

RETHINKING SCHOOL SAFETY

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ABSTRACT

Since its inception in 1990, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, the “Clery Act,” has held institutions of higher education accountable by requiring campuses to accurately document incidents on campuses and provide this information to students, employees, and prospective students. This federal regulation allows individuals to have a realistic understanding of criminal activity on college and university campuses and provides educational information to campus communities. The topic of school safety is at the forefront of many student, parent, and faculty concerns at K-12 institutions in the United States and there is currently no uniform tool for accurately measuring crime on these campuses. Given the immense worry leading to an increase in security measures on campuses, one would think it prudent to have reliable data that supports the implementation of these measures—some of which are costing taxpayers billions of dollars. Scholars have agreed for many years that there is a need for uniform data collection in this area that accurately reflects the conditions schools and students are facing. This data would better help experts to address local, regional, and national problems. Some scholars do go as far to suggest that the Clery Act should be expanded to K-12 schools in an effort to combat gaps in Title IX. However, current scholarship on the topic does not address the feasibility of this expansion, nor have there been any specific proposals. This means that the collection of quantitative

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data remains elusive, and children may not be well-versed on policies meant to protect them.

This Article suggests that the current framework of the Clery Act should be extended to K-12 institutions via an amendment in the reauthorization of the Every Student Succeeds Act of 2015. This would allow school districts to maintain established relationships with local law enforcement while allowing any decision districts make regarding safety measures to be supported by accurate and sufficient data. This may be an imperfect solution long term, but it would be a good start given the heightened concerns regarding school safety. The extension of the Clery Act will allow communities to work through their concerns more thoroughly and toward a safer school environment, while protecting students who currently face disproportionate impacts and consequences of current safety measures.

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INTRODUCTION

Parent A is starting a new job in Region X. Parent A and their spouse, Parent B, have two school-aged children and currently live in Region M. Region M is across the United States from Region X, meaning that their family will be moving, and the family will need to consider school options for their children. Region X is a bustling metropolitan area with an abundance of school districts to move into, many private schools to choose from, and a few charter schools. Parent B is a stay-at-home parent and would also be open to homeschooling their children. If the only factor Parents A and B are considering when deciding where to live is where they should send their children to school in order to receive the best possible education, how should Parents A and B reach a decision?

Many individuals would likely argue that the most important factor in deciding where to send one's children for an education would be the quality of the actual education itself. Because of this, about 10% of families in the United States¹ pay around \$24,000 annually per child in order to send their children to private primary and secondary schools, though the cost varies by state and level of education.²

Most families do so because of the stellar academic reputations of the private schools as compared to the public schools in their school district.³ Some families might consider this

1. *Back-to-School Statistics*, NAT'L CTR. FOR EDUC. STATS., [https://perma.cc/3WEW-YA63] (last visited Nov. 11, 2025); Maya Riser-Kositsky, *The U.S. Private School Market: An Explainer*, EDWEEK MKT. BRIEF (Apr. 16, 2025), <https://marketbrief.edweek.org/education-market/the-u-s-private-school-market-an-explainer/2025/04> [https://perma.cc/B9YB-7C24].

2. Melanie Hanson, *Average Cost of Private School*, EDUC. DATA INITIATIVE (Aug. 29, 2024), <https://educationdata.org/average-cost-of-private-school> [https://perma.cc/3PKM-46YJ].

3. See Cole Claybourn, *Private School vs. Public School*, U.S. NEWS & WORLD REP. (Aug. 19, 2023), <https://www.usnews.com/education/k12/articles/private-school-vs-public-school> [https://perma.cc/7CHP-SCHH]. Although, research regarding whether there is a correlation between superior academics and private schools is often mixed and varies depending on location due to considerations such as funding. 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/6M4S-XQ3T].

alongside other additional factors including available transportation options,⁴ a school's ability to provide its students with necessary accommodations,⁵ and extracurricular offerings.⁶ Parents A and B may very well be weighing these factors as they decide what is best for their children.

However, a growing number of parents are considering the safety of a school to be the most important factor when deciding

4. See *Student Transportation and Educational Access*, URB. INST., [https://perma.cc/T2F8-XHG2] (last visited Nov. 11, 2025). The Urban Institute provides reports that describe the state of school transportation in five major cities throughout the United States. *Id.* The reports demonstrate that many factors, including type of school and demographics, impact the method by which children are able to get to school. *Id.*

5. See Crystal Grant, *Special Education by Zip Code: Creating Equitable Child Find Policies*, 52 LOY. U. CHI. L.J. 127, 148–50 (2020). Grant writes that one can consider this through an analysis based on cultural capital and stratification:

[T]o account for the disproportionate allocation of special education resources, we can acknowledge how a system where white middle-class parents may have greater access to thorough private evaluations, may advocate for the “right” medical diagnosis, understand how to request special education evaluations, obtain training on the IDEA’s requirements, and have access to expert consultants and legal advocates will result in greater access to services and support for children with disabilities. *Children with disabilities who live in more affluent suburban school districts will find that their school administrators and teachers can focus on their needs and not whether the school district can afford to provide services.* White parents in affluent suburban districts are more likely to possess the cultural capital and stratification necessary to implement the IDEA and overcome any funding deficits if they exist.

Id. at 150 (emphasis added). Additionally, “parents [in regional focus groups] reported that schools and districts have openly admitted that resources are limited, and therefore the school[s] are] unable to provide a comprehensive set of services and supports to the child.” NAT’L COUNCIL ON DISABILITY, *BROKEN PROMISES: THE UNDERFUNDING OF IDEA* 35 (2018), [https://perma.cc/5L4K-LF57]; see also *Overview of Funding for Pre-K–12 Education*, AM. SPEECH-LANGUAGE-HEARING ASS’N, https://www.asha.org/advocacy/schoolfundadv/overview-of-funding-for-pre-k-12-education/ [https://perma.cc/8247-TFMQ] (last visited Nov. 11, 2025) (describing how Congress has authorized up to 40% per-pupil expenditures through the IDEA). Actual appropriations have historically resulted in less than 40%, and “[s]tate allocation formulas for special education vary and are dependent on the local district’s tax structure. Equalization is not guaranteed and there is a wide disparity in funding in some geographical areas across the nation.” *Id.*

6. See Eileen O’Brien & Mary Rollefson, *Extracurricular Participation and Student Engagement*, NAT’L CTR. FOR EDUC. STATS. (June 1995), https://nces.ed.gov/pubs95/web/95741.asp [https://perma.cc/PG3M-E7QD] (“[R]esearch suggests that participation in extracurricular activities may increase students’ sense of engagement or attachment to their school, and thereby decrease the likelihood of school failure and dropping out.”).

whether to enroll their children,⁷ such that some families may be considering if they should send their children to a brick-and-mortar school at all.⁸ A 2019 survey revealed that 36% of school-aged children had parents that considered one or more types of schools.⁹ Of that group, 71% of parents indicated that school safety, including student discipline, was very important to them.¹⁰ Of this same group of parents, 59% rated the curriculum focus and academic programming as very important in their considerations.¹¹ The 2023 Gallup Work and Education survey also revealed that 38% of parents fear for their child's safety at school.¹² The same Gallup survey showed that 14% of parents responded that their children have expressed their own concerns over safety at their schools.¹³

Considering this information, Parent A and Parent B will likely want to seriously contemplate the safety of each school district and private school in Region X prior to making their decision on where to move. But how are they supposed to learn about how safe a school or school district is? Should they trust that administrators are honest with them if they ask? Parents helping their children consider institutions of higher education ("IHEs") can access the Annual Security Reports ("ASRs") from each campus, compiled as a requirement of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime

7. *Why Do Parents Choose Schools for Their Children?*, NAT'L CTR. FOR EDUC. STATS.: BLOG (July 30, 2020), <https://ies.ed.gov/learn/blog/why-do-parents-choose-schools-their-children> [<https://perma.cc/3RK6-ZRUG>].

8. See generally Megan M. Tylenda, *Raising the Bar for Parental Choice: Establishing and Improving Regulations for Homeschooling*, 17 ALB. GOV'T L. REV. 1, 6 (2024) (examining various aspects of homeschooling in the United States).

9. RACHEL HANSON, CHRIS PUGLIESE & SARAH GRADY, U.S. DEP'T OF EDUC., NCES 2020-076, PARENT AND FAMILY INVOLVEMENT IN EDUCATION: 2019, at A-9 n. 4 (2020), <https://nces.ed.gov/pubs2020/2020076full.pdf> [<https://perma.cc/7599-P764>].

10. *Id.* at A-8.

11. *Id.*

12. Jeffrey M. Jones, *School Parent Safety Concerns Remain High in the U.S.*, GALLUP (Aug. 31, 2023), <https://news.gallup.com/poll/510398/school-parent-safety-concerns-remain-high.aspx> [<https://perma.cc/4J7C-ZXZF>].

13. *Id.*

Statistics Act (“Clery Act”).¹⁴ The Clery Act is “a consumer protection law that aims to provide transparency around campus crime policy and statistics.”¹⁵ Generally well-accepted as a tool to increase awareness of crime on campuses, the Clery Act allows IHEs to track trends on their campuses and on other campuses across the country in an effort to be proactive and transparent.¹⁶ Further, one of the goals upon the Clery Act’s inception was “to provide crime information so that parents, potential students, and potential employees [would] be better able to evaluate an institution before they make a commitment to it.”¹⁷ However, families with children in grades K-12 have no such tool. Given the current state of school safety and the level of concern parents have, surely a similar tool would benefit K-12 institutions and families. Furthermore, a change at the federal level is largely overdue because concern for safety in American schools has been ongoing in nature for about three decades and is only continuing to grow to the extent that school safety has become a multi-billion dollar industry.¹⁸

As a result of the mounting safety concerns at the K-12 level, this Article suggests that K-12 institutions would benefit from the extension of the Clery Act despite its traditional application to IHEs.¹⁹ The extension of the Clery Act to K-12 institutions would benefit community leaders, families, and students alike

14. See, e.g., Sarah Wood, *College Campus Safety: Questions to Ask*, U.S. WORLD NEWS & WORLD REP. (Nov. 11, 2022, at 14:22 ET), <https://www.usnews.com/education/best-colleges/applying/articles/college-campus-safety-questions-to-ask> [<https://perma.cc/64GQ-MS2V>].

15. *Z.J. v. Vanderbilt Univ.*, 355 F. Supp. 3d 646, 703 (M.D. Tenn. 2018).

16. See Dennis E. Gregory & Steven M. Janosik, *The Clery Act: How Effective Is It? Perceptions from the Field – The Current State of the Research and Recommendations for Improvement*, 32 STETSON L. REV. 7, 8, 10 (2002).

17. Steven M. Janosik, *Parents’ Views on the Clery Act and Campus Safety*, 45 J. COLL. STUDENT DEV. 43, 54 (2004).

18. See Dewey G. Cornell & Matthew J. Mayer, *Why Do School Order and Safety Matter?*, 39 EDUC. RESEARCHER 7, 7 (2010); Charlotte Morabito, *The School Security Industry Is Valued at \$3.1 Billion. Here’s Why That May Not Be Enough*, CNBC (July 6, 2022, at 12:46 ET), <https://www.cnbc.com/2022/07/06/the-school-security-industry-was-valued-at-3point1-billion-in-2021.html> [<https://perma.cc/XYT6-QDQ3>].

19. 4 EDUCATION LAW § 9.02 (2025), LexisNexis (database updated 2025).

by allowing for more accurate data collection in regard to crime rates and sexual misconduct/violence on campuses, ultimately allowing leaders to implement the most relevant and best practices for their schools. This extension would also benefit K-12 communities because schools would be inclined to teach students about certain topics and issues that do not only emerge once on a college campus. Moreover, this change may alleviate some of the negative impacts current school safety practices have that disproportionately impact students with disabilities, students of color, and undocumented students.²⁰ By providing communities and community leaders with accurate data, and students with more personal knowledge, schools can more efficiently address local, regional, and statewide concerns, while federal leaders can propose legislation with appropriate background information. A proposal such as this one has only been addressed in the context of sexual assault on campus, and these proposals have been made without much context or specificity as to how this extension might be feasible.²¹ Because of this, this Article seeks to not only address how the Clery Act might complement current safety practices and policies in K-12 education, but also to provide a roadmap for how this extension might unfold in practice with respect to school safety as a whole.²²

This Article proceeds in four parts. Part I discusses the current state of school safety in K-12 institutions and the impact that unsafe educational environments have on children. Part II

20. See *infra* notes 93–102 and accompanying text.

21. See Emily Suski, *The Two Title IXs*, 101 N.C. L. REV. 403, 429–30 (2023).

22. The Author acknowledges that the legal landscape of federal involvement in education is shifting. This Article was originally written in 2023–24, prior to President Donald Trump's Executive Order to wind down operations of the Department of Education. See Exec. Order No. 14,242, 90 Fed. Reg. 13679 (Mar. 20, 2025). Should the oversight of Clery Act compliance fall under another agency, the Article should be construed to support the Clery Act's extension under that agency. It is difficult to predict the future of the U.S. Department of Education, but the issues and arguments presented in this Article remain of critical importance with the hope that children in the United States will, one day, be able to learn safely at their schools without fear of how they might be treated by school officials due to implicit bias or lack of training, or violence on their campuses.

of the Article describes current actions that K-12 institutions are taking to create safe schools, including campus resource officers, emergency procedures, educational programming, and requirements under Title IX. The potential shortfalls of these practices are also examined. Part III then provides background of the Clery Act, its amendments, and the core requirements that it imposes on IHEs, in addition to addressing its effectiveness and criticisms. Finally, Part IV addresses how the Clery Act can close gaps in K-12 institutions' safety practices and how this extension will benefit children, parents, and communities by examining benefits of standardized data collection, educational resources, and the overlap of Title IX and the Clery Act in IHEs. Part IV also provides a roadmap as to how this extension may be feasible when considering its applicability to educational institutions. The Article then provides brief conclusory remarks.

I. THE STATE OF SCHOOL SAFETY IN K-12

This Part details concerns for students' bodily and mental safety, providing context for why enhanced safety reporting is critical for enhancing students' safety and providing some examples of measures that are currently in place. The Part describes how current safety measures impact students, the difficulties demonstrating their effectiveness, and how additional data collected from safety reporting can be used to further develop current practices as to be conscientious of the impact on students while being mindful of financial costs to schools and school districts.

A. Cause for Concern: The School Safety Epidemic

Today's educational landscape is facing more than just an influx of AI Technologies in the classroom,²³ teacher shortages,²⁴ and troubles with transportation.²⁵ Schools across America are facing what experts and national organizations are calling a "school safety epidemic."²⁶ The United Nations Educational, Scientific and Cultural Organization defines school safety as "the process of establishing and maintaining a school that is a physically, cognitively[,] and emotionally safe space for students and staff to carry out learning activities."²⁷ School safety measures "can include procedures for maintaining a structurally sound building, conducting emergency drills[,] and having an outlet for students and staff to report abuses or concerns."²⁸

23. See, e.g., John Bailey, *AI in Education*, EDUC. NEXT, Fall 2023, at 28, 32, <https://www.educationnext.org/a-i-in-education-leap-into-new-era-machine-intelligence-carries-risks-challenges-promises/> [<https://perma.cc/RFN5-C3QS>].

