

117TH CONGRESS
2D SESSION

S. 5013

To authorize grants to establish a national education protection and advocacy program to enforce the rights and protections under the Individuals with Disabilities Education Act, the Americans with Disabilities Act of 1990, and section 504 of the Rehabilitation Act of 1973, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2022

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

A BILL

To authorize grants to establish a national education protection and advocacy program to enforce the rights and protections under the Individuals with Disabilities Education Act, the Americans with Disabilities Act of 1990, and section 504 of the Rehabilitation Act of 1973, 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.**

4 This Act may be cited as the “Protection and Advo-
5 cacy in Education Act”.

1 **SEC. 2. GRANTS TO ESTABLISH A NATIONAL EDUCATION**
2 **PROTECTION AND ADVOCACY PROGRAM.**

3 (a) DEFINITIONS.—In this section:

4 (1) AMERICAN INDIAN CONSORTIUM.—The term
5 “American Indian consortium” has the meaning
6 given the term in section 102 of the Developmental
7 Disabilities Assistance and Bill of Rights Act of
8 2000 (42 U.S.C. 15002).

9 (2) EDUCATIONAL SETTING.—The term “edu-
10 cational setting” includes any setting, in which a
11 student (including a child, youth, or an adult) who
12 may be eligible for education or related services
13 under, or is otherwise protected by, the laws de-
14 scribed in subsection (b) receives such education or
15 services.

16 (3) SECRETARY.—The term “Secretary” means
17 the Secretary of Education.

18 (4) PROTECTION AND ADVOCACY SYSTEM.—The
19 term “protection and advocacy system” means a
20 protection and advocacy system established under
21 section 143 of the Developmental Disabilities Assist-
22 ance and Bill of Rights Act of 2000 (42 U.S.C.
23 15043).

24 (b) PROGRAM ESTABLISHED.—The Secretary shall
25 make grants to protection and advocacy systems for the
26 purpose of protecting the rights and advocating for the

1 educational needs of children, youth, and adults who are
2 (or may be) protected by or eligible for education or re-
3 lated services under the Individuals with Disabilities Edu-
4 cation Act (20 U.S.C. 1400 et seq.), section 504 of the
5 Rehabilitation Act of 1973 (29 U.S.C. 794), or the Ameri-
6 cans with Disabilities Act of 1990 (42 U.S.C. 12101 et
7 seq.).

8 (c) USES OF FUNDS.—A protection and advocacy
9 system shall use a grant under this section to carry out
10 one or more of the following:

11 (1) Monitoring and identifying conditions and
12 practices that violate the laws described in sub-
13 section (b) with respect to the rights of students
14 with disabilities.

15 (2) Advocating for safe and humane conditions
16 and the elimination of aversive and other dangerous
17 practices at educational settings, including seclusion
18 and restraint.

19 (3) Collaborating with parent training and in-
20 formation centers, as described in section 671 of the
21 Individuals with Disabilities Education Act (20
22 U.S.C. 1471), to ensure that needed advocacy and
23 information is provided for families and individuals
24 protected by or eligible for education-related serv-

1 ices, protection, and rights under the laws described
2 in subsection (b).

3 (4) Advocating for redress of violations of the
4 law and providing advocacy in dispute resolution
5 proceedings.

6 (5) Advocating for systemic change in edu-
7 cational settings to address violations of the laws de-
8 scribed in subsection (b).

9 (6) Pursuing administrative, legal, and other
10 appropriate remedies to ensure that children, youth,
11 and adults with disabilities in educational settings
12 are eligible for and receiving the education, related
13 services, protections, and rights to which they are
14 entitled under the laws described in subsection (b).

15 (d) SYSTEM REQUIREMENTS.—To be eligible for a
16 grant under this section, a protection and advocacy system
17 shall—

18 (1) have the authority to investigate incidents
19 of abuse and neglect of youth, children, and adults
20 with disabilities in educational settings if the inci-
21 dents are reported to the protection and advocacy
22 system or if there is probable cause to believe that
23 the incidents occurred;

24 (2) have the authority to pursue legal, adminis-
25 trative, and other appropriate remedies or ap-

1 proaches to ensure the protection of, and advocacy
2 for, the rights of children, youth, and adults in edu-
3 cational settings who are protected by or are (or
4 may be) eligible for education or related services
5 under the laws described in subsection (b); and

6 (3) have the same authorities as set forth in
7 section 143 of the Developmental Disabilities Assist-
8 ance and Bill of Rights Act of 2000 (42 U.S.C.
9 15043) and any regulations issued under such sec-
10 tion, including the authority to access individuals,
11 records, and educational settings.

12 (e) APPLICATION.—A protection and advocacy sys-
13 tem shall submit an application to the Secretary at such
14 time, in such form and manner, and accompanied by such
15 information as the Secretary may require, and shall in-
16 clude a description of how the system will use grant funds
17 to address the needs of children, youth, and adults with
18 disabilities in educational settings.

19 (f) APPROPRIATIONS LESS THAN \$6,750,000.—

20 (1) IN GENERAL.—With respect to any fiscal
21 year for which the amount appropriated pursuant to
22 subsection (o) to carry out this section is less than
23 \$6,750,000, the Secretary shall reserve funds in ac-
24 cordance with subsection (n)(1) and make grants
25 from such remaining amounts among protection and

1 advocacy systems that apply for a grant under this
2 section.

