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(Original Signature of Member)

112TH CONGRESS  
1ST SESSION

# H. R.

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

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## IN THE HOUSE OF REPRESENTATIVES

Mrs. MCCARTHY of New York introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

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

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 “Ending Corporal Pun-  
5 ishment in Schools Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Behavioral interventions for children must  
9 promote the right of all children to be treated with

1 dignity. All children have the right to be free from  
2 any corporal punishment.

3 (2) Safe, effective, evidence-based strategies are  
4 available to support children who display challenging  
5 behaviors in school settings.

6 (3) School personnel have the right to work in  
7 a safe environment and should be provided training  
8 and support to prevent injury and trauma to them-  
9 selves and others.

10 (4) According to the Department of Education's  
11 Technical Assistance Center on School-Wide Positive  
12 Behavior Interventions and Support, outcomes asso-  
13 ciated with school-wide positive behavior support are  
14 decreased office discipline referrals, increased in-  
15 structional time, decreased administrator time spent  
16 on discipline issues, efficient and effective use of  
17 scarce resources, and increased perception of school  
18 safety and sustainability through a team approach.

19 (5) Nineteen States continue to permit corporal  
20 punishment in public schools.

21 (6) According to Department of Education sta-  
22 tistics, each year in the United States, hundreds of  
23 thousands of school children are subjected to cor-  
24 poral punishment in public schools. School corporal  
25 punishment is usually executed in the form of "pad-

1        dling”, or striking students with a wooden paddle on  
2        their buttocks or legs, which can result in abrasions,  
3        bruising, severe muscle injury, hematomas, whiplash  
4        damage, life-threatening hemorrhages, and other  
5        medical complications that may require hospitaliza-  
6        tion.

7            (7) Gross racial disparity exists in the execution  
8        of corporal punishment of public school children, and  
9        African-American schoolchildren are disproportion-  
10       ately corporally punished. The most recent available  
11       statistics show that African-American students make  
12       up 17.1 percent of the national student population,  
13       but 35.6 percent of all students subjected to physical  
14       punishment at school.

15           (8) Public school children with disabilities are  
16        subjected to corporal punishment at disproportion-  
17       ately high rates, approximately twice the rate of the  
18        general student population in some States.

19           (9) Corporal punishment is used in many in-  
20        stances for minor disciplinary infractions, such as  
21        being tardy or violating the dress code.

22           (10) Corporal punishment has resulted in phys-  
23        ical injury and psychological trauma to children in  
24        public and private schools. Social skills development  
25        after the use of corporal punishment may be severely

1 altered, leading to aggressive behaviors. National re-  
2 search shows students have been subjected to cor-  
3 poral punishment in schools as a means of discipline,  
4 to force compliance, or as a substitute for appro-  
5 priate educational support.

6 (11) Children are protected from corporal pun-  
7 ishment in other settings, such as hospitals, health  
8 facilities, Head Start programs, and nonmedical  
9 community-based facilities. Similar protections are  
10 needed in schools.

11 (12) Prisoners in Federal prison are protected  
12 from corporal punishment.

13 **SEC. 3. PURPOSES.**

14 The purposes of this Act are to—

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

17 (2) ensure the safety of all students and school  
18 personnel in schools and promote a positive school  
19 culture and climate;

20 (3) assist States, local educational agencies,  
21 and schools in identifying and implementing effective  
22 evidence-based models to prevent and reduce—

23 (A) corporal punishment in schools;

24 (B) aversive behavior interventions that  
25 compromise health and safety; and

1 (C) physical, emotional, or psychological  
2 abuse.

3 **SEC. 4. PROHIBITION AGAINST CORPORAL PUNISHMENT.**

4 Subpart 4 of part C of the General Education Provi-  
5 sions Act (20 U.S.C. 1232f et seq.) is amended by adding  
6 at the end the following:

7 **“SEC. 448. PROHIBITION AGAINST CORPORAL PUNISH-**  
8 **MENT.**

9 “(a) GENERAL PROHIBITION.—No funds shall be  
10 made available under any applicable program to any edu-  
11 cational agency or institution, including a local edu-  
12 cational agency or State educational agency, that has a  
13 policy or practice which allows school personnel to inflict  
14 corporal punishment upon a student—

15 “(1) as a form of punishment; or

16 “(2) for the purpose of modifying undesirable  
17 behavior.

