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# POLICY BRIEF



## Summary

- The school safety crisis—bullying, assault, sexual abuse—affects millions of students each year.
- The federal Every Student Succeeds Act permits students to transfer to another public school, but only if their current school meets a narrow definition of a “persistently dangerous” school.
- Child Safety Accounts would allow parents to immediately move their child to a safe school—private, parochial, or public—as soon as they feel their child’s public school is too dangerous to their physical or emotional health.

## Child Safety Accounts: Protecting Our Children through Parental Freedom\*

By Vicki Alger and Timothy Benson

### Introduction

Half of all violent crimes occurring at schools—including serious offenses such as aggravated assault, sexual assault, and rape—occur in a small proportion of schools nationwide. But these deeply concerning problems represent only a fraction of the United States’ much larger school safety crisis, one that affects millions of students each year.

Roughly four out of five government schools report violent criminal incidents, and one out of five report serious violent criminal incidents taking place on school grounds. Verbal bullying and sexual harassment, both from peers and teachers, are prevalent. With the rise of smartphones and social media, the bullying suffered at school can now follow children anywhere, 24 hours per day, seven days per week, 365 days per year. Parents of children with special needs or health problems also have serious concerns about whether their child’s school is equipped to keep them safe.

The federal Every Student Succeeds Act (ESSA) permits students to transfer to another government-run school under ESSA’s Unsafe School Choice Option provision, but only if their current public school meets the state definition of a “persistently dangerous” school. Because states define unsafe schools narrowly, fewer than 50 public schools

\* This *Policy Brief* is an extensively updated version of a paper published in April 2018, titled “Protecting Students with Child Safety Accounts.”

out of nearly 100,000 are labeled “persistently dangerous” each year.

Students should not have to wait years or become victims of violent crime before their parents are allowed to transfer them to safer schools. That is why The Heartland Institute is proposing in this paper for states to create a Child Safety Account (CSA) program, which would allow parents to immediately have their child moved to a safe school—be it a private, parochial, or public school—as soon as parents think the public school their child is currently attending is too dangerous to their child’s physical or emotional health.

This paper has been organized into two parts. Part One presents The Heartland Institute’s solution to America’s school violence epidemic: Child Safety Accounts—education savings accounts parents can use to pay for tuition, fees, or other education-related expenses at public schools, private schools, or even for homeschooling. Part Two outlines the numerous dangers facing children in public schools and discusses how those safety problems hinder children’s ability to learn.

## Part One: Child Safety Accounts

There are numerous legitimate reasons parents seeking to protect the safety and health of their children might want to move their kids to a different school. Unfortunately, many parents

cannot afford to enroll their children in costly private schools; their children are unnecessarily doomed to endure danger on a daily basis.

The Child Safety Account is a type of education savings account (ESA) program for parents who feel, for whatever reason, their child’s school is unsafe. A CSA would empower parents to transfer their children immediately to

the safe schools of their choice, within or beyond their resident government school districts—including public district, charter, and virtual schools—as well as private and parochial schools. CSA funds could also be used to pay for homeschooling expenses.

“THE CHILD SAFETY ACCOUNT IS A TYPE OF EDUCATION SAVINGS ACCOUNT (ESA) PROGRAM FOR PARENTS WHO FEEL, FOR WHATEVER REASON, THEIR CHILD’S SCHOOL IS UNSAFE.”

### A. How the CSA Would Work

With an ESA, state education funds allocated for a child are placed in a parent-controlled savings account. Parents are then able to use a state-provided, restricted-use debit card to access the funds to pay for the resources chosen for their child’s unique educational program, such as tuition at a private or parochial school, tutoring, online classes, transportation, specialized therapies, textbooks, or even college courses for students still in high school. Funds could also be used to cover the fees required to take national standardized achievement tests, such as the SAT or ACT. Unused ESA funds could be rolled over from year to year and saved to pay for future college expenses. Although similar to school vouchers, ESA

programs are more versatile, giving parents increased flexibility in tailoring an education to their child’s unique needs.

Under The Heartland Institute’s CSA program, students would be eligible for a CSA account if their parents have a “reasonable apprehension” for their children’s safety based on the experiences of their children, including bullying, hazing, or harassment. Parents could also determine their child’s school isn’t safe based on the incidents-based statistics schools would be required to report. No longer would parents have to wait years until their school meets the Every Student Succeeds Act’s too-narrow definition of “persistently dangerous” or, even worse, until their child becomes the victim of some form of violent crime.

Basing students’ access to a CSA on a reasonable apprehension standard is justified given the recommendation made by the U.S. Department of Education’s Office of the Inspector General, which stated dangerous schools should be defined according to objective criteria students and parents would use to determine the safety of a school.<sup>1</sup>

CSAs would help children at risk without stigmatizing schools, and only schools that are pervasively unsafe would lose a significant num-

ber of students as a result of Heartland’s CSA model. The loss of these students and the education dollars that go with them would force these dangerous schools to improve security to keep their existing student body and to attract

new students. If dangerous schools cannot manage to institute policies to keep their students safe and a significant number of students leave as a result, those schools will shut down. This stark reality is the best assurance that more children will be kept safe at school.

“UNDER THE HEARTLAND INSTITUTE’S CSA PROGRAM, STUDENTS WOULD BE ELIGIBLE FOR A CSA ACCOUNT IF THEIR PARENTS HAVE A “REASONABLE APPREHENSION” FOR THEIR CHILDREN’S SAFETY BASED ON THE EXPERIENCES OF THEIR CHILDREN, INCLUDING BULLYING, HAZING, OR HARASSMENT.”

## B. ‘Topping Off’ CSAs

For parents who need additional help that extends beyond what Child Safety Accounts can offer on their own, there are other measures that should be undertaken to help parents move their children into a safe school. These programs would cover expenses that exceed the funding made available by CSAs. This process is known as “topping off”—allowing parents and others to contribute toward tuition and other expenses that exceed the amount reimbursed by a government program.

One “topping off” method is allowing parents access to income tax credits and/or deductions for education expenses, such as tuition, specialty courses, tutoring, books and supplies, and transportation costs.

<sup>1</sup> Office of the Inspector General, “California Department of Education’s Compliance with the Unsafe School Choice Option,” U.S. Department of Education, March 24, 2005, <http://www.ed.gov/about/offices/list/oig/auditreports/a09e0025.pdf>.

Another way to further help parents move their children out of dangerous schools would be to add a tax-credit scholarship component to the Child Safety Account program. These tax-credit scholarships would allow corporations and individuals to deduct from their state income taxes either a partial or full amount of their donations made to a state-approved scholarship management organization, which would then grant scholarships to eligible students. This amount is usually capped at some percentage of the business's tax liability, and the total amount of such donations is often limited by state law, with some states including an automatic increase if the previous year's donations exceed 90 percent of the cap. Just like ESAs, these scholarships can be used to pay for myriad educational options, including tuition, educational support services, textbooks and supplies, and summer education programs.

These "topping off" programs would allow corporations and individuals to help fund education programs more directly and would encourage private donations to help the country's underprivileged students gain access to a high-quality education they otherwise would not be able to afford. These tuition add-ons could also increase the number of schools willing to participate in a CSA program by making sure students have the funds necessary to meet tuition costs, and by encouraging parents to

have skin in the game, they would incentivize them to become more involved in their children's education.<sup>2</sup>

### C. How CSA Programs Should Be Implemented

"WHILE A LOCAL SCHOOL MIGHT HAVE A GREATER UNDERSTANDING OF THE CHALLENGES FACING A CHILD IN A DANGEROUS ENVIRONMENT, NO ONE HAS A GREATER VESTED INTEREST IN A CHILD'S SUCCESS THAN THAT CHILD'S PARENTS OR GUARDIANS ..."

