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2D SESSION

S. 2036

To protect all school children against harmful and life-threatening seclusion and restraint practices.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2014

Mr. HARKIN (for himself, Mr. MURPHY, and Ms. AYOTTE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To protect all school children against harmful and life-threatening seclusion and restraint practices.

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 “Keeping All Students
5 Safe Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **APPLICABLE PROGRAM.**—The term “appli-
9 cable program” has the meaning given the term in

1 section 400(c)(1) of the General Education Provi-
2 sions Act (20 U.S.C. 1221(c)(1)).

3 (2) CHEMICAL RESTRAINT.—The term “chem-
4 ical restraint” means a drug or medication used on
5 a student to control behavior or restrict freedom of
6 movement that is not—

7 (A) prescribed by a licensed physician, or
8 other qualified health professional acting under
9 the scope of the professional’s authority under
10 State law, for the standard treatment of a stu-
11 dent’s medical or psychiatric condition; and

12 (B) administered as prescribed by the li-
13 censed physician or other qualified health pro-
14 fessional acting under the scope of the profes-
15 sional’s authority under State law.

16 (3) ESEA DEFINITIONS.—The terms—

17 (A) “Department”, “educational service
18 agency”, “elementary school”, “local edu-
19 cational agency”, “parent”, “secondary school”,
20 “State”, and “State educational agency” have
21 the meanings given such terms in section 9101
22 of the Elementary and Secondary Education
23 Act of 1965 (20 U.S.C. 7801); and

1 (B) “school resource officer” and “school
2 personnel” have the meanings given such terms
3 in section 4151 of such Act (20 U.S.C. 7161).

4 (4) FEDERAL FINANCIAL ASSISTANCE.—The
5 term “Federal financial assistance” means any
6 grant, loan, contract (other than a procurement con-
7 tract or a contract of insurance or guaranty), or any
8 other arrangement by which the Department pro-
9 vides or otherwise makes available assistance in the
10 form of—

11 (A) funds;

12 (B) services of Federal personnel; or

13 (C) real and personal property or any in-
14 terest in or use of such property, including—

15 (i) transfers or leases of such property
16 for less than fair market value or for re-
17 duced consideration; and

18 (ii) proceeds from a subsequent trans-
19 fer or lease of such property if the Federal
20 share of its fair market value is not re-
21 turned to the Federal Government.

22 (5) FREE APPROPRIATE PUBLIC EDUCATION.—
23 For those students eligible for special education and
24 related services under the Individuals with Disabil-
25 ities Education Act (20 U.S.C. 1400 et seq.), the

term “free appropriate public education” has the meaning given the term in section 602 of such Act (20 U.S.C. 1401).

(6) MECHANICAL RESTRAINT.—The term “mechanical restraint”—

(A) has the meaning given the term in section 595(d)(1) of the Public Health Service Act (42 U.S.C. 290jj(d)(1)), except that the meaning shall be applied by substituting “student’s” for “resident’s”; and

(B) does not mean devices used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such devices were designed and, if applicable, prescribed, including—

(i) restraints for medical immobilization;

(ii) adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; or

(iii) vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

1 (7) PHYSICAL ESCORT.—The term “physical es-
 2 cort” means the temporary touching or holding of
 3 the hand, wrist, arm, shoulder, waist, hip, or back
 4 for the purpose of inducing a student to move to a
 5 safe location.

6 (8) PHYSICAL RESTRAINT.—The term “physical
 7 restraint” means a personal restriction that immo-
 8 bilizes or reduces the ability of an individual to move
 9 the individual’s arms, legs, body, or head freely.
 10 Such term does not include a physical escort, me-
 11 chanical restraint, or chemical restraint.

12 (9) POSITIVE BEHAVIORAL INTERVENTIONS
 13 AND SUPPORTS.—The term “positive behavioral
 14 interventions and supports”—

15 (A) means a school-wide systematic ap-
 16 proach to embed evidence-based practices and
 17 data-driven decisionmaking to improve school
 18 climate and culture in order to achieve im-
 19 proved academic and social outcomes, and in-
 20 crease learning for all students, including those
 21 with the most complex and intensive behavioral
 22 needs; and

23 (B) encompasses a range of systemic and
 24 individualized positive strategies to reinforce de-
 25 sired behaviors, diminish reoccurrence of chal-

1 lenging behaviors, and teach appropriate behav-
 2 iors to students.

