Comments

Trauma and Learning: Creating a Culture of Educational Access for Inner City Communities

By MARSHAL ARNWINE JR.*

HOW CAN SOCIETY EXPECT children to focus on performing well in school when they are worried about making it home safely due to gang violence and negative encounters with law enforcement? The situations mentioned above describe daily traumatic experiences for some of the youth in America. Trauma serves as a detriment to a student’s ability to learn by altering the physiology of a child’s developing brain and creating a neurobiological response that impairs the performance of daily activities, especially educationally relevant skills like thinking, reading, concentrating, learning, and regulating emotions.¹ Studies have shown, for example, that when children are exposed to violence they have decreased reading ability, lower grade point averages, more school absences, and are less likely to obtain a high school diploma.² Unaddressed trauma is a powerful predictor of academic failure.³

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2. Id.
3. Id.
This comment proposes solutions to address student trauma. First, courts could consider students that suffer from trauma as disabled for purposes of existing law. As this comment later explains, labeling students that suffer from trauma as disabled may not be the best approach. Second, the California state legislature could pass a bill that provides trauma-sensitive interventions in all school districts for grades pre-k through 12th grade. This comment suggests legislation that mandates trauma-sensitive interventions as the best approach to address student trauma. Legislation could last longer than a court order and create a larger impact on educational access for students from inner-city communities. Trauma-sensitive interventions will allow students to cope with the traumas they experience in their daily lives and afford students the opportunity to excel academically. This comment raises awareness about how the lack of mental health interventions for inner city youth will continue to negatively affect their education. Addressing student trauma will help them academically and improve their chances of avoiding the prison system. Youth should have the right to trauma-sensitive interventions. Without this critical support, youths may suffer long-term negative impacts.

I. Introduction

Trauma in children is a national issue that must be addressed. This comment focuses on the steps that the California judicial system and legislatures can take to provide school districts with trauma-sensitive interventions. This comment uses the Compton Unified School District (“CUSD”) in Compton, California, as a case study to demonstrate benefits of trauma-sensitive interventions in inner city communities. The proposals discussed in this comment will not be simple to execute but attempting to implement them will be worthwhile for the youth and the future of our society. Civil rights pioneer Malcolm X once said, “Education is the passport to the future, for tomorrow belongs to the people who prepare for it today.”4 This article challenges California to prepare for the future—today.

Society experiences a negative fiscal impact when students are not afforded access to education. Denied access to an education largely contributes to the incarceration of inner-city youth. Due to the lack of educational access, inner-city youths join gangs, become unem-

ployed, and ultimately enter the criminal justice system. Society often allows inner city youths’ traumatic symptoms to go unaddressed, which can lead to imprisonment.

Although enforcing strict adherence to rules of “law and order” is seen as beneficial, it is also expensive for taxpayers. In California, the average yearly cost to incarcerate one inmate is about $71,000 per year.⁵ Over three-quarters of these costs are for security and inmate health care.⁶ Since 2010–2011, the average annual cost increased around $22,000, or about 45%.⁷ This includes an increase of $7,200 for inmate health care.⁸

If society cannot eliminate the causes of trauma attributable to poverty, it should, at the least, invest in mental health interventions that address the effects created by trauma.⁹

When society addresses the mental health issues experienced by inner-city youths, children will be better suited to receive access to education and ultimately, society will benefit economically. Trauma-sensitive interventions starting in pre-k and lasting through 12th grade are preventative measures that address the effects of trauma and better ensure students will become positive contributors for the greater good of society.

This comment proceeds as follows: Section II(A) defines trauma for the context of this piece and discusses how youth trauma hinders their ability to learn. Section II(B) demonstrates that unaddressed trauma produces poor academic outcomes. Section II(C) discusses how trauma affects school-wide education. Section II(D) explains how unaddressed trauma contributes to lower academic performance in African American and Hispanic students compared to their White peers. Section II(E) explores how unaddressed trauma contributes to the “school to prison pipeline.” Lastly, Section II(F) urges school districts to implement trauma-sensitive interventions to ensure traumatized students receive meaningful access to their education.

Section III begins with a summary of Peter P v. Compton Unified School District, where for the first time, a court held that complex

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⁶. *Id.*

⁷. *Id.*

⁸. *Id.*

trauma can constitute a disability that schools are obligated to address through the Americans with Disabilities Act (“ADA”). A school might address trauma by: (1) creating programs for students to cope with trauma; (2) placing mental health counselors at schools; (3) giving all school employees thorough training on the impact of student trauma; and (4) creating policy to encourage staff to ask what is happening in a student’s life instead of viewing student disciplinary incidents as problems to be dealt with through punishment.10 The summary provides the origins of the lawsuit and the importance of the remedy pursued. The lawsuit sought a remedy centered on the implementation of proven models of trauma-informed learning into school districts, which recognizes the impact of traumatic experiences and helps both students and educators become more resilient in the face of adversity and trauma.11 The models include: (1) adequate mental health and counseling service for the highest need students; (2) trauma-informed training and support for all educators and school staff; (3) teaching children skills to cope with their anxiety and emotions; and (4) implementing positive school discipline and restorative strategies that keep children in school and create a safe and welcoming environment.12

Section III(A) explores the stories of students involved in the CUSD lawsuit and how trauma affected these students’ abilities to learn in school.

Section III(B) turns to a full discussion of the legal claims presented in Peter P v. CUSD. The claims included in the complaints are that the defendant CUSD: (1) violated section 504 of the Rehabilitation Act, 29 U.S.C. §794; (2) violated the Department of Education regulations regarding “location and notification,” 34 C.F.R. § 104.32; (3) violated “Procedural Safeguards,” 34 C.F.R. § 104.36; (4) violated the Department of Education regulations regarding “free appropriate public education,” 34 C.F.R. § 104.33; and (5) violated the Americans with Disabilities Act, 42 U.S.C. § 12101 Et seq.13 This piece provides an analysis of how the court should rule on these claims and why.

Section IV proposes ways that students can receive and access the education they deserve. This comment discusses alternatives that go

12.  Id.
beyond relying on court decisions to better provide students with the education that is being denied. Section IV(A) discusses how *Peter. P v. CUSD* should be ruled in the event it goes to trial. Section IV(B) explores proven mental health interventions that schools can follow to address trauma. Section IV(B) also demonstrates that proper training for administrators, teachers, and counselors in trauma-sensitive interventions will have a positive impact on students. Properly trained faculty will give students who suffer from trauma guidance on how to cope with it. In return, this will allow students to perform well in school and adequately access their education. Lastly, Section IV(C) explains why trauma should be addressed by the legislative branch.

Section V closes the comment with a challenge to the educational system and parents of students in inner-city communities. It urges school administrators, teachers, and parents of students to be courageous in tackling an issue that many are unaware of or afraid to address. Individuals cannot improve unaddressed trauma on their own, but collectively as a society we can help address trauma in inner-city schools.

II. Unaddressed Trauma in Inner City Communities

For purposes of this comment, an “inner city community” refers to an area within a city with minimal educational opportunities, high crime rates, and inadequate housing.14

Although trauma is a national occurrence and affects children in all communities, complex trauma is particularly common amongst students in Compton, California.15 Compton is among the most socioeconomically distressed cities in Southern California, and it experiences high rates of violent crime.16 In 2015, the official poverty rate in the United States was 13.5%.17 Compton’s poverty rate is twice the national average.18 In 2015, the national average rate of murder in

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16. *Id.*


18. *Why was this case filed in Compton?, supra* note 15.
the United States per 100,000 inhabitants was five. Compton’s murder rate is five times the national average.

Violence, poverty, and discrimination are so common that it is reasonable to assume that, in any Compton classroom, many students are suffering from complex trauma. Unfortunately, for the students in a Compton classroom, the question is not “Have you ever experienced a traumatic event?” but rather, “What traumatic events have you experienced?” Therefore, many CUSD students would likely benefit from the trauma-sensitive interventions sought in the Peter P v. CUSD class action lawsuit.

A. Defining Trauma

The National Child Traumatic Stress Network defines complex trauma as the dual problem of children’s exposure to traumatic events and the impact of this exposure on immediate and long-term outcomes.