Who should have the power to determine whether a student should have access to a CSA and move to another school? Although states could create sanctioned boards to handle school safety cases, this would just add another level of bureaucracy that would cause unnecessary delays while students languish in danger. Further, school districts are inca-

pable of being impartial arbiters, as they have an incentive to keep the child in the school in which he or she feels unsafe because of the funding school districts receive for that child. The same conflict of interest exists for individual schools.

While a local school might have a greater understanding of the challenges facing a child in a dangerous environment, no one has a greater vested interest in a child's success than that child's parents or guardians, which is why parents should be the one to trigger a CSA, not school bureaucrats.

<sup>2</sup> John D. Merrifield and David Salisbury, "The Competitive Education Industry Concept and Why It Deserves More Scrutiny," *Cato Journal*, Vol. 25, No. 2, Spring/Summer 2005, <https://object.cato.org/sites/cato.org/files/serials/files/cato-journal/2005/5/cj25n2-2.pdf>.

Parents are a child’s best advocate, have the greatest understanding of what it takes for their child to feel safe, and they are much more likely to have a child’s best interest at heart than a panel of state or district officials, for which, sadly, many children are nothing more than case numbers or a statistic.

## Part Two: The Dangers Facing Schoolchildren in America

About 150,000 violent acts are committed in U.S. public schools every year, but a threat of physical violence isn’t the only reason students don’t feel safe while in school. Children face bullying, sexual harassment and misconduct, gangs, and countless other threats government-run public schools have proven incapable of addressing. Below is an outline of some of the most harmful and pervasive forms of school violence and other dangers facing children, as well the effects those problems are having on students across the nation.

### A. Bullying

Until recently, no official definition of “bully-

ing” existed, making it difficult to know how widespread this problem truly has been. News media, for example, often use the term “bullying” as a catch-all for any number of aggressive or unwanted behaviors, such as physical fights or online name-calling.<sup>3</sup> Likewise, depending on which students research organizations survey and how they define bullying, estimates of the proportion of students “bullied” range from 13 percent to 75 percent.

It wasn’t until 2008 that the federal government formed a multi-agency committee to craft a uniform definition, which the Centers for Disease Control and Prevention (CDC)

and the U.S. Department of Education published in 2014. That definition states:

“Bullying is any unwanted aggressive behavior(s) by another youth or group of youths who are not siblings or current dating partners that involves an observed or perceived power imbalance and is repeated multiple times or is highly likely to be repeated. Bullying may inflict harm or distress on the targeted youth including physical, psychological, social, or educational harm.”<sup>4</sup>

A significant drawback to this definition is it applies only “to bullying that occurs between

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<sup>3</sup> U.S. Department of Health and Human Services, “Facts About Bullying,” stopbullying.gov, accessed September 28, 2017, <https://www.stopbullying.gov/media/facts/index.html>; “Other Types of Aggressive Behavior,” stopbullying.gov, accessed February 8, 2018, <https://www.stopbullying.gov/what-is-bullying/other-types-of-aggressive-behavior/index.html>.

<sup>4</sup> R. Matthew Gladden *et al.*, *Bullying Surveillance Among Youths: Uniform Definitions for Public Health and Recommended Data Elements*, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention and the U.S. Department of Education, January 2014.



peers and excludes abuse perpetrated by adults against children or youths.”<sup>5</sup> In other words, statistics about teachers bullying students are not collected.

About 20 percent of all U.S. students aged 12 to 18 report being bullied at school.<sup>6</sup> While that statistic represents important progress since 2005, when 28 percent of middle school and high school students reported being bullied, it’s little consolation to the estimated 6.1 million students who are being bullied today.<sup>7</sup>

Close to one-third (31 percent) of sixth grade students say they have been bullied, as well as 25 percent of seventh graders. About one in five eighth, ninth, and 10th graders also report being bullied, along with 15 percent of high school juniors and seniors. Findings from the CDC indicate the overall high school bullying rate is 19 percent.<sup>8</sup>

Bullying rates also vary by school type and location. Bullying rates at government schools are 28 percent higher than in private schools, 20.6 percent compared to 16 percent, respectively.<sup>9</sup> Bullying rates are fairly similar for suburban and urban schools, at 18.3 percent and 19.7 percent, respectively, compared to 26.7 percent at rural schools.<sup>10</sup>

Most cases of bullying are not one-time events. In fact, bullying is the most commonly reported discipline problem in public schools. Twelve percent of all government schools report bullying occurs at least once per week, including 22 percent of middle schools, 15 percent of high schools, 8 percent of elementary schools, and 11 percent of combined schools.<sup>11</sup>

Thirty-one percent of bullied students report being bullied at least once during the school year, while 18.6 percent say they were bullied

<sup>5</sup> *Ibid.*, p. 1.

<sup>6</sup> See “Indicator 10 Bullying at School and Cyberbullying Anywhere” in Lauren Musu *et al.*, *Indicators of School Crime and Safety: 2018* (NCES 2019-047/NCJ 252571), National Center for Education Statistics, U.S. Department of Education, and Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, Washington, DC, April 17, 2019, pp. vi and 66, <https://nces.ed.gov/pubs2019/2019047.pdf>. This publication is also available online at: <https://nces.ed.gov/programs/crimeindicators>. Hereafter abbreviated as *SCS 2018*.

<sup>7</sup> Estimate by Vicki Alger based on Fall 2015 grade-level enrollment figures for public and private school students from the U.S. Department of Education. Alger excluded elementary and secondary ungraded student enrollments, so the actual number of bullied students may be higher. For public school student enrollment, see Table 203.40 in the 2017 edition of *The Digest of Education Statistics*, online only, [https://nces.ed.gov/programs/digest/d17/tables/dt17\\_203.40.asp](https://nces.ed.gov/programs/digest/d17/tables/dt17_203.40.asp). For private school student enrollment, see Table 205.15 in Thomas D. Snyder, Cristobal de Brey, and Sally A. Dillow, *Digest of Education Statistics 2016*, National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, February 20, 2018, [https://nces.ed.gov/programs/digest/d16/tables/dt16\\_205.15.asp](https://nces.ed.gov/programs/digest/d16/tables/dt16_205.15.asp).

<sup>8</sup> Laura Kann *et al.*, *Youth Risk Behavior Surveillance — United States, 2017*, Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report Surveillance Summaries, Vol. 67, No. 8, June 15, 2018, pp. 1, 18, and Supplementary Table 30, <https://www.cdc.gov/healthyyouth/data/yrbs/pdf/2017/ss6708.pdf>. Hereafter abbreviated as *YRBS 2017*.

<sup>9</sup> *SCS 2018*, Table S2.1, pg. 139, <https://nces.ed.gov/pubs2019/2019047.pdf>.

