

113TH CONGRESS
1ST SESSION

S. 1033

To authorize a grant program to promote physical education, activity, and fitness and nutrition, and to ensure healthy students, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2013

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To authorize a grant program to promote physical education, activity, and fitness and nutrition, and to ensure healthy students, 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 “Fitness Integrated
5 with Teaching Kids Act” or the “FIT Kids Act”.

6 **TITLE I—HEALTHY STUDENTS**
7 **GRANTS**

8 **SEC. 101. DEFINITIONS.**

9 In this title:

(1) PHYSICAL EDUCATION INDICATORS MEASUREMENT SYSTEM.—

(A) IN GENERAL.—The term “physical education indicators measurement system” means a State reporting and information system that measures student physical health and well-being, nutrition, and fitness based on the physical education indicators and is, to the extent possible, part of the State’s statewide longitudinal data system and part of the State’s system for reporting the data required under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311).

(B) DESCRIPTION OF SYSTEM.—Such system shall—

(i) contain, at a minimum, data from valid and reliable surveys of students and staff on the physical education indicators that allow staff at the State, local educational agencies, and schools to examine and improve school-level conditions regarding physical activity, education, and fitness and nutrition;

(ii) collect school-level data on the physical education indicators, in the aggreg-

gate and disaggregated by the categories of race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, and cross-tabulated across all of such categories by gender and by disability;

(iii) protect student privacy, consistent with applicable data privacy laws and regulations, including section 444 of the General Education Provisions Act (20 U.S.C. 1232g, commonly known as the “Family Educational Rights and Privacy Act of 1974”); and

(iv) to the extent possible, utilize a web-based reporting system.

(2) ELIGIBLE LOCAL APPLICANT.—The term “eligible local applicant” means a local educational agency, a consortium of local educational agencies, or a nonprofit organization that has a track record of success in implementing the proposed activities and has signed a memorandum of understanding with a local educational agency or consortium of local educational agencies to—

(A) implement school-based activities; and

1 (B) conduct school-level measurement of
 2 the physical education indicators that are con-
 3 sistent with this title.

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

8 (4) PHYSICAL EDUCATION INDICATORS.—The
 9 term “physical education indicators” means a set of
 10 measures for instruction on physical activity, health-
 11 related fitness, physical competence, and cognitive
 12 understanding about physical activity. Such indica-
 13 tors shall include—

14 (A) for the State, for each local edu-
 15 cational agency in the State, and for each
 16 school in the State, the average number of min-
 17 utes per week (averaged over the school year)
 18 that all students spend in required physical
 19 education, and the average number of minutes
 20 per week (averaged over the school year) that
 21 all students engage in moderate to vigorous
 22 physical activity, as measured against estab-
 23 lished recommended guidelines of the Centers
 24 for Disease Control and Prevention and the De-
 25 partment of Health and Human Services;

1 (B) for the State, the percentage of local
2 educational agencies that have a required, age-
3 appropriate physical education curriculum that
4 adheres to Centers for Disease Control and
5 Prevention guidelines and State standards;

6 (C) for the State, for each local edu-
7 cational agency in the State, and for each
8 school in the State, the percentage of elemen-
9 tary school and secondary school physical edu-
10 cation teachers who are licensed or certified by
11 the State to teach physical education;

12 (D) for the State, and for each local edu-
13 cational agency in the State, the percentage of
14 schools that have a physical education teacher
15 who is certified or licensed in the State to teach
16 physical education and adapted physical edu-
17 cation;

18 (E) for each school in the State, the num-
19 ber of indoor square feet and the number of
20 outdoor square feet used primarily for physical
21 education; and

22 (F) for the State, the percentage of local
23 educational agencies that have a school wellness
24 council that—

- 1 (i) includes members appointed by the
 2 local educational agency superintendent;
 3 (ii) may include parents, students,
 4 representatives of the school food author-
 5 ity, representatives of the school board,
 6 school administrators, school nurses, and
 7 members of the public; and
 8 (iii) meets regularly to promote a
 9 healthy school environment.

