

AMENDMENT TO RULES COMMITTEE PRINT
118-2
OFFERED BY MR. ROBERT GARCIA OF
CALIFORNIA

Add at the end the following:

1 **TITLE VII—ENDING CORPORAL**
2 **PUNISHMENT IN SCHOOLS**

3 **SEC. 701. 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.—

1 “(1) IN GENERAL.—In the case of an applicable
2 program under which a local educational agency may
3 only receive funds through a State educational agen-
4 cy that is prohibited under subsection (a) from re-
5 ceiving funds under any applicable program, a local
6 educational agency that is not prohibited under sub-
7 section (a) from receiving such funds may apply di-
8 rectly to the Secretary to receive funds under the
9 program.

10 “(2) CERTIFICATION.—Each local educational
11 agency applying directly to the Secretary under
12 paragraph (1) shall certify in such application that
13 the agency is not prohibited under subsection (a)
14 from receiving funds under any applicable program.

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

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

22 “(2) less restrictive interventions would be inef-
23 fective in stopping such imminent danger of physical
24 injury; and

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

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

5 “(1) the term ‘corporal punishment’ means pad-
6 dling, spanking, or other forms of physical punish-
7 ment, however light, imposed upon a student;

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

12 “(3) the terms ‘local educational agency’ and
13 ‘State educational agency’ have the meanings given
14 such terms in section 8101 of the Elementary and
15 Secondary Education Act of 1965;

16 “(4) the term ‘school personnel’ means teach-
17 ers, principals, other school leaders, paraprofes-
18 sionals, administrators, and other staff (as such
19 terms are defined in section 8101 of the Elementary
20 and Secondary Education Act of 1965);

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

1 **SEC. 702. STATE PLAN AND ENFORCEMENT.**

2 (a) STATE PLAN.—Not later than 18 months after
3 the date of enactment of this title and every third year
4 thereafter, each State educational agency shall submit to
5 the Secretary a State plan that provides—

6 (1) assurances to the Secretary that the State
7 has in effect policies and procedures that eliminate
8 the use of corporal punishment in schools;

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

11 (3) a description of the State plans to ensure
12 school personnel and parents, including private
13 school personnel and parents, are aware of the
14 State’s policies and procedures.

15 (b) ENFORCEMENT.—

16 (1) IN GENERAL.—

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

20 (i) withhold, in whole or in part, fur-
21 ther payments under an applicable pro-
22 gram (as such term is defined in section
23 400(c) of the General Education Provi-
24 sions Act (20 U.S.C. 1221)) in accordance
25 with section 455 of such Act (20 U.S.C.
26 1234d);

1 (ii) enter into a compliance agreement
2 in accordance with section 457 of the Gen-
3 eral Education Provisions Act (20 U.S.C.
4 1234f); or

5 (iii) issue a complaint to compel com-
6 pliance of the State educational agency
7 through a cease and desist order, in the
8 same manner the Secretary is authorized
9 to take such action under section 456 of
10 the General Education Provisions Act (20
11 U.S.C. 1234e).

12 (B) CESSATION OF WITHHOLDING OF
13 FUNDS.—Whenever the Secretary determines
14 (whether by certification or other appropriate
15 evidence) that a State educational agency that
16 is subject to the withholding of payments under
17 subparagraph (A)(i) has cured the failure pro-
18 viding the basis for the withholding of pay-
19 ments, the Secretary shall cease the withholding
20 of payments with respect to the State edu-
21 cational agency under such subparagraph.

22 (2) RULE OF CONSTRUCTION.—Nothing in this
23 subsection shall be construed to limit the Secretary's
24 authority under the General Education Provisions
25 Act (20 U.S.C. 1221 et seq.).

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

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

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

11 (3) the reasonable restraint ends immediately
12 upon the cessation of the conditions described in
13 paragraphs (1) and (2).

14 **SEC. 703. NATIONAL ASSESSMENT.**

15 (a) NATIONAL ASSESSMENT.—The Secretary shall
16 carry out a national assessment to—

17 (1) determine compliance with the requirements
18 of this title; and

19 (2) identify best practices with respect to pro-
20 fessional development and training programs, which
21 shall include identifying evidence-based school per-
22 sonnel training models with demonstrated success
23 (including models that emphasize positive behavior
24 supports and de-escalation techniques over physical
25 intervention).

