

117TH CONGRESS
2D SESSION

S. 3973

To help local educational agencies replace zero-tolerance disciplinary policies and punitive discipline in elementary and secondary schools with restorative practices.

IN THE SENATE OF THE UNITED STATES

MARCH 31, 2022

Mr. BENNET introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To help local educational agencies replace zero-tolerance disciplinary policies and punitive discipline in elementary and secondary schools with restorative practices.

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 “Restorative Practices
5 in Schools Act of 2022”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to help local educational
8 agencies replace zero-tolerance disciplinary policies and

1 punitive discipline in elementary and secondary schools
2 with restorative practices that—

3 (1) provide an intentional approach to school
4 safety and student well-being that addresses the
5 needs of the whole child;

6 (2) recognize student behavior as a result of
7 underlying need, and childhood emotional and behav-
8 ioral development;

9 (3) build community and repair relationships
10 while developing students’ proactive skills for conflict
11 resolution, communication, problem-solving, and em-
12 pathy;

13 (4) reduce undesirable behavior; and

14 (5) promote relationship-centered schools and
15 safe, inclusive learning environments with positive
16 school climates.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) **ESEA TERMS.**—The terms “elementary
20 school”, “evidence-based”, “local educational agen-
21 cy”, “parent”, “professional development”, “school
22 leader”, “secondary school”, “Secretary”, “special-
23 ized instructional support personnel”, and “other
24 staff” have the meaning given those terms in section

1 8101 of the Elementary and Secondary Education
2 Act of 1965 (20 U.S.C. 7801).

3 (2) PROGRAM PERSONNEL.—The term “pro-
4 gram personnel” means—

5 (A) any agent of a local educational agen-
6 cy, including an individual who is employed by
7 a local educational agency, or who performs
8 services for a local educational agency on a con-
9 tractual basis, including—

10 (i) school leaders;

11 (ii) educators;

12 (iii) specialized instructional support
13 personnel;

14 (iv) paraprofessionals; or

15 (v) other staff; and

16 (B) a school-based law enforcement officer.

17 (3) RESTORATIVE PRACTICES.—The term “re-
18 storative practices” means evidence-based practices
19 that—

20 (A) acknowledge and honor the dignity of
21 students;

22 (B) are proactive approaches that teach
23 and build community, empathy, and account-
24 ability school-wide to reduce and discourage un-
25 desirable student behavior;

(C) improve school climate, elevate students' voices, and strengthen all relationships in a school community;

(D) may include—

(i) strategies such as restorative dialogue, informal conferencing, proactive circles, and responsive circles;

(ii) reactive strategies that address conflicts, individual incidents, and classroom-wide issues; and

(iii) formal conferences, reintegration circles, and circles of support and accountability to cultivate empathy and repair harm; and

(E) do not include mediation or school-based mediation to address bullying, harassment, or other forms of discrimination.

(4) SCHOOL-BASED LAW ENFORCEMENT OFFICER.—The term “school-based law enforcement officer” means any person, sworn or unsworn, who—

(A) is assigned by the employing law enforcement agency to a local educational agency or school, who is contracting with a local educational agency or school, or who is employed by a local educational agency or school;

(B)(i) has the power to detain, arrest, issue a citation, perform a custodial investigation, or refer a person to criminal or juvenile court; or

(ii) is considered under State law to meet the definition of law enforcement; and

(C) includes an individual referred to as a “school resource officer”, “school safety agent”, or a “school police officer”, if that individual meets the definition in subparagraphs (A) and (B).

(5) SCHOOL TO PRISON PIPELINE.—The term “school to prison pipeline” means the use of discipline practices such as zero-tolerance policies that funnel students out of school and toward the juvenile legal and criminal legal systems.

(6) SUBGROUP OF STUDENTS.—The term subgroup of students has the meaning given that term in section 1111(c)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(c)(2)).

