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Alternative Schools

Policy and Legislation
Across the United States

Research Report 1

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Abstract

Alternative schools have emerged over the years as one educational option for students who are not successful in traditional school settings. The number of these schools is growing rapidly, yet we know very little about similarities in policy and practice across states. This report provides a list and review of current state legislation and policy from 48 states that had some type of legislation addressing alternative schools or programs. Information is organized and discussed with regard to enrollment criteria, alternative school definition, funding, curriculum, staffing, and students with disabilities. Implications of the findings are discussed in relation to historical context and current forces shaping alternative schools today.

Introduction

Meeting the needs of students disenfranchised from the traditional education system is becoming more and more important as we are faced with a growing population of students for whom the status quo is not successful. Alternative education is one of the possible solutions that many states and local school districts are implementing to address the issue of students who are not meeting desired educational outcomes and standards in traditional education settings.

Alternative education is not a new concept, and it has been an active player in the American public school system for over 40 years. Alternative education has evolved over the course of its history with little agreement on its definition. “Within the past 20 years, the term *alternative education* has been applied indiscriminately to such a wide variety of programs that its meaning has been clouded in confusion among educators, students, and the general public” (Kellmayer, 1995, p. 2). A recent literature review suggests a clear definition of alternative education still does not exist (Lange & Sletten, 2002). However, at this point in its evolution, most agree that alternative schools are defined by the tendency to serve students who are at-risk for school failure within the traditional educational system. The U.S. Department of Education defines an alternative education school as “...a public elementary/secondary school that addresses the needs of students which typically cannot be met in a regular school and provides nontraditional education which is not categorized solely as regular education, special education, vocational education, gifted and talented or magnet school programs” (U.S. Department of Education, 2002, p.55). However, the way in which the definition is operationalized within states and communities is still unclear.

Even with the lack of clarity in definition, alternative schools are growing at a rapid rate.

More and more states and local districts are providing an alternative to the traditional school. The National Center for Educational Statistics (NCES) Common Core of Data reported there were 2,606 public alternative schools in 1993-1994, compared to 3,850 public alternative schools in 1997-98. A recent survey estimated that there were 10,900 public alternative schools and programs with 612,000 students or 1.3% of all public school students in the United States in 2000-2001 (Kleiner, Porch, & Farris, 2002). Yet, even with this growth in alternative education, there is scant documentation of what alternative education is and its success at meeting the needs of the students it serves.

In general, the definition and characteristics of alternative education are determined by individual states or school districts. We do not know the extent to which definitions are similar among the states, or whether states have even addressed alternative education through law and policy. Documenting how states are approaching alternative education in law is one way of understanding the role alternative education is playing in America's public school system. An aggregated documentation of state laws was published in 1998 (Katsiyannis & Williams, 1998). The purpose of their study was to "...identify programs, whom they serve, how they are supported, and how they are evaluated and monitored by analyzing state legislative and policy mandates and responses to a survey" (Katsiyannis & Williams, 1998, p.277). They examined whether each state had alternative schools and whether the state had an adopted definition, legislation, state policy/procedures, technical assistance, and compliance monitoring. In addition, the extent to which federal, state, and local monies were used to fund alternative schools was investigated. The authors of the legislative review went on to suggest that alternative schools and programs would increase given statistics on dropout, school failure, delinquency, substance abuse, and teenage pregnancy. Indeed, the rapid

growth in alternative schools over the past few years seems to confirm their prediction.

Given the increase in alternative programs and services, a current review is necessary to update the status of policy and legislation across the nation. This is particularly important in light of general and special education reforms that have been instituted since that time (e.g. Individuals with Disabilities Education Act [IDEA, 1997]) and other policies such as zero tolerance, public school choice, and no social promotion. In addition, the 1996 review did not specifically address students with disabilities and their enrollment in alternative schools or programs. Results from a recent national survey estimates that approximately 12% of all students in alternative schools are students with disabilities (Kleiner, Porch, & Farris, 2002). Although this percentage is not significantly different from the overall percentage of special education students with Individualized Education Programs (IEP) enrolled in all public schools during the 2000-2001 school year, the percentage of special education students varied widely between districts — ranging from 3% to 20% (Kleiner, Porch, & Farris, 2002). In addition, state-level research conducted in Minnesota found that students with emotional/behavioral disabilities were attending alternative programs at much higher proportions than in the traditional public schools (Gorney & Ysseldyke, 1993). In Texas, "...twenty-one percent of Disciplinary Alternative Education Program (DAEP) removals involved special education pupils, about three times their proportion of the state enrollment" (Cortez & Montecel, 1999, p. 7). It is clear that alternative schools are serving students with disabilities, but the extent to which legislative policy addresses enrollment, exit, and educational processes and procedures is not known.

The University of Minnesota's Alternative Schools Research Project is a federally funded study designed to examine alternative schools across the United States, particularly in relation to

students with disabilities. Documenting each state's alternative education laws and policies is one way of better understanding the nature of today's alternative schools. The purpose of this report is to provide an updated list of states that have legislation or policies on alternative education and to examine what is included in the state laws and policies. For example, do state laws include language specific to a definition, funding, enrollment criteria, curriculum, and students with disabilities? By documenting the current state laws and policies for alternative education, the door is opened to studying the implications of the laws and policies on practice. For example, by knowing whether states are mandating alternative programs for expelled or suspended students, researchers can begin to study the impetus driving legislative and policy decisions as well as the ramifications of these decisions. Or, by documenting the extent to which special education or students with disabilities are addressed in state alternative education laws, the implications for special education programming can be better understood. Documentation of current laws and policies is a critical starting point. The information gathered from this review will assist researchers and policymakers as they consider the role alternative education is playing in the American educational system.

