

DREXEL LAW REVIEW

THOMAS R. KLINE SCHOOL OF LAW

VOLUME 16

2024

ISSUE 2

NOTE

WHEN THE “GREAT EQUALIZER” IS ANYTHING BUT: AMENDING TITLE I TO SECURE EDUCATIONAL EQUITY FOR LOW-INCOME STUDENTS

*Corrie Mitchell**

ABSTRACT

Poverty has long been known to negatively impact student educational outcomes, notably leading to lower math and literacy scores, graduation rates, and cognitive and physical development. While tackling educational deficiencies has primarily fallen under the purview of the states, the federal government could play an important role in addressing the nationwide educational disparities linked to poverty status. Title I, Part A of the Every Student Succeeds Act exists to address these inequalities, though it is largely ineffective as written. However, with several amendments, Congress could craft a Title I that more adequately supports low-income students and brings greater equity to the American public school system.

This Note proposes that to see this type of change, Congress needs to significantly increase its Title I funding. Further, Congress should amend Title I to ensure that the funds provided to schools are used to support low-income students in ways that are specific and targeted to

* J.D. Candidate, 2024, Drexel University Thomas R. Kline School of Law; M.A., 2014, New York University; B.A., 2012, Christopher Newport University. My deepest gratitude to Professor Becka Rich for her invaluable advising throughout my writing process, to my fellow members of the Drexel Law Review for their attentive editing along the way, and to my family for their steadfast support of all my endeavors. I dedicate this Note to Professor Alex Geisinger—never was there a more considerate, inspiring, and spirited professor and mentor. What I wouldn't give to hear you remind me once more, "You'll get there."

each student's unique needs. For this amendment to have teeth, it must include the creation of a private cause of action that allows parents to seek its enforcement. Finally, Congress should use Title I funding to provide direct subsidies to parents or guardians of eligible low-income K-12 students. While the education gap will likely never be completely closed, these measures would go a long way toward helping Title I live up to its promise to make American education more equitable for low-income students.

TABLE OF CONTENTS

INTRODUCTION	461
I. THE EFFECTS OF POVERTY ON STUDENT OUTCOMES.....	466
A. <i>Poverty and Childhood Risk Factors</i>	467
1. <i>Experiencing chronic stress</i>	467
2. <i>Lacking fundamental needs</i>	469
3. <i>Living in concentrated poverty</i>	471
B. <i>Effects of Poverty Factors on Academic Success</i>	474
II. THE MONEY BEHIND EDUCATIONAL INEQUALITY	476
A. <i>Disparities in Per-Pupil Funding</i>	477
B. <i>Lack of a Federal Right to Education</i>	478
III. THE FEDERAL RESPONSE: TITLE I.....	479
A. <i>How Much Money Are We Talking?</i>	480
B. <i>How Title I Funding Operates: Targeted and Schoolwide Programs</i>	482
1. <i>Targeted assistance Title I programs</i>	483
2. <i>Schoolwide Title I programs</i>	484
3. <i>Why the targeted-schoolwide program distinction matters</i>	485
C. <i>How Funding Is Utilized</i>	486
D. <i>How Educational Gaps Persist</i>	488
IV. REIMAGINING TITLE I.....	489
A. <i>Amendment One: Increasing Title I Funding</i>	490
1. <i>Use Funding to Narrow Achievement Gaps</i>	490
2. <i>Defending Increased Funding</i>	491
B. <i>Amendment Two: Targeting Title I Funding</i>	493
1. <i>Increase the Title I School threshold</i>	493
2. <i>Require (enforceable) individualized services</i>	494
3. <i>Attract effective teachers and professionals</i>	496
4. <i>In defense of prioritizing eligible students</i>	497
C. <i>Amendment Three: Providing Title I Cash Assistance</i> ...	500

1. <i>Prior success with direct cash assistance</i>	501
2. <i>Direct cash assistance through Title I</i>	503
3. <i>In defense of providing cash assistance</i>	504
CONCLUSION.....	505

INTRODUCTION

Emanuel Laster is a 13-year-old who has three televisions in his room, but no food in his refrigerator and not a single book in his home.¹ The front door to his house is broken, and inside, dirty dishes fill the sink, the stench of marijuana lingers, and the rest of the house is filthy and chaotic.² The family pit bull roams the front yard, sent out to ward off the utility man who promised to come back and cut off the electricity after bills continued to go unpaid.³ Emanuel’s mom is worried about him; not only has he already been in trouble for shoplifting, but he is also nearing the age at which local gangs start recruiting young members.⁴ His friends have started to carry knives for protection.⁵ Despite all that is happening around him, Emanuel dreams about being the first person in his family to attend college.⁶

Ubiquitous violence and drug use, food insecurity, and an overall lack of resources are some of the most visible consequences of poverty that hinder a young person’s success in school and into adulthood.⁷ Students like Emanuel who grow up in poverty face a plethora of individual and community-based barriers to academic achievement.⁸ And, as a result of educational funding disparities, “children living in lower-

1. Nicholas Kristof, *3 TVs and No Food: Growing Up Poor in America*, N.Y. TIMES (Oct. 28, 2016), <https://www.nytimes.com/2016/10/30/opinion/sunday/3-tvs-and-no-food-growing-up-poor-in-america.html> [https://perma.cc/RF5M-M9XX].

2. *Id.*

3. *See id.*

4. *Id.*

5. *See id.*

6. *See id.*

7. *See id.*

8. *See* CHILD’S DEF. FUND, THE STATE OF AMERICA’S CHILDREN 2021, at 26–27 (2021), <https://www.childrendefense.org/wp-content/uploads/2021/04/The-State-of-Americas-Children-2021.pdf> [https://perma.cc/J4KV-B8VF].

wealth areas—often children of color and children growing up in poverty—also attend underfunded schools that have fewer high-quality teachers, fewer curricular resources, larger class sizes, and less student support.”⁹ Unlike schools in wealthier districts, schools in poor neighborhoods tend to have few (if any) school psychologists, tutors, or guidance counselors, and they often lack updated textbooks or student laptops.¹⁰ The confluence of challenges that children like Emanuel face inside their under-resourced schools, outside in high-poverty neighborhoods, and within financially struggling homes puts them at such a disadvantage that academic success is the exception rather than the norm.¹¹

Emanuel’s situation is far from unique. School-age children constitute the poorest age group in the United States, with 15% of children under age eighteen living below the poverty threshold, compared to 10.6% of adults under age sixty five and 10.2% of adults over age sixty five.¹² Approximately one in six children lived at or below the federal poverty measure of \$29,678 for a two-adult, two-child household in 2022, the most recent year for which data is available.¹³ However, families are considered low income, and therefore eligible for government-

9. *Id.* at 26.

10. See Alana Semuels, *Good School, Rich School; Bad School, Poor School*, THE ATL. (Aug. 25, 2016), <https://www.theatlantic.com/business/archive/2016/08/property-taxes-and-unequal-schools/497333/> [<https://perma.cc/CVH3-NLCC>].

11. See *infra* Section I.B.

12. See EMILY A. SHRIDER & JOHN CREAMER, U.S. CENSUS BUREAU, POVERTY IN THE UNITED STATES: 2022, at 23 (2023) (showing categorical poverty rates among the United States population from 1959 to 2022). Importantly, when accounting for race, the statistics increase to 22.3% of Black children, 37.1% of American Indian and Alaska Native children, and 21.7% of Hispanic children living below the poverty threshold in 2022. *Id.* at 26, 29, 31.

13. *Id.* at 18, 45. In 2024, the federal poverty guideline for a four-person household consisting of two adults and two children increased to \$31,200. See Annual Update of the HHS Poverty Guidelines, 89 Fed. Reg. 2961, 2962 (Jan. 17, 2024).

funded services, if they live at 130%,¹⁴ 133%,¹⁵ 185%,¹⁶ or 200%¹⁷ of the federal poverty guideline, depending on the program.¹⁸ Borrowing the measure of 185% of the federal poverty line used to determine eligibility for reduced-price school lunches, a four-person family with a household income of \$57,720 is considered low income in 2024.¹⁹ Using the 185% measure, almost half (48.6%) of public school students the United States were considered low income during the 2021-2022 school year, the most recent year for which data is available.²⁰

The consequences of growing up in poverty (or in a low-income family) are tremendous. Poverty negatively impacts a student's ability to succeed in school by affecting everything

14. SNAP Eligibility, U.S. DEP'T OF AGRIC. FOOD & NUTRITION SERV., <https://www.fns.usda.gov/snap/recipient/eligibility> [<https://perma.cc/9DQ9-4H5S>] (Nov. 1, 2023); *Child Nutrition Programs: Income Eligibility Guidelines (2023-2024)*, U.S. DEP'T OF AGRIC. FOOD & NUTRITION SERV. (Feb. 9, 2023), <https://www.fns.usda.gov/cn/fr-020923> [<https://perma.cc/YE9D-TJ22>].

15. Medicaid Eligibility, CTRS. FOR MEDICARE & MEDICAID SERVS., <https://www.medicaid.gov/medicaid/eligibility/index.html> [<https://perma.cc/R84U-UA28>].

16. *Child Nutrition Programs: Income Eligibility Guidelines (2023-2024)*, *supra* note 14.

17. *How to Apply for Weatherization Assistance*, U.S. DEP'T OF ENERGY, <https://www.energy.gov/scep/wap/how-apply-weatherization-assistance> [<https://perma.cc/2S5H-G4BS>].

18. See Lillian Kilduff, *How Poverty in the United States Is Measured and Why It Matters*, POPULATION REFERENCE BUREAU (Jan. 31, 2022), <https://www.prb.org/resources/how-poverty-in-the-united-states-is-measured-and-why-it-matters/> [<https://perma.cc/F7Z9-7WE3>]; *Children Below 200% Poverty in the United States*, ANNIE E. CASEY FOUND.: KIDS COUNT DATA CTR., <https://datacenter.kidscount.org/data/tables/47-children-below-200-percent-poverty> [<https://perma.cc/8C2F-4XYM>] (Nov. 2022).

19. See JOHN CREAMER, EMILY A. SHRIDER, KALEE BURNS & FRANCES CHEN, U.S. CENSUS BUREAU, *POVERTY IN THE UNITED STATES: 2021*, at 19 (2022); *Annual Update of the HHS Poverty Guidelines*, 89 Fed. Reg. 2961, 2962 (Jan. 17, 2024).

20. *Number and Percentage of Public School Students Eligible for Free or Reduced-Price Lunch, by State: Selected School Years, 2000-01 Through 2021-22*, NAT'L CTR. FOR EDUC. STATS., https://nces.ed.gov/programs/digest/d22/tables/dt22_204.10.asp [<https://perma.cc/E4W9-KKT5>]; *Children Below 200% Poverty in the United States*, *supra* note 18. While this Note largely looks at poverty in a vacuum, it is hard to overstate the extent to which this country's ongoing and racialized structural inequalities cause poverty to have an outsized impact on children of color, who as of 2019 make up 71% of all children living in poverty. About one in four Black children (26.5%), one in five Hispanic children (20.8%) and one in five American Indian/Alaska Native children (20.6%) grow up in poverty, compared to one in twelve white, non-Hispanic children (8.3%). See CHILD.'S DEF. FUND, *supra* note 8, at 14. It follows from this reality that the poverty-related developmental deficiencies and educational achievement issues discussed throughout this Note have a disproportionate impact on children of color. However, the implication is that the changes to the law that this Note recommends would primarily, though not exclusively, lead to increased levels of educational achievement for students of color.

from cognitive development to social-emotional wellbeing to physical health.²¹ Low-income students have greater difficulty concentrating, remembering, learning, regulating emotions, planning, and cogitating.²² The convergence of multiple risk factors that low-income children experience—including chronic stress, housing and food instability, exposure to violence, and low-quality schools, to name a few—has a detrimental impact on students' academic success.²³ As a result, low-income students have lower attendance rates, higher drop out rates, and much lower scores on standardized testing than their wealthier peers.²⁴ Low-income students are disproportionately diagnosed (and misdiagnosed) with disabilities and removed from general education classrooms.²⁵ Further, adults who grew up in poverty have shorter life expectancies, earn less money, and are more likely to be incarcerated.²⁶ While the federal government has attempted to address the inequalities that pervade public education,²⁷ its current initiatives fall woefully short, failing to make a significant impact on the educational experiences of low-income students.

21. See Ieshia Haynie, *Childhood Poverty, Living Below the Line*, AM. PSYCH. ASS'N (June 2014), <https://www.apa.org/pi/ses/resources/indicator/2014/06/childhood-poverty> [<https://perma.cc/FJ6C-XEYK>].

22. See Kendra McKenzie, *The Effects of Poverty on Academic Achievement*, 11 BRANDON UNIV. J. GRADUATE STUD. IN EDUC. 21, 21–22 (2019).

23. See Martha E. Wadsworth & Shauna L. Rienks, *Stress as a Mechanism of Poverty's Ill Effects on Children*, AM. PSYCH. ASS'N (July 1, 2012), <https://www.apa.org/pi/families/resources/newsletter/2012/07/stress-mechanism> [<https://perma.cc/WYA3-PMC2>]; *Education and Socioeconomic Status*, AM. PSYCH. ASS'N (2017), <https://www.apa.org/pi/ses/resources/publications/education> [<https://perma.cc/WEA6-5292>].

24. Lovey Cooper, *Chronic Absenteeism Is Most Severe in Poor Communities*, EDUC. WK. (Sept. 13, 2016), <https://www.edweek.org/leadership/chronic-absenteeism-is-most-severe-in-poor-communities/2016/09> [<https://perma.cc/29YN-AZD6>]; Laura A. Schifter, Todd Grindal, Gabriel Schwartz & Thomas Hehir, *Students from Low-Income Families and Special Education*, THE CENTURY FOUND. (Jan. 17, 2019), <https://tcf.org/content/report/students-low-income-families-special-education> [<https://perma.cc/J3JC-LEVP>].

