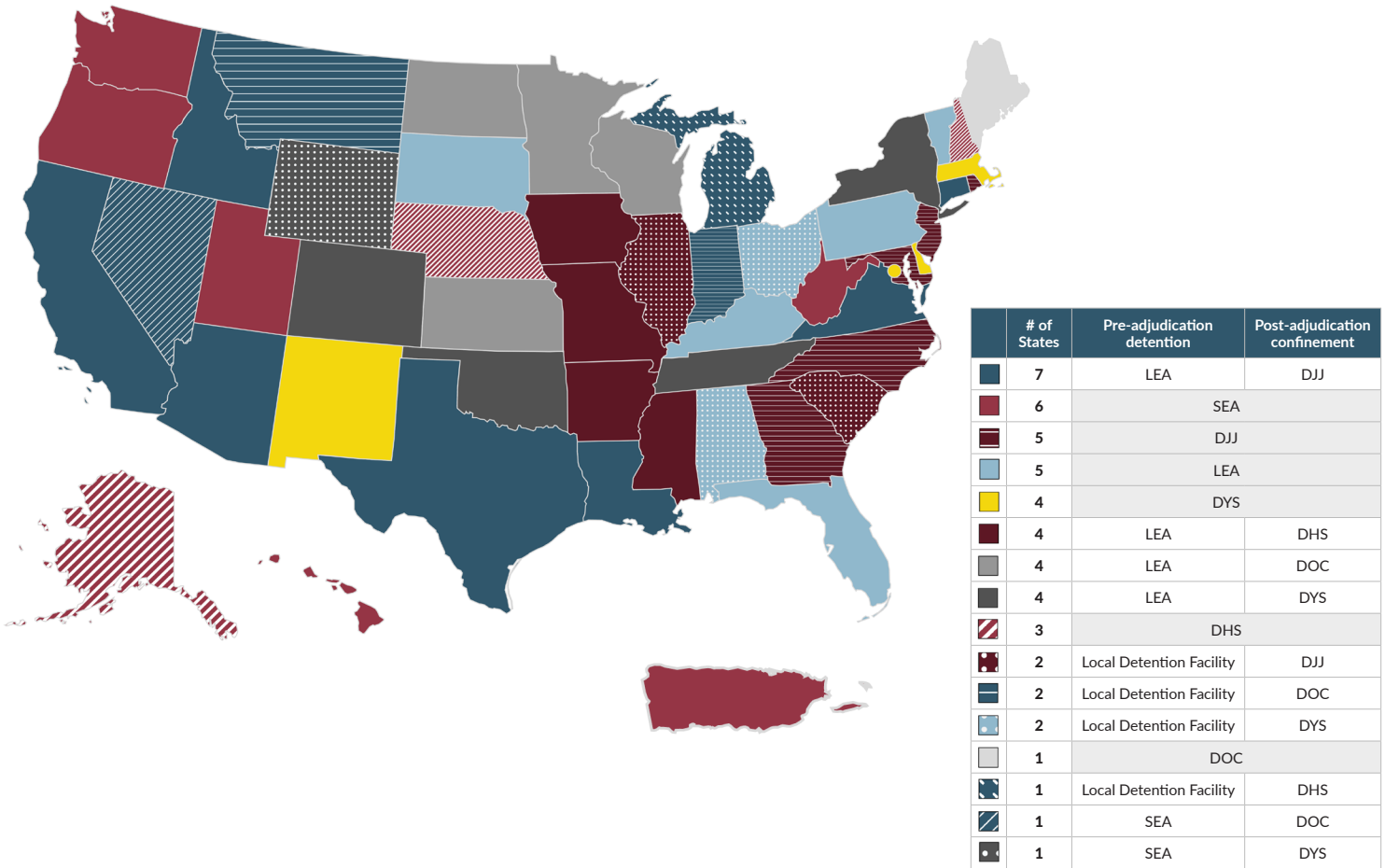
In 33 states, a geographic LEA is responsible for educating students in custody either detained or committed in local detention facilities and/or state-run facilities. In these states, geographic LEAs are either statutorily responsible for directly providing education services or are contracted by state or local agencies that have physical custody of students to provide education services. When state agencies contract with an existing LEA, the LEA sends educators to the facility to provide education services, or there may be an education facility established on the grounds of the detention center that is staffed by the LEA.

To add to the complexity, the LEA responsible for providing education services can vary across states and might depend on the location of the facility or where a student's home residence is located. In some states, the responsibility belongs to the LEA where the facility is located. In other states, the responsibility belongs to the LEA where the youth were enrolled prior to being detained or committed.

Less commonly, state education agencies are responsible for providing education services to youth in custody.

In eight states, the state education agency, such as the department of education, state board of education, or state superintendent for public instruction, is directly responsible for providing education services to youth in custody. For example, the West Virginia Schools of Diversion & Transition under the West Virginia Department of Education manages education programs in 21 facilities that are operated by or under contract with West Virginia's Division of Juvenile Justice.

FIGURE 3. STATE GOVERNANCE MODELS FOR JUVENILE JUSTICE EDUCATION



Note: When there is just one agency listed, that agency is responsible in both settings within the state. The state agencies are represented by their acronyms: DOC = Department of Corrections, DHHS = Department of Health and Human Services, DOJ = Department of Justice, DJJ = Department of Juvenile Justice, DYS = Department of Youth Services.

In most states, custodial agencies provide education services to youth who have been adjudicated delinquent and committed to a state-run facility.

In 41 states, the agency in custody, such as a department of juvenile justice or a youth services agency, provides education services directly to youth in state (and sometimes local) facilities. These agencies are typically granted the status of a LEA (or an analog) for the purpose of providing education services to students within their custody. In the capacity of an LEA, the agency can operate its own education facilities, hire its own teachers, and carry out functions like those of a traditional LEA. There is typically language in the statute that requires state agencies

acting as LEAs to follow many of the same laws, rules, and regulations that the state board of education or department of education prescribes for traditional LEAs.

Six of these states created special school districts operated by custodial agencies. These districts can operate as few as three schools, such as Alabama’s School District 210, run by Alabama’s Department of Youth Services, or as many as 29 campuses, such as Georgia’s 181st School District, which has middle and high schools throughout the state in Georgia’s Regional Youth Detention Centers, Youth Development Campuses, and Education Training Centers. The 181st School District is run by the Georgia Department of Juvenile Justice and is accountable to the Georgia Board of Juvenile Justice.

In many states, more than one agency is responsible for providing education to students in juvenile facilities, creating a system of fragmented responsibility.

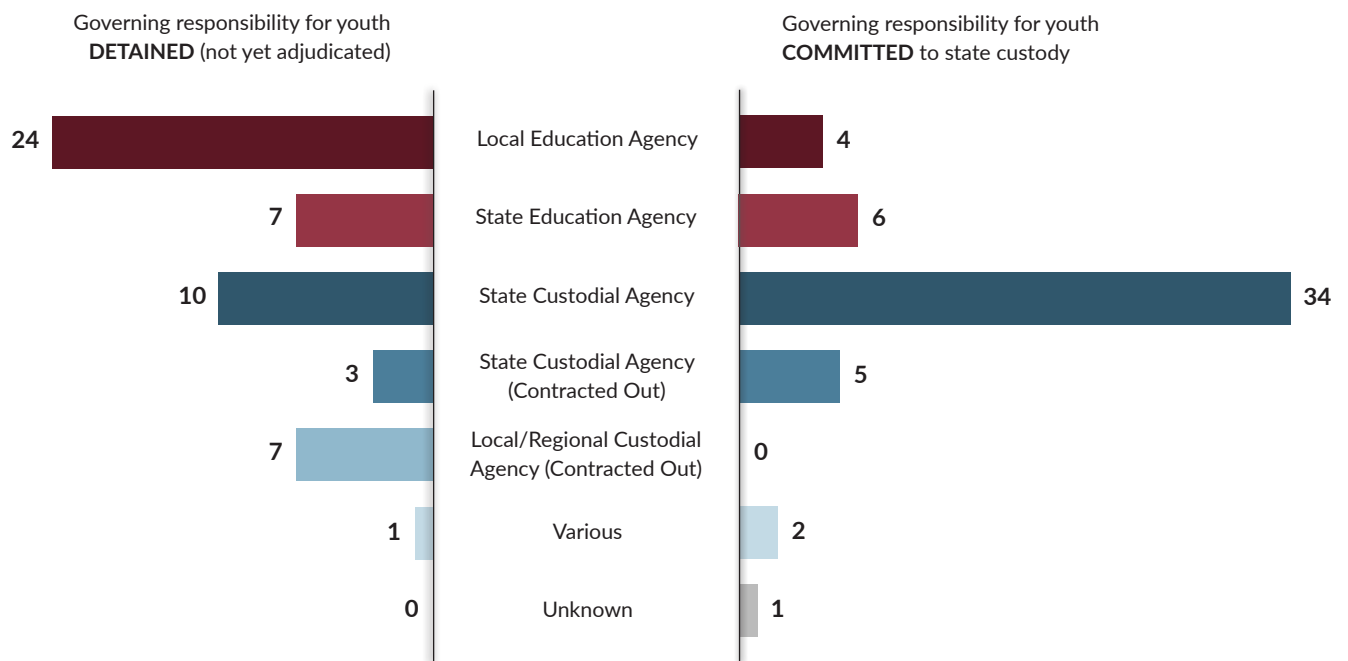
The responsibility for providing education services to youth in custody can be complicated by several factors. To start, governance responsibility is often dependent on the temporary legal status of the youth in custody. Typically, youth detained (accused of an offense, not yet adjudicated) are held in local detention facilities. Youth can also be held at local detention facilities if they have been adjudicated and committed for a brief period (several weeks or a few months). When youth have been adjudicated and committed for longer sentences or have been determined to need placement in a secure facility due to the nature of the offense or other factors, they are typically moved to a long-term, often state-run, facility (see Figure 4).

In fact, in 28 states the agency responsible for providing education services in local detention centers can be different than the agency responsible for education

in state-run facilities. In some states, governance is dictated by how long a student is detained or by the type of offense a student is committed for. In Arkansas, for example, the LEA where the juvenile detention center is located works with the youth’s home school to meet their educational needs for the first nine days of detention; however, after nine days they are unenrolled from their home school. In California, only youth detained or committed for offenses considered most serious or violent are held at the state-run facility operated by the Department of Juvenile Justice, which operates as its own LEA for the provision of education services.

Every increase in the number of agencies responsible for providing students with educational services adds layers of complexity to an already fragmented system. The more fragmented the system becomes, the more it requires the individuals working in different agencies to clearly and consistently communicate and coordinate with one another, a process that will unquestionably lead to delays in students receiving the education services they need.

FIGURE 4. COUNT OF LOCAL AND STATE MODELS FOR JUVENILE JUSTICE EDUCATION, BY DETAINED AND COMMITTED STATUS



Note: Local education agency refers to local school districts, county boards of education, or the equivalent. State education agency refers to state departments or boards of education, state superintendents, or the equivalent. State custodial agency refers to state agencies with physical custody of youth. Note, states may refer to custodial agencies by different names, such as Department of Corrections, Department of Health and Human Services, Department of Justice, Department of Juvenile Justice, Department of Youth Services. State custodial agency (contracted out) refers to state custodial agencies that have governing responsibility and have contracted with an LEA, public charter school, or some other education service provider. Local/regional custodial agency refers to local juvenile detention centers with physical custody of youth that have governing responsibility and have contracted with an LEA to provide education services.

For example, if a student is adjudicated and committed to a state facility where the education service provider is different from the education service provider at the local detention center, it could take days or even weeks to transfer academic records and delay the delivery of high-quality and appropriate instruction for the student. One strategy to avoid this is the use of high-quality contracts that clearly delegate responsibilities, processes, and decision-making authority across government agencies.