18 “(b) LOCAL EDUCATIONAL AGENCIES.—

19 “(1) IN GENERAL.—In the case of an applicable  
20 program under which a local educational agency may  
21 only receive funds through a State educational agen-  
22 cy that is prohibited under subsection (a) from re-  
23 ceiving funds under any applicable program, a local  
24 educational agency that is not prohibited under sub-  
25 section (a) from receiving such funds may apply di-

1       rectly to the Secretary to receive funds under the  
2       program.

3           “(2) CERTIFICATION.—Each local educational  
4       agency applying directly to the Secretary under  
5       paragraph (1) shall certify in such application that  
6       the agency is not prohibited under subsection (a)  
7       from receiving funds under any applicable program.

8           “(c) RULE OF CONSTRUCTION.—Nothing in this sec-  
9       tion shall be construed to preclude school personnel from  
10      using, within the scope of employment, reasonable re-  
11      straint to the lightest possible degree upon a student, if—

12           “(1) the student’s behavior poses an imminent  
13      danger of physical injury to the student, school per-  
14      sonnel, or others;

15           “(2) less restrictive interventions would be inef-  
16      fective in stopping such imminent danger of physical  
17      injury; and

18           “(3) the reasonable restraint ends immediately  
19      upon the cessation of the conditions described in  
20      paragraphs (1) and (2).

21           “(d) DEFINITIONS.—For purposes of this section—

22           “(1) the term ‘corporal punishment’ has the  
23      meaning given such term in section 12 of the End-  
24      ing Corporal Punishment in Schools Act of 2011;

1           “(2) the term ‘educational agency or institution’  
2           means any public or private agency or institution  
3           which is the recipient, or serves students who are re-  
4           cipients of, funds under any applicable program;

5           “(3) the terms ‘local educational agency’ and  
6           ‘State educational agency’ have the meanings given  
7           such terms in section 9101 of the Elementary and  
8           Secondary Education Act of 1965;

9           “(4) the term ‘school personnel’ has the mean-  
10          ing given such term in section 12 of the Ending Cor-  
11          poral Punishment in Schools Act of 2011; and

12          “(5) the term ‘student’ includes any person who  
13          is in attendance at an educational agency or institu-  
14          tion.”.

15   **SEC. 5. STATE PLAN AND ENFORCEMENT.**

16          (a) STATE PLAN.—Not later than 18 months after  
17          the date of enactment of this Act and every third year  
18          thereafter, each State educational agency shall submit to  
19          the Secretary a State plan that provides—

20                  (1) assurances to the Secretary that the State  
21                  has in effect policies and procedures that eliminate  
22                  the use of corporal punishment in schools;

23                  (2) a description of the State’s policies and pro-  
24                  cedures; and

1           (3) a description of the State plans to ensure  
2 school personnel and parents, including private  
3 school personnel and parents, are aware of the  
4 State's policies and procedures.

5           (b) ENFORCEMENT.—

6           (1) IN GENERAL.—

7           (A) USE OF REMEDIES.—If a State edu-  
8 cational agency fails to comply with subsection  
9 (a), the Secretary shall—

10                   (i) withhold, in whole or in part, fur-  
11 ther payments under an applicable pro-  
12 gram (as such term is defined in section  
13 400(c) of the General Education Provi-  
14 sions Act (20 U.S.C. 1221)) in accordance  
15 with section 455 of such Act (20 U.S.C.  
16 1234d);

17                   (ii) enter into a compliance agreement  
18 in accordance with section 457 of the Gen-  
19 eral Education Provisions Act (20 U.S.C.  
20 1234f); or

21                   (iii) issue a complaint to compel com-  
22 pliance of the State educational agency  
23 through a cease and desist order, in the  
24 same manner the Secretary is authorized  
25 to take such action under section 456 of



1           the General Education Provisions Act (20  
2           U.S.C. 1234e).

3           (B) CESSATION OF WITHHOLDING OF  
4           FUNDS.—Whenever the Secretary determines  
5           (whether by certification or other appropriate  
6           evidence) that a State educational agency that  
7           is subject to the withholding of payments under  
8           subparagraph (A)(i) has cured the failure pro-  
9           viding the basis for the withholding of pay-  
10          ments, the Secretary shall cease the withholding  
11          of payments with respect to the State edu-  
12          cational agency under such subparagraph.

13          (2) RULE OF CONSTRUCTION.—Nothing in this  
14          subsection shall be construed to limit the Secretary’s  
15          authority under the General Education Provisions  
16          Act (20 U.S.C. 1221 et seq.).

