

111TH CONGRESS  
1ST SESSION

# H. R. 2597

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

---

## IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2009

Mr. HARE (for himself, Ms. SHEA-PORTER, Mr. LOEBSACK, Mr. COURTNEY, Mr. DAVIS of Illinois, Ms. SCHAKOWSKY, and Mr. CUMMINGS) 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 educational agencies, local educational agencies, and schools to increase implementation of school-wide 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 Safe and Effective Schools Act”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress makes the following find-  
3 ings:

4 (1) Educators, parents, and the general public  
5 cite a lack of discipline as a leading challenge facing  
6 many public schools.

7 (2) Negative and reactive school management  
8 practices, such as metal detectors or surveillance  
9 cameras, zero tolerance policies and other “get-  
10 tough” approaches to school discipline, are ineffec-  
11 tive and often counterproductive.

12 (3) Research shows that “get tough” ap-  
13 proaches to discipline reinforce bad behavior and  
14 predict higher future rates of misbehavior among  
15 suspended students.

16 (4) However, suspensions and expulsions are on  
17 the rise nationally, and according to the United  
18 States Department of Education Office of Civil  
19 Rights during the 2005–2006 school year over  
20 3,300,000 students were suspended at least once  
21 and over 100,000 students were expelled.

22 (5) Students of color and students with disabili-  
23 ties are disproportionately subject to zero tolerance-  
24 based punishments such as suspension and expul-  
25 sion.

1           (6) There is a high correlation between school  
2 discipline and the student dropout rate. Suspended  
3 students are more likely to be retained, to dropout,  
4 to engage in delinquent activity, and to become in-  
5 volved in the juvenile or criminal justice system.

6           (7) Teachers are also more likely to “dropout”  
7 of our schools because of school discipline issues. A  
8 2005 national survey found that 44 percent of  
9 teachers, and 39 percent of highly qualified teachers,  
10 listed school discipline as a reason for leaving the  
11 profession.

12           (8) Learning is linked to student behavior. Suc-  
13 cessful schools implement high academic and behav-  
14 ior standards, where improvements in student behav-  
15 ior and school climate are correlated with improved  
16 academic outcomes.

17           (9) Evidence-based and scientifically valid prac-  
18 tices for improving behavior and creating a school  
19 climate more conducive to learning such as school-  
20 wide positive behavior supports, have not been wide-  
21 ly adopted, accurately implemented, or sustained.

22           (10) Effective implementation of school-wide  
23 positive behavior supports is linked to greater aca-  
24 demic achievement, significantly fewer disciplinary

1 problems, lower suspension and expulsion rates, and  
2 increased time for instruction.

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

12 (12) Many problems can be prevented or mini-  
13 mized with early intervening services that have been  
14 shown to be effective and reduce the need for more  
15 intensive and more costly interventions. Upon imple-  
16 menting such supports, an elementary school in  
17 Maryland witnessed a decrease in office discipline re-  
18 ferrals for major rule violations by 42 percent, re-  
19 coupling 119 days of instructional time for students,  
20 and 40 days of administrator time within 1 school  
21 year.

22 (13) Schools that implement school-wide posi-  
23 tive behavior supports are perceived by teachers to  
24 be safer teaching environments. In South Carolina,  
25 a school using a system of positive behavior supports

1 found that teacher transfer requests declined by 100  
2 percent and teacher absence days decreased by 36  
3 percent.

4 (14) When approaches such as school-wide posi-  
5 tive behavior supports are employed, all students, in-  
6 cluding those with significant and challenging behav-  
7 iors, can succeed.

8 (b) PURPOSES.—The purposes of this Act are to ex-  
9 pand the use of school-wide positive behavior supports in  
10 schools in order to systematically create a school climate  
11 that is highly conducive to learning, to reduce discipline  
12 referrals, and to improve student academic outcomes.

13 **SEC. 3. DEFINITION OF POSITIVE BEHAVIOR SUPPORTS.**

14 In this Act, the term “positive behavior supports”  
15 means a systematic approach to embed proven practices  
16 for early intervening services, including a range of sys-  
17 temic and individualized strategies to reinforce desired be-  
18 haviors and eliminate reinforcement for problem behav-  
19 iors, in order to achieve important social outcomes and  
20 increase learning, while preventing problem behaviors for  
21 all students including those with the most complex and  
22 intensive behavioral needs.