Some states allow for state custodial agencies to contract out education services in juvenile facilities to counties, geographic LEAs, private providers, or charter schools.

In lieu of directly providing services, custodial agencies in some states can contract out to education service providers with established education programs, which can be a *cost-efficient* way to provide education services to youth in custody – whether it is *effective* is both unknown and, in the absence of available student outcome data, unknowable.

One approach to contracting out education services is to leverage existing structures and relationships with charter networks or LEAs. For example, Washington, D.C. has a robust charter school system, including the See Forever Foundation's Maya Angelou Public Charter Schools for high school students and adults. The D.C. Department of Corrections contracts with the See Forever Foundation for Maya Angelou Public Charter Schools to serve young adults between 18 and 22 years of age who are entitled to special education services under IDEA. The Department of Youth Rehabilitation Services also contracts with the See Forever Foundation to operate Maya Angelou Academies to provide education services to youth aged 12-17 who are detained or committed to their custody.

Another approach is to contract with private or nonprofit education service providers. In Kansas, the Department of Corrections contracts with the nonprofit Smoky Hill Education Center, a consortium of more than 50 school districts in 25 Kansas counties, to provide education services to youth committed to state custody. Meanwhile, the Connecticut Department of Corrections partners with the education nonprofit Domus to provide education services to youth in its custody.

While contracting out education services may be a more efficient way of fulfilling their responsibility to provide education services to youth in custody, it is important that states vet providers and enter into high-quality agreements. One way to think about contracting with education service providers for juvenile justice education programs is to consider the similarities with charter schools.



When states are responsible for authorizing charter schools to operate, they are essentially contracting out education services to a nonprofit organization, much in the same way that juvenile justice education service providers are contracted. However, many of the elements of a high-quality charter are typically nonexistent in juvenile justice education programs. Elements of a high-quality charter, or contract, include (a) outcome-based mission and objectives; (b) making conditions for contract renewal based on performance outcomes; (c) requiring regular data collection and reporting on academics, finances, and operations; and (d) establishing accountability indicators and escalating interventions if service providers fail to meet those indicators.⁶⁵

Some states also use coordinating entities or written agreements to clearly define who is responsible for providing education in juvenile facilities.

When multiple government agencies are involved in the provision of education services to youth in custody, it can lead to fragmentation and make it difficult to ascertain who owns which aspects of the education program, leading all parties to resist responsibility. By having written agreements in place to supplement vague or ambiguous statutory language, all agencies involved — such as state education agencies, state custodial agencies, and education service providers — can clearly understand their role and responsibility in the juvenile education service program and more seamlessly work together to provide the high-quality instruction and services for youth in custody. In the absence of clearly defined state statutes, it is better to have well-thought-out written agreements than to not have any clarity.

States have taken different approaches to make clear the role of each agency or entity involved in ensuring students receive education services while detained or committed. For example, in Washington, D.C., the Office of the State Superintendent of Education, the Department of Corrections, and the Maya Angelou Public Charter Schools network have entered into a memorandum of agreement that explicitly states who is responsible for delivering education services to youth who require special education services, including who is financially responsible for the provision of the education services, who is responsible for overseeing the education program, and what steps should be taken if and when problems arise.

Kentucky has taken a different approach by creating a collaborative that is collectively responsible for the education of all children in state custody. The Kentucky Educational Collaborative for State Agency Children (KECSAC) was created by statute in 1992 as a partnership between the Kentucky Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Kentucky Department of Education. Through local education agencies, it provides education programs to youth in or near facilities operated by either of the two custodial agencies. While the juvenile education programs are primarily funded through the state's education finance program, KECSAC provides supplemental funding that allows the programs to have an extended school year and smaller class sizes. KECSAC also monitors juvenile education programs for accountability purposes. Furthermore, KECSAC is operated through Eastern Kentucky University, which ensures that no single state agency assumes more control or authority than another.

KEY FINDINGS

The governance designs for juvenile justice education programs across the country result in fragmented education systems where students easily fall through the cracks.

With too many actors involved at too many stages (or sometimes all at the same stage) of a youth's time in custody, the system will be doomed by misaligned responsibilities.

We suggest lawmakers reduce fragmentation and simplify governance structures in states to improve these programs.



Accountability for juvenile justice education programs varies widely across states and ranges from nonexistent to overwhelming.

Accountability policies are the way states evaluate juvenile justice education programs to ensure they are fulfilling their responsibilities for providing students with high-quality education services. States typically use a variety of systems to evaluate juvenile justice programs, such as school rating systems, traditional program evaluations, accreditation, and audits. Although we found it to be uncommon in juvenile justice education, traditional accountability systems also include explicit rewards and sanctions tied to school performance, with the most consequential accountability policies giving the state the power to close failing schools or force turnarounds.

The best accountability policies ensure that schools are being held to ambitious and attainable expectations for quality that match their organizational goals and purpose — while also providing on-time support and resources matched to what they need to be successful. A successful accountability system must also be closely interwoven with governance and finance policy so that decision makers have power over all high-impact policies, including the use of resources.

It's important to note that accountability is the driving force behind high-quality education programs generally, but even more so in juvenile justice education. Compared with traditional education programs, there are fewer political incentives or societal rewards for investing time, capacity, and resources into creating strong juvenile justice education programs that meet the needs of every learner.

Given that context, it is problematic that the most challenging element of understanding juvenile justice education policy is the attempt to identify how education service providers are held accountable for the academic outcomes of their students. Unlike nearly every other kind of education setting, few states have meaningful accountability designs for juvenile justice settings. In fact, most have not defined in statute what students are expected to learn, how success will be measured, or how education service providers are held accountable for ensuring that students are learning successfully.

The most reliable source for information on accountability is state ESSA plans,⁶⁶ specifically states' plans for Title I, Part D funds. While varying in levels of detail, most ESSA plans identify similar objectives such as increasing student reading or math achievement, decreasing dropout rates, increasing the number of students who complete a high school diploma or an alternative credential like a GED, increasing the number of students who participate in and complete postsecondary programs, and increasing attendance rates of students who return to traditional school settings.

A challenge with state ESSA plans, however, is that the goals set are often long-term goals for what happens when students transition out of a secure facility — few states have established indicators for what students are expected to accomplish *while in state custody*. An exception is Iowa, which sets as a goal that students will complete 80% of the courses started while in the facility and earn passing grades for 80% of the classes taken. But even plans that set goals for students while they are incarcerated typically lack meaningful details for how the outcomes will be achieved.

Another challenge with state ESSA plans is that in some cases what state education agencies have submitted to the U.S. Department of Education (ED) for approval is not what happens in practice. As part of our research, we asked officials responsible for overseeing or providing education services to youth in custody if they could confirm our interpretation of their state's accountability policies, for which we relied heavily on state ESSA plans to understand. On more than one occasion, officials informed us that our information was incorrect despite the fact that it came directly from ED-approved state ESSA plans. This conflict between policy on paper and policy in practice underscores the difficulty with understanding how juvenile justice education programs operate and are held accountable.

States vary in terms of which government agency holds juvenile justice education programs accountable – in some states it's multiple agencies.

The first step to developing an accountability system is defining who is holding who accountable. The answer to this question is very clear in traditional education settings, but it is less clear and varies widely across states in juvenile justice education programs. In all but two states, state education agencies are responsible for holding these programs accountable. In 29 of these states, these programs are included in the state's accountability system for public schools, meaning students in these programs are required to take annual state standardized assessments. Programs in these states may or may not be included in states' school report cards or data dashboard systems. In California, for example, all juvenile justice programs are included in the California School Dashboard, and schools are subjected to similar state interventions for poor performance. However, the data on school report cards is often limited because the student population in juvenile justice education programs tends to be too small to report in ways that protect student confidentiality.

Three states have developed separate accountability systems for juvenile justice education programs. In Florida, the State Board of Education adopted an accountability rating system specifically for Department of Juvenile Justice schools. It factors in 12 components, including attendance rates, graduation rates, math and ELA achievement gains, and the percentage of students earning an industry

certification. Schools can earn up to 100 points for each of the 12 components and receive ratings ranging from commendable to acceptable to unsatisfactory.

About a third of states have policies for what happens if juvenile justice education programs underperform.

The essential components of any accountability system include but are not limited to (a) the mechanisms that will be used to identify effective and ineffective education programs; (b) strategies to remedy ineffective programs; and (c) a process to hold those leading ineffective programs accountable. Most states say little or nothing about these essential components, or about the methods they will use to evaluate programs and hold them accountable to the students they serve.

In our scan, we found just 19 that describe what happens when juvenile justice education programs underperform, including nine states that intervene directly in poor-performing programs. Additionally, 15 states provide technical assistance to poor-performing programs (five of which also directly intervene). However, Oregon and Florida were the only states we found that directly stated they would shut down consistently poor-performing programs or reassign them to different government entities or private providers. For example, if a Florida LEA provides services, it can be forced to contract those services to an outside education provider or another LEA. If a contracted education service provider was in place, the LEA would have to find a new provider or provide services itself.

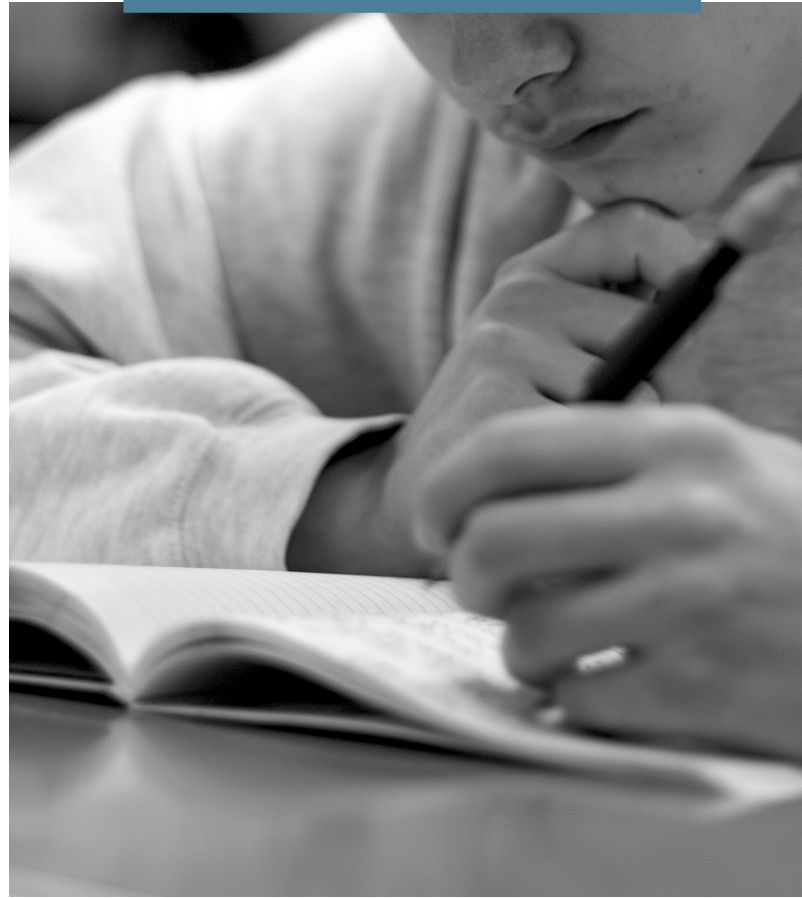
Florida also employs a tiered support plan for school districts serving youth in custody. The tiers range from general support available to all programs, targeted support to a limited number of schools, districts, or correctional facilities in specific areas of need, and intense support for select schools, districts, or facilities. Schools that fail to demonstrate improvement will have their juvenile justice education programs reassigned. Importantly, reassigning programs is far easier in states where government agencies are allowed to contract education services out to several different types of entities (e.g., charter management organizations, nonprofit organizations, and private providers). It is much more difficult to reassign programs when they must be run by an LEA, since other LEAs may not have the capacity to operate the program.

Juvenile justice education programs are often required to submit data to or hold site visits for multiple government agencies.

Having multiple agencies involved in the evaluation of juvenile justice education programs has considerable downsides for students. Preparing for one evaluation or site visit requires substantial time from educators, let alone four or five visits. This can drain resources and staff capacity that's already limited and stretched thin. Even more, with multiple oversight agencies often comes multiple data-collection efforts. A lack of consistency between the types of data required to satisfy each oversight agency and systems to maintain those data can further weaken the capacity of staff to focus on their primary responsibility: educating students.

Every state is required to report program data to the federal government as part of their agreement to receive ESSA Title I, Part D funding. In addition to ESSA, juvenile justice education programs may also be required to submit data multiple times a year as part of applications for state funding. For example, the South Dakota Department of Education requires programs to conduct annual needs assessments and program evaluations as part of their applications for state funding. Annual, biennial, and triennial reports are also common monitoring mechanisms used by states. The Illinois State Board of Education requires programs to submit biennial reports that describe progress toward the goals outlined in funding applications. Juvenile justice education programs in at least 18 states also participate in traditional accountability structures, such as generating consolidated state performance reports and school report cards that are published annually on SEA websites.

In many states, the SEA is just one of several government agencies that require juvenile justice education programs to comply with accountability requirements. For example, in Kentucky these programs are required to submit accountability data to multiple government agencies. Kentucky's Department of Juvenile Justice schools are held accountable by the Department of Education under the state's traditional public school accountability system. However, the Kentucky Education Collaborative for State Agency Children also conducts annual monitoring visits to programs using an evaluation tool and, when necessary,



develops a comprehensive program improvement plan for schools. Furthermore, education programs in Kentucky also receive an annual evaluation from the Kentucky Department of Juvenile Justice's education branch, which conducts a financial review, and the Kentucky Office of Special Education Services to ensure that special education students' needs are being met.

Although the burden on juvenile justice education programs can be lessened by allowing the same data to be submitted to multiple government agencies for different purposes, it does not negate the effort it takes to prepare the documentation, plan for multiple site visits, and respond to any follow-up inquiries for additional information. There is a balance that must be struck between requiring these programs to report too little information and overwhelming them with accountability tasks. The former makes it difficult for policymakers to identify and address problems where they exist, and the latter creates a compliance-oriented mindset that leaves little time for educators to analyze and act on the information they are producing.

TABLE 2. ACCOUNTABILITY INDICATORS USED IN AT LEAST TEN STATES

Assessment scores in core academic subjects
Credits earned while incarcerated
Enrollment in a job training program, post-incarceration
Enrollment in a K-12 setting, post-incarceration
Enrollment in a postsecondary program, post-incarceration
High school graduation rate or GED attainment
Successfully securing employment, post-incarceration

States use a wide range of indicators to assess the performance of juvenile justice education programs, but very few of the indicators are aligned to students' real experiences.

The data that juvenile justice education programs are required to submit as part of other program evaluations, audits, accreditation, and reports are often more aligned to the purpose of these programs than the indicators used on traditional school report cards published on state websites. Table 2 presents the indicators (meaning the categories of things measured and reported) used in at least 10 states regardless of what type of structure it comes from (e.g., program evaluation, annual report, desk audit, state report card).

Table 3 presents the wide variety of indicators used in fewer than 10 states. As this table shows, states use indicators that are specific to the period of incarceration as well as those that are designed to measure outcomes after students exit facilities. A few states also use input measures designed to measure the conditions of learning in juvenile justice education programs.

We found that at least 18 states purport to publish data on juvenile justice education programs on state websites as part of consolidated state performance reports or school report cards. However, the states that include these programs in traditional accountability systems rarely produce any meaningful data to publish because of small n-sizes (too few students enrolled in the programs), as well as exclusions based on students' length of stay or other

TABLE 3. ACCOUNTABILITY INDICATORS USED IN FEWER THAN TEN STATES

% of students who completed 80% of the courses started while in the facility
% of students who earned passing grades for 80% of classes taken
Access to arts programming
Accessing transitional services
ACT WorkKeys scores
Attainment of career and technical education skills
Chronic absenteeism/attendance/dropout rates
Classroom assessment scores
College and career readiness
Conditions of learning
Curriculum aligned with state standards
Description of students' transition plan
Earning a career readiness, training, or vocational certificate
Earning industry certifications
English language proficiency
Enrollment in a CTE or apprenticeship program
Enrollment in GED coursework
Grade advancement
Grade point average
On-track to graduate indicators
Physical fitness
Postsecondary credit accrual
Qualified teachers
Second year dropout or credit accumulation, post-incarceration
Suspension rates or other disciplinary indicators

circumstances that prevent them from being included in official data counts. These loopholes can have the effect of rendering these accountability systems meaningless for understanding the effectiveness of these programs.

While making short-term gains in student literacy and numeracy is an important goal of juvenile justice education programs, very few states assess student growth in ways that provide educators with continual information on students' literacy and numeracy proficiency and growth across time, regardless of how long they are incarcerated. Many states use assessment scores in core academic subjects, but this is mostly done on annual state assessments. Closely monitoring proficiency requires valid, reliable, and consistent assessment. For example, Tennessee's ESSA plan states that students complete a nationally norm-referenced pre-test within five days of arriving at a juvenile facility and then post-assessments at least every four weeks while incarcerated. We found at least seven other states also use a pre- and post-assessment approach to measuring academic gains for students.

Approximately half of states employ post-incarceration indicators designed to measure how successful juvenile justice education programs are at transitioning students back into their communities. For example, the Kansas Department of Education requires programs to report annually on how many students transition into a K-12 school setting, a job training program, a postsecondary academic program, or a job. These post-incarceration accountability indicators, when designed well, can incentivize these programs to partner with K-12 schools, postsecondary institutions, and job training programs to facilitate smooth and successful transitions for students.

In many states, juvenile justice education programs are accredited, which can serve as a built-in accountability mechanism to ensure students are receiving high-quality instruction.

One additional mechanism for accountability in juvenile justice education programs is accreditation. We found that at least 18 states have either entire programs or specific juvenile schools fully accredited by an accrediting body,

and some states, such as Maryland and West Virginia, require this by law or regulation. Accreditation is a built-in accountability mechanism because institutions are required to meet a set of standards in order to maintain their accreditation, and the credits students earn at juvenile education facilities will transfer to other schools or postsecondary institutions only if education programs at the facility are accredited.

KEY FINDINGS

A lack of a robust accountability system means students, for whom the juvenile justice education program may be their last opportunity for a better future, are likely to receive a low-quality educational experience unless they have the good luck to land in a facility with teachers and program leaders who go beyond the minimum compliance standard.

Student success should not depend on having the “right” people in places of position and power — policymakers must take a systemic approach.

We suggest lawmakers create meaningful accountability systems that reflect the purpose and goals of these programs, consolidate multiple accountability structures, invest in innovative assessment and data-collection tools, and publicly report those data.

Funding juvenile justice education is primarily a state and local responsibility, and the sources of that funding and the designs for budgeting vary significantly.

Resources are allocated for programs through a state’s finance policies. All finance policies create incentives and well-designed ones incentivize those behaviors that may otherwise be difficult to regulate. When good finance policies are matched with well-designed governance models and accountability designs, they deliver the resources that leaders need to engage in the effective practices that lead to the positive outcomes for which they will be held accountable. At their worst, finance policies create disincentives for government agencies to invest the resources necessary to provide high-quality education programs for students in juvenile facilities.

The financial responsibility to provide education services to youth in custody varies state to state, and even within states. LEAs and state agencies take on the bulk of funding, while many states receive some federal funding via ESSA, JJPDA, and IDEA. For example, Hawaii’s per-pupil expenditure for juvenile justice education programs was \$56,389 in SY 2019-20; 90% of that was funded by state and local appropriations, while just 10% came from federal funding sources. Figure 5 illustrates the different ways money can flow from state, local, and federal sources to the agencies responsible for providing and/or funding education services.

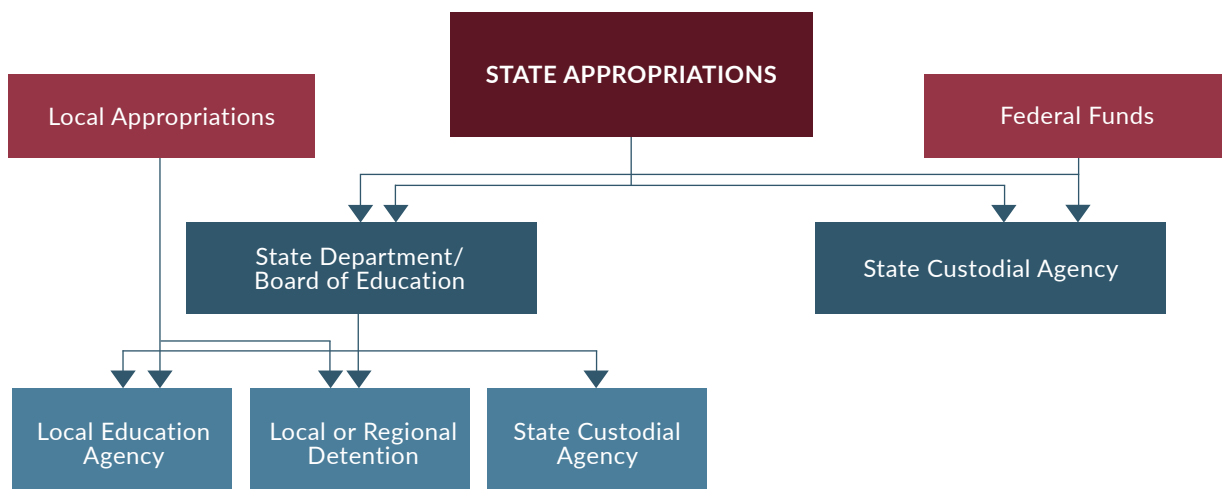
In some states, programs are funded via an annual state budget line item that tends to remain relatively steady regardless of the number of students served. In other states, schools are funded on a daily per-pupil allotment like that of their local K-12 counterparts. And in other states, a student’s home LEA is charged for a contribution to cover the costs while they attend school in a juvenile facility. Each approach has benefits and drawbacks in terms of overall funding sufficiency as well as the ways that they incentivize program quality. At the state level, strategic financing is one of the most powerful ways to improve program quality.

Most states appropriate state funding for juvenile justice education programs, and many use the same funding formulas for traditional education programs.

In many cases, the state is financially responsible for providing education services to youth in custody. The money is appropriated directly by the state legislature, but the ways states allocate those funds can be vastly different.

Some states, such as California, Florida, and Hawaii, use funding models already established for their traditional public school systems to determine the per-pupil expenditure for education programs serving youth in custody. Those funding formulas can be weighted or supplemented with additional funding to account for the unique needs associated with educating youth in these facilities.

FIGURE 5. FLOW OF MONEY FROM LOCAL, STATE, AND FEDERAL SOURCES TO JUVENILE EDUCATION PROGRAMS





On the other hand, some states, such as Alaska and West Virginia, allocate money to the state department of education, or equivalent, earmarked for the provision of education services to youth in custody. There are other cases, such as Idaho and Vermont, where the LEAs are required to pay for the education costs at the time of service, and then the state will reimburse later.

In states where the agency responsible for providing education services is not the state's department of education but the agency with legal custody of the youth, that agency is also financially responsible for the provision of those services. In those cases, the state legislature will often appropriate funds and allocate them directly to the agency as a category or line item in the state's budget for the express purpose of providing education services to youth in the agency's custody.

In 17 states, LEAs are financially responsible for education services to youth in either local or state custody, at the risk of creating disincentives for investing the resources necessary to support high-quality programs.

Having LEAs pay for the education services of their students while incarcerated can create perverse incentives to do only the bare minimum required by law, as opposed to all that is necessary for the long-term success of students. For example, because detention facilities typically have small numbers of students at any one time, there can be disincentives for LEAs to invest the resources necessary to deliver a high-quality education program with all the supports and services needed for this unique population. LEAs may also lack the will to invest in providing high-quality education services to students who do not belong to their district and are only temporarily their responsibility.

LEAs are financially responsible for education services provided to youth in custody in one of two ways. First, the LEA where the student was enrolled prior to being detained may be financially responsible, and the home LEA would reimburse the LEA that is providing the education services while the student is detained or committed (if it is not the same LEA). Custodial facilities in some states, such as Maryland and Arkansas, provide education services and are reimbursed by the student's home LEA. Second, the LEA where the juvenile facility is located may be financially

responsible. In this second design, the LEA counts the students in their enrollment for funding purposes and receives an amount as determined by the state – most often using the same funding formulas that would be used for traditional public schools.

The LEA held responsible for funding may also depend on the length of time a young person is in detention. In Arkansas, for example, youth detained for less than nine days are funded by their home LEA, while youth detained for longer are funded by the LEA where the juvenile facility is located.

In four states, special funds have been established to provide education services to youth in custody.

Some states have established special funds or grants that are specifically for juvenile justice education programs and managed by the state board or department of education. Arizona, for example, has established a state education fund for correctional education. The money in this fund is appropriated by the state legislature and managed by the Arizona State Board of Education. The amount each program receives is determined by a funding formula that includes a base support level and additional assistance as prescribed by law. In another example, Kansas funds its education programs through a grant controlled by the Kansas State Board of Education. LEAs can apply for this grant to be reimbursed for costs associated with providing education services to youth in custody.

Two states have established shared arrangements to cover the costs of educating youth committed to state facilities.

Some states, including New York and Washington, D.C., have shared arrangements to fund the education services for youth in custody. In D.C., under a memorandum of agreement, responsibility is shared by its Department of Youth Rehabilitation Services and the Office of the State Superintendent of Education. In New York's state-run facilities, the financial responsibility is shared between the Office of Children and Families (49% of the funding) and the students' home LEAs (51%), with the LEA paying the slight majority.

KEY FINDINGS

Funding of education, as a general matter, has always been complex. Even more so in juvenile justice education, where students enter the system at different times, for different lengths of stay, and with varying needs.

However, for this population of students the stakes are too high not to get the financing of these programs right.

Lawmakers must ensure juvenile justice education programs are adequately funded using formulas and mechanisms that ensure education service providers have the resources they need, along with the right incentives, to provide the high-quality education experiences and supplemental services necessary to ensure students in these programs are successful.

One way to ensure the incentives are right is to confirm that the design of finance policy is dictated by governance and accountability.

Improving Juvenile Justice Education Policy: Recommendations for State Leaders

While youth, families, and advocates champion important reforms that would keep kids in their communities, tens of thousands of children are going to school behind bars today. Each child who is in the custody of a state agency is entrusted to the care of the government, creating a heightened responsibility for providing that student with the highest-quality education opportunities.

While many parents in the general public can choose their children's school, either by where they choose to live or by accessing school choice programs, students in juvenile justice facilities have exactly one option. In addition, most incarcerated students also do not have access to the range of learning options (e.g., dual-credit courses, career technical education, work-based learning) available to students in traditional settings.⁶⁷ Moreover, most juvenile justice facilities provide little to no access to the Internet,⁶⁸ further constraining access to additional or differentiated coursework, tutoring, test prep, dual enrollment, and more.

We believe that when the state takes custody and deprives a young person of their liberty, the state also takes on the corresponding responsibility for providing them with a robust, high-quality education program that is flexible and tailored to individual student needs and lengths of incarceration. There is no doubt that these high-quality juvenile justice education programs exist, but they are the exception rather than the norm. When high-quality programs are created, it's because educators go above and beyond what the law mandates — and often must work against poorly designed policies.

Thoughtfully designed governance, accountability, and finance policies are essential for creating the conditions that allow high-quality education to flourish in juvenile facilities. We offer policymakers six recommendations for leveraging policy to improve juvenile justice education:

1. Reduce the fragmentation of responsibility that exists in juvenile justice education governance.
2. Create meaningful accountability systems and consolidate multiple accountability structures.
3. Define clear goals that are tailored to the purpose of juvenile justice education programs.
4. Invest in creating innovative assessment and data-collection tools, uniform student record databases, and strong data-sharing practices.
5. Publicly report data on juvenile justice education programs to enhance transparency and enable rigorous research on these programs.
6. Ensure that the design of finance policy is dictated by the governance model and accountability system — not the other way around.

We've ordered these recommendations sequentially to demonstrate the interconnectedness of governance, accountability, and finance policy. For example, creating meaningful accountability systems (recommendation No. 2) or defining clear goals (No. 3) is meaningless if it's at all unclear who is responsible for providing education or who is being held accountable for results (No. 1). We recognize, however, that policymaking is not a linear process. Our goal is simply to provide policymakers with different entry points depending on their state's starting place.

1. Policymakers and agency leaders must reduce the fragmentation of responsibility that exists in juvenile justice education.

At best, fragmented governance models disrupt student learning for days and weeks as education providers work to collect student records and develop appropriate learning plans. At worst, students stop learning altogether when it's unclear who is responsible for providing educational services, especially if no one has an incentive to fill the void and there is no accountability for failing to do so.

There are several ways that states can create a continuity of responsibility for students from the moment they enter a juvenile facility all the way through their transition back into their communities. Perhaps the most straightforward approach, and one that some states use, is to make one agency, such as a single LEA, responsible for always providing students with education services in all facilities. Another approach is to create a coordinating entity with the sole responsibility of ensuring all the relevant agencies are providing education services to students and to identify and address situations in which statutes governing responsibility are unclear. Yet another approach is to develop high-quality contracts or agreements, such as memoranda of understanding, that clearly state who is responsible for providing education services, including at what times and in what places.

State and local context should determine what approach states take to creating a continuity of responsibility for providing education in juvenile facilities. Regardless of what approach is taken, states must ensure that decision-making authority is clear enough to allow agencies to meet their minimum compliance standards. States should also keep the end goal in mind, which is ensuring there is a continuity of people and information that follows students through the juvenile justice system.⁶⁹

As one small — but high-impact — starting step, states should require one agency to own students' academic records from initial detention through their transition out of the juvenile justice system — and provide that agency with the resources necessary to do this work effectively and in a timely manner. Simplifying governance in juvenile justice education programs is necessary, but it doesn't solve a crucial problem that plagues short-term detention facilities in particular: Students often arrive with nonexistent or patchwork academic transcripts. It can take several weeks to assemble a complete and accurate record of a student's academic history, and students may leave a facility before the process is complete, creating a disincentive for programs to spend the time and resources necessary to complete the task in a timely manner.⁷⁰

The result is that students go weeks or months without education aligned with their needs. The construction of students' academic transcripts should begin within the first 48 hours of being detained, and the agency responsible for providing education in that first detention center

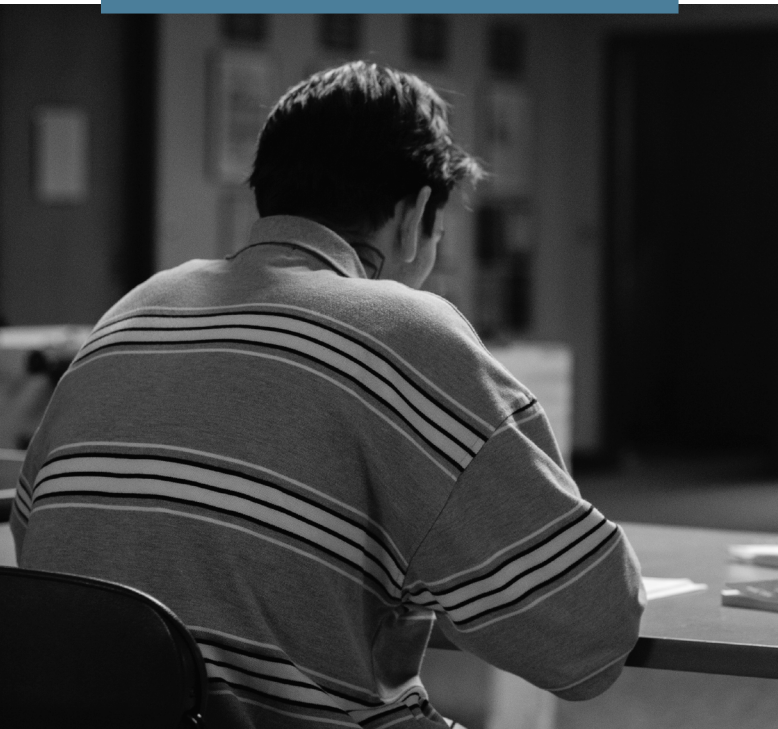
should hold that responsibility regardless of how long the student remains in the facility. That way, any future school where that student later enrolls would receive a complete academic transcript. Importantly, states will need to codify this responsibility in statute and allocate the necessary funding to these facilities for assembling transcripts. Attaching funding to this responsibility may provide a sufficient incentive for facilities to do this work, as long as the resources provided are adequate.

2. States must create meaningful accountability systems and consolidate multiple accountability structures.

Juvenile justice education programs need to be held accountable for student outcomes, which will require some states to create accountability systems from scratch. For most states, however, several compliance-oriented accountability structures exist for these programs. These states must consolidate the number of accountability structures that these programs are subjected to.

Scholars of education policy often use principal-agent theory to describe the rationale for school accountability systems.⁷¹ In the basic model, principals (i.e., policymakers) have goals that they want agents (i.e., leaders of juvenile justice education programs) to achieve. But this model works most effectively when there is one principal-agent relationship, and our landscape analysis showed that is rarely the case in these programs. In some states, we found that up to four different agencies set goals for these programs to pursue. When the goals set by different agencies are not the same or conflict with one another, it can weaken accountability incentives and result in programs pursuing many more goals than is feasible to achieve in one year.

Finance and governance policy can help determine how and where to consolidate accountability structures: The agency that provides funding for juvenile justice education programs should be the same agency tasked with holding these programs accountable. The governance model is also important to consider because accountability incentives are meaningless if individuals are held accountable for outcomes that they have no control over. The bottom line is that the incentive structures embedded in the design of governance, accountability, and finance policy should be aligned.



3. State policymakers must define clear goals that are tailored to the purpose of juvenile justice education programs.

Many of the indicators used to hold traditional schools accountable are simply not applicable for most students participating in juvenile justice education programs. The reason is simple: Most traditional accountability indicators are applicable only to students who spend at least an entire academic year in confinement. For example, traditional state assessment systems are designed to measure growth over the course of an academic year; however, less than 10% of students spent a year or more in juvenile facilities in 2019.⁷² Other traditional student outcomes, such as graduation rates, are not relevant for students who leave custody prior to graduating high school, whereas college and career readiness indicators require that students have access to advanced coursework and work-based learning opportunities, which research shows incarcerated students rarely have access to.⁷³

We recommend states take a more tailored approach that is aligned to a student's grade level, their length of time in confinement, and their transition back into the community. The short-term academic growth toward grade-level proficiency that a student makes (or doesn't make) while incarcerated is one potential accountability indicator that

would recognize schools for the complex work that they are doing — without watering down overall expectations for student achievement over time. Many students arrive at juvenile facilities with skills far below state standards for their grade level, and then fall even further behind as they await placement. As a result, many students in juvenile justice education programs often need intensive skill-based remediation to get back on track. For this work, educators need short-cycle assessments (i.e., skill-based tools that measure mastery of specific competencies) aligned to state standards that measure growth in literacy and numeracy over the course of weeks or months, rather than years.

Another set of potential indicators could focus on students' transition back into their community, whether that is back into secondary school, college, or a career. Importantly, this type of indicator would also provide data on youth who do not transition successfully. For many students, a successful transition serves as a proxy indicator for whether they are engaged in learning and interested in school, again or perhaps for the first time in their lives. Our landscape analysis showed states use a variety of transition-focused indicators, including enrollment and attendance in a K-12 school, high school graduation rates, postsecondary matriculation rates, and employment outcomes.

States must think outside the box when it comes to aggregating accountability indicators across all students, but they do not need to think entirely in such ways. States have created complex yet functional college and career readiness accountability indicators that allow students to pursue a variety of postsecondary pathways. For example, California's college and career readiness indicator allows students to earn accountability points if they satisfy at least one of eight different indicators.⁷⁴

The same concept can apply to juvenile justice programs, but instead of allowing variation based on postsecondary pathways, the indicators applicable to students should be based on their grade level and length of confinement. For example, take a 16-year-old student at a grade-10 level who was confined for only one month and an 18-year-old student who was confined for 18 months. With the former student, the juvenile justice education program would be held accountable only for short-term skill gains in numeracy and literacy, and with the latter student, the program would be held accountable for high school graduation and successful postsecondary transition into a college or

occupation. The individual indicators for each student could then roll up to a composite indicator for the entire program at the end of the year, much like most states' college and career readiness indicators.⁷⁵

4. States must invest in creating innovative assessment and data-collection tools, uniform student record databases, and strong data sharing practices.

States must invest in developing data infrastructure and innovative assessment tools that provide more nuanced and relevant outcome data for juvenile justice education programs. In many states, however, data practices are antiquated and not aligned with current standards for other K-12 schools. This includes everything from individual assessment and case management data to aggregated school performance data and accountability. Education at all levels is complex, but policymakers have demonstrated at least some appetite for addressing data issues and enhancing accountability for districts, schools, and teachers throughout traditional systems and settings. However, while many states have been investing in advancements to their data systems for understanding their K-12 programs, juvenile justice education programs have not seen similar attention.

States must develop innovative assessment systems that can be used to initially screen students as they enter juvenile facilities, measure short-term skill acquisition, inform instruction, and capture long-term academic gains. Developing an assessment system of this nature will require significant resources from states, but its use would extend far beyond the juvenile justice education system. The pandemic has resulted in the proliferation of policies that allow students to unbundle their typical school days into a series of isolated educational experiences.⁷⁶ Short-cycle assessment systems will be needed to measure the effects of these isolated educational experiences as well.

Collecting, organizing, and sharing data related to other outcomes will rely less on the development of sophisticated assessment tools and more on building uniform student record databases and strong data-sharing practices across government agencies. Again, this will require state investment, but one that we think will also

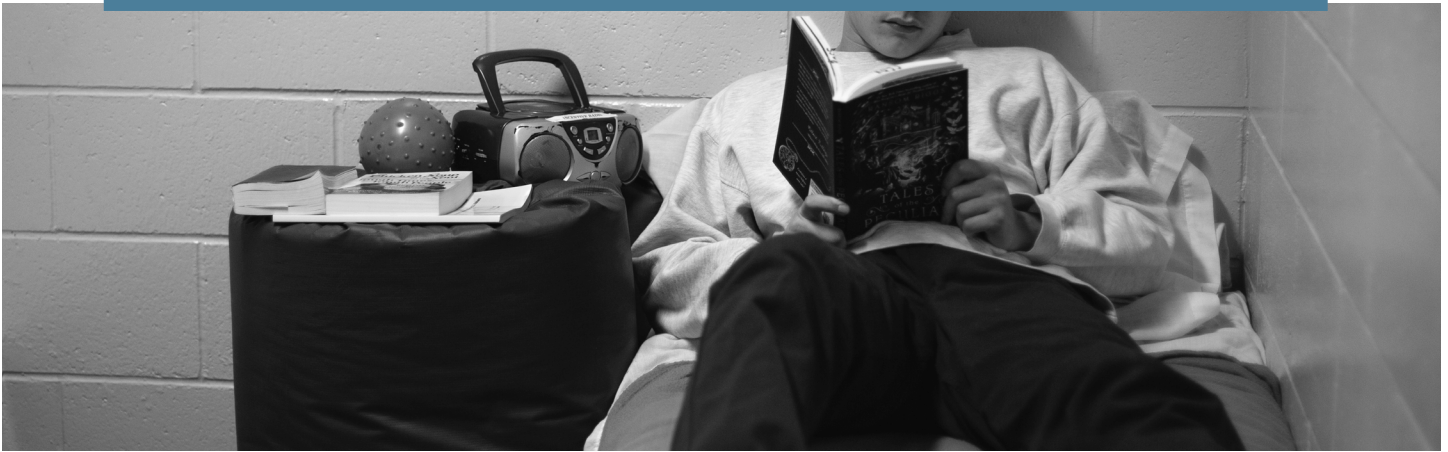
pay off in the long run. Because of their diffused nature and the transience of their student populations, juvenile justice education programs need one central state system where they can quickly find accurate records on students' academic history and plan accordingly. This will require states to establish data-sharing practices that allow agencies to quickly share and access data in ways that protect student confidentiality.

5. States must publicly report data on juvenile justice education programs to enhance transparency and enable rigorous research on these programs.

Without strong accountability systems *and* publicly reported data on juvenile justice education programs, the status quo will endure — a status quo where students have little recourse outside time-consuming and costly litigation. Some of the best information we have on the inner workings of these programs has come from the contents of lawsuits.⁷⁷ This is because most states do not publicly report student outcome data for these programs. We recommend that they start doing so.

Although all states are required to collect and submit data to the federal government in exchange for grant dollars, and some states require programs to report performance data for accountability purposes, rarely are these data complete, consistent, or useful. States have relied on the excuses of small n-sizes, inadequate measurement tools, and other technicalities to create loopholes that evade accountability. As a result, we know very little about these programs, from how much per-pupil funding is spent on educational services, to the quality of education inputs, to whether the education services provided to students are effective. The Southern Education Foundation summarized the situation well in 2014:

“**In short, in an emerging era of ‘big data,’ the students and the juvenile justice schools they attend operate essentially as off-the-book enterprises where standard public reporting and common rubrics of educational assessment do not apply.**”⁷⁸



History shows that publicly reporting school data can raise awareness about the state of juvenile justice education among the public, media, and researchers. For example, the No Child Left Behind Act of 2001 required all states to publish school performance data, resulting in the exposure of achievement disparities that were long suspected but never proven. However, without the same level of information on juvenile justice education, we have no way of understanding the true scope of the problem nor do researchers have the necessary information to assess the efficacy of any solutions.

6. Ensure that the design of finance policy is dictated by the governance model and accountability system—not the other way around.

There is a familiar refrain in policy work: The budget is the policy. Each of the recommendations above must be supported by aligned finance policy. When finance policy is aligned to governance and accountability, funding is managed by the people responsible for operating juvenile justice education programs and held accountable for program effectiveness. The people responsible for overseeing or operating these programs are best positioned to know where funding is needed the most. The greater the disconnect between finance and governance, the greater the chance that funding is not allocated for the right things. Similarly, when the agency in control of finance is not the same as the one held accountable for results, it creates a disincentive for allocating the resources necessary to create high-quality programming for students.

Finance policies should also consider the unique population of students in juvenile justice education programs. For example, funding based on a one-day count is not appropriate for juvenile education programs given that students frequently enter and exit these facilities on a near-daily basis. Furthermore, as we've described at length throughout this report, students generally arrive to these programs behind academically in addition to potentially having significant unmet mental, behavioral, and physical health needs. As such, it is important that policymakers consider these factors when determining how much funding is needed to create and sustain high-quality education programs in juvenile facilities.

Conclusion

We believe states that adopt these recommendations will see improvements in juvenile justice education programs. We also believe the most effective policy reform would be keeping kids in their communities rather than behind bars. These reforms range from limiting police presence on school campuses, to court reforms around diversion and sentencing, to investments in direct anti-poverty programs that reduce stress, lessening its effects on healthy brain development.⁷⁹ That being said, we recognize that there are kids in these systems today and there probably will be for the foreseeable future. We cannot abandon them. Policymakers must ensure that the education programs that serve them make good use of the time that they are incarcerated.

Glossary

Accountability: Policies that determine how juvenile justice education programs are evaluated and what happens when they are not meeting student needs.

Adjudicated: A determination by a court that a youth has engaged in delinquent behavior.

Committed: A court-ordered consequence for a youth who has been adjudicated delinquent, where a student is transferred to the custody of a state agency for long-term placement.

Custodial agency: The agency that has court-ordered physical and legal custody of youth.

Delinquent: Describes behavior by youth analogous to criminal acts in the adult legal system.

Detained: A temporary status indicating a youth has been accused of an alleged offense and is in the physical and legal custody of a public agency but has not yet had their case decided by a juvenile court.

Detention facility: Locally run facilities where youth who are detained are held, also known as a **short-term facility**.

Diversion: Rehabilitation services provided to youth accused of delinquent behavior, to help them avoid being charged for an offense.

Finance: Policies that explain how state funding is allocated to the government agencies responsible for operating programs in juvenile facilities.

Governance: Policies that describe who is responsible for providing education services to youth in custody.

Juvenile facility or juvenile justice facility: Includes a wide range of placement settings for students detained or committed in the juvenile justice system, including detention centers, long-term secure facilities, residential treatment centers, and several other publicly and privately run facilities.

Juvenile justice education program: Programs that provide education services to students in the court-ordered custody of a local or state agency.

Local education agency (LEA): A defined unit of education administration within a state, typically a school district.

Long-term facility: State- or locally run facility where youth are placed after they are adjudicated delinquent.

Non-secure or semi-secure facility: Facility where youth are detained or committed but may be able to come and go with limited supervision.

Secure facility: Locked facilities where youth are detained or committed and have extensive supervision and limited freedom of movement.

Placement: Refers to the decision about the type of facility to which a youth who is detained or committed to the juvenile justice system pre- and post-adjudication should be sent.

Pre-adjudication: The time before a youth has had their case decided by a court.

Post-adjudication: The time after a youth has had their case decided by a court.

State education agency (SEA): The state agency assigned to oversee public education.

Appendix A: Reference Tables for Governance, Accountability, and Finance Policies in All 50 States, Washington, D.C., and Puerto Rico

TABLE A1. STATE GOVERNANCE MODELS IN SHORT-TERM PRE-ADJUDICATION DETENTION AND LONG-TERM POST-ADJUDICATION COMMITMENT SETTINGS

STATE	GOVERNANCE IN SHORT-TERM PRE-ADJUDICATION DETENTION	GOVERNANCE IN LONG-TERM POST-ADJUDICATION COMMITMENT
Alabama	Local/regional detention centers - contracted to local education agencies	Department of Youth and Family Services (or equivalent)
Alaska	Department of Health and Human Services (or equivalent) - contracted to local education agencies	Department of Health and Human Services (or equivalent) - contracted to local education agencies
Arizona	Local education agencies	Department of Juvenile Justice (or equivalent)
Arkansas	Local education agencies	Department of Health and Human Services (or equivalent)
California	Local education agencies	Department of Juvenile Justice (or equivalent)
Colorado	Local education agencies	Department of Youth and Family Services (or equivalent)
Connecticut	Local education agencies	Department of Justice (or equivalent)
Delaware	Department of Youth and Family Services (or equivalent)	Department of Youth and Family Services (or equivalent)
District of Columbia	Department of Youth and Family Services (or equivalent)	Department of Youth and Family Services (or equivalent)
Florida	Local education agencies	Local education agencies
Georgia	Department of Juvenile Justice (or equivalent)	Department of Juvenile Justice (or equivalent)
Hawaii	Department of Education (or equivalent)	Department of Education (or equivalent)
Idaho	Local education agencies	Department of Juvenile Justice (or equivalent)
Illinois	Local/regional detention centers - contracted to local education agencies	Department of Juvenile Justice (or equivalent)
Indiana	Local/regional detention centers - contracted to local education agencies	Department of Corrections (or equivalent)
Iowa	Local education agencies	Department of Health and Human Services (or equivalent)
Kansas	Local education agencies	Department of Corrections (or equivalent) - contracted to nonprofit education provider
Kentucky	Local education agencies	Local education agencies
Louisiana	Local education agencies	Department of Juvenile Justice (or equivalent)
Maine	Department of Corrections (or equivalent)	Department of Corrections (or equivalent)
Maryland	Department of Juvenile Justice (or equivalent)	Department of Juvenile Justice (or equivalent)
Massachusetts	Department of Youth and Family Services (or equivalent)	Department of Youth and Family Services (or equivalent)
Michigan	Local/regional detention centers - contracted to local education agencies	Department of Health and Human Services (or equivalent)
Minnesota	Local/regional detention centers - contracted to local education agencies	Department of Corrections (or equivalent)

Mississippi	Local education agencies	Department of Health and Human Services (or equivalent)
Missouri	Local education agencies	Department of Health and Human Services (or equivalent)
Montana	Local/regional detention centers - contracted to local education agencies	Department of Corrections (or equivalent) <i>*Contracted out for female students</i>
Nebraska	Department of Health and Human Services (or equivalent)	Department of Health and Human Services (or equivalent)
Nevada	Department of Education (or equivalent) or Department of Corrections (or equivalent)	Department of Education (or equivalent) or Department of Corrections (or equivalent)
New Hampshire	Department of Health and Human Services (or equivalent)	Department of Health and Human Services (or equivalent)
New Jersey	Department of Juvenile Justice (or equivalent)	Department of Juvenile Justice (or equivalent)
New Mexico	Department of Youth and Family Services (or equivalent) - contracted to local education agencies	Department of Youth and Family Services (or equivalent) - contracted to local education agencies
New York	Local education agencies	Department of Youth and Family Services (or equivalent) <i>*Local Education Agency for New York City</i>
North Carolina	Department of Juvenile Justice (or equivalent)	Department of Juvenile Justice (or equivalent)
North Dakota	Local education agencies	Department of Corrections (or equivalent)
Ohio	Local/regional detention centers - contracted to local education agencies	Department of Youth and Family Services (or equivalent)
Oklahoma	Local education agencies	Local education agencies or Department of Youth and Family Services (or equivalent)
Oregon	Department of Education (or equivalent)	Department of Education (or equivalent)
Pennsylvania	Local education agencies	Local education agencies
Puerto Rico	Department of Education (or equivalent)	Department of Education (or equivalent)
Rhode Island	Department of Juvenile Justice (or equivalent)	Department of Juvenile Justice (or equivalent)
South Carolina	Local/regional detention centers - contracted to local education agencies	Department of Juvenile Justice (or equivalent)
South Dakota	Local education agencies	Local education agencies
Tennessee	Local education agencies	Department of Youth and Family Services (or equivalent)
Texas	Local education agencies	Department of Juvenile Justice (or equivalent)
Utah	Department of Education (or equivalent)	Department of Education (or equivalent)
Vermont	Local education agencies	No information could be found
Virginia	Local education agencies	Department of Juvenile Justice (or equivalent)
Washington	Department of Education (or equivalent)	Department of Education (or equivalent)
West Virginia	Department of Education (or equivalent)	Department of Education (or equivalent)
Wisconsin	Local education agencies	Department of Corrections (or equivalent)
Wyoming	Department of Education (or equivalent)	Department of Youth and Family Services (or equivalent)

TABLE A2. AGENCIES RESPONSIBLE FOR HOLDING JUVENILE EDUCATION PROGRAMS ACCOUNTABLE, AND THE SYSTEMS AND MECHANISMS FOR ACCOUNTABILITY

STATE	AGENCY RESPONSIBLE FOR ACCOUNTABILITY IN JUVENILE JUSTICE EDUCATION PROGRAMS	ACCOUNTABILITY SYSTEM
Alabama	Department of Education (or equivalent)	State public school accountability system
Alaska	Department of Education (or equivalent)	State public school accountability system
Arizona	Department of Education (or equivalent)	Unknown
Arkansas	Department of Education (or equivalent)	State public school accountability system
California	Department of Education (or equivalent)	State public school accountability system
Colorado	(Local) Department of Education (or equivalent)	Juvenile education program specific accountability system
	(State) Department of Health and Human Services (or equivalent)	Juvenile education program specific accountability system
Connecticut	Department of Education (or equivalent)	State public school accountability system
Delaware	Department of Education (or equivalent)	State public school accountability system
District of Columbia	Department of Education (or equivalent)	State public school accountability system
Florida	Department of Education (or equivalent)	Juvenile education program specific accountability system
Georgia	Department of Education (or equivalent)	State public school accountability system
Hawaii	Department of Education (or equivalent)	State public school accountability system
Idaho	Unknown	Unknown
Illinois	Department of Education (or equivalent)	State public school accountability system
Indiana	Department of Education (or equivalent)	Unknown
Iowa	Department of Education (or equivalent)	ESSA Accountability Index
Kansas	Department of Education (or equivalent)	Annual report
Kentucky	Department of Education (or equivalent)	State public school accountability system
Louisiana	Department of Education (or equivalent)	State public school accountability system
Maine	Department of Education (or equivalent)	State public school accountability system
Maryland	Department of Juvenile Justice (or equivalent)	In the process of developing a juvenile education program specific accountability system
Massachusetts	Department of Education (or equivalent)	State public school accountability system
Michigan	Department of Education (or equivalent)	Unknown
Minnesota	Department of Education (or equivalent)	State public school accountability system
Mississippi	Department of Education (or equivalent)	State public school accountability system

Missouri	Department of Education (or equivalent)	Annual report
Montana	Department of Education (or equivalent)	Unknown
Nebraska	Department of Education (or equivalent)	State public school accountability system
Nevada	Department of Education (or equivalent)	State public school accountability system
New Hampshire	Department of Education (or equivalent)	Program evaluation, every three years
New Jersey	Department of Education (or equivalent)	Program evaluation, every three years
New Mexico	Department of Education (or equivalent)	Unknown
New York	Department of Education (or equivalent)	Unknown
North Carolina	Department of Education (or equivalent)	Unknown
North Dakota	Department of Education (or equivalent)	State public school accountability system
Ohio	Department of Education (or equivalent)	Unknown
Oklahoma	Department of Education (or equivalent)	Unknown
Oregon	Department of Education (or equivalent)	State public school accountability system (committed youth only)
Pennsylvania	Department of Education (or equivalent)	Unknown
Puerto Rico	Department of Education (or equivalent)	State public school accountability system
Rhode Island	Department of Education (or equivalent)	State public school accountability system
South Carolina	Department of Education (or equivalent)	Unknown
South Dakota	Department of Education (or equivalent)	State public school accountability system
Tennessee	Department of Education (or equivalent)	State public school accountability system
Texas	Department of Juvenile Justice (or equivalent)	State public school accountability system
Utah	Department of Education (or equivalent)	Annual program review
Vermont	Department of Education (or equivalent)	Unknown
Virginia	Department of Education (or equivalent)	State public school accountability system
Washington	Department of Education (or equivalent)	State public school accountability system
West Virginia	Department of Education (or equivalent)	State public school accountability system
Wisconsin	Department of Education (or equivalent)	Unknown
Wyoming	Department of Education (or equivalent)	State public school accountability system

TABLE A3. AGENCIES RESPONSIBLE AND MECHANISMS FOR ALLOCATING STATE APPROPRIATIONS TO JUVENILE EDUCATION PROGRAMS

STATE	AGENCY RESPONSIBLE FOR RECEIVING AND MANAGING STATE APPROPRIATIONS	FUNDING MECHANISM
Alabama	Department of Youth and Family Services (or equivalent) and Department of Education (or equivalent)	Special funding formula
Alaska	Department of Education (or equivalent)	General fund
Arizona	Department of Education (or equivalent)	Separate education fund
Arkansas	Local education agencies	State education funding formula
California	(Local) Local education agencies	State education funding formula
	(State) Department of Corrections (or equivalent)	General fund
Colorado	Local education agencies	State education funding formula
	Department of Health and Human Services (or equivalent)	General fund
Connecticut	Local education agencies	State education funding formula
Delaware	Department of Youth and Family Services (or equivalent)	General fund
District of Columbia	Department of Youth and Family Services (or equivalent) and Department of Education (or equivalent)	General fund
Florida	Department of Education (or equivalent)	State education funding formula
Georgia	Department of Juvenile Justice (or equivalent)	General fund
Hawaii	Department of Education (or equivalent)	State education funding formula
Idaho	(Local) Department of Education (or equivalent)	General fund
	(State) Department of Juvenile Justice (or equivalent)	General fund
Illinois	(Local) No information could be found	No information could be found
	(State) Department of Juvenile Justice (or equivalent)	State education funding formula
Indiana	No information could be found	No information could be found
Iowa	Local education agencies	State education funding formula
	(State) Department of Health and Human Services (or equivalent)	General fund
Kansas	Department of Education (or equivalent)	Grant
Kentucky	Local education agencies	State education funding formula
Louisiana	Department of Juvenile Justice (or equivalent)	State education funding formula
Maine	Department of Corrections (or equivalent)	General fund
Maryland	Department of Juvenile Justice (or equivalent) <i>*and local education agency for youth detained longer than 15 days</i>	General fund <i>*and state education funding formula when local education agency supplements</i>
Massachusetts	(State) Department of Youth and Family Services (or equivalent)	General fund
Michigan	(Local) No information could be found	(Local) No information could be found
	(State) Department of Health and Human Services	General fund
Minnesota	(State) Department of Corrections (or equivalent)	General fund

Mississippi	(Local) Department of Education (or equivalent)	Separate education fund
	(State) Department of Health and Human Services (or equivalent)	General fund
Missouri	Department of Education (or equivalent)	State education funding formula
Montana	(Local) Local education agencies	Special funding formula
	(State) Department of Corrections (or equivalent)	General fund
Nebraska	Department of Health and Human Services (or equivalent)	General fund
Nevada	Department of Education (or equivalent)	Separate education fund
New Hampshire	Department of Health and Human Services (or equivalent)	General fund
New Jersey	Department of Education (or equivalent)	General fund
New Mexico	Department of Youth and Family Services (or equivalent)	General fund
New York	Local education agencies and Department of Youth and Family Services (or Equivalent)	State education funding formula
North Carolina	Department of Juvenile Justice (or equivalent)	General fund
North Dakota	(Local) Local education agencies	State education funding formula
	(State) Department of Corrections (or equivalent)	General fund
Ohio	(Local) Local education agencies	State education funding formula
	(State) Department of Youth and Family Services (or equivalent)	General fund
Oklahoma	Local education agencies	State education funding formula
Oregon	Department of Education (or equivalent)	Separate education fund
Pennsylvania	Local education agencies	State education funding formula
Puerto Rico	No information could be found	No information could be found
Rhode Island	Department of Youth and Family Services (or equivalent)	General fund
South Carolina	Department of Education (or equivalent)	State education funding formula
South Dakota	Local education agencies	General fund
Tennessee	(Local) Local education agencies	State education funding formula
	(State) Department of Youth and Family Services (or equivalent)	General fund
Texas	(Local) Local education agencies	State education funding formula
	(State) Department of Juvenile Justice (or equivalent)	
Utah	Department of Education (or equivalent)	General fund
Vermont	Department of Education (or equivalent)	No information could be found
Virginia	(Local) Department of Education (or equivalent)	Special funding formula
	(State) Department of Juvenile Justice (or equivalent)	General fund
Washington	Department of Education (or equivalent)	State education funding formula
West Virginia	Department of Education (or equivalent)	General fund
Wisconsin	Local education agencies	Special funding formula
Wyoming	Department of Youth and Family Services (or equivalent)	General fund

Note: In some states, the agency responsible for managing state appropriations and the funding mechanism is different for juvenile justice education programs in local/regional and state-run facilities. Those distinctions are indicated in the table.

Appendix B: Our Approach to Analyzing the Landscape of Juvenile Justice Education Policies

To better understand the landscape of juvenile justice education, our team reviewed policies in all 50 states, Washington, D.C., and Puerto Rico, including state statutes, codes, and regulations, recently passed legislation, memoranda of understanding, and other relevant legal documents. We also reviewed the websites of local and state education agencies and other state agencies with a role in caring for and educating students in custody. Once we completed our initial research, we identified areas where there were gaps in information that could not be easily found online and areas where clarification was necessary. To fill these gaps, we identified individuals in each state agency or department with governance responsibilities and contacted them to inquire about the information that was needed.

After gathering information, we worked to identify common themes and trends. Specifically, we identified the state of education in juvenile facilities, with keen attention to the ways in which systems are designed to either support or hinder the delivery of high-quality education to students in custody. We cross-analyzed the information we gathered through our review of state policies and interviews with what is known from research and best practices about the structure of high-quality and effective education systems that are intentionally designed to maximize the schooling experience for students. Through this approach, we believe we can surmise the landscape of juvenile education, identify challenges that exist with governing, financing, and holding local and state agencies accountable, and recommend policies that local, state, and federal lawmakers can pursue.

Our analysis was limited in two ways. First, a lack of information or contradictory information meant that our understanding of juvenile justice education policies in some states is incomplete. As we described above, we attempted to address this limitation by contacting individuals in the state agencies responsible for ensuring the delivery of education services to students in custody. Second, the transitory nature of the population of students in custody coupled with the absence of a robust data infrastructure made it difficult to ascertain certain data points of interest, such as the per-pupil expenditures and the academic outcomes of students in custody.

Appendix C: A Review of Juvenile Justice Education Plans Under ESSA in All 50 States, Washington, D.C., and Puerto Rico

In 2018, Bellwether Education Partners conducted a review of juvenile justice education plans under ESSA in all 50 states, Washington, D.C., and Puerto Rico. Analysts used a five-point rating scale to evaluate all 52 ESSA plans across four domains and 18 separate indicators (see Tables C1 and C2 on the next page).

TABLE C1. DOMAINS AND INDICATORS USED TO REVIEW STATES' JUVENILE JUSTICE EDUCATION PLANS UNDER ESSA

DOMAIN	#	INDICATOR RATING
Program objectives, outcomes, and supports	1	Program overview
	2	Title I, Part D application process
	3	SEA coordination between SAs and LEAs
	4	Boilerplate language/state context
Transition plan and outcomes between schools and juvenile justice facilities	5	Transition plan
	6	Transition objectives
	7	Transition outcomes
	8	Performance measures for transition outcomes
Special education, career and technical education, and online instruction	9	Program objectives
	10	Program outcomes
	11	Performance measures for program outcomes
	12	Postsecondary preparation
	13	HS Graduation, GED, or HS equivalency preparation
	14	Online instruction
	15	Special education
	16	Career and technical education
Parent and family engagement as well as disproportionality and marginalized youth	17	Parent and family engagement
	18	Marginalized youth and disproportionality

Note: Numbers 1-18 in Table C1 coincide with the columns in Table C3 on page 45.

TABLE C2. EVALUATION RUBRIC USED TO REVIEW STATES' JUVENILE JUSTICE EDUCATION PLANS UNDER ESSA

RATING	RUBRIC DEFINITION
1	The state did not address this element in its plan.
2	The state vaguely describes this element in their plan.
3	The state describes this element but alignment with the rest of the plan is unclear.
4	The state's description of this element is specific and tied to the rest of the plan.
5	The state's description is strategic, meaningful, and aligned with educational objectives.

Table C3 on the next page presents ratings for each indicator and state (anonymized and randomly ordered). Note, these ratings are not meant to be evaluative of any one state. Our goal in reviewing plans for juvenile justice education in state ESSA plans was to understand national trends, identify opportunities for improvement, and identify bright spots.

Overall, our review showed that state plans scored relatively poorly on most indicators. Typically, state plans scored between 1 and 3, which indicated the language in the state plan was overly vague or did not provide sufficient information. For example, states rarely specified how they would achieve the objectives outlined in their plans.

While overall most state plans did not score well, four bright spots did emerge:

- State context and aligning plans to specific needs and challenges:** State plans clearly described the relationship between state education agencies and juvenile justice facilities. In doing so, these states avoided generic language; identified specific statutes, programs, and institutions; and clearly outlined plans and initiatives.
- Performance measures for program outcomes:** State plans clearly identified the data sources it will use, such as the state's labor department, GED, and school districts, as well as federal data sources. These states also planned to use surveys to collect performance data.
- High school graduation or equivalency:** State plans outlined policy, programs, and services in place to ensure youth have access to high-quality programming. This includes requiring agencies to submit annual reports demonstrating student access to high-quality programming, performance in those courses, and successful transitions out of the facilities.
- Performance measures for transition outcomes:** State plans specified that the state education agency will monitor and evaluate performance across many important indicators, including enrollment in credit-bearing courses and obtaining credentials, as well as postsecondary enrollment or starting a career.

TABLE C3. RESULTS OF BELLWETHER'S REVIEW OF STATES' JUVENILE JUSTICE EDUCATION PLANS UNDER ESSA

State	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	Avg.
1																			2.67
2																			2.33
3																			2.78
4																			2.33
5																			1.56
6																			1.72
7																			1.83
8																			1.94
9																			1.94
10																			1.67
11																			2.28
12																			2.00
13																			1.94
14																			2.28
15																			2.11
16																			1.72
17																			1.94
18																			2.11
19																			1.72
20																			2.06
21																			1.94
22																			1.56
23																			2.22
24																			1.72
25																			1.94
26																			2.39
27																			2.44
28																			2.28
29																			2.17
30																			2.06
31																			3.11
32																			1.72
33																			2.44
34																			1.61
35																			2.17
36																			2.06
37																			2.11
38																			2.61
39																			2.39
40																			1.78
41																			2.28
42																			2.44
43																			1.28
44																			2.39
45																			1.56
46																			2.00
47																			2.39
48																			2.17
49																			2.28
50																			1.94
51																			2.06
52																			1.50
Avg.	1.67	1.79	2.37	3.33	2.69	2.06	1.96	1.73	2.48	2.40	2.42	2.02	2.46	1.19	1.63	2.38	1.46	1.31	2.22

Note: States have been anonymized and the order of states was randomized in Table C3; Numbers 1-18 in Table C3 are defined in Table C1 on page 43.

Endnotes

- ¹ We use the term “programs” as a catch-all for the classrooms in facilities that serve young people who are under the care of a public agency such as a probation or youth services department, recognizing that some scenarios fall outside typical categorization. Other terms used to describe these programs include “institutional education programs,” “juvenile court schools,” and “youth corrections education programs.”
- ² Development Services Group, Inc. “Education for Youth Under Formal Supervision of the Juvenile Justice System.” Office of Juvenile Justice and Delinquency Prevention, 2019.
- ³ Patrick McCarthy, Vincent N. Schiraldi, and Miriam Shark. “The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model,” National Institute of Justice, October 2016, <https://www.ojp.gov/pdffiles1/nij/250142.pdf>.
- ⁴ National Governors Association. “State Approaches to Implementing Community-Based Alternatives to Incarceration for Youth Involved in the Justice System,” 2017, <https://www.nga.org/wp-content/uploads/2019/09/1709HSPSJuvJustice.pdf>.
- ⁵ Melissa Sickmund, Anthony (T.J.) Sladky, Charles Puzanchera, and Wei Kang. “Easy Access to the Census of Juveniles in Residential Placement,” 2021, <https://www.ojjdp.gov/ojstatbb/ezacjrp/>.
- ⁶ The best data we have comes from a one-day count of youth incarceration conducted by the Census of Juveniles in Residential Placement on the fourth Wednesday in October every two years. The most recent one-day count was conducted on October 23, 2019. Sickmund et al., “Easy Access.”
- ⁷ Kimberly Thielbar, “Education in Juvenile Detention Centers,” *The Loyola University Chicago Childlaw and Education Institute Forum* (2011): 1-11, https://www.luc.edu/media/lucedu/law/centers/childlaw/childlaw/pdfs/2011studentpapers/thielbar_juvenile_detention.pdf.
- ⁸ “State” here means a government entity, not necessarily at the state level.
- ⁹ Katherine Twomey. “The Right to Education in Juvenile Detention Under State Constitutions.” *Virginia Law Review* (2008): 765–811; U.S. Department of Education. “Guiding Principles for Providing High-Quality Education in Juvenile Justice Secure Care Settings,” 2014, <http://www2.ed.gov/policy/gen/guid/correctional-education/guiding-principles.pdf>.
- ¹⁰ There are variances in the security of different facilities. At some, security is minimal with doors locked only at night; others are much more like the security standard of an adult prison.
- ¹¹ The Sentencing Project. “Too Many Locked Doors: The Scope of Youth Confinement Is Vastly Understated,” 2022.
- ¹² We use the labels from the source whenever we present primary data. Labels, particularly for race/ethnicity, may not always match one another across primary sources.
- ¹³ Sickmund et al., “Easy Access.”; National Center for Education Statistics, “Enrollment in Public Elementary and Secondary Schools, by Level, Grade, and Race/Ethnicity: Selected Years, Fall 1999 through Fall 2020,” September 2021. https://nces.ed.gov/programs/digest/d21/tables/dt21_203.65.asp.
- ¹⁴ Angela Irvine and Aisha Canfield. “The Overrepresentation of Lesbian, Gay, Bisexual, Questioning, Gender Nonconforming and Transgender Youth Within the Child Welfare to Juvenile Justice Crossover Population.” *American University Journal of Gender, Social Policy & the Law* 24 (2015): 243; Bianca D.M. Wilson, Sid P. Jordan, Ilan H. Meyer, Andrew R. Flores, Lara Stemple, and Jody L. Herman. “Disproportionality and Disparities among Sexual Minority Youth in Custody.” *Journal of Youth and Adolescence* 46, no. 7 (2017): 1547–1561.
- ¹⁵ Mary Magee Quinn, Robert B. Rutherford, Peter E. Leone, David M. Osher, and Jeffrey M. Poirier. “Youth with Disabilities in Juvenile Corrections: A National Survey.” *Exceptional Children* 71, no. 3 (2005): 339–345; U.S. Department of Education, National Center for Education Statistics, Common Core of Data (CCD), “Public Elementary/Secondary School Universe Survey.”
- ¹⁶ Development Services Group, Inc. “Education for Youth Under Formal Supervision of the Juvenile Justice System.”
- ¹⁷ Hailly T.N. Korman, Max Marchitello, and Alexander Brand. “Patterns and Trends in Educational Opportunity for Students in Juvenile Justice Schools: Updates and New Insights,” Bellwether Education Partners, August 20, 2019.
- ¹⁸ Development Services Group, Inc., “Education for Youth Under Formal Supervision of the Juvenile Justice System.”

- ¹⁹ Gregory J. Benner, Songtain Zeng, Annie Laurie Armstrong, Cathrin Anderson, and Erin Carpenter. "Strengthening Education in Short-term Juvenile Detention Centers: Final Technical Report," Center for Strong Schools, University of Washington Tacoma, December 2016, <https://www.ojp.gov/pdffiles1/ojjdp/grants/251118.pdf>.
- ²⁰ Anna Aizer and Joseph J. Doyle Jr. "Juvenile Incarceration, Human Capital, and Future Crime: Evidence from Randomly Assigned Judges." *The Quarterly Journal of Economics* 130, no. 2 (2015): 759–803.; E. Jason Baron, Brian Jacob, and Joseph P. Ryan. *Pretrial Juvenile Detention*. No. w29861. National Bureau of Economic Research, 2022.; Randi Hjalmarsson, "Criminal Justice Involvement and High School Completion." *Journal of Urban Economics* 63, no. 2 (2008): 613–630.
- ²¹ Irvine and Canfield, "The Overrepresentation;" Wilson et al., "Disproportionality and Disparities;" Quinn et al., "Youth With Disabilities;" U.S. Department of Education, "Public Elementary/Secondary School Universe Survey."
- ²² Elizabeth S. Barnert, Rebecca Dudovitz, Bergen B. Nelson, Tumaini R. Coker, Christopher Biely, Ning Li, and Paul J. Chung. "How Does Incarcerating Young People Affect Their Adult Health Outcomes?" *Pediatrics* 139, no. 2 (2017).
- ²³ Haeil Jung. "The Long-Term Impact of Incarceration During the Teens and 20s on the Wages and Employment of Men." *Journal of Offender Rehabilitation* 54, no. 5 (2015): 317–337.
- ²⁴ Andrea R. Coleman. "Expunging Juvenile Records: Misconceptions, Collateral Consequences, and Emerging Practices," U.S. Department of Justice Office of Justice Programs Office of Juvenile Justice and Delinquency Prevention, 2020.
- ²⁵ Melanie Taylor. "Adult Earnings of Juvenile Delinquents: The Interaction of Race/Ethnicity, Gender, and Juvenile Justice Status on Future Earnings." *Justice Policy Journal* 13, no. 2 (2016): 1–24.
- ²⁶ Steve Suitts, Katherine Dunn, and Nasheed Sabree. "Just Learning: The Imperative to Transform Juvenile Justice Systems into Effective Educational Systems. A Study of Juvenile Justice Schools in the South and the Nation." Southern Education Foundation, 2014.
- ²⁷ The Sentencing Project, "Too Many Locked Doors."
- ²⁸ Sickmund et al., "Easy Access."
- ²⁹ USLegal. "Secure Detention Facility Law and Legal Definition," <https://definitions.uslegal.com/s/secure-detention-facility/>.
- ³⁰ The Census of Juveniles in Residential Placement defines residential treatment centers as facilities that focus "on providing some type of individually planned treatment program for youth (substance abuse, sex offender, mental health, etc.) in conjunction with residential care." For more information, visit: <https://www.ojjdp.gov/ojstatbb/ezacjrp/asp/glossary.asp>.
- ³¹ The Census of Juveniles in Residential Placement defines detention centers as "a short-term facility that provides temporary care in a physically restricting environment for juveniles in custody pending court disposition and, often, for juveniles who are adjudicated delinquent and awaiting disposition or placement elsewhere, or are awaiting transfer to another jurisdiction." For more information, visit: <https://www.ojjdp.gov/ojstatbb/ezacjrp/asp/glossary.asp>.
- ³² The Census of Juveniles in Residential Placement defines group homes as "a long-term facility in which residents are allowed extensive contact with the community, such as attending school or holding a job," which includes halfway houses. For more information, visit: <https://www.ojjdp.gov/ojstatbb/ezacjrp/asp/glossary.asp>.
- ³³ The Census of Juveniles in Residential Placement defines wilderness camps as "a long-term residential facility for persons whose behavior does not necessitate the strict confinement of a long-term secure facility, often allowing them greater contact with the community," and includes ranches, forestry camps, and farms. For more information, visit: <https://www.ojjdp.gov/ojstatbb/ezacjrp/asp/glossary.asp>.
- ³⁴ The Census of Juveniles in Residential Placement defines boot camps as "a secure facility that operates like military basic training. There is emphasis on physical activity, drills, and manual labor. Strict rules and drill instructor tactics are designed to break down youths' resistance." For more information, visit: <https://www.ojjdp.gov/ojstatbb/ezacjrp/asp/glossary.asp>.
- ³⁵ The Sentencing Project, "Too Many Locked Doors."
- ³⁶ Centers for Disease Control and Prevention. "Youth Risk Behavior Surveillance — United States, 2019," <https://www.cdc.gov/healthyyouth/data/yrbs/pdf/2019/su6901-H.pdf>; Meghana Kakade, Cristiane S. Duarte, Xinhua Liu, Cordelia J. Fuller, Ernest Drucker, Christina W. Hoven, Bin Fan, and Ping Wu. "Adolescent Substance Use and Other Illegal Behaviors and Racial Disparities in Criminal Justice System Involvement: Findings From a US National Survey." *American Journal of Public Health* 102, no. 7 (2012): 1307–1310.
- ³⁷ "Juvenile Arrest Rates By Offense And Race, 2019." 2020. *Office Of Juvenile Justice And Delinquency Prevention*. https://www.ojjdp.gov/ojstatbb/special_topics/qa11501.asp?qaDate=2019.

³⁸ The Sentencing Project, "Too Many Locked Doors."

³⁹ Ibid.

⁴⁰ An LEA is a "local education agency," the typical unit of education governance in the United States. In some states, there may be mirror structures known as education service units or similar terms. To avoid confusion, please note that "LEA" is also a common abbreviation for "law enforcement agency" but we do not use that abbreviation in this publication.

⁴¹ A traditional LEA runs and administratively controls all schools within its jurisdiction, creates policies, adopts curriculum materials, sets safety standards, builds and operates budgets, hires and fires teachers, offers transportation to students, establishes discipline policies, delivers specialized programs for students, and provides a variety of other services.

⁴² *G.F. v. Contra Costa County*, docket (N.D. Cal., Nov. 5, 2014).

⁴³ Ibid.

⁴⁴ Peter E. Leone and Lois A. Weinberg. "Addressing the Unmet Educational Needs of Children and Youth in the Juvenile Justice and Child Welfare Systems," 2010.

⁴⁵ State official responsible for a juvenile justice education program.

⁴⁶ Lois M. Davis, Jennifer L. Steele, Robert Bozick, Malcolm V. Williams, Susan Turner, Jeremy N.V. Miles, Jessica Saunders, and Paul S. Steinberg. "How Effective Is Correctional Education, and Where Do We Go From Here? The Results of a Comprehensive Evaluation." Rand Corp., 2014.

⁴⁷ Joseph Calvin Gagnon and Amanda Ross Benedick. "Provision of a Free and Appropriate Public Education in an Adult Jail During COVID-19: The Case of Charles H. et al. v. District of Columbia et al." *Education Sciences* 11, no. 12 (2021): 767.

⁴⁸ Student in a juvenile justice education program.

⁴⁹ Adam Voight, Marybeth Shinn, and Maury Nation. "The Longitudinal Effects of Residential Mobility on the Academic Achievement of Urban Elementary and Middle School Students." *Educational Researcher* 41, no. 9 (2012): 385–392.

⁵⁰ Hailly T.N. Korman and Max Marchitello. "Educating Youth in Short-Term Detention," Bellwether Education Partners, March 2020.

⁵¹ Student in a juvenile justice education program.

⁵² While this may call to mind a one-room schoolhouse model, that analogy is deceptive because the students in this classroom are ever-changing (see above).

⁵³ Leone and Weinberg, "Addressing the Unmet Educational Needs."

⁵⁴ Student in a juvenile justice education program.

⁵⁵ The National Partnership for Juvenile Services. "Domains for a High Quality Juvenile Justice Education System," April 12, 2022. <https://irp.cdn-website.com/45a58767/files/uploaded/Domains%20for%20High%20Quality%20JJ%20Education%20%284.12.22%29.pdf>.

⁵⁶ Student in a juvenile justice education program.

⁵⁷ "Every Student Succeeds Act," 2015.

⁵⁸ Peter E. Leone and Pamela Cichon Wruble. "Education Services in Juvenile Corrections: 40 Years of Litigation and Reform." *Education and Treatment of Children* 38, no. 4 (2015): 587–604.

⁵⁹ Ibid.

⁶⁰ "Every Student Succeeds Act." *Pub L* (2015): 114–95.

⁶¹ "Juvenile Justice and Delinquency Prevention." *Pub L* (2018): 93–415; 88 Stat. 1109.

⁶² "Individuals With Disabilities Education Improvement Act of 2004," P.L. 108–446.

⁶³ Status offenses are noncriminal acts considered legal for adults but illegal for youth.

⁶⁴ Fiddiman, Bayliss. "How to Increase Support for Youth Leaving Juvenile Detention Facilities," Center for American Progress, 2021.

⁶⁵ Kelly Robson, Lynne Graziano, and Jennifer O'Neal Schiess. "Portfolio of Choice: Charter Schools." National Comprehensive Center, 2020.

⁶⁶ In ESSA plans under Title 1, Part D, states must describe how they will ensure that juvenile justice education programs facilitate effective transitions for youth between correctional facilities and local programs as well as the objectives and outcomes states will use to evaluate the effectiveness of these programs.

⁶⁷ The Council of State Governments Justice Center. "Locked Out: Improving Educational and Vocational Outcomes for Incarcerated Youth," 2015.

⁶⁸ Davis et al., "How Effective Is Correctional Education."

⁶⁹ Kelly Robson and Hailly T.N. Korman. "Continuity Counts: Coordinated Education Systems for Students in Transition," Bellwether Education Partners, 2018.

⁷⁰ Leone and Weinberg, "Addressing the Unmet Educational Needs."

⁷¹ For example, see David Figlio and Helen F. Ladd. (2015). "School Accountability and Student Achievement." In H. F. Ladd & M. Goertz (Eds.), *Handbook of Research in Education Finance and Policy* (2nd ed., pp. 194–210). Routledge.

⁷² Sickmund et al., "Easy Access."

⁷³ Korman et al., "Patterns and Trends."

⁷⁴ These indicators include Career Technical Education Pathway Completion, Grade 11 Smarter Balanced Summative Assessments in ELA and mathematics, Advanced Placement Exams, International Baccalaureate Exams, College Credit Course (formerly called Dual Enrollment), a–g Completion, State Seal of Biliteracy, Military Science/Leadership. See California Department of Education. "2019 California School Dashboard Technical Guide: Final version," 2019.

⁷⁵ For more information on constructing multiple measure accountability systems, see David T. Conley, Michael Thier, Paul Beach, Sarah Collins Lench, and Kristine L. Chadwick. "Measures for a College and Career Indicator: Multiple Measures," Educational Policy Improvement Center, 2014.

⁷⁶ Alex Spurrier, Lynne Graziano, Brian Robinson, and Juliet Squire. "Expanding Educational Options: Emergent Policy Trends," Bellwether Education Partners, 2022.

⁷⁷ Leone and Wruble, "Education Services in Juvenile Corrections."

⁷⁸ Steve Suitts et al., "Just Learning."

⁷⁹ McCarthy et al., "The Future of Youth Justice."

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