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## Eliminating the Element of Chance: School District Title IX Implementation to Support Pregnant and Parenting Students

Victoria Ryan

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# Eliminating the Element of Chance: School District Title IX Implementation to Support Pregnant and Parenting Students

Victoria Ryan<sup>†</sup>

## ABSTRACT

*Pregnant and parenting teenagers’ experiences are not consistent or predictable, but the support we provide them through our social and educational programs could be. Vulnerability theory and relational feminism, taken together, provide a strong justification—even a mandate—for public policy to respond more proactively and productively to the distinctive vulnerabilities of teen parents and to the important relationships and interdependencies that may guide and influence them. This paper proposes one way that schools and school districts can better support pregnant and parenting students. This includes building teams and systems that allow for planning, mentorship, and advocacy with and on behalf of young women and mothers in school. In serving those teen mothers’ needs, school districts can meet the demands of Title IX and meaningfully improve the odds of financial stability and personal success for those young women and their children.*

INTRODUCTION ..... 74

I. THE PROBLEM, ITS FEMINIST ANCHOR(S), & BARRIERS TO SERVICES ..... 78

    A. What is the Problem? ..... 78

    B. Why Is Teen Pregnancy and Parenting a Feminist Issue? ..... 81

    C. Barriers to Services, Proposed Solutions, & The Absence of Relationships ..... 84

<sup>†</sup> J.D., Northwestern Pritzker School of Law, 2017; M.A., Boston College, 2010; B.A., Boston College, 2009. I am profoundly grateful to Professor Deborah Tuerkheimer, whose mentorship helped me find my voice. Additional thanks to the editorial team of *Berkeley Journal of Gender, Law & Justice* for their thoughtful feedback. Finally, I am humbled by the support of my family: my parents and siblings, whose love and encouragement made this article possible; and my husband, Leo, whose extraordinary faith in me has been my guide. This article is dedicated, in loving memory, to Amanda Rose Laura—cousin, friend, teacher, scholar, and advocate.

|  |     |
|--|-----|
| 1. Fragmentation & Other Barriers to Services.....             | 84  |
| 2. Schools as the Locus of Reform .....                        | 86  |
| 3. State & Local Policy Recommendations.....                   | 86  |
| II. TITLE IX, STATE-LEVEL IMPLEMENTATION, & WHAT IS ALREADY    |     |
| WORKING.....   | 87  |
| A. What Does Title IX Require?.....                            | 87  |
| B. What Are States Doing to Better Comply with Title IX? ..... | 88  |
| C. The Examples—What is working? .....                         | 92  |
| III. ELIMINATING THE ELEMENT OF CHANCE—A DISTRICT-LEVEL        |     |
| SOLUTION.....  | 94  |
| A. The Element of Chance.....                                  | 94  |
| 1. Relationships in Teen Well-Being and Development .....      | 94  |
| 2. Karla’s Story .....   | 95  |
| 3. Maria’s Story .....   | 96  |
| 4. The Element of Chance.....                                  | 97  |
| B. The Teen Pregnancy & Parenting Advocacy Team—A District     |     |
| Level Solution .....   | 97  |
| 1. What Are The Objectives? .....                              | 98  |
| a) Mentorship .....  | 98  |
| b) Access to Existing Services .....                           | 99  |
| c) Peer Connections.....                                       | 100 |
| d) Individualized Education Plan .....                         | 100 |
| 2. Why District Level?.....                                    | 102 |
| 3. Who Should Be On the Team? .....                            | 103 |
| IV. OBJECTIONS .....   | 104 |
| A. The Problem of Inorganic Relationships.....                 | 104 |
| B. Funding Gap & Recruiting.....                               | 105 |
| CONCLUSION .....   | 107 |

## INTRODUCTION

I stood in front of the class at the whiteboard with a baby in my left hand and a dry-erase marker in my right. My student Alexandra, then in the twelfth grade, sat a few feet away while taking notes and keeping an eye on her daughter in my arms. Every now and then this would happen—a student like Alexandra would bring her son or daughter to class because some hiccup in her family arrangements or transportation plan made childcare that day impossible. There was often a baby at school for part or all of the day. When a baby came to my class, I would carry him or her around while I taught. I wanted the baby’s mother to have free hands to do her work, and if there was going to be a massive distraction in class, I preferred for it to be in my arms—maybe the baby would draw a few otherwise disengaged students’ attention to the board.

This experience with Alexandra and her daughter, along with the many other pregnant and parenting teens I knew while I was teaching, made an impression on

me. In my first year of teaching high school, at least six of my students became mothers. Of those six, only a few finished high school on a traditional path.<sup>1</sup> Others were pushed out into modified or credit recovery programs or elected those programs because they “were looking for a way out,” as one of my then ninth grade student-mothers explained to me.<sup>2</sup> Others stopped attending school because they did not have support from their families or because school was too overwhelming. One was unable to continue attending school because managing her baby’s medical problems, and the corresponding paperwork and expenses, was all she could handle at that time.

I remember hearing that there were about eighty students at the school that became mothers during my first year of teaching. In my four years of teaching, I went to a handful of baby showers for students. I often wondered what resources were available to help these young women manage their parenting responsibilities along with their schoolwork. How could we, as educators and advocates, help support and guide them to the graduation stage? I was never aware of the requirements of Title IX, a federal law that protects against gender discrimination in schools.<sup>3</sup> Nor was I aware of what services existed beyond those haphazardly provided by teachers like me, or those provided by school social workers, administrators, and counselors.

This paper proposes one way that schools and school districts can better support students like the young women I taught and still am in touch with today. This includes building teams and systems that allow for planning, mentorship, and advocacy with and on behalf of young women and mothers in school. In serving those teen mothers’ needs, school districts can meet the demands of Title IX and meaningfully improve the odds of financial security and personal success for those young women by helping them graduate.

Part I will discuss the challenges and risks pregnant and parenting teens face. These challenges implicate theories of vulnerability and relational feminism.<sup>4</sup> Part I will also consider the problem of fragmentation, the disjunctive provision of supports and services by numerous individuals and organizations, as identified by Liz Watson and Peter Edelman.<sup>5</sup> This section will highlight the persuasive elements

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1. By “traditional path” I mean the typical four-year high school graduation model, as opposed to alternatives, e.g. attending a specialized school, night school, obtaining one’s Certificate of High School Equivalency through the General Education Development test (G.E.D) or leaving school entirely.
  2. See Erin Eihorn, *Teen Pregnancy Is Still A Problem – School Districts Just Stopped Paying Attention*, THE HECHINGER REPORT (June 3, 2015), <http://hechingerreport.org/teen-pregnancy-is-still-a-problem-school-districts-just-stopped-paying-attention/> (describing the pervasiveness of such online education programs among teen mothers in Detroit, as an alternative to a traditional path, for one example).
  3. See 34 C.F.R. §§ 106.1–71 (1975).
  4. See *infra* Part I.
  5. Liz Watson & Peter Edelman, *From Fragmentation to Integration: A Comprehensive Policy Approach to Serving Young Mothers and Their Families Through School-Based Interventions*, 20 GEO. J. ON POVERTY L. & POL’Y 269 (2013).

of Watson and Edelman's policy proposal, while pointing to problems in their solution.<sup>6</sup> Watson and Edelman properly identify fragmentation as a major problem and suggest some compelling next steps, yet their plan incorrectly places the solution primarily at the school-level.<sup>7</sup> Their article also fails to adequately develop their important suggestion that mentoring relationships are critical in helping teen parents succeed.<sup>8</sup> As Part III will propose, I believe a district-level team would best provide the services and mentoring relationships that Watson and Edelman envision.<sup>9</sup>

Part II will outline the specific requirements of Title IX and analyze state-level laws aimed at ensuring its implementation.<sup>10</sup> Additionally, Part II identifies and describes several programs—some school-based, others based in the community or organized by non-profits—that have overcome the problem of fragmentation and successfully supported pregnant and parenting teens.<sup>11</sup>

Part III will discuss *why* these programs have been successful and illustrate the importance of individualized, relationship-based solutions for adolescent parents through anecdotal evidence.<sup>12</sup> Building on such anecdotal evidence, Part III also outlines my proposal for one method by which school districts could better serve pregnant and parenting students and thereby more effectively comply with Title IX—offering a possible answer among the research-rich and solutions-poor legal scholarship.<sup>13</sup>

A successful program for pregnant and parenting teenagers would connect students with services that make it easier for teen parents to stay in school, graduate, and ultimately become problem-solvers and advocates for themselves and their children. Drawing upon the strengths of Watson and Edelman's work while addressing its shortcomings, I hope to show how school districts can utilize a team of advocates to build relationships with pregnant and parenting students.<sup>14</sup> This program seeks to standardize the support that pregnant and parenting teens need from their teachers, administrators, school social workers, and counselors, support that is often available only informally or inconsistently.<sup>15</sup> This support includes generating and tracking long-term and short-term goals, creating individualized education plans, and identifying post-secondary options and community resources.<sup>16</sup> This supportive accountability system can help guide pregnant and parenting teens towards graduation.

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6. *See infra* Part I.

7. *See* Watson & Edelman, *supra* note 5 at 277–79 (observing correctly that “there is a dearth of evaluation research on school-based interventions for pregnant and parenting teens” and that “effective data collection is a first step toward evaluating effectiveness”).

8. *See infra* Part I.

9. *See infra* Part III.

10. *See* 34 C.F.R. § 106.40(b)(1) (1975).

11. *See infra* Part II.

12. *See infra* Part III.

13. *Id.*

14. *See* Watson & Edelman, *supra* note 5.

15. *See infra* Part III.

16. *Id.*

Part IV will conclude and confront two possible objections: the problem of forced or inorganic relationship building and the significant hurdle of recruiting and budgeting.

Before further developing any of these ideas, however, it is necessary to acknowledge two important points. First, pregnancy and parenting in high school is on the decline nationally.<sup>17</sup> This is a result of “an increased percentage of adolescents who are waiting to have sexual intercourse and the increased use of contraceptives by teens.”<sup>18</sup> Second, pregnancy and parenting affect only a minority of teenage students, some of whom may attend underperforming and overburdened schools.<sup>19</sup> Schools and districts confront numerous equally troubling social problems daily that are pervasive among the students they serve, while pregnancy often affects only a few students among hundreds or thousands.<sup>20</sup> While I believe streamlined and accessible school services to pregnant and parenting teens are crucial for those students, I also realize that schools face diverse challenges in serving a wide range of high-needs student populations.<sup>21</sup>

Alexandra’s literature class is illustrative. We sat in homogenous groups by reading level, because the reading abilities among the roughly 35 students ranged from second grade to college-level. This range of abilities was typical in most classes at our school; teachers tried to creatively address the students’ numerous and diverse needs each day, but the students faced a variety of challenges both within and outside of the classroom. Some of the students in this particular class had severe learning disabilities and some could not read or write in English. Others came to school hungry each day, went home to foster-parents, or served as caretakers themselves for their younger siblings. A handful went home to domestic

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17. See FED. INTERAGENCY FORUM ON CHILD AND FAMILY STATISTICS, *America’s Children: Key National Indicators of Well-Being*, Figure 3: Birth Rates for Females Ages 15-17 by Race and Hispanic Origin of Mother, 1995-2014, [http://www.childstats.gov/americaschildren/fam\\_fig.asp#fam6](http://www.childstats.gov/americaschildren/fam_fig.asp#fam6) (last visited Nov. 12, 2016) (showing overall decline in births among women ages 15-17, with the most dramatic declines in the black and Hispanic populations). See also THE NAT’L CAMPAIGN TO PREVENT TEEN & UNPLANNED PREGNANCY, *National & State Data*, at “*The National Story*,” <http://thenationalcampaign.org/data/landing> (last visited Nov. 12, 2016) (indicating a 64% drop in teen births in America from its peak in 1991 and an 8% drop from 2014 to 2015 alone).
  18. U.S. DEPT. OF HEALTH & HUMAN SERV., *Trends in Teen Pregnancy and Childbearing*, <http://www.hhs.gov/ash/oah/adolescent-health-topics/reproductive-health/teen-pregnancy/trends.html> (last updated June 2, 2016) (citing K. Kost & S. Henshaw, *U.S. teenage pregnancies, births and abortions, 2010: National trends by age, race and ethnicity*, GUTTMACHER INSTITUTE (May 2014), <http://www.guttmacher.org/pubs/USTPtrends10.pdf>); John S. Santelli et al., *Explaining Recent Declines in Adolescent Pregnancy in the United States: The Contribution of Abstinence and Improved Contraceptive Use*, 97(1) AMERICAN J. OF PUB. HEALTH 150 (2007)); but see Laura Lindberg, John Santelli, and Sheila Desai, *Understanding the Decline in Adolescent Fertility in the United States, 2007-2012*, 59 J. OF ADOLESCENT HEALTH 577 (2016).
  19. See NAT’L CAMPAIGN TO PREVENT TEEN & UNPLANNED PREGNANCY, *supra* note 17.
  20. See *id.* (stating that the teen birth rate in 2015 was 22 births per 1,000 girls).
  21. Pregnant and parenting teens are one high-needs group among many that schools must serve. It is not the objective of this paper to place one high-needs student community above another. Nor is it the objective of this paper to reflexively assign blame to schools for failure to live up to Title IX standards while they confront many needs and challenges each day. I only hope to offer one possible solution for a particularly vulnerable group of students.

violence or didn't go home at all, but instead participated in the gang activity that was prevalent in the neighborhood.

