

112TH CONGRESS
1ST SESSION

H. R. 3165

To amend the Elementary and Secondary Education Act of 1965 to allow State educational agencies, local educational agencies, and schools to increase implementation of school-wide positive behavior supports.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2011

Mr. DAVIS of Illinois (for himself, Mr. PLATTS, Mr. SCOTT of Virginia, and Mr. MURPHY of Connecticut) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Elementary and Secondary Education Act of 1965 to allow State educational agencies, local educational agencies, and schools to increase implementation of school-wide positive behavior supports.

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 “Positive Behavior for
5 Safe and Effective Schools Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) Educators, parents, and the general public
2 cite ineffective school discipline policies as a leading
3 challenge facing many public schools.

4 (2) Overly harsh, nondiscretionary school dis-
5 cipline practices that address even minor mis-
6 behavior through suspension, expulsion, metal detec-
7 tors, surveillance cameras, and arrest are ineffective
8 and counterproductive.

9 (3) Research shows that “get tough” ap-
10 proaches to discipline reinforce bad behavior and
11 predict higher future rates of misbehavior among
12 suspended students.

13 (4) However, suspensions and expulsions are on
14 the rise nationally, and according to the United
15 States Department of Education Office of Civil
16 Rights during the 2005–2006 school year over
17 3,300,000 students were suspended at least once
18 and over 100,000 students were expelled.

19 (5) Students of color and students with disabil-
20 ities are more likely to be suspended or expelled than
21 their peers for similar disciplinary incidents.

22 (6) There is a high correlation between school
23 discipline and the student dropout rate. Suspended
24 students are more likely to be retained, to dropout,

1 to engage in delinquent activity, and to become in-
2 volved in the juvenile or criminal justice system.

3 (7) Teachers are also more likely to “dropout”
4 of our schools because of school discipline issues. A
5 2005 national survey found that 44 percent of
6 teachers, and 39 percent of highly qualified teachers,
7 listed school discipline as a reason for leaving the
8 profession.

9 (8) Learning is linked to student behavior. Suc-
10 cessful schools implement high academic and behav-
11 ior standards, where improvements in student behav-
12 ior and school climate are correlated with improved
13 academic outcomes.

14 (9) Evidence-based and scientifically valid prac-
15 tices for improving behavior and creating a school
16 climate more conducive to learning such as school-
17 wide positive behavior supports, have not been wide-
18 ly adopted, accurately implemented, or sustained.

19 (10) Effective implementation of school-wide
20 positive behavior supports is linked to greater aca-
21 demic achievement, significantly fewer disciplinary
22 problems, lower suspension and expulsion rates, and
23 increased time for instruction.

24 (11) Early intervening services are an effective
25 strategy for instructional support. Following imple-

1 mentation of school-wide positive behavior supports,
2 out-of-school suspensions at an elementary school in
3 Illinois decreased 85 percent, from 243 to 37 or
4 fewer in 2 subsequent years, with a resultant gain
5 of 386 days of instructional time. The percentage of
6 students meeting or exceeding proficiency on State
7 standards increased measurably.

8 (12) Many problems can be prevented or mini-
9 mized with early intervening services that have been
10 shown to be effective and reduce the need for more
11 intensive and more costly interventions. Upon imple-
12 menting such supports, an elementary school in
13 Maryland witnessed a decrease in office discipline re-
14 ferrals for major rule violations by 42 percent, re-
15 couping 119 days of instructional time for students,
16 and 40 days of administrator time within 1 school
17 year.

18 (13) Schools that implement school-wide posi-
19 tive behavior supports are perceived by teachers to
20 be safer teaching environments. In South Carolina,
21 a school using a system of positive behavior supports
22 found that teacher transfer requests declined by 100
23 percent and teacher absence days decreased by 36
24 percent.

1 (14) When approaches such as school-wide posi-
2 tive behavior supports are employed, all students, in-
3 cluding those with significant and challenging behav-
4 iors, can succeed.

5 (b) PURPOSES.—The purposes of this Act are to ex-
6 pand the use of school-wide positive behavior supports in
7 schools in order to systematically create a school climate
8 that is highly conducive to learning, to reduce discipline
9 referrals, and to improve student academic outcomes.

10 **SEC. 3. DEFINITION OF POSITIVE BEHAVIOR SUPPORTS.**

11 In this Act, the term “positive behavior supports”
12 means a systematic approach to embed proven practices
13 for early intervening services, including a range of sys-
14 temic and individualized strategies to reinforce desired be-
15 haviors and eliminate reinforcement for problem behav-
16 iors, in order to achieve important social outcomes and
17 increase learning, while preventing problem behaviors for
18 all students including those with the most complex and
19 intensive behavioral needs.