25. See Schifter et al., *supra* note 24; see also Christina Rainville, *Recognizing Signs of Undiagnosed and Misdiagnosed Disabilities in Your Child Client*, AM. BAR ASS'N (July 1, 2014), https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practice_online/child_law_practice/vol-33/july-2014/recognizing-signs-of-undiagnosed-and-misdiagnosed-disabilities-i/ [<https://perma.cc/B558-945R>].

26. Schifter et al., *supra* note 24.

27. See 20 U.S.C. § 6301.

Accordingly, this Note argues that Congress must significantly increase the federal funding it allocates to low-income students through Title I, Part A of the Every Student Succeeds Act (“Title I”) to work toward alleviating the educational deficit that plagues public school students in poor neighborhoods.²⁸ Furthermore, Congress should amend Title I to ensure that the federal funding it provides to schools is funneled directly and specifically to services that support low-income students by increasing the school-based program eligibility threshold and requiring schools to identify individualized services that would most benefit each eligible Title I student. Lastly, Congress should allocate a significant amount of Title I funding to be distributed as direct payments to parents/guardians of eligible K-12 public school students. The three amendments this Note proposes address some—though certainly not all—of Title I’s inadequacies and present a chance for the federal government to help make public education more equitable for low-income students.

Part I of this Note discusses the unique impact that growing up in poverty has on the cognitive, behavioral, and health outcomes of children as each relates to educational success. Part II examines the ins and outs of funding under Title I as the primary federal program enacted to alleviate disparities in educational outcomes for low-income students. Part III takes a critical look at the effectiveness of Title I since it was created in 1965. Part IV offers three amendments to Title I that Congress should implement to address some of the barriers that prevent the legislation from achieving its goals. Section IV.A encourages Congress to approve a significant increase in federal spending for Title I to close the achievement gap for low-income students. Section IV.B proposes that Congress ensure Title I funding directly, specifically, and effectively supports low-income students. Section IV.C argues that Congress should use a portion of Title I funding to provide direct subsidies to

28. *See id.* (stating that the purpose of Title I is to “provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps”).

parents/guardians of low-income students, looking to the expanded Child Tax Credit as a model for poverty alleviation. Each of these three Sections concludes by responding to relevant criticisms that have been (or are likely to be) lodged at such proposals, while highlighting the profound impact that the changes proposed in this Note could have on the ability of Title I to improve educational outcomes for low-income students.

I. THE EFFECTS OF POVERTY ON STUDENT OUTCOMES

Poverty is arguably the single factor with the most detrimental impact on the physical, mental, and psychological development of a child.²⁹ Alarming, poverty “can actually alter the fundamental architecture of the brain,” which is to say that poverty has a deleterious effect on the physical composition of a child’s brain.³⁰ The convergence of risk factors associated with poverty—such as exposure to excessive noise, crowded homes, familial turmoil, parental separation, violence, and chronic stress—is what leads to profound, negative impacts on the physical, emotional, and behavioral development of low-income children.³¹ As such, a student’s socioeconomic status is one of the “most consistent predictors of academic achievement,” with lower incomes equating to fewer and lower-quality resources as well as a diminished perception of the available opportunities—educational or otherwise.³²

29. Joan Luby, Andy Belden, Kelly Botteron, Natasha Marrus, Michael P. Harms, Casey Babb, Tomoyuki Nishino & Deanna Barch, *The Effects of Poverty on Childhood Brain Development: The Mediating Effect of Caregiving and Stressful Life Events*, 167 JAMA PEDIATRICS 1135, 1136 (2013); David Murphey & Zakia Redd, *5 Ways Poverty Harms Children*, CHILD TRENDS (Jan. 8, 2014), <https://www.childtrends.org/publications/5-ways-poverty-harms-children> [https://perma.cc/R2MP-EBYB].

30. See Murphey & Redd, *supra* note 29; Luby et al., *supra* note 29, at 1136.

31. See Alexandra Chang, *Damaging Effects of Poverty on Children*, CORNELL RSCH. & INNOVATION, <https://research.cornell.edu/news-features/damaging-effects-poverty-children> [https://perma.cc/7CWY-PJ6W].

32. Aaron D. Baugh, Allison A. Vanderbilt & Reginald F. Baugh, *The Dynamics of Poverty, Educational Attainment, and the Children of the Disadvantaged Entering Medical School*, 10 ADVANCES IN MED. EDUC. PRAC. 667, 669 (2019).

A. Poverty and Childhood Risk Factors

In the end, everything really does boil down to money as studies show that “[p]oorer children have worse cognitive, social-behavioural and health outcomes in part *because they are poorer.*”³³ However, poverty is closely tied to numerous childhood risk factors, including “unsupportive parenting, poor nutrition and education, lack of caregiver education, and high levels of traumatic and stressful life events.”³⁴ Two intermingling theories expound upon the cause-and-effect relationship between poverty and child outcomes.³⁵ The “Family Stress” model suggests the stress that low-income parents experience creates a less nurturing home environment by increasing negative parental behaviors, including episodes of impatience and anger, and decreasing parental ability to provide necessary emotional resources.³⁶ The “Investment Theory” describes how a deficiency of financial resources leads to unstable and/or low-quality housing, a lack of nutritious or sufficient food, fewer educational resources like books and learning programs, and fewer enriching experiences.³⁷ Utilizing both theories together, three common risk factors emerge that negatively impact the ability of low-income students to succeed in school: experiencing chronic stress, lacking basic needs, and living in concentrated poverty.

1. Experiencing chronic stress

Children who grow up in poverty often experience chronic stress, a form of stress that causes more dramatic, long-term consequences than the ubiquitous and innately human experience of acute stress.³⁸ Chronic stress inhibits a child’s

33. KERRIS COOPER & KITTY STEWART, JOSEPH ROWNTREE FOUND., DOES MONEY AFFECT CHILDREN’S OUTCOMES? A SYSTEMIC REVIEW 5, 70 (2013).

34. Luby et al., *supra* note 29, at 1136.

35. COOPER & STEWART, *supra* note 33, at 39.

36. *Id.*

37. *Id.*

38. Patrice L. Engle & Maureen M. Black, *The Effect of Poverty on Child Development and Educational Outcomes*, 1136 ANNALS N.Y. ACAD. SCI. 243, 244 (2008). See generally Constance

successful development and overall health and wellness, which in turn negatively impacts academic achievement.³⁹ Psychologists find that “[o]ngoing stress associated with poverty, or the stress of living with less than one needs, creates constant wear and tear on the body, dysregulating and damaging the body’s physiological stress response system and reducing cognitive and psychological resources for battling adversity and stress.”⁴⁰ Encompassing more than financial worries, “poverty-related stress” includes the high volume of overall stressors a low-income child experiences, such as conflict, violence, food insecurity, and unstable housing.⁴¹ The comingling of multiple stressors creates what psychologists call a “context of stress” for people, including children, living in poverty.⁴² To make matters worse, poverty also “amplifies the negative effects of all types of stress” and impairs the ability of low-income individuals to respond well to added stressors that inevitably materialize due to their socioeconomic status.⁴³

Biological studies also show that children in poverty exhibit elevated levels of certain stress markers, such as cortisol.⁴⁴ Persistent exposure to stress is common among low-income children, and this kind of toxic stress is linked to impaired executive function and difficulty regulating emotions and paying attention.⁴⁵ Many low-income students live in

Hammen, Eunice Y. Kim, Nicole K Eberhart & Patricia A. Brennan, *Chronic and Acute Stress and the Prediction of Major Depression in Women*, 26 *DEPRESSION & ANXIETY* 718, 718 (June 3, 2009); *Chronic Stress*, YALE MED., <https://www.yalemedicine.org/conditions/stress-disorder> [<https://perma.cc/C354-MPUA>] (explaining the difference between chronic and acute stress, including that chronic stress is the term used for stress that is pervasive and constant).

39. Engle & Black, *supra* note 38, at 244.

40. Wadsworth & Rienks, *supra* note 23.

41. *Id.*

42. *Id.*

43. *Id.*

44. Clancy Blair & C. Cybele Raver, *Poverty, Stress, and Brain Development: New Directions for Prevention and Intervention*, 16 *ACAD. PEDIATRICS* 30, 31–33 (2016) (suggesting that elevated cortisol levels “bias the developing individual to be reactive and defensive, rather than to engage in reflective and approach-oriented responses to stimulation” which ultimately “underlie the effects of poverty on the development of executive function and the regulation of emotion and attention”).

45. Jordan Langs, *Poverty Impedes Children’s Education Long Before They Enter the Classroom — Here’s How We Can Change That*, *FORBES* (Apr. 4, 2022, 1:27 PM),

environments where multiple and continued stressors combine to create an experience of toxic stress—and it takes an unusual toll on their physical and mental health.⁴⁶ The negative impacts on a child’s development today lead to an increased risk of future health issues such as heart disease, diabetes, depression, and substance abuse.⁴⁷ But toxic stress does not exist in a vacuum; its effects are exacerbated by the reality of unmet fundamental needs that many children in low-income households experience.⁴⁸

2. *Lacking fundamental needs*

In 2020, 42% of children lived in families that reported having difficulty covering expenses for essentials like food, housing, cars, medical needs, and educational loans—and those challenges are exacerbated for low-income families.⁴⁹ Between seven and eleven million children in the same year did not have enough food to eat because their families could not afford to feed them adequately.⁵⁰ Children growing up in poverty experience higher levels of food insecurity and commonly subsist on nutritionally deficient diets.⁵¹ Not only does nutritional deficiency throughout childhood correlate with higher rates of illness, such as diabetes, but it also reduces gray matter in the brain, which causes a decline in overall cognitive functioning.⁵² Childhood food poverty persists despite federal

<https://www.forbes.com/sites/forbeseq/2022/04/04/poverty-impedes-childrens-education-long-before-they-enter-the-classroom---heres-how-we-can-change-that/?sh=20d0623d204d> [https://perma.cc/YD3V-DQUA]; *Toxic Stress*, HARV. UNIV. CTR. ON THE DEVELOPING CHILD, <https://developingchild.harvard.edu/science/key-concepts/toxic-stress/> [https://perma.cc/4HGW-P3BH].

46. See Langs, *supra* note 45; see also *Toxic Stress*, *supra* note 45.

47. See Langs, *supra* note 45; see also *Toxic Stress*, *supra* note 45.

48. See Wadsworth & Rienks, *supra* note 23.

49. See Arloc Sherman, *4 in 10 Children Live in a Household Struggling to Afford Basics*, CTR. FOR BUDGET & POL’Y PRIORITIES (Oct. 21, 2020, 1:00 PM), <https://www.cbpp.org/blog/4-in-10-children-live-in-a-household-struggling-to-afford-basics> [https://perma.cc/T482-MJ6A].

50. *Id.*

51. Eric Jensen, *How Poverty Affects Classroom Engagement*, 70 EDUC. LEADERSHIP 24, 24 (2013).

52. *Id.*; see also Anthony A. Mercadante & Prasanna Tadi, *Neuroanatomy, Gray Matter*, STATPEARLS, <https://www.ncbi.nlm.nih.gov/books/NBK553239> (July 24, 2023) (explaining that

programs like the National School Lunch Program (“NSLP”), which provides low-cost or free lunches to eligible children during school,⁵³ and the School Breakfast Program (“SPB”), which provides free breakfast for students before each school day.⁵⁴ More than thirty million students rely on NSLP for free or reduced-cost lunch while in school, yet food insecurity continues to impact children from low-income families.⁵⁵

Additionally, many children growing up in poverty experience housing instability, and an astounding 25% of those children will experience eviction from their homes before the age of fifteen.⁵⁶ A 2021 Census Bureau Household Pulse Survey found that 5.7 million adult renters living with children were behind on rent and nearly half feared they would face eviction within two months.⁵⁷ Not only is the threat of eviction a significant source of stress, but homelessness and housing instability “have harmful consequences for children, including increased likelihood of physical and mental health problems and poor school performance.”⁵⁸

In addition to lacking the financial resources to afford basic necessities, poor families are often unable to provide the educational resources—such as study aids, tutoring, or other

gray matter in the “central nervous system allows enables [sic] individuals to control movement, memory, and emotions” and as a result, plays a critical role in normal daily functioning).

53. *National School Lunch Program*, U.S. DEP’T OF AGRIC. FOOD & NUTRITION SERV., <https://www.fns.usda.gov/nslp> [<https://perma.cc/MQ58-GA58>].

54. *National School Breakfast and Lunch Program for Pennsylvania*, BENEFITS.GOV, <https://www.benefits.gov/benefit/2013> [<https://perma.cc/Q3GP-NKW9>]. Both programs are operated by the United States Department of Agriculture (“USDA”) and administered at the state and local level within schools. *Id.*

55. See Leah Rodriguez, *Children Who Rely on School Meals Are Going Hungry in the US*, GLOB. CITIZEN (Sept. 8, 2020), <https://www.globalcitizen.org/en/content/school-meals-covid-19-hunger/> [<https://perma.cc/B5BT-MRKV>] (highlighting the toll the COVID-19 pandemic took on students’ ability to receive much-needed NSLP meals).

56. Areeba Haider, *The Basic Facts About Children in Poverty*, CTR. FOR AM. PROGRESS (Jan. 12, 2021), <https://www.americanprogress.org/article/basic-facts-children-poverty/> [<https://perma.cc/U4LV-6L7M>].

57. Erik Gartland, *Families with Children at Increased Risk of Eviction, with Renters of Color Facing Greatest Hardship*, CTR. ON BUDGET & POL’Y PRIORITIES (Nov. 2, 2021, 5:00 AM), <https://www.cbpp.org/blog/families-with-children-at-increased-risk-of-eviction-with-renters-of-color-facing-greatest> [<https://perma.cc/KAD5-AY5H>].

