

110TH CONGRESS
1ST SESSION

H. R. 3407

To amend the Elementary and Secondary Education Act of 1965 to allow State and local educational agencies and schools to make greater use of early intervening services, particularly schoolwide positive behavior supports.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 2007

Mr. HARE (for himself, Mr. LOEBACK, Ms. WOOLSEY, and Mr. DAVIS of Illinois) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Elementary and Secondary Education Act of 1965 to allow State and local educational agencies and schools to make greater use of early intervening services, particularly schoolwide 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 Effective Schools Act”.

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

7 (a) FINDINGS.—The Congress finds the following:

1 (1) Educators and the general public cite dis-
2 disciplinary issues as the leading challenge facing
3 schools.

4 (2) There is significant evidence that zero toler-
5 ance and other get-tough approaches to school dis-
6 cipline are ineffective and even counter-productive.

7 (3) Learning and behavior are inextricably
8 linked. The most successful schools have high aca-
9 demic and behavior standards, and improvements in
10 student behavior and school climate are correlated
11 with improvements in academic outcomes and grad-
12 uation rates.

13 (4) Evidence-based practices for improving be-
14 havior and creating a school climate more conducive
15 to learning have not been uniformly adopted and
16 sustained.

17 (5) Many problems can be prevented or mini-
18 mized with early intervening services that have been
19 shown to be effective and reduce the need for more
20 intensive and more costly interventions.

21 (6) In particular, the use of positive behavior
22 supports leads to greater academic achievement, sig-
23 nificantly fewer disciplinary problems, lower suspen-
24 sion and expulsion rates, greater inclusion, more

1 time for instruction, and increased opportunities for
2 all students to achieve.

3 (7) The application of schoolwide positive be-
4 havior supports decreases rates of problem behaviors
5 by improving the systematic and consistent use of
6 active supervision, positive feedback, and social skills
7 instruction.

8 (8) When approaches such as positive behavior
9 support are paired with effective interventions and
10 services for students with significant needs, all stu-
11 dents, including those with the most challenging be-
12 haviors, can succeed.

13 (b) PURPOSES.—The purposes of this Act are to ex-
14 pand the use of positive behavior supports and other early
15 intervening services in schools in order to systematically
16 create a school climate that is highly conducive to learn-
17 ing, reduce discipline referrals, and improve academic out-
18 comes.

19 **SEC. 3. POSITIVE BEHAVIOR SUPPORT DEFINED.**

20 Section 9101 of the Elementary and Secondary Edu-
21 cation Act of 1965 (20 U.S.C. 7801) is amended by add-
22 ing at the end the following:

23 “(44) POSITIVE BEHAVIOR SUPPORT.—The
24 term ‘positive behavior support’ means a broad
25 range of systemic and individualized strategies for

1 achieving important social and learning outcomes
2 while preventing problem behavior with all stu-
3 dents.”.

4 **SEC. 4. SCHOOLWIDE POSITIVE BEHAVIOR SUPPORT.**

5 (a) FLEXIBILITY TO USE TITLE I FUNDS TO IMPLE-
6 MENT SCHOOLWIDE POSITIVE BEHAVIOR SUPPORT.—

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

10 (A) by redesignating paragraphs (1) and

11 (2) as subparagraphs (A) and (B), respectively;

12 (B) by inserting “(1)” before “Of the
13 amount”; and

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

15 “(2) Of the amount reserved under subsection (a) for
16 any fiscal year, the State educational agency may allocate
17 funds to develop and implement coordinated, early inter-
18 vening services (including schoolwide positive behavior
19 supports) for all students, including those who have not
20 been identified as needing special education but who need
21 additional academic and behavioral support to succeed in
22 a general education environment. Funds so allocated shall
23 be aligned with funds authorized under section 613(f) of
24 the Individuals with Disabilities Education Act and shall

1 be used to supplement, and not supplant, funds made
2 available under such Act for these activities and services.”.

3 (2) TECHNICAL ASSISTANCE.—

4 (A) Subparagraph (B) of section
5 1116(b)(4) of such Act (20 U.S.C. 6316(b)(4))
6 (relating to technical assistance) is amended by
7 redesignating clauses (iii) and (iv) as clauses
8 (iv) and (v), respectively, and by inserting after
9 clause (ii) the following new clause:

10 “(iii) shall include assistance in imple-
11 mentation of schoolwide positive behavior
12 supports and other approaches with evi-
13 dence of effectiveness for improving the
14 learning environment in the school;”.

