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S. 2111

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

IN THE SENATE OF THE UNITED STATES

September 27, 2007

Mr. OBAMA (for himself, Mr. DURBIN, and Mr. SANDERS) 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 early intervention services, particularly school-wide positive behavior supports.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Positive Behavior for Effective Schools Act'.

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings- Congress makes the following findings:

- (1) Educators, parents, and the general public cite a lack of discipline as a leading challenge facing many public schools.
- (2) Negative and reactive school management practices, such as metal detectors or surveillance cameras, and zero tolerance or other get-tough approaches to school discipline, are ineffective and often counterproductive.
- (3) Learning is linked to student behavior. Successful schools implement high academic and behavior standards, where improvements in student behavior and school climate are correlated with improved academic outcomes.
- (4) Effective implementation of positive behavior supports is linked to greater academic achievement, significantly fewer disciplinary problems, lower suspension and expulsion rates, and increased time for instruction.

(5) Evidence-based and scientifically valid practices for improving behavior and creating a school climate more conducive to learning have not been widely adopted, accurately implemented, or sustained.

(6) Early intervening services are an effective strategy for instructional support. Following implementation of positive behavior support, out-of-school suspensions at an elementary school in Illinois decreased 85 percent, from 243 to 37 or fewer in 2 subsequent years, with a resultant gain of 386 days of instructional time. The percentage of students meeting or exceeding proficiency on State standards increased measurably.

(7) Problem behaviors can be minimized with effective positive behavior support, including active supervision, positive feedback, and social skills instruction, which reduce the need for more intensive and more costly interventions. Upon implementing such supports, an elementary school in Maryland witnessed a decrease in office discipline referrals for major rule violations by 42 percent, recouping 119 days of instructional time for students, and 40 days of administrator time, within 1 school year.

(8) Schools that implement school-wide positive behavior supports are perceived by teachers to be safer teaching environments. In South Carolina, a school using a system of positive behavior supports found that teacher transfer requests declined by 100 percent and teacher absence days decreased by 36 percent.

(9) When approaches such as positive behavior support are paired with effective interventions and services for students with significant needs, all students, including those with the most challenging behaviors, can succeed.

(b) Purposes- The purposes of this Act are to expand the use of positive behavior supports and other early intervening services in schools in order to systematically create a school climate that is highly conducive to learning, to reduce discipline referrals, and to improve student academic outcomes.

SEC. 3. DEFINITION OF POSITIVE BEHAVIOR SUPPORT.

In this Act, the term 'positive behavior support' means a systematic approach to embed proven practices for early intervening services, including a range of systemic and individualized strategies to reinforce desired behaviors and eliminate reinforcement for problem behaviors, in order to achieve important social outcomes and increase student learning, while preventing problem behaviors.

SEC. 4. SCHOOLWIDE POSITIVE BEHAVIOR SUPPORT.

(a) Flexibility To Use Title I Funds To Implement School-Wide Positive Behavior Support-

(1) IN GENERAL- Section 1003(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6303(b)) is amended--

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

(B) by inserting '(1)' before 'Of the amount'; and

(C) by adding at the end the following:

`(2) Of the amount reserved under subsection (a) for any fiscal year, the State educational agency may allocate funds to develop and implement coordinated, early intervening services (including school-wide positive behavior supports) for all students, including those who have not been identified as needing special education but who need additional academic and behavioral support to succeed in a general education environment. Funds so allocated shall be--

`(A) aligned with funds authorized under section 613(f) of the Individuals with Disabilities Education Act; and

`(B) used to supplement, and not supplant, funds made available under such Act for such activities and services.'

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

(A) in section 1116(b)(4)(B)--

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

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

`(iii) shall include assistance in implementation of school-wide positive behavior supports and other approaches with evidence of effectiveness for improving the learning environment in the school;';

(B) in section 1117(a)(3), by inserting `any technical assistance center on schoolwide positive behavior supports funded under section 665(b) of the Individuals with Disabilities Education Act,' after `2002),'; and

(C) in section 1117(a)(5)(B)--

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

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

`(iii) review the number of discipline referrals in the school and the overall school climate and engagement of families, and use that information to assist the school to implement school-wide positive behavior supports or other early intervening services, or both;'

(b) LEA Flexibility To Improve School Climate- Section 1114(b)(1)(B)(iii)(I) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6314(b)(1)(B)(iii)(I)) is amended--

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

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

`(bb) improving the learning environment in the school, including the implementation of school-wide positive behavioral supports, in order to improve academic outcomes for students;'

SEC. 5. TEACHER AND PRINCIPAL PREPARATION TO IMPROVE SCHOOL CLIMATE.