This class typifies the issues that many school districts and their teachers strive to ameliorate daily.<sup>22</sup> Having Alexandra's baby in the classroom was a drop in the bucket among the challenges we faced at our school. For Alexandra, however, balancing her daughter's needs with her own aspiration to graduate high school was the most important and difficult aspect of her life. While teaching, I tried to support Alexandra by holding her baby so she could take notes and I sent work home when she missed class. My actions were certainly not a big-picture fix focused on Title IX compliance, and not even close to the individualized support she most likely needed from a mentor.

All of that said, I am hopeful that supporting pregnant and parenting teenagers in full compliance with Title IX is an attainable goal. My hope is buttressed by my experience working with pregnant and parenting teens, who, despite other challenges, found additional motivation in their children to attend school, acquire new skills, work towards graduation, and ultimately ensure stability and opportunity for themselves and their families.

## I. THE PROBLEM, ITS FEMINIST ANCHOR(S), & BARRIERS TO SERVICES

### A. What is the Problem?

Title IX prohibits discrimination on the basis of pregnancy and requires both equal treatment and accommodation for pregnant students. Yet, pregnant and parenting students still face many barriers at school. While Title IX guarantees pregnant students leaves of absence that are medically necessary,<sup>23</sup> it does not include similar accommodations for parenting students caring for their children.<sup>24</sup> School attendance policies can make it nearly impossible for parenting teens to meet course and graduation requirements, pushing pregnant and parenting students out of school.<sup>25</sup> Despite Title IX, some schools and districts still

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22. While indifferent teachers are a popular literature topic, the majority of teachers I knew cared deeply about their students. I take issue with how often the legal literature falls into criticism of teachers. I believe it reflexively assigns blame to a group that is ill-equipped to respond to the demands of complex laws such as Title IX, especially considering the many responsibilities teachers have to their students. In Part III I will discuss in greater detail my reasons for objection and the important role teachers can play as facilitators for the mentoring relationships that teen parents require in order to be successful.

23. See 34 C.F.R. § 106.40(b)(1) (1975).

24. See Elizabeth M. Hady, *The Absence of Parenting Students' Rights: How and Why Title IX Tolerates Discriminatory Attendance Policies*, 21 *CARDOZO J.L. & GENDER* 95, 97 (2014) (arguing that attendance policies that do not excuse a student's absence to care for her child have a disparate impact on teen mothers).

25. *Id.* at 101; JENNY EGAN & LARA S. KAUFMANN, *A PREGNANCY TEST FOR SCHOOLS: THE IMPACT OF EDUCATION LAWS ON PREGNANT AND PARENTING STUDENTS* 5, NAT'L WOMEN'S LAW CTR. (2012), [http://www.nwlc.org/sites/default/files/final\\_nwlc\\_pregnantparenting\\_report.pdf](http://www.nwlc.org/sites/default/files/final_nwlc_pregnantparenting_report.pdf).

practice informal push-out policies, operate less-than-comparable alternative schools, treat pregnant and parenting students with hostility, fail to accommodate pregnant and parenting students' health and emotional issues, prohibit or discourage pregnant and parenting students from participating in certain classes, and in general continue to treat pregnant and parenting students differently than students with other health challenges and conditions.<sup>26</sup>

In one extreme example, Delhi Charter School in Louisiana developed an expulsion policy for pregnant students, which school leadership revoked when challenged by the American Civil Liberties Union in 2012.<sup>27</sup>

Between harsh school attendance policies, social stigma, and the overwhelming responsibilities of being a teen parent, it is no surprise that close to one-third of female students who drop out of high school cite pregnancy or parenting as their reason for leaving school.<sup>28</sup> This percentage is even higher among African-American and Latino students.<sup>29</sup> Indeed, 36% of Hispanic girls and 38% of African-American girls that dropped out explain that they were unable to continue in school due in part, to pregnancy or parenthood.<sup>30</sup> Similarly, only 38% of teen girls who have a child before age eighteen attain a high school diploma by age twenty-two.<sup>31</sup> In 2015 full-time workers without a high school degree earned \$492 per week, compared with \$672 for high school graduates with no college and \$1,234 for those holding at least a bachelor's degree.<sup>32</sup> Thus, failure to complete high school, pervasive among teen mothers, has tangible economic consequences that make it more difficult for teen mothers to provide for themselves and their children.<sup>33</sup>

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26. Michele Gough, *Parenting and Pregnant Students: An Evaluation of the Implementation of the "Other" Title IX*, 17 MICH. J. GENDER & L. 211, 217 (2011).
  27. See Kaylee Niemasik, *Teen Pregnancy in Charter Schools: Pregnancy Discrimination Challenges Under the Equal Protection Clause and Title IX*, 22 MICH. J. GENDER & L. 55, 55 (2015) (analyzing the Delhi Charter School policy, arguing for a rebuttable presumption of state action where plaintiff is a charter school student alleging deprivation of a fundamental right, and asserting the enforcement of such discriminatory policies violates the Equal Protection Clause and Title IX).
  28. See Hady, *supra* note 24; Miriam Zoila Pérez, *Teen Moms Look for Support But Find Only Shame*, COLORLINES (May 6, 2011), <http://www.colorlines.com/articles/teen-moms-look-support-find-only-shame> ("current discourse surrounding young motherhood is both stigmatizing and insensitive"); AMERICA'S PROMISE ALLIANCE & THE NAT'L CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY, POLICY BRIEF: PREVENTING TEEN PREGNANCY IS CRITICAL TO SCHOOL COMPLETION 1 (July 2010), [http://thenationalcampaign.org/sites/default/files/resource-primary-download/briefly\\_policybrief\\_school\\_completion.pdf](http://thenationalcampaign.org/sites/default/files/resource-primary-download/briefly_policybrief_school_completion.pdf).
  29. *Id.*
  30. *Id.* (use of terms "Latino" and "Hispanic" as used in original source).
  31. *Why it Matters: Teen Childbearing, Education and Economic Wellbeing*, THE NAT'L CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY (July 2012), <http://thenationalcampaign.org/sites/default/files/resource-primary-download/childbearing-education-economicwellbeing.pdf>.
  32. *Economic News Release: Usual Weekly Earnings of Wage and Salary Workers News Release*, BUREAU OF LABOR STATISTICS (Oct. 20, 2015), [http://www.bls.gov/news.release/archives/wkyeng\\_10202015.htm](http://www.bls.gov/news.release/archives/wkyeng_10202015.htm)
  33. *Id.*



Finally, teen mothers' hardships may echo through lasting disadvantages for their children.<sup>34</sup> A 2011 study of preschool age children revealed that children born to mothers under 18 years old dramatically underperformed on standardized tests compared with other students.<sup>35</sup> This picture is complicated by research that indicates that it is not so much the age of the mother at birth that predicts outcomes for the child, but rather that there is a strong correlation between the child's cognitive scores and environmental factors such as the child's intellectual stimulation at home.<sup>36</sup> These studies indicate that it is unclear whether a mother's age during pregnancy causes her child's later academic underperformance or if external social factors contribute to both the likelihood of teen pregnancy and children's underperformance. Either way, children of teen mothers are more likely to live in poverty, drop out of high school, or become teen parents themselves.<sup>37</sup> This reinforces the cycle of intergenerational poverty that was pervasive in my school and in many others.

Each year, a significant number of teen girls experience pregnancy and its collateral consequences: discrimination, school push-out, or decision to drop out.. According to The National Campaign to Prevent Teen and Unplanned Pregnancy, there were 249,067 babies born to mothers between ages fifteen and nineteen in 2014.<sup>38</sup> Though this reflects a 9% decline from 2013 and a 61% decline in teen births since a national peak in 1991, this data also represents half a million people, mothers and newborns collectively, who are particularly vulnerable.<sup>39</sup> These are school-aged women whose responsibilities grow suddenly and exponentially with the birth of their children.<sup>40</sup> Moreover, although "marginalized young mothers are far from a monolithic group . . . poverty, addiction, intergenerational violence, poor health, limited education, and unstable home lives are common problems

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34. See THE NAT'L CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY, *supra* note 31, at 23.

35. *Id.*; see also Kristin A. Moore & Nancy O. Snyder, *Attainment of Firstborn Children of Adolescent Mothers*, 56, 5 AM. SOC. REV., 621-24 (1991) (arguing that it is not so much the age of the mother at birth that predicts outcomes for the child, but rather that there is a strong correlation between a mother's and her child's cognitive scores and that environmental factors such as the child's intellectual stimulation at home also predicted child outcomes. This is an important caveat to the point about intergenerational consequences for teen mothers and their children; however, it seems hard to disaggregate the circumstances that often lead to teen pregnancy from the environmental factors that Moore and Snyder argue are more powerful than the mother's age at the time of birth).

36. See Moore & Snyder, *supra* note 35, at 612-624.

37. *Id.*; see also THE NAT'L CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY, *supra* note 31; See Liz Watson & Peter Edelman, *From Fragmentation to Integration: A Comprehensive Policy Approach to Serving Young Mothers Through School-Based Interventions*, 20 GEO. J. ON POVERTY L. & POL'Y 269, 272-275 (2013) (presenting a more detailed description of the challenges teen mothers face).

38. See NAT'L CAMPAIGN TO PREVENT TEEN & UNPLANNED PREGNANCY, *National & State Data*, *supra* note 17.

39. *Id.*

40. See Madeleine McNeeley, *Title IX Equal Educational Access For Pregnant and Parenting Teens*, 22 WIS. WOMEN'S L. J. 267 (2007) (providing a more detailed description of challenges pregnant and parenting teens face as well as an analysis of Title IX rights for those women).

among them.”<sup>41</sup> Indeed, 63% of teen mothers receive public assistance within their first year of parenting.<sup>42</sup> This means that most pregnant and parenting teens have to navigate public systems like welfare, Medicaid, and sometimes juvenile justice, in addition to their school work and their responsibilities to their infants.<sup>43</sup>

### B. Why Is Teen Pregnancy and Parenting a Feminist Issue?

The broad objective of Title IX was to prohibit discrimination and create more opportunity for women in educational spaces, both in K-12 schools and in higher education.<sup>44</sup> Passed in 1973, Title IX emerged out of the civil rights and feminist movements of the preceding two decades.<sup>45</sup> Advocates like Professor Bernice Sandler, Representative Edith Green, and Representative Patsy Mink, who helped call attention to sex discrimination and pass the legislation, viewed Title IX as a feminist victory in addressing educational inequity and discrimination in general, even though the initial focus was on higher education.<sup>46</sup>

Ultimately applied in the K-12 setting as well, Title IX had some success early on in creating change for teen mothers.<sup>47</sup> In the years immediately following Title IX’s passage, “most school districts had adopted policies to keep students in regular classes throughout their pregnancies, and many provided pregnancy and parenting programs designed especially for teenagers.”<sup>48</sup> Likewise, in the years following Title IX’s implementation, “the graduation rate for teen mothers increased much more quickly than the graduation rate for all women, suggesting that the special policies for them did have a substantial impact.”<sup>49</sup> That said, the increased graduation rate might have also reflected changing attitudes toward women’s rights in education generally as a result of the women’s liberation movement; the cultural shift in that period of time may have also meant that teen mothers simply had more agency in decisions regarding reproduction and education.