<sup>10</sup> *Ibid.*

<sup>11</sup> See “Indicator 7: Discipline Problems Reported by Public Schools,” *SCS 2018*, pp. xi, 56–59, <https://nces.ed.gov/pubs2019/2019047.pdf>.

two different days of the year.<sup>12</sup> Thirty percent said they were bullied three to 10 days per year, and 20.4 percent said they were bullied more than 10 days per year.<sup>13</sup> Another 4.1 percent say they were bullied two to 10 times *every single day*.<sup>14</sup> Yet fewer than half of those students (46 percent) say they reported the incident to an adult at school.<sup>15</sup>

While 95 percent of students who are not bullied report feeling safe at school, just 76 percent of those who have been bullied feel safe.<sup>16</sup> The CDC reported in 2017 that nationwide, 6.7 percent of high school students miss school at least once every month because they feel unsafe, up from 4 percent in 1993.<sup>17</sup> The overall absentee rate for students who are bullied is almost three times greater, at nearly 16 percent.<sup>18</sup> This means approximately 945,000 of the estimated 6.1 million bullied students likely stayed home from school at least once in the past month because they were too afraid to go to school.<sup>19</sup>

According to the Cyberbullying Research Center, an estimated 4.8 million students skipped school at some point in the past year because they were afraid of bullying at school, and more than 500,000 students stayed home “many times” because of bullying.<sup>20</sup>

Depending on the types of bullying students endure, absenteeism rates can be even higher, which is especially concerning because missing school contributes to lower student achievement and puts students at greater risk of dropping out.<sup>21</sup>

Not only can bullying be devastating for victims, it negatively impacts the other students who are exposed to it. Fourteen percent of 15-year-olds attended schools that reported student learning was hindered by the intimidation or bullying of other students.<sup>22</sup> Beyond academics, students exposed to bullying have a much greater sense of helplessness and diminished

<sup>12</sup> See “Indicator 10: Bullying at School and Electronic Bullying,” *SCS 2018*, pp. xi, 66–72, <https://nces.ed.gov/pubs2019/2019047.pdf>.

<sup>13</sup> *Ibid.*, p. 70.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*, p. 69.

<sup>16</sup> Justin W. Patchin, “Millions of Students Skip School Each Year Because of Bullying,” Cyberbullying Research Center, January 23, 2017, <https://cyberbullying.org/millions-students-skip-school-year-bullying>.

<sup>17</sup> *YRBS 2017*, p. 19 and Table 32, <https://www.cdc.gov/healthyyouth/data/yrbs/pdf/2017/ss6708.pdf>.

<sup>18</sup> “Bullying and Absenteeism: Information for State and Local Education Agencies,” *Research Brief*, Centers for Disease Control and Prevention, n.d., [https://www.cdc.gov/healthyyouth/health\\_and\\_academics/pdf/fs\\_bullying\\_absenteeism.pdf](https://www.cdc.gov/healthyyouth/health_and_academics/pdf/fs_bullying_absenteeism.pdf).

<sup>19</sup> Estimate by Vicki Alger.

<sup>20</sup> Justin W. Patchin, *supra* note 16.

<sup>21</sup> Alyssa Rafa, “Chronic Absenteeism: A Key Indicator of Student Success,” Education Commission of the States, June 2017, [https://www.ecs.org/wp-content/uploads/Chronic\\_Absenteeism\\_-\\_A\\_key\\_indicator\\_of\\_student\\_success.pdf](https://www.ecs.org/wp-content/uploads/Chronic_Absenteeism_-_A_key_indicator_of_student_success.pdf).

<sup>22</sup> See “Spotlight 3: National and International Perspectives on School Environment and Student Learning,” in Lauren Musu-Gillette *et al.*, *Indicators of School Crime and Safety: 2017*, (NCES 2018-036/

feelings of support from their parents and adults at school than students who do not observe bullying behavior.<sup>23</sup>

## **B. Sexual Harassment, Misconduct, and Abuse**

Stories of teachers engaging in inappropriate relationships with students seem to emerge in the media weekly. Yet there is no recent study that indicates just how pervasive this problem is. The best data available are from a 2004 survey of the existing literature published up to that time, produced by the U.S. Department of Education, which estimated that about 10 percent of students will experience some form of sexual misconduct by a school employee by the time they graduate high school.<sup>24</sup> According to the study, 93 percent of these incidents will take place in a government school, 62 percent of the victims will be high school

students, and 56 percent of the victims will be female.<sup>25</sup>

Despite the lack of current literature on the subject, Terry Abbott, a former chief of staff at the Department of Education who now leads a firm that tracks news stories of sexual misconduct by teachers, has estimated 15 students on average are “sexually victimized” by teachers across the country each week.<sup>26</sup> Stop Educator Sexual Abuse, Misconduct, and Exploitation—an advocacy group for sexually exploited schoolchildren—notes there were 361 reported cases of sexual misconduct by a school employee in the United States in 2014.<sup>27</sup>

A 2016 USA Today Network investigation found more than 100 examples of teachers who had lost their teaching licenses due to abusive behavior but were still teaching or working with children, including 22 who were employed by government schools.<sup>28</sup> “State education agencies across the country have ignored

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NCJ 251413), National Center for Education Statistics, U.S. Department of Education, and Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, Washington, DC, March 29, 2018, pp. 27-28, <https://nces.ed.gov/pubs2018/2018036.pdf>. Hereafter abbreviated as SCS 2017.

<sup>23</sup> Centers for Disease Control and Prevention, “The Relationship Between Bullying and Suicide: What We Know and What it Means for Schools,” 2014, p. 2, <https://www.cdc.gov/violenceprevention/pdf/bullying-suicide-translation-final-a.pdf>.

<sup>24</sup> U.S. Department of Education, Office of the Under Secretary, *Educator Sexual Misconduct: A Synthesis of Existing Literature*, Washington, DC, 2004, <https://files.eric.ed.gov/fulltext/ED483143.pdf>.

<sup>25</sup> *Ibid.*

<sup>26</sup> Terry Abbott, “More Teachers Are Having Sex with Their Students. Here’s How Schools Can Stop Them,” *The Washington Post*, January 20, 2015, [https://www.washingtonpost.com/posteverything/wp/2015/01/20/more-teachers-are-having-sex-with-their-students-heres-how-schools-can-stop-them/?utm\\_term=.dc1f74c127e8](https://www.washingtonpost.com/posteverything/wp/2015/01/20/more-teachers-are-having-sex-with-their-students-heres-how-schools-can-stop-them/?utm_term=.dc1f74c127e8).

<sup>27</sup> Stop Educator Sexual Abuse, Misconduct, and Exploitation, [sesame.org](https://www.sesamenet.org), accessed October 30, 2019, <https://www.sesamenet.org>.

<sup>28</sup> Steve Reilly, “Teachers Who Sexually Abuse Students Still Find Classroom Jobs,” *USA Today*, December 22, 2016, <https://www.usatoday.com/story/news/2016/12/22/teachers-who-sexually-abuse-students-still-find-classroom-jobs/95346790>.



a federal ban on signing secrecy deals with teachers suspected of abusing minors, a practice informally known as ‘passing the trash,’” the investigation found.<sup>29</sup> “These contracts hide details of sexual behavior and sometimes pay teachers to quit their jobs quietly. The secrecy makes it easier for troubled teachers to find new jobs working with children.”<sup>30</sup>

An earlier look at “passing the trash” by the Government Accountability Office in 2010 found, on average, an abusive teacher will be transferred to three different schools before he or she is reported to the police. One in three of these teachers will have multiple victims, and 16 percent will have more than five victims.<sup>31</sup>

Another USA Today Network investigation noted in 2016 although the National Association of State Directors of Teacher Education and Certification, a nonprofit group, oversees a voluntary clearinghouse for states to submit the names of teachers who have received disci-

plinary action for abuse, there were still more than 9,000 sanctioned teachers missing from the database, including at least 1,400 teachers who have had their license permanently revoked.<sup>32</sup> More than 200 of those teachers had their license revoked due to allegations of sexual or physical abuse.<sup>33</sup>

“A 2017 INVESTIGATION BY THE ASSOCIATED PRESS FOUND SEVEN STUDENT-ON-STUDENT ASSAULTS OCCURRED FOR EVERY ONE TEACHER-ON-STUDENT ASSAULT FROM 2011 TO 2015.”

