116TH CONGRESS
2D Session

H. R. ______

To prohibit the use of corporal punishment in schools, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. McEachin introduced the following bill; which was referred to the Committee on ______

A BILL

To prohibit the use of corporal punishment in schools, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Protecting our Students in Schools Act of 2020”.

(b) TABLE OF CONTENTS.—The table of contents for this Act are as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—PROHIBITION OF CORPORAL PUNISHMENT
Sec. 101. Prohibition of corporal punishment.
Sec. 102. Civil actions by the Attorney General.
Sec. 103. Enforcement by the Office for Civil Rights.
Sec. 104. Parent notification and protection and Advocacy Systems.

TITLE II—STATE ACTIVITIES AND GRANT PROGRAM

Sec. 201. State plan and enforcement.
Sec. 202. Grant authority.

TITLE III—ADDITIONAL PROVISIONS

Sec. 301. Federal regulations.
Sec. 302. Other schools.
Sec. 303. Limitation of authority.
Sec. 304. Applicability.
Sec. 305. Severability.
Sec. 306. Authorization of appropriations.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) eliminate the use of corporal punishment in schools;

(2) ensure, regardless of sexual orientation, gender identity or expression, sex, race, color, national origin, disability, or religion, the health and safety of all students and program personnel in schools and promote a positive school climate and culture;

(3) assist States, local educational agencies, and schools in improving school climate and culture by implementing positive behavioral interventions and supports and other models to address student behavior and work to eliminate the use of exclusionary and aversive discipline practices or interventions;
(4) ensure all program personnel have the supports and training necessary to implement positive behavioral interventions and supports and other models to address student behavior and improve school climate and culture; and

(5) collect and analyze data on exclusionary and aversive discipline practices or interventions in schools.

SEC. 3. DEFINITIONS.

In this Act:

(1) CORPORAL PUNISHMENT.—The term “corporal punishment” means, with respect to a student, a deliberate act which causes the student to feel physical pain for the purpose of discipline, including an act of physical force, such as striking, spanking, or paddling, inflicted on a student’s body, requiring a student to assume a painful physical position, or the use of chemical sprays, electroshock weapon, or stun guns on a student’s body.

(2) ESEA TERMS.—The terms “elementary school”, “evidence-based”, “local educational agency”, “outlying area”, “parent”, “secondary school”, “Secretary”, “State”, and “State educational agency” have the meanings given the terms in section

(3) MODEL.—The term “model” means an activity, strategy, framework, or intervention that is evidence-based, to the extent practicable.

(4) PROGRAM.—The term “program” means all the operations of a local educational agency, system of vocational education, other school system, or private school, any part of which receives Federal financial assistance.

(5) PROGRAM PERSONNEL.—The term “program personnel” means any agent of a program including an individual who—

(A) is employed by a program;

(B) performs services for a program on a contractual basis;

(C) is a school resource officer; or

(D) is a school security guard.

(6) PROTECTION AND ADVOCACY SYSTEM.—The term “protection and advocacy system” means a protection and advocacy system established under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043).
(7) **School Resource Officer.**—The term “school resource officer” means a sworn law enforcement officer who—

(A) is assigned by the employing police department to a program;

(B) is contracting with a program; or

(C) is employed by a program.

(8) **School Security Guard.**—The term “school security guard” means a contractor or an employee of a program responsible for addressing one or more of the following safety and crime prevention activities with respect to a program:

(A) Assisting program personnel in safety incidents.

(B) Educating students in crime and illegal drug use prevention and safety.

(C) Developing or expanding community justice initiatives for students.

(D) Training students in conflict resolution and supporting restorative justice programs.

(E) Serving as a liaison between the program and outside agencies, including other law enforcement agencies.

(F) Screening students or visitors to the program for prohibited items.
(9) STUDENT.—The term “student” means an individual enrolled in a program.

TITLE I—PROHIBITION OF CORPOREAL PUNISHMENT

SEC. 101. PROHIBITION OF CORPOREAL PUNISHMENT.

(a) PROHIBITION.—No student shall be subjected to corporal punishment by program personnel of any program which receives Federal financial assistance.