24. See, e.g., Mariah Balingit, *Teacher Shortages Have Gotten Worse. Here's How Schools Are Coping*, WASH. POST (Aug. 24, 2023), <https://www.washingtonpost.com/education/2023/08/24/teacher-shortages-pipeline-college-licenses/> [<https://perma.cc/CY9E-NGRV>].

25. See, e.g., Jessica Albert, *Howard County Public Schools Bus Issues Have Parents Frantic on First Day: 'No Bus Came'*, CBS NEWS BALT. (Aug. 28, 2023, at 23:11 ET), <https://www.cbsnews.com/baltimore/news/howard-county-public-schools-issues-statement-after-school-bus/> [<https://perma.cc/X582-YPLK>] (describing how immense delays in the bus schedule meant that many parents had to drive their children to school on the first day); Sydney Durand, *Remote Learning Days Implemented as West Shore School District Struggles with Student Transportation*, FOX43 (Sep. 17, 2023, at 21:54 ET), <https://www.fox43.com/article/news/local/cumberland-county/west-shore-school-district-announces-remote-learning-days-due-to-transportation-issues-fox43/521-dd482410-7a54-4f7c-aa41-383e0d522e96> [<https://perma.cc/7KKQ-S8H3>] (describing how the school district implemented remote learning for two weeks to try and solve its transportation problems).

26. Press Release, Nat'l PTA, Nat'l PTA & N.Y. St. PTA Statement on Violence at McKinley High School (Feb. 10, 2022), <https://www.pta.org/home/About-National-Parent-Teacher-Association/PTA-Newsroom/news-list/news-detail-page/2022/02/11/national-pta-and-new-york-state-pta-statement-on-violence-at-mckinley-high-school> [<https://perma.cc/L2B6-QJ3X>]; SMITHSONIAN EDUC., *Plenary: Let's Talk: Our Shared Future Through Education*, at 8:20–9:00 (Youtube, July 27, 2022), <https://www.youtube.com/watch?v=xHG2r9jWTso&t=65s> [<https://perma.cc/F9EE-H3LT>].

27. UNESCO INT'L INST. FOR CAPACITY BLDG. IN AFR., *SCHOOL SAFETY MANUAL: TOOLS FOR TEACHERS*, at V (2017).

28. *Id.*

The rise in school shootings over the past two decades²⁹ and inevitable educational inequalities that occur due to the effect safety has on learning have led to an increasing amount of debate over school safety more generally.³⁰ Many school districts and states are attempting to meet concerns with added safety measures³¹ and proposed legislation as a result.³² At the federal level, President Donald Trump instituted the Federal Commission on School Safety under the U.S. Department of Education in 2018 during his first term.³³ Before that, the federal government acknowledged the effects of unsafe environments on children by including a ‘persistently dangerous schools’ clause in the No Child Left Behind Act.³⁴ These adaptations, although not an exhaustive list, are often applied unequally based on funding and other factors, however. For example, the Final Report of the Federal Commission on School Safety aimed to provide recommendations for keeping children safe while they were at school.³⁵ Yet the data that formed these recommendations was formulated through field visits, outreach to stakeholders, and

29. See *17 Facts About Gun Violence and School Shootings*, SANDY HOOK PROMISE, <https://www.sandyhookpromise.org/blog/gun-violence/facts-about-gun-violence-and-school-shootings/> [https://perma.cc/Z7L3-XRQW] (last visited Nov. 11, 2025); *School Shootings in 2023: How Many and Where*, EDUC. WEEK (Jan. 18, 2024), <https://www.edweek.org/leadership/school-shootings-this-year-how-many-and-where/2023/01> [https://perma.cc/BE7Z-ZL8Z].

30. See generally Dru Stevenson, *Gun Violence as an Obstacle to Educational Equality*, 50 U. MEM. L. REV. 1091, 1092 (2020) (finding that “gun violence is both a result and cause of ongoing educational inequality” due to the media and legislative focus on mass shootings rather than street violence).

31. See Kristin Goodwillie, *Students React to Safety Improvements at Seattle Public Schools*, KING 5 (Aug. 30, 2023, at 18:36 PT), <https://www.king5.com/article/news/education/students-safety-improvements-seattle-public-schools/281-e4c0a2bb-9bbc-4fa0-9f14-c137b33b9937> [https://perma.cc/8BLP-C6VX]; see *infra* Part III.

32. See, e.g., Maria Méndez, *New School Safety Laws Seek to Add Armed Guards, Chaplains and Mental Health Training. Here’s What You Need to Know.*, TEX. TRIB. (July 14, 2023, at 05:00 CT), <https://www.texastribune.org/2023/07/14/texas-school-safety/> [https://perma.cc/A8WX-9FJN]; see also *infra* Part II (describing current attempts to create safer schools).

33. See FED. COMM’N ON SCH. SAFETY, FINAL REPORT OF THE FEDERAL COMMISSION ON SCHOOL SAFETY 6 (2018).

34. See No Child Left Behind Act of 2001, Pub. L. No. 107-110, § 9532, 115 Stat. 1425, 1984 (2002).

35. See FED. COMM’N ON SCH. SAFETY, *supra* note 33, at 6.

listening sessions,³⁶ rather than hard data.³⁷ This is a decent start,³⁸ although efforts must be more effective as the impact of a potentially unsafe academic environment can take an immense toll on children mentally and ultimately may affect their ability to succeed.

B. Effects of Unsafe Learning Environments on Children & Their Education

Some school environments are seeing high rates of crime, drug use, and other “unsafe” conditions that are having a negative impact on students’ ability to learn.³⁹ Experts have described this impact through studies demonstrating that students who feel unsafe are unable to learn productively.⁴⁰ And, that requires students to show up to school.⁴¹ Student perceptions of safety are not solely based on crime itself; perceptions are also often shaped by “disciplinary fairness, school disorder, and racial tensions in the school.”⁴² It is difficult to surmise how one’s identities may also influence perceptions of school safety, as some studies demonstrate that boys are more likely to

36. *See id.*

37. *See infra* Part IV. Hard data could have easily been collected if a Clery Act structure for Annual Reports was in place at the K-12 level, for example. *See id.* This is not to say that qualitative data is not helpful, because qualitative data “is value-laden, flexible, descriptive, holistic, and context sensitive; i.e. an in-depth description of the phenomenon from the perspectives of the people involved.” Kaya Yilmaz, *Comparison of Quantitative and Qualitative Research Traditions: Epistemological, Theoretical, and Methodological Differences*, 48 EUR. J. EDUC. 311, 312 (2013). But quantitative data, such as the Clery Act collects, is objective and “emphasizes the measurement and analysis of causal relationships between isolated variables within a framework which is value-free, logical, reductionistic, and deterministic, based on *a priori* theories.” *Id.*

38. The examples provided are non-exhaustive. *See infra* Parts II.B & II.C.

39. *See Stevenson, supra* note 30, at 1092, 1099 (stating that students facing gangs, guns, and violence experience education inequality).

40. *See generally* Johanna Laco, *Too Scared to Learn? The Academic Consequences of Feeling Unsafe in the Classroom*, 55 URB. EDUC. 1385, 1386 (2020) (stating that productive learning cannot occur without a safe learning environment).

41. *See id.* at 1386–87. When analyzing data from New York City middle schools, students who felt unsafe in their classes were absent about two more days on average than their peers who reported feeling safe in their classes. *See id.* at 1397.

42. *Id.* at 1388.

perceive their schools as “unsafe” whereas others show girls are more likely to perceive their schools as “unsafe.”⁴³ Moreover, undocumented students may feel unsafe at their schools due to anti-immigrant rhetoric amongst students or the community their school is in.⁴⁴ Regardless of the root cause, the feeling of being unsafe at one’s school may lead students to stay home in order to avoid the unsafe environment, and school absences⁴⁵ contribute to a decrease in one’s test scores as compared to their potential.⁴⁶ However, lower test scores are but one consequence: a lack of school safety also gravely impacts students’ mental well-being and other areas of life.⁴⁷

Studies also show that the stress caused by perceptions of an unsafe learning environment correlates with depression and suicidal behavior, including self-harm.⁴⁸ Living through violent incidents may impact students’ behavior and their general

43. See Yuko Mori, Elina Tiiri, Prakash Khanal, Jayden Khakurel, Kaisa Mishina & Andre Sourander, *Feeling Unsafe at School and Associated Mental Health Difficulties Among Children and Adolescents: A Systemic Review*, 8 CHILD. 232, Mar. 17, 2021, at 1, 7.

44. See generally Carolina Valdivia, Marisol Clark-Ibáñez, Isabel Patten, Jose Ruiz Escutia & Josefina Espino, *Fear and Stigma: How Undocumented Students Navigate Disclosure Amid Heightened Immigration Enforcement and Rising Anti-Immigrant Sentiment*, 68 SOCIOLOG. PERSPS. 123, 128–130 (2025) (describing undocumented students’ reluctance to divulge their undocumented status outside their family unit because of racist rhetoric and fear of “retaliation in today’s hostile landscape”).

45. Reducing the rate of school absence amongst children goes beyond school safety, as “chronic absenteeism,” which is “defined as having missed 10% all overall school hours, no matter what the reason is for the absence,” has generally increased in recent years such that some states are seeking to combat the issue as a whole with legislation. Susan Tebbin, *Ohio Sets Goals to Attack School Absenteeism*, OHIO CAP. J. (Nov. 1, 2023, at 04:50 ET), <https://ohiocapitaljournal.com/2023/11/01/ohio-sets-goals-to-attack-school-absenteeism/> [<https://perma.cc/8UQN-8ZZ3>]. Ohio is working to address this general issue through state truancy laws. See *id.* The larger issue of chronic absenteeism is beyond the scope of this Article, but the solutions proposed within may help address the issue as a whole.

46. See Lacoce, *supra* note 40, at 1390.

47. The White House released a statement that the Biden-Harris Administration is seeking to address this issue due to the impact that absenteeism has on students’ test scores, which in turn impacts their futures as individuals, labor market potential, health, and may lead to “increased involvement in the criminal justice system.” *Chronic Absenteeism and Disrupted Learning Require an All Hands-on-Deck Approach*, THE WHITE HOUSE (Sept. 13, 2023), <https://biden-whitehouse.archives.gov/cea/written-materials/2023/09/13/chronic-absenteeism-and-disrupted-learning-require-an-all-hands-on-deck-approach/> [<https://perma.cc/Q3FT-SNCU>].

48. See Mori, *supra* note 43, at 7.

cognitive skills.⁴⁹ This may be, in part, due to the impact that trauma may cause on the brain because “[r]esearch identifies that exposure to trauma can result in damage to the hippocampus, which is known to be involved in memory integration.”⁵⁰ Students may also be affected by PTSD, which can have detrimental impacts on their overall mental well-being.⁵¹ Circling back to academic performance, scholars point out that negative experiences such as violent behavior and bullying “are common in schools and can have damaging effects on children’s performance in school and their future life outcomes.”⁵² Accordingly, it is pertinent that more is done to tackle this issue as students’ ability to thrive mentally and academically is at stake, which can gravely impact their futures.⁵³

II. CURRENT ATTEMPTS TO CREATE SAFER SCHOOLS

Safety measures on school grounds are widespread and can mean many different things dependent on the goals of the decision-makers and the perceptions of the intended beneficiaries. Common safety measures that K-12 institutions often adopt include requiring visitors to sign-in, performing lockdown drills, using security cameras, equipping classrooms with locks on the inside of doors, emergency notification systems, and threat-reporting systems, among others.⁵⁴ This Part seeks to describe

49. Louis-Philippe Beland & Dongwoo Kim, *The Effect of High School Shootings on Schools and Student Performance*, 38 EDUC. EVALUATION & POL’Y ANALYSIS 113, 113 (2016).

50. *Id.* at 114 (citations omitted).

51. *Id.* at 114–15.

52. Heather L. Schwartz, Rajeev Ramchand, Dionne Barnes-Proby, Sean Grant, Brian A. Jackson, Kristin J. Leuschner, Mauri Matsuda & Jessica Saunders, *Can Technology Make Schools Safer?*, RAND CORP. (Aug. 22, 2016), https://www.rand.org/pubs/research_briefs/RB9922.html [<https://perma.cc/R3HM-XXAU>].

53. *See, e.g., Understanding Mental Health as a Public Health Issue*, TUL. UNIV. SCH. OF PUB. HEALTH & TROPICAL MED. (Jan. 13, 2021), <https://publichealth.tulane.edu/blog/mental-health-public-health> [<https://perma.cc/MU65-UNPT>].

54. *See Katherine Schaeffer, U.S. School Security Procedures Have Become More Widespread in Recent Years but Are Still Unevenly Adopted*, PEW RSCH. CTR. (July 27, 2022),

some of the common measures, their impact on schools and students, and methods of implementation.

A. Title IX and State Legislation

Schools that receive federal funding must comply with Title IX of the Education Amendments Act of 1972, a federal law that aims to protect students from sexual violence and harassment.⁵⁵ Students, or their parents, may file a complaint regarding incidents that occur on their school's campus or at school-regulated places.⁵⁶ Typically, investigations begin when a student or the student's parent(s) sign a formal complaint with a school's Title IX Coordinator.⁵⁷ But, if a teacher has witnessed or heard about

<https://www.pewresearch.org/short-reads/2022/07/27/u-s-school-security-procedures-have-become-more-widespread-in-recent-years-but-are-still-unevenly-adopted/> [<https://perma.cc/AT6A-UMVX>].

55. See 20 U.S.C. §§ 1681–88. Author's Note: This Article was written while the 2023/2024 regulations were anticipated, following the 2020 regulations because the new final rule, following the APA's notice and comment period, was still yet to be published by the Office for Information and Regulatory Affairs. See Brett Sokolow, *It Looks Like We Won't Have Final Title IX Regulations by October 2023... Now What?*, JD SUPRA (Aug. 30, 2023), <https://www.jdsupra.com/legalnews/it-looks-like-we-won-t-have-final-title-6355975/> [<https://perma.cc/H2T3-RPCC>]. However, the author acknowledges that since this time, the final rule was published and subsequently thrown out by a federal judge after nearly a year of legal challenges. See *Tennessee v. Cardona*, 762 F. Supp. 3d 615, 621, 628 (E.D. Ky. 2025). The final rule would have expanded the types of misconduct that campuses are required to address. See U.S. DEPT. OF EDUC., U.S. DEPARTMENT OF EDUCATION TITLE IX FINAL RULE OVERVIEW (2024). It remains to be seen whether any changes may go into effect in President Trump's second term that would impact these facts, especially given the administration's attempts to dismantle the Department of Education altogether. See also *infra* notes 57–59.

56. 34 C.F.R. § 106.45 (2024) (setting out Title IX complaint process). The complainant must be a current student or attempting to be a student at the time of the complaint. *Id.* § 106.45(a)(2)(ii). However, § 106 is also facing legal challenges. See *Carroll Indep. Sch. Dist. v. U.S. Dep't of Educ.*, No. 4:24-CV-00461-O, 2025 WL 1782572, at *3–4 (N.D. Tex. Feb. 19, 2025) (striking the Biden Administration's Final Rule under § 106 expanding Title IX's protection to LGBTQ+ individuals). But see Johanna Alonso, *Department of Education Reverts to Trump's Title IX Rule*, INSIDE HIGHER ED (Feb. 3, 2025), <https://www.insidehighered.com/news/government/politics-elections/2025/02/03/department-education-reverts-trumps-title-ix-rule> [<https://perma.cc/R23U-YP9F>].

