

Leveraging the Every Student Succeeds Act to Improve Educational Services in Juvenile Justice Facilities

INTRODUCTION

Youth in the juvenile justice system need access to high-quality educational services and supports in order to reduce their risk of reoffending and increase their likelihood of further participation in education and the workforce. However, states have historically struggled to provide effective educational services to youth who are incarcerated.

In any given state, a number of different entities—including state or local education agencies, state or local juvenile justice agencies, nonprofit organizations, or private contractors—may be responsible for the provision of educational services in juvenile justice facilities, leading to inconsistencies in policies and practices. A lack of collaboration and information sharing between state and local juvenile justice and educational agencies can create barriers to collecting educational outcome data. And youth often enter the system at varying educational levels and with significant academic deficits, and they are there for varying lengths of time, often for less than one full school year.

While these factors make it all the more challenging to hold educational programs and schools in juvenile justice facilities accountable, it is imperative for states to ensure that these programs and schools are providing quality educational services and that they are held accountable for student performance.

Research demonstrates that more than one-third of youth who are incarcerated in the U.S. are identified as eligible for special education services—a rate nearly four times higher than that of youth who attend school in the community. Additionally, more than half of youth who are incarcerated have reading and math skills significantly below their grade level, and as many as 60 percent have repeated a grade.¹ The lengths of stay for youth in facilities can vary dramatically—from less than six months to several years—and they may cycle in and out of a facility multiple times, all of which affects the continuity of their education.

Those who are incarcerated in juvenile justice facilities often do not have sufficient opportunities to work toward or attain educational credentials so that they can more readily transition back into secondary or postsecondary education or obtain employment upon their release.² The U.S. Department of Education's Civil Rights Data Collection of educational programs in juvenile justice facilities during the 2013–14 school year found that these programs often offer fewer hours of educational programming and fewer math and science courses than traditional public schools.³ Educational programs and schools in long-term juvenile justice facilities⁴ are rarely held accountable by the state for the provision of quality services and for ensuring that youth are improving their academic performance or gaining a credential similar to what they would earn at traditional public schools.⁵

Now, the new federal Every Student Succeeds Act (ESSA) provides states with an opportunity to intentionally focus on education for youth who are incarcerated by creating a structure that holds these

programs and schools accountable. The goal of this policy brief is to provide state and local policymakers as well as education and juvenile justice leaders with information about how they can use requirements under ESSA to improve education and workforce outcomes for youth in long-term juvenile justice facilities. The sections that follow

- Summarize relevant ESSA provisions and outline its key accountability requirements;
- Highlight three priorities for states to focus on as they contemplate accountability for juvenile justice programs and schools;
- Provide key questions to help state leaders consider their current policies and identify gaps and opportunities for improvement; and
- Feature states that are carrying out promising practices in each of the three priority areas, which can serve as examples for other states that are seeking to improve accountability for juvenile justice schools.

A Note on Juvenile Justice Facilities

This policy brief focuses on improving accountability for educational programs and schools within long-term juvenile justice facilities. These facilities serve youth who are committed to state custody as part of a court disposition, and can be operated by the state, a local juvenile justice agency, or a nonprofit or for-profit organization. Juvenile justice facilities serve approximately 31,000 youth on any given day in the U.S.⁶ This brief does not focus on short-term, locally run detention facilities that primarily serve pre-adjudicated youth. Local detention facilities detain—in most cases—pre-adjudicated youth for short periods of time, and youth who are detained are still enrolled in their local community schools. The brief also does not focus on youth who are incarcerated in adult correctional facilities. Juveniles constitute 1,200 of the 1.5 million people housed in federal and state prisons the U.S.⁷ While providing educational opportunities to these youth is critical, the challenges of providing quality educational services in adult prisons are unique and must be addressed separately.

Overview of ESSA and Accountability

On December 10, 2015, ESSA was signed into law, reauthorizing the Elementary and Secondary Education Act (ESEA) of 1965 and replacing the No Child Left Behind Act (NCLB) of 2001. As the new federal education law governing all K–12 education, ESSA underscores a commitment to uphold high educational standards for all students, but aims to improve upon the one-size-fits-all approach to education associated with NCLB.

