

116TH CONGRESS
2D SESSION

H. R. 8187

To authorize grants to establish a national education protection and advocacy program to enforce the rights and protections under the Individuals with Disabilities Education Act, the Americans with Disabilities Act of 1990, and section 504 of the Rehabilitation Act of 1973, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2020

Mr. DESAULNIER introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To authorize grants to establish a national education protection and advocacy program to enforce the rights and protections under the Individuals with Disabilities Education Act, the Americans with Disabilities Act of 1990, and section 504 of the Rehabilitation Act of 1973, 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 “Protection and Advo-
5 cacy in Education Act”.

1 **SEC. 2. GRANTS TO ESTABLISH A NATIONAL EDUCATION**
2 **PROTECTION AND ADVOCACY PROGRAM.**

3 (a) DEFINITIONS.—In this section:

4 (1) AMERICAN INDIAN CONSORTIUM.—The term
5 “American Indian consortium” has the meaning
6 given the term in section 102 of the Developmental
7 Disabilities Assistance and Bill of Rights Act of
8 2000 (42 U.S.C. 15002).

9 (2) EDUCATIONAL SETTING.—The term “edu-
10 cational setting” includes any setting, including Fed-
11 eral, in which a student (including a child, youth, or
12 an adult) eligible for education and related services
13 under the Acts listed in subsection (b) receives such
14 services.

15 (3) SECRETARY.—The term “Secretary” means
16 the Secretary of Education.

17 (4) PROTECTION AND ADVOCACY SYSTEM.—The
18 term “protection and advocacy system” means a
19 protection and advocacy system established under
20 section 143 of the Developmental Disabilities Assist-
21 ance and Bill of Rights Act of 2000 (42 U.S.C.
22 15043 et seq.).

23 (b) ESTABLISHMENT.—The Secretary shall make
24 grants to a protection and advocacy system for the pur-
25 pose of protecting and advocating for the educational
26 needs of children, youth, and adults who are (or may be)

1 eligible for services under the Individuals with Disabilities
2 Education Act (20 U.S.C. 1400 et seq.), section 504 of
3 the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.),
4 or the Americans with Disabilities Act of 1990 (42 U.S.C.
5 12101 et seq.).

6 (c) USES OF FUNDS.—A protection and advocacy
7 system may use a grant under this section to—

8 (1) monitor compliance with, and identify con-
9 ditions and practices that violate the Acts described
10 in subsection (b);

11 (2) advocate for—

12 (A) safe and humane conditions and the
13 elimination of aversive and dangerous practices
14 at educational settings, including seclusion and
15 restraint;

16 (B) redress of violations of the law and,
17 provide representation in dispute resolution;
18 and

19 (C) systemic change in educational setting
20 to address violations; and

21 (3) pursue administrative, legal, and other ap-
22 propriate remedies to ensure that children, youth,
23 and adults with disabilities are receiving the edu-
24 cational services and rights to which they are enti-
25 tled under the Individuals with Disabilities Edu-

1 cation Act (20 U.S.C. 1400 et seq.), section 504 of
2 the Rehabilitation Act of 1973 (29 U.S.C. 794 et
3 seq.), and the Americans with Disabilities Act of
4 1990 (42 U.S.C. 12101 et seq.).

5 (d) SYSTEM REQUIREMENTS.—To be eligible for a
6 grant under this section, a protection and advocacy system
7 shall—

8 (1) have the authority to investigate incidents
9 of abuse and neglect of youth, children, and adults
10 with disabilities in educational settings if the inci-
11 dents are reported to the protection and advocacy
12 system or if there is probable cause to believe that
13 the incidents occurred;

14 (2) have the authority to pursue legal, adminis-
15 trative, and other appropriate remedies or ap-
16 proaches to ensure the protection of, and advocacy
17 for, the rights of children, youth, and adults who are
18 eligible or who may be eligible for assistance under
19 the Individuals with Disabilities Education Act (20
20 U.S.C. 1400 et seq.), the Americans with Disabil-
21 ities Act of 1990 (42 U.S.C. 12101 et seq.), or sec-
22 tion 504 of the Rehabilitation Act of 1973 (29
23 U.S.C. 794); and

24 (3) have the same authorities as set forth in the
25 Developmental Disabilities Assistance and Bill of

1 Rights Act of 2000 (42 U.S.C. 15001 et seq.) and
2 any regulations issued under such Act, including the
3 authority to access individuals, records, and edu-
4 cational settings.

5 (e) APPLICATION.—A protection and advocacy sys-
6 tem shall submit an application to address the needs of
7 children, youth, and adults with disabilities in educational
8 settings described in subsection (b) to the Secretary at
9 such time, in such form and manner, and accompanied
10 by such information as the Secretary may require.

11 (f) APPROPRIATIONS LESS THAN \$6,600,000.—

12 (1) IN GENERAL.—With respect to any fiscal
13 year in which the amount appropriated pursuant to
14 subsection (k) to carry out this section is less than
15 \$6,600,000, the Secretary shall make grants from
16 such amount among protection and advocacy sys-
17 tems that apply for a grant under this section.