10 (5) PROGRAM TO PROMOTE PHYSICAL ACTIVITY,
 11 EDUCATION, AND FITNESS AND NUTRITION.—The
 12 term “program to promote physical activity, edu-
 13 cation, and fitness and nutrition” means a program
 14 that—

15 (A) increases and enables active student
 16 participation in physical well-being activities
 17 and provides teacher and school leader profes-
 18 sional development to encourage and increase
 19 such participation;

20 (B) is comprehensive in nature;

21 (C) includes opportunities for professional
 22 development for teachers of physical education
 23 to stay abreast of the latest research, issues,
 24 and trends in the field of physical education;
 25 and

1 (D) includes 1 or more of the following ac-
2 tivities:

3 (i) Fitness education and assessment
4 to help students understand, improve, or
5 maintain their physical well-being.

6 (ii) Instruction in a variety of motor
7 skills and physical activities designed to
8 enhance the physical, mental, social, and
9 emotional development of every student.

10 (iii) Development of, and instruction
11 in, cognitive concepts about motor skill and
12 physical fitness that support a lifelong
13 healthy lifestyle.

14 (iv) Opportunities to develop positive
15 social and cooperative skills through phys-
16 ical activity.

17 (v) Instruction in healthy eating hab-
18 its and good nutrition.

19 (6) SECRETARY.—The term “Secretary” means
20 the Secretary of Education.

21 (7) STATE.—The term “State” has the mean-
22 ing given the term in section 9101 of the Elemen-
23 tary and Secondary Education Act of 1965 (20
24 U.S.C. 7801).

1 **SEC. 102. DISTRIBUTION OF FUNDS.**

2 From amounts made available under section 105, the
3 Secretary shall use—

4 (1) in each year for which funding is made
5 available under such section, not more than 2 per-
6 cent of such amounts for technical assistance and
7 evaluation;

8 (2) for the first 3 fiscal years for which funding
9 is made available under such section—

10 (A) except as provided in subparagraph

11 (B)—

12 (i) not more than 30 percent of such
13 amounts or \$30,000,000, whichever
14 amount is more, for State measurement
15 system grants, distributed to every State
16 (by an application process consistent with
17 section 103(c)) in an amount proportional
18 to each State's share of funding under part
19 A of title I of the Elementary and Sec-
20 ondary Education Act of 1965 (20 U.S.C.
21 6311 et seq.), to be used—

22 (I) to develop the State's physical
23 education indicators measurement sys-
24 tem;

1 (II) to conduct a needs analysis
 2 to meet the requirements of section
 3 103(c)(2)(C); and

4 (III) if grant funds remain after
 5 carrying out subclauses (I) and (II),
 6 for activities described in section
 7 103(f); and

8 (ii) not more than 68 percent of such
 9 amounts for grants under section 103; and

10 (B) for any fiscal year for which the
 11 amount remaining available after funds are re-
 12 served under paragraph (1) is less than
 13 \$30,000,000, all of such remainder for the
 14 State measurement system grants described in
 15 subparagraph (A)(i); and

16 (3) for the fourth fiscal year and each subse-
 17 quent fiscal year for which funding is made available
 18 under section 105, not less than 98 percent of such
 19 amounts for grants under section 103.

20 **SEC. 103. HEALTHY STUDENTS GRANTS.**

21 (a) GRANT PROGRAM AUTHORIZED.—

22 (1) IN GENERAL.—From amounts made avail-
 23 able under paragraph (2)(A)(ii) or (3) of section 102
 24 for a fiscal year, the Secretary shall award grants to
 25 States to implement comprehensive programs to pro-

1 mote physical activity, education, and fitness and
2 nutrition and that are based on—

3 (A) scientifically valid research; and

4 (B) an analysis of need that considers, at
5 a minimum, the physical education indicators.

6 (2) AWARDS TO STATES.—

7 (A) FORMULA GRANTS.—For any fiscal
8 year for which the total amount available under
9 (2)(A)(ii) or (3) of section 102 for grants under
10 this section is \$250,000,000 or more, the Sec-
11 retary shall allot to each State with an ap-
12 proved application an amount that bears the
13 same relationship to such total amount as the
14 amount received under part A of title I of the
15 Elementary and Secondary Education Act of
16 1965 (20 U.S.C. 6311 et seq.) by such State
17 for such fiscal year bears to the amount re-
18 ceived under such part for such fiscal year by
19 all States.

20 (B) COMPETITIVE GRANTS.—

21 (i) IN GENERAL.—For any fiscal year
22 for which the total amount available under
23 paragraph (2)(A)(ii) or (3) of section 102
24 for grants under this section is less than
25 \$250,000,000, the Secretary shall award

1 such grants to States on a competitive
2 basis.