ESSA gives states significant flexibility to design statewide accountability system plans that are meant to hold all schools accountable for student achievement and ensure that all students have access to a quality education.⁸ Accountability provisions in Title I, Part A of ESSA include the following:

- The “adequate yearly progress” system of accountability under NCLB was replaced to allow states to design their own systems of accountability within newly established federal guidelines and parameters.⁹
- Under ESSA, all states must “annually measure for all students and separately for each subgroup of students” several indicators used to hold public schools accountable for student performance.¹⁰

- Accountability indicators under ESSA include results on standardized tests in reading, math, and science; English language learner proficiency; graduation rates for high schools, or another academic indicator for K–8 schools; and at least one non-academic indicator of school quality or student success, such as chronic absenteeism.

ESSA positions state policymakers as well as education and juvenile justice leaders to work together to develop a statewide accountability system that is inclusive of educational programs and schools within juvenile justice facilities, while accounting for these institutions' unique context and student populations.

ESSA Title I, Part D and Protections for Youth in the Juvenile Justice System

Title I, Part D of ESSA provides funding to states to establish or improve educational programs for neglected or delinquent youth, or those who may be at risk of involvement in the justice system.¹¹ New provisions of the law aim to support and improve education within juvenile justice facilities and promote successful reentry for youth who are returning to their schools and communities after incarceration. Specifically, some of the changes under Title I, Part D aim to improve educational services in juvenile justice facilities in order to help youth meet statewide academic standards; prevent schools from pushing youth out of school and into the juvenile justice system; facilitate youth's transition from facilities to further education or employment through additional requirements around the transfer of student records and course credits; and ensure that youth who are returning to their community from incarceration can enroll in credit-bearing courses in secondary schools, postsecondary institutions, or career and technical institutions.¹²

While this brief focuses on the accountability provisions of Title I, Part A of ESSA, efforts to strengthen accountability for continuous improvement of educational programs and schools in long-term juvenile justice facilities will help advance the aims of Title I, Part D as well. Stronger accountability for these educational programs and schools will aid in improving academic performance, school engagement, successful transition, and reentry for youth who are incarcerated or otherwise involved in the juvenile justice system.

Three Priority Areas of Focus

As states design their ESSA accountability plans, state and local policymakers, along with education and juvenile justice leaders, should collaborate to develop an accountability system that encompasses educational programs and schools within long-term juvenile justice facilities, considers their unique context, and promotes continuous improvement efforts. This section outlines three priorities that states should focus on as they contemplate how to hold these programs and schools accountable; highlights select states with model education accountability practices; and provides key questions to guide leaders in assessing their current policies and practices and identifying gaps. The three areas of focus are

- 1** Data collection and information sharing between state and local education and juvenile justice agencies;
- 2** An accountability system that includes educational services within long-term juvenile justice facilities; and
- 3** Measures to hold these educational programs and schools accountable.

1 Data Collection and Information Sharing

In order to formulate an accountability system that includes educational programs and schools in long-term juvenile justice facilities, it is necessary for state leaders to first understand how these facilities collect and share educational outcome data and who is responsible for collecting these data.

The provision of educational services in long-term juvenile justice facilities can be the responsibility of multiple state and local agencies, including juvenile justice, education, or health and human services, among others. Responsibly sharing educational outcome data across service systems can help facilitate collaboration and ensure that youth are getting the most appropriate educational services. Developing robust data-sharing agreements between school districts or state education agencies and state or local departments of juvenile justice can also help ensure the smooth transfer of educational records, as well as the ability to track longer-term youth outcomes, such as recidivism, employment, and postsecondary education attainment.

STATE SPOTLIGHT: RESPONSIBLE DATA SHARING IN INDIANA

Every K–12 student in Indiana is assigned a unique nine-digit identifier (a “student testing number,” or STN). This number remains the same throughout the student’s K–12 schooling, and the Indiana Department of Education (IDOE) has a system in place to track students who transfer from school to school. As a result, when youth are enrolled in a juvenile justice school, their unique identification numbers are linked to their juvenile justice school, and it is easy for both the education and juvenile justice agencies to see where the student has been enrolled. Juvenile justice schools in Indiana are required to submit all of the same data reports as public schools, using the STN identifiers, so that all students are reflected in the state’s educational outcome data. This data includes such measures as attendance, graduation, special education status, and English language learner status.