Dr. Marleen Wong, a mental health expert, defines trauma as the neurobiological stress response that occurs when a person experiences or witnesses an event involving life-threatening circumstances or the threat of serious injury that causes them to feel intense fear, helplessness, or horror. Dr. Wong defines complex trauma as an individual experiencing multiple, repeated, or prolonged exposure to

20. Why was this case filed in Compton?, supra note 15.
21. Id.
22. Id.
23. This Comment explains that trauma and “complex trauma” are similar, but “complex trauma” speaks to the heightened frequency of the traumatic experiences.
25. Marleen Wong, PhD, USC SUZANNE DWORAK-PECK SCHOOL OF SOCIAL WORK, https://profiles.sc-ctsi.org/marleen.wong (last visited March 23, 2017) (Dr. Wong is a Senior Associate Dean and Director of Field Education at the University of Southern California (“USC”). Dr. Wong’s research derives from her development of the Cognitive Behavioral Intervention for Trauma in Schools, an evidence-based program using skills-based group interventions to relieve symptoms of post-traumatic stress disorder, depression and general anxiety among children traumatized by violence and trauma. Because of Dr. Wong’s successful interventions, she was identified as a subject matter expert in at-risk populations by the Disaster Mental Health Subcommittee of the National Biodefense Science Board) [https://perma.cc/5RG6-9MAQ].
trauma such that the body’s stress response more permanently impacts the development of the brain.  

Dr. Joyce Dorado, a mental health expert, defines complex trauma as physiological and psychological responses to situations that generate damaging levels of stress. When a child repeatedly experiences trauma, the brain’s stress-response mechanism can become significantly altered, leading to sustained consequences for brain development.

Dr. Christina Bethell, an expert on mental health, defines trauma as the body’s internal response to a traumatic event. Acute traumatic events are short-lived events, such as suffering a serious personal injury, witnessing a serious injury or the death of another person, and being threatened by serious physical injury or death. When a child is exposed to repeated traumatic events over time, such as ongoing physical, psychological, or sexual abuse or witnessing community violence, that child may develop long-term physiological consequences.

The medical sources above have their own unique ways of defining trauma and complex trauma; however, both sources agree that youth trauma has both short-term and long-term negative effects.

To understand the impact of sustained exposure to traumatic stress on a child, it is important to consider the functions and developmental stages of the brain—specifically the limbic system in the mid and lower brain, which triggers the “fight, flight, or freeze” response,
and the prefrontal cortex in the frontal lobe, which is responsible for planning, organizing, controlling impulses, and managing emotions.\textsuperscript{35} When a child is faced with overwhelming stress, the prefrontal cortex goes largely offline and the limbic system takes over.\textsuperscript{36}

The neural circuits responsible for dealing with stress are malleable during the fetal and early childhood period.\textsuperscript{37} When the stress response system is repeatedly activated, the neurological processes involved in the stress response become especially strong.\textsuperscript{38} When a young brain is repeatedly stimulated by fear related activity, the prefrontal cortex becomes underdeveloped, while the parts of the brain responsible for producing the fight, flight, or freeze responses become overdeveloped.\textsuperscript{39} The brain becomes sensitized to the “fear track” and is more easily knocked into it, causing trauma-impacted children to be hyper-vigilant and the “fight, flight, or freeze” mode to be activated in response to stimuli that do not actually cue real danger.\textsuperscript{40} Simply put, children with trauma can have trouble concentrating, learning, and sitting still.

Dr. Bruce Perry\textsuperscript{41}, a Professor in the Department of Psychiatry and Behavioral Sciences at Northwestern University in Chicago, has similar research explaining how stress has a severe impact on youth brain development, which in turn affects their response to trauma.\textsuperscript{42} When the stress response systems are activated in moderate, predictable, and controllable ways, the child’s stress-response capabilities grow stronger and more flexible, allowing resilience in the face of future stressors.\textsuperscript{43} However, when a developing child’s stress-response

\begin{itemize}
\item \textsuperscript{35} Declaration of Joyce Dorado, \textit{supra} note 28, at 2.
\item \textsuperscript{36} \textit{Id.}
\item \textsuperscript{37} \textit{Id.}
\item \textsuperscript{38} \textit{Id.}
\item \textsuperscript{39} \textit{Id.}
\item \textsuperscript{40} \textit{Id.} at 4.
\item \textsuperscript{41} Declaration of Bruce Perry at 1, Peter P. v. Compton Unified Sch. Dist., 135 F. Supp. 3d 1126 (C.D. Cal. 2015) (No. LA CV 15–3726–MWF (PLAx)) (Dr. Bruce Perry is a Senior Fellow of the Child Trauma Academy, a nonprofit organization based in Houston, Texas, working to improve the lives of maltreated and traumatized children by establishing practices, programs, and policies. Dr. Perry is an adjunct Professor in the Department of Psychiatry and Behavioral Sciences at the Feinberg School of Medicine at Northwestern University in Chicago. Dr. Perry’s clinical research and practice focus on high-risk and at-risk youth. Dr. Perry’s work examined the cognitive, behavioral, emotional, social, and physiological effects of neglect and trauma in children, adolescents, and adults).
\item \textsuperscript{42} See id. at 13.
\item \textsuperscript{43} See id. at 12.
\end{itemize}
systems become overactive, overly reactive, and sensitized, it results in trouble concentrating and learning.44

Dr. Bethell has similar research that explains the biological and physiological effects of trauma evidenced by irregular levels of hormones.45 Pediatric imaging studies have demonstrated smaller brain volume in traumatized youth compared to children unaffected by trauma.46 When children’s brains experience complex trauma, it can result in the inability to concentrate, poor cognition, poor verbal skills, lower IQ, memory loss, and deficits in academic achievement.47

B. Unaddressed Trauma Produces Poor Academic Outcomes

Without effective interventions, youth who have experienced trauma are more likely to fall behind academically and less likely to graduate from high school.48 Studies show that exposure to two or more traumatic experiences make students 2.67 times more likely to repeat a grade or disengage with their classwork.49 According to Health Affairs Journal—a leading journal of health policy, thought, and research—children who have suffered three or more traumatic experiences are two and a half times more likely to have severe attendance issues.50 Dr. Christopher Blodgett51, clinical psychologist and professor, produced the first studies showing that without intervention, exposure to traumatizing experiences and environments can adversely influence how far an individual’s education will go.52 It turns

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44. See id.
46. Id. at 5.
47. See id.
48. Complaint, supra note 1, at 52.
49. Id.
51. Anndee Hochman, MARC Advisor: Christopher Blodgett, Ph.D., ACES CONNECTION (March 14, 2016, 5:24 AM), http://www.acesconnection.com/blog/marc-advisor-christopher-blodgett-ph-d (Dr. Blodgett is a clinical psychologist and Washington State University (“WSU”) faculty member who spent most of his career in areas of community violence and child maltreatment. Dr. Blodgett is the Director of the National Child Traumatic Stress Network’s trauma center at WSU. Dr. Blodgett and his team adapted the science of resilience, brain development and trauma to create systematic interventions) [https://perma.cc/6ASL-QVA6].
out that unaddressed trauma is an even more accurate predictor of educational outcomes than race or income.53

According to Dr. Wong’s research and studies, the particularly high rate of trauma in low-income and minority children is one reason why low-income and minority students continue to trail behind their peers academically, despite decades of effort and resources to close this achievement gap.54 Inner-city youth will continue to be denied meaningful access to education because of this disparity.55 Trauma-sensitive interventions must be implemented school-wide for youth to access adequate education and close the achievement gap. Section II(C) further discusses the achievement gap.

C. Trauma Affects School-Wide Education

It is a common misconception that school-wide trauma-sensitive intervention is unnecessary because many students do not suffer from traumatic experiences.56 However, in school, trauma impacts more than just the individuals who have directly experienced the traumatic events.57 Chronic stress and trauma have an impact on the overall school environment.58 Many educators who work daily with youth who have experienced trauma find that they themselves begin exhibiting symptoms similar to those of their students even when they have not endured trauma themselves.59 This is called “secondary trauma.”60 Teachers experiencing secondary trauma might frequently find themselves on edge and hyper alert for potential threats. When the chronic stress and secondary trauma that educators experience are not addressed, those educators become worn out and less effective and as a result students do not receive proper educational access.61 In the long-term, ineffective teachers impact all students, regardless whether or not the student experiences trauma; therefore, it is in the best interest of the entire school to adopt trauma-sensitive interventions. This ensures that students are receiving the proper treatment to cope with their trauma. When students can cope with their trauma, teachers are more effective in educating those students.