3 (10) PROTECTION AND ADVOCACY SYSTEM.—

4 The term “protection and advocacy system” means
 5 a protection and advocacy system established under
 6 subtitle C of title I of the Developmental Disabilities
 7 Assistance and Bill of Rights Act of 2000 (42
 8 U.S.C. 15041 et seq.).

9 (11) SECLUSION.—The term “seclusion”—

10 (A) means the isolation of a student in a
 11 room, enclosure, or space that is—

12 (i) locked; or

13 (ii) unlocked and the student is pre-
 14 vented from leaving; and

15 (B) does not include a time out.

16 (12) SECRETARY.—The term “Secretary”
 17 means the Secretary of Education, and, where ap-
 18 propriate, the Secretary of the Interior and the Sec-
 19 retary of Defense.

20 (13) STATE-APPROVED CRISIS INTERVENTION
 21 TRAINING PROGRAM.—The term “State-approved
 22 crisis intervention training program” means a train-
 23 ing program proposed by a local educational agency
 24 and approved by a State that, at a minimum, pro-

1 vides training in evidence-based practices shown to
2 be effective—

3 (A) in the prevention of the use of physical
4 restraint;

5 (B) in keeping both school personnel and
6 students safe in imposing physical restraint in
7 a manner consistent with this Act;

8 (C) in the use of data-based decision-
9 making and evidence-based positive behavioral
10 interventions and supports, safe physical escort,
11 conflict prevention, behavioral antecedents,
12 functional behavioral assessments, de-escalation
13 of challenging behaviors, and conflict manage-
14 ment;

15 (D) in first aid, including the signs of
16 medical distress, and cardiopulmonary resus-
17 citation; and

18 (E) certification for school personnel in the
19 practices and skills described in subparagraphs
20 (A) through (D), which shall be required to be
21 renewed on a periodic basis.

22 (14) STUDENT.—The term “student” means a
23 student who—

24 (A) is enrolled in a public school;

1 (B) is enrolled in a private school and is
 2 receiving a free appropriate public education at
 3 the school under subparagraph (B) or (C) of
 4 section 612(a)(10) of the Individuals with Dis-
 5 abilities Education Act (20 U.S.C.
 6 1412(a)(10)(B), (C));

7 (C) is enrolled in a Head Start or Early
 8 Head Start program supported under the Head
 9 Start Act (42 U.S.C. 9831); or

10 (D) receives services under section 619 or
 11 part C of the Individuals with Disabilities Edu-
 12 cation Act (20 U.S.C. 1419, 1431 et seq.).

13 (15) TIME OUT.—The term “time out” means
 14 a behavior management technique that may involve
 15 the separation of the student from the group, in a
 16 non-locked setting, for the purpose of calming. Time
 17 out is not seclusion.

18 **SEC. 3. PURPOSE.**

19 The purposes of this Act are—

20 (1) to promote the development of effective
 21 intervention and prevention practices that do not use
 22 restraints and seclusion;

23 (2) to protect all students from physical or
 24 mental abuse, aversive behavioral interventions that
 25 compromise health and safety, and any restraint im-

1 posed for purposes of coercion, discipline or conven-
 2 ience, or as a substitute for appropriate educational
 3 or positive behavioral interventions and supports;

4 (3) to ensure that staff are safe from the harm
 5 that can occur from inexpertly using restraints; and

6 (4) to ensure the safety of all students and
 7 school personnel and promote positive school culture
 8 and climate.

9 **SEC. 4. MINIMUM STANDARDS; RULE OF CONSTRUCTION.**

10 Each State and local educational agency receiving
 11 Federal financial assistance shall have in place policies
 12 that are consistent with the following:

13 (1) PROHIBITION OF CERTAIN ACTION.—School
 14 personnel, contractors, and resource officers are pro-
 15 hibited from imposing on any student—

16 (A) seclusion;

17 (B) mechanical restraint;

18 (C) chemical restraint;

19 (D) aversive behavioral interventions that
 20 compromise health and safety;

21 (E) physical restraint that is life-threat-
 22 ening, including physical restraint that restricts
 23 breathing; and

24 (F) physical restraint if contraindicated
 25 based on the student's disability, health care

needs, or medical or psychiatric condition, as documented in a health care directive or medical management plan, a behavior intervention plan, an individualized education program or an individualized family service plan (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)), or plan developed pursuant to section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or other relevant record made available to the State or local educational agency.

