

REMOVING TRAUMATIC BARRIERS TO LEARNING: THE NEED FOR EFFECTIVE TRAUMA-INFORMED APPROACH TO LEARNING LEGISLATION IN PENNSYLVANIA*

I. INTRODUCTION

*“I’m holding onto this rope of struggle. It’s like a play with no huddle. I’m not getting smarter, so you know I’m not grinning. I’m still asking a question, ‘why am I living?’”*¹

When a student shows signs of trauma, such as alluding to suicide in a poetry assignment, are schools prepared to respond? Are Pennsylvania schools held responsible for implementing approaches to education that support the needs of traumatized students? The disheartening answer is no. Many Pennsylvania students attend school with not only their backpacks but also the weight of their traumatizing experiences. In Philadelphia alone, about sixty thousand students come to school traumatized, negatively impacting their ability to learn and thus their future success.²

Elyse Johnson has spent the last decade working with Pennsylvania students as a school counselor.³ She has worked in schools in Philadelphia and its surrounding counties, counseling students of various races and socioeconomic backgrounds.⁴ Although Johnson currently teaches in a more affluent school in Montgomery County, Pennsylvania, she has spent the majority of her career working in a Title I school in Philadelphia’s Kensington neighborhood.⁵ “[O]ne of the largest open-air drug markets on the East Coast,”⁶ the children of this community often witness heroin overdoses and

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1. Matthew (last name withheld), *Why?* (July 15, 2013) (poetry assignment by sixteen-year-old student) (on file with the author).

2. Joel Mathis, *How Trauma Overwhelms Philly Schoolkids*, PHILA. MAG. (Mar. 29, 2015, 5:53 AM), <http://www.phillymag.com/news/2015/03/29/childhood-trauma-philadelphia-schools/> [https://perma.cc/5BV5-9XNX].

3. Interview with Elyse Johnson, Sch. Guidance Counselor, Conshohocken Elementary Sch., in Phila., Pa. (Feb. 4, 2019).

4. *See id.*

5. *See id.* A Title I school refers to a school that receives financial support due to a high frequency of students from low-income households. *See* 20 U.S.C. § 6313 (2018).

6. Jeffrey Stockbridge & Courtenay Harris Bond, *Inside a Notorious Philadelphia Drug Market Before It Gets Shut Down*, TIME (July 25, 2017), <http://time.com/4868823/philadelphia-campamento-cleanup/> [https://perma.cc/6DH8-Q75X].

concentrated homelessness on their walk to school.⁷ Based on her varying experiences, Johnson believes that no matter a child's background, Pennsylvania students are all susceptible to traumatic experiences.⁸ She explains that the "vast majority of students who have traumatic experiences deal with negative consequences" in the classroom setting.⁹ Johnson confidently asserts that when a child suffers from trauma, "[f]rankly most [Pennsylvania] schools are ill equipped to deal with [it]."¹⁰

Whether discussing wealthy students from suburban counties or impoverished students from other parts of the state, the Pennsylvania legislature has only recently prioritized supporting schools to meet the needs of students with trauma.¹¹ This Comment addresses how the Pennsylvania legislature can better equip schools to address the needs of traumatized students. Section II begins with a general overview of trauma and trauma-informed practices and then evaluates the ways that schools address or ignore this problem both in Pennsylvania and elsewhere. Section III provides examples of legislative efforts to address this serious societal problem and analyzes how legislation from other states could guide Pennsylvania's legislature in the necessary amendment of current legislation to meet the needs of traumatized students. These efforts could improve the educational opportunities for all students—not just those who have suffered traumatic experiences.

II. OVERVIEW

A careful review of the problem is helpful to understand the need for more effective legislation addressing the needs of traumatized students in Pennsylvania. Section II provides an overview of the relevant background information needed to appreciate the urgency behind implementing this type of legislation.

This Section proceeds in six parts. Part II.A begins by providing a brief overview of how childhood trauma is defined and the various types of childhood trauma that someone may experience. Part II.B describes the effects of trauma that may impact a child's classroom experience and the current status of Pennsylvania students experiencing childhood trauma. Part II.C discusses a trauma-informed approach to learning, focusing on both school-wide practices built into the infrastructure of a school and also supportive school policies. Part II.D summarizes the two paths that are typically taken to implement trauma-informed practices. Part II.E provides an overview of the current programs that Pennsylvania both formally and informally uses to address the needs of traumatized students. Finally, Part II.F reviews various perspectives on addressing trauma in schools.

7. *See id.*

8. *See* Interview with Elyse Johnson, *supra* note 3.

9. *Id.*

10. *Id.*

11. *See infra* Part II.E.3 for a discussion of Senate Bill 144, which was signed into law June 2019.

A. *What is Childhood Trauma?*

Trauma¹² is a public health issue defined as the “negative physical and/or emotional result[] of a distressing event, situation, or condition that exceeds an individual’s ability to cope.”¹³ When a youth experiences a traumatic event, an incident that creates feelings of danger and fear, the occurrence will likely have lasting effects on her life.¹⁴ These experiences cause both a physical and neurological reaction, not quickly forgotten by the body, even in circumstances when the child was not actually harmed or in any real danger.¹⁵ Traumatic experiences often ignite feelings of helplessness and terror that may endure and affect a youth’s typical day-to-day functioning long after the event is over.¹⁶

The effects of trauma are unique to every child and depend on the nature of the experience.¹⁷ A child’s level of cognitive development, cultural factors, previous exposure to trauma, access to community resources, and family history may also impact how a traumatic event affects them.¹⁸ Regardless of background, almost all children will exhibit some symptom of distress after experiencing a traumatic event.¹⁹ However, the length and severity of this distress will vary.²⁰ For some children, the effects of a traumatic event may be severe and long-lasting, whereas others may resume a typical developmental course even after showing short-term distress.²¹ Childhood trauma can result in a multitude of symptoms that often lead to behavioral and/or psychological conditions.²² For example, trauma can seriously disrupt a child’s interpersonal attachments, leading to further stress and difficulty dealing with typical life events.²³ The toxic hormones released during traumatic experiences can lead to physical conditions that result in developmental impairments.²⁴ Young people may develop new fears,

12. Traumatic events are sometimes referred to as “adverse childhood experiences (ACEs).” *See, e.g.,* CD BETHELL ET AL., JOHNS HOPKINS BLOOMBERG SCH. OF PUB. HEALTH, ISSUE BRIEF: A NATIONAL AND ACROSS-STATE PROFILE ON ADVERSE CHILDHOOD EXPERIENCES AMONG U.S. CHILDREN AND POSSIBILITIES TO HEAL AND THRIVE (2017), http://www.cahmi.org/wp-content/uploads/2018/05/aces_brief_final.pdf [https://perma.cc/XZ93-3H3Q].

13. Melissa Bayne, *Trauma-Focused Services*, in *ENCYCLOPEDIA OF HUMAN SERVICES AND DIVERSITY* 1362, 1362 (Linwood H. Cousins ed., 2014) (ebook).

14. BARBARA OEHLBERG, *MAKING IT BETTER: ACTIVITIES FOR CHILDREN LIVING IN A STRESSFUL WORLD 15* (2d ed. 2014) (ebook).

15. *Id.* at 15–16.

16. *See id.*

17. JESSICA DYM BARTLETT ET AL., *CHILD TRENDS & NAT’L CTR. FOR CHILDREN IN POVERTY, HELPING YOUNG CHILDREN WHO HAVE EXPERIENCED TRAUMA: POLICIES AND STRATEGIES FOR EARLY CARE AND EDUCATION 1* (2017).

18. ANNETTE M. LA GRECA ET AL., *AM. PSYCHOLOGICAL ASS’N PRESIDENTIAL TASK FORCE ON POSTTRAUMATIC STRESS DISORDER AND TRAUMA IN CHILDREN AND ADOLESCENTS, CHILDREN AND TRAUMA: UPDATE FOR MENTAL HEALTH PROFESSIONALS 2* (2008).

19. *Id.*

20. *See id.* at 2–3.

21. *See id.*

22. *See* Bayne, *supra* note 13, at 1362.

23. *See* JAMES A. CHU, *REBUILDING SHATTERED LIVES: TREATING COMPLEX PTSD AND DISSOCIATIVE DISORDERS 65* (2d ed. 2011); *see also* Nadine Burke Harris, *How Childhood Trauma Affects Health Across a Lifetime*, TED (Sept. 2014), http://www.ted.com/talks/nadine_burke_harris_how_childhood_trauma_affects_health_across_a_lifetime/transcript?language=en [https://perma.cc/NVW6-5VKV].

24. Bayne, *supra* note 13, at 1362.

become anxious when separated from loved ones, have trouble sleeping, experience sadness or anger, lose interest in school work, have trouble concentrating, or feel irritable as a result of the traumatic experience.²⁵

Although trauma impacts people in unique ways, many factors contribute to the adverse effects that a traumatic event may cause.²⁶ Because different aspects of a child's identity can impact her likelihood to experience trauma, certain children have a much higher risk of experiencing traumatic events than others.²⁷ Most traumatic events fall under one of the following categories: community violence,²⁸ domestic violence,²⁹

25. LA GRECA ET AL., *supra* note 18, at 2.

26. *About Child Trauma*, NAT'L CHILD TRAUMATIC STRESS NETWORK, <http://www.nctsn.org/what-is-child-trauma/about-child-trauma> [https://perma.cc/9TF4-KZJU] (last visited Nov. 1, 2019).

27. *See, e.g.*, Kacy Martin, *Trauma in the American Urban Classroom*, MICH. ST. U., C. EDUC.: GREEN & WRITE (Dec. 11, 2015), <http://edwp.educ.msu.edu/green-and-write/2015/trauma-in-the-american-urban-classroom/> [https://perma.cc/2UNB-8CDB] (explaining how in poor, urban communities, there is a disproportionate risk of experiencing any type of community, family, or personal trauma); *see also* BETHELL ET AL., *supra* note 12 (noting how black children are disproportionately more likely to experience a traumatic event); LA GRECA ET AL., *supra* note 18, at 2 (describing how a child's race, ethnicity, socio-economic status, and gender all impact the likelihood that a traumatic event will occur); Susan J. Ko et al., *Creating Trauma-Informed Systems: Child Welfare, Education, First Responders, Health Care, Juvenile Justice*, 39 PROF. PSYCHOL. RES. & PRAC. 396, 398 (2008) (explaining that children in foster care, and those exposed to violence, are more likely to experience trauma); *Trauma and Poverty Effects on Children*, CLIFFSIDE MALIBU (July 14, 2014), <http://www.cliffsidemalibu.com/2014/07/14/trauma-poverty-effects-children/> [https://perma.cc/FX9C-6VAC] (describing how living in an urban environment increases a child's chance of experiencing community violence, and how poverty creates daily stress caused by housing and food insecurity).

28. When a young person experiences community violence, violence committed in public by people who are not related to the child, she often lives with a feeling that violence may occur at any moment, making the world feel unsafe and frightening. *Community Violence*, NAT'L CHILD TRAUMATIC STRESS NETWORK, <http://www.nctsn.org/what-is-child-trauma/trauma-types/community-violence> [https://perma.cc/L7Q4-9WPQ] (last visited Nov. 1, 2019). Indirect exposure to community violence can negatively impact a child's development, which can result in depression, anxiety, and aggression. JENNIFER LYNN-WHALEY & JOSH SUGARMANN, VIOLENCE POLICY CTR., *THE RELATIONSHIP BETWEEN COMMUNITY VIOLENCE AND TRAUMA: HOW VIOLENCE AFFECTS LEARNING, HEALTH, AND BEHAVIOR* 5 (2017). This specific type of trauma has been shown to put youth at an increased risk of mental health disorders like post-traumatic stress disorder (PTSD). *Id.* at 8.

