

116TH CONGRESS
1ST SESSION

H. R. 5325

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2019

Ms. PRESSLEY introduced the following bill; which was referred to the
Committee on Education and Labor

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—

10 (1) strengthen data collection related to exclu-
11 sionary discipline practices in schools and the dis-

1 criminatory application of such practices, which dis-
 2 proportionately impacts students of color, particu-
 3 larly girls of color;

4 (2) eliminate the discriminatory use and over-
 5 use of exclusionary discipline practices based on ac-
 6 tual or perceived race, ethnicity, color, national ori-
 7 gin, sex (including sexual orientation, gender iden-
 8 tity, pregnancy, childbirth, a medical condition re-
 9 lated to pregnancy or childbirth, or other stereotype
 10 related to sex), or disability; and

11 (3) prevent the criminalization and pushout of
 12 students from school, especially Black and brown
 13 girls, as a result of educational barriers that include
 14 discrimination, punitive discipline policies and prac-
 15 tices, and a failure to recognize and support stu-
 16 dents with mental health needs or experiencing trau-
 17 ma.

18 **SEC. 3. STRENGTHENING CIVIL RIGHTS DATA COLLECTION**
 19 **WITH RESPECT TO EXCLUSIONARY DIS-**
 20 **CIPLINE IN SCHOOLS.**

21 (a) IN GENERAL.—The Assistant Secretary for Civil
 22 Rights shall annually carry out data collection authorized
 23 under section 203(c)(1) of the Department of Education
 24 Organization Act (20 U.S.C. 3413(c)(1)), which shall in-
 25 clude data with respect to students enrolled in a public

1 preschool, elementary, or secondary school (including tra-
2 ditional public, charter, virtual, special education school,
3 and alternative schools) who received the following dis-
4 ciplinary actions during the preceding school year:

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

9 (A) the number of students who were sus-
10 pended;

11 (B) the number and length of suspensions
12 each such student received;

13 (C) the reason for each such suspension,
14 including—

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

18 (ii) a violation of an appearance or
19 grooming policy;

20 (iii) an act of insubordination;

21 (iv) willful defiance; and

22 (v) a violation of a school code of con-
23 duct; and

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

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

3 (A) the number of students who were ex-
4 pelled; and

5 (B) the reason for each such expulsion, in-
6 cluding—

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

10 (ii) a violation of an appearance or
11 grooming policy;

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

15 (iv) the use of profane or vulgar lan-
16 guage.

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

21 (4) The number of students subject to a refer-
22 ral to law enforcement, including the primary reason
23 for each such referral, and whether such referral re-
24 sulted in an arrest.

25 (b) REPORT.—

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

7 (2) REQUIREMENTS.—The report required
8 under paragraph (1) shall—

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

15 (B) be disaggregated and cross tabulated
16 by—

17 (i) enrollment in a preschool or in an
18 elementary school and secondary school by
19 grade level;

20 (ii) race;

21 (iii) ethnicity;

22 (iv) sex (including, to the extent pos-
23 sible, sexual orientation and gender iden-
24 tity);

25 (v) low-income status;

(vi) disability status (including students eligible for disability under the Individuals with Disabilities Education Act (20 U.S.C. 1401 et. seq.) or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794));

(vii) English learner status;

(viii) Tribal citizenship or descent, in the first or second degree, of an Indian Tribe; and

(ix) if applicable, pregnant and parenting student status;

(C) be publicly accessible in multiple languages, accessibility formats, and provided in a language that parents, family, and community members can understand; and

(D) be presented in a manner that protects the privacy of individuals consistent with the requirements of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly known as the “Family Educational Rights and Privacy Act of 1974”.

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

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

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

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

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

20 (2) out-of-school suspension or expulsion for
21 any student in preschool through grade 12 for insub-
22 ordination, willful defiance, vulgarity, truancy, tardi-
23 ness, chronic absenteeism, or as a result of a viola-
24 tion of a grooming or appearance policy;

25 (3) corporal punishment;

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

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

6 (6) seclusion.

7 (d) USE OF FUNDS.—

8 (1) REQUIRED USES.—An eligible entity that
9 receives a grant under this section shall use funds
10 to—

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

18 (B) provide training and professional de-
19 velopment for teachers, principals, school lead-
20 ers, and other school personnel to avoid or ad-
21 dress the overuse and discriminatory dispropor-
22 tionate use of exclusionary discipline practices
23 in schools and to create awareness of implicit
24 and explicit bias and use culturally affirming
25 practices, including training in—

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

5 (ii) administering and responding to
6 assessments on adverse childhood experi-
7 ences;

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

12 (iv) using restorative practices;

13 (v) using culturally and linguistically
14 responsive intervention strategies;

15 (vi) developing social and emotional
16 learning competencies; and

17 (vii) increasing student engagement
18 and improving dialogue between students
19 and teachers;

20 (C) implement evidence-based alternatives
21 to suspension or expulsion, including—

22 (i) multi-tier systems of support, such
23 as schoolwide positive behavioral interven-
24 tions and supports;

1 (ii) social, emotional, and academic
2 learning strategies designed to engage stu-
3 dents and avoid escalating conflicts; and

4 (iii) other data-driven approaches to
5 improving school environments;

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

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

16 (ii) access to mentors and peer-based
17 support programs;

18 (iii) extracurricular programs, includ-
19 ing sports and art programs;

20 (iv) social and emotional learning
21 strategies designed to engage students and
22 avoid escalating conflicts;

23 (v) access to counseling, mental health
24 programs, and trauma-informed care pro-

1 grams, including suicide prevention pro-
2 grams; and

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

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

10 (F) support the development, delivery, and
11 analysis of school climate surveys.

