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(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. _____

To reduce exclusionary discipline practices in schools, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. PRESSLEY introduced the following bill; which was referred to the
Committee on _____

A BILL

To reduce exclusionary discipline practices 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 Punitive, Un-
5 fair, School-based Harm that is Overt and Unresponsive
6 to Trauma Act of 2019” or the “Ending PUSHOUT Act
7 of 2019”.

8 **SEC. 2. PURPOSE.**

9 It is the purpose of this Act to—

1 Organization Act (20 U.S.C. 3413(c)(1)), which shall in-
2 clude data with respect to students enrolled in a public
3 preschool, elementary, or secondary school (including tra-
4 ditional public, charter, virtual, special education school,
5 and alternative schools) who received the following dis-
6 ciplinary actions during the preceding school year:

7 (1) Suspension (including the classification of
8 the suspension as in-school suspension or out-of-
9 school suspension), which shall include data with re-
10 spect to—

11 (A) the number of students who were sus-
12 pended;

13 (B) the number and length of suspensions
14 each such student received;

15 (C) the reason for each such suspension,
16 including—

17 (i) a violation of a zero-tolerance pol-
18 icy and whether such violation was due to
19 a violent or nonviolent offense;

20 (ii) a violation of an appearance or
21 grooming policy;

22 (iii) an act of insubordination;

23 (iv) willful defiance; and

24 (v) a violation of a school code of con-
25 duct; and

1 (D) the number of days of lost instruction
2 due to each out-of-school suspension.

3 (2) Expulsion, which shall include data with re-
4 spect to—

5 (A) the number of students who were ex-
6 pelled; and

7 (B) the reason for each such expulsion, in-
8 cluding—

9 (i) a violation of a zero-tolerance pol-
10 icy and whether such violation was due to
11 a violent or nonviolent offense;

12 (ii) a violation of an appearance or
13 grooming policy;

14 (iii) an act of insubordination, willful
15 defiance, or violation of a school code of
16 conduct; and

17 (iv) the use of profane or vulgar lan-
18 guage.

19 (3) The number of students subject to an out-
20 of-school transfer to a different school, including a
21 virtual school, and if so, the primary reason for each
22 such transfer.

23 (4) The number of students subject to a refer-
24 ral to law enforcement, including the primary reason

1 for each such referral, and whether such referral re-
2 sulted in an arrest.

3 (b) REPORT.—

4 (1) IN GENERAL.—Not later than 1 year after
5 the date of the enactment of this Act, and annually
6 thereafter, the Secretary, acting through the Assist-
7 ant Secretary for Civil Rights, shall submit to Con-
8 gress a report on the data collected under subsection
9 (a).

10 (2) REQUIREMENTS.—The report required
11 under paragraph (1) shall—

12 (A) identify, with respect to the data col-
13 lected under subsection (a), schools, local edu-
14 cational agencies, and States that demonstrate,
15 in the opinion of the Secretary, the overuse and
16 discriminatory use of exclusionary disciplinary
17 practices;

18 (B) be disaggregated and cross tabulated
19 by—

20 (i) enrollment in a preschool or in an
21 elementary school and secondary school by
22 grade level;

23 (ii) race;

24 (iii) ethnicity;

- 1 (iv) sex (including, to the extent possible,
2 sible, sexual orientation and gender identity);
3 tity);
- 4 (v) low-income status;
- 5 (vi) disability status (including students eligible for disability under the Individuals with Disabilities Education Act (20
6 viduals with Disabilities Education Act (20
7 U.S.C. 1401 et. seq.) or section 504 of the
8 Rehabilitation Act of 1973 (29 U.S.C.
9 794));
10 794));
- 11 (vii) English learner status;
- 12 (viii) Tribal citizenship or descent, in
13 the first or second degree, of an Indian
14 Tribe;
- 15 (ix) if applicable, pregnant and parenting student status;
- 16 (C) be publicly accessible in multiple languages, accessibility formats, and provided in a
17 language that parents, family, and community
18 members can understand; and
19 members can understand; and
20 members can understand; and
- 21 (D) be presented in a manner that protects
22 the privacy of individuals consistent with the requirements of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), com-
23 munication Provisions Act (20 U.S.C. 1232g), com-
24 munication Provisions Act (20 U.S.C. 1232g), com-

1 monly known as the “Family Educational
2 Rights and Privacy Act of 1974”.