17          (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
18          tion shall be construed to preclude school personnel from  
19          using, within the scope of employment, reasonable re-  
20          straint to the lightest possible degree upon a student, if—

21                 (1) the student’s behavior poses an imminent  
22                 danger of physical injury to the student, school per-  
23                 sonnel, or others;

1           (2) less restrictive interventions would be inef-  
2           fective in stopping such imminent danger of physical  
3           injury; and

4           (3) the reasonable restraint ends immediately  
5           upon the cessation of the conditions described in  
6           paragraphs (1) and (2).

7   **SEC. 6. GRANT AUTHORITY.**

8           (a) IN GENERAL.—From the amount appropriated  
9           under section 11, the Secretary may award grants to State  
10          educational agencies to assist the agencies in improving  
11          school climate and culture by implementing school-wide  
12          positive behavior support approaches.

13          (b) DURATION OF GRANT.—A grant under this sec-  
14          tion shall be awarded to a State educational agency for  
15          a 3-year period.

16          (c) APPLICATION.—Each State educational agency  
17          desiring a grant under this section shall submit an appli-  
18          cation to the Secretary at such time, in such manner, and  
19          accompanied by such information as the Secretary may  
20          require, including information on how the State edu-  
21          cational agency—

22                 (1) will develop State training programs on  
23                 school wide-positive behavior support approaches,  
24                 such as training programs developed with the assist-  
25                 ance of the Secretary (acting through the Office of

1 Special Education Programs Technical Assistance  
2 Center on Positive Behavioral Interventions and  
3 Supports of the Department of Education); and

4 (2) will target resources to schools and local  
5 educational agencies in need of assistance related to  
6 improving school culture and climate through posi-  
7 tive behavior supports.

8 (d) AUTHORITY TO MAKE SUBGRANTS.—

9 (1) IN GENERAL.—A State educational agency  
10 receiving a grant under this section may use such  
11 grant funds to award subgrants, on a competitive  
12 basis, to local educational agencies.

13 (2) APPLICATION.—A local educational agency  
14 desiring to receive a subgrant under this section  
15 shall submit an application to the applicable State  
16 educational agency at such time, in such manner,  
17 and containing such information as the State edu-  
18 cational agency may require.

19 (e) PRIVATE SCHOOL PARTICIPATION.—

20 (1) IN GENERAL.—A local educational agency  
21 receiving subgrant funds under this section shall,  
22 after timely and meaningful consultation with appro-  
23 priate private school officials, ensure that private  
24 school personnel can participate, on an equitable

1 basis, in activities supported by funds under this  
2 section.

3 (2) PUBLIC CONTROL OF FUNDS.—The control  
4 of funds provided under this section, and title to ma-  
5 terials, equipment, and property purchased with  
6 such funds, shall be in a public agency, and a public  
7 agency shall administer such funds, materials, equip-  
8 ment, and property.

9 (f) REQUIRED ACTIVITIES.—A State educational  
10 agency receiving a grant, or a local educational agency re-  
11 ceiving a subgrant, under this section shall use such grant  
12 or subgrant funds to carry out the following:

13 (1) Developing and implementing high-quality  
14 professional development and training programs,  
15 such as training programs developed with the assist-  
16 ance of the Secretary (acting through the Office of  
17 Special Education Programs Technical Assistance  
18 Center on Positive Behavioral Interventions and  
19 Supports of the Department of Education), to imple-  
20 ment evidence-based systematic approaches to  
21 school-wide positive behavior supports, including im-  
22 proving coaching, facilitation, and training capacity  
23 for principals and other administrators, teachers,  
24 specialized instructional support personnel, and  
25 other staff.

1           (2) Providing technical assistance to develop  
2           and implement evidence-based systematic approaches  
3           to school-wide positive behavior supports, including  
4           technical assistance for data-driven decision making  
5           related to behavioral supports and interventions in  
6           the classroom and throughout common areas.

7           (3) Researching, evaluating, and disseminating  
8           high-quality evidence-based programs and activities  
9           that implement school-wide positive behavior sup-  
10          ports with fidelity.

11          (4) Supporting other local positive behavior  
12          support implementation activities consistent with  
13          this subsection, including outreach to families and  
14          community agencies and providers, such as mental  
15          health authorities.

16          (g) EVALUATION AND REPORT.—Each State edu-  
17          cational agency receiving a grant under this section shall,  
18          at the end of the 3-year grant period for such grant, pre-  
19          pare and submit to the Secretary, a report that—

20                (1) evaluates the State’s progress toward devel-  
21                oping and implementing evidence-based systematic  
22                approaches to school-wide positive behavior supports;  
23                and

24                (2) includes such information as the Secretary  
25                may require.

