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H. R. 1381

To prevent and reduce the use of physical restraint and seclusion in schools,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2011

Mr. GEORGE MILLER of California (for himself, Mr. LANGEVIN, Mr. POLIS, Mr. HOLT, Mr. HIMES, Mr. HARPER, Mr. SABLAN, Mr. KILDEE, Mr. GRIJALVA, Mr. LOEBSACK, Mr. HINCHEY, Mr. PAYNE, Mr. HINOJOSA, Mr. BISHOP of New York, Ms. WOOLSEY, Mrs. MCCARTHY of New York, Ms. HIRONO, and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To prevent and reduce the use of physical restraint and
seclusion in schools, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Keeping All Students
5 Safe Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Physical restraint and seclusion have re-
2 sulted in physical injury, psychological trauma, and
3 death to children in public and private schools. Na-
4 tional research shows students have been subjected
5 to physical restraint and seclusion in schools as a
6 means of discipline, to force compliance, or as a sub-
7 stitute for appropriate educational support.

8 (2) Behavioral interventions for children must
9 promote the right of all children to be treated with
10 dignity. All children have the right to be free from
11 physical or mental abuse, aversive behavioral inter-
12 ventions that compromise health and safety, and any
13 physical restraint or seclusion imposed solely for
14 purposes of discipline or convenience.

15 (3) Safe, effective, evidence-based strategies are
16 available to support children who display challenging
17 behaviors in school settings. Staff training focused
18 on the dangers of physical restraint and seclusion as
19 well as training in evidence-based positive behavior
20 supports, de-escalation techniques, and physical re-
21 straint and seclusion prevention, can reduce the inci-
22 dence of injury, trauma, and death.

23 (4) School personnel have the right to work in
24 a safe environment and should be provided training

1 and support to prevent injury and trauma to them-
2 selves and others.

3 (5) Despite the widely recognized risks of phys-
4 ical restraint and seclusion, a substantial disparity
5 exists among many States and localities with regard
6 to the protection and oversight of the rights of chil-
7 dren and school personnel to a safe learning environ-
8 ment.

9 (6) Children are subjected to physical restraint
10 and seclusion at higher rates than adults. Physical
11 restraint which restricts breathing or causes other
12 body trauma, as well as seclusion in the absence of
13 continuous face-to-face monitoring, have resulted in
14 the deaths of children in schools.

15 (7) Children are protected from inappropriate
16 physical restraint and seclusion in other settings,
17 such as hospitals, health facilities, and non-medical
18 community-based facilities. Similar protections are
19 needed in schools, yet such protections must ac-
20 knowledge the differences of the school environment.

21 (8) Research confirms that physical restraint
22 and seclusion are not therapeutic, nor are these
23 practices effective means to calm or teach children,
24 and may have an opposite effect while simulta-
25 neously decreasing a child's ability to learn.

1 (9) The effective implementation of school-wide
2 positive behavior supports is linked to greater aca-
3 demic achievement, significantly fewer disciplinary
4 problems, increased instruction time, and staff per-
5 ception of a safer teaching environment.

6 **SEC. 3. PURPOSES.**

7 The purposes of this Act are to—

8 (1) prevent and reduce the use of physical re-
9 straint and seclusion in schools;

10 (2) ensure the safety of all students and school
11 personnel in schools and promote a positive school
12 culture and climate;

13 (3) protect students from—

14 (A) physical or mental abuse;

15 (B) aversive behavioral interventions that
16 compromise health and safety; and

17 (C) any physical restraint or seclusion im-
18 posed solely for purposes of discipline or con-
19 venience;

20 (4) ensure that physical restraint and seclusion
21 are imposed in school only when a student's behavior
22 poses an imminent danger of physical injury to the
23 student, school personnel, or others; and

24 (5) assist States, local educational agencies,
25 and schools in—

1 (A) establishing policies and procedures to
2 keep all students, including students with the
3 most complex and intensive behavioral needs,
4 and school personnel safe;

5 (B) providing school personnel with the
6 necessary tools, training, and support to ensure
7 the safety of all students and school personnel;

8 (C) collecting and analyzing data on phys-
9 ical restraint and seclusion in schools; and

10 (D) identifying and implementing effective
11 evidence-based models to prevent and reduce
12 physical restraint and seclusion in schools.

