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## BULLYING PREVENTION AND BOYHOOD

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### INTRODUCTION

A desire to reduce bullying in schools and to create safer and healthier school cultures has driven an anti-bullying movement characterized by significant reform in school programs and practices, as well as legislative reform and policy articulation in every state. A desire to improve school outcomes for boys has generated a number of programmatic proposals and responses in public and private education. Most notably, single-sex programming in public schools has been facilitated by the 2006 change to Title IX regulations setting out the criteria for permissible single-sex public school programs.<sup>1</sup> These two recent movements in K-12 schooling spring from new urgency around each social problem: bullying and boys' relatively worse school outcomes. This new urgency has shaped new research questions in both cases. The discourse includes both grave concerns about these primary social problems, as well as backlash questions such as whether these issues are really

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<sup>1</sup> 34 C.F.R. § 106.34(b) (2012).

new or worse than before and whether the reforms are worsening the problems they seek to address. This Essay asks how the two movements interact and suggests that they may be at cross-purposes in some significant ways.

Attempts to intervene on the “boy question” ordinarily begin with ideas about boys’ differences and the need to understand, accept, and support boys for who they are: rough-and-tumble players with Attention Deficit/Hyperactivity Disorder (ADHD) who are hunters rather than gatherers and are noncompliant, competitive, and physically charged. In other words, attempts to intervene on the “boy question” tend to honor gender stereotypes and masculinities and to approach them without the judgments against boyhood that are allegedly part of the education system.<sup>2</sup>

Attempts to intervene on the bullying problem, on the other hand, begin with a different idea. They begin with the premise that gender stereotyping can be terribly dangerous to the wellbeing and sense of belonging of large swaths of children who do not conform perfectly to normative boy or girl behavior. These children will be disciplined into understanding the parameters of a gender stereotype by their peers. Children are most often bullied based on characteristics that can be understood to be gender nonconformity. Gender nonconformity ranges from the more obvious cases of bullying LGBT or “questioning” youth to more subtle but nonetheless gendered characteristics like appearance or athletic ability. The best practices in anti-bullying work focus on establishing a culture of inclusion without regard to conformity and work to disrupt stereotype expectations.<sup>3</sup> In particular, this school-climate work contains a social-emotional learning component that teaches social-competence skills. These skills include learning to identify and communicate about feelings directly, rather than channeling the feelings into either aggressive or self-destructive behavior.<sup>4</sup> Unwittingly, this bullying reform agenda seeks to create school cultures that do not honor stereotypical masculinities, but instead teach nonviolent ways to stay connected within the school community. To the extent that solutions to the “boy question” work to embrace, highlight, or honor stereotypical boy behavior, they are in some tension with increasingly widespread solutions to the bullying problem.

## I. THE BOY QUESTION

Others have described the “boy question” and provided excellent critical perspective on the discourse.<sup>5</sup> In schools, boys are underperforming compared

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<sup>2</sup> See Katharine B. Silbaugh, *Deliverable Male*, 34 SEATTLE U. L. REV. 733, 745 (2011).

<sup>3</sup> COLLABORATIVE FOR ACADEMIC, SOC. & EMOTIONAL LEARNING, SOCIAL AND EMOTIONAL LEARNING AND BULLYING PREVENTION 14 (2009) [hereinafter SOCIAL AND EMOTIONAL LEARNING], available at <http://casel.org/wp-content/uploads/SEL-and-Bullying-Prevention-2009.pdf>.

<sup>4</sup> *Id.* at 3-4.

<sup>5</sup> See generally, MICHAEL KIMMEL, GUYLAND: THE PERILOUS WORLD WHERE GUYS BECOME MEN (2008); CARYL RIVERS & ROSALIND BARNETT, THE TRUTH ABOUT GIRLS AND

to girls on a number of measures that Michael Kimmel has summarized as “numbers, achievement, and behavior.”<sup>6</sup> The “numbers” aspect of boys’ underperformance is problematic across several axes. Because boys drop out of or are expelled from school at higher rates than girls, fewer boys graduate from high school, enroll in college, finish college, and enroll in graduate school.<sup>7</sup> This is especially true for boys of color.<sup>8</sup> The “achievement” part of boys’ underperformance is evidenced in boys’ lower performance on a variety of language-arts measures, lower GPAs, and lower test scores in some subjects.<sup>9</sup> Last, the “behavior” part of boys’ underperformance has a number of components, including higher diagnosis rates for behavioral disorders, emotional disturbance, and ADHD;<sup>10</sup> higher rates of suicide;<sup>11</sup> and higher levels of engagement in other risky behaviors such as drunk driving.<sup>12</sup> The “behavior” aspect also includes higher violence rates: boys fight more, they commit more crimes, and they are more likely to be victims of violent

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BOYS: CHALLENGING TOXIC STEREOTYPES ABOUT OUR CHILDREN (2011); LEONARD SAX, *BOYS ADRIFT: THE FIVE FACTORS DRIVING THE GROWING EPIDEMIC OF UNMOTIVATED BOYS AND UNDERACHIEVING YOUNG MEN* (2009); Michael S. Kimmel, “*What About the Boys?*” *What the Current Debates Tell Us – and Don’t Tell Us – About Boys in School*, 14 MICH. FEMINIST STUD. (1999-2000), available at <http://hdl.handle.net/2027/spo.ark5583.0014.001>.

<sup>6</sup> Kimmel, *supra* note 5.

<sup>7</sup> TERRIS ROSS ET AL., U.S. DEP’T OF EDUC., NAT’L CTR. FOR EDUC. STATISTICS, *HIGHER EDUCATION: GAPS IN ACCESS AND PERSISTENCE STUDY*, at x-xiii (2012), available at <http://nces.ed.gov/pubs2012/2012046.pdf>.

<sup>8</sup> COLL. BOARD ADVOCACY & POLICY CTR., *THE EDUCATIONAL CRISIS FACING YOUNG MEN OF COLOR* 23 (2010), available at <http://www.advocacy.collegeboard.org/sites/default/files/educational-crisis-facing-young-men-of-color.pdf>.

<sup>9</sup> See, e.g., NAOMI CHUDOWSKY & VICTOR CHUDOWSKY, CTR. ON EDUC. POLICY, *ARE THERE DIFFERENCES IN ACHIEVEMENT BETWEEN BOYS AND GIRLS?* 13 (2010), available at <http://www.cep-dc.org/displayDocument.cfm?DocumentID=322>.

<sup>10</sup> JANET SHAKUNTALA WALKER & JONATHAN KESSLER MELVIN, CTR. FOR INT’L REHABILITATION RESEARCH INFO. & EXCH., *EMOTIONAL DISORDERS (IN CHILDREN AND ADOLESCENTS)* 3 (2010), available at [http://cirrie.buffalo.edu/encyclopedia/en/pdf/emotional\\_disorders\\_in\\_children\\_and\\_adolescents.pdf](http://cirrie.buffalo.edu/encyclopedia/en/pdf/emotional_disorders_in_children_and_adolescents.pdf).