29. Domestic violence against a parent or other family member, including intimate partner violence, is a traumatizing experience for children because they may either be injured themselves from violent outbursts or experience the pain of helplessly watching someone get abused. *Intimate Partner Violence*, NAT'L CHILD TRAUMATIC STRESS NETWORK, <http://www.nctsn.org/what-is-child-trauma/trauma-types/intimate-partner-violence> [https://perma.cc/J9TB-QS77] (last visited Nov. 1, 2019). Children who witness this type of violence are likely to exhibit behaviors like aggression, agitation, fear, anxiety, and decreased social competency. Gail Horner, *Domestic Violence and Children*, 19 J. PEDIATRIC HEALTH CARE 206, 208-09 (2005).

physical abuse,³⁰ sexual abuse,³¹ terrorism,³² refugeeism,³³ grief,³⁴ natural disaster,³⁵ medical,³⁶ and complex trauma.³⁷

B. Challenges that Trauma Brings into Pennsylvania Classrooms

Traumatic experiences can negatively impact the concentration, retention, organization, and communication skills necessary for a successful educational

30. Physical abuse typically has long-lasting effects on brain development, which impacts a child's ability to make calculated decisions, employ executive functioning skills, and regulate behavior. INST. OF MED. & NAT'L RESEARCH COUNCIL, *NEW DIRECTIONS IN CHILD ABUSE AND NEGLECT RESEARCH 5* (Anne C. Petersen et al. eds., 2014). Victims of child abuse often demonstrate aggression when attempting to solve interpersonal problems, which impacts their ability to make friends and develop healthy relationships. Samantha Gluck, *Effects of Child Physical Abuse*, HEALTHY PLACE FOR YOUR MENTAL HEALTH, <http://www.healthyplace.com/abuse/child-physical-abuse/effects-of-child-physical-abuse> [<https://perma.cc/3HZF-MU9A>] (last updated May 2, 2019).

31. Victims of child sexual abuse may show signs such as acting out in inappropriate sexual ways with toys, becoming withdrawn, having outbursts of anger, self-harming, or experiencing personality changes. *Warning Signs in Children and Adults*, PARENTS PROTECT!, <http://www.parentsprotect.co.uk/warning-signs-in-children-and-adults.htm> [<https://perma.cc/M328-4JGB>] (last visited Nov. 1, 2019).

32. Children who have been directly or indirectly impacted by terrorism are likely to suffer from psychiatric symptoms such as separation anxiety and behavioral problems. Wanda P. Fremont, *Childhood Reactions to Terrorism-Induced Trauma: A Review of the Past 10 Years*, 43 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 381, 385–86 (2004).

33. "Refugee trauma" refers to the effects caused by violence in country of origin, the transition to the United States, and settling into life in a new country. *Refugee Trauma*, NAT'L CHILD TRAUMATIC STRESS NETWORK, <http://www.nctsn.org/what-is-child-trauma/trauma-types/refugee-trauma> [<https://perma.cc/6D3H-HVH5>] (last visited Nov. 1, 2019). Forced migration causes refugee children to have an increased risk of suffering from PTSD, depression, and other mental health disorders. A.K. Gadeberg et al., *Assessing Trauma and Mental Health in Refugee Children and Youth: A Systematic Review of Validated Screening and Measurement Tools*, 27 EUR. J. PUB. HEALTH 439, 440 (2017).

34. Most children can navigate grief in a typical way without incurring long-lasting negative effects; however, when the death of a parent, sibling, or other important person during childhood causes intense feelings of helplessness and fear, it can result in traumatic effects. Judith A. Cohen & Anthony P. Mannarino, *Supporting Children with Traumatic Grief: What Educators Need to Know*, 32 SCH. PSYCHOL. INT'L 117, 117–18 (2011). When a youth experiences traumatic grief, she may suffer from reexperiencing distressing memories associated with the death, avoidance of the deceased, increased anger, inability to regulate emotions, and trouble learning. *Id.* at 119–20.

35. Youths who experience a devastating natural disaster will likely show symptoms of PTSD such as recurring flashbacks of the event, irritability, and trouble concentrating. Arunya Tuicomepee & John L. Romano, *Children and Adolescents in Natural Disasters: Psychological Implications for Thai Youth Affected by the 2004 Tsunami*, 14 J. MENTAL HEALTH THAI 135, 136 (2006).

36. *Medical Trauma*, NAT'L CHILD TRAUMATIC STRESS NETWORK, <http://www.nctsn.org/what-is-child-trauma/trauma-types/medical-trauma> [<https://perma.cc/P6CR-VWYU>] (last visited Nov. 1, 2019) (defining "medical trauma" as the psychological response that children may have to the pain and terrifying treatments that often accompany serious illness or medical procedures).

37. Youth who experience complex trauma have been exposed to more than one traumatic event. *Complex Trauma*, NAT'L CHILD TRAUMATIC STRESS NETWORK, <http://www.nctsn.org/what-is-child-trauma/trauma-types/complex-trauma> [<https://perma.cc/4Y6T-PYD9>] (last visited Nov. 1, 2019). Since repeated traumatization likely results in feelings of hopelessness and helplessness, any circumstance that may trigger one of those feelings may escalate into rage quickly. Susan A. Lord, *Meditative Dialogue: Cultivating Compassion and Empathy with Survivors of Complex Childhood Trauma*, 22 J. AGGRESSION, MALTREATMENT & TRAUMA 997, 1001 (2013).

experience.³⁸ A student struggling with the effects of trauma may not be able or willing to express their distress outright.³⁹ This struggle is likely to result in aggressive or inappropriate behaviors that may not be immediately recognizable as resulting from traumatic experiences.⁴⁰

Experiencing trauma is likely to affect a child's conduct inside the classroom because traumatic events create feelings of insecurity and a lack of control, which make it challenging for children to regulate their behavior.⁴¹ Since trauma results from an event where a child felt unsafe and fearful, often a traumatized student's classroom behaviors are based in an effort to feel in control and create a sense of safety for themselves.⁴² Typically, traumatic events cause children to either externalize or internalize their behavioral response.⁴³ Children who externalize often exhibit aggression, defiance, hyperactivity, and impulsiveness.⁴⁴ Whereas students who internalize will likely withdraw to minimize the amount of attention they receive.⁴⁵ These styles of behavior are molded by both environmental and biological influences.⁴⁶ No matter how the behaviors manifest, many can be frustrating to teachers, resulting in "reactions that both strengthen expectations of . . . danger and reinforce a negative self-image" in the student.⁴⁷

These behaviors can affect a child's academic performance because experiencing a traumatic event typically diminishes many of the foundational skills required to learn.⁴⁸ A decreased capacity to perform these skills affects a child's ability to attend to tasks, develop communication skills, recall newly learned information, think critically, follow directions, and process new information.⁴⁹ A child who has experienced trauma is likely

38. Trauma & Learning Policy Initiative, *The Problem: Impact*, HELPING TRAUMATIZED CHILD. LEARN, <http://traumasensitiveschools.org/trauma-and-learning/the-problem-impact/> [https://perma.cc/YJ8Z-L2AY] (last visited Nov. 1, 2019).

39. Caroline Miller, *How Trauma Affects Kids in School*, CHILD MIND INST., <http://childmind.org/article/how-trauma-affects-kids-school/> [https://perma.cc/939P-3P8E] (last visited Nov. 1, 2019).

40. *Id.*; see also CITIZEN COMM'N ON ACAD. SUCCESS FOR BOS. CHILDREN, THE IMPACT OF TRAUMA ON LEARNING AND BEHAVIOR 59 (2006) (explaining the link between exposure to trauma and impulsive and aggressive behaviors).

41. Trauma & Learning Policy Initiative, *supra* note 38.

42. *See id.* ("Preoccupied with their physical and psychological safety, children who have experienced traumatic events may be distrustful of adults and/or fellow students and unsure of the security of the school setting in general.")

43. *Id.* (describing "externaliz[ation]" as "act[ing] out" and "internaliz[ation]" as "withdraw[ing, feeling] . . . numb, frozen, or depressed").

44. *See id.*

45. *See id.*

46. JO WEBBER & CYNTHIA A. PLOTTS, EMOTIONAL AND BEHAVIORAL DISORDERS: THEORY AND PRACTICE 13 (Virginia Lanigan et al. eds., 5th ed. 2008).

47. SUSAN F. COLE ET AL., MASS. ADVOCATES FOR CHILDREN, HELPING TRAUMATIZED CHILDREN LEARN: SUPPORTIVE SCHOOL ENVIRONMENTS FOR CHILDREN TRAUMATIZED BY FAMILY VIOLENCE 32 (2005) [hereinafter COLE ET AL., SUPPORTIVE SCHOOL ENVIRONMENTS].

48. Trauma & Learning Policy Initiative, *supra* note 38.

49. *Id.*

to have difficulty concentrating, keeping up with the teacher's lesson, and problem solving.⁵⁰

Trauma may affect a student's ability to build positive relationships with both adults and other youth.⁵¹ Symptoms such as a lack of trust, an inability to read typical social cues and expressions, or a lack of a desire to relate to others often creates an inability to build positive relationships.⁵² As a consequence, students may be confrontational or aggressive with educators, creating a power struggle.⁵³ Because a traumatized student tends to become combative and overreact, other students may be less inclined to socialize with students who have had these experiences, resulting in ostracism or self-isolation.⁵⁴

Limited research exists regarding the number of children experiencing symptoms of trauma in Pennsylvania.⁵⁵ Despite the lack of data, studies about the number of adverse childhood experiences (ACEs) provide some guidance on the current status of Pennsylvania students who have experienced a traumatic event.⁵⁶ Not all children will manifest long-lasting effects after a traumatic experience.⁵⁷ However, exploring the number of children who have had traumatic experiences can provide an idea of the approximate number of Pennsylvania students likely suffering from symptoms of trauma. In Pennsylvania, the percentage of children who have experienced at least one traumatic event is slightly higher than the nationwide average of 46.3%.⁵⁸ In 2017, roughly 47.1% of Pennsylvania children aged infant to seventeen had experienced one or more ACEs, and 21.2% had experienced two or more.⁵⁹ This suggests that nearly half of all children in the state are at risk of suffering from symptoms of trauma.⁶⁰

Mary Beth Hays, a licensed social worker who has supervised numerous graduate students working with traumatized students across the state, explained that the need for

50. CITIZEN COMM'N ON ACAD. SUCCESS FOR BOS. CHILDREN, *supra* note 40, at 59; *see also* Amanda E. Berg, Trauma in Schools: Identifying and Working with Students Who Have Experienced Trauma 10, 12 (May 2017) (unpublished MSW Clinical Research Paper, St. Catherine University & University of St. Thomas), http://sophia.stkate.edu/cgi/viewcontent.cgi?article=1711&context=maw_papers [<https://perma.cc/939P-3P8E>] (describing how research supports a finding that when levels of traumatic stress increase, the ability to problem solve decreases).

51. Trauma & Learning Policy Initiative, *supra* note 38.

52. *Id.*

53. COLE ET AL., SUPPORTIVE SCHOOL ENVIRONMENTS, *supra* note 47, at 38–39.

54. *See id.* at 39–40.

55. *See supra* Part II.A for a discussion of the types of effects that experiencing traumatic events may cause.

56. *See, e.g.,* BETHELL ET AL., *supra* note 12 (analyzing the prevalence of ACEs nationally and across states).

57. *See supra* Part II.A for a description of how most, but not all, children who experience trauma will suffer symptoms.

58. *See* BETHELL ET AL., *supra* note 12.

59. *Id.* at tbl.5. Comparing this to data collected from 2014 shows that the percentage of Pennsylvania students who had experienced at least one ACE increased by 2017. *Compare id., with* VANESSA SACKS ET AL., CHILD TRENDS, ADVERSE CHILDHOOD EXPERIENCES: NATIONAL AND STATE-LEVEL PREVALENCE 4 (2014), https://www.childtrends.org/wp-content/uploads/2014/07/Brief-adverse-childhood-experiences_FINAL.pdf (finding thirty-four percent of Pennsylvania children under the age of seventeen reported one or two ACEs and twelve percent reported three or more).

60. *See* BETHELL ET AL., *supra* note 12.

trauma-informed approaches to learning is relevant and necessary across Pennsylvania.⁶¹ Each of Pennsylvania's sixty-seven counties has some victim services programs—showing that traumatic experiences can happen anywhere.⁶² For example, the county with the smallest population, Cameron County, which is not close to either Philadelphia or Pittsburgh, still boasts three victim service providers⁶³ despite a population of fewer than five thousand people.⁶⁴ These service providers aid victims of all ages and do not treat traumatic experiences that are not the result of a crime.⁶⁵ However, they generally include information about the targeted services they provide to children who have experienced trauma, indicating that traumatized children can be found in every county.⁶⁶ Since these services exist regardless of geographic location, all Pennsylvania schools are likely serving students who suffer from symptoms of trauma.⁶⁷ Pennsylvania has been referred to as the “epicenter” of the opioid crisis with more than two thousand Pennsylvanians dying from opioid overdoses in 2016 alone.⁶⁸ Students across the state are susceptible to, and likely exhibit symptoms of, drug use-related trauma because of their proximity to the epidemic.⁶⁹

61. *Philadelphia Healthy and Safe School Initiative Hearing*, at 41:09–52:53, PA. SENATE DEMOCRATS (Aug. 29, 2018), <http://www.pasenate.com/?s=philadelphia+healthy+and+safe+school+initiative+hearing> [<https://perma.cc/ZT7D-GTQR>].