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

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

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

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

23 (D) enter into formal or informal partner-
24 ships or data and information sharing agree-
25 ments with—

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

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

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

13 (1) support for data collection, compliance, and
14 analysis of the activities of the program authorized
15 under subsection (a); and

16 (2) informational meetings and seminars with
17 respect to the application process under subsection
18 (b).

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

21 (1) 1 or more local educational agencies (who
22 may be partnered with a State educational agency),
23 including a public charter school that is a local edu-
24 cational agency under State law or local educational

1 agency operated by the Bureau of Indian Education;
2 or

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

9 **SEC. 5. JOINT TASK FORCE TO END SCHOOL PUSHOUT OF**
10 **GIRLS OF COLOR.**

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

15 (b) COMPOSITION.—

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

19 (2) MEMBERS.—The Joint Task Force shall be
20 composed of—

21 (A) Native American girls;

22 (B) students, including Black and brown
23 girls;

24 (C) teachers;

25 (D) parents with children in school;

1 (E) school officials;

2 (F) representatives from civil rights and
3 disability organizations;

4 (G) psychologists, social workers, trauma-
5 informed personnel, and other mental health
6 professionals; and

7 (H) researchers with experience in behav-
8 ioral intervention.

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

15 (4) MEMBER APPOINTMENT.—Not later than
16 60 days after the date of the enactment of this Act,
17 the Secretary and the Secretary of Health and
18 Human Services shall appoint the members of the
19 Joint Task Force—

20 (A) in accordance with paragraph (2);

21 (B) using a competitive application proc-
22 ess; and

23 (C) with consideration to the racial, ethnic,
24 gender, and geographic diversity of the Joint
25 Task Force.

1 (c) STUDY AND RECOMMENDATIONS.—The Joint
2 Task Force shall—

3 (1) conduct a study to—

4 (A) identify best practices for reducing the
5 overuse and discriminatory use of exclusionary
6 discipline practices; and

7 (B) determine to what extent exclusionary
8 discipline practices contribute to the criminal-
9 ization of—

10 (i) girls of color;

11 (ii) English learners;

12 (iii) Native American girls;

13 (iv) students who identify as lesbian,
14 gay, bisexual, transgender, queer, or ques-
15 tioning; and

16 (v) students with disabilities; and

17 (2) develop recommendations based on the
18 study conducted under paragraph (1).

19 (d) REPORT.—Not later than 360 days after the date
20 of the enactment of this Act, and biannually thereafter,
21 the Secretary and the Secretary of Health and Human
22 Services shall submit to Congress a report on the rec-
23 ommendations under subsection (c)(2).

1 **SEC. 6. AUTHORIZATION OF APPROPRIATION.**

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

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

9 **SEC. 7. DEFINITIONS.**

10 In this Act:

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

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

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

23 (B) restrict specific hair styles (such as
24 braids, locks, twists, bantu knots, cornrows, ex-
25 tensions, or afros); or

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

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

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

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

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

20 (5) DISABILITY.—The term “disability” means
21 a mental or physical disability that meets the condi-
22 tions set forth in clauses (i) and (ii) of section
23 602(3)(A) of the Individuals with Disabilities Edu-
24 cation Act (20 U.S.C. 1401(3)(A)(i) and (ii)).

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

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

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

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

22 (10) MECHANICAL RESTRAINT.—The term
23 “mechanical restraint” has the meaning given the
24 term in section 595(d)(1) of the Public Health Serv-
25 ice Act (42 U.S.C. 290jj(d)(1)), except that the

1 meaning shall be applied by substituting “student”
2 for “resident”.

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

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

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

22 (14) PHYSICAL RESTRAINT.—The term “physi-
23 cal restraint” means a personal restriction that im-
24 mobilizes or reduces the ability of an individual to
25 move the individual’s arms, legs, torso, or head free-

1 ly, except that such term does not include a physical
2 escort, mechanical restraint, or chemical restraint.

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

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

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

21 (18) SECLUSION.—The term “seclusion” means
22 the involuntary confinement of a student alone in a
23 room or area where the student is physically pre-
24 vented from leaving, and does not include a time
25 out.

1 (19) SECRETARY.—The term “Secretary”
2 means the Secretary of Education.

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

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

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

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

23 (24) ZERO-TOLERANCE POLICY.—The term
24 “zero-tolerance policy” is a school discipline policy
25 that results in an automatic disciplinary con-

- 1 sequence, including out-of-school suspension, expulsion,
- 2 sion, and involuntary school transfer.

