

110TH CONGRESS
1ST SESSION

H. R. 354

To amend the Elementary and Secondary Education Act of 1965 to improve school safety.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2007

Mrs. MCCARTHY of New York introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Elementary and Secondary Education Act of 1965 to improve school safety.

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 “Safe Schools Against
5 Violence in Education Act” or the “SAVE Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Department of Education reports
9 that—

1 (A) in 2003–2004, six States or outlying
2 areas (Nevada, New Jersey, New York, Oregon,
3 Pennsylvania, Puerto Rico, and Texas) reported
4 a total of 47 schools that were designated as
5 persistently dangerous;

6 (B) in 2004–2005, four States or outlying
7 areas (New Jersey, Pennsylvania, Puerto Rico,
8 and South Dakota) reported a total of 39
9 schools that were designated as persistently
10 dangerous;

11 (C) in 2005–2006, seven States or outlying
12 areas (Georgia, Maryland, New Jersey, New
13 York, Pennsylvania, Texas, and Puerto Rico)
14 reported a total of 36 schools that were des-
15 ignated as persistently dangerous; and

16 (D) in 2006–2007, seven States or out-
17 lying areas (Maryland, New Jersey, New York,
18 Pennsylvania, South Dakota, Texas, and Puerto
19 Rico) reported an original finding of 34 schools
20 that were designated as persistently dangerous
21 (a final finding is not yet available).

22 (2) In December 2006, the National Center for
23 Education Statistics and the Bureau of Justice Sta-
24 tistics released a joint report that contains the most
25 recent data available on crime and student safety, ti-

1 tled “Indicators of School Crime and Safety: 2006”
2 (the “Indicators” report).

3 (3) The “Indicators” report is based on sur-
4 veys, research, and self-reported data; further it is
5 not the most current data available on K–12 school
6 related crime.

7 (4) The National Incident-Based Reporting
8 System (NIBRS) was developed by the Federal Bu-
9 reau of Investigation as part of the Uniform Crime
10 Reporting (UCR) Program. NIBRS presents com-
11 prehensive, detailed information about crime inci-
12 dents to law enforcement, researchers, governmental
13 planners, students of criminology, and the general
14 public. NIBRS currently collects data on all reported
15 incidents of crime. This data is included in an an-
16 nual UCR report. Because NIBRS collects the de-
17 tails of crime incidents, it provides great specificity
18 in reporting.

19 (5) According to the “Indicators” report, in the
20 2004–2005 school year, there were an estimated
21 54,900,000 students in pre-kindergarten through
22 grade 12. Preliminary data on fatal victimization
23 show youth ages 5 to 18 were victims of 28 school-
24 associated violent deaths from July 1, 2004, through
25 June 30, 2005. In 2004, students ages 12 to 18

1 were victims of about 1,400,000 nonfatal crimes at
2 schools, including about 863,000 thefts and 583,000
3 violent crimes (simple assault and serious violent
4 crime), of which 107,000 were serious violent crimes
5 (rape, sexual assault, robbery, and aggravated as-
6 sault).

7 (6) The “Indicators” report states that in
8 2005, 6 percent of students in grades 9–12 reported
9 they had carried a weapon on school property, and
10 10 percent of male students carried a weapon on
11 school property. Further, a February 2006 Depart-
12 ment of Education report titled “Report on the Im-
13 plementation of the Gun Free Schools Act of 1994
14 in the States and Outlying Areas” states that 2,143
15 students were expelled for bringing or possessing a
16 firearm. Of those, 58 percent were seniors, 31 per-
17 cent were junior high, and 11 percent were elemen-
18 tary school.

19 (7) The “Indicators” report states that in
20 2005, 6 percent of students ages 12–18 reported
21 that they had been afraid of attack at school or on
22 the way to and from school.

23 (8) The “Indicators” report states that in
24 2005, 6 percent of students ages 12–18 reported
25 that they either skipped school activities or avoided

1 specific places in school because they were fearful.
2 Six percent of urban students, 4 percent of subur-
3 ban students, and 3 percent of rural students re-
4 ported avoiding activities or places.

5 (9) The “Indicators” report states in 2005, 24
6 percent of students ages 12–18 reported that street
7 gangs were present at their school during the pre-
8 vious six months.

9 (10) The “Indicators” report states in 2005, 28
10 percent of students ages 12 to 18 reported having
11 been bullied in schools in the last 6 months.