58. *Id.*

forms of enrichment—that help a child complete schoolwork and excel outside of the classroom.⁵⁹ To illustrate this disparity, in low-income neighborhoods, only one age-appropriate book exists for every 300 children; however, in middle-income neighborhoods, thirteen books exist for every one child.⁶⁰ In addition, low-income parents/guardians often work multiple jobs and long hours to “make ends meet” and simply have less time to devote to supporting their children’s learning.⁶¹ Parents of low-income students also tend to have lower levels of educational attainment, which correlates with less parental involvement in a student’s education.⁶² This is particularly unfortunate given that parental involvement is critical for students living in poverty who already face plenty of obstacles to academic success.⁶³ More broadly, healthy childhood development depends on a young person receiving “consistent, safe, and loving attention” from their parents, with the consequences of its absence being an increase in rates of teen pregnancy, depression, substance abuse, and poor academic performance.⁶⁴ But the issue extends beyond what happens inside the homes of low-income children to include the compounding problems that are prevalent in high-poverty neighborhoods.

3. *Living in concentrated poverty*

A child’s home zip code tends to be the greatest predictor of their future outcomes, and “poor children reside in more polluted, unhealthy environments. They breathe air and drink

59. NAT’L ASS’N OF SECONDARY SCH. PRINCIPALS, POVERTY AND ITS IMPACT ON STUDENTS’ EDUCATION 2 (2020), https://www.nassp.org/wp-content/uploads/2020/06/NASSP20ADV-0083_WS_Q4_Position-Statements_Poverty.pdf [https://perma.cc/84R9-8FSR].

60. Langa, *supra* note 45.

61. *Id.*

62. Jeff Lyman, Impact of Parental Involvement and Poverty on Academic Achievement 1, 6–7, (2014) (Ph.D. dissertation, Miami University) (on file with the OhioLINK Electronic Theses and Dissertations Center) (gathering various psychological studies).

63. *Id.* at 6–7.

64. Jill Suttie, *How to Help Low-Income Students Succeed*, GREATER GOOD MAG. (June 3, 2016), https://greatergood.berkeley.edu/article/item/how_to_help_low_income_students_succeed [https://perma.cc/CC3C-9U9B].

water that are more polluted. . . . The neighborhoods where poor children live are more hazardous (e.g., greater traffic volume, more crime, less playground safety) and less like[ly] to contain elements of nature.”⁶⁵ Poverty positively correlates with a prevalence of community violence, meaning that children living in poorer neighborhoods are much more likely to be the victim of, know the victim of, or be witness to a violent crime.⁶⁶ Ubiquitous exposure to violence negatively affects “a child’s emotional, psychological and even physical development.”⁶⁷ Therefore, a child who is exposed to violence is more likely to struggle in school, suffer from mental health problems like depression, exhibit aggressive behaviors, abuse substances, and commit crimes in the future.⁶⁸ Additionally, poor children are more frequently exposed to lead and diagnosed with asthma as a result of the elevated levels of environmental pollution in poor neighborhoods, both of which negatively impact a student’s ability to pay attention, reason, learn, and remember.⁶⁹

Further, when poor children grow up in areas of concentrated poverty, the under-resourced schools they attend create additional obstacles to academic success.⁷⁰ Students in high-poverty schools are at least two times more likely to have non-certified teachers; they are also more likely to have a “substantially greater percentages of novice teachers, teachers assigned out-of-field, and teachers on emergency permits.”⁷¹

65. Sylvia Paull, *Gary Evans Documents How Environmental Poverty Contributes to ACEs*, PACESCONNECTION (Feb. 15, 2022, 12:00 PM), <https://www.pacesconnection.com/blog/gary-evans-documents-how-environmental-poverty-contributes-to-aces> [https://perma.cc/JFU2-FE5H].

66. See Joseph Quednau, *How Are Violent Crime Rates in U.S. Cities Affected by Poverty?* 28 PARK PLACE ECONOMIST, Sept. 2021, at 21; ERIKA HARRELL, LYNN LANGTON, MARCUS BERZOFKY, LANCE COUZENS & HOPE SMILEY-MCDONALD, U.S. DEP’T OF JUST., NCJ 248384, HOUSEHOLD POVERTY AND NONFATAL VIOLENT VICTIMIZATION, 2008–2012 (2014).

67. *Children Exposed to Violence*, NAT’L INST. OF JUST. (Sept. 21, 2016), <https://nij.ojp.gov/topics/articles/children-exposed-violence> [https://perma.cc/5PGH-DVZF].

68. *Id.*

69. Jensen, *supra* note 51.

70. Semuels, *supra* note 10.

71. Dale Mezzacappa, *Report: Pennsylvania’s Low-Income, Black, and Hispanic Students Have Least Experienced Teachers*, CHALKBEAT (Aug. 7, 2023, 6:11 PM),

Approximately 15% of teachers in low-income schools are in their first two years of teaching.⁷² Additionally, schools in low-income neighborhoods often place students in overcrowded classes, provide outdated textbooks, and lack the resources to operate art and other elective programs, offer advanced placement classes, take students on field trips, or maintain a school library.⁷³ To make matters worse, high-poverty schools are often housed in dilapidated buildings without proper insulation, heating, or air conditioning.⁷⁴

Notably, some “[f]ourteen million students attend schools with police but no counselor, nurse, psychologist, or social worker,” despite the fact that the latter supports are proven to increase attendance, academic achievement, and graduation rates.⁷⁵ On the other hand, the presence of officers at school can lead students to feel criminalized, which further alienates students, creates an adversarial atmosphere, and results in student mistrust of teachers and administrators.⁷⁶ As such, “policing in schools can decrease, rather than foster, safe school environments where students are able to thrive emotionally, socially, and academically.”⁷⁷ The combination of these negative factors has an equally negative impact on low-income students’ abilities inside the classroom, where they often fall behind their wealthier peers.⁷⁸

<https://www.chalkbeat.org/philadelphia/2023/8/7/23823673/students-greater-need-black-brown-low-income-least-experienced-qualified-teachers-pennsylvania/> [https://perma.cc/6PWL-98XZ]; *The State of the Teacher Workforce*, LEARNING POL’Y INST. (July 27, 2023), <https://learningpolicyinstitute.org/product/state-of-teacher-workforce-interactive> [https://perma.cc/U8SM-CGVV].

72. *The State of the Teacher Workforce*, *supra* note 71.

73. See Semuels, *supra* note 10 (comparing the experience of wealthy students in Darien and Greenwich, Connecticut with those in low-income New Britain and New London, Connecticut).

74. See *id.*; U.S. GOV’T ACCOUNTABILITY OFF., GAO-20-494, K-12 EDUCATION: SCHOOL DISTRICTS FREQUENTLY IDENTIFIED MULTIPLE BUILDING SYSTEMS NEEDING UPDATES OR REPLACEMENT (2020).

75. CHILD.’S DEF. FUND, *supra* note 8, at 27.

76. Chelsea Connery, *The Prevalence and the Price of Police in Schools*, UNIV. OF CONN. NEAG SCH. OF EDUC. (Oct. 27, 2020), <https://education.uconn.edu/2020/10/27/the-prevalence-and-the-price-of-police-in-schools> [https://perma.cc/TV8T-VWNS].

77. *Id.*

78. See *infra* Section I.B.

B. *Effects of Poverty Factors on Academic Success*

It should come as no surprise that each of the risk factors linked to poverty—including exposure to crime and violence, experiencing chronic stress, and lacking basic necessities—can affect a child’s cognitive, behavioral, emotional, physical, and psychological health and development.⁷⁹ As a result, “poor children are less likely [than their affluent peers] to find educational or economic success and are at greater risk for developing internalizing and externalizing disorders and physical health problems.”⁸⁰ These problems lead low-income students to be less engaged while at school, which hampers academic success.⁸¹ Poverty also negatively affects a child’s cognitive abilities, so many low-income students struggle to pay attention, stay on task, monitor work quality, and develop solutions.⁸² Cognitive struggles can cause students to “exhibit problem behavior” or “show learned helplessness,” meaning they have a tendency to either “act out . . . or shut down.”⁸³ Shockingly, poverty can decrease cognitive capacity at the same rate as losing a full night of sleep or suffering from chronic alcoholism.⁸⁴

Poverty quite literally shapes a child’s brain.⁸⁵ Studies show that children who grow up in poverty have “subtle brain differences” from children who do not.⁸⁶ Notably, for low-income children “the surface area of the brain’s outer layer of cells is smaller, especially in areas relating to language and impulse control, as is the volume of a structure called the

79. See Haynie, *supra* note 21.

80. Wadsworth & Rienks, *supra* note 23.

81. Jensen, *supra* note 51.

82. *Id.*

83. *Id.* at 28.

84. Anandi Mani, Sendhil Mullainathan, Eldar Shafir & Jiaying Zhao, *Poverty Impedes Cognitive Function*, 341 SCI. 976, 980 (2013).

85. Jackie Rocheleau, *How Poverty Shapes a Child’s Mind and Brain*, BRAINFACETS (Oct. 14, 2019), <https://www.brainfacts.org/neuroscience-in-society/law-economics-and-ethics/2019/how-poverty-shapes-a-childs-mind-and-brain-101419> [<https://perma.cc/Y34G-9RY7>].

86. Alla Katsnelson, *A Novel Effort to See How Poverty Affects Young Brains*, N.Y. TIMES (Apr. 7, 2021), <https://www.nytimes.com/2021/04/07/upshot/stimulus-children-poverty-brain.html> [<https://perma.cc/2APF-DVAB>].

hippocampus, which is responsible for learning and memory.”⁸⁷ Specific poverty-related issues—such as inadequate nutrition, elevated stress, and subpar education—may also affect brain development and cognitive functioning.⁸⁸ As a result, students from lower socioeconomic status homes perform worse on tasks related to language and executive function than middle-income students.⁸⁹

Because low-income children experience strong, frequent, and/or extended periods of adversity, their bodies respond by continually activating the stress system.⁹⁰ Such prolonged stress activation can negatively alter a child’s cardiovascular, immune, and neuroendocrine systems—and impair the proper development of a student’s brain.⁹¹ The body’s physical response to chronic stress causes low-income students to experience difficulty making decisions, decreased attention spans, impaired memory, and increased impulsivity.⁹² All of means that these students’ executive functions are impeded and their ability to self-regulate emotionally and behaviorally is compromised, leading to increased disciplinary issues.⁹³ Low-income students are also at a higher risk of developing mental health issues and psychological distress as adults.⁹⁴

The myriad adverse impacts on the physical, emotional, and behavioral development of low-income children naturally impacts their educational achievement.⁹⁵ Students in poverty are much more likely to experience chronic absenteeism and much less likely to advance to the next grade level on time, perform well on standardized tests, or graduate from high

87. *Id.*

88. *Id.*

89. Rocheleau, *supra* note 85.

90. *See supra* Section I.A.; Haynie, *supra* note 21.

91. Haynie, *supra* note 21; Jensen, *supra* note 51, at 24, 29.

92. Haynie, *supra* note 21; Jensen, *supra* note 51, at 29.

93. Jensen, *supra* note 51, at 29; Haynie, *supra* note 21; *cf.* Murphey & Redd, *supra* note 29 (discussing the likelihood that impoverished children will drop out of secondary school and not pursue post-secondary education).

94. Chang, *supra* note 31.

95. *See supra* Section I.A.

school.⁹⁶ Low-income fourth grade students were less than half as likely as their higher-income peers to achieve proficient scores in reading and math.⁹⁷ Low-income students are more than two grade levels behind their affluent peers.⁹⁸ The achievement gap persists as students advance, with proficiency scores for low-income eighth graders significantly less than half that of their wealthier peers in reading and math.⁹⁹

II. THE MONEY BEHIND EDUCATIONAL INEQUALITY

Eighty-nine percent (or \$707.55 billion worth) of public education funding comes from the state and local government, with about half of that money coming primarily from local property taxes.¹⁰⁰ Money from the federal government accounts for the remaining 10% (or \$61 billion worth) of education funding.¹⁰¹ Naturally, poorer neighborhoods with low property values are not able to provide anywhere close to the level of school funding that wealthier neighborhoods with high property values can because the money property taxes generate

96. CHRIS DUNCOMBE, *UNEQUAL OPPORTUNITIES: FEWER RESOURCES, WORSE OUTCOMES FOR STUDENTS IN SCHOOLS WITH CONCENTRATED POVERTY 2* (2017), https://thecommonwealthinstitute.org/wp-content/uploads/2017/10/unequal_opportunities.pdf [<https://perma.cc/62YH-RREW>] (comparing average teacher salaries in high-poverty Virginia schools (\$46,000) with those in low-poverty schools (\$57,000) and the accreditation of high-poverty schools (34%) with that of low-poverty schools (99%)).

97. CHILD.'S DEF. FUND, *supra* note 8, at 57 (finding dramatic differences between fourth grade proficiency rates among low-income students (21.1% in reading and 25.7% in math) and their wealthier peers (50.4% in reading and 57.9% in math)).

98. Mark Dynarski & Kirsten Kainz, *Why Federal Spending on Disadvantaged Students (Title I) Doesn't Work*, BROOKINGS INST. (Nov. 20, 2015), <https://www.brookings.edu/research/why-federal-spending-on-disadvantaged-students-title-i-doesnt-work> [<https://perma.cc/8AZG-6NBN>].

99. CHILD.'S DEF. FUND, *supra* note 8, at 57 (finding dramatic differences between eighth grade proficiency rates among low-income students (19.5% in reading and 18.2% in math) and their wealthier peers (45.5% in reading and 47.8% in math)).

100. *How Is K-12 Education Funded?*, PETER G. PETERSON FOUND. (Aug. 25, 2023), <https://www.pgpf.org/budget-basics/how-is-k-12-education-funded> [<https://perma.cc/8GZG-K647>]; see Semuels, *supra* note 10; Lauren Camera & Lindsey Cook, *Title I: Rich School Districts Get Millions Meant for Poor Kids*, U.S. NEWS (June 1, 2016, 12:01 AM), <https://www.usnews.com/news/articles/2016-06-01/title-i-rich-school-districts-get-millions-in-federal-money-meant-for-poor-kids> [<https://perma.cc/L8Q4-QH7T>].

