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Strengthening America's Educational Safety Net

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Introduction

For young people who flounder in traditional public schools or who are at-risk of failing, the future is grim.

> While the public sees raw numbers reflecting how many students graduate and how many do not, few appreciate the waste of both human potential and public funds that these failure rates represent.

About one out of every five public school students fails to graduate on time from high school.[1,2] An estimated 10 percent of high school students—some 1.5 million—at some time will enter a supposedly corrective or supplemental program to help them overcome challenges that cannot be met in the regular classroom setting. Local and state governments devote resources to a plethora of these programs. Yet only a small number of the students in these programs earn a degree and acquire the learning expected of mainstream high school graduates.

Traditional government schools have many serious problems, but at least some oases exist in the system in which students can excel. By contrast, the safety net designed to help at-risk students complete high school and move on to economically successful lives is failing most of them.

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[1] *The Condition of Education*, U.S. Department of Education, National Center for Education Statistics. 2017.

[2] Howard Blume, "California Reports Eighth-Grade Dropout Rate for First Time," *Los Angeles Times*, August 12, 2011.

To most people, the nature of the problem is largely invisible. While the public sees raw numbers reflecting how many students graduate and how many do not, few appreciate the waste of both human potential and public funds that these failure rates represent. Each failure is a tragedy, an individual who often will struggle through the rest of life, who will not acquire a comfortable living standard, who will miss many of the joys personal achievement brings, who might end up in a life of crime, and who almost certainly will be a drag on the economy and society.

Education is not of groups; it is of unique individuals. This fact is especially true for at-risk students who each have their own specific challenges and needs.

Education is not of groups; it is of unique individuals. This fact is especially true for at-risk students who each have their own specific challenges and needs. To meet these challenges requires choice—the ability of students and their parents or guardians to choose from options that best meet those needs—but choice is precisely what the current system lacks.

This *Policy Brief* draws details primarily, though not exclusively, from the well-documented California experience. It is organized in seven parts:

Part 1: Defining at-risk populations and safety net elements.
Part 2: Demographics.
Part 3: Entry into the safety net.
Part 4: Practices and results.
Part 5: Assessing results.
Part 6: Costs and accountability.
Part 7: Recommendations.

In the all-important Recommendations section, the action items are:

- Standardize data, collect information, and define the knowledge requirements for graduation.
- Expand independent school options.
- Expand parental choice, which includes choice within the safety net, vouchers, education saving accounts, and tax-credit scholarships.
- Reduce the need for a safety net.

1. Defining at-risk populations and safety net elements

All students have unique skills but also face unique challenges, and thus have unique needs. For many students, such needs are not met in standard government school classrooms and settings. These students are often described generally as "at-risk." However, the reasons they need alternatives to standard schools vary greatly. Among other challenges, they could be:

- Uncommitted to their education;
- Habitually tardy or absent;
- Failing in their course work;

- Insubordinate and disruptive;
- Exhibiting personal behavioral problems such as fighting, and abusing drugs or alcohol;
- Pregnant or parenting;
- Facing a work schedule that conflicts with their education.[3]

The educational safety net encompasses a network of schools and programs principally for students who are likely to drop out without intervention. The purpose of this network is to complement regular public schools' coursework by offering different educational settings and options for students

Standard definitions of what exactly constitutes the educational safety net do not exist.

Standard definitions of what exactly constitutes this safety net do not exist. Definitions differ from state to state and, often, within states. One can think of the safety net in terms of the function it serves: helping students earn credits they need to graduate that they cannot acquire in standard classrooms. One can also think of the safety net in terms of the institutions providing the services.

Usually, though, standard safety net elements are considered to include the following:

- Continuation schools exist for students, usually who are 16 years of age or older, who are not on track to graduate because of the lack of course credits. In California, these schools are the largest parts of the educational safety net and are a cornerstone of the state drop-out prevention strategy.[4] In some places across the country, states lump continuation schools together with other alternative schools even though they serve a different purpose.

- Sometimes comprehensive high schools have their own continuation school-like programs.

- Alternative schools are the specialty schools meant to handle students whose problems extend well beyond the number of credits being earned in high school. In California, most of these schools fall into three categories:

  - *Opportunity schools* "provide additional support for students who are habitually truant from instruction, irregular in attendance, insubordinate, disorderly while in attendance, or unsuccessful academically. … [Their mission is to] provide a supportive environment with specialized curriculum, instruction, guidance and counseling, psychological services, and tutorial assistance to help students overcome barriers to learning."[5]

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[3] Paul Warren, *Accountability for California's Alternative Schools*, Public Policy Institute of California, May 2016, p. 3.

[4] Jorge Ruiz de Velasco, Greg Austin, Don Dixon, Joseph Johnson, Milbrey McLaughlin, and Lynne Perez, *Alternative Education Options: A Descriptive Study of California Continuation High Schools*, John W. Gardner Center for Youth and their Communities, April 2008, p. 1.

[5] "Opportunity School, Class, and Program Guidelines" (website), California Department of Education, accessed November 6, 2017.

- *Community day schools and county community schools* serve expelled and other high-risk students such as those on parole or probation, and girls who are pregnant or parenting. The focus is on teaching young people to view themselves in a positive way, to be emotionally resilient, and to get along with other people. These schools provide learning support services such as school counselors and psychologists, academic and vocational counselors, and pupil discipline personnel. Where appropriate, the schools collaborate with outside service providers and law enforcement personnel. [6,7]

- *Prisons, jails, and juvenile detention centers* with educational programs sometimes are included and sometimes excluded from the definition of "alternative schools."[8] (In this *Policy Brief*, data concerning the "safety net" include these programs.)

■ Alternative programs that exist inside comprehensive high schools for non-incarcerated youth remain very similar in name and in curriculum to their corresponding alternative schools.

■ Other approaches to alternative education for at-risk children include charter schools, independent study, Middle College High Schools, district "schools of choice," and blended learning with a mixture of online and traditional teacher-led programs. An example of the blended learning programs are the Performance Learning Centers (PLCs) in Hampton and Richmond, Virginia.[9]

Other approaches to alternative education for at-risk children include charter schools, independent study, Middle College High Schools, district "schools of choice," and blended learning.

