

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S.** \_\_\_\_\_

To protect students from inappropriate seclusion and physical restraint, and  
for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. DODD (for himself and Mr. BURR) introduced the following bill; which  
was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To protect students from inappropriate seclusion and  
physical restraint, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Keeping All Students Safe Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.

TITLE I—PREVENTION OF SECLUSION AND PHYSICAL  
RESTRAINT IN SCHOOLS

- Sec. 101. Definitions.
- Sec. 102. Minimum standards; rule of construction.
- Sec. 103. State plan and data collection requirements and enforcement.
- Sec. 104. Grant authority.
- Sec. 105. National evaluation.
- Sec. 106. Head Start programs.
- Sec. 107. Rule of authority.
- Sec. 108. Limitation of authority.
- Sec. 109. Authorization of appropriations.

## TITLE II—AMENDMENTS TO EDUCATION LAWS

- Sec. 201. Elementary and Secondary Education Act of 1965.
- Sec. 202. Higher Education Act of 1965.

### 1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Seclusion and physical restraint have re-  
4 sulted in physical injury, psychological trauma, and  
5 death to children in schools. National research shows  
6 children have been subjected to inappropriate seclu-  
7 sion and physical restraint in schools as a means of  
8 discipline, to force compliance, or as a substitute for  
9 appropriate educational support.

10 (2) Despite the widely recognized risks of seclu-  
11 sion and physical restraint, a substantial disparity  
12 exists between States and localities with regard to  
13 the protection and oversight of the rights of children  
14 to a safe learning environment.

15 (3) 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

1 needed in schools, yet such protections must ac-  
2 knowledge the differences of the school environment.

3 (4) Research confirms that—

4 (A) seclusion and physical restraint are not  
5 therapeutic; and

6 (B) these practices are not effective means  
7 to calm or teach children and may have an op-  
8 posite effect while simultaneously decreasing a  
9 child's ability to learn.

10 (5) Children are subjected to seclusion and  
11 physical restraint at higher rates than adults and  
12 are at greater risk of injury. Physical restraint that  
13 restricts air flow to the lungs, as well as seclusion  
14 in the absence of continuous face-to-face monitoring,  
15 has resulted in the deaths of children in schools.

16 (6) Behavioral interventions for children must  
17 promote the right of all children to be treated with  
18 dignity. All children have the right to be free from  
19 abuse, any aversive behavioral intervention that com-  
20 promises health and safety, and any physical re-  
21 straint or seclusion imposed for purposes of dis-  
22 cipline or convenience.

23 (7) Safe and effective evidence-based strategies  
24 are available to support children who display chal-  
25 lenging behaviors in school settings. Staff training

1 focused on the dangers of seclusion and physical re-  
2 straint, as well as training in evidence-based positive  
3 behavioral interventions and supports, de-escalation  
4 techniques, and seclusion and physical restraint pre-  
5 vention can reduce injury, trauma, and death.

6 (8) School personnel have the right to work in  
7 a safe environment and should be provided training  
8 and support to prevent injury and trauma to them-  
9 selves and others.

10 (9) The effective implementation of school-wide  
11 positive behavioral interventions and supports is  
12 linked to greater academic achievement, significantly  
13 fewer disciplinary problems, increased instruction  
14 time, and staff perception of a safer teaching envi-  
15 ronment.

16 (10) Perspectives of parents and relevant com-  
17 munity and advocacy organizations, including those  
18 run by individuals with disabilities, are important  
19 when developing and implementing strategies, poli-  
20 cies, and procedures to prevent or reduce seclusion  
21 and physical restraint in schools.

22 **SEC. 3. PURPOSES.**

23 The purposes of this Act are to—

24 (1) prevent and reduce the use of seclusion and  
25 physical restraint in schools;

1           (2) ensure the safety of all students and per-  
2           sonnel in schools and promote a positive school cul-  
3           ture and climate;

4           (3) protect students from—

5                 (A) abuse;

6                 (B) any aversive behavioral intervention  
7           that compromises health and safety; and

8                 (C) any physical restraint or seclusion im-  
9           posed for purposes of discipline or convenience;

10          (4) ensure that seclusion and physical restraint  
11          are imposed in school only when a student’s behavior  
12          poses an imminent danger of physical injury to the  
13          student, school personnel, or others; and

14          (5) assist States, local educational agencies,  
15          and schools in—

16                 (A) establishing policies and procedures to  
17           keep all students, including students with the  
18           most complex and intensive behavioral needs,  
19           and school personnel safe;

20                 (B) providing school personnel with the  
21           necessary tools, training, and support to ensure  
22           the safety of all students and all school per-  
23           sonnel;

24                 (C) collecting and analyzing data on seclu-  
25           sion and physical restraint in schools;

1 (D) implementing systemic approaches to  
2 school-wide positive behavioral interventions  
3 and supports; and

4 (E) identifying and implementing effective  
5 evidence-based models to prevent and reduce se-  
6 clusion and physical restraint in schools.

7 **TITLE I—PREVENTION OF SE-**  
8 **CLUSION AND PHYSICAL RE-**  
9 **STRAINT IN SCHOOLS**

10 **SEC. 101. DEFINITIONS.**

11 In this Act:

12 (1) ESEA DEFINITIONS.—The terms “edu-  
13 cational service agency”, “elementary school”, “local  
14 educational agency”, “parent”, “secondary school”,  
15 and “State” have the meanings given such terms in  
16 section 9101 of the Elementary and Secondary Edu-  
17 cation Act of 1965 (20 U.S.C. 7801).

18 (2) APPLICABLE PROGRAM.—The term “appli-  
19 cable program” has the meaning given the term in  
20 section 400(c) of the General Education Provisions  
21 Act (20 U.S.C. 1221(c)).

