

Missing the Mark



*Alternative Schools
in the State of Mississippi*

A REPORT OF
THE AMERICAN CIVIL LIBERTIES UNION
AND THE ACLU OF MISSISSIPPI

FEBRUARY 2009



Missing the Mark

*Alternative Schools
in the State of Mississippi*



**Missing the Mark
Alternative Schools in the State of Mississippi**

Published February 2009

THE AMERICAN CIVIL LIBERTIES UNION is the nation's premier guardian of liberty, working daily in courts, legislatures and communities to defend and preserve the individual rights and freedoms guaranteed by the Constitution and the laws of the United States.

OFFICERS AND DIRECTORS

Susan N. Herman, President
Anthony D. Romero, Executive Director
Richard Zacks, Treasurer



ACLU NATIONAL OFFICE
125 Broad Street, 18th Fl.
New York, NY 10004-2400
(212) 549-2500
www.aclu.org



ACLU OF MISSISSIPPI
P.O. Box 2242
Jackson, MS 39225-2242
(601) 355-6464
www.msacLU.org

ACKNOWLEDGMENTS

The principal author of this report is Jamie Dycus, Liman Fellow in the ACLU's Racial Justice Program. Racial Justice Program Director Dennis Parker, ACLU Senior Staff Attorney Reginald Shuford, and ACLU of Mississippi Executive Director Nsombi Lambright all provided indispensable guidance throughout the preparation of this report. At the ACLU of Mississippi, Staff Attorney Kristy Bennett, Public Education Coordinator Brent Cox, and Community Organizer Anthony Witherspoon all offered valuable substantive input as well as introductions to stakeholders. ACLU Racial Justice Program Paralegal Rachel Garver and Legal Assistant Marika Plater performed enormously useful analyses of statistical data gathered via public records request. ACLU attorneys Robin Dahlberg and Alice Farmer reviewed the report and provided helpful editorial feedback. Willa Tracosas in the ACLU Communications Department designed the layout of this report and engineered its publication. Grateful acknowledgment is due to the Arthur Liman Fellowship Program, whose generous support helped make this report possible. Finally, many thanks are due to the dozens of family members, advocates, and educators who gave so generously of their time in order to speak with us about Mississippi's alternative schools. This report is dedicated to the memory of Todd Drew, who loved justice.

TABLE OF CONTENTS

- EXECUTIVE SUMMARY 5**
 - Findings 6
 - Recommendations 9

- I. INTRODUCTION 11**

- II. METHODOLOGY 13**

- III. FIVE QUESTIONS ABOUT MISSISSIPPI'S ALTERNATIVE SCHOOLS 14**
 - Question One: What Is an Alternative School? 14
 - a. Alternative Schools Nationally 14
 - b. Alternative Schools in Mississippi 15
 - Question Two: Are Alternative Schools Accountable? 17
 - Question Three: Who Goes to Alternative School? 20
 - a. The Data 20
 - b. Enrollment 22
 - c. Gender 25
 - d. Race 26
 - e. Special Education 33
 - Question Four: What Happens at Alternative School? 35
 - a. Intake 35
 - b. Academic Programming 36
 - c. Social Services 39
 - d. Staffing 40
 - e. School Climate 42
 - f. Funding and Facilities 43
 - g. Family and Community Relationships 45
 - h. Re-entry 46

Question Five: Do Alternative Schools Work?	47
a. Academic Performance	48
b. Safety and Order	48
c. Behavioral Improvement	49
d. “Dumping Grounds”	50
e. The Dropout Problem	50
IV. RECOMMENDATIONS	52
Recommendation One: Redefine “Alternative School”	52
RecommendationTwo: Make Alternative Schools Accountable	52
a. Make Data Available Online	53
b. Mandate Annual Reporting for Alternative Schools	53
c. Implement Alternative School Monitoring	53
Recommendation Three: Ensure That Alternative School Referrals	
are Rational and Bias-Free	54
a. Correct Disparities	54
b. Observe Required Procedural Protections	54
RecommendationFour: Provide Appropriate Services at Alternative Schools	55
a. Comply with Existing Programmatic Requirements	55
b. Supplement Existing Programmatic Requirements	55
c. Implement Additional Research-Based Best Practices	56
d. Correct Noncompliance	56
The Goal: Improve Outcomes	56
ENDNOTES	59

EXECUTIVE SUMMARY

In Mississippi, as in other states, disciplinary alternative schools serve some of our most vulnerable young people. Such schools perform a punitive function, deterring misconduct and temporarily isolating students who misbehave. But they also serve an important remedial purpose: helping struggling students to succeed, rather than drifting toward dropout and failure.

Unfortunately, where alternative schools neglect their remedial role and overemphasize punishment, they may contribute to a nationwide trend, known as the school-to-prison pipeline, toward pushing out and criminalizing students who misbehave. Alternative schools ought to work *against* the school-to-prison pipeline, by helping to rescue students who otherwise might fall through the cracks. In theory, as Mississippi’s statewide dropout prevention plan observes, alternative schooling “provides potential dropouts a variety of options that can lead to graduation, with programs paying special attention to the student’s individual social needs and academic requirements for a high school diploma.” But some Mississippi alternative schools are failing at this task.

Mississippi’s alternative schools should help to rescue students who otherwise might fall through the cracks. But some are failing at this task.

In preparing this report, the American Civil Liberties Union and the ACLU of Mississippi seek to shine a light on Mississippi’s alternative school system, illuminating those areas in which the state has succeeded, and those in which it must do better. Drawing on a yearlong research effort, including more than five dozen interviews with students, parents, educators, and advocates, as well as numerous public records requests, this report identifies urgent problems with Mississippi’s alternative schools, including a lack of transparency, disparate impact on students of color and students with disabilities, the absence of essential program elements, and poor overall performance.

Mississippi should identify alternative schools’ most important goal as helping at-risk students re-enter mainstream schools and succeed, rather than dropping out.

This report also offers several recommendations, which together aim at a single, overarching goal: redefining the term “alternative school” as it is used in Mississippi. Rather than conceiving of alternative

schools as primarily punitive institutions, Mississippi should provide alternative school students with intensive services delivered by a well-qualified staff in a highly structured but positive environment. It should identify alternative schools’ most important goal as helping at-risk students re-enter mainstream

schools and succeed, rather than dropping out. Preventing misbehavior through isolation will continue to be an objective – but preventing failure through remediation should be the clear priority.

Too often, Mississippi’s alternative schools hurt the very students they are meant to help. But by fostering accountability, guaranteeing fairness, and providing adequate remedial programming, the state and local school districts could bring about a paradigm shift. Instead of serving as way stations on the school-to-prison pipeline, the state’s alternative schools could become a true safety net, a positive, structured environment where young Mississippians who otherwise might fail or drop out could get back on track to becoming productive citizens.

Findings

Finding One: Mississippi’s Alternative School System Is Essentially Punitive

- In balancing the remedial and punitive purposes described above, Mississippi alternative schools have overemphasized punishment at the expense of remediation.

Finding Two: Mississippi’s Alternative Schools Are Not Transparent or Accountable

- Mississippi’s alternative schools are neither transparent nor accountable to the communities they serve. Obtaining reliable information about student populations, programming, or outcomes is nearly impossible.
- At the state level and in many districts, no reliable measure of alternative school performance exists that would permit communities or policymakers to determine whether alternative schools are accomplishing their goals.

Finding Three: Mississippi’s Alternative School System Is Small, but Growing

- Statewide, the number of alternative school referrals grew from 4,333 during the 2004–05 school year to 5,348 in 2007–08, an increase of 23 percent.
- The number of alternative school referrals in 2007–08 equaled only about 1 percent of the statewide student population. But this was a fourfold increase from 1996–97, when 0.25 percent of the state’s students were enrolled in alternative programs.

Finding Four: Mississippi’s Alternative Schools Disparately Impact African American Students

- Statewide, during the school years 2004–05 through 2007–08, the per capita rate of alternative school referral among African American students was approximately twice that among white students. In 2007–08, for example, for every 1000 African American students in the population, approximately 14 alternative school referrals were

imposed on African American students; the corresponding rate for white students was only about 7 referrals per 1000 students.

- Similar disparities exist in individual school districts, including urban, rural, majority white, and majority African American districts. For example, in Picayune, the average annual per capita rate of alternative school referral among African American students (18.0 referrals per 1000 students per year) was more than double the corresponding rate among white students (7.6). Likewise, over the same period, the referral rate was four times higher for African American students in Vicksburg, six times higher in Jackson, and *seven times* higher in Madison County.
- In some districts, African American students are more often referred to alternative school for subjectively defined offenses, while white students are more often referred for objectively defined offenses. For example, in Madison County, in 2005–06, the subjectively defined “multiple [disciplinary] referrals” accounted for 80 percent of referrals imposed on African American girls, but only 44 percent of all referrals among white girls. Conversely, during the same year, offenses involving drugs, alcohol, or tobacco accounted for 56 percent of all referrals among white girls, but only 5 percent of referrals among African American girls.

Statewide, the per capita rate of alternative school referral among African American students is approximately twice that among white students.

Finding Five: Mississippi’s Alternative Schools Disparately Impact Students with Special Needs

- In some districts, students receiving special education are referred to alternative school at vastly disproportionate rates. For example, from 2004–05 through 2006–07, those students made up about 2 percent of the student population in the Picayune school district, but approximately 30 percent of the alternative school population.
- Some Mississippi alternative schools are serving special education students poorly, with inadequate staffing, a shortened school day, and/or failure to properly implement each student’s individualized education program.

In some districts, students receiving special education are referred to alternative school at vastly disproportionate rates.

Finding Six: Mississippi's Alternative Schools Disproportionately Impact Boys

- During the 2007-08 school year, boys made up 72 percent of all alternative school referrals statewide. The referral rate is increasing more rapidly among boys than among girls; it was up by 25 percent between the 2004-05 and 2007-08 school years.

Finding Seven: Mississippi's Alternative Schools Are Deficient in Key Program Areas

- Academic programming at many Mississippi alternative schools is seriously deficient. Schools commonly fail to abide by the state law requirement to prepare an individualized instructional plan for each student. Students in several districts reported never receiving homework, having a shortened school day, and/or being permitted to sleep at school. Moreover, some districts do little to support alternative school students as they transition back into mainstream settings.
- There is cause for concern about whether alternative schools are providing adequate social services. Several interviewees reported concerns about the quality of counseling provided to students, and some parents described school officials insisting that their children be heavily medicated before attending school.
- Alternative school staffing is another concern. Where data were available, staff ratios and level of experience seemed appropriate. However, advocates, parents, and students all described encounters with inadequately trained staff. Further, there are indications that some staff are assigned to teach at alternative school as a punishment for misconduct.
- Although a positive school climate is a key element of alternative school success, many Mississippi alternative schools take an overwhelmingly punitive approach. In DeSoto County, for example, alternative school students are prohibited from making friends with each other, and are subjected to invasive searches on a daily basis.

Students in several districts reported never receiving homework, having a shortened school day, and/or being permitted to sleep at school.

Finding Eight: Mississippi's Alternative Schools Are Not Achieving Desired Outcomes

- In some districts, a substantial number of alternative school students recidivate. For example, in Picayune, from 2004-05 through 2006-07, about 12 percent of students referred to alternative school were referred there at least twice.
- Some students are being “warehoused” at alternative school for long periods. In Vicksburg, Picayune, and DeSoto County, students reported spending as many as 3 or 4 years at alternative school.

- A significant number of students are dropping out directly from alternative school. For example, in Madison County, of the students referred to alternative school in 2005-06, 36 percent withdrew from school that year.

Recommendations

Recommendation One: Redefine “Alternative School”

- Refocus on Remediation. Instead of overemphasizing punishment, Mississippi should expressly identify alternative schools’ primary goal as helping students to re-enter mainstream schools and succeed, rather than dropping out.

Recommendation Two: Make Alternative Schools Accountable

- Make Data Available Online. The Mississippi Department of Education (MDE) should make information about alternative schools publicly available on its website. It can accomplish this at minimal cost, using data it already collects, and without compromising students’ privacy.
- Mandate Annual Reporting for Alternative Schools. Instead of merely requiring school districts to prepare guidelines for annual alternative school review, Mississippi should require districts to *perform* such reviews. State law should enumerate essential review elements and should require that reviews be provided to MDE and made available to the public.
- Implement Alternative School Monitoring. MDE should convene alternative school monitoring teams, including educators, policymakers, practitioners in other relevant disciplines, and community members. Teams should conduct site visits to schools identified as in need of improvement based on, e.g., excessive dropouts, omission of required program elements, or racially disparate rates of referral. Where systemic problems exist, teams should identify corrective measures. State law should empower MDE to sanction districts failing to correct problems in a timely fashion.

Recommendation Three: Ensure That Alternative School Referrals Are Rational and Bias-Free

- Correct Disparities. The state should identify districts where alternative school referrals exhibit race- or disability-based disparities, investigate to determine the causes of these disparities, direct local officials to implement concrete remedies, and sanction noncompliant districts.
- Observe Required Procedural Protections. School districts should comply with all relevant federal and state requirements for procedural protections prior to alternative school referral, including providing meaningful due process hearings.

Recommendation Four: Provide Appropriate Services at Alternative Schools

- Comply with Existing Programmatic Requirements. Every school district must comply with existing legal and policy requirements for, e.g., individualized instructional plans; curricula addressing cultural and learning style differences; a rigorous workload; minimal noninstructional time; counseling for parents and students; clean, safe, and functional facilities; and staff with adequate credentials.
- Supplement Existing Programmatic Requirements. State law should be amended to require additional research-based program elements that are essential for alternative school success, including rational intake procedures, adequate transitional services, and positive behavioral interventions and supports.
- Implement Additional Research-Based Best Practices. School districts should seek out and implement additional research-based alternative school best practices. MDE should compile its own list of best practices and provide technical support.
- Correct Noncompliance. The legislature should create a private right of action for alternative school students who are denied services guaranteed by state law. MDE also should create a simple, accessible process by which parents could file complaints regarding such denials, and should follow up aggressively and in a timely fashion.

I. INTRODUCTION

Forty years ago, most alternative schools were progressive institutions providing experimental learning for students whose needs could not be met in mainstream public schools. Today, a new variety of alternative school has emerged: the disciplinary alternative school, created to serve as a temporary placement for students who misbehave. These new alternative schools present unique opportunities to reach and assist struggling students – but they also present unique risks.

Most disciplinary alternative schools aim at any or all of three goals. The first and most important is to deliver intensive services to students exhibiting chronic disciplinary issues, so that those students can reenter the mainstream environment and succeed, rather than dropping out of school. The second goal is to correct misconduct: By reassigning students who misbehave to a stricter environment, school districts seek to discourage future misbehavior. The final goal is to protect the learning environment in mainstream schools, by removing students who otherwise might disrupt it.

Rather than putting students back on track, some Mississippi alternative schools are derailing them.

Unfortunately, when their punitive goals receive too much emphasis, alternative schools may exacerbate a nationwide trend toward pushing out and criminalizing students who misbehave at school. Other tactics contributing to this trend,

known as the school-to-prison pipeline, include zero tolerance regimes that require heavy punishments even for minor offenses; overreliance on out-of-school suspension and expulsion as a means of excluding students who misbehave; and excessive imposition of school-based arrests. Ideally, alternative schools should work *against* this trend, by rescuing students who otherwise might fall through the cracks. But many fail at this function, or simply neglect it.

This report examines Mississippi's alternative schools, and finds that they are *not* performing as well as they should. Rather, charged with educating some of the state's most vulnerable youth, they are failing those students in numerous respects. The alternative schools should provide struggling students with intensive services in a highly structured environment, with the goal of helping those students succeed. But many overemphasize their punitive goals, instead, pushing students who misbehave out of school and into the school-to-prison pipeline. Rather than putting students back on track, in other words, some of Mississippi's alternative schools are derailing them.

In preparing this report, we had frank conversations about alternative schools with a diverse group of parents, students, advocates, and educators across the state of Mississippi. Two themes recurred. First, alternative schools present an important and difficult set of challenges, which many of Mississippi's

school districts are struggling to meet. Second, although there is no shortage of strong feelings about alternative schools, there *is* a shortage of reliable information. This report aims to address both issues. Its goal is to shine a light on Mississippi's alternative school system, illuminating those areas in which it has succeeded, and those in which it can – and must – do better. To that end, it seeks to answer five basic questions:

- (1) What is an alternative school? What meaning has the term assumed, nationally and in Mississippi?
- (2) Are alternative schools accountable? Do community members and policymakers have the information they need to evaluate Mississippi's alternative schools, and to hold school districts and the state accountable for their performance?
- (3) Who goes to alternative school? How many students does the alternative school system serve, and which ones? Are students of color, or students with disabilities, especially likely to be sent to alternative school?
- (4) What happens at alternative school? What are the key elements of an effective alternative school, and how successful have Mississippi's alternative schools been at assembling these elements?
- (5) Does alternative school work? In particular, does alternative school help students to advance academically, resolve behavioral issues, and reenter the mainstream, instead of dropping out?

