



# Section-by-Section

COMMITTEE ON EDUCATION & THE WORKFORCE DEMOCRATS

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The Hon. Bobby Scott • Ranking Member

## Keeping All Students Safe Act

### Section 1. Short Title

The Act may be cited as the “Keeping All Students Safe Act”.

### Section 2. Findings

Provides key facts concerning the history of the use of seclusion and restraint in schools and the negative impact of these practices on student health and safety. States that school personnel have the right to work in a safe environment and be provided training and resources to prevent injury and trauma to themselves and others.

### Section 3. Purposes

States that the purposes of the Act are to: (1) prohibit seclusion in schools; (2) prevent seclusion and prevent and reduce the use of physical restraint in schools; (3) improve the safety of students and school staff; (4) ensure parents are informed when restraint is used on their child; and (5) assist States, local educational agencies, and schools in complying with the Act.

### Section 4. Definitions

Definitions in this Act include:

- Applicable Program
- Chemical Restraint
- ESEA Terms: early childhood education program, educational service agency, elementary school, local educational agency, military-connected dependents, other staff, parent, school leader, secondary school, specialized instructional support personnel, State, and State educational agency
- Mechanical Restraint
- Physical Restraint
- Positive Behavior Interventions and Supports
- Protection and Advocacy System
- School
- School Personnel
- School Resource Officer
- School Security Guard
- Seclusion
- Secretary
- Special Education School
- State-Approved Crisis Intervention Training Program
- Student
- Time Out

## **Section 5. Minimum Standards; Rules of Construction**

Sec. 5(a) establishes minimum standards required for physical restraint and requires the Secretary to regulate within 180 days of enactment. The minimum standards prohibit the use of: seclusion; mechanical restraints; chemical restraints; physical restraints or physical escort that is life-threatening or that restricts breathing; physical restraint if contraindicated based on the student's disability, health care needs, or medical or psychiatric condition; physical restraint that doesn't comply with the other minimum standards described below; and any other form of aversive behavioral interventions. Minimum standards also require that physical restraint only be used when a student's behavior poses an imminent danger of serious physical injury to the student or others. Minimum standards require any personnel conducting the restraint to be certified unless there is an emergency situation. The fourth component of the minimum standards is training of school personnel. The fifth component is a prohibition on including physical restraint as a planned intervention. The final component is a requirement that each school establish procedures following the imposition of physical restraint that involves notification to the parent of the student and a meeting to discuss the incident.

Section 5(b) requires that the Secretary of the Interior ensure that schools operated or funded by the Department of the Interior comply with the regulations promulgated by the Secretary of Education under subjection (a).

Section 5(c) requires that the Secretary of the Defense ensure that schools operated or funded by the Department of the Defense or funded by the Department of Defense for the education of military-connected dependents comply with the regulations promulgated by the Secretary of Education under subjection (a).

Section 5(d) establishes rules of construction regarding regulations on the use of time out and devices used for therapeutic purposes and establishing that nothing in the Act is preventing sworn law enforcement from carrying out their duties under applicable law.

## **Section 6. State Plan and Report Requirements and Enforcement**

Section 6(a) requires that states submit plans to implement minimum standards within two years of the effectiveness of regulations described in Sec. 5(a) and outlines requirements for such plans.

Section 6(b) requires state to report information on physical restraint, including the total number of incidents, total number of students, number of times each a student was restrained, and any additional information determined necessary by the Secretary. Requires all incidence data to be disaggregated by restraints that resulted in injury, restraints that resulted in death, which school personnel imposed the restraint, demographic characteristics of the student (each major racial and ethnic group, disability status, English language proficiency status, and whether a student is economically disadvantaged), and by the type of school (general education school, special education school, etc.)

Section 6(c) describes enforcement actions of the U.S. Department of Education to ensure compliance with the requirements of the act.

Section 6(d) describes regulations for reporting requirements for Head Start, promulgated by the Secretary of Health and Human Services.

## **Section 7. Grants for State Educational Agencies**

The Secretary may award competitive grants to states to: (a) establish, implement, and enforce the procedures and policies described in the Act; (b) improve State and local capacity to collect and analyze data; and (b) improve school climate and culture. These grants are awarded for 3 years and may be sub-granted to local educational agencies.

Section 7(f) describes five required grant activities which include: establishing and implementing policies to prohibit seclusion and the other prohibited actions described in Sec. 5(a); implementing and evaluating strategies and procedures to prevent seclusion and prevent and reduce physical restraint; providing professional development to school personnel; carrying out the reporting requirements and analyzing the data and information included in the report; and providing training to school resource officers and school security guards on legal obligations under the Individuals with Disabilities Education Act and Americans with Disabilities Act and how to interact with students with disabilities. States or local educational agencies may engage in other authorized activities described in Section 7(g).

Section 7(h) requires and describes the grant evaluation and report. After the three year grant, the State agency must evaluate progress toward implementation and submit the report to the Secretary.

## **Section 8. National Assessment**

Requires the Secretary of Education to conduct a national assessment to determine the effectiveness of the Act. The national assessment will include: (a) analyzing data related to the incidents of physical restraint; (b) analyzing the effectiveness of Federal, State, and local efforts to prevent seclusion and prevent and reduce physical restraint; (c) identifying programs that are effective in preventing seclusion and physical restraint; and (d) identifying evidence-based personnel training models with demonstrated success. At the end of the assessment, the Secretary will submit a report to Congress.

## **Section 9. Protection and Advocacy Systems**

Requires a local educational agency or Head Start program to provide the Protection and Advocacy System with information related to any incident of bodily injury or death of a student from the use of seclusion or restraint. The Protection and Advocacy Systems will have the same authorities and rights provided under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, with respect to protections for students under this Act.

## **Section 10. Applicability to Private Schools and Home Schools**

The Act does not apply to private schools that do not receive federal funds, in whole or in part. Nothing in the Act affects a child who is home schooled.

## **Section 11. Authorization of Appropriations**

There are authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal year 2019 and each succeeding fiscal year.