57. Title IX Coordinators, in addition to other individuals involved in the investigatory process, receive training and maintain that there are not any conflicts of interest or biases against any complainant or respondent involved in a matter. *Grievance Procedures for the Prompt and Equitable Resolution of Complaints of Sex Discrimination*, 34 C.F.R. §§ 106.45(a)(2), 106.45(b)(2) (2024).

misconduct, they are required to report the allegations as a mandatory reporter, which automatically results in notifying Child Welfare Services and law enforcement.⁵⁸ An institution's obligation to respond depends on "actual knowledge."⁵⁹ For IHEs, this means that a mandated reporter for the institution has either received a report or has directly observed sexual harassment, whereas this obligation is triggered in K-12 institutions in circumstances where officials/employees "knew or should have known (e.g., through observation, overhearing conversations of uninvolved individuals, or receiving a complaint)."⁶⁰

Title IX covers misconduct in three instances: first, Title IX applies when there is conduct that "is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity."⁶¹ Second, Title IX applies to conduct that fits the federal definitions of sexual assault, stalking, dating violence, and domestic violence.⁶² Third, Title IX applies to Quid Pro Quo harassment by a school employee.⁶³

Throughout the grievance process, both complainants and respondents must be treated in an equitable manner, the evidence must be evaluated objectively, and there must be "a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is

58. See 34 C.F.R. § 106.44(a) (2024), *invalidated by*, Carroll Indep. Sch. Dist. v. U.S. Dep't of Educ., No. 4:24-CV-00461-O, 2025 WL 1782572, at *1, *3 (N.D. Tex. Feb. 19, 2025).

59. Aleks Ostojic Rushing, Anne D. Cartwright & John W. Borkowski, *K-12 Education v. Higher Education in Title IX Compliance: 2020 Regulations*, K-12 LEGAL INSIGHTS (Nov. 10, 2020), <https://www.k-12legalinsights.com/2020/11/k-12-education-v-higher-education-in-title-ix-compliance-2020-regulations/> [<https://perma.cc/9H7M-BUFG>].

60. *Id.* (clarifying that employees and officials also include coaches, bus drivers, and other peripheral school officials).

61. 34 C.F.R. § 106.2(2) (2024), *invalidated by*, Carroll Indep. Sch. Dist. v. U.S. Dep't of Educ., No. 4:24-CV-00461-O, 2025 WL 1782572, at *3-4 (N.D. Tex. Feb. 19, 2025) (defining "[h]ostile environment harassment").

62. 34 C.F.R. § 106.45(3) (2024).

63. 34 C.F.R. § 106.45(1) (2024).

made.”⁶⁴ The grievance process may function as a safety mechanism in the sense that the regulation must ensure that the complainant is safe, which may include “initiating interim protective measures (e.g., placing students in separate classes) before the final outcome of any investigation.”⁶⁵ Additionally, live hearings for formal complaints are discretionary for K-12 institutions, meaning that while individual schools or districts may require hearings within their own policies, they are not required by law as the hearings are for IHEs.⁶⁶

Despite this robust criteria and process, there is no federal law requiring that children receive any instruction or educational resources on sexual harassment.⁶⁷ This puts a large burden on school employees and officials to recognize when sexual harassment may have occurred and ultimately renders Title IX at the K-12 level reactive rather than proactive. Professionals in education, meanwhile, have advocated for discussions based on these topics beginning in elementary school.⁶⁸ In addition, “a 2018 study . . . indicates that addressing sexual and gender-based harassment in middle school is not only developmentally appropriate, but critical for intervention.”⁶⁹ The lack of information and notable compliance problems⁷⁰ indicate that while

64. See 34 C.F.R. § 106.45(b)(3).

65. LEADING A SAFE PLACE TO LEARN, NAT’L CTR. ON SAFE SUPPORTIVE LEARNING ENV’TS 4 (2016), https://safesupportivelearning.ed.gov/sites/default/files/SP2L2_E2-I-IV_LeadingGuide.pdf [<https://perma.cc/26MS-6XSX>].

66. Rushing et al., *supra* note 59.

67. See *infra* Section IV.A.

68. See Stephen Sawchuk, *Could the #MeToo Movement Change Sex Ed.?*, EDUC. WEEK (Jan. 26, 2018), <https://www.edweek.org/leadership/could-the-metoo-movement-change-sex-ed/2018/01> [<https://perma.cc/C5VP-PLNL>].

69. Comm. for Child., *Why Addressing Sexual Harassment in Middle School is Vital*, PARENT MAP (Jan. 31, 2022), <https://www.parentmap.com/article/voices-education-why-addressing-sexual-harassment-middle-school-vital> [<https://perma.cc/4VUW-REGE>].

70. See Carolyn A. Haney, Comment, *Addressing the High School Sexual Assault Epidemic: Preventive and Responsive Solutions*, 8 IND. J.L. & SOC. EQUAL. 89, 98 (2020) (describing the K-12 compliance problems with Title IX and stating that “the Executive Director of the Association of Title IX Administrators estimat[es] that 85% of school districts are not in compliance”).

this system and procedure exist, it is ultimately just one of many areas of school safety that could benefit from reexamination.

Moreover, while state legislation is certainly more comprehensive than federal policy, school safety at the K-12 level still lacks consistency. Aside from the utilization of on-campus officers, security technologies, and other safety measures, safety is wildly inconsistent across schools in the United States due to varied state legislation—if it exists at all.⁷¹ For example, only twenty-eight states require that school safety plans include emergency response procedures.⁷² School safety plans themselves are only required by forty-four states and the District of Columbia in their statutes or regulations.⁷³ Varied requirements can mean that a state may not include the need for teachers and staff to receive safety training in their statutes, while other states include basic or intense training.⁷⁴

Basic or intense training may include training on threat assessments, just one method of reducing potentially extreme violence on school campuses, as “targeted school violence is arguably only the tip of the iceberg of pain, loneliness, desperation, and despair that many students in this nation’s schools deal with on a daily basis.”⁷⁵ Even though threat

71. See Bryan Kelley, Daizha Brown, Lauren Peisach & Zeke Perez Jr., *50 State Comparison: K-12 School Safety*, EDUC. COMM’N OF THE STATES (Oct. 5, 2022), <https://www.ecs.org/50-state-comparison-k-12-school-safety-2022/> [<https://perma.cc/NGD8-P4DX>].

72. *Id.*

73. *Id.* Additionally, just forty-five states include safety drills in their statutes or regulations, and only sixteen states “require safety audits of school facilities.” *Id.*

74. Compare *id.* (describing how Arizona, Arkansas, and Hawaii, amongst other states, have no statutory requirement for teachers and staff to receive school safety training), with 511 IND. ADMIN. CODE § 6.1-2-2.5 (West 2020) (requiring that staff and students receive instruction in emergency preparedness) and GA. CODE ANN. § 20-2-1185(a) (West 2025) (requiring that teachers and staff receive training on topics of school safety, mental health awareness, school threat assessment, and best practices for school emergency plans).

75. U.S. SECRET SERV. & U.S. DEP’T OF EDUC., *THREAT ASSESSMENT IN SCHOOLS: A GUIDE TO MANAGING THREATENING SITUATIONS AND CREATING SAFE SCHOOL CLIMATES* 11 (2004), <https://www.ed.gov/sites/ed/files/admins/lead/safety/threatassessmentguide.pdf> [<https://perma.cc/46EG-9R2T>].

assessments are generally accepted as a successful tool,⁷⁶ it is up to state legislators to develop and pass related legislation and the state governor to sign the legislation into law. Only eleven states have implemented legislation requiring school threat assessment team protocols and trainings as of 2025, and each has done so differently,⁷⁷ which may create difficulty in assessing strengths and weaknesses of this invaluable tool.

The variance in regulation and policy—even beyond threat assessment requirements—is widespread, meaning that all students may not have an equal opportunity at attending a school in a safe environment, at least foundationally. And although some states do require schools to collect certain data,⁷⁸ some states even requiring annual reports,⁷⁹ these may not help alleviate issues or help national experts address trends appropriately. Even if the information is publicly available, decision-makers who develop the reporting criteria⁸⁰ may do so without regard to national trends or guidelines. This might mean certain crimes or issues may not be accurately captured depending on

76. See, e.g., Evie Blad, *A State Mandated School Threat Assessment. Here's What It Meant for Students*, EDUC. WEEK (July 24, 2023), <https://www.edweek.org/leadership/a-state-mandated-school-threat-assessment-heres-what-it-meant-for-students/2023/07> [https://perma.cc/D4S4-D377]. Author's Note: The article cited in this footnote describes a report led by the Department of Justice. However, as of February 5, 2025, this data has been removed from the Department of Justice database per President Trump's Executive Order. The article does not provide as much data but will be useful as educators and scholars attempt to move forward without the tremendously helpful data highlighted in the report itself.

77. *Which States Require In-School Threat Assessment Teams?*, EVERYTOWN RSCH. & POL'Y, <https://everytownresearch.org/rankings/law/school-threat-assessment-teams/> [https://perma.cc/YN2T-Y7GM] (last visited Nov. 11, 2025).

78. See, e.g., MICH. COMP. LAWS § 380.1308 (2023).

79. Robert Malone Jr., Elizabeth K. Davenport, Brian M. Hickey & Melvin Robinson, *An Examination of the Impact of Safe School Funding on the Incidences of Violent Behaviors in the School Environment of a Rural and Urban School District*, 6 INT'L J. EDUC. ADMIN. & POL'Y STUD. 101, 102–03 (2014) (describing the School Environment Safety Incident Report that the Florida Department of Education releases annually in an effort to assess and improve safety in schools within the state).

80. See, e.g., FLA. STAT. ANN. § 1006.07(9) (West 2022) (designating the State Board of Education as the body to determine reporting criteria for School Environment Safety Incident Reports).

politics within the state.⁸¹ Many might agree that state legislation requiring reporting on school safety data is a good start. However, school safety is a nationwide issue and may be better addressed as such through nationwide reporting and evaluation.

B. Police and Security Technologies

In the ongoing debate on how best to address school safety concerns, two concepts are repeatedly utilized as theoretical ways in which schools may improve their safety measures: safety resource officers and safety technologies. These strategies are often encouraged by politicians as definitive methodologies to create safe schools. For example, Vice President J.D. Vance made statements on the topic in a debate with Vice Presidential candidate Tim Walz. Vice President Vance stated:

But what do we do about the schools? What do we do to protect our kids? And I think the answer is, and I say this not loving the answer because I don't want my kids to go to a school that feels unsafe or where there are visible signs of security. But I unfortunately think that we have to increase security in our schools. We have to make the doors lock better. We have to make the doors stronger. We've got to make the windows stronger. And of course, we've got to increase school resource officers because the idea that we can magically wave a wand and take guns out of the hands of the bad guys, it just doesn't fit with recent experience. So we've got to make our schools safer, and I think we've got to have some

81. Hypothetically, a state that imposes anti-LGBTQ+ legislation, especially in its schools, may not include requirements for hate crimes, such as the Clery Act does. *See infra* note 180 and accompanying text. This could lead to misleading and disproportionate data collection.

common sense, bipartisan solutions for how to do that.⁸²

As Vice President Vance indicates, these solutions are not without their faults. Finding the common sense, bipartisan solutions may be better supported with hard data, especially given the negative effects that accompany Vice President Vance's propositions, as explored throughout this subsection.

1. *Police as safety resource officers*

Violent events on school campuses have led some parents and school leaders to call for an increased security presence of law enforcement officers on campus.⁸³ Police presence on campus has expanded for many years and has included community outreach, assistance in investigations, and security.⁸⁴ The intention behind employing police officers—assigned to schools as safety resource officers (“SROs”)⁸⁵—is to provide an extra layer of safety at schools through various objectives as determined by statute and each school.⁸⁶ At this time, though, some districts

82. Stefan Becket, *Read the Full VP Debate Transcript from the Walz-Vance Showdown*, CBS NEWS (Oct. 2, 2024, at 10:18 ET), <https://www.cbsnews.com/news/full-vp-debate-transcript-walz-vance-2024/> [<https://perma.cc/LJ9A-GPA4>].

83. *See id.*; Jason P. Nance, *Students, Police, and the School-to-Prison Pipeline*, 93 WASH. U. L. REV. 919, 926 (2016).

84. *See Nance, supra* note 83, at 945–46.

85. 34 U.S.C. § 10389(4) (defining an SRO as “a career law enforcement officer, with sworn authority, deployed in community-oriented policing, and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations”); *see also* Stephen Sawchuk, *School Resource Officers (SROs), Explained*, EDUC. WEEK: SCH. CLIMATE & SAFETY (Nov. 16, 2021), <https://www.edweek.org/leadership/school-resource-officer-sro-duties-effectiveness> [<https://perma.cc/67S5-8FD5>] (“A school resource officer is a sworn law-enforcement officer with arrest powers who works, either full or part time, in a school setting. Nearly all SROs are armed (about 91 percent, according to federal data), and most carry other restraints like handcuffs as well.”).

86. The statute, for example, states that objectives of SROs include “develop[ing] or expand[ing] community justice initiatives for students” and “assist[ing] in developing school policy that addresses crime and to recommend procedural changes.” 34 U.S.C. § 10389(4)(D), (G). However, how these objectives are handled relies on decision-makers within each individual school, too.

are beginning to remove officers from school grounds⁸⁷ due to concerns that the SROs are contributing to further problems.⁸⁸

Besides being expensive,⁸⁹ SROs continue to face scrutiny for their adverse impacts, one of which is their potential to contribute to the school-to-prison pipeline.⁹⁰ Scholars on this subject note that despite financial and societal expenses, decision-makers have routinely pushed to expand SRO programs without determining whether the programs are effective.⁹¹ There is relatively little data as to programs' effectiveness to begin with, although it is clear from existing studies that a large percentage of students find the presence of SROs alienating and harmful.⁹²

For example, students with disabilities are often disproportionately impacted because SROs are not adequately trained to recognize certain behaviors and may penalize students for certain interactions via disciplinary measures or unnecessary arrests.⁹³ Students of color have also faced disproportionate rates

87. See Eileen Pomeroy & Mauricio Peña, *Chicago Schools Started Removing Police Two Years Ago. What's Happened Since?*, CHALKBEAT CHI. (Aug. 16, 2022, at 14:13 ET), <https://chicago.chalkbeat.org/2022/8/16/23308391/chicago-public-schools-police-school-resource-officers-restorative-justice-whole-school-safety-plan> [<https://perma.cc/REP7-X8VW>]; Jill Cowan, Shawn Hubler & Kate Taylor, *Protestors Urged Defunding the Police. Schools in Big Cities Are Doing It.*, N.Y. TIMES (Mar. 8, 2021), <https://www.nytimes.com/2021/02/17/us/los-angeles-school-police.html> [<https://perma.cc/6H8R-DU2M>]. But see Tim Arango, *Schools Bring Police Back to Campuses, Reversing Racial Justice Decisions*, N.Y. TIMES (June 27, 2023, at 15:57 ET), <https://www.nytimes.com/2023/06/27/us/school-police-resource-officers.html> [<https://perma.cc/TD3R-C78V>] (describing how Denver schools decided to provide more social workers in place of police officers, but reversed course two years later after an uptick in crime and parental concern).