II. METHODOLOGY

This report draws on four forms of evidence: 1) anecdotal evidence gathered through more than sixty interviews conducted between December 2007 and December 2008 with Mississippi educators, policymakers, advocates, parents, and students!; 2) information about alternative school policy, programming, and outcomes gathered through formal requests pursuant to the Mississippi Public Records Act; 3) publicly available information regarding Mississippi law, policy, and practice (e.g., data and policy statements available online from the Mississippi Department of Education (MDE), the Mississippi Attorney General, and individual school districts); and 4) the legal and policy research literature relating to alternative schools.

The report focuses especially on five school districts: DeSoto County, Jackson, Madison County, Picayune, and Vicksburg-Warren. The decision to focus on these districts was based on two factors: 1) anecdotal reports that alternative schools in those districts exhibited special problems; and 2) the capacity of those districts to serve as a cross-section of Mississippi school districts, due to their geographic and demographic diversity. Together with an analysis of statewide data, our examination of these districts provides an assessment of alternative school programs in Mississippi's urban, suburban, and rural districts, as well as in many regions of the state.

While we gathered substantial data on Mississippi's alternative schools during more than a year of research, we were unable to obtain all of the data we sought in preparing this report. For example, we asked MDE to provide basic demographic data: total populations for each alternative school, broken down by gender, race, disability, and eligibility for free or reduced lunch (as a measure of income). MDE at first would not provide any of this information. During several months of dialogue, it argued alternately that providing any of the information we sought would violate students' privacy – a doubtful proposition – and that it did not maintain any documents containing the information we sought – a plausible but worrisome response.

In the end, MDE produced population totals for alternative schools enrolling at least 20 students, as well as race and gender breakdowns where no *subcategory* of students (e.g., white males) contained fewer than 20 students. Thus we received complete race and gender data for only 3 of the state's 152 districts, and no information at all about disability or income. Our experiences with the districts, meanwhile, were on the whole more positive, but again, in most cases, complete information was unavailable. Nevertheless, the evidence presented here is sufficient to permit a sketch of the most urgent challenges facing Mississippi's alternative schools, as well as recommendations about how these challenges may best be addressed.

III. FIVE QUESTIONS ABOUT MISSISSIPPI'S ALTERNATIVE SCHOOLS

QUESTION ONE: What Is an Alternative School?

a. Alternative Schools Nationally

Though lacking a universally accepted definition, the term “alternative school” is commonly used to refer to separate institutions created to serve students who present challenges mainstream schools are unable, or unwilling, to meet. Programming may be behavioral or academic; placement may be voluntary or mandatory; a typical stay may be long or short. Further, any of the three goals described in Section I above may be paramount: rescuing struggling students, punishing students who misbehave, or simply isolating offenders from the mainstream.

Nationwide, the number of schools bearing the name “alternative” has increased sharply over the last fifteen years. A 1994 survey by the National Center for Education Statistics (NCES) gauged the number of alternative schools at 2,606.² In 2001, just seven years later, another NCES study put the number at 10,900, and estimated that 39 percent of all school districts maintained alternative schools.³ It further estimated the total number of students attending alternative school at 612,900, or 1.3 percent of all public school students.⁴

Nationwide, the number of schools bearing the name “alternative” has increased sharply over the last fifteen years.

The significance of alternative schools varies from one district to the next. A 2007 examination of Texas’s alternative school program found that state’s school districts enrolled an average of two percent of their students in alternative school, but noted that in some districts, the figure was up to six times higher.⁵ A study of California alternative schools, employing a broader definition of the term “alternative school,” estimated that that state’s alternative schools enrolled up to *fifteen* percent of all students at some point during the 2004–05 school year.⁶ Districts in the southeastern states are especially likely to have alternative schools, as are urban districts, districts with high concentrations of minority students, and high-poverty districts.⁷

Any examination of alternative schools and their role in public education is complicated by the existence of disagreement about what constitutes an alternative school.⁸ To impose order on the welter of programs falling under the alternative school rubric, commentators have proposed numerous taxonomies, classifying alternative schools according to the types of students they serve,⁹

the manner of their organization,¹⁰ or the setting in which they are located.¹¹ One commonly cited¹² framework, devised by educational theorist Mary Anne Raywid, sorts alternative schools into three categories: 1) innovative multiyear programs students choose to attend; 2) disciplinary alternative schools, where assignment is mandatory and short-term; and 3) short-term, therapeutic settings for students with special needs.¹³

But even the most widely accepted approaches to understanding alternative schools are compromised by the absence of a well-developed body of relevant research: “The research and literature that does attempt to define alternative schools (e.g., Raywid’s three alternative types)

may provide a valuable framework for understanding alternatives. However, this is essentially only guesswork until a definitive survey is conducted of alternatives as they currently exist and operate across the nation.”¹⁴ Even as to basic enrollment data, estimates vary. In 2001, the same year the NCES study mentioned above put the number of alternative schools at just over 10,000, another study offered an estimate twice as large.¹⁵

Nevertheless, researchers have ventured several lists of best practices for alternative schools. These lists overlap to a considerable degree. Recurring items include: Small program size/low student-teacher ratio;¹⁶ clearly identified goals;¹⁷ committed, highly trained staff;¹⁸ individualized programming;¹⁹ high expectations;²⁰ positive learning environment;²¹ family and community involvement;²² provision of social services;²³ and data collection and evaluation.²⁴

b. Alternative Schools in Mississippi

Mississippi’s alternative school system originated in 1993 with a state law requiring each school district to maintain an alternative school either on its own or in consortium with neighboring districts.²⁵ Amendments in 1994 and 1995 addressed the reasons why students could be assigned to or removed from alternative school, and directed the Mississippi Department of Education (MDE) to promulgate alternative school guidelines, among other changes.²⁶

Researchers have identified the following alternative school best practices:

- small program size/
low student-teacher ratio
 - clearly identified goals
 - committed, highly trained staff
 - individualized programming
 - high expectations
 - positive learning environment
 - family and community involvement
 - provision of social services
 - data collection and evaluation
-

The statute offers a nonexclusive list of students who can be sent to alternative school: those who have been suspended for more than 10 days or expelled, other than for possession of a weapon or other felony; those who are referred by a parent, chancellor, or youth court judge; and those whose presence administrators deem “a disruption to the educational environment of the school or a detriment to the best interest and welfare of the students and teacher of such class as a whole.”²⁷

Because the statute makes clear that students who bring weapons to school or commit felonies can be denied alternative school admission, it has been interpreted to circumscribe schools’ authority to deny admission to other students.²⁸ However, the Mississippi Attorney General has opined that any student may be refused admission to alternative school whom school officials find to be “a threat to the safety of himself or others or disruptive to the educational process.”²⁹

According to MDE, the mission of Mississippi’s alternative schools is “to promote the[se] areas: academic performance, behavior modification, functional skills, career education, character education, and employability skills in a learning environment that offers high expectations and high support.”³⁰ And further: “Through . . . individualized instruction and education plans . . . students, parents, and school faculty collaborate to address those . . . key areas. A commitment is made to provide a safe, structured, environment that is conducive to helping students to function in today’s ever-changing society.”³¹

The mission statements of individual alternative schools likewise reflect an intent to provide remedial services. Jackson’s Capital City School aims “to change [] disruptive behavior and improve students’ academic performance so they will be successful when they return to their home school.”³² The purpose of the DeSoto County Alternative Center is “to provide educational services for students who have received long term suspensions from their home schools . . . to provide a safe and orderly environment that focuses on academics and behavioral skills that students need to be successful in their home schools and later in the workplace.”³³ And the mission of Vicksburg’s Grove Street School is “[t]o teach and inspire all students to continually pursue knowledge, achieve their aspirations and make positive contributions in a changing world.”³⁴

Notwithstanding the benevolent intent implied in such statements, the alternative schools were created at a time when the state was “faced with rising pressure to see that troubled kids are removed from the classroom and unwilling to send them to the streets.”³⁵ Those imperatives remain in place today. Thus, in practice, Mississippi’s alternative schools also serve two other purposes: punishing misbehavior and isolating students who might disrupt the home school learning environment. Naturally, these objectives are not always consonant with the alternative schools’ stated purpose of offering remediation and rescue.

From their earliest days, Mississippi's alternative schools have struggled to meet their three sometimes conflicting goals. In 1995, after conducting a survey of the state's brand-new alternative schools, MDE cited fully half for deficiencies.³⁶ The next year, an independent study identified several concerns: over-assignment of African American male students to alternative school; inconsistency in the districts' use of alternative school programs; over-utilization of alternative school for short-term suspensions; failure to help students successfully re-enter mainstream schools; involuntary assignment of poorly qualified teachers to alternative school; pushout of "unwanted" students to alternative school; and the absence of alternative school PTAs.³⁷

In 2001, the U.S. Civil Rights Commission cited similar concerns about Mississippi's alternative schools. Pointing to overassignment of African American male students, it suggested that these students were more likely to be referred to alternative school on a discretionary basis than were their white classmates. The study also criticized the educational services offered at many alternative schools as leaving "much to be desired."³⁸ A year later, another independent study warned that in many Mississippi school districts, alternative schools were "seen as a dumping ground for students who are not successful in the regular setting," and described Mississippi's alternative school system as "far behind alternative education in the rest of the nation."³⁹

Mississippi's alternative schools punish misbehavior and isolate students who disrupt the learning environment. These objectives are not always consonant with the alternative schools' stated purpose of offering remediation and rescue.

The most recent statewide tally of alternative school referrals, at just over 5000 during the 2007-08 school year, still represents only about one percent of the statewide student population. But this figure is on the rise, and as Mississippi's alternative school system expands, its struggles with performance and accountability affect an increasingly significant share of the state's young people. With each uptick in the size of the system, the urgency of resolving those issues increases.

QUESTION TWO: Are Alternative Schools Accountable?

Data collection and monitoring are critical elements of any public program, including alternative schools. One study of alternative schools recommends: "In order to properly evaluate at-risk programs in the context for which they are designed, it is imperative that school leaders and program managers collect longitudinal data to document the positive impact of the school over time."⁴⁰ Otherwise, disaster looms: "Failing to spend the time, energy, and money to properly evaluate is to doom your program to mediocrity or failure."⁴¹

Because students often do not remain enrolled at alternative school for a whole year, or even a whole semester, annual statewide standardized testing, such as is performed to determine whether schools have achieved Adequate Yearly Progress (AYP) as required by the No Child Left Behind Act, ordinarily does not constitute an adequate or fair measurement of alternative school performance. Thus, policymakers must develop longitudinal, outcome-based measures tailored for alternative schools. These may include statewide tests, but should also integrate “additional measures of student achievement and learning, such as teacher-designed, classroom-based assessments or projects, student attendance, and possibly job performance or demonstrations of job-related learning.”⁴² They also should include recidivism rates, as well as the rate at which alternative school students drop out.

Another critical element of a successful alternative school program is transparency. It is not enough merely to know how well the school is performing: school officials also must share their knowledge with the communities they serve. Families whose children attend or might someday attend an alternative school, as well as other citizens whose tax dollars support it, have a right to know whether it is accomplishing its purposes.

Families whose children attend or might someday attend an alternative school, as well as other citizens whose tax dollars support it, have a right to know whether it is accomplishing its purposes.

Transparency, and the accountability it permits, are particularly important given that Mississippi school districts, and the state itself, are spending significant amounts on alternative school programs. Leaving aside the important question of whether current spending on the alternative schools is *adequate*, it certainly is not trivial. In Vicksburg, for example, during 2005-06, the school district spent more than \$1.4 million operating its alternative school program, of which nearly a third was state funding. This figure represents only about 2.8 percent of Vicksburg-Warren’s total operating budget – but if 2.8 percent seems insignificant, it may be helpful to consider that if every school district spent that much on its alternative schools, statewide alternative school spending in 2005-06 would have totaled nearly \$110 million.

Despite the substantial public investment Mississippi’s alternative schools represent, little reliable information is available about their performance.⁴³ Even gathering basic data is nearly impossible. How many children attend alternative school statewide? How many are boys, and how many are girls? How many are African American, how many are white, and how many are Hispanic? How many have special needs? The state has not made the answers to these questions publicly available.

Mississippi’s secrecy on the topic of alternative schools stands in stark contrast to its laudable openness about mainstream schools. On the MDE website, via Mississippi’s excellent public database, the Mississippi Assessment and Accountability Reporting System (MAARS), members of the public have

easy access to essential facts about each of Mississippi's schools: populations, demographics, and test scores. Those data are at the fingertips of every parent, child, advocate, or concerned citizen – as they should be. It is as simple as pulling down a menu and selecting the name of the school your child attends. But the same is not true if your child attends alternative school. In fact, the MAARS database, which is searchable by the name of any of the state's hundreds of public schools, simply leaves out the names of Mississippi's alternative schools, as if they did not exist.

It is true that demographic data collection is more difficult when it comes to alternative schools, because of their transient student populations. But the problem is not data collection. MDE has access to data; its Mississippi Student Information System (MSIS) already requires school districts to upload detailed information about students referred to alternative schools – including the sex and race of the student, as well as the reason for the referral. No one would suggest that such information simply be posted online. Special privacy concerns apply to alternative schools, where, in most cases, the fact of enrollment constitutes a disciplinary sanction. However, it would not be difficult for MDE to use the data it receives to provide basic information about alternative schools in each district and statewide.

Furthermore, state law requires that each school district have procedures in place for “annual alternative school program review and evaluation”⁴⁴ – though it does not actually require that such annual reviews be performed. Again, it would be easy for MDE to make such reporting available on its website. But it does not appear that MDE even seeks to *obtain* individual school districts' annual reports. When we asked it to release any such reports in its possession, it replied that it had none. For all we know, no such reports even exist.

Fortunately, the Mississippi legislature has the power to repair this situation. It appears that Mississippi's alternative schools are absent from its statewide database for this reason: When a student is sent to alternative school, her scores on the state's annual tests are reported as though she had remained at her home school. Indeed, this is a wise approach. If it were otherwise, the home school would have an incentive to transfer low-performing students to the alternative school as a means of boosting its overall performance on the state test. But nothing prevents the state from reporting the test scores achieved by alternative school students *twice* – once for the home school, for AYP purposes, and once for the alternative school, as a means of measuring alternative school performance.

Here it may be argued that the students who attend alternative school are low performers, and the alternative school cannot be expected to bring them up to speed. But this is an obvious fallacy. An alternative school is a school, not a jail. Helping students build the academic skills they need to become productive citizens is a critical mission, with respect to which alternative schools may not simply blame the students and concede defeat. Instead they should report test scores every year, supplementing that

reporting, as described above, with other measures designed to capture short-term gains – and then be judged on their performance like every other school in the state.

A second relatively easy repair the legislature could accomplish would be to mandate not only that each school district have annual reporting guidelines, but also that each district actually prepare an annual report and program assessment for its alternative school program, that those reports be transmitted to MDE, and that MDE make those reports publicly available. The legislature might require, as well, that each district’s annual report contain elements essential to gauging a school’s quality, e.g., test scores, teacher qualifications, and disciplinary statistics. It would not be necessary to reinvent the wheel; existing guidance on evaluating alternative schools might prove useful in this respect,⁴⁵ as would the roster of program elements already contained in the statute.⁴⁶ Indeed, the legislature might simply require that school districts comment on their efforts to satisfy each of the elements it has already identified as essential.

One reason for the persistence of problems with Mississippi’s alternative schools is that so little information is available about them: Which students do they serve? What services do they provide? What outcomes do they produce? No one seems to know. As explained above, a principal goal of this report is to suggest ways of correcting that deficiency, while also providing basic data about Mississippi’s alternative school system, thus empowering educators and policymakers to identify and solve long-standing problems.

QUESTION THREE: Who Goes to Alternative School?

Mississippi’s alternative schools are an increasingly important part of its educational landscape. Their enrollment has grown significantly over the past several years, as has the percentage of students statewide whom they serve. Further, the impact of Mississippi’s alternative schools is not distributed evenly. Certain students are disproportionately likely to be referred to alternative school: male students, African American students, and students receiving special education.

a. The Data

This section of the report draws on data provided by MDE and school officials in the target districts (Jackson, Madison County, Picayune, and Vicksburg) pursuant to public records requests. (DeSoto County is not included in this section because we have been unable to obtain data from that district.) We regard these agencies as having the best available information on the subject of alternative schools,

and therefore we have relied on their accounting. However, two apparent inconsistencies merit mention.

First, with regard to Picayune and Jackson, disparities exist between MDE's reporting and that provided by the districts. The data we received from MDE were for the 2007-08 school year, while those we received from the districts were for 2004-07. Nevertheless, we expected that alternative school enrollment across this four-year period, as reported by state and local agencies, would be roughly consistent. Indeed, with regard to Vicksburg and Madison County, this was the case. But when it came to Picayune and Jackson, striking differences emerged. During 2004-07, average enrollment at Picayune's alternative school, according to the district, was 181 students. But in 2007-08, according to MDE, the school enrolled fewer than 20 students. Likewise, from 2004 to 2007, according to Jackson school officials, referrals to Capital City Alternative School averaged 552 students, yet MDE reported that referrals to the school in 2007-08 totaled only 120. Barring dramatic changes at the schools in question – and we have no evidence that such changes occurred – such disparities suggest reporting errors on one side or the other.