62. *See Find Help in Your County*, PA. OFF. VICTIM SERVS., <http://pcv.pccd.pa.gov/available-services/Pages/Interactive-Map.aspx> [<https://perma.cc/JC3M-WZJ3>] (last visited Nov. 1, 2019).

63. *Id.*

64. PA. STATE DATA CTR., PA. STATE UNIV., HARRISBURG, 2018 COUNTY TOTAL POPULATION ESTIMATES RELEASED 4 (2019), https://pasdc.hbg.psu.edu/sdc/pasdc_files/researchbriefs/Apr_2019_CntyEst18.pdf [<https://perma.cc/PMY8-D8AU>]. There is approximately one victim service provider per 1,666 people in Cameron County (if population is rounded up to 5,000 people) whereas Philadelphia has approximately one victim service provider per 75,000 people. *Compare id.*, with *Find Help in Your County*, *supra* note 62.

65. *Find Help in Your County*, *supra* note 62. See also *supra* notes 24–27 and accompanying text for a discussion of traumatic experiences that are not necessarily caused from being a victim of a crime.

66. *See, e.g., Services*, DOMESTIC VIOLENCE SERVS. CUMBERLAND & PERRY COUNTIES, <http://www.dvscp.org/services/> [<https://perma.cc/94MP-X5UN>] (last visited Nov. 1, 2019) (describing counseling services and other supports for children who have suffered from domestic violence); *Supportive Services*, VICTIM SERVS. INC., <http://victimservicesinc.org/supportive-services/> [<https://perma.cc/TW87-82SV>] (last visited Nov. 1, 2019) (listing support groups for youths who have been victims of sexual assault and describing a program to teach children about safe and unsafe touches as part of their offered services); *Victim Services*, CAPSEA, INC., <http://capsea.org/victim-services/> [<https://perma.cc/8Q4X-3MPQ>] (last visited Nov. 1, 2019) (describing a program focused on providing for children experiencing abuse).

67. *See Find Help in Your County*, *supra* note 62.

68. WITF Staff, *State of Emergency: Searching for Solutions to Pennsylvania's Opioids Crisis*, WITF (July 1, 2018, 7:00 AM), http://www.witf.org/2018/07/01/state_of_emergency_searching_for_solutions_to_pennsylvanias_opioids_crisis/ [<https://perma.cc/FTP9-5R2K>] (highlighting that Tom Wolf, governor of the state of Pennsylvania, has declared a state of emergency, and over fifty counties are working towards solutions to decreasing the number of opioid related deaths).

69. *See, e.g., John Beauge, Tioga County Focuses on Keeping Children at Home While Battling Opioid Crisis*, WITF (July 7, 2018, 3:30 PM), http://www.witf.org/2018/07/07/tioga_county_focuses_on_keeping_children_at_home_while_battling_opioid_crisis/ [<https://perma.cc/3NBX-CBUZ>] (referencing how the county aims to provide early interventions for children dealing with familial drug use).

C. Trauma-Informed Approaches to Learning

In general, even though schools have the most contact with children, the majority do not systematically screen for problems related to traumatic experiences.⁷⁰ A trauma-informed approach seeks to discover what happened to a student, not what is wrong with the student.⁷¹ The two principle categories of trauma-informed approaches to learning are (1) school-wide practices built into the infrastructure and culture of the school,⁷² and (2) supportive school policies and procedures.⁷³

1. School-Wide Practices Built into the School Infrastructure and Culture

For optimal effectiveness, trauma-informed approaches to learning require a whole-school paradigm shift away from a focus on the child's actual conduct to the cause of the child's conduct.⁷⁴ This approach places the duty of identifying and responding to a student who has experienced trauma on *all* school personnel, not just an overworked guidance counselor.⁷⁵ In traditional school environments, school personnel do not typically receive much—if any—training on how to support students experiencing symptoms of trauma.⁷⁶ Trauma-informed approaches teach educators how to identify the signs of childhood trauma and react in ways that are proven to support the traumatized student's needs.⁷⁷ A trauma-informed approach requires flexibility in a teacher's classroom management and instructional strategies.⁷⁸ School administrators must ensure that they are maintaining a culture in which teachers and students feel supported.⁷⁹

To create and maintain this culture, administrators must use school-wide professional development sessions for ongoing training opportunities.⁸⁰ Trauma-informed approaches to learning integrate social and emotional learning with the classroom's targeted subject matter.⁸¹ This approach does not take away from the learning of a student who has not had a traumatic experience. Rather, a trauma-informed approach improves the quality of education for *all* students because it addresses the externalizing behaviors that traumatized students may exhibit, decreasing the number of classroom disruptions; enables everyone to create stronger relationships with peers and

70. Ko et al., *supra* note 27, at 398.

71. *Philadelphia Healthy and Safe School Initiative Hearing*, *supra* note 61, at 46:44.

72. *See infra* Part II.C.1.

73. *See infra* Part II.C.2.

74. MAURA MCINERNEY & AMY MCKLINDON, EDUC. L. CTR., UNLOCKING THE DOOR TO LEARNING: TRAUMA-INFORMED CLASSROOMS & TRANSFORMATIONAL SCHOOLS 6 (2014), <http://www.elc-pa.org/wp-content/uploads/2015/06/Trauma-Informed-in-Schools-Classrooms-FINAL-December2014-2.pdf> [<https://perma.cc/9JXR-2SY2>].

75. *Philadelphia Healthy and Safe School Initiative Hearing*, *supra* note 61, at 48:42.

76. Ko et al., *supra* note 27, at 398.

77. Shantel D. Crosby et al., *Social Justice Education Through Trauma-Informed Teaching*, 49 MIDDLE SCH. J. 15, 17 (2018).

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.* at 19.

adults; and supports self-esteem development.⁸² The foundation of this approach is based on a collaboration between educational, psychological, and social work professionals as a productive means to respond to the needs of a traumatized child.⁸³ These practices must be specifically tailored to the school community.⁸⁴

2. Supportive Policies

In that holistic vein, a trauma-informed approach aims for the school policies and rules to respond effectively to the needs of traumatized students.⁸⁵ One of the main goals is preventing the possibility that school practices will retraumatize students.⁸⁶ To do this, school policies must be purposefully planned with a trauma-informed lens to safeguard against retraumatization.⁸⁷ This is done by disassembling systems aimed to disempower and overdiscipline students while also consistently addressing health and wellness.⁸⁸ Policies of this nature minimize disruptions to a student's education through implementing positive behavioral supports and intervention plans to address negative behaviors.⁸⁹

Another goal is to avoid punishing traumatized students for exhibiting symptoms caused by trauma.⁹⁰ School leaders must purposefully examine discipline policies through a trauma-informed lens to ensure that punishment is not the vehicle used to address symptoms of trauma that may violate school rules.⁹¹ School leaders must consider whether delivering consequences could further traumatize an already traumatized child.⁹² Rules must be consistent and predictable for traumatized students to understand the consequences of their behavior.⁹³ These consequences should involve communication with families and reinforce the notion that school is a nonviolent place where abusive discipline is not allowed.⁹⁴

Lastly, school policies, procedures, and protocols must be monitored.⁹⁵ To successfully create a trauma-informed learning environment, schools and school districts must frequently evaluate their practices and create plans for addressing remaining gaps.⁹⁶

82. SUSAN F. COLE ET AL., TRAUMA & POLICY INITIATIVE, HELPING TRAUMATIZED CHILDREN LEARN: CREATING AND ADVOCATING FOR TRAUMA-SENSITIVE SCHOOLS 88 (2013) [hereinafter COLE ET AL., CREATING AND ADVOCATING].

83. Crosby et al., *supra* note 77, at 17.

84. Jane Ellen Stevens, *Trauma-Sensitive Schools Are Better Schools, Part Two*, HUFFINGTON POST (June 27, 2012, 4:46 PM), http://www.huffpost.com/entry/traumasensitive-schools-part-two_b_1632126 [<https://perma.cc/CAW3-TBSH>].

85. MCINERNEY & MCKLINDON, *supra* note 74, at 6.

86. *Id.* at 7.

87. *See* Crosby et al., *supra* note 77, at 17.

88. *See id.* at 20.

89. MCINERNEY & MCKLINDON, *supra* note 74, at 8.

90. *Id.* at 7.

91. *See* Crosby et al., *supra* note 77, at 17–18.

92. *See* MCINERNEY & MCKLINDON, *supra* note 74, at 5.

93. *See id.* at 8.

94. *Id.*

95. *Id.*

96. *See* Crosby et al., *supra* note 77, at 21.

School personnel must individually and constantly monitor their own behavior to ensure that they are not responding to students in “oppressive and counterproductive” ways that perpetuate feelings of disempowerment.⁹⁷ School personnel also have a duty to themselves and their students to reflect on their own self-care practices to combat the effects of vicarious trauma and prevent burnout.⁹⁸

D. *Two Paths to Responding to Trauma in Schools*

Responding to the needs of traumatized students has taken two paths: (1) federal mechanisms not specifically designed with traumatized students in mind, and (2) state-created legislation intended to support this population of students. First, section 504 of the Rehabilitation Act (section 504), the Americans with Disabilities Act (ADA), and the Individuals with Disabilities Education Act (IDEA) provide potential federal channels for holding schools responsible for implementing trauma-informed approaches to learning.⁹⁹ Second, state legislatures have slowly begun mandating that schools implement trauma-informed approaches to learning, bypassing these federal mechanisms.¹⁰⁰

1. State Reliance on Federal Mandates

Section 504,¹⁰¹ the ADA,¹⁰² and the IDEA¹⁰³ are all federal statutes that prohibit discrimination and increase access for people with disabilities.¹⁰⁴ These statutes’ definitions of “disability” may be interpreted to include manifestation of trauma.¹⁰⁵

In an unprecedented lawsuit pending in the Central District of California, *P.P. v. Compton Unified School District (Peter P.)*,¹⁰⁶ the plaintiffs alleged that complex trauma

97. *Id.* at 20.

98. RAY WOLPOW ET AL., *THE HEART OF LEARNING AND TEACHING: COMPASSION, RESILIENCY, AND ACADEMIC SUCCESS* 56–60 (3d prtg. 2016), <https://www.k12.wa.us/sites/default/files/public/compassionateschools/pubdocs/theheartoflearningandteaching.pdf> [<https://perma.cc/Y7YK-JHV2>].

99. *See infra* Part II.D.1.

100. *See infra* Part II.D.2.

101. 29 U.S.C. § 794 (2018) (codifying section 504) (“No otherwise qualified individual with a disability . . . [may] be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . .”).

102. 42 U.S.C. § 12132 (2018) (“[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”).

103. 20 U.S.C. § 1400(d)(1)(A) (2018) (stating that the one of the purposes of the IDEA is “to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education”).

104. *See supra* notes 101–103.

105. 20 U.S.C. § 1401(3)(A)(i) (listing “serious emotional disturbance” as one of the enumerated disabilities protected under the IDEA); 29 U.S.C. § 705(9)(B) (explaining that “disability” under the Rehabilitation Act has the same meaning as under the ADA); 42 U.S.C. § 12102(1)(A) (defining “disability” under the ADA as “a physical or mental impairment that substantially limits one or more major life activities of such individual”).

106. 135 F. Supp. 3d 1098 (C.D. Cal. 2015).

fits within the definition of a disability under section 504 and the ADA.¹⁰⁷ This case may pave a path for traumatized students to challenge the quality of their educational experience, providing a tool to hold schools accountable for responding to the effects of trauma.

