



State Policies Related to Alternative Education

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Introduction

Alternative schools are at the center of providing choice and opportunity to students who have not had successful experiences in school. There are two basic types of alternative schools: (1) those for students who would be considered “at-risk” or who simply have not flourished in a traditional setting; and (2) those for students with disciplinary problems or disruptive behavior. The 1970s were a period of growth for the more traditional alternative programs (targeted at at-risk students), although new programs continue to be established. The second wave of programs – those serving students with discipline problems – grew out of the federal Gun Free Schools Act of 1994 and out of state laws that put zero tolerance in place in the mid-1990s. Although initial state enactments were targeted for expulsion of students who brought weapons to school, many states later modified their laws to address lesser offenses as well, resulting in increased numbers of expelled students.

Sometimes society appears to blame at-risk students for the traditional education system’s failure to educate them. However, alternative education programs can often succeed where traditional schools have not. Typically, the biggest advantages of alternative schools are their personalized, diverse programs and teaching that is more likely to be targeted toward student strengths. Nontraditional programs offer unique education experiences and opportunities that often defy conventional structures bound by rigid curricula. Many provide safe harbor for students who have been bullied or who have felt neglected or rejected in comprehensive school settings.

Potential Roles for State Policy

There are a number of a roles and responsibilities states can undertake around alternative education, including:

- Mandate or encourage the establishment of alternative programs
- Address authority issues: who controls these schools? Local boards? Could or should some be charter schools? Should the state support state-supported regional programs, particularly for expelled students?
- Address accountability issues such as where students will be counted under the No Child Left Behind Act
- Offer grants, incentives
- Determine if expelled or otherwise-disciplined students must attend school
- Address funding
- Determine who assigns students to discipline-based schools (principals, boards, other)
- Consider other options such as whether to allow contracting for services; services via distance education; or require or provide incentives for a certain number of charters that target at-risk students.

Policy Considerations

Adequate funding. Quite often, students who choose to attend alternative programs have not had successful academic experiences, so they enroll with skills below grade level in one or more subject areas and need to accelerate their learning. Data from states that have documented criteria for enrollment

suggest that many of these students are struggling with challenges that may include physical abuse, drug use, pregnancy or parenting, or criminal involvement. A greater number of students in alternative programs might be living independently from families and thus fall into low-income status, or be teen parents who are struggling to make ends meet as they work, attend school and deal with child care. In programs serving students with discipline issues, behavior problems might require additional professional intervention such as counseling or services from a school psychologist. Also, providing support for the additional oversight and alignment necessary for the transition back to a traditional program is important.

Experienced and specialized personnel. Teachers and/or other staff who apply to work at alternative schools frequently demonstrate eagerness to adopt a diverse teaching environment and use methods specific to each and every student. Serving students who have behavioral problems, learning difficulties and/or a history of poor attendance or dropping out calls for high levels of creativity and empathy, balanced with an understanding of how to help students become accountable for their participation in their learning. While these traits don't necessarily cost more, strong alternative programs tend to recruit teachers who have demonstrated success in serving at-risk populations – and employing experienced teachers means higher salaries. Additional staffing might also be necessary to promote healthy physical, social and emotional development.

Individualized curriculum. Alternative schools should not be “holding zones” that result in underprepared students. Ensuring students have access to rigorous curriculum while allowing that curriculum to be delivered in a non-traditional manner is difficult at best – but of great importance. Policies that measure growth of student learning against state standards and build school accountability on measurement of that growth are highly important in establishing accountability for alternative schools. Policies could include provision for program or school evaluation.

Transition programs to/from traditional settings. It is crucial to set up a transitional program for students with disruptive behavior and discipline problems when sending them to a new setting of an alternative school and/or sending them back to a traditional school environment.

Sample State Policies

Listed below are policies and legislation on alternative education programs from selected states.

Arizona

School districts may contract with any public body or private person for the purpose of providing alternative education programs. "Alternative education" means the modification of the school course of study and adoption of teaching methods, materials and techniques to provide education for those pupils in grades 6-12 who are unable to profit from the regular school course of study and environment.

ARIZ. REV. STAT. § 15-796

<http://www.azleg.state.az.us/FormatDocument.asp?inDoc=/ars/15/00797.htm&Title=15&DocType=ARS>

School districts are allowed to count pupils for daily attendance who are not actually and physically in attendance in a recognized common or high school, but who are enrolled in and actually physically in attendance in an alternative education program that meets state standards. Governing boards may then make payments for the cost of education of pupils.

ARIZ. REV. STAT. § 15-797

Arkansas

Every school and district is required to offer appropriate alternative education programs to serve those students whose educational progress deviates from the standard expected for a successful transition to a productive life, and those students whose behavior interferes with their own learning or the educational process of others.

