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H. R. 4247

IN THE SENATE OF THE UNITED STATES

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Received; read twice and referred to the Committee on Health, Education,
Labor, and Pensions

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Keeping All Students
3 Safe Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

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

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

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

1 strait and seclusion prevention, can reduce the inci-
2 dence of injury, trauma, and death.

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

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

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

19 (7) Children are protected from inappropriate
20 physical restraint and seclusion in other settings,
21 such as hospitals, health facilities, and non-medical
22 community-based facilities. Similar protections are
23 needed in schools, yet such protections must ac-
24 knowledge the differences of the school environment.

1 (8) Research confirms that physical restraint
2 and seclusion are not therapeutic, nor are these
3 practices effective means to calm or teach children,
4 and may have an opposite effect while simulta-
5 neously decreasing a child's ability to learn.

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

11 **SEC. 3. PURPOSES.**

12 The purposes of this Act are to—

13 (1) prevent and reduce the use of physical re-
14 straint and seclusion in schools;

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

18 (3) protect students from—

19 (A) physical or mental abuse;

20 (B) aversive behavioral interventions that
21 compromise health and safety; and

22 (C) any physical restraint or seclusion im-
23 posed solely for purposes of discipline or con-
24 venience;

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

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

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

11 (B) providing school personnel with the
12 necessary tools, training, and support to ensure
13 the safety of all students and school personnel;

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

16 (D) identifying and implementing effective
17 evidence-based models to prevent and reduce
18 physical restraint and seclusion in schools.

19 **SEC. 4. DEFINITIONS.**

20 In this Act:

21 (1) **CHEMICAL RESTRAINT.**—The term “chem-
22 ical restraint” means a drug or medication used on
23 a student to control behavior or restrict freedom of
24 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 the standard treatment of a stu-
5 dent's medical or psychiatric condition; and

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 (2) EDUCATIONAL SERVICE AGENCY.—The
11 term “educational service agency” has the meaning
12 given such term in section 9101(17) of the Elemen-
13 tary and Secondary Education Act of 1965 (20
14 U.S.C. 7801(17)).

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

19 (4) LOCAL EDUCATIONAL AGENCY.—The term
20 “local educational agency” has the meaning given
21 the term in section 9101(26) of the Elementary and
22 Secondary Education Act of 1965 (20 U.S.C.
23 7801(26)).

24 (5) MECHANICAL RESTRAINT.—The term “me-
25 chanical restraint” has the meaning given the term

1 in section 595(d)(1) of the Public Health Service
2 Act (42 U.S.C. 290jj(d)(1)), except that the mean-
3 ing shall be applied by substituting “student’s” for
4 “resident’s”.

5 (6) PARENT.—The term “parent” has the
6 meaning given the term in section 9101(31) of the
7 Elementary and Secondary Education Act of 1965
8 (20 U.S.C. 7801(31)).

9 (7) PHYSICAL ESCORT.—The term “physical es-
10 cort” has the meaning given the term in section
11 595(d)(2) of the Public Health Service Act (42
12 U.S.C. 290jj(d)(2)), except that the meaning shall
13 be applied by substituting “student” for “resident”.

14 (8) PHYSICAL RESTRAINT.—The term “physical
15 restraint” has the meaning given the term in section
16 595(d)(3) of the Public Health Service Act (42
17 U.S.C. 290jj(d)(3)).

18 (9) POSITIVE BEHAVIOR SUPPORTS.—The term
19 “positive behavior supports” means a systematic ap-
20 proach to embed evidence-based practices and data-
21 driven decisionmaking to improve school climate and
22 culture, including a range of systemic and individ-
23 ualized strategies to reinforce desired behaviors and
24 diminish reoccurrence of problem behaviors, in order
25 to achieve improved academic and social outcomes

1 and increase learning for all students, including
2 those with the most complex and intensive behav-
3 ioral needs.

4 (10) PROTECTION AND ADVOCACY SYSTEM.—

5 The term “protection and advocacy system” means
6 a protection and advocacy system established under
7 section 143 of the Developmental Disabilities Assist-
8 ance and Bill of Rights Act of 2000 (42 U.S.C.
9 15043).