In *Peter P.*, students from Compton Unified School District who experienced complex trauma through a multitude of events such as witnessing murder, experiencing homelessness, and suffering from sexual abuse, contended that the school's failure to address and accommodate the students' complex trauma denied them a free and appropriate public education.¹⁰⁸ The plaintiffs argued that experiencing severe trauma "profoundly affect[s] their psychological, emotional, and physical well-being."¹⁰⁹ They asserted that just as a student in a wheelchair must be accommodated with a ramp, students suffering from complex trauma must be provided accommodations to support their needs and ensure that they have meaningful access to school.¹¹⁰ The plaintiffs argued that trauma is a disability, so schools are required by federal law to provide accommodations to support them.¹¹¹ The students called for an implementation of trauma-informed approaches to learning and listed staff training, restorative practice in place of punitive disciplinary practices, and increased mental health supports as practices necessary to support traumatized students.¹¹² They contended that until the district implements school-wide trauma-informed accommodations, they will be denied meaningful access to an education, in violation of the ADA and section 504.¹¹³

The district court denied the school district's motion to dismiss and reasoned that "exposure to traumatic events *might* cause physical or mental impairments that *could* be cognizable as disabilities under the two Acts."¹¹⁴ In doing so, the district court left open the possibility that a traumatic experience may result in a disability under the ADA and section 504 but was clear that a traumatized student should not automatically be considered disabled.¹¹⁵

Critics, too, are wary of the effects of *Peter P.* and similar lawsuits for at least two reasons. One argument is that the court defined disability too broadly, which may result in "[a] sweeping declaration [that] would effectively tell these children that they have now been labeled as having a physical or mental handicap under federal law."¹¹⁶ Second, there is a funding concern for recognizing trauma as a disability since it would likely

107. Complaint & Demand for Jury Trial ¶¶ 192–223, P.P. v. Compton Unified Sch. Dist. (*Peter P.*), 135 F. Supp. 3d 1098 (C.D. Cal. 2015) (No. LA CV 15-3726-MWF (PLAx)), 2015 WL 2393294.

108. *Id.* ¶ 214. "Free appropriate public education" is a defined term in the IDEA that means the special education and other services that conform to a child's individualized education program. 20 U.S.C. § 1401(9).

109. Complaint & Demand for Jury Trial, *supra* note 107, ¶ 73.

110. *Id.* ¶ 158.

111. *See id.* ¶ 214, 222–23 (claiming the plaintiffs "d[id] not receive a free appropriate public education," which the U.S. Department of Education mandates for all qualified students).

112. *Id.* ¶ 162.

113. *Id.* ¶ 198–200.

114. *Peter P.*, 135 F. Supp. 3d 1098, 1103 (C.D. Cal. 2015).

115. *See id.*

116. Cory Turner, *Are Traumatized Students Disabled? A Debate Straight Outta Compton*, NPR (Aug. 20, 2015, 5:00 AM), <http://www.npr.org/sections/ed/2015/08/20/432885473/are-traumatized-students-disabled-a-debate-straight-outta-compton> [https://perma.cc/Y5NB-9JC8].

require school districts to implement trauma-informed approaches that are not currently implemented in most schools.¹¹⁷ Although the case has not been decided, a win for the plaintiffs could impact the way we address trauma and behavior in schools.¹¹⁸ In May 2019, the court granted an order to stay litigation until early 2020,¹¹⁹ likely for the purpose of continued settlement discussions.

2. Individual State Efforts

Prominent scholars urge state legislatures to address the needs of traumatized students.¹²⁰ Although most states do not mandate trauma-informed practices, a few, including Pennsylvania, have made substantial efforts towards implementing trauma-informed approaches to learning without waiting for a clear federal mandate.¹²¹

As of 2017, fifteen states have implemented some type of trauma-informed related policy.¹²² These policy initiatives, however varied, demonstrate the numerous tools that states may employ to equip communities in supporting traumatized children.¹²³ For example, Alaska recently passed a bill that takes general ownership of the state's responsibility to "acknowledge and take into account . . . the concepts of early adversity, toxic stress, [and] childhood trauma."¹²⁴ Comparably, Illinois passed legislation mandating screenings for trauma before children enter school.¹²⁵

Wisconsin passed a law that established a school grant program encouraging collaboration between community health services and schools as a means to increase students' access to mental health services.¹²⁶ The Wisconsin Department of Public Instruction, the state agency tasked with promoting public education, created the Trauma-Sensitive Schools Initiative, which implemented an online system to support schools in their development of trauma-informed approaches to learning.¹²⁷ Similarly,

117. *See id.*

118. *See* Melissa Harris-Perry, *Compton Students, Teachers File Suit for 'Complex Trauma,'* MSNBC (Nov. 8, 2015), at 00:11, <http://www.msnbc.com/melissa-harris-perry/watch/compton-students-file-suit-for-complex-trauma-562120259820> [https://perma.cc/9QJ2-SJGP].

119. Order Granting Joint Stipulation to Stay Litigation Until January 13, 2020, *Peter P.*, 135 F. Supp. 3d. 1098 (C.D. Cal. May 31, 2019) (No. LA CV-15-3726 MWF (PLAx)).

120. *See, e.g.,* COLE ET AL., CREATING AND ADVOCATING, *supra* note 82, at 88; MCINERNEY & MCKLINDON, *supra* note 74, at 16.

121. *See* Elizabeth Prewitt, *A Snapshot of Statutes Related to ACEs and Trauma-Informed Policy*, ACES CONNECTION: STATE ACES ACTION (May 1, 2017, 3:48 PM), <http://www.acesconnection.com/g/state-aces-action-group/blog/a-snapshot-of-statutes-related-to-aces-and-trauma-informed-policy> [https://perma.cc/D3WP-P2B5].

122. *Id.*

123. *See id.*

124. ALASKA STAT. ANN. § 47.05.060 (West 2019); *see also* Meryl Schulman, *Policy Update: State and Federal Movement to Advance Trauma-Informed Care*, CTR. FOR HEALTH CARE STRATEGIES, INC. (Nov. 15, 2018), <http://www.chcs.org/policy-update-state-and-federal-movement-to-advance-trauma-informed-care/> [https://perma.cc/VU7V-DRPQ].

125. 105 ILL. COMP. STAT. ANN. 5/27-8.1(2) (West 2019) ("The Department of Public Health shall promulgate rules and regulations specifying . . . a health examination . . . includ[ing] an age-appropriate developmental screening [and] an age-appropriate social and emotional screening . . .").

126. WIS. STAT. ANN. § 115.367(1) (West 2019).

127. *See Trauma-Sensitive Schools Online Professional Development*, WIS. DEP'T PUB. INSTRUCTION, <http://dpi.wi.gov/sspw/mental-health/trauma/modules> [https://perma.cc/R6UU-MB24] (last visited Nov. 1,

the University of California San Francisco's Healthy Environments and Response to Trauma in Schools (UCSF HEARTS) program and the State of Washington's Compassionate Schools Initiative are widely referenced as leading resources for creating trauma-sensitive schools.¹²⁸

While some states continue to take these small steps towards implementing statewide trauma-informed schools, a few states have made larger strides by either mandating that all schools implement trauma-informed programs or creating a pilot program to prepare for a statewide implementation.¹²⁹ The remainder of this subsection examines how states support schools both in creating a trauma-informed culture and implementing policies that support traumatized students.

Massachusetts was the first state to pass legislation codifying a full, statewide initiative requiring all public schools to establish a framework to become supportive trauma-informed schools.¹³⁰ Each school must develop an individual framework based on the responses to the implementation questions.¹³¹ This approach ensures not only that schools consider how traumatized children will be supported in all aspects of school operations but also that the framework is adapted to that particular school's needs.¹³²

The Massachusetts framework provides six descriptive and holistic guidelines to implement a systematic approach by (1) placing responsibility on school and district administrators to embed trauma-informed practices throughout the school's infrastructure, (2) training staff on ways to identify learning barriers and determine ways to address them effectively, (3) increasing access to behavioral health services, (4) implementing academic and nonacademic instruction for traumatized children, (5) instituting policies and protocols that do not retraumatize children, and (6) increasing

2019). This program is free and designed for manageable integration into already implemented multi-tiered systems of support. *See id.*

128. *See, e.g., Resources & References: Addressing the Effects of Trauma in Schools REL Webinar Series 2016*, REGIONAL EDUC. LABORATORIES WEST, http://ies.ed.gov/ncee/edlabs/regions/west/relwestFiles/pdf/Trauma_and_Resilience_References_and_Resources_final.pdf [<https://perma.cc/3TFF-L4SV>] (last visited Nov. 1, 2019) (listing both the handbook from the Compassionate Schools Initiative and the model from UCSF HEARTS Program as notable resources for trauma-informed school practices); *Trauma-Sensitive Schools*, NAT'L COUNCIL FOR BEHAV. HEALTH, <http://www.nationalcouncildocs.net/trauma-informed-care-learning-community/trauma-sensitive-schools> [<https://perma.cc/X25X-KCT3>] (last visited Nov. 1, 2019) (listing "State Resources and Examples" for professional development resources on trauma-sensitive schools). The UCSF HEARTS Program is a multi-tiered program designed to both prevent and address the effects of trauma in schools. *Program Overview*, UCSF HEARTS, <http://hearts.ucsf.edu/program-overview> [<https://perma.cc/H8XW-AZE9>] (last visited Nov. 1, 2019). The Compassionate Schools Initiative is a program within the State of Washington Office of Superintendent of Public Instruction that provides a handbook and training resources for schools that are trying to become more responsive to traumatized students. *Compassionate Schools: The Heart of Learning and Teaching*, OFF. SUPERINTENDENT PUB. INSTRUCTION, <http://www.k12.wa.us/CompassionateSchools/default.aspx> [<https://perma.cc/59MC-8NMD>] (last visited Nov. 1, 2019).

129. *See* Prewitt, *supra* note 121.

130. *See* MASS. GEN. LAWS ANN. ch. 69, § 1P (West 2019); *see also* COLE ET AL., CREATING AND ADVOCATING, *supra* note 82, at 94. "Safe and Supportive Schools" was specifically chosen as the title instead of one involving the word "trauma" to include other initiatives (such as bullying prevention) that require the same type of reforms. *Id.* at 95.

131. COLE ET AL., CREATING AND ADVOCATING, *supra* note 82, at 95–96.

132. *See id.* at 28.

collaboration with families.¹³³ Massachusetts provides a self-assessment tool that supports each school in the creation of its action plan.¹³⁴ The legislation also created a new grant program to provide funding for schools considered safe and supportive.¹³⁵

The Safe and Supportive Schools Commission (Commission) submitted their annual report pursuant to chapter 69, section 1P(g) of the Massachusetts General Laws, which provided a list of recommendations for “feasibility of state-wide implementation of the framework.”¹³⁶ Most importantly, the Commission recommended that the implementation of the framework continue for the third time since the legislature enacted the framework.¹³⁷ The Commission uses focus groups and other data collection methods to inform its recommendations as to how the framework can be better revised to “access culturally, linguistically, and clinically appropriate services.”¹³⁸

In 2016, the Missouri legislature enacted a less comprehensive plan, the Trauma-Informed Schools Initiative,¹³⁹ which primarily focused on the first of Massachusetts’s goals: education and training.¹⁴⁰ The plan requires the Missouri Department of Elementary and Secondary Education to educate all districts on trauma-informed approaches to learning, provide training on this approach, and design a website with resources as well as a guide for schools to better serve traumatized students.¹⁴¹ Each school district must post the aforementioned website for parents to access.¹⁴² The website¹⁴³ includes a link to a developmental framework to guide schools on how to implement a trauma-informed approach.¹⁴⁴ This framework describes the processes for schools to become trauma aware, trauma sensitive, and trauma responsive.¹⁴⁵ Resources and indicators to determine whether the processes are met are also provided to support implementation.¹⁴⁶

Both Missouri and Oregon began with pilot programs that aimed to discover the most effective elements of a trauma-informed approach to learning to inform widespread implementation in the future.¹⁴⁷ The Missouri Department of Elementary and Secondary

133. *See id.* at 27.

134. ch. 69, § 1P(d).

135. *Id.* § 1P(f)(iii).

136. *Id.* § 1P(g); MASS. DEP’T OF ELEMENTARY & SECONDARY EDUC., SAFE AND SUPPORTIVE SCHOOLS COMMISSION—THIRD ANNUAL REPORT 6 (2018).

137. MASS. DEP’T OF ELEMENTARY & SECONDARY EDUC., *supra* note 136, at 9.

138. *Id.* at 12.

139. MO. ANN. STAT. § 161.1050.1 (West 2019).

140. *See* MASS. GEN. LAWS ANN. ch. 69, § 1P(b) (West 2019).