22 (3) CHEMICAL RESTRAINT.—The term “chem-  
23 ical restraint” means a drug or medication used on  
24 a student to control behavior or restrict freedom of  
25 movement that is not—

1 (A) prescribed by a licensed physician or  
2 other qualified health professional acting under  
3 the scope of the professional’s authority under  
4 State law for standard treatment of the stu-  
5 dent’s medical or psychiatric condition; or

6 (B) administered as prescribed by the li-  
7 censed physician or other qualified health pro-  
8 fessional acting under the scope of the profes-  
9 sional’s authority under State law.

10 (4) FREE APPROPRIATE PUBLIC EDUCATION.—

11 The term “free appropriate public education” has  
12 the meaning given the term in section 602 of the In-  
13 dividuals with Disabilities Education Act (20 U.S.C.  
14 1401).

15 (5) MECHANICAL RESTRAINT.—The term “me-  
16 chanical restraint” means the use of devices as a  
17 means of restricting a student’s freedom of move-  
18 ment.

19 (6) POSITIVE BEHAVIORAL INTERVENTIONS

20 AND SUPPORTS.—The term “positive behavioral

21 interventions and supports” means a systematic ap-  
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approach to embed evidence-based practices and data-  
driven decisionmaking to improve school climate and  
culture, including a range of systemic and individ-  
ualized strategies to reinforce desired behaviors and

1       diminish reoccurrence of problem behaviors, in order  
2       to achieve improved academic and social outcomes  
3       and increase learning for all students, including  
4       those with the most complex and intensive behav-  
5       ioral needs.

6               (7) PROTECTION AND ADVOCACY SYSTEM.—

7                   (A) IN GENERAL.—The term “protection  
8                   and advocacy system” means a protection and  
9                   advocacy system authorized under a covered  
10                  provision.

11                  (B) COVERED PROVISION.—In this para-  
12                  graph, the term “covered provision” means sub-  
13                  title C of title I of the Developmental Disabil-  
14                  ities Assistance and Bill of Rights Act of 2000  
15                  (42 U.S.C. 15041 et seq.).

16               (8) PHYSICAL ESCORT.—The term “physical es-  
17               cort” means the temporary touching or holding of  
18               the hand, wrist, arm, shoulder, or back for the pur-  
19               pose of inducing a student who is acting out to walk  
20               to a safe location.

21               (9) PHYSICAL RESTRAINT.—The term “physical  
22               restraint” means a personal restriction that immo-  
23               bilizes or reduces the ability of an individual to move  
24               the individual’s arms, legs, body, or head freely.  
25               Such term does not include a physical escort.



1           (10) SCHOOL.—The term “school” means an  
2           entity that—

3                   (A)(i) is—

4                           (I) a public day or residential elemen-  
5                           tary school or secondary school; or

6                           (II) an early childhood program that  
7                           is under the jurisdiction of a public school,  
8                           educational service agency, or other public  
9                           educational institution or program; and re-  
10                           ceives, or serves students who receive, sup-  
11                           port in any form from any program sup-  
12                           ported in whole or in part with funds ap-  
13                           propriated to the Department of Edu-  
14                           cation;

15                   (B) is a private day or residential elemen-  
16                   tary school or secondary school that receives or  
17                   serves a student who has been placed or re-  
18                   ferred to such school by, or whose education at  
19                   such school is paid for by, a State or local edu-  
20                   cational agency under paragraph (B) or (C) of  
21                   section 612(a)(10) of the Individuals with Dis-  
22                   abilities Education Act (20 U.S.C.  
23                   1412(a)(10)(B), (C)), in order to provide the  
24                   student with a free appropriate public edu-  
25                   cation; or

1                   (C) is a school funded or operated by the  
2                   Department of the Interior.

3                   (11) SCHOOL PERSONNEL.—The term “school  
4                   personnel” means school personnel and school re-  
5                   source officers, as such terms are defined in section  
6                   4151 of the Elementary and Secondary Education  
7                   Act of 1965 (20 U.S.C. 7161), who are employed in  
8                   a school.

9                   (12) SECLUSION.—The term “seclusion” means  
10                  a behavior control technique involving the involun-  
11                  tary confinement of a student alone in a room, or  
12                  other area, from which the student is physically pre-  
13                  vented from leaving. Such term does not include a  
14                  time out.

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

17                  (14) SERIOUS BODILY INJURY.—The term “se-  
18                  rious bodily injury” has the meaning given the term  
19                  in section 1365(h) of title 18, United States Code.

20                  (15) STATE-APPROVED TRAINING PROGRAM.—  
21                  The term “State-approved training program” means  
22                  a training program approved by a State that, at a  
23                  minimum, provides—

1 (A) training in evidence-based techniques  
2 shown to be effective in the prevention of seclu-  
3 sion and physical restraint;

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

8 (C) evidence-based skills training that is  
9 related to positive behavioral interventions and  
10 supports, conflict prevention, functional behav-  
11 ior assessments, de-escalation, and conflict  
12 management;

13 (D) training in first aid and  
14 cardiopulmonary resuscitation;

15 (E) information describing State policies  
16 and procedures that meet the minimum stand-  
17 ards established by regulations promulgated  
18 pursuant to section 102(a); and

19 (F) certification for school personnel in the  
20 techniques and skills described in subpara-  
21 graphs (A) through (D), which shall be required  
22 to be renewed on a periodic basis.

23 (16) STATE EDUCATIONAL AGENCY.—The term  
24 “State educational agency” means a State edu-  
25 cational agency, as defined in section 9101 of the

1 Elementary and Secondary Education Act of 1965  
2 (20 U.S.C. 7801), that receives support in any form  
3 from an applicable program.

