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AWR Paper

**Mental Health Care in America:
Addressing the Mental Health Crisis in Public Schools**

I. Introduction

The field of mental health care has made significant developments and improvements in the care provided to individuals struggling with mental illness and other psychological conditions. Overall, access to mental health care has broadened and the treatments that are available today are more effective than ever before.¹ However, for many vulnerable sectors of the American population, quality mental health care is often inaccessible to utilize due to both the unequal distribution of mental health professionals across the country as well as the financial cost of securing treatment.² One of the most vulnerable populations in terms of mental health care are children and adolescents.³

Ensuring that children and adolescents have adequate access to mental health treatment options is an essential part of public health. The rates of mental illness in young people are higher than ever, in part due to increased screening for such conditions, but also due to an

¹ *Mental Health Treatment and Services*, National Alliance on Mental Illness (NAMI) <https://www.nami.org/Learn-More/Treatment>

² *Mental Disorders, Health Inequalities and Ethics: A Global perspective*, Emmanuel M. Ngui, Lincoln Khasakhala, David Ndeti, Laura Weiss Roberts, *Int Rev Psychology* (2011) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2935265/>

³ *Promotion and Prevention in Child Mental Health*, P.C. Shastri, *Indian J Psychiatry* (2009). <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2755174/>

increased ability to diagnose these illnesses and disorders.⁴ Despite that, the vast majority of adolescents and children with psychiatric conditions won't receive treatment.⁵ Recognizing that reality, it is also important to understand that if left unaddressed and untreated, mental health conditions often get worse as the individual becomes an adult and are shown to lead to a wide range of interpersonal, familial, and societal ills such as drug addiction, alcoholism, criminality, violence, and suicide. In other words, mentally unwell young people without treatment or intervention are less likely to be mentally healthy adults.

States are waking up to the public's need for mental health education. New York and Virginia have become the first states to enact comprehensive legislation to address the growing need for children and young adults to be educated about mental health starting at a young age. Proactive legislation that directly provides students with adequate tools to deal with and understand mental health, such as these laws, has the potential to be one of the most important ways to increase mental wellbeing and public health overall. The federal government has also proposed and passed laws in recent years to address the growing rates of mental illness and distress among students. These laws not only have the potential to improve student mental health in the short term, but may also lead to improvements in the long term as these students leave school and become adults.

This paper aims to address the legal, societal, and policy issues that affect mental health of young people. It will focus on the various actions that have been taken by select states and the

⁴ *Trends in Mental Health Care among Children and Adolescents*, Mark Olfson, M.D., M.P.H., Benjamin G. Druss, M.D., M.P.H., and Steven C. Marcus, Ph.D, N. Engl. J. Med. (2015) <https://www.nejm.org/doi/full/10.1056/NEJMsa1413512>

⁵ *Unmet need for mental health care among U.S. children: variation by ethnicity and insurance status*, Kataoka SH1, Zhang L, Wells KB, Am. J. Psychiatry (2002). <https://www.ncbi.nlm.nih.gov/pubmed/12202276>

federal government to provide treatment options and tools in public schools, discuss additional actions that states are planning, and consider what steps can be taken that have yet to be contemplated by legislatures. This paper's conclusion is that mental health care in the United States can be improved in both the short term and the long term through legislation requiring mental health education as well as greater access to mental health professionals in public schools.

II. Statistics on Adolescent Mental Health

1. Prevalence

Mental health conditions are not an uncommon phenomenon in young people. In fact, according to the National Institute of Mental Health (NIMH), 50% of adolescents have had a history of *any* mental illness, with one in five young people experiencing a *serious* mental health condition.⁶ NIMH defines *any* mental illness (AMI) as “a mental, behavioral, or emotional disorder” which “can vary in impact, ranging from no impairment to mild, moderate, and even severe impairment.”⁷ *Serious* mental illness (SMI) is defined by NIMH to describe “a mental, behavioral, or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities.” NIMH explains that “[t]he burden of mental illness is particularly concentrated among those who experience disability due to SMI.”⁸

⁶ *Mental Health Information*, National Institute of Mental Health (NIMH) <https://www.nimh.nih.gov/health/statistics/mental-illness.shtml>