141. MO. ANN. STAT. § 161.1050.3(1)–(3).

142. *Id.* § 161.1050.4.

143. *Trauma-Informed Schools Initiative*, MO. DEP’T ELEMENTARY & SECONDARY EDUC., <http://dese.mo.gov/traumainformed> [<https://perma.cc/BJ6G-6Y45>] (last visited Nov. 1, 2019).

144. MO. DEP’T OF MENTAL HEALTH AND PARTNERS, *THE MISSOURI MODEL: A DEVELOPMENTAL FRAMEWORK FOR TRAUMA INFORMED APPROACHES* (2014), http://dese.mo.gov/sites/default/files/dese-the-trauma-informed-schools-initiative_0.pdf [<https://perma.cc/2FKN-PAY4>].

145. *See id.*

146. *Id.*

147. *See* MO. ANN. STAT. § 161.1055.5; H.R. 4002, 78th Gen. Assemb., Reg. Sess. § 5(4) (Or. 2016) (enacted) (appropriating funds to applicant school districts based on each district’s “proposal to design and implement a pilot program to decrease rates of school absenteeism by using trauma-informed approaches to

Education's training focused on five schools from various communities, provided them funding for implementation, and continuously monitored their progress.¹⁴⁸

The Oregon pilot program, while it has only included a few schools for the past two years, takes a more comprehensive approach.¹⁴⁹ Under the program, participating schools have been able to provide students a system for behavioral health services, examine and align existing school programs, facilitate training related to recognizing and responding to trauma for school staff, and host a trauma specialist to work inside the school.¹⁵⁰ The Trauma Informed Specialist/Coordinator's (TISC) primary duties include conducting training and coaching on trauma-informed approaches to learning for staff, making trauma-informed efforts (convening groups of stakeholders, assessing physical spaces, collecting and interpreting data, etc.), creating community partnerships, and delivering input on the final report to the legislature.¹⁵¹ This person is not required to have a teaching background, but, in addition to expertise in trauma-informed theories and practices, a TISC must have knowledge of how mental health providers deliver services to schools and how racial injustice affects racial inequity in the context of education.¹⁵²

The first year of Oregon's program included training participating school staff, aligning preexistent school programs and systems, and setting long-term goals for the second and third years.¹⁵³ The second year involved providing ongoing support for staff and a reflection on "[p]olicies, procedures, programs, and services . . . with community service partners to [determine how they can] be more trauma-informed."¹⁵⁴

E. *How Pennsylvania Schools Address Childhood Trauma*

Pennsylvania schools have not been left completely to their own devices when it comes to supporting traumatized students. Historically, Pennsylvania schools have depended on services created through federal legislation to attempt addressing the specific needs of traumatized students.¹⁵⁵ Pennsylvania schools have also relied on state programs that were not designed with traumatized students in mind.¹⁵⁶ With the enactment of a new trauma-informed policy, Pennsylvania's schools may now have another mechanism to address the needs of this group of students.

education, health services and intervention strategies"). In Oregon, this is now codified as a factor to consider in the distribution of funding. OR. REV. STAT. ANN. § 342.950(h) (West 2019).

148. MO. ANN. STAT. § 161.1055.3–4.

149. See Or. H.R. 4002 § 5(10) ("[T]he Department of Education . . . must provide individual and comprehensive evaluations on the outcomes of the pilot programs . . .").

150. *Id.* § 5.

151. *Trauma Informed Specialist/Coordinator Job Description (TISC)*, OREGON.GOV, CHIEF EDUC. OFF., <http://www.oregon.gov/cedo/Documents/TISC.JobDescriptionFinal.pdf> [<https://perma.cc/D3P4-DFZ6>] (last visited Nov. 1, 2019).

152. *Id.*

153. *Trauma-Informed Practices in Schools*, OR. DEP'T EDUC., <http://www.oregon.gov/ode/students-and-family/GraduationImprovement/Documents/Trauma-Informed%20Practices%20in%20Schools.pdf> [<https://perma.cc/AP67-RQC8>] (last visited Nov. 1, 2019).

154. *Id.*

155. See *infra* Part II.E.1.

156. See *infra* Part II.E.2.

1. Pennsylvania's Reliance on Federal Mandates

An individualized education program (IEP) is a tool used to target each student's needs directly.¹⁵⁷ A school must develop an IEP for each child with a disability that outlines the services necessary for the child to receive an appropriate education.¹⁵⁸ The Department of Education enumerated thirteen categories of disability under the IDEA.¹⁵⁹ In the 2016–2017 school year, over twenty-four thousand students (about nine percent) in Pennsylvania had an IEP for “emotional disturbance.”¹⁶⁰ Under the IDEA, an emotional disturbance is when a child has

[a]n inability to learn that cannot be explained by intellectual, sensory, or health factors[; an] inability to build or maintain satisfactory interpersonal relationships with peers and teachers[; inappropriate] types of behavior or feelings under normal circumstances[; a] general pervasive mood of unhappiness or depression[; or a] tendency to develop physical symptoms or fears associated with personal or school problems.¹⁶¹

Students who have experienced trauma exhibit many of the characteristics that qualify as an emotional disturbance.¹⁶² Despite the lack of data, it seems possible that if a student is exhibiting symptoms related to trauma for a long enough period, the school may identify her as having an emotional disturbance and provide an IEP to address her specific needs. However, this definition excludes students who are socially maladjusted, but fall outside the definition of emotional disturbance.¹⁶³ Social maladjustment typically means that a student is suffering from a conduct disorder.¹⁶⁴

IEPs can include and be used in conjunction with Functional Behavioral Assessments (FBA). An FBA is a behavior analysis that aims to determine the cause of a student's negative behavior to identify an intervention and mitigate the negative behavior.¹⁶⁵ The assessor reviews the causes and consequences of the targeted behavior to see whether the purpose of the behavior is attention-seeking, avoidance-driven, or to experience a sensory consequence.¹⁶⁶ The IDEA requires schools to conduct FBAs when necessary but does not provide specifics as to how to implement the results of an FBA.¹⁶⁷

157. See 20 U.S.C. § 1414(d)(1)(A) (2018).

158. *Id.*

159. 34 C.F.R. § 300.8(a)(1) (2019) (“Child with a disability means a child evaluated . . . as having an intellectual disability, a hearing impairment . . . , a speech or language impairment, a visual impairment . . . , a serious emotional disturbance . . . , an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities . . .”).

160. *Number of Students Ages 6 Through 21 Served Under IDEA, Part B, by Disability and State: 2016-17*, U.S. DEP'T EDUC. (Nov. 1, 2017), <http://www2.ed.gov/programs/osepidea/618-data/static-tables/2016-2017/part-b/child-count-and-educational-environment/1617-bchildcountandedenvironment-3.xlsx> [<https://perma.cc/R67A-VYWC>].

161. 34 C.F.R. § 300.8(c)(4)(i)(A)–(E).

162. See *supra* Part II.B for a description of the types of symptoms exhibited by traumatized students.

163. See 34 C.F.R. § 300.8(c)(4)(ii).

164. WEBBER & PLOTTS, *supra* note 46, at 13–14; cf. 34 C.F.R. § 300.8(c)(4)(i)–(ii).

165. Stephen Starin, *Functional Behavioral Assessments: What, Why, When, Where, and Who?*, WRIGHTSLAW (Jan. 31, 2011), <http://www.wrightslaw.com/info/discipl.fab.starin.htm> [<https://perma.cc/N6F7-U7FE>].

166. *Id.*

167. *Id.*

Implementing an FBA without guidance likely exacerbates the student's problems, causing more harm.¹⁶⁸

2. Pennsylvania's Legislative Efforts

Pennsylvania has instituted three major initiatives that have been integral tools for schools to address the needs of traumatized students: the Student Assistance Program (SAP), the Multi-Tiered System of Support (MTSS), and Positive Behavior Interventions and Support (PBIS). SAP targets high-risk students who have impediments to learning and systematically works to help these students “achieve, advance, and remain in school.”¹⁶⁹ Any stakeholder (teacher, friend, community member, etc.) can refer any student to the program.¹⁷⁰ When a student is referred, the school's SAP team objectively reviews the student's performance in school and any relevant observational input from staff who have interacted with the student.¹⁷¹ From there, an individualized plan is formed to determine the best way to remove the child's barriers to learning in an effort to improve the student's success in school.¹⁷² Once the plan is implemented, the team must monitor the student's progress.¹⁷³ In the 2016–2017 school year, out of all students referred and assessed for SAP, 79.15% “were determined to have a primary problem of [m]ental [h]ealth issues.”¹⁷⁴ Of these students, 21.9% received a school-based intervention, meaning the majority were referred to outside professionals.¹⁷⁵

Although SAP does not target students experiencing trauma, those students are likely to be referred to this program. Data does not exist as to how many students referred to SAP have mental health issues as a result of traumatic experiences. However, as previously discussed, traumatic experiences themselves can result in mental health issues.¹⁷⁶ Considering the effects of trauma discussed above, it seems likely a significant portion of the 79.15% of students determined to have mental health issues may be traumatized.

On January 12, 2018, the U.S. Department of Education approved Pennsylvania's Every Student Succeeds Act state plan.¹⁷⁷ This plan explains that the state will continue

168. *See id.* (describing how schools may use “lower quality standards” without specific guidelines from the IDEA).

169. *What is the Student Assistance Program?*, PA. NETWORK FOR STUDENT ASSISTANCE SERVS. (Sept. 22, 2017), <http://pnsas.org/Portals/1/Uploaded%20Files/WhatIsSAP%209-22-17.pdf> [<https://perma.cc/CB59-XUQ8>].

170. *Id.*

171. *Id.*

172. *Id.*

173. *See id.*

174. PA. STUDENT ASSISTANCE PROGRAM, STUDENT ASSISTANCE PROGRAM FY-2016–2017 MENTAL HEALTH-DRUG AND ALCOHOL STATISTICAL DATA 2, 5 (2017).

175. *See id.* at 7.

176. *See supra* Part II.B for a description of the types of symptoms traumatized students exhibit.

177. PA. DEP'T OF EDUC., EVERY STUDENT SUCCEEDS ACT PENNSYLVANIA CONSOLIDATED STATE PLAN 1 (2018). The Every Student Succeeds Act (ESSA), signed by President Obama in 2015, required each state submit a plan that detailed how it will hold districts accountable for meeting their state goal. *Id.*; *see* 20 U.S.C. § 6301 (2018). On August 1, 2019, the Pennsylvania Department of Education released the updated consolidated state plan, which has relatively minor changes from the 2018 plan. PA. DEP'T OF EDUC., EVERY

to support MTSS and PBIS frameworks employed in fifty schools across the state so that the schools identified as “Focus and Priority” under the previous federal education law, the No Child Left Behind Act of 2001, will receive appropriate transitional supports.¹⁷⁸ These programs are concurrently employed by “provid[ing] technical assistance for . . . student-, school-, and district-level interventions that address both academic and social-emotional barriers to success.”¹⁷⁹ MTSS uses differentiated instruction, data analysis, and a three-tiered system of individual interventions for planning curriculum, instruction, and assessments.¹⁸⁰ Similarly, PBIS is a three-tiered system that “promotes appropriate student behavior and increased learning.”¹⁸¹ The tiers for each program function the same way: tier one includes universal practices that support the learning of all students, tier two focuses on “at risk” students who need more support than provided in tier one, and tier three targets the students with the most severe needs who require more intensive support than what is provided in tiers one and two.¹⁸²

As previously discussed, experiencing trauma can cause negative behaviors and decrease a student’s access to learning.¹⁸³ Both MTSS and PBIS provide a targeted, reactive approach tailored to support a student based on her needs.¹⁸⁴ Meaning, if a traumatized student displays symptoms discussed in Part II.B, this three-tiered approach can provide supports that aim to improve the child’s access to learning.¹⁸⁵ However, these methods do not actually discuss trauma,¹⁸⁶ which is likely more destructive than helpful.

3. Pennsylvania Senate Bill 144

A trauma-informed approach to learning is not a new concept to the Pennsylvania General Assembly. Beginning in 2018 with the codification of school safety and security legislation, the legislature is demonstrably moving towards improving the ways schools address mental health.¹⁸⁷ The most recent evidence of this is legislation mandating trauma-informed approaches to learning in Pennsylvania schools that Governor Wolf signed into law in June 2019.¹⁸⁸

STUDENT SUCCEEDS ACT PENNSYLVANIA CONSOLIDATED STATE PLAN I (2019) [hereinafter PA. DEP’T OF EDUC., 2019].