<sup>11</sup> *Suicide Prevention: Youth Suicide*, CTRS. FOR DISEASE CONTROL & PREVENTION, [http://www.cdc.gov/ViolencePrevention/suicide/youth\\_suicide.html](http://www.cdc.gov/ViolencePrevention/suicide/youth_suicide.html) (last updated Jan. 30, 2013).

<sup>12</sup> Randy P. Auerbach et al., *Temporal Relationships Among Depressive Symptoms, Risky Behavior Engagement, Perceived Control, and Gender in a Sample of Adolescents*, 20 J. RES. ON ADOLESCENCE 726, 728 (2010); *Vital Signs: Drinking and Driving Among High School Students Aged ≥ 6 Years – United States, 1991-2011*, 61 MORBIDITY & MORTALITY WKLY. REP. 796, 797 (2012) (“Male students (11.7%) were significantly more likely than female students (8.8%) to drink and drive.”).

crimes.<sup>13</sup> Boys of color are even more likely than other boys to be crime victims.<sup>14</sup>

The discussion of the “boy problem” regularly deploys the following masculine stereotypes: boys are distinctive because they engage in rough-and-tumble behavior; have ADHD; are noncompliant, physically charged, and competitive; and they prefer action and plot to feelings and relationships.<sup>15</sup> The conventional policy concern expressed within the boy-question dialogue is that schools do not handle these masculine attributes well. Schools, it is said, are designed for girls, because schools require boys to sit for long periods, cooperate with those whom they view as competitors, discuss the point of view within a novel, and comply with classroom rules.<sup>16</sup> Some policymakers would like to separate boys from girls to address these concerns, while others would feed these concerns into a coeducational classroom but bring awareness of these purported variations in needs to that environment. The ethos of the boy-question discourse is that these typical boy behaviors should not be pathologized, but should be honored and valued nonjudgmentally. Boys should not be made to give up their boyish nature to succeed in school.

Concerns that masculine attributes are ill suited to schools as well as critiques of these concerns have been well articulated,<sup>17</sup> so I will shortcut the discussion of the “boy question” in order to talk about the anti-bullying movement that has swept through schools. Anti-bullying laws and reform policies may have initiated an *unwitting* shift in gender culture. The chronology of that shift might be described as follows: an apparent bullying crisis leads to legislation, which incentivizes schools to reduce bullying, which leads to the adoption of curricula that has been shown to reduce bullying, which includes the teaching of skills that disrupt masculine norms as a byproduct of bullying reduction.

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<sup>13</sup> CTRS. FOR DISEASE CONTROL & PREVENTION, YOUTH VIOLENCE: FACTS AT A GLANCE 1 (2012), available at <http://www.cdc.gov/ViolencePrevention/pdf/YV-DataSheet-a.pdf>.

<sup>14</sup> *Indicators of School Crime and Safety: 2011*, NAT'L CTR. EDUC. STAT., [neces.ed.gov/programs/crimeindicators/crimeindicators2011/tables/table\\_03\\_1c.asp](http://nces.ed.gov/programs/crimeindicators/crimeindicators2011/tables/table_03_1c.asp) (last visited Mar. 3, 2013).

<sup>15</sup> ACLU, PRELIMINARY FINDINGS OF ACLU “TEACH KIDS, NOT STEREOTYPES” CAMPAIGN 3-4 (2012), available at [http://www.aclu.org/files/assets/doe\\_ocr\\_report2\\_0.pdf](http://www.aclu.org/files/assets/doe_ocr_report2_0.pdf); Silbaugh, *supra* note 2, at 744-45.

<sup>16</sup> See, e.g., SAX, *supra* note 5, at 151-52.

<sup>17</sup> See, e.g., RIVERS & BARNETT, *supra* note 5, at 160 (arguing against researchers, such as Leonard Sax and Michael Gurian, and explaining that “[t]he lens of gender . . . is not a helpful way to look at children”); Kimmel, *supra* note 5.

## II. THE BULLYING PROBLEM

A. *The Harms of Bullying*

While the roots of the anti-bullying movement can be found prior to the Columbine High School shootings in 1999, that incident sparked a movement against bullying. Two students at the Columbine High School, widely reported to have been victims of bullying, rampaged through their school with assault weapons.<sup>18</sup> They killed one teacher and twelve students and injured twenty-three others before committing suicide.<sup>19</sup> Concern about both violence and suicide may sustain much of the interest in bullying reduction in the public discourse, but policymakers also have been spurred by research developments on the long-term consequences of bullying, including school attendance and performance difficulties, depression, criminal activity, and substance abuse.<sup>20</sup>

The anti-bullying movement did not arise out of thin air; it has its footing in a series of other movements. The anti-bullying movement pulls together a number of micro-issues and concerns with old roots and gathers those, with their different players, under one loose umbrella. Lady Gaga's Born This Way Foundation, for example, explicitly resists the anti-bullying label in favor of a youth empowerment mission called "The Kinder & Braver World Project" that engages researchers from a variety of fields to address bullying.<sup>21</sup> The related

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<sup>18</sup> See BROOKS BROWN & ROB MERRITT, NO EASY ANSWERS: THE TRUTH BEHIND DEATH AT COLUMBINE 50-51 (2002) (providing Brown's first-hand account of the bullying he, and his friends, including the killers Eric Harris and Dylan Klebold, experienced at Columbine High School). There is some dispute over the role bullying played in the lives of the two killers and the role bullying played in their decisions and their suicides, but no real dispute that Columbine was the catalyst for increased discussion of bullying. See U.S. DEP'T OF EDUC., ANALYSIS OF STATE BULLYING LAWS AND POLICIES, at ix (2011) [hereinafter DOE REPORT], available at <http://www2.ed.gov/rschstat/eval/bullying/state-bullying-laws/state-bullying-laws.pdf> ("The [Columbine High School] incident ignited a wave of new legislative action within state legislatures that aimed to curtail bullying behavior on school campuses or to mitigate its effects.").

<sup>19</sup> *Columbine High School Massacre*, HISTORY, <http://www.history.com/this-day-in-history/columbine-high-school-massacre> (last visited Mar. 3, 2013). See generally BROWN & MERRITT, *supra* note 18.