88. See Arango, *supra* note 87.

89. See generally MONTERRAT AVILA-ACOSTA & LUCY C. SORENSEN, URB. INST., *CONTEXTUALIZING THE PUSH FOR MORE SCHOOL RESOURCE OFFICER FUNDING 2* (2023) (explaining that although the exact cost is unclear due to a lack of reporting requirements, the Urban Institute currently estimates that the "national annual expenditures on SROs to be between \$2.12 billion and \$2.34 billion").

90. See, e.g., Nance, *supra* note 83, at 949–52.

91. See *id.* at 947–48.

92. See *id.* at 948–49; AVILA-ACOSTA ET AL., *supra* note 89, at 6–7; Joseph B. Ryan, Antonis Katsiyannis, Jennifer M. Counts & Jill C. Shelnut, *The Growing Concerns Regarding School Resource Officers*, 53 INTERVENTION SCH. & CLINIC 188, 190 (2018).

93. See Madeleine Morris, *School Resource Officers: Do the Benefits of Student Safety Outweigh Their Negative Impacts?*, 41 CHILD'S LEGAL RTS. J. 193, 195 (2021).

of discrimination by SROs.⁹⁴ Moreover, undocumented students face additional difficulties in schools with SROs, potentially being subject to what is known as the “school-to-deportation” pipeline.⁹⁵ The disproportionate impact felt among students may vary from causing a student not to graduate from high school to rendering a student ineligible for immigration status that they may have otherwise been eligible for in the future, to the extent the student is suddenly facing deportation.⁹⁶

For immigrant students in particular, an increased presence of SROs at this time may increase levels of fear among students. Despite it being a longstanding policy for Immigration and Customs Enforcement (“ICE”) officers not to make arrests on school grounds and that schools typically cannot track the immigration status of students, many school districts are bracing for what could happen if an officer appears on campus due to recent rhetoric regarding mass deportations.⁹⁷ Moreover, the memorandum that implemented this policy was revoked in early 2025, leaving many educators unsure of what may happen

94. *Id.*

95. Sarah Kim Pak, Ignacia Rodriguez Kmec, Emma Tynan & Mark R. Warren, *Caught in an Educational Dragnet: How the School-to-Deportation Pipeline Harms Immigrant Youth and Youth of Color*, NAT’L IMMIGR. L. CTR. (May 19, 2022), <https://www.nilc.org/articles/caught-in-an-educational-dragnet-how-the-school-to-deportation-pipeline-harms-immigrant-youth-and-youth-of-color/> [https://perma.cc/C26E-J7PB] (“Employing strict monitoring policies meant to remove members of the MS-13 gang from New York schools, school administrators and the resident school resource officer (SRO) misinterpreted Alex’s doodles as gang symbols. Alex’s resulting three-day suspension alerted immigration officials that he could be a ‘threat’ to the United States, and after a lengthy detention, he was deported back to Honduras.”).

96. See, e.g., Laila L. Hlass, *The School to Deportation Pipeline*, 34 GA. ST. U. L. REV. 697, 698–99 (2018) (describing how an SRO filed an incident report claiming the student seeking immigration status had been seen hanging out with another student who admitted to being involved in gang activity, and although the statement was never further evaluated for its truth, upon its entry into proceedings regarding the student’s eligibility for Special Immigrant Juvenile Status, he was rendered deportable for the details in the SRO’s incident report).

97. See Dana Goldstein, *What if ICE Agents Show Up? Schools Prepare Teachers and Parents*, N.Y. TIMES (Jan. 7, 2025), <https://www.nytimes.com/2025/01/07/us/immigration-deportations-ice-schools.html> [https://perma.cc/RR93-KFEH].

if ICE shows up at their schools.⁹⁸ Knowing that SROs may escalate matters to a level at which even nonconfrontational means such as an incident report could lead to eventual deportation presents immense challenges to immigrant students—starkly disproportionate to those faced by their nonimmigrant peers—and prompts additional concerns if ICE were to arrive on school grounds.

Depending on school policies and state laws, SROs may also escalate non-immigration related matters, rendering what historically would have been school disciplinary matters into legal consequences for even slight disruptions at school that would not otherwise be considered crimes.⁹⁹ These interactions are troubling for a few reasons. Beyond the inherent discriminatory nature of the disciplinary actions taken by SROs,¹⁰⁰ these negative interactions have created divisive legal precedent, with courts across the United States unable to discern the appropriate level of authority and action for SROs.¹⁰¹ States also do not regulate SROs uniformly, meaning that duties vary from state-to-state and students may be subject to extreme amounts of intervention in one state or school district but not another.¹⁰²

While the existing literature indicates that SROs do not enhance school safety, politicians, such as the Vice President, are still advocating for these policies.¹⁰³ Senator Ted Cruz is still

98. See Brenda Álvarez, *NEA Shares Guidance as Immigration Changes Create Uncertainty*, NAT'L EDUC. ASS'N (Jan. 31, 2025), <https://www.nea.org/nea-today/all-news-articles/nea-shares-guidance-immigration-changes-create-uncertainty> [<https://perma.cc/ZZ3D-6ASW>].

99. Nance, *supra* note 83, at 949–51.

100. See, e.g., Ryan et al., *supra* note 92, at 190 (describing how students with disabilities are often subject to a disproportionate rate of school discipline, especially in interactions with SROs).

101. *Id.* at 188.

102. See *id.* at 190.

103. Erica Meltzer & Kalyn Belsha, *VP Debate Tackles School Shootings: Vance Backs More Police, Walz Supports Gun-Control Measures*, CHALKBEAT (Oct. 2, 2024, at 00:34 ET), <https://www.chalkbeat.org/2024/10/02/in-debate-vance-walz-discuss-child-care-and-stopping-school-shootings/> [<https://perma.cc/7FQY-4GND>].

pushing for more federal funding for these programs.¹⁰⁴ What would be most beneficial, before jumping to fund these programs with questionable efficiency, would be to examine hard data collected from all schools. Then, federal lawmakers such as Senator Cruz could more effectively advocate for,¹⁰⁵ or push back against, programs involving SROs. Alternatively, hard data could mean reforming these programs and creating a series of best practices for better implementation.

2. Security technologies and other tools

Security technologies in schools, such as metal detectors, have been present on some campuses for more than two decades, largely due to the response of school officials and communities following the mass shooting at Columbine High School.¹⁰⁶ They have traditionally been upheld in legal challenges because their use is minimally intrusive and serves the important governmental interest of keeping students, faculty, and staff safe from potential harms that could be caused by weapons easily detectable by these machines.¹⁰⁷ In fact, some technologies used

104. See School Resource Officer Act of 2022, H.R. 6712, 117th Cong. (2022); *Senators Cruz, Barrasso Introduce Legislation to Protect Kids, Double Number of School Resource Officers in Schools*, OFF. OF TED CRUZ (June 23, 2022), <https://www.cruz.senate.gov/newsroom/press-releases/senators-cruz-barrasso-introduce-legislation-to-protect-kids-double-number-of-school-resource-officers-in-schools> [hereinafter *Legislation to Protect Kids*] (describing how the proposed legislation would “[r]eallocate \$17.5 billion in unspent American Rescue Plan education funds to enhance school safety including by doubling the number of school resource officers nationwide . . . for K-12 schools”) [<https://perma.cc/KFT9-QZ93>]; *Sen. Cruz Fights to Pass Two School Safety Bills on Senate Floor*, OFF. OF TED CRUZ (Mar. 30, 2023), <https://www.cruz.senate.gov/newsroom/press-releases/sen-cruz-fights-to-pass-two-school-safety-bills-on-senate-floor> [<https://perma.cc/TBD8-XYN5>].

105. See, e.g., SAFE School Act, H.R. 2491, 118th Cong. (2023).

106. “Communities large and small began fortifying school buildings for the coming year with metal detectors, security cameras, and cops euphemistically known as school resource officers, or SROs.” MARK FOLLMAN, TRIGGER POINTS: INSIDE THE MISSION TO STOP MASS SHOOTINGS IN AMERICA 91 (2022); see, e.g., *Smith v. Norfolk City Sch. Bd.*, 46 Va. Cir. 238, 239–41 (Va. Cir. Ct. 1998).

107. See, e.g., *People v. Dukes*, 580 N.Y.S.2d 850, 852–53 (N.Y. Crim. Ct. 1992); cf. *United States v. Hartwell*, 436 F.3d 174, 179–81 (3d Cir. 2006) (discussing how the use of metal detectors in airports to achieve TSA objectives was appropriate due to their minimally invasive nature and their use in serving a governmental interest).

in schools are so common-place that individuals may not even consider them when they think about safety technologies in schools. For example, communication devices such as walkie-talkies and identification technology as simple as visitor badges and student/staff ID cards are highly utilized as school safety features.¹⁰⁸

Traditional security technologies are also being replaced by new emerging technologies, many of which are enhanced with Artificial Intelligence and biometric collection services.¹⁰⁹ These security measures might include an “e-hall pass”¹¹⁰ which would allow students to utilize a digital hall pass based in geo-location and also monitor their time in classes.¹¹¹ These new technologies belong to an industry that is rapidly growing and costing some school districts a fortune.¹¹² One school district in Georgia, for example, spent about five million dollars on a new system that would aid students in the event of a shooting on school grounds.¹¹³ The need for this technology is not necessarily supported by hard data and the adoption for its implementation has, to some extent, continuously operated on an unsupported basis. Mark Follman states:

[I]n the two decades since [the shooting at Columbine High School], school security had grown into a multibillion-dollar industry, with sales including everything from high-tech gunshot-detection

108. See Schwartz et al., *supra* note 52.

109. Maya Weinstein, *School of Surveillance: The Students' Rights Implications of Artificial Intelligence as K-12 Public School Security*, 98 N.C. L. REV. 438, 440–43 (2020). The intention behind these technologies is to increase student and teacher safety, although there are also growing concerns that these newer security systems may be interfering with students' rights because of the immense level of detail that the technology collects. *Id.* at 442–43.

110. See, e.g., *Securly Pass: Regain Control of Student Movement*, SECURLY, <https://www.securly.com/pass> [<https://perma.cc/HLA7-WJNU>] (last visited Nov. 11, 2025) (claiming to be the “first and most widely adopted digital hall pass system”).

111. See Weinstein, *supra* note 109, at 447–48.

112. See Natasha Singer, *Schools Are Spending Billions on High-Tech Defense Systems for Mass Shootings*, N.Y. TIMES (June 22, 2023), <https://www.nytimes.com/2022/06/26/business/school-safety-technology.html> [<https://perma.cc/HUF4-74J9>].

113. *Id.*

systems installed in buildings to “bulletproof” ballistic-plated backpacks for kids and consultant-run training drills, whose participants were in some cases shot at with blanks or splattered with fake blood. Some schools went so far as to store miniature baseball bats or buckets of rocks in classrooms for fighting off a possible attacker. What wasn’t available was any credible research showing that these kinds of measures had value beyond the salve of safety theatrics.¹¹⁴

In this way, when considering whether a school is “safe,” a parent may mistake the amount of safety technology present in a school for an affirmative sign that a school is safe when the reality in a school or district may not align with the amount, or the type, of technology present.

Additionally, safety technologies such as metal detectors have been found to lead to students to perceive their schools as unsafe.¹¹⁵ Even though many technologies are well-intentioned, these technologies encroach on children’s privacy by constantly monitoring students and collecting their biometric data.¹¹⁶ These high-tech systems are also not without inherent fault. For instance, the system that the Georgia school district chose, AlertPoint, “went haywire, sending false alarms to schools across one of the nation’s largest districts, causing lockdowns and frightening students.”¹¹⁷ However, as growing safety concerns mount among students and families, it is likely that courts would uphold these new technologies as reasonable if they were to be challenged, similar to upholding metal detectors when they were introduced into schools in the 1990s.¹¹⁸ This

114. FOLLMAN, *supra* note 106, at xiv.

115. Mori et al., *supra* note 43, at 7.

116. See Weinstein, *supra* note 109, at 450.

117. Singer, *supra* note 112.

118. See *Smith v. Norfolk City Sch. Bd.*, 46 Va. Cir. 238, 256 (Va. Cir. Ct. 1998) (holding that a school’s search policy that utilized hand-held metal detectors would not violate students’

does not mean, though, that mass-surveillance is the most appropriate tool to bolster school safety—particularly without hard data to support its use. Further, some school districts and schools have taken to monitoring social media as a means to maintain school safety.¹¹⁹ Unlike these traditional safety measures that have been upheld by courts, social media surveillance as a security tool may provide additional legal difficulties for schools.¹²⁰

3. *Emergency drills and procedures*

Based on self-reported data from 2019–2020, ninety-eight percent of U.S. public K-12 schools utilized lockdown drills, and ninety-six percent of the reporting schools “[h]ad a written plan that describes procedures to be performed in an active shooter scenario.”¹²¹ The PEW Research Center indicates that the percentage of schools with plans for an active shooter scenario has increased about seventy-nine percent from when this data began being collected in 2003–04.¹²² Safety drills are not federally required in K-12 schools but are instead left to state legislation or local school district policies.¹²³

constitutional rights “even under a traditional Fourth Amendment analysis . . . [or their] constitutional due process rights”).

119. See Schwartz et al., *supra* note 52.

120. Compare *Mahanoy Area Sch. Dist. v. B.L.*, 594 U.S. 180, 193 (2021) (holding that a student’s First Amendment rights had been violated when her high school suspended her from the cheerleading team associated with the school due to a post containing profanity on social media), with *Tinker v. Des Moines Indep. Cmty. Sch. Dist.* 393 U.S. 503, 513 (1969) (determining that schools have a special interest in regulating speech that “materially disrupts classwork or involves substantial disorder or invasion of the rights of others”).

121. Katherine Schaeffer, *U.S. School Security Procedures Have Become More Widespread in Recent Years But Are Still Unevenly Adopted*, PEW RSCH. CTR. (July 27, 2022), <https://www.pewresearch.org/short-reads/2022/07/27/u-s-school-security-procedures-have-become-more-widespread-in-recent-years-but-are-still-unevenly-adopted/> [<https://perma.cc/AT6A-UMVX>].

122. *Id.*

123. See *A Guide to Effective Lockdown Drills*, PARTNER ALL. FOR SAFER SCHS. (Feb. 16, 2024), <https://passk12.org/lockdown-drills/a-guide-to-effective-lockdown-drills-for-k-12-schools/> [<https://perma.cc/4S2N-NAU2>].

New York legislation requires schools to hold twelve drills related to emergency response each year, eight of which must be evacuation drills and the remaining four lock-down drills.¹²⁴ Rhode Island, similarly, requires schools to complete emergency drills and mandates that one drill every month involve lockdown procedures, emergency egress, or evacuation.¹²⁵ While most states provide comparable pieces of legislation,¹²⁶ five states and the District of Columbia have no such requirement.¹²⁷ Even if deference is given to school districts, there is no guarantee that those schools are preparing students for emergencies that could occur on campus.