■ Adult education classes might also be elements of the safety net. Education scholar Deirdre M. Kelley observed that in the California continuation schools administrators used referrals to adult education classes like they used referrals to independent study programs, i.e. to deal with students whose attendance and behavior did not improve in the continuation schools or programs. If this referral practice is commonplace, then many adult education classes need to be viewed as part of the safety net.[10] Because the role of adult education classes is not clear on a statewide level at this time, however, this *Policy Brief*'s data exclude adult education classes.

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[6] "County Community Schools" (website), California Department of Education, accessed November 6, 2017.

[7] "Community Day Schools" (website), California Department of Education, accessed November 6, 2017.

[8] Hannah Fresques, Heather Vogell, and Olga Pierce, "Methodology: How We Analyzed Alternative Schools Data," *ProPublica*, February 2017.

[9] June Kronholz, "Getting At-Risk Teens to Graduation," *EducationNext* 11, No. 4 (Fall 2001).

[10] Deirdre M. Kelley, *Last Chance High: How Girls and Boys Drop In and Out of Alternative Schools* (New Haven, CT): Yale University Press, 1993).

Despite the definitions used in this paper, readers should note sources cited here usually use the term "alternative schools" to include all the schools in the safety net, and the writers of this *Policy Brief* use "alternative education" synonymously with the phrase "safety net."

Typically, safety net schools and programs are administered by public school districts, but sometimes they are administered by state or regional entities such as county offices of education, juvenile halls, or units within the state youth authorities.

This complicated array of schools and programs does not mean the safety net provides a continuum of care for children, is properly educating them, and is effectively moving most of them to graduation. Past studies of California's alternative education settings highlight the problems:

This complicated array of schools and programs does not mean the safety net provides a continuum of care for children, is properly educating them, and is effectively moving most of them to graduation.

- "There is no statewide *system* of alternative schools, but rather a collection of schools reflecting local decisions about how best to address student needs."[11]

- "Local decisions and resources largely determine not only the alternative options available to students, but also the goals of the alternative programs—to serve as an [actual] safety net, [or as] a safety valve or a cool out of public education….[that is, to warehouse students until they drop out or improve of their own accord]."[12]

- School districts are continuously tweaking and otherwise changing their contributions to the safety net (e.g. the grade levels served, how instruction is delivered, the types of students served), so "it is difficult to generalize how they operate."[13]

- "Continuation schools are very different in different counties, in different districts within the same county, and even within the same district."[14]

- Although county-run alternative schools "intersect with district-run continuation high schools, communication across program boundaries is uncommon. In many locations, these county programs are seen as 'holding pens,' or the option of last resort."[15]

- The multiplicity of types of schools in the safety net makes the "network of schools difficult to comprehend. No hierarchy or order of [safety net] programs exists—each program operates mostly independently of other."[16]

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[11] Paul Warren, *supra* note 3, p. 5.

[12] Jorge Ruiz de Velasco, *et al.*, *supra* note 4, p. 9.

[13] Paul Warren, *supra* note 3, p. 5.

[14] Jorge Ruiz de Velasco, *et al.*, *supra* note 4, p. 9.

[15] *Ibid.*

[16] Paul Warren, *supra* note 3, p. 6.

- Not surprisingly, "… the state simply does not know much about the operation of the different types of alternative programs."[17]
- Finally, while student success can require "critical support services often accessible only from out-of-school agencies," county and district level youth-serving institutions "generally operate in isolation from one another, or worse, at cross purposes." Regulatory structures "balkanize youth services and create what could be called an 'institutional train wreck.'"[18]

These educational failures are the tragic irony of the current safety net. With the many elements and programs, one might imagine students could easily be paired with some alternative to meet their needs just as customers in a megastore can almost always find some product to meet their needs. But that situation is not the case because a disconnect exists between students and programs.

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The California Alternative Education Research Project reports "large numbers of California students … are not getting the academic and support services they need to succeed," even in the state's continuation schools, which tend to deal with students facing the less severe problems than the rest of the safety net.[19] California's experience is no doubt typical of the rest of the country. Does this situation mean more central planning is needed, or more student and parent choice? We take up that question in the remaining parts of this brief.

2. Demographics

Even with the confusing nature of the safety net, we can identify the size and characteristics of the population it serves. As previously noted, about 10 percent of America's high school student population—or 1.5 million individuals—will at some point fall into the safety net. The California Legislative Analyst's Office places the percentage of students who enrolled each year in the state's safety net between 10 and 15 percent.[20] In states with less complex educational challenges than California, the percentage might be lower.

At any given time, about 5 percent of students are in safety net. The National Center for Education Statistics (NCES) pegged that number at 646,500 students in the 2007–08 school year, but the real number today is likely higher.[21] A higher percentage of students have ended up in

[17] Paul Warren, *supra* note 3, p. 9.

[18] Jorge Ruiz de Velasco, *et al.*, *supra* note 4, pp. 8–9.

[19] Jorge Ruiz de Velasco, *et al.*, *supra* note 4, pp. 1–2.

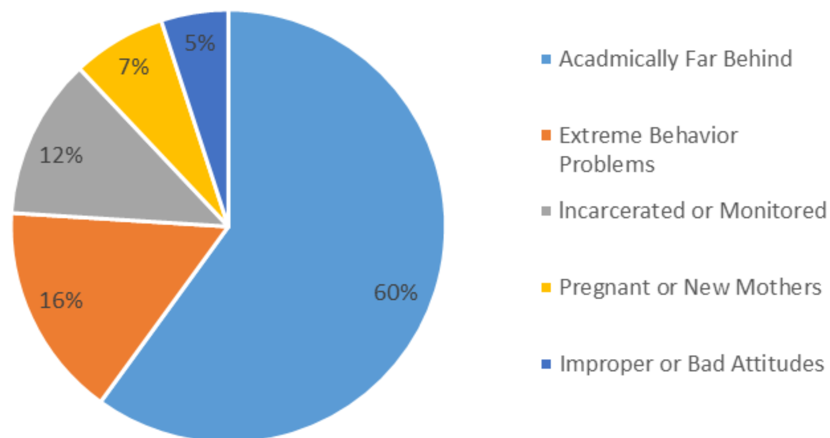
[20] Paul Warren and Elizabeth G. Hill, *Improving Alternative Education in California*, California Legislative Analyst's Office, February 2007, p.1.

