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112TH CONGRESS
1ST SESSION

S. 541

To amend the Elementary and Secondary Education Act of 1965 to allow State educational agencies, local educational agencies, and schools to increase implementation of schoolwide positive behavioral interventions and supports and early intervening services in order to improve student academic achievement, reduce overidentification of individuals with disabilities, and reduce disciplinary problems in schools, and to improve coordination with similar activities and services provided under the Individuals with Disabilities Education Act.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2011

Mr. BENNET (for himself, Mr. ALEXANDER, Mr. FRANKEN, and Mr. BURR) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

To amend the Elementary and Secondary Education Act of 1965 to allow State educational agencies, local educational agencies, and schools to increase implementation of schoolwide positive behavioral interventions and supports and early intervening services in order to improve student academic achievement, reduce overidentification of individuals with disabilities, and reduce disciplinary problems in schools, and to improve coordination with similar activities and services provided under the Individuals with Disabilities Education Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Achievement Through Prevention Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to expand the use of positive behavioral interventions and supports and early intervening services in schools in order to improve student academic achievement, reduce overidentification of individuals with disabilities, and reduce disciplinary problems in schools.

SEC. 3. AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

(a) TITLE I STATE PLANS.—Section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)) is amended by adding at the end the following:

''(11) POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS.—In the case of a State that proposes to use funds under this part to support positive behavioral interventions and supports, the State plan shall describe how the State educational agency will—

"(A) assist local educational agencies in implementing positive behavioral interventions and supports in schools served by the local educational agency on a whole-school basis;

"(B) provide technical assistance and training to local educational agencies to improve and support the development, implementation, and coordination of comprehensive positive behavioral interventions and supports carried out under this Act with similar activities carried out under the Individuals with Disabilities Education Act; and

"(C) evaluate the effects of providing positive behavioral interventions and supports.

"(12) EARLY INTERVENING SERVICES.—In the case of a State that proposes to use funds under this part to support early intervening services, the State plan shall describe how the State educational agency will—

"(A) assist local educational agencies in implementing early intervening services in schools served by the local educational agency to reduce the need to label children as disabled in order to address the learning and behavioral needs of such children;

"(B) provide technical assistance and training to local educational agencies to improve coordination of early intervening services provided under this Act with similar early intervening services carried out under the Individuals with Disabilities Education Act; and

"(C) evaluate the effects of providing early intervening services.".

(b) TITLE I STATE REPORTS.—Section 1111(h)(1)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(h)(1)(C)) is amended—

(1) in clause (vii), by striking "and" after the semicolon;

(2) in clause (viii), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(ix) the number of local educational agencies in the State that implement positive behavioral interventions and supports; and

"(x) the number of students—

"(I) who are served through the use of early intervening services; and

"(II) who in the preceding 2-year period, received early intervening services and who, after receiving such services, have been identified as eligible for, and receive, special education and related services under part B of the Individuals with Disabilities Education Act.".

(c) TITLE I LOCAL EDUCATIONAL AGENCY PLANS.—Section 1112(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6312(b)(1)) is amended—

(1) in subparagraph (P), by striking "and" after the semicolon;

(2) in subparagraph (Q), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(R) if the local educational agency proposes to use subgrant funds under this part for positive behavioral interventions and supports, a description of the actions the local educational agency will take to provide positive behavioral interventions and supports and coordinate those activities with similar activities carried out

under the Individuals with Disabilities Education Act; and

"(S) if the local educational agency proposes to use subgrant funds under this part for early intervening services, a description of the actions the local educational agency will take to provide early intervening services and coordinate those services with similar early intervening services carried out under the Individuals with Disabilities Education Act.".

(d) TITLE I SCHOOLWIDE PROGRAMS.—

(1) SCHOOLWIDE PROGRAMS.—Section 1114(b)(1)(B)(iii)(I) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6314(b)(1)(B)(iii)(I)) is amended—

(A) by redesignating items (bb) and (cc) as items (dd) and (ee), respectively; and

(B) by inserting after item (aa) the following:

"(bb) implementation of schoolwide positive behavioral interventions and supports, including through coordination with similar activities carried out under the Individuals with Disabilities Education Act,

in order to improve academic outcomes for students and reduce the need for suspensions, expulsions, referrals to law enforcement, and other actions that remove students from instruction;

"(cc) implementation of early intervening services, including through coordination with similar early intervening services carried out under the Individuals with Disabilities Education Act;".

