

112TH CONGRESS
1ST SESSION

S. 541

To amend the Elementary and Secondary Education Act of 1965 to allow State educational agencies, local educational agencies, and schools to increase implementation of schoolwide positive behavioral interventions and supports and early intervening services in order to improve student academic achievement, reduce overidentification of individuals with disabilities, and reduce disciplinary problems in schools, and to improve coordination with similar activities and services provided under the Individuals with Disabilities Education Act.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2011

Mr. BENNET (for himself, Mr. ALEXANDER, Mr. FRANKEN, and Mr. BURR) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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 schoolwide positive behavioral interventions and supports and early intervening services in order to improve student academic achievement, reduce overidentification of individuals with disabilities, and reduce disciplinary problems in schools, and to improve coordination with similar activities and services provided under the Individuals with Disabilities Education Act.

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 “Achievement Through
 5 Prevention Act”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to expand the use of posi-
 8 tive behavioral interventions and supports and early inter-
 9 vening services in schools in order to improve student aca-
 10 demic achievement, reduce overidentification of individuals
 11 with disabilities, and reduce disciplinary problems in
 12 schools.

13 **SEC. 3. AMENDMENTS TO THE ELEMENTARY AND SEC-**
 14 **ONDARY EDUCATION ACT OF 1965.**

15 (a) TITLE I STATE PLANS.—Section 1111(b) of the
 16 Elementary and Secondary Education Act of 1965 (20
 17 U.S.C. 6311(b)) is amended by adding at the end the fol-
 18 lowing:

19 “(11) POSITIVE BEHAVIORAL INTERVENTIONS
 20 AND SUPPORTS.—In the case of a State that pro-
 21 poses to use funds under this part to support posi-
 22 tive behavioral interventions and supports, the State
 23 plan shall describe how the State educational agency
 24 will—

1 “(A) assist local educational agencies in
2 implementing positive behavioral interventions
3 and supports in schools served by the local edu-
4 cational agency on a whole-school basis;

5 “(B) provide technical assistance and
6 training to local educational agencies to im-
7 prove and support the development, implemen-
8 tation, and coordination of comprehensive posi-
9 tive behavioral interventions and supports car-
10 ried out under this Act with similar activities
11 carried out under the Individuals with Disabil-
12 ities Education Act; and

13 “(C) evaluate the effects of providing posi-
14 tive behavioral interventions and supports.

15 “(12) EARLY INTERVENING SERVICES.—In the
16 case of a State that proposes to use funds under this
17 part to support early intervening services, the State
18 plan shall describe how the State educational agency
19 will—

20 “(A) assist local educational agencies in
21 implementing early intervening services in
22 schools served by the local educational agency
23 to reduce the need to label children as disabled
24 in order to address the learning and behavioral
25 needs of such children;

1 “(B) provide technical assistance and
 2 training to local educational agencies to im-
 3 prove coordination of early intervening services
 4 provided under this Act with similar early inter-
 5 vening services carried out under the Individ-
 6 uals with Disabilities Education Act; and

7 “(C) evaluate the effects of providing early
 8 intervening services.”.

9 (b) TITLE I STATE REPORTS.—Section
 10 1111(h)(1)(C) of the Elementary and Secondary Edu-
 11 cation Act of 1965 (20 U.S.C. 6311(h)(1)(C)) is amend-
 12 ed—

13 (1) in clause (vii), by striking “and” after the
 14 semicolon;

15 (2) in clause (viii), by striking the period and
 16 inserting a semicolon; and

17 (3) by adding at the end the following:

18 “(ix) the number of local educational
 19 agencies in the State that implement posi-
 20 tive behavioral interventions and supports;
 21 and

22 “(x) the number of students—

23 “(I) who are served through the
 24 use of early intervening services; and

1 “(II) who in the preceding 2-year
2 period, received early intervening serv-
3 ices and who, after receiving such
4 services, have been identified as eligi-
5 ble for, and receive, special education
6 and related services under part B of
7 the Individuals with Disabilities Edu-
8 cation Act.”.