Additionally, the Indiana Department of Correction’s (IDOC’s) Division of Youth Services and the IDOE collaboratively drafted two letters that are now distributed to all school guidance counselors and school administrators to more efficiently facilitate record transfers between juvenile justice and traditional schools. The letters emphasize that the juvenile justice schools in Indiana are accredited by AdvancED,¹³ that their curricula are aligned to the curricula in traditional public schools and requirements for earning a high school diploma, and that all teachers who are assigned to teach core academic subjects in facilities are highly qualified according to federal education standards. The letters also remind public school officials that records can and should be transferred between traditional and facility schools so that all parties have the information needed for the student’s educational plan. As a result of having this documentation from both IDOC and IDOE, traditional public schools now accept high school credits earned in juvenile justice schools.

KEY QUESTIONS:

Getting Started

1. Do long-term juvenile justice facilities in your state collect and report educational outcome data for youth who are incarcerated? If so, what educational outcome data do juvenile justice facilities collect and for what purposes?
2. Do juvenile justice facilities report educational outcome data to state and local education agencies and/or juvenile justice agencies? If so, for what purposes?
3. Are these same data collected and reported by all juvenile justice facilities in your state (including private facilities, if applicable)?

Taking a Deeper Dive

1. Are there data-sharing agreements in place between state and local juvenile justice and education agencies to facilitate the exchange of educational outcome data? Are such agreements in place between state and local juvenile justice agencies and other youth-serving systems?
2. Are there protocols in place to support the efficient transfer of educational records at intake and when a youth transitions back to the community?
3. What are the barriers to effective data sharing? For example, is there a lack of capacity or infrastructure? Are trust and relationship building needed to ensure that all parties are comfortable sharing data? Is there a need for clarification of federal and/or state privacy or accountability laws to support future information sharing?

2 Accountability System

As an educational entity that is or could be receiving dollars from the state education agency (SEA) for the provision of educational services, educational programs and schools in long-term juvenile justice facilities should be required to submit educational outcome data to the SEA in accordance with the state's accountability system, similar to traditional public schools. Improving a state's approach to accountability for educational services in juvenile justice facilities first requires an understanding of how those services are classified.

Currently, whether or not schools or educational programs within juvenile justice facilities are required to participate in their state's education accountability system is determined largely by the category (e.g., program, school, or other) assigned to the educational service by the SEA. Each state determines its own definitions and regulations for these categories, and the SEA is required to assign a category to each educational service. In 2017, the American Youth Policy Forum (AYPF) conducted a 50-state scan to gather information on how states categorize educational services within juvenile justice facilities. According to the results of the scan, the systems that states most commonly use to hold educational services within juvenile justice facilities accountable are:

- The **same** system of accountability as traditional public schools, which is often used because the facilities are considered schools within a local education agency (LEA) or are LEAs themselves;
- An accountability system that is **modified** from that of traditional public schools and is typically developed to accommodate a variety of alternative/nontraditional educational options, including educational services in juvenile justice facilities; or
- An accountability system that is **distinct** from that of traditional or alternative/nontraditional public schools, and/or is aligned with another state agency’s accountability system (e.g., the state juvenile justice agency’s accountability system).

Responses to two of the state scan survey questions are shown in Figures 1 and 2, and provide a snapshot of the current landscape of educational accountability for long-term juvenile justice facilities in the U.S. Fifty percent of responding states use a modified system of accountability for educational services in juvenile justice facilities, and a majority of responding states also issue school report cards or some other educational outcome report mechanism for juvenile justice facilities. These results indicate that states are collecting some data about how those services and their students are performing. Given that basic educational accountability structures for juvenile justice facilities already exist in many states, there is a significant opportunity to put the collected data to use such that there is a formalized system of rewards and consequences for the performance of educational services in juvenile justice facilities.

State Scan Methodology

AYPF staff contacted education and juvenile justice agency leaders in all 50 states and the District of Columbia; they later conducted email and phone interviews guided by survey questions with the 48 states that responded (including the District of Columbia). Due to the complexity and multitude of agencies that often serve post-adjudicated youth, the information collected from a few of the states does not account for all of the post-adjudicated youth in those states. Note that the survey results were all self-reported by education and juvenile justice agency leaders.