(2) PHYSICAL RESTRAINT.—

(A) IN GENERAL.—Physical restraint may only be implemented if—

(i) the student’s behavior poses immediate danger of serious physical harm to self or others;

(ii) the physical restraint does not interfere with the student’s ability to communicate in the student’s primary language or mode of communication; and

(iii) less restrictive interventions have been ineffective in stopping the immediate danger of serious physical harm to the student or others, except in a case of a rare

1 and clearly unavoidable emergency cir-
2 cumstance posing immediate danger of se-
3 rious physical harm.

4 (B) LEAST AMOUNT OF FORCE NEC-
5 ESSARY.—When implementing a physical re-
6 straint, staff shall use only the amount of force
7 necessary to protect the student or others from
8 the threatened injury.

9 (C) END OF PHYSICAL RESTRAINT.—The
10 use of physical restraint shall end when—

11 (i) a medical condition occurs putting
12 the student at risk of harm;

13 (ii) the student's behavior no longer
14 poses immediate danger of serious physical
15 harm to the student or others; or

16 (iii) less restrictive interventions
17 would be effective in stopping such imme-
18 diate danger of serious physical harm.

19 (D) QUALIFICATIONS OF INDIVIDUALS EN-
20 GAGING IN PHYSICAL RESTRAINT.—School per-
21 sonnel imposing physical restraint in accordance
22 with this subsection shall—

23 (i) be trained and certified by a State-
24 approved crisis intervention training pro-
25 gram, except in the case of rare and clearly

1 unavoidable emergency circumstances when
 2 school personnel trained and certified are
 3 not immediately available due to the un-
 4 foreseeable nature of the emergency cir-
 5 cumstance;

6 (ii) engage in continuous face-to-face
 7 monitoring of the student; and

8 (iii) be trained in State and school
 9 policies and procedures regarding restraint
 10 and seclusion.

11 (E) PROHIBITION ON USE OF PHYSICAL
 12 RESTRAINT AS PLANNED INTERVENTION.—

13 (i) IN GENERAL.—Except as provided
 14 in clause (ii), the use of physical restraints
 15 as a planned intervention shall not be writ-
 16 ten into a student’s education plan, indi-
 17 vidual safety plan, plan developed pursuant
 18 to section 504 of the Rehabilitation Act of
 19 1973 (29 U.S.C. 794), individualized edu-
 20 cation program or individualized family
 21 service plan (as defined in section 602 of
 22 the Individuals with Disabilities Education
 23 Act (20 U.S.C. 1401)), or any other plan-
 24 ning document for an individual student.

1 (ii) EXCEPTION.—The use of physical
2 restraints as a planned intervention may
3 be written into a student’s individualized
4 education program, individual safety plan,
5 or plan developed pursuant to section 504
6 of the Rehabilitation Act of 1973 (29
7 U.S.C. 794) if State law allows for the use
8 of physical restraint as part of such pro-
9 gram or plan, as agreed upon by school
10 personnel, the family of the student, and
11 the individualized education program com-
12 mittee if such individuals—

13 (I) have considered less restric-
14 tive means to address behavioral con-
15 cerns that would meet the emergency
16 standard described in subparagraph
17 (A) and, when using such physical re-
18 straints in an emergency, meet the
19 conditions described in subparagraphs
20 (B), (C), and (D); and

21 (II) have conducted a research-
22 based, individualized functional behav-
23 ioral analysis and implemented a cor-
24 responding positive intervention plan

1 based on such functional behavioral
2 analysis that—

3 (aa) addresses preventative
4 measures used to reduce or pre-
5 vent emergencies; and

6 (bb) is written into the stu-
7 dent's individualized education
8 program, individual safety plan,
9 or plan developed pursuant to
10 section 504 of the Rehabilitation
11 Act of 1973 (29 U.S.C. 794).

12 (3) OTHER POLICIES.—

13 (A) IN GENERAL.—The State or local edu-
14 cational agency, and each school and edu-
15 cational program served by the State or local
16 educational agency shall—

17 (i) establish policies and procedures
18 that ensure school personnel and parents,
19 including private school personnel and par-
20 ents, are aware of the State, local edu-
21 cational agency, and school's policies and
22 procedures regarding seclusion and re-
23 straint;

24 (ii) establish policies and procedures
25 to keep all students, including students

1 with the most complex and intensive be-
2 havioral needs, and school personnel safe;

3 (iii) establish policies and procedures
4 for planning for the appropriate use of re-
5 straint in crisis situations in accordance
6 with this Act by a team of professionals
7 trained in accordance with a State-ap-
8 proved crisis intervention training pro-
9 gram; and

