Policy Brief:

Improving Correctional Educational Policies:
An Examination of the East River Academy at Rikers Island

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Abstract

Three decades of stricter drug laws, reduced parole and rigid sentencing rules have lengthened prison terms and more than tripled the percentage of Americans behind bars. “The United States has the highest reported rate of incarceration of any country: about one in one hundred adults, a total of nearly 2.3 million people in prison or jail.” (Kilgore, 2012) When released back into their communities, formerly incarcerated people are at a dual disadvantage: they are chronically undereducated, which limits employment options, and they are stigmatized as ex-offenders when filling out applications. National research has found that correctional education offers inmates the literacy and critical thinking skills, employability and self-confidence necessary for a successful transition back into society, which significantly reduces the likelihood of recidivism. Correctional education has also been found to produce “mature, well-spoken leaders amongst inmates, who often have a calming influence on other inmates & correction officers.” (Correctional Association of New York, ii)

Despite the research supporting the need for correctional education, only a relatively small segment of the national inmate population is enrolled in academic programs. Moreover, the inmate education programs that do exist, suffer from a number of problems that limit their effectiveness at reducing recidivism.
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The East River Academy (“ERA”), formerly known as “Island Academy”\(^1\)” and “Horizon
Academy”\(^2\),” is a District 79 educational program\(^3\), operated jointly by the New York City
(“NYC”) Department of Education (“DOE”) and NYC Department of Corrections
(“DOC”). The program offers compulsory and non-compulsory educational services to
male and female inmates, ages 16-21\(^4\), who are incarcerated at NYC’s Rikers Island jail.
The East River Academy has academic tracks for inmates pursuing a High School
Diploma as well as inmates pursuing a General Education Diploma (“GED”). A nominal
number of private intervention classes\(^5\), vocational training programs, and college courses
are offered in Rikers, separate from the East River Academy.

An analysis of the ERA, as well as correctional education generally, reveals that there is
not one simple policy change that can be offered as a solution to the complex challenges
facing correctional education; instead, a web of policy changes must be offered. This
policy brief offers administrative policy proposals to improve correctional education at
Rikers Island. The ERA curriculum is not addressed in this brief, because it is outside the
scope of the policy proposals.

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\(^1\) Island Academy formerly educated inmates, 16-19 years of age.
\(^2\) Horizon Academy formerly educated inmates, 19-21 years of age.
\(^3\) NYC District 79 programs help students, under 21 years of age, who have experienced an interruption to
their studies, to: stay on track to a high school or high school equivalency diploma, build the skills to
succeed in post-secondary opportunities, and gain the social-emotional skills necessary to become
confident and productive members of society.
\(^4\) There are a few students over the age of 21 being educated in the adult education program, but the
program predominately serves inmates ages 16-21.
\(^5\) In 2012, NYC announced the nation’s first social impact bond program, financed by Goldman Sachs and
Bloomberg Philanthropies, at Rikers Island. The program is offered as a one-hour class and incorporated
into inmates’ regular school day. The cost of the program on the City is based on how much the program
reduces reincarceration rates. If the program does not meet its targets for reducing reincarceration, NYC
pays nothing. For Goldman Sachs to break even on its original investment, the program will need to reduce
reincarceration by 10%. If the program exceeds the target, the City will have saved substantial money and
will pay on a capped, sliding scale. Investors will gain.
Statement of Problem

Recidivism and Correctional Education:

In 2009, 6% of inmates, nationally, were serving life sentences (Moore, 2009). This means that approximately 94% of incarcerated people will return to society. Many of these inmates, however, are engaging in few to no programs, while incarcerated, which will prepare them for this transition back into society.

Education and recidivism studies have led experts to determine that it is far more profitable for states to fund educational programs for inmates than to restrict them, because correctional education reduces recidivism and improves employment rates upon release, thereby eliminating the tax-payer costs associated with social service dependency and a system of repeat incarceration absent effective rehabilitative services.

Taxpayers often look at incarceration for the punishment it offers, but the need for rehabilitation is frequently ignored, or undermined, by this punitive mentality that continues to plague our prison system. Unfortunately, without rehabilitation for this large population of people, it is society that is punished in the long run, because without life skills, education, and a sense of social awareness upon release, these inmates will reenter society with the same perspective that directed them towards the prison system to begin with, and another member of society will be victimized if that inmate offends again.