101. Camera & Cook, *supra* note 100.

for schools is proportional to local property values.¹⁰² In fact, “[o]n average, local property-tax funding per student is \$5,260 lower in the poorest districts than in the wealthiest districts.”¹⁰³ As a consequence of educational funding schemes with property taxes as the cornerstone, schools in low-income districts are inadequately funded, forcing them to consistently offer fewer specialized programs, lower teacher salaries, and larger class sizes.¹⁰⁴

A. Disparities in Per-Pupil Funding

As of September 2023, overall K-12 spending amounted to approximately \$16,080 per student.¹⁰⁵ On average, states contribute \$7,430 per student, local governments contribute \$7,230, and the federal governments contribute roughly \$1,730 per student.¹⁰⁶ A comparison of per-pupil spending among states reveals extreme disparities. Whereas New York spends \$30,282 per student, the highest per-pupil spending in the nation, Idaho spends only \$8,748 per student, the lowest per-pupil spending in the nation.¹⁰⁷ In many states, high-poverty schools receive less overall funding per student than low-poverty schools do.¹⁰⁸ For example, high-poverty schools in Illinois receive approximately \$3,500 less per student than its low-poverty schools do.¹⁰⁹ Despite high-poverty schools

102. See, e.g., Semuels, *supra* note 10 (using the example of schools in Connecticut, one of the nation’s wealthiest states, to illustrate the educational disparities that result because of the way school funding depends so heavily on local property taxes).

103. SYLVIA ALLEGRETTO, EMMA GARCÍA & ELAINE WEISS, ECON. POL’Y INST., PUBLIC EDUCATION FUNDING IN THE U.S. NEEDS AN OVERHAUL 14 (2022), <https://files.epi.org/uploads/233143.pdf> [<https://perma.cc/J6TD-G682>].

104. See *id.* at 19–20.

105. Melanie Hanson, *U.S. Public Education Spending Statistics*, EDUC. DATA INITIATIVE, <https://educationdata.org/public-education-spending-statistics> [<https://perma.cc/T8EM-JAF5>] (Sept. 8, 2023).

106. *Id.*

107. *Id.*

108. Mark Lieberman, *State K-12 Spending Is Inequitable and Inadequate. See Where Yours Ranks*, EDUC. WK. (Oct. 28, 2021), <https://www.edweek.org/policy-politics/state-k-12-spending-is-inequitable-and-inadequate-see-where-yours-ranks/2021/10> [<https://perma.cc/EQT5-CSZG>].

109. *Id.*; see also Matt Barnum, *Study at Issue in Pa. School Funding Case Revised to Show Low-Income Students Get Less*, WHY? (Apr. 25, 2022), <https://whyy.org/articles/pa-school-funding->

receiving, on average, \$1,550 more per student in state funding and \$2,080 more per student in federal funding than low-poverty schools, “states and the federal government jointly compensate for only about half of the revenue gap for high-poverty districts.”¹¹⁰ High-poverty schools receive, on average, \$6,330 less per student from local property taxes, putting students in high-poverty schools at a funding disadvantage of 14.1%, or \$2,710, per student.¹¹¹

B. *Lack of a Federal Right to Education*

In 1968, parents from a low-income school district in Texas challenged property-tax educational funding schemes under the theory that they violated the Fourteenth Amendment’s Equal Protection Clause by distributing public school funding unequally.¹¹² In a five-four decision, the Supreme Court held in *San Antonio Independent School District v. Rodriguez* that the funding schemes did not violate the Equal Protection Clause, in part because the Constitution does not provide a fundamental right to education.¹¹³ As a result, few states have adopted school

case-study-revised-low-income-students-get-less/ [https://perma.cc/Z6KG-4QDU] (showing that funding at the local level favors families with higher incomes); *Which Students Receive a Greater Share of School Funding*, URB. INST., <https://apps.urban.org/features/school-funding-trends/> [https://perma.cc/QXR9-SV3T] (Apr. 25, 2022) (explaining school funding disparities in Pennsylvania).

110. ALLEGRETTO ET AL., *supra* note 103, at 15.

111. *Id.*

112. See *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 16–17 (1973). In *San Antonio Indep. Sch. Dist.*, the low-income Edgewood school district received \$209 per student, while the nearby and wealthier Alamo Heights school district received \$372 per student. *Id.* at 136 (Marshall, J., dissenting); see U.S. CONST. amend. XIV. The Fourteenth Amendment’s Equal Protection Clause and the Fifth Amendment’s Due Process Clause together prohibit state and federal governments from denying people equal protection of the laws and are the primary Constitutional protectors of civil rights in the United States. *Equal Protection*, CORNELL L. SCH. LEGAL INFO. INST., https://www.law.cornell.edu/wex/equal_protection [https://perma.cc/4RSJ-V86N].

113. See *San Antonio Indep. Sch. Dist.*, 411 U.S. at 35, 55, 59. All 50 state constitutions create a right to education; however, most of the education provisions included in state constitutions leave much to be desired. See EMILY PARKER, EDUC. COMM’N OF THE STATES, CONSTITUTIONAL OBLIGATIONS FOR PUBLIC EDUCATION 1 (2016). For example, Pennsylvania, Maryland, New Jersey, Ohio, and West Virginia all guarantee “[a] thorough and efficient system;” Arizona, Indiana, Minnesota, North Carolina, South Dakota, and Washington provide for a “general and

funding formulas that address resource disparities by equitably accounting for property tax revenue.¹¹⁴ Research suggests that no state educational funding scheme uses an “effective poverty weight” for determining resource allocations.¹¹⁵ Generally, formulas provide 25% extra weight for poor students, but researchers estimate that effective extra weights need to be between 111% and 215% to account for the additional cost of educating a poor student.¹¹⁶

Advocates for reimagined education funding formulas “don’t just want poor districts to get more money; they want poor districts to get enough money so that disadvantaged children can do just as well as children from wealthier areas.”¹¹⁷ With the discrepancies in educational funding between states and the disparities inherent in relying on local property taxes to fund public education, the federal government decided to intervene in 1965.¹¹⁸ Since then, the “federal government has played a limited, but important, role in the effort to improve opportunities and outcomes for students, especially those from low-income households.”¹¹⁹

III. THE FEDERAL RESPONSE: TITLE I

The primary avenue through which the federal government has sought to address poverty-based educational inequality is

uniform” public school system; Tennessee merely secures “[a] system of free public schools;” and Wisconsin schools “shall be as nearly uniform as practicable.” *Id.* at 5, 10–12, 15–19, 21.

114. See *San Antonio Indep. Sch. Dist.*, 411 U.S. at 55, 59; BRUCE D. BAKER, DANIELLE FARRIE & DAVID SCIARRA, *IS SCHOOL FUNDING FAIR? A NATIONAL REPORT CARD 1*, 5 (7th ed. 2018).

115. See William Duncombe & John Yinger, *How Much More Does a Disadvantaged Student Cost?*, 24 *ECON. EDUC. REV.* 513, 515, 530 (2005) (explaining that poverty weights should be related “to the extra expenses that districts must actually pay to bring disadvantaged students up to a given standard,” and no existing state education funding formula properly weighs disadvantaged students).

116. *Id.* at 530.

117. Semuels, *supra* note 10 (laying out plaintiffs’ arguments for equitable distribution of state funds in school funding lawsuits, which have been filed in forty-five states to date).

118. See Every Student Succeeds Act, 20 U.S.C. §§ 6301–6578.

119. DANIELLE FARRIE & DAVID G. SCIARRA, *EDUC. L. CTR., MAKING THE GRADE: HOW FAIR IS SCHOOL FUNDING IN YOUR STATE?* 2 (2021), https://edlawcenter.org/assets/MTG%202021/2021_ELC_MakingTheGrade_Report_Dec2021.pdf [<https://perma.cc/S2VG-583H>].

Title I, Part A (“Title I”) of the Every Student Succeeds Act (ESSA).¹²⁰ President Lyndon Johnson established Title I in 1965 when he signed the Elementary and Secondary Education Act (ESEA), predecessor to the ESSA, into law as part of the War on Poverty.¹²¹ Title I intends “to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.”¹²² While Title I was reauthorized and amended in 2002 by the Bush Administration as the No Child Left Behind Act (NCLB) and again in 2015 by the Obama Administration as the ESSA, its primary methods have remained relatively unchanged since its enactment nearly sixty years ago.¹²³

A. *How Much Money Are We Talking?*

Title I is the largest federal education grant program in the United States, serving some twenty-five million students in nearly 90% of the nation’s school districts.¹²⁴ In 2023, funding for Title I totaled roughly \$18.39 billion, an increase of \$850 million over the 2022 program funding of roughly \$17.54 billion.¹²⁵ The 2024 budget request seeks a \$2.2 billion dollar increase in Title I funding over the previous year, which (if

120. See Every Student Succeeds Act, 20 U.S.C. §§ 6301–6578.

121. *Id.*; Kevin Carey, *Why G.O.P. and Teachers Are Uniting to Stop Obama Effort to Help Poor Schools*, N.Y. TIMES (May 17, 2016), <https://www.nytimes.com/2016/05/18/upshot/why-poor-districts-receive-less-government-school-funding-than-rich-ones.html> [<https://perma.cc/TM4Y-HTMN>].

122. 20 U.S.C. § 6301.

123. See *Every Student Succeeds Act (ESSA)*, U.S. DEP’T OF EDUC. OFF. OF ELEMENTARY & SECONDARY EDUC., <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/the-elementary-secondary-education-act-the-every-student-succeeds-act-of-2016/every-student-succeeds-act-essa/> [<https://perma.cc/DNX3-4NVM>] (Dec. 9, 2022).

124. Miguel Cardona, Sec’y of Educ., U.S. Dep’t of Educ., Statement on the U.S. Department of Education Fiscal Year 2023 Budget Request (May 4, 2022), <https://www.ed.gov/news/speeches/statement-miguel-cardona-secretary-education-us-department-education-fiscal-year-2023-budget-request> [<https://perma.cc/6W9L-7EM3>].

125. *Funding Status & Awards*, U.S. DEP’T OF EDUC. OFF. OF ELEMENTARY & SECONDARY EDUC., <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/title-i-part-a-program/funding-status/> [<https://perma.cc/QVU5-4PHR>] (Nov. 2, 2023).

passed) would bring the program budget to \$20.5 billion.¹²⁶ Title I funding in 2023 constituted a relatively meager 6.7% of the overall United States Department of Education budget of \$274.36 billion, which itself constitutes just 2.3% of the overall federal budget.¹²⁷ Importantly, Title I has never in its history been fully funded, so the funding allocated by federal government to each district “is ultimately less than its authorized amount.”¹²⁸ In most states, Title I funding accounts for just about 5% of the annual per-pupil spending on low-income students.¹²⁹ In fact, Title I only provides an additional \$500 to \$600 per low-income student.¹³⁰ Discrepancies in per-pupil allocations of state and local education dollars are so extreme that current Title I funding is “simply too small to improve the overall funding of public education in the states.”¹³¹ Still, Title I is the primary way Congress attempts to make a dent in the “chronic funding gaps between schools in

126. *President's FY 2024 Budget Request*, NAT'L CONF. OF STATE LEGISLATURES, <https://www.ncsl.org/state-federal/presidents-fy-2024-budget-request> [<https://perma.cc/TB6L-ZFQE>]; Press Release, The White House, Fact Sheet: The President's Budget for Fiscal Year 2024 (Mar. 9, 2023). Notably, the Biden Administration's 2024 proposed Title I budget of \$20.5 billion represents a sizeable decrease from the \$36.5 billion budget it proposed for the program in 2022 and 2023. See Matt Barnum, *Congress Rejected Biden's Bid to Double Title I. Now He's Asking Again*, CHALKBEAT (Mar. 28, 2022, 6:25 PM), <https://www.chalkbeat.org/2022/3/28/23000407/biden-budget-proposal-title-i-schools/> [<https://perma.cc/LK7M-FXAT>].

127. *Funding Status & Awards*, *supra* note 125; Department of Education (ED), USASPENDING.GOV, <https://www.usaspending.gov/agency/department-of-education?fy=2023> [<https://perma.cc/A5H6-F8T6>].

128. Nora Gordon & Sarah Reber, *Title I of ESEA: How the Formulas Work*, in UNDERSTANDING AND IMPROVING TITLE I OF ESEA (2023), <https://all4ed.org/publication/title-i-of-esea-how-the-formulas-work/> [<https://perma.cc/AZ98-NLHL>].

129. *Explained: What Is Title I and How Is It Used to Fund Our Schools?*, ED POST (Aug. 12, 2021, 12:00:00 AM), <https://www.edpost.com/explainer/explained-what-is-title-i-and-how-is-it-used-to-fund-our-schools> [<https://perma.cc/AY4H-YVUY>]. However, there is a large range of funding distribution state by state. See *id.*

130. Dynarski & Kainz, *supra* note 98. One of the hallmarks of Title I is the idea that the funds should “supplement not supplant,” meaning that funding a state receives from Title I is not meant to replace any funding the state or local governments would otherwise provide to a given district or school, but should add to existing funding. U.S. DEP'T OF EDUC., SUPPLEMENT NOT SUPPLANT UNDER TITLE I, PART A OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, AS AMENDED BY THE EVERY STUDENT SUCCEEDS ACT 5 (2019); see KY. DEP'T OF EDUC., TITLE I, PART A HANDBOOK 7 (2023).

131. FARRIE & SCIARRA, *supra* note 114, at 2–3.

high-poverty communities—which disproportionately serve students of color—and their wealthier counterparts.”¹³²

B. *How Title I Funding Operates: Targeted and Schoolwide Programs*

Title I funding is allocated to schools based on the number of low-income school-aged children who live within the geographic boundaries of each school district.¹³³ The United States Department of Education provides Title I grants to each state educational agency (“SEA”), typically the state board of education, in proportion to the poverty levels of K-12 students in the state.¹³⁴ The SEA then distributes Title I grants to its local education agencies (“LEAs”), typically the board of education for a school district.¹³⁵ Finally, each LEA ranks the schools in its district by “poverty level” or “poverty percentage” of low-income students and distributes Title I funding accordingly.¹³⁶

132. U.S. DEP’T OF EDUC., FISCAL YEAR 2024 BUDGET SUMMARY 7 (2023); *see* 20 U.S.C. § 6302.

133. *See* Carey, *supra* note 121. Schools can calculate poverty rates in several ways, including the percentage of students eligible for free or reduced-cost lunch under NSLP, the number of students receiving Temporary Assistance for Needy Families (“TANF”) or Medicaid services, the poverty rate of those between the ages of five and seventeen as per the census, or a compilation of any of these measures. *See* U.S. DEP’T OF EDUC., WITHIN-DISTRICT ALLOCATIONS UNDER TITLE I, PART A OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, AS AMENDED 6–7 (2022) [hereinafter WITHIN-DISTRICT ALLOCATIONS].