Although teacher-on-student acts of sexual misconduct claim more headlines due to their shocking nature and breach of trust, student-on-student sexual

misconduct is far more common. Some scholars argue four out of five students will experience some form of sexual harassment by the time they graduate high school.<sup>34</sup> A 2017 investigation by the Associated Press (AP) found seven student-on-student assaults occurred for every one teacher-on-student assault from 2011 to 2015. All in all, AP found nearly 17,000 cases of student-on-student sexual assault in U.S. elementary and secondary schools during those four years.<sup>35</sup> Yet these numbers might be too low, as 18 states do not

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> Government Accountability Office, *Selected Cases of Public and Private Schools That Hired or Retained Individuals with Histories of Sexual Misconduct*, Washington, DC, 2010, <https://www.gao.gov/assets/320/313251.pdf>.

<sup>32</sup> Steve Reilly, “Broken Discipline Tracking Systems Let Teachers Flee Troubled Pasts,” *USA Today*, February 14, 2016, <https://www.usatoday.com/story/news/2016/02/14/broken-discipline-tracking-system-lets-teachers-with-misconduct-records-back-in-classroom/79999634/>.

<sup>33</sup> *Ibid.*

<sup>34</sup> James E. Gruber and Susan Fineran, “The Impact of Bullying and Sexual Harassment on Middle and High School Girls,” *Violence Against Women*, Vol. 13, Issue 6, June 2007, <http://journals.sagepub.com/doi/pdf/10.1177/1077801207301557>.

<sup>35</sup> Robin McDowell *et al.*, “Hidden Horror of School Sex Assaults Revealed by AP,” Associated Press,

track student-on-student sexual assaults in elementary and high schools.<sup>36</sup>

Surveys of students also present a damning picture. Forty-eight percent of the students in grades seven through 12 responding to a 2011 American Association of University Women survey said they had been sexually harassed during the 2010–11 school year.<sup>37</sup> For girls, the harassment rate was 56 percent.<sup>38</sup> Moreover, 2 percent of students said they had been “forced to do something sexual” while at school, 6 percent reported “being physically intimidated in a sexual way,” and 8 percent said they had been “touched in an unwelcome sexual way.”<sup>39</sup> The numbers for girls alone in these categories were 4 percent, 9 percent, and 13 percent, respectively.<sup>40</sup>

A study published in 2014 by the University of New Hampshire’s Crimes Against Children Research Center, which looked at surveys of almost 3,400 students from age five to 17,

found 3.2 percent of students had been sexually harassed and another 0.4 percent, or one in every 250 students, had been sexually abused at school within the 12-month period prior to being surveyed.<sup>41</sup> Most of these incidents of sexual abuse came at the hands of a peer.<sup>42</sup>

### **C. School Discipline and Arrests, Gang Activity, Suicides, and School Fights**

A series of other serious problems also exist for millions of children and their parents in schools across the United States.

#### ***School Discipline and Arrests***

Government schools reportedly performed nearly 306,000 serious disciplinary actions in the 2015–16 school year.<sup>43</sup> The vast majority

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May 1, 2017, <https://www.ap.org/explore/schoolhouse-sex-assault/hidden-horror-of-school-sex-assaults-revealed-by-ap.html>.

<sup>36</sup> Reese Dunklin, Emily Schmall, and Justin Pritchard, “Students Sexual Assault Reports and How They Vary by State,” Associated Press, May 1, 2017, <https://www.ap.org/explore/schoolhouse-sex-assault/student-sex-assault-reports-and-how-they-vary-by-state.html>.

<sup>37</sup> Catherine Hill and Holly Kearl, *Crossing the Line: Sexual Harassment at School*, American Association of University Women, November 2011, <https://www.aauw.org/files/2013/02/Crossing-the-Line-Sexual-Harassment-at-School.pdf>.

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> David Finkelhor *et al.*, “At-School Victimization and Violence Exposure Assessed in a National Household Survey of Children and Youth,” *Journal of School Violence*, Vol. 15, Issue 1, August 2014, <http://www.unh.edu/ccrc/pdf/school%20victimization%20published.pdf>.

<sup>42</sup> *Ibid.*

<sup>43</sup> *SCS 2018*, “Indicator 18: Serious Disciplinary Actions Taken by Public Schools,” pp. 106–109.

of them, 72 percent, were out-of-school suspensions lasting at least five days. Nearly one-fourth of all serious disciplinary actions (24 percent) were transfers to specialized schools. The remaining 4 percent were removals, with no services permitted for the remainder of the school year for those students.<sup>44</sup>

The types of serious actions taken by schools vary depending on the incidents. However, across all serious offenses, the percentages and number of schools taking at least one serious disciplinary action have declined since the 2003–04 school year.<sup>45</sup>

Arrests and referrals of students to law enforcement, on the other hand, are rare. Combined, these actions involve less than 1 percent of all K–12 students. Nearly 70,000 public school students nationwide (0.14 percent) were arrested in 2013–14, according to the most recent data available. Those arrests

occurred at 8,000 schools, about 8 percent of all government schools. Schools referred another 223,000 students (0.45 percent) to law enforcement officials.<sup>46</sup>

“DESPITE THE RECENT PROGRESS, THESE FINDINGS SHOW AN ESTIMATED THREE MILLION MIDDLE SCHOOL AND HIGH SCHOOL STUDENTS ATTEND SCHOOLS WHERE GANGS ARE PRESENT.”

### **Gang Activity**

There is *some* good news on the school-violence front: The percentage of schools reporting gang activity occurred during the school year was 10 percent in 2015–16, which is lower “than in every prior

survey year for which data are available.” By comparison, 19 percent of schools reported gang activity occurred during the school year in 1999–2000.<sup>47</sup>

From 2001 to 2017, the percentage of students aged 12 to 18 reporting gangs are present at their schools decreased by more than half, from 20 percent to 9 percent.<sup>48</sup> Despite the recent progress, these findings show an estimated

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.* Total serious incidents for the 2009–10 and 2015–16 school years cannot be compared to other school years because of changes to the survey question. For data going back to the 1999–00 school year, see ED, *NCES Digest 2017*, Table 233.10, online only, [https://nces.ed.gov/programs/digest/d17/tables/dt17\\_233.10.asp](https://nces.ed.gov/programs/digest/d17/tables/dt17_233.10.asp).

<sup>46</sup> “Policing America’s Schools: An Education Week Analysis,” *Education Week*, January 24, 2017, <https://www.edweek.org/ew/projects/2017/policing-americas-schools/index.html>; See “Which Students Are Arrested the Most?,” *Education Week*, 2017, <https://www.edweek.org/ew/projects/2017/policing-americas-schools/student-arrests.html#/overview>, and U.S. Department of Education, “2013–2014 Civil Rights Data Collection, A First Look,” June 6, 2016, p. 11, <https://www2.ed.gov/about/offices/list/ocr/docs/CRDC2013-14-first-look.pdf>; There were 98,271 K–12 public schools during the 2013–14 school year. See *NCES Digest*, 2016, Table 216.10, [https://nces.ed.gov/programs/digest/d16/tables/dt16\\_216.10.asp](https://nces.ed.gov/programs/digest/d16/tables/dt16_216.10.asp).

<sup>47</sup> *SCS 2017*, “Indicator 7: Discipline Problems Reported by Public Schools,” pp. 60–63 and Table 7.1, p. 167.