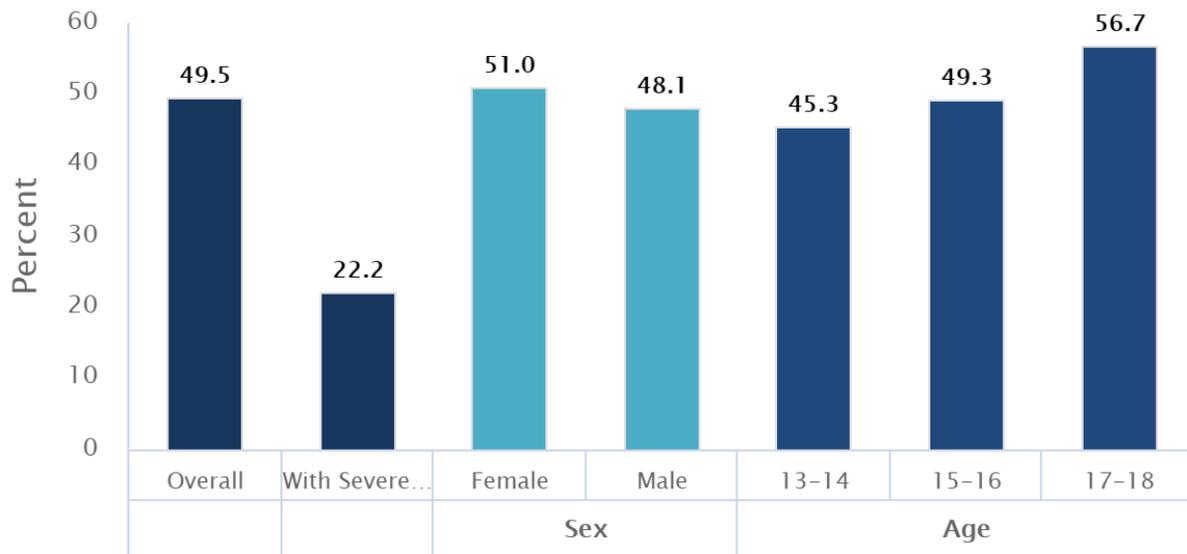
⁷ *Id.*

⁸ *Id.*

Table 1⁹

Lifetime Prevalence of Any Mental Disorder Among Adolescents (2001–2004)

Data from the National Comorbidity Survey Adolescent Supplement (NCS-A)



Data from the National Comorbidity Survey Adolescent Supplement¹⁰ collected between 2001-2004, while expressing data from an older sample set, demonstrates the life time prevalence of any mental disorder among adolescents. The data reflects that overall, 49.5% of adolescents experience *any* mental illness. Out of that figure, 22.2% experience *severe* mental disorders. The highest prevalence of mental illness was shown in the 17-18 year old subgroup,

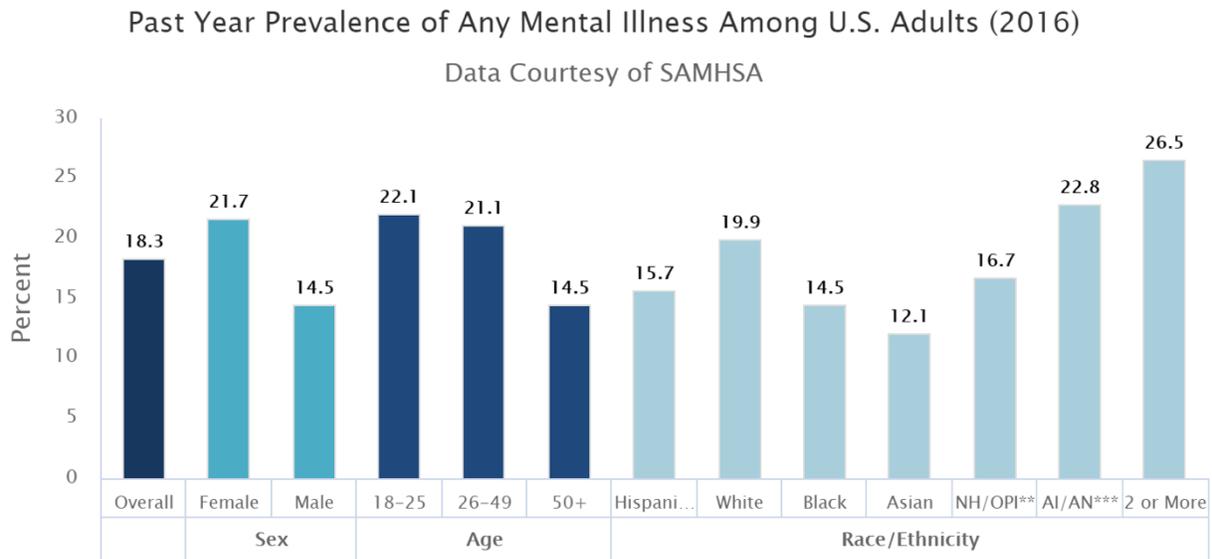
⁹ Id.

¹⁰ The National Comorbidity Survey Adolescent Supplement (NCS-A): I. Background and Measures, Kathleen R. Merikangas, Ph.D., Shelli Avenevoli, Ph.D., E. Jane Costello, Ph.D., Doreen Koretz, Ph.D., and Ronald C. Kessler, Ph.D. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2736858/>

with the prevalence being 56.7%. The prevalence was also slightly higher for females than it was for males, 51% and 48% respectively.

For comparison, data from the Substance Abuse and Mental Health Services Administration¹¹ (SAMHSA) shows that, in 2016 the prevalence of any mental illness for adults was 18.3%. Among each subgroup of adults (18-25, 26-49, and 50+), the group with the highest prevalence of any mental illness was the 18-25 group, with a prevalence of 22.1%. This was followed closely by the 26-49 age group at 21.1%. In contrast, the 50+ age group had a prevalence of only 14.5%.

