

110TH CONGRESS
1ST SESSION

S. 2111

To amend the Elementary and Secondary Education Act of 1965 to allow State educational agencies, local educational agencies, and schools to increase implementation of early intervention services, particularly school-wide positive behavior supports.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27, 2007

Mr. OBAMA (for himself, Mr. DURBIN, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Elementary and Secondary Education Act of 1965 to allow State educational agencies, local educational agencies, and schools to increase implementation of early intervention services, particularly school-wide positive behavior supports.

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 “Positive Behavior for
5 Effective Schools Act”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) Educators, parents, and the general public
5 cite a lack of discipline as a leading challenge facing
6 many public schools.

7 (2) Negative and reactive school management
8 practices, such as metal detectors or surveillance
9 cameras, and zero tolerance or other get-tough ap-
10 proaches to school discipline, are ineffective and
11 often counterproductive.

12 (3) Learning is linked to student behavior. Suc-
13 cessful schools implement high academic and behav-
14 ior standards, where improvements in student behav-
15 ior and school climate are correlated with improved
16 academic outcomes.

17 (4) Effective implementation of positive behav-
18 ior supports is linked to greater academic achieve-
19 ment, significantly fewer disciplinary problems, lower
20 suspension and expulsion rates, and increased time
21 for instruction.

22 (5) Evidence-based and scientifically valid prac-
23 tices for improving behavior and creating a school
24 climate more conducive to learning have not been
25 widely adopted, accurately implemented, or sus-
26 tained.

1 (6) Early intervening services are an effective
2 strategy for instructional support. Following imple-
3 mentation of positive behavior support, out-of-school
4 suspensions at an elementary school in Illinois de-
5 creased 85 percent, from 243 to 37 or fewer in 2
6 subsequent years, with a resultant gain of 386 days
7 of instructional time. The percentage of students
8 meeting or exceeding proficiency on State standards
9 increased measurably.

10 (7) Problem behaviors can be minimized with
11 effective positive behavior support, including active
12 supervision, positive feedback, and social skills in-
13 struction, which reduce the need for more intensive
14 and more costly interventions. Upon implementing
15 such supports, an elementary school in Maryland
16 witnessed a decrease in office discipline referrals for
17 major rule violations by 42 percent, recouping 119
18 days of instructional time for students, and 40 days
19 of administrator time, within 1 school year.

20 (8) Schools that implement school-wide positive
21 behavior supports are perceived by teachers to be
22 safer teaching environments. In South Carolina, a
23 school using a system of positive behavior supports
24 found that teacher transfer requests declined by 100

1 percent and teacher absence days decreased by 36
2 percent.

3 (9) When approaches such as positive behavior
4 support are paired with effective interventions and
5 services for students with significant needs, all stu-
6 dents, including those with the most challenging be-
7 haviors, can succeed.

8 (b) PURPOSES.—The purposes of this Act are to ex-
9 pand the use of positive behavior supports and other early
10 intervening services in schools in order to systematically
11 create a school climate that is highly conducive to learn-
12 ing, to reduce discipline referrals, and to improve student
13 academic outcomes.

14 **SEC. 3. DEFINITION OF POSITIVE BEHAVIOR SUPPORT.**

15 In this Act, the term “positive behavior support”
16 means a systematic approach to embed proven practices
17 for early intervening services, including a range of sys-
18 temic and individualized strategies to reinforce desired be-
19 haviors and eliminate reinforcement for problem behav-
20 iors, in order to achieve important social outcomes and
21 increase student learning, while preventing problem behav-
22 iors.