3 **SEC. 4. GRANTS TO REDUCE EXCLUSIONARY SCHOOL DIS-**
4 **CIPLINE PRACTICES.**

5 (a) IN GENERAL.—The Secretary shall award grants
6 (which shall be known as the “Healing School Climate
7 Grants”), on a competitive basis, to eligible entities for
8 the purpose of reducing the overuse and discriminatory
9 use of exclusionary discipline practices in schools.

10 (b) APPLICATION.—An eligible entity seeking a grant
11 under this section shall submit an application to the Sec-
12 retary at such time, in such manner, and containing such
13 information as the Secretary may require, including an as-
14 surance that the eligible entity shall prioritize schools with
15 the highest rates of suspensions and expulsions.

16 (c) PROGRAM REQUIREMENT.—An eligible entity
17 that receives a grant under subsection (a) shall prohibit
18 the use of—

19 (1) out-of-school suspension or expulsion for
20 any student in preschool through grade 5 for inci-
21 dents that do not involve serious bodily injury;

22 (2) out-of-school suspension or expulsion for
23 any student in preschool through grade 12 for insub-
24 ordination, willful defiance, vulgarity, truancy, tardi-

1 ness, chronic absenteeism, or as a result of a viola-
2 tion of a grooming or appearance policy;

3 (3) corporal punishment;

4 (4) mechanical and chemical restraints of stu-
5 dents;

6 (5) physical restraints of students, except in sit-
7 uations involving imminent danger of serious phys-
8 ical harm; and

9 (6) seclusion.

10 (d) USE OF FUNDS.—

11 (1) REQUIRED USES.—An eligible entity that
12 receives a grant under this section shall use funds
13 to—

14 (A) evaluate the current discipline policies
15 of a school and, in partnership with students
16 (including girls of color), the family members of
17 students, and the local community of such
18 school, develop discipline policies for such school
19 to ensure that such policies are not exclusionary
20 or discriminately applied toward students;

21 (B) provide training and professional de-
22 velopment for teachers, principals, school lead-
23 ers, and other school personnel to avoid or ad-
24 dress the overuse and discriminatory dispropor-
25 tionate use of exclusionary discipline practices

1 in schools and to create awareness of implicit
2 and explicit bias and use culturally affirming
3 practices, including training in—

4 (i) identifying and providing support
5 to students who may have experienced or
6 are at risk of experiencing trauma or have
7 other mental health needs;

8 (ii) administering and responding to
9 assessments on adverse childhood experi-
10 ences;

11 (iii) providing student-centered, trau-
12 ma-informed positive behavior management
13 intervention and support that creates safe
14 and supportive school climates;

15 (iv) using restorative practices;

16 (v) using culturally and linguistically
17 responsive intervention strategies;

18 (vi) developing social and emotional
19 learning competencies; and

20 (vii) increasing student engagement
21 and improving dialogue between students
22 and teachers;

23 (C) implement evidence-based alternatives
24 to suspension or expulsion, including—

1 (i) multi-tier systems of support, such
2 as schoolwide positive behavioral interven-
3 tions and supports;

4 (ii) social, emotional and academic
5 learning strategies designed to engage stu-
6 dents and avoid escalating conflicts; and

7 (iii) other data-driven approaches to
8 improving school environments;

9 (D) improve behavioral and academic out-
10 comes for students by creating a safe and sup-
11 portive learning environment and school cli-
12 mate, which may include—

13 (i) restorative practices with respect
14 to improving relationships among students,
15 school officials, and members of the local
16 community, which may include partnering
17 with local mental health agencies or non-
18 profit organizations;

19 (ii) access to mentors and peer-based
20 support programs;

21 (iii) extracurricular programs, includ-
22 ing sports and art programs;

23 (iv) social and emotional learning
24 strategies designed to engage students and
25 avoid escalating conflicts;

1 (v) access to counseling, mental health
2 programs, and trauma-informed care pro-
3 grams, including suicide prevention pro-
4 grams; and

5 (vi) access to culturally-responsive
6 curricula that affirms the history and con-
7 tributions of traditionally marginalized
8 people and communities;

9 (E) hire social workers, school counselors,
10 trauma-informed care personnel, and other
11 mental health personnel; and

12 (F) support the development, delivery, and
13 analysis of school climate surveys.