Table 2¹²



¹¹ *National Survey on Drug Use and Health*, Substance Abuse and Mental Health Services Administration (SAMHSA), <https://www.samhsa.gov>

¹² *Mental Health Information*, National Institute of Mental Health (NIMH) <https://www.nimh.nih.gov/health/statistics/mental-illness.shtml>

The crucial aspect of mental health treatment is that mental illness often manifests for the first time during adolescence.¹³ This not only leads to disruptions in education, familial relations, and social development, but it also frequently results in violence against others or, far more often, suicide.¹⁴ Though it affects all demographics differently, suicide is the third leading cause of death in adolescents aged 10-14 and the second leading cause of death for adolescents aged 15-19.¹⁵ Between 500,000-1 million young people aged 15-24 attempt suicide each year.¹⁶ Overall, 17.6% of all deaths in the US of individuals aged 10-24 were a result of suicide. These numbers display a harsh, and often disregarded reality that under the current state of the mental health care system in the US, young people are killing themselves every year at an alarming rate.

2. Access to Treatment

According to data from the U.S. Department of Health and Human Services (HHS)¹⁷, over 15 million children and adolescents need psychiatric help, but only 8,300 child and adolescent psychiatrists practice in the US. Studies from HHS show that adolescents receive treatment in a variety of settings. 3.6 million children and adolescents receive treatment from psychiatrists, psychologists, or counselors while another 3.2 million receive treatment while participating in

¹³ *Why do many psychiatric disorders emerge during adolescence?* Jay N. Giedd, Matcheri Keshavan, and Tomáš Paus, *Nat. Rev. Neurosci.* (2008). <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2762785/>

¹⁴ *How Mental Health Disorders Effect Youth*, Youth.Gov – Mental Health, <https://youth.gov/youth-topics/youth-mental-health/how-mental-health-disorders-affect-youth>

¹⁵ https://www.cdc.gov/nchs/data/nvsr/nvsr66/nvsr66_05.pdf

¹⁶ *Children’s Mental Health Statistics*, Mental Health America. Mental Health America website. www1.nmha.org/children/prevent/stats.cfm (accessed March 31, 2009).

¹⁷ *Access to Adolescent Mental Health Care*, U.S. Department of Health and Human Services. <https://www.hhs.gov/ash/oah/adolescent-development/mental-health/access-adolescent-mental-health-care/index.html>

behavioral health programs in an educational setting. Additionally, 708,000 receive mental health services from a pediatrician or family doctor.¹⁸

There are many barriers for adolescents and children in receiving the treatment they need. These barriers are closely tied to race, gender, religion, sexuality, and socioeconomic status. Data collected from SAMHSA¹⁹ and the Interagency Working Group on Youth Programs²⁰ shows a number of disparities in what demographics receive treatment. The data show that:

- Female adolescents are more likely to receive mental health services than males, regardless of treatment setting.
- Younger adolescents are more likely than older adolescents to receive mental health services in an educational setting.
- Asian adolescents are less likely to receive mental health treatment than most other races/ethnicities regardless of setting.
- There is a greater proportion of Hispanic youth who have unmet mental health needs in comparison to black and white peers.

¹⁸ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Administration. (2017). Key substance use and mental health indicators in the United States: Results from the 2016 National Survey on Drug Use and Health. Retrieved from <https://www.samhsa.gov/data/sites/default/files/NSDUH-FFR1-2016/NSDUH-FFR1-2016.htm>

¹⁹ Lipari, R. N., Hedden, S., Blau, G., & Rubenstein, L. (2016). The CBHSQ report: Adolescent mental health service use and reasons for using services in specialty, educational, and general medical settings. Rockville, MD: Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration. Retrieved from https://www.samhsa.gov/data/sites/default/files/report_1973/ShortReport-1973.html

²⁰ Interagency Working Group on Youth Programs. (n.d.). Mental health: Prevalence. Retrieved from <http://youth.gov/youth-topics/youth-mental-health/prevalance-mental-health-disorders-among-youth>

- Lesbian, gay, bisexual, and transgender (LGBT) youth have higher rates of mental disorder diagnoses than other youth in national samples.²¹

The data reflecting the socioeconomic dimension of access to mental health treatment are potentially even more striking. The data from SAMHSA cited above shows that 21 percent of children and adolescents aged 6-17 who live in poverty have mental health disorders. Other indicators for poverty show similar figures. For instance, youth with any health insurance are more likely to receive treatment than those without.²² Additionally, according to the data from SAMHSA, the disparity also exists between rural and urban youth.

One of the most striking disparities exists in youth that are in foster care, the child welfare system, or juvenile detention. The study from the Interagency Working Group on Youth Programs shows that half of all youth in the child welfare system have a diagnosable mental disorder. Even more alarming is that 70 percent of youth in the juvenile justice system have a diagnosable mental condition. The same data set further reflects that children in foster care have a substantially greater risk of mental health conditions, most likely due to traumatic stress from abuse or neglect.