SEC. 4. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Education shall award grants, on a competitive basis, to local educational agencies to enable those local educational agencies to im-

1 plement and sustain restorative practices for elementary
 2 and secondary schools and to replace existing punitive
 3 models, in accordance with subsection (d).

4 (b) APPLICATIONS.—

5 (1) IN GENERAL.—Local educational agencies
 6 desiring a grant under this section shall submit an
 7 application at such time, in such manner, and con-
 8 taining such information as the Secretary may rea-
 9 sonably require, including—

10 (A) information about—

11 (i) the number of students served by
 12 that local educational agency who are in
 13 contact with the juvenile legal system at
 14 the time the application is submitted;

15 (ii) the percentage of residents living
 16 in the area served by the local educational
 17 agency who are in contact with the legal
 18 justice system at the time the application
 19 is submitted;

20 (iii) the percentage and number of
 21 residents living in the area served by the
 22 local educational agency who are admitted
 23 to correctional facilities each year;

24 (iv) the percentage and number of
 25 residents living in the area served by the

1 local educational agency who are on proba-
2 tion, parole, or any other form of commu-
3 nity-based supervision at the time of the
4 application; and

5 (v) the percentage or number of stu-
6 dents served by the local educational agen-
7 cy who—

8 (I) received one or more in-school
9 suspensions;

10 (II) received one or more out-of-
11 school suspensions;

12 (III) were expelled because of
13 zero-tolerance policies;

14 (IV) were referred to a law en-
15 forcement agency or official;

16 (V) were arrested for school-re-
17 lated activity; or

18 (VI) received corporal punish-
19 ment;

20 (B) demographic information that shows
21 evidence that the community served by the local
22 educational agency is disproportionately im-
23 pacted by the legal justice system or that
24 marginalized subgroups in that community are

1 disproportionately impacted by the legal justice
2 system;

3 (C) documentation of meaningful commu-
4 nity engagement and stakeholder interest in es-
5 tablishing or expanding restorative practices at
6 the local educational agency or schools served
7 by the local educational agency, including en-
8 gagement and interest of teachers' unions and
9 organizations, school leadership parent-teacher
10 associations, student councils, and not less than
11 1 advocacy organization for each subgroup of
12 students, and which may include other relevant
13 groups;

14 (D) a plan to implement evidence-based,
15 restorative, equitable, and non-discriminatory
16 school discipline practices that improve the cli-
17 mate of the local educational agency and that
18 meet the requirements of subsection (c);

19 (E) the number and percentage of exclu-
20 sionary discipline practices implemented by the
21 local educational agency, including suspensions
22 and expulsions, as a whole and disaggregated
23 by student subgroup, students experiencing
24 homelessness, and students who are children
25 and youth in foster care;

1 (F) an assurance that the local educational
2 agency will meet the requirements described in
3 subsection (c); and

4 (G) a description of whether the local edu-
5 cational agency meets the criteria described in
6 subparagraph (A) or (B) of paragraph (3).

7 (2) PRIORITY.—In awarding grants under this
8 section, the Secretary shall give priority to local edu-
9 cational agencies that—

10 (A) serve communities that have been dis-
11 proportionately impacted by the juvenile and
12 criminal legal systems;

13 (B) have disproportionally high rates of
14 grade retention, suspensions, and expulsions for
15 certain subgroups of students;

16 (C) serve students in an area that has a
17 high concentration of residents in poverty, in-
18 cluding local educational agencies that are in
19 the highest quartile of local educational agen-
20 cies in a ranking of all qualified local edu-
21 cational agencies in the State ranked in de-
22 scending order by the number or percentage of
23 children in each agency counted under section
24 1124(c) of the Elementary and Secondary Edu-
25 cation Act of 1965 (20 U.S.C. 6333(c)); or

1 (D) serve students in a rural community
2 and need additional staff to support the imple-
3 mentation of restorative practices.