3 (ii) SUFFICIENT SIZE AND SCOPE.—In
4 awarding grants on a competitive basis
5 pursuant to clause (i), the Secretary shall
6 ensure that grant awards are of sufficient
7 size and scope to carry out required and
8 approved activities under this section.

9 (b) ELIGIBILITY.—To be eligible to receive a grant
10 under this section, a State shall demonstrate that the
11 State has established a statewide physical education re-
12 quirement that is consistent with widely recognized stand-
13 ards.

14 (c) APPLICATIONS.—

15 (1) IN GENERAL.—A State that desires to re-
16 ceive a grant under this section shall submit an ap-
17 plication at such time, in such manner, and con-
18 taining such information as the Secretary may re-
19 quire.

20 (2) CONTENT OF APPLICATION.—At a min-
21 imum, the application shall include—

22 (A) documentation of the State's eligibility
23 to receive a grant under this section, as de-
24 scribed in subsection (b);

1 (B) a plan for improving physical activity,
2 education, and fitness and nutrition in schools
3 in the State in a manner consistent with the re-
4 quirements of the program that may be a part
5 of a broader statewide child and youth plan, if
6 such a plan exists and is consistent with the re-
7 quirements of this title;

8 (C) a needs analysis of the schools in the
9 State regarding physical activity, education, and
10 fitness and nutrition, which—

11 (i) shall include a description of, and
12 data measuring, the State's performance
13 on the physical education indicators; and

14 (ii) may be a part of a broader state-
15 wide child and youth needs analysis, if
16 such an analysis exists and is consistent
17 with the requirements of this title;

18 (D) a description of how the programs to
19 promote physical activity, education, and fitness
20 and nutrition that the State proposes to imple-
21 ment with grant funds are responsive to the re-
22 sults of the needs analysis described in subpara-
23 graph (C); and

24 (E) a description of how the State will—

1 (i) develop, adapt, improve, or adopt,
2 and implement, the State's physical edu-
3 cation indicators measurement system, and
4 how the State will ensure that all local
5 educational agencies and schools in the
6 State participate in such system;

7 (ii) ensure the quality of the State's
8 data collection for the physical education
9 indicators, including the State's plan for
10 survey administration and for ensuring the
11 reliability and validity of survey instru-
12 ments;

13 (iii) coordinate the proposed activities
14 with other Federal and State programs,
15 which may include programs to expand
16 learning time and for before- and after-
17 school programming in order to provide
18 sufficient time to carry out the activities
19 described in this title;

20 (iv) assist local educational agencies
21 in aligning activities carried out with funds
22 the agencies receive under the grant with
23 other funding sources in order to support
24 a coherent and non-duplicative program;

1 (v) solicit and approve subgrant appli-
2 cations, including how the State will—

3 (I) allocate funds for statewide
4 activities and subgrants for each year
5 of the grant; and

6 (II) consider the results of the
7 needs analysis described in subpara-
8 graph (C) in the State's distribution
9 of subgrants;

10 (vi) address the needs of diverse geo-
11 graphic areas in the State, including rural
12 and urban communities; and

13 (vii) assist local educational agencies
14 and schools in their efforts to increase the
15 provision of physical activity and physical
16 education opportunities during the school
17 day and implement programs to promote
18 physical activity, education, and fitness,
19 and nutrition.

20 (3) PEER-REVIEW PROCESS.—The Secretary
21 shall establish a peer-review process that includes in-
22 dividuals with applicable expertise in physical activ-
23 ity, education, or fitness or nutrition to review appli-
24 cations submitted under this subsection.

25 (d) DURATION.—

1 (1) IN GENERAL.—A State that receives a
2 grant under this section may receive funding for not
3 more than 5 years in accordance with this sub-
4 section.

5 (2) INITIAL PERIOD.—The Secretary shall
6 award grants under this section for an initial period
7 of not more than 3 years.

8 (3) GRANT EXTENSION.—The Secretary may
9 extend a grant awarded to a State under this section
10 for not more than an additional 2 years if the State
11 shows sufficient improvement, as determined by the
12 Secretary, against baseline data for the performance
13 metrics established under subsection (h)(1).

14 (e) RESERVATION AND USE OF FUNDS.—A State
15 that receives a grant under this section shall—

16 (1) reserve not more than 10 percent of the
17 grant funds for administration of the program, tech-
18 nical assistance, and the development, adaptation,
19 improvement, or adoption, and implementation of
20 the State's physical education indicators measure-
21 ment system, as described in paragraphs (1) through
22 (5) of subsection (f); and

23 (2) use the remainder of grant funds after mak-
24 ing the reservation under paragraph (1) to award

1 subgrants, on a competitive basis, to eligible local
2 applicants.