<sup>20</sup> See DOE REPORT, *supra* note 18, at ix-x; Wendy M. Craig, *The Relationship Among Bullying, Victimization, Depression, Anxiety, and Aggression in Elementary School Children*, 24 PERSONALITY & INDIVIDUAL DIFFERENCES 123, 129 (1998); Billie Gastic, *School Truancy and the Disciplinary Problems of Bullying Victims*, 60 EDUC. REV. 391, 397-99 (2008); Tord Ivarsson et al., *Bullying in Adolescence: Psychiatric Problems in Victims and Bullies as Measured by the Youth Self Report (YSR) and the Depression Self-Rating Scale (DSRS)*, 59 NORDIC J. PSYCHIATRY 365, 365-69 (2005); Jaana Juvonen et al., *Bullying Experiences and Compromised Academic Performance Across Middle School Grades*, 31 J. EARLY ADOLESCENCE 152, 167 (2010).

<sup>21</sup> See *The Kinder & Braver World Project: Research Series*, BERKMAN CENTER FOR INTERNET & SOC'Y, <http://cyber.law.harvard.edu/research/youthandmedia/kinderbraverworl>

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fields that comprise the anti-bullying movement include youth suicide prevention; youth drop-out prevention focused on both school avoidance by bullying targets and excessive school discipline and zero-tolerance policies against bullying aggressors; school violence prevention; gun violence prevention; hazing prevention, including an earlier round of anti-hazing legislation; youth mental-health support; social-emotional curriculum and education; and identity-based equality concerns, including gay rights, disability rights, and sexual harassment and Title IX concerns.

B. *The Legal Response*

In little more than a decade, a new legal infrastructure has arisen in response to school bullying. In 1999 the first anti-bullying law was passed in the reflective aftermath of the Columbine shootings.<sup>22</sup> Today forty-nine states have passed anti-bullying laws,<sup>23</sup> and some states have passed a second round of more nuanced and robust legislation.<sup>24</sup> Virtually every student in the United States has been directly touched by anti-bullying legislation in the past decade; thus it is difficult to overstate the potential force of this movement within the U.S. education system.

Prior movements, such as the youth-suicide-prevention movement and the identity-based equality movement, each deserve credit for highly developed literature and intervention initiatives, some of which touch on legal issues. But the recent legislative reforms, explicitly characterized as anti-bullying legislation, have been remarkably comprehensive and widespread. The reforms are so recent that there is no rigorous assessment of their impact on student behavior. I would argue, however, that their impact may be greater over the long term than some lawmakers may appreciate. Different features of these laws channel schools toward the same goal: decreasing the number of bullying incidents. The laws incentivize schools to find the path to reducing bullying, wherever that path leads. That path may involve a substantial cultural change, as discussed in Part III.

Anti-bullying laws vary by state but have some typical characteristics. The earliest statutes were sometimes hortatory: they encouraged school districts to adopt anti-bullying policies or to study bullying without actually requiring

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d (last updated Dec. 10, 2012).

<sup>22</sup> 1999 Ga. Laws No. 282.

<sup>23</sup> See Dena T. Sacco, Katharine Silbaugh, Felipe Correndor, June Casey & Davis Doherty, *An Overview of State Anti-Bullying Legislation and Other Related Laws* 3 (Berkman Ctr. for Internet & Soc'y, Publication No. 2013-4, 2012), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2197961](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2197961) (explaining that forty-eight states had anti-bullying laws as of January 2012); *South Dakota Anti-Bullying Laws & Policies*, STOPBULLYING.GOV, <http://www.stopbullying.gov/laws/south-dakota.html> (last visited Mar. 11, 2013).

<sup>24</sup> See generally Sacco, Silbaugh, Correndor, Casey & Doherty, *supra* note 23.

action by districts or schools.<sup>25</sup> Later statutes, however, became more robust, both in specificity and in mandate.<sup>26</sup> While anti-bullying statutes vary by state, they usually contain the following provisions<sup>27</sup>:

1. A focus on schools as the target of the legislation, meaning the regulated entities. Media coverage of these laws sometimes appears to assume that the children are the regulated entities, but few statutes place requirements or consequences on children in any meaningful way.<sup>28</sup>
2. A requirement that schools have anti-bullying policies.<sup>29</sup> Frequently, the legislation will include requirements for the content of the policies. These statutory requirements may include a definition of bullying, which may require inclusion of identity-based groups such as LGBT students, students of color, or students with disabilities.<sup>30</sup> The requirement that policies include mention of bullying on the basis of these characteristics has caused controversy in numerous state legislatures.<sup>31</sup> This controversy

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<sup>25</sup> Susan P. Limber & Mark A. Small, *State Laws and Policies to Address Bullying in Schools*, 32 SCH. PSYCHOL. REV. 445, 449 (2003) (explaining that some state laws require the adoption of anti-bullying policies, while others only recommend such action).

<sup>26</sup> NAT'L CTR. FOR MENTAL HEALTH PROMOTION & YOUTH VIOLENCE PREVENTION, BULLYING PREVENTION STATE LAWS 3-5 (2011), available at [http://www.promoteprevent.org/sites/default/files/20111017\\_bullying\\_prevention\\_state\\_laws.pdf](http://www.promoteprevent.org/sites/default/files/20111017_bullying_prevention_state_laws.pdf) (explaining that more recent anti-bullying laws require schools to meet specific policy deadlines, develop bullying prevention programs, report information about bullying incidents, and prevent cyberbullying and bullying of LGBT students and students with disabilities).

<sup>27</sup> *Id.*

<sup>28</sup> See, e.g., COLO. REV. STAT. § 22-32-109.1(2)(a)(K) (2012) (requiring anti-bullying policies to include “appropriate disciplinary consequences for students who bully other students”); MASS. GEN. LAWS ch. 71, § 37O(d)(v) (2012) (requiring school bullying plans to include “the range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation”).

<sup>29</sup> See, e.g., MASS. GEN. LAWS ch. 71, § 37O(d) (requiring schools to develop “a plan to address bullying prevention and intervention”); see also DOE REPORT, *supra* note 18, at x (finding that forty-five state laws require school districts to create bullying policies).

<sup>30</sup> See, e.g., 105 ILL. COMP. STAT. ANN. 5/27-23.7 (LexisNexis 2012) (prohibiting “[b]ullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, [or] unfavorable discharge from military service”); MD. CODE ANN., EDUC. § 7-424(a)(2)(i)(1) (LexisNexis 2012) (prohibiting bullying “[m]otivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability”).

<sup>31</sup> See, e.g., Dave Murray, *State Senate Abandons Anti-Bullying Bill Dismissed as “License to Bully,” Adopts Tougher House Version*, MLIVE (Nov. 29, 2011, 3:42 PM), [http://www.mlive.com/politics/index.ssf/2011/11/state\\_senate\\_abandons\\_anti-bul.html](http://www.mlive.com/politics/index.ssf/2011/11/state_senate_abandons_anti-bul.html) (describing the debate over anti-bullying legislation in Michigan as a conflict between protecting LGBT students and allowing students to express their sincerely held religious

supports the notion that state legislatures do not obviously seek to initiate the significant departure from cultural norms that I argue will result from these laws.