4 (17) STUDENT.—The term “student” means a  
5 student—

6 (A) who is enrolled in a school described in  
7 subparagraph (A) or (C) of paragraph (10); or

8 (B) who is enrolled in a private school de-  
9 scribed in paragraph (10)(B) and who is receiv-  
10 ing a free appropriate public education at the  
11 school, under subparagraph (B) or (C) of sec-  
12 tion 612(a)(10) of the Individuals with Disabil-  
13 ities Education Act (20 U.S.C. 1412(a)(10)(B),  
14 (C)).

15 (18) TIME OUT.—The term “time out” means  
16 a behavior management technique that is part of an  
17 approved treatment program and may involve the  
18 separation of the student from the group, in a non-  
19 locked setting, for the purpose of calming. Time out  
20 is not seclusion.

21 **SEC. 102. MINIMUM STANDARDS; RULE OF CONSTRUCTION.**

22 (a) MINIMUM STANDARDS.—Not later than 1 year  
23 after the date of enactment of this Act, in order to protect  
24 each student from any aversive behavioral intervention  
25 that compromises student health and safety or any phys-

1 ical restraint or seclusion imposed for purposes of dis-  
2 cipline or convenience or in a manner otherwise incon-  
3 sistent with this Act, the Secretary shall promulgate regu-  
4 lations establishing the following minimum standards:

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

7 (A) Mechanical restraint.

8 (B) Chemical restraint.

9 (C) Physical restraint or physical escort  
10 that restricts breathing.

11 (D) Aversive behavioral intervention that  
12 compromises health and safety.

13 (2) School personnel shall be prohibited from  
14 imposing physical restraint or seclusion on a student  
15 unless—

16 (A) the student's behavior poses an immi-  
17 nent danger of physical injury to the student,  
18 school personnel, or others; and

19 (B) less restrictive interventions would be  
20 ineffective in stopping such imminent danger of  
21 physical injury.

22 (3) In the event physical restraint or seclusion  
23 is imposed upon a student, such physical restraint or  
24 seclusion shall—

1 (A) end upon the cessation of the condi-  
2 tions described in paragraph (2);

3 (B) be imposed by school personnel who—

4 (i) continuously monitor the student  
5 face-to-face; or

6 (ii) if school personnel safety would be  
7 significantly compromised by such face-to-  
8 face monitoring, are in continuous direct  
9 visual contact with the student; and

10 (C) be imposed by—

11 (i) school personnel trained and cer-  
12 tified by a State-approved training pro-  
13 gram; or

14 (ii) other school personnel in the case  
15 of a rare and clearly unavoidable emer-  
16 gency circumstance when school personnel  
17 trained and certified as described in clause  
18 (i) are not immediately available due to the  
19 unforeseeable nature of the emergency cir-  
20 cumstance.

21 (4) Each State, in consultation with local edu-  
22 cational agencies and private schools, shall ensure  
23 that a sufficient number of school personnel are  
24 trained and certified by a State-approved training

1 program to meet the needs of the specific student  
2 population in each school.

3 (5) The use of physical restraint or seclusion  
4 shall not be written into a student's education plan,  
5 individual safety plan, behavioral plan, or individual-  
6 ized education program (as defined in section 614(d)  
7 of the Individuals with Disabilities Education Act  
8 (20 U.S.C. 1414(d))) unless all of the following con-  
9 ditions apply:

10 (A) The use of physical restraint and se-  
11 clusion complies with the minimum standards  
12 of this section and any other applicable State  
13 law (including regulations) regarding physical  
14 restraint or seclusion, to the extent State law  
15 (including regulations) provide additional pro-  
16 tection for students.

17 (B) The student has a documented history  
18 showing a series of behavior in the preceding 2  
19 years that has created an imminent danger of  
20 physical injury in school.

21 (C) A comprehensive, data-driven func-  
22 tional behavior assessment has been conducted  
23 and implemented by a qualified team of profes-  
24 sionals.

1           (6) After the imposition of physical restraint or  
2           seclusion upon a student, all school personnel in-  
3           volved in the physical restraint or seclusion and ap-  
4           propriate supervisory and administrative staff shall  
5           participate in a debriefing session. The debriefing  
6           session shall occur not later than 5 school days fol-  
7           lowing the imposition of physical restraint or seclu-  
8           sion, unless the debriefing session is delayed, at the  
9           request of a student's parent so that the parent can  
10          also attend. The debriefing session shall include—

11                   (A) documentation of circumstances lead-  
12                   ing to use of physical restraint or seclusion;

13                   (B) planning to prevent and reduce reoc-  
14                   currence of the use of physical restraint or se-  
15                   clusion; and

16                   (C) a plan to have a qualified team of pro-  
17                   fessionals conduct, review, or revise a functional  
18                   behavioral assessment.

19          (7) Each local educational agency shall estab-  
20          lish procedures to be followed after each incident in  
21          a school involving the imposition of physical re-  
22          straint or seclusion upon a student, including—

23                   (A) procedures to provide to the parent of  
24                   the student, with respect to each such inci-  
25                   dent—



1 (i) a documented, reasonable attempt  
2 to provide immediate verbal or electronic  
3 communication on the same day as each  
4 such incident;

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

7 (iii) advance notice of the debriefing  
8 session described in paragraph (6) that will  
9 be held regarding such incident and an op-  
10 portunity to attend the debriefing session  
11 or request that the debriefing session be  
12 rescheduled so that the parent may attend;  
13 and

14 (B) in a case in which serious bodily injury  
15 or death of a student of the school occurs from  
16 the use of seclusion or physical restraint, proce-  
17 dures to notify, in writing, within 24 hours  
18 after such injury or death occurs—

19 (i) the State educational agency and  
20 local educational agency;

21 (ii) a protection and advocacy system,  
22 in the case of a student who is eligible for  
23 protection and advocacy services through  
24 that system; and

1 (iii) if appropriate, law enforcement  
2 officials.

3 (b) SECRETARY OF THE INTERIOR.—The Secretary  
4 of the Interior shall ensure that schools operated or fund-  
5 ed by the Department of the Interior comply with the reg-  
6 ulations promulgated by the Secretary under subsection  
7 (a).

