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H. R. 4247

[Report No. 111-417]

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 9, 2009

Mr. GEORGE MILLER of California (for himself and Mrs. McMORRIS RODGERS) introduced the following bill; which was referred to the Committee on Education and Labor

FEBRUARY 23, 2010

Additional sponsors: Mrs. MCCARTHY of New York, Mr. HARE, Mr. COURTNEY, Mr. ELLISON, Mr. DAVIS of Illinois, Mrs. MALONEY, Mr. SESTAK, Mr. PLATTS, Mr. SCOTT of Virginia, Mr. ANDREWS, Mr. FILLNER, Mr. ROTHMAN of New Jersey, Mr. GRIJALVA, Mr. SABLAN, Ms. KILROY, Ms. MCCOLLUM, Mr. HARPER, Ms. SCHAKOWSKY, Mr. DEFazio, Mr. HIMES, Mr. HOLT, Ms. SLAUGHTER, Mr. KILDEE, Mr. NEAL of Massachusetts, Mr. LANGEVIN, Mr. SIRES, Mr. TONKO, Mr. BISHOP of New York, Ms. WOOLSEY, Ms. CHU, Mr. HINOJOSA, Mr. POLIS of Colorado, Mr. PIERLUISI, Mrs. NAPOLITANO, Mr. KENNEDY, Mr. COHEN, Mr. HINCHEY, Ms. DELAURO, and Mr. FRANK of Massachusetts

FEBRUARY 23, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on December 9, 2009]

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 “Preventing Harmful Re-*
5 *straint and Seclusion in Schools Act”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds the following:*

8 (1) *Physical restraint and seclusion have re-*
9 *sulted in physical injury, psychological trauma, and*
10 *death to children in public and private schools. Na-*
11 *tional research shows students have been subjected to*
12 *physical restraint and seclusion in schools as a means*
13 *of discipline, to force compliance, or as a substitute*
14 *for appropriate educational support.*

15 (2) *Behavioral interventions for children must*
16 *promote the right of all children to be treated with*
17 *dignity. All children have the right to be free from*
18 *physical or mental abuse, aversive behavioral inter-*
19 *ventions that compromise health and safety, and any*
20 *physical restraint or seclusion imposed solely for pur-*
21 *poses of discipline or convenience.*

22 (3) *Safe, effective, evidence-based strategies are*
23 *available to support children who display challenging*
24 *behaviors in school settings. Staff training focused on*
25 *the dangers of physical restraint and seclusion as well*

1 *as training in evidence-based positive behavior sup-*
2 *ports, de-escalation techniques, and physical restraint*
3 *and seclusion prevention, can reduce the incidence of*
4 *injury, trauma, and death.*

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

9 (5) *Despite the widely recognized risks of phys-*
10 *ical restraint and seclusion, a substantial disparity*
11 *exists among many States and localities with regard*
12 *to the protection and oversight of the rights of chil-*
13 *dren and school personnel to a safe learning environ-*
14 *ment.*

15 (6) *Children are subjected to physical restraint*
16 *and seclusion at higher rates than adults. Physical re-*
17 *straint which restricts breathing or causes other body*
18 *trauma, as well as seclusion in the absence of contin-*
19 *uous face-to-face monitoring, have resulted in the*
20 *deaths of children in schools.*

21 (7) *Children are protected from inappropriate*
22 *physical restraint and seclusion in other settings,*
23 *such as hospitals, health facilities, and non-medical*
24 *community-based facilities. Similar protections are*

1 *needed in schools, yet such protections must acknowl-*
2 *edge the differences of the school environment.*

3 *(8) Research confirms that physical restraint*
4 *and seclusion are not therapeutic, nor are these prac-*
5 *tices effective means to calm or teach children, and*
6 *may have an opposite effect while simultaneously de-*
7 *creasing a child's ability to learn.*

8 *(9) The effective implementation of school-wide*
9 *positive behavior supports is linked to greater aca-*
10 *ademic achievement, significantly fewer disciplinary*
11 *problems, increased instruction time, and staff per-*
12 *ception of a safer teaching environment.*

13 **SEC. 3. PURPOSES.**

14 *The purposes of this Act are to—*

15 *(1) prevent and reduce the use of physical re-*
16 *straint and seclusion in schools;*

17 *(2) ensure the safety of all students and school*
18 *personnel in schools and promote a positive school*
19 *culture and climate;*