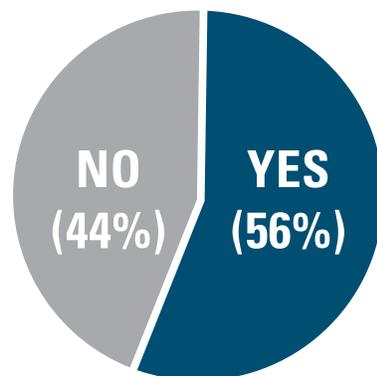
FIGURE 1

How would you characterize the way juvenile justice facilities are held accountable for the education services provided to youth compared to how traditional public schools in the state are held accountable?



FIGURE 2

Do educational services in long-term juvenile justice facilities receive a school grade, school report card, or any other report mechanism, like traditional public schools in the state?



STATE SPOTLIGHT: ACCOUNTABILITY FOR CONTINUOUS IMPROVEMENT IN FLORIDA

Florida passed legislation in 2014 requiring Department of Juvenile Justice (DJJ) prevention, day treatment, and residential education programs to be evaluated based on outcome measures that are objective, measurable, and reflective of students' lengths of stay in the programs. Through a collaborative effort, Florida's Department of Education (FDOE), DJJ, school districts, and educational providers drafted outcome measures for juvenile justice school evaluation. Student performance measures that the FDOE and DJJ plan to present to the State Board of Education for approval include:

- **Learning gains in English/reading and math** on the Juvenile Justice Education Common Assessment¹⁴ and the statewide assessment;
- **K–12 outcomes**, including attendance rates after completion of a DJJ educational program, reported graduation rates of youth who attended DJJ educational programs, the percentage of students in long-term juvenile justice facilities who earn a Career and Professional Education (CAPE) Industry Certification or Digital Learning Tools Certificate, and the percentage of core curriculum courses taught by state-certified teachers;
- **Post-K–12 outcomes**, such as the percentage of students exiting a DJJ educational program with a diploma or GED who enroll in a postsecondary institution within one year, or the percentage of students who were at least 16 years old at the time of exit and obtained employment within one year of leaving the DJJ program; and
- **Data quality**, including the percentage of students who were administered the Juvenile Justice Education Common Assessment within 10 school days of entry to the DJJ program and prior to exit from the program.

FDOE is currently collecting data for all proposed student performance measures and plans to provide an outcome accountability report to each school district and DJJ education program, identifying how each one performs in comparison to similar program types across the state. FDOE and DJJ are also developing a comprehensive juvenile justice education program improvement process that will be based on the outcome measures reported for each DJJ education program. This continuous improvement model will include an expectation that low-performing programs demonstrate improvement with assistance from FDOE, DJJ, and peers from high-performing juvenile justice education programs.¹⁵

KEY QUESTIONS:

Getting Started

1. Are long-term juvenile justice facilities currently held accountable for the educational progress of students? If so, is there a defined accountability process and structure?
2. What entity (or entities) is/are responsible for holding these facilities accountable (e.g., education and/or juvenile justice agency)?
3. Are educational programs and schools within long-term juvenile justice facilities included in your state's ESSA statewide accountability plan? Were juvenile justice system leaders part of your state's plan development?

Taking a Deeper Dive

1. If juvenile justice facilities are held accountable for the educational progress of their students, is there an oversight mechanism that identifies areas for improvement in these schools and programs? If so, what entity (e.g., education and/or juvenile justice agency) is responsible for this oversight?
2. Does the state enforce consequences for schools and programs that are not making sufficient progress? If so, what are they?
3. What technical assistance or supports, if any, are available to improve educational performance in these facilities?
4. Do juvenile justice facilities receive a school report card (i.e., a summative annual report with educational outcome data on key measures) from the SEA, similar to traditional public schools? If not, would it be possible to implement that practice in your state?