178. PA. DEP’T OF EDUC., 2019, *supra* note 177, at 62–63. ESSA replaced No Child Left Behind Act of 2001, Pub. L. No. 107-110 (2002), as the United States’ main education law. PA. DEP’T OF EDUC., 2019, *supra* note 177, at 1.

179. PA. DEP’T OF EDUC., 2019, *supra* note 177, at 63.

180. *Id.* at 63.

181. *Id.*

182. *Id.*

183. *See supra* Part II.B.

184. *See* PA. DEP’T OF EDUC., 2019, *supra* note 177, at 62–63.

185. *See id.*

186. *See id.*

187. 24 PA. STAT. AND CONS. STAT. ANN. § 13-1306-B(j) (West 2019) (creating a grant program that will provide funding for implementing safety strategies, over ten of which are mental health strategies like counseling services).

188. S. 144, 203d Gen. Assemb., Reg. Sess. (Pa. 2019).

Senate Bill 144 amended existing education legislation as a means to target the needs of Pennsylvania children who are suffering from the effects of trauma.¹⁸⁹ This legislation mandates trauma-informed training for both school directors and educators—requiring at least one hour of evidence-based training annually.¹⁹⁰ Training for educators must address how to recognize signs of trauma in students, provide information on the best trauma-informed practices, and review school policies for trauma-informed education.¹⁹¹

The Pennsylvania legislature incorporated the trauma-informed bill into the school safety and security legislation passed in 2018.¹⁹² With the codification of this safety bill, school entities were required to identify a safety and security coordinator responsible for addressing various school safety-related concerns.¹⁹³ With the enactment of Senate Bill 144, this coordinator, who is not required to have any type of behavioral health training, is now also responsible for “coordinat[ing] training and resources for students and . . . staff in . . . trauma-informed [approaches].”¹⁹⁴ The school safety bill also formed a School Safety and Security Committee (Committee) that, although includes a few social service specialists, also includes local law enforcement and security professionals.¹⁹⁵ With this recent enactment, an expert in trauma-informed approaches to learning will join the Committee.¹⁹⁶ Additionally, the Committee must create a “model trauma-informed approach plan that shall be used by a school entity applying for a [school safety and security] grant.”¹⁹⁷ These grants, originally introduced in the 2018 school safety legislation, provide funding for schools seeking to implement both reactive and proactive strategies to school safety.¹⁹⁸ This means that Pennsylvania schools will not be required to implement the Committee’s model trauma-informed approach plan—they may opt out of doing so by simply choosing to not apply for this particular grant.

F. Commentators Perspectives on Addressing Trauma in Schools

Leading scholars have referred to traumatic stress as a public health crisis that needs national attention.¹⁹⁹ Many scholars have insisted on developing a national-, state-, and

189. *See id.* § 1, 5 (amending the Public School Code of 1949 to provide for a trauma-informed approach to policies, professional development programs, procedures, and practices used in schools).

190. Pa. S. 144 § 4 (amending tit. 24, § 12-1205.1(b.1)).

191. Pa. S. 144 § 5 (amending tit. 24, § 12-1205.7).

192. *See* Pa. S. 144 § 3 (amending tit. 24, § 9-923.3-A(C)).

193. Tit. 24, § 13-1309-B.

194. Pa. S. 144 § 14 (amending tit. 24, § 13-1309-B(C)(2)).

195. Tit. 24, § 13-1302-B.

196. Pa. S. 144 § 10 (amending tit. 24, § 13-1302-B(B)(12)(VII)).

197. Pa. S. 144 § 15 (creating tit. 24, § 13-1311-B).

198. *See* Pa. S. 144 §12 (amending tit. 24, § 13-1306-B(J)).

199. *See, e.g.,* David Bornstein, *Treating the Lifelong Harm of Childhood Trauma*, N.Y. TIMES (Jan. 30, 2018), <http://www.nytimes.com/2018/01/30/opinion/treating-the-lifelong-harm-of-childhood-trauma.html> [https://perma.cc/AL95-V3BT] (“Dr. Nadine Burke Harris . . . [is] one of the country’s strongest voices calling for a national public health campaign to raise awareness and a sense of urgency about the devastating and potentially lifelong health effects of childhood trauma.”).

local-level trauma-informed public policy agenda.²⁰⁰ The Trauma and Learning Policy Initiative has contended that legislation and policies designed to advance the use of trauma-informed approaches to learning in public schools are responsible for creating the conditions needed for that type of teaching to flourish.²⁰¹ This initiative has recommended that policymakers infuse trauma-informed programs into various other educational programs that schools already implement.²⁰² It has also recommended that laws and policies should aim to support students by incorporating trauma-informed approaches into the whole school, requiring early intervention with preventative services, and coordinating intensive services with outside agencies for students who are dealing with significant symptoms of traumatic experiences.²⁰³

Others argue the most recent changes made to the IDEA in 2004 “suggest that special education educators are potential partners in developing trauma-informed assessments and interventions.”²⁰⁴ One commentator suggested amending the definition of “[e]motional disturbance” in the IDEA to have a “trauma” subcategory to serve this population of students more effectively.²⁰⁵ Another argued that although a student suffering from complex trauma may qualify under the category “serious emotional disturbance,” the IDEA has stricter requirements for eligibility than those of section 504 or the ADA, so support through coverage under those laws is more favorable.²⁰⁶ In contrast, some scholars argue that labelling negative behaviors as a disability is tautological and problematic because it is “impossible to develop and implement effective educational interventions . . . without knowing a disability-related cause or contributing factor to that behavior.”²⁰⁷ Further, districts may be unable to provide the type of individualized mental health interventions that are required if trauma is labeled as a disability; this concern could lead to “high-poverty schools . . . becoming poorly resourced mental facilities.”²⁰⁸

III. DISCUSSION

Pennsylvania must regulate how its schools service their most vulnerable students to ensure that every child receives a quality education no matter what barriers to learning

200. See COLE ET AL., CREATING AND ADVOCATING, *supra* note 82, at 87.

201. See *id.* at 95. The initiative is a partnership of Massachusetts Advocates for Children and Harvard Law School that advocates for laws and policies that will support schools in implementing trauma-informed learning. *History and Background*, HELPING TRAUMATIZED CHILD. LEARN, <http://traumasensitiveschools.org/about-tlpi/> [https://perma.cc/K8JH-B48V] (last visited Nov. 1, 2019).

202. COLE ET AL., CREATING AND ADVOCATING, *supra* note 82, at 89 (explaining how many of these initiatives have overlapping or similar actions that are more effective if approached concurrently rather than as distinct programs).

203. *Id.* at 90–91.

204. Ko et al., *supra* note 27, at 398.

205. Felicia Winder, Note, *Childhood Trauma and Special Education: Why the “IDEA” Is Failing Today’s Impacted Youth*, 44 HOFSTRA L. REV. 601, 628 (2015).

206. Aaron Lawson, Comment, *Straight Outta Compton: Witness the Strength of Disability Rights Taking One Last Stand for Education Reform*, 67 SYRACUSE L. REV. 551, 575 (2017).

207. William Dikel & Daniel Stewart, *Emotional/Behavioral Disorders and Special Education: Recommendations for System Redesign of a Failed Category*, 34 HAMLIN L. REV. 589, 595 (2011).

208. David Dante Troutt, *Trapped in Tragedies: Childhood Trauma, Spatial Inequality, and Law*, 101 MARQ. L. REV. 601, 649 (2018).

she may experience. The law must better reflect the Pennsylvania Department of Education's mission to "ensure that every learner has access to a world-class education system that academically prepares children and adults to succeed as productive citizens."²⁰⁹ Pennsylvania schools must be held accountable not just for a single hour of training but also for implementing quality evidence-based programs and services that will support students affected by trauma. By allowing Pennsylvania schools the option to implement a trauma-informed approach plan developed to support the academic and social-emotional needs of traumatized students, the state is implicitly placing an asterisk within the Pennsylvania Department of Education's mission, creating an exception that might state, "This does not apply to those students whose learning is impacted by trauma." To ensure that "every learner" truly means every child, Pennsylvania must further amend the Pennsylvania School Code to guarantee its schools effectively serve the needs of traumatized students so that they, too, can be prepared to succeed as productive Pennsylvania citizens.

This Section proceeds in four parts. Part III.A discusses how, despite some significant benefits that federal mandates offer, other state legislatures offer solutions to work around the federal shortcomings. Part III.B highlights how SAP, MTSS, and PBIS are not proper mechanisms to support traumatized students. Part III.C discusses the pitfalls of Pennsylvania Senate Bill 144. Part III.D proposes changes to the current statutory scheme in an effort to better serve all of Pennsylvania's students.

A. State Legislatures Show a National Trend in Support of a More Targeted Approach to Serving Traumatized Students

Though the plaintiffs in *Peter P.* are justified in arguing that Compton Unified School District should be addressing the needs of its students' complex trauma, an IEP is not the appropriate vehicle to tackle that need. An IEP alone cannot address the holistic needs that traumatized students require. Although IEPs are essential for providing students with disabilities targeted, specialized instruction to remove barriers to learning and provide a free and appropriate education, traumatized students can be more effectively supported.²¹⁰ Students with symptoms related to trauma are often misdiagnosed with a disability requiring the support of special education services.²¹¹ By labeling the effects of a traumatic experience as a disability, the IDEA is classifying the behaviors as disabling rather than addressing the behavior's root cause—the traumatic event.²¹² Given the large number of Pennsylvania children affected by trauma, a trauma-informed approach to learning reserves specialized services under federal systems for students most affected, increasing the effectiveness of these services.

Of course, the effects of trauma impact learning; however, a child healing from a traumatizing event requires different support than a student with a learning or physical

209. *Mission and Vision*, PA. DEP'T EDUC., <http://www.education.pa.gov/Pages/Mission.aspx> [<https://perma.cc/NBV3-8ST7>] (last visited Nov. 1, 2019).

210. See 20 U.S.C. § 1414(d)(1)(A) (2018) (providing the definition and purpose of an IEP).

211. See COLE ET AL., SUPPORTIVE SCHOOL ENVIRONMENTS, *supra* note 47, at 40.

212. See 34 C.F.R. § 300.8(c)(4)(i)(A)–(E) (2019) (defining "emotional disturbance" as the inability to learn based on various types of behavior but not from a specific disability); see also Dikel & Stewart, *supra* note 207, at 595.

disability.²¹³ The IDEA ensures that students with disabilities receive *individualized*, reactive strategies to address their barriers to learning.²¹⁴ Students suffering from trauma can certainly benefit from individualized supports, as can all students, but they need more than specially designed instruction. Students suffering from trauma require a paradigm shift in all aspects of the school's culture.²¹⁵

For schools to best serve their traumatized students, they cannot rely on an approach that services each identified student individually. Of the identified children receiving supports through federal efforts, seventy percent of them have ACEs.²¹⁶ Within the confines of the IDEA, students experiencing trauma do not experience the paradigm shift necessary unless the IEP is implemented within a school using a trauma-informed approach.²¹⁷ If an IEP is implementing specialized services to support a traumatized child but the school culture is inflexible and retraumatizing, then the efforts employed by the IEP will be ineffective.²¹⁸ Responses to trauma require a district-wide effort.²¹⁹ The IDEA serves to implement IEPs to address the needs of individual students; it does not support structural changes to address the holistic needs of traumatized students.²²⁰

Another reason why the IDEA is not the ideal vehicle for addressing trauma is because it excludes students who are experiencing effects of trauma that do not fit the definition for emotional disturbance.²²¹ As written, the emotional disturbance category is the only disability that may capture the effects from trauma.²²² However, as previously discussed, these effects manifest differently in every student.²²³ Consequently, a child might be traumatized but not exhibit any behaviors that constitute emotional disturbance.²²⁴ If a child's traumatic symptoms go without detection, perhaps because the symptoms are not disruptive enough to raise red flags, then a suffering child goes unnoticed and unsupported.

The emotional disturbance definition lists characteristics that are used to identify students and requires that these symptoms are observable "over a long period of time and

213. See *supra* Part II.C for a discussion about a trauma-informed approach to learning.

214. See 20 U.S.C. § 1400(d).

215. See *supra* Part II.C for a discussion of how a trauma-informed approach requires a district-wide shift. See also COLE ET AL., *CREATING AND ADVOCATING*, *supra* note 82, at 19, 61.