53. Id.
54. Declaration of Marleen Wong, supra note 26, at 5.
55. See id.
56. See Declaration of Joyce Dorado, supra note 35, at 7–8.
57. See id.
58. Id.
59. See id.
60. Id.
61. See id. at 9.
D. Unaddressed Trauma Contributes to the Achievement Gap

The “achievement gap” in education refers to the disparity in academic performance between groups of students.62 African American and Hispanic students perform lower academically in comparison to their White peers.63 There is similar academic disparity between students from low-income families and high-income families.64 The achievement gap appears in grades, standardized-test scores, dropout rates, and college completion rates.65

Closing achievement gaps among these various student groups became a focus of federal education accountability with the No Child Left Behind Act of 2001.66 School districts nationwide were required to disaggregate student test scores and other performance data by student characteristics to enable better comparisons between groups of students.67 This analysis created a greater awareness of racial disparities and the rising concern about other kinds of achievement gaps.68 The attention led to more targeted interventions for different students, but did not appreciably close most achievement gaps a decade after the law passed.69

National Assessment of Educational Progress (“NAEP”) results show, over time, African American and Hispanic students have made great strides in improving performance in reading and mathematics.70 However, even with improvements, there is still a gap that separates these students from their White peers.71 Special analyses by the National Center for Education Statistics in 2011 show that African American and Hispanic students trailed their White peers by an average of over twenty test score points on the NAEP math and reading assessments at the fourth and eighth grade levels.72 Twenty test score points is a difference of approximately two grade levels.73

63. See id.
64. See id.
65. Id.
66. Id.
67. Id.
68. Id.
69. Id.
70. Id.
71. Id.
72. Id.
73. Id.
Such disparities have also been evident in graduation rates and college success statistics.\textsuperscript{74} Education requirements changed in 2008 in which the federal government held school districts accountable for improved graduation rates, especially those of different racial backgrounds, language and disability groups.\textsuperscript{75} According to Editorial Projects in Education Research Center’s annual Diplomas Count report, while each major racial and ethnic group had more students graduate in the class of 2008, massive graduation achievement gaps remained among students.\textsuperscript{76} While 82.7\% of Asian students and 78.4\% of White students in the class of 2008 graduated on time, only 57.6\% of Hispanic students, 57\% of African American students and 53.9\% of American Indian students graduated on time.\textsuperscript{77} Equally concerning, a statistic suggests approximately only one half of male students from minority backgrounds graduate on time.\textsuperscript{78}

E. Unaddressed Trauma Contributes to the School to Prison Pipeline

The school to prison pipeline is the national trend where children are “funneled out” of public schools and into juvenile criminal justice systems.\textsuperscript{79} This section proposes that many of the schools that are “funneling” students into the criminal justice system have students that suffer from untreated complex trauma and would benefit from trauma-sensitive interventions. Instead, students are isolated for not performing well, punished, and “funneled out” the back door of the school and into the front door of the criminal justice system.\textsuperscript{80}

Zero-tolerance policies criminalize minor school infractions, while on-site police officers criminalize students for behavior that should be handled inside the school.\textsuperscript{81} Students from inner-city communities are especially vulnerable to the “funnel out” trend and the discriminatory application of discipline.\textsuperscript{82} Student-police interactions disproportionately impact low-income students, students of color, and

\textsuperscript{74.} Id.
\textsuperscript{75.} Id.
\textsuperscript{76.} Id.
\textsuperscript{77.} Id.
\textsuperscript{78.} Id.
\textsuperscript{79.} School-To-Prison Pipeline, ACLU, https://www.aclu.org/feature/school-prison-pipeline [https://perma.cc/GTV2-T9QV] [hereinafter ACLU].
\textsuperscript{80.} Id.
\textsuperscript{81.} Id.
\textsuperscript{82.} Id.
students with disabilities.\textsuperscript{83} In California, the average arrest rate in schools where more than 80% of students are low-income is seven times higher than the average arrest rate in schools where fewer than 20% of students are low income.\textsuperscript{84} Department of Education statistics also show that although students with disabilities made up only 12% of student enrollment nationwide, they comprised 23% of police referrals, 23% of arrests, and 67% of students placed in physical restraint, seclusion, and confinement.\textsuperscript{85} School officials are more likely to refer incidents involving students of color to the police than those involving white students: (1) Native American students are 3.4 times more likely; (2) Black students are 2.7 times more likely; and (3) Hawaiians/Pacific Islander students are 1.4 times more likely to be referred to police.\textsuperscript{86} In 2015–16, Los Angeles Unified School District’s (“LAUSD”) suspension rate for Black students was seven times higher than white students while the per capita arrests of Black students were 17 times higher than White students.\textsuperscript{87} Only 8.5% of students enrolled in LAUSD are Black, yet 46.6% of arrests involved a Black student.\textsuperscript{88} Per capita arrests of Hispanic/Latino students were more than two times higher than White students, and their per capita police referrals were four times higher than White students.\textsuperscript{89}

Children should be educated, not incarcerated. By implementing trauma-sensitive school interventions, the disturbing trend of the school to prison pipeline would be addressed and eventually eliminated.\textsuperscript{90} California legislatures must pass a bill to make all schools, pre-k through 12th grade, implement trauma-sensitive interventions.

\textbf{F. Schools Can Implement Trauma-Sensitive Interventions to Ensure Traumatized Students Receive Appropriate Education}

The goal of trauma-sensitive interventions is to intervene and treat students’ trauma as early as possible, so that the child can func-
tion more adaptively in school and feel less distracted by the traumatic events they experienced. The earlier the intervention is implemented, the better the result is for the student. Therefore, implementing trauma-sensitive interventions in inner-city elementary and middle schools is extremely urgent. Effective psychological interventions for trauma related symptoms in students can mitigate the long-term effects of trauma exposure. Implementing trauma interventions in high schools would be effective as well. However, starting at an early age is best in order to prevent delays in a student’s access to education. Delaying help until high school would deny a student educational access for too many years. Later, this comment discusses a detailed proposal of the type of trauma-sensitive interventions Compton Unified School District should adopt.

III. Peter P. v. Compton Unified School District

Peter P., et al. v. Compton Unified School District, et al. (2015) was filed in Los Angeles, California by Public Counsel and Irell & Manella LLP on behalf of a class that included several students and three teachers. The lawsuit asked CUSD to incorporate proven practices that address the learning barriers caused by trauma, in the same way public schools have adapted and evolved in past decades to help students who experience physical or other barriers to learning. Through litigation, the court recognized for the first time that complex trauma can constitute a disability that public schools have an obligation to address through the Americans with Disabilities Act (“ADA”). The court’s decision recognized that children who suffer the disabling effects of complex trauma resulting from exposure to violence, racism, extreme poverty, and other adverse childhood experiences are entitled to equal access to education and the provision of appropriate services.

A. Peter P. v. CUSD Student Anecdotes

Presented below are four student plaintiffs from the class action lawsuit mentioned above who attend schools in CUSD. These students
suffer from complex trauma and could benefit from trauma-sensitized interventions in their schools. Reading these anecdotes will help shape why the plaintiffs in Peter P. v. CUSD deserve a favorable outcome of trauma-sensitive interventions.

Consider Donte—A thirteen-year-old student attending middle school in CUSD. In sixth grade, he was arrested at gunpoint on school campus and taken to the police station in handcuffs because police misidentified him as someone else. During the first semester of eighth grade, a high school student pulled out a knife and threatened to stab Donte and a friend as they were leaving the school campus. During the second semester of eighth grade, another group of high school students brutally physically assaulted Donte on his way to school for wearing “gang colors,” despite Donte’s lack of involvement with any gang. Even though Donte went to the school nurse, explained the incident, and was sent home, he received no counseling concerning this traumatic experience. Because of these traumatic events, Donte has had intrusive thoughts and difficulty focusing in class. He was suspended for slamming a door in a counselor’s face because he reached out for help but did not feel he was receiving any. Since CUSD has no system of programs to address the impact of his complex trauma, Donte’s education ultimately suffered and will continue to suffer.