[21] "Enrollment Trends" (website), U.S. Department of Education, National Center for Education Statistics, 2016.

alternative education schools in recent years.[22,23] Further, the NCES enrollment numbers omit students whose alternative education schools and programs require them to attend school less than half a day (e.g. independent study programs) and students enrolled outside normal public school districts.[24]

Figure 1 shows an approximate breakdown of the reasons at-risk children are in the safety net. The estimates here use 2005–2006 data from California and do not include various independent study programs because no good source for those data exists. The percentage of pregnant girls and new mothers in community day schools is assumed to be proportionate with the number in alternative programs in regular schools. The estimate for students exhibiting disorderly behavior in school and toward their classmates and the teaching staff is equal to the number in opportunity schools and programs.[25]

Figure 1
Why California Students Are in the Educational Safety Net



Source: Susan Rotermund, "Alternative Education Enrollment and Dropouts in California High Schools," California Dropout Research Project: Statistical Brief 6, December 2007, p. 2, http://cdrpsb.org/dropouts/download.php?file=statisticalbrief-6revised.pdf.

Students in these alternative education settings are much more likely than those in traditional public high schools to be African-American or Latino. One survey found that although 8 percent

[22] Heather Vogell and Hannah Fresques, "'Alternative Education': Using Charter Schools to Hide Dropouts and Game the System," *ProPublica*, February 21, 2017.

[23] U.S. Department of Education, *supra* note 1.

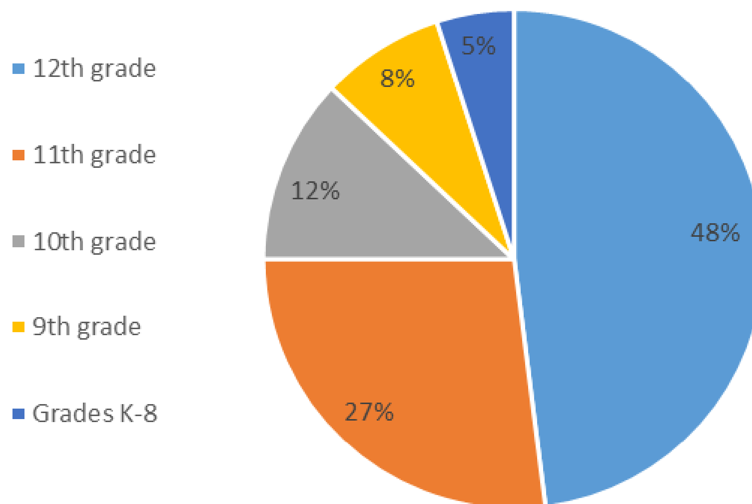
[24] Priscilla Rouse Carver, Laurie Lewis, and Peter Tice, *Alternative Schools and Progress for Public School Students At Risk of Educational Failure: 2007–08*, U.S. Department of Education, National Center for Education Statistics, March 2010, pp. 2–3.

[25] Susan Rotermund, "Alternative Education Enrollment and Dropouts in California High Schools," *Statistical Brief* 6, California Dropout Research Project, December 2007, p. 2.

of 11th grade public school students in California schools were African-American and 42.3 percent Hispanic, on-site visits to a sampling of continuation schools revealed their student populations were on average 14 percent African-American and 61.4 percent Hispanic. That survey also noted 14 percent of all 11th grade public school students in the state were English language learners versus 25.5 percent in continuation schools.

Continuation schools also had higher percentages of students from low-income families, students requiring special education services, and students with drug or alcohol issues.[26] Nationwide, about 95 percent of alternative school students are of high school age; in California, the figure is 98 percent.[27] Three-fourths of those are high school juniors and seniors.[28] (See Figure 2.) In addition, 12.9 percent of students enrolled in public schools[29] require special education services, whereas 16.2 percent[30] of the students in the safety net receive special education services.

Figure 2
Safety Net Enrollment in California, by Grade



2013–14 California safety net schools enrollment, excluding programs administered by comprehensive public high schools. *Source*: Paul Warren, "Accountability for California's Alternative Schools," Public Policy Institute of California, May 2016, p. 3, http://www.ppic.org/content/pubs/report/R_516PWR.pdf.

[26] Jorge Ruiz de Velasco, *et al.*, *supra* note 4, pp. 3–4.

[27] Mac Taylor, *Next Steps for Improving State Accountability for Alternative Schools*, California Legislative Analyst's Office, April 16, 2015, p. 2.

[28] Paul Warren, *supra* note 3, p. 7.

[29] "Children 3 to 21 years old served under Individuals with Disabilities Education Act (IDEA), Part B, by type of disability: Selected years, 197677 through 2012–13" (website), U.S. Department of Education, National Center for Education Statistics, October 2014.

[30] Priscilla Rouse Carver, *et al.*, *supra* note 24. p. 8.

Although no firm data exist on exactly how far behind the norm these students are academically, anecdotal evidence suggests at least two years is not atypical. For example, Angela Whitford-Narine, president of Accelerated Learning Solutions, a management company running for-profit alternative charter schools, states the average student in those schools is at least two years behind.[31]

3. Entry into the safety net

Sometimes students are forced into the safety net by school administrators, school boards, or law enforcement. Other times, a school advisor recommends a student will have a better opportunity in a different academic setting—usually, but not always, a continuation school—and initiates the process of placing the student in the safety net.

Even though these transfers are technically voluntary, many are not truly so. Russell Rumberger, director of the California Dropout Research Project at the University of California at Santa Barbara, states, "We don't really have any way to tell how much of it is done in a thoughtful manner and how many cases it's really just a dumping process of 'get them out of my school so my graduation rate goes up.'"[32]

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>
> Russell Rumberger, Director
> California Dropout Research Project
> University of California at Santa Barbara

Sometimes the students themselves are unclear about why they ended up in the safety net. ProPublica researchers Heather Vogell and Hannah Fresques interviewed 32 students—admittedly a small sample—in alternative charter schools in Orlando, Florida. Almost half of the students said school district staff had denied them admission to the comprehensive high school for their attendance zone because of grades, and thus presented them with no alternatives other than entering the safety net. Yet district staff insisted all transfers were completely voluntary. Said district spokesman Scott Howat, "We're saying this school's available for you to finish your diploma on time with your class. We're not assigning them."[33]

According to Vogell and Fresques, requiring students to transfer to schools in the safety net allows traditional high schools to game the system by using the alternative schools to take low-achieving students off the high schools' rolls. This further suggests administrators are using transfers to make graduation rates for those schools look better.[34] Jorge Ruiz de Velasco, director

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[31] Heather Vogell and Hannah Fresques, *supra* note 22.