15 (B) Paragraph (3) of section 1117(a) of
16 such Act (20 U.S.C. 6317(a)) (relating to re-
17 gional centers) is amended by inserting “any
18 technical assistance center on schoolwide posi-
19 tive behavior supports funded under section
20 665(b) of the Individuals with Disabilities Edu-
21 cation Act,” after “2002),”.

22 (C) Subparagraph (B) of section
23 1117(a)(5) of such Act (20 U.S.C. 6317(a)(5))
24 (relating to functions of school support teams)
25 is amended by redesignating clauses (iii) and

1 (iv) as clauses (iv) and (v), respectively, and by
2 inserting after clause (ii) the following new
3 clause:

4 “(iii) review the number of discipline
5 referrals in the school and the overall
6 school climate and engagement of families,
7 and use that information to assist the
8 school to implement schoolwide positive be-
9 havior supports and/or other early inter-
10 vening services;”.

11 (b) LEA FLEXIBILITY TO IMPROVE SCHOOL CLI-
12 MATE.—Subclause (I) of section 1114(b)(1)(B)(iii) of
13 such Act (20 U.S.C. 6314(b)(1)(B)(iii)) (relating to
14 schoolwide reform strategies) is amended by redesignating
15 items (bb) and (cc) as items (cc) and (dd), respectively,
16 and by inserting after item (aa) the following new item:

17 “(bb) improve the learning
18 environment in the school, includ-
19 ing the implementation of
20 schoolwide positive behavior sup-
21 ports, in order to improve aca-
22 demic outcomes for students;”.

1 **SEC. 5. AMENDMENTS RELATED TO THE SAFE AND DRUG-**
2 **FREE SCHOOLS AND COMMUNITIES PRO-**
3 **GRAM.**

4 Section 4002 of the Elementary and Secondary Edu-
5 cation Act of 1965 (20 U.S.C. 7102) (relating to purpose)
6 is amended by redesignating paragraphs (1) through (4)
7 as paragraphs (2) through (5), respectively, and by strik-
8 ing all that precedes paragraph (2) (as so redesignated)
9 and inserting the following:

10 “The purpose of this part is to support programs that
11 improve the whole school climate in order to foster learn-
12 ing, including programs that prevent discipline problems;
13 that prevent violence in and around schools; that prevent
14 the illegal use of alcohol, tobacco, and drugs; that involve
15 parents and communities in the school programs and ac-
16 tivities; and that are coordinated with related Federal,
17 State, school, and community efforts and resources to fos-
18 ter a safe and drug-free learning environment that sup-
19 ports student academic achievement, through the provi-
20 sion of Federal assistance to—

21 “(1) States for grants to local educational agen-
22 cies and consortia of such agencies to establish, op-
23 erate and improve local programs relating to improv-
24 ing the schoolwide climate (including implementation
25 of positive behavior supports and other programs);”.

1 **SEC. 6. EARLY INTERVENING SERVICES UNDER ELEMEN-**
2 **TARY AND SECONDARY SCHOOL COUNSELING**
3 **PROGRAM.**

4 Paragraph (2) of section 5421(b) of the Elementary
5 and Secondary Education Act of 1965 (20 U.S.C.
6 7245(b)) is amended by redesignating subparagraphs (C)
7 through (H) as subparagraphs (D) through (I), respec-
8 tively, and by inserting after subparagraph (B) the fol-
9 lowing new subparagraph:

10 “(C) describe how the local educational
11 agency will address the need for early inter-
12 vening services that improve the school climate
13 for learning, such as through schoolwide posi-
14 tive behavior supports;”.