It is hard to excise Title IX’s impact from the cultural changes that made its passage possible and would continue to echo and evolve in subsequent decades. While data suggests some success in Title IX implementation early on, those successes have not been sustained, as the challenges for teen mothers described in the previous section demonstrated. This paper aims to identify Title IX’s failures at

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41. See Watson & Edelman, *supra* note 5 (citing Rosemary Sarri & Anna Phillips, *Health and Social Services for Pregnant and Parenting High Risk Teens*, 26 CHILD & YOUTH SERVS. REV. 537, 544–53 (2004)).

42. THE NAT’L CAMPAIGN TO PREVENT TEEN & UNPLANNED PREGNANCY, *supra* note 31.

43. See Watson & Edelman, *supra* note 5 (mentioning involvement in the juvenile delinquency system). The same challenges may be present for fathers in cases where school-aged fathers are the primary caretakers for their children; however, most research focuses on the female teen parent.

44. Kendra Fershee, *Hollow Promises*, 43 INDIANA L. REV. 79 (2009).

45. Iram Valentin, *Title IX: A Brief History*, 2 HOLY CROSS J.L. & PUB. POL’Y 123, 127 (1997).

46. Beth Pearsall, *Title IX: Looking Back, Moving Forward*, OUTLOOK MAGAZINE (2012).

47. KRISTEN LUKER, DUBIOUS CONCEPTIONS 121 (1996).

48. *Id.*

49. *Id.*

the implementation stage in schools today, and to recommend a way for school districts and policy makers to meaningfully address this problem.

Feminist theory provides a useful anchor for problem-solving in the context of teen pregnancy and parenting.<sup>50</sup> Martha Albertson Fineman persuasively asserts what she describes as “a more substantive vision” of equality based on vulnerability in her essay *The Vulnerable Subject: Anchoring Equality in the Human Condition*.<sup>51</sup> Fineman envisions vulnerability as the new currency of social need, suggesting that vulnerability should dictate the terms around which we build policy and law.<sup>52</sup> In her analysis, Fineman points out the limitations of formal equality, which she suggests “leaves undisturbed” the institutional structures that “privilege some, and disadvantage others.”<sup>53</sup> “Inequalities are produced and reproduced,” a phenomenon which teenage mothers and their children experience in terms of education, employment and economic status, and discrimination.<sup>54</sup> Pregnant and parenting teens are a particularly vulnerable group, whose needs, applying Fineman’s proposal, should be the “heart of social policy.”<sup>55</sup>

Given the particular vulnerabilities of pregnant and parenting students, Fineman’s thesis provides a strong theoretical justification for reform in the way we handle pregnant and parenting teens.<sup>56</sup> Fineman tasks the state with ensuring conditions for equality, asserting that the state has an affirmative obligation to structure its institutions accordingly.<sup>57</sup> The state should “be more responsive to, and responsible for, vulnerability.”<sup>58</sup> Public policy should therefore respond more proactively and productively to the distinctive vulnerabilities of pregnant and parenting teenagers.

Fineman’s work interacts here with Robin West’s theory of relational feminism.<sup>59</sup> First, West argues that motherhood in particular is a vulnerability, “leaving [women] unequal,” and making women non-autonomous.<sup>60</sup> Teen mothers’ inter-

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50. See Michele Gough, *Parenting and Pregnant Students: An Evaluation of the Implementation of the “Other” Title IX*, 17 MICH. J. GENDER & L. 211, 269 (2011) (suggesting that in the conclusion of the evaluation of Title IX implementation for pregnant and parenting teens, that Fineman’s vulnerability approach may provide a useful feminist lens for analyzing the rights of this group).

51. Martha Albertson Fineman, *The Vulnerable Subject: Anchoring Equality in the Human Condition*, 20 YALE J.L. & FEMINISM 1 (2008).

52. *Id.* at 1–2.

53. *Id.* at 3.

54. *Id.* at 5; see also Fershee, *supra* note 44, at 7–80; McNeeley, *supra* note 40, at 268–69.

55. Fineman, *supra* note 51, at 11.

56. Gough, *supra* note 50, at 269 (concluding that Fineman’s focus on vulnerability may provide a useful feminist lens for analyzing the rights of pregnant and parenting teens as part of her evaluation of Title IX implementation).

57. See Fineman, *supra* note 51, at 21.

58. See Fineman, *supra* note 51, at 13.

59. See Fineman, *supra* note 51; see also Robin West, *The Difference in Women’s Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory*, 15 WISC. WOMEN’S L.J. 149, 210 (2000).

60. West, *supra* note 59, at 210. I want to also acknowledge here that while the vast majority of people who become pregnant identify as women, some who become pregnant do not identify

secting identities (such as race, class, and age), further compound their vulnerability in the context of teen pregnancy.<sup>61</sup> A second and related component to West's relational feminism, which builds on her vulnerability analysis, is her take on female suffering.<sup>62</sup> West posits that women suffer more than men, and that those female specific "injuries are often not recognized or compensated as injuries by the legal culture."<sup>63</sup> West attributes some of this gap to her construction of "the giving self": women consenting to "serve the needs and satiate the desires of others," in response to an unforgiving society constructed for and by men.<sup>64</sup> Though West imagines this "giving self" in the context of heterosexual sex, the concept is transferable beyond sex and into the realm of providing care.<sup>65</sup> One derivative manifestation of this "giving self" is the discrepancy between the dropout rates of teen mothers and fathers: teen mothers are significantly more likely than teen fathers to drop out of school to care for their children.<sup>66</sup> Female students across ethnic groups are more likely than male students to leave school for family reasons.<sup>67</sup> Since female students disproportionately carry the burden of parenting responsibilities, law and school policy must be responsive to this gendered difference and provide equitable accommodations and support.<sup>68</sup>

Fineman and West also suggest that the presumption of autonomy in our system as it stands now is problematic.<sup>69</sup> Title IX and legal scholarship on pregnant and parenting teens seem stuck in what Fineman describes as "myths of autonomy and independence" and therefore do not "reflect the vulnerable as well as dependent nature of the human condition."<sup>70</sup> One example of this is the problem of fragmentation and the absence of mentorship in providing services to pregnant and parenting teens, which will be discussed in detail in subsequent sections. Like Fineman, West similarly rejects this presumption of autonomy, explaining that women "differentially depend more heavily on others, both for our own survival and for the survival of the children who are part of us."<sup>71</sup> West seems to suggest

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as women and may experience further vulnerability or challenges as a result of cissexist and transphobic attitudes and institutions. *See, e.g.*, Robin Marantz Henig, *Transgender Men Who Become Pregnant Face Social, Health Challenges*, NATIONAL PUBLIC RADIO (Nov. 7, 2014), <http://www.npr.org/sections/health-shots/2014/11/07/362269036/transgender-men-who-become-pregnant-face-health-challenges>.

61. *See* Lawrence B. Finer & Mia R. Zolna, *Shifts in Intended and Unintended Pregnancies in the United States, 2001-2008*, 104 AM. J. OF PUB. HEALTH, S43, S47 (2014) <https://www.guttmacher.org/pubs/journals/ajph.2013.301416.pdf>.

62. *See* West, *supra* note 59, at 150.

63. *Id.*

64. *Id.* at 165.

65. *See id.*

66. *See id.*; Hady, *supra* note 24, at 96.

67. Elizabeth Stearns & Elizabeth J. Glennie, *When and Why Dropouts Leave High School*, 38 YOUTH & SOC'Y 29, 46 (2006), [http://www.morsmal.org/documents/members/admin/When\\_and\\_Why\\_Dropouts\\_leave\\_high\\_school.pdf](http://www.morsmal.org/documents/members/admin/When_and_Why_Dropouts_leave_high_school.pdf).

68. *Id.* at 53-55.

69. *See* Fineman, *supra* note 51; *see* West, *supra* note 59.

70. *See* Fineman, *supra* note 51, at 19.

71. *See* West, *supra* note 59, at 210.

that this unique interdependence is a result of the inherent vulnerabilities in gestating, birthing, and raising a child.<sup>72</sup> Title IX and legal scholarship fail to recognize the interdependence West describes and the larger communities at play in the lives of pregnant and parenting teens.

The experience of pregnant and parenting teens seems to land at the nexus of Fineman's and West's work. Vulnerable and non-autonomous, these young women exist in a complex web of relationships and influencers. Legislation and legal scholarship must confront the importance of such relationships in constructing services and solutions for young pregnant and parenting women in order to be responsive to their unique challenges.

### C. Barriers to Services, Proposed Solutions, & The Absence of Relationships

Liz Watson and Peter Edelman's article, *From Fragmentation to Integration*, is solutions-oriented and provides a persuasive, if incomplete, overview of the barriers to services for teen parents, as well as useful policy solutions. This section unpacks those barriers and examines Watson and Edelman's proposed answers.

#### 1. Fragmentation & Other Barriers to Services

*From Fragmentation to Integration* identifies the problem of fragmented services as a primary barrier to teen parents receiving the services they need.<sup>73</sup> According to Watson and Edelman, fragmentation means that important "services to teens are provided through a complex patchwork of programs," eliminating opportunity for any one caseworker to form a "sustained relationship with the teen."<sup>74</sup> As discussed further in Part III, the importance of this sustained relationship cannot be overstated.<sup>75</sup> Additionally, Watson and Edelman correctly point out that significant demands on teen mothers' time—"juggling school, work, and caring for children," all the while relying on public transportation, for example—make it "far more difficult for teens to access a broad range of services."<sup>76</sup>

In the current system of fragmented services, there is no one person, or one office, to whom the student can turn for comprehensive support. Instead, the student has to seek out services from disjointed and unrelated sources. Imagine, for example, a hypothetical student who discovers from the school nurse that she is pregnant after she stops in the school clinic with a head cold. The school nurse may suggest that the student see a doctor at the neighborhood clinic to begin prenatal care, but the nurse may not be at liberty to share the student's confidential medical information with school administrators or teachers without the consent of

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72. *Id.*

73. *See* Watson & Edelman, *supra* note 5, at 274–77.

74. *Id.* at 275.

75. *See* Part III, specifically Karla's and Maria's stories.

76. *See* Watson & Edelman, *supra* note 5, at 275.

the student or a parent. The student may need to apply for medical coverage, or find out what coverage she has through her family. The student may reach out to a teacher or a counselor, who may know about what steps to take to prepare coursework for her to complete during maternity leave, but may not know how to apply for public assistance. She may rely on that counselor or teacher as a trusted advisor, but the counselor or teacher is not an expert in the public services that may be available to the student to help her with healthcare or housing. She is on her own for that. Perhaps she needs help finding a job in the community, but the teacher or counselor who serves as her confidante lives in a different neighborhood, so can not advise the student on where to look.

Herein is the problem of fragmentation. Though the student may have a relationship with one or two people through the school who provide her with academic services or mentorship, the student needs help to navigate the complex healthcare and public assistance programs that might be available to her, but which come from all different providers. This fragmentation is not only a barrier to a pregnant or parenting student receiving needed services, but also prohibits any of the providers from building a mentoring or advocacy relationship with that student.

Moreover, strict standards of eligibility and compliance for public programs, symptoms of a highly bureaucratic system designed for adults and developmentally inappropriate for teens, further compound teen parents' barriers to services.<sup>77</sup> Many teenagers in need of services provided by public programs may not have yet developed the maturity and organizational skills necessary to meet these programs requirements and bureaucratic expectations.<sup>78</sup> The prefrontal cortex—which controls complex, mature brain function in areas like cause and effect, cost-benefit analysis, organizational skills, and long-term planning—is still in development into a person's early twenties.<sup>79</sup> This suggests that “many teens require additional support to comply with program requirements.”<sup>80</sup> Watson and Edelman finally point to teens' misconceptions about what and when services are available as an additional barrier.<sup>81</sup> They similarly cite social science literature suggesting that confusion about eligibility for programs like Temporary Assistance for Needy Families meant teen parents often did not apply or found it to be “too much hassle.”<sup>82</sup>

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77. See Watson & Edelman *supra* note 5, at 276 (citing Office of Population Affairs, *Maturation of the Prefrontal Cortex*, U.S. DEPT OF HEALTH & HUM. SERVS) (source in internal citation no longer available through the U.S. Department of Health and Human Services; source can be found as part of a blog available at <http://bridges2understanding.com/maturation-of-the-prefrontal-cortex/>).