18 (2) AMOUNT OF GRANT.—The amount of a
19 grant under paragraph (1) shall not be less than—

20 (A) \$120,000 for a protection and advo-
21 cacy system located in 1 of the several States,
22 the District of Columbia, or the Commonwealth
23 of Puerto Rico; and

24 (B) \$60,000 for a protection and advocacy
25 system located in American Samoa, the Com-

1 monwealth of the Northern Mariana Islands,
2 Guam, the United States Virgin Islands, or the
3 American Indian Consortium.

4 (g) APPROPRIATIONS OF \$6,600,000 OR MORE.—

5 (1) IN GENERAL.—With respect to any fiscal
6 year in which the amount appropriated pursuant to
7 subsection (k) to carry out this section is not less
8 than \$6,600,000, the Secretary shall make grants
9 from such amount not later than October 1 of the
10 fiscal year to protection and advocacy systems that
11 apply for a grant under this section.

12 (2) AMOUNT OF GRANT.—Subject to paragraph
13 (3), the amount of a grant to a protection and advo-
14 cacy system under paragraph (1) shall be equal to
15 an amount bearing the same ratio to the total
16 amount appropriated for the fiscal year involved
17 pursuant to subsection (k) as the population of the
18 State in which the grantee is located bears to the
19 population of all States.

20 (3) MINIMUMS.—The amount of a grant under
21 paragraph (1) shall not be less than—

22 (A) \$120,000 for a protection and advo-
23 cacy system located in one of the several States,
24 the District of Columbia, or the Commonwealth
25 of Puerto Rico; and

1 (B) \$60,000 for a protection and advocacy
2 system located in American Samoa, the Com-
3 monwealth of the Northern Mariana Islands,
4 Guam, the United States Virgin Islands, or the
5 American Indian Consortium.

6 (4) ADJUSTMENT.—For each fiscal year in
7 which the total amount appropriated under sub-
8 section (k) to carry out this section is \$10,000,000
9 or more, and such appropriated amount exceeds the
10 total amount appropriated to carry out this section
11 in the preceding fiscal year, the Secretary shall in-
12 crease each of the minimum grant amounts de-
13 scribed in subparagraphs (A) and (B) of paragraph
14 (3) by a percentage equal to the percentage increase
15 in the total amount appropriated under subsection
16 (k) to carry out this section between the preceding
17 fiscal year and the fiscal year involved.

18 (h) DIRECT PAYMENT.—Notwithstanding any other
19 provision of law, the Secretary shall pay directly to any
20 protection and advocacy system that complies with this
21 section, the total amount of the grant for such system,
22 unless the system provides otherwise for such payment.

23 (i) ANNUAL REPORT.—Each protection and advocacy
24 system that receives a grant under this section shall sub-
25 mit an annual report to the Secretary concerning the serv-

ices provided to protect and advocate for the educational needs of children, youth, and adults who are (or may be) eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(j) ADMINISTRATIVE, REPORTING, AND OVERSIGHT REQUIREMENTS.—To the extent possible, reporting, monitoring, program financing, and other administrative and oversight requirements established by the Secretary under this section shall be consistent with the administrative, reporting, and oversight requirements for a protection and advocacy system under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 150001 et seq.).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions in this section for each of fiscal years 2021 through 2030.

(l) TECHNICAL ASSISTANCE.—

(1) APPROPRIATIONS OF LESS THAN \$6,750,000.—For any fiscal year in which the amount appropriated to carry out this section is less than \$6,750,000, the Secretary shall set aside 1 percent

1 of the funds appropriated (but not less than
2 \$50,000) to make a grant to a national organization
3 with experience in providing training and technical
4 assistance to protection and advocacy systems to
5 provide such training and technical assistance.

6 (2) APPROPRIATIONS OF NOT LESS THAN
7 \$6,750,000.—For any fiscal year in which the amount
8 appropriated to carry out this section is not less
9 than \$6,750,000, the Secretary shall set aside 2 per-
10 cent of the funds appropriated to make a grant to
11 a national organization with experience in providing
12 training and technical assistance to protection and
13 advocacy systems to provide such training and tech-
14 nical assistance.

15 (m) SUPPLEMENT, NOT SUPPLANT.—A protection
16 and advocacy system shall use funds under this section
17 only to supplement the funds that would, in the absence
18 of such funds, be made available from non-Federal funds
19 for the uses described in subsection (c), and not to sup-
20 plant such funds.

21 (n) CARRYOVER AND PROGRAM INCOME.—Any
22 amount paid to a protection and advocacy system for a
23 fiscal year under this section that remains unobligated at
24 the end of such fiscal year shall remain available to such
25 system for obligation during the subsequent fiscal year.

1 Program income generated from such amount shall re-
2 main available for 2 additional fiscal years after the year
3 in which such amount was paid to the protection and advo-
4 cacy system.

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