[32] Sarah Butrymowciz, "Do California's Continuation Schools Really Work?" Tribune News Service, July 6, 2015.

[33] Heather Vogell and Hannah Fresques, *supra* note 22.

[34] *Ibid.*

of education at the Warren Institute at the University of California School of Law in Berkeley, more or less agrees: "Too often placement of students into continuation schools is driven generally either by the needs or the capacity of the sending schools and not by the social and emotional learning needs of the students being sent."[35]

Dierdre M. Kelley offers more evidence of this "dumping" practice. She noted the alternative network can act as a "safety valve" to give public school districts "a mechanism to rid mainstream schools of failures and misfits without holding school administrators fully accountable for the consequences," and in worst cases, the network can "cool-out" the students by providing "a situation of structured failure" where the mismatch between the program design and student needs is so large that the public school system essentially shelves the students until they give up trying to get their high school diploma.[36]

Principals and staff in safety net schools report little incentive exists for the sending schools to identify, place, and carefully manage the incoming students.[37] This problem in the transfer process can harm special education students in particular. If they fail to identify themselves as having an "individualized education program" (IEP), the receiving program or school could remain unaware of the students' special needs and would fail to address them.[38] This practice undoubtedly causes many students with special needs to fall through the cracks and not receive the adequate services they need.

Midyear transfers present students with discontinuities in teaching: changes in textbooks, changes in the order that teachers are teaching subjects, and changes in teaching emphasis.

Even apart from these situations where alternative education settings act as "exits to nowhere" and "dumping grounds for disruptive students and ineffective educators,"[39] transfers can sometimes increase the danger of dropping out of high school. Students who have entered and exited the safety net almost always experience one, if not two, transfers during the school year. Midyear transfers particularly can disrupt the academic progress of even the most advanced students. Midyear transfers present students with discontinuities in teaching: changes in textbooks, changes in the order that teachers are teaching subjects, and changes in teaching emphasis. Students can also find themselves alienated by their new environment because it lacks the familiarity of their first school, where they have friends, favorite teachers, and favorite sports.[40]

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[35] Pamela Martineau, "Report: Continuation schools failing to ensure student success," *EdSource*, May 10, 2012.

[36] Dierdre M. Kelley, *supra* note 10.

[37] Jorge Ruiz de Velasco, *et al.*, *supra* note 4, p. 11.

[38] Camilla Lehr, "Alternative Schools and Students with Disabilities: Identifying and Understanding the Issues," *Information Brief* 3, No. 6, National Center on Secondary Education and Transition, October 2004, p. 3.

[39] Jorge Ruiz de Velasco, *et al.*, *supra* note 4, p. 9.

[40] Russell W. Rumberger, *Dropping Out: Why Students Drop Out and What Can Be Done About It* (Cambridge, MA: Harvard University Press, August 2011), pp. 166–71.

4. Practices and results

Although the graduation status of students who transferred out of the safety net is unknown at this time, probably only about 25 percent of the students whose final school is part of the safety net end up earning high school diplomas, even though the academic standards for obtaining them are dramatically lower than the norm. This estimate is based on readily available California data because California's graduation rate is close to the national average.[41]

- The graduation rate of students who last attend continuation schools is probably around 33 percent. "According to *Hechinger Report* analysis of available data, in 2012–13, more than 66,500 students (in California) were enrolled in continuation schools. Of these students, about 12,259 dropped out and 22,681 graduated."[42] The difference between the enrollment and the sum of the graduates and dropouts is largely attributable to students who finished their senior year with insufficient credits to graduate.

- Anecdotal evidence we have obtained suggests that for the rest of the safety net, excluding independent study, the graduation rate is probably less than 10 percent.

- Because the ratio of students in continuation schools and classes to those in other alternative schools (excluding independent study) is around 60:40,[43] the weighted average graduation rate is probably close to 25 percent.

This estimated graduation rate might be revised if data become available on graduates from independent study programs and student transfers out of the safety net.

Even this low graduation rate estimate overstates students' academic success during high school. Often no school or district academic standards exist for the students to receive credit for a course. Depending upon the part of the safety net involved, public school educators might require students to spend as little as one to four hours per week on coursework to be counted as "present" for funding purposes. Continuation schools, the largest component of the safety net, are required to offer only 15 hours of classes a week in California.[44] Emphasis in the safety net tends to be on process—attendance, punctuality, and productivity—and not academic content and achievement.[45]

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[41] U.S. Department of Education, *supra* note 1.

[42] Sarah Butrymowicz, "There's no good way to know how California's alternative schools are working," *The Hechinger Report*, June 30, 2015.

[43] Susan Rotermund, *supra* note 25, p 2.

[44] Paul Warren and Elizabeth G. Hill, *supra* note 20, p. 7.

[45] *Ibid.*, p. 16.

Unsurprisingly, high school graduates from safety net schools and programs tend to be unprepared for education at four-year state universities. In 2012–13 "fewer than a tenth of a percent [of California's continuation school graduates] were eligible for admission to the state's four-year university systems."[46]

Rumberger might echo some other educators when he asserts, "I think there are some genuinely good things going on in the alternative sector. I don't want to condemn the whole area. But we just don't know."[47]

The problem is, there are no major studies on national practices, which vary enormously from state to state, and very little empirical information is available upon which to build a research agenda.[48]

Learning what works depends on continuity in management and management's teaching philosophy, and that continuity is far from universal in the safety net.

The government agencies responsible for administering or overseeing parts of the safety net have conducted or underwritten reports concerning their areas of expertise or what types of programs "expert panels" consider "successful."[49] Only one non-government survey of safety net schools has been written: Deirdre M. Kelley's 1993 book, *Last Chance High*, which focused only on a single continuation school in the San Francisco Bay Area.

No doctoral or master's degree programs in "Continuationology" exist, nor are there any professional journals that publish studies of what works to keep troubled students in school long enough to earn a high school diploma. Even prestigious schools of education such as those of Columbia, Harvard, and Stanford provide no course offerings specifically on the subject.

As a result, educators in the safety net are basically on their own using "on-the-job trial and error" to find what success they can without professional development and leadership training specific to working with at-risk children.[50] Angela Whitford-Narine was frank: "I can't even begin to say we have this all figured out. But every day we get better at it."[51]

Learning what works depends on continuity in management and management's teaching philosophy, and that continuity is far from universal in the safety net. An alternative education teacher complained to American Institutes for Research investigators, "whatever the new thing that comes down the pipe, they want to change directions. Well, why don't we just figure out

[46] Sarah Butrymowicz, *supra* note 42.