10 (11) SCHOOL.—The term “school” means an

11 entity—

12 (A) that—

13 (i) is a public or private—

14 (I) day or residential elementary
15 school or secondary school; or

16 (II) early childhood, elementary
17 school, or secondary school program
18 that is under the jurisdiction of a
19 school, local educational agency, edu-
20 cational service agency, or other edu-
21 cational institution or program; and

22 (ii) receives, or serves students who
23 receive, support in any form from any pro-
24 gram supported, in whole or in part, with

1 funds appropriated to the Department of
2 Education; or

3 (B) that is a school funded or operated by
4 the Department of the Interior.

5 (12) SCHOOL PERSONNEL.—The term “school
6 personnel” has the meaning—

7 (A) given the term in section 4151(10) of
8 the Elementary and Secondary Education Act
9 of 1965 (20 U.S.C. 7161(10)); and

10 (B) given the term “school resource offi-
11 cer” in section 4151(11) of the Elementary and
12 Secondary Education Act of 1965 (20 U.S.C.
13 7161(11)).

14 (13) SECONDARY SCHOOL.—The term “sec-
15 ondary school” has the meaning given the term in
16 section 9101(38) of the Elementary and Secondary
17 Education Act of 1965 (20 U.S.C. 7801(38)).

18 (14) SECLUSION.—The term “seclusion” has
19 the meaning given the term in section 595(d)(4) of
20 the Public Health Service Act (42 U.S.C.
21 290jj(d)(4)).

22 (15) SECRETARY.—The term “Secretary”
23 means the Secretary of Education.

24 (16) STATE-APPROVED CRISIS INTERVENTION
25 TRAINING PROGRAM.—The term “State-approved

1 crisis intervention training program” means a train-
2 ing program approved by a State and the Secretary
3 that, at a minimum, provides—

4 (A) training in evidence-based techniques
5 shown to be effective in the prevention of phys-
6 ical restraint and seclusion;

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

11 (C) evidence-based skills training related to
12 positive behavior supports, safe physical escort,
13 conflict prevention, understanding antecedents,
14 de-escalation, and conflict management;

15 (D) training in first aid and
16 cardiopulmonary resuscitation;

17 (E) information describing State policies
18 and procedures that meet the minimum stand-
19 ards established by regulations promulgated
20 pursuant to section 5(a); and

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

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

5 (18) STATE EDUCATIONAL AGENCY.—The term
6 “State educational agency” has the meaning given
7 the term in section 9101(41) of the Elementary and
8 Secondary Education Act of 1965 (20 U.S.C.
9 7801(41)).

10 (19) STUDENT.—The term “student” means a
11 student enrolled in a school defined in section 11,
12 except that in the case of a private school or private
13 program, such term means a student enrolled in
14 such school or program who receives support in any
15 form from any program supported, in whole or in
16 part, with funds appropriated to the Department of
17 Education.

18 (20) TIME OUT.—The term “time out” has the
19 meaning given the term in section 595(d)(5) of the
20 Public Health Service Act (42 U.S.C. 290jj(d)(5)),
21 except that the meaning shall be applied by sub-
22 stituting “student” for “resident”.

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

24 (a) MINIMUM STANDARDS.—Not later than 180 days
25 after the date of the enactment of this Act, in order to

1 protect each student from physical or mental abuse, aver-
2 sive behavioral interventions that compromise student
3 health and safety, or any physical restraint or seclusion
4 imposed solely for purposes of discipline or convenience
5 or in a manner otherwise inconsistent with this Act, the
6 Secretary shall promulgate regulations establishing the
7 following minimum standards:

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

10 (A) Mechanical restraints.

11 (B) Chemical restraints.

12 (C) Physical restraint or physical escort
13 that restricts breathing.

14 (D) Aversive behavioral interventions that
15 compromise health and safety.

16 (2) School personnel shall be prohibited from
17 imposing physical restraint or seclusion on a student
18 unless—

19 (A) the student's behavior poses an immi-
20 nent danger of physical injury to the student,
21 school personnel, or others;

22 (B) less restrictive interventions would be
23 ineffective in stopping such imminent danger of
24 physical injury;

1 (C) such physical restraint or seclusion is
2 imposed by school personnel who—

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

5 (ii) if school personnel safety is sig-
6 nificantly compromised by such face-to-face
7 monitoring, are in continuous direct visual
8 contact with the student;

9 (D) such physical restraint or seclusion is
10 imposed by—

11 (i) school personnel trained and cer-
12 tified by a State-approved crisis interven-
13 tion training program (as defined in sec-
14 tion 4(16)); or

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

22 (E) such physical restraint or seclusion
23 end immediately upon the cessation of the con-
24 ditions described in subparagraphs (A) and (B).