4 (3) GRANT APPLICANT POOLS.—In awarding
5 grants under this section, the Secretary shall evalu-
6 ate applicants according to the following two distinct
7 applicant pools:

8 (A) Applicants seeking to implement re-
9 storative practices in one or more schools served
10 by the local educational agency for the first
11 time.

12 (B) Applicants seeking to expand and sus-
13 tain existing restorative practice programs in
14 one or more schools served by the local edu-
15 cational agency or improve data collection sys-
16 tems under subsection (d)(4), as the case may
17 be.

18 (c) REQUIREMENTS FOR GRANT RECIPIENTS.—In
19 order to receive a grant under this section a local edu-
20 cational agency shall submit an assurance to the Secretary
21 as part of the application described in subsection (b) that
22 the local educational agency will agree to—

23 (1) hire a full-time employee (who shall not
24 have academic teaching or administrative duties dis-
25 tinct from the responsibilities described in this para-

graph and shall not be a law enforcement officer or a retired law enforcement officer) whose primary responsibility is to provide training, professional development, coaching, and oversight for restorative practices implementation in the local educational agency or schools served by the local educational agency;

(2) fund ongoing restorative practices training, professional development, and on-site coaching for all program personnel, students, and interested parents;

(3) eliminate—

(A) zero-tolerance disciplinary policies at the local educational agency or at all elementary and secondary schools served by the local educational agency; or

(B) the application of these policies to undesirable behavior to the greatest extent possible under State law;

(4) adopt safety and discipline policies or codes of conduct that—

(A) emphasize ways of maintaining safety that minimize the involvement of law enforcement (including school-based law enforcement officers and including U.S. Immigration and Customs Enforcement), to the greatest extent

1 that is practicable and permitted under applica-
2 ble Federal, State, and local laws; and

3 (B) eliminate the use of exclusionary dis-
4 cipline policies, including suspensions and ex-
5 pulsions for undesirable student behavior to the
6 greatest extent permitted by Federal, State,
7 and local laws;

8 (5) implement implicit bias, cultural com-
9 petence, and anti-racist training for program per-
10 sonnel;

11 (6) establish policies that limit when law en-
12 forcement can be called into schools, including by—

13 (A) recognizing the local educational agen-
14 cy as the primary authority responsible for
15 school climate and safety;

16 (B) requiring that school discipline issues
17 be handled by program personnel who are not
18 school-based law enforcement officers, police,
19 security officers, or other law enforcement, un-
20 less there is a real, immediate, specific, and
21 credible threat of serious physical injury to a
22 student, teacher, or other member of the school
23 community; and

24 (C) establishing that school administrators
25 shall have final responsibility and jurisdiction

1 over the building, the grounds, and all members
2 of the school community, to the greatest extent
3 permitted by law;

4 (7) prohibit the issuance of tickets, summonses,
5 and referrals of students to the juvenile or criminal
6 legal systems for all school disciplinary matters and
7 school status offenses;

8 (8) provide proper notice and a right of action
9 or appeals procedures for students, parents, and
10 guardians involved in school discipline;

11 (9) prohibit the use of metal detectors, facial
12 recognition software, and other surveillance tech-
13 nology and approaches; and

14 (10) prohibit the sharing of student data (per-
15 sonal and academic) with Federal, State, or local
16 law enforcement, U.S. Immigration and Customs
17 Enforcement, or other law enforcement, except as
18 required by law.

19 (d) USES OF GRANT FUNDS.—A local educational
20 agency shall use grant funds received under this section
21 to support the implementation of restorative practices in
22 elementary and secondary schools served by the local edu-
23 cational agency. Funds may be used to carry out one or
24 more of the following activities:

1 (1) Hiring additional full-time and part-time
 2 employees (including students and parents) to lead
 3 evidence-based, restorative practices at the district
 4 or school level.

5 (2) Providing anti-racist, culturally competent,
 6 and linguistically responsive curriculum and material
 7 development and training to program personnel.

8 (3) Providing trauma-informed or healing-cen-
 9 tered engagement practice training.