1 (b) REPORT.—The Secretary shall submit to the
2 Committee on Education and Labor of the House of Rep-
3 resentatives and the Committee on Health, Education,
4 Labor, and Pensions of the Senate—

5 (1) an interim report that summarizes the pre-
6 liminary findings of the assessment described in sub-
7 section (a) not later than 3 years after the date of
8 enactment of this title; and

9 (2) a final report of the findings of the assess-
10 ment not later than 5 years after the date of the en-
11 actment of this title.

12 **SEC. 704. PROTECTION AND ADVOCACY SYSTEMS.**

13 Protection and Advocacy Systems shall have the au-
14 thority provided under section 143 of the Developmental
15 Disabilities Assistance and Bill of Rights Act of 2000 (42
16 U.S.C. 15043) to investigate, monitor, and enforce protec-
17 tions provided for students under this title and the amend-
18 ments made by this title.

19 **SEC. 705. LIMITATION OF AUTHORITY.**

20 (a) IN GENERAL.—Nothing in this title shall be con-
21 strued to restrict or limit, or allow the Secretary to restrict
22 or limit, any other rights or remedies otherwise available
23 to students or parents under Federal, State, or local law
24 or regulation.

25 (b) APPLICABILITY.—

1 (1) PRIVATE SCHOOLS.—Nothing in this title
2 shall be construed to affect any private school that
3 does not receive, or does not serve students who re-
4 ceive, support in any form from any program sup-
5 ported, in whole or in part, with funds appropriated
6 to the Department of Education.

7 (2) HOME SCHOOLS.—Nothing in this title shall
8 be construed to—

9 (A) affect a home school, whether or not a
10 home school is treated as a private school or
11 home school under State law; or

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

14 **SEC. 706. RULE OF CONSTRUCTION ON DATA COLLECTION.**

15 Nothing in this title shall be construed to affect the
16 collection of information or data with respect to corporal
17 punishment authorized under the statutes and regulations
18 implementing title VI of the Civil Rights Act of 1964 (42
19 U.S.C. 2000d et seq.), title IX of the Education Amend-
20 ments of 1972 (20 U.S.C. 1681 et seq.), section 504 of
21 the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.),
22 or the Department of Education Organization Act (20
23 U.S.C. 3401 et seq.).

24 **SEC. 707. DEFINITIONS.**

25 In this title:

1 (1) CORPORAL PUNISHMENT.—The term “cor-
2 poral punishment” means paddling, spanking, or
3 other forms of physical punishment, however light,
4 imposed upon a student.

5 (2) ESEA TERMS.—The terms “educational
6 service agency”, “elementary school”, “local edu-
7 cational agency”, “other staff”, “paraprofessional”,
8 “parent”, “school leader”, “secondary school”, “Sec-
9 retary”, “State”, and “State educational agency”
10 have the meanings given such terms in section 8101
11 of the Elementary and Secondary Education Act of
12 1965 (20 U.S.C. 7801).

13 (3) POSITIVE BEHAVIOR SUPPORTS.—The term
14 “positive behavior supports” means a systematic ap-
15 proach to embed evidence-based practices and data-
16 driven decision making to improve school climate
17 and culture, including a range of systemic and indi-
18 vidualized strategies to reinforce desired behaviors
19 and diminish reoccurrence of problem behaviors, in
20 order to achieve improved academic and social out-
21 comes and increase learning for all students, includ-
22 ing those with the most complex and intensive be-
23 havioral needs.

24 (4) PROTECTION AND ADVOCACY SYSTEM.—The
25 term “protection and advocacy system” means a

1 protection and advocacy system established under
2 section 143 of the Developmental Disabilities Assist-
3 ance and Bill of Rights Act of 2000 (42 U.S.C.
4 15043).

5 (5) SCHOOL.—The term “school” means an en-
6 tity—

7 (A) that—

8 (i) is a public or private—

9 (I) day or residential elementary
10 school or secondary school; or

11 (II) early childhood, elementary
12 school, or secondary school program
13 that is under the jurisdiction of a
14 school, local educational agency, edu-
15 cational service agency, or other edu-
16 cational institution or program; and

17 (ii) receives, or serves students who
18 receive, support in any form from any pro-
19 gram supported, in whole or in part, with
20 funds appropriated to the Department of
21 Education; or

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

24 (6) SCHOOL PERSONNEL.—The term “school
25 personnel” means teachers, principals, other school

1 leaders, paraprofessionals, administrators, and other
2 staff.

3 (7) STUDENT.—The term “student” means a
4 student enrolled in a school defined in paragraph
5 (5).