1 (3) States, in consultation with local edu-
2 cational agencies and private school officials, shall
3 ensure that a sufficient number of personnel are
4 trained and certified by a State-approved crisis
5 intervention training program (as defined in section
6 4(16)) to meet the needs of the specific student pop-
7 ulation in each school.

8 (4) The use of physical restraint or seclusion as
9 a planned intervention shall not be written into a
10 student's education plan, individual safety plan, be-
11 havioral plan, or individualized education program
12 (as defined in section 602 of the Individuals with
13 Disabilities Education Act (20 U.S.C. 1401)). Local
14 educational agencies or schools may establish poli-
15 cies and procedures for use of physical restraint or
16 seclusion in school safety or crisis plans, provided
17 that such school plans are not specific to any indi-
18 vidual student.

19 (5) Schools shall establish procedures to be fol-
20 lowed after each incident involving the imposition of
21 physical restraint or seclusion upon a student, in-
22 cluding—

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

1 (i) an immediate verbal or electronic
2 communication on the same day as each
3 such incident; and

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

6 (B) any other procedures the Secretary de-
7 termines appropriate.

8 (b) SECRETARY OF THE INTERIOR.—The Secretary
9 of the Interior shall ensure that schools operated or fund-
10 ed by the Department of the Interior comply with the reg-
11 ulations promulgated by the Secretary under subsection
12 (a).

13 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed to authorize the Secretary to pro-
15 mulgate regulations prohibiting the use of—

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

17 (2) devices implemented by trained school per-
18 sonnel, or utilized by a student, for the specific and
19 approved therapeutic or safety purposes for which
20 such devices were designed and, if applicable, pre-
21 scribed, including—

22 (A) restraints for medical immobilization;

23 (B) adaptive devices or mechanical sup-
24 ports used to achieve proper body position, bal-
25 ance, or alignment to allow greater freedom of

1 mobility than would be possible without the use
 2 of such devices or mechanical supports; or

3 (C) vehicle safety restraints when used as
 4 intended during the transport of a student in a
 5 moving vehicle; or

6 (3) handcuffs by school resource officers (as
 7 such term is defined in section 4151(11) of the Ele-
 8 mentary and Secondary Education Act of 1965 (20
 9 U.S.C. 7161(11)))—

10 (A) in the—

11 (i) case when a student's behavior
 12 poses an imminent danger of physical in-
 13 jury to the student, school personnel, or
 14 others; or

15 (ii) lawful exercise of law enforcement
 16 duties; and

17 (B) less restrictive interventions would be
 18 ineffective.

19 **SEC. 6. STATE PLAN AND REPORT REQUIREMENTS AND EN-**
 20 **FORCEMENT.**

21 (a) STATE PLAN.—Not later than 2 years after the
 22 Secretary promulgates regulations pursuant to section
 23 5(a), and each year thereafter, each State educational
 24 agency shall submit to the Secretary a State plan that pro-
 25 vides—

1 (1) assurances to the Secretary that the State
2 has in effect—

3 (A) State policies and procedures that
4 meet the minimum standards, including the
5 standards with respect to State-approved crisis
6 intervention training programs, established by
7 regulations promulgated pursuant to section
8 5(a); and

9 (B) a State mechanism to effectively mon-
10 itor and enforce the minimum standards;

11 (2) a description of the State policies and pro-
12 cedures, including a description of the State-ap-
13 proved crisis intervention training programs in such
14 State; and

15 (3) a description of the State plans to ensure
16 school personnel and parents, including private
17 school personnel and parents, are aware of the State
18 policies and procedures.