15 **SEC. 7. TEACHER PROFESSIONAL DEVELOPMENT TO IM-**
16 **PROVE SCHOOL CLIMATE.**

17 Paragraph (2) of section 2122(c) of the Elementary
18 and Secondary Education Act of 1965 (20 U.S.C.
19 6622(c)) is amended—

20 (1) by striking “subject matter knowledge and
21 teaching skills” and inserting “subject matter knowl-
22 edge, teaching skills, and an understanding of social/
23 emotional learning in children and approaches that
24 improve the school climate for learning (such as
25 positive behavior support)”; and

1 (2) by inserting “to improve their school’s cli-
2 mate for learning” after “instructional leadership
3 skills to help teachers”.

4 **SEC. 8. OFFICE OF SPECIALIZED INSTRUCTIONAL SUPPORT**
5 **SERVICES.**

6 The Department of Education Organization Act is
7 amended by adding at the end of title II (20 U.S.C. 3411
8 et seq.) the following:

9 “OFFICE OF SPECIALIZED INSTRUCTIONAL SUPPORT
10 SERVICES

11 “SEC. 2501.

12 “(a) IN GENERAL.—There shall be, within the Office
13 of the Deputy Secretary in the Department of Education,
14 an Office of Specialized Instructional Support Services
15 (hereinafter in this section referred to as the ‘Office’).

16 “(b) PURPOSE.—The purpose of the Office shall be
17 to administer, coordinate, and carry out programs and ac-
18 tivities concerned with providing specialized instructional
19 support services in schools, delivered by trained, qualified
20 specialized instructional support personnel.

21 “(c) DIRECTOR.—The Office shall be headed by a Di-
22 rector who shall be selected by the Secretary and report
23 directly to the Deputy Secretary of Education.

24 “(d) ACTIVITIES.—In carrying out subsection (b), the
25 Director shall support activities to—

1 “(1) improve specialized instructional support
2 services in schools in order to improve academic
3 achievement and educational results for students;

4 “(2) identify scientifically based practices in
5 specialized instructional support services that sup-
6 port learning and improve academic achievement
7 and educational results for students;

8 “(3) provide continuous training and profes-
9 sional development opportunities for specialized in-
10 structional support personnel and other school per-
11 sonnel in the use of effective techniques to address
12 academic, behavioral, and functional needs;

13 “(4) provide technical assistance to local and
14 State educational agencies in the provision of effec-
15 tive, scientifically based specialized instructional sup-
16 port services; and

17 “(5) coordinate specialized instructional support
18 services programs and services in schools between
19 the Department of Education and other federal
20 agencies, as appropriate.”.

21 **SEC. 9. REFERENCES TO PUPIL SERVICES AND PER-**
22 **SONNEL.**

23 (a) IN GENERAL.—The Elementary and Secondary
24 Education Act of 1965 is amended—

1 (1) by striking “pupil services” each place it
2 appears in sections 1114(b)(1)(B)(iii)(I)(aa),
3 1416(4), and 4152(2) and inserting “specialized in-
4 structional support services”; and

5 (2) by striking “pupil services personnel” each
6 place it appears and inserting “specialized instruc-
7 tional support personnel”.

8 (b) DEFINITION.—Section 9101 of that Act (20
9 U.S.C. 7801) is amended—

10 (1) by striking paragraph (36);

11 (2) by redesignating paragraphs (37) through
12 (39) as (36) through (38); and

13 (3) by inserting after paragraph (38) (as so re-
14 designated) the following:

15 “(39) SPECIALIZED INSTRUCTIONAL SUPPORT
16 PERSONNEL; SPECIALIZED INSTRUCTIONAL SUPPORT
17 SERVICES.—

18 “(A) SPECIALIZED INSTRUCTIONAL SUP-
19 PORT PERSONNEL.—The term ‘specialized in-
20 structional support personnel’ means school
21 counselors, school social workers, school psy-
22 chologists, and other qualified professional per-
23 sonnel involved in providing assessment, diag-
24 nosis, counseling, educational, therapeutic, and
25 other necessary corrective or supportive services

1 (including related services as that term is de-
2 fined in section 602 of the Individuals with Dis-
3 abilities Education Act) as part of a com-
4 prehensive program to meet student needs.

5 “(B) SPECIALIZED INSTRUCTIONAL SUP-
6 PORT SERVICES.—The term ‘specialized instruc-
7 tional support services’ means the services pro-
8 vided by specialized instructional support per-
9 sonnel, including any other corrective or sup-
10 portive services to meet student needs.”.

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