3. A requirement that staff report bullying to school leadership.<sup>32</sup> This requirement tracks research indicating that adult intervention often has been inadequate.<sup>33</sup>

4. A requirement that schools investigate reported bullying incidents.<sup>34</sup> Some legislation requires school policies to state and publish consequences for particular behaviors in advance and to follow through on those published expectations.<sup>35</sup> In other words, these statutes require clearly stated expectations and process once bullying has been reported. These requirements are sometimes critiqued as too closely resembling a “law enforcement” model,<sup>36</sup> although the statutes do not typically prescribe any consequence, but rather leave schools free to craft educational responses to incidents rather than involving law enforcement.<sup>37</sup> Whichever direction a school chooses for its published anti-bullying expectations and consequences, the requirement that schools respond to all incidents according to their own processes raises the salience of bullying for school leadership and incentivizes schools to reduce incidents of bullying.

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beliefs, which could be homophobic).

<sup>32</sup> See, e.g., CONN. GEN. STAT. § 10-222d(b)(3) (2012) (“[S]chool employees who witness acts of bullying or receive reports of bullying [are required] to orally notify the safe school climate specialist . . . .”); MASS. GEN. LAWS ch. 71, § 37O(g) (“A member of a school staff, including but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional, shall immediately report any instance of bullying . . . .”).

<sup>33</sup> See Wendy M. Craig et al., *Observations of Bullying in the Playground and in the Classroom*, 21 SCH. PSYCHOL. INT’L 22, 33 (2000) (explaining that “teachers may inadvertently contribute to the problem of bullying” by failing to intervene).

<sup>34</sup> See, e.g., CONN. GEN. STAT. § 10-222d(b)(4) (“[T]he safe school climate specialist [is required] to investigate or supervise the investigation of all reports of bullying . . . .”); MASS. GEN. LAWS ch. 71, § 37O(d)(iv) (requiring bullying plans to include “clear procedures for promptly responding to and investigating reports of bullying or retaliation”).

<sup>35</sup> See, e.g., COLO. REV. STAT. § 22-32-109.1(2)(a)(K) (2012) (requiring anti-bullying policies to include “appropriate disciplinary consequences for students who bully other students”); MASS. GEN. LAWS ch. 71, § 37O(d)(v) (requiring school bullying plans to include “the range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation”).

<sup>36</sup> DOE REPORT, *supra* note 18, at 19-20 (explaining how more recent anti-bullying laws increase law enforcement’s role in preventing and combating bullying).

<sup>37</sup> See, e.g., MASS. GEN. LAWS ch. 71, § 37O(d)(v) (explaining that a “range of disciplinary actions” can be taken as a response to bullying, but that “the disciplinary actions shall balance the need for accountability with the need to teach appropriate behavior”).



5. A reporting and recordkeeping requirement that tracks a school's progress in reducing bullying, thus putting pressure on schools to reduce bullying in their respective buildings.<sup>38</sup>

6. While a number of the provisions mentioned thus far apply indirect pressure on schools to prevent bullying, later laws also require more explicit and direct bullying prevention efforts. For example, later laws usually require educating staff, students, and parents about the school's anti-bullying policies and educating students and staff about bullying dynamics explained in the research on bullying prevention.<sup>39</sup> Often the laws also require schools to adopt bullying prevention curricula, and in some cases require that those curricula be "evidence based."<sup>40</sup> While other aspects of these laws, such as reporting and intervention requirements, provide schools a natural incentive to adopt bullying prevention curriculum, the requirements that a school devote curricular energy to reducing the incidents of bullying moves a step further. Nothing in these curriculum requirements indicate that the agenda of these laws is to encourage schools to change their gender culture, but, as this Essay argues in Part III, these requirements may do so nonetheless.

For a range of reasons – including highly publicized bullying-related suicides and school violence, advances in research about the short- and long-term consequences of bullying, and new electronic communication methods that leave an evidentiary trail of the tenor of some youth interactions – awareness of bullying in youth culture has risen in recent years, attracting cultural, educational, and legal attention to the issue. The legal interventions incentivize schools to reduce bullying, and the tools available to achieve that goal may disrupt well-established gender norms as a byproduct of reducing the number of bullying incidents.

### III. THE UNWITTING DISRUPTION OF GENDER NORMS

State anti-bullying laws that include curricula and social-competence skills training provisions interact richly with the boy question previewed in Part I. An anti-bullying curriculum teaches children behaviors to avoid, including

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<sup>38</sup> See, e.g., ALA. CODE § 16-28B-6(4) (2012) (requiring the public posting of bullying statistics); COLO. REV. STAT., § 22-32-109.1(2)(b) (requiring statewide bullying reports to be made public); see also Sacco, Silbaugh, Correndor, Casey & Doherty, *supra* note 23, app. at A-53 tbl.16 (summarizing the reporting requirements in state anti-bullying laws).

<sup>39</sup> See, e.g., CONN. GEN. STAT. § 10-222g (requiring school districts implementing a "prevention and intervention strategy" for bullying to include parent involvement and student education about bullying).

<sup>40</sup> See, e.g., MASS. GEN. LAWS ch. 71, § 37O(c) (requiring schools to implement evidence-based anti-bullying curricula); MISS. CODE ANN. § 37-11-54 (2012) (requiring the State Board of Education to develop a list of evidence-based anti-bullying practices and requiring that local school boards adopt these practices).

physical and social aggression.<sup>41</sup> But the most popular and effective programs also focus on creating a *positive school climate*, because a negative school climate and bullying rates are correlated.<sup>42</sup> Social science research in significant part positions bullying as a symptom of a problematic school climate, not simply as evidence of problematic individual children.<sup>43</sup> The programs that work to reduce the number of incidents frame the issue as follows: it is the climate of the school, not individual bad apples. Because evidence-based curricula – meaning curricula that have been shown to significantly reduce the incidence of bullying – focus on improving school climate, new anti-bullying legislation incentivizes schools to actively manage their peer ecology.<sup>44</sup>

#### A. *School Climate*

School climate is a term used to describe the social and emotional atmosphere which pervades the school community.<sup>45</sup> Its “inputs” are the quality of relationships among kids and between kids and adults, and the real social norms for behavior, including behaviors around inclusiveness and the feeling of belonging.<sup>46</sup> A positive school climate is correlated with low levels of bullying, and movement from a weaker school climate to a more positive one reduces bullying.<sup>47</sup> In a positive school environment, bullying is not seen as a violation of the rules, but as a violation of relationships.<sup>48</sup>

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<sup>41</sup> See, e.g., HAZELDEN, PREVENT BULLYING AT YOUR SCHOOL!: NO-BULLYING PROGRAM FOR GRADES K-8 (2013), available at [http://www.hazelden.org/HAZ\\_MEDIA/no\\_bully\\_ss.pdf](http://www.hazelden.org/HAZ_MEDIA/no_bully_ss.pdf) (describing anti-bullying lessons for students in grades K-8).