78. *Id.*; see also DEBORAH L. SHAPIRO & HELENE M. MARCY, CTR. FOR IMPACT RESEARCH, *KNOCKING ON THE DOOR: BARRIERS TO WELFARE AND OTHER ASSISTANCE FOR TEEN PARENTS* 15 (2002).

79. Watson & Edelman, *supra* note 5, at 276.

80. *Id.* (citing SHAPIRO & MARCY, *supra* note 78).

81. *Id.* at 277.

82. *Id.* (quoting SHAPIRO & MARCY, *supra* note 78).

## 2. Schools as the Locus of Reform

Considering the existing barriers to public services, Watson and Edelman suggest that schools should be the locus for reform.<sup>83</sup> “Locating services in the schools,” they argue, “reduces the effects of fragmentation by bringing the services to the teen.”<sup>84</sup> Schools can help connect students to community-based programs, while also providing some services directly.<sup>85</sup> Such services include counseling, health care, and instruction on healthy habits and child development.<sup>86</sup> Although schools can and should provide such services, locating services in schools as Watson and Edelman suggest does not necessarily resolve a key problem with fragmentation: the absence of individual mentoring relationships. There are already many facilitators and arbiters of those services within the schools, including nurses, counselors, psychologists, social workers, and teachers. Accordingly, the kind of sustained and accountability-driven relationships Watson and Edelman envision will require a more specialized solution. Though Watson and Edelman acknowledge the importance of relationship in their analysis of the problem of fragmentation, their solution fails to meaningfully address this issue.<sup>87</sup> Since it is arguably the most powerful tool for improving services to pregnant and parenting teens, the cultivation of individual relationships ought to feature much more prominently in legal scholarship and public policy.

Additionally, the school-based model, though in theory a perfect solution to the problem of fragmentation, is better applied through a community-focused and case-specific team at the district-level.<sup>88</sup> Watson and Edelman’s school-based solution takes the problems of pregnant and parenting teens out of the context of larger issues at play in school districts and fails to recognize how relatively small the population of parenting teens is in comparison to other high-needs student populations.<sup>89</sup> My proposal in Part III applies the strengths of their school-based model to a district-level team, which is focused on the individual relationships that can be so powerful in changing teen parents’ outcomes.<sup>90</sup>

## 3. State & Local Policy Recommendations

Watson and Edelman further recommend a series of state and local policy programs that include: (1) community engagement and public education; (2) school district policy reform; (3) technical assistance and training; (4) legislation;

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83. *Id.*

84. *Id.* at 280.

85. *Id.*

86. *Id.* at 279.

87. *See id.* at 271, 275.

88. *See* Part III.

89. *See generally* Interview with Matt Westmoreland, Board Member, Atlanta Public Schools (Oct. 19, 2015). (addressing issue of scale in supporting pregnant and parenting students at the school level)

90. *See* Karla’s and Maria’s stories in Part III.

(5) program innovation; and (6) measuring outcomes.<sup>91</sup> If each of these measures could be implemented and tracked, schools and districts could meaningfully improve the outcomes for teen parents by increasing support to pregnant and parenting teens and by monitoring the outcomes of those students.

Watson and Edelman's plan as outlined in their article is compelling, however there is also a series of problems with the policy solutions they propose. Although the comprehensive reforms to district policy and Title IX training for educators are rich suggestions, their article indicates neither how schools and districts might rise to meet the new policies, nor how teachers would apply their new awareness of Title IX.<sup>92</sup> *From Fragmentation to Integration*, like almost all of the legal scholarship on Title IX compliance related to teen pregnancy and parenting, fails at the implementation stage. Suggesting broad measures that echo already existing and inconsistently applied state laws, Watson and Edelman's article lacks guidance as to what facilitating new programs would or should look like.<sup>93</sup> This article takes to heart Watson and Edelman's recommendations, suggests a district-level implementation plan that is responsive to the vulnerabilities of pregnant and parenting teens, and is tailored by an educator with experience serving such young women.

## II. TITLE IX, STATE-LEVEL IMPLEMENTATION, & WHAT IS ALREADY WORKING

### A. What Does Title IX Require?

While many people associate Title IX with equality among the sexes in the context of college athletics and school services, Title IX also prohibits gender discrimination against pregnant and parenting students.<sup>94</sup> A school may not discriminate against a pregnant or parenting student by excluding that student from any academic or extracurricular program or activity.<sup>95</sup> Specialized programs or activities for pregnant and parenting students must be entirely voluntary.<sup>96</sup> In those cases where a specialized program is separate, it must be comparable to what is offered to non-pregnant students.<sup>97</sup> Title IX requires that pregnancy and recovery therefrom be treated like any other temporary disability.<sup>98</sup> Finally, schools must permit any student to take a leave of absence for as long as is medically necessary, and upon the student's return must reinstate that student to the status that she held when the leave began.<sup>99</sup> Different school districts and individual schools comply

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91. Watson & Edelman, *supra* note 5, at 280.

92. *See id.*

93. *See* Part II for a more detailed discussion of some such laws.

94. 34 C.F.R. § 106.40(b)(1).

95. *Id.*

96. *Id.* § 106.40(b)(3).

97. *Id.*

98. *Id.* § 106.40(b)(4).

99. *Id.* § 106.40(b)(5).



with Title IX's requirements in diverse and inconsistent ways, ranging from specialized courses to homebound instruction or separate schools and programs. On a larger scale, states often provide guidance to schools on Title IX compliance, passing local laws and creating programs intended to support pregnant and parenting students.

### B. What Are States Doing to Better Comply with Title IX?

In 2009, Illinois required the State Board of Education to create the Ensuring Success in School Task Force in order to address the problem of the dropout and push-out of pregnant and parenting teenagers, among other issues.<sup>100</sup> The Task Force generated policy suggestions for ensuring that pregnant and parenting students “stay in school, stay safe, and successfully complete their education.”<sup>101</sup> The more than fifty page document details recommendations on students' needs, including some large-scale methods for anticipating and providing for those needs, as well as best practices from other states.<sup>102</sup> A few of these policy ideas inform the recommendations in Part III, particularly the report's suggestion that schools “designate a liaison” trained to work with teens around issues of pregnancy and sexual health more generally.<sup>103</sup> The responsibilities of this liaison might include increasing student awareness of available school and community resources, as well as helping them acquire quality health care.<sup>104</sup>

Beyond policy suggestions, the report also cites exemplary state laws that are already in place to address the needs of pregnant and parenting students. One such law, passed in Florida in 2009, requires each school district to maintain a comprehensive teenage parent program that helps connect students with ancillary services through existing programs.<sup>105</sup> A similar 1993 Oregon law requires the state board of education to “facilitate the provision” of counseling, life skills training, and other similar programs for pregnant and parenting teens.<sup>106</sup> Likewise, a Wisconsin law guarantees that school boards provide “program modifications” and “services” to teen parents.<sup>107</sup> With such broad language, however, it is unclear whether and how schools, districts, and school boards are actually working toward compliance with and implementation of these laws.

Several states provide not only services to pregnant and parenting teenagers, but also prioritize resource guides and messaging campaigns to ensure that they receive the support available to them. New York, for example, has created a comprehensive and easy-to-find online resource guide for teen parents, which details

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100. ENSURING SUCCESS IN SCH. TASK FORCE, ILL. STATE BD. OF EDUC., Final Rep. to the Ill. General Assembly 15 (2010), <http://www.isbe.net/reports/ess-task-force-final-report0610.pdf>.

101. *Id.*

102. *Id.* at 13–32.

103. *Id.* at 15.

104. *Id.*

105. FLA. STAT. § 1003.54 (2009).

106. OR. REV. STAT. § 336.640 (2011).

107. WIS. STAT. § 115.915 (2009).

the services available and students' rights at school.<sup>108</sup> Massachusetts Alliance on Teen Pregnancy, a non-profit, provides similar information through its Young Parent Rights and FAQs page.<sup>109</sup> Connecticut recently undertook a messaging campaign to encourage people to invest in pregnant and parenting teens.<sup>110</sup> This program raises the question: why not just invest in a program to provide the support, rather than creating a messaging campaign to encourage others to do so? Watson and Edelman argue that these kinds of messaging campaigns are effective to "address the misperception among some educators and the broader public that pregnant and parenting students set a bad example for other students and do not belong in school."<sup>111</sup> Attitudes like these may be waning, however, and educators' focus seems to be shifting to supporting pregnant and parenting students' academic performance and to keeping them in school.<sup>112</sup> In addition to being out of touch with educators' concerns, policies like Connecticut's seem to miss the mark because they focus energy on changing the attitudes of possible advocates, rather than on creating the space for willing advocates to give voice to the otherwise marginalized pregnant and parenting teens these programs hope to serve.<sup>113</sup>

Recently discontinued programs in California and Minnesota reflected the educator focus of providing direct support to pregnant and parenting teenagers, though the programs did so in different ways. Cal-SAFE, a publically funded program in California, was recently discontinued in May 2015 after about ten years of operation.<sup>114</sup> Cal-SAFE was a school-based program "designed to increase the availability of support services necessary for enrolled expectant or parenting students to improve academic achievement and parenting skills, and to provide a quality child care and development program for their children."<sup>115</sup> Cal-SAFE reached peak enrollment during the 2007–2008 school year, during which 145

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108. Elisabeth Ryden Benjamin, Esq. et al., *The Rights of Pregnant and Parenting Teens: A Guide to the Law in New York State*, N.Y. CIVIL LIBERTIES UNION REPRODUCTIVE RIGHTS PROJECT (2006), [http://www.nyclu.org/files/publications/nyclu\\_pub\\_rights\\_parenting\\_teens.pdf](http://www.nyclu.org/files/publications/nyclu_pub_rights_parenting_teens.pdf).

109. MASSACHUSETTS ALLIANCE ON TEEN PREGNANCY, *Young Parent Rights and FAQs*, <http://www.massteenpregnancy.org/young-people/young-parent-rights-and-faqs> (last visited Nov. 13, 2016).

110. See Watson & Edelman, *supra* note 5, at 282.

111. *Id.*

112. Based on the author's experience in education and education policy. Telephone interview with Elizabeth Gorka, Senior Team Lead, North High School Denver, Colo. (Feb. 13, 2016); see also telephone interview with Danielle Ongart, Associate Director of Professional Learning Implementation, Denver Public Schools (Oct. 27, 2015); Matt Westmoreland, Board Member, Atlanta Public Schools (Oct. 19, 2015).

113. Telephone interview with Elizabeth Gorka, Senior Team Lead, North High School Denver, Colo. (Feb. 13, 2016); see also telephone interview with Danielle Ongart, Associate Director of Professional Learning Implementation, Denver Public Schools (Oct. 27, 2015); Matt Westmoreland, Board Member, Atlanta Public Schools (Oct. 19, 2015); Watson & Edelman *supra* note 5.

114. *Cal-SAFE: Programs No Longer Administered by the California Department of Education*, CAL. DEP'T OF EDUC. (May 29, 2015), <http://www.cde.ca.gov/re/pr/calsafe.asp>.