Certain students are disproportionately likely to be referred to alternative school: male students, African American students, and students receiving special education.

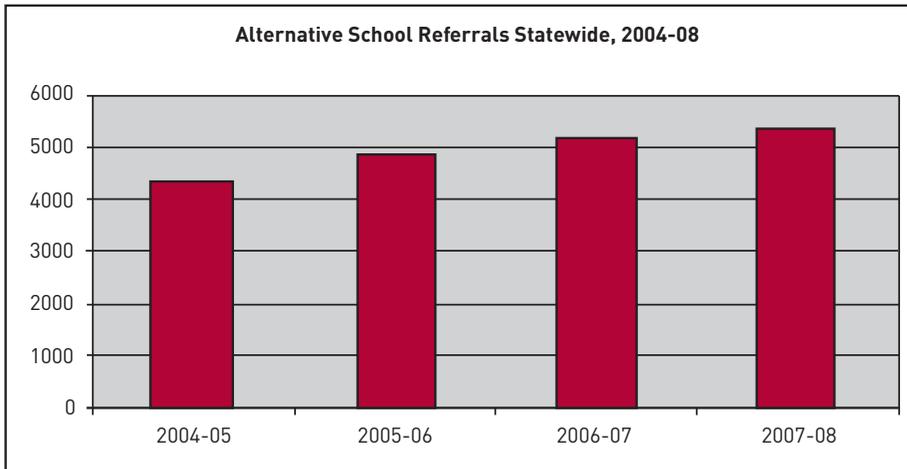
Further inconsistencies arose when we compared MDE's reporting with data gathered under the federal E-Rate program, which offers schools discounted telecommunications services based on the number of low-income students they serve. To participate in E-Rate, Mississippi annually reports the number of students housed in each school building. For this purpose, it uses a snapshot – a head count performed on one day. While E-Rate reporting cannot tell us how many students were referred to a particular district's alternative program, it does provide a baseline for the number of annual referrals, since the number of students present in a given school on a single day cannot be greater than the number of students referred to that school all year. We compared the state's 2007-08 E-Rate reporting for alternative schools to the 2007-08 figures provided by MDE – and again, disparities emerged. In some cases, the E-Rate total, which describes the number of students present at an alternative school on a given *day*, exceeds the number of students referred to that school during that entire *year*, according to MDE. For example, this is the case with regard to Cleveland (MDE reports 35 referrals in 2007-08, but the E-Rate head count indicates 80 students present on a single day); Columbus (MDE 21 vs. E-Rate 70); Hinds County (MDE <20⁴⁷ vs. E-Rate 37); Moss Point (MDE <20 vs. E-Rate 42); and Picayune (MDE <20 vs. E-Rate 88).

We cannot speculate about why disparities exist between the enrollment data we received from MDE, the data the districts provided, and the state's E-Rate reporting. Nor are we aware of any reason to

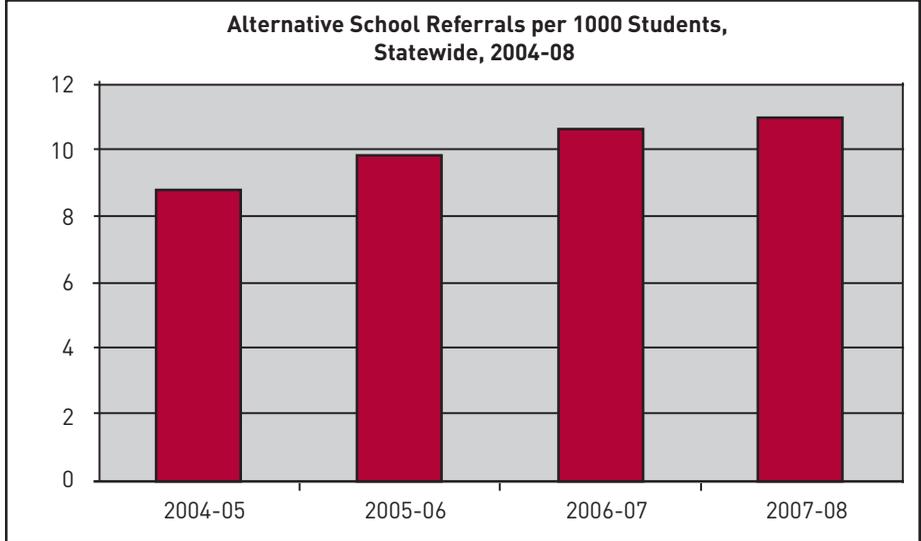
suspect MDE’s data of wholesale inaccuracy – and for this reason, the remainder of this section relies on MDE’s data, supplemented by data from the individual school districts, without further caveat. But these inconsistencies do suggest a need for caution, while once again highlighting the urgent need for better data collection and monitoring.

b. Enrollment

Over the past four years, the number of alternative school referrals has risen steadily, increasing more than 23 percent from 4,333 referrals in the 2004-05 school year to 5,348 referrals in 2007-08.

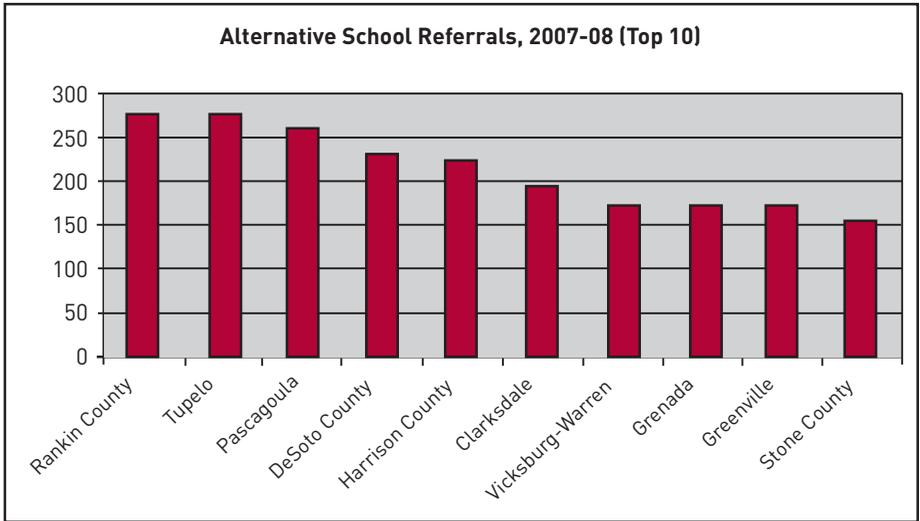


This increase does not result solely from a larger statewide student population. To provide a sense of the rising per capita impact of alternative school referrals, the following table displays the number of referrals per 1000 students statewide:

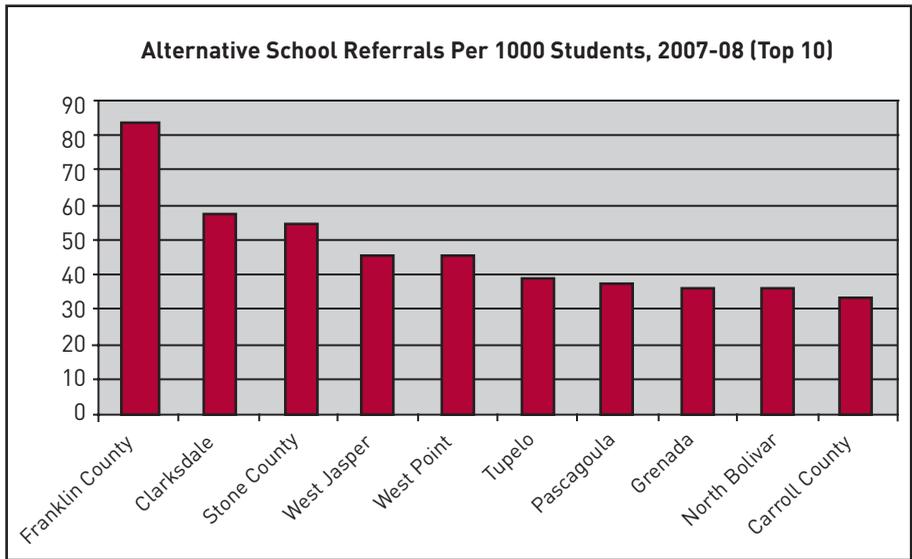


Students referred to alternative school comprise only about 1 percent of the statewide student population. But that figure actually represents a fourfold increase over the past decade; as of the 1996-97 school year, only about one fourth of one percent of the state's students were enrolled in alternative programs.⁴⁸

The size of alternative programs, and their per capita impact, vary from one district to the next. In 2007-08, according to MDE, the largest programs, measured by referrals, were those in Rankin County (280 referrals); Tupelo (279 referrals); and Pascagoula (263 referrals).



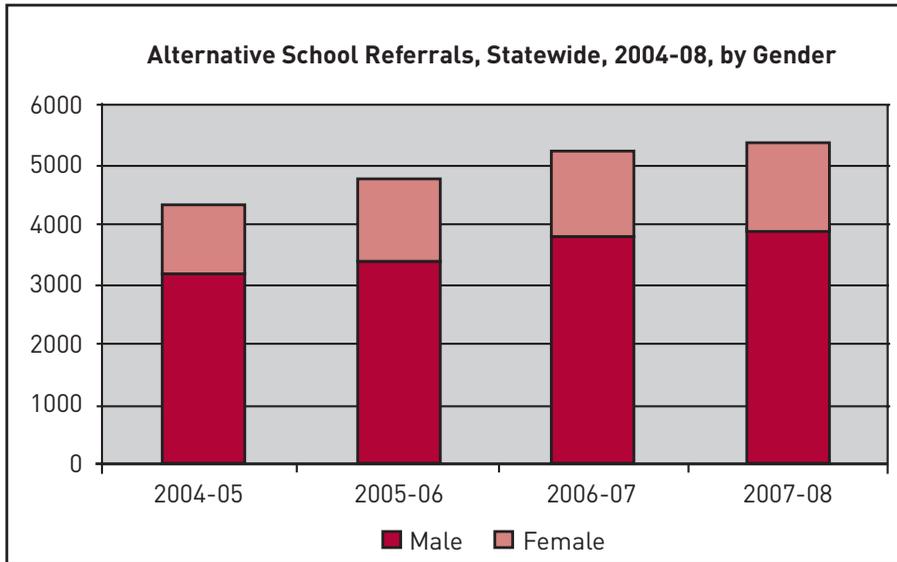
Meanwhile, according to MIDE, the districts with the most alternative school referrals per capita were Franklin County, Clarksdale, and Stone County:



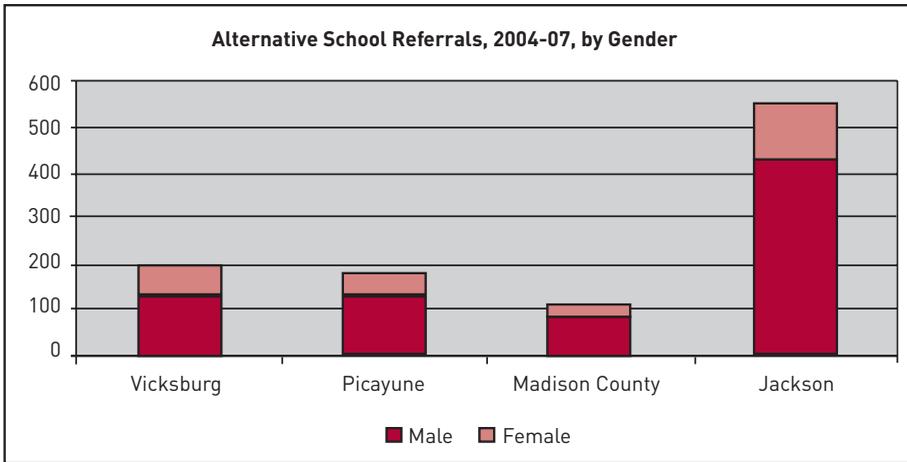
We cannot say which alternative program is the smallest, or enrolls the fewest students per capita, because MDE declined to release population totals, or any other data, for any alternative program with fewer than 20 referrals, on the dubious ground that doing so might have permitted identification of individual students. Nevertheless, its data point to the existence of a significant number of very small alternative programs. They indicate that of Mississippi's 152 school districts, 91 have no alternative programs of their own, or have programs with fewer than 20 students, while an additional 23 districts have programs enrolling between 20 and 35 students.

c. Gender

Boys account for a much larger share of the alternative school population than girls do. The following table depicts gender breakdowns, according to MDE, for alternative schools statewide over the past four years:



Similar disparities exist in the individual districts we studied, and are sharpest in Jackson, where, over three years, more than 80 percent of the students attending alternative school were boys:



Across the state, alternative school referrals have increased more sharply over the last four years for boys (from 3,100 to 3,872, or an increase of about 25 percent) than for girls (from 1,215 to 1,455, or an increase of just under 20 percent).

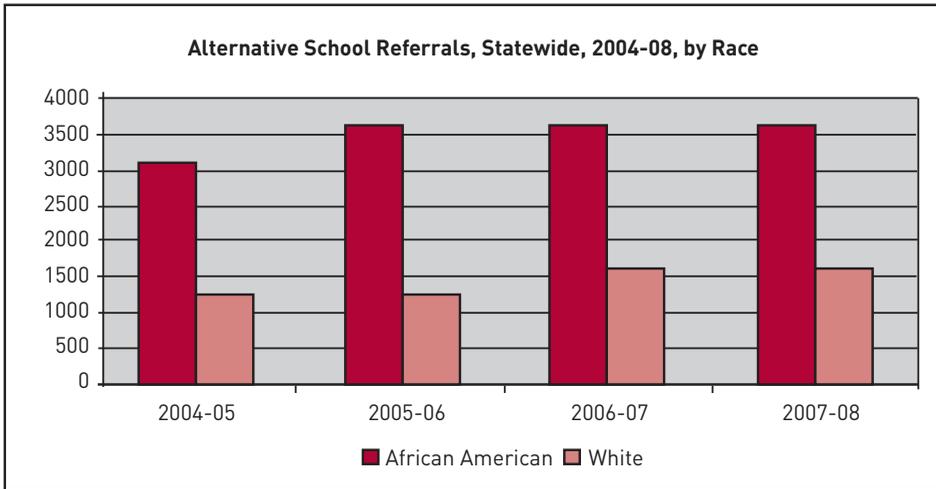
d. Race

Too often, the harsh disciplinary measures comprising the school-to-prison pipeline disproportionately impact students of color. For example, research has shown that African American and Hispanic youths are more likely than their white peers to be arrested even when committing the very same offenses.⁴⁹ Unfortunately, some states’ alternative schools follow this pattern. By enrolling a disproportionate number of students of color, they overpunish those students in comparison to their white classmates, while also enacting a form of racial segregation. In Texas, for example, African American students not only are more likely to receive discretionary referrals to alternative school, but once enrolled at alternative school are required to stay there longer than are white students.⁵⁰

Similar problems exist in Mississippi. In individual districts and statewide, African American students are substantially overrepresented among the alternative school population. Again, this is not new. As early as 1996, observers warned that “the observed population in Alternative Schools during our site visits was overwhelmingly black and male. . . . Without clear and rigorous placement policies and practices, this program becomes a dumping ground for unwanted students (typically over-age black male middle school students).”⁵¹ And the 2001 Civil Rights Commission report mentioned above

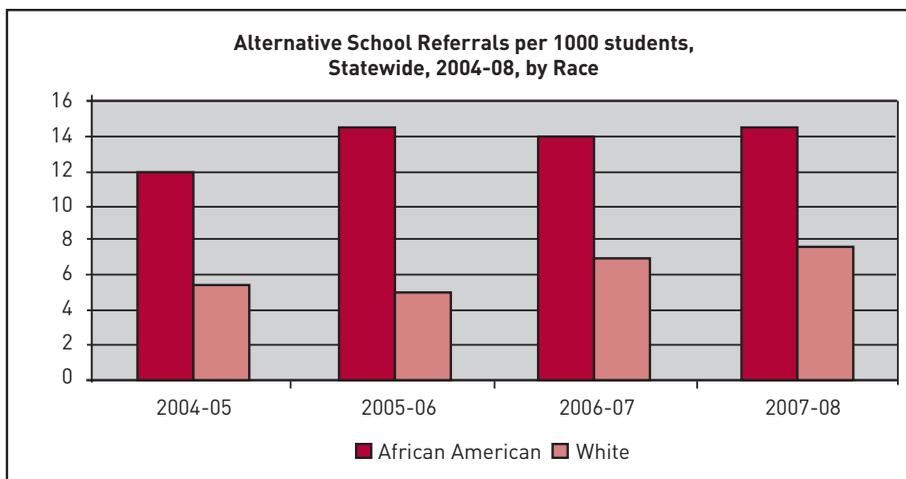
noted one advocate's concern that the overrepresentation of African American students in Mississippi alternative school resulted from the unfair application of zero tolerance discipline policies.⁵²

Statewide, over the past four years, African American students have been referred to alternative school at a rate two to three times greater than among white students. In 2007-08, for example, a total of 3,601 African American students were sent to alternative school across the state of Mississippi; the corresponding figure for white students was 1,667.