<sup>42</sup> KATHLEEN NADER, NAT’L SCH. CLIMATE CTR., VIOLENCE PREVENTION AND SCHOOL CLIMATE REFORM 8 (2012), available at <http://schoolclimate.org/climate/documents/policy/s-c-brief-v5.pdf> (explaining that research has found that a positive school climate reduces bullying and other forms of aggression and violence).

<sup>43</sup> See, e.g., Tonja R. Nansel et al., *Bullying Behaviors Among US Youth: Prevalence and Association with Psychosocial Adjustment*, 285 J. AM. MED. ASS’N 2094, 2099 (2001) (finding that bullies “showed poorer school adjustment, both in terms of academic achievement and perceived school climate”).

<sup>44</sup> Susan M. Swearer et al., *What Can Be Done About School Bullying? Linking Research to Educational Practice*, 39 EDUC. RESEARCHER 38, 41-43 (2010) (synthesizing studies of the efficacy of anti-bullying programs and arguing that the best programs are those that tackle the “social-ecological” and school climate causes of bullying).

<sup>45</sup> See *School Climate Improvement and Breaking the Bully-Victim-Bystander Cycle*, NAT’L SCH. CLIMATE CENTER, <http://www.schoolclimate.org/prevention/documents/bully-prevention-research-what-works.pdf> (last visited Jan. 27, 2013).

<sup>46</sup> *Id.*

<sup>47</sup> NADER, *supra* note 42, at 8 (presenting a summary of the research finding that a positive school climate reduces bullying).

<sup>48</sup> *Bullying and School Climate*, PREVNET, <http://www.prevnet.ca/LinkClick.aspx?fileticket=YeZors2sJD8%3d&tabid=392> (last visited Jan. 27, 2013) (“In a restorative justice

An important element in achieving a positive school climate is a social-emotional learning program that will improve the social competence of children. The Collaborative for Social, Emotional, and Academic Learning (CASEL) surveyed research to develop the core set of skills to be taught in any social emotional learning (SEL) program.<sup>49</sup> These skills are standard in the kind of SEL program that anti-bullying legislation incentivizes. The main skills taught in an SEL curriculum are self-awareness (identifying your feelings), self-management (expressing those feelings constructively rather than destructively), social awareness (empathizing), and relationship skills (establishing healthy relationships based on cooperation and resolving interpersonal conflicts constructively).<sup>50</sup> SEL programs teach these individual skills to children to improve the entire peer ecology.<sup>51</sup>

Improvements in social climate have quite dramatic effects on children's emotional experience, schools' academic performance, and the reduction of bullying incidents.<sup>52</sup> These are uncontroversially positive gains. But it is also worth appreciating that in requiring curricula that teach adjustments to our basic process of socialization in order to achieve these goals, we may be mapping out a fairly significant cultural shift in norms of interaction for children that could carry into the adult world. Teaching skills aimed at constructing an emotionally safe school environment may create shifts in social norms and practices for the children in those schools as they mature into adults. The implications of those shifts for some of the familiar American cultural tensions – including, but certainly not limited to, gender performance – are not explicit in the discussions of these anti-bullying reforms. Instead, the

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climate, misbehavior is understood as a violation of relationships, not rules . . .”). *But see* Susan P. Limber, *Development, Evaluation, and Future Directions of the Olweus Bullying Prevention Program*, 10 J. SCH. VIOLENCE 71, 75 (2011) (explaining that the Olweus Bullying Prevention Program requires clear school rules against bullying).

<sup>49</sup> JOHN PAYTON ET AL., COLLABORATIVE FOR ACADEMIC, SOC. & EMOTIONAL LEARNING, EXECUTIVE SUMMARY: THE POSITIVE IMPACT OF SOCIAL AND EMOTIONAL LEARNING FOR KINDERGARTEN TO EIGHTH-GRADE STUDENTS 4 (2008) [hereinafter EXECUTIVE SUMMARY], available at <http://www.lpfch.org/sel/PackardES-REV.pdf> (highlighting the importance of the following skills: “self-awareness,” “self-management,” “social awareness,” “relationship skills,” and “responsible decision making”).

<sup>50</sup> SOCIAL AND EMOTIONAL LEARNING, *supra* note 3, at 3-4 (describing CASEL’s “five core categories of social and emotional skills”).

<sup>51</sup> Nicole A. Elbertson et al., *School-Based Social and Emotional Learning (SEL) Programming: Current Perspectives*, in 23 SECOND INTERNATIONAL HANDBOOK OF EDUCATIONAL CHANGE 1017, 1021 (Andy Hargreaves et al. eds., 2010).

<sup>52</sup> EXECUTIVE SUMMARY, *supra* note 49, at 6 (summarizing the main findings from three large-scale reviews of research that found that SEL programs “fostered positive effects on: students’ social-emotional skills; attitudes towards self, school, and others; social behaviors; conduct problems; emotional distress; and academic performance”); Elbertson et al., *supra* note 51, at 1020-21 (describing the positive effects of three SEL models – the PATHS program, the CDP program, and the ELC program).

cultural tensions find only episodic and poorly articulated expression in the legislative debates, as when state efforts to support bullied LGBT youth are set against protecting the moral or religious feelings of more conservative teachers and students who want to stake out the legitimacy of disapproval of LGBT individuals. The recent legislative battle in Michigan over anti-bullying legislation focused on this particular tension.<sup>53</sup> Although these legislative debates explicitly surface cultural conflict, the debates are not characterized by inquiry over the future *modes* of expression (for example, meta-cognition in recognizing one's own emotions and those of others), but rather by the topics of expression (the moral embrace or disapproval of LGBT youth).<sup>54</sup> A rich area for further investigation might be a potential larger cultural shift. In bringing to the surface the relationship between anti-bullying efforts and the "boy-crisis" reforms, I only begin to identify a part of the new terrain created by these legal interventions.

In sum, schools are newly energized by a number of forces, including anti-bullying legislation, to reduce bullying. They want to know what anti-bullying reforms work to reduce the number of reportable incidents of bullying. They are driven to embrace efforts whose efficacy is based in research. Reforms that work, according to research, are efforts to create a healthy whole-school climate of belonging and inclusiveness. Schools can achieve that climate by teaching children social competence skills. These skills disrupt the impulse to channel emotions through aggressive behavior and instead encourage empathy and higher-level communication skills. Those social climate changes challenge some gendered expectations for boys, as discussed below. At various stages of development, social-emotional education is the work going on in schools or the charge to schools under many anti-bullying statutes. The rise in social-emotional education is a direct result of these laws because the laws either require social competence work in a social curriculum, or they incentivize it because social-emotional learning is the one reform shown to work to reduce bullying.