13 **SEC. 4. DEFINITIONS.**

14 In this Act:

15 (1) **CHEMICAL RESTRAINT.**—The term “chem-
16 ical restraint” means a drug or medication used on
17 a student to control behavior or restrict freedom of
18 movement that is not—

19 (A) prescribed by a licensed physician, or
20 other qualified health professional acting under
21 the scope of the professional’s authority under
22 State law, for the standard treatment of a stu-
23 dent’s medical or psychiatric condition; and

24 (B) administered as prescribed by the li-
25 censed physician or other qualified health pro-

1 fessional acting under the scope of the profes-
2 sional’s authority under State law.

3 (2) EDUCATIONAL SERVICE AGENCY.—The
4 term “educational service agency” has the meaning
5 given such term in section 9101(17) of the Elemen-
6 tary and Secondary Education Act of 1965 (20
7 U.S.C. 7801(17)).

8 (3) ELEMENTARY SCHOOL.—The term “elemen-
9 tary school” has the meaning given the term in sec-
10 tion 9101(18) of the Elementary and Secondary
11 Education Act of 1965 (20 U.S.C. 7801(18)).

12 (4) LOCAL EDUCATIONAL AGENCY.—The term
13 “local educational agency” has the meaning given
14 the term in section 9101(26) of the Elementary and
15 Secondary Education Act of 1965 (20 U.S.C.
16 7801(26)).

17 (5) MECHANICAL RESTRAINT.—The term “me-
18 chanical restraint” has the meaning given the term
19 in section 595(d)(1) of the Public Health Service
20 Act (42 U.S.C. 290jj(d)(1)), except that the mean-
21 ing shall be applied by substituting “student’s” for
22 “resident’s”.

23 (6) PARENT.—The term “parent” has the
24 meaning given the term in section 9101(31) of the

1 Elementary and Secondary Education Act of 1965
2 (20 U.S.C. 7801(31)).

3 (7) PHYSICAL ESCORT.—The term “physical es-
4 cort” has the meaning given the term in section
5 595(d)(2) of the Public Health Service Act (42
6 U.S.C. 290jj(d)(2)), except that the meaning shall
7 be applied by substituting “student” for “resident”.

8 (8) PHYSICAL RESTRAINT.—The term “physical
9 restraint” has the meaning given the term in section
10 595(d)(3) of the Public Health Service Act (42
11 U.S.C. 290jj(d)(3)).

12 (9) POSITIVE BEHAVIOR SUPPORTS.—The term
13 “positive behavior supports” means a systematic ap-
14 proach to embed evidence-based practices and data-
15 driven decisionmaking to improve school climate and
16 culture, including a range of systemic and individ-
17 ualized strategies to reinforce desired behaviors and
18 diminish reoccurrence of problem behaviors, in order
19 to achieve improved academic and social outcomes
20 and increase learning for all students, including
21 those with the most complex and intensive behav-
22 ioral needs.

23 (10) PROTECTION AND ADVOCACY SYSTEM.—
24 The term “protection and advocacy system” means
25 a protection and advocacy system established under

1 section 143 of the Developmental Disabilities Assist-
2 ance and Bill of Rights Act of 2000 (42 U.S.C.
3 15043).