1 (h) DEPARTMENT OF THE INTERIOR.—From the  
2 amount appropriated under section 11, the Secretary may  
3 allocate funds to the Secretary of the Interior for activities  
4 under this section with respect to schools operated or  
5 funded by the Department of the Interior, under such  
6 terms as the Secretary of Education may prescribe.

7 **SEC. 7. NATIONAL ASSESSMENT.**

8 (a) NATIONAL ASSESSMENT.—The Secretary shall  
9 carry out a national assessment to—

10 (1) determine compliance with the requirements  
11 of this Act; and

12 (2) identify best practices with respect to pro-  
13 fessional development and training programs carried  
14 out under section 6, which shall include identifying  
15 evidence-based school personnel training models with  
16 demonstrated success (including models that empha-  
17 size positive behavior supports and de-escalation  
18 techniques over physical intervention).

19 (b) REPORT.—The Secretary shall submit to the  
20 Committee on Education and the Workforce of the House  
21 of Representatives and the Committee on Health, Edu-  
22 cation, Labor, and Pensions of the Senate—

23 (1) an interim report that summarizes the pre-  
24 liminary findings of the assessment described in sub-

1 section (a) not later than 3 years after the date of  
2 enactment of this Act; and

3 (2) a final report of the findings of the assess-  
4 ment not later than 5 years after the date of the en-  
5 actment of this Act.

6 **SEC. 8. PROTECTION AND ADVOCACY SYSTEMS.**

7 Protection and Advocacy Systems shall have the au-  
8 thority provided under section 143 of the Developmental  
9 Disabilities Assistance and Bill of Rights Act of 2000 (42  
10 U.S.C. 15043) to investigate, monitor, and enforce protec-  
11 tions provided for students under this Act and the amend-  
12 ments made by this Act.

13 **SEC. 9. LIMITATION OF AUTHORITY.**

14 (a) IN GENERAL.—Nothing in this Act shall be con-  
15 strued to restrict or limit, or allow the Secretary to restrict  
16 or limit, any other rights or remedies otherwise available  
17 to students or parents under Federal, State, or local law  
18 or regulation.

19 (b) APPLICABILITY.—

20 (1) PRIVATE SCHOOLS.—Nothing in this Act  
21 shall be construed to affect any private school that  
22 does not receive, or does not serve students who re-  
23 ceive, support in any form from any program sup-  
24 ported, in whole or in part, with funds appropriated  
25 to the Department of Education.

1           (2) HOME SCHOOLS.—Nothing in this Act shall  
2           be construed to—

3                   (A) affect a home school, whether or not a  
4           home school is treated as a private school or  
5           home school under State law; or

6                   (B) consider parents who are schooling a  
7           child at home as school personnel.

8   **SEC. 10. RULE OF CONSTRUCTION ON DATA COLLECTION.**

9           Nothing in this Act shall be construed to affect the  
10          collection of information or data with respect to corporal  
11          punishment authorized under the statutes and regulations  
12          implementing title VI of the Civil Rights Act of 1964 (42  
13          U.S.C. 2000c), title IX of the Education Amendments of  
14          1972 (20 U.S.C. 1681 et seq.), section 504 of the Reha-  
15          bilitation Act of 1973 (29 U.S.C. 794 et seq.), or the De-  
16          partment of Education Organization Act (20 U.S.C. 3401  
17          et seq.).

18   **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

19          There are authorized to be appropriated such sums  
20          as may be necessary to carry out this Act for fiscal year  
21          2012 and each of the 4 succeeding fiscal years.

22   **SEC. 12. DEFINITIONS.**

23          In this Act:

24                   (1) CORPORAL PUNISHMENT.—The term “cor-  
25          poral punishment” means paddling, spanking, or



1 other forms of physical punishment, however light,  
2 imposed upon a student.

3 (2) EDUCATIONAL SERVICE AGENCY.—The  
4 term “educational service agency” has the meaning  
5 given such term in section 9101(17) of the Elemen-  
6 tary and Secondary Education Act of 1965 (20  
7 U.S.C. 7801(17)).

8 (3) ELEMENTARY SCHOOL.—The term “elemen-  
9 tary school” has the meaning given the term in sec-  
10 tion 9101(18) of the Elementary and Secondary  
11 Education Act of 1965 (20 U.S.C. 7801(18)).