<sup>48</sup> *SCS 2018*, “Indicator 8: Students’ Reports of Gangs at School,” pp. 60–61 and Table 8.1, p. 161. All gangs are included, whether or not they are involved in violent or illegal activity.

three million middle school and high school students attend schools where gangs are present.<sup>49</sup>

### ***Suicide and Unintentional Injuries***

Suicide is the second leading cause of death among people aged 10 to 24 (19 percent), behind unintentional accidents such as motor vehicle crashes (40 percent) and ahead of homicide (14 percent).<sup>50</sup> Recent research has found the suicide rate for adolescents aged 13 to 18 increased by nearly 31 percent from 2010 to 2015.<sup>51</sup>

School-associated violent deaths, including suicide, are tragic but rare. They are fatal injuries occurring on campus, as well as those that occur when students are traveling to or from school or school-sponsored events.<sup>52</sup> According to CDC, violent deaths at school are more

likely to occur at the beginning of the semester, and most happen during transition periods, such as during lunch or immediately before or after school.<sup>53</sup>

The number of students who commit suicide at school varies from year to year, ranging from

one to 10, yet have averaged six annually since the 1992–93 school year. There were nine at-school suicides during the 2014–15 school year, representing 0.5 percent of the 1,785 suicides for school-age youth that year. The 2014–15 school year tied the

2006–07 school year for having the second highest number of at-school suicides. During the 2002–03 school year, 10 students committed suicide at school, the highest on record.<sup>54</sup>

As noted previously, being bullied or being exposed to bullying can create or worsen depression and anxiety, along with feelings of rejection, isolation, exclusion, and despair. However, the majority of bullied students do

“AS NOTED PREVIOUSLY, BEING BULLIED OR BEING EXPOSED TO BULLYING CAN CREATE OR WORSEN DEPRESSION AND ANXIETY, ALONG WITH FEELINGS OF REJECTION, ISOLATION, EXCLUSION, AND DESPAIR.”

<sup>49</sup> Estimate by Vicki Alger. See R. Matthew Gladden *et al.*, *supra* note 4.

<sup>50</sup> Melonie Heron, *Deaths: Leading Causes for 2017*, CDC Division of Vital Statistics, National Vital Statistics Reports, Vol. 68, No. 8, June 24, 2019, p. 10; and Centers for Disease Control and Prevention, Figure 2, *cdc.gov*, p. 11, [https://www.cdc.gov/nchs/data/nvsr/nvsr68/nvsr68\\_06-508.pdf](https://www.cdc.gov/nchs/data/nvsr/nvsr68/nvsr68_06-508.pdf).

<sup>51</sup> These adolescents are in grades eight through 12. Increases were highest for girls, 65 percent; Asian/Pacific Islander adolescents, 54 percent; and adolescents ages 13 to 14, 53 percent; See Jean M. Twenge *et al.*, “Increases in Depressive Symptoms, Suicide-Related Outcomes, and Suicide Rates Among U.S. Adolescents After 2010 and Links to Increased New Media Screen Time,” *Clinical Psychological Science*, 2018, Vol. 6, No. 1, pp. 3–17 and Table 1 on pp. 10–11, <http://journals.sagepub.com/doi/full/10.1177/2167702617723376>.

<sup>52</sup> SCS 2018, “Indicator 1: Violent Deaths at School and Away From School,” pp. 28–29.

<sup>53</sup> Centers for Disease Control and Prevention, School-Associated Violent Death Study, last updated October 30, 2018, <https://www.cdc.gov/violenceprevention/youthviolence/schoolviolence/SAVD.html>.

<sup>54</sup> SCS 2018, *supra* note 52 (Indicator 1).

not commit suicide, as the U.S. Department of Health and Human Services and CDC note, and those who do typically have multiple risk factors. Additionally, as CDC concludes, “Suicide-related behavior is complicated and rarely the result of a single source of trauma or stress.”<sup>55</sup>

Still, “the correlation between public school environments and the deteriorating mental health of children has been intensifying for decades,” reported Stella Morabito. “We ought to consider how these settings serve as incubators for the social alienation that can fuel such horrors.”<sup>56</sup>

### **School Fights**

Historically, the rate of high school students who report having been in a physical fight not on school property are about two-thirds higher than rates for students who have said they have been in fights on school grounds. Since 1993, the overall rates of fighting both outside of school and at school have declined by about 50 percent.

In 2017, some 24 percent of students reported being in a physical fight anywhere in the past 12 months, compared to 42 percent in 1993.<sup>57</sup> In 2017, 9 percent of high school students reported being in a physical fight at least once at school during the past year, down from about 16 percent in 1993.<sup>58</sup> Despite these declines, the current rate suggests close to 1.3 million high school students have been in at least one physical fight at school in the past year.<sup>59</sup>

Although slightly less than one in 10 high school students report having been in at least one physical fight at school during the past year, physical attacks prompt the greatest number of serious disciplinary actions by schools.

During the 2015–16 school year, more than one-third of schools (37 percent) reported taking at least one serious disciplinary action, which includes out-of-school suspensions lasting five or more days, removals with no services for the remainder of the school year, and transfers to specialized schools. Among several offenses resulting in serious disciplinary actions, physical attacks or fights were the most common, reported by 27 percent of schools

<sup>55</sup> U.S. Department of Health and Human Services, “Facts About Bullying- Bullying and Suicide,” [stopbullying.gov](https://www.stopbullying.gov/media/facts/index.html), accessed September 28, 2018, <https://www.stopbullying.gov/media/facts/index.html>; Centers for Disease Control and Prevention, “The Relationship Between Bullying and Suicide: What We Know and What it Means for Schools,” 2014, quotation from p. 3, <https://www.cdc.gov/violenceprevention/pdf/bullying-suicide-translation-final-a.pdf>.

<sup>56</sup> For more examples, see Stella Morabito, “13 Ways Public Schools Incubate Mental Instability In Kids,” *The Federalist*, February 21, 2018, <http://thefederalist.com/2018/02/21/13-ways-public-schools-incubate-mental-instability-kids>.

<sup>57</sup> *SCS 2018*, “Indicator 12: Physical Fights on School Property and Anywhere,” pp. 80–83, and Table 12.1 p. 177.

<sup>58</sup> *Ibid.*

<sup>59</sup> *SCS 2018*, “Indicator 12: Physical Fights on School Property and Anywhere,” pp. 80–83, and Table 12.1 p. 177; cf. *YRBS 2017*, pp. 16–17, [https://www.cdc.gov/healthyouth/data/yrbs/pdf/2015/ss6506\\_updated.pdf](https://www.cdc.gov/healthyouth/data/yrbs/pdf/2015/ss6506_updated.pdf). Student estimate by Vicki Alger.



that took any serious disciplinary actions, nearly 23,000 schools.<sup>60</sup>

## D. School Shootings

School shootings have once again become the subject of intense national debate in the wake of the February 14, 2018, shooting in Parkland, Florida, where 17 Marjory Stoneman Douglas High School students and staff were murdered by 19-year-old Nikolas Cruz.<sup>61</sup>

On March 24, 2018, student walkouts were held at schools nationwide to protest for stricter limits on legal gun ownership. The walkouts were spearheaded by an organization called March for Our Lives, which stated it was “created by, inspired by and led by students across the country who will no longer risk their lives waiting for someone else to take action to stop the epidemic of mass school shootings that has become all too familiar.”<sup>62</sup>

But what is the truth about “mass school shootings” in America? Have they really become an

“epidemic” in the same way other forms of school violence have?

Fueling claims that school shootings have grown to massive proportions was a statistic quoted by numerous mainstream media outlets, as well as several elected officials and Hollywood celebrities, alleging 18 school shootings had occurred since the beginning of 2018. That would average out to about two school shootings per week through February 14. If this claim is true, it would be easy to believe that students do indeed “risk their

lives” attending school. However, the statistic was quickly debunked, and the debunked statement about students risking their lives attending school no longer appears on the March for Our Lives website.<sup>63</sup>

The prevalence of that claim points to chronic shortcomings with how information about school shootings is collected and reported—including that there is no uniform definition of “school shooting.”

The “18 school shootings” claim likely orig-

“ABSENT A CONSISTENT, UNIFORM DEFINITION, MEDIA OUTLETS AND OTHER ORGANIZATIONS DEFINE “MASS SHOOTINGS” AND “MASS KILLINGS,” INCLUDING SCHOOL SHOOTINGS, IN ANY NUMBER OF WAYS USING CRITERIA THAT HAVE BEEN IN FLUX SINCE THE 1980s.”