ARK. CODE ANN. § 6-15-1005

The Arkansas Pygmalion Commission on Nontraditional Education was established to focus public attention on the need for meaningful intervention and adaptations to the system that accommodate student needs. The Commission is supposed to provide a clearinghouse for information regarding alternative learning environments and to ensure that needed changes are made in curriculum, instructional approaches, school climate, and organization to improve outcomes for at-risk students.

State law is explicit concerning the Commission's purposes, stating that purposes include, but are not limited to, the following:

1. Identifying and developing additional funding bases, including such nontraditional sources to use in implementing intervention services for students as private funds and grants, federal education funds and grants, and sale of merchandise and services generated by alternative education programs
2. Conducting a study to determine the cost of various service models and the relative cost-effectiveness of each
3. Identifying, in conjunction with school administrators responsible for alternative learning environments, factors to consider in determining the placement of students in alternative learning environments, including, but not limited to, the following:
 - Standardized test scores or assessment portfolios which indicate that a student in nine months or more behind grade level
 - The student's being one year or more behind grade-level peers in accumulating credits for graduation
 - Having been retained one or more times
 - Recurring absences
 - Personal or family problems or situations that have negatively affected the student's ability to function in school
 - Referrals for special education in which the student is found not eligible for special education; and
 - Suspension or expulsion within the previous or current school semester.
4. Forming guidelines whereby the public schools and other agencies work collectively to implement a program for Arkansas children K-12 in both general education and vocational education
5. Collecting and compiling research, information, and data regarding alternative and nontraditional methods for meeting the educational needs of all children and disseminating such information to the public schools
6. Recommending the implementation of both in-service and university-level courses designed to enhance the ability of a teacher or an administrator to develop interventions that will meet the needs of students identified for placement in an alternative or nontraditional learning environment.

Makeup of the Commission is specified in law. Sixteen members represent a broad base of state agencies (Health, Human Services, Education, Workforce, Higher Education, Justice) and education role groups (teachers, principals, superintendent, boards). State law also requires various agencies to contribute staff time to work for the Commission.

ARK. CODE ANN. § 6-15-1801 to 1806

Senate Bill 939 (enacted 2005) requires the state board to set rules not only for which alternative learning environments but also the characteristics of students who qualify for funding because they have been placed in an alternative learning environment.

ARK. CODE ANN. § 6-20-2303

Senate Bill 1044 (enacted 2005) states that grade-level/subject-matter teacher certification requirements do not apply to licensed teachers teaching in alternative learning environments.

ARK. CODE ANN. § 6-17-309

California

Governing boards are required to provide access to an alternative educational program for those students who have been expelled. Such a program "may be operated by the school district, the county superintendent of schools, or a consortium of districts or in joint agreement with the county superintendent of schools."

Governing boards are allowed to enter into an agreement with a county superintendent of schools in another county to provide education services for the district's expelled pupils. Each school district is required to maintain the following data:

- A. The number of pupils recommended for expulsion

- B. The grounds for each recommended expulsion
- C. Whether the pupil was subsequently expelled
- D. Whether the expulsion order was suspended
- E. The type of referral made after the expulsion
- F. The disposition of the pupil after the end of the period of expulsion.

CAL. EDUC. CODE § 48916.1

A.B. 110 (enacted 2005) deleted the requirement that school districts annually report expulsion data to the California Department of Education (CDE) and instead authorizes the superintendent of public instruction to collect this data as part of a periodic, coordinated compliance review. It repeals the requirement that the state superintendent must develop, update every other year, and distribute directories of public and private agencies that provide services to special education pupils with "low-incidence" disabilities. Also repealed is the requirement that CDE publish and distribute to local education agencies an annual school crime report.

http://www.leginfo.ca.gov/pub/bill/asm/ab_0101-0150/ab_110_bill_20050718_chaptered.pdf

Districts are allowed to establish alternative education and work centers for high school dropouts. Such a center can be established at a continuation high school or adult school, or the district may contract with a private non-profit community-based organization to provide the center. Centers are required to do all of the following:

- A. Teach basic academic skills, with emphasis on the improvement of student motivation for achievement, in order to obtain employment or return to the regular high school
- B. Operate on a clinical, client-centered basis, including, but not limited to, the following:
 - 1. Diagnosis of educational abilities
 - 2. Determination and setting of individual goals
 - 3. Prescribing and providing individual courses of instruction
 - 4. Evaluating each pupil's progress in his or her educational program
- C. Provide programs to include, but are not limited to, all of the following:
 - 1. A combination of classroom instruction and on-the-job training
 - 2. Instruction in practical work values and specific vocational skills that reflect labor market demand
 - 3. A strong partnership with labor, business, and industry
 - 4. Career counseling and placement services.