(b) PRIVATE RIGHT OF ACTION.—A student who has been subjected to corporal punishment by program personnel in violation of subsection (a), or the parent of such student, may file a civil action in any Federal or State court of competent jurisdiction against the program under which the violation is alleged to have occurred for attorneys’ fees, expert fees, injunctive relief, and compensatory damages.

(c) NONAPPLICABILITY.—Section 615(l) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(l)) shall not apply to an action filed pursuant to subsection (b), regardless of whether or not the student is seeking relief that is also available under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

SEC. 102. CIVIL ACTIONS BY THE ATTORNEY GENERAL.

Whenever the Attorney General receives a complaint in writing signed by a parent (including a legal guardian)
or a group of parents (including legal guardians) to the
effect that the minor children of such a parent or parents
are being deprived by a program of the right to not be
subject to corporal punishment by program personnel and
the Attorney General believes the complaint is meritorious,
the Attorney General is authorized, after giving notice of
such complaint to the appropriate program and after certi-
fying that the Attorney General is satisfied that such pro-
gram has had a reasonable time to adjust the conditions
alleged in such complaint, to institute for or in the name
of the United States a civil action in any appropriate dis-
trict court of the United States against such parties and
for such relief as may be appropriate, and such court shall
have and shall exercise jurisdiction of proceedings insti-
tuted pursuant to this section. The Attorney General may
implead as defendants such additional parties as are or
become necessary to the grant of effective relief hereunder.

SEC. 103. ENFORCEMENT BY THE OFFICE FOR CIVIL
RIGHTS.

(a) REFERRAL TO OFFICE FOR CIVIL RIGHTS.—The
Secretary shall refer any complaint alleging a violation of
section 101(a) to the Office for Civil Rights of the Depart-
ment of Education for an investigation.

(b) PROCESS FOR REFERRAL.—Not later than 90
days after the date of the enactment of this Act, the Sec-
Secretary shall develop and implement a procedure for receiving a complaint alleging a violation of section 101(a).

(c) FAILURE TO COMPLY.—In the event that a program has failed to comply with section 101(a), the Secretary shall carry out at least one of the following:

1. Withhold from such program, in whole or in part, further payments (including payments for administrative costs) under an applicable program (as such term is defined in section 400(c) of the General Education Provisions Act (20 U.S.C. 1221)) in accordance with section 455 of such Act (20 U.S.C. 1234d).

2. Enter into a compliance agreement in accordance with section 457 of the General Education Provisions Act (20 U.S.C. 1234f).

3. Issue a complaint to compel compliance of such program through a cease and desist order, in the same manner the Secretary is authorized to take such action under section 456 of the General Education Provisions Act (20 U.S.C. 1234c).

(d) CESSION OF WITHHOLDING OF FUNDS.—If the Secretary determines (whether by certification or other appropriate evidence) that a program that is subject to the withholding of payments under subsection (c)(1) of this section has cured the failure providing the basis for
the withholding of payments on a date that is within one
year from the date on which such payments were first
withheld, the Secretary shall—

(1) cease the withholding of payments with re-
spect to that program under such subsection; and

(2) reimburse all the withheld payments under
such subsection to such program.

(c) WITHHELD FUNDS.—The funds appropriated or
made available for the payments that were withheld under
subsection (c)(1) shall be available for expenditure to that
program pursuant to this subsection for up to one year
from the date upon which the determination in subsection
(d) was made.

(f) RULE OF CONSTRUCTION.—Nothing in this sec-
tion shall be construed to limit the Secretary’s authority
under the General Education Provisions Act (20 U.S.C.
1221 et seq.).

SEC. 104. PARENT NOTIFICATION AND PROTECTION AND
ADVOCACY SYSTEMS.

(a) NOTIFICATION.—If a student is subject to cor-
poral punishment committed by program personnel at a
program, the program serving such student shall notify,
in writing, not later than 24 hours after such use of force
occurs, the facts of such use of force to—

(1) the parent or parents of such student;
(2) the State educational agency; and

(3) the local law enforcement agency.