23 **SEC. 4. SCHOOLWIDE POSITIVE BEHAVIOR SUPPORT.**

24 (a) FLEXIBILITY TO USE TITLE I FUNDS TO IMPLE-
25 MENT SCHOOL-WIDE POSITIVE BEHAVIOR SUPPORT.—

1 (1) IN GENERAL.—Section 1003(b) of the Ele-
2 mentary and Secondary Education Act of 1965 (20
3 U.S.C. 6303(b)) is amended—

4 (A) by redesignating paragraphs (1) and
5 (2) as subparagraphs (A) and (B), respectively;

6 (B) by inserting “(1)” before “Of the
7 amount”; and

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

9 “(2) Of the amount reserved under subsection (a) for
10 any fiscal year, the State educational agency may allocate
11 funds to develop and implement coordinated, early inter-
12 vening services (including school-wide positive behavior
13 supports) for all students, including those who have not
14 been identified as needing special education but who need
15 additional academic and behavioral support to succeed in
16 a general education environment. Funds so allocated shall
17 be—

18 “(A) aligned with funds authorized under sec-
19 tion 613(f) of the Individuals with Disabilities Edu-
20 cation Act; and

21 “(B) used to supplement, and not supplant,
22 funds made available under such Act for such activi-
23 ties and services.”.

(2) TECHNICAL ASSISTANCE.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(A) in section 1116(b)(4)(B)—

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

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

“(iii) shall include assistance in implementation of school-wide positive behavior supports and other approaches with evidence of effectiveness for improving the learning environment in the school;”;

(B) in section 1117(a)(3), by inserting “any technical assistance center on schoolwide positive behavior supports funded under section 665(b) of the Individuals with Disabilities Education Act,” after “2002),”; and

(C) in section 1117(a)(5)(B)—

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

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

1 “(iii) review the number of discipline
 2 referrals in the school and the overall
 3 school climate and engagement of families,
 4 and use that information to assist the
 5 school to implement school-wide positive
 6 behavior supports or other early inter-
 7 vening services, or both;”.

8 (b) LEA FLEXIBILITY TO IMPROVE SCHOOL CLI-
 9 MATE.—Section 1114(b)(1)(B)(iii)(I) of the Elementary
 10 and Secondary Education Act of 1965 (20 U.S.C.
 11 6314(b)(1)(B)(iii)(I)) is amended—

12 (1) by redesignating items (bb) and (cc) as
 13 items (cc) and (dd), respectively; and

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

15 “(bb) improving the learning
 16 environment in the school, includ-
 17 ing the implementation of school-
 18 wide positive behavioral supports,
 19 in order to improve academic
 20 outcomes for students;”.

21 **SEC. 5. TEACHER AND PRINCIPAL PREPARATION TO IM-**
 22 **PROVE SCHOOL CLIMATE.**

23 Section 2122(c)(2) of the Elementary and Secondary
 24 Education Act of 1965 (20 U.S.C. 6622(c)(2)) is amend-
 25 ed—

1 (1) by striking “subject matter knowledge and
 2 teaching skills” and inserting “subject matter knowl-
 3 edge, teaching skills, and an understanding of social
 4 or emotional, or both, learning in children and ap-
 5 proaches that improve the school climate for learn-
 6 ing (such as positive behavior support)”; and

7 (2) by inserting “to improve the teachers’
 8 schools’ climate for learning” after “instructional
 9 leadership skills to help teachers”.

10 **SEC. 6. SAFE AND DRUG FREE SCHOOLS AND COMMU-**
 11 **NITIES.**

12 Section 4002 of the Elementary and Secondary Edu-
 13 cation Act of 1965 (20 U.S.C. 7102) is amended—

14 (1) by redesignating paragraphs (1) through
 15 (4) as paragraphs (2) through (5), respectively; and

16 (2) by striking all that precedes paragraph (2)
 17 and inserting the following: “The purpose of this
 18 part is to support programs that improve the whole
 19 school climate in order to foster learning, including
 20 programs that prevent discipline problems, that pre-
 21 vent violence in and around schools, that prevent the
 22 illegal use of alcohol, tobacco, and drugs, that in-
 23 volve parents and communities in the school pro-
 24 grams and activities, and that are coordinated with
 25 related Federal, State, school, and community ef-

1 forts and resources to foster a safe and drug-free
 2 learning environment that supports student aca-
 3 demic achievement, through the provision of Federal
 4 assistance to—

5 “(1) States for grants to local educational agen-
 6 cies and consortia of such agencies to establish, op-
 7 erate, and improve local programs relating to im-
 8 proving the school-wide climate (including implemen-
 9 tation of positive behavior supports and other pro-
 10 grams);”.