8 (c) RULE OF CONSTRUCTION REGARDING CERTAIN  
9 PRACTICES.—Nothing in this section shall be construed  
10 to authorize the Secretary to promulgate regulations pro-  
11 hibiting the use of—

12 (1) time out;

13 (2) devices implemented by a trained school  
14 personnel, or utilized by a student, for the specific  
15 and approved therapeutic or safety purposes for  
16 which such devices were designed, and, if applicable,  
17 prescribed, including—

18 (A) restraints for medical immobilization;

19 (B) adaptive devices or mechanical sup-  
20 ports used to achieve proper body position, bal-  
21 ance, or alignment to allow greater freedom of  
22 mobility than would be possible without the use  
23 of such a mechanical support; or

1 (C) vehicle safety restraints when used as  
2 intended during the transport of a student in a  
3 moving vehicle; and

4 (3) handcuffs by school resource officers (as  
5 such term is defined in section 4151 of the Elemen-  
6 tary and Secondary Education Act of 1965 (20  
7 U.S.C. 7161))—

8 (A)(i) in the case where a student’s behav-  
9 ior poses an imminent danger of physical injury  
10 to the student, school personnel, or others; or

11 (ii) in the lawful exercise of law enforce-  
12 ment duties; and

13 (B) if less restrictive interventions would  
14 be ineffective.

15 (d) INTERACTION WITH MINIMUM STANDARDS AND  
16 STATE LAW (INCLUDING REGULATIONS).—

17 (1) IN GENERAL.—Any education plan, indi-  
18 vidual safety plan, behavioral plan, or individualized  
19 education program (as defined in section 614(d) of  
20 the Individuals with Disabilities Education Act (20  
21 U.S.C. 1414(d))) for a student in a State shall con-  
22 form to the minimum standards described in sub-  
23 section (a) and with State law (including regula-  
24 tions) regarding physical restraint or seclusion, to

1 the extent State law (including regulations) provide  
2 additional protection for students.

3 (2) INDIVIDUALIZED EDUCATION PROGRAMS.—

4 With respect to a student attending a school served  
5 by a State educational agency, the requirements  
6 under subsection (a)(5) shall be treated, for all pur-  
7 poses under the Individuals with Disabilities Edu-  
8 cation Act (20 U.S.C. 1400 et seq.), as if such re-  
9 quirements were included in section 614(d) of such  
10 Act (20 U.S.C. 1414(d)), notwithstanding any other  
11 provision of law.

12 **SEC. 103. STATE PLAN AND DATA COLLECTION REQUIRE-**  
13 **MENTS AND ENFORCEMENT.**

14 (a) STATE PLAN.—

15 (1) SUBMISSION OF PLANS.—Not later than 2  
16 years after the Secretary promulgates regulations  
17 pursuant to section 102(a), and every 3 years there-  
18 after, each State educational agency shall submit to  
19 the Secretary, and make available to the general  
20 public, a State plan that provides—

21 (A) assurances to the Secretary that the  
22 State has in effect—

23 (i) State policies and procedures that  
24 meet the minimum standards, including  
25 the standards with respect to State-ap-

1           proved training programs, established by  
2           the regulations prescribed by the Secretary  
3           pursuant to section 102(a); and

4                   (ii) a State mechanism to effectively  
5           monitor and enforce the minimum stand-  
6           ards;

7           (B) a description of the State policies and  
8           procedures described in subparagraph (A)(i);  
9           and

10                   (C) a description of the plans to ensure  
11           school personnel and parents, including private  
12           school personnel and parents, are aware of the  
13           State policies and procedures.

14           (2) UPDATED PLANS.—Each State educational  
15           agency shall submit a new State plan to the Sec-  
16           retary each time the State educational agency up-  
17           dates or makes a material change in the State plan.

18           (b) REPORTING.—

19                   (1) REPORTING REQUIREMENTS.—Not later  
20           than 2 years after the date the Secretary promul-  
21           gates regulations pursuant to section 102(a), and  
22           each year thereafter, each State educational agency  
23           shall (in compliance with the requirements of section  
24           444 of the General Education Provisions Act (com-  
25           monly known as the “Family Educational Rights

1 and Privacy Act of 1974”) (20 U.S.C. 1232g)) pre-  
2 pare and submit to the Secretary, and make avail-  
3 able to the public, a report with respect to each local  
4 educational agency, and each school not under the  
5 jurisdiction of a local educational agency, located in  
6 the same State as such State educational agency  
7 that includes the information described in paragraph  
8 (2).

9 (2) INFORMATION REQUIREMENTS.—

10 (A) GENERAL INFORMATION REQUIRE-  
11 MENTS.—The report described in paragraph (1)  
12 shall include information on—

13 (i) the total number of incidents in  
14 the preceding full academic year in which  
15 physical restraint was imposed upon a stu-  
16 dent; and

17 (ii) the total number of incidents in  
18 the preceding full academic year in which  
19 seclusion was imposed upon a student.

20 (B) DISAGGREGATION.—

21 (i) GENERAL DISAGGREGATION RE-  
22 QUIREMENTS.—The information described  
23 in subparagraph (A) shall be disaggregated  
24 by—

1 (I) the total number of incidents  
2 in which physical restraint or seclu-  
3 sion was imposed upon a student—

4 (aa) that resulted in serious  
5 bodily injury to a student;

6 (bb) that resulted in serious  
7 bodily injury to school personnel;

8 (cc) that resulted in the  
9 death of a student;

10 (dd) in which the school per-  
11 sonnel imposing physical re-  
12 straint or seclusion were not  
13 trained and certified as described  
14 in section 102(a)(3)(C)(i); and

15 (ee) in a way that did not  
16 meet the minimum standards es-  
17 tablished by the regulations pre-  
18 scribed by the Secretary pursu-  
19 ant to section 102(a); and

20 (II) the demographic characteris-  
21 tics of all students upon whom phys-  
22 ical restraint or seclusion was im-  
23 posed, including—

24 (aa) the categories described  
25 in section 1111(h)(1)(C)(i) of the

1 Elementary and Secondary Edu-  
2 cation Act of 1965 (20 U.S.C.  
3 6311(h)(1)(C)(i));  
4 (bb) age; and  
5 (cc) disability status, which  
6 has the meaning given the term  
7 “individual with a disability” in  
8 paragraph (20) (except for sub-  
9 paragraph (A)) of section 7 of  
10 the Rehabilitation Act of 1973)  
11 (29 U.S.C. 705(20)).