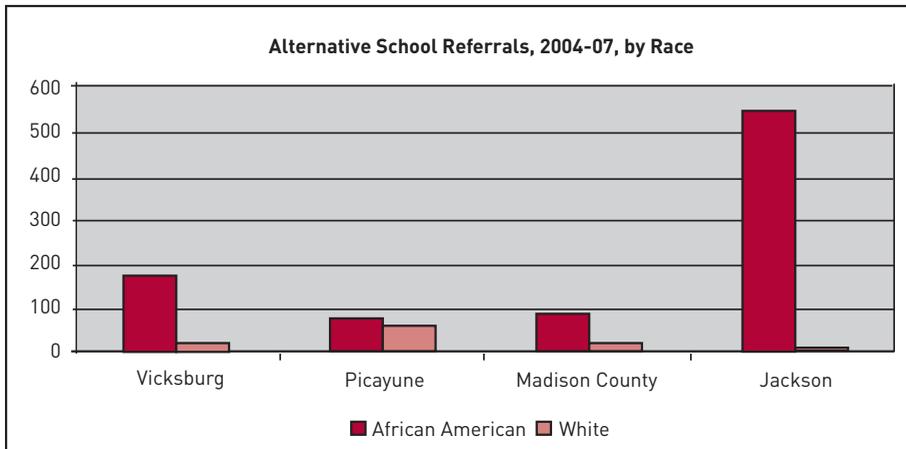


Per capita alternative school referral rates exhibit disparities, as well. In three of the four years for which we obtained data, the per capita rate at which African American students were sent to alternative school statewide was approximately double the corresponding rate for their white classmates. In 2007-08, for example, for every 1000 African American students in the population, there were 14.4 alternative school referrals; during the same year, for every 1000 white students, the total number of referrals was just 7.3. In 2005-06, the disparity was especially great: The per capita rate of alternative school referral among African American students that year (14.2 per 1000) was 2.7 times the rate among white students (5.2 per 1000).

Research has shown that African American and Hispanic youths are more likely than their white peers to be disciplined or arrested even when committing the very same offenses. Unfortunately, some alternative schools follow this pattern.

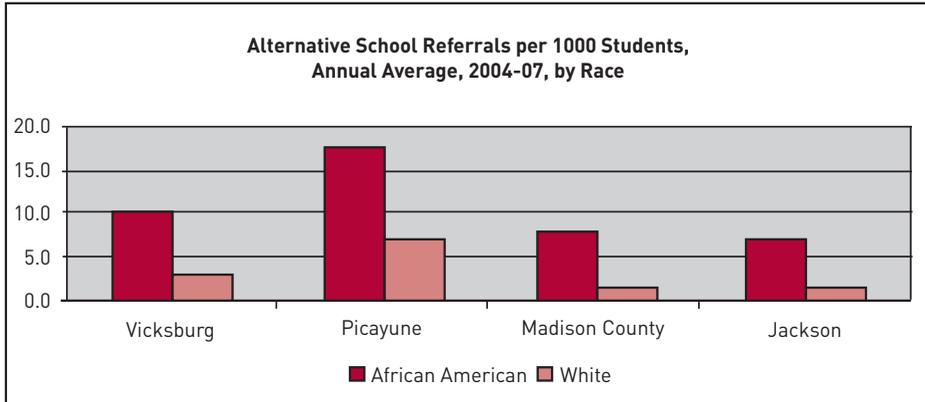


Similar disparities exist in the individual school districts for which we obtained data. In all four districts, African American students were referred to alternative school in greater absolute numbers than were white students. This was true not only in Jackson, where the student population is overwhelmingly African American, and in Vicksburg, where African American students constitute a majority, but also in Madison County and Picayune, where a majority of the student population is white.



A comparison of per capita rates of alternative school referral among African American and white students likewise reveals disparities in all four districts. The following table, which displays the average annual rate of alternative school referral, per capita, among African American and white students,

demonstrates that racial disparities exist in all sorts of Mississippi school districts: urban, suburban, rural, majority African American, and majority white.



Nor are the disparities trivial. Picayune’s average annual per capita referral rate among African American students (18.0 referrals per 1000 students) was more than double the corresponding rate among white students (7.6 per 1000). In Vicksburg, the referral rate for African American students (10.1 per 1000) was over four times the rate among white students (2.2 per 1000). In Jackson, the referral rate among African American students (5.9 per 1000) was nearly six times that among white students (1.1 per 1000). And in Madison County, the rate of referral among African American students (7.6 per 1000) was *seven times* that among white students (1.0 per 1000).

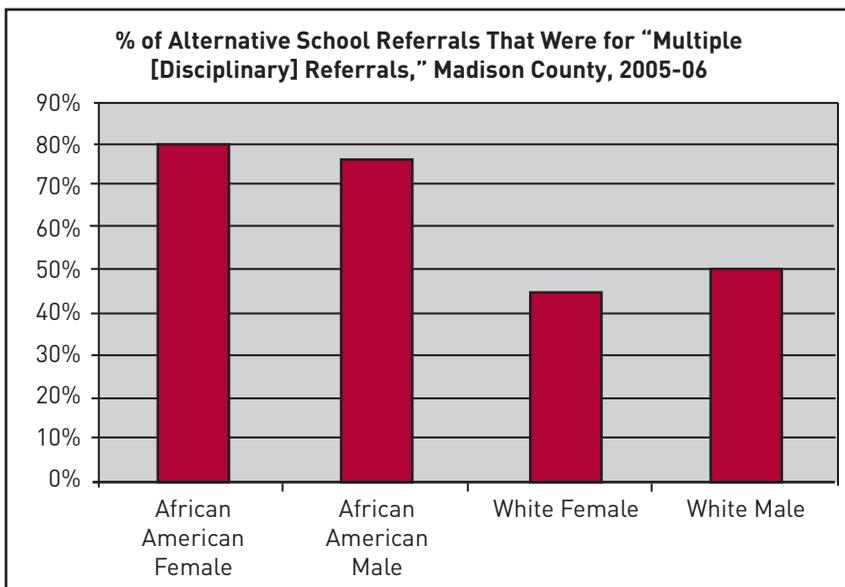
In Madison County, the rate of alternative school referral among African American students was seven times that among white students.

It would be a mistake simply to assume that higher rates of referral among students of color reflect higher rates of misconduct. Some of the offenses for which students are sent to alternative school are subjectively defined and permit a high degree of discretion about whether and how to discipline a student – “disrupting class,” for example. In some jurisdictions, African American students are more likely to be punished at least in part because school officials are more likely to find that they have engaged in such misconduct.⁵³

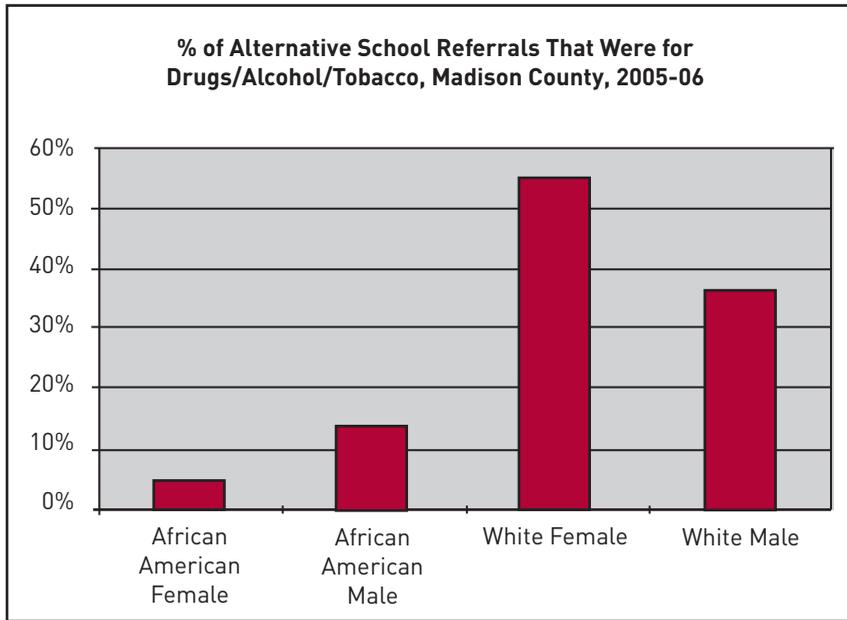
The data suggest the existence of this phenomenon in at least one of the jurisdictions we studied. We obtained data from Madison County showing the race of each student referred to alternative school, together with the offense that prompted the referral, for one full school year: 2005-06. During that

year, the data show, the reasons students were referred to Madison County’s alternative school varied by race. African American students, and particularly African American girls, were more likely to be referred to alternative school based on offenses that appear to have a subjective basis, such as “multiple [discipline] referrals.”

Specifically, “multiple referrals” accounted for 44 percent of all alternative school referrals imposed on white girls (4 referrals of 9 total were for this reason); 50 percent of referrals among white boys (14 of 28); 78 percent of referrals among African American boys (69 of 89); and 80 percent of referrals among African American girls (32 of 40).



Meanwhile, white students, and particularly white girls, were much more likely to be referred for objectively defined offenses, like those involving drugs, alcohol, or tobacco. Such offenses accounted for 56 percent of all alternative school referrals imposed on white girls (5 of 9); 36 percent of referrals among white boys (10 of 28); 12 percent of referrals among African American boys (11 of 89); and only 5 percent of referrals among African American girls (2 of 40).



We do not know why racial disparities exist in both the number and the nature of alternative school referrals in Madison County. Plainly, however, school officials should investigate to be sure that they are not the product of conscious or unconscious race-based decisionmaking among those responsible for referring students to alternative school – a concern noted even in the earliest days of Mississippi’s alternative school program.

Our interviews with students and parents gave further cause for concern about the impact of alternative schools on students of color. Interestingly, several students told us that once they arrived at alternative school, African American and white students were treated more or less the same way – that is, they were all treated badly.⁵⁴ But on the subject of which students were *sent* to alternative school in the first place, our informants indicated that in some school districts, African American and white students do not receive equal treatment. We heard about several incidents in which African American students were sent to alternative school, while white students committing the same offenses were not.

Racial disparities in the rate of alternative school referral exist in all sorts of Mississippi school districts: urban, suburban, rural, majority African American, and majority white.

Notable among these was a 2006 case, also in Madison County. In April of that year, seven Madison County students, all African American, were caught drinking from a soda bottle that one of the students had spiked with alcohol. By coincidence, two months earlier, seven white students, also in Madison County, had *also* been caught drinking from an alcohol-spiked bottle. Of the African American students, all seven were assigned to the Madison County alternative school for a period of 22 weeks. But among the white students, who had committed exactly the same offense, only two were sent to alternative school, and for a shorter period – about 13 weeks. The other five white students received lighter punishments: Three received three-day suspensions, and two received only a warning.

The parents of the African American students contacted the U.S. Department of Justice Office of Civil Rights (OCR), which investigates allegations of racially biased decisionmaking in public schools. OCR sent a small team of investigators, who reported their findings in a letter to the parents, one of whom provided the letter to the ACLU.⁵⁵ The OCR report reaches the troubling

conclusion that indeed, “the African American students were treated differently on the basis of their race.”⁵⁶ Even so, OCR accepted the school district’s explanation for why it treated the two groups of students differently. The explanation? Some of the white students *claimed not to have known that the bottle from which they were all drinking contained alcohol*. Others admitted having been told that the bottle contained alcohol, *but claimed they did not believe it*. Thus, the school district argued – and OCR agreed – that the white students deserved substantially lighter punishments.

These disparities point to the need for a careful, good faith examination of the racial impact of the alternative school assignment process.

OCR’s judgment in this case is hard to fathom. Meanwhile, the case suggests that conscious or unconscious bias, not differential rates of offense, may underlie the disparities illustrated above, even though making alternative school referrals on the basis of race would contravene fundamental antidiscrimination principles.⁵⁷ In the end, the data we gathered do not permit strong claims about the reasons underlying racially disparate alternative school referrals in individual school districts or statewide. Nevertheless, those disparities, viewed against a backdrop of unfair overpunishment meted out to students of color in other states, and in conjunction with anecdotal evidence of similar occurrences in Mississippi, point to the need for a careful, good faith examination of the racial impact of the alternative school assignment process in the target districts and across the state.

e. Special Education

Compared to their general education classmates, students receiving special education are at much greater risk for negative educational outcomes. Their dropout rate is almost twice that among general education students.⁵⁸ Students receiving special education also may be disproportionately impacted by disciplinary sanctions. In some states, the rate of suspension among these students is double the rate for the student population as a whole.⁵⁹ Too often, the heightened legal protections available to special education students fail to shield them from these harms.⁶⁰

It is encouraging that the nationwide rate of alternative school referral seems *not* to be elevated for special education students; the 2001 NCES study mentioned above found that about 12 percent of all students both inside and outside the nation's alternative schools were special education students for whom school officials had prepared Individualized Education Programs (IEPs), as required by federal law.⁶¹ Nevertheless, in some states, such students do constitute a disproportionate share of the alternative school population. In Texas, for example, students with disabilities are 11 percent of all students, but 22 percent of those referred to alternative school.

Besides being over-referred to alternative school, special education students also may be deprived of adequate services when they get there. In some cases, this occurs because under-resourced alternative schools lack adequate staffing and resources to serve special needs students properly. Or alternative schools may serve as “dumping grounds” for students whose needs are difficult to meet, and whom school officials therefore intentionally neglect.

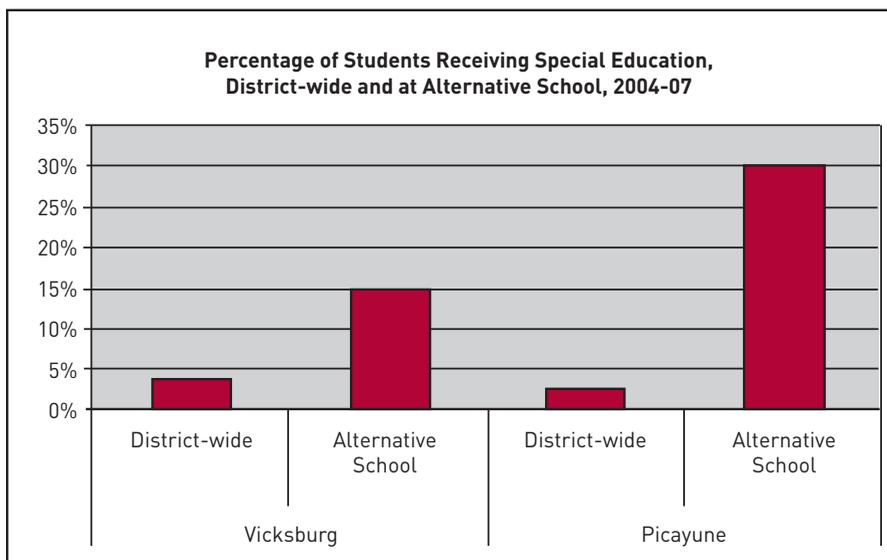
Historically, some Mississippi alternative schools have struggled to meet their obligation to special education students. Under a consent decree in the *Mattie T.* litigation, originally filed in 1975 by special needs students against the state of Mississippi, MDE staff identify school districts that are over- or under-referring students as exhibiting certain disabilities, and then coordinate monitoring visits to those districts. The reports generated by these monitoring visits, which are publicly available on MDE's website,⁶² describe a litany of problems.

For example, visits to Mound Bayou in August 2004 and to Drew in January 2005 found special education students placed at alternative school without the procedural protections required under federal law. During a March 2005 visit to Greenville's alternative school, investigators discovered a seventh grader who had failed five times, as well as an 18-year-old student in eighth grade. In July 2005, a visit to Perry County revealed that all the special education students assigned to the alternative school had IEPs, but also that none of their teachers were providing the services those IEPs described. The report on a May 2006 visit to Petal concluded simply that special education students were not

receiving a “free appropriate public education,” as federal law requires. And in December 2006, a visit to Picayune indicated that its alternative school provided “consistent and respectful” positive behavioral support, as well as “instruction that reflected academic priorities,” but also noted that of 149 high school students district-wide who were identified as having disabilities, 28 students, or approximately 20 percent, were assigned to alternative school. Moreover, the instructional day at the alternative school ended at 1:50 p.m. – significantly earlier than at the district’s mainstream schools.

In Picayune, although slightly less than 3 percent of students received special education districtwide, the corresponding figure for the alternative school was 10 times greater.