11 **SEC. 7. EARLY INTERVENING SERVICES UNDER SCHOOL**
 12 **COUNSELORS PROGRAM.**

13 Section 5421(b)(2) of the Elementary and Secondary
 14 Education Act of 1965 (20 U.S.C. 7245(b)(2)) is amend-
 15 ed—

16 (1) by redesignating subparagraphs (C) through
 17 (H) as subparagraphs (D) through (I), respectively;
 18 and

19 (2) by inserting after subparagraph (B) the fol-
 20 lowing:

21 “(C) describe how the local educational
 22 agency will address the need for early inter-
 23 vening services that improve the school climate
 24 for learning, such as through schoolwide posi-
 25 tive behavior supports;”.

1 **SEC. 8. OFFICE OF SPECIALIZED INSTRUCTIONAL SUPPORT**
2 **SERVICES.**

3 The Department of Education Organization Act (20
4 U.S.C. 3401 et seq.) is amended by adding at the end
5 of title II the following:

6 **“SEC. 221. OFFICE OF SPECIALIZED INSTRUCTIONAL SUP-**
7 **PORT SERVICES.**

8 “(a) IN GENERAL.—There shall be, within the Office
9 of the Deputy Secretary in the Department of Education,
10 an Office of Specialized Instructional Support Services
11 (referred to in this section as the ‘Office’).

12 “(b) PURPOSE.—The purpose of the Office shall be
13 to administer, coordinate, implement, and ensure adequate
14 evaluation of the effectiveness of programs and activities
15 concerned with providing specialized instructional support
16 services in schools, delivered by trained, qualified special-
17 ized instructional support personnel.

18 “(c) DIRECTOR.—The Office established under sub-
19 section (a) shall be headed by a Director who shall be se-
20 lected by the Secretary and report directly to the Deputy
21 Secretary of Education.

22 “(d) ACTIVITIES.—In carrying out subsection (b), the
23 Director shall support activities to—

24 “(1) improve specialized instructional support
25 services in schools in order to improve academic
26 achievement and educational results for students;

1 “(2) identify scientifically valid practices in spe-
 2 cialized instructional support services that support
 3 learning and improve academic achievement and
 4 educational results for students;

5 “(3) provide continuous training and profes-
 6 sional development opportunities for specialized in-
 7 structional support personnel and other school per-
 8 sonnel in the use of effective techniques to address
 9 academic, behavioral, and functional needs;

10 “(4) provide technical assistance to local edu-
 11 cational agencies and State educational agencies in
 12 the provision of effective, scientifically valid, special-
 13 ized instructional support services;

14 “(5) coordinate specialized instructional support
 15 services programs and services in schools between
 16 the Department of Education and other Federal
 17 agencies, as appropriate; and

18 “(6) ensure evaluation of the effectiveness of
 19 the activities described in this subsection, as directed
 20 by the Secretary and Deputy Secretary.

21 “(e) SPECIALIZED INSTRUCTIONAL SUPPORT PER-
 22 SONNEL; SPECIALIZED INSTRUCTIONAL SUPPORT SERV-
 23 ICES.—In this section:

24 “(1) SPECIALIZED INSTRUCTIONAL SUPPORT
 25 PERSONNEL.—The term ‘specialized instructional

support personnel’ means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary corrective or supportive services (including related services, as such term is defined in section 602 of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

“(2) SPECIALIZED INSTRUCTIONAL SUPPORT SERVICES.—The term ‘specialized instructional support services’ means the services provided by specialized instructional support personnel, including any other corrective or supportive services to meet student needs.”.

SEC. 9. DEFINITION IN ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

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

(1) by redesignating paragraphs (33) through (43) as paragraphs (34) through (44); and

(2) by inserting after paragraph (32) the following:

“(33) POSITIVE BEHAVIOR SUPPORT.—The term ‘positive behavior support’ means a systematic

1 approach to embed proven practices for early inter-
2 vening services, including a range of systemic and
3 individualized strategies to reinforce desired behav-
4 iors and eliminate reinforcement for problem behav-
5 iors, in order to achieve important social outcomes
6 and increase student learning, while preventing
7 problem behaviors.”.

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