According to the NIMH²³, “[f]or a young person with symptoms of a mental disorder, the earlier treatment is started, the more effective it can be. Early treatment can help prevent more

21 Mustanski, B. S., Garofalo, R., & Emerson, E. M. (2010). Mental health disorders, psychological distress, and suicidality in a diverse sample of lesbian, gay, bisexual, and transgender youths. *American Journal of Public Health*, 100(12), 2426-2432. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2978194/>

22 U.S. Department of Health and Human Services, Health Resources and Services Administration, Maternal and Child Health Bureau. (2014). *The health and well-being of children: A portrait of states and the nation 2011-2012*. Retrieved from <http://mchb.hrsa.gov/nsch/2011-12/health/child/childs-health-care/mental-health-care.html>

²³ *Child and Adolescent Mental Health*, National Institute of Mental Health (NIMH) <https://www.nimh.nih.gov/health/topics/child-and-adolescent-mental-health/index.shtml>

severe, lasting problems as a child grows up.” Changing the focus of public schools to include mental health in the curriculum while providing more direct access to mental health care for young people can greatly impact the likelihood that they will receive treatment and has the potential to improve mental health in both the short and long term.

III. Federal Laws Addressing Mental Health in Public Schools

There are currently three powerful pieces of legislation that serve to protect the rights of individuals with mental illness in public schools: the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act which overlaps with Section 504 and IDEA as well as other anti-discrimination statutes. These laws act to identify students with disabilities and ensure that they receive reasonable accommodations to enable them to receive an appropriate public education. There are currently several other laws pending in Congress that attempt to improve student mental health in public schools by other means.

1. Individuals with Disabilities Education Improvement Act of 2004 (IDEA)

The Individuals with Disabilities Education Act (IDEA)²⁴ was originally passed in 1975, at the time known as the Education of Handicapped Children Act. It was subsequently renamed to its current title when it was amended in 1990. Further amendments were passed in 1997 and 2004 to improve equal access to education in public schools. The goal of this Act since its inception was to ensure equal access to a free appropriate public education (FAPE) for students with disabilities, comparable to the education received by non-disabled students.²⁵

²⁴ Individuals with Disabilities Education Improvement Act of 2004., 118 Stat. 2647

²⁵ IDEA – The Individuals with Disabilities Education Act

In passing the statute, Congress stated several purposes for the legislation. These are:

(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;

(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;

(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

The IDEA is broken into four parts.²⁶ Part A defines the terms used in the Act and creates the Office of Special Education Programs which carries out the administration of the Act. Part B provides the educational guidelines for students aged 3-21. Part B also provides financial assistance to qualifying schools to aid them in carrying out the Act. To qualify under Part B, schools must fulfill the following requirements²⁷:

²⁶ *Individuals with Disabilities Education Act (IDEA)*, American Psychological Association, <https://www.apa.org/advocacy/education/idea/index.aspx>

²⁷ *Id.*

1. Every child is entitled to a free and appropriate public education;
2. When a school professional believes that a student between the ages of 3 and 21 may have a disability that has substantial impact on the student's earning or behavior, the student is entitled to an evaluation in all areas related to the suspected disability;
3. That the education and services for children with disabilities must be provided in the least restrictive environment, and if possible, to place disabled children in a "typical" educational setting with non-disabled children;
4. Input from the parent and child must be considered in the educational process;

Part C provides a path to identifying and reaching very young children with disabilities. The focus of Part C is on disabled babies and toddlers. Part D deals with grants and funding offered to facilitate beneficial programs, projects, and support systems for disabled youth. The most essential part of the Act is the requirement that schools create an Individualized Education Plan (IEP) which lays out specific actions and steps that would allow educational providers, parents, and the student to reach the stated educational goals of the child. If a parent feels that an Individualized Education Plan (IEP) is inappropriate for their child, or that their child is not receiving the services they need, they have the right under the Act to due process and to challenge their child's treatment.

2. Section 504 of the Rehabilitation Act of 1974

Section 504²⁸ states that "no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under" any program

²⁸ *Discrimination on the Basis of Disability*, U.S. Department of Health and Human Services, <https://www.hhs.gov/civil-rights/for-individuals/disability/index.html>

or activity that either receives Federal financial assistance or is conducted by any Executive agency or the United States Postal Service.

According to resources from the federal government, “each Federal agency has its own set of section 504 regulations that apply to its own programs.” Further, “[a]gencies that provide Federal financial assistance also have section 504 regulations covering entities that receive Federal aid.” The requirements laid out by the statute include:

1. Reasonable accommodation for employees with disabilities;
2. Program accessibility;
3. Effective communication with people who have hearing or vision disabilities; and
4. Accessible new construction and alterations.

According to the Act, each agency is responsible for enforcing its own regulations. Additionally, it is possible to enforce Section 504 through private lawsuits and it is not necessary to file a complaint with a Federal agency or receive a "right-to-sue" letter before going to court. Effectively, Section 504 is an anti-discrimination statute that provides both requirements on what federally funded entities, such as public schools, must provide those with disabilities and legal remedies should there be a violation.