We were able to obtain data on the assignment of special education students to alternative schools only from Picayune and Vicksburg. But these data suggest that in some Mississippi districts, special education students are referred to alternative school at vastly disproportionate rates. For the school years 2004–07, the following table compares the percentage of students receiving special education in each district as a whole with the percentage of such students in its alternative program. As it indicates, although only about 3 percent of students in the Vicksburg–Warren school district received special education during that period, nearly 15 percent of the students at Vicksburg’s alternative school did. And in Picayune, although slightly less than 3 percent of students received special education districtwide, the corresponding figure for the alternative school was just under 30 percent – about 10 times greater.



Anecdotal evidence on the impact of alternative programs on Mississippi's special education students was discouraging. In several districts, parents of special education students assigned to alternative school complained about poor staffing.⁶³ One Vicksburg parent observed that because parents of special education students lacked information about their children's rights, school officials simply "pass[ed] them around like a bad penny."⁶⁴ A parent of a special needs student in Picayune explained that his son had spent four years at alternative school, and that during most of that time his school day had been shorter than the school day at the district's mainstream schools.⁶⁵

Advocates expressed similar concerns. One described an incident in which a teacher in Vicksburg, lacking an IEP for one special education student, made the student read out loud in front of his classmates in order to gauge his reading level.⁶⁶ Another observed that at Jackson's Capital City Alternative School, teachers of identified students often are not aware of the contents of their students' IEPs, or even that the IEPs exist.⁶⁷ Still another argued that in general, Mississippi's alternative schools were not an appropriate setting for students with special needs; she cited numerous specific concerns, including failure to perform proper evaluations, poor staffing, limited access to services, and exposure to other students known to have engaged in delinquent or dangerous behavior.⁶⁸

QUESTION FOUR: What Happens at Alternative School?

An alternative school has a duty to provide students with an education, just like any other school.⁶⁹ Indeed, this duty is particularly urgent for alternative schools, which serve some of Mississippi's most vulnerable young people. Writes one researcher: "Students in alternative learning programs are twice as likely to have parents who have less than a high school education; are more likely to live in single parent families; are more economically disadvantaged; and have repeated a grade, been suspended, or dropped out."⁷⁰ The students who attend Mississippi's alternative schools need high quality educational and social services, delivered by a caring, committed, and well-trained staff, in an environment that is highly structured, yet positive and supportive in character. Unfortunately, available evidence indicates that some Mississippi alternative schools are falling short of the mark.

a. Intake

Before students even enter alternative school, a formalized referral and screening process should occur.⁷¹ This process may include testing to detect emotional and behavioral problems.⁷² For students who have been formally identified as having disabilities, the procedures of the federal Individuals with Disabilities Education Act (IDEA) may suffice, provided that those procedures are observed,

since the IDEA requires that a new Individualized Education Program be prepared for an identified student upon a change in placement. But a rational process must exist that includes *all* students, and that permits school officials to judge whether each child belongs at alternative school, and if so, what supports and services that child will need.

An educator helping to implement screening and admission processes at a Mississippi alternative program explains: “The admission process is designed to ensure that this is the best place for the student. . . . Because we know that we could do damage to this entire setting by having someone here who’s not an appropriate placement here.”⁷³ Obviously, alternative school leaders cannot always choose their students; nor should there be many whom they would wish to exclude. But a formal, rational intake process will help ensure that students do not enroll whom the alternative school is unequipped to serve, while also informing school leaders about the strengths and weaknesses of incoming students.

b. Academic Programming

For an alternative school, as for any other school, high quality academic programming is essential to success. In recommending best practices for alternative schools, researchers emphasize the importance of rigorous academics, personalized learning plans, and high expectations for all students.⁷⁴ Mississippi law likewise mandates “curricula addressing cultural and learning style differences” and “a rigorous workload,” as well as requiring that for each student who is referred to alternative school, school officials prepare an “individualized instructional plan,” or “IIP.”⁷⁵

Unfortunately, some Mississippi alternative schools fail to provide students with academic services that meet their needs. In its 2001 report, citing evidence that some alternative school teachers simply directed students to fill out worksheets, rather than providing active instruction, the Civil Rights Commission observed: “[T]here is no evidence that students will benefit from the structure or substance of alternative school programs.”⁷⁶ More recent evidence conveys a similar impression.

One common problem is failure to comply with the IIP requirement. As noted above, the development of a learning plan tailored to the needs of the individual student has been recognized as an important element of successful alternative programs. And the virtue of this approach has been amply demonstrated in the special

“When I went in there, the teacher was doing her fingernails, painting her fingernails, the other girls were in the back braiding hair, and some of the kids were just playing, sitting down, you had one child that was just asleep.”

—A.C., Vicksburg parent

education context. But despite the wisdom of the IIP requirement, and the unqualified mandate of state law, it appears some school districts simply ignore it. In DeSoto County, Jackson, Picayune, and Madison County, educators, parents, and students reported failures to prepare IIPs.⁷⁷

Of equal concern is some districts' failure to provide alternative school students with meaningful, challenging schoolwork. One student who had attended Vicksburg's Grove Street alternative school reported that his work had consisted of simple worksheets: "They had me doing real easy stuff, kid stuff, like two times two . . . Kindergarten work."⁷⁸ He also reported that his teachers had simply

**"I'd sleep at school last year.
Almost every day, all day."**

—E.W., Vicksburg student

allowed him to sleep: "I'd sleep at school last year. Almost every day, all day."⁷⁹ The mother of another Grove Street student, describing a visit to her child's classroom, offered a similar account: "When I went in there, the teacher was doing her fingernails, painting her fingernails, the other girls were in the back braiding hair, and some of the kids were just playing, sitting down, you had one child that was just asleep."⁸⁰ Students who had attended alternative school in Madison and DeSoto Counties reported receiving work that was well behind the work they had been doing at their home schools, or simply too easy.⁸¹

MDE recommends that home schools provide alternative school students with appropriate coursework; state guidelines indicate that each student's IIP should "describe procedures for the transmittal of regular education class work to alternative program instructors."⁸² Some alternative schools, like the Mary Bethune School in Hattiesburg, proceed in this fashion.⁸³ But others have rejected this system in favor of having alternative school instructors develop course materials for their students. Jackson's Capital City School has adopted an intermediate strategy: Home school teachers transmit objectives, but not lesson plans, to their alternative school colleagues.⁸⁴ For students whose home school curricula are inappropriate, developing a new one makes sense. But this approach risks exacerbating the disruptive effect of alternative school, by ensuring that students who are referred miss out on the work their classmates at the home school are doing. In one case, a DeSoto County student returning from alternative school near the end of a marking period was told that none of the work she had done at DCAC had counted.⁸⁵

Other indicators that alternative schools are providing students with a "rigorous workload" are absent. Alternative school students and their parents in Picayune, Jackson, Madison County, and DeSoto County reported that homework was never assigned.⁸⁶ Others reported that students at alternative school were never given any schoolbooks to bring home.⁸⁷ Even some of those students who did report receiving homework at alternative school told us that this had occurred infrequently, and that

the work was so easy that they were usually able to finish it by the end of the day.⁸⁸

Alternative school students also may receive fewer minutes of instruction than their classmates at mainstream schools. This appears to contravene the command of state law that alternative schools require “full-day attendance.”⁸⁹ In Picayune and Vicksburg, for example, we spoke with alternative school students who reported being dismissed up to an hour earlier than students at other schools.⁹⁰ And two Jackson parents reported that alternative school administrators had sometimes called them before lunchtime and asked them to pick up their children and take them home.⁹¹

“We would have like twenty-five minutes of class time and the rest of the time we would just sit there.”

—A.F., Madison County student

Even where students remain physically present at school, some alternative schools neglect the state requirement for “minimal noninstructional time.”⁹² For example, a student at Vicksburg’s Grove Street school described being given “free time” at the end of each day, beginning around 1:30 p.m., even though dismissal was not until 1:55. When asked how he and his classmates used the extra twenty-five minutes, he replied: “Sit there and wait for our buses and talk.”⁹³ Similarly, a student who attended alternative school in Madison County reported: “When they didn’t have anything for us to do, they would just tell us to sit there quiet and stuff.” This happened, he said, “almost every day”: “We would have like twenty-five minutes of class time and the rest of the time we would just sit there.”⁹⁴

A final concern is that the instruction students receive at alternative school is often overwhelmingly behavioral in focus, rather than academic. Reported one alternative school educator: “Instruction is the last thought on their mind; it’s all about behavioral modification.”⁹⁵ Clearly, it is imperative to address behavior with students who have engaged in misconduct sufficient to warrant a transfer to

“When he did go back to regular school, he was so far behind. He caught hell, I mean, he just couldn’t catch up.”

—V.R., Madison County parent

alternative school. But this important task must not crowd out academic instruction, particularly given that frustration rooted in academic failure may contribute significantly to misconduct. Otherwise students make little headway academically while they are at alternative school, so that when they return to their home schools, the cycle of failure, frustration and misbehavior simply resumes.

We spoke with several students who reported falling far behind in their schoolwork while at alternative school.

One, who spent several months at Madison County’s alternative school, reported that it took him a full marking period to recover after he returned, even though his father arranged tutoring to help

him catch up. Explained his father: “When he did go back to regular school, he was so far behind. He caught hell, I mean, he just couldn’t catch up.”⁹⁶ A parent advocate reported that at Jones County’s alternative school, students at widely varying grade levels are placed in the same classroom, preventing them from receiving appropriate instruction and causing them to fall behind.⁹⁷ And the mother of a student who attended Vicksburg’s alternative school described his struggles upon returning to his home school: “When they were . . . trying to give him the actual . . . work, that’s when he just crumbled. . . . He really had a breakdown.”⁹⁸

Many students who are referred to alternative school are already struggling academically. Often there is a direct link between these students’ academic difficulties and their misbehavior. Ideally, a stint at alternative school would help students get their feet under them academically. Instead, too often, it just knocks them further out of balance. Said one educator: “My real belief is if they would put more resources into the academic side of it you could reach some of these kids.”⁹⁹

“My real belief is if they would put more resources into the academic side of it you could reach some of these kids.”

—G.G., alternative school teacher

c. Social Services

One of the best rationales for alternative school is that it provides an opportunity to deliver intensive services to at-risk students. Alternative school students are likelier than other students to engage in a variety of high-risk behaviors, including drinking alcohol, smoking cigarettes, using drugs, driving drunk, carrying weapons, having sex, getting in fights, and even attempting suicide.¹⁰⁰ Educational experts argue that alternative schools should offer such students not only a behavioral curriculum, as noted above, but a variety of social services, e.g., counseling,¹⁰¹ mentoring,¹⁰² social skills training,¹⁰³ school-based mental health services,¹⁰⁴ and substance abuse prevention.

There is cause for concern about whether Mississippi alternative schools are providing such services. Fewer than half of the schools responding to a 2000 survey reported that they provided students with counseling, and fewer than a quarter had social workers available to work with students and their families.¹⁰⁵ And recent anecdotal evidence points to potential problems in the individual districts we examined.

In Vicksburg, for example, the alternative school staff roster includes a social worker, and students and parents reported receiving counseling at the Grove Street School,¹⁰⁶ but an advocate who works with Vicksburg parents warned that the school provides little in the way of meaningful mental health

services.¹⁰⁷ More troubling: Two Vicksburg parents reported that counselors or other staff had asked – or even insisted – that they increase their children’s doses of psychoactive medication (e.g., for attention deficit disorder), so that the school would be able to handle them more easily.¹⁰⁸

In DeSoto County, the school district contracts with a private, for-profit healthcare firm, Lakeside Behavioral Health, to provide a “coordinator” and five “program assistants” whose role is to assist with behavior management and run a support group. But it does not appear that these individuals are required to possess advanced degrees, since Lakeside’s contract stipulates that it will provide consultations with staff possessing such degrees for an additional fee (master’s level consultations are \$50/hour, and consultations at the Ph.D. level are \$100/hour). Nevertheless, Lakeside’s services are costly; in the 2008–09 school year, the total value of the contract to Lakeside was \$239,278.

Meanwhile, one parent of a student who attended Picayune’s Center for Alternative Education reported that he had received “no kind of counseling” while there.¹⁰⁹ And a social service provider familiar with Jackson’s Capital City Alternative School reported that although the school is well-staffed, with a case manager, a school psychologist, and two social workers, many students who are in need of mental health services nevertheless do not receive them.¹¹⁰

d. Staffing

A highly qualified staff is essential to the success of any alternative school.¹¹¹ Alternative school teachers must be prepared to face myriad challenges: students exhibiting chronic misbehavior, mental health issues, or learning disabilities; students who come and go frequently, offering little opportunity for assessment; classes in which each student requires his or her own personal lesson plan. Thus researchers describing alternative school best practices emphasize the importance of specialized, ongoing professional development.¹¹²

Nor is it sufficient that alternative school teachers be capable of handling myriad challenges; they also must do so willingly,¹¹³ and they must care about and be committed to their students.¹¹⁴ Assigning teachers to teach in alternative schools involuntarily is a mistake, since teachers who do not wish to be present will perform less well.¹¹⁵ Nevertheless, school districts in some states have been found to assign poor teachers to alternative schools as a “punishment,” with predictably unfortunate results.¹¹⁶

Equally important for alternative school success is the presence of a dedicated, talented school leader. An effective school leader must care about her students and support her staff; must be a competent manager of resources and personnel; and must articulate a coherent vision for the school to students,

parents, staff, and the community at large.¹¹⁷ Because of the special challenges alternative schools present, as well as the danger that an alternative school may be a “second class citizen” among the district’s community of schools, strong leadership may be even more important for alternative schools than for mainstream institutions.

Our findings with regard to staffing at Mississippi’s alternative schools were mixed. Several students reported having had at least one teacher at alternative school whom they respected and admired.¹¹⁸ News accounts occasionally describe alternative school teachers as winning awards for excellence in teaching.¹¹⁹ And in the districts we studied, where we were able to obtain data on staffing, those data indicated that staffing ratios are within the state maximum of 15:1¹²⁰ (Picayune’s average during 2004–07 was 14.7 students per teacher, and Madison’s was 9.2); that alternative school staff are for the most part experienced (the average number of years of experience for alternative school teachers in Madison County was 8, in Jackson was 12, and in Picayune was 13); and that a significant number of alternative school staff possess advanced degrees (in Picayune, an average 51 percent of teachers at least possessed master’s degrees; in Jackson, the figure was 46 percent).

However, several advocates identified poorly trained staff as a problem for Mississippi’s alternative schools.¹²¹ News accounts occasionally describe alternative school staffers and volunteers engaging in behavior that is inappropriate or even criminal, as when, in 2003, a volunteer at the Long Beach alternative school was arrested for sexual battery and molestation.¹²² And several of the students and parents we spoke with complained that the teachers they encountered at alternative school were unqualified and performed poorly.¹²³

Also troubling were reports of staff being assigned to Mississippi alternative schools involuntarily. A parent advocate reported that at least one staff member had been transferred to Madison County’s alternative school as punishment for perceived misconduct.¹²⁴ In Jackson, principals are permitted to declare low-performing teachers “building excess”; for teachers with this designation, no placement may be available other than at the alternative school.¹²⁵ These are not new issues; the 1996 report mentioned above warned that “[t]eachers in some [Mississippi] districts are ‘sentenced’ to work in the Alternative School.”¹²⁶ Clearly, such practices are unlikely to yield success, and indeed may guarantee failure.

The temptation must be resisted to make alternative schools into little jails; a far better approach is to use research-based strategies to offer students a learning environment that is both highly structured and positive in character.

e. School Climate

Another key ingredient of a successful alternative school is a positive school climate. Research forecasts failure for alternative schools whose approach is essentially punitive. Schools that seek merely to “segregate, contain, and reform” misbehaving students “reap no positive long-term gains and may even increase negative outcomes.”¹²⁷ This is only logical, since adopting a punitive stance “may put educators in the awkward – if not unconscionable – position of creating schools undesirable enough to deter bad behavior.”¹²⁸

Fortunately, there is an alternative. Positive behavioral approaches have been shown to achieve favorable results with challenging students.¹²⁹ A recent study of Texas alternative schools recommended implementation of “positive behavioral expectations and supports school-wide,” and cautioned against punitive measures, including arresting juveniles, “boot camps,” and “scared straight” approaches, that research has shown to be ineffective.¹³⁰ Another recent study, offering an in-depth look at three effective alternative schools, explained that “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 nonauthoritarian approach to teaching.”¹³¹

None of this is to suggest that alternative schools should fail to provide students with a highly structured learning environment. This, too, is an element of successful alternative programs.¹³² Especially for students whose misconduct has demonstrated limited ability to manage their own behavior, a structured environment is essential. But it is a mistake to assume that the only way to achieve structure is with an iron fist. Indeed, draconian discipline may do little more than keep the lid on; students and parents reported both strict discipline *and* disorderly classrooms in both Picayune and Vicksburg.¹³³ The temptation must be resisted to make alternative schools into little jails; a far better approach is to use research-based strategies to offer students a learning environment that is both highly structured and positive in character.