115. *Id.*

Cal-SAFE program agencies served over 13,000 students.<sup>116</sup> In 2009, the California legislature moved Cal-SAFE's funding into a block grant, which in turn allowed agencies more flexibility in their use of block grant resources.<sup>117</sup> This change corresponded with a downturn in the number of students served and a decrease in the number of active agencies that carried out Cal-SAFE.<sup>118</sup> During the 2010-2011 school year, only 121 Cal-SAFE program agencies continued to provide services to pregnant and parenting students.<sup>119</sup> These agencies served 7,351 students, a significant decrease from number of students served during the 2007-2008 year.<sup>120</sup>

Interestingly, there is a conspicuous absence of discussion in the media or elsewhere of why this program is no longer administered in California. Many California school districts still feature the program on their websites, indicating that there were some procedures in place for the program's implementation.<sup>121</sup> Those procedures seemed to be working—a 2011 report to the California legislature noted that 73% of students who participated in the Cal-SAFE program graduated from high school.<sup>122</sup> Children born to parents participating in Cal-SAFE were less likely to have a low birth weight and were more likely to be immunized.<sup>123</sup> Despite these successes, the California legislature cut the program, perhaps due to other shifts in the budget.<sup>124</sup>

Similarly, in 2002, Minnesota discontinued another school-based case management program for pregnant and parenting teens that was administered through the Center for Employment and Training (CET).<sup>125</sup> In the CET program, "case

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116. Barbara LeTendre, Ed.D., *The California School Age Families Education (Cal-SAFE) Program 11 Year Evaluation: 2000-11*, 1 (Sept. 30, 2011), <http://gradstar.com/docs/2000-2011CalSAFEevalRptFINAL11Oct1.pdf>.

117. *Id.* at 3; *see also Flexible Categorical Program Funds*, CAL. DEP'T OF EDUC. (Feb. 11, 2014), <http://www.cde.ca.gov/fg/fo/profile.asp?id=2226> (showing that the change in funding structure is characterized as a removal of restrictions on the use of funding for specific purposes).

118. LeTendre, *supra* note 116, at 2.

119. *Id.*

120. *Id.*

121. *See* Watson & Edelman, *supra* note 5 (Watson and Edelman also noted this program as exemplary); *see, e.g., Cal-SAFE Program*, Riverside County Office of Education, <http://www.rcoe.us/student-program-services/alternative-education/cal-safe-program/> (last visited Jan. 10, 2017). *California School-Age Families Education (Cal-SAFE) Program*, San Diego Unified School District, <https://www.sandiegounified.org/california-school-age-families-education-cal-safe-program> (last visited Jan.10, 2017).

122. LeTendre, *supra* note 116, at 1.

123. *Id.*

124. There are, however, other programs in place for teen parents in California, such as Cal-Learn and the Adolescent Family Life Program. *See* CALIFORNIA DEPARTMENT OF SOCIAL SERVICES: CAL-LEARN, <http://www.cdss.ca.gov/cdssweb/PG84.htm> (last visited Nov. 12, 2016); CALIFORNIA DEPARTMENT OF PUBLIC HEALTH: ADOLESCENT FAMILY LIFE PROGRAM (AFLP), <http://www.cdph.ca.gov/programs/aflp/Pages/default.aspx> (last visited Nov. 12, 2016).

125. ANITA LARSON, EDUCATIONAL OUTCOMES AND FAMILY WELL BEING OF TEEN PARENTS, CENTER FOR ADVANCED STUDIES IN CHILD WELFARE 9 (2006), <http://cascw.umn.edu/wp-content/uploads/2014/02/Minn-LInK-Report-No-4.pdf>.

workers were on site at school locations,” where they were “in a position to communicate with school staff and provide referrals to other resources if needed.”<sup>126</sup> This model of relying on school-site caseworkers gave way to a new mandatory program in Minnesota that was a part of state welfare services. Nurses from the Minnesota Family Investment Program (MFIP), who were already providing in-home healthcare to teenage parents, took on more comprehensive service roles in conducting the in-home health visits. Notably, “[n]urses would now proactively connect a disconnected teen parent with school, monitor school attendance and high school graduation, and mete out sanctions when teen parents failed to cooperate.”<sup>127</sup>

Anita Larson’s 2006 study of the MFIP (as compared to the discontinued CET program) showed that attendance improved significantly for enrolled young women after one year in the program.<sup>128</sup> The study also showed increases in cumulative GPAs and graduation rates.<sup>129</sup> Results were incremental at first, but improved more each year as the program became more established.<sup>130</sup> Larson suggests two reasons for these positive outcomes. First, because it was mandatory, the program might have “helped to motivate teens who may have opted out” of a voluntary program like that of the CET.<sup>131</sup> Second, “the single service provider model likely appealed to teens whose lives are complex and who benefit . . . [from] the relationship basis of the traditional Public Health nursing model,” which Watson and Edelman’s fragmentation theory also later supported.<sup>132</sup> Although the MFIP focused on public health and delivered services to students at home, the relationship between a student and a single service provider that Larson emphasized is transferable to the district-level and education-focused program that I describe in Part III.

Taking discontinued programs CET (MN) and Cal-SAFE (CA) together, I cautiously posit that the scale of these programs may have been problematic and unsustainable. Implemented at the school level, such comprehensive programs for a small and specialized population of students perhaps became economically prohibitive to maintain in the long term. On the other hand, the elimination of these two programs may just be a symptom of recent nationwide shifts toward more prevention-focused programming, or of the significant decline in teen pregnancy since the 1990s.<sup>133</sup> Nonetheless, these two discontinued programs, as well as the operational programs mentioned earlier in this section, are representative of states’ efforts to put Title IX into practice for teen parents in schools.

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126. *Id.*

127. *Id.* at 1.

128. *Id.* at 2.

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.*

133. *See* sources cited *supra* note 18.

### C. The Examples—What Is Working?

In addition to successes in state-level programs like the Minnesota Family Investment Program,<sup>134</sup> there are several smaller-scale programs that currently provide almost fully comprehensive services to pregnant and parenting teens. In some cases, these programs receive federal or state funding and represent state or district efforts to provide more comprehensive support for expecting or parenting students. In contrast to the programs described in the prior section, these smaller scale programs were not necessarily driven primarily by state legislation or policy. What these smaller-scale programs have in common is a shared commitment to relationships, community, and accountability.

One such publically funded state program is Pennsylvania's Education Leading to Employment and Career Training (ELECT). ELECT is offered in schools throughout Pennsylvania. Like the MFIP, it focuses on intensive case management, as well as health and nutrition.<sup>135</sup> In contrast to the MFIP, ELECT is school-based rather than home-based, and is run in partnership not only with the Department of Public Welfare, but also the Department of Education.<sup>136</sup> ELECT staff members provide mentoring, life-skills training, academic and career support, and access to social services.<sup>137</sup> The emphasis in ELECT is on using resources at the school and leveraging services with the community to benefit students in the program.<sup>138</sup>

Another service that similarly illustrates the potential for partnership between agencies is the District of Columbia's New Heights Program, which is based upon collaboration between public schools and the Department of Human Services. The program is school-based as well, and shares similar case management and attendance goals with ELECT. New Heights also offers childcare vouchers, job and financial training, and educational workshops on pre-natal and child care to students in D.C.<sup>139</sup>

Expecting and parenting students in the greater Washington, D.C. area also have access to Crittenton Services, which is a community organization that works

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134. See LARSON, *supra* note 125.

135. See Watson & Edelman, *supra* note 5, at 286; see also CENTER FOR SCHOOLS AND COMMUNITIES, HELPING TEENS STAY IN SCHOOL, GAIN ECONOMIC INDEPENDENCE, AND RAISE HEALTHY CHILDREN: ELECT (EDUCATION LEADING TO EMPLOYMENT AND CAREER TRAINING), [http://ppt-elect.center-school.org/providers/304/elect\\_spread.pdf](http://ppt-elect.center-school.org/providers/304/elect_spread.pdf); THE SCHOOL DISTRICT OF PHILADELPHIA, STUDENT SUPPORT SERVICES: ELECT, <http://webgui.phila.k12.pa.us/offices/e/earlychild/proposed-programs—services-page/elect/cradle-to-the-classroom> (last visited Oct. 30, 2016).

136. See LARSON, *supra* note 125; *Helping Teens Stay In School, Gain Economic Independence and Raise Healthy Children*, Center for Schools and Communities, [http://ppt-elect.center-school.org/providers/304/elect\\_spread.pdf](http://ppt-elect.center-school.org/providers/304/elect_spread.pdf) (last visited Oct. 31, 2016).

137. See LARSON, *supra* note 125.

138. See LARSON, *supra* note 125.

139. See Watson & Edelman *supra* note 5, at 286; see also DISTRICT OF COLUMBIA PUBLIC SCHOOLS, NEW HEIGHTS (2016), <http://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/New%20Heights%20Brochure%20Final%2006%2024%2016.pdf> (brochure providing information about New Heights program).

in schools by providing curricula and a program coordinator at each location.<sup>140</sup> Designed to bolster the services school districts provide to pregnant and parenting teens, Crittenton runs behavioral skills workshops, encourages mentorship, and offers help with obtaining legal services and Medicaid.<sup>141</sup> One important component of Crittenton Services is the sub-program Parenting Education and Responsive Life Skills (PEARLS). Pregnant and parenting students who contact Crittenton are invited to join the PEARLS program, which includes goal-setting and conflict resolution training.<sup>142</sup> Students in PEARLS meet “for an hour each week for twenty-six weeks, while girls keep in touch with the program coordinators throughout the week using text messages, telephone, e-mail, and Facebook.”<sup>143</sup> This ongoing, individualized engagement is, in my view, the best feature of PEARLS and should be implemented in all similar programs.

Another way to access such continuous mentoring engagement is through a specialized school for pregnant and parenting teens, like the Florence Crittenton School of Denver, Colorado.<sup>144</sup> Operated by Denver Public Schools in tandem with Florence Crittenton Services of Colorado, the school provides on-site child-care in addition to traditional high school course work, job training, career guidance, and health and wellness services.<sup>145</sup> Though this option is unavailable or unattractive for many teens, especially for those that rely on public transportation and live elsewhere in the city or are invested in their school communities and do not want to leave, Florence Crittenton’s is still effective for many students through its “innovative public-private partnership model [which]. . . brings robust community-based resources for pregnant and parenting teens into a school setting.”<sup>146</sup> Well-respected in Denver, the Florence Crittenton School manages to provide comprehensive services, in contrast to many other programs which simply fill some of the gaps in what support schools can provide.<sup>147</sup>

The problem with these programs, and many others like them, is that student participants are a self-selecting group. Only those students who already have an advocate to reach out to the programs on their behalf, or teenagers who are miles ahead of their peers in terms of proactively seeking out resources, will realistically

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140. See Watson & Edelman, *supra* note 5, at 286 (citing interviews with Parenting Education and Responsive Life Skills (PEARLS) program directors in the D.C. Area).

141. *Id.*

142. *Id.*

143. See Watson & Edelman, *supra* note 5, at 287.

144. See Watson & Edelman, *supra* note 5, at 288; see also FLORENCE CRITTENTON HIGH SCHOOL, FLORENCE CRITTENTON SERVICES, <https://www.flocritco.org/> (last visited Nov. 14, 2016).

145. See sources cited *supra* note 144.

146. See sources cited *supra* note 144.

147. This is not to suggest that pregnancy or parenting schools are the best solution for all students, but that they are a great option for those students who are interested and have access to such a school. Not all schools for pregnant and parenting teens are created equal, however. For example, all such schools closed in New York in 2007 after it was discovered that instruction and curriculum were not rigorous and generally inappropriate for high school students. See Julie Bosman, *New York’s Schools for Pregnant Girls Will Close*, N.Y. TIMES, May 24, 2007, available at [http://www.nytimes.com/2007/05/24/education/24educ.html?\\_r=0](http://www.nytimes.com/2007/05/24/education/24educ.html?_r=0).

get these services. It is problematic that these services, while intending to serve all pregnant or parenting teens, are really only accessible to the few who seek out these programs.

From a developmental perspective, teenagers are generally less likely to seek out these programs or be accountable for their requirements. Program requirements place the onus on teenagers to be fully independent advocates for themselves, misunderstanding teens' relative "adulthood" and ability to assess costs and benefits, cause and effect, and responsibilities generally.<sup>148</sup> This issue is more powerful among pregnant and parenting teens because much more is asked of them and the stakes are higher for them than for their non-parenting peers; they are responsible for themselves, their pregnancies, their children, and navigating the complex and fragmented system of social services that is supposed to help them.