(b) Notification for Students With Disabilities.—In the case of a student described in subsection (a) who is an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) the program serving such student shall—

(1) in addition to the notification described in such subsection, notify, in writing, not later than 24 hours after the use of force described in such subsection occurs, the facts of such use of force to the relevant protection and advocacy system; and

(2) provide any information to the relevant protection and advocacy system that the protection and advocacy system may require.

(c) Restatement of Authority.—Protection and advocacy systems shall have the same authorities and rights provided under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.) with respect to protections provided for students under this Act when such students are otherwise eligible to be clients of the protection and advocacy system, including investigating, monitoring, and enforcing such protections.
TITLE II—STATE ACTIVITIES
AND GRANT PROGRAM

SEC. 201. STATE PLAN AND ENFORCEMENT.

(a) STATE REQUIREMENTS.—Not later than 18 months after the date of enactment of this Act, and every two years thereafter, each State educational agency which receives Federal financial assistance shall provide to the Secretary—

(1) a written assurance that—

(A) all programs located in such State have been notified of the requirements of this Act;

(B) all program personnel of such State educational agency have received training with respect to such requirements;

(C) parents of students served by such State educational agency have been notified of the requirements, rights, and remedies available under this Act; and

(D) the notification required under subparagraph (C) is publicly available on the website of the State educational agency; and

(2) a school climate report that includes a description of—
(A) the policies and procedures of the State educational agency with respect exclusionary and aversive discipline practices or interventions in such schools;

(B) how the State educational agency plans to implement, is implementing, or has implemented positive behavioral interventions and supports and other models to address student behavior and reduce the use of exclusionary and aversive discipline practices or interventions in the public elementary and secondary schools of such State; and

(C) efforts of the State educational agency to ensure program personnel receive the supports and training necessary to implement the interventions, supports, and other models described in subparagraph (B).

(b) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—Not later than one year after the date of the enactment of this Act, and not less than once every two years thereafter, each local educational agency shall submit to the State educational agency a report that includes the information the State educational agency determines necessary to comply with the requirements of subsection (a).
(c) REPORT.—Not later than two years after the date of the enactment of this Act, and not less than once every two years thereafter, the Secretary shall—

(1) submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report summarizing the findings of the reports under subsection (a)(2); and

(2) make the reports described in paragraph (1) publicly available.

(d) ENFORCEMENT.—

(1) IN GENERAL.—

(A) USE OF REMEDIES.—If a State educational agency fails to comply with subsection (a), the Secretary shall carry out at least one of the following:

(i) Withhold, in whole or in part, further payments under an applicable program (as such term is defined in section 400(c) of the General Education Provisions Act (20 U.S.C. 1221)) in accordance with section 455 of such Act (20 U.S.C. 1234d).

(ii) Enter into a compliance agreement in accordance with section 457 of the

(iii) Issue a complaint to compel compliance of the State educational agency through a cease and desist order, in the same manner the Secretary is authorized to take such action under section 456 of the General Education Provisions Act (20 U.S.C. 1234e).

(B) CESSATION OF WITHHOLDING OF FUNDS.—If the Secretary determines (whether by certification or other appropriate evidence) that a State educational agency that is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments within one year from the date on which such payments were first withheld, the Secretary shall—

   (i) cease the withholding of payments with respect to the State educational agency under such subparagraph; and

   (ii) reimburse all the withheld payments under such subparagraph to such State educational agency.
(2) Withheld Funds.—The funds appropriated or made available for the payments that were withheld under paragraph (1)(A)(i) shall be available for expenditure to that program pursuant to this paragraph for up to one year from the date upon which the determination in paragraph (1)(B) was made.

(3) Rule of Construction.—Nothing in this subsection shall be construed to limit the Secretary’s authority under the General Education Provisions Act (20 U.S.C. 1221 et seq.).

SEC. 202. GRANT AUTHORITY.

(a) In General.—From the amount appropriated under section 306, the Secretary may award grants to State educational agencies to improve school climate and culture by implementing positive behavioral interventions and supports and other models to address student behavior and reduce the use of exclusionary and aversive discipline practices or interventions in public elementary and secondary schools.