“I don’t like it up in there. I don’t like getting searched and stuff. It makes me feel like I’m a criminal.”

—E.W., Vicksburg student

In Mississippi, unfortunately, some alternative schools have taken the punitive route. Some schools’ disciplinary policies are absurdly punitive, like the DeSoto County rule that bars alternative school students from making friends: “Students may not exchange personal information (addresses, phone numbers, etc.) with other students or solicit friendships with other students.”¹³⁴ Equally problematic is the same district’s degrading search policy, under which all students must shed extra layers of clothing,

and remove their shoes and socks, and girls are required to “shake out” their bras and “pop” their bra straps every morning before entering school.¹³⁵ And several advocates cited Jackson’s Capital City Alternative School as having an especially punitive atmosphere, one reporting that the school uses its zero tolerance policy “to the utmost degree,”¹³⁶ and another expressing the view that the school’s zero tolerance policy is used to deliberately push out challenging and “undesirable” students.¹³⁷

“Students may not exchange personal information . . . with other students or solicit friendships with other students.”

—DeSoto County Alternative Center Student/Family Handbook

In interviews, numerous students across the state likened their experiences at alternative school to jail. A student who had attended Picayune’s alternative school attributed this feeling to daily searches and the presence of surveillance cameras in the classroom.¹³⁸ Said a DeSoto County student: “It’s jail – you just get to go home.”¹³⁹ A student who had attended

Vicksburg’s alternative school recalled: “Everybody thinks we’re dangerous . . . I don’t like it up in there. I don’t like getting searched and stuff. It makes me feel like I’m a criminal.”¹⁴⁰ In such an environment, lasting improvements in the behavior of a struggling young person, let alone academic gains or positive changes in a child’s mental health, are as unlikely to occur as they are in a real jail.

f. Funding and Facilities

Stable, adequate funding is critical to alternative school success. In 1997, in a nationwide survey of alternative school leaders, a majority reported that maintaining stable funding was “the greatest need in initiating/maintaining effective alternative schools.”¹⁴¹ But achieving this goal can be difficult, since the alternative school student population ordinarily includes a high percentage of at-risk students whose needs may be expensive to meet.

“It’s jail – you just get to go home.”

—G.J., DeSoto County student

Mississippi supplements local alternative school funding with a statewide block grant program pursuant to state law.¹⁴² Under this program, each district receives an alternative school grant equivalent to 0.75 percent of its average daily attendance, or 12 pupils, whichever is greater, multiplied by the statewide average per pupil expenditure. This is a sensible approach. The grant program not only provides local school districts with a reliable source of alternative school funding, but also creates opportunities for MDE to engage in oversight of local programs. Further, not tying grant amounts to actual enrollment avoids creating an incentive for districts to boost alternative school enrollment as a means of obtaining larger grants.

We were able to obtain budgetary data for three districts: Madison County, Picayune, and Vicksburg. In those districts, alternative school spending appears to account for a relatively small share of the total operating budget. In 2006-07, this share ranged from a low of 0.9 percent in Madison County to a high of 2.8 percent in Vicksburg-Warren. In the same year, the extent of local districts' reliance on state funds to maintain their alternative schools varied widely; in Madison County, state funding accounted for 86 percent of the alternative school budget, while in Vicksburg, it accounted for only about 30 percent. Puzzlingly, Picayune's fiscal year 2007 budget indicates that no state funds were used to operate the alternative school.

Unfortunately, we were unable to calculate each school district's average annual expenditure per alternative school pupil. To do so, it would be necessary to know not only the total number of referrals, but also how long each student remained at alternative school. Because we could not obtain this information for most students at most of the alternative schools we examined, we cannot offer comparisons of per pupil spending at alternative schools in various districts, or between per pupil spending at alternative and mainstream schools.

However, anecdotal evidence suggests that even though alternative school students are likely to require more resources, not less, in order to succeed, some alternative schools are, in the words of one alternative school teacher, "resource-poor environments." The same teacher offered specific illustrations of her school's status as a "poor stepchild" – for example, alternative school teachers having to borrow classroom sets of out-of-date textbooks from teachers at mainstream schools, because they had no textbooks of their own.¹⁴³

A related issue is that of facilities. It is common sense that in order to be effective, alternative schools should occupy well-maintained facilities where students and staff are safe and feel comfortable.¹⁴⁴ Moreover, state guidelines require that alternative school facilities be "clean, safe and functional, and commensurate with facilities provided to other students."¹⁴⁵ But securing adequate facilities has been problematic for Mississippi's alternative schools. An educator familiar with the origins of the state's alternative school program noted that this has been an issue from the start – when the statewide program began in 1993, he recalled, one district was forced to house its alternative school in the press box at the baseball field.¹⁴⁶ In some districts, problems persist: The alternative school teacher quoted above said of her school: "It's the oldest building in the county that is still used for instruction. It's been raining through the roof on one side of the building."¹⁴⁷

g. Family and Community Relationships

Any school enhances its likelihood of success by reaching out to the families of its students and involving them in the life of the school. Alternative school leaders and teachers should solicit active parental input, and parents should know that their opinions are respected and valued.¹⁴⁸ Nearly as important as outreach to families is outreach to the wider community. Like partnerships with parents, community partnerships can enhance efforts to provide behavioral supports.¹⁴⁹ Local businesses and voluntary organizations can assist with vocational training, job shadowing, and mentoring; health care or mental health services; cultural programming or other recreational opportunities; and donations of goods or cash.¹⁵⁰ Recognizing the potential of such arrangements, as well as the fact that “[m]any students who are assigned to an alternative school program have unique needs that cannot be totally addressed by resources in the local district,” MDE advises alternative schools to “collaborate with other agencies in their community.”¹⁵¹

An alternative school’s efforts to build parental and community relationships may be complicated by negative opinions about alternative schools and their students. Parents may view the school with suspicion, frustrating school officials’ efforts to win their participation.¹⁵² Negative views may exist even among district personnel, who may regard the alternative school as a “second-class citizen.”¹⁵³ The results are often damaging: Research points to the existence of a stigma attaching to alternative school students that may interfere with their success even after they leave.¹⁵⁴ Thus it is important for school leaders to cultivate positive views of the school among families and beyond.¹⁵⁵

In Mississippi, as elsewhere, image is a problem for alternative programs. Negative perceptions of alternative school students are common. One parent, when she learned that her child would be sent to alternative school, said she and her son were frightened of what he might encounter “over there with those hoodlum kids.”¹⁵⁶ Some alternative school leaders confront such views through outreach to home school teachers and administrators. One explained: “They shouldn’t be punished for life. People should receive them. Once they go back, they have just as much right. And when they don’t get a fair shake, I’m the first one to stop what I’m doing and go to that campus and say hey.”¹⁵⁷ Still, negative attitudes about alternative school students, and an apparent desire to punish them as harshly as possible, persist. A case in point: the recent effort by one state senator to pass legislation that would have

“They shouldn’t be punished for life. People should receive them. Once they go back, they have just as much right. And when they don’t get a fair shake, I’m the first one to stop what I’m doing and go to that campus and say hey.”

—Principal Cassandra Brown,
Mary Bethune School,
Hattiesburg

disqualified any child assigned to alternative school from receiving aid under the federal Temporary Assistance for Needy Families (TANF) program.¹⁵⁸

Moreover, when it comes to family outreach, Mississippi’s alternative schools could do better. Again, this is nothing new: The 1996 report cited above noted that “while almost every school in the state has a PTA, we found no PTAs for Alternative Schools. ‘Parent involvement’ often was being called to the

“If the principal likes a parent, they work with you, but if you give them lip, they will snub you in a heartbeat.”

—V.R., Madison County parent

school because the student acted badly.”¹⁵⁹ In interviews, parents in Vicksburg, Picayune, Madison County, and DeSoto County all reported that alternative school administrators either had been unresponsive or simply had treated them rudely.¹⁶⁰ A Madison County parent explained: “If the principal likes a parent, they work with you, but if you give them lip, they will snub you in a heartbeat.”¹⁶¹ It can be difficult for parents of alternative school students to seek redress when their children are

mistreated or denied essential services. Even where parent advocates intervene, school officials may still fail to treat parents with respect, e.g., by speaking only to the advocate, while ignoring the parent.¹⁶²

To be sure, in building relationships with parents, alternative school administrators face special challenges. Parents of students referred to alternative school are unlikely to be pleased about joining a new school community, and likelier to be frightened or angry. But discourtesy and highhandedness are exactly the wrong approach. Far better would be the strategy described in the study of successful programs mentioned above: “The opinions and participation of family members in the education of their children [are] valued, and students’ families are treated with respect.”¹⁶³ Parents, for their part, must respond constructively, accepting invitations to participate and actively supporting the school’s academic and behavioral programs.

h. Re-entry

Finally, alternative schools must make sure that when students leave alternative school and return to their home schools, they don’t re-offend, experience low expectations and hostility at the home school based on the “alternative school stigma,” or simply fall through the cracks. To work with a struggling student for weeks or months using research-based behavioral supports, and then suddenly remove those supports, at a time when the student is most apt to need them, is to invite failure. Instead, alternative schools should support students during the transition, monitor their progress at the home school, and provide home school administrators and teachers with information about each returning student: What are her strengths? Her weaknesses? To what behavioral techniques is she most likely to respond?¹⁶⁴

Some Mississippi school districts have taken affirmative steps to help alternative school students re-enter the mainstream¹⁶⁵ – but some could do more. One Vicksburg parent noted that the district had prepared a new IEP for her son when he returned to his home school, but offered no other assistance.¹⁶⁶ In DeSoto County, parents reported, returning students must memorize an “attitude speech,” and make a formal apology to school administrators, but the district does not provide them with any support to ensure a successful transition.¹⁶⁷ And in Jackson, according to one advocate, some home schools, far from working with alternative schools to support reentering students, actively seek to prevent them from reentering.¹⁶⁸

One reason for the unevenness of transition efforts may be that Mississippi’s alternative school statute, despite fairly robust discussions of other program elements, says nothing at all about re-entry.¹⁶⁹ For a program whose goal is to help students re-enter their home schools and achieve success, such an omission is puzzling.

QUESTION FIVE: Do Alternative Schools Work?

In one or two interviews, we heard limited satisfaction with Mississippi alternative schools. One parent, while unhappy with the quality of the education her son had received at alternative school, said that “the experience did him some good.”¹⁷⁰ But more parents expressed the view that alternative schools were likelier to hurt students than help them. Said a Picayune parent: “To me it makes them worse. . . . They don’t learn nothing over there.”¹⁷¹ And a parent in Vicksburg: “When those kids come there, I don’t care what nobody says, they get worse.”¹⁷²

In the end, like any other school, Mississippi’s alternative schools must be judged by the results they achieve. Are they helping students achieve academic success, resolving behavioral issues, and making home schools safer and more orderly? Or are they acting as dumping grounds for less “desirable” students? Are they helping solve Mississippi’s dropout problem, or are they making it worse? The short answer is, we don’t know, and that’s part of the problem. What we *do* know is that with regard to each of the issues just mentioned – academic progress, behavioral improvement, safety and order, the danger of “dumping grounds,” and the dropout problem – there is reason for concern.

a. Academic Performance

A key goal of Mississippi's alternative schools is to help improve students' academic performance. But there simply are insufficient data to say whether they are achieving this goal. We are not aware of any effort by the state or by any of the five districts we studied to conduct a systematic examination of the academic gains students are achieving at alternative school. In the absence of outcome-based measures, the only way to gauge the quality of the educational services offered at alternative school is by examining inputs – and, as we have seen, the evidence on that front is not encouraging. Over the long haul, longitudinal, outcome-based measures of students' academic gains are essential. As discussed above, creating such measures will not be easy, since not all students stay at alternative school for the same length of time, and some students stay only briefly. But the difficulty of the task is no excuse for not trying.

b. Safety and Order

There is reason to question the assumption that referring students to alternative school improves order at the home school. A 2006 study by the American Psychological Association found “no support for the assumption that zero tolerance, by removing more disruptive students, creates a school climate more conducive to learning for the remaining students.”¹⁷³ Rather, policies based on this assumption were associated with *negative* achievement outcomes.¹⁷⁴ If removing students via suspension is associated with negative outcomes in the mainstream environment, the same may be true of removing students via referrals to alternative school.

Furthermore, removing students to alternative school will contribute to good order and school safety only if the students who are removed were engaging in substantially disorderly or unsafe behavior. In fact, some of the alternative school students we spoke with had been referred for offenses that arguably merited a stint at alternative school. But we are also aware of students referred to alternative school for minor offenses. In Jackson, for example, district records show that students were referred to alternative school for such offenses as “verbal assault of a teacher,” “abusive lang[ua]ge to district personnel,” and “P[ossession] O[f] W[eapon] (brush).” It is difficult to understand how alternative schools are making school districts safer by permitting students who commit such offenses to be isolated from the general student population for weeks at a time.

Meanwhile, some districts appear to neglect or circumvent one potential bulwark against unfair or groundless alternative school referrals: the requirement that students be afforded procedural due process before being referred.¹⁷⁵ In Vicksburg and Madison County, parents told us they had been urged to

waive their children’s right to a hearing prior to being transferred; in at least one case, a parent was told that if she refused to consent, the school would seek to expel her child, instead of transferring him to alternative school.¹⁷⁶ In Jackson, an advocate warned that many parents are not advised of their children’s right to due process hearings before being transferred to alternative school and do not participate.¹⁷⁷ And in DeSoto County, parents expressed concerns about the fairness of their children’s due process hearings, citing, e.g., school officials’ refusal to hear contrary evidence. One explained: “Once you start talking and you say one little thing that they don’t like or they don’t want to hear, the hearing is over. . . . They turn the tape off and tell you to leave.”¹⁷⁸

Data from Picayune indicate that of 486 students referred to alternative school over three years, at least 60 recidivated, and 8 students recidivated twice.

c. Behavioral Improvement

Where a student who is sent to alternative school *has* engaged in unsafe or substantially disorderly conduct, we must ask: Does going to alternative school make that student less likely to misbehave in the future? Troublingly, research shows that aggregating students who misbehave, as alternative schools do, may result in higher rates of misconduct – even where students are aggregated for the purpose of resolving disciplinary issues.¹⁷⁹ Furthermore, the APA study cited above found that removal from school via suspension predicted *higher* rates of future misconduct, as well as a higher likelihood of dropping out;¹⁸⁰ again, the same may be true of students removed to alternative school. Indeed, in some states, like Texas, recidivism rates among alternative school students approach 30 percent.¹⁸¹

Unfortunately, available data do not even permit a rough estimate for the rate of recidivism among Mississippi alternative school students statewide. But data from Picayune indicate that of 486 students referred to that district’s alternative school over three years, at least 60 students recidivated after returning to their home schools, for a recidivism rate of 12.3 percent. Moreover, eight of those students recidivated *twice*.¹⁸² The fact that about one in eight students recidivates raises doubts about whether Picayune’s alternative school is effectively resolving behavioral issues. As for the other districts? For all we know, they are experiencing equal or higher rates of recidivism – but in the absence of data, there is no way to be sure.

d. “Dumping Grounds”

A familiar concern about alternative schools is that rather than achieving the objectives described above, they will serve as dumping grounds for students the mainstream schools cannot or will not serve.¹⁸³ This is a special concern in districts where students spend long periods at alternative school. In some districts, the standard “sentence” is 45 days, or a single 9-week marking period, and many students stay about that long. But in other districts, like Vicksburg and Picayune, the average length of stay is longer. In Picayune, we obtained data permitting us to calculate the average length of stay among 86 percent of the students attending alternative school during the period 2004–07; the average was just over 17 weeks. In Vicksburg, we were able to determine the length of stay for slightly fewer than half of all students; there, the figure was about 23 weeks. Moreover, in both Vicksburg and Picayune, and in DeSoto County as well, we heard in interviews about students who had spent as many as *three or four years* at alternative school.¹⁸⁴ The same kind of “warehousing” occurs elsewhere; anecdotal evidence indicates that other districts imposing multi-year alternative school assignments include Warren County, Pearl River County, and Neshoba County.¹⁸⁵ For these students, the idea that alternative school may become a dumping ground, rather than a temporary placement designed to help students re-enter the mainstream, is not just an idea. It is a reality.