134. *Title I*, PA. DEP’T OF EDUC., <https://www.education.pa.gov/Teachers%20-%20Administrators/Federal%20Programs/TitleI/Pages/default.aspx> [https://perma.cc/2NRM-3BNC] [hereinafter *Title I*, PA. DEP’T OF EDUC.]. In most cases, states use the percentage of children who are eligible for free or reduced-price lunch (FRPL) to determine distributions at the school level. THOMAS D. SNYDER, RACHEL DINKES, WILLIAM SONNENBERG & STEPHEN CORNMAN, NAT’L CTR. FOR EDUC. STAT., STUDY OF THE TITLE I, PART A GRANT PROGRAM MATHEMATICAL FORMULAS 5 (2019).

135. SNYDER ET AL., *supra* note 134, at 195; *Title I*, PA. DEP’T OF EDUC., *supra* note 134; 34 C.F.R. § 303.23(a) (2023) (“Local educational agency or LEA means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.”).

136. *See* 20 U.S.C. § 6313(a)(3); 34 C.F.R. § 200.78(a)(1); Dynarski & Kainz, *supra* note 98 (“Districts determine which schools get funds by rank-ordering schools based on poverty levels. Once funds arrive at a school, however, they are used for students at risk of failing to meet state learning standards. A student’s poverty level plays no role in determining whether the student is eligible for Title 1 services.”).

Congress requires LEAs to allocate Title I funds to all schools with a poverty level at or above 75% first.¹³⁷ Generally, LEAs are required to distribute a minimum of 125% of the per-pupil allocation for low-income students determined by the LEA to those students receiving Title I funding.¹³⁸ School districts receive Title I funds in one of two ways—either targeted assistance or schoolwide programs—and the distinction is an important one.¹³⁹

1. Targeted assistance Title I programs

Low-income students qualify for targeted assistance funding if less than 40% of students enrolled in their school are considered low-income.¹⁴⁰ Approximately twenty-five million students in the United States—or 60% of all students—individually qualify for and receive some type of Title I funding.¹⁴¹ Students are automatically eligible for Title I funding if they qualify for free or reduced-cost lunch through the NSLP,¹⁴² which set income eligibility requirements at 130%

137. 20 U.S.C. § 6313(a)(3)(A); *see also* WITHIN-DISTRICT ALLOCATIONS, *supra* note 133, at 10 (“Thus, before an LEA can decide how to determine eligibility for any school with a poverty percentage that does not exceed 75 percent, it must allocate Title I funds to all its schools above 75 percent poverty.”); *id.* at 8–11 (explaining how poverty level is calculated).

138. 34 C.F.R. § 200.78(b)(1). This is known as the “125 percent rule” because the “LEA must allocate to each participating school attendance area or school an amount for each low-income child that is at least 125 percent of the per-pupil amount of funds the LEA received for that year under part A, subpart 2 of Title I.” *Id.*; WITHIN-DISTRICT ALLOCATIONS, *supra* note 133, at 12. In a school district with \$2,500,000 from Title I and 1,243 low-income students, the per-pupil allocation will be \$2,500,000/1,243, or \$2,011.26 per pupil. *Id.* at 15. LEAs calculate Title I per-pupil allocation by multiplying this amount by 125% and then multiplying by the number of low-income students at the specific school to calculate the minimum per-pupil funding each school should receive. *Id.*

139. *Title I, Part A: Improving Basic Programs Operated by LEAs Fact Sheet*, N.Y. STATE EDUC. DEP’T, <https://www.nysed.gov/essa/title-i-part-improving-basic-programs-operated-leas-fact-sheet> [https://perma.cc/M8UN-MQ7X].

140. WAYNE RIDDLE, ALL. FOR EXCELLENT EDUC., *TITLE I AND HIGH SCHOOLS: ADDRESSING THE NEEDS OF DISADVANTAGED STUDENTS AT ALL GRADE LEVELS 4* (2011); *see* 20 U.S.C. § 6315(b).

141. OFF. OF MGMT. & BUDGET, EXEC. OFF. OF THE PRESIDENT, *BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2023*, at 12 (2023).

142. FOOD RSCH. & ACTION CTR., *UNDERSTANDING THE RELATIONSHIP BETWEEN COMMUNITY ELIGIBILITY AND TITLE I FUNDING 3* (2019), <https://frac.org/wp-content/uploads/understanding-relationship-between-cep-and-title-i-funding.pdf> [https://perma.cc/AR8P-DXDUI]. The NSLP “provides nutritionally balanced, low-cost or no-cost lunches to children each school day” and students are “categorically eligible” for the program if they already receive certain federal

and 185% of the federal poverty threshold for the 2023–2024 school year.¹⁴³ Targeted assistance funding must be used for individualized services that directly support qualifying low-income Title I students.¹⁴⁴ Parents of students eligible under a targeted assistance program are required to apply and provide information like the names and grades of their school-age children, sources of income, and qualification status for other federal entitlement programs.¹⁴⁵ Ultimately, with targeted assistance programs, the onus is on parents to proactively apply for Title I eligibility.¹⁴⁶

2. Schoolwide Title I programs

On the other hand, a school qualifies to operate a Title I schoolwide program if at least 40% of enrolled students are considered low-income.¹⁴⁷ About half of all public schools operate schoolwide Title I programs—commonly referred to as Title I Schools—and therefore are not required to identify specific, eligible children or “individual services as supplementary.”¹⁴⁸ Rather, Title I Schools can use funding to support schoolwide initiatives, programs, and services provided to all students at the school—not just to low-income students.¹⁴⁹ As well, schools that qualify to operate schoolwide

benefits, such as Supplemental Nutrition Assistance Program (“SNAP”), commonly referred to as food stamps, or are homeless or in foster care. U.S. DEP’T OF AGRIC., THE NATIONAL SCHOOL LUNCH PROGRAM (2017), <https://fns-prod.azureedge.us/sites/default/files/resource-files/NSLPFactSheet.pdf> [<https://perma.cc/AR8P-DXDU>] [hereinafter NSLP FACT SHEET].

143. See *Child Nutrition Programs: Income Eligibility Guidelines (2023-2024)*, *supra* note 14.

144. See *id.*

145. See *Title I, Part A Targeted Assistance School Program*, CAL. DEP’T OF EDUC., <https://www.cde.ca.gov/sp/sw/t1/tasinfo.asp> [<https://perma.cc/YN7L-NT8Q>]. SNAP provides financial assistance to low-income families specifically designated for food purchases, while TANF provides states with funding to provide low-income families with children monthly cash payments. See *Supplemental Nutrition Assistance Program (SNAP)*, U.S. DEP’T OF AGRIC. FOOD & NUTRITION SERV., <https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program> [<https://perma.cc/E2U7-6NQQ>]; *Temporary Assistance for Needy Families (TANF)*, U.S. DEP’T OF HEALTH & HUM. SERV., <https://www.acf.hhs.gov/ofa/programs/temporary-assistance-needy-families-tanf> [<https://perma.cc/NH6G-A35E>] (June 29, 2022).

146. *Explained: What Is Title I and How Is It Used to Fund Our Schools?*, *supra* note 129.

147. See 20 U.S.C. § 6314(a)(1)(A).

148. § 6314(a)(2)(A); Dynarski & Kainz, *supra* note 98.

149. § 6314(a)(2)(A); Dynarski & Kainz, *supra* note 98.

programs rely less on parental action because school administrators apply for schoolwide Title I funding directly.¹⁵⁰

3. *Why the targeted-schoolwide program distinction matters*

Although approximately twelve million students are individually eligible for Title I funding, about twenty-five million students receive services made available by Title I funding.¹⁵¹ This is because nine in ten students who receive Title I services are able to do so because they attend a Title I School—meaning “not all of these students are poor themselves.”¹⁵² In fact, “[a]bout 70 percent of Title I participating schools operate schoolwide programs” that support students who would not otherwise qualify for program funding and services.¹⁵³ Researchers have thus found that “there is no direct link between the formula-eligible children on whom the distribution of funds is based and the students who actually benefit from the funds.”¹⁵⁴

Take, for example, the way current Title I funding formulas allocate money in the case of two very different Virginia school districts. A school district in southern Virginia with a poverty rate of 30% that is located in a county where 12% of adults have college degrees receives \$775,000 from Title I, while a school district in northern Virginia with a poverty rate of 8% that is located in the nation’s first county to hit a median household income of six figures receives \$20 million from Title I.¹⁵⁵ Although about half of the schools nationwide are considered high poverty, 67% of them receive money from Title I.¹⁵⁶ In

150. See RIDDLE, *supra* note 140. Under the NSLP, children are eligible for no-cost lunch if a family is living at or below 130% of the federal poverty line and low-cost lunch if a family is living between 131% to 185% of the federal poverty line. See NSLP FACT SHEET, *supra* note 142.

151. Sarah D. Sparks, *Title I Explained: 5 Things Educators Need to Understand About Federal Money for Students in Poverty*, EDUC. WK. (May 9, 2019), <https://www.edweek.org/leadership/title-i-explained-5-things-educators-need-to-understand-about-federal-money-for-students-in-poverty/2019/05> [<https://perma.cc/V35B-LEJK>].

152. *Id.*

153. SNYDER ET AL., *supra* note 134, at 5; see Dynarski & Kainz, *supra* note 98.

154. SNYDER ET AL., *supra* note 134, at 1.

155. Camera & Cook, *supra* note 100.

156. *Id.*

significant misalignment with the program's purpose, "20 percent of all Title I money for poor students—\$2.6 billion—ends up in school districts with a higher proportion of wealthy families."¹⁵⁷ Allowing schools with poverty rates of 40% to operate schoolwide Title I programs, by design, means that "districts can tap the federal purse even if they serve only a handful of low-income students."¹⁵⁸

C. How Funding Is Utilized

How a school spends its Title I money depends on whether it operates a schoolwide program or a targeted assistance program.¹⁵⁹ Title I funding can be used in a number of ways, including to provide training for teachers, purchase technology to enhance learning for eligible students, hire supplemental classroom paraprofessionals, increase community engagement, and integrate additional literacy programs.¹⁶⁰ Some schools use Title I funding to provide professional development workshops for teachers, hire teacher coaches, reduce class sizes, or implement after-school and summer programs.¹⁶¹ Additionally, the ESSA stipulates that schools use 1% of Title I funds on parental outreach.¹⁶²

The overwhelming majority of Title I funding (84%) is spent on instruction, with 52% of targeted assistance programs and 14% of Title I Schools spending their entire Title I budgets on teachers.¹⁶³ In one poor school district in Virginia, every penny of its \$775,000 of Title I funding pays for teacher salaries.¹⁶⁴ As a result, "[t]here is nothing left over for professional development, curriculum support, or reading and math

157. *Id.*

158. *See id.*

159. U.S. DEP'T OF EDUC., STUDY OF TITLE I SCHOOLWIDE AND TARGETED ASSISTANCE PROGRAMS: FINAL REPORT xi (2018) [hereinafter STUDY OF TITLE I PROGRAMS].

160. *Id.* at 14; Dynarski & Kainz, *supra* note 98.

161. Dynarski & Kainz, *supra* note 98.

162. 20 U.S.C. § 6318(3)(A).

163. STUDY OF TITLE I PROGRAMS, *supra* note 159, at 16; Dynarski & Kainz, *supra* note 98.

164. Camera & Cook, *supra* note 100.

enrichment programs.”¹⁶⁵ Because Title I only provides about \$500 per low-income student, the program buys each eligible student roughly ten added hours of teacher time per year.¹⁶⁶

Title I also struggles when it comes to whether funds are used on measures that ultimately have a positive effect on student outcomes.¹⁶⁷ For instance, pull-out programs, where a teacher removes a student from the traditional classroom for one-on-one or small group instruction, are often used as a remedial approach.¹⁶⁸ However, this practice has been criticized for setting students back because the pull-out instruction in, say, reading and math that Title I students receive takes the place of instruction their peers in the classroom receive in advanced subjects.¹⁶⁹ As such, Title I students likely receive no additional instruction time, and instead they actually miss out on instruction in classes such as science and social studies.¹⁷⁰ Notably, researchers found:

Many principals report using Title I funds to pay for teacher professional development programs despite studies showing them to be ineffective and teachers finding them unvaluable. Other services principals spent Title I funds on include after-school and summer programs, technology purchases, and supplemental services, which are all proven to be ineffective, and class-size reductions, which are unlikely to be of the size needed to generate effects found in previous research.¹⁷¹

This combination of inadequate funding levels and ineffective use of existing funds has kept Title I from making any significant progress toward improving the educational

165. *Id.*

166. Dynarski & Kainz, *supra* note 98 (calculating the instructional impact of Title I funding based on the national average teacher salary, which equates to \$50 per hour).

167. See Rucker C. Johnson, *Follow the Money: School Spending from Title I to Adult Earnings*, 1 RUSSELL SAGE FOUND. J. SOC. SCIS. 50, 52 (2015); see also Dynarski & Kainz, *supra* note 98.