Consider Kimberly—A high school senior in CUSD. Kimberly experienced multiple traumas during school hours that contributed to her difficulty with attending school as often as she was expected to. As a middle school student, she witnessed the death of two students. While at Dominguez High School, she told a fellow student she identified as bisexual only to be told by her teacher, in front of the entire class, she “shouldn’t be gay” and “that it was wrong.” Kimberly was already dealing with suicidal feelings so she stopped attending class. In her senior year, Kimberly got into an altercation with a security guard at Dominguez while returning a book to the library, which resulted in serious back injuries. Kimberly did not attend school for over a week because of the incident. Her family filed a formal complaint with the school and attempted to press charges, but Kimberly received

98. Complaint, supra note 1, at 34.
99. Id.
100. Id. at 35.
101. Id.
102. Id. at 35–36.
103. Id. at 21–22.
no mental health services or acknowledgement of the incident.\footnote{104} Because of her continued absences while attending Dominguez, she was required to transfer to a continuation school.\footnote{105}

After transferring to a continuation school, Kimberly was sexually assaulted on a public bus traveling from school.\footnote{106} The experience left her traumatized and terrified of traveling to and from school. She again missed multiple days of school, and when she attended, flashbacks caused her to break down in class. Although the continuation school knew of the incident, she did not receive mental health services. Due to unaddressed trauma, Kimberly cannot focus and concentrate in class. Because CUSD does not have a set of interventions to address complex trauma, she struggled in school and failed numerous courses. These repeated failures contributed to Kimberly not graduating from high school.\footnote{107}

\textbf{Consider Peter—}A seventeen-year-old student enrolled at Dominguez High School in CUSD.\footnote{108} In his early years, Peter’s biological mother abused drugs and he was repeatedly physically and sexually abused by his mother’s boyfriends. He also witnessed the physical abuse of his siblings and mother. Peter continues to have flashbacks to this period and often experiences an instinct to be aggressive when he sees a male approaching him.\footnote{109}

Peter has witnessed and has been the victim of violence on multiple occasions.\footnote{110} Peter reported that in middle school, he watched as his best friend was shot and killed.\footnote{111} In 2014, Peter was treated for stab wounds that required stitches after he threw himself in front of a friend whose relative was attacking her with a knife. Moreover, Peter was homeless for two months during the 2014 school year and slept on the roof of the Dominguez High School cafeteria. Although some administrators knew of these circumstances, they did not provide support or services. Instead, Peter was suspended. His attempts to return
to school while on suspension were denied, and he was threatened with law enforcement involvement if he persisted to return.112

Because of the repeated and sustained trauma Peter endured, he often experienced uncontrollable anger.113 Peter stated, “Sometimes I pray to God; why do you still keep me here even after all the things I’ve been through? I have had so many chances to go to heaven but I’m still here. I thank God every day for waking up, but I regret waking up every day.”114

Peter previously demonstrated his ability to achieve high grades in certain honors classes.115 However, the effects of complex trauma in his life caused his grades to decline. Although he repeatedly missed classes due to the complex trauma he experienced, Peter did not receive help from a mental health intervention, attendance counselor, or other school officials. No one has intervened or inquired about the cause of these absences. Because CUSD does not have trauma-sensitive programs to address the impact of complex trauma, Peter could not fully access his education.116

Lastly, consider Virgil—A fifteen-year-old student enrolled at Dominguez High School in CUSD.117 When Virgil was approximately three years old, he woke up during the night to the sight of his father pointing a gun at his mother and yelling, “I’m done!” Virgil continues to have terrifying nightmares linked to this incident. He struggles with anger due to the traumatic violence and loss he endured. Virgil often got into fights in the classroom and schoolyard. Instead of providing support to Virgil, CUSD has responded with punitive discipline and police involvement. In sixth grade, he was expelled from middle school in CUSD and became involved with the juvenile justice system. Despite Virgil’s need for additional and more intensive support, there has not been a CUSD school to provide or refer him to mental health services.118

Since CUSD does not have trauma-sensitive interventions to address the impact of complex trauma, Virgil will continue to be unsuccessful academically and will end up in the cycle that is the criminal justice system.119

112. Id. at 18.
113. Id. at 19.
114. Id.
115. Id. at 20.
116. Id.
117. Id. at 32.
118. Id. at 32–33.
119. Id. at 33.
Section III(B) discusses these student anecdotes as examples of how students can benefit from teachers being properly trained to help students cope with trauma.

B. Legal Claims Presented in *Peter P. v. CUSD*

The student plaintiffs’ complex traumas have gone unaddressed in CUSD. This has caused students to be denied meaningful access to adequate public education by the defendant CUSD. The plaintiffs’ complaint alleged five claims of relief asserting that the defendant failed to implement any reasonable accommodations that would allow students to enjoy the benefits of the free public education offered by CUSD. The claims of relief alleged that the defendant: (1) violated section 504 of the Rehabilitation Act, 29 U.S.C. §794; (2) violated the Department of Education regulations regarding “location and notification,” 34 C.F.R. § 104.32; (3) violated “Procedural Safeguards,” 34 C.F.R. § 104.36; (4) violated the Department of Education regulations regarding “free appropriate public education,” 34 C.F.R. § 104.33; and (5) violated the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.

Defendants’ motion to dismiss plaintiffs’ class action complaint is before the court. Plaintiffs hope that their school district will implement trauma-informed learning. The trauma-informed learning models include: (1) adequate mental health and counseling service for the highest need students; (2) trauma-informed training and support for all educators and school staff; (3) teaching children skills to cope with their anxiety and emotions; and (4) implementing positive school discipline and restorative strategies that keep children in school and create a safe, welcoming environment. The ADA and Rehabilitation Act help by mandating CUSD to provide the plaintiffs with the same opportunity to benefit from their educational experiences as their non-disabled counterparts. Before this case, complex trauma did not constitute a disability that public schools had to address through ADA.

120. Complaint, *supra* note 1, at 1–2.
121. *Id.*
122. *Public Counsel,* *supra* note 11.
123. *Id.*
125. *Public Counsel,* *supra* note 11.
The court has determined that, for purposes of surviving a motion to dismiss, the allegations in the plaintiffs’ complaint will suffice for now. Since this case is awaiting trial (pending settlement between the parties), this comment uses the court’s Motion to Dismiss order as one example of what litigation could look like. If this case goes to trial, it could set a precedent to compel similar school districts to implement policies to help students with trauma.

The court perceived the central issue of this case in two ways. The first issue was determining the definition of a cognizable disability for purposes of Title II of the ADA and Section 504 of the Rehabilitation Act. The second issue was determining whether the effects of exposure to trauma manifest themselves, as alleged in the complaint. The court acknowledged the allegations that exposure to traumatic events might cause physical or mental impairments that could be cognizable as disabilities under the two Acts.

Below are discussions of the five legal claims presented in Peter P. v. CUSD. The court applied the same analysis under the first claim, violation of Section 504 of the Rehabilitation Act, and the fifth claim, violation of Title II of the ADA, because there is no significant difference in analysis of the rights and obligations created by the ADA and the Rehabilitation Act. Therefore, sub-section 1 will analyze the first and fifth claim together. Next, sub-section 2 discusses plaintiffs’ claims for violations of Department of Education’s regulations.

1. Rehabilitation Act and ADA Claims

Section 504 of the Rehabilitation Act provides: “No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” To demonstrate a violation of § 504, a plaintiff must show that he or she: (1) is an “individual with a disability” under the terms of the Rehabilitation Act; (2) is “otherwise qualified” to receive the benefits or services sought; (3) was denied the benefits of the program “solely by

128. Peter P., 135 F. Supp. 3d at 1102.
129. Id.
130. Id. at 1103.
131. Id. at 1107.
132. Id.
reason of her or his disability”; and (4) the program receives federal assistance.133

The court provides an identical analysis to prove a violation of Title II of the ADA.134 The plaintiffs must show that they: (1) are qualified individuals with a disability; (2) were “either excluded from participation in or denied the benefits of a public entity’s services, programs, or activities, or were otherwise discriminated against by the public entity”; and (3) their exclusion, denial of benefits, or discrimination was because of” their disability.135

The four elements the plaintiffs must prove to demonstrate a violation of § 504 and the ADA are discussed below. However, the court explains that the only two elements in dispute are whether the plaintiffs have adequately alleged: (1) they are individuals with a disability; and (2) they have been denied meaningful access to public education because of their disability.136 This section will discuss the two disputed elements first. This comment next analyzes how the plaintiffs are qualified to receive benefits and how CUSD received federal financial assistance.

a. Individual with a Disability

For protection under the Rehabilitation Act an individual must have a physical or mental impairment that substantially limits one or more major life activities.137 The plaintiffs argue that because they have experienced complex trauma, they meet the definition of “individuals with disabilities” within the meaning of the Act. Therefore, the plaintiffs argue they are entitled to “meaningful access” to the benefits, services, and programs provided by CUSD.138 The defendants argue that the plaintiffs are not disabled because (1) trauma is not a physical or mental impairment and (2) the plaintiffs have failed to plead facts sufficient to show that their trauma substantially limits a major life activity.139

133. Id.
134. Peter P., 135 F. Supp. 3d at 1107.
135. Id.
136. Id.
138. Peter P., 135 F. Supp. 3d at 1113.
139. Id. at 1107.
b. Complex Trauma and Physical or Mental Impairments

The defendants contend that the trauma alleged in the complaint only amounts to environmental, cultural, and economic disadvantages and are neither considered physical nor mental impairment. However, the plaintiffs’ complaint alleged the impact of trauma, not the impact of economic disadvantages. The plaintiffs used the following hypothetical to support their assertion. If an individual required a wheelchair because of a neighborhood shooting, for example, that individual would be protected under Section 504 and the ADA. An intellectual disability due to exposure to lead paint or extreme malnutrition would be likewise cognizable under the Acts. The plaintiffs further identified specific ways in which trauma causes physiological changes in their brains. For example, the complaint alleged that part of the hippocampus is less active in a traumatized brain. Trauma can increase cortisol levels in the hippocampus and ultimately cause it to decrease in volume. Researchers have documented that traumatized youth had smaller or abnormal prefrontal cortex structures. The hippocampus is a brain structure that plays an essential role in new learning and memory formation. Similarly, the prefrontal cortex is a lobe in the front of the brain that plays an important role in regulating the complex cognitive, emotional, and behavioral functioning of humans. The court concluded that the plaintiffs demonstrated physical or mental impairment within the meaning of the two Acts.