10 (iv) establish policies and procedures
11 to be followed after each incident involving
12 the imposition of physical restraint upon a
13 student, including—

14 (I) procedures to provide to the
15 parent of the student, with respect to
16 each such incident—

17 (aa) a verbal or electronic
18 communication on the same day
19 as each such incident; and

20 (bb) within 24 hours of each
21 such incident, written notifica-
22 tion; and

23 (II) after the imposition of phys-
24 ical restraint upon a student, proce-
25 dures to ensure that—

(aa) the person who imposed the restraint, the immediate adult witnesses, a representative of the administration, a school mental health professional, and at least 1 family member of the student participate in a debriefing session; and

(bb) the student who was restrained is given the opportunity to discuss the student's perspective about the event with a trusted adult who will communicate to the debriefing session group.

(B) DEBRIEFING SESSION.—

(i) IN GENERAL.—

(I) TIMING.—The debriefing session described in subparagraph (A)(iv)(II) shall occur as soon as practicable, but not later than 5 school days following the imposition of physical restraint unless it is delayed by written mutual agreement of the parent and school.

1 (II) OBSERVATIONS BY SCHOOL
 2 PERSONNEL.—Each adult witness in
 3 the proximity of the student imme-
 4 diately before and during the time of
 5 the physical restraint but not directly
 6 involved shall submit the witness's ob-
 7 servations in writing for the debriefing
 8 session.

9 (III) PARENTAL LEGAL
 10 RIGHTS.—Parents shall retain their
 11 full legal rights for children under the
 12 age of majority concerning participa-
 13 tion in the debriefing or other mat-
 14 ters.

15 (ii) CONTENT OF SESSION.—The de-
 16 briefing session described in subparagraph
 17 (A)(iv)(II) shall include—

18 (I) identification of antecedents
 19 to the physical restraint;

20 (II) consideration of relevant in-
 21 formation in the student's records,
 22 and such information from teachers,
 23 other professionals, the parent, and
 24 student;

1 (III) planning to prevent and re-
2 duce reoccurrence of the use of phys-
3 ical restraint, including consideration
4 of the results of any functional behav-
5 ioral assessments, whether positive be-
6 havior plans were implemented with
7 fidelity, recommendations of appro-
8 priate positive behavioral interventions
9 and supports to assist personnel re-
10 sponsible for the student's educational
11 plan, the individualized education pro-
12 gram for the student, if applicable,
13 and plans providing for reasonable ac-
14 commodations under section 504 of
15 the Rehabilitation Act of 1973 (29
16 U.S.C. 794);

17 (IV) a plan to have a functional
18 behavioral assessment conducted, re-
19 viewed, or revised by qualified profes-
20 sionals, the parent, and the student;
21 and

22 (V) for any student not identified
23 as eligible to receive accommodations
24 under section 504 of the Rehabilita-
25 tion Act of 1973 (29 U.S.C. 794) or

1 services under the Individuals with
 2 Disabilities Education Act (20 U.S.C.
 3 1400 et seq.), evidence of such a re-
 4 ferral or documentation of the basis
 5 for declining to refer the student.

6 (iii) COMMUNICATION BY THE STU-
 7 DENT.—When a student attends a debrief-
 8 ing session described in subparagraph
 9 (A)(iv)(II), information communicated by
 10 the student may not be used against the
 11 student in any disciplinary, criminal, or
 12 civil investigation or proceeding.

13 (4) NOTIFICATION IN WRITING ON DEATH OR
 14 BODILY INJURY.—In a case in which bodily injury or
 15 death of a student occurs in conjunction with the
 16 use of physical restraint or any intervention used to
 17 control behavior, there are procedures to notify, in
 18 writing, within 24 hours after such injury or death
 19 occurs—

20 (A) the State educational agency and local
 21 educational agency;

22 (B) local law enforcement; and

23 (C) a protection and advocacy system, in
 24 the case of a student who is eligible for services
 25 from the protection and advocacy system.

1 (5) PROHIBITION AGAINST RETALIATION.—The
 2 State or local educational agency, each school and
 3 educational program served by the State or local
 4 educational agency, and school personnel of such
 5 school or program shall not retaliate against any
 6 person for having—

7 (A) reported a violation of this section or
 8 Federal or State regulations or policies promul-
 9 gated to carry out this section; or

10 (B) provided information regarding a viola-
 11 tion of this section or Federal or State regula-
 12 tions or policies promulgated to carry out this
 13 section.