3 (f) REQUIRED STATE ACTIVITIES.—A State that re-
4 ceives a grant under this section shall—

5 (1) not later than 1 year after receipt of the
6 grant, develop, adapt, improve, or adopt and imple-
7 ment a physical education indicators measurement
8 system (unless the State can demonstrate, to the
9 satisfaction of the Secretary, that an appropriate
10 system has already been implemented) that annually
11 measures the State’s progress regarding physical ac-
12 tivity, education, and fitness and nutrition for every
13 public school in the State;

14 (2) collect information in each year of the grant
15 on physical activity, education, and fitness and nu-
16 trition at the school level through comprehensive
17 needs assessments of student, school staff, and fam-
18 ily perceptions, experiences, and behaviors;

19 (3) publicly report, at the school level and dis-
20 trict level, the data collected in the physical edu-
21 cation indicators measurement system each year in
22 a timely and highly accessible manner and in a man-
23 ner that does not reveal personally identifiable infor-
24 mation;

1 (4) use, on a continuous basis, the results of
2 the physical education indicators measurement sys-
3 tem to—

4 (A) identify and address student physical
5 activity, education, and fitness needs statewide;

6 (B) help subgrantees identify and address
7 school and student needs; and

8 (C) provide individualized assistance to the
9 lowest-performing schools (consistent with sec-
10 tion 1116 of the Elementary and Secondary
11 Education Act of 1965 (20 U.S.C. 6316)) and
12 schools with significant weaknesses with respect
13 to physical activity, education, and fitness and
14 nutrition as identified through the physical edu-
15 cation indicators measurement system with im-
16 plementation of activities under this title;

17 (5) encourage local educational agencies to—

18 (A) integrate physical activity, education,
19 and fitness into a range of subjects throughout
20 the school day and locations within schools;

21 (B) encourage consultation with a variety
22 of stakeholders, including families, students,
23 school officials, and other organizations with
24 wellness and physical activity, education, and
25 fitness expertise; and

1 (C) regularly monitor schools' efforts in
 2 improving wellness and physical activity, edu-
 3 cation, and fitness understanding and habits
 4 among students; and

5 (6) award subgrants under subsection (g) to eli-
 6 gible local applicants.

7 (g) SUBGRANTS.—

8 (1) IN GENERAL.—

9 (A) AWARDING OF SUBGRANTS.—A State
 10 that receives a grant under this section shall
 11 award subgrants, on a competitive basis, to eli-
 12 gible local applicants—

13 (i) based on need, as identified by—

14 (I) data from the State physical
 15 education indicators measurement sys-
 16 tem and, if available, similar local sys-
 17 tems; or

18 (II) in the case of a State for
 19 which the State physical education in-
 20 dicators measurement system required
 21 under subsection (f)(1) is not yet im-
 22 plemented, other data determined ap-
 23 propriate by the State;

1 (ii) that are of sufficient size and
 2 scope to enable the eligible local applicants
 3 to carry out approved activities; and

4 (iii) to implement programs to pro-
 5 mote physical activity, education, and fit-
 6 ness and nutrition that—

7 (I) are comprehensive in nature;

8 and

9 (II) are based on scientifically
 10 valid research.

11 (B) ASSISTANCE.—A State that receives a
 12 grant under this section shall provide assistance
 13 to subgrant applicants and recipients in the se-
 14 lection of scientifically valid programs to pro-
 15 mote physical activity, education, and fitness
 16 and nutrition.

17 (C) PARTNERSHIPS ALLOWED.—An eligible
 18 local applicant may apply for a subgrant under
 19 this subsection in partnership with 1 or more
 20 community-based organizations.

21 (2) APPLICATIONS.—An eligible local applicant
 22 that desires to receive a subgrant under this sub-
 23 section shall submit to the State an application at
 24 such time, in such manner, and containing such in-
 25 formation as the State may require.

1 (3) PRIORITY.—In awarding subgrants under
2 this subsection, a State shall give priority to applica-
3 tions that—

4 (A) demonstrate the greatest need accord-
5 ing to the results of the State’s needs analysis
6 described in subsection (c)(2)(C); and

7 (B) propose to serve schools with the high-
8 est concentrations of poverty, based on the per-
9 centage of students receiving or eligible to re-
10 ceive a free or reduced price lunch under the
11 Richard B. Russell National School Lunch Act
12 (42 U.S.C. 1751 et seq.).