4 (11) SCHOOL.—The term “school” means an
5 entity—

6 (A) that—

7 (i) is a public or private—

8 (I) day or residential elementary
9 school or secondary school; or

10 (II) early childhood, elementary
11 school, or secondary school program
12 that is under the jurisdiction of a
13 school, local educational agency, edu-
14 cational service agency, or other edu-
15 cational institution or program; and

16 (ii) receives, or serves students who
17 receive, support in any form from any pro-
18 gram supported, in whole or in part, with
19 funds appropriated to the Department of
20 Education; or

21 (B) that is a school funded or operated by
22 the Department of the Interior.

23 (12) SCHOOL PERSONNEL.—The term “school
24 personnel” has the meaning—

1 (A) given the term in section 4151(10) of
2 the Elementary and Secondary Education Act
3 of 1965 (20 U.S.C. 7161(10)); and

4 (B) given the term “school resource offi-
5 cer” in section 4151(11) of the Elementary and
6 Secondary Education Act of 1965 (20 U.S.C.
7 7161(11)).

8 (13) SECONDARY SCHOOL.—The term “sec-
9 ondary school” has the meaning given the term in
10 section 9101(38) of the Elementary and Secondary
11 Education Act of 1965 (20 U.S.C. 7801(38)).

12 (14) SECLUSION.—The term “seclusion” has
13 the meaning given the term in section 595(d)(4) of
14 the Public Health Service Act (42 U.S.C.
15 290jj(d)(4)).

16 (15) SECRETARY.—The term “Secretary”
17 means the Secretary of Education.

18 (16) STATE-APPROVED CRISIS INTERVENTION
19 TRAINING PROGRAM.—The term “State-approved
20 crisis intervention training program” means a train-
21 ing program approved by a State and the Secretary
22 that, at a minimum, provides—

23 (A) training in evidence-based techniques
24 shown to be effective in the prevention of phys-
25 ical restraint and seclusion;

1 (B) training in evidence-based techniques
2 shown to be effective in keeping both school
3 personnel and students safe when imposing
4 physical restraint or seclusion;

5 (C) evidence-based skills training related to
6 positive behavior supports, safe physical escort,
7 conflict prevention, understanding antecedents,
8 de-escalation, and conflict management;

9 (D) training in first aid and cardiopulmo-
10 nary resuscitation;

11 (E) information describing State policies
12 and procedures that meet the minimum stand-
13 ards established by regulations promulgated
14 pursuant to section 5(a); and

15 (F) certification for school personnel in the
16 techniques and skills described in subpara-
17 graphs (A) through (D), which shall be required
18 to be renewed on a periodic basis.

19 (17) STATE.—The term “State” has the mean-
20 ing given the term in section 9101 of the Elemen-
21 tary and Secondary Education Act of 1965 (20
22 U.S.C. 7801).

23 (18) STATE EDUCATIONAL AGENCY.—The term
24 “State educational agency” has the meaning given
25 the term in section 9101(41) of the Elementary and

1 Secondary Education Act of 1965 (20 U.S.C.
2 7801(41)).

3 (19) STUDENT.—The term “student” means a
4 student enrolled in a school defined in paragraph
5 (11), except that in the case of a student enrolled
6 in a private school or private program, such term
7 means a student who receives support in any form
8 from any program supported, in whole or in part,
9 with funds appropriated to the Department of Edu-
10 cation.

11 (20) TIME OUT.—The term “time out” has the
12 meaning given the term in section 595(d)(5) of the
13 Public Health Service Act (42 U.S.C. 290jj(d)(5)),
14 except that the meaning shall be applied by sub-
15 stituting “student” for “resident”.

16 **SEC. 5. MINIMUM STANDARDS; RULE OF CONSTRUCTION.**

17 (a) MINIMUM STANDARDS.—Not later than 180 days
18 after the date of the enactment of this Act, in order to
19 protect each student from physical or mental abuse, aver-
20 sive behavioral interventions that compromise student
21 health and safety, or any physical restraint or seclusion
22 imposed solely for purposes of discipline or convenience
23 or in a manner otherwise inconsistent with this Act, the
24 Secretary shall promulgate regulations establishing the
25 following minimum standards:

1 (1) School personnel shall be prohibited from
2 imposing on any student the following:

3 (A) Mechanical restraints.