23 **SEC. 4. SCHOOL-WIDE POSITIVE BEHAVIOR SUPPORTS.**

24 (a) FLEXIBILITY TO USE TITLE I FUNDS TO IMPLE-  
25 MENT SCHOOL-WIDE POSITIVE BEHAVIOR SUPPORTS.—

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

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

6                   (B) by inserting “(1)” before “Of the  
7                   amount”; and

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

9                   “(2) Of the amount reserved under subsection  
10                  (a) for any fiscal year, the State educational agency  
11                  may allocate funds to develop and implement coordi-  
12                  nated, early intervening services (including school-  
13                  wide positive behavior supports) for all students, in-  
14                  cluding those who have not been identified as need-  
15                  ing special education but who need additional aca-  
16                  demic and behavioral support to succeed in a general  
17                  education environment. Funds so allocated shall  
18                  be—

19                           “(A) aligned with funds authorized under  
20                           section 613(f) of the Individuals with Disabil-  
21                           ities Education Act; and

22                           “(B) used to supplement, and not sup-  
23                           plant, funds made available under such Act for  
24                           such activities and services.”.

1           (2) TECHNICAL ASSISTANCE.—The Elementary  
2           and Secondary Education Act of 1965 (20 U.S.C.  
3           6301 et seq.) is amended—

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

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

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

10                           “(iii) shall include assistance in imple-  
11                           mentation of school-wide positive behavior  
12                           supports and other approaches with evi-  
13                           dence of effectiveness for improving the  
14                           learning environment in the school and re-  
15                           ducing the need for suspensions, expul-  
16                           sions, referrals to law enforcement, and  
17                           other actions that remove students from  
18                           instruction;”.

19                   (B) in section 1117(a)(3), by inserting  
20                   “any technical assistance center on school-wide  
21                   positive behavior supports funded under section  
22                   665(b) of the Individuals with Disabilities Edu-  
23                   cation Act,” after “2002,”; and

24                   (C) in section 1117(a)(5)(B)—

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

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

6 “(iii) review the number of discipline  
7 referrals in the school and the overall  
8 school climate and engagement of families,  
9 and use that information to assist the  
10 school to implement school-wide positive  
11 behavior supports or other early inter-  
12 vening services, or both;”.

13 (b) LEA FLEXIBILITY TO IMPROVE SCHOOL CLI-  
14 MATE.—Section 1114(b)(1)(B)(iii)(I) of the Elementary  
15 and Secondary Education Act of 1965 (20 U.S.C.  
16 6314(b)(1)(B)(iii)(I)) is amended—

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

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

20 “(bb) improving the learning  
21 environment in the school, includ-  
22 ing the implementation of school-  
23 wide positive behavior supports,  
24 in order to improve academic  
25 outcomes for students and reduce

1 the need for suspensions, expul-  
2 sions, referrals to law enforce-  
3 ment, and other actions that re-  
4 move students from instruction;”.

5 **SEC. 5. TEACHER AND PRINCIPAL PREPARATION TO IM-**  
6 **PROVE SCHOOL CLIMATE.**

7 Section 2122(c)(2) of the Elementary and Secondary  
8 Education Act of 1965 (20 U.S.C. 6622(c)(2)) is amend-  
9 ed—

10 (1) by striking “subject matter knowledge and  
11 teaching skills” and inserting “subject matter knowl-  
12 edge, teaching skills, and an understanding of social  
13 or emotional, or both, learning in children and ap-  
14 proaches that improve the school climate for learn-  
15 ing (such as school-wide positive behavior sup-  
16 ports)”; and

17 (2) by inserting “to improve the teachers’  
18 schools’ climate for learning” after “instructional  
19 leadership skills to help teachers”.

20 **SEC. 6. SAFE AND DRUG FREE SCHOOLS AND COMMU-**  
21 **NITIES.**

22 Section 4002 of the Elementary and Secondary Edu-  
23 cation Act of 1965 (20 U.S.C. 7102) is amended—

24 (1) by redesignating paragraphs (1) through  
25 (4) as paragraphs (2) through (5), respectively; and

1           (2) by striking all that precedes paragraph (2)  
2           and inserting the following: “The purpose of this  
3           part is to support programs that improve the whole  
4           school climate in order to foster learning, including  
5           programs that prevent discipline problems, that re-  
6           duce the need for suspensions, expulsions, referrals  
7           to law enforcement, and other actions that remove  
8           students from instruction, that prevent violence in  
9           and around schools, that prevent the illegal use of  
10          alcohol, tobacco, and drugs, that involve parents and  
11          communities in the school programs and activities,  
12          and that are coordinated with related Federal, State,  
13          school, and community efforts and resources to fos-  
14          ter a safe and drug-free learning environment that  
15          supports student academic achievement, through the  
16          provision of Federal assistance to—

17                 “(1) States for grants to local educational agen-  
18                 cies and consortia of such agencies to establish, op-  
19                 erate, and improve local programs relating to im-  
20                 proving the school-wide climate (including implemen-  
21                 tation of school-wide positive behavior supports);”.