The state superintendent is required by law to publish guidelines to assist alternative education and work centers in their development and implementation; to train personnel on the effective use of prevention and recovery programs; to disseminate information regarding demonstration programs; to monitor quality and effectiveness; and to provide for evaluation of these programs.

CAL. EDUC. CODE § 52900

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=52001-53000&file=52900-52904>

Colorado

State law requires the state board to adopt rules specifying the criteria and application process for a school to be designated an alternative education campus. Rules must address:

- A. Criteria that a school must meet to be designated an alternative education campus, including but not limited to the following:
 - Having a specialized mission and serving a special needs or at-risk population
 - Being an autonomous school
 - Having an administrator who is not under the supervision of an administrator at another public school
 - Having a budget separate from any other public school
 - Having nontraditional methods of instruction delivery
 - Serving students who have severe limitations that preclude appropriate administration of assessments.
- B. Serving a student population, more than 95% of whom have an individual education program
- C. Serving students who attend on a part-time basis and who come from other schools where such part-time students are counted

- D. Serving a student population in which more than 95% of the students meet the definition of a high-risk student.

Applications have to demonstrate initial baseline levels of and measurable annual benchmarks on a different set of measures than apply to traditional schools (e.g., at least one measure of student academic performance that measures the educational growth a student achieves during one year of enrollment; measures of academic progress such as grade promotion, dropout rates, GED sections attempted; course or credit completion; graduation, GED completion) and measures of nonacademic or behavioral improvement such as average daily attendance, postsecondary attendance, enlistment, employment, reduced rates of suspension, etc.

The school accountability reports (SAR) required by Colorado law do not apply to schools designated as alternative education campuses, so there is no public reporting of their performance. However, these campuses are included in calculations of adequate yearly progress (AYP). A charter school meeting the criteria is permitted to be designated an alternative education campus. The Colorado Student Assessment Program (CSAP) results for all part-time students at an alternative education campus must be included in the school's academic performance and academic improvement ratings. However, any school designated an alternative education campus is exempt from receiving an academic performance or improvement rating unless the state board approves the receipt of such ratings.

COLO. REV. STAT § 22-7-604.5 (1), COLO. REV. STAT. § 22-7-602 and COLO. REV. STAT. § 22-7-604

Each school district may provide educational services to students who are identified as at risk of suspension or expulsion from school. Any school district that provides educational services to students who are at risk of suspension or expulsion may apply for money through the Expelled and At-Risk Student Services Grant Program established in section 22-33-205 to assist in providing such educational services.

COLO. REV. STAT. § 22-33-202

The state department is authorized to retain up to 1% of any appropriation for the Expelled and At-Risk Student Services Grant Program to evaluate the program. Beginning January 1, 2006, the department is required to annually report to the general assembly on the outcomes and effectiveness of the program, related to school attendance, attachment and achievement.

COLO. REV. STAT. § 22-33-205

http://www.leg.state.co.us/Clics2005a/csl.nsf/fsbillcont3/86586AF58A7872A987256FB6006E7A5F?Open&file=1311_enr.pdf

District of Columbia

Students eligible for alternative education programs include those students who are likely to be expelled or who are enrolled in the school district but have been suspended, are academically at risk, or who have been subject to repeated disciplinary actions due to behavioral problems.

RCW 28A.150.305 (2)

If a district school board chooses to initiate specialized programs for students at risk of expulsion or who are failing academically, by contracting out with alternative educational service providers, the board of directors and the organization must specify the specific learning standards that students are expected to achieve. The school district, the student's parent or legal guardian, and the alternative educational service provider must jointly determine placement of a student in an alternative program.

RCW 28A.150.305 (3)

Maryland

Each county board of education is required to provide a continuum model of prevention and intervention activities and programs that encourage and promote positive behavior and reduce disruption.

The state is required to appropriate an amount of money for allocation by the state department to local education agencies, for schools or clusters of schools, to support the development and expansion of special programs for disruptive youth.

MD. CODE ANN. EDUC. § 7-304

Maryland's Juvenile Justice Alternative Education Pilot Program was made a permanent, non-pilot program. The Juvenile Justice Alternative Education Program is for students who are suspended, expelled, identified as candidates for being suspended or expelled, or ordered to attend by the juvenile court as a condition of probation.