4 (B) Chemical restraints.

5 (C) Physical restraint or physical escort
6 that restricts breathing.

7 (D) Aversive behavioral interventions that
8 compromise health and safety.

9 (2) School personnel shall be prohibited from
10 imposing physical restraint or seclusion on a student
11 unless—

12 (A) the student's behavior poses an immi-
13 nent danger of physical injury to the student,
14 school personnel, or others;

15 (B) less restrictive interventions would be
16 ineffective in stopping such imminent danger of
17 physical injury;

18 (C) such physical restraint or seclusion is
19 imposed by school personnel who—

20 (i) continuously monitor the student
21 face-to-face; or

22 (ii) if school personnel safety is sig-
23 nificantly compromised by such face-to-face
24 monitoring, are in continuous direct visual
25 contact with the student;

1 (D) such physical restraint or seclusion is
2 imposed by—

3 (i) school personnel trained and cer-
4 tified by a State-approved crisis interven-
5 tion training program (as defined in sec-
6 tion 4(16)); or

7 (ii) other school personnel in the case
8 of a rare and clearly unavoidable emer-
9 gency circumstance when school personnel
10 trained and certified as described in clause
11 (i) are not immediately available due to the
12 unforeseeable nature of the emergency cir-
13 cumstance; and

14 (E) such physical restraint or seclusion
15 ends immediately upon the cessation of the con-
16 ditions described in subparagraphs (A) and (B).

17 (3) States, in consultation with local edu-
18 cational agencies and private school officials, shall
19 ensure that a sufficient number of personnel are
20 trained and certified by a State-approved crisis
21 intervention training program (as defined in section
22 4(16)) to meet the needs of the specific student pop-
23 ulation in each school.

24 (4) The use of physical restraint or seclusion as
25 a planned intervention shall not be written into a

1 student's education plan, individual safety plan, be-
2 havioral plan, or individualized education program
3 (as defined in section 602 of the Individuals with
4 Disabilities Education Act (20 U.S.C. 1401)). Local
5 educational agencies or schools may establish poli-
6 cies and procedures for use of physical restraint or
7 seclusion in school safety or crisis plans, provided
8 that such school plans are not specific to any indi-
9 vidual student.

10 (5) Schools shall establish procedures to be fol-
11 lowed after each incident involving the imposition of
12 physical restraint or seclusion upon a student, in-
13 cluding—

14 (A) procedures to provide to the parent of
15 the student, with respect to each such inci-
16 dent—

17 (i) an immediate verbal or electronic
18 communication on the same day as each
19 such incident; and

20 (ii) within 24 hours of each such inci-
21 dent, written notification; and

22 (B) any other procedures the Secretary de-
23 termines appropriate.

24 (b) SECRETARY OF THE INTERIOR.—The Secretary
25 of the Interior shall ensure that schools operated or fund-

1 ed by the Department of the Interior comply with the reg-
2 ulations promulgated by the Secretary under subsection
3 (a).

4 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
5 tion shall be construed to authorize the Secretary to pro-
6 mulgate regulations prohibiting the use of—

7 (1) time out (as defined in section 4(20)); or

8 (2) devices implemented by trained school per-
9 sonnel, or utilized by a student, for the specific and
10 approved therapeutic or safety purposes for which
11 such devices were designed and, if applicable, pre-
12 scribed, including—

13 (A) restraints for medical immobilization;

14 (B) adaptive devices or mechanical sup-
15 ports used to achieve proper body position, bal-
16 ance, or alignment to allow greater freedom of
17 mobility than would be possible without the use
18 of such devices or mechanical supports; or

19 (C) vehicle safety restraints when used as
20 intended during the transport of a student in a
21 moving vehicle; or

22 (3) handcuffs by school resource officers (as
23 such term is defined in section 4151(11) of the Ele-
24 mentary and Secondary Education Act of 1965 (20
25 U.S.C. 7161(11)))—

- 1 (A) in the—
2 (i) case when a student’s behavior
3 poses an imminent danger of physical in-
4 jury to the student, school personnel, or
5 others; or
6 (ii) lawful exercise of law enforcement
7 duties; and
8 (B) less restrictive interventions would be
9 ineffective.