20 *(3) protect students from—*

21 *(A) physical or mental abuse;*

22 *(B) aversive behavioral interventions that*
23 *compromise health and safety; and*

1 (C) any physical restraint or seclusion im-
2 posed solely for purposes of discipline or conven-
3 ience;

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

8 (5) assist States, local educational agencies, and
9 schools in—

10 (A) establishing policies and procedures to
11 keep all students, including students with the
12 most complex and intensive behavioral needs,
13 and school personnel safe;

14 (B) providing school personnel with the nec-
15 essary tools, training, and support to ensure the
16 safety of all students and school personnel;

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

19 (D) identifying and implementing effective
20 evidence-based models to prevent and reduce
21 physical restraint and seclusion in schools.

22 **SEC. 4. DEFINITIONS.**

23 *In this Act:*

24 (1) **CHEMICAL RESTRAINT.**—The term “chemical
25 restraint” means a drug or medication used on a stu-

1 *dent to control behavior or restrict freedom of move-*
2 *ment that is not—*

3 *(A) prescribed by a licensed physician for*
4 *the standard treatment of a student’s medical or*
5 *psychiatric condition; and*

6 *(B) administered as prescribed by the li-*
7 *censed physician.*

8 (2) *EDUCATIONAL SERVICE AGENCY.—The term*
9 *“educational service agency” has the meaning given*
10 *such term in section 9101(17) of the Elementary and*
11 *Secondary Education Act of 1965 (20 U.S.C.*
12 *7801(17)).*

13 (3) *ELEMENTARY SCHOOL.—The term “elemen-*
14 *tary school” has the meaning given the term in sec-*
15 *tion 9101(18) of the Elementary and Secondary Edu-*
16 *cation Act of 1965 (20 U.S.C. 7801(18)).*

17 (4) *LOCAL EDUCATIONAL AGENCY.—The term*
18 *“local educational agency” has the meaning given the*
19 *term in section 9101(26) of the Elementary and Sec-*
20 *ondary Education Act of 1965 (20 U.S.C. 7801(26)).*

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

1 (6) *PARENT.*—*The term “parent” has the mean-*
2 *ing given the term in section 9101(31) of the Elemen-*
3 *tary and Secondary Education Act of 1965 (20*
4 *U.S.C. 7801(31)).*

5 (7) *PHYSICAL ESCORT.*—*The term “physical es-*
6 *cort” has the meaning given the term in section*
7 *595(d)(2) of the Public Health Service Act (42 U.S.C.*
8 *290jj(d)(2)), except that the meaning shall be applied*
9 *by substituting “student” for “resident”.*

10 (8) *PHYSICAL RESTRAINT.*—*The term “physical*
11 *restraint” has the meaning given the term in section*
12 *595(d)(3) of the Public Health Service Act (42 U.S.C.*
13 *290jj(d)(3)).*

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

24 (10) *PROTECTION AND ADVOCACY SYSTEM.*—*The*
25 *term “protection and advocacy system” means a pro-*

1 *tection and advocacy system established under section*
2 *143 of the Developmental Disabilities Assistance and*
3 *Bill of Rights Act of 2000 (42 U.S.C. 15043).*

4 (11) *SCHOOL.*—*The term “school” means an en-*
5 *tity—*

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, educational service agency, or*
14 *other educational institution or pro-*
15 *gram; and*

16 (ii) *receives, or serves students who re-*
17 *ceive, 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 of*
3 1965 (20 U.S.C. 7161(10)); and

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

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

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

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

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

22 (A) *evidence-based techniques shown to be*
23 *effective in the prevention of physical restraint*
24 *and seclusion;*

1 (B) evidence-based techniques shown to be
2 effective in keeping both school personnel and
3 students safe when imposing physical restraint
4 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) first aid and cardiopulmonary resus-
10 citation;

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

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

19 (17) STATE.—The term “State” has the meaning
20 given the term in section 9101 of the *Elementary and*
21 *Secondary Education Act of 1965* (20 U.S.C. 7801).

22 (18) STATE EDUCATIONAL AGENCY.—The term
23 “State educational agency” has the meaning given the
24 term in section 9101(41) of the *Elementary and Sec-*
25 *ondary Education Act of 1965* (20 U.S.C. 7801(41)).