14 (2) PROHIBITED USES.—An eligible entity that
15 receives a grant under this section may not use
16 funds to—

17 (A) hire or retain law enforcement per-
18 sonnel, including school resource officers;

19 (B) purchase, maintain, or install surveil-
20 lance equipment, including metal detectors or
21 software programs that monitor or mine the so-
22 cial media use or technology use of students;

23 (C) arm teachers, principals, school lead-
24 ers, or other school personnel; and

1 (D) enter into formal or informal partner-
2 ships or data and information sharing agree-
3 ments with—

4 (i) the Secretary of Homeland Secu-
5 rity, including agreements with U.S. Immi-
6 gration and Customs Enforcement or U.S.
7 Customs and Border Protection; or

8 (ii) local law enforcement agencies, in-
9 cluding partnerships that allow for hiring
10 of school-based police and school resource
11 officers.

12 (e) TECHNICAL ASSISTANCE.—The Secretary, in car-
13 rying out subsection (a), may reserve not more than 2 per-
14 cent of funds to provide technical assistance to eligible en-
15 tities, which may include—

16 (1) support for data collection, compliance, and
17 analysis of the activities of the program authorized
18 under subsection (a); and

19 (2) informational meetings and seminars with
20 respect to the application process under subsection
21 (b).

22 (f) ELIGIBLE ENTITIES.—In this section, the term
23 “eligible entity” means—

24 (1) 1 or more local educational agencies (who
25 may be partnered with a State educational agency),

1 including a public charter school that is a local edu-
2 cational agency under State law or local educational
3 agency operated by the Bureau of Indian Education;
4 or

5 (2) a nonprofit organization (defined as an or-
6 ganization described in section 501(c)(3) of the In-
7 ternal Revenue Code, which is exempt from taxation
8 under section 501(a) of such Code) with a track
9 record of success in improving school climates and
10 supporting students.

11 **SEC. 5. JOINT TASK FORCE TO END SCHOOL PUSHOUT OF**
12 **GIRLS OF COLOR.**

13 (a) ESTABLISHMENT.—The Secretary and the Sec-
14 retary of Health and Human Services shall establish and
15 operate a joint task force to end school pushout (in this
16 section referred to as the “Joint Task Force”).

17 (b) COMPOSITION.—

18 (1) CHAIRS.—The Secretary and the Secretary
19 of Health and Human Services shall chair the Joint
20 Task Force.

21 (2) MEMBERS.—The Joint Task Force shall be
22 composed of—

23 (A) Native American girls;

24 (B) students, including Black and brown
25 girls;

- 1 (C) teachers;
- 2 (D) parents with children in school;
- 3 (E) school officials;
- 4 (F) representatives from civil rights and
5 disability organizations;
- 6 (G) psychologists, social workers, trauma-
7 informed personnel, and other mental health
8 professionals; and
- 9 (H) researchers with experience in behav-
10 ioral intervention.

11 (3) ADVISORY MEMBERS.—In addition to the
12 members under paragraph (2), the Assistant Attor-
13 ney General of the Civil Rights Division of the De-
14 partment of Justice and the Director of the Bureau
15 of Indian Education shall be advisory members of
16 the Joint Task Force.

17 (4) MEMBER APPOINTMENT.—Not later than
18 60 days after the date of the enactment of this Act,
19 the Secretary and the Secretary of Health and
20 Human Services shall appoint the members of the
21 Joint Task Force—

- 22 (A) in accordance with paragraph (2);
- 23 (B) using a competitive application proc-
24 ess; and

1 (C) with consideration to the racial, ethnic,
2 gender, and geographic diversity of the Joint
3 Task Force.