1 **SEC. 7. EARLY INTERVENING SERVICES UNDER SCHOOL**  
2 **COUNSELORS PROGRAM.**

3 Section 5421(b)(2) of the Elementary and Secondary  
4 Education Act of 1965 (20 U.S.C. 7245(b)(2)) is amend-  
5 ed—

6 (1) by redesignating subparagraphs (C) through  
7 (H) as subparagraphs (D) through (I), respectively;  
8 and

9 (2) by inserting after subparagraph (B) the fol-  
10 lowing:

11 “(C) describe how the local educational  
12 agency will address the need for early inter-  
13 vening services that improve the school climate  
14 for learning and reduce the need for suspen-  
15 sions, expulsions, referrals to law enforcement,  
16 and other actions that remove students from in-  
17 struction, such as through school-wide positive  
18 behavior supports;”.

19 **SEC. 8. OFFICE OF SPECIALIZED INSTRUCTIONAL SUPPORT**  
20 **SERVICES.**

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

1 **“SEC. 221. OFFICE OF SPECIALIZED INSTRUCTIONAL SUP-**  
2 **PORT SERVICES.**

3 “(a) **IN GENERAL.**—There shall be, within the Office  
4 of the Deputy Secretary in the Department of Education,  
5 an Office of Specialized Instructional Support Services  
6 (referred to in this section as the ‘Office’).

7 “(b) **PURPOSE.**—The purpose of the Office shall be  
8 to administer, coordinate, implement, and ensure adequate  
9 evaluation of the effectiveness of programs and activities  
10 concerned with providing specialized instructional support  
11 services in schools, delivered by trained, qualified special-  
12 ized instructional support personnel.

13 “(c) **DIRECTOR.**—The Office established under sub-  
14 section (a) shall be headed by a Director who shall be se-  
15 lected by the Secretary and report directly to the Deputy  
16 Secretary of Education.

17 “(d) **ACTIVITIES.**—In carrying out subsection (b), the  
18 Director shall support activities to—

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

22 “(2) identify scientifically valid practices in spe-  
23 cialized instructional support services that support  
24 learning and improve academic achievement and  
25 educational results for students;

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

6           “(4) provide technical assistance to local edu-  
7           cational agencies and State educational agencies in  
8           the provision of effective, scientifically valid, special-  
9           ized instructional support services;

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

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

17           “(e) SPECIALIZED INSTRUCTIONAL SUPPORT PER-  
18           SONNEL; SPECIALIZED INSTRUCTIONAL SUPPORT SERV-  
19           ICES.—In this section:

20           “(1) SPECIALIZED INSTRUCTIONAL SUPPORT  
21           PERSONNEL.—The term ‘specialized instructional  
22           support personnel’ means school counselors, school  
23           social workers, school psychologists, and other quali-  
24           fied professional personnel involved in providing as-  
25           sessment, diagnosis, counseling, educational, thera-

1 peutic, and other necessary corrective or supportive  
2 services (including related services, as such term is  
3 defined in section 602 of the Individuals with Dis-  
4 abilities Education Act) as part of a comprehensive  
5 program to meet student needs.

6 “(2) SPECIALIZED INSTRUCTIONAL SUPPORT  
7 SERVICES.—The term ‘specialized instructional sup-  
8 port services’ means the services provided by special-  
9 ized instructional support personnel, including any  
10 other corrective or supportive services to meet stu-  
11 dent needs.”.

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

14 Section 9101 of the Elementary and Secondary Edu-  
15 cation Act of 1965 (20 U.S.C. 7801) is amended—

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

18 (2) by inserting after paragraph (32) the fol-  
19 lowing:

20 “(33) POSITIVE BEHAVIOR SUPPORTS.—The  
21 term ‘positive behavior supports’ means a systematic  
22 approach to embed proven practices for early inter-  
23 vening services, including a range of systemic and  
24 individualized strategies to reinforce desired behav-  
25 iors and eliminate reinforcement for problem behav-

1 iors, in order to achieve important social outcomes  
2 and increase student learning, while preventing  
3 problem behaviors.”.

○