14 **SEC. 5. INTERACTIONS; RULES OF CONSTRUCTION.**

15 (a) RULES OF CONSTRUCTION.—

16 (1) RIGHTS AND REMEDIES OF STUDENTS AND
 17 PARENTS.—Nothing in this Act shall be construed to
 18 restrict or limit, or allow the Secretary to restrict or
 19 limit, any other rights or remedies otherwise avail-
 20 able to students or parents under Federal or State
 21 law (including regulations) or to restrict or limit
 22 stronger restrictions on the use of restraint, seclu-
 23 sion, or aversives in Federal or State law (including
 24 regulations) or in State policies.

1 (2) RESTRICTIONS ON SECRETARIAL PROHIBI-
2 TIONS.—Nothing in this Act shall be construed to
3 authorize the Secretary to promulgate regulations
4 prohibiting the use of—

5 (A) time outs; or

6 (B) devices implemented by trained school
7 personnel, or utilized by a student, for the spe-
8 cific and approved therapeutic or safety pur-
9 poses for which such devices were designed and,
10 if applicable, prescribed, including—

11 (i) restraints for medical immobiliza-
12 tion;

13 (ii) adaptive devices or mechanical
14 supports used to achieve proper body posi-
15 tion, balance, or alignment to allow greater
16 freedom of mobility than would be possible
17 without the use of such devices or mechan-
18 ical supports; or

19 (iii) vehicle safety restraints when
20 used as intended during the transport of
21 students in a moving vehicle.

22 (b) DENIAL OF A FREE APPROPRIATE PUBLIC EDU-
23 CATION.—Failure to meet the minimum standards of this
24 Act as applied to an individual child eligible for accom-
25 modations developed pursuant to section 504 of the Reha-

1 bilitation Act of 1973 (29 U.S.C. 794) or for education
 2 or related services under the Individuals with Disabilities
 3 Education Act (20 U.S.C. 1400 et seq.) shall constitute
 4 a denial of a free appropriate public education.

5 (c) EXHAUSTION OF DUE PROCESS.—

6 (1) IN GENERAL.—A student may file a civil ac-
 7 tion under the Constitution, the Americans with Dis-
 8 abilities Act of 1990 (42 U.S.C. 12101 et seq.), title
 9 V of the Rehabilitation Act of 1973 (29 U.S.C. 791
 10 et seq.), or other applicable Federal law in the case
 11 of the use of seclusion or restraint in violation of
 12 this Act seeking relief from the use of seclusion or
 13 restraint with respect of such student.

14 (2) NONAPPLICABILITY.—Section 615(l) of the
 15 Individuals with Disabilities Education Act (20
 16 U.S.C. 1415(l)) shall not apply to an action filed
 17 pursuant to paragraph (1).

18 **SEC. 6. REPORT REQUIREMENTS.**

19 (a) IN GENERAL.—Each State educational agency
 20 shall (in compliance with the requirements of section 444
 21 of the General Education Provisions Act (commonly
 22 known as the “Family Educational Rights and Privacy
 23 Act of 1974”) (20 U.S.C. 1232g)) prepare and submit to
 24 the Secretary, and make available to the public, a report
 25 with respect to each local educational agency, and each

1 school not under the jurisdiction of a local educational
2 agency, located in the same State as such State edu-
3 cational agency that includes the following information:

4 (1) The total number of incidents in which
5 physical restraint was imposed upon a student in the
6 preceding full academic year.

7 (2) The information described in paragraph (1)
8 shall be disaggregated—

9 (A) by the total number of incidents in
10 which physical restraint was imposed upon a
11 student—

12 (i) that resulted in injury to students
13 or school personnel, or both;

14 (ii) that resulted in death; and

15 (iii) in which the school personnel im-
16 posing physical restraint were not trained
17 and certified as described in section
18 4(2)(D)(i); and

19 (B) by the demographic characteristics of
20 all students upon whom physical restraint was
21 imposed, including—

22 (i) the subcategories identified in sec-
23 tion 1111(h)(1)(C)(i) of the Elementary
24 and Secondary Education Act of 1965 (20
25 U.S.C. 6311(h)(1)(C)(i));

1 (ii) age; and

2 (iii) disability category.

3 (b) UNDUPLICATED COUNT; EXCEPTION.—The
4 disaggregation required under subsection (a) shall—

5 (1) be carried out in a manner to ensure an
6 unduplicated count of the total number of incidents
7 in the preceding full academic year in which physical
8 restraint was imposed upon a student; and

9 (2) not be required in a case in which the num-
10 ber of students in a category would reveal personally
11 identifiable information about an individual student.