<sup>60</sup> SCS 2018, “Indicator 18: Serious Disciplinary Actions Taken by Public Schools,” pp. 106–109; Figure 18.1, p. 107; Table 18.1, pp. 202–203.

<sup>61</sup> Eric Levenson and Joe Sterling, “These Are the Victims of the Florida School Shooting,” CNN.com, February 21, 2018, <https://www.cnn.com/2018/02/15/us/florida-shooting-victims-school/index.html>.

<sup>62</sup> Editorial Board, “March for Our Lives Inspires at All Levels,” *Daily Campus*, March 28, 2018, <http://dailycampus.com/stories/2018/3/28/editorial-march-for-our-lives-inspires-at-all-levels>; The March for Our Lives’ “Mission Statement” has since been altered. See <https://marchforourlives.com/mission-statement>.

<sup>63</sup> Accurate as of April 14, 2018. See The March for Our Lives “Mission Statement,” <https://marchforourlives.com/mission-statement>.

inated with a late-afternoon tweet sent just hours after the Parkland shooting by Everytown for Gun Safety, a gun control organization founded by former New York City Mayor Michael Bloomberg.<sup>64</sup> Many of the incidents counted as “school shootings” are dubious. Among those shootings considered a “school shooting” by Everytown for Gun Safety was one in which a man committed suicide in the parking lot of an elementary school that had been closed for months. The organization also counted a shooting death on a university campus, as well as two accidental weapon-firings by licensed officers at schools that did not result in any injuries. In fact, most of the incidents Everytown counted either did not occur during school hours or did not result in physical injury.<sup>65</sup>

Absent a consistent, uniform definition, media outlets and other organizations define “mass

shootings” and “mass killings,” including school shootings, in any number of ways using criteria that have been in flux since the 1980s. Some definitions involve only those cases with three or more fatalities. For others, it’s four. Some reports include victim fatalities only, whereas others also include perpetrators. Some definitions include injuries as well as fatalities when reporting the number of victims. These variations, in addition to more recent changes, make credible historical comparisons of mass shootings and school shootings difficult, if not virtually impossible.<sup>66</sup>

School shooting definitions are also highly susceptible to bias. For instance, many publishers narrow or expand what constitutes a “shooting” or a “school” depending on a single publisher’s opinions about guns and the Second Amendment.<sup>67</sup>

<sup>64</sup> John Woodrow Cox and Steven Rich, “No, There Haven’t Been 18 School Shootings in 2018. That Number Is Flat Wrong,” *The Washington Post*, February 15, 2018, [https://www.washingtonpost.com/local/no-there-havent-been-18-school-shooting-in-2018-that-number-is-flat-wrong/2018/02/15/65b6cf72-1264-11e8-8ea1-c1d91fcec3fe\\_story.html?utm\\_term=.70b6e50fd3f4](https://www.washingtonpost.com/local/no-there-havent-been-18-school-shooting-in-2018-that-number-is-flat-wrong/2018/02/15/65b6cf72-1264-11e8-8ea1-c1d91fcec3fe_story.html?utm_term=.70b6e50fd3f4); “New Gun Violence Prevention Group ‘Everytown for Gun Safety’ Unites Mayors, Moms and Millions of Americans on New Paths to Victory: State Capitols, Corporate Responsibility, Voter Activation Everytown for Gun Safety,” Everytown for Gun Safety, Press Release, April 16, 2014, <https://everytown.org/press/new-gun-violence-prevention-group-everytown-for-gun-safety-unites-mayors-moms-and-millions-of-americans-on-new-paths-to-victory-state-capitols-corporate-responsibility-voter-activation>.

<sup>65</sup> *Ibid.*

<sup>66</sup> Callum Borchers, “The Squishy Definition of ‘Mass Shooting’ Complicates Media Coverage,” *The Washington Post*, October 4, 2017, [https://www.washingtonpost.com/news/the-fix/wp/2017/10/04/the-squishy-definition-of-mass-shooting-complicates-media-coverage/?utm\\_term=.872fb990c626](https://www.washingtonpost.com/news/the-fix/wp/2017/10/04/the-squishy-definition-of-mass-shooting-complicates-media-coverage/?utm_term=.872fb990c626); Isabel Fattal, “Another School Shooting—But Who’s Counting?,” *The Atlantic*, February 14, 2018, <https://www.theatlantic.com/education/archive/2018/02/another-school-shootingbut-whos-counting/553412/>; Michelle Ye Hee Lee, “Obama’s Inconsistent Claim on the ‘Frequency’ of Mass Shootings in the U.S. Compared to Other Countries,” *The Washington Post*, December 3, 2015, [https://www.washingtonpost.com/news/fact-checker/wp/2015/12/03/obamas-inconsistent-claim-on-the-frequency-of-mass-shootings-in-the-u-s-compared-to-other-countries/?utm\\_term=.011d8866ab38](https://www.washingtonpost.com/news/fact-checker/wp/2015/12/03/obamas-inconsistent-claim-on-the-frequency-of-mass-shootings-in-the-u-s-compared-to-other-countries/?utm_term=.011d8866ab38).

<sup>67</sup> See John Woodrow Cox and Steven Rich, *supra* note 64. Also see Isabel Fattal, “Another School Shooting—But Who’s Counting?” *The Atlantic*, February 14, 2018, <https://www.theatlantic.com/education/archive/2018/02/another-school-shootingbut-whos-counting/553412/>; Also see Eric Levitz, “There Is No ‘Epidemic of Mass School Shootings,’” *New York Magazine Daily Intelligencer*, March 1, 2018, <http://nymag.com/daily/intelligencer/2018/03/there-is-no-epidemic-of-mass-school-shootings.html>; Also

Government agencies aren't necessarily neutral parties, either. For example, in 1996, Congress prohibited taxpayer funding for CDC research advocating gun control. Prompting the ban were numerous instances spanning more than a decade of CDC-funded research consistently advocating for gun control to improve public health, as well as instances of CDC officials commenting publicly that their goal was to promote public antipathy toward gun ownership.<sup>68</sup>

Sensationalized claims of school shooting epidemics do nothing to keep students safe at school.<sup>69</sup> According to the U.S. Department of Justice, there is no current reporting about

whether school shootings have increased, but overall weapons-carrying and weapons-related injuries have decreased since the 1992–93 school year.<sup>70</sup> Moreover, while it is true that homicide is the second most common cause of death among school-aged children, homicides rarely occur at school, which includes the campus, school-sponsored events, and traveling to or from school. Since the 1992–93 school year, at-school homicides have remained at less than 3

“WHILE THE THREAT OF A CHILD BEING CAUGHT UP IN ANY KIND OF SCHOOL SHOOTING IS INFINITESIMALLY SMALL, UNDER THE CURRENT SYSTEM, THOSE WHO SURVIVE ONE STILL HAVE NO OTHER OPTION BUT TO KEEP ATTENDING THE SCHOOL WHERE THIS UNSPEAKABLE TRAUMA TOOK PLACE.”

percent of all homicides of individuals aged five to 18. From the 2014–15 school year to March 2018, 20 of the 1,168 homicides of school-aged children occurred at school, 1.3 percent.<sup>71</sup>

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see Peter Hasson, “NYT Uses Inflated Mass Shooting Numbers For Dramatic Editorial,” *The Daily Caller*, October 3, 2017, [http://dailycaller.com/2017/10/03/nyt-uses-inflated-mass-shooting-numbers-for-dramatic-editorial/?utm\\_source=site-share](http://dailycaller.com/2017/10/03/nyt-uses-inflated-mass-shooting-numbers-for-dramatic-editorial/?utm_source=site-share).