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

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

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

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

24 (1) *School personnel shall be prohibited from im-*
25 *posing on any student the following:*

1 (A) *Mechanical restraints.*

2 (B) *Chemical restraints.*

3 (C) *Physical restraint or physical escort*
4 *that restricts breathing.*

5 (D) *Aversive behavioral interventions that*
6 *compromise health and safety.*

7 (2) *School personnel shall be prohibited from im-*
8 *posing physical restraint or seclusion on a student*
9 *unless—*

10 (A) *the student’s behavior poses an immi-*
11 *nent danger of physical injury to the student,*
12 *school personnel, or others;*

13 (B) *less restrictive interventions would be*
14 *ineffective in stopping such imminent danger of*
15 *physical injury;*

16 (C) *such physical restraint or seclusion is*
17 *imposed by school personnel who—*

18 (i) *continuously monitor the student*
19 *face-to-face; or*

20 (ii) *if school personnel safety is signifi-*
21 *cantly compromised by such face-to-face*
22 *monitoring, are in continuous direct visual*
23 *contact with the student;*

24 (D) *such physical restraint or seclusion is*
25 *imposed by—*

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

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

12 (E) such physical restraint or seclusion end
13 immediately upon the cessation of the conditions
14 described in subparagraphs (A) and (B).

15 (3) States and local educational agencies shall
16 ensure that a sufficient number of personnel are
17 trained and certified by a State-approved crisis inter-
18 vention training program (as defined in section
19 4(16)) to meet the needs of the specific student popu-
20 lation in each school.

21 (4) The use of physical restraint or seclusion as
22 a planned intervention shall not be written into a
23 student's education plan, individual safety plan, be-
24 havioral plan, or individualized education program
25 (as defined in section 602 of the Individuals with

1 *Disabilities Education Act (20 U.S.C. 1401)). Local*
2 *educational agencies or schools may establish policies*
3 *and procedures for use of physical restraint or seclu-*
4 *sion in school safety or crisis plans, provided that*
5 *such school plans are not specific to any individual*
6 *student.*

7 *(5) Schools shall establish procedures to be fol-*
8 *lowed after each incident involving the imposition of*
9 *physical restraint or seclusion upon a student, includ-*
10 *ing—*

11 *(A) procedures to provide to the parent of*
12 *the student, with respect to each such incident—*

13 *(i) an immediate verbal or electronic*
14 *communication on the same day as each*
15 *such incident; and*

16 *(ii) within 24 hours of each such inci-*
17 *dent, written notification; and*

18 *(B) any other procedures the Secretary de-*
19 *termines appropriate.*

20 *(b) SECRETARY OF THE INTERIOR.—The Secretary of*
21 *the Interior shall ensure that schools operated or funded by*
22 *the Department of the Interior comply with the regulations*
23 *promulgated by the Secretary under subsection (a).*

1 (c) *RULE OF CONSTRUCTION.*—*Nothing in this section*
2 *shall be construed to authorize the Secretary to promulgate*
3 *regulations prohibiting the use of—*

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

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

10 (A) *restraints for medical immobilization;*

11 (B) *adaptive devices or mechanical supports*
12 *used to achieve proper body position, balance, or*
13 *alignment to allow greater freedom of mobility*
14 *than would be possible without the use of such*
15 *devices or mechanical supports; or*

16 (C) *vehicle safety restraints when used as*
17 *intended during the transport of a student in a*
18 *moving vehicle; or*

19 (3) *handcuffs by school resource officers (as such*
20 *term is defined in section 4151(11) of the Elementary*
21 *and Secondary Education Act of 1965 (20 U.S.C.*
22 *7161(11)))—*

23 (A) *in the—*

24 (i) *case when a student’s behavior*
25 *poses an imminent danger of physical in-*

1 *jury to the student, school personnel, or oth-*
2 *ers; or*

3 *(ii) lawful exercise of law enforcement*
4 *duties; and*

5 *(B) less restrictive interventions would be*
6 *ineffective.*

7 **SEC. 6. STATE PLAN AND REPORT REQUIREMENTS AND EN-**
8 **FORCEMENT.**

9 *(a) STATE PLAN.—Not later than 2 years after the*
10 *Secretary promulgates regulations pursuant to section 5(a),*
11 *and each year thereafter, each State educational agency*
12 *shall submit to the Secretary a State plan that provides—*