140. *Id.* at 1108.
141. *Id.* at 1109.
142. *Id.*
143. *Peter P.*, 135 F. Supp. 3d at 1109.
144. *Hippocampus*, ALLEYDOG.COM, https://www.alleydog.com/glossary/definition.php?term=hippocampus [https://perma.cc/J5LL-XQP7] (Hippocampus is a part of your brain, specifically a part of the limbic system that is vital for the formation of memories. Without the hippocampus, you would not be able to remember anything that you read).
146. *Cortisol*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/cortisol [https://perma.cc/4HC6-RCKL] (Cortisol is glucocorticoid C21H30O5 produced by the adrenal cortex upon stimulation by ACTH that mediates various metabolic processes (as gluconeogenesis), has anti-inflammatory and immune-suppressive properties, and whose levels in the blood may become elevated in response to physical or psychological stress).
148. *Id.*
149. *Id.*
150. *Id.*
c. Allegations that Complex Trauma Substantially Limits a Major Life Activity

The plaintiffs must prove both independent components of the acts to meet their legal burden within the meaning of the ADA, a physical or mental impairment is a disability if it “substantially limits one or more major life activities of” an individual.\textsuperscript{151} Defendants argued that the plaintiffs’ claim should be dismissed for failing to properly plead that trauma constituted a substantial limitation.\textsuperscript{152} The ADA includes learning, reading, concentrating, thinking, and communicating amongst a non-exhaustive list of “major life activities.”\textsuperscript{153} The ADA Amendments Act of 2008 (“ADAAA”) partially collapses major life activity into physical and mental impairments by including major bodily functions in the definitions of “major life activities.”\textsuperscript{154} ADAAA emphasizes the definition of disability to be construed in favor of broad coverage of individuals to the maximum extent permitted by the terms of the ADA and generally shall not require extensive analysis. ADAAA makes it easier for an individual seeking protection under the ADA to establish that he or she has a disability within the meaning of the ADA.\textsuperscript{155} The defendants further argued that there was not a basis for assuming that every instance of bad acts, trouble, or misbehavior committed by students was due to trauma or that trauma is the substantial limitation on their claimed inabilities.\textsuperscript{156}

The plaintiffs made allegations based on extensive scientific and medical literature that neurobiological effects of complex trauma substantially impair a number of major life activities specifically enumerated by the ADA and the Rehabilitation Act, including learning, reading, concentration, thinking, and communicating.\textsuperscript{157} The plaintiffs contend that the complaint detailed specific instances regarding the consequences of trauma experienced by the students, which is consistent with the effects of trauma.\textsuperscript{158}

The court was satisfied that the plaintiffs’ complaint adequately alleged the neurological changes caused by complex trauma and that

\textsuperscript{151} Id.
\textsuperscript{152} Peter P., 135 F. Supp. 3d at 1111.
\textsuperscript{153} Id.
\textsuperscript{154} Id.
\textsuperscript{156} Peter P., 135 F. Supp. 3d at 1111.
\textsuperscript{157} Id.
\textsuperscript{158} Id.
they experienced limitations in their abilities to perform tasks such as learning, reading, concentrating, thinking, and communicating.\textsuperscript{159} The court concluded that plaintiffs pled sufficient facts regarding the consequences of complex trauma with respect to “major life activities” to survive a motion to dismiss.\textsuperscript{160}

d. The Program Receives Federal Financial Assistance

The Rehabilitation Act governs all entities receiving federal funds, both public and private.\textsuperscript{161} The ADA governs all public entities, regardless whether it is federally funded.\textsuperscript{162} CUSD receives federal funding. The defendants do not contest that the CUSD program receives federal financial assistance. Therefore, the distinction between the ADA and Rehabilitation Act is a non-factor here.\textsuperscript{163}

e. Denied the Benefits of the Program Solely Because of Their Disability

For the plaintiffs to recover under both the Rehabilitation Act and ADA, they must have been denied the benefits of the relevant program “solely by reason of” their claimed disability.\textsuperscript{164} The defendants argued that the plaintiffs failed to allege that they requested accommodations or approached the defendants to address the trauma-related limitations alleged.\textsuperscript{165} The defendants further argued that the plaintiffs’ claims rely on their misbehavior, such as truancy and schoolyard fights, to demonstrate signs of their disability when these scenarios could be the result of immaturity or poor judgment.\textsuperscript{166} The defendants moved to dismiss because they were not provided notice of the disabilities the plaintiffs were facing.\textsuperscript{167} The plaintiffs argued that the defendant now has knowledge of the relevant disability and the complaint seeks only prospective injunctive relief.\textsuperscript{168} The court concluded that, for the purposes of surviving a motion to dismiss, the plaintiffs’ allegations were sufficient to establish that the plaintiffs were denied the benefits of the relevant program solely by reason of

\begin{footnotesize}
\begin{enumerate}
\item[159.] \textit{Id.}
\item[160.] \textit{Id.}
\item[161.] \textit{Peter P.}, 135 F. Supp. 3d at 1107.
\item[162.] \textit{Id.}
\item[163.] \textit{Id.}
\item[164.] \textit{See id. at 1112.}
\item[165.] \textit{Id.} at 1113.
\item[166.] \textit{Id.}
\item[167.] \textit{Peter P.}, 135 F. Supp. 3d at 1115.
\item[168.] \textit{Id.} at 1113.
\end{enumerate}
\end{footnotesize}
their claimed disability. The court was satisfied that the complaint alleged how the plaintiffs have been denied meaningful access to CUSD’s program because of their trauma-induced disabilities, as required for a violation of Section 504. Further, the court concluded that the plaintiffs did assert in their complaint the educational services provided by CUSD do not and are not designed to meet the needs of students with trauma induced disabilities as adequately as the needs of students without these disabilities.

f. They are Otherwise Qualified to Receive the Benefit

This element is not disputed in this case on whether the plaintiffs are otherwise qualified to receive disability benefits. Therefore, this comment will not analyze this element.

2. Claims for Violations of Department of Education’s Regulations

The second, third, and fourth claims are for violations of the Department of Education’s regulations of the Rehabilitation Act regarding “Location and Notification” (34 C.F.R. §104.32), “Procedural Safeguards” (34 C.F.R. §104.36), and “Free Appropriate Public Education” (34 C.F.R. §104.33). The defendants argued the plaintiffs’ second, third, and fourth claims should be dismissed for failure to state any facts sufficient to support relief.

a. Location and Notification Requirements of 34 C.F.R. §104.32

A recipient that operates a public elementary or secondary education program or activity shall annually: (1) undertake to identify and locate every qualified handicapped person residing in the recipient’s jurisdiction who is not receiving a public education; and (2) take appropriate steps to notify handicapped persons and their parents or guardians of the recipient’s duty under this subpart.

CUSD’s failure to train teachers to recognize and address trauma-related disabilities was central to the plaintiffs’ theory of disability-based disadvantage, and the defendants’ failure to adhere to the location and identification requirements contained in this regulation.
Therefore, the court concluded that the plaintiffs’ complaint seemed logically related to the above alleged failure.  

b. Procedural Safeguards Requirements of 34 C.F.R. §104.36

Procedural safeguards require that, “A recipient that operates a public elementary or secondary education program or activity shall establish and implement, with respect to actions regarding identification, evaluation, or educational placement of persons who, because of handicap need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, and opportunity for the parents or guardian to examine relevant records, an impartial hearing with opportunity for participation by the person’s parents or guardian and representation by counsel, and review a procedure.”

The plaintiffs argued that CUSD failed to establish procedures regarding notice, which resulted in negative consequences for students who were entitled to the protection of procedural safeguards. The plaintiffs further argued instead of providing accommodations to address student’s complex trauma, the defendant decided to use suspensions, expulsions, involuntary transfers, and referrals to law enforcement that pushed them out of school, off the path to graduation, and into the criminal justice system. The court ruled these as examples of consequences that are related to the plaintiffs’ general theory of disability-based deprivation.

c. Free Appropriate Public Education Requirements of 34 C.F.R. §104.33

Free appropriate public education requires a recipient that operates a public elementary or secondary program or activity to provide a free appropriate education to each qualified handicapped person who is in the recipient’s jurisdiction, regardless of the nature or severity of the person’s handicap.

177. Id.
178. Id. at 1118.
179. Peter P., 135 F. Supp. 3d at 1119.
180. Id.
181. Id.
182. Id. at 1117.
The court concluded that denial of a free appropriate public education because of trauma-related disability is at the crux of Plaintiffs’ complaint.\textsuperscript{183}

C. Court’s Conclusion and Current Status of Peter. P v. CUSD Lawsuit

For the reasons mentioned above, the court denied the defendant motion to dismiss the plaintiffs’ complaint and gave defendant twenty-one days to file an answer to the complaint.\textsuperscript{184}

As of June 9, 2016, trauma experts identified by Public Counsel (attorneys representing Plaintiffs) were working with CUSD administrators to create a plan for the district.\textsuperscript{185} However, if an agreement is not reached and the parties do not agree to file an extension, the lawsuit will resume.\textsuperscript{186} Because there is not a recent update on the status of the lawsuit, part VI of this Comment offers proposals for how the lawsuit should be decided and what the next steps should be.

IV. Proposals for Meaningful Access to Education

The Peter P. v. CUSD case is ongoing, and part VI provides what the next steps should be moving forward. Section A discusses how court should rule if this case proceeds to trial. Section B explores current proven mental health interventions that CUSD can adopt to address trauma. Lastly, section C proposes that legislation is the best way to address student trauma.

A. Judicial Branch Must Take a Stand

The judicial branch of the government has the power to decide how laws should be applied.\textsuperscript{187} If this case proceeds to trial, the court should take a strong stance in favor of the plaintiffs. This comment recognizes that Peter P. v. CUSD marks the first time a federal law will be used to determine whether complex trauma can be considered a disability. If the trial judge rules in favor of the plaintiffs, the ruling

\textsuperscript{183} Id.
\textsuperscript{185} Jeremy Loudenback, Compton trauma lawsuit near resolution?, LA SCHOOL REPORT, (June 9, 2016), http://laschoolreport.com/compton-trauma-lawsuit-near-resolution/ [https://perma.cc/38P3-PEH6].
\textsuperscript{186} Id.
\textsuperscript{187} THE JUDICIAL BRANCH, https://www.whitehouse.gov/about-the-white-house/the-judicial-branch/ (last visited Dec. 28, 2018) [https://perma.cc/9U8C-3QHZ].
would obligate school districts to offer mental health services. In motions to dismiss, it is understood that the court does not make a final decision as to how the merits of the action will be resolved. However, if the case proceeds to trial, the court should consider taking a strong stance and rule that the plaintiffs suffer from a cognizable disability for purposes of the Rehabilitation Act or the ADA. For example, the court in its ruling on the motion to dismiss acknowledged the allegations that exposure to traumatic events might cause physical or mental impairments that could be cognizable as disabilities under the two Acts. If this case proceeds to trial, the trial judge should acknowledge that the plaintiffs’ traumas disable them from receiving meaningful access to education. Without judicial precedent in school cases, the United States education system would not have seen the advances we have today.

In *Brown v. Board of Education*, the U.S. Supreme Court famously recognized “the importance of education to our democratic society.” Public education is “required in the performance of our most basic public responsibilities,” “the very foundation of good citizenship,” and “a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.” It is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.

More than sixty years later, students in CUSD who are affected by the disabling impacts of complex trauma still lack meaningful access to education. These students are entitled to accommodations necessary to combat the trauma they have experienced so that they are not denied educational success and life chances. It is possible that if the Court in *Brown v. Board of Education* did not take a strong stance against racial segregation, public schools would still be segregated to this day.

The potential trial judge of *Peter P. v. CUSD* can become a champion in the pursuit of educational justice and make a ruling that will leave a legacy like *Brown v. Board of Education*. A favorable ruling for the plaintiffs in *Peter P. v. CUSD* will ensure that our youth are not

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188. *Public Counsel*, supra note 11.
190. *Id.*
191. *Id.*
192. Complaint, supra note 1, at 5.
193. *Id.*
denied access based on their unaddressed trauma. If this case goes to trial, the judge should take a stand because the future of equitable educational access depends on it.

Regardless of the outcome in Peter P. v CUSD, there is a better way to address trauma in schools than labeling students “disabled.” There are some positive effects to being labeled “disabled.” Identifying the plaintiffs’ complex trauma as a disability allows cases like Peter P. v. CUSD to be successful in court and forces schools to provide proven mental health interventions. However, society’s use of the term “disabled” should be used cautiously if it is not the only option to solve the issue at hand. The issue in Peter P. v. CUSD is that unaddressed trauma denies students access to their education. In the long-term, labeling students “disabled” will have more of a negative impact on students than positive. Once labeled “disabled,” students and educators may reduce their expectations and goals for what can be achieved in the classroom.194 In addition to lower expectations, students may develop low self-esteem and experience issues with peers treating them differently.195 Students in inner-city communities are already met with low expectations due to their socioeconomic environment, and being labeled “disabled” could contribute to the vicious cycle of academic failure and lead these students to the criminal justice system.

B. Proven Mental Health Interventions for Addressing Trauma That Schools Can Follow

1. University of California, San Francisco HEARTS Program

The University of California, San Francisco (“UCSF”) Healthy Environments and Response to Trauma in Schools (“HEARTS”) project is a comprehensive, multilevel school-based prevention and intervention program for children who experienced trauma.196 Compton Unified School District students’ mental health and academic performance will improve if it adopts some of the interventions UCSF HEARTS Program offers.

195. Id.
The mission of UCSF HEARTS is to create school environments that are more trauma-sensitive and supportive of the needs of traumatized children. One objective of this project is to work collaboratively with the students in San Francisco Unified School District (“SFUSD”) who have experienced complex trauma. Trauma-sensitive school environments will benefit not only traumatized children, but also those who are affected by these children.

UCSF HEARTS has three main goals. First, UCSF implements school-based intervention and prevention work with children and adolescents directly and indirectly affected by trauma. Some interventions include: trauma-informed therapeutic interventions, skill building groups, and classroom presentations on coping with trauma and violence. The second goal is training, consultation and support for school personnel. Some methods include: (1) psycho-educational and skill building workshops for parents and caregivers; (2) training in complex trauma-sensitive practices for teachers; administrators; and (3) school mental health counselors. This goal is aimed at building capacity in SFUSD personnel around working with traumatized students and providing support for school staff for stress, burnout, and traumatization. The third goal is working with SFUSD at the school level and the district level to help improve school and district wide policies and procedures. Examples of these procedures include trauma-informed consultation around positive behavioral support systems, discipline polices, and alternatives to suspension from school for students with behavioral challenges.

UCSF HEARTS has been implemented in several SFUSD schools. These schools serve some of the most under resourced communities in the city of San Francisco. The CUSD is also in an under resourced community and shares similarities to SFUSD student’s demographic. If UCSF HEARTS program can work in SFUSD, it can be successful in CUSD as well.

197. Id.
198. Id.
199. Id.
200. Id.
201. Id.
202. Id.
203. Id.
204. Id.
2. Cognitive Behavioral Intervention for Trauma in Schools (“CBITS”)

Another proposal is for CUSD to partner with the Cognitive Behavioral Intervention for Trauma in Schools (“CBITS”) programs to address trauma so that students are able to better access their education. CBITS is a school-based early intervention program proven to be effective in addressing the mental health symptoms of traumatized youth who have been exposed to a wide variety of violence in their community.205 CBITS impacts school performance and overall functioning of the school. CBITS was initially developed with a public health approach in mind but has been successfully disseminated in schools across the United States and nationally recognized as one of the leading school-based interventions.206 CBITS was developed by the Los Angeles Unified School District’s Trauma Adaptation Center for Resiliency, Hope, and Wellness in Schools (“LAUSD TSAC”).207 Its mission is to enhance schools’ ability to provide trauma-informed approaches to assure a supportive and nurturing environment for all students.208

CBITS specifically targets students in grades six through nine who have experienced a wide range of violence, such as community violence and trauma involving significant loss.209 The program conducts ten weekly group sessions that last for approximately one hour. In addition to the group sessions, participants receive one to three individual sessions.210

Compton is a city within Los Angeles County, which makes it feasible for CUSD to partner with LAUSD in implementing mental health interventions. If CUSD does not prefer UCSF HEARTS Program, CUSD should consider LAUSD TSAC because it is a national leader in the promotion of trauma-informed schools.211 LAUSD TSAC develops, evaluates, and publishes evidence-based trauma services across a continuum, from prevention services that focus on building

206. Id.
207. Id.
208. Id.
209. Id.
210. Id.
211. Id.
resilience in students, to early interventions and more intensive services for trauma-exposed youth.\textsuperscript{212}

3. **Properly Training Administrators and Teachers on Student Trauma**

Even with the proposals of CUSD adopting the interventions presented above, there is still a major component that must be acknowledged: How do teachers and administrators address trauma if that is not a part of their job requirement? CUSD administration and teachers must be provided with training on how to help students cope with trauma. Training is critical because although the students move on to the next grade and eventually graduate, the administrators and teachers remain in the institution that will acquire more traumatized students. Therefore, training will contribute to breaking the vicious cycle of unaddressed trauma in CUSD. This section does not discuss whether it is CUSD’s obligation to identify students with disabilities under “Free Appropriate Public Education.” Rather, this section illustrates that trained administrators and teachers will be equipped with the skills to recognize student trauma in their classroom. After becoming trained, administrators and teachers will know how to properly interact with students displaying symptoms of complex trauma.

Dr. Wong’s five models of Psychological First Aid in Schools should be adopted by CUSD to provide training to administrators, teachers, and counselors on how to help students cope with trauma. Psychological First Aid for Schools’ (“PFA”) five-model approach identifies key skills that can contribute to the effectiveness of administrators and teachers when helping students. The Listen, Protect, Connect, Model and Teach approach is a five-step trauma intervention designed to reduce the initial distress of traumatized students and help them return to school and learn.\textsuperscript{213} Below are examples of how the plaintiffs in CUSD could have benefitted from teachers and administrators being trained on the five-phase approach.

**Step One: Listen**—During step one, teachers should provide students with an opportunity to share their experiences and express feelings of worry, anxiety, fear, or other concerns about their safety.\textsuperscript{214} The teachers should show interest, empathy, and be available to let

\textsuperscript{212} Id.


\textsuperscript{214} Id.
the students know they are ready to listen. Teachers should validate the student’s life experiences to make them feel supported.215

Kimberly is an example of a student who could have benefitted from the “Listen” method. When Kimberly suffered from trauma of sexual assault, she would have benefitted from a teacher giving her the opportunity to be heard and validated. After being heard, Kimberly may have felt comfortable coming back to school. Her comfort would have come from knowing that a teacher noticed she was going through an issue and would listen. If Kimberly’s teacher had been educated on the “Listen” approach, Kimberly could have improved her attendance in school and eventually seen an increase in her grades. Teachers listening to student’s experiences of trauma does not mean the trauma will be solved, but it conveys to students they are being heard, which will ultimately lead to increase in school performance. Trauma-sensitive interventions in schools will make sure students are being listened to and supported.

Step Two: Protect—In the “Protect” stage of Psychological First Aid, teachers should try to reestablish students’ feelings of both physical and emotional safety.216 Teachers can honestly inform students about events surrounding the crisis, such as sharing the measures being taken in the community and school to keep everyone safe. In protecting the students, teachers must acknowledge that the student is experiencing a fearful situation and they will do all they can to protect them.217

Donte is an example of a student who could have benefitted from the “Protect” method. He is a thirteen-year-old who attends middle school in CUSD.218 During his second semester of middle school, a group of high school students brutally assaulted Donte on his way to school for wearing “gang colors” despite Donte’s lack of involvement with any gang. One way administrators could have protected Donte was to inform him that the school was working with law enforcement to create interventions to prevent gangs from being present in the school community. Knowing this information would have given Donte a peace of mind that he would not get physically assaulted by gang members while traveling to school. Administrators could also put Donte in contact with the community police to give him additional comfort that he will be safe. If Donte feels safe on his way to school,

215. Id.
216. Id.
217. See id.
218. Complaint, supra note 1, at 34.
there would be a better incentive to attend his classes. Donte’s increased attendance would lead to better academic performance. There is a correlation between poor attendance and low academic scores. The more a student misses school, the more likely that student is to perform poorly academically. When a student is absent from class, they are missing valuable educational information. Protecting students will increase academic performance. Trauma-sensitive interventions in schools will protect children.

**Step Three: Connect**—The most common reaction to trauma or fear is emotional and social isolation. The isolation can occur subconsciously without the teachers or other students realizing that the traumatized student is withdrawing from their peers and teachers. Students typically want to be asked about their experiences and a trained teacher will know to inquire. If teachers and administrators are truly concerned about a student’s mental health, they must ask and be willing to listen. A teacher should ask, “What has happened to you?” or “How are you doing?” These questions help the reconnection between students and teachers, otherwise students will suffer silently. The reconnection forms an important empathic bond, which eliminates the child’s sense of isolation. Students often do not know what to say or how to start a conversation about their feelings of isolation. Therefore, it depends on the teacher to start the conversation.

After listening to what the student says about their trauma, that is when the teachers should put the “Connection” method to use. Teachers should look for a student who opens up to them about their trauma, and every day the teacher should greet the student. In addition, teachers should also seek those students who never interact or communicate as this may be a sign of isolation. The following are suggestions teachers can follow if they are unsure on how to interact with students: (1) I am happy to see you; (2) I am so glad you are at school; (3) How are you doing in classes; and (4) Is there anything I can do to help you? This reinforcement is important and brings the student

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220. *Id.*

221. See Kataoka, *supra* note 213.

222. See *id.*

223. *Id.*
back into the circle of community. Reinforcing students reestablishes a connection and combats isolation.224

Peter is an example of a student who could have benefitted from the “Connection” method. Peter is a seventeen-year-old and is enrolled at Dominguez High School in CUSD. There was a two-month period of the school year where he was homeless and slept on the roof of the high school. Instead of asking Peter about his circumstances, the school suspended him. If CUSD adopted the five-model approach, teachers and administrators could have recognized this as an important situation to connect with Peter. Instead of suspending Peter, administrators could have asked, “Why are you sleeping on the roof?” Asking this question would have revealed that he was being sexually and physically abused at home and the safest place for him to get rest was on the roof of the school. After asking Peter about his situation, administrators could try to bring Peter back into the school community to make him feel connected.

Peter could have benefitted from the “Connection” approach. He has previously shown the ability to achieve high grades in certain honors classes.225 Since there was a shift in his academic performance, his teacher could have known the importance of connecting with him. Peter’s teacher could have connected by stating, “Peter, I know you have performed well academically in the past, what is happening to affect your performance?” This simple act of connection may have allowed Peter to cope with his complex trauma. Peter and students like him usually suffer in silence, but want to be heard. Trauma-sensitive interventions will help with the teacher-student connection.

**Step Four: Model Calm and Optimistic Behavior**—Teachers can model calm and optimistic behavior by maintaining level emotions and reactions with students and expressing positive thoughts for their future.226 Teachers behaving in this manner will give students a sense of confidence that the trauma they are experiencing will get better, which will result in students learning more effectively.227 Students are intelligent and can feed off the energy of the teacher. Whether the energy is positive or negative, students will pick up on the teacher’s energy instantly. Therefore, it is important for teachers to model calm and optimistic behavior for students suffering trauma.

224. Id.
226. Kataoka, supra note 213.
227. Id.
This approach does not suggest that teachers tell students that everything will be great. Teachers must have realistic optimism and be confident in their students. Teachers must truly believe that even though they may not have the answers, they will do everything they can to help students cope with trauma. If teachers in the CUSD modeled optimistic behavior, students like Peter would not feel hopeless. It is disheartening that Peter, a seventeen-year-old stated, “I thank God every day for waking up, but I regret waking up every day.” If CUSD administrators or Peter’s teachers had shown optimism that his circumstances would improve, Peter may not regret living. Trauma-sensitive interventions must be implemented in CUSD to educate teachers how to model optimistic behavior. Teachers expressing optimistic behavior will help students cope with trauma, which leads to increased academic performance.

**Step Five: Teach**—The last approach is teaching. Teaching involves telling students that any reaction they have to trauma is normal. School counselors can help students become more familiar with the range of reactions that can occur after traumatic events. Physical symptoms include changes in their ability to focus in school and feeling upset. If students are not educated on their symptoms, they may feel like they are having a mental breakdown. Teachers must remind the students that their reactions are normal and they are not going crazy or having a mental breakdown.