10 **SEC. 6. STATE PLAN AND REPORT REQUIREMENTS AND EN-**
11 **FORCEMENT.**

12 (a) STATE PLAN.—Not later than 2 years after the
13 Secretary promulgates regulations pursuant to section
14 5(a), and each year thereafter, each State educational
15 agency shall submit to the Secretary a State plan that pro-
16 vides—

17 (1) assurances to the Secretary that the State
18 has in effect—

19 (A) State policies and procedures that
20 meet the minimum standards, including the
21 standards with respect to State-approved crisis
22 intervention training programs, established by
23 regulations promulgated pursuant to section
24 5(a); and

1 (B) a State mechanism to effectively mon-
2 itor and enforce the minimum standards;

3 (2) a description of the State policies and pro-
4 cedures, including a description of the State-ap-
5 proved crisis intervention training programs in such
6 State; and

7 (3) a description of the State plans to ensure
8 school personnel and parents, including private
9 school personnel and parents, are aware of the State
10 policies and procedures.

11 (b) REPORTING.—

12 (1) REPORTING REQUIREMENTS.—Not later
13 than 2 years after the date the Secretary promul-
14 gates regulations pursuant to section 5(a), and each
15 year thereafter, each State educational agency shall
16 (in compliance with the requirements of section 444
17 of the General Education Provisions Act (commonly
18 known as the “Family Educational Rights and Pri-
19 vacy Act of 1974”) (20 U.S.C. 1232g)) prepare and
20 submit to the Secretary, and make available to the
21 public, a report that includes the information de-
22 scribed in paragraph (2), with respect to each local
23 educational agency, and each school not under the
24 jurisdiction of a local educational agency, located in
25 the same State as such State educational agency.

1 (2) INFORMATION REQUIREMENTS.—

2 (A) GENERAL INFORMATION REQUIRE-
3 MENTS.—The report described in paragraph (1)
4 shall include information on—

5 (i) the total number of incidents in
6 the preceding full-academic year in which
7 physical restraint was imposed upon a stu-
8 dent; and

9 (ii) the total number of incidents in
10 the preceding full-academic year in which
11 seclusion was imposed upon a student.

12 (B) DISAGGREGATION.—

13 (i) GENERAL DISAGGREGATION RE-
14 QUIREMENTS.—The information described
15 in subparagraph (A) shall be disaggregated
16 by—

17 (I) the total number of incidents
18 in which physical restraint or seclu-
19 sion was imposed upon a student—

20 (aa) that resulted in injury;

21 (bb) that resulted in death;

22 and

23 (cc) in which the school per-
24 sonnel imposing physical re-
25 straint or seclusion were not

1 trained and certified as described
2 in section 5(a)(2)(D)(i); and

3 (II) the demographic characteris-
4 tics of all students upon whom phys-
5 ical restraint or seclusion was im-
6 posed, including—

7 (aa) the categories identified
8 in section 1111(h)(1)(C)(i) of the
9 Elementary and Secondary Edu-
10 cation Act of 1965 (20 U.S.C.
11 6311(h)(1)(C)(i));

12 (bb) age; and

13 (cc) disability status (which
14 has the meaning given the term
15 “individual with a disability” in
16 section 7(20) of the Rehabilita-
17 tion Act of 1973 (29 U.S.C.
18 705(20))).