13 *(1) assurances to the Secretary that the State has*
14 *in effect—*

15 *(A) State policies and procedures that meet*
16 *the minimum standards, including the standards*
17 *with respect to State-approved crisis intervention*
18 *training programs, established by regulations*
19 *promulgated pursuant to section 5(a); and*

20 *(B) a State mechanism to effectively mon-*
21 *itor and enforce the minimum standards;*

22 *(2) a description of the State policies and proce-*
23 *dures, including a description of the State-approved*
24 *crisis intervention training programs in such State;*
25 *and*

1 (3) *a description of the State plans to ensure*
2 *school personnel and parents, including private school*
3 *personnel and parents, are aware of the State policies*
4 *and procedures.*

5 **(b) REPORTING.—**

6 **(1) REPORTING REQUIREMENTS.—***Not later than*
7 *2 years after the date the Secretary promulgates regu-*
8 *lations pursuant to section 5(a), and each year there-*
9 *after, each State educational agency shall (in compli-*
10 *ance with the requirements of section 444 of the Gen-*
11 *eral Education Provisions Act (commonly known as*
12 *the “Family Educational Rights and Privacy Act of*
13 *1974”) (20 U.S.C. 1232g)) prepare and submit to the*
14 *Secretary, and make available to the public, a report*
15 *with respect to each local educational agency, and*
16 *each school not under the jurisdiction of a local edu-*
17 *cational agency, located in the same State as such*
18 *State educational agency that includes the informa-*
19 *tion described in paragraph (2).*

20 **(2) INFORMATION REQUIREMENTS.—**

21 **(A) GENERAL INFORMATION REQUIRE-**
22 **MENTS.—***The report described in paragraph (1)*
23 *shall include information on—*

24 *(i) the total number of incidents in the*
25 *preceding full-academic year in which phys-*

1 ical restraint was imposed upon a student;
2 and

3 (ii) the total number of incidents in
4 the preceding full-academic year in which
5 seclusion was imposed upon a student.

6 (B) DISAGGREGATION.—

7 (i) GENERAL DISAGGREGATION RE-
8 QUIREMENTS.—The information described
9 in subparagraph (A) shall be disaggregated
10 by—

11 (I) the total number of incidents
12 in which physical restraint or seclu-
13 sion was imposed upon a student—

14 (aa) that resulted in injury;

15 (bb) that resulted in death;

16 and

17 (cc) in which the school per-
18 sonnel imposing physical re-
19 straint or seclusion were not
20 trained and certified as described
21 in section 5(a)(2)(D)(i); and

22 (II) the demographic characteris-
23 tics of all students upon whom phys-
24 ical restraint or seclusion was imposed,
25 including—

1 (aa) the categories identified
2 in section 1111(h)(1)(C)(i) of the
3 Elementary and Secondary Edu-
4 cation Act of 1965 (20 U.S.C.
5 6311(h)(1)(C)(i));

6 (bb) age; and

7 (cc) disability status (which
8 has the meaning given the term
9 “individual with a disability” in
10 section 7(20) of the Rehabilitation
11 Act of 1973 (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 was*
25 *imposed upon a student; and*

1 (II) not be required in a case in
2 which the number of students in a cat-
3 egory would reveal personally identifi-
4 able information about an individual
5 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) withhold, in whole or in part, fur-
12 ther payments under an applicable program
13 (as such term is defined in section 400(c) of
14 the General Education Provisions Act (20
15 U.S.C. 1221)) in accordance with section
16 455 of such Act (20 U.S.C. 1234d);

17 (ii) require a State educational agency
18 to submit, and implement, within 1 year of
19 such failure to comply, a corrective plan of
20 action, which may include redirection of
21 funds received under an applicable pro-
22 gram; or

23 (iii) issue a complaint to compel com-
24 pliance of the State educational agency
25 through a cease and desist order, in the

1 *same manner the Secretary is authorized to*
2 *take such action under section 456 of the*
3 *General Education Provisions Act (20*
4 *U.S.C. 1234e).*

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

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

19 **SEC. 7. GRANT AUTHORITY.**

20 **(a) IN GENERAL.**—*From the amount appropriated*
21 *under section 12, the Secretary may award grants to State*
22 *educational agencies to assist the agencies in—*

23 **(1)** *establishing, implementing, and enforcing the*
24 *policies and procedures to meet the minimum stand-*