9 (c) TITLE I LOCAL EDUCATIONAL AGENCY PLANS.—
10 Section 1112(b)(1) of the Elementary and Secondary
11 Education Act of 1965 (20 U.S.C. 6312(b)(1)) is amend-
12 ed—

13 (1) in subparagraph (P), by striking “and”
14 after the semicolon;

15 (2) in subparagraph (Q), by striking the period
16 and inserting a semicolon; and

17 (3) by adding at the end the following:

18 “(R) if the local educational agency pro-
19 poses to use subgrant funds under this part for
20 positive behavioral interventions and supports, a
21 description of the actions the local educational
22 agency will take to provide positive behavioral
23 interventions and supports and coordinate those
24 activities with similar activities carried out

1 under the Individuals with Disabilities Edu-
 2 cation Act; and

3 “(S) if the local educational agency pro-
 4 poses to use subgrant funds under this part for
 5 early intervening services, a description of the
 6 actions the local educational agency will take to
 7 provide early intervening services and coordi-
 8 nate those services with similar early inter-
 9 vening services carried out under the Individ-
 10 uals with Disabilities Education Act.”.

11 (d) TITLE I SCHOOLWIDE PROGRAMS.—

12 (1) SCHOOLWIDE PROGRAMS.—Section
 13 1114(b)(1)(B)(iii)(I) of the Elementary and Sec-
 14 ondary Education Act of 1965 (20 U.S.C.
 15 6314(b)(1)(B)(iii)(I)) is amended—

16 (A) by redesignating items (bb) and (cc) as
 17 items (dd) and (ee), respectively; and

18 (B) by inserting after item (aa) the fol-
 19 lowing:

20 “(bb) implementation of
 21 schoolwide positive behavioral inter-
 22 ventions and supports, including
 23 through coordination with similar ac-
 24 tivities carried out under the Individ-
 25 uals with Disabilities Education Act,

1 in order to improve academic out-
2 comes for students and reduce the
3 need for suspensions, expulsions, re-
4 ferrals to law enforcement, and other
5 actions that remove students from in-
6 struction;

7 “(cc) implementation of early in-
8 tervening services, including through
9 coordination with similar early inter-
10 vening services carried out under the
11 Individuals with Disabilities Edu-
12 cation Act;”.

13 (2) TECHNICAL ASSISTANCE.—Section
14 1116(b)(4)(B) of the Elementary and Secondary
15 Education Act of 1965 (20 U.S.C. 6316(b)(4)(B)) is
16 amended—

17 (A) by redesignating clauses (iii) and (iv)
18 as clauses (iv) and (v), respectively; and

19 (B) by inserting after clause (ii) the fol-
20 lowing:

21 “(iii) shall include assistance in the
22 implementation of schoolwide positive be-
23 havior supports and other approaches with
24 evidence of effectiveness for improving the
25 learning environment in the school and re-

1 ducing the need for suspensions, expul-
 2 sions, and other actions that remove stu-
 3 dents from instruction, including effective
 4 strategies for improving coordination of
 5 community resources;”.

6 (e) TITLE I ASSESSMENTS AND SCHOOL IMPROVE-
 7 MENT.—

8 (1) SCHOOL IMPROVEMENT PLAN.—Section
 9 1116(b)(3)(A) of the Elementary and Secondary
 10 Education Act of 1965 (20 U.S.C. 6316(b)(3)(A)) is
 11 amended—

12 (A) in clause (ix), by striking “and” after
 13 the semicolon;

14 (B) in clause (x), by striking the period
 15 and inserting a semicolon; and

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

17 “(xi) specify whether the local edu-
 18 cational agency or the school will adopt
 19 and implement policies or practices to im-
 20 plement or improve positive behavioral
 21 interventions and supports and enhance co-
 22 ordination with similar activities carried
 23 out under the Individuals with Disabilities
 24 Education Act; and

1 “(xii) specify whether the local edu-
 2 cational agency or the school will adopt
 3 and implement policies or practices to im-
 4 plement or improve early intervening serv-
 5 ices and coordinate with similar early in-
 6 tervening services carried out under the In-
 7 dividuals with Disabilities Education Act.”.

8 (2) LOCAL EDUCATIONAL AGENCY IMPROVE-
 9 MENT PLANS.—Section 1116(e)(10)(C) of the Ele-
 10 mentary and Secondary Education Act of 1965 (20
 11 U.S.C. 6316(e)(10)(C)) is amended by adding at the
 12 end the following:

13 “(vii) Improving or expanding positive
 14 behavioral interventions and supports and
 15 enhancing coordination with similar activi-
 16 ties under the Individuals with Disabilities
 17 Education Act.

18 “(viii) Improving or expanding early
 19 intervening services and coordinating such
 20 services with similar early intervening serv-
 21 ices carried out under the Individuals with
 22 Disabilities Education Act.”.