The Institute for Higher Education Policy (IHEP), reported in 2011, that nearly 7 in 10 people, who are formerly incarcerated, will commit a new crime, and half will end up back in prison within three years. (Gorgol, 2011) Given that approximately 94% of
incarcerated people eventually rejoin society, it is crucial that we develop programs and tools to effectively reduce this extremely high rate of recidivism.

**Recidivism and Correctional Education in New York State:**

According to the New York State Division of Criminal Justice Services’ 2009 Report, 25.7% of all offenders, sentenced to probation in 2005, within the state of New York, were rearrested for a felony offense within three years of their probation. According to the Office of Children and Family Services, 44% of juvenile delinquents/offenders, sentenced to probation in 2008, were rearrested for a felony offense within two years of their probation. (66% of these youth were rearrested for offenses of all types.)

In 2011, 43% of New York State’s 55,000 inmates (23,650) lacked a high school diploma or GED. By the end of the 2012 school-year, 3,199 inmates had taken the GED and 2,242 of those students passed. 88 inmates earned Associate’s Degrees, 40 earned Bachelor’s Degrees and 13 earned Master’s Degrees. In 2012, 18,000 inmates were enrolled in academic programs\(^6\). (Associated Press, 2012)

**Recidivism and Correctional Education in New York City:**

According to the New York State Division of Criminal Justice Services’ 2009 Report, 32.2% of all offenders, sentenced to probation in NYC in 2005, were rearrested for a felony offense within three years of their probation.

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\(^6\) Another 12,500 inmates were enrolled in vocational programs.
Rikers Island is NYC’s main jail complex. The inmate population at Rikers Island, as of 2012, was 14,000. (Singer, 2012) The Rikers Island complex, which consists of ten jails, holds local offenders who are awaiting trial and cannot afford, obtain, or were not given bail from a judge, those serving sentences of one year or less and those temporarily placed there pending transfer to another facility. Rikers Island is therefore a jail and not a prison, which typically holds offenders serving longer-term sentences. Offenders serving longer-term sentences are usually sent to prisons located throughout upstate New York. Inmates incarcerated in NYC’s Rikers Island jail usually are incarcerated for a period of anywhere from 72 hours to 1 year.

The New York State Family Court Act § 301.2 defines a “Juvenile Delinquent” as a “Person over 7 and less than 16 years of age.” As such, all persons, age 16 and older in the New York State criminal justice system, are charged as adults and remanded to the NYC DOC and not the NYC Department of Juvenile Justice. Adolescents made up approximately 7% of the total DOC average daily Rikers Island population in 2012. The majority of adolescents in the DOC custody are held on charges of robbery, homicide, weapons possession and assault. On an average day in 2012, 75% of adolescent inmates, age 16-18, were charged with violent felonies, compared to 56% of inmates, age 19-24, and 30% of inmates, 25 years of age and older, who were accused of comparable offenses.

Although the adolescent population is charged with committing more violent crimes than inmates in the other age groups, they are more likely to be released from jail, and back
into the community, and less likely to be sentenced to the New York State Department of Correctional Services (DOCS), with 83% of all adolescent inmates returned to the community instead of being sent to an upstate prison. Nearly 50% of adolescents who leave Rikers Island, return to the jail within one year. (NYC DOC)

According to the NYC DOC, in 2007, despite the fact that the majority of 19-21 year old inmates were “high school dropouts with poor reading and writing skills,” with 63% of English-speaking students and 80% of Limited English Proficient (“LEP”) students reading “below an eighth-grade level,” only 4% of eligible inmates, aged 19-24, attended school while in custody on Rikers Island. (NYC.gov)

Pursuant to the NYC DOE’s Chancellor Regulation A-210, “Each minor from 6 to 17 years of age in NYC is required to attend school on a full-time basis.” This means that inmates, incarcerated at Rikers Island, must be enrolled in a full-time educational program until they turn 17 years old. Lianne Friedman, former DOE Chief Operations Officer of Adult and Continuing Education, defined inmates, age 16-17, as “compulsory students,” and inmates, ages 17-21, as “non-compulsory,” meaning they can attend educational programs, by choice, but enrollment is not a requirement. Parental permission is not required for students to withdraw from school once they turn 17.