Methods

Procedures

Two sources were used to obtain information about current legislation in each of the 50 states and the District of Columbia. First, a Web-based search was conducted of all state departments of education Web sites. Second, results from a survey conducted by the University of Minnesota's Alternative Schools Research Project were compiled and used to supplement and add to the existing information gathered from the Web-based search. Information gathered from the two sources was combined and used as the basis of this review.

Web-based Search

State department of education Web sites were searched for alternative school legislation and policy using the terms alternative education, schools and programs. The review occurred from January 2002 through September 2002. Information sought through the search included state legislation — typically a senate or house bill, code of regulations, resolutions, educational code, and legislative statutes. Information gathered from the Web search was systematically catalogued for use in summarizing each state's alternative school laws and policies.

The comprehensiveness of the alternative education policy/legislation varies among the states. Some states have legislation or policies that provide detailed descriptions of the state's alternatives schools and policies. Others have short, and at times, ambiguous descriptions of the programs and the policies. When the alternative school policy is embedded within an educational statute, it is often less comprehensive than when there is a specific statute addressing alternative education. States that have comprehensive legislation often have a section titled "Alternative Education, Schools, or Programs" in the statute with specific

definitions for many, if not all, of the categories used for this report. Some states may have alternative school handbooks (developed by state departments of education or alternative school organizations) that provide program guidelines, but these guidelines may not be specifically stated in law or in official policy. These kinds of documents were not included in this review.

Survey Findings

A survey was distributed in June of 2002 to an alternative school key informant in each of the 50 states and the District of Columbia as part of the Alternative Schools Research Project. The survey asked several questions about each state's alternative school experience and a specific question addressed the states' laws and policies. The survey had a 78% (n=39) response rate. The question pertinent to this report was: "Does your state have legislation related to alternative programs/schools? If yes, please provide the legislative citation (s), number or name of the statutes, code, or regulation." Responses to the question were reviewed for each state and compared to the information gathered from the Web-based search. A review of information gathered from the two sources found consistency between the laws posted on the Web sites and the policies and information provided by the key informants in the states. In some cases, one of the sources provided more detailed information than the other. In those cases, the information was combined for presentation in this report.

Data Analysis

Legislation and policy for each state was examined to determine the extent to which it addressed various topics. These topics were designated prior to the review and were developed through identification of critical issues in alternative education and from previous research (Katsiyannis & Williams, 1998; Lange & Sletten, 2002; Lehr & Lange, 2003). Information was organized according to the following topics or categories: alternative school definition, funding, curriculum, enrollment criteria, staffing, and students with disabilities.

Policy and legislation within each topic was carefully examined and similar information was grouped together resulting in emerging themes. The unit of analysis was most often a sentence or multi-sentence chunk of data. A state could contribute to more than one theme within a topic, but was not counted more than once in each theme area. Statements within topic areas and themes were reviewed for continuity. The frequency and percentage of states that included information on a particular topic was determined and is listed in Table 1 on page 5. Themes are reported if more than six states¹ included pertinent policy language.

It should be noted that this review provides a snapshot of legislation on alternative schools at one point in time. The fluid nature of changes in policy and legislation over time limits our findings to those in place as of September 2002. Also, data collection on legislation and policy was limited to two sources — Web-based search of state departments of education and survey results from 39 states. It is possible that the use of other resources may have yielded additional relevant information.

¹ This reflects more than 12% of the total number of states with legislation (n = 48); note the percentage is higher if it is calculated using the total number of states within a particular category.

Results

Information was available on the existence of legislation for all of the 50 states and the District of Columbia, either through the Web-based search or through the Alternative Schools Research Project survey. Of the 50 states and District of Columbia, 48 or 94% had some type of alternative school legislation addressing at least one of the designated topics. This compares to only 22 states with alternative school legislation or

official policies reported in the 1998 publication (Katsiyannis & Williams, 1998). Review of the legislation indicated considerable variability in the type of information delineated in statute, law, or policy. The percentage of states that included information on each topic is provided in Table 1. Of those states with documented legislation or policies, 21% included information on all six topics. The summary of legislation available by state is reported in Table 2 on pages 6 and 7.

Table 1. Percentage of States with Legislation Related to Various Topics

Topic and Definition	Percent	Number
<i>Enrollment Criteria:</i> Includes language focused on the kinds of criteria students must meet in order to enroll in an alternative school.	86	42
<i>Definition:</i> Includes language focused on how alternative schools were defined and may have addressed the purpose, location, students served, or desired outcomes of programs.	71	34
<i>Funding:</i> Includes language focused on sources of funding for alternative schools.	71	34
<i>Curriculum:</i> Includes language focused on the kinds of academic skills taught and teaching methods used in alternative schools.	69	33
<i>Staffing:</i> Includes language focused on required credentials, student to staff ratio, selection of teachers for employment, provision of specialized services, and other regulations.	60	29
<i>Students with Disabilities:</i> Includes language focused on students who receive special educational services, use of Individual Education Programs (IEP), entrance criteria, and least restrictive environment.	38	18

Note: Total number of states with legislation on alternative education, schools or programs = 48

Table 2. Alternative School Legislation or Policy Information Available by State (2002)

State	Legislation	Enrollment Criteria	Definition	Funding	Curriculum	Staffing	Students w/ Disabilities
AL	x	x	x	x	x		x
AK							
AZ	x	x	x	x			
AR	x	x	x	x	x	x	
CA	x	x	x	x	x	x	x
CO	x	x	x	x			x
CT	x	x					
DE	x	x	x	x	x	x	x
DC	x	x	x				
FL	x	x	x	x			
GA	x	x	x	x		x	
HI	x	x					
ID	x	x	x	x	x	x	
IL	x	x	x	x	x	x	x
IN	x	x	x	x	x	x	
IA	x		x		x		
KS	x	x			x	x	x
KY	x	x	x	x	x	x	x
LA	x	x	x	x	x	x	
ME	x	x		x	x	x	
MD	x	x	x		x		
MA	x	x	x	x	x	x	
MI	x	x		x			
MN	x	x	x	x	x		x
MS	x	x	x	x	x	x	
MO	x	x		x		x	
MT							
NE	x	x	x		x	x	
NV	x	x		x	x	x	
NH	x	x					
NJ	x	x	x		x	x	
NM	x						x
NY	x	x		x	x		
NC	x	x	x	x			
ND	x	x		x	x		