4 (c) STUDY AND RECOMMENDATIONS.—The Joint
5 Task Force shall—

6 (1) conduct a study to—

7 (A) identify best practices for reducing the
8 overuse and discriminatory use of exclusionary
9 discipline practices; and

10 (B) determine to what extent exclusionary
11 discipline practices contribute to the criminal-
12 ization of—

13 (i) girls of color;

14 (ii) English learners;

15 (iii) Native American girls;

16 (iv) students who identify as lesbian,
17 gay, bisexual, transgender, queer, or ques-
18 tioning; and

19 (v) students with disabilities; and

20 (2) develop recommendations based on the
21 study conducted under paragraph (1).

22 (d) REPORT.—Not later than 360 days after the date
23 of the enactment of this Act, and biannually thereafter,
24 the Secretary and the Secretary of Health and Human

1 Services shall submit to Congress a report on the rec-
2 ommendations under subsection (c)(2).

3 **SEC. 6.**

4 (a) IN GENERAL.—There is authorized to be appro-
5 priated \$500,000,000 for each of fiscal years 2021
6 through 2025 to carry out sections 4 and 5.

7 (b) ADDITIONAL FUNDING TO THE OFFICE FOR
8 CIVIL RIGHTS.—There is authorized to be appropriated
9 \$500,000,000 for fiscal year 2021 through 2025, and each
10 fiscal year thereafter, to carry out section 3.

11 **SEC. 7. DEFINITIONS.**

12 In this Act:

13 (1) ACT OF INSUBORDINATION.—The term “act
14 of insubordination” means an act that disrupts a
15 school activity or instance when a student willfully
16 defies the valid authority of a school official.

17 (2) APPEARANCE OR GROOMING POLICY.—The
18 term “appearance or grooming policy” means any
19 practice, policy, or portion of a student conduct code
20 that governs or restricts the appearance of students,
21 including policies that—

22 (A) restrict or prescribe clothing that a
23 student may wear (such as hijabs, headwraps,
24 or bandanas);

1 (B) restrict specific hair styles (such as
2 braids, locks, twists, bantu knots, cornrows, ex-
3 tensions, or afros); or

4 (C) restrict whether or how a student may
5 apply make-up, nail polish, or other cosmetics.

6 (3) CHEMICAL RESTRAINT.—The term “chem-
7 ical restraint” means a drug or medication used on
8 a student to control behavior or restrict freedom of
9 movement that is not—

10 (A) prescribed by a licensed physician, or
11 other qualified health professional acting under
12 the scope of the professional’s authority under
13 State law, for the standard treatment of a stu-
14 dent’s medical or psychiatric condition; and

15 (B) administered as prescribed by a li-
16 censed physician or other qualified health pro-
17 fessional acting under the scope of the author-
18 ity of a health professional under State law.

19 (4) DIRECT SUPERVISION.—The term “direct
20 supervision” means a student is physically in the
21 same location as a school official and such student
22 is under the care of the school official or school.

23 (5) DISABILITY.—The term “disability” means
24 a mental or physical disability that meets the condi-
25 tions set forth in clauses (i) and (ii) of section

1 602(3)(A) of the Individuals with Disabilities Edu-
2 cation Act (20 U.S.C. 1401(3)(A)(i) and (ii)).

3 (6) ELEMENTARY AND SECONDARY EDUCATION
4 ACT TERMS.—The terms “elementary school”,
5 “English learner”, “local educational agency”, “sec-
6 ondary school”, and “State educational agency” has
7 the meanings given such terms in section 8101 of
8 the Elementary and Secondary Education Act of
9 1965 (20 U.S.C. 7801).

10 (7) GENDER IDENTITY.—The term “gender
11 identity” means the gender-related identity, appear-
12 ance, mannerisms, or other gender-related character-
13 istics of an individual regardless of the designated
14 sex at birth of the individual.

15 (8) INDIAN TRIBE.—The term “Indian tribe”
16 has the meaning given the term in section 4(e) of
17 the Indian Self-Determination and Education Assist-
18 ance Act (25 U.S.C. 5304(e)).