The NYC Board of Correction Minimum Standards § 1-02 provides that all inmates, ages 16-18, be held separate and apart from inmates who are over the age of 18. 17 and 18 year old inmates can elect not to participate in the academic programming provided by ERA, but they will still be housed with these compulsory students.
Ben Meade, NYC DOE’s Director of Evaluation and Research for District 79 schools, explained that students, age 19 and older, who wish to attend the ERA, must “sign themselves in” to the program. According to Mr. Meade, upon “opting-in” to the program, non-compulsory students will be picked up, and transported to school. Ms. Friedman pointed out, however, that there are challenges that non-compulsory students face due to the fact that inmates, age 19 and older, are not separated, based upon their academic enrollment status, when housed. Ms. Friedman explained that, because non-compulsory students are placed in dormitories with regular inmates, “peer pressure by inmates who are not enrolled in school, often results in more inmates choosing non-enrollment over the pursuit of an education.” Ms. Friedman also explained that the housing situation does not encourage study-time amongst inmates or help to foster an academic environment, which leads to higher withdrawal rates amongst non-compulsory students.

**Higher Education and the New York State Tuition Assistance Program (“TAP”):**

In 1994, federal tuition assistance, in the form of Pell Grants, for individuals incarcerated in federal and state correctional facilities, was terminated with the enactment of the Violent Crime Control and Law Enforcement Act. Then, in 1995, New York prohibited inmates from accessing state funds through the Tuition Assistance Program. The Federal Pell Grant program is sponsored by the US Department of Education, which determines the student's financial need. A Federal Pell Grant, unlike a loan, does not have to be repaid. The Program provides need-based grants to low-income undergraduate and certain post-baccalaureate students to promote access to postsecondary education.

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8 Enacted September 13, 1994
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Program ("TAP") for post-secondary correctional education. (New York State Assembly)

According to a report published by the Correctional Association of New York in January 2009, entitled "Education From the Inside, Out: The Multiple Benefits of College Programs in Prison," only four out of seventy post-secondary correctional education programs continued to operate in New York State following the termination of TAP availability for inmates. This report cites statistical evidence from several highly regarded studies; demonstrating that college programming in prison is a highly effective tool in reducing recidivism. For example, the report cites a 1991 study\(^9\), which found that inmates who earned a postsecondary degree, while incarcerated, had an 18.2% lower recidivism rate than inmates who did not. The report also cited a 2004 study\(^10\), which found a 19% lower recidivism rate amongst degree earners. The Correctional Association of New York report also asserts that in-prison college programs are a cost-effective method of improving public safety. The report states that "the cost differences in education versus incarceration in New York, plus the short and long-term benefits of a better educated population, makes investment in higher education for incarcerated individuals, and people in the community, smart fiscal policy."

In 2013, the New York State Legislature reported that studies have consistently found that the higher the level of education attained, the more likely a former inmate will be to

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\(^9\) Released by New York's Department of Correctional services
\(^10\) "Post-Secondary Correctional Education and Recidivism: A Meta-Analysis of Research Conducted 1990-1999"
obtain gainful and stable employment upon release, and the less likely he or she will be to engage in future criminal activity. (New York State Assembly)

Despite the potential benefits of post-secondary correctional education programs, only a relatively small number of programs, funded mostly through private sources, federal grants for youth offenders or through small legislative initiative grants, currently operate in the New York state prisons and jails,

**Proposed Solutions**

To decrease adolescent recidivism, increase employment and social opportunities for our adolescent inmates, and improve the overall public safety of the City of New York, I am proposing the following NYC DOE policy change:

- Modification of the Chancellor’s Regulation A-210, to increase the compulsory adolescent school enrollment age, from 6-17 to 6-18 for incarcerated students. This would mandate all inmates, incarcerated without a high school diploma or GED, to attend school up until the age of 18, unless they have already earned a high school diploma or GED

To increase the number of non-compulsory students enrolled in academic programs, improve the dormitory learning environment for enrolled inmates, and reduce peer-pressure that could negatively impact academically enrolled inmates, I am proposing the following NYC DOC policy change:
Separation of inmates, age 19 and older, based upon academic enrollment. This would require separate dorms for older inmates: Dormitories for academically enrolled inmates and dormitories for inmates not enrolled in an academic program.