### III. ELIMINATING THE ELEMENT OF CHANCE—A DISTRICT-LEVEL SOLUTION

#### A. The Element of Chance

##### 1. Relationships in Teen Well-Being and Development

The power of individual relationships in teen well-being, development, and motivation is well-documented in sociological, medical, and educational research.<sup>149</sup> Mentoring, particularly for at-risk teens, can be powerful: "[i]f caring, concerned adults are available to young people, youth will be more likely to become successful adults themselves."<sup>150</sup> Generally, youth who participate in sustained mentoring relationships attain improved school attendance, academic results, chances of success in higher education, and a more positive attitude toward school.<sup>151</sup> In addition to having positive impacts on academic indicators, mentoring relationships can dramatically decrease the odds that a teen will abuse drugs and alcohol. An 18-month study of Big Brothers Big Sisters, a popular mentoring program, demonstrated that minority youth in the program were 70% less likely to initiate drug abuse than their peers outside of the program.<sup>152</sup> Similarly, female minority mentees in the program were about half as likely to engage in alcohol

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148. See discussion of adolescent brain development in Part I. See generally SHAPIRO & MARCY, *supra* note 78.

149. See, e.g., David L. DuBois & Naida Silverthorn, *Natural Mentoring Relationships and Adolescent Health: Evidence from a National Study*, 95, 3 AM. J. OF PUB. HEALTH 518 (2005); see David L. Dubois et. al, *How Effective are Mentoring Programs for Youth? A Systematic Assessment of the Evidence*, 12, 2 PSYCHOL. SCI. IN THE PUB. INTEREST 57 (2011); Jeanne E. Rhodes and Davis L. Dubois, *Mentoring Relationships and Programs for Youth*, 17, 4 CURRENT DIRECTIONS IN PSYCHOL. SCI. 254 (2008).

150. Susan M. Jekielek et al, *Mentoring: A Promising Strategy for Youth Development*, CHILD TRENDS (Feb. 2002).

151. *Id.*

152. *Id.*

abuse as other minority women.<sup>153</sup> Relationships with adults outside of their families can help teens develop “better skills overall, through the development of trust, compassion, and self-esteem.”<sup>154</sup>

Mentoring relationships are equally if not more important in the context of teen pregnancy and parenthood. The presence or absence of a relationship with a competent adult can sometimes be the difference that ensures that a teen parent has access to the services and support that will guide them to graduation and post-secondary success.<sup>155</sup> Below I describe two students who I worked with who exemplify the importance of relationships in supporting pregnant and parenting teens.

## 2. Karla’s Story

Karla walked across the graduation stage four years ago while six months pregnant. That last semester had been a significant struggle. While in my A.P. Literature class, she would periodically fall asleep or lash out at me or other students. At the time, I did not fully understand how little support she had at home, but I did my best to be patient with her, even if only for the sake of avoiding a conflict during class. I knew she had a relationship with Ms. B, our Assistant Principal, so when these disruptive episodes occurred, I would walk Karla to Ms. B’s office instead of kicking her out of class. Karla and Ms. B would talk through the problem or frustration and often Karla would return to class feeling better than when she left. Some days, she stayed with Ms. B for the whole class period.

In a recent conversation with Karla, I learned that she and her three-year-old son are doing okay.<sup>156</sup> She has a place of her own and is working toward a Medical Assistant degree.<sup>157</sup> She explained her experience of being pregnant in school, much of which I had not realized while I was her teacher.<sup>158</sup> First, she indicated that the biggest struggle for her was the absence of support at home. As a result, Karla anticipated how overwhelming it would be to have a new child without that support.<sup>159</sup> She also explained that the only thing that kept her from leaving school in her last semester was the influence, guidance, and advocacy of Ms. B.<sup>160</sup> Having someone who checked in with her and supported her when she was overwhelmed

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153. *Id.*

154. Elizabeth C. Hair, Ph.D., Justin Jager, & Sarah B. Garrett, *Helping Teens Develop Healthy Social Skills and Relationships: What the Research Shows About Navigating Adolescence*, CHILD TRENDS RESEARCH BRIEF (July 2002).

155. See discussion of Minnesota’s MFIP home health services for teens program in Part II for evidence that individual relationships can be particularly impactful for pregnant and parenting teens. See, e.g., Lynn Blinn-Pike et al., *The Process of Mentoring Pregnant Adolescents*, 47, 2 FAM. REL., 119 (1992).

156. Conversation with former student, alias “Karla,” [Conversation took place over the phone while author was in Chicago and Karla was in Denver, CO] (Oct. 17, 2015).

157. *Id.*

158. *Id.*

159. *Id.*

160. *Id.*



made all the difference.<sup>161</sup> She could not have made it through school as a pregnant student without Ms. B.<sup>162</sup>

### 3. Maria's Story

Maria's daughter was born in May of her freshman year, just as she was finishing my ninth grade reading intervention course. She spent the summer caring for her daughter based on what she had learned from a parenting group that met sporadically.<sup>163</sup> Teachers or counselors pulled pregnant and parenting girls out of class once in a while to meet as a group, to vent, and to learn mothering skills including changing diapers and feeding techniques.<sup>164</sup> That network of teen moms became a support system, a reminder that each young mother was not alone.<sup>165</sup> Maria said that every once in a while, they gave out free diapers during class.<sup>166</sup> She also said this class had helped her on a practical level, because she had no idea how to take care of her daughter.<sup>167</sup> Unlike Karla, Maria had support from her mother, who would watch the baby in the mornings and then drop her at a relative's house until Maria could come see her at lunch and take her home after school.<sup>168</sup> But as a ninth grader, Maria had much further to go to get to the graduation stage. She was not in my class again the next year, but I tried to stay informed about her and her daughter when possible. I would occasionally hear from another educator or a student that she had "ditched" class and I would then send her a message on Facebook asking her to see me the next day. Sometimes she did, though not always; we already had a rapport and when she visited me we would talk through why she had "ditched," how I could help, and what she needed to do to get back on track in the classes she had missed.

Maria described the tenth-grade year as her hardest.<sup>169</sup> She said she often skipped class because she was overwhelmed with her parenting and school responsibilities.<sup>170</sup> When she got in trouble for her poor attendance, she moved to an alternative school on a different floor of our building with shorter hours and mostly computerized classes.<sup>171</sup> She "wanted a way out."<sup>172</sup> She said many of the other mothers in her classes felt the same way.<sup>173</sup> Maria also said she was able to look

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161. *Id.*

162. *Id.*

163. Conversation with former student, alias "Maria," [Conversation took place over the phone while author was in Chicago and Karla was in Denver, CO] (Oct. 17, 2015).

164. *Id.*

165. See Hair, Jager, & Garrett, *supra* note 154, at 2 (discussing the importance of peer relationships like Maria's for other pregnant teens).

166. Conversation with former student, alias "Maria," [Conversation took place over the phone while author was in Chicago and Karla was in Denver, CO] (Oct. 17, 2015).

167. *Id.*

168. *Id.*

169. *Id.*

170. *Id.*

171. *Id.*

172. *Id.*

173. *Id.*

up the answers online to almost all the coursework she did in the alternative classes, with most of her work in the form of packets, worksheets, and computerized evaluations.<sup>174</sup> Now, she wishes she had stayed in the more traditional school track.<sup>175</sup> When I asked her what she thinks would have helped her most, she said she needed someone to help her manage it all, as Ms. B had done for Karla.<sup>176</sup> The type of support Maria described and wished she had was the same support that I saw Ms. B provide through her relationship with Karla.

#### 4. The Element of Chance

Frequently the kind of support that Karla received and Maria wished for is a matter of luck or happenstance—does the pregnant or parenting student already have a relationship with a teacher, administrator, or staff person who is willing to be her advocate? Many teachers work hard to help their students, going far beyond what their job descriptions require. But with so many students, it is almost impossible for any one teacher to address all of the needs of each individual student, least of all those students whose pregnancy or parenting needs require a set of specialized knowledge well beyond the scope of the academic courses for which teachers are responsible.

Ms. B's success with Karla was extraordinary—as a mentor and advocate, Ms. B was a model for all of us who worked with her and could be a model for many more. Can we standardize the systems of support and incentives that help students flourish? By providing every pregnant and parenting student with an advocate like Ms. B, we can eliminate the element of chance in students receiving support and ensure that there is at least one person looking out for students like Karla and Maria.

#### B. The Teen Pregnancy & Parenting Advocacy Team—A District Level Solution

Drawing on my own anecdotal knowledge described above, exemplified in Ms. B, I propose a team- and relationship-based district-level solution to standardize support for pregnant and parenting teens.<sup>177</sup> My proposal also pulls from two

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174. *Id.*; see Eihorn, *supra* note 2 for an example from Detroit.

175. Conversation with former student, alias “Maria,” [Conversation took place over the phone while author was in Chicago and Karla was in Denver, CO] (Oct. 17, 2015).

176. *Id.*

177. See, e.g., Lynn Blinn-Pike et al., *The Process of Mentoring Pregnant Adolescents*, 47, 2 FAM. REL., 119, 119-27 (1992) (specifically discussing “Mentor Roles” at 123–25); see also David L. Dubois et. al, *How Effective are Mentoring Programs for Youth? A Systematic Assessment of the Evidence*, 12, 2 PSYCHOL. SCI. IN THE PUB. INTEREST, 57 (2011); Jeanne E. Rhodes & Davis L. Dubois, *Mentoring Relationships and Programs for Youth*, 17, 4 CURRENT DIRECTIONS IN PSYCHOL. SCI., 254, 254-58 (2008) (“Recent research indicates that mentoring programs are likely to be effective to the extent that they are successful in establishing close, enduring connections that promote positive developmental change” at 257); David L. Dubois, *Natural Mentoring Relationships and Adolescent Health: Evidence from a National Study*, 95, 3 AM. J. OF PUB. HEALTH, 518 (2005); Ronald M. Sabatelli, *Family System Dynamics, Peer Relationships, and Adolescents’ Psychological Adjustment*, 40, 4 FAM. REL. 363, 364 (1991)

important, yet brief and underdeveloped points from Watson and Edelman: the idea that districts and schools hire school-level coordinators and the suggestion that states and localities should pilot innovative programs or policies for serving teen parents.<sup>178</sup> The Teen Pregnancy & Parenting Advocacy Team aims to be one such program.

The goal is to remove the element of chance from teens receiving the pregnancy and parenting services Title IX intends to guarantee. So much of both the legal and sociological scholarship on this issue lays out suggestions for what schools should do, but does not provide guidance for who should be the arbiters of those services and how to implement those policies and procedures. The proposal below represents a more concrete answer to who and how to implement the strongest policy and procedure recommendations from Watson & Edelman's work.

### 1. What Are The Objectives?

The aforementioned Illinois Ensuring Success in School Task Force report indicated that schools and districts “need flexibility and resources to craft accommodations to meet students’ diverse needs.”<sup>179</sup> Absent from nearly all the law on teen pregnancy and parenting, as well as from even the most solutions-oriented legal scholarship, is any vision of what that flexibility would look like. A district level team with both resources and flexibility could provide the necessary relationships and accountability to support teen parents and connect them with services they need. By assigning individual advocates based on school community or neighborhood, the Teen Pregnancy & Parenting Advocacy Team would address the needs of pregnant and parenting teens at the local level, developing relationships with and among teen mothers in their caseloads and providing them with comprehensive services.<sup>180</sup>

The program would have four key objectives: mentorship, access to existing services, peer connection, and individualized education plans. The program would draw on the successes of existing programs, while aiming to resolve some of the program gaps and the problems described in Watson & Edelman's work.

#### a) Mentorship

The first goal of the Teen Pregnancy & Parenting Advocacy Team should be to build mentoring relationships between advocates and the students in their caseloads. As is apparent in the “What's Working?” section of Part II, mentorship

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(describing peer relationships and adolescent adjustment).

178. See Watson & Edelman, *supra* note 5 at 282.

179. ILL. STATE BD. OF EDUC., FINAL REP. TO THE ILL. GENERAL ASSEMBLY, ENSURING SUCCESS IN SCHOOL TASK FORCE 15 (2010), <http://www.isbe.net/reports/ess-task-force-final-report0610.pdf>.