168. Johnson, *supra* note 167, at 53.

169. *Id.*

170. *Id.*

171. Dynarski & Kainz, *supra* note 98.

outcomes of low-income students over its nearly sixty-year history.¹⁷²

D. *How Educational Gaps Persist*

Title I has been criticized as a measure that merely “sends token amounts to schools, which use the amounts to fund services that research has found to be ineffective.”¹⁷³ The additional funding needed to sufficiently educate low-income children to bring them up to the achievement levels of their more affluent peers is in the range of 111% and 215%, but Title I provides much less than this.¹⁷⁴ Research shows that school districts with a poverty rate of 40% or more “would have to spend between \$20,000 and \$30,000 per student to achieve average test scores” whereas districts with a poverty rate of 10% or less would only need to spend \$5,000 to \$10,000 per student.¹⁷⁵

Additionally, critics suggest that despite the ESSA’s specificity regarding its “supplement not supplant” policy,¹⁷⁶ local funding is often redistributed to favor non-Title I schools, and the federal government is hard pressed to enforce its policy to the contrary.¹⁷⁷ As it is, Title I is not the powerhouse educational equality legislation it was meant to be. However, with a few key—albeit significant—changes, the federal government could make Title I more effective in the fight

172. *See id.*

173. *Id.* Conservatives tend to agree with the general critique that Title I is largely ineffective, albeit they argue the program should be restructured to utilize “a single formula stream based on a set per-pupil allocation” and Title I dollars should be portable, following students in an effort to “catalyze school choice at the state level and greatly empower low-income families.” Lindsey M. Burke, *From Piecemeal to Portable: Transforming Title I into a Student-Centered Support System*, HERITAGE FOUND. (Sept. 28, 2015), <https://www.heritage.org/education/report/piecemeal-portable-transforming-title-i-student-centered-support-system> [<https://perma.cc/S5JD-TY8H>].

174. Duncombe & Yinger, *supra* note 115, at 530.

175. The Hechinger Rep., *What Would It Cost to Get All Students to Average?*, U.S. NEWS (Mar. 26, 2018, 11:30 AM), <https://www.usnews.com/news/national-news/articles/2018-03-26/how-much-would-it-cost-to-get-all-students-up-to-average>.

176. 20 U.S.C. § 6314(a)(3)(B).

177. Johnson, *supra* note 167.

against persistent inequalities that make the nation's education system anything but the "great equalizer" it promises to be.

IV. REIMAGINING TITLE I

Three main issues rob Title I of its potential to have a significant, positive impact on low-income students. First, the amount of funding that Title I provides students is wholly inadequate to address the educational problems created by wealth disparities.¹⁷⁸ As such, Congress should approve a significant Title I spending increase, such as that proposed under the proposed 2024 education budget.¹⁷⁹ Second, the prevalence of schoolwide Title I programs dilutes the federal funds intended for low-income students by allowing these dollars to fund programming that supports students who do not qualify for Title I.¹⁸⁰ Therefore, Congress should amend Title I to increase the threshold for operating as a Title I School from 40% to 51% of students living in poverty. Further, as part of this amendment, Congress should implement spending guidelines to ensure funding goes toward services that adequately and effectively address the specific needs of individual low-income students. Third, Title I largely ignores a critical weapon in the fight to eliminate poverty-based educational disparities: alleviating parental poverty.¹⁸¹ As a result, Congress should allocate a portion of Title I funding to provide direct cash assistance to parents/guardians of low-income students to enable them to holistically provide for their child's wellbeing.¹⁸² Certainly, these amendments are no cure-all, but they do present an opportunity for Congress to alter Title I so it is more

178. *See infra* Section IV.A.

179. *See* Press Release, The White House, Fact Sheet: President Biden's Budget Advances Equity (Mar. 9, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/03/09/fact-sheet-president-bidens-budget-advances-equity/>

[<https://perma.cc/9LFM-BSL3>]; Naaz Modan, *Congressional Spending Bill Lowballs Key Biden Education Requests*, K-12 DIVE (Mar. 11, 2022), <https://www.k12dive.com/news/congressional-spending-bill-lowballs-key-biden-education-requests/620198/> [<https://perma.cc/MFU5-9FTQ>].

180. *See infra* Section IV.B.

181. *See infra* Section IV.C.

182. *See infra* Section IV.C.

likely “to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps”¹⁸³

A. Amendment One: Increasing Title I Funding

If a lack of funding is part of the problem—which it undoubtedly is—it follows that an increase in funding must be part of the solution. Studies suggest that money matters a whole lot, with larger increases in per-pupil spending being responsible for more significant improvements in educational outcomes.¹⁸⁴ When schools increase funding, resources are allocated more fairly, staffing levels and teacher salaries increase, and class sizes decrease.¹⁸⁵ In high-poverty schools, lower student-to-teacher ratios and more competitive teacher salaries equate to greater academic achievement for students.¹⁸⁶ Providing more funding to high-poverty schools not only increases high school graduation rates and overall educational attainment, but it also leads to higher income levels and lower poverty rates into adulthood.¹⁸⁷

1. Use Funding to Narrow Achievement Gaps

Currently, Title I increases per-pupil spending on low-income students by about 5%.¹⁸⁸ However, in order to actually narrow the achievement gaps between low-income students and their wealthier peers, Title I funding would need to increase by five to eight times more per student.¹⁸⁹ Ideally,

183. See 20 U.S.C. § 6301; *Every Student Succeeds Act (ESSA)*, *supra* note 123.

184. See C. Kirabo Jackson & Claire Mackevicius, *The Distribution of School Spending Impacts 1* (Nat'l Bureau of Econ. Rsch., Working Paper No. 28517, 2021), <https://www.nber.org/papers/w28517> [<https://perma.cc/LS7X-M8YD>]; see also BAKER ET AL., *supra* note 114, *passim* (analyzing research about education funding in each of the fifty states based on important factors like funding level, distribution, and coverage).

185. BAKER ET AL., *supra* note 114, at 1.

186. *Id.*

187. See *id.*

188. *Explained: What Is Title 1 and How Is It Used to Fund Our Schools?*, *supra* note 129.

189. See Kenneth Shores, Hojung Lee & Nell Williams, *Expanding Title I Could Eliminate Gaps—If the Funds Are Well Targeted*, BROOKINGS INST. (Aug. 19, 2021),

Congress would fund Title I to the extent that it could compensate for the \$400 and \$1,200 deficit in per-pupil spending on low-income students.¹⁹⁰ As it stands, Title I funding decreases spending gaps by roughly \$100 to \$200 per student.¹⁹¹ Given the positive, albeit marginal, difference that Title I currently makes on education spending gaps, an expansion of Title I funding “represents a real opportunity to remedy national spending inequality.”¹⁹² As such, Congress should approve a significant increase in the Title I budget—roughly doubling its current funding—to bring overall funding for the program from \$18.3 billion, as allocated in 2023, to \$36.5 billion.¹⁹³ Alongside an increase in the program’s budget, Congress should also take steps to ensure that Title I is fully funded for the first time in the history of the program.

2. *Defending Increased Funding*

One reasonably foreseeable objection to an effort to expand Title I funding is that it places a significant financial burden on the federal government and, by extension, the taxpayers who fund the government. However, “[p]ublic education is a public good . . . that helps to stabilize the entire economy at critical points.”¹⁹⁴ As such, federal money spent on education is a “public investment” with reverberating impacts, meaning that education warrants being prioritized in the nation’s budget.¹⁹⁵ Further, doing so would almost certainly have the intended

<https://www.brookings.edu/articles/expanding-title-i-could-eliminate-k-12-spending-gaps-if-the-funds-are-well-targeted/> [<https://perma.cc/VE8C-HYWV>] [hereinafter Shores et al., *Expanding Title I Could Eliminate Gaps*].

190. Kenneth Shores, Hojung Lee & Nell Williams, *Increasing Title I Funds Should Target Largest Sources of School Spending Inequalities—Across States*, BROOKINGS INST. (Aug. 6, 2021), <https://www.brookings.edu/blog/brown-center-chalkboard/2021/08/06/increasing-title-i-funds-should-target-largest-sources-of-school-spending-inequalities-across-states/> [<https://perma.cc/M97B-HSE8>] [hereinafter Shores et al., *Increasing Title I Funds*].

191. *Id.*

192. *See id.*

193. *See Funding Status & Awards*, *supra* note 125; OFF. OF MGMT. & BUDGET, *supra* note 141, at 30; *see also* Modan, *supra* note 179.

194. ALLEGRETTO ET AL., *supra* note 103, at 3.

195. *Id.*

consequences, as research shows that “targeted increases in funding could help narrow the achievement gap between poor and nonpoor students.”¹⁹⁶

Additionally, there are those who might argue that education is the purview of the states. However, educational disparities are a nationwide problem—and there is a high risk that few states would attempt to redress the inequalities that have long plagued public education.¹⁹⁷ The United Nations Educational, Scientific and Cultural Organization (“UNESCO”) sets the international education spending benchmark at a minimum of 15% of a nation’s public expenditures.¹⁹⁸ Despite being a member of UNESCO, the United States spends just 12.7% on education, with K-12 public education spending totaling just \$794.7 billion.¹⁹⁹ For its part, in fiscal year 2023, the federal government allocated just 2.3% (\$274.36 billion) of its overall budget to the Department of Education—equal to 0.38% of taxpayer income—with a mere \$28.73 billion of that going to the Office of Elementary and Secondary Education.²⁰⁰ Given the UNESCO benchmark, it is not unreasonable for the federal government to increase its Title I spending to \$36.5 billion, as requested in 2022 and 2023, because even doing that would not bring federal education spending anywhere close to the recommended level.²⁰¹ Of course, it is not enough to simply inject billions of additional dollars into the problem that is Title I. Rather, to increase the effectiveness of increased funding, Title I grants must be funneled into individualized services and supports that directly address the needs of those students who are the intended recipients of Title I program benefits.

196. *School Funding: Do Poor Kids Get Their Fair Share*, URBAN INST. (MAY 2017), <https://apps.urban.org/features/school-funding-do-poor-kids-get-fair-share/> [<https://perma.cc/SUA7-W5QY>].

197. See Lieberman, *supra* note 108; see also Hanson, *supra* note 105 (outlining the public education spending statistics of different states).

198. Hanson, *supra* note 105.

199. *Id.*

200. See *Department of Education (ED)*, *supra* note 127. Notably, the bulk of the Department of Education’s budget (\$212.35 billion) is allocated to its Office of Federal Student Aid. *Id.*

201. See Barnum, *supra* note 126.

B. Amendment Two: Targeting Title I Funding

A second major issue with the current iteration of Title I is that many students who ultimately benefit from its funding are not themselves low income. As such, Congress should amend Title I to ensure the money from this federal program is funneled directly toward low-income students in line with its goals of closing poverty-based achievement gaps.²⁰²

1. Increase the Title I School threshold

Currently, the average public school qualifies to operate a schoolwide Title I program, but “unless Congress wants to spend \$100 billion a year on Title 1, the increase [in per pupil spending] needs to be coupled with a focus on fewer students.”²⁰³ Along those lines, Congress should raise the current threshold for operating a schoolwide program from 40% to 51%.²⁰⁴ Doing so would guarantee that more students qualify for Title I funding than not before allowing a school to operate as a Title I School. This higher threshold both reduces the dilution of funding that results under the current threshold and concentrates Title I funds on supports that will bolster the learning and achievement of low-income students.²⁰⁵ As an important reminder, “Title I was never meant to be general education aid . . . It was meant to be targeted to serve students in concentrations of poverty.”²⁰⁶ Because of this, a majority of the enrolled students in a school should qualify as low income under Title before it can operate a schoolwide Title I program.

If Title I funds were targeted directly toward low-income students, the current national spending gaps could be closed at a cost of approximately \$10.6 billion, which is less than the amount requested by the Biden Administration for fiscal year

202. See Shores et al., *Expanding Title I Could Eliminate Gaps*, *supra* note 189.

203. Dynarski & Kainz, *supra* note 98.

204. 20 U.S.C. § 6314(a)(1)(A)–(B).

205. See *supra* Part III.

206. Camera & Cook, *supra* note 100.

2024.²⁰⁷ However, low-income students nationally receive \$15.7 million less than affluent students do on average, a gap that would cost the federal government a total of \$40.4 billion to close, which is about 14% more Title I spending than the Biden Administration proposed.²⁰⁸ Even with a significant increase in Title I funding, the gaps will only be closed if dollars are targeted at services that effectively meet the educational, social, emotional, and psychological needs of low-income students.²⁰⁹

2. *Require (enforceable) individualized services*

To best serve the unique needs of a specific low-income child, Congress should require schools that receive Title I funding to identify individualized services that would most benefit each eligible child.²¹⁰ A one-size-fits-all approach to educational supports oftentimes inhibits the ability to be responsive to the actual needs of an individual student.²¹¹ For example, one low-income student may benefit from group therapy sessions and anger management resources, but another may primarily need access to additional math and science instruction. While low-income students as a whole face many issues unfamiliar to wealthier students, no group is a monolith. Attempts to alleviate the negative impacts of poverty on a child's educational success cannot be uniform.²¹²

Policymakers should begin by looking to the individualized education programs ("IEPs") that have been an integral aspect of Part B of the Individuals with Disabilities Education Act ("IDEA").²¹³ The IDEA guarantees students with disabilities a

207. Shores et al., *Expanding Title I Could Eliminate Gaps*, *supra* note 189; Press Release, The White House, *supra* note 179.

208. Shores et al., *Expanding Title I Could Eliminate Gaps*, *supra* note 189.

209. *See id.*; Shores et al., *Increasing Title I Funds*, *supra* note 190.

210. *See supra* Section III.B.1.

211. JENNIFER A. O'DAY & MARSHALL S. SMITH, AM. INST. FOR RSCH., *EQUALITY AND QUALITY IN U.S. EDUCATION* 4 (2016).

212. *Id.* at 4.

213. *See* 20 U.S.C. §§ 1400–09; 34 C.F.R. § 300.22 (2023) ("IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with §§ 300.320 through 300.324.").

“free appropriate public education,” including the provision of necessary special education services.²¹⁴ Under the IDEA, IEPs are created for each qualifying student and include information on student performance, specific academic and functional goals, and the provision of special education services, personnel supports, and accommodations.²¹⁵ In 2017, the United States Supreme Court ruled unanimously that in order to comply with the IDEA, “a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.”²¹⁶ IDEA funding must be used to provide services that directly support students with disabilities.²¹⁷ Schools often use IDEA funding to provide additional special education programs for students, including extended school day and year services, assistive technology, and teacher, staff, and parent training.²¹⁸ A school can also use IDEA funding to cover the added costs associated with IEPs, including the costs of staffing IEP teams, evaluating progress, and providing the necessary identified services.²¹⁹ Importantly, the IDEA creates a legal cause of action under which parents can sue to protect their student’s right to the provision of the supplementary services outlined in the IEP.²²⁰

As a safeguard to ensure Title I provides appropriate services to low-income students, Congress should incorporate a less cumbersome version of the IEPs required by the IDEA into Title I. By requiring schools to identify the specific services that

214. See § 1400(d). Notably, the IDEA excludes students whose “[s]pecific learning disability” is “primarily the result of . . . environmental, cultural, or economic disadvantage.” § 1401(30)(C).