Section 2122(c)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6622(c)(2)) is amended--

- (1) by striking `subject matter knowledge and teaching skills' and inserting `subject matter knowledge, teaching skills, and an understanding of social or emotional, or both, learning in children and approaches that improve the school climate for learning (such as positive behavior support)'; and
- (2) by inserting `to improve the teachers' schools' climate for learning' after `instructional leadership skills to help teachers'.

SEC. 6. SAFE AND DRUG FREE SCHOOLS AND COMMUNITIES.

Section 4002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7102) is amended--

- (1) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively; and
- (2) by striking all that precedes paragraph (2) and inserting the following: `The purpose of this part is to support programs that improve the whole school climate in order to foster learning, including programs that prevent discipline problems, that prevent violence in and around schools, that prevent the illegal use of alcohol, tobacco, and drugs, that involve parents and communities in the school programs and activities, and that are coordinated with related Federal, State, school, and community efforts and resources to foster a safe and drug-free learning environment that supports student academic achievement, through the provision of Federal assistance to--
 - `(1) States for grants to local educational agencies and consortia of such agencies to establish, operate, and improve local programs relating to improving the school-wide climate (including implementation of positive behavior supports and other programs);'

SEC. 7. EARLY INTERVENING SERVICES UNDER SCHOOL COUNSELORS PROGRAM.

Section 5421(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7245(b)(2)) is amended--

- (1) by redesignating subparagraphs (C) through (H) as subparagraphs (D) through (I), respectively; and
- (2) by inserting after subparagraph (B) the following:
 - `(C) describe how the local educational agency will address the need for early intervening services that improve the school climate for learning, such as through schoolwide positive behavior supports;'

SEC. 8. OFFICE OF SPECIALIZED INSTRUCTIONAL SUPPORT SERVICES.

The Department of Education Organization Act (20 U.S.C. 3401 et seq.) is amended by adding at the end of title II the following:

`SEC. 221. OFFICE OF SPECIALIZED INSTRUCTIONAL SUPPORT SERVICES.

`(a) In General- There shall be, within the Office of the Deputy Secretary in the Department of Education, an Office of Specialized Instructional Support Services (referred to in this section as the `Office').

`(b) Purpose- The purpose of the Office shall be to administer, coordinate, implement, and ensure adequate evaluation of the effectiveness of programs and activities concerned with providing specialized instructional support services in schools, delivered by trained, qualified specialized instructional support personnel.

`(c) Director- The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and report directly to the Deputy Secretary of Education.

`(d) Activities- In carrying out subsection (b), the Director shall support activities to--

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

`(2) identify scientifically valid practices in specialized instructional support services that support learning and improve academic achievement and educational results for students;

`(3) provide continuous training and professional development opportunities for specialized instructional support personnel and other school personnel in the use of effective techniques to address academic, behavioral, and functional needs;

`(4) provide technical assistance to local educational agencies and State educational agencies in the provision of effective, scientifically valid, specialized instructional support services;

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

`(6) ensure evaluation of the effectiveness of the activities described in this subsection, as directed by the Secretary and Deputy Secretary.

`(e) Specialized Instructional Support Personnel; Specialized Instructional Support Services- In this section:

`(1) SPECIALIZED INSTRUCTIONAL SUPPORT PERSONNEL- The term `specialized instructional support personnel' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary corrective or supportive services (including related services, as such term is defined in section 602 of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

`(2) SPECIALIZED INSTRUCTIONAL SUPPORT SERVICES- The term `specialized instructional support services' means the services provided by specialized instructional support personnel, including any other corrective or supportive services to meet student needs.'.

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

Section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) is amended--

(1) by redesignating paragraphs (33) through (43) as paragraphs (34) through (44); and

(2) by inserting after paragraph (32) the following:

“(33) POSITIVE BEHAVIOR SUPPORT- The term ‘positive behavior support’ means a systematic approach to embed proven practices for early intervening services, including a range of systemic and individualized strategies to reinforce desired behaviors and eliminate reinforcement for problem behaviors, in order to achieve important social outcomes and increase student learning, while preventing problem behaviors.’.

END