(b) Duration of Grant.—

(1) In General.—A grant under this section shall be awarded to a State educational agency for a three-year period.
(2) REAPPLICATION.—At the end of a grant period described in paragraph (1), a State educational agency desiring a subsequent grant under this section may be eligible for such grant if such State educational agency—

(A) submits an application under subsection (c); and

(B) demonstrates—

(i) that such State educational agency effectively used grant funds to carry out the required activities under subsection (e) during the previous grant period; and

(ii) with respect to such State educational agency, a decrease in at least one of the following:

(I) Exclusionary and aversive discipline practices or interventions, including in-school suspensions, out-of-school suspensions, and expulsions.

(II) School-related arrests.

(III) Referrals of students to law enforcement.

(3) DATA.—A State educational agency shall, with respect to the data used under paragraph (2)(B)(ii)—
(A) cross-tabulate such data and disaggregate by race, gender, disability, and English learner; and

(B) redact all personally identifiable information from such data.

c) APPLICATION.—

(1) IN GENERAL.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require, including—

(A) information on how the State educational agency will carry out the required activities specified in subsection (e);

(B) a description of how the State educational agency will improve school climate and culture by reducing the use of exclusionary and aversive discipline practices or interventions;

(C) a description of how the State educational agency will implement positive behavioral interventions and supports and other models to address student behavior and reduce the use of exclusionary and aversive discipline practices or interventions; and
(D) a description of how the State educational agency will develop and implement high-quality training for program personnel designed to improve school climate and culture and increase the use of positive behavioral interventions and supports and other models to address student behavior and reduce the use of exclusionary and aversive discipline practices or interventions.

(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to State educational agencies—

(A) with a high percentage of in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, and referrals of students to law enforcement;

(B) that lack positive behavioral interventions and supports and other models to improve school climate and culture; or

(C) that are in most need of assistance relating to improving school climate and culture by reducing the use of exclusionary and aversive discipline practices or interventions, as determined by the Secretary.

(d) AUTHORITY TO MAKE SUBGRANTS.—
(1) IN GENERAL.—A State educational agency receiving a grant under this section may use such grant funds to award subgrants, on a competitive basis in accordance with subsection (e)(2), to local educational agencies.

(2) APPLICATION.—A local educational agency desiring to receive a subgrant under this section shall submit an application to the applicable State educational agency at such time, in such manner, and containing such information as the State educational agency may require, including the information described in subparagraphs (A) through (D) of subsection (c)(1).

(e) REQUIRED ACTIVITIES.—

(1) IN GENERAL.—A State educational agency receiving a grant, or a local educational agency receiving a subgrant, under this section shall use such grant or subgrant funds to carry out the following:

(A) Developing and implementing high-quality training for program personnel designed to—

(i) improve school climate and culture;

(ii) increase use of positive behavioral interventions and supports and other models to address student behavior; and
(iii) reduce the use of exclusionary and aversive discipline practices or interventions and the discriminatory and disproportionate impact such practices have on students based on their race, ethnicity, gender, or disability.

(B) Providing technical assistance to improve school climate and culture by implementing positive behavioral interventions and supports and other models to address student behavior and reduce the use of exclusionary and aversive discipline practices or interventions, such as restorative justice interventions, trauma-informed care, crisis and de-escalation interventions, implicit bias training, and culturally responsive teaching.

(C) Researching, developing, implementing, and evaluating models, policies, and procedures to reduce the use of exclusionary and aversive discipline practices or interventions in public elementary and secondary schools.

(2) PRIORITY.—A State educational agency or local educational agency shall prioritize carrying out the activities specified in subparagraphs (A) through
(C) of paragraph (1) in public elementary and secondary schools—

(A) in which a disproportionately high percentage of students who have been subjected to disciplinary proceedings or have otherwise experienced the application of such a school’s discipline policies, practices, and procedures, relative to such school’s total student population, are students of color or students with disabilities (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401));

(B) with a high percentage of in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, and referrals of students to law enforcement;

(C) that lack positive behavioral interventions and supports and other models to improve school climate and culture; or

(D) that have demonstrated meaningful community engagement in selecting models to improve school climate and culture.