215. § 1414(d).

216. *Endrew F. v. Douglas Cnty. Sch. Dist. Re-1*, 580 U.S. 386, 399 (2017).

217. See *id.* at 386; § 1401(3).

218. *Individuals with Disabilities Education Act, Part B (IDEA-B)*, PA. DEP’T OF EDUC., <https://www.education.pa.gov/K-12/Special%20Education/FundingGrants/Pages/IDEA-Part-B-Section-611.aspx> [<https://perma.cc/ZF6R-WVL6>]; § 1401(1).

219. FRESNO CNTY. SUPERINTENDENT OF SCHS., FEDERAL IDEA ALLOWABLE USE OF FUNDS, 6–8, <https://selpa.fcoe.org/sites/selpa.fcoe.org/files/2018-07/Federal%20IDEA%20-%20Allowable%20Use%20of%20Funds%2C%20v.%208.2.pdf> [<https://perma.cc/A9VW-N33Y>]; § 1411(e)(2)(C).

220. See § 1415; *Why Are IEPs Important?*, THE INTENTIONAL IEP, <https://www.theintentionaliep.com/why-ieps-important/> [<https://perma.cc/62YT-JQKX>].

would best support each Title I student, administrators would have to consider the holistic—social, emotional, and academic—needs of each low-income student as a unique person. Also borrowing from the IDEA, Congress should amend Title I to provide qualifying students and parents with a legal right to the supplemental services that the Supreme Court previously denied under Equal Protection.²²¹ By including a cause of action, parents/guardians would be able to legally challenge a school if it were not providing a student with the identified and individualized services she was promised.

3. *Attract effective teachers and professionals*

As the principal of one high-poverty school said, “The power in helping children is not through a program, but through excellent teachers and interaction with teachers.”²²² She is not wrong—the school-based factor that has the greatest influence on academic success is a student’s teacher.²²³ All too often “new teachers are hired in high-poverty schools where students are behind in math and reading, yet they are not trained specifically to meet the specific needs of these students.”²²⁴ Further, the rate of teacher turnover in Title I Schools is 50% greater than that of non-Title I Schools, and “the inexperienced and underqualified teachers often hired to fill empty spots also have a negative impact on student learning.”²²⁵ Teachers in high-poverty schools are less likely to be fully credentialed.²²⁶ And those

221. See *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 16 (1973).

222. Camera & Cook, *supra* note 100.

223. Desiree Carver-Thomas & Linda Darling Hammond, *Teacher Turnover: Why It Matters and What We Can Do About It*, LEARNING POL’Y INST. (Aug. 16, 2017), <https://learningpolicyinstitute.org/product/teacher-turnover-report> [https://perma.cc/A5N3-LYYP].

224. Brenda Iasevoli, *New Teachers Are Often Assigned to High-Poverty Schools. Why Not Train Them There?*, EDUC. WK. (Aug. 3, 2018), <https://www.edweek.org/leadership/new-teachers-are-often-assigned-to-high-poverty-schools-why-not-train-them-there/2018/08> [https://perma.cc/BBK4-FPFA].

225. Carver-Thomas & Hammond, *supra* note 223 (estimating that “each teacher who leaves, on average, can cost as much as \$20,000 in an urban district”).

226. Emma García & Elaine Weiss, *Low Relative Pay and High Incidence of Moonlighting Play a Role in the Teacher Shortage, Particularly in High-Poverty Schools*, ECON. POL’Y INST. (May 9, 2019), <https://www.epi.org/publication/low-relative-pay-and-high-incidence-of-moonlighting-play->

teachers who teach in high-poverty schools make approximately 10% less than their counterparts in low-poverty schools.²²⁷ All of these factors combine to deter the strongest and most qualified teachers from teaching the students with the greatest need for their pedagogical expertise.²²⁸

It would behoove the federal government and individual schools to spend a significant portion of Title I money on providing an increase in teacher salaries to entice qualified teachers to teach and stay at high-poverty schools.²²⁹ Title I funds could be used to offer teacher (and other school professional) salaries in high-poverty schools that rival and/or surpass those in low-poverty districts. Additionally, Title I dollars could be used on more effective training for the new teachers that inevitably flock to high-poverty schools. For example, one school district implemented a strategy for increasing teacher effectiveness and reducing turnover by employing “‘associate teachers’ who will teach part-time and spend the remainder of their day observing master teachers in action and planning their own lessons.”²³⁰ Policymakers could look to this district as an example of how to use Title I to support teacher effectiveness and retention.

4. *In defense of prioritizing eligible students*

One potential issue with increasing the threshold for operating a schoolwide program is that the lower threshold catches students whose families are low income but make too much money to qualify for Title I.²³¹ Those students, while still

a-role-in-the-teacher-shortage-particularly-in-high-poverty-schools-the-third-report-in-the-perfect-storm-in-the-teacher-labor-marke/ [https://perma.cc/8BVX-QYC5].

227. *Id.*

228. *See id.* One report of Pennsylvania schools found that “the evidence overwhelmingly shows that students most in need of well-qualified teachers are the least likely to be enrolled in schools that provide qualified teachers.” Mezzacappa, *supra* note 71.

229. *See generally* Nicole Simon & Susan Moore Johnson, *Teacher Turnover in High-Poverty Schools: What We Know and Can Do*, 117 TCHRS. COLL. REC., March 2015.

230. Iasevoli, *supra* note 224.

231. For example, students whose families struggle financially despite having incomes above \$57,720 (or 185% of the poverty threshold) for a family of four. *See sources cited supra* note 19.

subsisting on very little, would no longer benefit from schoolwide programs that provide them with a safety net.²³² A possible solution to this concern is for the Department of Education to shift away from the standards currently utilized (free and reduced lunch eligibility and federal poverty guidelines) to determine Title I eligibility.²³³ Instead, Congress could consider using a measure akin to a living wage standard.²³⁴ The income that constitutes a living wage varies greatly by region, with a livable annual household income for a family of four ranging from \$154,806 in Santa Barbara County, California, to \$100,874 in Philadelphia County, Pennsylvania, to \$72,585 in Adams County, Mississippi.²³⁵ Setting the threshold for eligibility at this level would create a larger net to ensure students who would benefit from receiving Title I services are eligible for the program.²³⁶

Another critique of prioritizing targeted assistance programs (as opposed to schoolwide programs) is that it requires parents to be more proactive, which may lead to eligible students falling through the cracks. As such, schools must be responsible for ensuring parents are aware of a student's eligibility to receive

232. See Janet Nguyen, *How Many People Are Really Facing Poverty in the U.S.?*, MARKETPLACE (Sept. 15, 2022), <https://www.marketplace.org/2022/09/15/how-many-people-are-really-facing-poverty-in-the-u-s/> [<https://perma.cc/UCB4-M53E>] (interviewing economics professor Robert Moffitt, who stated, "There are a lot of people who are just above the official poverty line who are still really struggling").

233. See Dynarski & Kainz, *supra* note 98.

234. See *About the Living Wage Calculator*, MASS. INST. TECH., <https://livingwage.mit.edu/pages/about> [<https://perma.cc/3DHG-Z36Y>] ("The living wage model . . . is a market-based approach that draws upon geographically specific expenditure data related to a family's likely minimum food, childcare, health insurance, housing, transportation, and other basic necessities. . .").

235. *Family Budget Map*, ECON. POL'Y INST., <https://www.epi.org/resources/budget/budget-map/> [<https://perma.cc/52BT-JSH6>] (Jan. 2024); see also Kavya Vaghul, Kelley-Frances Fenelon & Amy K. Glasmeier, *What a Living Wage Is and Why Businesses Should Use It as a Benchmark*, JUST CAP. (Oct. 7, 2022), <https://justcapital.com/reports/living-wage-guide-for-business-just-jobs-explained/> [<https://perma.cc/3FMY-6UG4>] (finding that the "national average living wage is \$24.16 per hour—or \$50,249 annually—for one worker in a family of two full-time working adults and two children," which reaches about \$100,498 per household if each parent is making the national average living wage).

236. See Nguyen, *supra* note 232 ("We need programs to cover some people who are not the poorest of the poor, but . . . are still really struggling to be able to afford all the basics.").

supplemental education services under Title I.²³⁷ Schools should be required to proactively distribute all appropriate forms for parents to fill out, and assistance if needed, to make sure as many eligible students as possible receive funding.²³⁸ Many schools already send income surveys to home with students and incentivize students to return them either by incorporating it into the curriculum as an assignment or providing other rewards for completing and submitting surveys.²³⁹ Schools could follow a similar process for Title I, in addition to advising parents/guardians about Title I services at back-to-school nights, school registration, and parent-teacher conferences. In other words, “[s]chools will bear [the] administrative burdens as they advertise the applications and surveys, keep tallies, and even make personal phone calls” to ensure eligible students receive Title I assistance.²⁴⁰

Presumably, fewer criticisms arise with regards to using Title I program funding to provide individualized services or increase teacher salaries. However, one critique of IEPs under the IDEA is that they are often cumbersome for teachers and administrators to create, update, and implement.²⁴¹ Therefore, identifying individualized services under Title I should involve

237. *Explained: What Is Title I and How Is It Used to Fund Our Schools?*, *supra* note 129.

238. See *supra* notes 120–28 and accompanying text. Notably, the IDEA puts the burden on schools to identify students who may have disabilities. See *Individuals with Disabilities Education Act, Part B (IDEA-B)*, *supra* note 218. While a similar approach could be implemented under Title I, it would be more effective to have all parents submit income surveys and Title I paperwork to the school. Then the school can submit the paperwork for all eligible students to the appropriate LEAs and SEAs to ensure the students and school receive adequate funding.

239. *Strategies for Engaging Parents with Your Income Surveys*, IMAGE ONE (Dec. 2, 2021), <https://www.image-1.com/document-scanning-service-blog/strategies-for-engaging-parents-with-your-income-surveys/> [https://perma.cc/A9NA-287J].

240. Carly Flandro, *Districts Push to Collect Income Data to Support At-Risk Students*, IDAHO EDUC. NEWS (July 11, 2022), <https://www.idahoednews.org/news/districts-push-to-collect-income-data-to-support-at-risk-students/> [https://perma.cc/6CF8-CB4Z].

241. See, e.g., Mark Alter, Marc Gottlieb & Jay Gottlieb, *Four Ways Schools Fail Special Education Students*, EDUC. WK. (Feb. 23, 2018), <https://www.edweek.org/teaching-learning/opinion-four-ways-schools-fail-special-education-students/2018/02> [https://perma.cc/ZTL7-KQ56]; Iris Ctr., IEP Process: Common Errors, https://iris.peabody.vanderbilt.edu/wp-content/uploads/pdf_info_briefs/iep_process_common_errors_information_brief.pdf [https://perma.cc/9QXL-39GL].

a less onerous process. For instance, Title I could require much less documentation to receive and provide services. Although there is no way to eliminate the added burden of individualizing the process, doing so will undoubtedly increase the effectiveness of the services.²⁴² As with the IDEA, Title I funds could be used to shoulder the added costs of identifying the appropriate individualized services for each qualifying student. Finally, although schools currently use much of the Title I funding to compensate teachers, this Note suggests that rather than using federal money to simply add more teachers, it should be used to raise salaries in high-poverty schools to attract and retain the most qualified teachers.²⁴³

C. Amendment Three: Providing Title I Cash Assistance

The best way to help children is by helping their parents.²⁴⁴ All too often, “efforts of early childhood programs to provide a stable learning environment may be stymied by an unstable home environment.”²⁴⁵ As it stands, Title I fails to adequately consider the out-of-school needs of the children it serves.²⁴⁶ However, it is critical that school leaders employ a holistic approach to address a problem, like poverty, that permeates virtually every aspect of a student’s life. While “poverty harms children’s development,” financial assistance “can improve children’s development, including . . . improved school achievement, reductions in juvenile crime and psychiatric disorders, and increased earnings and lower risk of heart attacks and strokes in adulthood.”²⁴⁷

242. See *supra* Section III.B.2.

243. See *supra* Section III.B.3.

244. See Joanna Venator & Isabel V. Sawhill, *5 Policies That Help Children by Helping Their Parents*, BROOKINGS INST. (Nov. 13, 2014), <https://www.brookings.edu/articles/5-policies-that-help-children-by-helping-their-parents/> [<https://perma.cc/HN8R-4F87>].

245. *Id.*

246. See *supra* Part III.

247. Lisa A. Gennetian & Katherine Magnuson, *Three Reasons Why Providing Cash to Families with Children Is a Sound Policy Investment*, CTR. ON BUDGET & POL’Y PRIORITIES (May 11, 2022), <https://www.cbpp.org/research/income-security/three-reasons-why-providing-cash-to-families-with-children-is-a-sound> [<https://perma.cc/PKT4-6MCV>].

1. *Prior success with direct cash assistance*

Providing cash assistance to low-income families is not a new concept.²⁴⁸ The social welfare program most known for making cash payments to assist low-income families is the since-replaced Aid to Families with Dependent Children (AFDC), established as part of the Social Security Act of 1935.²⁴⁹ In 1935, the AFDC provided cash payments of \$18 for a family's first child and \$12 for any additional children.²⁵⁰ The goal of the legislation was to support children in need who were "deprived of parental support or care because their father or mother was absent from the home, incapacitated, deceased, or unemployed."²⁵¹ More recently, cash assistance programs became an integral part of the federal government's response to COVID-19 when Congress passed legislation to curb the economic impact of the pandemic.²⁵² Notably, the stimulus checks provided under the Consolidated Appropriations Act in late 2020 and the American Rescue Plan Act (ARPA) in March of 2021 kept a total of 4.4 million children out of poverty.²⁵³

ARPA also expanded an existing federal child poverty alleviation program called the Child Tax Credit.²⁵⁴ Congress

248. See *Aid to Families with Dependent Children (AFDC) and Temporary Assistance for Needy Families (TANF) – Overview*, U.S. DEP'T OF HEALTH & HUM. SERV. OFF. OF THE ASSISTANT SEC'Y FOR PLANNING & EVAL., <https://aspe.hhs.gov/aid-families-dependent-children-afdc-temporary-assistance-needy-families-tanf-overview> [<https://perma.cc/JU69-RQVP>] [hereinafter *Aid to Families*].

249. *Id.*

250. *A Brief History of the AFDC Program*, U.S. DEP'T OF HEALTH & HUM. SERV. OFF. OF THE ASSISTANT SEC'Y FOR PLANNING & EVAL. 7 (May 31, 1998), <https://aspe.hhs.gov/sites/default/files/private/pdf/167036/1history.pdf> [<https://perma.cc/7KZT-P664>].

251. *Aid to Families*, *supra* note 248.

252. See *Covid-19 Economic Relief*, U.S. DEP'T OF TREASURY, <https://home.treasury.gov/policy-issues/coronavirus> [<https://perma.cc/4XFY-VEX7>] (listing COVID-19 relief measures).

253. SUZANNE MACARTNEY, ROBIN GHERTNER, LAUREN WHEATON & LINDA GIANNARELLI, U.S. DEP'T OF HEALTH & HUM. SERV. OFF. OF THE ASSISTANT SEC'Y FOR PLANNING & EVAL., *FEDERAL ECONOMIC STIMULUS PROJECTED TO CUT POVERTY IN 2021, THOUGH POVERTY MAY RISE AS BENEFITS EXPIRE 4* (2022).

254. Leigh Wedenoja, *The Expanded Child Tax Credit Looks Like the Earned Income Tax Credit – That's Great News*, ROCKEFELLER INST. OF GOV'T (July 7, 2021), <https://rockinst.org/blog/the-expanded-child-tax-credit-looks-like-the-earned-income-tax-credit-thats-great-news/> [<https://perma.cc/8PZN-23A6>].

increased payments to credit-eligible families from \$2,000 to \$3,000 per child between the ages of six and seventeen and to \$3,600 for children under the age of six.²⁵⁵ This Advance Child Tax Credit provided benefits to couples with a combined income of up to \$150,000 or single parents with an income up to \$112,500.²⁵⁶ The impact of the Advance Child Tax Credit cannot be overstated—the program kept 1.8 million children out of poverty and reduced the childhood poverty rate by 23% to a “record low” of 5.2% in 2021.²⁵⁷ In touting the success of the Advance Child Tax Credit, one policy expert noted, “[i]f kids are not poor, if households are not stressed by poverty, then they’re more likely to . . . do better in school, get more education and be on a better path forward as adults.”²⁵⁸ Remarkably, when the expansion expired, child poverty increased by 41% in one month, raising concern for policymakers interested in a continued decline in childhood poverty.²⁵⁹ Despite the

255. *The Child Tax Credit*, THE WHITE HOUSE, <https://www.whitehouse.gov/child-tax-credit/> [<https://perma.cc/7JHR-ZLCE>]; American Rescue Plan Act of 2021, Pub. L. No. 117-2, § 9611, 135 Stat. 4 (expanding the existing federal child poverty alleviation program through various amendments).

256. § 9611(a)(4)(B); *The Child Tax Credit*, *supra* note 255.

257. MACARTNEY ET AL., *supra* note 253, at 1; Lorie Konish, ‘The Stakes Are High.’ *Why There’s a Push for Congress to Renew the Expanded Child Tax Credit This Year*, CNBC, <https://www.cnbc.com/2022/11/22/why-theres-a-push-for-congress-to-expand-the-child-tax-credit-in-2022.html> [<https://perma.cc/3PMS-6PV3>] (Nov. 22, 2022, 3:48 PM).

258. Priyanka Boghani, *What Happened to Poverty in America in 2021*, PBS: FRONTLINE (Dec. 22, 2021), <https://www.pbs.org/wgbh/frontline/article/poverty-america-2021-covid-pandemic/> [<https://perma.cc/K9AW-A9VE>].

259. See Marin Cogan, *The Profound Impact of Giving American Families a Little More Cash*, VOX, <https://www.vox.com/the-highlight/23056876/expanded-child-tax-credit-poverty-american-families-impact> [<https://perma.cc/2DJM-9X55>] (May 23, 2022, 7:29 AM); Konish, *supra* note 257 (quoting Center on Budget and Policy Priorities deputy director, Kris Cox, saying, “Child poverty is a choice . . . Policy makers face this stark choice at the end of the year, whether they’re going to act to expand the CTC in some way or whether they’re going to allow millions of children to fall back into poverty”). Reflecting on the 15.3 million people who fell below the poverty line after the COVID-19 relief programs expired, Center on Budget and Policy Priorities president, Sharon Parrott, remarked, “The poverty rate for children more than doubled from a historic low of 5.2 percent in 2021 to 12.4 percent in 2022, erasing all of the record gains made against child poverty over the previous two years.” Press Release, Sharon Parrott, President, Ctr. on Budget & Pol’y Priorities, Record Rise in Poverty Highlights Importance of Child Tax Credit; Health Coverage Marks a High Point Before Pandemic Safeguards Ended (Sept. 12, 2023), <https://www.cbpp.org/press/statements/record-rise-in-poverty-highlights-importance-of-child-tax-credit-health-coverage> [<https://perma.cc/595F-EVAE>].

indisputable success of these pandemic-era programs in lifting children and families out of poverty, each one has since expired, taking along with it any gains made.

2. *Direct cash assistance through Title I*

Given the success of these federal cash payment programs, and to account for the fact that student achievement in the classroom is heavily influenced by factors outside of it,²⁶⁰ Congress should allocate a significant portion of Title I funding to provide direct subsidies to parents/guardians of eligible students. Policymakers should look to the Advance Child Tax Credit as a model of a similar—and highly successful—federal intervention.²⁶¹ However, Congress should alter the schema used for the Advance Child Tax Credit when crafting the Title I direct payments so that: 1) subsidies only go to the parents/guardians of students who qualify for Title I funding; and 2) the lowest-income students and families are not deprived of payments.

Whereas the Child Tax Credit was available to a two-parent household with a combined income up to \$150,000, a Title I cash subsidy should be reserved for those with a combined annual income at or below \$57,720 (185% of the 2024 federal poverty measure) or another similar poverty indicator.²⁶² Additionally, while the Child Tax Credit provides “only partial credit or no credit at all” if the “families’ earnings are too low,” Title I cash assistance should be available in full to all qualifying families without an income minimum.²⁶³ Instituting a lower income threshold than the government used for the Advance Child Tax

260. See *supra* Part I.

261. See American Rescue Plan Act of 2021, Pub. L. No. 117-2, § 9611, 135 Stat. 4; KRIS COX, SAMANTHA JACOBY & CHUCK MARR, CTR. ON BUDGET & POL’Y PRIORITIES, STIMULUS PAYMENTS, CHILD TAX CREDIT EXPANSION WERE CRITICAL PARTS OF SUCCESSFUL COVID-19 POLICY RESPONSE 1 (2022), <https://www.cbpp.org/sites/default/files/6-22-22fedtax.pdf> [<https://perma.cc/JBL7-Y27P>].

262. See Child Nutrition Programs: Income Eligibility Guidelines, 87 Fed. Reg. 8780, 8782 (Feb. 16, 2022).

263. Danilo Trisi & Matt Saenz, *Economic Security Programs Reduce Overall Poverty, Racial and Ethnic Inequalities*, CTR. ON BUDGET & POL’Y PRIORITIES, <https://www.cbpp.org/research/poverty-and-inequality/more-than-4-in-10-children-in-renter-households-face-food-and-or> [[https://perma.cc/5WCB-WA\[JQ\]](https://perma.cc/5WCB-WA[JQ])] (July 1, 2021).

Credit and eliminating the minimum income requirement would ensure that payments support the lowest-income students.²⁶⁴ Additionally, the lower threshold for eligibility would allow each family to receive a more meaningful amount by not spreading funding too thin. In determining payment amounts, policymakers should consider a study that found “a credit of \$1,000 increases elementary and middle school test scores by 6 to 9 percent.”²⁶⁵

3. *In defense of providing cash assistance*

While conservatives generally disfavor providing direct cash payments to people living in poverty, invoking the Reagan-era invention of the dependent “welfare queen,”²⁶⁶ their concerns that federal subsidies will be misused are largely unfounded.²⁶⁷ Rather, studies of the Advance Child Tax Credit found that 51% of recipients used the money to purchase food, 30% to purchase clothing, 29% to pay utility bills, and 25% to purchase books and school supplies.²⁶⁸ Congresswoman Rosa DeLauro aptly stated, “These monthly payments helped parents pay bills, keep healthy and nutritious food on the table, afford school clothes

264. *See id.*

265. Jason Furman & Krista Ruffini, *Six Examples of the Long-Term Benefits of Anti-Poverty Programs*, WHITE HOUSE ARCHIVES (May 11, 2015, 8:06 AM), <https://obamawhitehouse.archives.gov/blog/2015/05/11/six-examples-long-term-benefits-anti-poverty-programs>.

266. *See* Emily Ekins, *What Americans Think About Poverty, Wealth, and Work*, CATO INST. (Sept. 24, 2019), <https://www.cato.org/publications/survey-reports/what-americans-think-about-poverty-wealth-work#attitudes-about-taxing-rich> [https://perma.cc/2RMR-VPN3] (finding that 83% of Republicans do not support an increase in welfare spending and 80% of conservatives oppose any form of wealth redistribution from rich to poor); Bryce Covert, *The Myth of the Welfare Queen*, THE NEW REPUBLIC (July 2, 2019), <https://newrepublic.com/article/154404/myth-welfare-queen> [https://perma.cc/LTW2-E7MV] (criticizing the conservative creation of the “welfare queen [who] stood in for the idea that black people were too lazy to work, instead relying on public benefits to get by” as a myth that nonetheless became “a potent stereotype, which helped fuel a crackdown on the poor and a huge reduction in their benefits, and it remains powerful today”).

267. *See* Michael Karpman, Elaine Maag, Genevieve M. Kenney & Doug Wissoker, *Who Has Received Advance Child Tax Credit Payments, and How Were the Payments Used?*, URB. INST. (Nov. 4, 2021), <https://www.urban.org/research/publication/who-has-received-advance-child-tax-credit-payments-and-how-were-payments-used> [https://perma.cc/MEV7-EQ34].

268. *Id.*

and supplies, pay for a music lesson or a new pair of cleats, or manage a mortgage or rent payment.”²⁶⁹

For those who argue that throwing money at the problem is not the solution, consider that “better outcomes linked with stronger income assistance include . . . better childhood nutrition, higher reading and math test scores, higher high school graduation rates, less use of drugs and alcohol, and higher rates of college entry.”²⁷⁰ Importantly, plenty of research indicates that the most effective poverty alleviation strategy is providing cash subsidies to people living in poverty who are able to use the cash to meet their specific needs as they see fit.²⁷¹ Further, “in instances where cost-benefit analyses are available, the additional tax revenue from the higher long-run earnings stemming from [cash assistance] programs is sufficient to cover most or all of the initial cost.”²⁷² In fact, “cash support to families can yield large future benefits, ameliorating the impact of poverty on individuals’ productivity and health as well as reducing crime, child maltreatment, and homelessness.” All in all, the benefits—reducing childhood poverty—far outweigh the risks—potential misuse of funds—and support using Title I to provide direct cash payments to low-income families.

CONCLUSION

The negative impact of poverty on a student’s ability to thrive in school is profound and ubiquitous. However, the federal government’s primary attempt to remedy poverty-driven disparities in educational outcomes through Title I has proven inadequate. Rather, this legislative measure provides relatively

269. Press Release, Rep. Rosa DeLauro, DeLauro, DelBene, Torres Reintroduce Legislation to Expand and Improve Child Tax Credit (June 7, 2023), <https://delauro.house.gov/media-center/press-releases/delauro-delbene-torres-reintroduce-legislation-expand-and-improve-child> [<https://perma.cc/QCE3-ZK9M>]. Representative DeLauro, along with Representatives Suzan DelBene (WA-01) and Ritchie Torres (NY-15), reintroduced a bill that seeks to make the expanded Child Tax Credit permanent. *Id.*

270. See Trisi & Saenz, *supra* note 263.

271. Laura Santhanam, *Why the U.S. Is Rethinking Its Approach to Poverty*, PBS (Mar. 19, 2021, 6:00 AM), <https://www.pbs.org/newshour/health/why-the-u-s-is-rethinking-its-approach-to-poverty> [<https://perma.cc/7WZE-YWJU>].

272. Furman & Ruffini, *supra* note 265.

negligible funding to schools, which is then used to fund ineffective programs that fail to support low-income students. Significant income-based achievement gaps remain, and Title I's goal of guaranteeing all students a "fair, equitable, and high-quality education" remains largely unrealized. Policymakers at the federal level must take more calculated measures to decrease the educational inequities that poor students in America experience.

To make progress toward greater educational equity, Congress should prioritize both financial and programmatic investment in low-income students. To that end, Congress should alter Title I in three ways that would make it a more effective piece of federal legislation. First, Congress should significantly increase the Title I budget and fully fund the program for the first time in its history. Second, Congress should raise the threshold for operating a schoolwide Title I program to ensure Title I Schools educate more low-income students than not. Relatedly, Congress should require schools to provide eligible students with individualized services and create a private right of action that allows parents/guardians to enforce the provision of identified services. Finally, Congress should use Title I funding to provide direct payments to parents/guardians of eligible low-income K-12 students. With these three changes, Title I can abolish the existing narrative that a child's educational achievement is determined by her socioeconomic status. Only then would public education truly merit its reputation as the "great equalizer."