12 (ii) UNDUPLICATED COUNT; EXCEP-  
13 TION.—The disaggregation required under  
14 clause (i) shall—

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

17 (aa) total number of inci-  
18 dents in the preceding full-aca-  
19 demic year in which physical re-  
20 straint was imposed upon a stu-  
21 dent; and

22 (bb) total number of inci-  
23 dents in the preceding full-aca-  
24 demic year in which seclusion  
25 was imposed upon a student; and



1 (II) not be required in a case in  
2 which the number of students in a  
3 category would reveal personally iden-  
4 tifiable information about an indi-  
5 vidual student.

6 (c) ENFORCEMENT.—

7 (1) IN GENERAL.—

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

11 (i) require the State educational agen-  
12 cy to submit and implement, not later than  
13 1 year after the State's failure to comply,  
14 a corrective plan of action, which may in-  
15 clude redirection of funds received under  
16 an applicable program after the date of en-  
17 actment of this Act;

18 (ii) withhold from the State edu-  
19 cational agency, in whole or in part, fur-  
20 ther payments under an applicable pro-  
21 gram in accordance with section 455 of the  
22 General Education Provisions Act (20  
23 U.S.C. 1234d); or

24 (iii) issue a complaint to compel com-  
25 pliance of the State educational agency

1 through a cease and desist order, in the  
2 same manner the Secretary is authorized  
3 to take such action under section 456 of  
4 the General Education Provisions Act (20  
5 U.S.C. 1234e).

6 (B) CESSATION OF WITHHOLDING OF  
7 FUNDS.—Whenever the Secretary determines  
8 (whether by certification or other appropriate  
9 evidence) that a State educational agency that  
10 is subject to the withholding of payments under  
11 subparagraph (A)(ii) has cured the failure pro-  
12 viding the basis for the withholding of pay-  
13 ments, the Secretary shall cease the withholding  
14 of payments with respect to the State edu-  
15 cational agency under such subparagraph.

16 (2) RULE OF CONSTRUCTION.—Nothing in this  
17 subsection shall be construed to limit the Secretary's  
18 authority under the General Education Provisions  
19 Act (20 U.S.C. 1221 et seq.).

20 **SEC. 104. GRANT AUTHORITY.**

21 (a) IN GENERAL.—From the amount appropriated  
22 under section 109, the Secretary may award grants to  
23 State educational agencies to assist the State educational  
24 agencies in—

1           (1) establishing, implementing, and enforcing  
2           the policies and procedures to meet the minimum  
3           standards required by regulations prescribed by the  
4           Secretary pursuant to section 102(a);

5           (2) improving State and local capacity to collect  
6           and analyze data related to physical restraint and  
7           seclusion; and

8           (3) improving school climate and culture by im-  
9           plementing school-wide positive behavioral interven-  
10          tions and supports.

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

14          (c) APPLICATION.—Each State educational agency  
15          desiring a grant under this section shall submit an appli-  
16          cation to the Secretary at such time, in such manner, and  
17          accompanied by such information as the Secretary may  
18          require, including information on how the State edu-  
19          cational agency will target resources to schools and local  
20          educational agencies in need of assistance related to pre-  
21          venting and reducing physical restraint and seclusion.

22          (d) AUTHORITY TO MAKE SUBGRANTS.—

23                (1) IN GENERAL.—A State educational agency  
24                receiving a grant under this section may carry out  
25                the activities described in subsections (f) and (g), as

1 required under the grant, by awarding subgrants, on  
2 a competitive basis, to local educational agencies.

3 (2) APPLICATION.—A local educational agency  
4 desiring to receive a subgrant under paragraph (1)  
5 shall submit an application to the applicable State  
6 educational agency at such time, in such manner,  
7 and containing such information as the State edu-  
8 cational agency may require.

9 (e) PRIVATE SCHOOL PARTICIPATION.—

10 (1) IN GENERAL.—A local educational agency  
11 receiving a subgrant under this section shall, after  
12 timely and meaningful consultation with appropriate  
13 private school officials in the school district served  
14 by the local educational agency, ensure that private  
15 school personnel can participate, on an equitable  
16 basis, in activities supported by subgrant funds.

17 (2) PUBLIC CONTROL OF FUNDS.—The control  
18 of funds provided under this section, and title to ma-  
19 terials, equipment, and property purchased with  
20 such funds, shall be in a public agency, and a public  
21 agency shall administer such funds, materials, equip-  
22 ment, and property.

23 (f) REQUIRED ACTIVITIES.—A State educational  
24 agency receiving a grant under this section shall use such  
25 grant funds to carry out all of the following:

1           (1) Researching, developing, implementing, and  
2           evaluating strategies, policies, and procedures to pre-  
3           vent and reduce seclusion and physical restraint in  
4           schools consistent with the minimum standards re-  
5           quired by regulations prescribed by the Secretary  
6           pursuant to section 102(a).

7           (2) Providing professional development, train-  
8           ing, and certification for school personnel to meet  
9           such standards.

10          (3) Carrying out the reporting requirements  
11          under section 103(b) and analyzing the information  
12          included in a report prepared under such section to  
13          identify student, school personnel, and school needs  
14          related to use of physical restraint and seclusion.