216. *Identifying, Preventing, and Treating Childhood Trauma: A Pervasive Public Health Issue that Needs Greater Federal Attention: Hearing Before the H. Comm. on Oversight and Reform*, 116th Cong. 44 (2019) (statement of Dr. Christina Bethell, Director, Child and Adolescent Health Measurement Initiative).

217. See *supra* Part II.E.1 for a discussion of how special education services provide *targeted* services.

218. See COLE ET AL., *CREATING AND ADVOCATING*, *supra* note 82, at 19 ("Addressing trauma's impact on learning at school does not require specialized curricula or programming . . . [T]rauma-sensitive approaches must be infused into the curricula [and] the school- and district-wide philosophy . . .").

219. See *supra* Part II.C; see also COLE ET AL., *CREATING AND ADVOCATING*, *supra* note 82, at 19.

220. See *supra* Part II.C for a discussion on how a trauma-informed approach requires a district-wide shift. See also Lawson, *supra* note 206, at 572.

221. Winder, *supra* note 205, at 622.

222. Compare *supra* Part II.B (explaining that the behavioral and academic effects of trauma in the classroom would not fit under the definitions of any of the thirteen disabilities listed other than emotional disturbance), with 34 C.F.R. § 300.8 (2019) (defining each of the thirteen categories of "disability" under the IDEA).

223. See *supra* Part II.B for an overview of the effects of trauma.

224. See 34 C.F.R. § 300.8(c)(4)(i)(A)–(E) (defining emotional disturbance).

to a marked degree.”²²⁵ This suggests that a traumatized student has to wait until her symptoms have been visible to a certain measurable degree before she can receive specialized supports. This requirement also excludes students whose symptoms did not persist long enough.²²⁶ This implies that even if a student might display characteristics mentioned in the definition, she will only qualify for special education services when those characteristics have been observed for a while. Also, if a traumatized student exhibits social maladjustment but her educational performance has not been negatively impacted, then she will be excluded from receiving special education services per the federal definition.²²⁷

The increase in trauma-informed legislative efforts shows that state lawmakers are realizing that traumatized students need a specific legislative program to address their needs in the same way that a student with a learning disability needs specialized services through the IDEA. Massachusetts is leading the effort by offering a legislative solution to work around the federal shortcomings.²²⁸ The Massachusetts legislation works in tandem with the federal initiatives and creates school-wide cultural and policy changes rather than focusing on a student’s individual needs.²²⁹ By focusing on changing the ways a school’s culture and policies support traumatized students, those students at risk of exclusion from support through special education services due to lack of identification are able to learn in an environment responsive to their trauma. Pennsylvania’s recent enactment of Senate Bill 144 shows that the Commonwealth may be learning from states like Massachusetts that support a more targeted approach to supporting traumatized students.

B. *Pennsylvania’s Efforts Prior to Senate Bill 144 Did Not Offer Enough Support*

The Pennsylvania legislature must make a more concerted effort to support learning environments that both help traumatized students feel safe and optimize learning. Pennsylvania must pass *quality* legislation to respond to the specific needs of students who have experienced trauma because current efforts are widely ineffective. There are large numbers of traumatized students across the state who could benefit from a trauma-informed approach to learning.²³⁰ As previously discussed, the symptoms traumatized students exhibit typically result in limited academic growth, an inability to build relationships effectively, and an incapacity to regulate classroom behavior.²³¹ Pennsylvania schools attempt to respond to the needs of traumatized students informally through ineffective systems of support created by the Commonwealth.²³² SAP, MTSS, and PBIS are helpful programs for schools to create a nurturing and responsive school

225. *Id.* § 300.8(c)(4)(i).

226. *See id.*

227. *See id.* § 300.8(c)(4)(ii).

228. *See* MASS. GEN. LAWS ANN. ch. 69, § 1P (West 2019).

229. *See id.* (declaring the statute’s focus on trauma sensitivity and improved school safety).

230. *See supra* notes 62–70 and accompanying text for a discussion about the current status of Pennsylvania students experiencing trauma.

231. Trauma & Learning Policy Initiative, *supra* note 38. *See supra* Part II.B for a description of the effects that trauma brings into the classroom.

232. *See supra* Part II.E for a discussion about how trauma is informally addressed in Pennsylvania schools.

culture for the educational and social-emotional needs of students.²³³ However, these programs alone are not enough to support the needs of traumatized students appropriately and may undermine them further.

It is possible that if a student does not qualify for special education services, then she may still receive targeted supported through SAP because SAP is not a special education program.²³⁴ Although, like an IEP, if a student is referred to SAP, the plan formed by the SAP team will be an individualized approach aiming to remove the child's specific barriers to learning.²³⁵ Just like an IEP, the plan developed through SAP cannot provide the district-wide paradigm shift necessary to implement the trauma-informed approach needed to support traumatized students properly.²³⁶ Since traumatic experiences can cause mental health issues,²³⁷ and the large majority of all SAP referrals are mental health referrals,²³⁸ we can assume that a number of these students are not receiving the proper support since SAP focuses on individual supports and not paradigm changes in the school culture. Like special education services, if a child internalizes or does not exhibit any traumatic effects that alert school staff, the child may never get referred to SAP, which means there is likely a number of Pennsylvania students who are traumatized but not provided any services.²³⁹

Although MTSS and PBIS are not mandated statewide, the state does support approximately fifty schools that currently implement both programs in an effort to address academic, behavioral, and climate concerns.²⁴⁰ Yet trauma affects schools across Pennsylvania.²⁴¹ Even if these programs were to encompass all the support that traumatized students need for success, their inconsistent implementation means that only traumatized students in those fifty schools are receiving the proper support.²⁴² Like SAP and special education services, MTSS and PBIS fall short of providing all the necessary supports that students effected by trauma need. Both three-tiered systems help schools target certain types of negative behaviors and other barriers to learning,²⁴³ but neither program includes an implementation of a school-wide trauma-informed approach to

233. See *supra* Part II.E.2 for a description of how SAP, MTSS, and PBIS are used to support students' behaviors and learning.

234. See *What is the Student Assistance Program?*, *supra* note 169 (explaining that the purpose of SAP is to "assist in identifying issues including alcohol, tobacco, other drugs, and mental health issues[.]" not address special education needs).

235. See *id.*

236. See *id.* (explaining how the SAP team collects information about each individual student to identify specific strategies for getting rid of barriers).

237. See *supra* Part II.B for a discussion of the effects that trauma brings into the classroom.

238. PA. STUDENT ASSISTANCE PROGRAM, *supra* note 174, at 2, 6 (presenting findings that 79.15% of all students assessed through SAP were referred for mental health supports).

239. See *What is the Student Assistance Program?*, *supra* note 169 (explaining how students are referred to the program). No screening system exists that could catch students who could benefit from services but are not referred. *Id.*

240. PA. DEP'T OF EDUC., 2019, *supra* note 177, at 62–63.

241. See *supra* notes 61–67 and accompanying text for an explanation regarding how students throughout Pennsylvania experience trauma.

242. See PA. DEP'T OF EDUC., 2019, *supra* note 177, at 62–63. See *supra* Part II.E.2 for an overview of MTSS and PBIS.

243. PA. DEP'T OF EDUC., 2019, *supra* note 177, at 62–63.

learning. MTSS and PBIS have preliminary tiers of universal preventative practices, but they also focus on targeting children who may need individual interventions.²⁴⁴ A trauma-informed approach is different because it focuses less on how to support each child as her needs surface and more on how to ensure the school is already set up to nurture and prevent retraumatization of students.²⁴⁵

C. *Pennsylvania Senate Bill 144 Is Not a Viable Solution*

At the time of publication, schools have had little time to implement Senate Bill 144's requirements, since the bill passed in June 2019. Despite the legislature's efforts, the way the bill is written leaves open the possibility that many traumatized students in Pennsylvania will not receive the supports they require. The Pennsylvania legislature must enact a statutory scheme that requires *all* schools to implement a trauma-informed approach to learning so every traumatized student in Pennsylvania is properly supported. Senate Bill 144 alone will not suffice to accommodate this vulnerable group of students properly.

This Comment is not arguing that Senate Bill 144 is not a step in the right direction. Certain additions like requiring trauma-informed training to both "postbaccalaureate certificate programs" and school administration certification programs will positively enhance the way schools address the needs of traumatized students.²⁴⁶ However, given the fact that slightly under half of Pennsylvania's (and the United States') children have faced an adverse childhood experience,²⁴⁷ these children cannot afford to wait for small legislative steps. If this crisis is not mitigated, as Congresswoman Alexandria Ocasio-Cortez pointed out, "at some point in this country[,] . . . half of an entire generation [of adults] will be dealing with trauma."²⁴⁸ The three major flaws of this legislation are that (1) it does not mandate implementing the committee's trauma-informed approach to learning model, (2) it only requires one hour of trauma-informed training for staff per school year, and (3) it problematically conflates trauma as a safety and security issue.

Senate Bill 144 does not require schools to implement a Committee-approved model for trauma-informed approaches to learning. As previously discussed, the Committee must design an evidence-based, trauma-informed plan for schools to have as a guide.²⁴⁹ However, the only school entities that must use this model are those that choose to apply for a school safety grant.²⁵⁰ This means that schools can choose not to implement any trauma-informed practices outside of the mandatory one-hour training. Additionally, even though the law lists multiple requirements that the plan must

244. *Id.*

245. MCINERNEY & MCKLINDON, *supra* note 74, at 6–7.

246. *See* S. 144, 203d Gen. Assemb., Reg. Sess. §§ 6–7 (Pa. 2019) (creating 24 PA. STAT. AND CONS. STAT. ANN. § 12-1207.1(A)(3)(I)(H) (West 2019), amending tit. 24, § 12-1217(A)(1)(IV)).

247. BETHELLE ET AL., *supra* note 12, at 7.

248. *Identifying, Preventing, and Treating Childhood Trauma: A Pervasive Public Health Issue that Needs Greater Federal Attention: Hearing Before the H. Comm. on Oversight and Reform*, 116th Cong. 44 (2019) (statement of Congresswoman Alexandria Ocasio-Cortez).

249. Pa. S. 144 § 15 (creating tit. 24, § 13-1311-B).

250. Pa. S. 144 § 15.

include,²⁵¹ it is unclear how thoroughly, if at all, the Committee will assess grant applicants' implementation of the model. This leaves open the possibility that schools may not be held accountable for ineffective implementation of a trauma-informed approach to learning but still receive the grant.

Senate Bill 144 requires an annual training for all school employees to be at least an hour.²⁵² Although this bill does not set a ceiling for the amount of time schools can use to train their staff on this approach to learning, the floor is awfully low. An hour is not enough time to provide school staff with the training they need to support traumatized students because this problem requires a holistic, cultural shift in schools.²⁵³ If schools are allowed to limit their trauma-informed staff trainings to one single hour a year, then it is certain that the traumatized students in the Pennsylvania schools that implement the minimum standard will not be properly serviced.

Lastly, perhaps the most problematic issue with Senate Bill 144 is how it has framed traumatized students as a school safety and security problem. As described in Part II.A, trauma is a public health issue. As the legislation shows, one of the ways the legislature approaches school safety and security concerns is through reactive strategies such as increased police presence and metal detectors.²⁵⁴ Aligning the need for trauma-informed approaches to learning with school safety concerns may lead to stigmatization of traumatized students as unsafe. Furthering the inappropriate link between trauma and school safety and security, the Committee falls under the Commission of Crime and Delinquency.²⁵⁵ The legislation continues to make this problematic connection between trauma and school safety and security by designating the School Safety and Security Coordinator, an individual who does not need to have any type of trauma-informed or behavioral health background, as the person responsible for implementing these requirements.²⁵⁶ Additionally, the Committee is not comprised of individuals who have a working knowledge of trauma-informed practices; of the twenty-one members, only *one* is someone "who is a subject matter expert in trauma-informed approaches."²⁵⁷ One out of twenty-one people. This means that almost the entire Committee creating the nonmandatory model for trauma-informed approaches to learning likely has no experience in trauma-informed practices whatsoever.

D. Recommendations

The Pennsylvania legislature must effectively support schools in becoming truly trauma informed while still proactively supporting the needs of all traumatized students. *Peter P.* left open the possibility that the effects of trauma may constitute a disability.²⁵⁸ If other similar lawsuits follow, there could be a broadening in special education law that

251. *Id.*

252. *Id.* §§ 4–5 (amending tit. 24, §§ 12-1205.1, 12-1205.7).