13 (4) ACTIVITIES OF SUBGRANT RECIPIENTS.—
14 Each eligible local applicant receiving a subgrant
15 under this subsection shall, for the duration of the
16 subgrant—

17 (A) carry out, as part of a program to pro-
18 mote physical activity, education, and fitness
19 and nutrition, activities—

20 (i) the need for which has been identi-
21 fied, at a minimum—

22 (I) through the physical edu-
23 cation indicators measurement sys-
24 tem; or

- 1 (II) in the case of a State that
2 has not yet implemented the physical
3 education indicators measurement sys-
4 tem as required under subsection
5 (f)(1), the State's needs analysis de-
6 scribed in subsection (c)(2)(C); and
7 (ii) that are part of a comprehensive
8 strategy or framework to address such
9 need;
- 10 (B) ensure that each activity selected as
11 part of such program be based on scientifically
12 valid research and be used for the purpose for
13 which such activity was found to be effective;
- 14 (C) use school-level data from the state-
15 wide physical education indicators, and use the
16 statewide physical education indicators meas-
17 urement system when implemented by the State
18 as required under subsection (f)(1), to inform
19 the implementation and continuous improve-
20 ment of activities carried out under this title;
- 21 (D) collect and report to the State edu-
22 cational agency, data for schools served by the
23 eligible local applicant, in a manner determined
24 by the State and consistent with the State's

physical education indicators measurement system, when established;

(E)(i) establish policies to expand access to quality physical activity opportunities (including school wellness policies); and

(ii) if the local educational agency to be served through the grant does not have an active school wellness council consistent with the requirements of the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), establish such a school wellness council, which may be part of an existing school council that has the capacity and willingness to address school wellness;

(F) engage family members and community-based organizations in the development of physical education indicators surveys, and in the planning, implementation, and review of the eligible local applicant's efforts under this title; and

(G) consider and accommodate the unique needs of students with disabilities and English language learners in implementing activities.

(h) ACCOUNTABILITY.—

(1) ESTABLISHMENT OF PERFORMANCE METRICS.—The Secretary, acting through the Direc-

1 tor of the Institute of Education Sciences, shall es-
 2 tablish program performance metrics to measure the
 3 effectiveness of the activities carried out under this
 4 title.

5 (2) ANNUAL REPORT.—Each State that re-
 6 ceives a grant under this title shall prepare and sub-
 7 mit to the Secretary an annual report that includes
 8 information relevant to the physical education indi-
 9 cators, including progress towards meeting outcomes
 10 for the metrics established under paragraph (1).

11 **SEC. 104. FUNDS RESERVED FOR SECRETARY.**

12 From the amount reserved under section 102(1), the
 13 Secretary shall—

14 (1) direct the Institute of Education Sciences to
 15 conduct an evaluation of the impact of the practices
 16 funded or disseminated under this title; and

17 (2) provide technical assistance to applicants
 18 for and recipients of, grants and subgrants under
 19 this title.

20 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

21 There are authorized to be appropriated to carry out
 22 this title such sums as may be necessary for fiscal year
 23 2014 and each of the 5 succeeding fiscal years.

1 **TITLE II—PARENTAL INVOLVE-**
 2 **MENT FOR HEALTHY STU-**
 3 **DENTS; EQUAL PHYSICAL AC-**
 4 **TIVITY OPPORTUNITIES FOR**
 5 **STUDENTS WITH DISABIL-**
 6 **ITIES**

7 **SEC. 201. PARENTAL INVOLVEMENT.**

8 Section 1118(d)(1) of the Elementary and Secondary
 9 Education Act of 1965 (20 U.S.C. 6318(d)(1)) is amend-
 10 ed—

11 (1) by inserting “, healthy,” after “supportive”;

12 (2) by striking “; and participating” and insert-
 13 ing “; participating”; and

14 (3) by inserting after “extracurricular time” the
 15 following: “; and supporting their children in leading
 16 a healthy and active life, such as by providing
 17 healthy meals and snacks, encouraging participation
 18 in physical education, and sharing in physical activ-
 19 ity outside the school day to support successful aca-
 20 demic achievement”.