1 *ards established by regulations promulgated by the*
2 *Secretary pursuant to section 5(a);*

3 *(2) improving State and local capacity to collect*
4 *and analyze data related to physical restraint and se-*
5 *clusion; and*

6 *(3) improving school climate and culture by im-*
7 *plementing school-wide positive behavior support ap-*
8 *proaches.*

9 *(b) DURATION OF GRANT.—A grant under this section*
10 *shall be awarded to a State educational agency for a 3-*
11 *year period.*

12 *(c) APPLICATION.—Each State educational agency de-*
13 *siring a grant under this section shall submit an applica-*
14 *tion to the Secretary at such time, in such manner, and*
15 *accompanied by such information as the Secretary may re-*
16 *quire, including information on how the State educational*
17 *agency will target resources to schools and local educational*
18 *agencies in need of assistance related to preventing and re-*
19 *ducing physical restraint and seclusion.*

20 *(d) AUTHORITY TO MAKE SUBGRANTS.—*

21 *(1) IN GENERAL.—A State educational agency*
22 *receiving a grant under this section may use such*
23 *grant funds to award subgrants, on a competitive*
24 *basis, to local educational agencies.*

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

7 (e) *PRIVATE SCHOOL PARTICIPATION.*—

8 (1) *IN GENERAL.*—A local educational agency re-
9 ceiving subgrant funds under this section shall, after
10 timely and meaningful consultation with appropriate
11 private school officials, ensure that private school per-
12 sonnel can participate, on an equitable basis, in ac-
13 tivities supported by grant or subgrant funds.

14 (2) *PUBLIC CONTROL OF FUNDS.*—The control of
15 funds provided under this section, and title to mate-
16 rials, equipment, and property purchased with such
17 funds, shall be in a public agency, and a public agen-
18 cy shall administer such funds, materials, equipment,
19 and property.

20 (f) *REQUIRED ACTIVITIES.*—A State educational agen-
21 cy receiving a grant, or a local educational agency receiving
22 a subgrant, under this section shall use such grant or
23 subgrant funds to carry out the following:

24 (1) *Researching, developing, implementing, and*
25 *evaluating strategies, policies, and procedures to pre-*

1 *vent and reduce physical restraint and seclusion in*
2 *schools, consistent with the minimum standards es-*
3 *tablished by regulations promulgated by the Secretary*
4 *pursuant to section 5(a).*

5 *(2) Providing professional development, training,*
6 *and certification for school personnel to meet such*
7 *standards.*

8 *(3) Carrying out the reporting requirements*
9 *under section 6(b) and analyzing the information in-*
10 *cluded in a report prepared under such section to*
11 *identify student, school personnel, and school needs*
12 *related to use of physical restraint and seclusion.*

13 *(g) ADDITIONAL AUTHORIZED ACTIVITIES.—In addi-*
14 *tion to the required activities described in subsection (f),*
15 *a State educational agency receiving a grant, or a local*
16 *educational agency receiving a subgrant, under this section*
17 *may use such grant or subgrant funds for one or more of*
18 *the following:*

19 *(1) Developing and implementing high-quality*
20 *professional development and training programs to*
21 *implement evidence-based systematic approaches to*
22 *school-wide positive behavior supports, including im-*
23 *proving coaching, facilitation, and training capacity*
24 *for administrators, teachers, specialized instructional*
25 *support personnel, and other staff.*

1 (2) *Providing technical assistance to develop and*
2 *implement evidence-based systematic approaches to*
3 *school-wide positive behavior supports, including tech-*
4 *nical assistance for data-driven decision-making re-*
5 *lated to behavioral supports and interventions in the*
6 *classroom.*

7 (3) *Researching, evaluating, and disseminating*
8 *high-quality evidence-based programs and activities*
9 *that implement school-wide positive behavior supports*
10 *with fidelity.*

11 (4) *Supporting other local positive behavior sup-*
12 *port implementation activities consistent with this*
13 *subsection.*

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

17 (1) *evaluate the State’s progress toward the pre-*
18 *vention and reduction of physical restraint and seclu-*
19 *sion in the schools located in the State, consistent*
20 *with the minimum standards established by regula-*
21 *tions promulgated by the Secretary pursuant to sec-*
22 *tion 5(a); and*

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

1 (i) *DEPARTMENT OF THE INTERIOR.*—From the
2 amount appropriated under section 12, the Secretary may
3 allocate funds to the Secretary of the Interior for activities
4 under this section with respect to schools operated or funded
5 by the Department of the Interior, under such terms as the
6 Secretary of Education may prescribe.