19 (ii) UNDUPLICATED COUNT; EXCEP-
20 TION.—The disaggregation required under
21 clause (i) shall—

22 (I) be carried out in a manner to
23 ensure an unduplicated count of the—

24 (aa) total number of inci-
25 dents in the preceding full-aca-

1 demic year in which physical re-
2 straint was imposed upon a stu-
3 dent; and

4 (bb) total number of inci-
5 dents in the preceding full-aca-
6 demic year in which seclusion
7 was imposed upon a student; and

8 (II) not be required in a case in
9 which the number of students in a
10 category would reveal personally iden-
11 tifiable information about an indi-
12 vidual student.

13 (c) ENFORCEMENT.—

14 (1) IN GENERAL.—

15 (A) USE OF REMEDIES.—If a State edu-
16 cational agency fails to comply with subsection
17 (a) or (b), the Secretary shall—

18 (i) withhold, in whole or in part, fur-
19 ther payments under an applicable pro-
20 gram (as such term is defined in section
21 400(c) of the General Education Provi-
22 sions Act (20 U.S.C. 1221)) in accordance
23 with section 455 of such Act (20 U.S.C.
24 1234d);

1 (ii) require a State educational agency
2 to submit, and implement, within 1 year of
3 such failure to comply, a corrective plan of
4 action, which may include redirection of
5 funds received under an applicable pro-
6 gram; or

7 (iii) issue a complaint to compel com-
8 pliance of the State educational agency
9 through a cease and desist order, in the
10 same manner the Secretary is authorized
11 to take such action under section 456 of
12 the General Education Provisions Act (20
13 U.S.C. 1234e).

14 (B) CESSATION OF WITHHOLDING OF
15 FUNDS.—Whenever the Secretary determines
16 (whether by certification or other appropriate
17 evidence) that a State educational agency who
18 is subject to the withholding of payments under
19 subparagraph (A)(i) has cured the failure pro-
20 viding the basis for the withholding of pay-
21 ments, the Secretary shall cease the withholding
22 of payments with respect to the State edu-
23 cational agency under such subparagraph.

24 (2) RULE OF CONSTRUCTION.—Nothing in this
25 subsection shall be construed to limit the Secretary's

1 authority under the General Education Provisions
2 Act (20 U.S.C. 1221 et seq.).

3 **SEC. 7. GRANT AUTHORITY.**

4 (a) IN GENERAL.—From the amount appropriated
5 under section 12, the Secretary may award grants to State
6 educational agencies to assist the agencies in—

7 (1) establishing, implementing, and enforcing
8 the policies and procedures to meet the minimum
9 standards established by regulations promulgated by
10 the Secretary pursuant to section 5(a);

11 (2) improving State and local capacity to collect
12 and analyze data related to physical restraint and
13 seclusion; and

14 (3) improving school climate and culture by im-
15 plementing school-wide positive behavior support ap-
16 proaches.

17 (b) DURATION OF GRANT.—A grant under this sec-
18 tion shall be awarded to a State educational agency for
19 a 3-year period.

20 (c) APPLICATION.—Each State educational agency
21 desiring a grant under this section shall submit an appli-
22 cation to the Secretary at such time, in such manner, and
23 accompanied by such information as the Secretary may
24 require, including information on how the State edu-
25 cational agency will target resources to schools and local

1 educational agencies in need of assistance related to pre-
2 venting and reducing physical restraint and seclusion.

3 (d) AUTHORITY TO MAKE SUBGRANTS.—

4 (1) IN GENERAL.—A State educational agency
5 receiving a grant under this section may use such
6 grant funds to award subgrants, on a competitive
7 basis, to local educational agencies.

8 (2) APPLICATION.—A local educational agency
9 desiring to receive a subgrant under this section
10 shall submit an application to the applicable State
11 educational agency at such time, in such manner,
12 and containing such information as the State edu-
13 cational agency may require.