15          (4) Developing and implementing high-quality  
16          professional development and training programs to  
17          implement evidence-based systematic approaches to  
18          school-wide positive behavioral interventions and  
19          supports, including improving coaching, facilitation,  
20          and training capacity for administrators, teachers,  
21          specialized instructional support personnel, para-  
22          professionals, and other staff.

23          (5) Providing technical assistance to develop  
24          and implement evidence-based systematic approaches  
25          to school-wide positive behavioral interventions and

1 supports, including technical assistance for data-  
2 driven decisionmaking related to behavioral supports  
3 and interventions in the classroom.

4 (g) AUTHORIZED ACTIVITIES.—A State educational  
5 agency receiving a grant under this section may use such  
6 grant funds for one or more of the following:

7 (1) Researching, evaluating, and disseminating  
8 high-quality evidence-based programs and activities  
9 that implement school-wide positive behavioral inter-  
10 ventions and supports with fidelity.

11 (2) Supporting other local positive behavioral  
12 intervention and support implementation activities  
13 consistent with this subsection, including functional  
14 behavioral assessments.

15 (h) EVALUATION AND REPORT.—Each State edu-  
16 cational agency receiving a grant under this section shall,  
17 at the end of the grant period—

18 (1) evaluate the State's progress toward the re-  
19 duction and elimination of seclusion and physical re-  
20 straint in the schools located in the State, consistent  
21 with the minimum standards required by regulations  
22 prescribed by the Secretary pursuant to section  
23 102(a); and

24 (2) submit to the Secretary a report on such  
25 progress.

1 (i) DEPARTMENT OF THE INTERIOR.—From the  
2 amount appropriated under section 109, the Secretary of  
3 Education may allocate funds to the Secretary of the Inte-  
4 rior for activities under this section with respect to schools  
5 operated or funded by the Department of the Interior,  
6 under such terms as the Secretary of Education may pre-  
7 scribe.

8 **SEC. 105. NATIONAL EVALUATION.**

9 (a) NATIONAL EVALUATION.—The Secretary shall  
10 carry out a national evaluation to determine the effective-  
11 ness of this Act, which shall include—

12 (1) analyzing data related to seclusion and  
13 physical restraint in schools;

14 (2) analyzing the effectiveness of Federal,  
15 State, and local efforts to reduce the number of se-  
16 clusion and physical restraint incidents in schools;

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

21 (4) identifying personnel training models with  
22 demonstrated success in preventing and reducing the  
23 number of seclusion and physical restraint incidents  
24 in schools, including models that emphasize positive

1 behavioral interventions and supports and de-esca-  
2 lation techniques over physical intervention.

3 (b) REPORT.—The Secretary shall submit to the  
4 Committee on Education and Labor of the House of Rep-  
5 resentatives and the Committee on Health, Education,  
6 Labor, and Pensions of the Senate—

7 (1) an interim report that summarizes the pre-  
8 liminary findings of the evaluation described in sub-  
9 section (a) not later than 3 years after the date of  
10 enactment of this Act; and

11 (2) a final report of the findings of the evalua-  
12 tion not later than 5 years after the date of the en-  
13 actment of this Act.

14 **SEC. 106. HEAD START PROGRAMS.**

15 (a) REGULATIONS.—The Secretary of Health and  
16 Human Services, in consultation with the Secretary of  
17 Education, shall promulgate regulations with respect to  
18 Head Start agencies administering Head Start programs  
19 under the Head Start Act (42 U.S.C. 9801 et seq.) that  
20 establish requirements consistent with—

21 (1) the requirements established by regulations  
22 promulgated pursuant to section 102(a); and

23 (2) the reporting and enforcement requirements  
24 described in subsections (b) and (c) of section 103.



1 (b) GRANT AUTHORITY.—From the amount appro-  
2 priated under section 109, the Secretary of Education may  
3 allocate funds to the Secretary of Health and Human  
4 Services to assist the Head Start agencies in establishing,  
5 implementing, and enforcing policies and procedures to  
6 meet the requirements established by regulations promul-  
7 gated pursuant to subsection (a).

8 **SEC. 107. RULE OF AUTHORITY.**

9 (a) IN GENERAL.—Nothing in this Act shall be con-  
10 strued to restrict or limit, or allow the Secretary to restrict  
11 or limit, any other rights or remedies otherwise available  
12 to students or the families of students under Federal or  
13 State law (including regulations).

14 (b) APPLICABILITY.—

15 (1) PRIVATE SCHOOLS.—Nothing in this Act  
16 shall be construed to affect any private school that  
17 does not receive, or does not serve, any student who  
18 receives a free appropriate public education at such  
19 school under subparagraph (B) or (C) of section  
20 612(a)(10) of the Individuals with Disabilities Edu-  
21 cation Act (20 U.S.C. 1412(a)(10)(B), (C)).

22 (2) HOME SCHOOLS.—Nothing in this Act shall  
23 be construed to affect a home school, whether or not  
24 a home school is treated as a private school or home  
25 school under State law (including regulations), nor

1 shall a parent who is schooling a child at home be  
2 considered or classified as school personnel for pur-  
3 poses of this Act.

4 (c) PROTECTION AND ADVOCACY SYSTEMS.—Noth-  
5 ing in this Act shall be construed to limit or expand the  
6 rights or authority of a protection and advocacy system,  
7 provided under a covered provision as defined in section  
8 101(7), to investigate, monitor, and enforce protections  
9 for students who are eligible for protection and advocacy  
10 services under such covered provision.

11 **SEC. 108. LIMITATION OF AUTHORITY.**

12 Nothing in this Act shall be construed to restrict or  
13 limit, or allow the Secretary to restrict or limit, any other  
14 rights or remedies otherwise available to students or par-  
15 ents under Federal or State law (including regulations).