3 (2) AMOUNT OF GRANT.—The amount of a
4 grant under paragraph (1) shall not be less than—

5 (A) \$120,000 for a protection and advo-
6 cacy system located in 1 of the several States,
7 the District of Columbia, or the Commonwealth
8 of Puerto Rico; and

9 (B) \$60,000 for a protection and advocacy
10 system located in American Samoa, the Com-
11 monwealth of the Northern Mariana Islands,
12 Guam, the United States Virgin Islands, or the
13 American Indian Consortium.

14 (g) APPROPRIATIONS OF \$6,750,000 OR MORE.—

15 (1) IN GENERAL.—With respect to any fiscal
16 year in which the amount appropriated pursuant to
17 subsection (o) to carry out this section is not less
18 than \$6,750,000, the Secretary shall reserve funds
19 in accordance with subsection (n)(2) and make
20 grants from such remaining amounts not later than
21 January 1 of the fiscal year to protection and advo-
22 cacy systems that apply for a grant under this sec-
23 tion.

24 (2) AMOUNT OF GRANT.—Subject to paragraph
25 (3), the amount of a grant to a protection and advo-

1 cacy system under paragraph (1) shall be equal to
2 an amount bearing the same ratio to the total
3 amount appropriated for the fiscal year involved
4 pursuant to subsection (o) and not reserved as the
5 population of the State in which the grantee is lo-
6 cated bears to the population of all States.

7 (3) MINIMUMS.—The amount of a grant under
8 paragraph (1) shall not be less than—

9 (A) \$120,000 for a protection and advo-
10 cacy system located in one of the several States,
11 the District of Columbia, or the Commonwealth
12 of Puerto Rico; and

13 (B) \$60,000 for a protection and advocacy
14 system located in American Samoa, the Com-
15 monwealth of the Northern Mariana Islands,
16 Guam, or the United States Virgin Islands, and
17 for the system serving the American Indian
18 Consortium.

19 (4) ADJUSTMENT.—For each fiscal year in
20 which the total amount appropriated under sub-
21 section (o) to carry out this section is \$10,000,000
22 or more, and such appropriated amount exceeds the
23 total amount appropriated to carry out this section
24 for the preceding fiscal year, the Secretary shall in-
25 crease each of the minimum grant amounts de-

1 scribed in subparagraphs (A) and (B) of paragraph
2 (3) by a percentage equal to the percentage increase
3 in the total amount appropriated under subsection
4 (o) to carry out this section between the preceding
5 fiscal year and the fiscal year involved.

6 (h) DIRECT PAYMENT.—Notwithstanding any other
7 provision of law, the Secretary shall pay directly to any
8 protection and advocacy system that complies with this
9 section, the total amount of the grant for such system,
10 unless the system provides otherwise for such payment.

11 (i) NO MATCHING FUNDS REQUIRED.—The Federal
12 share of a grant under this section shall be 100 percent
13 and a grant recipient shall not be required to provide
14 matching funds.

15 (j) ANNUAL REPORT.—Each protection and advocacy
16 system that receives a grant under this section shall sub-
17 mit an annual report to the Secretary concerning the serv-
18 ices provided to protect and advocate for the educational
19 needs of children, youth, and adults who are (or may be)
20 eligible for education and related services under the laws
21 described in subsection (b).

22 (k) ADMINISTRATIVE, REPORTING, AND OVERSIGHT
23 REQUIREMENTS.—To the extent possible, reporting, moni-
24 toring, program financing, and other administrative and
25 oversight requirements established by the Secretary under

1 this section shall be consistent with the administrative, re-
2 porting, and oversight requirements for a protection and
3 advocacy system under the Developmental Disabilities As-
4 sistance and Bill of Rights Act of 2000 (42 U.S.C. 150001
5 et seq.).

6 (l) SUPPLEMENT, NOT SUPPLANT.—A protection and
7 advocacy system receiving funds under this section shall
8 use such funds to supplement, and not supplant, funds
9 used to protect the rights and advocate for the educational
10 needs of children, youth, and adults who are (or may be)
11 protected under or eligible for services under the laws de-
12 scribed in subsection (b).

13 (m) CARRYOVER AND PROGRAM INCOME.—Any
14 amounts paid to a protection and advocacy system for a
15 fiscal year under this section that remain unobligated at
16 the end of such fiscal year shall remain available to such
17 system for obligation during the subsequent fiscal year.
18 Program income generated from such amounts shall be
19 considered additive and shall remain available for 5 addi-
20 tional fiscal years after the year in which such amount
21 was paid to the protection and advocacy system.

22 (n) TECHNICAL ASSISTANCE.—

23 (1) APPROPRIATIONS OF LESS THAN
24 \$6,750,000.—For any fiscal year for which the
25 amount appropriated to carry out this section is less

1 than \$6,750,000, the Secretary shall set aside 1 per-
2 cent of the funds appropriated (but not less than
3 \$50,000) to make a grant to or a contract or cooper-
4 ative agreement with a national organization with
5 experience in providing training and technical assist-
6 ance to protection and advocacy systems to provide
7 such training and technical assistance.

8 (2) APPROPRIATIONS OF NOT LESS THAN
9 \$6,750,000.—For any fiscal year for which the
10 amount appropriated to carry out this section is not
11 less than \$6,750,000, the Secretary shall set aside
12 2 percent of the funds appropriated to make a grant
13 to or contract or cooperative agreement with a na-
14 tional organization with experience in providing
15 training and technical assistance to protection and
16 advocacy systems to provide such training and tech-
17 nical assistance.

18 (o) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated such sums as may be
20 necessary to carry out this section for each of fiscal years
21 2023 through 2032.

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