Additionally, there is no requirement that schools send notice to parents or students in an age-appropriate manner when a reported crime has occurred on campus.¹²⁸ This may mean that parents and students are left in the dark when it comes to potentially hazardous situations on campus. It is inevitable that students may not always report a crime, such as assault, to administrators,¹²⁹ but if there has been a report and law enforcement has been involved, it would be more transparent for schools to notify parents and students where appropriate to encourage them to remain vigilant, at the very least. Coupled with safety education, transparent notices would give more power to students and parents to make informed decisions.

124. N.Y. EDUC. LAW § 807 (McKinney 2023).

125. 16 R.I. GEN. LAWS ANN. § 16-21-4 (West 2023).

126. See, e.g., COLO. REV. STAT. ANN. § 22-32-109.1 (West 2023); MINN. STAT. ANN. § 121A.037 (West 2023); VT. STAT. ANN. tit. 16, § 1481 (West 2023); WISC. STAT. ANN. § 118.07 (West 2023).

127. These states include West Virginia, Missouri, Massachusetts, Hawaii, and Arizona. *K-12 School Safety 2022: School Safety Drills*, EDUC. COMM'N OF THE STATES (Oct. 2022), <https://reports.ecs.org/comparisons/k-12-school-safety-2022-04> [<https://perma.cc/3B74-8JVJ>].

128. Suzanne Sibole, *When Should Parents Be Notified of a Safety Threat at Their Child's School?*, LINKEDIN (July 6, 2016), <https://www.linkedin.com/pulse/when-should-parents-notified-safety-threat-childs-school-sibole/> [<https://perma.cc/W93N-NUC3>].

129. Cf. Chelsea Spencer, Sandra Stith, Jared Durtschi & Michelle Toews, *Factors Related to College Students' Decisions to Report Sexual Assault*, 35 J. INTERPERSONAL VIOLENCE 4666, 4676, 4671 (2020) ("When asked who the respondents told, 22.0% told no one . . . 8.9% formally reported the incident.").

Moreover, a Policy Brief published by the Rockefeller Institute of Government notes that “[d]espite the widespread use of lockdown drills in US schools, the conversation about their efficacy remains contentious and often is not guided by empirical evidence.”¹³⁰ More informed data may allow state legislatures to determine the need and efficacy of emergency drills such as lockdowns. This would also help address the concern raised regarding children’s psychological well-being in connection to safety measures such as drills.¹³¹ The current, yet limited, research tends to show that there is either little impact or positive impact on children’s psychological well-being in connection to lockdown drills specifically when the drills are conducted in accordance with best practices.¹³²

4. *Safety education*

Safety education is a common theme in schools, often distinct from security technology and other tools schools utilize to keep their students and employees safe. Topics of these programs vary: they might focus on the subject of “Stranger Danger”¹³³ to saying “no” to drugs through the D.A.R.E./keepin’ it REAL program.¹³⁴ These programs are often tailored to specific age groups so that materials are delivered in a way that is effective and appropriate to the child.¹³⁵ Many schools often build

130. JACLYN SCHILDKRAUT, ROCKEFELLER INST. OF GOV’T, LOCKDOWN DRILLS 5 (2022), <https://rockinst.org/wp-content/uploads/2022/08/Lockdown-Drills.pdf> [<https://perma.cc/487P-JATW>].

131. *See supra* discussion accompanying notes 39–53.

132. SCHILDKRAUT, *supra* note 130, at 10.

133. *See, e.g., KidSmartz*, NAT’L CTR. FOR MISSING & EXPLOITED CHILD., <https://www.missing-kids.org/education/kidsmartz> [<https://perma.cc/7PNF-AVGH>] (last visited Nov. 11, 2025).

134. *See* William B. Hansen, Emily R. Beamon, Santiago Saldana, Samantha Kelly & David L. Wyrick, *D.A.R.E./Keepin’ It REAL Elementary Curriculum: Substance Use Outcomes*, PLOS ONE, Apr. 28, 2023, at 1; Amy Nordrum, *The New D.A.R.E. Program — This One Works*, SCI. AM. (Sep. 10, 2014), <https://www.scientificamerican.com/article/the-new-d-a-r-e-program-this-one-works/> [<https://perma.cc/B2XP-U7L7>].

135. *See, e.g., Talking About Stranger Safety*, SCHOLASTIC, <https://www.scholastic.com/parents/family-life/social-emotional-learning/social-skills-for-kids/talking-about-stranger-safety.html> [<https://perma.cc/ZR83-L78M>] (last visited Nov. 11, 2025).

these programs into their own policies, while others may be required by state law.¹³⁶

For example, thirty-eight states have legislation that requires public schools to provide children, parents, and school employees with education on the topic of child abuse.¹³⁷ “Erin’s Law”¹³⁸ may differ from state to state, but the premise remains the same: age-appropriate curricula designed to familiarize those within public schools with preventative strategies as well as signs to look out for and resources to use.¹³⁹ Considering these programs, it would not be difficult to imagine further development of safety curricula for schools that could be seen as a proactive measure not based in expensive technology or school policing. In addition, these programs would have the ability to empower students by making safety tangible: students cannot control metal detectors or other aspects of technology, but given a plethora of information, students can better react as bystanders or as survivors if they are ever in need.

III. THE CLERY ACT

A. *Development and Amendments*

What is now known as the Clery Act was originally enacted as the Title II Student Right-to-Know and Campus Security Act of 1990, an amendment to the Higher Education Act (“HEA”)

136. See *infra* notes 138–40 and accompanying text.

137. *What is Erin’s Law?*, ERIN’S L., <https://www.erinslaw.org/erins-law/> [<https://perma.cc/A9Q2-8VDR>] (last visited Nov. 11, 2025).

138. “Erin’s Law is intended to help children, teachers, and parents in New York State schools identify sexual abuse, and to provide awareness, assistance, referral, or resource information for children and families who are victims of child sexual abuse.” *Erin’s Law*, N.Y. STATE EDUC. DEPT., <https://www.nysed.gov/curriculum-instruction/erins-law> [<https://perma.cc/DT6F-MBJJ>] (last visited Nov. 11, 2025).

139. See, e.g., H.B. 197, 2015 Leg. (Al. 2015); H.F.2, 2017 Leg., 90th Reg. Sess. (Minn. 2017); S.B. 102, 149th Gen. Assemb., Reg. Sess. (Del. 2017).

of 1965.¹⁴⁰ The Clery Act has modernized to meet current needs, but its objectives remain the same, serving the primary purpose of ensuring that prospective and current students enrolled in IHEs and their families have access to current and past years' official crime statistics on each campus.¹⁴¹ Through the Clery Act, the federal legislature set out to fundamentally apply pressure to IHEs to take more fervent efforts to become safer communities and campuses.¹⁴² As such, IHEs are required to adhere to the Clery Act if they participate in Title IV financial assistance programs through the HEA.¹⁴³

The 1990s saw varying levels of adjustment to the Clery Act. In 1991, for example, the time period for reporting requirements shifted from a calendar year to an academic year through the Higher Education Technical Amendments of 1991.¹⁴⁴ Further, the Higher Education Amendments of 1992 added the additional requirement "that IHEs develop and implement policies

140. HEATHER B. GONZALEZ, CONG. RSCH. SERV., R43759, HISTORY OF THE CLERY ACT: FACT SHEET 1 (2014); Student Right to Know Act and Campus Security Act, 101 Pub. L. No. 542, §§ 201-04, 104 Stat. 2381, 2382 (1990).

141. Bonnie S. Fisher, Jennifer L. Hartman, Francis T. Cullen & Michael G. Turner, *Making Campuses Safer for Students: The Clery Act as a Symbolic Legal Reform*, 32 STETSON L. REV. 61, 63 (2002).

142. *Id.* at 64.

143. GONZALEZ, *supra* note 140, at 1; 34 C.F.R. § 668.1(c) (2025). The U.S. Department of Education regularly reviews compliance to determine whether schools participating in federal financial aid programs may continue to do so. See *Clery Act Reports*, FED. STUDENT AID, <https://studentaid.gov/data-center/school/clery-act-reports> [https://perma.cc/FT3P-TZAR] (last visited Oct. 12, 2025). The Office for Federal Student Aid states:

The U.S. Department of Education conducts reviews to evaluate an institution's compliance with the Clery Act requirements. A review may be initiated when a complaint is received, a media event raises certain concerns, the school's independent audit identifies serious non compliance, or through a review selection process that may also coincide with state reviews performed by the FBI's Criminal Justice Information Service (CJIS) Audit Unit. Once a review is completed, the Department issues a Final Program Review Determination. In addition, the Department conducts general assessment compliance reviews and audits which may also result in fine actions taken by the Department against an institution for violations of the Clery Act.

Id. Title IV funding through the HEA is not applicable to K-12 schools but a solution to this is proposed *infra* Section IV.B.

144. GONZALEZ, *supra* note 140, at 1.

and procedures to specifically protect the rights of sexual assault survivors.”¹⁴⁵

The Clery Act later earned its namesake in 1998 through an amendment of the HEA.¹⁴⁶ The namesake for the Act, Jeanne Ann Clery, a student at Lehigh University, was raped and murdered in her on-campus dormitory room in 1986.¹⁴⁷ Jeanne was a freshman, and unbeknownst to her or her parents, the seemingly safe campus she had selected to attend for her undergraduate education had been experiencing high rates of violent crime.¹⁴⁸ Jeanne’s parents formed the Clery Center for Security on Campus, an advocacy group that eventually led the final push for the Clery Act to become law.¹⁴⁹

The 1998 amendments also expanded upon what is considered “Clery Geography”¹⁵⁰ and adopted additional categories of crimes that were to be included in campus reports.¹⁵¹ In addition, any IHE that maintained a campus security or police department became subject to the requirement that a crime log be publicly available.¹⁵² Importantly, the amendments ensured that IHEs would provide an Annual Report¹⁵³ to the U.S. Department of Education containing their crime data and, further, that this data be made available through campus Annual Security Reports (“ASRs”) for all current students and employees and available upon request to prospective students and employees.¹⁵⁴

145. *Id.*

146. *Id.*; Higher Education Amendments of 1998, H.R. 6, 105th Cong. (1998) (enacted).

147. GONZALEZ, *supra* note 140, at 1; Fisher et al., *supra* note 141, at 62.

148. Lee Gardner, *25 Years Later, Has Clery Made Campuses Safer?*, CHRON. OF HIGHER EDUC. (Mar. 13, 2015), https://www.chronicle.com/article/25-years-later-has-clery-made-campuses-safer/?bc_nonce=z7t6czvpwsc3ot3q3nceil&cid=reg_wall_signup [https://perma.cc/E4JA-KPN2].

149. *Id.*

150. *See infra* Section III.B.3.

151. GONZALEZ, *supra* note 140, at 1.

152. *Id.*

153. *See infra* Section III.B.1.

154. GONZALEZ, *supra* note 140, at 1.

The Clery Act was further amended in 2000 by the Victims of Trafficking and Violence Prevention Act.¹⁵⁵ However, the two most critical amendments after the 1900s came in 2008 and 2013.¹⁵⁶ The Higher Education Opportunity Act of 2008 (“HEOA”) altered the Clery Act in five ways.¹⁵⁷ First, IHEs would be required to report four new categories of crime concerning bias-related incidents.¹⁵⁸ Second, IHEs would need to provide a description of the relationship between any campus security or police and state/local law enforcement agencies, if any.¹⁵⁹ Third, the HEOA required IHEs to “develop and distribute immediate campus emergency response and evacuation procedures.”¹⁶⁰ Fourth, campuses with student housing on campus would need to create policies for how the respective IHE would respond to reports of missing students and make these procedures public, while also executing reporting requirements for fire safety.¹⁶¹ Lastly, IHEs were required “to disclose the results of disciplinary proceedings to the alleged victim of any crime of violence or non-forcible sex offense.”¹⁶²

When the Violence Against Women Act (“VAWA”) was reauthorized in 2013, it amended the Clery Act through the Campus Sexual Violence Elimination Act (“Campus SaVE Act”).¹⁶³ This amendment continues to require IHEs to include

155. *Id.*

156. *See id.*; Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-14, § 304, 127 Stat. 54, 89–92 (2013).

157. GONZALEZ, *supra* note 140, at 1–2.

158. *Id.* at 1. Those four new categories were “larceny, simple assault, intimidation, and destruction/damage/vandalism of property.” *Id.*

159. *Id.*

160. *Id.*

161. *Id.*

162. *Id.* at 1–2.

163. Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, § 304, 127 Stat. 54, 89–92; *Frequently Asked Questions, CAMPUS SAVE ACT*, <http://thecampussaveact.com/faq> [<https://perma.cc/QV7Z-FK9G>] (last visited Nov. 11, 2025) (“The Campus SaVE Act refers to Section 304 of the recently reauthorized Violence Against Women Act. Campus SaVE is a set of amendments to the Clery Act. Thus, what is referred to as the Campus SaVE Act IS the Clery Act. These amendments also serve as a complement to Title IX requirements.”); *see also* James

information on “[c]ampus sexual violence, domestic violence, dating violence, and stalking education and prevention” in their annual Clery Act reports.¹⁶⁴ Where campuses have failed to provide this information to students, they have been found liable.¹⁶⁵ The Clery Act in its current form boasts these and many other requirements for IHEs.

B. Core Requirements

Colleges and universities are required by the Clery Act to disclose certain crime statistics on and adjacent to their campuses.¹⁶⁶ If institutions do not adhere to the Clery Act’s requirements, the U.S. Department of Education may fine the institution up to \$67,544 per infraction or suspend their ability to participate in financial aid programs.¹⁶⁷ The requirements, broadly speaking, include timely warnings to students and employees of IHEs in the event of an imminent emergency, that the IHE produce an ASR, that the IHEs provide educational programming on certain topics, and that the institutions adhere to providing information about all incidents on Clery geography, as explored below.

T. Koebel, *Campus Misconduct Proceeding Outcome Notifications: A Title IX, Clery Act, and FERPA Compliance Blueprint*, 37 PACE L. REV. 551, 560 (2017) (explaining how several sections of the Clery Act were replaced by The Violence Against Women Reauthorization Act of 2013—also known as the Campus Sexual Violence Elimination Act (Campus SaVE Act)—in relation to “domestic violence, dating violence, stalking, and sexual assault”).

164. § 304, 127 Stat. at 89.

165. See *Karasek v. Regents of the Univ. of Cal.*, 534 F. Supp. 3d 1136, 1142 (N.D. Cal. 2021) (determining that the university’s failure to educate students about sexual assault and appropriate sexual interactions led to a policy of deliberate indifference that contributed to student assault).

166. 20 U.S.C. § 1092(f).