State	Legislation	Enrollment Criteria	Definition	Funding	Curriculum	Staffing	Students w/ Disabilities
OH	x	x	x	x	x	x	
OK	x	x	x	x	x	x	
OR	x	x	x	x	x	x	x
PA	x	x	x	x	x	x	x
RI	x			x			
SC	x	x	x	x	x	x	x
SD	x				x	x	x
TN	x	x	x	x	x	x	x
TX	x	x	x	x	x	x	x
UT	x						x
VT							
VA	x	x	x	x	x	x	x
WA	x	x	x	x	x	x	
WV	x	x	x		x	x	x
WI	x		x	x	x	x	
WY	x	x	x				

A description of the designated topics and emerging themes within each topic is presented below. Again, the amount of information available in each state’s legislation or policy statements was variable.

Enrollment Criteria

Forty-two (88%) states had laws or policies that addressed enrollment criteria. The types of enrollment criteria for alternative schools varied greatly. Several states identified comprehensive criteria for enrollment in an alternative school or program. Four themes in the area of enrollment criteria emerged from the law/policy review —

1. Theme: Students are admitted as a result of suspension or expulsion. Thirty-four states had legislation indicating enrollment in alternative schools occurred as a result or consequence of an expulsion or suspension. In some states, a student is required to be placed in an alternative school or program if they are expelled or

suspended from their school. In other states, the alternative school enrollment was one of the choices the student could make after expulsion or suspension. Some states require placement in an alternative program if the suspension or expulsion is a result of assault, a felony, or bringing a firearm or weapon to school. Other states have alternative schools that serve as an interim placement to assist with the re-entry process after students return from being out of school after suspension or expulsion.

2. Theme: Students must meet some form of at-risk criteria. Twenty-one states have legislative or policy language requiring students to meet one or more at-risk criteria as a condition of alternative program enrollment. Some states have language that includes a comprehensive list of at-risk guidelines. At-risk criteria typically included: dropout status, truancy, physical abuse, substance abuse or possession, and homelessness.

3. Theme: Students have been disruptive in the general education environment. Disruptive behavior in the general education environment is criteria for enrollment in an alternative school as documented in the legislation of 14 states. Language used in policy regarding the referral process included —

- “Where the student’s presence poses... ongoing threat of disrupting the academic process, the student may be immediately removed from the regular education curriculum...” (Pennsylvania Article XIX-C SS 1902-C).
- “A school district may also reassign a pupil to an alternative educational program if the pupil refuses to comply with rules...” (Arizona Section 15-841 F).
- “Disruptive students typically derive little benefit from traditional school programs and may benefit substantially by being transferred from their current school into an alternative public school program...” (Illinois 105/ILCS 5/13A-1 (e)).

4. Theme: Students have been academically unsuccessful and would benefit from a nontraditional school setting. Some states had policies that suggested alternative schools would benefit students who have been academically unsuccessful in traditional settings (n=11). The term “academically unsuccessful” was typically defined as having been retained; having low test scores, failing grades, low grade-point average, or credit deficit; or not meeting the state or district proficiency levels in reading, mathematics or writing. In general, students who were considered academically unsuccessful were described as not benefiting from the general education environment.

Some states also included legislation indicating students could enroll in alternative schools as a result of court or agency referrals, or sex offender violations or as a voluntary choice (fewer than six states in each category).

Alternative School Definition

Of particular interest was whether the states defined alternative education within the state’s statute or policies. Given the lack of clarity across the nation in defining alternative education, documenting how states are defining alternative education can assist in understanding the current status of the entity.

Thirty-four (71%) states with formal legislation have a definition for alternative education (sometimes referred to as alternative program or school).

Examples are provided below —

- “For the purpose of this section ‘alternative education’ means the modification of the school course of study and adoption of teaching methods, materials and techniques to provide educationally for those pupils in grades six through twelve who are unable to profit from the regular school course of study and environment” (Arizona Section 15-796).
- “For purposes of these rules, the following definitions shall apply:... ‘Alternative program’ means a class or environment established within the regular educational program and designed to accommodate specific student educational needs such as, but not limited to, work-related training; reading, mathematics or science skills; communication skills; social skills; physical skills; employability skills; study skills; or life skills. ‘Alternative school’ means an environment established apart from the regular educational program and that includes policies and rules, staff, and resources designed to accommodate student needs and to provide a comprehensive education consistent with the student learning goals and content standards established by the school district or by the school districts participating in a consortium. Students attend by choice” (Iowa 281-12.2 (256)).

- “The Alternative Education Programs supported by this legislation shall: (1) provide accredited alternative education during the regular school year (five days per week, eight hours per day) for students who have dropped out of middle or high school...” (Massachusetts HB 3272).

Oftentimes, the alternative setting was defined by circumstances or characteristics of the student population it was designed to serve. When the definitions are reviewed, four themes emerged that assist in understanding legislation related to defining alternative education —

1. Theme: Alternative education includes schools or programs in nontraditional settings separate from the general education classroom. Twenty-five states had legislation/policy stating alternative schools are nontraditional settings that are separate from the general education classroom. Non-traditional settings included a separate building on or off schools grounds, school within a school, or a setting other than student’s regular classroom.

2. Theme: Alternative schools/programs serve students who are at risk of school failure. Oftentimes, definitions of alternative schools addressed the population served in these settings. For example, 17 states had definitions that included policy stating that alternative schools are for at-risk students. Students considered “at risk of school failure” typically included dropouts, or those at risk of dropping out, youth who are pregnant or parenting, and those who do not thrive or succeed in the traditional school setting.