3. The Americans with Disabilities Act (ADA)

The ADA²⁹ covers disability discrimination in schools, both private and public. At its core, the main right the ADA confers is the right for individuals with disabilities to be free from discrimination, though it does not provide much guidance on how the schools must accomplish

²⁹ *Americans with Disabilities Act (ADA)*, U.S. Department of Justice, Civil Rights Division, Coordination and Review Section, OCR, <https://www2.ed.gov/about/offices/list/ocr/docs/hq9805.html>

that. Instead, the ADA acts as a broad civil rights statute that prohibits a wide range of discrimination in almost any setting, private or public. Despite the absence of specific guidelines, the ADA most certainly covers students with disabilities in public schools.³⁰

The ADA defines an individual with a disability as someone who (1) has a physical or mental impairment that substantially limits one or more major life activities of the individual; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.³¹ In this regard, the ADA overlaps heavily with both IDEA and Section 504. In the majority of cases, someone who qualifies for inclusion under IDEA is likewise covered under both the ADA and Section 504. The section of the ADA that covers Public Schools is Title II³² of the act, which applies to “public entities.” There are two provisions of Title II. These state that public entities must provide (1) program access (2) in an integrated setting unless separate programs are necessary to ensure equal benefits or services.³³

4. Laws Proposed to Congress

The aim of the current laws on students with disabilities is not to provide treatment to the student, but rather to ensure that they can go to school. In that respect, students with mental illness are entitled to educational accommodations that may provide them with greater access to education than they would have had previously, but current legislation does not address the

³⁰ ADA Q&A: Back to School, Deborah Leuchovius, PACER ADA Specialist, <https://www.pacer.org/publications/adaqa/school.asp>

³¹ Id.

³² *Information and Technical Assistance on the Americans with Disabilities Act*, United States Department of Justice, Civil Rights Division, https://www.ada.gov/ada_title_II.htm

³³ There is currently legislation being considered to reform aspects of the ADA. In 2018, the House of Representatives passed the ADA Education and Reform Act of 2017 which is now in the Senate for approval. This reform has been heavily criticized as it relaxes some of the restrictions on property owners and provisions changing the legal remedies available may cause harm to individuals with disabilities. <https://www.congress.gov/bill/115th-congress/house-bill/620/text>; <https://www.aclu.org/other/hr-620-myths-and-truths-about-ada-education-and-reform-act>

underlying disability or illness that the young person may have. However, the focus of some individuals in the legislature is changing to not only attempt to provide a free appropriate public education and protect the rights of the disabled, but also to increase access to treatment options, screening, and mental health education while in school.

Over the past three years, there have been several laws proposed that deal directly with students with mental illness and providing support, treatment, and resources for such students. These laws include the i. the Mental Health in Schools Act; ii. Mental Health Reform Legislation; iii. the Student Support Act; and iv. the Ensuring Children's Access to Specialty Care Act of 2017. Although the Student Support Act and Mental Health Reform legislation did not make it through Congress, the contents of both will be discussed and analyzed based on the merit of their ideas and the position that future bills would benefit from incorporating certain aspects contained in them.

i. Mental Health in Schools Act of 2017

The Mental Health in Schools Act of 2017³⁴ amends the Public Health Service Act. It seeks to revise current programs to aid local communities and schools in applying a public health approach to mental health services. It attempts to accomplish this in the following ways:

- (1) revising eligibility requirements for a grant, contract, or cooperative agreement; and
- (2) providing for comprehensive school mental health programs that are culturally and linguistically appropriate, trauma-informed, and age appropriate.

³⁴ *Mental Health in Schools Act of 2017*, H.R. 2913 - <https://www.congress.gov/bill/115th-congress/house-bill/2913>

The Act further requires that “[a] comprehensive school mental health program funded under this bill must assist children in dealing with trauma and violence.” This bill is currently still in the House of Representatives and has been referred to the Subcommittee on Health.

ii. Mental Health Reform Legislation

The Mental Health Reform Legislation³⁵ aimed to strengthen the federal role in advancing mental health. This legislation authorized several programs to advance screening and early intervention, especially to keep children in school. It aimed to promote evidence-based initiatives and innovation in order to address mental health concerns. Additionally, the legislation encouraged the involvement of families in providing support while taking steps to ensure privacy of the individual. It had a strong focus on community-based services and planning for reduction of homelessness and incarceration due to mental illness. A large function of this bill was to empower SAMHSA and its programs by adding funding for mental health services, and further, to grow the behavioral health workforce. The last action in Congress regarding this legislation was in 2016.

iii. The Student Support Act

The Student Support Act³⁶ sought to increase access to mental health care in public schools by increasing the funding in order to hire more school counselors, school psychologists, and school social workers. According to the language of the Act:

“This bill amends the Elementary and Secondary Education Act of 1965 to require the Department of Education to make matching grants of at least \$1 million to states for

³⁵ *Mental Health Reform Legislation*, S. 2680 - <https://www.congress.gov/bill/114th-congress/senate-bill/2680>

³⁶ *The Student Support Act*, H.R. 2375 - <https://www.congress.gov/bill/114th-congress/house-bill/2375>

allocation to local educational agencies (LEAs) so that additional school-based mental health and student service providers may be hired, thereby reducing the student-to-provider ratios in elementary and secondary schools to specified minimum levels recommended by the leading counseling, guidance, and mental health organizations.”