19 (b) REPORTING.—

20 (1) REPORTING REQUIREMENTS.—Not later
21 than 2 years after the date the Secretary promul-
22 gates regulations pursuant to section 5(a), and each
23 year thereafter, each State educational agency shall
24 (in compliance with the requirements of section 444
25 of the General Education Provisions Act (commonly

1 known as the “Family Educational Rights and Pri-
2 vacy Act of 1974”) (20 U.S.C. 1232g)) prepare and
3 submit to the Secretary, and make available to the
4 public, a report with respect to each local edu-
5 cational agency, and each school not under the juris-
6 diction of a local educational agency, located in the
7 same State as such State educational agency that in-
8 cludes the information described in paragraph (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 injury;
5 (bb) that resulted in death;
6 and
7 (cc) in which the school per-
8 sonnel imposing physical re-
9 straint or seclusion were not
10 trained and certified as described
11 in section 5(a)(2)(D)(i); and
12 (II) the demographic characteris-
13 tics of all students upon whom phys-
14 ical restraint or seclusion was im-
15 posed, including—
16 (aa) the categories identified
17 in section 1111(h)(1)(C)(i) of the
18 Elementary and Secondary Edu-
19 cation Act of 1965 (20 U.S.C.
20 6311(h)(1)(C)(i));
21 (bb) age; and
22 (cc) disability status (which
23 has the meaning given the term
24 “individual with a disability” in
25 section 7(20) of the Rehabilita-

1 tion Act of 1973 (29 U.S.C.
2 705(20))).

3 (ii) UNDUPLICATED COUNT; EXCEP-
4 TION.—The disaggregation required under
5 clause (i) shall—

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

8 (aa) total number of inci-
9 dents in the preceding full-aca-
10 demic year in which physical re-
11 straint was imposed upon a stu-
12 dent; and

13 (bb) total number of inci-
14 dents in the preceding full-aca-
15 demic year in which seclusion
16 was imposed upon a student; and

17 (II) not be required in a case in
18 which the number of students in a
19 category would reveal personally iden-
20 tifiable information about an indi-
21 vidual student.

22 (c) ENFORCEMENT.—

23 (1) IN GENERAL.—

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

4 (i) withhold, in whole or in part, fur-
5 ther payments under an applicable pro-
6 gram (as such term is defined in section
7 400(c) of the General Education Provi-
8 sions Act (20 U.S.C. 1221)) in accordance
9 with section 455 of such Act (20 U.S.C.
10 1234d);

11 (ii) require a State educational agency
12 to submit, and implement, within 1 year of
13 such failure to comply, a corrective plan of
14 action, which may include redirection of
15 funds received under an applicable pro-
16 gram; or

17 (iii) issue a complaint to compel com-
18 pliance of the State educational agency
19 through a cease and desist order, in the
20 same manner the Secretary is authorized
21 to take such action under section 456 of
22 the General Education Provisions Act (20
23 U.S.C. 1234e).

24 (B) CESSATION OF WITHHOLDING OF
25 FUNDS.—Whenever the Secretary determines

(whether by certification or other appropriate evidence) that a State educational agency who is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments, the Secretary shall cease the withholding of payments with respect to the State educational agency under such subparagraph.

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

SEC. 7. GRANT AUTHORITY.

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

(1) establishing, implementing, and enforcing the policies and procedures to meet the minimum standards established by regulations promulgated by the Secretary pursuant to section 5(a);

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

1 (3) improving school climate and culture by im-
2 plementing school-wide positive behavior support ap-
3 proaches.

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

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

15 (d) AUTHORITY TO MAKE SUBGRANTS.—

16 (1) IN GENERAL.—A State educational agency
17 receiving a grant under this section may use such
18 grant funds to award subgrants, on a competitive
19 basis, to local educational agencies.

20 (2) APPLICATION.—A local educational agency
21 desiring to receive a subgrant under this section
22 shall submit an application to the applicable State
23 educational agency at such time, in such manner,
24 and containing such information as the State edu-
25 cational agency may require.

1 (e) PRIVATE SCHOOL PARTICIPATION.—

2 (1) IN GENERAL.—A local educational agency
3 receiving subgrant funds under this section shall,
4 after timely and meaningful consultation with appro-
5 priate private school officials, ensure that private
6 school personnel can participate, on an equitable
7 basis, in activities supported by grant or subgrant
8 funds.

9 (2) PUBLIC CONTROL OF FUNDS.—The control
10 of funds provided under this section, and title to ma-
11 terials, equipment, and property purchased with
12 such funds, shall be in a public agency, and a public
13 agency shall administer such funds, materials, equip-
14 ment, and property.