3. Theme: Alternative schools/programs serve students who are disruptive or have behavior problems. Eleven states had policies stating that alternative schools serve students who are disruptive or have behavior problems within general education. Legislation within this theme stated alternative schools are settings intended to segregate potentially dangerous students and/or are for students who interfere with others’ learning. Language used in legislation to describe this theme includes —

- “...an alternative school program for, but not limited to, the following categories or compulsory-school-age students:...(b) Any compulsory-school-age child referred to such alternative school based upon a documented need for placement in the alternative school program by the parent, legal guardian of such child due to disciplinary programs...” (Mississippi Code 37-13-92).
- “Any applicant’s program applying for funds under this article, which program is implemented by a school district, an area vocational-technical school, a group of school districts or an intermediate unit, which removes disruptive students from the regular school programs in order to provide those students with a sound education course of study and counseling designed to modify disruptive behavior and return students to a regular school curriculum” (Pennsylvania School Code Article XIX-C (Act 30 of 1997 Section 1901-C)).

4. Theme: Alternative schools/programs serve students who have been suspended or expelled. States also including language specifically indicating alternative education is for suspended or expelled students (n=8). Examples include the following —

- “...an alternative school program for, but not limited to, the following categories of compulsory-school-age students: (a) Any

compulsory-school-age child who has been suspended for more than ten (10) days or expelled from schools..." (Mississippi Code 37-13-92),

- "This component will serve primarily secondary school students, including but not limited to: youngsters who have been expelled from regular school..." (Delaware Code T-14, SS 1604).

Funding Sources

Thirty-two states have a policy or language in the law that addresses alternative education funding. Language in the state laws and policies ranged from very general to detailed explanations with some states delineating extensive funding plans. The sources of funding fell into four areas: federal, state, and local monies; and grant money. Oftentimes, the language on funding indicated that the alternative schools could receive money from more than one of these sources. It should be noted that the information compiled on funding was limited to what was available in policy directly related to alternative schools —

1. Theme: Alternative schools/programs receive state funds. Information gathered from legislation suggests that the primary source of funding for alternative schools comes from the state (n=30). One example of legislation/policy is —

- "Eligibility to receive general State aid. In order to receive general State aid, alternative learning opportunities programs must meet the requirements for claiming general State aid..." (Illinois 105 ILCS 5 Section 13B-50).

2. Theme: Alternative schools/programs receive local funds. Fewer states had policy/legislation suggesting funding for alternative schools was determined at the local level (n=8). Examples include —

- "The local board of education shall provide a 25 percent match of all funds for alternative school programs" (Code of Alabama 41-15b-2.2).
- "Any funds received by a local school district under this regulation may only be expended for eligible ALE programs" (Arkansas Department of Education Rules and Regulations ADE 145 6.01).

3. Theme: Alternative schools/programs receive support from grants or private contracts. Seven states had policy/legislation stating that a portion of funding for alternative schools shall come from grants (e.g. Safe Schools Education grant, regional juvenile service grant and foundation grants); oftentimes the specific source of these grant monies was not stated —

- "Alternative Approaches grants for alternative education shall be limited to middle grade level alternative schools provided by a school district and to secondary grade level programs provided pursuant to a contract with a nonprofit organization" (Oklahoma Statutes Section 70-1210.562).
- "Supplemental funding. An alternative learning opportunity program may receive federal, State, and local grants, gifts, and foundation grants to support the program" (Illinois 105 ILCS Section 13B-40.50).

4. Theme: Alternative schools/programs receive money from federal sources. Some states had policy/legislation designating federal monies for alternative schools (n=6). The majority of references to federal funding also referred to other sources of funding —

- "A school district shall allocate to an alternative school program the same per student expenditure to include federal, state, and local funds..." (South Carolina Statute Title 59 Article 13 Section 59-63-1380).

Curriculum/Educational Program

Legislation or policies that included language about the curriculum within alternative schools was evident in 33 states. Again, the language addressing curriculum requirements within alternative schools varied in the degree to which it was comprehensive. Oftentimes guidelines were specifically stated regarding curriculum. The required curriculum differed widely across states. For example, some legislation addressed required academic subjects, others addressed discipline procedures, and some talked about the availability of social services in alternative schools. Four themes emerged when the states' laws were reviewed in the area of curriculum —

1. Theme: Basic academic skills, a core curriculum, and state content standards should be included in the instructional program.

Twenty-eight states had policy stating that curriculum should consist of “Core Curriculum Content Standards” or standards adopted by the state. Many states had language that indicated students must complete state graduation requirements.

2. Theme: Social services should be provided in alternative schools/programs.

Twelve states had legislation or policy stating that social services must or should be available to students in alternative schools. Social services were typically defined as counseling, life skills, and social skills. Examples of policy language included —

- “The plan submitted by each local board of education shall outline the educational services which shall be available to each child assigned to the short-term or long-term programs. Those services shall include but are not limited to, all of the following: Counseling, including sessions on conflict resolution. Social skills development” (Alabama Section 41-15B-2.2).

- “The Alternative Education Program supported by this legislation shall...provide a comprehensive array of social services...provide general counseling services...” (Massachusetts HB 3272).

3. Theme: Community-based learning should be included in curriculum.

Policy language regarding work or community-based learning requirements was apparent in 10 states. Issues that were addressed included multi-disciplinary work-based learning and community service. Examples of law or policy language are listed below —

- “A combination of classroom instruction and on-the-job training. Instruction in practical work values and specific vocational skills that reflect labor market demand” (California Education Code Section 52900).
- “The programs and services of a center must focus on...applied learning opportunities, trade and vocational skills, work based learning opportunities, work service, youth service to the community...” (Minnesota Statute 123A.06).