“To me it makes them worse. . . .
They don’t learn nothing over there.”
—L.C., Picayune parent

e. The Dropout Problem

Dropouts are a serious concern for Mississippi school districts. MDE has mounted a well-publicized campaign, “On the Bus,” to bring the dropout rate under control, and with good reason: Students who drop out of school experience a host of negative consequences, from dramatically lower earning potential¹⁸⁶ to a higher risk of imprisonment.¹⁸⁷ Further, a high dropout rate takes an economic toll not just on individuals, but on the community as a whole. According to a recent analysis, if the state of Mississippi could convert just one year’s dropouts to high school graduates, the economic benefit to the state over the life of those students would be nearly \$4 billion.¹⁸⁸

In theory, effective alternative schools can help prevent students from dropping out¹⁸⁹ – indeed, alternative schooling is one of the fifteen strategies identified in the state dropout prevention plan as an effective means of reducing dropouts.¹⁹⁰ As the plan explains, “[a]lternative schooling provides potential dropouts a variety of options that can lead to graduation, with programs paying special attention to the

student’s individual social needs and academic requirements for a high school diploma.”¹⁹¹ However, many alternative schools fail to provide students with such options.¹⁹² Moreover, a poorly designed or implemented alternative program may actually *increase* dropouts.¹⁹³

In fact, Mississippi’s alternative schools may be undermining the state’s dropout prevention efforts. Once again, available data are inadequate to permit statewide generalizations. We simply do not know how many students drop out while at alternative school – or drop out in order to avoid going there. But some of the data we received raise red flags. For example, among the 171 students sent to Madison County’s alternative school during the 2005–06 school year, a total of 63, or almost 37 percent, are listed as having withdrawn from school that year. Another 5 were expelled, and 1 went to training school, raising the attrition rate to 40 percent. Even assuming that some of the students who withdrew did so for reasons other than dropping out – e.g., to be homeschooled – it is troubling that such a large percentage of the students assigned to Madison County’s alternative school end up exiting the school system from there.

Meanwhile, in interviews about their experiences with Mississippi’s alternative schools, some advocates expressed concern that the alternative schools were pushing students out.¹⁹⁴ And one student said he planned to withdraw rather than be referred to alternative school.¹⁹⁵ In the words of his grandmother: “You need to let them go on and try to get an education. Then you get frustrated and you get tired. You think, if they kick him out, at least you’ll get some peace. As grownups, you get frustrated – so you know the children get frustrated too.”¹⁹⁶

Of 171 students sent to Madison County’s alternative school during the 2005–06 school year, a total of 63, or almost 37 percent, as listed as having withdrawn from school that year.

IV. RECOMMENDATIONS

The goal of this report is to examine Mississippi's alternative schools and provide guidance about how to raise the level of their performance. In that spirit, we offer the following recommendations aimed at helping make Mississippi's alternative schools more accountable to the communities they serve, improving the outcomes they achieve, and ensuring that they do not trap, push out, or otherwise harm the young people committed to their care.

RECOMMENDATION ONE: Redefine “Alternative School”

The first question this report examined was: What is an alternative school? More than 15 years from the inception of its statewide alternative school program, Mississippi should revise its answer. It should begin with the idea that alternative schools provide a temporary placement for students exhibiting serious or chronic disciplinary problems. But it should take into account as well that alternative school students often struggle with difficult academic, behavioral, or other issues; should require that such students be provided with intensive services appropriate to their needs and delivered by a well-qualified staff in a highly structured but positive environment; and should explicitly identify alternative schools' most important goal as helping students re-enter mainstream schools and succeed, rather than dropping out. Preventing misbehavior through temporary isolation will continue to be an objective – but *preventing failure through remediation* should be the clear priority.

RECOMMENDATION TWO: Make Alternative Schools Accountable

The second question discussed above was: Are Mississippi's alternative schools accountable? The answer to this question should be “yes.” Mississippi's alternative schools should be transparent, not opaque or secretive. Community members should have access to the information they need to determine whether their alternative schools are succeeding. Further, they should have means of holding educators and policymakers accountable for the results the alternative schools achieve. The following measures would help achieve this objective:

a. Make Data Available Online

MDE should make information about alternative schools publicly available via its MAARS database. It could accomplish this task at minimal cost, using data it already collects via the MSIS reporting system. It can and should do so in a way that protects the privacy of individual students. Its public reporting should include, but need not be limited to:

- the number of students referred to each alternative school;
- information about the gender, race, and disability status of the students referred;
- information about the offenses for which students were referred; and
- information about each alternative school's performance, including not only students' average scores on annual statewide testing, but also other measures capable of measuring alternative school performance more accurately and fairly, e.g., measures of short-term academic gains, recidivism rates, and dropout rates.

b. Mandate Annual Reporting for Alternative Schools

Instead of merely requiring school districts to prepare guidelines for annual alternative school program review and evaluation, the state should expressly require each school district to *perform* such a review and evaluation. State law should clearly enumerate the essential elements of the annual review. It also should mandate that annual reviews be transmitted to MDE and made available to the public. To ensure that school districts have the expertise required for a meaningful review process, MDE should provide research-based technical support.

c. Implement Alternative School Monitoring

MDE should convene alternative school monitoring teams, perhaps using the model created under the *Mattie T.* consent decree. These teams should include educators, policymakers, practitioners in other relevant disciplines (e.g., child psychologists, social workers, and attorneys), as well as community members. Teams should conduct site visits to schools identified as in need of improvement for any of several reasons, including, but not limited to:

- poor performance, e.g., excessive rates of recidivism or dropout, as indicated by the measures described (a) above;
- omission of required program elements, e.g., IIPs, as evidenced by the reporting

- described in (b) above, or by complaints received from community members; or
- substantially disparate rates of referral among students of color or among students with disabilities, as revealed by the reporting described in (a) above.

Where a site visit reveals systemic problems, the monitoring team should identify appropriate corrective measures and define a schedule for their implementation. State law should empower MDE to sanction school districts failing to correct problems in a timely fashion, e.g., by withholding funding.

RECOMMENDATION THREE:

Ensure That Alternative School Referrals are Rational and Bias-Free

The third question this report addressed was: Who goes to alternative school? Mississippi's answer to this question should be, simply: students whose conduct or performance indicates that they would benefit from a temporary placement at alternative school. Neither gender nor race nor disability nor any other immaterial factor should enter the equation. Specific measures that would help ensure that this occurs:

a. Correct Disparities

Using the monitoring and intervention process described above, the state of Mississippi should identify districts where alternative school referrals exhibit race- or disability-based disparities, investigate to determine the causes of these disparities, direct local officials to implement concrete remedies, and sanction noncompliant districts.

b. Observe Required Procedural Protections

School districts should comply with all relevant state and federal requirements that students be provided with procedural protections prior to alternative school referral. For a mainstream student referred to alternative school, this means, at a minimum, a due process hearing at which she and her family may receive notice of the reasons for the proposed referral, as well as an opportunity to defend herself. For students receiving special education, additional protections will be required, including the development of a new IEP.

RECOMMENDATION FOUR: Provide Appropriate Services at Alternative Schools

The fourth question discussed above is: What happens at alternative school? Mississippi's answer should be: Students who otherwise might behave disruptively, fail academically, and quit school receive services aimed at helping them get back on track. To this end, each school district should implement research-based best practices proven to be effective with at-risk populations. More specifically:

a. Comply with Existing Programmatic Requirements

Every school district must comply with existing programmatic requirements contained in state law and MIDE policy, including, but not limited to the requirements for:

- individualized instructional plans;
- curricula addressing cultural and learning style differences;
- a rigorous workload;
- minimal noninstructional time;
- counseling for parents and students;
- clean, safe, and functional facilities; and
- staff with adequate credentials to achieve the school's mission.

b. Supplement Existing Programmatic Requirements

Existing law and policy omit several important research-based program elements essential for alternative school success. State law should be amended to require these elements, including, but not limited to the following:

- formal, rational intake procedures capable of identifying each student's most urgent areas of need, while also determining whether alternative school is an appropriate placement for that student;
- transitional services sufficient to prepare students for re-entry into mainstream schools, together with careful monitoring following re-entry; and
- positive behavioral interventions and supports designed to foster a highly structured school environment that nevertheless is positive in character.

c. Implement Additional Research-Based Best Practices

School districts should seek out and implement additional research-based best practices for alternative schools. Districts should consider seeking accreditation for their alternative schools through the Southern Association of Colleges and Schools (SACS), since the accreditation process itself may serve as a roadmap of applicable best practices. MDE should conduct a survey of the research literature, compile its own list of best practices, and provide technical support to local districts seeking to improve their practice.

d. Correct Noncompliance

Currently, alternative school students who are denied the services promised to them under state law have no means of redress. The legislature should amend the alternative school statute to create a private right of action for such students. In addition, MDE should create a simple, accessible process by which students and parents could file complaints regarding such denials, and then should follow up aggressively and in a timely fashion using the monitoring scheme outlined above.

The Goal: Improve Outcomes

The fifth and final question was: Do alternative schools work? Too often, they do not. But resolving existing issues of accountability and programming, in the manner described above, would improve outcomes. Ideally, comprehensive reform would bring about a paradigm shift: a change in the way Mississippi conceives of alternative school. Instead of serving as “little jails,” way stations on the school-to-prison pipeline, Mississippi’s alternative schools could be a true safety net, an environment where at-risk students, who otherwise might fail or drop out, would receive intensive academic programming, social services, and positive behavioral supports, and get back on track to becoming productive citizens.

- 1 Some students, parents, and educators interviewed for this report expressed concern about speaking publicly about their local alternative schools. Therefore, in many cases, anonymity of sources has been preserved.
- 2 Camilla Lehr *et al.*, *Alternative Schools: Policy and Legislation Across the United States* (College of Education & Human Development, Institute on Community Integration), October 2003, at 2, available at http://ici.umn.edu/alternativeschools/publications/Legislative_Report.pdf.
- 3 Brian Kleiner *et al.*, *Public Alternative Schools and Programs for Students at Risk of Education Failure: 2000-01* (National Center for Education Statistics), September 2002, at 5-6, available at <http://nces.ed.gov/pubs2002/2002004.pdf>.
- 4 *Id.* at 10.
- 5 Deborah Fitzgerald Fowler, *Texas' School-to-Prison Pipeline: Dropout to Incarceration: The Impact of School Discipline and Zero Tolerance* (Texas Appleseed), October 2007, at 4, available at <http://www.texasappleseed.net/pdf/Pipeline%20Report.pdf>.
- 6 Elizabeth G. Hill, *Improving Alternative Education in California* (California Legislative Analyst's Office), February 2007, at 9, available at http://www.lao.ca.gov/2007/alternative_educ/alt_ed_020707.pdf.
- 7 Kleiner, *supra*, at 5-6.
- 8 See Cheryl M. Lange & Sandra J. Sletten, *Alternative Education: A Brief History and Research Synthesis* (National Association of State Directors of Special Education), February 2002, at 8 (“One reason for the widely varying estimates in the number of alternative schools is that there is not agreement across the educational community as to what constitutes an alternative school or program.”); Catherine Paglin & Jennifer Fager, *Alternative Schools: Approaches for Students At Risk* (Northwest Regional Educational Laboratory), September 1997, at 1 (“Alternative school is a term with many definitions in today’s education literature.”); Laudan Y. Aron, *An Overview of Alternative Education* (Urban Institute), January 2006, at 3 (“[T]here is no commonly-accepted, or commonly-understood, definition of what constitutes ‘alternative education.’”).
- 9 See Aron, *supra*, at 5.
- 10 See Mary Reimer & Terry Cash, *Alternative Schools: Best Practices for Development and Evaluation* (National Dropout Prevention Center), 2003, at 7-8 (citing R. Hefner-Packer, *Alternative Education Programs: A Prescription for Success*, 1991).
- 11 See Reimer & Cash, *supra*, at 8 (citing C.S. Chalker, *Effective Alternative Education Programs*, 1996).
- 12 See, e.g., Kleiner, *supra*, at 1 n.9; Aron, *supra*, at 3-4; Reimer & Cash, *supra*, at 14; Soleil Gregg, *Schools for Disruptive Students: A Questionable Alternative?* (Appalachia Educational Lab), 1998, at 2-3.
- 13 Aron, *supra*, at 4.
- 14 Lange & Sletten, *supra*, at 20. See also Kleiner, *supra*, at 2 (“Little is known about the overall current state of public alternative education across the nation.”); Hill, *supra*, at 14 (“Research on effective alternative programs ... is almost nonexistent.”); Mary Magee Quinn & Jeffrey M. Poirier, *Study of Effective Alternative Programs: Final Grant Report* (American Institutes for Research), September 2006, at 16 (citing “a dearth of rigorous empirical evidence supporting the relevance of particular program characteristics in terms of program effectiveness”); Thomas MacLellan & Bridget Curran, *Issue Brief: Setting High Academic Standards in Alternative Education* (National Governors’ Association Center for Best Practices), December 2001, at 4 (“Despite the importance of alternative education, there is a remarkable lack of comprehensive information about the number and quality of alternative

educational programs and the numbers, demographics, and type of students served.”).

15 See Quinn & Poirer, *supra*, at 1.

16 See, e.g., Paglin, *supra*, at 4; Aron, *supra*, at 12; Tary Tobin & Jeffrey Sprague, *Alternative Education Programs for At-Risk Youth: Issues, Best Practices, and Recommendations* (Oregon School Study Council), 1999, at 8; Quinn & Poirier, *supra*, at 47; Reimer & Cash, *supra*, at 15; Ann Fitzsimmons-Lovett, *Alternative Education Programs: Empowerment or Entrapment?*, in Lyndal M. Bullock & Robert A. Gable, *Addressing the Social, Academic, and Behavioral Needs of Students with Challenging Behavior in Inclusive and Alternative Settings* (Council for Children with Behavioral Disorders), February 2001, at 39.

17 See, e.g., Lange & Sletten, *supra*, at 9; Aron, *supra*, at 13; Paglin, *supra*, at 4; Reimer & Cash, *supra*, at 15; Fitzsimmons-Lovett, *supra*, at 39.

18 See, e.g., Lange & Sletten, *supra*, at 9; Paglin, *supra*, at 4; Aron, *supra*, at 12; Reimer & Cash, *supra*, at 16; Quinn & Poirier, *supra*, at 47.

19 See, e.g., Aron, *supra*, at 12-13; Tobin & Sprague, *supra*, at 10; Reimer & Cash, *supra*, at 15; Fitzsimmons-Lovett, *supra*, at 40.

20 See, e.g., Paglin, *supra*, at 4; Aron, *supra*, at 12; Reimer & Cash, *supra*, at 15; Quinn & Poirier, *supra*, at 47; Fitzsimmons-Lovett, *supra*, at 39.

21 See, e.g., Aron, *supra*, at 12; Tobin & Sprague, *supra*, at 8; Quinn & Poirier, *supra*, at 47.

22 See, e.g., Aron, *supra*, at 13; Reimer & Cash, *supra*, at 15; Quinn & Poirier, *supra*, at 47; Tobin & Sprague, *supra*, at 11-12.

23 See, e.g., Tobin & Sprague, *supra*, at 11; Reimer & Cash, *supra*, at 15; Fitzsimmons-Lovett, *supra*, at 39.

24 See, e.g., MacLellan & Curran, *supra*, at 8; Fitzsimmons-Lovett, *supra*, at 40.

25 MISS. CODE ANN. § 37-13-92.

26 *Alternative Education Handbook* (Mississippi Department of Education), n.d., at 3.

27 MISS. CODE ANN. § 37-13-92(1).

28 See Miss. AG Op. April 24, 1998 (Chaney) (“QUESTION 2: Does the Board of Trustees or the Superintendent of Education have the authority to decide on a case-by-case basis which students who have been suspended or expelled for offenses other than possession of a weapon or other felonious conduct may attend the alternative school and which students’ suspensions or expulsions require they be excluded from all school programs? ANSWER: No.”).

29 Miss. AG Op. June 25, 2001 (Thompson).

30 *Alternative Education Handbook*, *supra*, at 2.

31 *Id.* at 2.

32 *Capital City Alternative* (Jackson Public Schools), available at http://www.jackson.k12.ms.us/school_sites/CCA/index.htm.

33 *DeSoto County Alternative Center & Magnolia* (DeSoto County Schools), available at <http://www.desotocountyschools.org/dca/>.

34 *Student Handbook, Grove Street School* (Vicksburg Warren School District), 2007-2008.