The Act specified what the “minimum levels” are for the required professionals. Per the Act, these minimum ratios are: (1) 1 school counselor for every 250 students, (2) 1 school psychologist for every 1,000 students, and (3) 1 school social worker for every 250 students. The funding granted under this Act are made through formulas that take several factors into account including the levels of poverty in the school system.

Overall, the Student Support Act, if it was passed as written, had the potential to substantially increase access to mental health care for young people. Currently, there is just one school psychologist per roughly 1400 students on average.³⁷ The National Association for School Psychologists recommends a ratio of 500-700 students per school psychologist. By improving that ratio, while simultaneously improving the ratios for school counselors and social workers, it could drastically improve not only the ability for students, especially those in poverty, to receive treatment, but also improve schools’ ability to screen students for mental health issues.

iv. Ensuring Children’s Access to Specialty Care Act of 2017

The Ensuring Children’s Access to Specialty Care Act of 2017³⁸, while it does not directly affect the public school system itself, seeks to improve access to quality mental health treatment

³⁷ *Utilizing School Psychologists to Support Trauma Informed School Services*, National Association of School Psychologists, Eric Rossen, PHD, NCSP (2016). <https://www.acesconnection.com/blog/utilizing-school-psychologists-to-support-trauma-informed-school-services>

³⁸ *Ensuring Children’s Access to Specialty Care Act of 2017*, S. 989 - <https://www.congress.gov/bill/115th-congress/senate-bill/989>

by incentivizing professionals to work in “health professional shortage areas.” Health professional shortage areas are defined by the act as “an underserved population of children and adolescents.”

The bill in its current state seeks to amend the Public Health Service Act to “include pediatric subspecialties in primary health services for purposes of the National Health Service Corps (NHSC).” This includes pediatric psychiatrists. The stated goal of these amendments is to “make pediatric subspecialists, including psychiatrists, eligible for the NHSC fellowship program for the delivery of primary health services in health professional shortage areas, the NHSC Scholarship Program, and the NHSC Loan Repayment Program.” The Act is currently in the Senate and has been read twice and referred to the Committee on Health, Education, Labor, and Pensions.

This Act provides a different method of increasing access to mental health treatment in underserved areas. By broadening the scope of what professionals are eligible for scholarships, fellowships, and loan forgiveness programs, the Act attempts to create incentives for mental health professionals to provide services in these underserved communities. If passed, it has the potential to be an effective way to increase access to mental health care for children and adolescents.

IV. Virginia and New York Bills on Mental Health Education in Public Schools

Over the past decade, state legislatures have begun to focus their attention on student mental health in public schools. Each state has a different approach to dealing with this issue but some have made it a greater priority than others. The two most recent states to pass comprehensive mental health measures in their public schools are New York and Virginia.

1. The New York Bill – An Act to amend the education law, in relation to clarifying health education

The New York Bill³⁹, titled “An Act to amend the education law, in relation to clarifying health education”, which took effect in July of 2018, is a comprehensive bill that seeks to expand mental health education in public schools to “ensure that [school districts] health education programs recognize the multiple dimensions of health by including mental health and the relation between mental and physical health in health education.” This Act does not seek to alter the curriculum of public schools. Instead, it clarifies that the already required health education classes must cover mental health in depth alongside physical health, as well as how it relates. The New York State Legislature included in the Act a detailed justification for their legislation. It succinctly and clearly lays out the position of the State of New York in regard to mental health in public schools. An excerpt from the justification reads:

“[By ensuring that young people learn about mental health, we increase the likelihood that they will be able to more effectively recognize signs in themselves and others, including family members, and get the right help. Further, as we begin to teach the facts about mental health and openly discuss the issues from a health perspective, we will begin to remove the stigma surrounding mental illness - a stigma that causes ostracism and isolation, leads to bullying and keeps many students from getting the help they need”

By mandating the inclusion of mental health education in the health education curriculum, students from a young age will grow up being educated on the “multiple dimensions of mental health”. Not only does this have the potential to make more well-rounded young people, but it allows them to gain a comfort level with discussing the topic of mental health. This would not

³⁹ An Act to Amend the Education Law, in Relation to Clarifying Health Education, Amd. § 804, Ed L.
https://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=A03887&term=2015&Summary=Y&Memo=Y&Text=Y

only allow students to self-identify any mental health condition they may be experiencing, but it would also make them better equipped to seek help and access treatment.