4. Theme: The educational program should include an emphasis on individual instruction.

States also included legislative or policy language requiring an individual instruction plan for each student (n=9). Some states referred to an Individualized Program Plan (IPP) or Individual Instruction Plan (IIP), while others referred to having a written plan for each student — both intended to individualize instruction. Examples include —

- “An Individualized Program Plan for each student enrolled in the program; Individualized instruction to students that address the Core Curriculum Content Standards...” (New Jersey Annotated Code 6A:16-8.2 a).
- “The minimum guidelines shall require, at a minimum, the formulation of an individual instruction plan for each student referred to the alternative school program...” (Mississippi Code Annotated Section 37-13-92 (7)).

Staffing

Twenty-nine (60%) states include legislative or policy language on staffing at alternative schools. One theme in the area of staffing emerged from the law/policy and several other policies are noted —

1. Theme: Teachers must be certified or comply with state teaching standards.

Sixteen states have legislative or policy language stating alternative school teachers must be certified or comply with state standards. One example is —

- “ A classroom teacher in an alternative ‘school’ shall qualify on the basis of a certificate valid for classroom teaching” (Kentucky 704 KAR 20:165(14)).

There was no mention of the need for teachers to be certified in particular subject areas or grade levels in the legislation related to alternative schools. West Virginia is an example of a state with very comprehensive legislation regarding staffing —

- “ Personnel. a. Selection Criteria - It is the responsibility of the county board of education to select the most qualified applicants to implement the alternative education program. Classroom teachers shall be selected on the basis of the teacher’s demonstration of competence in meeting the following standards: A. any West Virginia professional teaching certificate, B. ability to effect positive behavior in disruptive students, C. effective leadership and/or mentoring skills in working with youth, D. successful experience in providing education to troubled or disruptive youth, E. specialized training or experience in nontraditional programs, F. specialized training in behavior management skills. Licensure. a. West Virginia Professional Teaching Certificate - A teacher assigned to deliver the academic subjects within an alternative education program must possess

a West Virginia professional teaching certificate in any area. b. Temporary Authorization - A Temporary Authorization valid for one year shall be granted to the successful candidate for the alternative education program position (s). The employing county superintendent must verify that the applicant possesses the competencies identified in Section 6.1.9a. The Temporary Authorization may be renewed each year based on the applicants continued employment in an alternative education program” (West Virginia Board of Education Legislative Rule Title 126-20-6.1.9 to 6.1.11).

A small number of state policies are worth noting although they did not warrant a thematic category. For example, some states specified a maximum student-to-teacher ratio in alternative schools (ranged from 12:1 to 15:1). The following are miscellaneous excerpts from legislation referring to alternative school staffing —

- “ Teachers employed in alternative schools established pursuant to this Section shall be selected from regularly employed teachers who volunteer” (Louisiana RS 17:100.5C.(1)).
- “ The board may not require a person employed as a teacher in an alternative education program under Section 37.008 or a juvenile justice alternative education program under Section 37.011 for at least three years to complete an alternative educator certification program adopted under this section before taking the appropriate certification examination” (Texas SB 998).
- “ Currently, a teacher in an alternative education program (AEP) which is not located on a regular school campus in not required to hold a teachers certificate” (Texas SB 998).
- “ A private alternative education program that is registered with the Department of Education is not required to employ only licensed teachers or administrators” (Oregon Revised Statute 336.631 (3)).

- “ Demonstrate that teaching faculty have been selected on the basis of a record of successful work with at-risk students or personal and educational factors that qualify them for work with at-risk students; ... include counseling and social services components with the provision that providers of services are not required to be certified as school counselors” (Oklahoma SS70-1210.568 (5, 10).
- “ All laws, rules, and regulations shall be followed with children eligible for special education. If a change of placement is made, due process procedures are mandated” (Tennessee State Board of Education Rule 0520-1-2-09 (d)).
- “ Special Education — County boards of education shall comply with applicable state and federal laws and regulations in the education of exceptional students placed in alternative education programs” (West Virginia Board of Education Legislative Rule Title 126 Series 20-6.1.8).

Students With Disabilities

Legislative and policy language concerning students with disabilities was found to be the least represented from the categories. Eighteen (38%) states with formal laws or policies include language about students with disabilities. The language reviewed does not include IDEA 97 legislation unless stated in context of policy and legislation on alternative schools. Language reviewed includes legislation that specifically addresses students with disabilities and alternative schools. One main theme emerged from the review —

1. Theme: Alternative schools must comply with all state laws and (federal) constitutional provisions regarding students with disabilities. Fourteen states have legislative or policy language stating alternative schools must comply with all state and federal laws regarding students with disabilities. Language within this category addressed IDEA requirements for discipline and placement, due process, and serving students in the least restrictive environment. Examples include —

- “ Least restrictive environment means the educational setting in which the child or youth with a disability can learn effectively, based upon unique needs and capabilities, and interact with similar age peers who are not disabled” (Kentucky, 707 KAR 1:220).
- “ The Placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee. A student with a disability who receives special education services may not be placed in alternative education programs solely for educational purposes if the student does not also meet the criteria for alternative placement in Section 37.006(a) and 37.007(a).” (Senate Bill 155 Chapter 37.004).
- Colorado has legislation that suggests an “ alternative education campus” can include a variety of public schools including settings that primarily serve students with disabilities —
- “ On or before September 1, 2002, the state board shall adopt rules specifying the criteria and application process for a school to be designated an alternative education campus. Such rules shall include but not be limited to: ... (B) Serving a student population, more than ninety-five percent of whom have an individual education program pursuant to section 22-20-108...” (Colorado SB 02-094 Section 22-7-604.5 VI.B).

