

117TH CONGRESS
1ST SESSION

H. R. 3474

To prohibit and prevent seclusion, mechanical restraint, chemical restraint, and dangerous restraints that restrict breathing, and to prevent and reduce the use of physical restraint in schools, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2021

Mr. BEYER (for himself, Mr. SCOTT of Virginia, Mr. McEACHIN, Ms. BLUNT ROCHESTER, Mr. LYNCH, Ms. CLARKE of New York, Ms. PINGREE, Mrs. BEATTY, Ms. MOORE of Wisconsin, Mr. COHEN, Mr. LOWENTHAL, Mr. LANGEVIN, Mr. CASTEN, Ms. LEE of California, Mr. BROWN, Ms. SCANLON, Mr. GALLEG0, Ms. NORTON, Mr. GARCÍA of Illinois, Mr. BISHOP of Georgia, Mr. PANETTA, Mr. MORELLE, Mrs. HAYES, Mr. TONKO, Ms. MCCOLLUM, Mr. LEVIN of Michigan, Ms. MENG, Mr. SOTO, Ms. SCHAKOWSKY, Ms. VELÁZQUEZ, Mr. KILDEE, Mr. MOULTON, Ms. SHERRILL, Mr. PRICE of North Carolina, Mrs. NAPOLITANO, Mr. CONNOLLY, Mr. DESAULNIER, Mr. NADLER, Ms. JAYAPAL, Mr. RASKIN, Mr. POCAN, Mrs. CAROLYN B. MALONEY of New York, Mr. GRIJALVA, Mr. SUOZZI, Mrs. WATSON COLEMAN, Mr. COOPER, Ms. DEAN, Mrs. LAWRENCE, Ms. ADAMS, Mrs. MCBATH, Mr. SABLON, Mr. JONES, Ms. BARRAGÁN, Mr. DANNY K. DAVIS of Illinois, Mr. AUCHINCLOSS, Ms. DELBENE, Mr. TAKANO, Mr. ESPAILLAT, Ms. TLAIB, and Mr. TRONE) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit and prevent seclusion, mechanical restraint, chemical restraint, and dangerous restraints that restrict

breathing, and to prevent and reduce the use of physical restraint in schools, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Keeping All Students Safe Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
 7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—PROHIBITIONS ON RESTRAINT AND SECLUSION AND
 ADDITIONAL REQUIREMENTS

Sec. 101. Prohibition, additional requirements.

TITLE II—STATE PLAN, REPORTING REQUIREMENTS, AND
 GRANTS FOR STATE EDUCATIONAL AGENCIES

Sec. 201. Definitions.

Sec. 202. State plan.

Sec. 203. Grants for State educational agencies.

TITLE III—GENERAL PROVISIONS

Sec. 301. National assessment.

Sec. 302. Protection and advocacy systems.

Sec. 303. Schools operated or funded by the Department of the Interior or the
 Department of Defense.

Sec. 304. Rule of construction.

Sec. 305. Applicability to private schools and home schools.

Sec. 306. Severability.

Sec. 307. Authorization of appropriations.

8 **SEC. 2. DEFINITIONS.**

9 In this Act:

10 (1) CHEMICAL RESTRAINT.—The term “chem-
 11 ical restraint” means a drug or medication used on

1 a student to control behavior or restrict freedom of
2 movement that is not—

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

8 (B) administered as prescribed by the li-
9 censed physician or other qualified health pro-
10 fessional acting under the scope of the profes-
11 sional’s authority under State law.

12 (2) ESEA TERMS.—The terms “early childhood
13 education program”, “educational service agency”,
14 “elementary school”, “local educational agency”,
15 “other staff”, “paraprofessional”, “parent”, “school
16 leader”, “secondary school”, “specialized instruc-
17 tional support personnel”, “State”, and “State edu-
18 cational agency” have the meanings given the terms
19 in section 8101 of the Elementary and Secondary
20 Education Act of 1965 (20 U.S.C. 7801).

21 (3) LAW ENFORCEMENT OFFICER.—The term
22 “law enforcement officer”—

23 (A) means any person who—

24 (i) is a State, Tribal, or local law en-
25 forcement officer (as defined in section

1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10284); and

(ii) is assigned by the employing law enforcement agency to a program, who is contracting with a program, or who is employed by a program; and

(B) includes an individual referred to as a “school resource officer” if that individual meets the definition in subparagraph (A).

(4) MECHANICAL RESTRAINT.—The term “mechanical restraint” means the use of devices as a means of restricting a student’s freedom of movement.

(5) PHYSICAL ESCORT.—The term “physical escort” means the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

(6) PHYSICAL RESTRAINT.—The term “physical restraint” means a personal restriction that immobilizes or reduces the ability of an individual to move the individual’s arms, legs, torso, or head freely, except that such term does not include a physical escort, mechanical restraint, or chemical restraint.

1 (7) POSITIVE BEHAVIORAL INTERVENTIONS
2 AND SUPPORTS.—The term “positive behavioral
3 interventions and supports”—

4 (A) means a schoolwide, systematic ap-
5 proach that embeds evidence-based practices
6 and data-driven decision making to improve
7 school climate and culture in order to achieve
8 improved academic and social outcomes and in-
9 crease learning for all students (including stu-
10 dents with the most complex and intensive be-
11 havioral needs); and

12 (B) encompasses a range of systemic and
13 individualized positive strategies to teach and
14 reinforce school-expected behaviors, while dis-
15 couraging and diminishing undesirable behav-
16 iors.

17 (8) PROGRAM.—The term “program” means—

18 (A) all of the operations of a local edu-
19 cational agency, system of vocational education,
20 or other school system;

21 (B) a program that serves children who re-
22 ceive services for which financial assistance is
23 provided in accordance with the Head Start Act
24 (42 U.S.C. 9831 et seq.); or

(C) an elementary school or secondary school that is not a public school that enrolls a student who receives special education and related services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(9) PROGRAM PERSONNEL.—

(A) IN GENERAL.—Subject to subparagraph (B), the term “program personnel” means any agent of a program, including an individual who is employed by a program, or who performs services for a program on a contractual basis, including—

(i) school leaders;

(ii) teachers;

(iii) specialized instructional support personnel;

(iv) paraprofessionals; or

(v) other staff.

(B) EXCLUSION.—Notwithstanding subparagraph (A), program personnel shall not include a law enforcement officer or a school security guard.

(10) PROTECTION AND ADVOCACY SYSTEM.—

The term “protection and advocacy system” means

1 a protection and advocacy system established under
2 section 143 of the Developmental Disabilities Assist-
3 ance and Bill of Rights Act of 2000 (42 U.S.C.
4 15043).

5 (11) SCHOOL SECURITY GUARD.—The term
6 “school security guard” means an individual who is
7 not a sworn law enforcement officer and who is re-
8 sponsible for addressing one or more of the following
9 safety and crime prevention activities in and around
10 a program:

11 (A) Assisting program personnel in safety
12 incidents.

13 (B) Educating students in crime and ille-
14 gal drug use prevention and safety.

15 (C) Developing or expanding community
16 justice initiatives for students.

17 (D) Training students in conflict resolution
18 and supporting restorative justice programs.

19 (E) Serving as a liaison between the pro-
20 gram and outside agencies, including other law
21 enforcement agencies.

22 (F) Screening students or visitors to the
23 program for prohibited items.

24 (12) SECLUSION.—The term “seclusion” means
25 the involuntary confinement of a student alone in a

1 room or area from which the student is physically
2 prevented from leaving, except that such term does
3 not include a time out.

4 (13) SECRETARY.—The term “Secretary”
5 means the Secretary of Education.

6 (14) SPECIAL EDUCATION SCHOOL.—The term
7 “special education school” means a school that fo-
8 cuses primarily on serving the needs of students
9 with disabilities under the Individuals with Disabil-
10 ities Education Act (20 U.S.C. 1400 et seq.) or sec-
11 tion 504 of the Rehabilitation Act of 1973 (29
12 U.S.C. 794).

13 (15) STATE-APPROVED CRISIS INTERVENTION
14 TRAINING PROGRAM.—The term “State-approved
15 crisis intervention training program” means a train-
16 ing program approved by a State and the Secretary
17 that, at a minimum, provides—

18 (A) training in evidence-based techniques
19 shown to be effective in the prevention of phys-
20 ical restraint;

21 (B) evidence-based skills training related
22 to positive behavioral interventions and sup-
23 ports, safe physical escort, conflict prevention,
24 understanding antecedents, deescalation, and
25 conflict management;

1 (C) training in evidence-based techniques
2 shown to be effective in keeping both school
3 personnel and students safe when imposing
4 physical restraint;

5 (D) training in first aid and
6 cardiopulmonary resuscitation;

7 (E) information describing State policies
8 and procedures to ensure compliance with sec-
9 tion 101; and

10 (F) certification for school personnel, law
11 enforcement officers, and school security guards
12 in the techniques and skills described in sub-
13 paragraphs (A) through (D), which shall be re-
14 quired to be renewed on a periodic basis.

15 (16) STUDENT.—The term “student” means—

16 (A) for purposes of title I, a student en-
17 rolled in a program; and

18 (B) for purposes of title II, a student en-
19 rolled in an elementary school or secondary
20 school.

21 (17) TIME OUT.—

22 (A) IN GENERAL.—The term “time out”
23 means a behavior management technique that
24 may involve the separation of the student from
25 the group or classroom in a non-locked setting.

(B) CLARIFICATION.—The term “time out” does not include—

(i) seclusion; or

(ii) a separation of the student described in subparagraph (A) from which such student is physically or otherwise prohibited from leaving.

TITLE I—PROHIBITIONS ON RESTRAINT AND SECLUSION AND ADDITIONAL REQUIREMENTS

SEC. 101. PROHIBITION, ADDITIONAL REQUIREMENTS.

(a) PROHIBITION.—No student shall be subjected to unlawful seclusion or restraint by program personnel, a law enforcement officer, or a school security guard, while attending any program that receives Federal financial assistance.

(b) UNLAWFUL SECLUSION OR RESTRAINT DEFINED.—

(1) IN GENERAL.—In this section, the term “unlawful seclusion or restraint” means—

(A) seclusion;

(B) mechanical restraint;

(C) chemical restraint;

1 (D) physical restraint or physical escort
2 that is life threatening, that restricts breathing,
3 or that restricts blood flow to the brain, includ-
4 ing prone and supine restraint;

5 (E) physical restraint that is contra-
6 indicated based on the student's disability,
7 health care needs, or medical or psychiatric con-
8 dition, as documented in—

9 (i) a health care directive or medical
10 management plan;

11 (ii) a behavior intervention plan;

12 (iii) an individualized education pro-
13 gram or an individualized family service
14 plan (as defined in section 602 of the Indi-
15 viduals with Disabilities Education Act (20
16 U.S.C. 1401));

17 (iv) a plan developed pursuant to sec-
18 tion 504 of the Rehabilitation Act of 1973
19 (29 U.S.C. 794) or title II of the Ameri-
20 cans with Disabilities Act of 1990 (42
21 U.S.C. 12131 et seq.); or

22 (v) another relevant record made
23 available to the State or program involved;
24 or

1 (F) physical restraint that is not in compli-
2 ance with subsection (e)(1).

3 (2) NOT INCLUDED.—The term “unlawful se-
4 clusion or restraint” shall not include—

5 (A) a time out; or

6 (B) a device 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, provided that such de-
11 vices are not used to purposefully cause a stu-
12 dent pain as a means of behavioral modifica-
13 tion, including—

14 (i) restraints for medical immobiliza-
15 tion;

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

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

25 (c) PRIVATE RIGHT OF ACTION.—

1 (1) IN GENERAL.—A student who has been sub-
2 jected to unlawful seclusion or restraint in violation
3 of subsection (a), or the parent of such student, may
4 file a civil action against the program under which
5 the violation is alleged to have occurred in an appro-
6 priate district court of the United States or in State
7 court for declaratory judgement, injunctive relief,
8 compensatory relief, attorneys’ fees, or expert fees.

9 (2) LIMITATION ON LIABILITY.—Program per-
10 sonnel shall not be liable to any person in a pro-
11 ceeding described in paragraph (1) or in an arbitra-
12 tion proceeding for a violation of subsection (a).

13 (3) NO SOVEREIGN IMMUNITY.—No program
14 shall be immune under the Eleventh Amendment of
15 the Constitution of the United States from suit in
16 Federal or State court for a violation of subsection
17 (a) of this section.

18 (d) ENFORCEMENT.—

19 (1) INVESTIGATIONS.—

20 (A) IN GENERAL.—The Secretary shall ad-
21 dress any complaints alleging a violation of sub-
22 section (a) by an entity described in subpara-
23 graphs (A) or (C) of section 2(8) for an appro-
24 priate investigation.

1 (B) HEAD START.—The Secretary of
2 Health and Human Services shall address any
3 complaints alleging a violation of subsection (a)
4 by an entity described in section 2(8)(B) for an
5 appropriate investigation.

6 (2) WITHHOLDING PAYMENTS.—In the event a
7 student has been subjected to unlawful seclusion or
8 restraint in violation of subsection (a), the Secretary
9 shall withhold from the program under which the
10 violation occurred, in whole or in part, further pay-
11 ments (including payments for administrative costs)
12 in accordance with section 455 of the General Edu-
13 cation Provisions Act (20 U.S.C. 1234d).

14 (3) HEAD START PROGRAMS.—The Secretary of
15 Health and Human Services, in coordination with
16 the Secretary, shall—

17 (A) ensure that entities described in sec-
18 tion 2(8)(B) meet the requirements described in
19 subsection (e);

20 (B) promulgate regulations with respect to
21 how the reporting requirements described in
22 section 202(b) shall be carried out with respect
23 to Head Start agencies (including Early Head
24 Start agencies) under the Head Start Act (42
25 U.S.C. 9801 et seq.); and

1 (C) in the event a student served by a pro-
2 gram that serves children who receive services
3 for which financial assistance is provided in ac-
4 cordance with the Head Start Act (42 U.S.C.
5 9831 et seq.) has been subjected to unlawful se-
6 clusion or restraint in violation of subsection
7 (a), withhold from the program under which the
8 violation occurred, in whole or in part, further
9 payments (including payments for administra-
10 tive costs) in accordance with section 646 of the
11 Head Start Act (42 U.S.C. 9841).

12 (e) ADDITIONAL REQUIREMENTS.—The Secretary
13 shall ensure that each program that receives Federal fi-
14 nancial assistance meets the following requirements:

15 (1) PHYSICAL RESTRAINT.—The use of physical
16 restraint by any program personnel, a school secu-
17 rity guard, or a law enforcement officer shall be con-
18 sidered in compliance with the requirements of this
19 subsection only if each of the following requirements
20 are met:

21 (A) The student's behavior poses an immi-
22 nent danger of serious physical injury to the
23 student, program personnel, a school security
24 guard, a law enforcement officer, or another in-
25 dividual.

1 (B) Before using physical restraint, less
2 restrictive interventions would be ineffective in
3 stopping such imminent danger of serious phys-
4 ical injury.

5 (C) Such physical restraint is imposed
6 by—

7 (i) program personnel, a school secu-
8 rity guard, or a law enforcement officer
9 trained and certified by a State-approved
10 crisis intervention training program; or

11 (ii) program personnel, a school secu-
12 rity guard, or a law enforcement officer
13 not trained and certified as described in
14 clause (i), in the case of a rare and clearly
15 unavoidable emergency circumstance when
16 program personnel, a school security
17 guard, or a law enforcement officer trained
18 and certified as described in clause (i) is
19 not immediately available due to the un-
20 foreseeable nature of the emergency cir-
21 cumstance.

22 (D) Such physical restraint ends imme-
23 diately upon the cessation of the imminent dan-
24 ger of serious physical injury to the student,

1 any program personnel, a school security guard,
2 a law enforcement officer, or another individual.

3 (E) The physical restraint does not inter-
4 fere with the student's ability to communicate
5 in the student's primary language or primary
6 mode of communication.

7 (F) During the physical restraint, the least
8 amount of force necessary is used to protect the
9 student or others from the threatened injury.

10 (2) TRAINING.—Each State, in consultation
11 with program officials and State Directors of Head
12 Start Collaboration (as described in section 642B of
13 the Head Start Act (42 U.S.C. 9837b)), shall ensure
14 that a sufficient number of program personnel are
15 trained and certified by a State-approved crisis
16 intervention training program to meet the needs of
17 the specific student population in each program.

18 (3) PROHIBITION ON PLANNED INTERVEN-
19 TION.—The use of physical restraint as a planned
20 intervention shall not be written into a student's
21 education plan, individual safety plan, behavioral
22 intervention plan, or individualized education pro-
23 gram (as defined in section 602 of the Individuals
24 with Disabilities Education Act (20 U.S.C. 1401)),
25 except that a program may establish policies and

1 procedures for use of physical restraint in program
2 safety or crisis plans, provided that such a plan is
3 not specific to any individual student.

4 (4) PROCEDURES FOLLOWING PHYSICAL RE-
5 STRAINT.—Each program shall establish procedures
6 to be followed after an incident involving the imposi-
7 tion of physical restraint upon a student, which shall
8 include each of the following:

9 (A) Procedures to provide to the parent of
10 the student, with respect to such incident—

11 (i) an immediate verbal or electronic
12 communication, as soon as is practicable
13 and not later than the same day as the in-
14 cident; and

15 (ii) written notification, as soon as is
16 practicable, and not later than 24 hours
17 after the incident that shall include, at
18 minimum—

19 (I) a description of the incident,
20 including precipitating events;

21 (II) positive interventions used
22 prior to restraint;

23 (III) the length of time of re-
24 straint; and

1 (IV) a description of the serious
2 physical injury of the student or oth-
3 ers that occurred or was about to
4 occur that necessitated the use of re-
5 straint.

6 (B) A meeting between parents of the stu-
7 dent and the program, as soon as is practicable,
8 and not later than 5 school days following the
9 incident (unless such meeting is delayed by
10 written mutual agreement of the parent and
11 program)—

12 (i) which meeting shall include, at a
13 minimum—

14 (I) the parent of such student;

15 (II) the student involved (if ap-
16 propriate);

17 (III) the program personnel, law
18 enforcement officer, or school security
19 guard who imposed the restraint;

20 (IV) a teacher of such student;

21 (V) a program leader of such stu-
22 dent; and

23 (VI) an expert on behavior inter-
24 ventions, who may be a special edu-
25 cation teacher;

1 (ii) the purpose of which shall be to
2 discuss the incident, as described by both
3 the student and the program personnel,
4 law enforcement officer, or school security
5 guard involved, including—

6 (I) any precipitating events;

7 (II) how the incident occurred;

8 and

9 (III) prior positive behavioral
10 interventions and supports used to de-
11 escalate the situation; and

12 (iii) which meeting shall include—

13 (I) the discussion of proactive
14 strategies to prevent future need for
15 the use of physical restraint;

16 (II)(aa) for a student identified
17 as eligible to receive accommodations
18 under section 504 of the Rehabilita-
19 tion Act of 1973 (29 U.S.C. 794) or
20 title II of the Americans with Disabil-
21 ities Act of 1990 (42 U.S.C. 12131 et
22 seq.), or accommodations or special
23 education or related services under
24 the Individuals with Disabilities Edu-
25 cation Act (20 U.S.C. 1400 et seq.),

1 a discussion of the need for a func-
2 tional behavioral assessment and a be-
3 havior intervention plan; or

4 (bb) for a student not identified
5 as eligible to receive accommodations
6 under the provisions of law described
7 in item (aa), evidence of a referral for
8 such accommodations or special edu-
9 cation or related services, or docu-
10 mentation of the basis for declining to
11 make such a referral for the student;
12 and

13 (III) providing to the parent, for
14 use during the meeting, a written
15 statement from each adult witness
16 who was in the proximity of the stu-
17 dent immediately before and during
18 the time of the physical restraint, but
19 was not directly involved in such re-
20 straint.

1 **TITLE II—STATE PLAN, REPORT-**
2 **ING REQUIREMENTS, AND**
3 **GRANTS FOR STATE EDU-**
4 **CATIONAL AGENCIES**

5 **SEC. 201. DEFINITIONS.**

6 In this title:

7 (1) SCHOOL.—The term “school” means an ele-
8 mentary school, secondary school, or special edu-
9 cation school.

10 (2) HEAD START PROGRAM.—The term “Head
11 Start program” means a program that serves chil-
12 dren who receive services for which financial assist-
13 ance is provided in accordance with the Head Start
14 Act (42 U.S.C. 9831 et seq.).

15 **SEC. 202. STATE PLAN.**

16 (a) STATE PLAN.—Not later than 2 years after the
17 date of enactment of this Act and each year thereafter,
18 each State educational agency shall submit to the Sec-
19 retary a State plan that provides—

20 (1) demonstrations to the Secretary that the
21 State has in effect—

22 (A) State policies and procedures that
23 comply with section 101, including with respect
24 to State-approved crisis intervention training
25 programs; and

1 (B) a State mechanism to effectively mon-
2 itor and enforce compliance with section 101;

3 (2) a description of the State policies and pro-
4 cedures, including a description of the State-ap-
5 proved crisis intervention training programs in such
6 State and how the State ensures accurate and timely
7 reporting to the Department of Education;

8 (3) a description of the State plan to ensure
9 program personnel, students, and parents (including
10 private school personnel, students, and parents) are
11 aware of the State policies and procedures;

12 (4) a description of the State activities de-
13 scribed in the State's plan under section 1111(g) of
14 the Elementary and Secondary Education Act of
15 1965 (20 U.S.C. 6311(g)) that reduce aversive be-
16 havioral interventions and improve school conditions;

17 (5) for public comment—

18 (A) not less than 60 days prior to submis-
19 sion of the State plan, which shall provide
20 stakeholders with the opportunity to provide
21 written comments on the State plan, which
22 shall be included in the State plan, including—

23 (i) how the policies and procedures
24 comply with section 101;

1 (ii) the policies and procedures related
2 to State-approved crisis intervention pro-
3 grams;

4 (iii) training provided to program per-
5 sonnel; and

6 (iv) notification procedures for par-
7 ents; and

8 (B) notice of which shall be provided in an
9 accessible format, which is compliant with the
10 most recent Web Content Accessibility Guide-
11 lines, or successor guidelines, for stakeholders
12 and posted on a website;

13 (6) written response to the public comments
14 provided by stakeholders under paragraph (5); and

15 (7) a description of State oversight of schools
16 that includes—

17 (A) monitoring use of restraint in the
18 schools;

19 (B) monitoring compliance with the prohi-
20 bition on seclusion in schools;

21 (C) not less than every 6 months, discus-
22 sions between State educational agency officials
23 and school leaders to examine the progress of
24 reducing the use of physical restraint in
25 schools;

1 (D) not less than annual site visits to the
2 special education schools in the State; and

3 (E) technical assistance to focus on the use
4 of proactive, positive behavioral interventions
5 and supports.

6 (b) REPORTING.—

7 (1) REPORTING REQUIREMENTS.—Not later
8 than 2 years after the date of enactment of this Act,
9 and each year thereafter—

10 (A) each State educational agency shall (in
11 compliance with the requirements of section
12 444 of the General Education Provisions Act
13 (commonly known as the Family Educational
14 Rights and Privacy Act of 1974) (20 U.S.C.
15 1232g)) prepare and submit to the Secretary,
16 and make available to the public, a report that
17 includes the information described in paragraph
18 (2), with respect to each local educational agen-
19 cy, each special education school, and each
20 school not under the jurisdiction of a local edu-
21 cational agency, located in the same State as
22 such State educational agency; and

23 (B) each Head Start agency (including
24 each Early Head Start agency) designated
25 under the Head Start Act (42 U.S.C. 9831 et

seq.) shall prepare and submit to the Secretary and the Secretary of Health and Human Services, and make available to the public, a report that includes the information described in paragraph (2), except that—

(i) such information shall be provided with respect to each program served by the agency and with respect to children enrolled in Head Start programs; and

(ii) the information described in subclause (II)(bb), subclause (III), and subclause (IV) of paragraph (2)(B)(i) shall not be required.

(2) INFORMATION REQUIREMENTS.—

(A) GENERAL INFORMATION REQUIREMENTS.—The report described in paragraph (1) shall include with respect to physical restraint imposed upon students in the preceding full academic or program year—

(i) the total number of such incidents;

(ii) the total number of students upon whom such physical restraint was imposed;

(iii) in the case in which such physical restraint was imposed more than twice on

1 a student, the number of times such stu-
2 dent or child was so restrained; and

3 (iv) the total number of such incidents
4 where the use of physical restraint is re-
5 ferred to law enforcement.

6 (B) DISAGGREGATION.—

7 (i) GENERAL DISAGGREGATION RE-
8 QUIREMENTS.—The information described
9 in subparagraph (A) shall be disaggregated
10 as follows:

11 (I) With respect to the total
12 number of incidents in which physical
13 restraint was imposed upon a student,
14 disaggregated by each of the fol-
15 lowing:

16 (aa) By those that resulted
17 in injury.

18 (bb) By those that resulted
19 in death.

20 (cc) By those in which the
21 program personnel imposing
22 physical restraint was not trained
23 and certified, as described in sec-
24 tion 101(e)(1)(C)(i).

1 (II) By the demographic charac-
2 teristics of all students upon whom
3 physical restraint was imposed, in-
4 cluding disaggregation—

5 (aa) by each major racial
6 and ethnic group, economically
7 disadvantaged students as com-
8 pared to students who are not
9 economically disadvantaged,
10 English proficiency status, and
11 sex;

12 (bb) by students with an in-
13 dividualized education program
14 under section 614(d) of the Indi-
15 viduals with Disabilities Edu-
16 cation Act (20 U.S.C. 1414(d));

17 (cc) by students who have a
18 plan developed pursuant to sec-
19 tion 504 of the Rehabilitation
20 Act of 1973 (29 U.S.C. 794);
21 and

22 (dd) by students who have a
23 plan developed pursuant to title
24 II of the Americans with Disabil-

ities Act of 1990 (42 U.S.C.
12131 et seq.).

(III) By the total number of incidents of physical restraint in which a law enforcement officer or school security guard was involved, which may include the law enforcement officer or school security guard imposing the physical restraint or assisting with the physical restraint.

(IV) By the type of school, including disaggregation by special education school, charter school, and private school.

(ii) UNDUPLICATED COUNT; EXCEPTION.—The information and disaggregation required under subparagraphs (A) and (B) shall—

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

1 (II) not be required in a case in
2 which the number of students in a
3 category would reveal personally iden-
4 tifiable information about an indi-
5 vidual student.

6 **SEC. 203. GRANTS FOR STATE EDUCATIONAL AGENCIES.**

7 (a) GRANTS AUTHORIZED.—

8 (1) IN GENERAL.—From the amount appro-
9 priated under section 307 to carry out this section
10 for a fiscal year, the Secretary shall award grants to
11 State educational agencies with an application ap-
12 proved under subsection (c), on the basis of their
13 relative need, as determined with the Secretary in
14 accordance with paragraph (2), to assist the State
15 educational agencies in—

16 (A) establishing, implementing, and enforce-
17 ing the policies and procedures that ensure
18 compliance with section 101;

19 (B) improving State and local capacity to
20 collect and analyze data related to physical re-
21 straint; and

22 (C) improving school climate and culture
23 by implementing schoolwide positive behavioral
24 interventions and supports, mental health sup-
25 ports, restorative justice programs, trauma-in-

1 formed care, and crisis and de-escalation inter-
2 ventions.

3 (2) DETERMINATION OF RELATIVE NEED.—In
4 determining the relative need of State educational
5 agencies under paragraph (1), the Secretary shall
6 consider—

7 (A) the physical restraint and seclusion in-
8 cidents that occurred at a school served by the
9 State educational agencies for the most recent
10 academic year for which data are available;

11 (B) the capacity needs of the State edu-
12 cational agency and the local educational agen-
13 cies served by the State educational agency to
14 collect and analyze the data described in para-
15 graph (1)(B); and

16 (C) whether the State educational agency
17 has been carrying out the activities described in
18 paragraph (1)(C) and, if so, how the activities
19 are being implemented.

20 (3) REPORT.—The Secretary shall provide a re-
21 port to the Committee on Health, Education, Labor,
22 and Pensions of the Senate and the Committee on
23 Education and Labor of the House of Representa-
24 tives not later than 60 days after the date the Sec-
25 retary awards a grant to a State under this section

1 detailing why the State was chosen and how the cri-
2 teria described in subparagraphs (A), (B), and (C)
3 of paragraph (2) were applied to select the State.

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

7 (c) APPLICATION.—

8 (1) IN GENERAL.—To be eligible to receive a
9 grant under this section, each State educational
10 agency desiring a grant shall submit an application
11 to the Secretary at such time, in such manner, and
12 accompanied by such information as the Secretary
13 may require.

14 (2) CONTENTS.—Each application submitted
15 under paragraph (1) shall include—

16 (A) the total number of incidents in which
17 physical restraint was imposed upon students
18 for the most recent school year;

19 (B) the total number of incidents in which
20 seclusion was imposed upon students for the
21 most recent school year;

22 (C) a description of the State’s data collec-
23 tion policies and procedures;

24 (D) a description of crisis intervention or
25 prevention trainings used in the State to pre-

1 vent or reduce physical restraint and seclusion
2 (if applicable);

3 (E) a description of statewide initiatives
4 regarding school climate and culture (if applica-
5 ble), such as schoolwide positive behavioral
6 interventions and supports, mental health sup-
7 ports, restorative justice programs, trauma-in-
8 formed care, and crisis and de-escalation inter-
9 ventions;

10 (F) a description of activities to be funded
11 under the grant and the goals of such activities,
12 including how the activities will eliminate seclu-
13 sion and reduce and prevent physical restraint;
14 and

15 (G) a description of how the activities
16 under the grant will coordinate and align with
17 current Federal, State, and local policies, pro-
18 grams, or activities regarding seclusion and
19 physical restraint, crisis intervention, and
20 school climate or culture.

21 (d) AUTHORITY TO MAKE SUBGRANTS.—

22 (1) IN GENERAL.—A State educational agency
23 receiving a grant under this section may use such
24 grant funds to award subgrants, in the manner de-
25 termined by the State educational agency, to local

1 educational agencies served by the State educational
2 agency.

3 (2) APPLICATION.—A local educational agency
4 desiring to receive a subgrant under this section
5 shall submit an application to the applicable State
6 educational agency at such time, in such manner,
7 and containing such information as the State edu-
8 cational agency may require.

9 (3) EARLY CHILDHOOD EDUCATION PROGRAM
10 PARTICIPATION.—A local educational agency receiv-
11 ing subgrant funds under this section shall ensure
12 that educators working in an early childhood edu-
13 cation program, as defined in section 103 of the
14 Higher Education Act of 1965 (20 U.S.C. 1003),
15 may participate, to the extent practicable, on an eq-
16 uitable basis in activities supported by subgrant
17 funds under this section that are trainings on devel-
18 opmentally appropriate practices for meeting the
19 needs of young children.

20 (e) PRIVATE SCHOOL PARTICIPATION.—

21 (1) IN GENERAL.—A local educational agency
22 receiving subgrant funds under this section shall,
23 after timely and meaningful consultation with appro-
24 priate private school officials, ensure that private
25 school personnel may participate, on an equitable

1 basis, in activities supported by subgrant funds
2 under this section.

3 (2) PUBLIC CONTROL OF FUNDS.—The control
4 of grant and subgrant funds under this section, and
5 title to materials, equipment, and property pur-
6 chased with such funds, shall be in a public agency
7 for the uses and purposes provided in this Act, and
8 a public agency shall administer such funds, mate-
9 rials, equipment, and property.

10 (3) PROVISION OF SERVICES.—

11 (A) IN GENERAL.—Services described
12 under this section shall be provided—

13 (i) by employees of a public agency; or

14 (ii) through contract by the public
15 agency with an individual or entity.

16 (B) INDEPENDENCE; PUBLIC AGENCY.—

17 An individual or entity described in subpara-
18 graph (A)(ii) that contracts with a public agen-
19 cy to provide services under this section shall be
20 independent of a private school and of any reli-
21 gious organization. Individuals providing such
22 services shall be employed by and under the
23 control and supervision of the public agency.

24 (C) COMMINGLING OF FUNDS PROHIB-
25 ITED.—Funds used to provide services under

1 this section shall not be commingled with non-
2 Federal funds.

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

7 (1) Establishing and implementing policies to
8 prohibit seclusion, mechanical restraint, chemical re-
9 straint, and other forms of prohibited restraint in
10 schools, consistent with section 101.

11 (2) Implementing and evaluating strategies and
12 procedures to prevent seclusion and to prevent and
13 reduce physical restraint in schools, consistent with
14 such policies.

15 (3) Providing professional development, train-
16 ing, and certification for school personnel to comply
17 with such policies.

18 (4) Analyzing the information included in a re-
19 port prepared under section 202(b) to identify stu-
20 dent, school personnel, and school needs related to
21 preventing seclusion, and preventing and reducing
22 the use of physical restraint.

23 (5) Providing training to school security guards
24 and, as appropriate, school personnel, on how to
25 comply with education and civil rights laws, includ-

1 ing the Individuals with Disabilities Education Act
2 (20 U.S.C. 1400 et seq.) and the Americans with
3 Disabilities Act of 1990 (42 U.S.C. 12101 et seq.),
4 when interacting with students with disabilities, in-
5 cluding, when conducting disciplinary actions involv-
6 ing students with disabilities.

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

13 (1) Developing and implementing high-quality
14 professional development and training programs to
15 implement evidence-based systematic approaches to
16 schoolwide positive behavioral interventions and sup-
17 ports, including improving coaching, facilitation, and
18 training capacity for administrators, school leaders,
19 teachers, specialized instructional support personnel,
20 paraprofessionals, and other staff.

21 (2) Providing technical assistance to implement
22 evidence-based systematic approaches to schoolwide
23 positive behavioral interventions and supports, in-
24 cluding technical assistance for data-driven decision

1 making related to behavioral supports and interven-
2 tions in the classroom.

3 (3) Researching, evaluating, and disseminating
4 high-quality evidence-based programs and activities
5 that implement schoolwide positive behavioral inter-
6 ventions and supports with fidelity.

7 (4) Supporting other local positive behavioral
8 interventions and supports implementation activities
9 consistent with this subsection.

10 (5) Developing, implementing, and providing
11 technical assistance to support evidence-based pro-
12 grams that reduce the likelihood of physical re-
13 straint, such as mental health supports, restorative
14 justice programs, trauma-informed care, and crisis
15 and de-escalation interventions.

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

19 (1) evaluate the State’s progress toward the
20 elimination of seclusion and the prevention and re-
21 duction of physical restraint in the schools located in
22 the State, consistent with section 101;

23 (2) submit to the Secretary a report on such
24 progress; and

1 (3) publish such report on the State educational
2 agency website in an accessible format.

3 **TITLE III—GENERAL**
4 **PROVISIONS**

5 **SEC. 301. NATIONAL ASSESSMENT.**

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

9 (1) analyzing data related to incidents of phys-
10 ical restraint in schools and programs that serve
11 children who receive services for which financial as-
12 sistance is provided in accordance with the Head
13 Start Act (42 U.S.C. 9831 et seq.) (referred to in
14 this title as “Head Start programs”);

15 (2) analyzing the effectiveness of Federal,
16 State, and local efforts to eliminate seclusion and
17 prevent and reduce the number of physical restraint
18 incidents in schools and Head Start programs;

19 (3) identifying the types of programs and serv-
20 ices that have demonstrated the greatest effective-
21 ness in eliminating and preventing seclusion and
22 preventing and reducing the number of physical re-
23 straint incidents in schools and Head Start pro-
24 grams; and

1 (4) identifying evidence-based personnel train-
2 ing models with demonstrated success in preventing
3 seclusion and preventing and reducing the number
4 of physical restraint incidents in schools and Head
5 Start programs, including models that emphasize
6 positive behavioral interventions and supports and
7 de-escalation techniques over physical intervention.

8 (b) REPORT.—The Secretary shall submit to the
9 Committee on Health, Education, Labor, and Pensions of
10 the Senate and the Committee on Education and Labor
11 of the House of Representatives—

12 (1) not later than 3 years after the date of the
13 enactment of this Act, an interim report that sum-
14 marizes the preliminary findings of the assessment
15 described in subsection (a); and

16 (2) not later than 5 years after the date of the
17 enactment of this Act, a final report of the findings
18 of the assessment.

19 **SEC. 302. PROTECTION AND ADVOCACY SYSTEMS.**

20 (a) NOTIFICATION.—In a case in which physical in-
21 jury or death of a student or of a child enrolled in a Head
22 Start program occurs in conjunction with the use of seclu-
23 sion or physical restraint or any intervention used to con-
24 trol behavior at a school or Head Start program, the local
25 educational agency serving such school or the agency ad-

1 ministering a Head Start program under the Head Start
2 Act (42 U.S.C. 9801 et seq.) shall have procedures to—

3 (1) notify, in writing, not later than 24 hours
4 after such injury or death occurs—

5 (A) the State educational agency, or in the
6 case of an agency administering a Head Start
7 program, the appropriate official at the Depart-
8 ment of Health and Human Services;

9 (B) the local law enforcement agency; and

10 (C) the relevant protection and advocacy
11 system; and

12 (2) provide any information that the protection
13 and advocacy system may require.

14 (b) RESTATEMENT OF AUTHORITY.—Protection and
15 advocacy systems shall have the same authorities and
16 rights provided under subtitle C of title I of the Develop-
17 mental Disabilities Assistance and Bill of Rights Act of
18 2000 (42 U.S.C. 15041 et seq.) with respect to protections
19 provided for students or children enrolled in Head Start
20 programs under this Act when such students or children
21 are otherwise eligible to be clients of the protection and
22 advocacy system, including investigating, monitoring, and
23 enforcing such protections.

1 **SEC. 303. SCHOOLS OPERATED OR FUNDED BY THE DE-**
2 **PARTMENT OF THE INTERIOR OR THE DE-**
3 **PARTMENT OF DEFENSE.**

4 (a) SCHOOLS OPERATED OR FUNDED BY DEPART-
5 MENT OF THE INTERIOR.—The Secretary of the Interior
6 shall promulgate regulations to ensure that schools oper-
7 ated or funded by the Department of the Interior comply
8 with the requirements of title I and section 202(b).

9 (b) SCHOOLS OPERATED OR FUNDED BY THE DE-
10 PARTMENT OF DEFENSE.—The Secretary of Defense shall
11 promulgate regulations to ensure that schools operated or
12 funded by the Department of Defense Education Activity
13 or otherwise operated or funded by the Department of De-
14 fense for the education of military-connected dependents
15 (as described in subparagraph (B) or (D)(i) of section
16 7003(a)(1) of the Elementary and Secondary Education
17 Act of 1965 (20 U.S.C. 7703(a)(1))) comply with the re-
18 quirements of title I and section 202(b).

19 **SEC. 304. RULE OF CONSTRUCTION.**

20 Subject to section 101(e), nothing in this Act shall
21 be construed to prohibit a sworn law enforcement officer
22 with probable cause from arresting a student for violating
23 a Federal or State criminal law.

1 **SEC. 305. APPLICABILITY TO PRIVATE SCHOOLS AND HOME**
2 **SCHOOLS.**

3 (a) PRIVATE SCHOOLS.—Nothing in this Act shall be
4 construed to affect any private school that does not re-
5 ceive, or does not serve students who receive, support in
6 any form from any program or activity supported, in whole
7 or in part, with Federal funds.

8 (b) HOME SCHOOLS.—Nothing in this Act shall be
9 construed to—

10 (1) affect a home school, whether or not a home
11 school is treated as a private school or home school
12 under State law; or

13 (2) consider parents who are schooling a child
14 at home as program personnel.

15 **SEC. 306. SEVERABILITY.**

16 If any provision of this Act, an amendment made by
17 this Act, or the application of such provision or amend-
18 ment to any person or circumstance is held to be unconsti-
19 tutional, the remainder of this Act, the amendments made
20 by this Act, and the application of the provisions of such
21 to any person or circumstance shall not be affected there-
22 by.

1 **SEC. 307. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out this Act for fiscal year
4 2022 and each succeeding fiscal year.

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