180. See Benjamin et al., *supra* note 108 (describing the importance of these relationships); see also “Maria's Story” in Part III (in which she notes the importance of her community of teen mothers).

is a common and vital component of successful existing programs. PEARLS is the best example because it builds a predictable structure and system for teens, as it involves a weekly meeting among all of the students, while allowing mentors the flexibility to tailor and individualize their interactions.<sup>181</sup> PEARLS should be the model for mentoring in the Teen Pregnancy & Parenting Advocacy Team.<sup>182</sup> As in PEARLS, advocates should set up consistent weekly meetings and stay in touch with students throughout the week by dropping in at school or at home, texting, e-mailing, and even using Facebook or Instagram.<sup>183</sup> Research shows that “meeting at regular times, taking part in social activities, ensuring that the programs are youth-driven and responsive, maintaining long-term relationships, and training participants before and during the program all appear to encourage successful relationships.”<sup>184</sup> Teachers and administrators who already have successful relationships with students can also be key motivators and facilitators of mentoring between students and advocates. Advocates will be able to leverage existing relationships and interests to provide support to each individual student and build a relationship with that student.

Additionally, “if, as the literature indicates . . . the relationship between a teen and a service provider is one of the more critical components to successful programming, it seems unlikely that a teen can form a meaningful relationship with multiple service providers.”<sup>185</sup> The Teen Pregnancy & Parenting Advocate can address this issue by serving as the facilitator between the teen and the many fragmented services that the teen requires. Putting one face on these services provides an opportunity for organic mentoring relationships to develop and resolves the problem of fragmentation Watson and Edelman describe.

#### **b) Access to Existing Services**

The second related goal of the Teen Pregnancy & Parenting Advocacy Team should be to connect pregnant and parenting teens with services in the immediate community as well as those that are part of larger state and federal programs. This is an answer to the issue discussed in Watson and Edelman’s piece that “many teens require additional support to comply with program requirements.”<sup>186</sup> Advocates can provide needed guidance on how to access and maintain eligibility for public assistance programs that teens are either unaware of or believe to be “too much hassle.”<sup>187</sup> Empowering a district level advocate to help pregnant and parenting teens connect the dots could be revolutionary for students who might be

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181. See description of PEARLS in Part II. C., *supra* notes 140–143.

182. See description of PEARLS in Part II. C., *supra* notes 140–143.

183. *Id.* Facebook and Instagram can provide a forum for public affirmations as well. Advocates can post “shout outs” or congratulate students who meet goals or demonstrate positive behavior by “tagging” them on social media, thereby providing them with additional extrinsic motivation.

184. See Hair, Jager, & Garrett, *supra* note 154.

185. See LARSON, *supra* note 125 at 30.

186. Watson & Edelman, *supra* note 5, at 276 (citing SHAPIRO & MARCY, *supra* note 78, at 14).

187. See *id.* at 277 (citing SHAPIRO & MARCY, *supra* note 78, at 14).

overwhelmed by their responsibilities and intimidated or confused by social programs' eligibility requirements and paperwork.

### c) Peer Connections

The third goal of Teen Pregnancy & Parenting Advocacy Team emerges from Maria's story, namely, the importance of the peer relationships she developed in her parenting class. Because Teen Pregnancy & Parenting Advocates will work with community-based caseloads, they will be uniquely situated to facilitate these connections among young women who might be resources for each other, even if they are at different schools. Meetings can be in the form of pull-outs, as an elective courses, or can take place during the lunch hour. Advocates can be flexible and work with schools and districts to find the appropriate time and meeting space, as programs like New Heights and Crittenton Services do in Washington, D.C.<sup>188</sup>

Until I spoke with Maria about her experience, it had not occurred to me to include a component like this in the program. Yet, it was clear from our discussion that the pull-outs for the "mothering class" allowed an organic support system to emerge among the young women in the group. Data on teens' social-emotional development shows that "positive peer relationships . . . discourage aggression, emotional distress, and antisocial behaviors."<sup>189</sup> For teen mothers and expecting teens, these peer relationships and their positive psychological effects could mutually reinforce important messages of cooperation and high expectations, helping students remain in school.<sup>190</sup> The Teen Parenting & Pregnancy Advocacy Team can create the conditions for such positive peer support systems to emerge and grow.

### d) Individualized Education Plan

With an eye toward graduation, advocates should work with their students to create an Individualized Education Plan (IEP) that carefully addresses and anticipates the student's needs and goals.<sup>191</sup> IEPs are presently used in schools to support students with special needs, whether those are physical, emotional, behavioral, or academic.<sup>192</sup> They are focused on giving teachers direction on how to

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188. *See id.* at 288.

189. Hair, Jager, & Garrett, *supra* note 154, at 2; *see also* Sabatelli, *supra* note 177, at 364 ("It is widely accepted that peer relationships play an important role in the social and psychological development of adolescents . . . Peers appear more influential when decisions concern everyday living.")

190. Hair, Jager, & Garrett, *supra* note 154, at 2–3.

191. *See generally* Ed Steinberg, *An Overview of the Special Education Process*, COLO. DEP'T OF EDUC., [https://www.cde.state.co.us/sites/default/files/documents/cdesped/download/iep\\_forms/iep\\_overviewspedprocess.pdf](https://www.cde.state.co.us/sites/default/files/documents/cdesped/download/iep_forms/iep_overviewspedprocess.pdf).

192. *See id.*; *see, e.g.*, Marty Beech, *Developing Quality Individual Educ. Plans*, Fla. Dep't of Educ., Bureau of Exceptional Educ. and Student Servs. (2015), <http://www.fl DOE.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>; *see also* Ontario

support student learning, helping the student in setting growth goals, and tracking progress toward those goals.<sup>193</sup> IEPs are constructed collaboratively; students, parents, teachers, counselors, and other relevant service providers all contribute to and agree upon the plan.<sup>194</sup> This creates accountability on all sides, not only because everyone is informed of the plans and accommodations, but also because everyone is invested in the plan.<sup>195</sup>

While traditionally used in the context of special education and similar disability services, the concept of an Individualized Education Plan is transferable for pregnant and parenting teens and represents the crucial fourth goal of Teen Pregnancy and Parenting Advocacy Team.<sup>196</sup> If adapted properly, the IEP protocol would be a particularly useful tool in the context of teen pregnancy for a few reasons. Planning together, agreeing on goals, and sharing the plan with relevant parties such as teachers, social workers, and counselors, would provide structure and standards for all the actors in a pregnant or parenting student's life.<sup>197</sup> It also provides the basis for regular follow-ups to ensure progress and accountability towards the goals and accommodations laid out in the IEP.<sup>198</sup> This adapted plan would include academic and personal goal-setting and would facilitate the tracking of school performance and attendance outcomes.<sup>199</sup> The IEP could also include emergency childcare plans, homebound instruction protocols, and arrangements for students to receive make-up work when absent.<sup>200</sup> Issues are bound to arise, particularly for parenting students, but anticipating problems ahead of time and having a plan for addressing those issues could resolve many of the collateral effects of missing school for parenting responsibilities or doctor's appointments. This plan can also help teachers be more proactive in addressing students' needs and making progress toward their goals.

Finally, because all districts provide specialized services and IEPs to students with cognitive, social-emotional, and physical disabilities, this protocol will be familiar to relevant school parties and therefore, easy to implement.<sup>201</sup> Importantly, this IEP adaptation does not equate pregnancy with disability; rather it proposes creatively using an already established school protocol to support pregnant and parenting students.

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Ministry of Educ., Individual Educ. Plans (2000), <http://www.oafccd.com/documents/IEPstandards.pdf>; Off. of Special Educ. and Rehabilitative Servs., U.S. Dep't of Educ., A Guide to the Individualized Educ. Program, (2000).

193. See Ontario Ministry of Educ., Individual Educ. Plans, *supra* note 192, at 9-10.

194. See *id.* at 18-19.

195. See Off. of Special Educ. and Rehabilitative Servs., U.S. Dep't of Educ., A Guide to the Individualized Educ. Program, *supra* note 192, at 36; see Ontario Ministry of Educ., Individual Educ. Plans, *supra* note 192, at 19-20; see also Beech, *supra* note 192, at 39.

196. See sources cited *supra* note 195.

197. See sources cited *supra* note 195.

198. See sources cited *supra* note 195.

199. See sources cited *supra* note 195.

200. See sources cited *supra* note 195.

201. See sources cited *supra* note 195.

## 2. Why District Level?

The Teen Pregnancy and Parenting Advocacy Team should function at the district-level and not the school-level (as Watson and Edelman suggest) for three reasons: in response to declining rates of teen pregnancy, in order to tailor services to the specific neighborhood communities that advocates serve, and in order to deliver wrap-around services from a single provider.

First, teen pregnancy is on the decline.<sup>202</sup> It is possible and, in fact, even probable that a majority of high schools even in the most troubled districts do not have more than a handful of teen pregnancies each year.<sup>203</sup> Expanding the locus of services to a district-level team and assigning individual advocates to specific communities will address this economy of scale issue.<sup>204</sup>

Second, the Advocacy Team should function at the district-level because many school districts serve numerous smaller communities, which do not correspond necessarily to school boundaries. For example, in Denver various neighborhoods are anchored by one or two local high schools and have developed their own cultural and social ecosystems within, and in some ways distinct from, the larger Denver community.<sup>205</sup> The Teen Pregnancy and Parenting Advocates would be assigned to these smaller communities to serve caseloads of pregnant and parenting teens. This would allow advocates to get to know the unique features of the individual neighborhoods and connect teen mothers with services and with each other inside their home communities, which may or may not correspond to their school site communities.

Third, district-level teams focused on assisting pregnant and parenting teens would be more effective to provide wrap-around services to these teenagers than schools without the capacity to provide all the needed services. Although teachers and administrators are often wonderful advocates for their students, supporting teenage parents should be a full-time dedicated position rather than an added responsibility laid upon teachers and administrators. This would do justice to Title

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202. See generally Lindberg et al., *supra* note 18.

203. Interview with Matt Westmoreland, Board Member, Atlanta Public Schools (Oct. 19, 2015) (indicating that resources might not be well-spent on school-based full-time pregnancy and parenting advisors because most high schools in Atlanta had only a handful of pregnant students each year). That being said, there is a pervasive absence of data tracking on teen pregnancy nationwide to support this conclusion; specific data district-to-district or even state-wide is almost entirely absent. See NAT'L WOMEN'S LAW CENTER, EXECUTIVE SUMMARY, A PREGNANCY TEST FOR SCHOOLS: THE IMPACT OF EDUCATION LAWS ON PREGNANT AND PARENTING STUDENTS 6 (2012) ("Targeting services to pregnant and parenting students requires data on where those students are located. Currently there is no nationwide data collection tracking the number of pregnant and parenting students enrolled in secondary schools").

204. See Interview with Matt Westmoreland, *supra* note 203.

205. See *Denver Public Schools Boundary and School Map*, DENVER PUBLIC SCHOOLS (last visited Nov. 18, 2016), <http://maps.dpsk12.org/boundarymap.html>; see generally JANE JACOBS, THE DEATH AND LIFE OF GREAT AMERICAN CITIES 112-42 (1992) (describing the purpose, character, and typology of neighborhoods in American cities and emphasizing the importance of relationships and the unique community knowledge that exists within distinct neighborhoods).

IX and meaningfully provide the range of support that some teen parents need.<sup>206</sup> A district-level advocate who creates an academic plan in collaboration with a pregnant or parenting student not only helps the student through an infusion of mutual accountability, but also helps the teachers and administrators better support that student through targeted interventions that ensure full compliance with Title IX. Instead of haphazardly addressing students' needs as they arise, teachers and administrators can tailor their work, in tandem with the teen and her advocate, according to an individualized education plan.

### 3. Who Should Be On the Team?

In order to do this job effectively, districts should identify highly motivated and engaged people who have already demonstrated a commitment to education. These could be former teachers, counselors, social workers, former staff members or paraprofessionals. The key is that they have experience working with teens and some rapport with the community. One way to ensure that team members have these skills, as well as credibility among the students they serve, would be to hire from within the school communities themselves.