## B. *Gender Nonconformity and the Informal Emotional Education of Boys*

### 1. Gender Nonconformity and Bullying

LGBT and "questioning" youth are overwhelmingly more likely to be targets of bullying than other children.<sup>55</sup> Because relatively older youth self-identify as LGBT, it is a difficult topic to study during the prime bullying

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<sup>53</sup> See Murray, *supra* note 31.

<sup>54</sup> For a general discussion of the Michigan controversy, see *id.*

<sup>55</sup> HARRIS INTERACTIVE, FROM TEASING TO TORMENT: SCHOOL CLIMATE IN AMERICA 7 (2005), available at <http://www.glsenboston.org/GLSEnFromTeasingToTorment.pdf> ("90% of LGBT teens (vs. 62% of non-LGBT teens) have been verbally or physically harassed or assaulted during the past year because of their perceived or actual appearance, gender, sexual orientation, gender expression, race/ethnicity, disability or religion.").

years, which peak between ages six and nine.<sup>56</sup> But researchers have developed scales of greater and lesser gender conformity in younger children and made the unsurprising finding that gender-nonconforming boys are more likely to be the targets of bullying.<sup>57</sup> In addition, when researchers surveyed children about the basis for bullying, the children report in high numbers bases such as appearance and athletic ability that can be proxies for gender conformity.<sup>58</sup>

Girls and boys often experience bullying aggression differently. Girls' aggression can take many forms but is more likely to be verbal and include social exclusion.<sup>59</sup> Boys are far more likely to experience physical aggression from other boys.<sup>60</sup> Some research suggests that the boy who is most likely to be a continuous target of physical aggression by other boys is the one who does not respond in kind to rough-and-tumble physical contact and who does not voluntarily choose to engage in horseplay.<sup>61</sup>

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<sup>56</sup> CHILD TRENDS DATA BANK, BULLYING: INDICATORS ON CHILDREN AND YOUTH 4 (2012), available at [http://www.childtrendsdatbank.org/sites/default/files/119\\_Bullying.pdf](http://www.childtrendsdatbank.org/sites/default/files/119_Bullying.pdf) (citing David Finkelhor et al., *Violence, Abuse, and Crime Exposure in a National Sample of Children and Youth*, 124 PEDIATRICS 1411, 1413 (2009)).

<sup>57</sup> See JEAN M. BAKER, HOW HOMOPHOBIA HURTS CHILDREN: NURTURING DIVERSITY AT HOME, AT SCHOOL, AND IN THE COMMUNITY 39 (2002) (explaining how "gender atypical child[ren]" are often subjected to peer bullying, regardless of whether they are "extremely gender atypical" or "not readily identifiable"); MICHAEL S. KIMMEL, MANHOOD IN AMERICA: A CULTURAL HISTORY 242-43 (2d ed. 2006); ELIZABETH J. MEYER, GENDER, BULLYING, AND HARASSMENT: STRATEGIES TO END SEXISM AND HOMOPHOBIA IN SCHOOLS 6-9 (2009) (describing the harassment gender-nonconforming boys face because of social views on masculinity and femininity).

<sup>58</sup> See BAKER, *supra* note 57, at 86 ("[T]he most victimized and intimidated students are very often those boys who most obviously fail to conform to masculine stereotypes."); David S. Cohen, *No Boy Left Behind? Single-Sex Education and the Essentialist Myth of Masculinity*, 84 IND. L.J. 135, 171 (2009) (citing EMMA RENOLD, GIRLS, BOYS AND JUNIOR SEXUALITIES: EXPLORING CHILDREN'S GENDER AND SEXUAL RELATIONS IN THE PRIMARY SCHOOL 149-50 (2005)); Ann C. McGinley, *Masculinities at Work*, 83 OR. L. REV. 359, 367-68 (2004) (discussing how stereotyped "masculinities" affect women at work).

<sup>59</sup> DOE REPORT, *supra* note 18, at 2 (finding that more girls have been "teased in a mean way" and "ignored on purpose" than boys).

<sup>60</sup> *Id.* (finding "that 22 percent of girls and 33 percent of boys had been threatened with physical harm").

<sup>61</sup> See Tiram Gamliel et al., *A Qualitative Investigation of Bullying: The Perspectives of Fifth, Sixth and Seventh Graders in a USA Parochial School*, 24 SCH. PSYCHOL. INT'L 405, 415-16 (2003) (finding that "[a] passive or shy behavioural style was clearly seen as a risk factor" for bullying in the form of horseplay); Ann C. McGinley, *Creating Masculine Identities: Bullying and Harassment "Because of Sex,"* 79 U. COLO. L. REV. 1151, 1226-27 (2008) ("[M]en who harass other men conflate femininity and homosexuality in their harassing behaviors. Men who are harassed for failure to conform to accepted notions of masculine behavior and dress are, therefore, discriminated against because of their gender, whether they are heterosexual or homosexual in their orientation.").

## 2. Rough-and-Tumble Play and Boys' Emotional Education

Rough-and-tumble play is widespread among boys, especially relative to girls. Some research on rough-and-tumble play suggests that, developmentally, boys use it to learn to manage boundaries and communicate those boundaries to each other, even though it may not teach these skills any more effectively than other play.<sup>62</sup> Rough-and-tumble play is sometimes framed in the psychology literature as boys learning to communicate.<sup>63</sup> In other words, boys engage in “physical communication,” and they learn communication skills from that physical contact.<sup>64</sup> On that framing, the boy who does not engage in rough-and-tumble play does not communicate with boys in their own boy language. That boy is also the boy most likely to be the target of bullying. Here is a particularly rich explanation of this process, describing studies of juvenile rats:

We think it important to note that because play fighting is an inherently social behavior, when juvenile rats do not do it, they become socially incompetent as adults. Such rats overreact to benign social contact, such as social sniffing. This makes them hyperdefensive, and they are more likely to escalate encounters to aggression. Furthermore, when they are introduced into rat colonies, these rats fail to exhibit the appropriate submissive behavior when confronting dominant males, and they persistently attract aggressive attacks. They also fail to adopt strategies to circumvent attracting the ire of dominant rats. Also, rats without juvenile play experiences remain overly stressed after encountering such situations. Finally, these rats appear to have difficulty coordinating their movements with those of their social partners.<sup>65</sup>

Without putting any stake into the relationship between rat play and juvenile boys, this research exemplifies the humanized observations of cause and effect around rough-and-tumble play and emotional education. It might go without saying, but the article observes that the sex of the rat matters.<sup>66</sup> The human

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<sup>62</sup> Peter LaFreniere, *Evolutionary Functions of Social Play: Life Histories, Sex Differences, and Emotional Regulation*, 3 AM. J. PLAY 464, 476 (2011) (observing that boys and girls have different play styles that are developed and reinforced by their same-sex peers); A.D. Pellegrini, *Boys' Rough-and-Tumble Play, Social Competence and Group Composition*, 11 BRIT. J. DEVELOPMENTAL PSYCHOL. 237, 245 (1993) (finding a lack of significant correlation between rough-and-tumble play flexibility and temperament that suggests that rough-and-tumble play might not be any better at teaching social competence than alternatives).