(2) TECHNICAL ASSISTANCE.—Section 1116(b)(4)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(4)(B)) is amended—

(A) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(B) by inserting after clause (ii) the following:

"(iii) shall include assistance in the implementation of schoolwide positive behavior supports and other approaches with evidence of effectiveness for improving the learning environment in the school and re-

ducing the need for suspensions, expulsions, and other actions that remove students from instruction, including effective strategies for improving coordination of community resources;''.

(e) TITLE I ASSESSMENTS AND SCHOOL IMPROVEMENT.—

(1) SCHOOL IMPROVEMENT PLAN.—Section 1116(b)(3)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(3)(A)) is amended—

(A) in clause (ix), by striking ''and'' after the semicolon;

(B) in clause (x), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(xi) specify whether the local educational agency or the school will adopt and implement policies or practices to implement or improve positive behavioral interventions and supports and enhance coordination with similar activities carried out under the Individuals with Disabilities Education Act; and

"(xii) specify whether the local educational agency or the school will adopt and implement policies or practices to implement or improve early intervening services and coordinate with similar early intervening services carried out under the Individuals with Disabilities Education Act.".

(2) LOCAL EDUCATIONAL AGENCY IMPROVEMENT PLANS.—Section 1116(c)(10)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(c)(10)(C)) is amended by adding at the end the following:

"(vii) Improving or expanding positive behavioral interventions and supports and enhancing coordination with similar activities under the Individuals with Disabilities Education Act.

"(viii) Improving or expanding early intervening services and coordinating such services with similar early intervening services carried out under the Individuals with Disabilities Education Act.".

(f) TITLE I SCHOOL SUPPORT AND RECOGNITION.—

(1) REGIONAL CENTERS.—Section 1117(a)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6317(a)(3)) is amended—

(A) by striking ''of 2002 and comprehensive'' and inserting ''of 2002, comprehensive'';

(B) by striking ''and the comprehensive'' and inserting '', the comprehensive''; and

(C) by inserting ''and any technical assistance center on schoolwide positive behavioral interventions and supports funded under section 665(b) of the Individuals with Disabilities Education Act,'' after ''2002),''.

(2) STATEWIDE SYSTEMS FOR SUPPORT.—Section 1117(a)(5)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6317(a)(5)(B)) is amended—

(A) in clause (i), by striking the semicolon at the end and inserting the following: '', including by improving or expanding the use of positive behavioral interventions and supports aligned with similar activities carried out under the Individuals with Disabilities Education Act;'';

(B) in clause (iii), by striking ''and'' after the semicolon;

(C) in clause (iv), by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

''(v) review and analyze the school's efforts to identify and assist students with poor academic achievement and students with disabilities, and assist the school in developing or improving early intervening services that are coordinated with similar activities carried out under the Individuals with Disabilities Education Act;

''(vi) review and analyze the school's efforts to address behavioral or disciplinary problems, and assist the school in developing or improving schoolwide positive behavioral interventions and supports that are coordinated with similar activities carried out under the Individuals with Disabilities Education Act; and

''(vii) review the number of discipline incidents in the school and use that information to assist the school to implement schoolwide positive behavioral interventions and supports or other early intervening services, or both.''.

(g) TITLE I PARENTAL INVOLVEMENT.—Section 1118(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6318(e)) is amended—

(1) by redesignating paragraphs (6) through (14) as paragraphs (7) through (15), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) shall provide information to school personnel, students, and parents about the school's use of positive behavioral interventions and supports and the expectations of school personnel, students, and parents in supporting a safe learning environment for all students;".

(h) PREVENTION AND INTERVENTION PROGRAMS.—Section 1414(c)(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6434(c)(8)) is amended by inserting ", including coordinating the use of positive behavioral interventions and supports and early intervening services to improve academic achievement and reduce disciplinary actions" before the semicolon at the end.

(i) TECHNICAL ASSISTANCE.—Section 1419 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6439) is amended—

(1) in paragraph (1), by striking ''and'' after the semicolon;

(2) in paragraph (2), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(3) to provide technical assistance in implementing positive behavior interventions and supports and early intervening services in order to improve academic achievement and reduce disciplinary actions.''.

(j) DEFINITION.—Section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) is amended—

(1) by redesignating paragraphs (17) through (43) as paragraphs (18) through (44), respectively; and

(2) by inserting after paragraph (16) the following:

''(17) EARLY INTERVENING SERVICES.—The term 'early intervening services' means early intervening services described in section 613(f)(1) of the Individuals with Disabilities Education Act.''.

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