20 **SEC. 4. SCHOOL-WIDE POSITIVE BEHAVIOR SUPPORTS.**

21 (a) FLEXIBILITY TO USE TITLE I FUNDS TO IMPLE-
22 MENT SCHOOL-WIDE POSITIVE BEHAVIOR SUPPORTS.—

23 (1) IN GENERAL.—Section 1003(b) of the Ele-
24 mentary and Secondary Education Act of 1965 (20
25 U.S.C. 6303(b)) is amended—

1 (A) by redesignating paragraphs (1) and
2 (2) as subparagraphs (A) and (B), respectively;

3 (B) by inserting “(1)” before “Of the
4 amount”; and

5 (C) by adding at the end the following:

6 “(2) Of the amount reserved under subsection
7 (a) for any fiscal year, the State educational agency
8 may allocate funds to develop and implement coordi-
9 nated, early intervening services (including school-
10 wide positive behavior supports) for all students, in-
11 cluding those who have not been identified as need-
12 ing special education but who need additional aca-
13 demic and behavioral support to succeed in a general
14 education environment. Funds so allocated shall
15 be—

16 “(A) aligned with funds authorized under
17 section 613(f) of the Individuals with Disabil-
18 ities Education Act; and

19 “(B) used to supplement, and not sup-
20 plant, funds made available under such Act for
21 such activities and services.”.

22 (2) TECHNICAL ASSISTANCE.—The Elementary
23 and Secondary Education Act of 1965 (20 U.S.C.
24 6301 et seq.) is amended—

25 (A) in section 1116(b)(4)(B)—

1 (i) by redesignating clauses (iii) and
2 (iv) as clauses (iv) and (v), respectively;
3 and

4 (ii) by inserting after clause (ii) the
5 following:

6 “(iii) shall include assistance in imple-
7 mentation of school-wide positive behavior
8 supports and other approaches with evi-
9 dence of effectiveness for improving the
10 learning environment in the school and re-
11 ducing the need for suspensions, expul-
12 sions, corporal punishment, referrals to law
13 enforcement, and other actions that re-
14 move students from instruction;”;

15 (B) in section 1117(a)(3), by inserting
16 “any technical assistance center on school-wide
17 positive behavior supports funded under section
18 665(b) of the Individuals with Disabilities Edu-
19 cation Act,” after “2002);” and

20 (C) in section 1117(a)(5)(B)—

21 (i) by redesignating clauses (iii) and
22 (iv) as clauses (iv) and (v), respectively;
23 and

24 (ii) by inserting after clause (ii) the
25 following:

1 “(iii) review the number of discipline
2 referrals in the school and the overall
3 school climate and engagement of families,
4 and use that information to assist the
5 school to implement school-wide positive
6 behavior supports or other early inter-
7 vening services, or both;”.

8 (b) LEA FLEXIBILITY TO IMPROVE SCHOOL CLI-
9 MATE.—Section 1114(b)(1)(B)(iii)(I) of the Elementary
10 and Secondary Education Act of 1965 (20 U.S.C.
11 6314(b)(1)(B)(iii)(I)) is amended—

12 (1) by redesignating items (bb) and (cc) as
13 items (cc) and (dd), respectively; and

14 (2) by inserting after item (aa) the following:

15 “(bb) improving the learning
16 environment in the school, includ-
17 ing the implementation of school-
18 wide positive behavior supports,
19 in order to improve academic
20 outcomes for students and reduce
21 the need for suspensions, expul-
22 sions, corporal punishment, refer-
23 rals to law enforcement, and
24 other actions that remove stu-
25 dents from instruction;”.

1 **SEC. 5. TEACHER AND PRINCIPAL PREPARATION TO IM-**
2 **PROVE SCHOOL CLIMATE.**

3 Section 2122(c)(2) of the Elementary and Secondary
4 Education Act of 1965 (20 U.S.C. 6622(c)(2)) is amend-
5 ed—

6 (1) by striking “subject matter knowledge and
7 teaching skills” and inserting “subject matter knowl-
8 edge, teaching skills, and an understanding of social
9 or emotional, or both, learning in children and ap-
10 proaches that improve the school climate for learn-
11 ing (such as school-wide positive behavior sup-
12 ports)”; and

13 (2) by inserting “to improve the teachers’
14 schools’ climate for learning” after “instructional
15 leadership skills to help teachers”.

16 **SEC. 6. SAFE AND DRUG FREE SCHOOLS AND COMMU-**
17 **NITIES.**

18 Section 4002 of the Elementary and Secondary Edu-
19 cation Act of 1965 (20 U.S.C. 7102) is amended—

20 (1) by redesignating paragraphs (1) through
21 (4) as paragraphs (2) through (5), respectively; and

22 (2) by striking all that precedes paragraph (2)
23 and inserting the following: “The purpose of this
24 part is to support programs that improve the whole
25 school climate in order to foster learning, including
26 programs that prevent discipline problems, that re-

1 duce the need for suspensions, expulsions, corporal
2 punishment, referrals to law enforcement, and other
3 actions that remove students from instruction, that
4 prevent violence in and around schools, that prevent
5 the illegal use of alcohol, tobacco, and drugs, that
6 promote meaningful family engagement in education,
7 and that are coordinated with related Federal, State,
8 school, and community efforts and resources to fos-
9 ter a safe and drug-free learning environment that
10 supports student academic achievement, through the
11 provision of Federal assistance to—

12 “(1) States for grants to local educational agen-
13 cies and consortia of such agencies to establish, op-
14 erate, and improve local programs relating to im-
15 proving the school-wide climate (including implemen-
16 tation of school-wide positive behavior supports);”.

17 **SEC. 7. EARLY INTERVENING SERVICES UNDER SCHOOL**
18 **COUNSELORS PROGRAM.**

19 Section 5421(b)(2) of the Elementary and Secondary
20 Education Act of 1965 (20 U.S.C. 7245(b)(2)) is amend-
21 ed—

22 (1) by redesignating subparagraphs (C) through
23 (H) as subparagraphs (D) through (I), respectively;
24 and

1 (2) by inserting after subparagraph (B) the fol-
2 lowing:

3 “(C) describe how the local educational
4 agency will address the need for early inter-
5 vening services that improve the school climate
6 for learning and reduce the need for suspen-
7 sions, expulsions, corporal punishment, referrals
8 to law enforcement, and other actions that re-
9 move students from instruction, such as
10 through school-wide positive behavior sup-
11 ports;”.

12 **SEC. 8. SPECIALIZED INSTRUCTIONAL SUPPORT SERVICES.**

13 (a) IN GENERAL.—The Secretary of Education, act-
14 ing through the Office of the Deputy Secretary, shall ad-
15 minister, coordinate, implement, and ensure adequate
16 evaluation of the effectiveness of programs and activities
17 concerned with providing specialized instructional support
18 services in schools, delivered by trained, qualified special-
19 ized instructional support personnel. In carrying out this
20 subsection, the Secretary shall support activities to—

21 (1) improve specialized instructional support
22 services in schools in order to improve academic
23 achievement and educational results for students;

24 (2) identify scientifically valid practices in spe-
25 cialized instructional support services that support

1 learning and improve academic achievement and
2 educational results for students;

3 (3) provide continuous training and professional
4 development opportunities for specialized instruc-
5 tional support personnel and other school personnel
6 in the use of effective techniques to address aca-
7 demic, behavioral, and functional needs;

8 (4) provide technical assistance to local edu-
9 cational agencies and State educational agencies in
10 the provision of effective, scientifically valid, special-
11 ized instructional support services;

12 (5) coordinate specialized instructional support
13 services programs and services in schools between
14 the Department of Education and other Federal
15 agencies, as appropriate; and

16 (6) ensure evaluation of the effectiveness of the
17 activities described in this subsection.

18 (b) SPECIALIZED INSTRUCTIONAL SUPPORT PER-
19 SONNEL; SPECIALIZED INSTRUCTIONAL SUPPORT SERV-
20 ICES.—In this section:

21 (1) SPECIALIZED INSTRUCTIONAL SUPPORT
22 PERSONNEL.—The term “specialized instructional
23 support personnel” means school counselors, school
24 social workers, school psychologists, and other quali-
25 fied professional personnel involved in providing as-

1 assessment, diagnosis, counseling, educational, thera-
 2 peutic, and other necessary corrective or supportive
 3 services (including related services, as such term is
 4 defined in section 602 of the Individuals with Dis-
 5 abilities Education Act) as part of a comprehensive
 6 program to meet student needs.

7 (2) SPECIALIZED INSTRUCTIONAL SUPPORT
 8 SERVICES.—The term “specialized instructional sup-
 9 port services” means the services provided by spe-
 10 cialized instructional support personnel, including
 11 any other corrective or supportive services to meet
 12 student needs.

13 **SEC. 9. DEFINITION IN ELEMENTARY AND SECONDARY**
 14 **EDUCATION ACT OF 1965.**

15 Section 9101 of the Elementary and Secondary Edu-
 16 cation Act of 1965 (20 U.S.C. 7801) is amended—

17 (1) by redesignating paragraphs (20) through
 18 (32) as paragraphs (21) through (33);

19 (2) by inserting after paragraph (19) the fol-
 20 lowing:

21 “(20) FAMILY ENGAGEMENT IN EDUCATION.—
 22 The term ‘family engagement in education’ means a
 23 shared responsibility—

24 “(A) of families and schools for student
 25 success, in which schools and community-based

1 organizations are committed to reaching out to
2 engage families in meaningful ways and families
3 are committed to actively supporting their chil-
4 dren’s learning and development; and

5 “(B) that is continuous from birth through
6 young adulthood and reinforces learning that
7 takes place in the home, school, and commu-
8 nity.”;

9 (3) by redesignating the first paragraph (33)
10 through paragraph (42) as paragraphs (35) through
11 (44), respectively; and

12 (4) by inserting after paragraph (32) the fol-
13 lowing:

14 “(33) POSITIVE BEHAVIOR SUPPORTS.—The
15 term ‘positive behavior supports’ means a systematic
16 approach to embed proven practices for early inter-
17 vening services, including a range of systemic and
18 individualized strategies to reinforce desired behav-
19 iors and eliminate reinforcement for problem behav-
20 iors, in order to achieve important social outcomes
21 and increase student learning, while preventing
22 problem behaviors.”.

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