7 **SEC. 8. NATIONAL ASSESSMENT.**

8 (a) *NATIONAL ASSESSMENT.*—The Secretary shall
9 carry out a national assessment to determine the effective-
10 ness of this Act, which shall include—

11 (1) *analyzing data related to physical restraint*
12 *and seclusion incidents;*

13 (2) *analyzing the effectiveness of Federal, State,*
14 *and local efforts to prevent and reduce the number of*
15 *physical restraint and seclusion incidents in schools;*

16 (3) *identifying the types of programs and serv-*
17 *ices that have demonstrated the greatest effectiveness*
18 *in preventing and reducing the number of physical*
19 *restraint and seclusion incidents in schools; and*

20 (4) *identifying evidence-based personnel training*
21 *models with demonstrated success in preventing and*
22 *reducing the number of physical restraint and seclu-*
23 *sion incidents in schools, including models that em-*
24 *phasize positive behavior supports and de-escalation*
25 *techniques over physical intervention.*

1 (b) *REPORT.*—*The Secretary shall submit to the Com-*
2 *mittee on Education and Labor of the House of Representa-*
3 *tives and the Committee on Health, Education, Labor, and*
4 *Pensions of the Senate—*

5 (1) *an interim report that summarizes the pre-*
6 *liminary findings of the assessment described in sub-*
7 *section (a) not later than 3 years after the date of en-*
8 *actment of this Act; and*

9 (2) *a final report of the findings of the assess-*
10 *ment not later than 5 years after the date of the en-*
11 *actment of this Act.*

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

13 *Protection and Advocacy Systems shall have the au-*
14 *thority provided under section 143 of the Developmental*
15 *Disabilities Assistance and Bill of Rights Act of 2000 (42*
16 *U.S.C. 15043) to investigate, monitor, and enforce protec-*
17 *tions provided for students under this Act.*

18 **SEC. 10. HEAD START PROGRAMS.**

19 (a) *REGULATIONS.*—*The Secretary of Health and*
20 *Human Services, in consultation with the Secretary, shall*
21 *promulgate regulations with respect to Head Start agencies*
22 *administering Head Start programs under the Head Start*
23 *Act (42 U.S.C. 9801 et seq.) that establish requirements con-*
24 *sistent with—*

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

3 (2) *the reporting and enforcement requirements*
4 *described in subsections (b) and (c) of section 6.*

5 (b) *GRANT AUTHORITY.—From the amount appro-*
6 *priated under section 12, the Secretary may allocate funds*
7 *to the Secretary of Health and Human Services to assist*
8 *the Head Start agencies in establishing, implementing, and*
9 *enforcing policies and procedures to meet the requirements*
10 *established by regulations promulgated pursuant to sub-*
11 *section (a).*

12 **SEC. 11. LIMITATION OF AUTHORITY.**

13 (a) *IN GENERAL.—Nothing in this Act shall be con-*
14 *strued to restrict or limit, or allow the Secretary to restrict*
15 *or limit, any other rights or remedies otherwise available*
16 *to students or parents under Federal or State law or regula-*
17 *tion.*

18 (b) *APPLICABILITY.—*

19 (1) *PRIVATE SCHOOLS.—Nothing in this Act*
20 *shall be construed to affect any private school that*
21 *does not receive, or does not serve students who re-*
22 *ceive, support in any form from any program sup-*
23 *ported, in whole or in part, with funds appropriated*
24 *to the Department of Education.*

1 (2) *HOME SCHOOLS.*—*Nothing in this Act shall*
2 *be construed to—*

3 (A) *affect a home school, whether or not a*
4 *home school is treated as a private school or*
5 *home school under State law; or*

6 (B) *consider parents who are schooling a*
7 *child at home as school personnel.*

8 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

9 *There are authorized to be appropriated such sums as*
10 *may be necessary to carry out this Act for fiscal year 2011*
11 *and each of the 4 succeeding fiscal years.*

Union Calendar No. 243

11TH CONGRESS
2^D Session

H. R. 4247

[Report No. 111-417]

A BILL

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

FEBRUARY 23, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed