

116TH CONGRESS
2D SESSION

S. 4956

To create a Council on Emergency Response Protocols to ensure the establishment of accessible, developmentally appropriate, culturally aware, and trauma-informed emergency response protocols in public schools, early childcare and education settings, and institutions of higher education, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 3, 2020

Mr. CASEY (for himself, Ms. DUCKWORTH, and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To create a Council on Emergency Response Protocols to ensure the establishment of accessible, developmentally appropriate, culturally aware, and trauma-informed emergency response protocols in public schools, early childcare and education settings, and institutions of higher education, 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 “Promoting Responsible
3 Emergency Protocols for All Students Act” or the “PREP
4 for All Students Act of 2020”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) The lack of accessible, developmentally ap-
8 propriate, culturally aware, and trauma-informed
9 emergency response protocols for children and youth
10 in public schools, early childcare and education set-
11 tings, and institutions of higher education is not a
12 trivial issue:

13 (A) In 2016, there were 12,032,000 chil-
14 dren from ages 3 to 5 enrolled in preprimary
15 education programs, and almost one-quarter of
16 children under the age of 5 are in some form
17 of child care arrangement, including nurseries,
18 child care centers, and preschools.

19 (B) In the 2017–2018 school year—

20 (i) 14 percent of students in grades
21 kindergarten through grade 12 had a dis-
22 ability; and

23 (ii) 11 percent of students in
24 postbaccalaureate programs self-identified
25 as having a disability.

1 (2) As of the date of enactment of this Act, lit-
2 tle has been done to integrate specific populations,
3 such as children and youth at various developmental
4 stages or children and youth with disabilities, into
5 emergency preparedness planning.

6 (3) In 2018 alone, there were 108 natural dis-
7 asters in the United States, including severe thun-
8 derstorms, floods, wildfires, droughts, earthquakes,
9 and other extreme weather.

10 (4) During the 16 academic years from 2000
11 through 2015, there were 85 fatal fires in dor-
12 mitories, fraternities, sororities, and off-campus
13 housing, resulting in 118 fatalities—an average of
14 approximately 7 per school year.

15 (5) The risks associated with natural and man-
16 made disasters have a disproportionate impact on in-
17 dividuals with disabilities. People with disabilities
18 are 2 to 4 times more likely to die or sustain critical
19 injuries during a disaster than people without dis-
20 abilities.

21 (6) Technology plays an increasingly vital role
22 in emergency communications but remains largely
23 inaccessible for many individuals with disabilities.

24 (7) The rise of gun violence and gun violence-
25 related deaths has contributed to the expansion of

1 school security technologies and devices. While such
2 technologies and devices have the potential to save
3 lives, they have largely been developed without con-
4 sideration of the needs of students at various devel-
5 opmental stages or students with disabilities. Thus,
6 there may be inherent biases within these tech-
7 nologies and devices that disadvantage or create bias
8 toward specific populations.

9 (8) As of the date of enactment of this Act, 92
10 percent of schools nationwide have an active shooter
11 lockdown protocol. More than 1,000,000 elementary-
12 age children experienced a lockdown in the 2017–
13 2018 school year, and among that group, at least
14 220,000 were in kindergarten or prekindergarten.

15 (9) While the Department of Homeland Secu-
16 rity active shooter emergency guidelines recommend
17 that students and personnel in school and early
18 childcare and education settings “Run, Hide, and
19 Fight”, these strategies can exacerbate danger for
20 young children in prekindergarten and child care
21 centers, and can exclude and put at risk students
22 with a wide range of disabilities.

23 (10) At the height of the 2019 novel
24 coronavirus (COVID–19) pandemic, emergency clo-
25 sures of early education centers, elementary schools,

1 secondary schools, and institutions of higher edu-
2 cation created great disruptions in learning and cast
3 a light on educational institutions' lack of prepared-
4 ness protocols for public health emergencies.

5 (11) During the pandemic, early care and edu-
6 cation remains indispensable for the development of
7 children and for millions of health care workers, first
8 responders, educators, and essential personnel, and
9 it is imperative that early care and education centers
10 and schools have emergency preparedness plans to
11 ensure the safety of students and educators.