3 Accountability Measures

While recidivism is often the primary indicator used by juvenile justice leaders and state policymakers to determine the effectiveness of the juvenile justice system, other outcome measures should be used to demonstrate a young person's readiness to transition back to the community, as well as to secondary or postsecondary education or employment. When developing their ESSA accountability systems, states should consider a broad range of measures demonstrating educational gains, credential attainment, and readiness for postsecondary education and the workforce, as well as measures of school quality and culture, to hold these educational programs and schools in juvenile justice facilities accountable.

STATE SPOTLIGHT: MEASURES THAT MATTER IN MASSACHUSETTS

The Commonwealth of Massachusetts Department of Youth Services (DYS) contracts with a workforce development agency, Commonwealth Corporation, and an educational service agency, Collaborative for Educational Services, to provide workforce development and academic services to all adjudicated youth. These three agencies collaboratively run the Youth Outcomes Project (YOP), a longitudinal study of the characteristics and experiences of youth who are incarcerated that lead to positive workforce, secondary and postsecondary education, and social outcomes, as well as lower rates of recidivism. The study is not intended to hold any specific program accountable, but rather to identify what most often leads to improved outcomes for youth.

The YOP compiles a wide array of research-informed demographic, juvenile and adult justice system, academic, and workforce data on all youth who are incarcerated from the three participating agencies and the Massachusetts Departments of Elementary and Secondary Education, Higher Education, Unemployment Assistance, and Revenue. It differentiates four phases of characteristics and experiences: (1) before commitment, (2) during commitment, (3) after release, and (4) following age-out. These four phases together make up a comprehensive outcome record that will enable state and local leaders to see short- and long-term contributions of the educational and workforce development services that are intended to help youth who are incarcerated learn; earn diplomas, degrees, or credentials; and be successful in the labor market. YOP has built capacity for ongoing, holistic data review and tracking.

KEY QUESTIONS:

Getting Started

1. What education accountability measures does your state use for traditional public schools? Are these measures also being used for programs and schools within juvenile justice facilities?
2. What additional measures should juvenile justice facilities collect to accurately capture educational progress and attainment for this unique student population? Do any of the current measures capture growth in addition to proficiency?
3. What assessments are administered in your state's juvenile justice facilities? Are these assessments appropriate for the unique context of the juvenile justice population?

Taking a Deeper Dive

Table 1 below lists additional information about the required categories for educational outcome measures under ESSA, and provides questions for consideration as states think about what measures make the most sense to use for continuous improvement of educational programs and schools in long-term juvenile justice facilities. Once implemented, each outcome measure should be disaggregated by various student subgroups in order to pinpoint specific areas for improvement among the student population.

TABLE 1: Creating ESSA-Compliant Accountability Measures for Educational Services in Juvenile Justice Facilities				
Required Accountability Categories under ESSA	<p>Academic Achievement is measured by proficiency on state assessments in reading and math, which may include growth in proficiency (in each of grades 3–8 and any one grade in high school) or one additional academic indicator in grades below high school.</p>	<p>High School Graduation Rate is measured by the four-year adjusted cohort graduation rate for high schools, which may include an extended year adjusted cohort graduation rate.¹⁶</p>	<p>English Language Proficiency is measured by progress toward English language proficiency for English language learners in each of grades 3–8, and any one grade in high school.</p>	<p>Student Success/School Quality is measured by at least one additional non-academic indicator of school quality or student success that is valid, reliable, and comparable, and allows for meaningful differentiation in school performance. These measures must be given less weight for accountability purposes than the other academic measures.</p>
Questions to Help Develop Accountability Measures for Juvenile Justice Facilities	<ul style="list-style-type: none"> • Are youth in long-term juvenile justice facilities participating in state assessments? • Are facilities using growth measures (e.g., credit recovery, pre-/post-assessment scores, grade-level reading growth, scores from state assessments, etc.) as a demonstration of educational progress? 	<ul style="list-style-type: none"> • Can youth in long-term juvenile justice facilities work toward earning a traditional diploma, high school equivalency (GED/HiSet/TASC), or other type of credential/certificate? If so, are schools and programs in these facilities able to award diplomas, equivalency, or other credentials? If not, what entity awards them (LEA, SEA, etc.)? • How does your state calculate the high school graduation rate (e.g., through a four-year adjusted cohort rate or an extended year graduation rate)? If your state calculates an extended year graduation rate, does that rate encompass all schools in your state, or just schools categorized as alternative or nontraditional? 	<ul style="list-style-type: none"> • Are youth in long-term juvenile justice facilities participating in assessments of English proficiency? • Are facilities using growth measures as a demonstration of progress toward English language learner reclassification? 	<ul style="list-style-type: none"> • Are long-term juvenile justice facilities collecting data on career and technical education and/or workforce outcomes (e.g., job training, certifications, employment, etc.)? If so, are these outcome measures aligned with the measures used by the SEA to hold all schools accountable in your state accountability system? • What postsecondary educational outcome data are facilities collecting? Do students have the opportunity to earn college credits while in a juvenile justice facility? If so, how? • What other measures—aligned with ESSA’s student success/school quality requirement—are facilities using (e.g., attendance, discipline, referrals, or others)? • Is there a mechanism for including student feedback in the accountability system?