(f) EVALUATION AND REPORT.—

(1) LOCAL EDUCATIONAL AGENCY REPORTS.—

Each local educational agency receiving a subgrant
under this section shall, at the end of the grant period for such subgrant, prepare and submit to the State educational agency a report that—

(A) evaluates the progress of the local educational agency toward carrying out the required activities under subsection (e); and

(B) includes any additional information the State educational agency determines necessary to complete the report required under paragraph (2).

(2) **State educational agency reports.**—

Each State educational agency receiving a grant under this section shall, at the end of the three-year grant period for such grant, prepare and submit to the Secretary a report that—

(A) evaluates the State’s progress toward carrying out the required activities under subsection (e);

(B) includes data on the impact of the grant program on school climate and culture during such grant period, including, with respect to the State educational agency, data on the prevalence of, and increase or decrease in—

(i) exclusionary and aversive discipline practices or interventions, including in-
school suspensions, out-of-school suspensions, and expulsions;

(ii) school-related arrests; and

(iii) student referrals to law enforcement;

(C) includes the number of high-quality school climate and culture trainings conducted for program personnel during such grant period;

(D) describes the models implemented to improve school climate and culture during such grant period;

(E) specifies the number of subgrants made under subsection (d) and the local educational agencies that were awarded such subgrants; and

(F) includes such information as the Secretary may require.

(3) DATA.—A State educational agency shall, with respect to the data described in paragraph (2)(B)—

(A) cross-tabulate and disaggregate the data in the same manner as under subsection (b)(3)(A); and
(B) redact all personally identifiable information from such data.

(4) PUBLICATION.—The Secretary shall make each report under paragraph (2) publicly available on the website of the Department.

(g) FUNDS AVAILABLE FOR THE DEPARTMENT OF THE INTERIOR.—From the amount appropriated under section 306, the Secretary shall allocate—

(1) 0.5 percent of such funds to the Secretary of the Interior for activities under this section with respect to schools operated or funded by the Department of the Interior, under such terms and conditions as the Secretary may prescribe; and

(2) 0.5 of such funds for activities under this section with respect to schools operated in the outlying areas, under such terms and conditions as the Secretary may prescribe.

TITLE III—ADDITIONAL PROVISIONS

SEC. 301. FEDERAL REGULATIONS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue such regulations as are necessary to reasonably ensure compliance with this Act.
(b) NEGOTIATED RULEMAKING PROCESS.—In carrying out subsection (a), the Secretary shall use a negotiated rulemaking process described in section 1601 and section 1602 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6571; 6572) except subparagraph (A) of subsection (b)(3) of such section 1601 shall apply by substituting “establish a negotiated rulemaking process;” for the text of such subparagraph.

SEC. 302. OTHER SCHOOLS.

(a) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall ensure that schools operated or funded by the Department of Defense Education Activity or otherwise operated or funded by the Department of Defense for the education of military-connected dependents comply with the regulations promulgated by the Secretary pursuant to this Act.

(b) DEPARTMENT OF INTERIOR.—The Secretary of the Interior shall ensure that schools operated or funded by the Department of the Interior comply with the regulations promulgated by the Secretary pursuant to this Act.

SEC. 303. LIMITATION OF AUTHORITY.

(a) IN GENERAL.—Nothing in this Act shall be construed—

1 to restrict or limit, or allow the Secretary to restrict or limit, any other rights or remedies oth-
erwise available to students or parents under Federal, State, or local law or regulation; or

(2) to restrict or limit Federal, State, or local laws, regulations, or polices that provide for more stringent prohibitions or limitations on the use of corporal punishment than the prohibitions or limitations that are provided for in this Act.

(b) Law Enforcement Officer Duties.—Nothing in this Act shall be construed to prevent a sworn law enforcement officer from carrying out the duties of the officer under otherwise applicable law.


SEC. 304. APPLICABILITY.

(a) Private Schools.—Nothing in this Act shall be construed to affect any private school that does not receive Federal financial assistance.
(b) Home Schools.—Nothing in this Act shall be construed to—

(1) affect a home school, whether or not a home school is treated as a private school or home school under State law; or

(2) consider parents who are schooling a child at home as program personnel.

SEC. 305. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remaining provisions of this Act and the application of such provisions to any person or circumstance shall not be affected thereby.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal year 2021 and each fiscal year thereafter.