12 (12) Emergency preparation drills and real-life
13 lockdowns where danger may be external can create
14 undue stress, fear, and trauma in children, youth,
15 employees, and other specific populations in schools,
16 early childcare and education settings, and institu-
17 tions of higher education.

18 (13) Traumatic events have a long-lasting and
19 profound sensory impact on young children, as birth
20 to age 5 is a critical developmental age. Frightening
21 visual stimuli, loud noises, violent movements, and
22 other sensations associated with an unpredictable
23 frightening event, such as in an emergency prepara-
24 tion drill or lockdown, can cause substantial stress.
25 Unlike older children, young children cannot express

1 in words whether they feel afraid, overwhelmed, or
 2 helpless, and may have difficulty regulating their be-
 3 havior and emotions after experiencing trauma.

4 (14) There is an increasing need to ensure the
 5 establishment of accessible, developmentally appro-
 6 priate, culturally aware, and trauma-informed emer-
 7 gency response protocols, including gun violence re-
 8 sponse and prevention protocols, natural disaster
 9 preparedness procedures, fire drills, and other emer-
 10 gency preparation drills or lockdown procedures, in
 11 public schools, early childcare and education set-
 12 tings, and institutions of higher education.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) ESEA DEFINITIONS.—The terms “elemen-
 16 tary school”, “local educational agency”, “para-
 17 professional”, “school leader”, “secondary school”,
 18 and “specialized instructional support personnel”
 19 have the meanings given the terms in section 8101
 20 of the Elementary and Secondary Education Act of
 21 1965 (20 U.S.C. 7801).

22 (2) ACCESSIBLE.—The term “accessible”, when
 23 used with respect to an emergency response protocol,
 24 means a protocol that—

1 (A) is developed in full compliance with
2 title II of the Americans with Disabilities Act of
3 1990 (42 U.S.C. 12131 et seq.) and the Reha-
4 bilitation Act of 1973 (29 U.S.C. 701 et seq.);
5 and

6 (B) accounts for a comprehensive range of
7 disabilities, including children and youth who
8 use non-speech modes of communication.

9 (3) COUNCIL.—The term “Council” means the
10 Council on Emergency Response Protocols estab-
11 lished under section 4.

12 (4) CULTURALLY AWARE.—The term “cul-
13 turally aware”, when used with respect to an emer-
14 gency response protocol, means a protocol that—

15 (A)(i) incorporates the roles of first re-
16 sponder personnel, law enforcement personnel,
17 school resource officers, and other authorities in
18 the communities where the students live and at-
19 tend school;

20 (ii) takes into account the use and preva-
21 lence of firearms in such communities; and

22 (iii) is cognizant of the ways in which Afri-
23 can-American students and students of other
24 racial or ethnic minority groups are more likely
25 to face disciplinary action in schools;

1 (B) is designed to be sensitive to and re-
2 spect cultural differences and differences in cus-
3 toms and worldview; and

4 (C) considers the ways in which certain
5 emergency events have disparate impact on Af-
6 rican Americans, Native peoples, and other ra-
7 cial and ethnic minorities.

8 (5) DEVELOPMENTALLY APPROPRIATE.—The
9 term “developmentally appropriate”, when used with
10 respect to an emergency response protocol, means a
11 protocol that is appropriate for children’s ages and
12 physical, social, sensory, and emotional develop-
13 mental statuses.

14 (6) DISABILITY.—The term “disability” has the
15 meaning given the term in section 3 of the Ameri-
16 cans with Disabilities Act of 1990 (42 U.S.C.
17 12102).

18 (7) INSTITUTION OF HIGHER EDUCATION.—The
19 term “institution of higher education” has the
20 meaning given the term in section 102 of the Higher
21 Education Act of 1965 (20 U.S.C. 1002).

22 (8) TRAUMA-INFORMED.—The term “trauma-
23 informed”, when used with respect to an emergency
24 response protocol, means a protocol that—

1 (A) recognizes the prevalence of trauma
 2 and the role that trauma plays in the lives of
 3 children, youth, and survivors of trauma;

4 (B) considers the physical, psychological,
 5 and emotional well-being of individuals during
 6 and after an emergency event; and

7 (C) takes an approach that actively com-
 8 bats the traumatization or retraumatization of
 9 children, youth, and survivors of trauma.

10 **SEC. 4. ESTABLISHMENT OF COUNCIL ON EMERGENCY RE-**
 11 **SPONSE PROTOCOLS.**

12 (a) ESTABLISHMENT.—There is established a Council
 13 on Emergency Response Protocols.

14 (b) COMPOSITION.—

15 (1) CHAIRPERSON.—The Secretary of Edu-
 16 cation, in an expeditious manner, shall appoint an
 17 individual who represents one of the categories de-
 18 scribed in paragraph (2) to serve as a member and
 19 chairperson of the Council.

20 (2) APPOINTED MEMBERS.—By not later than
 21 90 days after the date of enactment of this Act, the
 22 chairperson of the Council shall appoint a member
 23 to the Council for each of the following categories
 24 (except for the category represented by the chair-
 25 person):

1 (A) An executive director or a representa-
2 tive from a national organization representing
3 individuals with disabilities.

4 (B) An executive director or a representa-
5 tive from a national organization representing
6 early childcare educators.

7 (C) The executive director or a representa-
8 tive from a national organization representing
9 law enforcement officials.

10 (D) The executive director or a representa-
11 tive from an organization focused on emergency
12 preparedness training in early childcare.

13 (E) A member of an organization rep-
14 resenting teachers, school leaders, specialized
15 instructional support personnel, and paraprofes-
16 sionals.

17 (F) A member of an organization rep-
18 resenting school-based child welfare and mental
19 health professionals.

20 (G) An individual with a physical, sensory,
21 intellectual, or developmental disability who has
22 demonstrated disability advocacy experience in
23 kindergarten through grade 12 education.

24 (H) An individual with a mental health
25 disability who has been enrolled in an institu-

tion of higher education for at least a year during the 5 years prior to the date of the individual's appointment to the Council.

(I) An individual with a physical, sensory, intellectual, or developmental disability who has been enrolled in an institution of higher education for a year prior to the date of the individual's appointment to the Council.

(J) A parent or guardian of a child in an early childcare and education program.

(K) A parent or guardian of a child with a physical, sensory, intellectual, or developmental disability in—

(i) an early childcare and education program; or

(ii) a public elementary school or secondary school.

(3) FEDERAL MEMBERS.—

(A) DEPARTMENT OF EDUCATION MEMBERS.—The following officers of the Department of Education shall serve as members of the Council:

(i) The Assistant Secretary of the Office of Planning, Evaluation, and Policy Development.

1 (ii) The Assistant Secretary of the Of-
 2 fice of Special Education and Rehabilita-
 3 tive Services.

4 (iii) The Assistant Secretary for Civil
 5 Rights.

6 (iv) The Director for the Office of
 7 Early Learning.

8 (v) The Director of the Office of Spe-
 9 cial Education Programs.

10 (B) HEALTH AND HUMAN SERVICES MEM-
 11 BERS.—The following officers of the Adminis-
 12 tration for Children and Families of the De-
 13 partment of Health and Human Services shall
 14 serve as members of the Council:

15 (i) The Director of the Office of Child
 16 Care.

17 (ii) The Director of the Office of
 18 Head Start.

19 (C) FEMA MEMBER.—The Administrator
 20 of the Federal Emergency Management Agency
 21 shall serve as a member of the Council.

22 (4) ADDITIONAL REQUIREMENTS.—The chair-
 23 person shall ensure that not less than one of the
 24 members appointed under paragraph (2) has directly
 25 experienced, as a student, gun violence or another

1 emergency event in which a lockdown protocol was
2 enforced in an educational setting that was the pri-
3 mary target of the emergency event.

4 (c) MEETINGS.—

5 (1) INITIAL MEETING.—The Council shall hold
6 its first meeting not later than 90 days after the
7 date of enactment of this Act.

8 (2) FREQUENCY.—The Council shall meet at
9 the call of the chairperson.

10 (3) QUORUM.—A majority of the members of
11 the Council shall constitute a quorum, but a lesser
12 number of members may hold hearings.

13 **SEC. 5. DUTIES.**

14 (a) HEARING.—The Council shall hold a hearing with
15 relevant stakeholders, including students and educators,
16 principals and other school leaders, child care experts, dis-
17 ability advocates, civil rights advocates, law enforcement,
18 security experts, and others, not later than 120 days after
19 the date of enactment of this Act.

20 (b) STUDY AND REVIEW.—The Council shall—

21 (1) study emergency response protocols, includ-
22 ing gun violence response and prevention protocols,
23 natural disaster preparedness procedures, fire drills,
24 and other emergency preparation drills or lockdown
25 procedures, for educational settings including early

1 childcare and education settings, elementary schools
2 and secondary schools, and institutions of higher
3 education; and

4 (2) conduct a complete and thorough review of
5 the relevant literature and research surrounding
6 emergency response protocols in such educational
7 settings and the impact that emergency response
8 protocols can have on specific populations of chil-
9 dren, youth, and employees, including the effects on
10 children living in poverty and children of color.

11 (c) RECOMMENDATIONS AND GUIDELINES.—After
12 completing the study and review described in subsection
13 (b), the Council shall provide—

14 (1) recommendations that ensure that States,
15 early childcare and education settings, local edu-
16 cational agencies, and institutions of higher edu-
17 cation are provided with accurate information about
18 the needs of specific populations of children, youth,
19 and employees during emergencies;

20 (2) guidelines for States, early childcare and
21 education settings, local educational agencies, and
22 institutions of higher education to use in developing
23 and implementing emergency response protocols, in-
24 cluding gun violence response and prevention proto-
25 cols, natural disaster preparedness procedures, fire

drills, and other emergency preparation drills or lockdown procedures, that are inclusive and accessible; and

(3) guidelines—

(A) for the development and implementation of accessible, developmentally appropriate, culturally aware, and trauma-informed emergency response protocols, including gun violence response and prevention protocols, natural disaster preparedness procedures, fire drills, and other emergency preparation drills or lockdown procedures, that include information about—

(i) preparedness drills, including discussions and seminars on emergency preparedness, workshops, and full-scale emergency simulations;

(ii) emergency communications;

(iii) training for educators, early childcare and education staff, administrators, and support personnel, including—

(I) training addressing implicit biases on the basis of race, national origin, socioeconomic status, religion, disability, and sex (including sexual orientation and gender identity); and

1 (II) other training to ensure the
2 nondiscriminatory application of pro-
3 tocols and treatment of students;

4 (iv) the use of technology; and

5 (v) other issues determined appro-
6 priate by the Council;

7 (B) for the use of Federal funds by States,
8 early childcare and education programs, local
9 educational agencies, and institutions of higher
10 education to develop and implement emergency
11 response protocols, including gun violence re-
12 sponse and prevention protocols, natural dis-
13 aster preparedness procedures, fire drills, and
14 other emergency preparation drills or lockdown
15 procedures, that are inclusive and accessible;
16 and

17 (C) for States to create and develop rec-
18 ommendations for oversight for public elemen-
19 tary schools and secondary schools, early
20 childcare and education settings, and institu-
21 tions of higher education to ensure any emer-
22 gency response protocols—

23 (i) are inclusive and accessible;

24 (ii) protect student privacy; and

1 (iii) avoid exacerbating risk for chil-
2 dren and youth with disabilities, young
3 children, employees, and other specific pop-
4 ulations.