The Teen Pregnancy & Parenting Advocacy Team would require a wide breadth of specialized knowledge and skills in order meet the program's objectives. These include, but are not limited to, experience or knowledge with the following:

- Instructional design and pedagogy
- Graduation requirements and credit distribution
- Resources in the community—churches, food-banks, etc.
- Medicaid
- Childcare
- Relevant law, especially Title IX
- Fluency in restorative justice protocols and conflict resolution
- Working with at-risk teens

This last experience piece, work with at-risk teens, is critical and is likely the only requirement among the knowledge and skills that could not be addressed through training and professional development. Relating to teenagers cannot be fully taught or mandated, but rather has to be learned through experience. As any novice teacher would explain, the learning curve is steep. That said, mastering adaptability and responsiveness to teenagers becomes a lifelong skill. This is part of the reason why former teachers or counselors would be ideal candidates for this job. In learning how to do their teaching or counseling jobs, they naturally develop the skills and knowledge necessary to support pregnant and parenting teens. They also develop facility with curriculum, instructional design, graduation requirements, and conflict resolution, all of which would support the goals of the Teen

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206. See 34 C.F.R. § 106.40(b)(1) (prohibiting discrimination against any student or exclusion of any student from an education program or activity on the basis of their pregnancy or parenthood status).



Pregnancy and Parenting Advocacy Team.

#### IV. OBJECTIONS

##### A. The Problem of Inorganic Relationships

One important objection to this program is that it is difficult or impossible to artificially manufacture the kind of mentoring relationship necessary to meaningfully improve outcomes for pregnant and parenting teens. There are a few possible answers to this: (1) hiring from the community; (2) investing time in the beginning of the school year for the advocate to build relationships with school and community partners; and (3) designating a teacher as a school liaison in certain high-need schools.

First, by hiring from the community, the Teen Pregnancy & Parenting Advocacy Team can minimize the problem of inorganic relationships because advocates are likely to be known in the school community, possibly as a former teacher, staff member, or even simply as a relative of a student. This pre-existing relationship with the community creates credibility among students and also provides some shared experience and shared vocabulary between the advocate and her students. Moreover, hiring from the community is responsive to the disparate teen pregnancy rates among minority communities and might mean the advocates have more cultural competence and relatability for the students they serve.<sup>207</sup>

Second, by investing time early in the school year the advocate can further establish credibility, gaining leverage and allies in adult and student leaders at schools. The advocate can do so by visiting professional development training for teachers, getting to know key motivators in the community, and attending pep rallies, among other things. This builds a foundation for a relationship with the students as the advocate will support them and show that she is not a stranger to the community. Teachers, who are already working to support their students, are ideal candidates for this position. The advocate can partner with teachers, coaches, and administrators who already know the relevant students well in order to identify how best to support the students. These staff members would be an invaluable resource for the advocate, providing for information and perspective.

Finally, as Part II's discussion of "What's Working Already?" demonstrated, a variety of successful programs exemplify the Illinois Task Force's suggestion that schools designate a liaison who might be a facilitator for services to teen parents.<sup>208</sup> Schools with higher than average teen pregnancy rates should designate a teacher liaison to the team in order to coordinate the increased interaction with the

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207. See sources cited *supra* note 28

208. Ensuring Success in Sch. Task Force, Ill. State Bd. of Educ., Final Rep. to the Ill. General Assembly 15 (2010), available at <http://www.isbe.net/reports/ess-task-force-final-report0610.pdf>; see, e.g., Watson & Edelman, *supra* note 5 at 287 (citing interviews with a program director for PEARLS in the D.C. Area); see also *Helping Teens Stay In School, Gain Economic Independence and Raise Healthy Children*, Center for Schools and Communities, [http://ppt-elect.center-school.org/providers/304/elect\\_spread.pdf](http://ppt-elect.center-school.org/providers/304/elect_spread.pdf) (last visited Oct. 31, 2016).

Teen Pregnancy and Parenting Advocacy Team. As many schools offer a relatively small stipend pay for things like coaching a team or moderating a club, this Pregnancy & Parenting Teacher Liaison should receive a similar stipend in exchange for helping the advocate gain knowledge and credibility at school. This teacher could help introduce the advocate to the school community, help the advocate understand school culture, provide referrals, and be a general point of contact for advocates and students. A partnership like this would be mutually beneficial, as many teachers would be eager to receive additional pay and build leadership experience, particularly early on in their careers. It could also be a professional development and networking opportunity for teachers, who might learn from the advocate about relevant social programs and services in the community and build connections with the district office.

The answer to the problem of inorganic relationships in any program like this one is establishing credibility among students that can then provide a foundation. The issue can be resolved, therefore, by taking steps to ensure that advocates are already, or that they become, members of the communities they serve.

### B. Funding Gap & Recruiting

Another important objection to a program like the Teen Pregnancy & Parenting Advocacy Team is the dearth of funding for such programs. This issue breaks down into two parts: larger problems of school district funding and recruiting qualified advocates.

The first problem implicates a discussion of school finance and property tax reform that goes beyond the scope of this paper. Districts most in need of a program to support pregnant and parenting students already suffer from a lack of financial resources.<sup>209</sup> Additionally, in cities or states that have existing public-private partnerships or state-wide programs, it is a hard sell for school districts to make a program like the Teen Pregnancy & Parenting Advocacy Team a priority when their students already have access to similar programs that provide mentorship and a coordinated effort to provide wrap-around services.

The second problem is that a person who is qualified to do this job is not

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209. See Alana Semuels, *Good School, Rich School; Bad School, Poor School*, THE ATLANTIC, Aug. 25, 2016, <http://www.theatlantic.com/business/archive/2016/08/property-taxes-and-unequal-schools/497333> (describing funding inequities between school districts in wealthier communities and those in poorer communities); Nadra Kareem Nittle, *Why School Funding Will Always Be Imperfect*, THE ATLANTIC Aug. 24, 2016, <http://www.theatlantic.com/education/archive/2016/08/will-there-ever-be-a-perfect-way-to-fund-schools/497069> (detailing the challenges with providing equitable allocation of school funds within school districts under California's 2013 Local Control Funding Formula). See also Natasha Ushomirsky and David Williams, *Funding Gaps 2015*, THE EDUCATION TRUST 3 (Mar. 25, 2015), [http://ed-trust.org/wp-content/uploads/2014/09/FundingGaps2015\\_TheEducationTrust1.pdf](http://ed-trust.org/wp-content/uploads/2014/09/FundingGaps2015_TheEducationTrust1.pdf) (finding that the highest poverty school districts receive ten percent less revenue per student than the lowest poverty districts); Phil Kadner, *Illinois schools have biggest funding gap in the nation*, THE CHICAGO TRIBUNE, Mar. 26, 2015, <http://www.chicagotribune.com/ct-sta-kadner-sudies-st-0327-20150326-column.html> (describing the legislative policies that make Illinois one of the most inequitable school systems in the United States).

going to want to receive an entry-level salary. Because it requires such specialized knowledge and we would want ambitious and results-oriented advocates on the Team, recruitment becomes a major hurdle. How do you recruit a team that can actually do this job?

One way to deal with this would be to allow teachers to transition to this role and have it count towards years of teaching for their tenure and pay.<sup>210</sup> Pay raises correspond to years taught in most school districts, with the exception of districts experiencing pay freezes and those experimenting with pay-for-performance. Incorporating teachers' work with pregnant and parenting students into their years of teaching would incentivize teachers interested in doing this work to step out of the classroom for a few years without sacrificing their incremental pay raises and teacher benefits. The possibility of a more flexible, if equally demanding, schedule might make this opportunity attractive to teachers who might want a break from lesson-planning and instruction, but also want to continue to work with teens.<sup>211</sup> Another short-term solution would be to pay for such a program with grants from organizations like the Gates Foundation; however, while grants would be great for a pilot program, they are not a long-term sustainable funding option.<sup>212</sup>

Lastly, school districts should explore ways to partner with local universities to provide this service in a way that is mutually beneficial. A program like this could serve as a one-year externship for education or counseling students at local universities. Students could be paid in course credit, which would allocate district

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210. See, e.g., Denver Public Schools, *Teacher Leadership and Collaboration* (last visited Dec. 5, 2016) <http://teacherleader.dpsk12.org/> (providing an example of a program that encourages experienced teachers to coach peer teachers, replacing half of their time in the classroom).
211. This is an observation based primarily on the author's time in the classroom as well as research on upward mobility for teachers through state career ladder systems. However, there is also literature supporting the idea that teachers might take advantage of opportunities to diversify their experiences in the educational space or might value the opportunity to leave the classroom temporarily. See METLIFE, *The MetLife Survey of the American Teacher* 3 (2012), <https://www.metlife.com/assets/cao/contributions/foundation/american-teacher/MetLife-Teacher-Survey-Exec-Summary.pdf> (describing low teacher job satisfaction overall and relatively higher job satisfaction in schools where there are opportunities for professional development); see also Paul Burnwell, *The Ongoing Struggle of Teacher Retention*, THE ATLANTIC, May 27, 2015, <http://www.theatlantic.com/education/archive/2015/05/the-ongoing-struggle-of-teacher-retention/394211/> (surveying the challenges in teacher retention nationwide); see also Amanda Kocon, *What Would a Real Teaching Career Look Like?* (Jul. 25, 2013), <http://tnp.org/blog/post/what-would-a-real-teaching-career-look-like> (describing the current "flat trajectory" of the teaching profession and possible opportunities for "leadership roles" for teachers to create some upward mobility); See also *Becoming a Principal—Transition for Teaching to Administration*, TeachingCertification.com, <http://www.teaching-certification.com/becoming-a-school-principal.html> (last visited Nov. 14, 2016) (highlighting advancement to non-teaching, administrative or leadership roles as a "next logical step for an accomplished teacher").
212. See Lauren Steiner, *After the Grant: Sustainability*, available at <http://grants-plus.com/?news-wire=327> (providing examples for how to sustain non-profit programs once initial grant funding expires); see also Utah State University, *Strategies for Sustainability of Grant-Funded Programs* 1 (2012), [http://extension.usu.edu/files/publications/publication/FC\\_Youth\\_2012-01pr.pdf](http://extension.usu.edu/files/publications/publication/FC_Youth_2012-01pr.pdf) ("While some grants are awarded to address a specific question or conduct research trials on a one-time basis, others are broader in scope and carry an expectation that projects/programs begun with start-up funds will continue after original awards are expended.").

cost to the university.<sup>213</sup> A problem with a funding solution like this, however, is that student-advocates would be less likely to have experience with teens or existing relationships in the community. Despite this disadvantage, a local university partnership could mitigate the costs of running such a program. School districts should be creative in finding ways to implement and fund a Teen Pregnant & Parenting Advocacy Team. While difficult, funding such a program is not impossible.

### CONCLUSION

Despite the considerable hurdles in funding and implementation, the Teen Pregnancy & Parenting Advocacy Team presents one viable solution to the inconsistency of support for our pregnant and parenting teens. In education, standardization is not always attractive; in fact standardization can be detrimental to student growth and outcomes because it may deprive educators of the flexibility to be responsive to their students' needs. In this case, however, a district level team with resources can standardize the system of support for pregnant and parenting teens without mandating the precise methods of that support. A district level team whose work with students focuses on mentorship, access to existing services, peer connection, and individualized education plans would be relatively free to determine how they would meet those objectives and thus could be individually responsive to those students' needs.

In so doing, a program like this would acknowledge Robin West's observation that motherhood in particular is a vulnerability, and rise to Martha Albertson Fineman's feminist call for states to be "be more responsive to, and responsible for, vulnerability;" thus making Title IX's standards for pregnant and parenting teens a reality rather than an aspiration.<sup>214</sup>

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213. For example, like many other education programs in the United States, The University of Colorado Boulder's School of Education already has long-standing school district partnerships for practicums and student-teaching experiences in place. *See* University of Colorado Boulder School of Education, *K-12 Partnerships*, <http://www.colorado.edu/education/outreach/community-engagement/k-12-partnerships> (last visited Nov. 14, 2016); *see also* Rutgers University Graduate School of Education, Urban Teaching Fellows (Oct. 22, 2015) <http://gse.rutgers.edu/content/gses-urban-teaching-fellows-program> (listing a practicum component analogous to the one proposed here).

214. *See* West, *supra* note 59, at 210; *see* Fineman, *supra* note 51, at 13.