2. The Virginia Bill – An Act to amend and reenact § 22.1-207 of the Code of Virginia, relating to health instruction; mental health

The Virginia Bill⁴⁰ seeks to achieve the same goal as the New York Bill. However, it does it in a less encompassing way. The language of the bill states that:

“Physical and health education shall be emphasized throughout the public school curriculum by lessons, drills and physical exercises, and all pupils in the public elementary, middle, and high schools shall receive as part of the educational program such health instruction and physical training as shall be prescribed by the Board of Education and approved by the State Board of Health. *Such health instruction shall incorporate standards that recognize the multiple dimensions of health by including mental health and the relationship of physical and mental health so as to enhance student understanding, attitudes, and behavior that promote health, well-being, and human dignity.*”

Additionally, the Act uses the same language as the New York Bill, instructing schools to focus on the “multiple dimensions of health.” Finally, the Virginia Legislation requires all Virginia Boards of Education to review and update its health curriculum for grades 9 and 10 while consulting with mental health experts from various agencies and organizations. The Virginia Act also took effect in July of 2018.

⁴⁰ Virginia Acts of Assembly – S 953,
<https://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+SB953ER>

V. Analysis of Current Mental Health Legislation and Projections for the Future

Mental health care in America has recently become more of a priority of the states and the federal government. In attempts to curb the rates of youth mental illness, suicide, substance abuse, and other societal ills caused by poor mental health, several key pieces of legislation have been proposed, with other important legislation becoming enacted. Society appears to have woken up about America's mental health crisis and is becoming more ready to address it in a hands on way, rather than in a more detached way as was previously seen.

Unlike the existing federal laws protecting those with mental illness, the Virginia Bill, much like the New York Bill, seeks to address mental illness in young people directly. Rather than the sole focus being to guarantee these students the right to an education in public schools like those without mental illness, these bills attempt to address the root of the issue and deal directly with handling the disability itself.

While the ADA, IDEA, and Section 504 provide remedies for disability discrimination and set standards for what services must be offered to the disabled and what processes must be followed, the New York Bill and the Virginia Bill seek to improve student mental health directly, through educational reforms and increased access to information on psychiatric conditions. These differences signal a shift from the mindset of finding ways to keep students in school, to the mindset of dealing with the reason that the disabled or mentally ill student is having trouble staying in school, while going even further by aiming to reduce youth suicides and other social ills.

It is the position of this paper that in the future, mental health legislation for public schools should focus on reducing the prevalence of mental illness and its consequences, increasing access to mental health treatment, and educating the public on mental health, rather

than simply focusing on getting students through school and into the workforce despite their disabled status. By viewing mental illness as a common but devastating public health issue that needs to be addressed, rather than a social issue that carries stigma and blame, the legislature can start to improve, and even save, lives.

Because young people will someday grow to be the adults society relies on, it is in everyone's best interest to try to improve public mental health early on. Focusing on improving the mental health of young people and expending resources to make sure they're equipped to handle the pressures of life is a sensible way to attempt to reduce the societal ills that are often associated with mental illness such as alcoholism, drug addiction, and suicide.⁴¹

The language used in the New York and Virginia Bills, specifically the concept of "multiple dimensions of health," demonstrates a novel way of looking at mental health and mental health education in general. While the laws focusing on addressing child and adolescent mental illness are important, this clear indication of a new mindset surrounding mental health care is equally important, if not more so. By focusing on educating young people on mental health in a more holistic way, rather than as some sort of taboo or negative construct in the way that it has historically been, it not only increases their ability to seek meaningful treatment, it increases the likelihood that school districts and the government will focus their energies on improving circumstances for vulnerable young people.

By educating children and adolescents on mental health from a young age, society may serve to normalize mental disorders and illness in a way that will substantially diminish the stigma surrounding such conditions. By mandating that students in K-12 receive such education,

⁴¹ *Living with a Mental Health Condition – Drugs, Alcohol, & Smoking* (2018). <https://www.nami.org/Find-Support/Living-with-a-Mental-Health-Condition/Drugs-Alcohol>

educators and health professionals can help ensure that there are minimal discrepancies in the education they receive. As this legislation ages, so too do the students who started this updated curriculum in the fall of 2018, allowing them to grow up with a sound understanding of the importance of mental health as well as the ability to discuss it more openly and in a more informed way.

The proposed federal laws discussed above also take a much different route of improving student mental health than previous legislation by the federal government. Rather than focus on the students' civil rights, like Section 504, IDEA, and the ADA, these various pieces of legislation attempt to improve youth mental health through increased access to treatment through mandated student to mental health practitioner ratios and increased funding and financial incentives for mental health professionals in both public schools and private practice.

Although the bills did not make it to a vote in Congress, the Student Support Act and Mental Health Reform legislation both had the potential to make a positive difference in children and adolescents. By focusing on growing the behavioral health workforce while increasing the amount of mental health professionals in public schools, the federal government could greatly improve access to mental healthcare in young people. By improving the ratios of student to social worker, psychologist, and counselor, more students would be able to take advantage of free and quality mental health treatment in an easy to access setting.

For students with mild psychological or behavioral issues who don't necessarily need intensive treatment, having greater access to mental health resources in school can act as a good starting point to becoming mentally healthier rather than mentally declining. It also has the potential to mitigate some of the negative consequences of unaddressed mental illness in young people by improving student's access to treatment sooner. By increasing the amount of relevant

professionals hired by the school, students would have a first line of defense in terms of seeking psychiatric treatment. If a student started to become psychologically unwell, having enough mental health professionals in the school increases the odds that the student's symptoms are identified and addressed before they increase in severity or lead to harm.