A few states addressed a variety of issues related to students with disabilities although they did not fall into a thematic category. For example, Texas legislation addresses admissions and criteria —

Discussion of Key Findings and Associated Issues

Nearly all states have legislation or policies regarding alternative education. The kind of topics addressed in the state laws and policies varies. Most states surveyed addressed criteria for enrollment (90%), and almost three-quarters included information defining alternative education, schools or programs, or about funding, curriculum, and staffing. Just over a third of the states with formal legislation or policies included specific language regarding the enrollment or education of students with disabilities in alternative schools. The following discussion summarizes key findings and raises additional questions to address.

Increase in States With Laws or Policies

The number of states we found to have laws or policies on alternative education ($n = 48$) is considerably higher than what Katsiyannis & Williams reported in 1998 (22 states based upon a 1996 survey; 38 states responding). The results from this study indicate an increase in the attention paid to alternative education at the state level. This is not surprising given the results from recent studies that reported considerable increases in the number of students enrolled in alternative schools or programs (Kleiner, Porch & Ferris, 2002; Lehr & Lange, 2002). However, reasons for the increases in both enrollment and in legislation are unclear. Has the legislation opened the gates to alternative schools? Or, have the state legislatures responded to an existing and increasing interest in providing alternative education by formulating laws and policies? The increase also raises questions about the role various school reform efforts are having on students at-risk for school failure.

Are students placed in alternative education settings to assist schools in their efforts to help all students meet state standards or are students removed from traditional settings and placed in alternative schools for other reasons?

Alternative Education Definition

Most of the states with formal laws or policies defined alternative schools as being for at-risk students who are served in settings separate from the general education classroom. This is similar to the definition provided by the U.S. Department of Education and suggests that there is some consensus on the definition in this area. However, the laws and policies reviewed also suggest that “non-traditional settings” can range from a separately-funded program with a separate facility to a classroom set aside for disruptive students. Variation in definition allows flexibility in design. These programs must be evaluated to determine specific characteristics that are conducive to student success.

Curriculum Requirements

More than half of the states had policy language concerning curriculum in alternative schools. Most of those required alternative schools to follow the state standards. However, more than a third of the states had no language concerning curriculum. It is unclear if they are required to follow their school district curriculum, the state standards, or if they can implement their own curriculum requirements. The lack of specificity in state laws and policies for a third of the states should be further examined to determine the level of autonomy given to the alternative schools and if that is the intent of the states’ legislative and administrative leaders.

Number of States With Expulsion/Suspension as Criteria

The legislative/policy review suggests that (based on enrollment criteria numbers) alternative schools may be used more and more as a setting for students who have been suspended/expelled, meet at-risk criteria, and are disruptive in the classroom. If this is the case, current statistics on dropout, suspension and expulsion rates suggests that the demand for alternative schools will continue (Children's Defense Fund, 2000; National Center for Education Statistics, 2002; Skiba & Knesting, 2002). Again, the use of expulsion or suspension as criteria for enrollment in alternative schools necessitates questions about whether alternative education will or is being used as a "holding tank" for those who cause disruptions in the traditional schools, or if they are educational entities in their own right.

Funding Sources and Implications for Alternative Education

Alternative schools receive their funding from a variety of sources including state and local dollars, federal dollars, and grant monies (e.g. Safe and Drug Free Schools) and community-based organizations (Katsiyannis & Williams, 1998; Lehr & Lange, 2003). Although legislation most often referred to state level funding for alternative schools, this review did not reveal a consistent mechanism across states for funding. This suggests that alternative schools may be subject to changing economic conditions. Findings from interviews with state directors of special education and additional survey questions indicated that obtaining adequate funding for alternative education was a significant challenge and concern (Lehr & Lange, 2003; Lehr, 2003). With 40% of

states with formal legislation or policies not addressing funding, there may be issues in the future as state and local budgets are stressed for sufficient funds for their general education programs.

Staffing Requirements

Approximately half of the states with a formal alternative education law or policy included language about staffing. Most of these required alternative schools or programs to have certified teachers or to comply with the state's staffing standards. Though half did not have this in policy or law, it may be that in some states alternative schools' staffing requirements are covered under a more global staffing policy. Therefore, it is difficult to ascertain the significance of this finding.

Policies on Students With Disabilities

Approximately one-third of the states had specific language, other than language referring to the Individuals with Disabilities Education Act (IDEA) concerning students with disabilities. Again, this may not be unusual if states have blanket policies that cover students with disabilities. It is, however, noteworthy given the role special education may play as an at-risk characteristic and the confusion that may result if alternative programs do not have clear guidance for serving students with disabilities. Interviews with state directors of special education indicated concerns with the special education processes and procedures in place at alternative schools for students with disabilities. Although alternative schools were generally viewed as another educational option available to students with disabilities, there were questions about enrollment procedures, provision of quality services, implementation of the IEP, and availability of special education (Lehr & Lange, 2003).

Implications for Future Policy and Practice

The review of the states' laws and policies raises some questions about the intent of the legislation and the extent to which alternative school practice is meeting the desired outcomes of state laws and policies. Further investigation is also required to determine the degree to which policy matches practice. This review provides a comprehensive picture of state policy and legislation at this point in time. However, this review does not provide an indication of effectiveness of alternative education for students who are attending these settings.

Examination of policy leads one to consider the role alternative education is playing in the larger context of the American education system. The focus and intent of alternative education appears to be changing and becomes more evident when alternative schools are viewed from an historical perspective. Alternative schools gained popularity in the late 1960s and 1970s and largely originated from a drive to create more innovative schools with a progressive orientation (Young, 1990). The number of alternative schools grew significantly during the 1970s. Both Raywid (1981) and Young (1990) suggest that alternative schools became more conservative and remedial in the 1980s and began serving more students who were disruptive or failing in their home schools. By 1987, over 15 states had passed legislation to increase alternative education options, and alternative education programs were serving a variety of students, including violent or chronically disruptive youth, students at risk of dropout, low achieving students, and students from varied socioeconomic and ethnic backgrounds (Garrison, 1987; Harrington, 1994).