To promote post-release employment opportunities, increase literacy rates, social awareness & personal responsibility, improve prison safety, lower recidivism rates, and improve the overall public safety of the State of New York, I am proposing the following New York State policy change:

- Restoration of inmate eligibility for the New York State Tuition Assistance Program (“TAP”)

**Analysis**

**Chancellor’s Regulation A-210:**

New York State law states that the age of majority in New York is 18. In layman terms, that means that an individual becomes “an adult” when they turn 18. An individual, having reached “the legal age of majority,” is regarded in the eyes of the law as being able to “manage his or her own affairs.” Becoming an adult indicates that a person acquires “full legal capacity to be bound by various documents, such as contracts and deeds, that he or she makes with others, and to commit other legal acts such as voting in elections and entering marriage.” (legaldictionary.com) On March 1, 2005, the U.S. Supreme Court, in the case of *Roper v. Simmons*, 543 US 551 (2005), barred the execution of juvenile offenders, stating that, people under the age of 18, “are immature, irresponsible, susceptible to peer pressure and often capable of change.” This holding
indicated an awareness that individuals, under the age of 18, are significantly less likely to have the same cognitive and emotional strength necessary for reasoned decision-making that an adult, above the age of 18, is more likely to have.

Despite the determination by the New York State legislature, and the United States Supreme Court, that individuals are not mature enough to make serious decisions, such as voting, marital commitment, and contractual obligations, until they are 18 years of age, the NYC DOE has decided that incarcerated youth, age 17, are in fact able to decide whether or not they should attend school. The Chancellor’s Regulation A-210 allows 17 year olds to opt out of an education, regardless of intellectual capacity, reading skills, writing abilities, or degree completion, and without any parental consent requirement.

Adolescent brains function differently than adults; during decision-making and when problem solving. Their actions are guided more by the amygdala, which is responsible for instinctual reactions, including fear and aggressive behavior, and less by the frontal cortex, the area of the brain that controls reasoning and helps us think before we act.\(^{11}\) Based on the stage of their brain development, adolescents are more likely to: act on impulse; misread or misinterpret social cues and emotions; get into accidents of all kinds; get involved in fights; and engage in dangerous or risky behavior. Adolescents are less likely to: think before they act; pause to consider the potential consequences of their actions; and modify their dangerous or inappropriate behaviors. (American Academy of Child & Adolescent Psychiatry)

\(^{11}\) Research has also demonstrated that exposure to drugs and alcohol before birth, head trauma, or other types of brain injury can interfere with normal brain development during adolescence.
In combining our scientific understanding regarding 17 year olds’ ability to make rational decisions founded in foresight, reflection and serious consideration, with New York State’s law mandating the age of 18 as the age of adulthood, it appears only reasonable that incarcerated youth should not be given the opportunity to choose whether or not to participate in an academic program until they are 18 years of age (a.k.a. “an adult”), or have already obtained a high school diploma or GED. Both science and the law support the argument that a 17 year old inmate has not reached the level of maturity necessary to make a life-changing decision, yet the DOE has decided to put that decision in their hands. It does not make sense, and the policy should be changed. Even President Barack Obama, during his 2012 State of the Union Address, called for every state to keep students in school until after they graduate or turn 18.

17 year old inmates are housed with the 16 year old compulsory students, and mandated enrollment for 17 year old inmates would add consistency to the adolescent dormitories, providing a universal environment of academic encouragement and support, supported by academic requirements, goals and aspirations.

**Dormitories:**

Peer pressure is the ability of people, “from the same social rank or age,” to “influence another person's decision making process.” (Education Bug) Although peer pressure is usually associated with teens, “this type of influence is not confined to teenagers.” (Education Bug, 2013) Individuals of all ages, from mature adults to infants, can act out in an attempt to gain peer acceptance, or due to peer influence.
Within the prison environment, there are several factors working to prevent enrollment by non-compulsory students in academic programs. Lack of basic academic skills such as reading, mathematics, and language can be addressed upon enrollment, but issues such as lack of maturity and motivation can impact students’ perspective of education, and allow the strong negative attitude about the benefits of education, that often plaque the prison system, to hold students back from enrollment.