<sup>68</sup> Sheila Kaplan, “Congress Quashed Research into Gun Violence. Since Then, 600,000 People Have Been Shot,” *The New York Times*, March 12, 2018, <https://www.nytimes.com/2018/03/12/health/gun-violence-research-cdc.html>; Timothy Wheeler, “Why Congress Stopped Gun Control Activism at the CDC,” *The Hill*, November 30, 2015, <http://thehill.com/blogs/congress-blog/politics/261307-why-congress-stopped-gun-control-activism-at-the-cdc>; Paul Hsieh, “Why I Don’t Trust Government-Backed ‘Gun Violence’ Research,” *Forbes.com*, June 22, 2016, <https://www.forbes.com/sites/paulhsieh/2016/06/22/why-i-dont-trust-government-backed-gun-violence-research/#50ba74d6ced8>; Brandon Morse, “Why Congress Cut The CDC’s Gun Research Budget,” *The Federalist*, December 15, 2015, <http://thefederalist.com/2015/12/15/why-congress-cut-the-cdcs-gun-research-budget>.

<sup>69</sup> Eric Levitz, “On Guns, Liberals Are Flirting With the Politics of Fear. That’s Scary,” *New York Magazine Daily Intelligencer*, February 22, 2018, <http://nymag.com/daily/intelligencer/2018/02/liberals-are-embracing-the-politics-of-fear-thats-scary.html>.

<sup>70</sup> Office of Justice Programs, “School Safety: By the Numbers,” National Institute of Justice, Department of Justice, November 2017, p. 1, <https://www.ncjrs.gov/pdffiles1/nij/251173.pdf>.

<sup>71</sup> Lauren Musu-Gillette *et al.*, *supra* note 22, pp. 32–33 and Reference Table 1.1, [https://nces.ed.gov/programs/crimeindicators/ind\\_01.asp](https://nces.ed.gov/programs/crimeindicators/ind_01.asp); Centers for Disease Control and Prevention, “School-Associated Violent Death Study,” last updated on May 11, 2016, <https://www.cdc.gov/violenceprevention/youthviolence/schoolviolence/SAVD.html>.

While the threat of a child being caught up in any kind of school shooting is infinitesimally small, under the current system, those who survive one still have no other option but to keep attending the school where this unspeakable trauma took place.

When you travel to the National September 11 Memorial and Museum in Lower Manhattan, Pearl Harbor, or to the battlefields of Gettysburg or Antietam, the sense that something momentous and horrifying happened there is pervasive. The air around these places is quite thick with solemnity and emotional weight. Now, imagine in the wake of a school shooting having to attend your school, day after day, and having that pervasive weight surround you as well. Imagine repeatedly having to walk past the spot where a friend or classmate was gunned down. If you can, then you can imagine the emotional harm this may cause to some students and why they should have the right to transfer from a school that doesn't contain that scarring emotional baggage.

“PARENTS OF CHILDREN WITH SPECIAL NEEDS OFTEN WORRY WHETHER THE SCHOOL THEY SEND THEIR CHILD TO IS EQUIPPED TO HANDLE THEIR CHILD'S UNIQUE CIRCUMSTANCES.”

## E. School Safety for Special-Needs Students

Parents of children with special needs often worry whether the school they send their child to is equipped to handle their child's unique circumstances. Unfortunately, many times these schools and their staff, including teachers, fail to provide an adequate educational environment for these kids.

Abuse of special-needs children by teachers and care workers is a recurring problem. Teachers whose classrooms are made up of more than 20 percent special-needs students report the highest level of frustration with their job and feelings of burn-out of all teachers.<sup>72</sup> Frustrated teachers can make poor decisions, and this can lead to abuse.

A massive 2011 study of public schools in the Canadian province of Ontario found 21 percent of teachers were observed bullying students in general education classrooms.<sup>73</sup> Similarly, in 2009, the U.S. Government Accountability Office uncovered hundreds of cases of abuse, including deaths, in American schools from restraining and secluding students, virtually all of whom had some form of disability.<sup>74</sup> The

<sup>72</sup> Rachel Talmor, Shunit Reiter, and Neomi Feigin, “Factors Relating to Regular Education Teacher Burnout in Inclusive Education,” *European Journal of Special Needs Education*, Vol. 20, Issue 2, 2005, <https://www.tandfonline.com/doi/abs/10.1080/08856250500055735>.

<sup>73</sup> Glynn W.B. Sharpe, *Behind the Closed Door: Exploring Teacher Bullying and Abuse of Students, Characteristics of the Teacher, and Impact*, Department of Sociology and Equity Studies in Education, University of Toronto, June 13, 2011, <https://tspace.library.utoronto.ca/handle/1807/27602>.

<sup>74</sup> Government Accountability Office, *Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers*, May 19, 2009, <https://www.gao.gov/new.items/d09719t.pdf>.

American Civil Liberties Union reports special-needs students are also disproportionately corporally disciplined compared to their non-special-needs peers in public schools.<sup>75</sup> Some of these children were even hit for exhibiting behaviors directly tied to their disabilities.<sup>76</sup>

Special-needs children also face threats from their peers. Studies have shown children with attention deficit or hyperactivity disorder, epilepsy, hemiplegia, diabetes, on the autism spectrum, or who stutter—just to name some of the myriad categories of special-needs students—are more likely to be bullied than children without these conditions.<sup>77</sup>

## F. Food Allergies and Health-Related Safety Issues

According to the National Center for Health Statistics, an estimated 4–6 percent of children in the United States, roughly one in every 13 kids, have some form of food allergy.<sup>78</sup> From 1997 to 2007, the number of children with these allergies rose by 18 percent.<sup>79</sup> There is at least one child with a food allergy in 88 percent of U.S. schools, and 16–18 percent of children with food allergies have had a reaction from accidentally ingesting an allergen while at school.<sup>80</sup>

<sup>75</sup> Alice Farmer, *Impairing Education: Corporal Punishment of Students with Disabilities in U.S. Public Schools*, American Civil Liberties Union, August 2009, <https://www.aclu.org/sites/default/files/pdfs/humanrights/impairingeducation.pdf>.

<sup>76</sup> *Ibid.*

<sup>77</sup> Kimberly A. Twyman *et al.*, “Bullying and Ostracism Experiences in Children With Special Health Care Needs,” *Journal of Developmental & Behavioral Pediatrics*, Vol. 31, Issue 1, January 2010, <https://insights.ovid.com/pubmed?pmid=20081430>; Jamie L. Humphrey, Eric A. Storch, and Gary R. Geffken, “Peer Victimization in Children with Attention-Deficit Hyperactivity Disorder,” *Journal of Child Health Care*, Vol. 11, Issue 3, September 2007, <http://journals.sagepub.com/doi/pdf/10.1177/1367493507079571>; Lorie D. Hamiwka *et al.*, “Are Children with Epilepsy at Greater Risk for Bullying than Their Peers?,” *Epilepsy & Behavior*, Vol. 15, Issue 4, August 2009, [http://www.epilepsybehavior.com/article/S1525-5050\(09\)00317-5/fulltext](http://www.epilepsybehavior.com/article/S1525-5050(09)00317-5/fulltext); Carole Yude, Robert Goodman, and Helen McConachie, “Problems of Children with Hemiplegia in Mainstream Primary Schools,” *The Journal of Child Psychology and Psychiatry*, Vol. 39, Issue 4, May 1998, <https://onlinelibrary.wiley.com/doi/abs/10.1111/1469-7610.00349>; Siobhan Hugh-Jones and Peter K. Smith, “Self-Reports of Short- and Long-Term Effects of Bullying on Children Who Stammer,” *British Journal of Educational Psychology*, Vol. 69, Issue 2, June 1999, <https://onlinelibrary.wiley.com/doi/abs/10.1348/000709999157626>; Faye Mishna, “Learning Disabilities and Bullying: Double Jeopardy,” *Journal of Learning Disabilities*, Vol. 36, Issue 4, July 2003, <http://journals.sagepub.com/doi/pdf/10.1177/0022194030360040501>.