253. See *supra* Part II.C for a discussion of the school-wide practices and supportive policies required to implement an effective, trauma-informed approach to learning.

254. See Pa. S. 144 § 12 (amending tit. 24, § 13-1306-B(J)) (listing multiple reactive strategies).

255. Pa. S. 144 § 10 (amending tit. 24, § 13-1302-B(B)).

256. See Pa. S. 144 § 14 (amending tit. 24, § 13-1309-B(C)(2)).

257. See Pa. S. 144 § 10 (amending tit. 24, § 13-1302-B(B)(12)(VII)).

258. See *Peter P.*, 135 F. Supp. 3d 1098, 1103 (C.D. Cal. 2015).

schools are not prepared to handle.²⁵⁹ Despite coming out of a federal district court in California, this case can impact the law in Pennsylvania if similar suits expand the reach of the court's interpretation across the circuits. A widely held, broad interpretation of disability could result in schools having to use a trauma-informed model the moment they identify a traumatized student but without guidance from the state, a plan for implementation, and proper funding. If all Pennsylvania schools may be expected to implement a trauma-informed program, then the Commonwealth should carefully plan for its implementation rather than sit back and wait for other courts to enter the door that the *Peter P.* court left open.

This Part recommends a revised Pennsylvania statutory scheme organized into two distinct categories. These categories include (1) mandated, school-wide practices that can be built into the infrastructure and culture of Pennsylvania's schools, and (2) supportive policies that schools must develop and implement to support their traumatized students properly.

1. School-Wide Practices Built into the School Infrastructure and Culture

The Pennsylvania legislature must require all schools implement a model that provides school with directions for how to build trauma-informed practices into a school's infrastructure and culture. Pennsylvania schools should model their trauma-informed approach framework after that of Massachusetts.²⁶⁰ The framework is universally adaptable to any school and supports development of a trauma-informed structure that can be easily integrated to the programs already employed.²⁶¹ Although MTSS, SAP, and PBIS alone do not address the needs of traumatized students, schools can concurrently implement a trauma-informed model with these already existing programs, providing supports to students not otherwise employed by the original three programs.

Schools must provide ample training and professional development regarding implementing a trauma-informed approach to all school employees at various times throughout the school year. Ongoing training is necessary to ensure that the framework is being properly implemented at every level and by every person in a school. Teachers are not the only school employees who interact with students; every person working in the school building must be trained on how a trauma-informed approach applies to their position so that students experience a supportive environment throughout their school day. Until a trauma-informed approach is fully integrated, teachers will need much more support than one hour each year. Even after the approach is fully integrated, continuous training is recommended to maintain the level of supports needed. Continuous training throughout the school year is necessary to ensure that teachers know how to implement trauma-informed practices properly.²⁶² Moreover, school staff need more than one hour

259. See Turner, *supra* note 116.

260. See MASS. GEN. LAWS ANN. ch. 69, § 1P (West 2019) (outlining how Massachusetts schools will create trauma-informed schools).

261. COLE ET AL., SUPPORTIVE SCHOOL ENVIRONMENTS, *supra* note 47, at 47.

262. See WOLPOW ET AL., *supra* note 98, at 66 (listing all the available teacher trainings, which emphasizes the need for more than one hour of training annually).

of training so they have an opportunity to reflect and ask questions as specific issues arise.

The teacher trainings required by Senate Bill 144 include (1) teaching personnel how to spot the effects of trauma, (2) providing guidance for best practices when supporting traumatized students, and (3) reviewing the school's trauma-informed policies.²⁶³ The statutory scheme should also allow schools to target their trainings to the specific needs of their students and staff.²⁶⁴ *The Heart of Learning and Teaching: Compassion, Resiliency, and Academic Success* is a comprehensive training tool designed to support “educators who work daily to help children become competent learners despite the enormous barriers posed by traumatic experiences.”²⁶⁵ This book provides practical strategies and examples of how to build compassionate schools that support students struggling with trauma.²⁶⁶ The Missouri Department of Elementary and Secondary Education resources can also be used as a model to provide school entities with flexible training opportunities that school personnel can complete at their convenience.²⁶⁷

Whether a student is identified as traumatized or not, teachers should implement differentiated strategies for learning that can address the needs of students with behavioral or social issues.²⁶⁸ The framework should also involve trauma-informed strategies that teachers are required to implement after extensive training.²⁶⁹ Schools must monitor the staff's implementation of strategies learned from trainings. Additionally, FBAs performed through implementation of the SAP, MTSS, or PBIS programs should be used to incorporate the teachings of trauma-informed practices and support teachers in “developing an effective program of intervention” for the specific behavioral issues that arise in their classrooms.²⁷⁰ This element should manifest differently based on a school's or even a classroom's specific needs.

Supporting traumatized students requires a *trauma-informed specialist* to support and guide Pennsylvania schools—not a safety and security coordinator.²⁷¹ This specialist position should be modelled after the Trauma Informed Specialist/Coordinator (TISC) from Oregon's pilot program.²⁷² The state should assign a specialist to each school, or at least each school district, to support and certify proper facilitation of trainings and implementation of the overall program. Each specialist can train school leaders on how

263. S. 144, 203d Gen. Assemb., Reg. Sess. § 5 (Pa. 2019) (creating 24 PA. STAT. AND CONS. STAT. ANN. § 12-1205.7 (West 2019)).

264. See COLE ET AL., SUPPORTIVE SCHOOL ENVIRONMENTS, *supra* note 47, at 50.

265. WOLPOW ET AL., *supra* note 98, at xi, xiv.

266. See *id.* at xvii.

267. See *Trauma-Informed Schools Initiative*, *supra* note 143.

268. COLE ET AL., SUPPORTIVE SCHOOL ENVIRONMENTS, *supra* note 47, at 61. These strategies may include enhancing the predictability of their lessons and activities, creating routine transitions, implementing positive behavior supports, and responding consistently to all students. *Id.* at 61–64.

269. See *generally id.* at 61–76 (describing academic strategies for teaching students who have experienced trauma).

270. *Id.* at 66. See *supra* Part II.E.1 for a short review of the use and purpose of FBAs.

271. See *supra* 193–194 and accompanying text for a description of the safety and security coordinator's responsibilities.

272. See *supra* notes 151–53 and accompanying text for a description of the TISC position from Oregon's pilot program.

to train school staff about implementing trauma-informed practices.²⁷³ The trauma-informed specialist should also assist schools with providing spaces for staff to reflect upon the vicarious traumatization that they may experience from their work as a means to reduce employee burnout.²⁷⁴ This specialist is vital to the long-term monitoring of this program because they will serve as the liaison between the school entities and the state government.²⁷⁵ Like the TISC, part of the specialist's responsibilities should include collecting and interpreting data that will serve to inform future recommendations in an annual report.²⁷⁶

2. Supportive Policies

The framework should encompass revision of all school policies, procedures, and protocols, which are the essence of a school's culture and play a major role in students' feelings of wellbeing.²⁷⁷ Accordingly, this framework must include a mechanism for ensuring principals strategically plan to incorporate "trauma-sensitive routines into existing school operations."²⁷⁸ For example, the school's disciplinary policies should aim to minimize the time away from learning and serve to hold students accountable without disrespecting them or creating feelings of unsafety.²⁷⁹ Like Massachusetts, this framework should require the creation of a specific team to review discipline policies, continuous monitoring of staff training needs, and periodic data-based review of the success of the program.²⁸⁰ The team should also identify challenges and barriers to implementing the program.²⁸¹

To guarantee that Pennsylvania schools can effectively implement a new trauma-informed approach framework, like Massachusetts, they should integrate this framework with the programs already implemented.²⁸² If school entities purposefully plan to introduce this program concurrently with their already existing programs, schools will likely find it easier to introduce another state program. Programs like SAP, MTSS, PBIS, and special education services, although on their own ineffective to provide the supports that traumatized students' needs, should continue as targeted ways to service students.²⁸³ By integrating the trauma-informed framework, schools can still provide students the targeted supports they may need while also creating a rehabilitative

273. COLE ET AL., SUPPORTIVE SCHOOL ENVIRONMENTS, *supra* note 47, at 59.

274. *See id.* at 58–59.

275. *See infra* Part III.D.2 for a discussion about how the data collected from specialists can help the Department of Education monitor the program's effectiveness.

276. *See Trauma Informed Specialist/Coordinator Job Description (TISC)*, *supra* note 151.

277. *See* COLE ET AL., SUPPORTIVE SCHOOL ENVIRONMENTS, *supra* note 47, at 68.

278. *Id.* at 47.

279. *Id.* at 68–69.

280. *Id.* at 47–49.

281. *Id.* at 49.

282. COLE ET AL., CREATING AND ADVOCATING, *supra* note 82, at 89 ("Policymakers increasingly ask schools to undertake multiple initiatives Important initiatives like social-emotional learning, positive behavioral supports, antibullying, and dropout prevention can become discrete silos, leaving schools to manage many obligations at once, which often results in fragmented implementation.")

283. *See supra* Part III.B for an analysis of why SAP, MTSS, and PBIS programs were not enough to support the needs of traumatized students appropriately.

environment for traumatized students. Integrating a trauma-informed approach into a school's paradigm improves the school's ability to support those students who have not been specifically identified by SAP, MTSS, PBIS, or special education services.²⁸⁴ Implementing all initiatives simultaneously allows schools to “identify the strikingly similar actions that cut across all of the[] initiatives, increasing the effectiveness and efficiency of their efforts.”²⁸⁵ An effective trauma-informed program guarantees that both identified and unidentified students are supported because the culture of the school can help reduce the effects of trauma regardless of identification status.²⁸⁶

When Pennsylvania decides to implement a new regulation, it should plan specifically for how it will monitor its usefulness and utility. To ensure the state is implementing an effective program, the legislature must create a commission similar to the one created pursuant to chapter 69, section 1P(g) of the Massachusetts General Laws.²⁸⁷ This commission, which should be managed by the Pennsylvania Department of Education, must regulate and monitor the effectiveness of the program in all school entities across the state. The commission should oversee the implementation of the framework statewide, collect data from specialists,²⁸⁸ and provide recommendations and guidance to its future implementation. Like the commission from Massachusetts, the Pennsylvania commission should communicate its recommendations and guidance through an annual report that will provide the Pennsylvania Department of Education an overview of the program's success and recommendations for the future.²⁸⁹

Lastly, schools should not frame trauma in the context of school safety and security. Traumatized students deserve to be supported and nurtured in school because they have a right to an education that addresses their needs—not because they assume these particular students pose a threat to others. Pennsylvania should follow Massachusetts's lead and approach this issue as a public health crisis, not create fear by furthering misconceptions of student safety.

IV. CONCLUSION

The legislature must amend current legislation so that it better supports and holds schools more accountable for the way they service traumatized students. Schools must create a culture that works to combat and nurture symptoms of trauma to improve education for all of its students—especially those most affected by trauma. Targeting trauma in the classroom will likely lead to fewer children ending up emotionally disturbed for long enough to meet the emotional disturbance criteria under the IDEA. This legislation can be coordinated with other efforts related to the welfare of children,

284. See *supra* Part II.C for a discussion on the benefits of a trauma-informed approach to learning.

285. COLE ET AL., *CREATING AND ADVOCATING*, *supra* note 82, at 89.

286. *Id.* at 2.

287. MASS. GEN. LAWS ANN. ch. 69, § 1P(g) (West 2019); see MASS. DEP'T OF ELEMENTARY & SECONDARY EDUC., *supra* note 136, at 6, 9. See *supra* Part II.D.2 for a brief overview of Massachusetts's Safe and Supportive Schools Commission.

288. See *supra* note 138 and accompanying text for a discussion of the Massachusetts commission's use of data collection measures to assist with their recommendations.

289. See ch. 69, § 1P(g).

improving the treatment of children and families affected by trauma and perhaps protecting children from the additional trauma of removal from their home.

This Comment addressed and proposed legislation based on advances made in other states to better serve traumatized students in Pennsylvania. This statutory framework would guarantee that Pennsylvania schools have the proper training and resources to “ensure that every learner has access to a world-class education system that academically prepares children and adults to succeed as productive citizens” as the Pennsylvania Department of Education boldly promises in their mission statement.²⁹⁰

290. *Mission and Vision*, *supra* note 209.