12 (11) The Office of the New York State Comp-
13 troller’s May 2006 report found that at schools they
14 sampled more than 80 percent of the documented in-
15 cidents were not reported to the State, and in a
16 number of instances the most serious types of inci-
17 dents were unreported such as sexual offenses and
18 incidents involving the use of a weapon.

19 (12) Accurate data is important to meet the
20 educational goal of safe climate for academic
21 achievement. Accurate data enables administrators
22 to assess the impact of programs that have been im-
23 plemented to promote school safety and to assess
24 whether additional efforts are needed. Accurate data
25 provides the basis for grant applications and other

1 funding. Accurate data is useful in assessing the
2 costs associated with discipline problems and allo-
3 cating resources appropriately. Accurate data is use-
4 ful in determining whether goals are being accom-
5 plished and can assist in developing solutions for
6 prevention and intervention.

7 (13) In its October 23, 2006, appearance before
8 the Secretary's advisory committee meeting on the
9 unsafe school choice option (USCO) and the identi-
10 fication of persistently dangerous schools, the Office
11 of the Inspector General (OIG) of the Department
12 of Education reported that it had audited five States
13 on the USCO: California, Georgia, Iowa, New Jer-
14 sey, and Texas. The OIG identified common trends
15 in States' USCO policies that are not consistent
16 with the non-regulatory guidance, including: common
17 violent offenses being excluded from the "persist-
18 ently dangerous" determination; measuring discipli-
19 nary outcomes rather than the occurrence of violent
20 incidents; and requiring thresholds to be met for two
21 to three consecutive years before identifying a
22 schools as persistently dangerous. Based on issues
23 identified through the audits, the OIG encouraged
24 the Department and the Congress to consider
25 amending the USCO provision to require States to

1 ensure that their USCO policies meet three basic re-
2 quirements: that all violent incidents, according to
3 State code, are factored into the persistently dan-
4 gerous school determination, without the use of dis-
5 ciplinary action qualifiers; that benchmarks for de-
6 terminations of persistently dangerous schools are
7 set at reasonable levels that are supported by objec-
8 tive and reliable data; and that determinations are
9 identified based upon the most current year of data.

10 (14) On October 24, 2006, Secretary Spellings
11 stated before the advisory committee meeting on the
12 unsafe school choice option and the identification of
13 persistently dangerous schools, that “better coordi-
14 nation and connection could be made with that com-
15 munity both from the law enforcement side and from
16 the school side,” and discussed the issue of data
17 sharing and information between law enforcement
18 and educators.

19 (15) The Center for Social and Emotional Edu-
20 cation recently commissioned a national survey of 40
21 school leaders (principals, superintendents, State
22 Department of Education and national level leaders)
23 from across America (MMS Education, 2006). Over
24 90 percent of the school leaders interviewed indi-
25 cated that school climate was an area of interest and

1 focus. In fact, 82 percent stated that school climate
2 was an “extremely important” or “very important”
3 topic. Importantly, 79 percent of the school leaders
4 who used school climate evaluations discovered that
5 they generated positive school improvement change.

6 (16) There is a growing body of research that
7 powerfully supports the idea that how we feel about
8 school—or school climate—affects student learning
9 and development.

10 **SEC. 3. SCHOOL SAFETY CHOICE OPTION.**

11 (a) IN GENERAL.—Section 9532 of the Elementary
12 and Secondary Education Act of 1965 (20 U.S.C. 7912)
13 is amended to read as follows:

14 **“SEC. 9532. SCHOOL SAFETY CHOICE OPTION.**

15 “(a) IN GENERAL.—Each State receiving funds
16 under this Act shall establish and implement a statewide
17 policy requiring that a student who is attending a public
18 elementary or secondary school that does not have a safe
19 climate for academic achievement, as determined by the
20 State in consultation with a representative sample of local
21 educational agencies, parent groups, and local law enforce-
22 ment agencies or other experts in the area of school safety,
23 or who becomes a victim of a violent criminal offense, as
24 determined by State law, while in or on the grounds of
25 or on a school bus of, or on a school function of, a public

1 elementary school or secondary school that the student at-
2 tends, be allowed to attend a safe public elementary school
3 or secondary school within the local educational agency,
4 including a public charter school. The policy shall further
5 provide for the option of counseling or removal of the of-
6 fender where appropriate.

7 “(b) DETERMINATIONS OF ‘SAFE CLIMATE’.—

8 “(1) IN GENERAL.—A determination whether a
9 school has a safe climate for academic achievement
10 for purposes of subsection (a) must be based on
11 verifiable data that is reported in a consistent and
12 uniform manner as prescribed by the State edu-
13 cation agency. The Secretary shall provide guidance
14 on what the best practices are for implementation
15 and monitoring of the policies required by this sec-
16 tion.