Increasing the amount of mental health professionals in public schools also provides the benefit of increased ability to screen students who may be at risk or struggling psychologically. A law similar to the Student Support Act, mandating more counselors, psychologists, and social workers in school, would allow students to have more opportunities for one-on-one time with someone trained in mental health care and would give the school greater resources to address each students' emotional and behavioral needs. This would allow schools to be proactive at handling students who have special needs and allow for greater ability to identify those who may need more specialized treatment. This could lead to reducing the rate of suicides in young people and improving functionality of mentally ill students.

A law increasing the amount of mental health professionals in schools would also pair effectively with the existing federal anti-discrimination laws, especially the IDEA. With more mental health professionals working alongside the school teachers and administrators, school systems could more effectively tailor IEP's for disabled students. With more psychologists present in schools, resources could be utilized to provide beneficial programs for students with mental illness while also freeing up the responsibilities of school guidance counselors who may not be the most equipped or available.

Consistent with the IDEA and Section 504, providing students with mental health services in their school could help them meet their educational goals in the least restrictive environment necessary. Currently, there are a number of types of accommodations students can receive in

public schools under both the IDEA and Section 504 depending on their disability. Examples of possible accommodations include modification of the print size in reading materials, additional time for assignments, access to review sessions, and breaks between tasks.⁴²

For students with conditions like depression or anxiety who are not learning disabled but psychologically unwell, accommodations that would be most appropriate for their wellbeing may not seem academic at all. Allowing more proactive accommodations more suited to student wellness, such as access to a school therapist upon request or appointment or weekly counseling sessions at the school, could have effects just as positive as allowing the student to have extra time on their examinations or flexibility with deadlines. Data from the federal government show that youth with untreated mental illness have high rates of absenteeism and tardiness.⁴³ Additionally, according to a report from the U.S. Department of Education to Congress in 2011, out of all students in the special education system, those with emotional disorders consistently have the lowest graduation rates and highest dropout rates compared to other disability categories.⁴⁴ Shifting the focus to addressing the students' underlying mental health issues while in a school setting could potentially keep more of these students in school.

Providing access to mental health services in public school settings could also serve to reduce the inequality in who is able to afford or access treatment, as well as provide vulnerable children and adolescents with care. Lower income students who may not have insurance or be able to afford the out of pocket cost of a therapist would benefit greatly by having the option of utilizing

⁴² Eve Kessler, Esq., *Examples of Accommodations & Modifications*, SKLD.

<https://www.smartkidswithld.org/getting-help/the-abcs-of-ieps/examples-of-accommodations-modifications/>

⁴³ *Utility of Psychosocial Screening at a School-Based Health Center*, Gall, Pagano, Desmond, Perrin, & Murphy, (2000) <https://www.ncbi.nlm.nih.gov/pubmed/10981284>

⁴⁴ *The Condition of Education 2011*, U.S. Department of Education, Report to Congress, 2011, <https://nces.ed.gov/pubs2011/2011033.pdf>

their school's psychologists. Victims of trauma who may be too afraid, ashamed, or otherwise reluctant to seek help on their own would also find value in having easy access to a mental health professional. By sending the message that it is okay to seek help and providing a platform for that to be possible, the legislatures and public schools would be showing young people that mental health is a part of physical health and should be given attention just the same. This mindset would reduce the stigma surrounding mental health which could further spur vulnerable populations who historically reject mental health treatment to seek the help they need.

A final factor to take note of is the lack of mental health professionals in many areas of the United States. The Ensuring Children's Access to Specialty Care Act of 2017 would be a good start in eliminating shortages of mental health professionals. Legislating incentives to bring more people into the profession, or alternatively, incentivizing existing professionals to practice in underserved areas, would be a good starting point to increasing access to treatment. Legislation that incentivizes mental health professionals to enter the field and underserved areas has the potential to work well in concert with legislation that mandates the hiring of more mental health professionals in public schools.

VI. Conclusion

Mental illness in young people is a significant issue today. Suicide has become one of the leading causes of death for adolescents and young adults. The majority of mentally ill young people will not receive treatment for their condition, regardless of whether they have meaningful access to it. There are steps both the state and federal legislatures can take in order to reduce the detrimental effects of mental illness in young people. This has been attempted in a variety of ways, but until recently legislation did not attempt to address the root causes of the issue as we see it today: lack of education on mental illness and mental health in general, and lack of access

to quality and affordable mental health treatment. Both of these areas can be addressed directly in a public school setting and would have profound effects on society as the young people covered by these new laws grow into adults.

The effects of these laws being passed is not immediate. The Virginia and New York Bills are poised to have lasting effects on young people which could lead to drastic improvement in a number of aspects of society. The sooner other states and the federal government begin proposing and enacting legislation that focuses on reducing the harmful effects of mental illness in young people, the sooner America can see what results, if any there are. Overall, mental health care in the United States can be improved in both the short term and the long term through legislation requiring mental health education as well as greater access to mental health professionals in public schools.