19 (9) IN-SCHOOL SUSPENSION.—The term “in-
20 school suspension” means an instance in which a
21 student is temporarily removed from a regular class-
22 room for at least half a day but remains under the
23 direct supervision of a school official.

24 (10) MECHANICAL RESTRAINT.—The term
25 “mechanical restraint” has the meaning given the

1 term in section 595(d)(1) of the Public Health Serv-
2 ice Act (42 U.S.C. 290jj(d)(1)), except that the
3 meaning shall be applied by substituting “student”
4 for “resident”.

5 (11) MULTI-TIER SYSTEM OF SUPPORTS.—The
6 term “multi-tier system of supports” means a com-
7 prehensive continuum of evidence-based, systemic
8 practices to support a rapid response to the needs of
9 students, with regular observation to facilitate data-
10 based instructional decision making.

11 (12) OUT-OF-SCHOOL SUSPENSION.—The term
12 “out-of-school suspension” means an instance in
13 which a student is excluded from school for discipli-
14 nary reasons by temporarily being removed from
15 regular classes to another setting, including a home
16 or behavior center, regardless of whether such dis-
17 ciplinary removal is deemed as a suspension by
18 school officials.

19 (13) PHYSICAL ESCORT.—The term “physical
20 escort” has the meaning given the term in section
21 595(d)(2) of the Public Health Service Act (42
22 U.S.C. 290jj(d)(2)), except that the meaning shall
23 be applied by substituting “student” for “resident”.

24 (14) PHYSICAL RESTRAINT.—The term “phys-
25 ical restraint” means a personal restriction that im-

1 mobilizes or reduces the ability of an individual to
2 move the individual's arms, legs, torso, or head free-
3 ly, except that such term does not include a physical
4 escort, mechanical restraint, or chemical restraint.

5 (15) POSITIVE BEHAVIOR INTERVENTION AND
6 SUPPORT.—The term “positive behavior intervention
7 and support” means using a systematic and evi-
8 dence-based approach to achieve improved academic
9 and social outcomes for students.

10 (16) PUSHOUT.—The term “pushout” means
11 an instance when a student leaves elementary, mid-
12 dle or secondary school, including a forced transfer
13 to another school, prior to graduating secondary
14 school due to overuse of exclusionary discipline prac-
15 tices, failure to address trauma or other mental
16 health needs, discrimination, or other educational
17 barriers that do not support or promote the success
18 of a student.

19 (17) SCHOOL OFFICIAL.—The term “school of-
20 ficial” means a teacher, school principal, adminis-
21 trator, or other personnel engaged in the perform-
22 ance of duties with respect to a school.

23 (18) SECLUSION.—The term “seclusion” means
24 the involuntary confinement of a student alone in a
25 room or area where the student is physically pre-

1 vented from leaving, and does not include a time
2 out.

3 (19) SECRETARY.—The term “Secretary”
4 means the Secretary of Education.

5 (20) SERIOUS BODILY INJURY.—The term “se-
6 rious bodily injury” has the meaning given that term
7 in section 1365(h)(3) of title 18, United States
8 Code.

9 (21) SEXUAL ORIENTATION.—The term “sexual
10 orientation” means homosexuality, heterosexuality,
11 or bisexuality.

12 (22) SPECIAL EDUCATION SCHOOL.—The term
13 “special education school” means a school that fo-
14 cuses primarily on serving the needs of students who
15 qualify as “a child with a disability” as that term
16 is defined under section 602(3)(A)(i) of the Individ-
17 uals with Disabilities Education Act (20 U.S.C.
18 1401(3)(A)(i)) or are subject to section 504 of the
19 Rehabilitation Act of 1973 (29 U.S.C. 794).

20 (23) TIME OUT.—The term “time out” has the
21 meaning given the term in section 595(d)(5) of the
22 Public Health Service Act (42 U.S.C. 290jj(d)(5)),
23 except that the meaning shall be applied by sub-
24 stituting “student” for “resident”.

1 (24) ZERO-TOLERANCE POLICY.—The term
2 “zero-tolerance policy” is a school discipline policy
3 that results in an automatic disciplinary con-
4 sequence, including out-of-school suspension, expul-
5 sion, and involuntary school transfer.