5 (d) REPORT.—By not later than 18 months after the
6 date of enactment of this Act, the Council shall prepare
7 and submit to Congress a detailed report that contains—

8 (1) findings from stakeholders related to the
9 challenges faced by children and youth with disabil-
10 ities, young children, and other specific populations
11 with regard to emergency response protocols, includ-
12 ing gun violence response and prevention protocols,
13 natural disaster preparedness procedures, fire drills,
14 and other emergency preparation drills or lockdown
15 procedures; and

16 (2) the recommendations and guidelines de-
17 scribed in subsection (c).

18 **SEC. 6. POWERS OF COUNCIL.**

19 (a) HEARINGS.—The Council may hold such hear-
20 ings, sit and act at such times and places, take such testi-
21 mony, and receive such evidence as the Council considers
22 advisable to carry out this Act.

23 (b) INFORMATION FROM FEDERAL AGENCIES.—

24 (1) IN GENERAL.—The Council may secure di-
25 rectly from a Federal department or agency such in-

1 formation as the Council considers necessary to
2 carry out this Act.

3 (2) FURNISHING INFORMATION.—On request of
4 the chairperson of the Council, the head of the de-
5 partment or agency shall furnish the information to
6 the Council.

7 (c) POSTAL SERVICES.—The Council may use the
8 United States mails in the same manner and under the
9 same conditions as other departments and agencies of the
10 Federal Government.

11 **SEC. 7. COUNCIL PERSONNEL MATTERS.**

12 (a) COMPENSATION OF MEMBERS.—Only members of
13 the Council representing categories described in subpara-
14 graphs (G) through (K) of section 4(b)(2) shall be com-
15 pensated for their work for the Council. Such members
16 may receive compensation at a rate equal to the daily
17 equivalent of the annual rate of basic pay prescribed for
18 level IV of the Executive Schedule under section 5315 of
19 title 5, United States Code, for each day (including travel
20 time) during which the members are engaged in the per-
21 formance of the duties of the Council.

22 (b) TRAVEL EXPENSES.—A member of the Council
23 shall be allowed travel expenses, including per diem in lieu
24 of subsistence, at rates authorized for employees of agen-
25 cies under subchapter I of chapter 57 of title 5, United

1 States Code, while away from their homes or regular
2 places of business in the performance of services for the
3 Council.

4 (c) STAFF.—

5 (1) IN GENERAL.—The chairperson of the
6 Council may, without regard to the civil service laws
7 (including regulations), appoint and terminate an ex-
8 ecutive director and such other additional personnel
9 as may be necessary to enable the Council to per-
10 form its duties, except that the employment of an
11 executive director shall be subject to confirmation by
12 the Council.

13 (2) COMPENSATION.—The chairperson of the
14 Council may fix the compensation of the executive
15 director and other personnel without regard to chap-
16 ter 51 and subchapter III of chapter 53 of title 5,
17 United States Code, relating to classification of posi-
18 tions and General Schedule pay rates, except that
19 the rate of pay for the executive director and other
20 personnel may not exceed the rate payable for level
21 V of the Executive Schedule under section 5316 of
22 that title.

23 (d) DETAIL OF GOVERNMENT EMPLOYEES.—A Fed-
24 eral Government employee may be detailed to the Council

1 without reimbursement, and such detail shall be without
2 interruption or loss of civil service status or privilege.

3 (e) **PROCUREMENT OF TEMPORARY AND INTERMIT-**
4 **TENT SERVICES.**—The chairperson of the Council may
5 procure temporary and intermittent services under section
6 3109(b) of title 5, United States Code, at rates for individ-
7 uals that do not exceed the daily equivalent of the annual
8 rate of basic pay prescribed for level V of the Executive
9 Schedule under section 5316 of that title.

10 **SEC. 8. TERMINATION OF COUNCIL.**

11 The Council shall terminate 60 days after the date
12 on which the Council submits the report required under
13 section 5(d).

14 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

15 (a) **IN GENERAL.**—There is authorized to be appro-
16 priated to the Council to carry out this Act a total of
17 \$500,000 for fiscal years 2021 and 2022.

18 (b) **AVAILABILITY.**—Any sums appropriated under
19 subsection (a) shall remain available, without fiscal year
20 limitation, until expended.

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