The state requires the department of education to oversee and the state board of education to organize and run the program. The state board must, with the advice of the advisory board, select a private agency to administer the program. The program may be operated in a facility owned and operated by a private party or a county board. A student who is suspended, expelled or identified as a candidate for suspension or expulsion must attend the program starting the first day of the student's suspension or expulsion. Students are required to receive courses focusing on English/language arts, math, science and social studies. Every board is required to consider course credit earned in such a program as credit earned in a county school. The county board is required to pay the Juvenile Justice Alternative Education Program the basic current expenses per pupil for each student transferred to the program from the county's schools.

MD. CODE ANN. EDUC. § 7-305.1

Missouri

The alternative education system serves current students who: are experiencing difficulties and are identified as potential dropouts; are school-age, who have dropped out of school and are willing to reenroll in the district for the purpose of attending alternative education classes; are high school graduates or holders of an equivalent diploma who are having difficulty finding employment or want vocational training; or are people without a high school or equivalent diploma who are having difficulty finding employment or want vocational training.

MO. REV. STAT. § 167.320 – 322

The state board is required to establish a program to award grants to school districts that apply for assistance in providing alternative educational opportunities for students whose demonstrated disruptive behavior indicates that they cannot be adequately served in the traditional classroom setting. The board must solicit applications from school districts and make grants from funds appropriated for that purpose, in such amounts and on such terms, as it determines best encourages the development of alternative education programs throughout the state.

MO. REV. STAT. § 167.335

Suspension or expulsion of a student does not relieve a district of financial responsibility for the education of the student. "A school district may contract with other political subdivisions, public agencies, not-for-profit organizations, or private agencies for the provision of alternative education services for students whose demonstrated disruptive behavior indicates that they cannot be adequately served in the traditional classroom setting."

MO. REV. STAT. § 167.164

Area vocational learning centers must provide extended day services for three hours during the evening or other times convenient to the qualifying students. A student enrolled in the alternative education program may attend an area vocational learning center on a full- or part-time basis.

MO. REV. STAT. §§ 167.324, 167.328

New Jersey

Any student who is removed from the regular education program must be placed in an alternative education program. If placement in an alternative education program is not available, the pupil must be provided home instruction or other suitable facilities and programs until placement is available.

N.J. STAT. ANN. § 18A: 37-2.2

North Carolina

The Innovative Education Initiatives Act encourages partnerships between high schools and postsecondary institutions to offer accelerated learning programs and target students who are at risk of dropping out of high school. High school/community college joint partnerships are eligible to apply for grants to create "cooperative innovative programs in high schools and community colleges." Such programs may include the creation of a high school or technical center on a community college campus.

In addition to the partnerships between high schools and community colleges required for purposes of obtaining grants, the participation of University of North Carolina constituent institutions and private colleges and universities in the state is encouraged.
N.C. GEN. STAT. § 116C-4

Ohio

A local board can establish an alternative school “to serve students who are on suspension, who are having truancy problems, who are experiencing academic failure, who have a history of class disruption, or who are exhibiting other academic or behavioral problems specified in the resolution.” The grades served may include K-12. An alternative school must specify an evaluation plan for assessing the effectiveness of the school and its educational program and report the results of the evaluation to the public. In accordance with the alternative school plan, the district board of education may employ teachers and non-teaching employees necessary to carry out its duties and fulfill its responsibilities, or may contract with a nonprofit or for-profit entity to operate the alternative school, including the provision of personnel, supplies, equipment or facilities. An educational program provided at the alternative school must include:

- (i) Provisions for the school to be configured in clusters or small learning communities
- (ii) Provisions for the incorporation of education technology into the curriculum
- (iii) Provisions for accelerated learning programs in reading and mathematics.

OHIO REV. CODE ANN. § 3313.533

Each of the big eight school districts is required to establish under section 3313.53.3 of the Revised Code at least one alternative school to meet the educational needs of students with severe discipline problems, including, but not limited to, excessive truancy, excessive disruption in the classroom, and multiple suspensions or expulsions. Any other school district that attains a significantly substandard graduation rate, as defined by the department of education shall also establish such an alternative school under that section.

OHIO REV. CODE ANN. § 3313.53.3

<http://www.ecs.org/html/offsite.asp?document=http://onlinedocs.andersonpublishing.com/oh/lpExt.dll?f=templates%26fn=main-h.htm%26cp=PORC>

Oregon

An “alternative education program” means a school or separate class group designed to best serve students’ educational needs and interests and assist students in achieving the academic standards of the school district and the state.

The state board is required to institute a process for registering private alternative education programs, establish standards for a safe environment and an instructional program to provide students with an opportunity to make progress toward meeting academic standards. Districts may contract with private alternative education programs to meet a student’s educational needs and interests. A school district is not required to provide an alternative education program if there is a public or approved private alternative education program that is appropriate and accessible to the student being referred.