23 (f) TITLE I SCHOOL SUPPORT AND RECOGNITION.—

1 (1) REGIONAL CENTERS.—Section 1117(a)(3)
2 of the Elementary and Secondary Education Act of
3 1965 (20 U.S.C. 6317(a)(3)) is amended—

4 (A) by striking “of 2002 and comprehen-
5 sive” and inserting “of 2002, comprehensive”;

6 (B) by striking “and the comprehensive”
7 and inserting “, the comprehensive”; and

8 (C) by inserting “and any technical assist-
9 ance center on schoolwide positive behavioral
10 interventions and supports funded under section
11 665(b) of the Individuals with Disabilities Edu-
12 cation Act,” after “2002),”.

13 (2) STATEWIDE SYSTEMS FOR SUPPORT.—Sec-
14 tion 1117(a)(5)(B) of the Elementary and Sec-
15 ondary Education Act of 1965 (20 U.S.C.
16 6317(a)(5)(B)) is amended—

17 (A) in clause (i), by striking the semicolon
18 at the end and inserting the following: “, in-
19 cluding by improving or expanding the use of
20 positive behavioral interventions and supports
21 aligned with similar activities carried out under
22 the Individuals with Disabilities Education
23 Act;”;

24 (B) in clause (iii), by striking “and” after
25 the semicolon;

1 (C) in clause (iv), by striking the period
2 and inserting a semicolon; and

3 (D) by adding at the end the following:

4 “(v) review and analyze the school’s
5 efforts to identify and assist students with
6 poor academic achievement and students
7 with disabilities, and assist the school in
8 developing or improving early intervening
9 services that are coordinated with similar
10 activities carried out under the Individuals
11 with Disabilities Education Act;

12 “(vi) review and analyze the school’s
13 efforts to address behavioral or disciplinary
14 problems, and assist the school in devel-
15 oping or improving schoolwide positive be-
16 havioral interventions and supports that
17 are coordinated with similar activities car-
18 ried out under the Individuals with Dis-
19 abilities Education Act; and

20 “(vii) review the number of discipline
21 incidents in the school and use that infor-
22 mation to assist the school to implement
23 schoolwide positive behavioral interventions
24 and supports or other early intervening
25 services, or both.”.

1 (g) TITLE I PARENTAL INVOLVEMENT.—Section
2 1118(e) of the Elementary and Secondary Education Act
3 of 1965 (20 U.S.C. 6318(e)) is amended—

4 (1) by redesignating paragraphs (6) through
5 (14) as paragraphs (7) through (15), respectively;
6 and

7 (2) by inserting after paragraph (5) the fol-
8 lowing:

9 “(6) shall provide information to school per-
10 sonnel, students, and parents about the school’s use
11 of positive behavioral interventions and supports and
12 the expectations of school personnel, students, and
13 parents in supporting a safe learning environment
14 for all students;”.

15 (h) PREVENTION AND INTERVENTION PROGRAMS.—
16 Section 1414(c)(8) of the Elementary and Secondary Edu-
17 cation Act of 1965 (20 U.S.C. 6434(c)(8)) is amended by
18 inserting “, including coordinating the use of positive be-
19 havioral interventions and supports and early intervening
20 services to improve academic achievement and reduce dis-
21 ciplinary actions” before the semicolon at the end.

22 (i) TECHNICAL ASSISTANCE.—Section 1419 of the
23 Elementary and Secondary Education Act of 1965 (20
24 U.S.C. 6439) is amended—

1 (1) in paragraph (1), by striking “and” after
2 the semicolon;

3 (2) in paragraph (2), by striking the period and
4 inserting “; and”; and

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

6 “(3) to provide technical assistance in imple-
7 menting positive behavior interventions and supports
8 and early intervening services in order to improve
9 academic achievement and reduce disciplinary ac-
10 tions.”.

11 (j) DEFINITION.—Section 9101 of the Elementary
12 and Secondary Education Act of 1965 (20 U.S.C. 7801)
13 is amended—

14 (1) by redesignating paragraphs (17) through
15 (43) as paragraphs (18) through (44), respectively;
16 and

17 (2) by inserting after paragraph (16) the fol-
18 lowing:

19 “(17) EARLY INTERVENING SERVICES.—The
20 term ‘early intervening services’ means early inter-
21 vening services described in section 613(f)(1) of the
22 Individuals with Disabilities Education Act.”.

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