21 **SEC. 202. EQUAL PHYSICAL ACTIVITY OPPORTUNITIES FOR**
 22 **STUDENTS WITH DISABILITIES.**

23 (a) IN GENERAL.—Title V of the Rehabilitation Act
 24 of 1973 (29 U.S.C. 791 et seq.) is amended by adding
 25 at the end the following:

1 **“SEC. 511. EQUAL PHYSICAL ACTIVITY OPPORTUNITIES**
2 **FOR STUDENTS WITH DISABILITIES.**

3 “(a) IN GENERAL.—The Secretary shall promote
4 equal opportunities for students with disabilities to be in-
5 cluded and to participate in physical education and extra-
6 curricular athletics implemented in, or in conjunction
7 with, elementary schools, secondary schools, and institu-
8 tions of higher education, by ensuring the provision of ap-
9 propriate technical assistance and guidance for schools
10 and institutions described in this subsection and their per-
11 sonnel.

12 “(b) TECHNICAL ASSISTANCE AND GUIDANCE.—The
13 provision of technical assistance and guidance described
14 in subsection (a) shall include—

15 “(1) providing technical assistance to elemen-
16 tary schools, secondary schools, local educational
17 agencies, State educational agencies, and institutions
18 of higher education, regarding—

19 “(A) inclusion and participation of stu-
20 dents with disabilities, in a manner equal to
21 that of the other students, in physical education
22 opportunities (including classes) and extra-
23 curricular athletics opportunities, including
24 technical assistance on—

1 “(i) providing reasonable modifica-
 2 tions to policies, practices, and procedures;
 3 and

4 “(ii) providing supports to ensure
 5 such inclusion and participation;

6 “(B) provision of adaptive sports pro-
 7 grams, in the physical education and extra-
 8 curricular athletics opportunities, including pro-
 9 grams with competitive sports leagues or com-
 10 petitions, for students with disabilities; and

11 “(C) responsibilities of the schools, institu-
 12 tions, and agencies involved under section 504,
 13 the Americans with Disabilities Act of 1990 (42
 14 U.S.C. 12101 et seq.), and any other applicable
 15 Federal law to provide students with disabilities
 16 equal access to extracurricular athletics;

17 “(2) facilitating information sharing among the
 18 schools, institutions, and agencies, and students with
 19 disabilities, on ways to provide inclusive opportuni-
 20 ties in physical education and extracurricular ath-
 21 letics for students with disabilities; and

22 “(3) monitoring the extent to which physical
 23 education and extracurricular athletics opportunities
 24 for students with disabilities are implemented in, or

1 in conjunction with, elementary schools, secondary
2 schools, and institutions of higher education.

3 “(c) DEFINITIONS.—In this section:

4 “(1) AGENCIES.—The terms ‘local educational
5 agency’ and ‘State educational agency’ have the
6 meanings given the terms in section 9101 of the Ele-
7 mentary and Secondary Education Act of 1965 (20
8 U.S.C. 7801).

9 “(2) SCHOOLS AND INSTITUTIONS.—The terms
10 ‘elementary school’, ‘secondary school’, and ‘institu-
11 tion of higher education’ mean an elementary school,
12 secondary school, or institution of higher education,
13 respectively (as defined in section 9101 of the Ele-
14 mentary and Secondary Education Act of 1965 (20
15 U.S.C. 7801)), that receives, or has 1 or more stu-
16 dents that receive, Federal financial assistance.

17 “(3) STUDENT WITH A DISABILITY.—

18 “(A) IN GENERAL.—The term ‘student
19 with a disability’ means an individual who—

20 “(i) attends an elementary school, sec-
21 ondary school, or institution of higher edu-
22 cation; and

23 “(ii) who—

24 “(I) is eligible for, and receiving,
25 special education or related services

1 under part B of the Individuals with
 2 Disabilities Education Act (20 U.S.C.
 3 1411 et seq.); or

4 “(II) is an individual with a dis-
 5 ability, for purposes of section 504 or
 6 the Americans with Disabilities Act of
 7 1990.

8 “(B) STUDENTS WITH DISABILITIES.—The
 9 term ‘students with disabilities’ means more
 10 than 1 student with a disability.”.

11 (b) TABLE OF CONTENTS.—The table of contents in
 12 section 1(b) of the Rehabilitation Act of 1973 is amended
 13 by inserting after the item relating to section 509 the fol-
 14 lowing:

“Sec. 510. Establishment of standards for accessible medical diagnostic equip-
 ment.

“Sec. 511. Equal physical activity opportunities for students with disabilities.”.