14 (e) PRIVATE SCHOOL PARTICIPATION.—

15 (1) IN GENERAL.—A local educational agency
16 receiving subgrant funds under this section shall,
17 after timely and meaningful consultation with appro-
18 priate private school officials, ensure that private
19 school personnel can participate, on an equitable
20 basis, in activities supported by grant or subgrant
21 funds.

22 (2) PUBLIC CONTROL OF FUNDS.—The control
23 of funds provided under this section, and title to ma-
24 terials, equipment, and property purchased with
25 such funds, shall be in a public agency, and a public

1 agency shall administer such funds, materials, equip-
2 ment, and property.

3 (f) REQUIRED ACTIVITIES.—A State educational
4 agency receiving a grant, or a local educational agency re-
5 ceiving a subgrant, under this section shall use such grant
6 or subgrant funds to carry out the following:

7 (1) Researching, developing, implementing, and
8 evaluating strategies, policies, and procedures to pre-
9 vent and reduce physical restraint and seclusion in
10 schools, consistent with the minimum standards es-
11 tablished by regulations promulgated by the Sec-
12 retary pursuant to section 5(a).

13 (2) Providing professional development, train-
14 ing, and certification for school personnel to meet
15 such standards.

16 (3) Carrying out the reporting requirements
17 under section 6(b) and analyzing the information in-
18 cluded in a report prepared under such section to
19 identify student, school personnel, and school needs
20 related to use of physical restraint and seclusion.

21 (g) ADDITIONAL AUTHORIZED ACTIVITIES.—In addi-
22 tion to the required activities described in subsection (f),
23 a State educational agency receiving a grant, or a local
24 educational agency receiving a subgrant, under this sec-

1 tion may use such grant or subgrant funds for one or more
2 of the following:

3 (1) Developing and implementing high-quality
4 professional development and training programs to
5 implement evidence-based systematic approaches to
6 school-wide positive behavior supports, including im-
7 proving coaching, facilitation, and training capacity
8 for administrators, teachers, specialized instructional
9 support personnel, and other staff.

10 (2) Providing technical assistance to develop
11 and implement evidence-based systematic approaches
12 to school-wide positive behavior supports, including
13 technical assistance for data-driven decisionmaking
14 related to behavioral supports and interventions in
15 the classroom.

16 (3) Researching, evaluating, and disseminating
17 high-quality evidence-based programs and activities
18 that implement school-wide positive behavior sup-
19 ports with fidelity.

20 (4) Supporting other local positive behavior
21 support implementation activities consistent with
22 this subsection.

23 (h) EVALUATION AND REPORT.—Each State edu-
24 cational agency receiving a grant under this section shall,
25 at the end of the 3-year grant period for such grant—

1 (1) evaluate the State’s progress toward the
2 prevention and reduction of physical restraint and
3 seclusion in the schools located in the State, con-
4 sistent with the minimum standards established by
5 regulations promulgated by the Secretary pursuant
6 to section 5(a); and

7 (2) submit to the Secretary a report on such
8 progress.

9 (i) DEPARTMENT OF THE INTERIOR.—From the
10 amount appropriated under section 12, the Secretary may
11 allocate funds to the Secretary of the Interior for activities
12 under this section with respect to schools operated or
13 funded by the Department of the Interior, under such
14 terms as the Secretary of Education may prescribe.

15 **SEC. 8. NATIONAL ASSESSMENT.**

16 (a) NATIONAL ASSESSMENT.—The Secretary shall
17 carry out a national assessment to determine the effective-
18 ness of this Act, which shall include—

19 (1) analyzing data related to physical restraint
20 and seclusion incidents;

21 (2) analyzing the effectiveness of Federal,
22 State, and local efforts to prevent and reduce the
23 number of physical restraint and seclusion incidents
24 in schools;

1 (3) identifying the types of programs and serv-
2 ices that have demonstrated the greatest effective-
3 ness in preventing and reducing the number of phys-
4 ical restraint and seclusion incidents in schools; and

5 (4) identifying evidence-based personnel train-
6 ing models with demonstrated success in preventing
7 and reducing the number of physical restraint and
8 seclusion incidents in schools, including models that
9 emphasize positive behavior supports and de-escala-
10 tion techniques over physical intervention.