<sup>78</sup> Amy M. Branum and Susan L. Lukacs, “Food Allergy Among U.S. Children: Trends in Prevalence and Hospitalizations,” *NCHS Data Brief No. 10*, National Center for Health Statistics, Centers for Disease Control and Prevention, October 2008, <https://www.cdc.gov/nchs/data/databriefs/db10.pdf>.

<sup>79</sup> *Ibid.*

<sup>80</sup> Terence P. O’Toole *et al.*, “Nutrition Services and Foods and Beverages Available at School: Results From the School Health Policies and Programs Study 2006,” *Journal of School Health*, Vol. 77, Issue 8, October 2007, <https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1746-1561.2007.00232.x>; Scott H. Sicherer *et al.*, “The US Peanut and Tree Nut Allergy Registry: Characteristics of Reactions in Schools and Day Care,” *The Journal of Pediatrics*, Vol. 138, Issue 4, April 2001, [http://www.jpeds.com/article/S0022-3476\(01\)34540-7/fulltext](http://www.jpeds.com/article/S0022-3476(01)34540-7/fulltext); Anna Nowak-Wegryzn, Mary Kay Conover-Walker, and Robert A. Wood, “Food-Allergic Reactions in Schools and Preschools,” *Archives of Pediatrics & Adolescent Medicine*, Vol. 155, Issue 7, July 2001, <https://jamanetwork.com/journals/jamapediatrics/fullarticle/190822>; Also note



Roughly one-third of children with food allergies report being bullied about their allergy by their peers, with most of these bullying incidents occurring at their schools.<sup>81</sup> In more than half these incidents, allergic children have been touched by an allergen, had allergens intentionally placed in their food, or had an allergen thrown at them.<sup>82</sup> A 2017 survey commissioned by the pharmaceutical company Kaléo found 39 percent of parents of children with life-threatening food allergies say school caretakers take part in food allergy bullying.<sup>83</sup>

## Conclusion

Students are made to feel unsafe in their school in a variety of ways and for multiple reasons, including physical and emotional bullying, random acts of violence, hazing, sexual harassment and abuse at the hands of peers and teachers, gang activity, harassment over food allergies or other special needs, and unsafe classroom conditions. And the advent of cyberbullying, which is likely to expand in the coming years, has added a new and pernicious twist to school safety.

Parents worry about the safety of their children at school just as much as children do, if not more so. Unfortunately, as it currently stands, parents don't have many options at their disposal if they believe their child's school is an unsafe place. Unless parents can afford to send their child to a private school or home school them, their child's fate is often determined by out-of-touch and unaccountable education bureaucrats.

“CSAs WOULD OFFER PARENTS A VIABLE SOLUTION TO SCHOOL SAFETY PROBLEMS BY EMPOWERING THEM WITH THE ABILITY TO QUICKLY AND EASILY MOVE THEIR CHILD TO THE SCHOOL THEY DETERMINE TO BE THE BEST AND SAFEST FIT.”

The U.S. education system's failure to protect children and inability to provide parents with reasonable alternatives are precisely why CSA programs are so desperately needed. As currently constructed, the system only effectively allows wealthy families

to move their child to a safer school when they feel it is imperative. This privilege should be afforded to all families, regardless of income level, because *every* child deserves the opportunity to attend a safe school environment.

CSAs would offer parents a viable solution to school safety problems by empowering them with the ability to quickly and easily move their child to the school they determine to be

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one-quarter of the severe reactions, known as anaphylaxis, reported at schools occur to children with no known food allergies.

<sup>81</sup> Eyal Shemesh *et al.*, “Child and Parental Reports of Bullying in a Consecutive Sample of Children With Food Allergy,” *Pediatrics*, Vol. 131, Issue 1, December 2012, <http://pediatrics.aappublications.org/content/early/2012/12/19/peds.2012-1180>.

<sup>82</sup> *Ibid.*

<sup>83</sup> David Bloom, “No Appetite for Bullying’ Food Allergy Anti-Bullying Campaign Launches,” SnackSafely.com, October 24, 2017, <https://snacksafely.com/2017/10/no-appetite-for-bullying-food-allergy-anti-bullying-campaign-launches>.

the best and safest fit. Further, CSAs would make parents, not some disinterested bureaucrat, the final arbiter of whether a child's school environment is unsafe.

CSA programs would not be a silver-bullet solution to the bullying and violence problems plaguing America's public schools, but they certainly would allow all families, no matter their income level, much greater access to safe schools that are best-suited to meet their children's unique educational needs.

Right now, thousands of American students

are frustrated and hurting. They dread waking up in the morning and having to spend a day in a place where they are poorly treated and possibly even physically harmed. Their parents are hurting for them, worried about their physical and emotional well-being, feeling exasperated and helpless because they think there is nothing they can do to help their child.

It's time to put an end to this unnecessary, cruel status quo by enacting Child Safety Accounts in every state across the country. The time to act is now.

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## About the Authors

**Vicki E. Alger, Ph.D.** is a state government relations manager at The Heartland Institute and a research fellow at the Independent Institute in Oakland, California. She is the author of the book *Failure: The Federal 'Misedukation' of America's Children*. She holds senior fellowships at the Fraser Institute, headquartered in Vancouver, British Columbia, and the Independent Women's Forum in Washington, DC. Alger is also president and CEO of Vicki Murray & Associates in Scottsdale, Arizona.

Alger's research focuses on education reforms that promote a competitive education marketplace and increase parents' control over their children's education. She is the author of more than 40 education policy studies, co-author of *Lean Together: An Agenda for Smarter Government, Stronger Communities, and More Opportunities for Women*; *Short-Circuited: The Challenges Facing the Online Learning Revolution in California*; and *Not as Good as You Think: Why the Middle Class Needs School Choice*. Alger was also associate producer of the documentary *Not as Good as You Think: Myth of the Middle Class School*.

Alger has advised the U.S. Department of Education on public school choice and higher education reform. She has also advised education policymakers in nearly 40 states and England, provided expert testimony before state legislative education committees, and served on two national accountability task forces. Alger's research helped advance four parental choice voucher and tax-credit scholarship programs in Arizona, as well as the state's first higher-education voucher.

Alger's research also inspired the introduction of five school choice bills in California—the most in the Golden State's history—and her research was used as part of the successful legal defense by the Institute for Justice of the country's first tax-credit scholarship program in the U.S. Supreme Court (*Arizona Christian School Tuition Organization v. Winn*). Her research and commentary on education policy have been widely published and cited in leading public policy outlets, such as Harvard University's Program on Education Policy and Governance, *Education Week*, and the *Chronicle of Higher Education*, in addition to national news media outlets, including *The Wall Street Journal*, *USA Today*, *Investor's Business Daily*, *Forbes*, *Fortune*, and the *Los Angeles Times*. Alger has appeared on the Fox News Channel, Global News, local ABC, CBS, NBC, and PBS affiliates, as well as several national news radio programs.

Prior to her career in education policy, Alger taught college-level courses in American politics, English composition and rhetoric, and early British literature. She has lectured at numerous American universities, including the U.S. Military Academy at West Point. Alger received her Ph.D. in political philosophy from the Institute of Philosophic Studies at the University of Dallas, where she was an Earhart Foundation fellow. Alger lives in Arizona with her husband, David.

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