167. *Congress Appropriates \$1 Million for Campus Sexual Assault Climate Surveys*, SAFETY ADVISORS FOR EDUC. CAMPUSES, LLC (Jan. 31, 2023), <https://safecampuses.biz/congress-appropriates-1-million-for-campus-sexual-assault-climate-surveys/> [<https://perma.cc/5AXV-CNG4>]. The fines were raised by almost \$5,000 in January 2023. *Id.*

1. *Annual security reports and Clery crimes*

Arguably, the most publicly visible aspect of the Clery Act is the requirement for IHEs to prepare, and make publicly available, ASRs.¹⁶⁸ These reports must describe the procedures for individuals to report emergencies and crimes on campus and a description of security protocols with regard to campus facilities.¹⁶⁹ The description of reporting procedures must include information about the institution's timely warning reports, processes for those who experienced or witnessed criminal activity to report the activity confidentially, a process for how the ASRs will be compiled, and "[a] list of titles of each person or organization to whom students and employees should report the criminal offenses . . . for the purposes of making timely warning reports and the annual statistical disclosure."¹⁷⁰ In addition, ASRs need to contain information related to campus law enforcement that describes how campus and state/local law enforcement agencies work together and "[a]ddresses the enforcement authority and jurisdiction of security personnel."¹⁷¹ This information includes whether the personnel can make arrests and how investigations may proceed.¹⁷²

ASRs must also provide information about how the institutions inform individuals of security procedures, a description of the institution's safety education programming, how criminal activity off campus is monitored where student organizations hold events, a description of the policy regarding underage alcohol consumption and use of illicit substances, and

168. See Institutional Security Policies and Crime Statistics, 34 C.F.R. § 668.46(b) (2025); Reporting and Disclosure of Information, 34 C.F.R. § 668.41(e) (2025).

169. *Id.* § 668.46(b)(2)–(3).

170. *Id.* § 668.46(b)(2)(i)–(iv).

171. *Id.* § 668.46(b)(4)(i)–(ii).

172. *Id.* § 668.46(b)(4)(ii).

descriptions of preventative programming.¹⁷³ Lastly, IHEs must also include information on policies related to missing student notifications, emergency response and evacuation procedures, and a statement indicating where individuals may find information pertaining to registered sex offenders.¹⁷⁴

Each IHE must include data concerning specific crimes,¹⁷⁵ sometimes referred to by IHEs as “Clery crimes.”¹⁷⁶ All ASRs need to include crime data pertaining to these crimes for the previous three years.¹⁷⁷ Crimes are sorted into four categories: (1) primary crimes,¹⁷⁸ (2) “[a]rrests and referrals for disciplinary actions,”¹⁷⁹ (3) hate crimes,¹⁸⁰ and (4) as amended by VAWA, “[d]ating violence, domestic violence, and stalking as defined [in the regulation].”¹⁸¹

Nevertheless, some crimes on college and university campuses may go “unreported” as the Clery Act follows the FBI’s hierarchy rule, requiring only that the most serious crime be reported if an incident technically includes more than one type of crime.¹⁸² This is routine and is wholly representative of how the

173. *Id.* § 668.46(b)(5)–(11). The preventative programming is twofold: there must be programming related to drug and alcohol abuse, and “dating violence, domestic violence, sexual assault, and stalking.” *Id.* § 668.46(b)(10)–(11).

174. 34 C.F.R. § 668.46(b)(12)–(14).

175. *Id.* § 668.46(c)(1).

176. *See* *New York v. U.S. Dep’t of Educ.*, 477 F. Supp. 3d 279, 291 n.4 (S.D.N.Y. 2020) (“The Clery Act requires institutions of higher education to disclose campus crime statistics and security information about certain criminal offenses . . .”); *see, e.g., Clery Crime Definitions*, UNIV. OF CHI. SAFETY & SEC., <https://safety-security.uchicago.edu/en/stay-informed/clery-act-reporting/clery-crime-definitions> [<https://perma.cc/JUN7-74RP>] (last visited Oct. 14, 2025).

177. 34 C.F.R. § 668.46(c)(1).

178. Primary crimes include robbery, burglary, aggravated assault, theft of motor vehicles, arson, criminal homicide (further defined as murder and nonnegligent manslaughter, and negligent manslaughter), and sex offenses (further defined as rape, incest, statutory rape, and fondling). *Id.* § 668.46(c)(1)(i).

179. These may include referrals or arrests for violating state alcohol and drug laws or illegally possessing weapons. *Id.* § 668.46(c)(1)(ii).

180. ASRs must indicate whether a primary crime is determined to be a hate crime and whether any larceny, theft, intimidation, vandalism/destruction of property, or simple assault is found to be a hate crime. *Id.* § 668.46(c)(1)(iii).

181. *Id.* § 668.46(c)(1)(iv).

182. *Id.* § 668.46(a)(ii). This is just one of many criticisms of the Clery Act. *See infra* Section III.C.

FBI reports crime statistics in the United States, though.¹⁸³ This also means that IHEs, in applying the hierarchy rule, must separate multiple crimes by time and place.¹⁸⁴ In doing so, the Clery Act requires campuses to report crimes in the same manner that other entities in the United States are required to do so.

2. *Timely warnings and emergency notifications*

Some of the information that must be included in ASRs is an IHE's procedure for timely notifications and emergency notifications in the event of an emergency on campus.¹⁸⁵ These notifications are meant to work together in that notifications are not duplicative where information pertains to the same event.¹⁸⁶

Timely notifications must be distributed to campus communities where notification has the ability to act as a proactive measure by potentially preventing a similar crime.¹⁸⁷ These notifications are made when Clery crimes¹⁸⁸ have been reported to campus or local police, although they do withhold identifying information of the victim.¹⁸⁹ However, timely notifications are not required where there is an ongoing emergency on a campus and that campus has utilized its emergency notification procedures.¹⁹⁰

183. See, e.g., *2018 Crime in the United States*, FBI: UNIF. CRIME REPORTING PROGRAM, <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/violent-crime> [<https://perma.cc/Y6GE-TPUG>] (last visited Nov. 11, 2025).

184. U.S. DEP'T OF JUST., UNIFORM CRIME REPORTING HANDBOOK 12 (2004), https://ucr.fbi.gov/additional-ucr-publications/ucr_handbook.pdf [<https://perma.cc/JGN7-MHTQ>].

185. 34 C.F.R. § 668.46(b)(2).

186. See generally *id.* § 668.46(e)(3) (describing that in the event of an immediate threat to student/employee health and safety, institutions will follow emergency notification systems and no longer be required to issue timely warnings about the same event).

187. *Id.* § 668.46(e)(1).

188. See *supra* notes 175–81 and accompanying text.

189. 34 C.F.R. § 668.46(e)(1).

190. *Id.* § 668.46(e)(3).

These emergency procedures are also included in an IHE's ASR.¹⁹¹ Beyond requiring that an IHE have an emergency procedure, the Clery Act also recognizes that there may be times in which emergency officials need to exercise discretion in how to appropriately handle an emergency.¹⁹² In doing so, schools and their local or affiliated law enforcement are still able to act how they see fit; the Clery Act has not overridden their ability to make critical determinations during an emergency.¹⁹³ And even more important than having emergency procedures is the ability for members of a campus community to know of the procedures and experience them outside of a real emergency.¹⁹⁴ As such, the Clery Act also requires that these emergency notification system 'tests' are carried out at least on an annual basis,¹⁹⁵ although many IHEs test these notification systems more frequently.¹⁹⁶ Both the timely notification and emergency notification requirements only apply to events that occur on Clery geography, as described below.

191. *Id.* § 668.46(g).

192. *Id.* § 668.46(g)(3).

193. See (GENERAL-24-78) *Reminder – Institution Responsibilities under the Clery Act*, FED. STUDENT AID (June 26, 2024), <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2024-06-26/reminder-institution-responsibilities-under-clery-act> [https://perma.cc/APB8-EB39].

194. Allowing a campus community to experience how the emergency notification system operates results in more efficient responses should a real emergency occur. See *Campus Emergency Drills: Simulating Crisis Situations for Preparedness*, CARDINAL POINT SEC. GRP., <https://www.cphsecuritygroup.com/campus-emergency-drills-simulating-crisis-situations-for-preparedness/> [https://perma.cc/7NEM-ETZR] (last visited Nov. 11, 2025).

195. 34 C.F.R. § 668.46(g)(6).

196. See, e.g., *U-M Emergency Alert: Frequently Asked Questions*, DIV. OF PUB. SAFETY & SEC.: UNIV. OF MICH., <https://dpss.umich.edu/prevention-and-training/emergency-preparedness/u-m-emergency-alerts/emergency-alert-faqs/> [https://perma.cc/VF3F-7BDS] (last visited Nov. 12, 2025) (describing how the system is tested during fall and winter semesters); *ODU Alerts*, OLD DOMINION UNIV., <https://ww1.odu.edu/life/health-safety/safety/alerts> [https://perma.cc/EC2T-Y9PL] (last visited Nov. 11, 2025) (describing that the university tests its emergency notification system "at least once per semester"); *VT Alerts FAQs and Help*, VA. TECH EMERGENCY MGMT., <https://www.alerts.vt.edu/questions.html> [https://perma.cc/Z6LD-ZJUV] (last visited Nov. 11, 2025) (stating that the university tests its alert system during the fall and spring semesters).

3. *Clery geography*

The Clery Act and its requirements apply to incidents that occur on “Clery geography.”¹⁹⁷ There are three main areas that Clery geography includes relevant to campus locations. The first location included in Clery geography is, broadly, public property immediately surrounding an IHE.¹⁹⁸ Clery geography also includes any buildings and property that the institution owns but that may be off campus grounds.¹⁹⁹ Lastly, and most significantly, Clery geography applies to “[b]uildings and property that are part of the institution’s campus.”²⁰⁰

Clery geography is also influenced by the areas that a campus police department or campus security department patrols.²⁰¹ Any area that is within the security department’s jurisdiction may also be considered Clery geography due to the crime log that officers must maintain.²⁰²

4. *Educational programming*

The Clery Act clearly describes programming that IHEs must deliver in order to “prevent dating violence, domestic violence, sexual assault, and stalking.”²⁰³ This requirement is very broadly proscribed as “[c]omprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking.”²⁰⁴ These programs should address specific needs within each campus community and that are ultimately backed by thorough research.²⁰⁵ Preventative measures are to be

197. 34 C.F.R. § 668.46(a).

198. *Id.*

199. *Id.*

200. *Id.*

201. *Id.*

202. *Id.*

203. 34 C.F.R. § 668.46(a), (b)(11).

204. *Id.* § 668.46(a).

205. *Id.*

two-fold: preventative and awareness programming should be directed at incoming students and employees, while also still provided to current students and employees throughout their time at the institution.²⁰⁶

C. Overcoming Criticism

Studies have shown that students generally found the Clery Act to be an effective tool, especially with regard to security and timely warnings.²⁰⁷ However, these same studies indicate that the Clery Act is less effective for students when considering the data in making a decision as to what college or university they might choose to attend.²⁰⁸ Some early studies demonstrate that “only about 25% of students knew about or had read any of the mandated reports required by the Act.”²⁰⁹ The statistics on those campuses are presented through methods separate from the data itself, such as student affairs officials and social media.²¹⁰ Similarly, parents of first-year college students in the early 2000s indicated little knowledge of the Clery Act—only about 25% knew of the Act and 40% recalled information from admissions packets that had provided crime statistics on campuses.²¹¹ And of those parents who read through the statistics, it seems that parents with immediate family members who have experienced violence were more likely than parents without immediate family members who have experienced violence to take these statistics into consideration.²¹²

206. *Id.*

207. Jeffrey Mark Jee & Donald W. Good, *The Clery Act: Student Awareness and Perceptions of Effectiveness at a Public University and a Private College in East Tennessee*, 12 J. ACAD. ADMIN. HIGHER EDUC. 1, 7 (2016).

208. *Id.*

209. Janosik, *supra* note 17, at 43; see Jee & Good, *supra* note 207, at 7.

210. See Jee & Good, *supra* note 207, at 5, 7.

211. Janosik, *supra* note 17, at 44–45.

212. *Id.* at 45.

To remedy these criticisms, reports and studies suggest that the U.S. Department of Education should be publicizing the Clery Act and its resources to a greater extent.²¹³ This would likely be a successful way to increase knowledge and parent confidence in schools, particularly because over 80% of parents who discussed campus safety with campus personnel felt more confident when thinking about officials in charge of campus safety on respective campuses.²¹⁴ Increased publicity of the Clery Act might empower parents to have conversations with administrators, ultimately boosting their confidence in campus safety. And, if anything, increased advertisement would also empower parents to personally investigate the statistics themselves, although studies indicate that parents in IHE settings almost never felt administrators were trying to hide information.²¹⁵ Still, having ready access to ASRs acts as a safeguard against administrative dishonesty.

Beyond criticisms regarding perception and use, there is also concern over the completeness of data collection.²¹⁶ Some IHEs utilize both formal and informal complaint processes because Title IX permits complaint resolution through informal procedures.²¹⁷ When a report pertaining to sexual harassment or assault is resolved informally through Title IX, it need not be

213. Jee & Good, *supra* note 207, at 7.

214. See Janosik, *supra* note 17, at 51.

215. See *id.* at 51. *But see id.* at 54 (describing how parents who have experienced crime or sent other children to college were more likely to feel that administrators were hiding information).

216. Some of this may come from worries that not all crimes within each reported incident are reported due to the hierarchy rule, although this should not be a concern because it matches FBI crime reporting tactics. See 34 C.F.R. § 668.46(a)(ii); § 668.46(c)(1)(iv); see also *supra* note 183 and accompanying text. Additionally, this concern is alleviated because the daily crime log does not abide by the hierarchy rule. Institutional Security Policies and Crime Statistics, 34 C.F.R. § 668.46(a), (c)(9) (2023).

217. Gabrielle Maginn, *Beyond Deliberate Indifference: Rethinking Institutional Responsibility and Title IX Liability in K-12 Education*, 40 MINN. J. LAW & INEQ. 335, 344–45 (2022); see Karasek v. Regents of the Univ. of Cal., 948 F.3d 1150, 1171 (9th Cir. 2020) (discussing how U.C. Berkeley encouraged students seeking to report sexual harassment and/or assault to do so through informal, rather than formal, procedures).

included in Clery Act statistics, which could mean that a school might encourage informal resolution of an issue as to avoid reporting responsibilities altogether.²¹⁸ This not only does a disservice to survivors,²¹⁹ but it also raises questions concerning whether the Clery Act can succeed at providing a whole picture of crime on campus when not all crimes are included. In *Karasek v. Regents of the University of California*,²²⁰ for example, only about a quarter of Title IX complaints were resolved through formal processes,²²¹ meaning crime rates of sexual harassment and assault were largely underrepresented in ASRs.

Despite these criticisms, the Clery Act has helped schools maintain a proactive stance against crime on campus in addition to educating campus communities and providing statistics.²²² One study describes how an emergency notification to the campus community at UC Santa Cruz allowed the campus police department to locate a suspect who had stolen property from a campus building.²²³ These scenarios and an increased awareness of the reality on campus seem to outweigh the potential of not all crimes being reported. One should especially consider that no crime will ever be fully reported as survivors still need to report crimes. That is not a fault of the Clery Act. As such, while criticisms should be taken into account, this does not render moot the potential of the Clery Act to aid K-12 institutions.

218. Maginn, *supra* note 217, at 344 n.51.

219. The formal Title IX process in IHEs “involve[s] a live hearing wherein the accused and the survivor both have the opportunity to offer evidence, cross-examine the opposing party, and be represented by counsel. A neutral party must preside over the hearing and determine the consequences for the accused, if any.” *Id.* at 345.

220. 948 F.3d 1150 (9th Cir. 2020).

221. *Id.* at 1170.

222. See S. Daniel Carter, *Clery Act Has Prompted Positive Changes in Campus Public Safety*, CAMPUS SAFETY (Sep. 6, 2017), <https://www.campussafetymagazine.com/insights/clery-act-has-prompted-positive-changes-in-campus-public-safety/40855/> [<https://perma.cc/BYG7-CQAH>].