17 “(2) SCHOOL MUST DEVELOP PLAN.—If a
18 school is determined not to have a safe climate for
19 academic achievement, it shall develop and imple-
20 ment strategic and tactical interventions, based on
21 analysis of the data and issues of local concern, to
22 create a safer school environment.

23 “(3) REPORTING BY STATES.—Each State shall
24 submit to the Secretary for review its policies on
25 how it determines whether a school has a safe cli-

1 mate for academic achievement. If, after review of
2 the State’s policies, the Secretary determines that
3 the policies would be ineffective in determining
4 whether a school has a safe climate for academic
5 achievement, the Secretary may require the State to
6 redevelop those policies. Each State shall report to
7 the Secretary, on an annual basis, the number of
8 schools determined not to have a safe climate for
9 academic achievement, the number of students who
10 have transferred, and the number of offenders who
11 have been removed pursuant to this section.

12 “(4) REQUEST THAT FBI PROVIDE INFORMA-
13 TION.—The Secretary shall request the Director of
14 the Federal Bureau of Investigation to make avail-
15 able for inclusion in the report on Indicators of
16 School Crime and Safety any data or other informa-
17 tion the Bureau has available, through the Uniform
18 Crime Reporting System or the National Incidents-
19 Based Reporting System, on the occurrence and in-
20 cidence of school-related crime in elementary and
21 secondary schools. The Secretary shall make avail-
22 able any data or other information it receives from
23 the Bureau to the States.

24 “(5) INCLUSION IN POLICIES.—Each State
25 shall, in developing its policies on how it determines

1 whether a school has a safe climate for academic
2 achievement, include information on school related
3 crime data, without the use of disciplinary action
4 qualifiers, reported pursuant to title IV (including
5 section 4141) and collected by the National Inci-
6 dents Based Reporting System, or information con-
7 sistent with that which is reported in the National
8 Incident Based Reporting System, if the State is not
9 certified under that system. The policies shall pro-
10 vide for the comparison and evaluation for consist-
11 ency of the information collected under this section.

12 “(c) PARENTAL NOTIFICATION.—

13 “(1) IN GENERAL.—Each State shall complete
14 its determinations under subsection (a) as to which
15 schools do not have a safe climate for academic
16 achievement in time to permit the local educational
17 agencies to allow, at least 45 days before the start
18 of the school year, a student who would attend such
19 a school to instead attend a safe school, as provided
20 in subsection (a).

21 “(2) NOTICE.—After making such a determina-
22 tion, the State shall notify the local educational
23 agency of the determination. Within a reasonable
24 time after being so notified, the local educational
25 agency shall provide, to the custodial parent or

1 guardian of each student in the school, a notice of
2 the determination. The notice shall describe the de-
3 termination and explain that, by reason of the deter-
4 mination, the student is allowed by subsection (a) to
5 attend another school.

6 “(3) FORM OF NOTICE.—A notice to a parent
7 under paragraph (2) shall be in an understandable
8 and uniform format and, to the extent practicable,
9 in a language that the parent can understand.

10 “(d) EVALUATIONS BY STATES.—Each State shall,
11 on an ongoing basis, using verifiable documentation,
12 evaluate the extent to which local educational agencies are
13 in compliance with this section.

14 “(e) CERTIFICATION.—As a condition of receiving
15 funds under this Act, a State shall certify in writing to
16 the Secretary that the State is in compliance with this sec-
17 tion. The certification must be based on verifiable data
18 that is reported in a consistent and uniform manner as
19 prescribed by the State education agency.

20 “(f) PERIODIC EVALUATION.—The Inspector General
21 of the Department of Education shall conduct an inde-
22 pendent annual evaluation of the extent to which States
23 are in compliance with this section. Each annual evalua-
24 tion shall cover a sample of States, selected on a rotating
25 basis.”.

1 (b) CONFORMING AMENDMENT.—The table of con-
 2 tents at the beginning of such Act is amended by striking
 3 the item relating to section 9532 and inserting the fol-
 4 lowing:

“9532. School safety choice option.”.