Virgil is a perfect example of a moment to use the “Teach” technique. He is a 15-year-old student at Dominguez High School in CUSD. He continues to have terrifying nightmares linked to the incident of his father pointing a gun at his mother screaming, “I’m done!” Virgil’s terrifying nightmares have translated into anger issues and getting into fights at school. Properly trained teachers or counselors could teach Virgil it is normal to be angry due to his traumatic experiences and that he is not a bad student. Punishing Virgil for fighting at school is an easy route, but not the most effective solution. It would be in Virgil’s best interest to send him to a trauma-sensitive intervention provided by his school. The intervention would teach Virgil that his feelings are normal, but he must change the way he releases his emotions because he is physically hurting someone just

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228. *Id.*
229. *Complaint, supra note 1, at 19.*
231. *See id.*
232. *Complaint, supra note 1, at 32.*
like he is hurting emotionally. These trauma interventions will help restore Virgil and improve his mental health, which would allow him to focus on academics.

The above five-phase approach of Psychological First Aid would be an effective trauma-sensitive intervention to assist inner city communities in addressing student trauma and increasing academic performances.

C. Trauma Should be Addressed by Legislative Branch

The best way to address student trauma is through legislation. The legislative branch has the power to make and pass laws. Legislatures should consider viewing trauma as a preventive health measure to help youth. School districts require students to have a variety of health-related items completed before attending school such as updated vaccinations and shots. Therefore, legislatures from a public health policy perspective should ensure that students are also mentally healthy to access their education.

In 2016, Compton’s homicide number tripled in comparison to 2015. These statistics suggest that community violence is on the rise and the likelihood of complex trauma will increase in Compton students. The increase in complex trauma will likely decrease Compton students’ opportunity to access meaningful education and further lead to academic failure.

For example, in CUSD, students in third through eleventh grades participated in an end of the year summative assessment of grade level learning that measured progress toward college and career readiness. The chart below reflects that, in 2016, 12,290 CUSD students participated in the assessment and 46% of CUSD students did not meet their grade level-learning standard for English Language Arts/Literacy Achievement, 25% of the students nearly met the standard.


236. Id.
only 20% met the standard, and 9% exceeded the standard.237 The areas of English covered in the assessment included: reading, writing, listening, and research/inquiry.238

Chart 1: English Language Arts/Literacy Breakdown by Grade Level239

<table>
<thead>
<tr>
<th>Overall Achievement</th>
<th>3rd Grade</th>
<th>4th Grade</th>
<th>5th Grade</th>
<th>6th Grade</th>
<th>7th Grade</th>
<th>8th Grade</th>
<th>11th Grade</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td># of Students Participated in Assessment</td>
<td>1,943</td>
<td>1,981</td>
<td>2,010</td>
<td>1,744</td>
<td>1,681</td>
<td>1,762</td>
<td>1,169</td>
<td>12,290</td>
</tr>
<tr>
<td>Standard Exceeded: Level 4</td>
<td>15%</td>
<td>17%</td>
<td>10%</td>
<td>9%</td>
<td>6%</td>
<td>4%</td>
<td>2%</td>
<td>9%</td>
</tr>
<tr>
<td>Standard Met: Level 3</td>
<td>15%</td>
<td>16%</td>
<td>24%</td>
<td>24%</td>
<td>22%</td>
<td>22%</td>
<td>13%</td>
<td>20%</td>
</tr>
<tr>
<td>Standard Nearly Met: Level 2</td>
<td>27%</td>
<td>18%</td>
<td>21%</td>
<td>28%</td>
<td>27%</td>
<td>30%</td>
<td>23%</td>
<td>25%</td>
</tr>
<tr>
<td>Standard Not Met: Level 1</td>
<td>43%</td>
<td>49%</td>
<td>46%</td>
<td>40%</td>
<td>45%</td>
<td>44%</td>
<td>62%</td>
<td>46%</td>
</tr>
</tbody>
</table>

The chart above provides evidence that there is a dire need for a legislative bill to address trauma in pre-k through 12th grade schools in California. Grassroots movements are a great way for communities to get involved and get a bill passed into law. Grassroots movements can be defined as local level involvement for a common community goal.240 These movements are most effective when comprised of parents, students, educators, community members, and policy makers. To get a bill passed for a trauma-sensitive intervention, it would be important for local mental health experts, politicians, and legal professionals to be a part of the movement for efficiency. Health experts can speak to the importance of addressing mental health trauma to combat low performances in schools. Politicians will have access and the resources needed to push a bill through the legislative process. Law-

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239. Id. (Chart was edited for clarity and formatting).
yers and law students can work with policymakers to craft a well written piece of legislation.

Ideally, a grassroots movement in Compton, CA should involve internationally known mental health expert Dr. Marleen Wong who is a Dean at the University of Southern California (“USC”), which is less than fifteen miles away from the Compton community. Dr. Wong would be a valuable resource to describe the importance for addressing trauma in schools. Next, trauma-sensitive interventions must be drafted into a bill. All citizens are afforded the same opportunities to formulate an idea to the state’s legislative office to be drafted as a bill, but it would be more efficient if a state Senator introduced the bill to legislation on behalf of the grassroots movement.

There are four law schools within a twenty-mile radius of the Compton community that could be important to the grassroots movement. These law schools include UCLA, USC, Loyola Law, and Southwestern. Lawyers and law students can serve an important role in the movement by being a voice for the community. Lawyers can draft the important details of what would be necessary to make the trauma-sensitive interventions most effective.

Research shows that California legislation gives all school districts the power to use their financial resources at their discretion through the Local Control Funding Formula (“LCFF”), which became state law on July 1, 2013.241 It provides more equitable school funding, with local flexibility and greater community engagement.242 This investment is approximately ten billion dollars and will benefit lower income students and English language learners.243 These students are typically from the African American and Hispanic communities in the CUSD who suffer from trauma. A portion of the ten billion dollars should be allocated for mental health intervention programs and staff training in all school districts in California where there are students with complex trauma.

LCFF requires that every school district create its own Local Control and Accountability Plan (“LCAP”), to help ensure that student academic outcomes are the driving factor for how districts and communities invest scarce resources.244 Therefore, CUSD can create

242. *Id.*
243. *Id.*
244. *Id.*
trauma-sensitive interventions with the financial resources it has. A key component of LCFF requires there to be roles/positions reserved for parents and community members to be involved.\textsuperscript{245} LCAP must include a plan to seek parent input in deciding for the school district and each individual school site.\textsuperscript{246} This is the perfect opportunity for the grassroots movements of Compton parents to take a stand and propose that funding be allocated to create trauma-sensitive interventions and training sessions for teachers and counselors.

The parents’ proposal should mention the benefits that students, faculties, and school district will experience by allocating financial resources to trauma-sensitive interventions. By learning coping mechanisms to help with their trauma, students will see improvements in grades and testing performance, which will lead to students graduating and attending college. Overall, trauma-sensitive interventions will help students contribute to the greater good of their community and society.

**Conclusion**

Unaddressed trauma in youth will cause low academic performance and deny youth meaningful access to an education. Low academic performance leads to a greater achievement gap between African American/Hispanic students and White students. The achievement gap will eventually lead to the school to prison pipeline, which severely impacts under resourced communities like Compton.

The judicial branch should use its power to intervene on the behalf of students who suffer from trauma if Peter P. v. CUSD proceeds to trial. The legal claims presented in Peter P. v. CUSD provide clear evidence that trauma disables students from receiving their education. The judicial branch has historically been a champion for civil rights and it can continue this legacy by taking a stance and ruling in favor of the plaintiffs by delivering a judgment that mandates CUSD to implement trauma-sensitive interventions.

California state legislatures must protect the minds of its youth. This comment also challenges under resourced communities, such as Compton, to form grassroots movements to apply pressure on California legislatures to pass a bill that mandates trauma-sensitive interventions to be implemented in all pre-k through 12th grade schools. Grassroots movements must hold CUSD accountable to allocate re-

\textsuperscript{245} Id.
\textsuperscript{246} Id.
sources for the trauma-sensitive interventions to be created. The students, school districts, and ultimately the community will greatly benefit from trauma-sensitive interventions implemented in schools. If education is the passport to the future, then there is no need to wait for tomorrow if the commitment to the youth can begin today. Nelson Mandela stated, “There can be no keener revelation of a society’s soul than the way in which it treats its children.”247 Individuals may state or indicate that they never knew trauma affected the youth’s ability to access meaningful education, but clear evidence shows that youth trauma is a genuine problem. If youth trauma is not addressed, it will be a detriment to their learning and their ability to be productive in life. Creating a culture of educational access for traumatized inner-city youth will be challenging, but it will be worth the effort.