223. See *Reporting Crimes on Campus: The Influence of the Clery Act*, KNOWLEDGECITY, <https://www.knowledgocity.com/blog/role-clery-act/> [<https://perma.cc/R43W-MB2A>] (last visited Nov. 11, 2025).

D. EXTENDING CLERY TO K-12

It is abundantly clear that students, families, staff members, and school administrators care about creating a safe learning environment, often at a hefty price.²²⁴ Moving forward to achieve a societal goal of safer schools cannot be done without policy initiatives and research. But “[r]esearch programs, policy development, and administrative decision making all depend on accurate and comprehensive data collection systems.”²²⁵ Scholars contend that the current methodologies of collecting data on this topic, such as student self-report surveys, are insufficient and may even lead to invalid results and findings,²²⁶ making collection of accurate data all the more critical. Many studies are conducted in specific locations and school districts or only focus on one subsection of K-12 education, such as collecting data exclusively from middle school students in one area.²²⁷ And “[n]ational surveys mainly present aggregate data that paint a broad picture that may have limited relevance to local school and cultural contexts.”²²⁸ Thus, it is clear that both national and local solutions depend on having complete, accurate, and localized data, all of which are things that the Clery Act can provide to K-12 institutions.

This Part describes how the Clery Act can close this gap in data and aid in starting to address school safety more successfully. First, this Part describes technical aspects as to how K-12

224. “US schools now spend an estimated \$2.7 billion on security features, from automatically locking doors to video surveillance and facial recognition software. That amount doesn’t include the additional billions of dollars spent on armed guards at schools.” Kerry McDonald, *School Security Is Now a \$3 Billion Dollar Annual Industry. Is There a Better Way to Protect Kids?*, FOUND. FOR ECON. EDUC. (Jan. 8, 2019), <https://fee.org/articles/school-security-is-now-a-3-billion-dollar-annual-industry-is-there-a-better-way-to-protect-kids/> [https://perma.cc/V272-PYYU].

225. Cornell & Mayer, *supra* note 18, at 10.

226. *See id.*

227. *See* Johanna R. Lacoë, *Unequally Safe: The Race Gap in School Safety*, 13 YOUTH VIOLENCE & JUV. JUST. 143, 147–48 (2014).

228. Cornell & Mayer, *supra* note 18, at 10.

institutions' similarities to IHEs would allow for successful implementation. It does so by describing the overlap that exists between the Clery Act and Title IX in higher education, which would be extended to K-12 given that Title IX is already applied to those institutions. This Part also addresses how the data collected by local schools can empower districts and the federal government by providing each with accurate information and the ability to better understand the problems facing each district. Finally, this Part describes the statutory avenue for the Clery Act's extension to K-12 institutions given that K-12 institutions are not subject to the Title IV funding that renders the Clery Act applicable to IHEs.

A. Closing the Gap

Many K-12 schools are already utilizing practices and policies that would be considered compliant with the Clery Act. For example, schools have emergency notification systems and procedures in place as determined by their district or state's legislation.²²⁹ Some states also require annual reports and safety auditing.²³⁰ These practices are not uniform in nature because of the recognized regulation of education by the states.²³¹ However, the federal government does play a role in education both in K-12 and in IHEs.²³²

229. See discussion *supra* Sections II.C-D, III.B.2, and accompanying notes.

230. See Malone et al., *supra* note 79, at 103.

231. See 20 U.S.C. § 3403(a) ("The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and the local school systems and other instrumentalities of the States."). See, e.g., King v. State, 818 N.W.2d 1, 58 (Iowa 2012) (Appel, J., dissenting) ("[E]ducation has played a central role in Iowa state government. While the federal government from time to time has shown an interest in education and has been indirectly involved in fostering it, the states have performed the fundamentally different role of primary provider of education.").

232. See, e.g., No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425 (2002); Every Student Succeeds Act, Pub. L. No. 114-95, 129 Stat. 1802 (2015); Family Educational Rights and Privacy Act, 20 U.S.C. § 1232(g) (2025).

The federal government is no stranger to influencing school safety both at the K-12 level and in IHEs.²³³ Because of this, utilizing the Clery Act to further support families and communities and promote government action on the topic would be a clear choice for closing some of the gaps between safety in K-12 institutions as compared to IHEs. As noted throughout this Article, some of the major gaps for school safety in a K-12 setting include base-level data collection for families and community decision-makers, a lack of knowledge over Title IX processes, and a general perception of danger in schools such that billions of dollars is spent on safety technologies and SROs without evaluation for effectiveness.²³⁴ Utilizing the Clery Act in K-12 spaces would help to fill those gaps.

1. *Filling the gap in Title IX*

The Clery Act can help fill the gap with respect to Title IX procedures in K-12 schools in a few ways. The first large gap, according to recent scholarship, is a lack of reliable, thorough research and existing empirical data through which experts might analyze trends and create solutions.²³⁵ While the prevalence of sexual harassment may be examined by looking at complaints filed with the Department of Education's Office for Civil Rights,²³⁶ this still does not provide a simple way for communities to address problems.²³⁷

The second gap that can be addressed is educational programming on the topic of sexual harassment. Although Title

233. See Bipartisan Safer Communities Act, Pub. L. No. 117-159, 136 Stat. 1313 (2022); 20 U.S.C. § 1092.

234. See *supra* Part II.

235. Billie-Jo Grant, Jeffrey Haverland & Jessica Kalbfleisch, *Title IX Policy Implementation and Sexual Harassment Prevalence in K-12 Schools*, 38(2) EDUC. POL'Y 510, 513, 518-19 (2024).

236. *Id.* at 513-14.

237. See *Does Federal Civil Rights Enforcement Impact Racial Discrimination in School Discipline?*, HARV. UNIV. CTR. FOR EDUC. POL'Y RSCH. (Mar. 17, 2022), <https://sdp.cepr.harvard.edu/blog/does-federal-civil-rights-enforcement-impact-racial-discrimination-school-discipline> [https://perma.cc/G5FF-4FTP].

IX's requirements are mainly applied in identical ways across K-12 schools and IHEs, scholars and education experts point out that children in K-12 schools inherently have a smaller degree of protection from sexual harassment simply because the Clery Act exclusively applies to IHEs, meaning that more is required from those institutions than is required at the K-12 level.²³⁸

In this sense, Emily Suski has argued that “[s]tructural reforms through revisions to the Clery Act can also provide more rigorous protections against sexual harassment in K-12 public schools.”²³⁹ Suski, among other scholars,²⁴⁰ argues that these revisions must do more to define sexual violence while also extending to K-12 institutions.²⁴¹ However, Suski does not describe an avenue through which this extension might be possible, and does not acknowledge the role that VAWA has played in addressing sexual violence within the Clery Act,²⁴² which ultimately leaves an extension seemingly daunting and unattainable without further information. Others that have envisioned an expansion of the Clery Act on the basis of better tracking sexual assault, while considering the VAWA amendments, describe how Erin’s Law and similar state laws might bridge the gap between the Clery Act’s role in IHEs versus K-12 institutions, but still do not provide an avenue through which the Clery Act may tangibly be expanded to allow for such a bridge to be built.²⁴³

238. See Suski, *supra* note 21, at 426–30; ADELE KIMMEL, TITLE IX LITIGATION AND ENFORCEMENT FOR K-12 SEXUAL ASSAULT SURVIVORS 1 (2015), <https://www.publicjustice.net/wp-content/uploads/2016/05/Title-IX-and-K-12-Sexual-Assault.pdf> [<https://perma.cc/9MAD-ERB9>].

239. Suski, *supra* note 21, at 464.

240. See Haney, *supra* note 70, at 107–08.

241. Suski, *supra* note 21, at 464.

242. See *id.*; see Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, § 304, 127 Stat. 54, 89 (2013); see also *supra* text accompanying note 164 (describing the VAWA amendments).

243. See Haney, *supra* note 70, at 108–11.

Educational programming, whether modeled after Erin's Law or otherwise, is incredibly important as current studies indicate that students are generally unaware of how the Title IX process works, which is something the extension of the Clery Act can assist with.²⁴⁴ Given that a quarter of girls experience sexual assault or abuse at school prior to turning eighteen,²⁴⁵ these processes should be more accessible so that students know what to do and who to turn to if they experience sexual assault or violence at school. Further, "districts without policies and materials that address sexual harassment had statistically significantly higher rates of harassment than school districts with policies ($p = .01$) and materials ($p < .01$)."²⁴⁶ Through providing educational programming in K-12 as Clery requires for IHEs,²⁴⁷ schools could better address their responsibility under Title IX (among other federal anti-discrimination laws) to provide a hostility-free environment.²⁴⁸ Safety education is already prevalent in schools when addressing other topics, so the addition of education on the topic of sexual harassment could be added to already developed safety curricula.²⁴⁹

Ultimately, sexual harassment is not isolated to college campuses—it is already prevalent in middle and high schools.²⁵⁰ Providing this education earlier in an individual's education

244. See Grant et al., *supra* note 235, at 510 (stating how "[n]early all (94%) students were unable to identify their Title IX compliance officer and 70% were unaware of how to file grievances").

245. *Id.* at 513.

246. *Id.* at 510–11.

247. See *supra* Section III.B.4 and accompanying notes.

248. See Grant et al., *supra* note 235, at 514. Grant et al. write that "[a] hostile environment occurs when the conduct unreasonably interferes with a staff or students' ability to work or learn." *Id.*

249. See *supra* Section II.D and accompanying notes; see generally JACQUELINE M. NOWICKI, U.S. GOV'T ACCOUNTABILITY OFF., K-12 EDUCATION: STUDENTS' EXPERIENCES WITH BULLYING, HATE SPEECH, HATE CRIMES, AND VICTIMIZATION OF SCHOOLS 30–32 (2021) (finding that the percentage of schools with programs to address hostile behaviors has increased); Albert W. Whitney, *Safety Education in the Public Schools*, 123 ANNALS AM. ACAD. POL. AND SOC. SCI. 46, 47 (1926) (addressing the historical arguments that safety instruction has educational value and should be an aspect of the school curriculum).

250. See Grant et al., *supra* note 235, at 513.

can be viewed as a proactive rather than reactive measure, and may better address the prevalence of the issue in K-12 schools, both with regard to its occurrence and reporting.²⁵¹ There should be little concern that the Clery Act would interfere in any way with Title IX, as the two work in tandem in higher education.²⁵²

2. *Data collection & effective practices*

Should the Clery Act be successfully extended to K-12 schools, researchers will have access to a plethora of data previously not available. This is important because even more than a decade ago “[t]here [was] growing consensus among school violence researchers that conceptual and empirical work documenting the contexts of school violence is needed.”²⁵³ When the Clery Act was put before Congress in 1990 to amend the HEA, Congress had found that “although annual ‘National Campus Violence Surveys’ indicate[d] that roughly 80[%] of campus crimes [were] committed by a student upon another student and that approximately 95[%] of the campus crimes [which were] violent [were] alcohol-or-drug related, there [was] no comprehensive data on campus crimes.”²⁵⁴ Almost four decades later, K-12 institutions are facing a similar and daunting challenge in the wake of safety concerns.²⁵⁵ Extension of the Clery Act to K-12 institutions would alleviate this issue while hopefully providing some peace of mind due to realistic knowledge of the crime levels on a respective campus. Due to the way media is distributed and consumed in this modern era, public

251. See STOP SEXUAL ASSAULT IN SCHOOLS, ENDING K-12 SEXUAL HARASSMENT: A TOOLKIT FOR PARENTS AND ALLIES 7 (2025).

252. *Understanding Title IX and Its Intersection with the Clery Act*, CLERY CTR., <https://www.clerycenter.org/title-ix> [<https://perma.cc/2S9M-JH64>] (last visited Nov. 11, 2025).

253. Ron Avi Astor, Nancy Guerra & Richard Van Acker, *How Can We Improve School Safety Research?*, 39 EDUC. RESEARCHER 69, 69 (2010).

254. 136 Cong Rec H 3119, at *3119 (daily ed. June 5, 1990) (LEXIS).

255. See *supra* Section I.A.

perceptions²⁵⁶ of school safety may be fueled by unnecessary levels of fear.²⁵⁷ Therefore, having access to legitimate data could mean a reduction in fear.

Even though there is a current push for de-federalization of education,²⁵⁸ it is still likely that lawmakers in the federal government would be in favor of extending the Clery Act at this time simply due to their other motives in school safety legislation and improved data collection would allow them to better achieve their goals. For example, even though Senator Ted Cruz's push for additional SROs²⁵⁹ might generally face pushback, that legislation also aims to "[i]mprove research on school violence prevention and provide that information to schools and communities."²⁶⁰ Requiring schools to collect data would achieve this goal and provide ample data as to whether the additional measures that Senator Cruz and other federal lawmakers aim to achieve are viable. This is important because

256. See Banuka De Silva, *The Relationship Between Media Consumption and Fear of Crime: A Comprehensive Review*, 11 JIB J. 56, 61 (2023). The author writes:

Most studies indicate a positive correlation between media consumption and fear of crime, which suggests that increased exposure to crime-related news and entertainment media results in higher levels of fear. Possible explanations for this finding include the medias' tendency to focus on sensationalized and dramatic crimes that are uncommon but receive extensive coverage. This skewed portrayal of crime in the media can . . . have a "cultivation effect" on individuals, in which their perceptions of reality are influenced by the media they consume; this cultivation effect can cause an individual to believe that crime is more prevalent than it is.

Id.

257. See, e.g., *Policy Statement—Media Violence*, 124 AM. ACAD. PEDIATRICS 1495, 1497 (2009) ("In addition to modeling violent behavior, entertainment media inflate the prevalence of violence in the world, cultivating in viewers the 'mean-world' syndrome, a perception of the world as a dangerous place.").

258. See, e.g., *Rep. Massie Reintroduces Bill to Abolish Federal Department of Education*, CONGRESSMAN THOMAS MASSIE (Feb. 14, 2023), <https://massie.house.gov/news/document-single.aspx?DocumentID=395519> [<https://perma.cc/PGT3-ETCZ>]; Kate Sullivan & Katie Lobosco, *Trump Wants to Close the Department of Education, Joining Calls by GOP Rivals*, CNN POLS. (Sep. 13, 2023, at 17:50 ET), <https://www.cnn.com/2023/09/13/politics/trump-department-of-education-states-2024/index.html> [<https://perma.cc/BH69-NFNX>].

259. See SAFE School Act, H.R. 2491, 118th Cong. (2023).

260. *Legislation to Protect Kids*, *supra* note 104.

current data collection, where it does occur, is not consistent in practice which ultimately leads to varied interpretation.²⁶¹

Data, if only considering ASRs, admittedly may not go far enough. Individuals who study school violence also describe a need for information about each school's social dynamics and other similar frameworks.²⁶² However, "[a]ccurately reporting incidents also is the first step in developing effective prevention strategies . . . the documented data can be used for early identification of . . . crime patterns, and to provide related red flags so school and safety officials can intervene before a problem becomes entrenched."²⁶³ Further, studies on the need for more school safety data have indicated that comprehensive approaches to school safety are the best avenue to prevent youth violence, which also positively impacts students' behavior and mental health.²⁶⁴ Accordingly, while working to collect complete information that contains data concerning social dynamics, it should be the priority to first start collecting base-level data. Expanding the type of data collected might be a terrific goal for after implementation, however.