16 **SEC. 109. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated to carry out  
18 this Act such sums as may be necessary for fiscal year  
19 2011 and each of the 4 succeeding fiscal years.

1           **TITLE II—AMENDMENTS TO**  
2                           **EDUCATION LAWS**

3   **SEC. 201. ELEMENTARY AND SECONDARY EDUCATION ACT**  
4                           **OF 1965.**

5           (a) STATE PLANS AND STATE REPORTS.—Section  
6 1111 of the Elementary and Secondary Education Act of  
7 1965 (20 U.S.C. 6311) is amended—

8                   (1) in subsection (b)—

9                           (A) in paragraph (13), by striking “and”  
10                   after the semicolon;

11                           (B) in paragraph (14), by striking the pe-  
12                   riod at the end and inserting “; and”; and

13                           (C) by adding at the end the following:

14                   “(15) the State educational agency will—

15                           “(A) assist local educational agencies in  
16                   implementing positive behavioral interventions  
17                   and supports in schools in the local educational  
18                   agency on a whole-school basis;

19                           “(B) provide technical assistance and  
20                   training to local educational agencies to im-  
21                   prove positive behavioral interventions and sup-  
22                   ports and to coordinate such interventions and  
23                   supports with similar activities under the Indi-  
24                   viduals with Disabilities Education Act; and

1                   “(C) evaluate the effects of providing posi-  
2                   tive behavioral interventions and supports.”;  
3                   and

4                   (2) in subsection (h)(1)(C)—

5                   (A) in clause (vii), by striking “and” after  
6                   the semicolon;

7                   (B) in clause (viii), by striking the period  
8                   at the end and inserting “; and”; and

9                   (C) by adding at the end the following:

10                   “(ix) the number of local educational  
11                   agencies that implement positive behavioral  
12                   interventions and supports.”.

13                   (b) LOCAL EDUCATIONAL AGENCY PLANS.—Section  
14                   1112(b)(1) of the Elementary and Secondary Education  
15                   Act of 1965 (20 U.S.C. 6312(b)(1)) is amended—

16                   (1) in subparagraph (P), by striking “and”  
17                   after the semicolon;

18                   (2) in subparagraph (Q), by striking the period  
19                   at the end and inserting “; and”; and

20                   (3) by adding at the end the following:

21                   “(R) a description of the actions the local  
22                   educational agency will take to provide positive  
23                   behavioral interventions and supports and to co-  
24                   ordinate such interventions and supports with

1 similar activities under the Individuals with  
2 Disabilities Education Act.”.

3 (c) SCHOOL-WIDE PROGRAMS.—Section  
4 1114(b)(1)(B)(iii)(I) of the Elementary and Secondary  
5 Education Act of 1965 (20 U.S.C. 6314(b)(1)(B)(iii)(I))  
6 is amended—

7 (1) by redesignating items (bb) and (cc) as  
8 items (cc) and (dd), respectively; and

9 (2) by inserting after item (aa) the following:

10 “(bb) implementation of school-  
11 wide positive behavioral interventions  
12 and supports, including through co-  
13 ordination of such interventions and  
14 supports with similar activities under  
15 the Individuals with Disabilities Edu-  
16 cation Act;”.

17 (d) ASSESSMENTS AND SCHOOL IMPROVEMENT.—  
18 Section 1116 of the Elementary and Secondary Education  
19 Act of 1965 (20 U.S.C. 6316) is amended—

20 (1) in subsection (b)(3)(A)—

21 (A) in clause (ix), by striking “and” after  
22 the semicolon;

23 (B) in clause (x), by striking the period at  
24 the end and inserting “; and”; and

25 (C) by adding at the end the following:

1                   “(xi) adopt policies or practices to im-  
2                   plement or improve positive behavioral  
3                   interventions and supports and enhance co-  
4                   ordination of such interventions and sup-  
5                   ports with similar activities under the Indi-  
6                   viduals with Disabilities Education Act.”;

7                   and

8                   (2) in subsection (c)(7)(A)—

9                   (A) in clause (vii), by striking “and” after  
10                  the semicolon;

11                  (B) in clause (viii), by striking the period  
12                  at the end and inserting “; and”; and

13                  (C) by adding at the end the following:

14                         “(ix) improve or expand positive be-  
15                         havioral interventions and supports and  
16                         enhance coordination of such interventions  
17                         and supports with similar activities under  
18                         the Individuals with Disabilities Education  
19                         Act.”.

20                  (e) SCHOOL SUPPORT AND RECOGNITION.—Section  
21                  1117(a) of the Elementary and Secondary Education Act  
22                  of 1965 (20 U.S.C. 6317(a)) is amended—

23                         (1) by striking paragraph (3) and inserting the  
24                         following:

1           “(3) REGIONAL AND SPECIALTY CENTERS.—

2           Such a statewide system shall, to the extent prac-  
3           ticable, work with and receive support and assistance  
4           from—

5                   “(A)(i) regional educational laboratories  
6                   established under part D of the Education  
7                   Sciences Reform Act of 2002;

8                   “(ii) comprehensive centers established  
9                   under the Educational Technical Assistance Act  
10                  of 2002;

11                  “(iii) comprehensive regional technical as-  
12                  sistance centers and regional educational lab-  
13                  oratories under section 941(h) of the Edu-  
14                  cational Research, Development, Dissemination,  
15                  and Improvement Act of 1994 (as such section  
16                  existed on the day before the date of enactment  
17                  of the Education Sciences Reform Act of 2002);  
18                  and

19                  “(iv) technical assistance centers on  
20                  school-wide positive behavioral interventions  
21                  and supports funded under section 665(b) of  
22                  the Individuals with Disabilities Education Act;  
23                  or

24                  “(B) other providers of technical assist-  
25                  ance.”; and

1 (2) in paragraph (5)(B)—

2 (A) in clause (i), by inserting before the  
3 semicolon “, including by improving or expand-  
4 ing the use of positive behavioral interventions  
5 and supports and coordinating such interven-  
6 tions and supports with similar activities under  
7 the Individuals with Disabilities Education  
8 Act”;

9 (B) in clause (iii), by striking “and” after  
10 the semicolon;

11 (C) in clause (iv), by striking the period at  
12 the end and inserting “; and”; and

13 (D) by adding at the end the following:

14 “(v)(I) review and analyze the school’s  
15 efforts to address behavioral or disciplinary  
16 problems; and

17 “(II) assist the school in developing or  
18 improving school-wide positive behavioral  
19 interventions and supports and coordi-  
20 nating such interventions and supports  
21 with similar activities under the Individ-  
22 uals with Disabilities Education Act.”.