[47] *Ibid.*

[48] Mary Magee Quinn and Jeffrey M. Poirier, *Study of Effective Alternative Education Programs: Final Grant Report*, American Institutes for Research, June 12, 2007.

[49] *Ibid*, pp 7–8.

[50] Jorge Ruiz de Velasco, *et al.*, *supra* note 4, p. 12.

[51] Heather Vogell and Hannah Fresques, *supra* note 22.

what really works, kind of like what you're doing, and let's go there and let's stay there long enough to find out whether it's effective."[52]

5. Assessing results

Attendance in most safety net programs tends to be quite short—typically four months.[53] Because so many of the students landing in the safety net are high school seniors, the short period of enrollment undoubtedly contributes to the difficulties faced in ensuring these children have enough course credits to graduate from high school. The Public Policy Institute of California reports only 37 percent of the state's students who end their senior year in a safety net school have enough credits to graduate.[54]

Assessing students' academic gains during the brief time they spend in the safety net is impossible today because many of the students do not attend alternative schools and programs long enough to be measured for annual gains.

The shortness of the stay also makes the safety net's true contribution to the student's academic success extremely difficult to measure, because the students' history of interschool transfers prevents the establishment of a meaningful baseline for performance measurement. The California Legislative Analyst's Office noted in April 2015,

> Some of the primary pieces of performance data the state uses to assess high schools—graduation and dropout rates—do not effectively measure student outcomes at alternative schools. Most students are expected to attend traditional high schools for four years, and they either graduate or drop out. In contrast, only some students who attend alternative schools leave because they graduate or drop out, while others leave because they transfer to another school (either back to their home school or to another school placement).[55]

Even just assessing students' academic gains during the brief time they spend in the safety net is impossible today because many of the students do not attend alternative schools and programs long enough to be measured for annual gains. [56]

Sarah Butrymowicz, former data editor of *The Hechinger Report*, was blunt: "There's no good way to know how California's alternative schools are working."[57] The same is undoubtedly true of such schools and programs managed by comprehensive high schools throughout the nation.

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[52] Mary Magee Quinn and Jeffrey M. Poirier, *supra* note 48, p. 45.

[53] Mac Taylor, *supra* note 27, p. 8.

[54] Paul Warren, *supra* note 3, p. 11.

[55] Mac Taylor, *supra* note 27, p. 13.

[56] John Fensterwald, "School board rethinking how to measure performance in alternative schools," *EdSource*, May 25, 2017.

[57] Sarah Butrymowicz, *supra* note 42.

Special difficulties exist in evaluating the use of independent study programs for at-risk students. Enrollment and dropout data for at-risk children are co-mingled with those of other children who are not at-risk, so education analysts cannot determine even the number of at-risk children doing independent study, much less how successful the programs are.[58] This is the unfortunate data collection practice in California and, no doubt, other states as well.

Of course, the interplay of special individualized education programs with the alternative education programs designed to address other categories of student challenges adds another layer of complexity to the already inadequate assessment and evaluation of teaching success within the safety net. The interplay also can create an adversarial relationship between alternative school educators and special educators.[59]

6. Costs and accountability

Cost-benefit analysis of the alternative network of schools and programs is currently almost impossible. As a result, most alternative education schools and programs operate in a condition, as described by Ruiz de Velaso, of "benign neglect" and "low priority" within the state and district budgets.[60]

Most alternative education schools and programs operate in a condition of "benign neglect" and "low priority" within the state and district budgets.

ProPublica researchers have reported, "Nationwide, nearly a third of the alternative-school population attends a school that spends at least $500 less per pupil than regular schools do in the same district."[61] This $500 per student figure does not take into account federal funding (particularly for special education), which tends to be skewed toward alternative education, nor does it include money spent at the district level but disproportionately benefiting students in the safety net. Examples of where this situation might occur are spending on resource (non-classroom) teachers, other special education services, and school lunch programs.

Sometimes the spending differential is not simply the product of "benign neglect," but rather reflects a legitimate cost differential in the program offerings. For example,

- Independent study programs, which are counted by ProPublica as "schools" when they have their own state-assigned local education agency number, require materially less funding than traditional public schools. In such cases, equal per-student funding would probably be excessive funding.

[58] Paul Warren and Elizabeth G. Hill, *supra* note 20, p. 12.

[59] Camilla Lehr, *supra* note 38, p. 3.

[60] Jorge Ruiz de Velasco, *et al.*, *supra* note 4, p. 9.

[61] Heather Vogell and Hannah Fresques, *supra* note 22, p. 3.

- Also, because charter schools on average spend $1,700 per student less than traditional public schools, children at almost all alternative charter schools have materially less money spent on them than students at "regular schools."[62] Yet charter school results can be superior to the results achieved by better-funded schools.[63]

Even if the spending differential might be justified, the inability to assess the effectiveness of spending within the safety net means it can turn into a black hole that swallows education funding without producing meaningful results. This danger can be particularly serious in parts of the safety net where per-student spending is materially higher than the norm in public education.

Some states and localities, in fact, do spend more per student on alternative education because the students enrolled there are at-risk, and because substantial federal special education funding and required local matching dollars follow many students into these settings. Arkansas and other states provide considerable extra alternative education funding to lower student-teacher ratios for at-risk children and to provide specialized teacher training and project-based learning. The amount of extra funding can and does change over time.[64] California, for example, is transitioning between funding formulae and will allow local school districts to make decisions regarding the use of supplemental funds for continuation schools and programs.[65]

The inability to assess the effectiveness of spending within the safety net means it can turn into a black hole that swallows education funding without producing meaningful results.

Some parts of the safety net have extremely high per-student spending rates—something rarely highlighted on public reports. On a recent day-long visit to the San Mateo County Office of Education, Bonsteel observed how that office handled the overlap between the safety net and special education instruction. None of the classrooms he observed had more than three students in it. Although a 3:1 student-teacher ratio is not particularly common even in the safety net's special education classes, the ratio is far from unique. For example, the final grant report of the American Institutes for Research refers to three alternative schools viewed "as exemplary [by the study's Expert Panel] in terms of their effectiveness in working with students who require alternative settings." One of those schools had a 10:3 student-adult ratio.[66]

Generally, when the additional funds go through a local public school district, taxpayers who persist in questioning district administrators may have some chance of learning about the magnitude and use of the extra funding. However, even that type of limited voter scrutiny does not occur when the safety net schools and programs exist outside the local school districts

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[62] Stephen Q. Cornman, Revenues and Expenditures for Public Elementary and Secondary School Districts: School Year 2013–14 (Fiscal Year 2014), U.S. Department of Education. National Center for Education Statistics, 2017, p. 19.