By not housing adult inmates by their academic enrollment status, student inmates are housed with regular inmates. Students face peer-pressure from the non-students, which can lead these students, who are statistically likely to have already dropped out of high school once already, to drop out of the academic program they have voluntarily enrolled in. Study-programs are more difficult to implement in these adult dorms. Quiet times for reading are also impossible to implement and an overall environment of academic appreciation and value is incredibly challenging to foster.

By separating adult inmates based upon their enrollment status, and rewarding inmates who have chosen to enroll in the academic program with a more favorable dorm, inmates will be motivated to remain in the academic program they have enrolled in; quiet time can be implemented for students to study; and peer-pressure to drop-out will be eliminated.

New York State Tuition Assistance Program:
Research suggests that post-secondary academic programs in prison can provide inmates with an incentive for good behavior and greatly enhance an inmate's problem-solving skills thereby reducing tension and violent interactions within prisons and jails. Reportedly, inmates who attend post-secondary educational classes are among the best-behaved of the inmate population, because there is a strong incentive to avoid conduct that could result in discipline and a loss of credit for the college program. Corrections officers, interviewed for a study of the college program at Bedford Hills, a maximum security prison for women in New York, reported that offering college classes in the facility reduced disciplinary problems and enhanced the prisoners’ self-esteem and ability to communicate effectively. Studies also have shown that postsecondary correctional education programs can break down racial barriers, which in the prison setting, are often an underlying cause of disciplinary problems and even violence. (Taylor, 1994)

Tuition assistance for inmates provides colleges with the financial aid needed to offer correctional education to inmates. Unfortunately, during the early 1990’s, a federal identity was taking shape. The war on drugs, the implementation of mandatory minimums and the expansion upon the death penalty all impacted the public’s perspective of prison. (Taylor, 1994) In 1991, the primary force behind the eventually successful exclusionary legislation that eliminated Pell Grants from prisoners, Senator Jesse Helms, stated, "the American taxpayers are being forced to pay taxes to provide free college tuitions for prisoners, at a time when so many law abiding, tax-paying citizens are struggling to find enough money to send their children to college." More statements like this came to follow from right wing government leaders, and public opinion bowed to the
sentiment that it did not make sense to be educating inmates when innocent people needed to educate their children.

The Pell Grant arguments were based on false assumptions about the extent of Pell Grant funding that went to prisoners. In fact, during the 1993-94 academic year, approximately 27,000 prisoners received around $35 million in Pell Grant funding, less than 1% of the total $6 billion spent on the program that year. Moreover, no students were ever denied a Pell Grant because of prisoner participation in the program (Institute for Higher Education Policy, 1994). Inmate usage of Pell Grants was inflated during debates over eligibility and New York State just followed the trend without its own critical analysis.

**Likely Barriers to Implementation**

**Chancellor’s Regulation A-210:**

New York State Education Law § 3205 of the New York Code, addresses the legal requirements minors to attend school full-time. §1(a) of this Article states that, “In each school district of the state [of New York], each minor, from six to sixteen years of age, shall attend upon full time instruction.” §2(a) states, “A minor who has completed a four-year high school course of study shall not be subject to the provisions of part one of this Article, in respect to required attendance upon instruction.” §3 states, “In each school district, the Board of Education shall have power to require minors from sixteen to seventeen years of age, who are not employed, to attend upon full-time day instruction until the last day of session in the school year in which the student becomes seventeen years of age.”
The NYC School district has, in accordance with §3 of N.Y. EDN. LAW § 3205, extended the compulsory age to 17. It would be in conflict with this New York State Law, for the NYC DOE to modify the Chancellor’s Regulation A-210, to increase the compulsory adolescent school enrollment age from 6-17, to 6-18 for incarcerated students, without addressing it with state legislatures and first having § 3205 amended to reflect the proposed the change in the Chancellor’s Regulation.

Inmate attitudes may present another barrier. The negative attitudes exuded by older incarcerated students, now forced to enroll in academic programs, would be a serious challenge faced by educators. It is difficult to educate someone who does not want to be educated, and if the Chancellor’s Regulation was legally modified, to require 17 year old inmates to attend academic programs until they turned 18, these students may disrupt the classroom, thereby disturbing the other, more focused students. A study on the impact of disruptive students in the classroom found that “A chronically disruptive student's behavior is not only impacting his or her own education, but having a ‘spillover effect’ on the rest of the classroom” and “Teachers that are primarily trained to teach academic subjects are possibly going to be ill-prepared to deal with disruptive students.”