23 (f) PARENTAL INVOLVEMENT.—Section 1118(e) of  
24 the Elementary and Secondary Education Act of 1965 (20  
25 U.S.C. 6318(e)) is amended—



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

4           (2) by inserting after paragraph (5) the fol-  
5           lowing:

6           “(6) shall provide information about the  
7           school’s use of positive behavioral interventions and  
8           supports;”.

9           (g) DEFINITIONS.—Section 9101 of the Elementary  
10          and Secondary Education Act of 1965 (20 U.S.C. 7801)  
11          is amended—

12           (1) by redesignating paragraphs (33) through  
13           (43) as paragraphs (34) through (44), respectively;  
14           and

15           (2) by inserting after paragraph (32) the fol-  
16           lowing:

17           “(33) POSITIVE BEHAVIORAL INTERVENTIONS  
18           AND SUPPORTS.—The term ‘positive behavioral  
19           interventions and supports’ has the meaning given  
20           the term in section 101 of the Keeping All Students  
21           Safe Act.”.

22          **SEC. 202. HIGHER EDUCATION ACT OF 1965.**

23           (a) DEFINITIONS.—Section 200 of the Higher Edu-  
24          cation Act of 1965 (20 U.S.C. 1021) is amended—

1           (1) by redesignating paragraphs (18) through  
2           (23) as paragraphs (19) through (24), respectively;

3           (2) by inserting after paragraph (17) the fol-  
4           lowing:

5           “(18) POSITIVE BEHAVIORAL INTERVENTIONS  
6           AND SUPPORTS.—The term ‘positive behavioral  
7           interventions and supports’ has the meaning given  
8           the term in section 101 of the Keeping All Students  
9           Safe Act.”; and

10          (3) in paragraph (22)(B) (as redesignated by  
11          paragraph (1)), by striking “(including” and all that  
12          follows through “supports)” and inserting “(includ-  
13          ing positive behavioral interventions and supports  
14          and other approaches that improve the school-wide  
15          climate for learning)”.

16          (b) PARTNERSHIP GRANTS.—Section 202 of the  
17          Higher Education Act of 1965 (20 U.S.C. 1022a) is  
18          amended—

19                 (1) in subsection (b)(6)—

20                         (A) by redesignating subparagraphs (G)  
21                         through (K) as subparagraphs (H) through (L),  
22                         respectively; and

23                         (B) by inserting after subparagraph (F)  
24                         the following:

1           “(G) how the partnership will prepare gen-  
2           eral education and special education teachers to  
3           implement positive behavioral interventions and  
4           supports;”;

5           (2) in subsection (d)(1)(B)(ii)—

6           (A) in subclause (V), by striking “and”  
7           after the semicolon at the end;

8           (B) in subclause (VI), by striking the semi-  
9           colon and inserting a period;

10          (C) by redesignating subclause (VI) as  
11          subclause (VII); and

12          (D) by inserting after subclause (V) the  
13          following:

14                           “(VI) can effectively implement  
15                           positive behavioral interventions and  
16                           supports; and”; and

17          (3) in subsection (f)(1)(B)(iv), by inserting  
18          “(including through the implementation of school-  
19          wide positive behavioral interventions and supports  
20          and other approaches that improve the school-wide  
21          climate)” before the semicolon.

22          (c) ACCOUNTABILITY FOR PROGRAMS THAT PRE-  
23          PARE TEACHERS.—Section 205 of the Higher Education  
24          Act of 1965 (20 U.S.C. 1022d) is amended—

1           (1) by striking subparagraph (G) of subsection  
2           (a)(1) and inserting the following:

3                   “(G) TEACHER TRAINING.—A description  
4                   of the activities that prepare general education  
5                   and special education teachers to—

6                           “(i) teach students with disabilities ef-  
7                           fectively, including training related to par-  
8                           ticipation as a member of individualized  
9                           education program teams, as defined in  
10                          section 614(d)(1)(B) of the Individuals  
11                          with Disabilities Education Act;

12                           “(ii) effectively implement positive be-  
13                           havioral interventions and supports; and

14                           “(iii) effectively teach students who  
15                           are limited English proficient.”;

16           (2) in subsection (b)(1), by adding at the end  
17           the following:

18                   “(M) The extent to which teacher prepara-  
19                   tion programs prepare teachers, including gen-  
20                   eral education and special education teachers,  
21                   to effectively implement positive behavioral  
22                   interventions and supports.”; and

23           (3) in subsection (d)(1), by striking “through  
24           (L)” and inserting “ through (M)”.

1           (d) **TEACHER DEVELOPMENT.**—Section 206(b) of  
2 the Higher Education Act of 1965 (20 U.S.C. 1022e(b))  
3 is amended—

4           (1) in paragraph (4), by striking “and” after  
5 the semicolon;

6           (2) by redesignating paragraph (5) as para-  
7 graph (6); and

8           (3) by inserting after paragraph (4) the fol-  
9 lowing:

10           “(5) prospective teachers receive training on  
11 how to implement effectively positive behavioral  
12 interventions and supports; and”.