11 (b) REPORT.—The Secretary shall submit to the
12 Committee on Education and the Workforce of the House
13 of Representatives and the Committee on Health, Edu-
14 cation, Labor, and Pensions of the Senate—

15 (1) an interim report that summarizes the pre-
16 liminary findings of the assessment described in sub-
17 section (a) not later than 3 years after the date of
18 enactment of this Act; and

19 (2) a final report of the findings of the assess-
20 ment not later than 5 years after the date of the en-
21 actment of this Act.

22 **SEC. 9. PROTECTION AND ADVOCACY SYSTEMS.**

23 Protection and Advocacy Systems shall have the au-
24 thority provided under section 143 of the Developmental
25 Disabilities Assistance and Bill of Rights Act of 2000 (42

1 U.S.C. 15043) to investigate, monitor, and enforce protec-
2 tions provided for students under this Act.

3 **SEC. 10. HEAD START PROGRAMS.**

4 (a) REGULATIONS.—The Secretary of Health and
5 Human Services, in consultation with the Secretary, shall
6 promulgate regulations with respect to Head Start agen-
7 cies administering Head Start programs under the Head
8 Start Act (42 U.S.C. 9801 et seq.) that establish require-
9 ments consistent with—

10 (1) the requirements established by regulations
11 promulgated pursuant to section 5(a); and

12 (2) the reporting and enforcement requirements
13 described in subsections (b) and (c) of section 6.

14 (b) GRANT AUTHORITY.—From the amount appro-
15 priated under section 12, the Secretary may allocate funds
16 to the Secretary of Health and Human Services to assist
17 the Head Start agencies in establishing, implementing,
18 and enforcing policies and procedures to meet the require-
19 ments established by regulations promulgated pursuant to
20 subsection (a).

21 **SEC. 11. LIMITATION OF AUTHORITY.**

22 (a) IN GENERAL.—Nothing in this Act shall be con-
23 strued to restrict or limit, or allow the Secretary to restrict
24 or limit, any other rights or remedies otherwise available

1 to students or parents under Federal or State law or regu-
2 lation.

3 (b) APPLICABILITY.—

4 (1) PRIVATE SCHOOLS.—Nothing in this Act
5 shall be construed to affect any private school that
6 does not receive, or does not serve students who re-
7 ceive, support in any form from any program sup-
8 ported, in whole or in part, with funds appropriated
9 to the Department of Education.

10 (2) HOME SCHOOLS.—Nothing in this Act shall
11 be construed to—

12 (A) affect a home school, whether or not a
13 home school is treated as a private school or
14 home school under State law; or

15 (B) consider parents who are schooling a
16 child at home as school personnel.

17 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated such sums
19 as may be necessary to carry out this Act for fiscal year
20 2012 and each of the 4 succeeding fiscal years.

21 **SEC. 13. PRESUMPTION OF CONGRESS RELATING TO COM-**
22 **PETITIVE PROCEDURES.**

23 (a) PRESUMPTION.—It is the presumption of Con-
24 gress that grants awarded under this Act will be awarded
25 using competitive procedures based on merit.

1 (b) REPORT TO CONGRESS.—If grants are awarded
2 under this Act using procedures other than competitive
3 procedures, the Secretary shall submit to Congress a re-
4 port explaining why competitive procedures were not used.

5 **SEC. 14. PROHIBITION ON EARMARKS.**

6 None of the funds appropriated to carry out this Act
7 may be used for a congressional earmark as defined in
8 clause 9e, of Rule XXI of the rules of the House of Rep-
9 resentatives of the 112th Congress.

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