CONCLUSION

ESSA gives states a new opportunity to improve educational and workforce outcomes for youth in long-term juvenile justice facilities. Using this brief as a starting point, state and local policymakers as well as education and juvenile justice leaders can work together to design an ESSA-compliant statewide accountability system that is inclusive of educational programs and schools in juvenile justice facilities.

NOTES

1. The Council of State Governments Justice Center, *Locked Out: Improving Education and Vocational Outcomes for Incarcerated Youth* (New York: The Council of State Governments Justice Center, 2015), https://csgjusticecenter.org/wp-content/uploads/2015/11/LOCKED_OUT_Improving_Educational_and_Vocational_Outcomes_for_Incarcerated_Youth.pdf.
2. Ibid.
3. U.S. Department of Education Office for Civil Rights, *Protecting the Civil Rights of Students in the Juvenile Justice System* (Washington, DC: U.S. Department of Education, 2016), <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-juvenile-justice.pdf>.
4. Throughout this brief, we refer to the educational services within juvenile justice facilities as educational programs and schools because these are categories used by state education agencies for accountability purposes. These categories often have specific meanings in different states that impact how they are or are not included in accountability systems.
5. The Council of State Governments Justice Center, *Locked Out*.
6. Melissa Sickmund, T. J. Sladky, Wei Kang, and Charles Puzzanchera, *EZACJRP: Easy Access to Census of Juveniles in Residential Placement; 1997–2015*, updated June 1, 2017 (National Center for Juvenile Justice, 2015), <https://www.ojdp.gov/ojstatbb/ezacjrp/>.
7. Carmen E. Daugherty, *Zero Tolerance: How States Comply with PREA's Youthful Inmate Standard* (Washington, DC: Campaign for Youth Justice, 2015), http://cfyj.org/images/pdf/Zero_Tolerance_Report.pdf.
8. This brief focuses on the accountability provisions under Title I, Part A of ESSA, rather than Title I, Part D.
9. Under NCLB, each state was required to establish a definition of adequate yearly progress (AYP) to hold schools and districts accountable for student achievement. If a school or district failed to make AYP for two consecutive years, it was required to implement changes to improve achievement outcomes.
10. Every Student Succeeds Act of 2015, Pub. L. No. 114-95 § 114 Stat. 1177 (2015–2016).
11. For more information on Title I, Part D, see <https://www.neglected-delinquent.org/what-title-i-part-d>.
12. For more information on changes in Title I, Part D specific to juvenile justice populations, see http://jlc.org/sites/default/files/ESSAJJ_Factsheet_FinalWebinarVersion_Jan262016.pdf.
13. AdvancED is a national organization that accredits primary and secondary schools throughout the United States and internationally. For more information, see <http://www.advanc-ed.org/managing-office-locations/indiana-office>.
14. For more information on the Juvenile Justice Education Common Assessment, see <http://www.fldoe.org/core/fileparse.php/7567/urlt/0064533-faqca.pdf>.
15. The anticipated date for completing the data analysis and presenting it to the State Board of Education is summer 2018.
16. U.S. Department of Education, *Every Student Succeeds Act High School Graduation Rate Non-Regulatory Guidance* (Washington, DC: U.S. Department of Education, 2017), <https://www2.ed.gov/policy/elsec/leg/essa/essagraterguidance.pdf>.

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