12 (4) LOCAL EDUCATIONAL AGENCY.—The term  
13 “local educational agency” has the meaning given  
14 the term in section 9101(26) of the Elementary and  
15 Secondary Education Act of 1965 (20 U.S.C.  
16 7801(26)).

17 (5) PARENT.—The term “parent” has the  
18 meaning given the term in section 9101(31) of the  
19 Elementary and Secondary Education Act of 1965  
20 (20 U.S.C. 7801(31)).

21 (6) POSITIVE BEHAVIOR SUPPORTS.—The term  
22 “positive behavior supports” means a systematic ap-  
23 proach to embed evidence-based practices and data-  
24 driven decision making to improve school climate  
25 and culture, including a range of systemic and indi-

1       vidualized strategies to reinforce desired behaviors  
2       and diminish reoccurrence of problem behaviors, in  
3       order to achieve improved academic and social out-  
4       comes and increase learning for all students, includ-  
5       ing those with the most complex and intensive be-  
6       havioral needs.

7               (7) PROTECTION AND ADVOCACY SYSTEM.—The  
8       term “protection and advocacy system” means a  
9       protection and advocacy system established under  
10      section 143 of the Developmental Disabilities Assist-  
11      ance and Bill of Rights Act of 2000 (42 U.S.C.  
12      15043).

13              (8) SCHOOL.—The term “school” means an en-  
14      tity—

15                      (A) that—

16                              (i) is a public or private—

17                                      (I) day or residential elementary  
18                                      school or secondary school; or

19                                      (II) early childhood, elementary  
20                                      school, or secondary school program  
21                                      that is under the jurisdiction of a  
22                                      school, local educational agency, edu-  
23                                      cational service agency, or other edu-  
24                                      cational institution or program; and

1 (ii) receives, or serves students who  
2 receive, support in any form from any pro-  
3 gram supported, in whole or in part, with  
4 funds appropriated to the Department of  
5 Education; or

6 (B) that is a school funded or operated by  
7 the Department of the Interior.

8 (9) SCHOOL PERSONNEL.—The term “school  
9 personnel” has the meaning—

10 (A) given the term in section 4151(10) of  
11 the Elementary and Secondary Education Act  
12 of 1965 (20 U.S.C. 7161(10)); or

13 (B) given the term “school resource offi-  
14 cer” in section 4151(11) of the Elementary and  
15 Secondary Education Act of 1965 (20 U.S.C.  
16 7161(11)).

17 (10) SPECIALIZED INSTRUCTIONAL SUPPORT  
18 PERSONNEL.—The term “specialized instructional  
19 support personnel” means school counselors, school  
20 social workers, school nurses, school psychologists,  
21 and other qualified professional personnel involved in  
22 providing assessment, diagnosis, counseling, edu-  
23 cational, health, therapeutic, and other necessary  
24 corrective or supportive services.

1           (11) SECONDARY SCHOOL.—The term “sec-  
2           ondary school” has the meaning given the term in  
3           section 9101(38) of the Elementary and Secondary  
4           Education Act of 1965 (20 U.S.C. 7801(38)).

5           (12) SECRETARY.—The term “Secretary”  
6           means the Secretary of Education.

7           (13) STATE.—The term “State” has the mean-  
8           ing given the term in section 9101 of the Elemen-  
9           tary and Secondary Education Act of 1965 (20  
10          U.S.C. 7801).

11          (14) STATE EDUCATIONAL AGENCY.—The term  
12          “State educational agency” has the meaning given  
13          the term in section 9101(41) of the Elementary and  
14          Secondary Education Act of 1965 (20 U.S.C.  
15          7801(41)).

16          (15) STUDENT.—The term “student” means a  
17          student enrolled in a school defined in paragraph  
18          (8).

19   **SEC. 13. PRESUMPTION OF CONGRESS RELATING TO COM-**  
20                           **PETITIVE PROCEDURES.**

21          (a) PRESUMPTION.—It is the presumption of Con-  
22          gress that grants awarded under this Act will be awarded  
23          using competitive procedures based on merit.

24          (b) REPORT TO CONGRESS.—If grants are awarded  
25          under this Act using procedures other than competitive

1 procedures, the Secretary shall submit to Congress a re-  
2 port explaining why competitive procedures were not used.

3 **SEC. 14. PROHIBITION ON EARMARKS.**

4       None of the funds appropriated to carry out this Act  
5 may be used for a congressional earmark as defined in  
6 clause 9e of rule XXI of the Rules of the House of Rep-  
7 resentatives of the 112th Congress.