[63] Ted Rebarber and Alison Consoletti Zgainer, editors, Survey of America's Charter Schools 2016, Center for Education Reform, January 30. 2014.

[64] Heather Vogell and Hannah Fresques, *supra* note 22, p. 3.

[65] "Continuation Education" (website), California Department of Education, accessed November 6, 2017.

[66] Mary Magee Quinn and Jeffrey M. Poirier, *supra* note 48, pp. 7–8 and p. 38.

because of the lack of public awareness about those parts of the safety net. For example, in 2007, California Parents for Educational Choice did opinion polling in that state and found only about 3 percent of adult respondents had any familiarity at all with the County Offices of Education, which operate many of the state's alternative schools.

7. Recommendations

Addressing this stark educational safety net situation will require state legislatures to take both short-term and long-term actions to correct the problems of the most vulnerable, at-risk students. Several reforms policymakers should consider stand out.

A. Standardize data, collect information, and define knowledge requirements for graduation

> State legislatures can take both short-term and long-term actions to correct the problems of the most vulnerable, at-risk students.

The first step for improving the effectiveness of the safety net is giving policymakers and educators the tools they need to identify student success and failure. Currently, definitions of safety net options, programs, and alternative schools vary state to state and even within states.[67,68] Policymakers can take several steps that would lay the foundation for evaluating the safety net and the students exiting it:

- Define in a uniform way and at the widest jurisdictional level possible—county, state—what constitutes the safety net. A consensus among states also would be useful. The definition should be based upon the characteristics of students enrolled in the safety net and the short-term nature of student enrollment.[69]

- Define in a uniform way what makes a child at-risk, identifying these children and comparing them with student populations in alternative education settings.

- Enable closer tracking of at-risk children in the states' existing comprehensive longitudinal databases. These databases show student progress toward high school graduation, record signs that students might be at risk of not attaining that goal, note any support they are receiving in the safety net, and report on student success resulting from that support. (See the Appendix concerning more details on these existing databases.)

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[67] Paul Warren, *supra* note 3, p. 11.

[68] Allan Porowski Rosemarie O'Conner Jia Lisa Luo, and ICF International, *How Do States Define Alternative Education?*, U.S. Department of Education, National Center for Education Evaluation and Regional Assistance, September 2014.

[69] Paul Warren, *supra* note 3, p. 11.

- Commission statistical analyses to identify relationships between students' at-risk status, the educational services received, academic progress, and graduation.

- Open up these databases, to the extent state and federal privacy laws permit, to allow research by non-governmental entities, which would enable independent and inexpensive insights beyond the commissioned research.

- Institute an "exit examination" for high school. Because the non-academic focus on high school graduation in many parts of the safety net has already led to weakening standards for completing required coursework there, each state without a high school exit examination should consider instituting one in order to obtain data about the real results of the safety net and to establish a floor of required knowledge to graduate. Twelve states already have such an examination.[70]

B. Expand independent school options

The second step is to expand independent school options: charter schools or private schools whose students receive taxpayer-funded scholarships. A number of studies using randomized cohorts have shown significantly higher graduation and student achievement rates can exist in schools of choice compared with schools to which assignment is compulsory.

> Charter schools and voucher-receiving private schools tailor their programs to meet the needs of particular students.

Particularly noteworthy was a RAND study concerning the impact of charter schools on educational attainment rates in Chicago and Florida. The researchers found attending a charter high school rather than a traditional government high school increased the probability that a student would earn a standard diploma by seven to 15 percentage points.[71]

In part, these successes come from the ability of charter schools and voucher-receiving private schools to tailor their programs to meet the needs of particular students. Such tailoring is precisely what is being done in California's more than 60 alternative charter schools.[72]

For example, one of the Marin County Office of Education's safety net schools is the Phoenix Academy, the first charter school established in the county. The school is dedicated to meeting the needs of students with alcohol and drug challenges.

The 18 Life Skills High Schools provide another example of how charter schools can help students who have already fallen through the safety net. These schools—located in Arizona, Colorado, and Ohio—specialize in taking on students who have *already* dropped out, turning

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[70] Catherine Gewertz, "Which States Require an Exam to Graduate?" *Education Week*, February 15, 2017.

[71] Kevin Booker, *et al.*, "Going Beyond Test Scores Evaluating Charter School Impact on Educational Attainment in Chicago and Florida," *RAND Education Working Paper Series*, August 2008, p. 10.

[72] Jorge Ruiz de Velasco, *et al.*, *supra* note 4, p. 6.

around the lives and academic careers of the students. The schools employ licensed social workers to identify and overcome the stressors the students face in their families and neighborhoods. The schools offer low student-teacher ratios and study plans individualized to each student.

In the case of private schools, opportunities to make an impact on the dropout rate could come from extending the current non-public school option to all children being poorly served in traditional public schools, not just the most seriously challenged special education children. The voucher-induced demand for more diversified services will create its own supply.

For example, the state of Utah is well known for its private alternative schools for troubled students. These schools serve families from across the nation, and the tuitions are often paid through voucher-like arrangements by the school district in the state from which the student came.

Although most of the Utah alternative schools do not report the outcomes of students' short stays, Red Rock Canyon School, which focuses on children with psychiatric and substance abuse issues, does. Based upon the Youth Outcome Questionnaire, a nationally recognized and statistically normed examination the school administers when the child enters and exits the school, 95 percent of students indicated they had "changed quite a bit and were more prepared for life" as a result of attending the school. [73]

C. Expand parental choice, which includes choice within the safety net, vouchers, education saving accounts, and tax-credit scholarships

Parental demands and choice must be given a greater role in shaping the creation of alternative programs, and parental satisfaction much drive the assessment of their success or failure.

Safety net administrators, as well as school staff at all levels of the public school system, are not fully accountable for failures of the system. The best way to solve that problem is to turn away from an exclusively metrics-driven administrative accountability safety net model. Parental demands and choice must be given a greater role in shaping the creation of alternative programs, and parental satisfaction much drive the assessment of their success or failure. Policymakers and administrators should make available as many options as possible and empower parents and guardians, who care most about their children.