10 (4) If not already in place, developing data col-
 11 lection systems to accurately document behavior inci-
 12 dents as well as school responses to those incidents,
 13 such as restorative circles to support implementation
 14 of restorative practices.

15 (5) Offering robust integrated student supports,
 16 such as wraparound services and social services nec-
 17 essary to address the underlying causes of undesir-
 18 able student behavior, including hiring specialized
 19 instructional support personnel and related service
 20 providers such as psychologists, counselors, nurses,
 21 social workers, paraprofessionals, conflict resolution
 22 staff, and advisors, in a manner that is in accord-
 23 ance with—

24 (A) evidence-based student-educator ratios;
 25 and

1 (B) individual education plan requirements
 2 of the Individuals with Disabilities Education
 3 Act (20 U.S.C. 1400 et seq.).

4 (6) Promoting partnerships and local liaisons in
 5 order to coordinate with existing social and commu-
 6 nity-based services and providers to connect youth
 7 with trusted and established resources.

8 (7) Developing and implementing diversion pro-
 9 grams for young people in their communities, such
 10 as—

11 (A) truancy diversion;

12 (B) truancy boards;

13 (C) peer mediation;

14 (D) alternative dispute resolution to reduce
 15 referrals to a court-designated worker; and

16 (E) relationship-centered schools that sup-
 17 port strong family and community engagement.

18 (8) Providing training and professional develop-
 19 ment for program personnel to identify, de-escalate,
 20 and otherwise appropriately respond to student trau-
 21 ma and harm.

22 (e) REPORTING.—

23 (1) LOCAL EDUCATIONAL AGENCY REQUIRE-
 24 MENTS.—Not later than 1 year after receiving a
 25 grant under this section, and each year thereafter,

1 each local educational agency that receives a grant
2 under this section shall provide to the Secretary—

3 (A) a written assurance that—

4 (i) the local educational agency or
5 schools served by the local educational
6 agency have been notified of and are in
7 compliance with the requirements de-
8 scribed under subsection (c);

9 (ii) all program personnel of the local
10 educational agency have received training
11 with respect to such requirements;

12 (iii) parents of students enrolled in
13 the local educational agency or served by
14 such local educational agency have been
15 notified of those requirements with respect
16 to the local educational agency based on
17 receipt of the grant; and

18 (iv) the notification required under
19 clause (iii) is publicly available on the
20 website of the local educational agency;
21 and

22 (B) a school climate report, which shall be
23 publicly available in an easily accessible format
24 on a school or district website, that includes a
25 description of—

1 (i) the policies and procedures of the
2 local educational agency with respect exclu-
3 sionary and aversive discipline practices or
4 interventions in the local educational agen-
5 cy or schools served by the local edu-
6 cational agency;

7 (ii) how the local educational agency
8 plans to implement, is implementing, or
9 has implemented restorative practices and
10 other models to address student behavior
11 and reduce the use of exclusionary and
12 aversive discipline practices or interven-
13 tions in the local educational agency or
14 schools served by the local educational
15 agency;

16 (iii) efforts of the local educational
17 agency to ensure all program personnel re-
18 ceive the supports and training necessary
19 to implement restorative practices;

20 (iv) efforts of the local educational
21 agency to ensure program personnel are
22 implementing practices of anti-racism, cul-
23 tural competence, and anti-bias to ensure
24 the school environment is free from racial
25 and other forms of harassment;

1 (v) how the local educational agency
2 has taken steps to ensure its restorative
3 practices have centered on the needs of
4 those who have been harmed by zero-toler-
5 ance disciplinary policies and punitive dis-
6 ciplinary practices;

7 (vi) the number of students that are
8 served by the local educational agency who
9 engaged in some form of restorative prac-
10 tice during the reporting period and the
11 kinds of restorative practices that were
12 used, disaggregated and cross-tabulated
13 based on race, gender, and disability sta-
14 tus, and by category described under sub-
15 section (b)(1)(A)(v);

16 (vii) the number of students that are
17 served by the local educational agency that
18 were subject to exclusionary discipline dur-
19 ing the reporting period, which shall be
20 disaggregated and cross-tabulated based on
21 race, gender, and disability status;

22 (viii) a demonstration of continued en-
23 gagement among students, parents, and
24 other stakeholders; and

1 (ix) a plan that articulates how the
2 local educational agency will sustain the
3 use of restorative practices after the grant
4 period is concluded.

5 (2) REPORT.—The Secretary shall study data
6 collected from the grant program under this section
7 and other relevant programs and use such data to
8 submit, not later than 3 years after the date of the
9 enactment of this Act, and not less than once every
10 1 year thereafter, to the Committee on Education
11 and Labor of the House of Representatives and the
12 Committee on Health, Education, Labor, and Pen-
13 sions of the Senate, and make publicly available, a
14 report—

15 (A) summarizing the information from
16 grantees as described under paragraph (1);

17 (B) highlighting strong examples of restor-
18 ative practices in schools;

19 (C) informing guidance on school discipline
20 that can dramatically reduce the number of
21 children who are funneled into the school to
22 prison pipeline; and

23 (D) containing recommendations about
24 how schools can strengthen compliance with
25 Federal civil rights laws.

1 (f) ACCOUNTABILITY.—If the Secretary determines
 2 that an entity has misused funds or failed to comply with
 3 program requirements, the Secretary may withhold funds
 4 until an entity comes into compliance, in accordance with
 5 part D of the General Education Provisions Act (20
 6 U.S.C. 1234 et seq.).

7 **SEC. 5. STUDY OF RESTORATIVE PRACTICES.**

8 (a) IN GENERAL.—The Comptroller General of the
 9 United States shall conduct a study on the school to prison
 10 pipeline for the purposes of—

11 (1) identifying evidence-based interventions to
 12 improve student well-being and improve school cli-
 13 mate, including restorative practices; and

14 (2) examining the role of State and local legal,
 15 and education systems in exacerbating disparities
 16 among students (based on race, sex (including sex-
 17 ual orientation and gender identity), socioeconomic
 18 status, and disability status), including the dis-
 19 proportionate involvement of certain students in the
 20 legal system.

21 (b) DUTIES.—Not later than 1 year after the date
 22 of enactment of this Act, the Comptroller General shall
 23 initiate the study under subsection (a), which may in-
 24 clude—

1 (1) examining school discipline policies that are
2 alternatives to exclusionary discipline practices, that
3 include—

4 (A) the models for professional develop-
5 ment and family engagement in local edu-
6 cational agencies or States that have adopted
7 and effectively implemented such policies;

8 (B) a review of the research on the impact
9 that such policies may have on student achieve-
10 ment, disproportionate discipline rates, and stu-
11 dent well-being; and

12 (C) the measurement tools used to collect,
13 analyze, and respond to data related to student
14 discipline, school climate, and student well-
15 being after such policies have been imple-
16 mented;

17 (2) examining the consequences that disparities
18 in school discipline policies may have on affected
19 students, including impacts on learning loss and
20 school completion rates, families, and local commu-
21 nities, including increasing trauma and other risk
22 factors associated with the school to prison pipeline;

23 (3) identifying harmful education and public
24 safety policies that direct more students into the jus-

1 tice system and examples of efforts to disrupt such
2 policies; and

3 (4) elevating public health oriented approaches
4 to improving student well-being and school climate.

5 (c) REPORT.—Upon the conclusion of the study
6 under subsection (a), the Comptroller General of the
7 United States shall prepare and submit to the Committee
8 on Health, Education, Labor, and Pensions of the Senate,
9 the Committee on Education and Labor of the House of
10 Representatives, and the Department of Education a re-
11 port regarding the study and the conclusions and rec-
12 ommendations generated from the study.

○