Preparation for the education of this group of students would have to be made, and the budgetary concerns associated with proper staffing may cause the NYC DOE and DOC to resist the proposed change, despite the known long-term positive effects. In addition to hiring teachers, the teachers who are hired should have a special skill-set to work with this population. Additional classes will have to be offered. And, students may need to be organized by attitude and safety risks in order to best serve each inmate enrolled.
When interviewed, Mr. Meade, of the DOE, stated, “A lot of detainees at Rikers, are happy to have a distraction, so they prefer to go to school.” This statement makes sense, and indicates that increasing the compulsory age requirement to 18 may not be as ill-received by the inmates as educators, administrators and legislators may think. It is not unrealistic, however, to think about how preparations should be made to prepare for negative attitudes.

**Dormitories:**

DOC pushback will be the greatest barrier to implementing the suggested dormitory change. The DOC already has a housing system in place, which is based upon age. With this organizational structure, there are only two types of dormitories: Dormitories for inmates age 16-18 and dormitories for inmates 19 and older. If DOC was to agree to house inmates by their enrollment status, the dormitories would have to be divided into three, instead of two, types of housing, because older inmates would now be separated based upon whether or not they are enrolled in school. With more housing categories, there are bound to be greater complications. There will be the hassle of moving inmates around as they chose to enroll or drop out; there is the reality of short-term sentences and constantly filling beds with the appropriate “type” of inmate, based upon their age and their enrollment status. Staff may get frustrated with the constant movement and the administration may get frustrated with the increased restrictions the split will put on their dormitory assignments. What if the dormitory for non-enrolled inmates is full, and there is room in the dorm for enrolled inmates? Can DOC placed non-enrolled inmates in the
enrolled dorm at that time? Policies will have to be drafted to accommodate the needs of the DOC, because ultimately, DOC is in place to incarcerate the inmates. Education is secondary to them.

DOC may recognize calmer dormitories in the dormitories dedicated to inmates age 19 and older who are academically enrolled, which will be beneficial to both inmates and correctional officers. It would take implementation, however, for that result to be recognized.

**New York State Tuition Assistance Program:**

Public opinion and state budgetary concerns are the two most likely barriers to implementation of this policy change. Although society is beginning to recognize the benefits of correctional education, it is questionable whether the statistical evidence, which has been mounted to demonstrate that correctional education lowers recidivism rates and heightens the social productivity of inmates upon release, will be sufficient to drive a legislative reversal re-implementing TAP for inmates.

Individuals, organizations and groups who are opposed to providing tuition assistance for correctional education have argued that prison is not sufficiently punitive. One Editor-in-Chief wrote, “[In prison] the treatment [inmates] receive is nothing short of easy. With free meals, free exercise equipment, free religious services, free counseling, and free college education, prison seems ideal.” (Henson, 2009) One advocate of correctional education, Jon Marc Taylor, explained that individuals opposed to government funding for correctional education feel the support takes “limited grants away from poor, law-
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abiding traditional students” at a time when college “tuitions [are] soaring” and “it [is] becoming harder and harder for the working and middle-class to send their children to university” (Taylor, 1992)

Though a substantial number of studies have produced data and statistics evidencing the cost-benefits of correctional education, the emotions attached with revenge and punishment can blind a public so significantly that motivating legislative change becomes extraordinarily difficult.

**Conclusion**

My analysis of correctional education generally, and the East River Academy at Rikers Island specifically, has reaffirmed my initial belief that correctional education is not only beneficial to the success of inmate integration into society upon release, but necessary. Correctional education becomes significantly more complex, the deeper one digs into the subject, because those pushing to advance correctional education face significant obstacles. Budgetary issues, public apathy or rejection, and interagency conflicts make building strong academic programs extremely difficult.

Policy changes, such as those proposed in this policy brief, would require legislative change and serious coordination between the NYC DOE and DOC. Though all three policy changes are logistically possible, each would take public support, political support, budgetary support and/or DOE / DOC coordination.
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