5 **SEC. 4. UNIFORM MANAGEMENT INFORMATION AND RE-**
 6 **PORTING SYSTEM RELATING TO SAFE AND**
 7 **DRUG-FREE SCHOOLS.**

8 Section 4112 of the Elementary and Secondary Edu-
 9 cation Act of 1965 (20 U.S.C. 7112) is amended in sub-
 10 section (c)(3) as follows:

11 (1) CERTIFICATION.—Subparagraph (D) is
 12 amended by adding at the end the following: “For
 13 each school, the local educational agency concerned
 14 shall certify to the State education agency that the
 15 information reported under this subparagraph is ac-
 16 curate and complete. Each State shall report such
 17 information to the Secretary on an annual basis. A
 18 local educational agency that intentionally fails to
 19 report complete and accurate information is not in
 20 compliance with this subparagraph and shall not,
 21 during any period of noncompliance, receive any
 22 funds under this Act.”.

23 (2) MULTIPLE PERPETRATORS.—Such sub-
 24 section (c)(3) is further amended by adding at the
 25 end the following:

1 “(F) INCIDENT WITH MULTIPLE PER-
2 PETRATORS.—For purposes of this paragraph,
3 an incident that involves more than one perpe-
4 trator shall be treated as a single incident with
5 multiple perpetrators.

6 “(G) HANDBOOK FOR SCHOOL CRIME, OF-
7 FENSE, AND INCIDENT REPORTING.—The Sec-
8 retary shall publish a handbook for school
9 crime, offense, and incident reporting, modeled
10 after the Handbook for Campus Crime Report-
11 ing, to provide clear guidance on specifically
12 what crimes, offenses, and incidents must be re-
13 ported to meet the reporting requirements of
14 this paragraph. The handbook shall provide as-
15 sistance and explanation in a step by step and
16 readable manner, and provide contact informa-
17 tion if further assistance is necessary. The
18 handbook shall also include the recommenda-
19 tions of the Secretary on using consistent na-
20 tional definitions for the crimes, offenses, and
21 incidents which are required to be reported pur-
22 suant to this paragraph. The first such hand-
23 book shall be published not later than 6 months
24 after the date of the enactment of the Safe
25 Schools Against Violence in Education Act.

“(H) EVALUATIONS BY STATES.—Each State shall, on an ongoing basis, evaluate the extent to which local educational agencies are in compliance with this paragraph. The evaluation shall include an assessment of the accuracy of the information described under subparagraph (B).

“(I) PERIODIC EVALUATION.—The Inspector General of the Department of Education shall conduct an independent annual evaluation of the extent to which States are in compliance with this paragraph. Each annual evaluation shall cover a sample of States, selected on a rotating basis.”.

SEC. 5. GUN-FREE REQUIREMENTS.

Section 4141 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7151) is amended—

(1) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking “shall provide to the State, in the application requesting such assistance—” and inserting “shall, in the application requesting such assistance or using a form designated by the State for such purpose, provide to the State the following information, together with a cer-

1 tification that the information so provided is ac-
2 curate and complete.”;

3 (B) in paragraph (1) by striking “; and”
4 at the end and inserting a period;

5 (C) in paragraph (2)—

6 (i) in the matter preceding subpara-
7 graph (A), by inserting after “subsection
8 (b),” the following: “or any modifications
9 allowed under subsection (b) that result in
10 removals or long-term suspensions rather
11 than expulsions,”; and

12 (ii) in subparagraph (B), by inserting
13 after “expelled” the following: “or removed
14 or suspended for a long term”; and

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

16 “(3) a description of the circumstances sur-
17 rounding every incident in which any person who is
18 not legally permitted to possess a firearm, student or
19 non-student, is determined to have brought a fire-
20 arm to a school or on a school bus or on a school
21 function or school-related activity, or to have pos-
22 sessed a firearm at a school or on a school bus or
23 during a school function or school-related activity,
24 under the jurisdiction, control, and authority of that

1 local educational agency or its employees or agents,
2 including—

3 “(A) the name of the school concerned;

4 “(B) the number of persons involved, stu-
5 dent or non-student, if any; and

6 “(C) the type of firearms concerned.”; and

7 (2) by adding at the end the following:

8 “(i) EVALUATIONS BY STATES.—Each State shall, on
9 an ongoing basis, evaluate the extent to which local edu-
10 cational agencies are in compliance with this section. The
11 evaluation shall include an assessment of the accuracy of
12 the information described in subsection (d). A local edu-
13 cational agency that intentionally fails to report complete
14 and accurate information is not in compliance with this
15 subsection and shall not, during any period of noncompli-
16 ance, receive any funds under this Act.

17 “(j) PERIODIC EVALUATION.—The Inspector General
18 of the Department of Education shall conduct an inde-
19 pendent annual evaluation of the extent to which States
20 are in compliance with this section. Each annual evalua-
21 tion shall cover a sample of States, selected on a rotating
22 basis.”.