One potential concern with expanding the Clery Act to K-12 institutions in an effort to collect data is that ASRs must also contain information related to campus law enforcement that describes how campus and state/local law enforcement agencies work together and "[a]ddresses the enforcement authority and jurisdiction of security personnel."²⁶⁵ Concerns surrounding

261. See, e.g., VÉRONIQUE IRWIN, KE WANG, JIASHAN CUI & ALEXANDRA THOMPSON, U.S. DEP'T OF EDUC. & U.S. DEP'T OF JUST., NCES 2022-092, REPORT ON INDICATORS OF SCHOOL CRIME AND SAFETY: 2021, at 1 (2022).

262. See Astor et al., *supra* note 253, at 69.

263. *School Crime Reporting and Underreporting*, NAT'L SCH. SAFETY & SEC. SERVS., <https://www.schoolsecurity.org/trends/school-crime-reporting-and-underreporting/> [<https://perma.cc/4U2M-U82J>] (last visited Nov. 11, 2025).

264. See Beverly Kingston, Sabrina Arredondo Mattson, Allison Dymnicki, Elizabeth Spier, Monica Fitzgerald, Kimberly Shipman, Sarah Goodrum, William Woodward, Jody Witt, Karl G. Hill & Delbert Elliott, *Building Schools' Readiness to Implement a Comprehensive Approach to School Safety*, 21 CLINICAL CHILD. & FAM. PSYCH. REV. 433, 433 (2018); *supra* Section I.B.

265. See 34 C.F.R. § 668.46(b)(4)(i).

SROs²⁶⁶ and mixed emotions surrounding community policing generally²⁶⁷ might indicate that communities would be apprehensive to automatically include local enforcement agencies in school policies. While these concerns are valid for a plethora of reasons, many states already have legislation for school referrals to law enforcement depending on the type of crime.²⁶⁸

Ultimately, collecting data that more accurately reflects a school's relationship with crime might even lessen the amount of overall connection between schools and law enforcement. As described in Section II.B.1, the push for increased amounts of SROs is largely unsubstantiated, with unknown effectiveness and known disparate treatment of some students.²⁶⁹ For those concerned about a further connection between law enforcement and schools, accurate data might help demonstrate that SROs are not needed on some campuses or may even help provide guidance on how to improve relationships between SROs, their schools, and their students.

B. A Statutory Avenue for Extension

Expanding the Clery Act to K-12 institutions is not straightforward. It is made complicated by the method through which the Clery Act is enforced. As discussed in Part III.A,²⁷⁰ the Clery Act is enforced through Title IV of the HEA, which is not applicable to K-12 schools. This does not render the extension of the Clery Act impossible, however.

Wisconsin provides some insight into how the legislation similar to the Clery Act could be enacted by individual states. Legislators in the Wisconsin State House introduced legislation that seemed to minutely imitate the Clery Act, aiming to require

266. See *supra* Section II.B.1.

267. See Jessica M. Eaglin, *To "Defund" the Police*, 73 STAN. L. REV. ONLINE 120, 123 (2021).

268. See Nance, *supra* note 83, at 935 (describing state referral legislation for various crimes).

269. See *supra* Section II.B.1.

270. See *supra* Section III.A and accompanying text.

crime reporting beginning in the 2024–25 school year for schools participating in parental choice vouchers.²⁷¹ While this illustrates that there is an alternate avenue for state legislation, not all states have voucher programs at this time.²⁷² Additionally, this route cannot be taken federally because the only voucher program that utilizes federal funding is in Washington, D.C.²⁷³ By their very nature, this would likely exclude many schools, despite growing popularity following expansion of the programs' eligibility to religious schools.²⁷⁴

The most plausible solution is to extend the Clery Act to K-12 institutions through a reauthorization of the Elementary and Secondary Education Act ("ESEA") of 1965.²⁷⁵ The ESEA has been modified and reauthorized many times, although its latest reauthorization was Every Student Succeeds Act ("ESSA") in 2015.²⁷⁶ The ESSA provides federal grants to schools for various programs including literacy, rural education, and, relevant here, safety.²⁷⁷

271. H.B. 53, 2023 Leg., Reg. Sess. (Wis. 2023). It should be noted: this proposed legislation was not nearly as thorough as the Clery Act and only addresses crime reporting. *Id.* The legislation passed the state House but ultimately failed in the state Senate and did not go into effect. *Assembly Bill 53*, WIS. STATE LEG., <https://docs.legis.wisconsin.gov/2023/proposals/reg/asm/bill/ab53> [<https://perma.cc/X9Q3-U78A>] (last visited Nov. 12, 2025).

272. See Elaine S. Povich, *More States Use Tax Dollars to Help Pay for Private School*, GOVERNING (June 18, 2023), <https://www.governing.com/education/more-states-use-tax-dollars-to-help-people-pay-for-private-school> [<https://perma.cc/2PJV-Z6NZ>].

273. *School Vouchers: NSBA Urges Congress to Reject the Diversion of Public Funds to Private Schools*, NAT'L SCH. BDS. ASS'N, <https://www.nsba.org/advocacy/federal-advocacy/vouchers> [<https://perma.cc/DFJ2-GHMM>] (last visited Nov. 12, 2025).

274. See generally *Carson v. Makin*, 596 U.S. 767, 774–75, 779–81 (2022) (holding that religious schools are eligible for public funding if they pass strict scrutiny).

275. See generally Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, 79 Stat. 27 (An Act "[t]o strengthen and improve educational quality and educational opportunities in the Nation's elementary and secondary schools.").

276. Every Student Succeeds Act of 2015, Pub. L. No. 114-95, 129 Stat. 1802.

277. See REBECCA R. SKINNER, CONG. RSCH. SERV., R45977, THE ELEMENTARY AND SECONDARY EDUCATION ACT (ESEA), AS AMENDED BY THE EVERY STUDENT SUCCEEDS ACT (ESSA): A PRIMER 1, 10–11, 16, 18 (2024).

School safety is covered through Title IV of the ESSA.²⁷⁸ In particular, the ESSA addresses drug and violence prevention,²⁷⁹ the impact of safe environments on student academic achievement,²⁸⁰ and the ability of schools to implement health and safety programs.²⁸¹ These concepts are direct objectives of the Clery Act²⁸² and the Clery Act would likely help address the larger goals of the ESSA presented in Title IV related to safety, ultimately going far beyond what the ESSA currently envisions.²⁸³ The ASRs would also likely aid local education agencies in preparing needs assessments, which are required in order to apply for grants under the Title.²⁸⁴ This is because each needs assessment must include information pertaining to "school conditions for student learning in order to create a healthy and safe school environment."²⁸⁵ Therefore, upon reauthorization, Title IV should include proposed language to further amend the Clery Act to include K-12 institutions.

Such amendments might include amending the Clery Act from:

Each eligible institution participating in any program under this title, other than a foreign institution of higher education, shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare,

278. See generally 20 U.S.C. §§ 7101–7294 (covering student support, community learning, charter and magnet schools, family engagement, and activities).

279. 20 U.S.C. § 7112(5).

280. 20 U.S.C. § 7114(b)(3)(B); see also *supra* Section I.B (finding that students in unsafe learning environments cannot learn productively).

281. 20 U.S.C. § 7114(b)(3)(B)(iii).

282. See *supra* Section III.B.

283. See 20 U.S.C. § 7112(5); 20 U.S.C. § 7114(b)(3)(B); 20 U.S.C. § 7114(b)(3)(B)(iii); *supra* text accompanying notes 279–82.; see also *supra* Section I.B (finding that students in unsafe learning environments cannot learn productively).

284. 20 U.S.C. § 7116(d).

285. *Id.* § 7116(d)(1)(B).

publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution²⁸⁶

to:

Each eligible institution participating in any program under this title or *Title IV of the Every Student Succeeds Act [20 USCS §§ 7101–7294]*, other than a foreign institution of higher education, shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution²⁸⁷

Legislators would need to be thorough in this amendment, ensuring that each reference to the HEA also includes the ESSA or its successor.

There are two potential drawbacks to this solution. First, schools must apply for this funding;²⁸⁸ it is not funding that

286. 20 U.S.C. § 1092(f).

287. *Id.* (alterations in italics).

288. See *A Look at Federal Education Funding – ESSA, IDEA, & Perkins V*, FORVIS MAZARS (Aug. 31, 2023), <https://www.forvis.com/forsights/2023/08/a-look-at-federal-education-funding-essa-idea-perkins-v> [<https://perma.cc/F49K-8Q6D>].

could be revoked for noncompliance unlike IHEs.²⁸⁹ This may mean that if a school does not wish to go through reporting requirements under the Clery Act, the school avoids applying for otherwise helpful grants. Not only would data remain unavailable, but further harm might be done to those school communities.

Second, unlike IHEs, federal funding is generally not provided to private K-12 institutions unless there are certain emergencies or the school “provide[s] equitable services for eligible private school students, teachers and, in some programs, families.”²⁹⁰ These equitable services currently include those under ESSA Title IV Part F, “Project School Emergency Response to Violence (Project SERV),” but this would not serve as an avenue for an extension for the Clery Act to private schools because this provision addresses the immediate aftermath of violent events on school campuses, rather than their prevention.²⁹¹ Reauthorization of the ESSA could, perhaps, add an additional part considered as an equitable service that seeks to prevent campus violence, rather than react to it. Otherwise, this extension would seemingly penalize public schools, particularly those that may truly need grant money, whereas private schools need not provide data or educational safety programming.²⁹² If private

289. See generally Family Educational and Privacy Rights Act, 20 U.S.C. § 1232g(f) (stating how funding can be taken away if there is failure to comply).

290. *Frequently Asked Questions: General Issues Related to Nonpublic Schools*, OFF. OF NON-PUB. EDUC. (Aug. 2019), <https://www.ed.gov/sites/ed/files/about/inits/ed/non-public-education/files/onpe-faqs-aug2019.pdf> [<https://perma.cc/ANY3-GELB>]; see, e.g., Andrew Ujifusa, *Feds Set Limits on Which Private Schools Can Get Covid-19 Relief*, EDUC. WK. (July 9, 2021), <https://www.edweek.org/policy-politics/feds-set-limits-on-which-private-schools-can-get-covid-19-relief/2021/07> [<https://perma.cc/Q79H-53EP>] (describing how Covid-19 is an emergency where private K-12 institutions received relief funds). But see Richard Vedder, *There Are Really Almost No Truly Private Universities*, FORBES, <https://www.forbes.com/sites/richardvedder/2018/04/08/there-are-really-almost-no-truly-private-universities/?sh=14a7595557bc> [<https://perma.cc/X58Q-UGVU>] (Apr. 9, 2018, at 15:23 ET).

291. See *School Emergency Response to Violence (Project SERV)*, U.S. DEP'T. OF EDUC. (Aug. 19, 2025), <https://www.ed.gov/grants-and-programs/response-programs/safe-and-supportive-schools/school-emergency-response-to-violence-project-serv> [<https://perma.cc/3SR7-BJE9>].

292. See Every Student Succeeds Act of 2015, Pub. L. No. 114-95, 129 Stat. 1910 (2015).

schools are not included in this regulatory extension, one must then discern whether incomplete data would be more helpful than no data. While it may be detrimental in the long-term, potentially subjecting some schools to disproportionate levels of regulation²⁹³ in the short-term may better allow lawmakers to realize the full potential of the Clery Act and its use in K-12 schools. If this were to be the case, they then might propose independent legislation for K-12 schools that mirrors the Clery Act, but in a way that equally applies to all schools, and not just those that apply for federal grants. This potential pitfall of the extension of the Clery Act via the ESSA almost reflects some of the concerns of Wisconsin lawmakers considering the proposed and failed Clery-adjacent state legislation: that these reports would be punitive especially toward communities already struggling with crime.²⁹⁴

A general concern that individuals and lawmakers may have, regardless of the method used to extend the Clery Act to K-12 schools, is that this would encroach on states' abilities to make laws concerning their schools. However, this would not be the case. Consider the state legislation on emergency drills of New York²⁹⁵ and Rhode Island²⁹⁶ as proof. New York's emergency drill legislation does not include reference to IHEs, but Rhode Island's legislation does.²⁹⁷ By stating "colleges, universities, postsecondary institutions . . . [will complete] at least four

293. Author's note: this is absolutely not ideal, recognizing the potential harm that could be caused to minority communities. Further, there could be potentially adverse impacts when considering data from public schools in areas already facing higher crime rates. However, if the Clery Geography were appropriately limited to the school grounds, the crime rate in the surrounding area should not disproportionately impact schools. This is an important consideration and should be further explored if legislation to expand the Clery Act to K-12 institutions is ever introduced.

294. See Isiah Holmes, *Debate Over School Resource Officers Moves to the Capitol*, WIS. EXAM'R (Mar. 6, 2023, 07:00 ET), <https://wisconsinexaminer.com/2023/03/06/debate-over-school-resource-officers-moves-to-the-capitol/> [<https://perma.cc/CP4B-VKBW>].

295. See N.Y. EDUC. LAW § 807 (McKinney 2023).

296. 16 R.I. GEN. LAWS § 16-21-4 (West 2023).

297. Compare N.Y. EDUC. LAW § 807 (McKinney 2023), with 16 R.I. GEN. LAWS § 16-21-4(b) (West 2023).

(4) drills or rapid dismissals during the academic year for each school building or residence facility, at least two (2) of which shall be held between the months of September through December,"²⁹⁸ the Rhode Island legislature has required more emergency drills on campuses within the state than the Clery Act.²⁹⁹ Given this, it should be assumed that states will still have the authority to go beyond the requirements of the Clery Act if they choose to do so. Extending the Clery Act merely sets the bar for states that have no legislation on this or similar matters.

CONCLUSION

The Clery Act is an imperfect regulation. Many familiar with it acknowledge that individuals may not even know it exists or utilize it if they do. While that is unfortunate, those that interact with school safety daily—administrators, students, teachers, parents, law enforcement, leaders in the safety industry, and government officials—know that there is power in accurate information, something that the Clery Act provides.

Further publicity and extension of the Clery Act to K-12 institutions would put information in the hands of those that seek it. School officials looking to demonstrate the true safety of their school, students looking for reassurance that they are going to spend their day in a safe learning environment, and lobbyists working to lessen security technology with adverse impacts to student health are some examples of groups that would be assisted by the data resulting from such an extension. And, while school districts can continue to invest billions of dollars into technology with questionable efficacy, they can, alternatively, take the time to produce data and examine it to determine whether that technology is actually necessary. This examination could save schools and taxpayers money or allow them to

298. 16 R.I. GEN. LAWS § 16-21-4(b)(1) (West 2023).

299. 34 C.F.R. § 668.46(g)(6).

invest it into the school in alternative ways. Data may also help pave the way to remedying some of the discretionary impacts that are currently felt disproportionately by students with disabilities, students of color, and students who are immigrants. School districts can also be proactive by providing safety education on sexual harassment, as this is something that does not exist solely on a college campus.

Beyond the school districts, data analysis, and technicalities of safety training, the Clery Act would benefit Parents A and B, who would be certain that they had the proper knowledge to make a completely informed decision in choosing where to move in Region X and where to send their children to school.