12 **SEC. 7. GRANT AUTHORITY.**

13 (a) IN GENERAL.—From the amount appropriated
14 under section 10, the Secretary may award grants to State
15 educational agencies to assist in—

16 (1) establishing, implementing, and enforcing
17 the policies and procedures to meet the minimum
18 standards described in this Act;

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

21 (3) improving school climate and culture by im-
22 plementing school-wide positive behavioral interven-
23 tions and supports.

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

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

12 (d) AUTHORITY TO MAKE SUBGRANTS.—

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

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

23 (e) PRIVATE SCHOOL PARTICIPATION.—

24 (1) IN GENERAL.—A State educational agency
25 receiving grant funds under this section shall, after

1 timely and meaningful consultation with appropriate
2 private school officials, ensure that private school
3 personnel can participate, on an equitable basis, in
4 activities supported by grant or subgrant funds.

5 (2) PUBLIC CONTROL OF FUNDS.—The control
6 of funds provided under this section, and title to ma-
7 terials, equipment, and property with such funds,
8 shall be in a public agency and a public agency shall
9 administer such funds, materials, equipment, and
10 property.

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

15 (1) Researching, developing, implementing, and
16 evaluating evidence-based strategies, policies, and
17 procedures to reduce and prevent physical restraint
18 in schools, consistent with the minimum standards
19 described in this Act.

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

23 (g) ADDITIONAL AUTHORIZED ACTIVITIES.—In addi-
24 tion to the required activities described in subsection (f),
25 a State educational agency receiving a grant, or a local

1 educational agency receiving a subgrant, under this sec-
2 tion may use such grant or subgrant funds for one or more
3 of the following:

4 (1) Developing and implementing a high-quality
5 professional development and training program to
6 implement evidence-based systematic approaches to
7 school-wide positive behavioral interventions and
8 supports, including improving coaching, facilitation,
9 and training capacity for administrators, teachers,
10 specialized instructional support personnel, and
11 other staff.

12 (2) Providing technical assistance to develop
13 and implement evidence-based systematic approaches
14 to school-wide positive behavioral interventions and
15 supports, including technical assistance for data-
16 driven decisionmaking related to positive behavioral
17 interventions and supports in the classroom.

18 (3) Researching, evaluating, and disseminating
19 high-quality evidence-based programs and activities
20 that implement school-wide positive behavioral inter-
21 ventions and supports with fidelity.

22 (4) Supporting other local positive behavioral
23 interventions and supports implementation activities
24 consistent with this subsection.

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

4 (1) evaluate the State’s progress toward the
5 prevention and reduction of physical restraint in the
6 schools located in the State, consistent with the min-
7 imum standards; and

8 (2) submit to the Secretary a report on such
9 progress.

10 **SEC. 8. ENFORCEMENT.**

11 (a) USE OF REMEDIES.—If a State educational agen-
12 cy fails to comply with the requirements under this Act,
13 the Secretary shall—

14 (1) withhold, in whole or in part, further pay-
15 ments under an applicable program in accordance
16 with section 455 of the General Education Provi-
17 sions Act (20 U.S.C. 1234d);

18 (2) require a State or local educational agency
19 to submit, and implement, within 1 year of such fail-
20 ure to comply, a corrective plan of action, which may
21 include redirection of funds received under an appli-
22 cable program;

23 (3) issue a complaint to compel compliance of
24 the State or local educational agency through a
25 cease and desist order, in the same manner the Sec-

1 retary is authorized to take such action under sec-
2 tion 456 of the General Education Provisions Act
3 (20 U.S.C. 1234e); or

4 (4) refer the State to the Department of Jus-
5 tice or Department of Education Office of Civil
6 Rights for an investigation.

7 (b) CESSATION OF WITHHOLDING OF FUNDS.—
8 Whenever the Secretary determines (whether by certifi-
9 cation or other appropriate evidence) that a State or local
10 educational agency that is subject to the withholding of
11 payments under subsection (a)(1) has cured the failure
12 providing the basis for the withholding of payments, the
13 Secretary shall cease the withholding of payments with re-
14 spect to the State educational agency under such sub-
15 section.

16 **SEC. 9. APPLICABILITY.**

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

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

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

4 (2) consider a parent who is schooling a child
5 at home as school personnel.

6 **SEC. 10. 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 2015 and each of the 4 succeeding fiscal years.

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