- 35 Louis Armstrong & Rims Barber, *An Uneven Start: A Report on Alternative Education in Mississippi* (The Mississippi Human Services Agenda), 1996, at 1.
- 36 Armstrong & Barber, *supra*, at 1.
- 37 *Id.* at 4.
- 38 *Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination – Volume VII: The Mississippi Delta Report* (U.S. Civil Rights Commission), February 2001, available at <http://www.usccr.gov/pubs/msdelta/main.htm>.
- 39 Benjamin Clayton Burnett, *The Perceptions of Secondary Principals of the Effectiveness of Mississippi Alternative Schools* (doctoral dissertation), December 2002, at 44, 47 (on file with authors).
- 40 Reimer & Cash, *supra*, at 35.
- 41 *Id.* See also MacLellan, *supra*, at 8 (recommending “data-driven accountability measures for alternative education programs”); Fitzsimmons-Lovett, *supra*, at 40 (recommending “ongoing program monitoring and evaluation with continuous improvement as a goal”).
- 42 MacLellan, *supra*, at 8.
- 43 See Burnett, *supra*, at 47 (“There is a need for awareness of what is going on in alternative programs around the state.”).
- 44 MISS. CODE ANN. § 37-13-92(7)(k).
- 45 See, e.g., Reimer & Cash, *supra*, at 22-35 (describing a strategy for evaluating alternative school performance).
- 46 See MISS. CODE ANN. § 37-13-92(7).
- 47 Appearing here, “<20” indicates that MDE informed us that the district’s alternative school population was smaller than 20, without providing an exact figure.
- 48 Civil Rights Commission, *supra*.
- 49 See *No More Children Left Behind Bars: A Briefing on Youth Gang Violence and Juvenile Crime Prevention* (Charles Hamilton Houston Institute for Race and Justice), March 6, 2008, at 14, available at <http://chhi.podconsulting.com/assets/documents/publications/NO%20MORE%20CHILDREN%20LEFT%20BEHIND.pdf> (explaining that African American youth without criminal records were six times more likely to be arrested, and Hispanic youth were three times more likely to be arrested, than white youth committing the same offenses); Jamie Dycus, *Hard Lessons: School Resource Officer Programs and School-Based Arrests in Three Connecticut Towns* (American Civil Liberties Union), November 2008, at 35-43 (describing disparate rates of school-based arrest among African American, Hispanic, and white students, even where offenses were equivalent).
- 50 See Fowler, *supra*, at 36-38.
- 51 Armstrong & Barber, *supra*, at 4.
- 52 Civil Rights Commission, *supra*.
- 53 See Russell Skiba et al., *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendation* (American Psychological Association), Feb. 1, 2006, at 6, available at <http://www.apa.org/releases/ZTTFRreportBODRevisions5-15.pdf> (observing that “African American students may be disciplined more severely for less and more subjective reasons.”).
- 54 Interviews with R.T. and G.J.

- 55 Letter from Paul Edward Coxe, U.S. Department of Education, Office for Civil Rights, to G.R., Aug. 31, 2007 (on file with authors).
- 56 *Id.*
- 57 Relevant antidiscrimination principles include those articulated in the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and in international human rights documents binding on the U.S., e.g., International Convention on the Elimination of All Forms of Racial Discrimination, art. 5(e)(v), Dec. 21, 1965, GA Res. 2106 (XX); International Covenant on Civil and Political Rights, art. 2, Dec. 16, 1966, GA Res. 2200 A (XXI).
- 58 Camilla Lehr & Cheryl Lange, *Alternative Schools and the Students They Serve: Perceptions of State Directors of Special Education* (University of Minnesota Institute on Community Integration, 2003), at 2.
- 59 See, e.g., *Examining Connecticut's Disciplinary Data* (Connecticut State Department of Education), 2006.
- 60 The Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*, contains detailed procedural protections that must be observed when students identified as having disabilities are disciplined. Further, students have the right to be free from discrimination on the basis of disability pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794a, Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, and the U.N. Convention on the Rights of Persons with Disabilities, Jan. 24, 2007, GA Res. A/RES/61/106, art. 4 (non-discrimination) & art. 24 (inclusive education).
- 61 Kleiner *et al.*, *supra*, at 34.
- 62 See http://www.mde.k12.ms.us/SPECIAL_EDUCATION/monitoring.htm.
- 63 Interviews with H.K., P.T., V.R., and H.G.
- 64 Interview with P.T.
- 65 Interview with H.K.
- 66 Interview with W. Taylor.
- 67 Interview with Brian Fry.
- 68 Interview with Becky Floyd.
- 69 In Mississippi, every school-age child has a right to a minimally adequate public education, as explained by the Mississippi Supreme Court in *Clinton Municipal Separate School District v. Byrd*, 477 So.2d 237 (Miss. 1985). In addition, customary international law protects a young person's right to be educated, see Universal Declaration of Human Rights, art. 26, Dec. 10, 1948, GA Res. 217 (III), UN GAOR, 3d Sess., Supp. No. 13, UN Doc. A/810. Further, students with disabilities have a right to a "free appropriate public education" that is protected by federal law, see 20 U.S.C. § 1400 *et seq.*
- 70 Reimer & Cash, *supra*, at 5.
- 71 Quinn & Poirier, *supra*, at 47. See also Reimer & Cash, *supra*, at 20 ("A structured entrance procedure should be developed that includes a comprehensive testing and orientation process.").
- 72 Tobin & Sprague, *supra*, at 12.
- 73 Interview with Joe Olmi.
- 74 See, e.g., Aron, *supra*, at 12.

- 75 Miss. Code Ann. §§ 37-13-92(7). *See also* Mississippi State Board Policy IDDI-1, Guidelines for Alternative Programs ¶ 17.
- 76 U.S. Civil Rights Commission, *supra*.
- 77 Interviews with O.L., W.J., V.Y., and Tressa Eide.
- 78 Interview with E.W.
- 79 *Id.*
- 80 Interview with A.C.
- 81 Interviews with R.T., A.F., and G.J.
- 82 Alternative Education Handbook, *supra*.
- 83 Email from Dr. Joe Olmi, University of Southern Mississippi, to Jamie Dycus, Feb. 2, 2009.
- 84 Interview with Cynthia Moore-Hardy.
- 85 Interview with P.N.
- 86 Interviews with Z.F., O.L., H.G., and G.J.
- 87 Interviews with Z.F., O.L., J.H., and H.G.
- 88 Interviews with O.L. and R.T.
- 89 MISS. CODE ANN. § 37-13-92.
- 90 Interviews with O.L. (Picayune, reporting that his school day ended at 2:00 p.m.) and E.W. (Vicksburg, reporting that his school day ended at 1:30 p.m.).
- 91 Interviews with I.B. and H.G.
- 92 State Board Policy IDDI-1, Guidelines for Alternative Programs ¶ 17.
- 93 Interview with E.W.
- 94 Interview with A.F.
- 95 Interview with G.G.
- 96 Interview with V.R.
- 97 Interview with Barbara Deyamport.
- 98 Interview with P.T.
- 99 Interview with G.G.
- 100 Jo Anne Grunbaum *et al.*, *Youth Risk Behavior Surveillance: National Alternative High School Youth Risk Behavior Survey, United States, 1998* (October 1999), at 1, available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/ss4807a1.htm>.
- 101 Reimer & Cash, *supra*, at 28.
- 102 Tobin & Sprague, *supra*, at 10.
- 103 *Id.* at 11.
- 104 Fowler, *supra*, at 6.
- 105 Burnett, *supra*, at 26 (citing T.L. Lee, *An Investigation of Alternative Programs in Mississippi* (master's degree thesis, 2000)).
- 106 Interviews with A.C. and E.W.

- 107 Interview with W.Taylor.
- 108 Interviews with A.C. and P.T.
- 109 Interview with L.C.
- 110 Interview with Cynthia Moore-Hardy.
- 111 See Aron, *supra*, at 12; Reimer & Cash, *supra*, at 15; Fowler, *supra*, at 7.
- 112 See Quinn & Poirier, *supra*, at ii, Reimer & Cash, *supra*, at 27.
- 113 See Aron, *supra*, at 12 (“Instructors in successful alternative programs choose to be part of the program....”).
- 114 See Reimer & Cash, *supra*, at 19 (“Students can overcome bad teaching but they may never recover from a bad teacher who fails to project a true sense of caring and concern.”).
- 115 See Kleiner, *supra*, at 25 (“[T]eachers who are involuntarily assigned are less likely to serve students well than those who choose to teach in alternative schools and programs.”); Burnett, *supra*, at 23 (“If they are there against their will, they will not be effective.”).
- 116 See, e.g., Hill, *supra* (California); Gregg, *supra*, at 6 (North Carolina).
- 117 See Reimer & Cash, *supra*, at 28 (explaining that an effective school leader is “a good manager of personnel and resources,” and “an effective and knowledgeable instructional leader;” and “must be able to articulate a vision for the school and have the capacity to move the agenda forward through a myriad of obstacles.”); Quinn & Poirier, *supra*, at ii (explaining that an effective school leader must “support the vision and mission of [her] program; effectively support staff; listen to teachers, students, and parents; and genuinely care about [her] students.”).
- 118 Interviews with A.F, W.J., and Z.F.
- 119 See, e.g., *Picayune Educator Ranks Among Nation’s Best*, SUN HERALD (Biloxi), Oct. 13, 2005.
- 120 Mississippi State Board Policy IDDI-1, Guidelines for Alternative Programs ¶ 4.
- 121 Interviews with W.Taylor, Sue Cannimore, and Helen Johnson.
- 122 See, e.g., *Sex Suspect Worked in Schools*, SUN HERALD (Biloxi), Mar. 21, 2003.
- 123 Interviews with H.G., A.F, and H.K.
- 124 Interview with Mandy Rogers.
- 125 Interview with Warren Yoder.
- 126 Armstrong & Barber, *supra*, at 4.
- 127 Gregg, *supra*, at 2–3. See also Margaret Hadderman, *Trends and Issues: School Choice: Alternative Schools*, 2002 (citing Mary Anne Raywid, *Alternative Schools: The State of the Art*, EDUCATIONAL LEADERSHIP, vol. 52, September 1994, at 26) (“A Florida study shows that improvement is rare in punitively oriented programs.”).
- 128 Gregg, *supra*, at 5.
- 129 Tobin & Sprague, *supra*, at 8.
- 130 Fowler, *supra*, at 79, 81.
- 131 Quinn & Poirier, *supra*, at 47.
- 132 See, e.g., Tobin & Sprague, *supra*, at 8 (recommending the “level system” approach to behavior management that is in use in some alternative schools, including those in Hattiesburg, DeSoto County, and Vicksburg).
- 133 Interviews with A.C. and K.B.

- 134 *DeSoto County Alternative Center Student/Family Handbook* (DeSoto County Schools), June 2007 (on file with authors).
- 135 Interview with G.J.
- 136 Interview with Sue Cannimore.
- 137 Interview with Terrence Spann.
- 138 Interview with O.L.
- 139 Interview with G.J.
- 140 Interview with E.W.
- 141 Reimer & Cash, *supra*, at 29 (citing P.C. Duttweiler & J. Smink, *Report on Alternative Schooling in South Carolina and Across the Nation* (National Dropout Prevention Center), November 1997). See also Lehr & Lange, *supra* (noting that in a 2002 survey, when state directors of special education were asked to identify major issues for alternative schools in their states, they most often cited funding).
- 142 MISS. CODE ANN. § 37-151-83(1).
- 143 Interview with G.G.
- 144 See Aron, *supra*, at 12 (recommending that alternative schools be housed in “clean and well-maintained buildings . . . that are attractive and inviting and that foster emotional well-being, a sense of pride, and safety.”).
- 145 Mississippi State Board Policy IDDI-1, Guidelines for Alternative Programs ¶ 11.
- 146 Interview with Ben Burnett.
- 147 Interview with G.G.
- 148 See Quinn & Poirier, *supra*, at 47 (recommending that parent participation be solicited and valued); Fowler, *supra*, at 83 (describing parental involvement as “instrumental in reducing school violence,” and offering a sample list of parental responsibilities); Paglin, *supra*, at 11 (recommending that alternative schools “involve parents and family, particularly at the middle school level, through letters home, parenting classes, student-led parent conferences, and other parent involvement strategies”).
- 149 Fowler, *supra*, at 82. See also Fitzsimmons-Lovett, *supra*, at 40 (recommending “[c]reating and maintaining collaborative working relationships . . . with outside community-based social service agencies and local businesses”).
- 150 See Paglin, *supra*, at 11; Aron, *supra*, at 12-13; Reimer & Cash, *supra*, at 20.
- 151 *Alternative Education Handbook*, *supra*, at 15.
- 152 See *Students and Parents Protest*, THE ITEM (Picayune), Nov. 11, 2006 (describing a parent as refusing to enroll her child at Picayune’s alternative school “because she says that school has a bad reputation.”).
- 153 Hadderman, *supra* (citing Tom Gregory, *Fear of Success? Ten Ways Alternative Schools Pull Their Punches*, PHI DELTA KAPPAN, vol. 82, April 2001, at 577).
- 154 Lange & Sletten, *supra*, at 23 (citing R. Arnove & T. Strout, *Alternative Schools and Cultural Pluralism: Promise and Reality*, EDUCATIONAL RESEARCH QUARTERLY, vol. 2, 1978, at 74). See also Tobin & Sprague, *supra*, at 12 (“The National Association of State Boards of Education (NASBE) found that alternative education programs serving older students removed from school for disciplinary reasons may be considered stigmatizing.”).
- 155 See Reimer & Cash, *supra*, at 20.

- 156 Interview with H.Y.
- 157 Interview with Cassandra Brown.
- 158 See *Mississippi Welfare Restructuring Program Act of 2008*, S.B. 2069 (2008).
- 159 Armstrong & Barber, *supra*, at 4.
- 160 Interviews with P.T., H.K., V.R., and J.H.
- 161 Interview with V.R.
- 162 Interview with Sue Cannimore.
- 163 Quinn & Poirier, *supra*, at 47.
- 164 See Reimer & Cash, *supra*, at 21 (“Once students have left the program, it is highly advisable to continue monitoring and supporting them as they adjust into the mainstream.”); Fowler, *supra*, at 7 (recommending that alternative schools “[s]trengthen transition planning, monitoring, and support of students upon their return to school from . . . alternative school placement”); MacLellan, *supra*, at 7 (recommending that policymakers explore “ways that personalized educational approaches developed by alternative education programs can be adopted in traditional education settings”).
- 165 See, e.g., *Problem Students Get Re-Entry Help*, SUN HERALD (Biloxi), Feb. 2, 2004 (“The re-entry program provides individual counseling sessions that teach students anger management and coping skills. Students learn how to communicate effectively to resolve conflicts. They learn study skills and develop a four-part career plan. They are encouraged to participate in a club, school or community activity. Group sessions are held once a month and may include motivational speakers. ‘After the student has completed the skills sessions, he will be paired with a teacher or community volunteer to continue the mentoring process . . .’”).
- 166 Interview with P.T.
- 167 Interviews with B.K. and V.Y.
- 168 Interview with Terrence Spann.
- 169 See generally MISS. CODE ANN. 37-13-92.
- 170 Interview with W.J.
- 171 Interview with L.C.
- 172 Interview with A.C.
- 173 Russell Skiba *et al.*, *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendation* (American Psychological Association), Feb. 1, 2006, at 47, available at <http://www.apa.org/releases/ZTTFRreportBODRevisions5-15.pdf>.
- 174 Skiba, *supra*, at 47.
- 175 See Miss. Code Ann. § 37-13-92(7)(a); Mississippi State Board Policy IDDI-1, Guidelines for Alternative Programs ¶ 2.
- 176 Interviews with P.T. and T.R.
- 177 Interview with Brian Fry.
- 178 Interview with B.K.
- 179 Fowler, *supra*, at 30.

180 Skiba, *supra*, at 48-50.

181 Fowler, *supra*, at 29.

182 Curiously, it was also in Picayune that one student told us he knew other students who had re-offended on purpose because they *wanted* to be sent back to alternative school – he suggested this was because the work at alternative school is easier and because students there receive fewer disciplinary “write-ups.” Interview with O.L.

183 See Armstrong & Barber, *supra*, 4 (“Without clear and rigorous placement policies and practices, this program becomes a dumping ground for unwanted students (typically over-age black male middle school students).”).

184 Interviews with A.C., H.K., and J.H.

185 Email from Vanessa Carroll, Mississippi Youth Justice Project, to Jamie Dycus, Sept. 8, 2008.

186 Paul E. Barton, *One-Third of a Nation: Rising Dropout Rates and Declining Opportunities* (Educational Testing Service), February 2005, at 42, available at <http://www.ets.org/Media/Research/pdf/PICONETHIRD.pdf>.

187 John M. Bridgeland et al., *The Silent Epidemic: Perspectives of High School Dropouts* (Civic Enterprises), March 2006, at 2, available at <http://www.civicerprises.net/pdfs/thesilentepidemic3-06.pdf>.

188 *The High Cost of High School Dropouts: What the Nation Pays for Inadequate High Schools* (Alliance for Excellent Education), June 2008, at 2-4, available at <http://www.all4ed.org/files/HighCost.pdf>.

189 See Lange & Sletten, *supra*, at 11-13 (highlighting “[k]ey areas where alternative school settings are strongly associated with addressing the needs of students at risk of dropping out”).

190 *State Dropout Prevention Plan* (Mississippi Department of Education), February 2007, at 11, available at http://www.mde.k12.ms.us/dropout_prevention/Dropout%20Prevention%20Plan%20-%20Final.pdf.

191 *Id.*

192 See also Lange & Sletten, *supra*, at 18 (noting the finding of a study of high school students in alternative settings that such settings “did not have a great deal of success reducing dropout rates”) (citing M. Dynarski & P. Gleason, *How Can We Help? What We Have Learned From Evaluations of Federal Dropout-Prevention Programs* (Mathematica), 1998); Hill, *supra*, at 11 (noting that the dropout rate at California’s alternative schools is 25 percent and observing that “despite their attempts to keep students in school, alternative schools represent a place where many students exit the education system.”).

193 See Fowler, *supra*, at 33-35 (describing relationship between Texas alternative school system and dropout problem).

194 Interviews with Brian Fry and W. Taylor.

195 Interview with N.L.

196 Interview with J.H.