During the 1990s there was an increase in public attention focused on school violence, dropout rates, and behavior problems in our nation's public schools. This, in part, has been influenced by highly publicized school violence

incidents such as those experienced at Columbine High School in Colorado and Thurston High School in Oregon that occurred in the late 1990s. Perhaps as a result, there has been a renewed interest in alternative settings that focus on chronically disruptive, suspended and expelled students. This appears to have led to a growth in state-level organization and legislative/policy on alternative schools. When viewed within the historical context, the 2002 state law and policy review raises questions about what is driving changes in alternative education. Is the underlying intent of alternative education legislation to meet the needs of disenfranchised students, or to assist traditional public schools in behavior management? What is the role alternative education has within the larger context of public school choice and options? How best do we meet the needs of those who cause disruption within the public schools and is that the only role of alternative education? What are the outcomes and expectations for students who attend these schools?

It should be noted that a few of the states have passed extensive alternative education legislation that is based upon providing a variety of options for students who are at risk of school failure (e.g. California, Idaho, Iowa, and Minnesota). These states have a different focus than many of the states where the criteria, at this point in the history of alternative school, appears to be more placement oriented and disciplinary in nature. Parents, educators, researchers and policymakers must ask what the best approach to alternative education is for students who are not succeeding in the traditional system. The answer to this question must inform policy and efforts to establish effective alternative schools that facilitate positive outcomes for students at risk with and without disabilities. This state policy and legislative review provides a point of reference to begin and inform these discussions at the national, state, and local level as more and more students are enrolled in alternative schools and programs and more and more programs begin operation.

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Appendix

Policy and Legislative Citations by State

Web site used in locating policy/legislation for all states: <http://www.prairienet.org/~scruffy/f.htm>

Alabama

Alabama Law can be found at
<http://www.legislature.state.al.us>

Code of Alabama:41-15B-202a (iii-viii); 16-1-24.3
Senate Bill 196

Alaska

No alternative education legislation found

Arizona

Arizona Law can be found at
<http://www.azleg.state.az.us>

Arizona Revised Statutes (ARS): 15-797; 15-796B;
15-796C; 15-841E; 15-308

Arkansas

Arkansas Law can be found at
<http://www.arkleg.state.ar.us>

Arkansas Code Annotated (Ark. Code Ann.):
6-18-508; 6-18-509; 6-20-323; 6-15-1005

Arkansas Department of Education Rules and
Regulations (ADE) 145 1-3

California

California Law can be found at
<http://www.leginfo.ca.gov>

California Education Codes can be found at
<http://www.leginfo.ca.gov/calaw.html>

California Education Code Sections: 52900;
56366.9; 58503; 58550-58562; 58562

Colorado

Colorado Law can be found at
http://www.state.co.us/gov_dir/stateleg.html

Senate Bill 02-94; 94-22-7-601

Colorado Revised Statutes 22-33-203

Connecticut

Connecticut Law can be found at
<http://www.cga.state.ct.us>

Senate Bill 304

Delaware

Delaware Law can be found at
<http://www.legis.state.de.us/Legislature.nsf?Open>

Delaware Code, Title-14, Section 1604

Department of Education Regulation 610

Senate Bill 83

District of Columbia

District of Columbia Law can be found at
http://198.187.128.12/dc_lpext.dll?f=templates&fn=fs-main.htm&2.0

Bill B14-0084, " Attendance and School
Safety Act of 2001"

District of Columbia Code 38-233

Florida

Florida Law can be found at
<http://www.leg.state.fl.us>

Florida State Annotated Code Section: 228.041;
230.231; 230.02; 230.023; 230.2316;

Georgia

Georgia Law can be found at
<http://www.legis.state.ga.us>

Georgia Administrative Code Annotated:
20-2-751.1; 160-1-4-118

House Bill 1187 and 114

Georgia Legislative Code 160-4-8-12

Hawaii

Hawaii Law can be found at
<http://www.capitol.hawaii.gov>

House Bill 1229

Hawaii Revised Statute 298.11

Idaho

Idaho Law can be found at
<http://www2.state.id.us/legislat/legislat.html>

Idaho Administrative Code 110

Idaho Code 33-1002

Illinois

Illinois Law can be found at
<http://www.legis.state.il.us>

105 ILCS 5/13A, B

Indiana

Indiana Law can be found at <http://www.in.gov/legislative>

Indiana Administrative Code can be found at
<http://www.in.gov/legislative/iac/title511.html>

Indiana Code: IC 20-10.1-4.6-1 through IC 21-3-11-9

State Board of Education Rules: 511 IAC 1-9-1 through 511 IAC 1-9-3

Senate Bill 422

Iowa

Iowa Law can be found at
<http://www.legis.state.ia.us>

Iowa Administrative Code 281-12.2(256)

Iowa Code Section 280.19

Kansas

Kansas Law can be found at
<http://www.kslegislature.org>

Kansas Statute Number: 72-9201; 72-991

Kentucky

Kentucky Law can be found at
<http://www.lrc.state.ky.us/home.htm>

Kentucky Administrative Regulation (KAR): 702 KAR 7:125; 703 KAR 4:080; 704 KAR 3:303; 704 KAR 3:305; 704 KAR 7:070; 704 KAR 20:165; 707 KAR 1:220

Kentucky Revised Statute (KRS): KRS 158.44; KRS 158.060; KRS 158.070; KRS 159.051; KRS 160.345; KRS 161.020

Louisiana

Louisiana Law can be found at
<http://www.legis.state.la.us>

Louisiana Revised Statutes: 17:100.1; 17:100.5; 17:416.2; 17:7.6

House Bill 21

Maine

Maine Law can be found at
<http://janus.state.me.us/legis>

Maine Statutes: Title 20-A Part 3 Chapter 211 Subchapter 3: 5104-A; Title 20-A Part 7 Chapter 601: 115002-A; Title 20-A Part 3 Chapter 207-A Subchapter 3: 4727