1. Choice within the safety net

Administrators, school advisors, and teachers certainly can provide unique insights and important counsel about students, but ideally, public school staff should not have the only or

[73] "How Successful Are Our Students?" (website) Red Rock Canyon School, accessed November 6, 2017.

ultimate say about when students enter safety net programs. While some jurisdictions maintain the veneer that entry into the safety net is voluntary, quite often it is not.

To begin with, in most cases parents should be required to sign off on their children's entry into safety net programs. (An exception might be students who are violent or who continually disrupt classes.) Furthermore, as a matter of policy parents should be provided with information about the options for various safety net programs. Additionally, states should allow for voluntary entry into the safety net at parents' request in a number of circumstances; for example, if students are falling behind in credits they might secure from adult education or other alternatives.

Exit out of the safety net is as important as entry into it. For many returning students, the transfer merely places them back in the school environment that contributed to their failure.

Exit out of the safety net is as important as entry into it. The academic and social difficulties that result from transfers mean it is especially important to maximize the number of ways children leaving the safety net can obtain an academic environment meeting their needs. Although some students can fit back into their original high school setting, many cannot. In some cases, particularly when the children are returning to their home high school after being incarcerated, their comprehensive high school does not want them back.[74] For many other returning students, the transfer merely places them back in the school environment that contributed to their failure in the first place.

Parents can often see the problem coming. As one parent explained:

> My son was reintegrated [back into his old high school environment], not too long ago and it didn't work out too well. For one, I don't know if it was …too much peer pressure when he got to the public schools. … the school that they sent him to, he shouldn't have been at, and I told the case manager upfront that I didn't feel comfortable with sending my son to his home school, but at the time she told me that that was the school he had to go to and she couldn't do anything about it.[75]

Giving students options beyond going back to their old schools or going to another undesired school within the safety net is critical to getting the child back on a track to graduate from high school. The American Institutes for Research (AIR) noted,

> … students identified as troubled or troubling tend to flourish in alternative learning environments where they believe that their teachers, staff, and administrators care about and [respect] them, [value] their opinion, establish fair rules that they support, are flexible in trying to solve problems, and take a non-authoritarian approach to teaching … .[76]

AIR noted that being allowed a choice of an alternative school or a program increases the probability of the student's "buying into" the educational process:

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[74] Michael Thompson, "Breaking the school-to-prison pipeline for young offenders one class at a time," *PBS Newshour*, June 29, 2016.

[75] Mary Magee Quinn and Jeffrey M. Poirier, *supra* note 48, p. 40.

[76] *Ibid*., p. 47.

> A parent commented, "[my son] had to apply to come to this school – it made him feel important." Another parent from that particular school added, "they think it is a big deal that they had to apply for this school and being accepted was a big deal for him. It made him a part of the process. The acceptance letter came to him."[77]

In an interview with Brodt, Stephen Guffanti, a physician who served on the board of the Vista Unified School District in California in the mid-1980s and helped open a public alternative school in the district, recounted a dramatic story of how student "buy in" to a private school can influence academic success and graduation even for students presumed to be incorrigible.

National University High School operated as a tuition-free private school, Guffanti explained. The school drew its students almost entirely from four National City Latino gangs. They were attracted by the opportunity to learn martial arts at the school. The martial arts training in turn helped teach the gang members self-discipline and self-respect, a desire to attain "the good life," and the skills to do so. In the school's one and only graduating class before it closed for financial reasons, all students but one stopped drug use, and all but that one ended up attending college or going to work after graduation.[78]

2. Vouchers

With choice should go assets and financial support. The instrument that gives parents maximum choice concerning their children is vouchers, essentially taxpayer-funded scholarships to pay or help pay for private school tuition. Ideally, vouchers should be an education option for all parents and students. But at minimum, policymakers should authorize this option for at-risk students.[79]

The instrument that gives parents maximum choice concerning their children is vouchers, essentially taxpayer-funded scholarships to pay or help pay for private school tuition.

Vouchers are an avenue to success. A noteworthy study by Patrick J. Wolf of the University of Arkansas and his colleagues examined a Washington, DC school voucher program aimed at helping poor and minority families in the DC metro area. The researchers found voucher students were 21 percent more likely to graduate high school,[80] and they declared the program was "one of the most effective urban dropout prevention programs yet witnessed."[81]

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[77] *Ibid.*, p. 33.

[78] Interview with Stephen Guffanti by Carl Brodt, August 15, 2017.

[79] George A. Clowes, "Can Vouchers Reform Public Schools?" *Policy Study*, The Heartland Institute, July 23, 2008.

[80] Patrick J. Wolf *et al.*, "School Vouchers and Student Outcomes: Experimental Evidence from Washington, D.C." *Journal of Policy Analysis and Management* 32, No. 2 (February 19, 2013): 260.

[81] Melissa Moschella, "A Bipartisan Case for School Choice," The Witherspoon Institute Public Discourse, May 1, 2017.

To start, if coursework the student requires to graduate is not offered in summer classes by his or her comprehensive high school or by the comprehensive high schools in nearby districts, the student should receive publicly funded mini-vouchers to take the course from private providers. Vouchers also should be authorized for pregnant girls or new mothers, who without that financial support would likely have to attend the same alternative school attended by a school district's delinquent young men—not a healthy learning environment for either group of students. Legislatures also should allow private schools to accept vouchers to help children with behavioral and attitudinal problems pursue other options outside the standard safety net environment.

3. Education Savings Accounts

Another option could be education savings accounts (ESAs), which provide parents with funds to pay for a variety of approved services for their children and allow families to choose from multiple educational providers. [82] Using funds in an ESA, a student might get traditional educational instruction in one school in the morning, music instruction at mid-day at another school, and tutoring in the home in the evening.

4. Tax-Credit Scholarship Programs

Yet another option could come from the expansion of tax-credit scholarship programs, which offset some or most of the costs of K–12 private education. Expansion of the number of these programs across the country and better funding by the 17 states that already have them could open new opportunities for at-risk children.[83]

Even more important than fixing the holes in the safety net is minimizing the number of children who fall into it in the first place.