15 (f) REQUIRED ACTIVITIES.—A State educational
16 agency receiving a grant, or a local educational agency re-
17 ceiving a subgrant, under this section shall use such grant
18 or subgrant funds to carry out the following:

19 (1) Researching, developing, implementing, and
20 evaluating strategies, policies, and procedures to pre-
21 vent and reduce physical restraint and seclusion in
22 schools, consistent with the minimum standards es-
23 tablished by regulations promulgated by the Sec-
24 retary pursuant to section 5(a).

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

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

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

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

22 (2) Providing technical assistance to develop
23 and implement evidence-based systematic approaches
24 to school-wide positive behavior supports, including
25 technical assistance for data-driven decision-making

1 related to behavioral supports and interventions in
2 the classroom.

3 (3) Researching, evaluating, and disseminating
4 high-quality evidence-based programs and activities
5 that implement school-wide positive behavior sup-
6 ports with fidelity.

7 (4) Supporting other local positive behavior
8 support implementation activities consistent with
9 this subsection.

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

13 (1) evaluate the State’s progress toward the
14 prevention and reduction of physical restraint and
15 seclusion in the schools located in the State, con-
16 sistent with the minimum standards established by
17 regulations promulgated by the Secretary pursuant
18 to section 5(a); and

19 (2) submit to the Secretary a report on such
20 progress.

21 (i) DEPARTMENT OF THE INTERIOR.—From the
22 amount appropriated under section 12, the Secretary may
23 allocate funds to the Secretary of the Interior for activities
24 under this section with respect to schools operated or

1 funded by the Department of the Interior, under such
2 terms as the Secretary of Education may prescribe.

3 **SEC. 8. NATIONAL ASSESSMENT.**

4 (a) NATIONAL ASSESSMENT.—The Secretary shall
5 carry out a national assessment to determine the effective-
6 ness of this Act, which shall include—

7 (1) analyzing data related to physical restraint
8 and seclusion incidents;

9 (2) analyzing the effectiveness of Federal,
10 State, and local efforts to prevent and reduce the
11 number of physical restraint and seclusion incidents
12 in schools;

13 (3) identifying the types of programs and serv-
14 ices that have demonstrated the greatest effective-
15 ness in preventing and reducing the number of phys-
16 ical restraint and seclusion incidents in schools; and

17 (4) identifying evidence-based personnel train-
18 ing models with demonstrated success in preventing
19 and reducing the number of physical restraint and
20 seclusion incidents in schools, including models that
21 emphasize positive behavior supports and de-esca-
22 lation techniques over physical intervention.

23 (b) REPORT.—The Secretary shall submit to the
24 Committee on Education and Labor of the House of Rep-

1 representatives and the Committee on Health, Education,
2 Labor, and Pensions of the Senate—

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

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

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

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

16 **SEC. 10. HEAD START PROGRAMS.**

17 (a) REGULATIONS.—The Secretary of Health and
18 Human Services, in consultation with the Secretary, shall
19 promulgate regulations with respect to Head Start agen-
20 cies administering Head Start programs under the Head
21 Start Act (42 U.S.C. 9801 et seq.) that establish require-
22 ments consistent with—

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

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

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

10 **SEC. 11. LIMITATION OF AUTHORITY.**

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

16 (b) APPLICABILITY.—

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

23 (2) HOME SCHOOLS.—Nothing in this Act shall
24 be construed to—

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

4 (B) consider parents who are schooling a
5 child at home as school personnel.

6 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

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

10 **SEC. 13. PRESUMPTION OF CONGRESS RELATING TO COM-**
11 **PETITIVE PROCEDURES.**

12 (a) PRESUMPTION.—It is the presumption of Con-
13 gress that grants awarded under this Act will be awarded
14 using competitive procedures based on merit.

15 (b) REPORT TO CONGRESS.—If grants are awarded
16 under this Act using procedures other than competitive
17 procedures, the Secretary shall submit to Congress a re-
18 port explaining why competitive procedures were not used.

19 **SEC. 14. PROHIBITION ON EARMARKS.**

20 None of the funds appropriated to carry out this Act
21 may be used for a congressional earmark as defined in

1 clause 9e, of Rule XXI of the rules of the House of Rep-
2 resentatives of the 111th Congress.

Passed the House of Representatives March 3,
2010.

Attest: **LORRAINE C. MILLER,**
Clerk.