Maine Administrative Code 05-011 Chapter 128 Section 13

Maryland

Maryland Law can be found at
<http://mlis.state.md.us>

Maryland Code Annotated 7-305.1

Massachusetts

Massachusetts Law can be found at
<http://www.state.ma.us/legis/legis.htm>

House Bill 3272

Michigan

Michigan Law can be found at
<http://www.michiganlegislature.org>

Michigan Compiled Law (MCL): 380.1310; 380.1311; 388.1625

Minnesota

Minnesota Law can be found at
<http://www.leg.state.mn.us>

Minnesota Alternative School Handbook can be found at <http://cfl.state.mn.us/LOD/alp/Handbook.pdf>

Minnesota Statutes: 123A.05; 123A.06; 124D.68; 126C.05

Mississippi

Mississippi Law can be found at
<http://www.ls.state.ms.us>

Mississippi Code Annotated Section: 37-13-92; 37-13-93; 37-19-92; 37-19-22

Missouri

Missouri Law can be found at
<http://www.moga.state.mo.us>

Missouri Revised Statutes: 167.164; 167.322; 167.330; 167.332; 167.335

Code of State Regulations (CSR) 50-350.020 (A)

Montana

Montana Law can be found at
<http://leg.state.mt.us/css/default.asp>

No legislation on alternative education found.

Nebraska

Nebraska Law can be found at
<http://www.unicam.state.ne.us>

Nebraska Statutory Authority Sections: 79-209;
 79-266; 79-318; 79-758

Nebraska Administrative Code 92-17

Nevada

Nevada Law can be found at
<http://www.leg.state.nv.us/>

Assembly Bill Number 89

Amendment Number 1229

Nevada Revised Statute (NRS): 392.4675

New Hampshire

New Hampshire Law can be found at
<http://www.gencourt.state.nh.us/ie>

New Hampshire Revised Statutes Annotated
 15-193:13

New Jersey

New Jersey Law can be found at
<http://www.njleg.state.nj.us>

New Jersey Annotated Code 6A:16-8.1 through 3

New Mexico

New Mexico Law can be found at
<http://legis.state.nm.us>

New Mexico State Annotated Code: 22-5-4.7; 33-
 12-5

New York

New York Law can be found at
<http://assembly.state.ny.us>

8 NYCRR Section 100.7 (h) (i)

North Carolina

North Carolina Law can be found at
<http://www.ncga.state.nc.us/Statutes/Statutes.html>

House Bill 168

Senate Bill 71; 1099

General Statute 115C-105.46-48

SBE Policy HSP-Q-001

North Dakota

North Dakota Law can be found at
<http://www.state.nd.us/lr/>

Article 67-16-01

Ohio

Ohio Law can be found at
<http://www.legislature.state.oh.us>

Ohio Revised Annotated Code 3313.533

Oklahoma

Oklahoma Law can be found at
<http://www.lsb.state.ok.us>

Oklahoma Statutes Sections: 70-1210.561; 70-
 1210.562; 70-1210.565; 70-1210.567; 70-
 1210.568

Oregon

Oregon Law can be found at
<http://www.leg.state.or.us>

Oregon Revised Statutes (ORS): 336.615-665;
 329.485 (4)(5); 339.250 (9)(10)

Oregon Administrative Rules (OAR): 581-022-
 1350; 581-021-0072; 581-021-0071

Pennsylvania

Pennsylvania Law can be found at
<http://www.legis.state.pa.us>

Article XIX-C (Act 30 of 1999)

Rhode Island

Rhode Island Law can be found at
<http://www.state.ri.us>

Senate Bill 0422

South Carolina

South Carolina Law can be found at
<http://www.lpittr.state.sc.us>

South Carolina Statute Title 59 Article 13 Section
 59-63-1300 to 59-63-1400

South Dakota

South Dakota Law can be found at
<http://legis.state.sd.us/index.cfm>

South Dakota Administrative Rule: 24:03:02:01;
24:03:02:01.02

House Bill 1237

Tennessee

Tennessee Law can be found at
<http://www.legislature.state.tn.us>

Tennessee Code Annotated (TCA) 49-6-3402
State Board of Education Rules 0520-1-2-.09

Texas

Texas Law can be found at
<http://www.capitol.state.tx.us>

Texas Annotated Code (TAC): 19 TAC 1901011
Texas Education Code (TEC): 29.081; 37
Senate Bill 133; 189

Utah

Utah Law can be found at
<http://www.le.state.ut.us>

Utah Code: 53A33-904; 53A-11-907; 53A-17a-
141

Vermont

Vermont Law can be found at
[http://www.hslda.org/legislation/state/VT/
default.asp](http://www.hslda.org/legislation/state/VT/default.asp)

No legislation on alternative education found

Virginia

Virginia Law can be found at
<http://legis.state.va.us>

Code of Virginia Section: 22.1-209.1:2; 22.1-
276.01; 22.1-277.1; 22.1-254; 22.1-266

Washington

Washington Law can be found at
<http://www.leg.wa.gov/wsladm/default.htm>

Washington Annotated Code 392-121-182

Senate Bill 6094

House Bill 1646

West Virginia

West Virginia Law can be found at
<http://www.legis.state.wv.us/legishp.html>

Senate Bill 4

West Virginia Board of Education Legislative Rule
Title 126 Series 20

Wisconsin

Wisconsin Law can be found at
<http://www.legis.state.wi.us>

Wisconsin Statutes: 115.28; 118.153; 121.00;
121.02

Wisconsin Administrative Code: s. PI 3.03; s.
PI 8.01

Wyoming

Wyoming Law can be found at
<http://legisweb.state.wy.us>

Wyoming State Annotated Code: 21-13-318;
21-4-305

