

Trauma and Learning: Using Disability Law To Provide Equal Access to Education for Children Who Have Experienced Trauma

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Peter P.: Compton Schools

Homicide rate is five times national average

The rate of families living in poverty is twice the national average

Severely under-resourced

* At the time the suit was filed, CUSD had fewer than 24 psychologists and counselors across the nearly 25,000 student district

* In contrast, Beverly Hills High, with 1800 students, employs 9 counselors and a psychologist, more than all three Compton high schools combined.

Sources: *Murder Rates Nationally and by State*, The Death Penalty Information Center, <http://deathpenaltyinfo.org/murder-rates-nationally-and-state>; State & County QuickFacts, Compton (city), California, U.S. Census Bureau, <http://quickfacts.census.gov/qfd/states/06/0615044.html>; <https://news.vice.com/article/should-growing-up-in-compton-be-considered-a-disability>

Peter P. v. CUSD

- “If you want to do something about the achievement gap, you have got to look at childhood trauma.”

Legal Theory

- Americans With Disabilities Act / Section 504 of the Rehabilitation Act
- Key phrases:
 - “meaningful access”
 - “reasonable accommodation”
 - *See, e.g., Alexander v. Choate*, 469 U.S.287, 301 (1985)

Definition of “Disability” Under ADA/504

- A “physical or mental impairment that substantially limits one or more major life activities....” 42 U.S.C. § 12102(1)(A).

Definition of “Disability” Under ADA/504

- “Major life activities” include “including “learning, reading, concentrating, thinking, [and] communicating.” 42 U.S.C. § 12102(2)(A)

Brain Science

- Childhood trauma can have lasting physiological effects on the developing brain
- Manifests in dissociative (“freeze and surrender”) behaviors, or hyper-reactive (“fight or flight”) behaviors
 - often labeled “willful defiance” or “aggressive/disruptive” behavior
- To oversimplify: the cortex—necessary for higher-level functioning, such as academic learning—is not available in various degrees to many students dealing with the consequences of complex trauma

Social Science

- Students with repeated exposure to traumatic events are:
 - 2.5 times more likely to repeat a grade
 - 4 times more likely to experience academic failure
 - 5 times more likely to have severe attendance issues
 - 6 times more likely to experience behavioral problems

• Sources: Christina D. Bethell et al., *Adverse Childhood Experiences: Assessing the Impact on Health and School Engagement and the Mitigating Role of Resilience* 33:12 *Health Affairs* 2106, 2111; Christopher Blodgett, *Adopting ACEs Screening and Assessment in Child Serving Systems* (working paper), Christopher Blodgett, *No School Alone: How Community Risks and Assets Contribute to School and Youth Success*, Report to the WA State Office of Financial Management in response to Substitute House Bill 2739 (March 2015).

Trauma-Sensitive Schools

- Reasonable accommodations have been shown to significantly improve educational outcomes for students who have been negatively impacted by trauma:
 - Training—to recognize trauma and its effects, and how to respond
 - Building social-emotional learning skills in proactive and stable classrooms
 - Restorative justice instead of punitive remedies, where appropriate
 - Mental health support for students who need it

Stephen C. v. BIE

- Challenge on behalf of Havasupai children to (1) federal government's failure to provide basic education, (2) a system of special education, and (3) accommodations for students impacted by trauma.
- Students impacted by trauma are physically excluded from the school.
- Culturally-responsive models exist for addressing trauma and wellness

Historical Trauma

- Centuries of U.S. government policies have oppressed and discriminated against Native communities. Havasupai youth – like many Native youth across the nation – are exposed to childhood adversity that, absent appropriate intervention and support, denied students full opportunity to learn and receive the benefits of a public education.

Historical Trauma

- The Havasupai bear the burden of generations of historical trauma stemming from a legacy of chronic discrimination— forced relocations, loss of homes, families and culture. In particular, the historical and widespread consignment of Native American children to boarding schools constituted a form of forcible assimilation that was designed to stamp out a child's tribal and cultural identity at an early age.

A Note About IDEA

- 1 in 5 children will have a mental health condition.
- Schools often do not have personnel to address the individualized needs of children with mental health needs.
- When individualized mental health supports are needed, advocate for research based interventions.

Vulnerable Students in San Mateo

53% of the youth in probation and 43% of the youth receiving behavioral health services live in 4 zip codes (North Fair Oaks, East Palo Alto, South San Francisco, and Daly City).

Of the 343 youth receiving education at Court and Community Schools, 63% are Latinx, 36 % receive special education; and 26 % are English Learners.

91% of the students at Las Lomas School District are proficient in reading by 3rd grade and it has one of the lowest free and reduced lunch rates. In comparison, 13 % of the students in the Ravenswood District are proficient in reading by 3rd grade and 92.8% of the students qualify for free and reduced lunch.

In San Mateo 73% of 3rd grade students who are Latinx, African American, and Pacific Islander can not read proficiently.

Unaddressed and Historical Trauma

- Poverty – chronic and accumulated affects of poverty result in increased rates of adverse childhood experiences
- Family separation– San Mateo has a large immigrant community and current immigration policies disrupt families, resulting in family separation
- Violence and incarceration– Vulnerable communities have higher exposure to violence. Greater rates of incarceration result in family disruption.

Equity in Advocacy

- To give life to [our] rebellious aspirations, [we] must learn to carry through systematically on our impulse to regard subordinated people and their allies co-eminent problemsolvers; [We] must learn to work with and not just for them, and [we] must learn to make space, in more than just [our] thoughts, for what they bring to the collaboration in the way of experience, know-how, and strategic sense.
- Gerald Lopez, *Rebellious Lawyering*

Follow-up and Contact

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