

112TH CONGRESS  
1ST SESSION

# H. R. 1381

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

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## 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

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## 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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