D. Reduce the need for a safety net

Even more important than fixing the holes in the safety net is minimizing the number of children who fall into it in the first place. This means coming to grips with the problems in the traditional K–12 educational system. Mass education, especially in the higher grades, still functions on a nineteenth century assembly-line model. At 9:00 am a teacher might attempt to pour math into the minds of students, and then the students move along the line at 10:00 am for a dose of history, and so on. Some schools, of course, have introduced into their classrooms interactive and experimental approaches, but the traditional school structure is still one-size-fits-all.

Some alternative approaches, such as in Montessori schools, have proved highly successful in educating kids as individuals, overcoming the boredom they often experience in traditional

[82] Timothy Benson, "Education Savings Accounts: The Future of School Choice Has Arrived," *Policy Brief*, The Heartland Institute, June 22, 2017.

[83] Teresa Mull, "Is a National Tax-Credit Scholarship Program on the Horizon?" *School Choice Weekly* #169, February 22, 2017.

classes, keeping their attention, and spurring their imaginations. Many of the outstanding technology and business innovators were Montessori students: Amazon founder Jeff Bezos, Google founders Larry Page and Sergey Brin, and Wikipedia founder Jimmy Wales among them. Some charter schools and experimental programs within traditional schools have had excellent results transforming students with discipline problems into productive graduates.

Conclusion

Dr. Maria Montessori, one of the greatest educators of all time, earned her reputation by taking on the toughest of the tough kids and teaching them well. As policymakers seek to bring more accountability and the parental choice revolution to the educational safety net and its very needy students, it is useful to remember her words:

> An education capable of saving humanity is no small undertaking—it involves the spiritual development of man, the enhancement of his value as an individual, and the preparation of young people to understand the times in which they live.[84]

Over the next two decades we could empty many of our prisons of young people who have been poorly served by our dysfunctional educational safety net.

If we are willing to act boldly to implement the recommendations described above, we can transform and revolutionize how we work with children who are floundering in school. Over the next two decades we could empty many of our prisons of young people who have been poorly served by our dysfunctional educational safety net.

The great educator Rudolf Steiner was fond of the following quote commonly attributed to Goethe: "Whatever you can do, or think you can do, begin it. Boldness has genius, power, and magic in it."

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In 1998 Bonsteel and Brodt documented California public schools were losing 32 percent of their students to dropping out—up to ten times the rate previously acknowledged by the state Department of Education. Following release of accurate data by the department in 1999, this information was on the front page of every large newspaper in the state. In 2002, Jay Greene, Ph.D., then of the Manhattan Institute, took that data to the national level and attracted similar front-page coverage across the country. In campaign debates in 2004, President George W. Bush and Senator John Kerry used the then-correct national figure for high school dropouts of 30 percent, and national awareness of the need to improve graduation rates was raised.

[84] "Maria Montessori Quotes" (website), American Montessori Association, accessed November 3, 2017.

Appendix
Longitudinal Databases

Traditional attempts to document school dropout rates have usually been inaccurate. For example, the attempts often ignored students dropping out of school before their freshman year in high school and, more critically, failed to account for the many children who simply did not return to high school after the summer break.

With encouragement and some funding from the national government, 47 states and the District of Columbia have created or are improving longitudinal databases to evaluate student progress through high school graduation to college and to the workforce.[85] Longitudinal databases enable more meaningful analysis by allowing for the clustering of data by the groups to be analyzed. They allow for tracking educational outcomes over time. Such databases contain at least these 12 data elements:

- A unique student reference value that does not permit a student to be individually identified, except as permitted by federal and state law;
- Each student's enrollment history, demographics, and program participation record;
- Information on when a student enrolls, transfers, drops out, or graduates from a school;
- Students' scores on tests required by the Elementary and Secondary Education Act;
- Information on students who are not tested, by grade and subject;
- Students' scores on tests measuring whether they are ready for college;
- A way to identify teachers and to match teachers to their students;
- Information from students' transcripts, specifically courses taken and grades earned;
- Data on students' success in college, including whether they enrolled in remedial courses;
- Data on whether K–12 students are prepared to succeed in college;
- A system of auditing data for quality, validity, and reliability; and
- The ability to share data from preschool through postsecondary education data systems.[86]

Databases also should contain specific information such as the following:

- A student's name and personal information
  - Ethnicity
  - Gender
  - English learner status

[85] "Statewide Longitudinal Data Systems Grant Program," U.S. Department of Education, National Center for Education Statistics, https://nces.ed.gov/programs/slds/stateinfo.asp.

[86] "Statewide Longitudinal Data Systems," U.S. Department of Education, https://www2.ed.gov/programs/slds/factsheet.html

    - Foster care status
    - Migrant education students
    - City and county of residence
    - Homeless status
    - Qualification for free or reduced cost school lunches
    - Any Individualized Education Program (IEP)
- The schools attended and the terms of attendance
- The student's academic progress such as grades and course completion
- Attendance and truancy history
- Other behavioral data such as suspensions
- Completion of any courses meeting an admission requirement at a state university
- Completion of any courses in career technical education
- Exit codes indicating, for example, if the student dropped out, graduated, completed coursework not leading to graduation, passed a graduation or high school equivalency test, transferred to a junior college without graduation, died, or transferred out of state.

To measure the effectiveness of states' alternative education programs, the databases also should contain information on:

- Any special alternative programs the student was enrolled in;
- What the anticipated termination point is of such programs, e.g. a diploma, a skills certification, or something else;
- Whether the child is deemed at risk not to complete high school, the date of that determination, and the position of the person making the determination;
- Whether the child receives any special language-oriented support or accommodations;
- If the child has an IEP and information about how it changes the educational services the student is receiving, e.g. special accommodations but no class pull-out, less than 50 percent pull-out, between 50 percent and 99 percent pull-out, or 100 percent pull-out;
- Whether a child receives special public social service agency services, and which ones;
- The number of times the student has dropped out of school and the dates of dropping out;
- The results of a knowledge and skills assessment test to be given upon entering any new school midyear if attendance in the new school is expected to be more than six weeks.

The states should require all alternative education settings—public or private—to contribute to the database. Although only four states currently do not track whether incarcerated youth in state-run facilities have earned a high school diploma, currently up to 80 percent of all privately run facilities may not track such an educational outcome. More than 40 percent of all incarcerated youth are held in privately run facilities.[87]

[87] "Locked Out: Improving Educational and Vocational Outcomes for Incarcerated Youth" The Council of State Governments Justice Center, November 5, 2015, p. 7, https://csgjusticecenter.org/youth/publications/locked-out-improving-educational-and-vocational-outcomes-for-incarcerated-youth/.