<sup>63</sup> Pam Jarvis, “*Rough and Tumble*” Play: *Lessons in Life*, 4 EVOLUTIONARY PSYCHOL. 268, 280 (2006).

<sup>64</sup> See *id.* at 269 (explaining that rough-and-tumble play helps ensure “healthy development and even adult competence”).

<sup>65</sup> Sergio M. Pellis et al., *The Function of Play in the Development of the Social Brain*, 2 AM. J. PLAY 278, 284 (2010) (citations omitted).

<sup>66</sup> *Id.* at 285-86.

research on rough-and-tumble play may be subtler, but it offers similar gender narratives that connect essential communication skills and social development to boys' physical contact.<sup>67</sup>

If physical contact has been central to our cultural practice of educating boys emotionally, whether grounded in animal studies and neuropsychology or in unscientific cultural norms, then an explicit school-based social-emotional curriculum that seeks to channel the identification of feelings into more meta-cognitive communication practices marks a shift worthy of attention.

### 3. Bullying in Single-Sex Schools Versus Coeducational Schools

Many people concerned about boys in school look to single-sex environments to improve boys' school experience. The revised Title IX regulations appear to have generated a vast increase in the amount of single-sex programming in public schools.<sup>68</sup> Built into this movement are politics of recognition. Proponents have generated a narrative of victimization based on stereotypical male traits. Single-sex schooling, by contrast, is offered to celebrate boys' differences from girls. Embracing these purported differences runs contrary to some threads in the most prominent anti-bullying curricula, raising the question of how single-sex classrooms or schools compare to coeducational classrooms and schools on bullying measures.

The research on bullying in single-sex schools is scant. The U.S. Department of Education's 2005 report evaluating research that compares single-sex and coeducational schooling on many metrics concluded that "bullying in school did not appear in a single study of sufficient quality to be reviewed."<sup>69</sup> In May 2009 an unpublished dissertation by Dominique Johnson at Temple University concluded that evaluations of bullying in single-sex schools produce different results when gender conformity is factored into the

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<sup>67</sup> See Jarvis, *supra* note 63, at 278 ("In summary, the findings relating to single gender play supported previous human and non-human animal observational findings in this area, indicating a greater prevalence of R&T among all-boy play groups in terms of amount, pace and intensity, and a gender difference in R&T based fantasy narratives that reflect the findings of [previous scholars]. Such findings are compatible with the theory of an evolved, gendered bio-psychological 'template.' Gendered bio-psychology can therefore be theorized to be both utilized and further developed in commensurate physical play and associated narrative during early childhood: 'males and females have evolved different strategies for maximizing their inclusive fitness . . . and these strategies develop in interaction with a child's social and physical environment.'" (quoting David F. Bjorklund & Anthony D. Pellegrini, *Child Development and Evolutionary Psychology*, 71 CHILD DEV. 1687, 1702 (2000)).

<sup>68</sup> See Rosemary Salomone, *Rights and Wrongs in the Debate Over Single-Sex Schooling*, 93 B.U. L. REV. 971, 979-80 (2013).

<sup>69</sup> FRED MAEL ET AL., U.S. DEP'T OF EDUC., DOC. NO. 2005-01, SINGLE-SEX VERSUS COEDUCATIONAL SCHOOLING: A SYSTEMATIC REVIEW, at xvii (2005), available at <http://www2.ed.gov/rschstat/eval/other/single-sex/single-sex.pdf>; *id.* at 87.

study.<sup>70</sup> Johnson evaluates the impact of gender by parsing out the difference between gender-conforming students and gender-nonconforming students.<sup>71</sup> Johnson also considers the amount of gender conformity in the particular school.<sup>72</sup> She finds that gender-nonconforming boys and girls are more likely to be bullied than gender-conforming boys and girls.<sup>73</sup> She seems to find that single-sex schools are safer for nonconforming girls, but the school's safety seems to turn on how much gender conformity is in the entire institution.<sup>74</sup> She does not believe data exist to support a strong finding about boys, but she explains that the story is likely reversed: gender-nonconforming boys are likely at greater risk in single-sex school environments.<sup>75</sup> Students are more likely to be victimized when they do not conform to their school's gender norms.<sup>76</sup>

The inconclusiveness of this literature increases the concern arising from the rough-and-tumble play literature that nonconforming boys face punishment, either from their peers through bullying, or from single-sex schools that seek to cultivate conforming characteristics. To the extent that these schools promote the physical communication identified by some as particularly male, they promote forms of expression that run contrary to the forms of expression supported by CASEL, which research demonstrates reduce bullying incidents and create a positive school climate.

What do we ask boys to do when we set them apart based on a premise that they embody a set of stereotypical and distinct traits associated with school failure? The robust literature on stereotype threat suggests that students adopt characteristics expected of their group.<sup>77</sup> Findings about school performance across many identity-based groups would suggest that separating boys based on their special academic deficits would have a similar impact of decreasing boys' performance.<sup>78</sup> But more important to the question of bullying, the

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<sup>70</sup> Dominique E. Johnson, *The Dynamics of Gender in Single Sex Schooling: Implications for Educational Policy* 83 (May 2009) (unpublished Ph.D. dissertation, Temple University) (on file with Proquest Dissertations & Theses) (“[G]ender nonconforming students are more likely to be bullied . . . than gender conforming students, even when now controlling for student-level control variables for the school characteristic of whether the school is single sex or coeducational.”).

<sup>71</sup> *Id.* at 21.

<sup>72</sup> *Id.* at 22.

<sup>73</sup> *Id.* at 79.

<sup>74</sup> *Id.* at 89.

<sup>75</sup> *Id.* at 87.

<sup>76</sup> *Id.* at 88 (finding that “students who deviate from the average [Gender Conformity Score] in their school are significantly more likely to be bullied”).