1 **SEC. 6. ADDITIONAL AUTHORIZED ACTIVITIES FOR LOCAL**
2 **EDUCATIONAL AGENCIES TO IMPLEMENT**
3 **SCHOOL SAFETY PLANS.**

4 Section 4115 of the Elementary and Secondary Edu-
5 cation Act of 1965 (42 U.S.C. 7115) is amended in sub-
6 section (b)(2) by adding at the end the following:

7 “(G) Establishing and implementing a
8 comprehensive school safety plan that incor-
9 porates input from the community, including
10 local law enforcement, and is updated at least
11 every year.

12 “(H) Ensuring that all members of the
13 school district staff, including part-time employ-
14 ees and substitute teachers, are trained in all
15 necessary elements of the comprehensive school
16 safety plan.”.

17 **SEC. 7. FUNDING PRIORITY FOR SCHOOLS THAT DO NOT**
18 **HAVE A SAFE CLIMATE FOR ACADEMIC**
19 **ACHIEVEMENT.**

20 Section 4121 of the Elementary and Secondary Edu-
21 cation Act of 1965 (42 U.S.C. 7131) is amended by add-
22 ing at the end the following:

23 “(c) PRIORITY FOR SCHOOLS THAT DO NOT HAVE
24 ‘SAFE CLIMATE’.—In determining which persons are to
25 receive grants, contracts, and cooperative agreements
26 under subsection (a), the Secretary shall consider the ex-

1 tent to which the proposed grant, contract, or cooperative
 2 agreement will benefit schools that do not have a safe cli-
 3 mate for academic achievement and shall give extra weight
 4 to proposals that will benefit such schools.”.

5 **SEC. 8. SCHOOL CLIMATE SURVEY.**

6 Section 4121(a) of the Elementary and Secondary
 7 Education Act of 1965 (42 U.S.C. 7131(a)) is amended—

8 (1) in paragraph (8) by striking “and” at the
 9 end;

10 (2) by redesignating paragraph (9) as para-
 11 graph (10); and

12 (3) by inserting after paragraph (8) the fol-
 13 lowing:

14 “(9) the administration of a schoolwide climate
 15 survey of students, parents, and school personnel
 16 that—

17 “(A) should be used as a pre-post interven-
 18 tion measure to—

19 “(i) promote student participation and
 20 the recognition of “student voice”;

21 “(ii) build authentic school-home-com-
 22 munity partnerships;

23 “(iii) promote an authentic learning
 24 community; and

1 “(iv) create a collaborative plan for
2 school improvement; and

3 “(B) should measure—

4 “(i) the degree to which collaborative
5 leadership and a professional learning com-
6 munity exist, including—

7 “(I) the degree to which school
8 administrators are effective in com-
9 municating with different role groups
10 and in setting high performance ex-
11 pectations for teachers and students;

12 “(II) the establishment of an ef-
13 fective school leadership team; and

14 “(III) the amount and quality of
15 involvement of parents and commu-
16 nity members in the school;

17 “(ii) the personalization of the school
18 environment, including—

19 “(I) the quality of the inter-
20 personal and professional relation-
21 ships between teachers and students;

22 “(II) student self-discipline and
23 tolerance for others; and

1 “(III) students’ care and respect
2 for one another and their mutual co-
3 operation; and

4 “(iii) the strength of the curriculum,
5 instruction, and assessment, including—

6 “(I) student attention to task
7 and concern for achievement at
8 school;

9 “(II) the identification of a set of
10 essential learnings in core academic
11 areas in which students must dem-
12 onstrate achievement in order to ad-
13 vance to the next level; and

14 “(III) the promotion of service
15 programs and student activities as in-
16 tegral to an education, providing op-
17 portunities for all students that sup-
18 port and extend academic learning;
19 and”.

20 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS FOR SAFE**
21 **AND DRUG-FREE SCHOOLS AND COMMU-**
22 **NITIES.**

23 Section 4003 of the Elementary and Secondary Edu-
24 cation Act of 1965 (20 U.S.C. 7103) is amended—

25 (1) in paragraph (1)—

1 (A) by striking “\$650,000,000 for fiscal
2 year 2002” and inserting “\$700,000,000 for
3 fiscal year 2008”; and

4 (B) by inserting before the semicolon the
5 following: “, of which \$15,000,000 shall be
6 available for each such fiscal year to carry out
7 section 9532(b)(2)”; and

8 (2) in paragraph (2) by striking “such sums for
9 fiscal year 2002” and inserting “\$250,000,000 for
10 fiscal year 2008”.

○