The state board is allowed to establish standards for private alternative education programs. The statute also specifies what is included in school districts’ annual evaluation of private alternative education programs, and allows a parent or guardian to enroll a student in an alternative education program to meet the student’s educational needs and interest.

OR. REV. STAT. §§ 336.615 – 665

<http://www.leg.state.or.us/ors/vol8.html>

Rhode Island

Rhode Island law requires each school district to adopt a plan to ensure the continued education of students who are removed from the classroom because of a suspension of more than 10 days or who are chronically truant. The plan must be adopted by the school committee and shall be submitted to the state department as part of its annual strategic plan submission.

R.I. GEN. LAWS § 16-21-27

Tennessee

House Joint Resolution 116 (passed 2005) urges the governor to increase funding for alternative education programs in the 2005-06 General Appropriations Act. Currently, local educational agencies are required to have at least one alternative school in grades 7-12.

<http://www.legislature.state.tn.us/bills/currentga/Fiscal/HJR0116.pdf>

House Bill 1938 (enacted 2005) allows local boards of education to establish evening alternative schools for students in grades 6 (age 11) through 12. Previous provisions allowed alternative schools only for students over 16.

<http://tennessee.gov/sos/acts/104/pub/pc0200.pdf>

Local boards are required to establish alternative schools for students in grades 7-12 who have been suspended or expelled. For grades 1-6, establishing such a school is optional. State law allows two or more boards to join together to establish a school. No student is allowed to graduate solely on attendance in alternative schools.

The state board is required to develop rules and regulations that require documentation of the reasons for a student attending an alternative school and provide safeguards to assure that no child with disabilities or other special student is placed in such a school.

The state board must require all alternative school classrooms to have working two-way communication systems. The state must also provide a curriculum for alternative schools to ensure students receive specialized attention necessary to effectively reform students to prevent them from being repeat offenders.

Tennessee created a pilot alternative school program effective May 1996, using competitive grants to establish programs for elementary and secondary students in three school systems of less than 7,000 students (one in each grand division). The purpose of the pilot program was to assess the effectiveness of various strategies of addressing alternative school needs and to encourage the expansion of effective alternative school programs. Pilot funding was limited to three years.

TENN. CODE ANN. § 49-6-3403

Texas

Each local school district is required to provide a "disciplinary alternative education program." The program may provide student transfers to a different school, a school-community guidance center or a community-based alternative school.

TEX. EDUC. CODE ANN. § 37.008

A school district may use a private or public community-based dropout recovery education program as an alternative education program for students at risk of dropping out of school.

TEX. EDUC. CODE ANN. § 29.081

The juvenile board of a county with a population greater than 125,000 is required to develop a juvenile justice alternative education program, subject to the approval of the Texas Juvenile Probation Commission. The juvenile board of a county with a population of 125,000 or less may develop a juvenile justice alternative education program.

TEX. EDUC. CODE ANN. §§ 37.011 - 37.013

<http://www.capitol.state.tx.us/statutes/docs/ED/content/htm/ed.002.00.000037.00.htm#37.011.00>

"The board of trustees of a school district ... may elect to place a student in a disciplinary alternative education program ..." if the student has committed a felony, has committed a crime that if committed as an adult would be a felony, or whose presence in the classroom, as determined by the local board, "threatens the safety of other students or teachers; will be detrimental to the educational process; or is not in the best interests of the district's students."

TEX. EDUC. CODE ANN. § 37.0081

<http://www.capitol.state.tx.us/statutes/docs/ED/content/htm/ed.002.00.000037.00.htm#37.0081.00>

An amendment to 19 Texas Administrative Code §97.1001 describes the state accountability rating system and adopts excerpts of the 2005 Accountability Manual, dated June 2005, into rule. The excerpts specify the indicators, standards, and procedures to determine accountability ratings, both standard and alternative education accountability (AEA), for districts, campuses, and charter schools.
[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=19&pt=2&ch=97&rl=1001](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=19&pt=2&ch=97&rl=1001)

Utah

Students who have been expelled or suspended for more than 10 days must participate in alternative education, which may include an alternative program operated by or through the district.

UTAH CODE ANN. SEC. 53A-11-907

<http://www.le.state.ut.us/~code/TITLE53A/htm/53A0C044.htm>

A local board may establish an alternative high school (not strictly for students who have been suspended or expelled). Such high schools must provide students with access to an approved vocational education program and must qualify students as candidates for high school graduation.

UTAH ADMIN. CODE R277-730

<http://www.rules.utah.gov/publicat/code/r277/r277-730.htm>

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