<sup>77</sup> Mara Cadinu et al., *Stereotype Threat: The Effect of Expectancy on Performance*, 33 *EUR. J. SOC. PSYCHOL.* 267, 283-84 (2003) (finding a decrease in performance when members of a minority or majority are confronted with supposed negative characteristics of their group).

<sup>78</sup> Clark McKown & Rhona S. Weinstein, *The Development and Consequences of Stereotype Consciousness in Middle Childhood*, 74 *CHILD DEV.* 498, 510 (2003) (finding



stereotype threat causes men to underperform with respect to their level of social sensitivity.<sup>79</sup> Single-sex education may run directly contrary to the social-emotional learning trends incentivized by the anti-bullying legal reforms.

C. *The New Hidden Gender Curriculum*

Having looked at the boy crisis, anti-bullying statutes, social-emotional learning programs, boys' "physical communication," and the tie between gender nonconformity and bullying, we can return to questions of law and policy. While it is too soon to understand the scope of anti-bullying legislation's impact, one ought to now appreciate the potential these legal incentives have to create significant cultural changes in gendered communication.

Anti-bullying statutes have required or encouraged policies and curricula that generally lead to school and district audits of bullying, meaning surveys of kids about their experiences on a periodic basis.<sup>80</sup> In addition to all the other reasons to evolve on school-climate issues, these public audits and reports put pressure on school leadership to improve their results.<sup>81</sup> Some schools without the capacity to address bullying properly might be expected to engage in compliance charades that accomplish little, whether by embracing zero-tolerance policies or by publishing policies that are ignored.<sup>82</sup> But other schools are genuinely incentivized to succeed on this metric, and they are broadening the circle, from a zero-tolerance, incident-based approach to bullying, to a social curriculum and climate-and-culture approach, which is the one that has been shown to work to decrease incidents of bullying. That social curriculum approach is currently being deployed in many schools in response

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evidence of stereotype threat based on gender, ethnicity, age, and parent education level and decreased academic performance as a result of the stereotype).

<sup>79</sup> Anne M. Koenig & Alice H. Eagly, *Stereotype Threat in Men on a Test of Social Sensitivity*, 52 *SEX ROLES* 489, 496 (2005) ("When the negative group stereotype that men are not as good as women at decoding nonverbal cues was salient, men performed worse on a social sensitivity test.").

<sup>80</sup> See, e.g., COLO. REV. STAT. § 22-93-104(1)(b)(III)(A) (2012) (requiring biennial surveys of students and administrators about the pervasiveness of bullying). When statutes require evidence-based curricula, they in effect require these surveys, because the few anti-bullying programs that meet the evidence-based criteria use an annual survey. Audits also occur because schools are often required by statute to report the number of incidents and their resolution to state departments of education. See generally Sacco, Silbaugh, Correndor, Casey & Doherty, *supra* note 23, at 10, app. at A-53 tbl.16.

<sup>81</sup> See, e.g., ALA. CODE § 16-28B-6(4) (2012) (requiring the public posting of bullying statistics); COLO. REV. STAT. § 22-32-109.1(2)(b); VT. STAT. ANN. tit. 16, § 164(17) (requiring the state board to publish a report that includes bullying statistics "in a way that is easily understandable by the general public").

<sup>82</sup> See generally JOHN BREHM & SCOTT GATES, *WORKING, SHIRKING, AND SABOTAGE: BUREAUCRATIC RESPONSE TO A DEMOCRATIC PUBLIC* 21 (1997).

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to anti-bullying legislation. We can expect it will be deployed in many more as laws tighten and as results from more tepid interventions continue to disappoint. The social curriculum approach teaches all children to learn to recognize their own emotions, express them directly rather than indirectly, with words rather than physicality, to empathize with others, and to adhere to social norms that require respecting the belonging of others instead of seeking advantage over others.<sup>83</sup> Schools are teaching cooperation and inclusion and redirecting competitive behaviors, not because of broad cultural judgment, but rather because those schools are motivated to reduce bullying.

The consequences of this curricular change may turn out to reach further than lawmakers intended. That is not to say the further reach is a negative one, by any means, only that it is an unintended one. Lawmakers do not seem to have set out to make a kinder world with greater emotional awareness and pro-social communication styles. They certainly did not discuss feminizing modes of communication or disrupting masculine modes of communication among schoolchildren. They seem to have set out to reduce the number of serious bullying incidents and bullying-connected suicides.

Yet as we walk through the practical stages of an evidence-based, effective approach to bullying, we see the unfolding of a school culture that *unwittingly* disrupts the masculine performance of emotions, rather than celebrating it as much of the boy-crisis-oriented policy would have us do. It is not just a trend within schools or within educational circles. It is a trend spawned by legal change. Michael Kimmel has written that “in the current climate, boys need defending against precisely those who claim to defend them; they need rescuing from precisely those who would rescue them.”<sup>84</sup> It might be that the anti-bullying statutes will lead school leadership – leadership with no particular interest in gender nonconformity – to do as Michael Kimmel suggests, and rescue boys from those in the boy-crisis movement who would rescue them.

#### CONCLUSION

The anti-bullying movement does not use language suggesting that it is about “disrupting masculinities.” Further, the reformers themselves, and the school administrators who implement the reforms, do not necessarily conceive of the reforms as gender-based reforms. All are aware, however, that LGBT children are particularly vulnerable and have been a political engine and focus in the debate. Instead of attempting to disrupt masculinities, the reform movements aim to reduce bullying incidents. These efforts are generating research on how to do this effectively, and the research is informing policy and practice. These evidence-based school-climate curricula are not viewed as disrupting gender patterns. But they do aim to rearrange major characteristics

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<sup>83</sup> See SOCIAL AND EMOTIONAL LEARNING, *supra* note 3, at 3-4.

<sup>84</sup> Kimmel, *supra* note 5.

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of school and peer culture. They aim to create more inclusive and tolerant environments where students are better at identifying and articulating their own emotions and recognizing those of others. In these environments, children view aggressive behavior as a relationship violation contrary to community social norms. In their successful incarnations, these curricula produce a community full of adults and children who interact with one another in a lower-conflict setting by identifying and expressing their feelings directly. This represents a movement toward a normative school culture, for policy reasons, that does not reify non-verbal, competitive, rough-and-tumble forms of communication. This is because such forms of communication are prone to being indirect and not inclusive and do not include the self-conscious step of identifying feelings. *School leaders pursuing this path obviously do not view boys as incapable of acquiring these skills.* The behaviors that are celebrated non-judgmentally as “boys’ difference” in the boy-question discussion are discouraged because they are linked to an increased likelihood of bullying.

It is difficult to overstate the potential reach of this anti-bullying reform movement, with its social-emotional learning components, on school culture. Policymakers supporting a celebration of boy culture or focusing on boy needs have some decisions to make about goals and values that may not cohere well across these different targets of reform.