

Coalition FOR Smart Safety

GUN VIOLENCE IS NOT A MENTAL HEALTH ISSUE



April 23, 2021

Chair Patty Murray
Senate Health, Education, and Labor Committee
Washington, DC 20510

Chair Bobby Scott
House Education and Labor Committee
Washington, DC 20515

Ranking Member Richard Burr
Senate Health, Education, and Labor Committee
Washington, DC 20510

Ranking Member Foxx
House Education and Labor Committee
Washington, DC 20515

Dear Chair Murray, Ranking Member Burr, Chair Scott and Ranking Member Foxx:

The undersigned members of the Coalition for Smart Safety write in strong opposition to the reintroduction of the Behavioral Intervention Guidelines Act (BIG Act). The Coalition for Smart Safety includes disability rights, civil rights, education, and privacy organizations working together to stop the false association of gun violence and violence generally with psychiatric disability.

While we applaud the recognition that the federal government has a role to play in addressing the complex issues surrounding student behavior and safety in schools, the undersigned oppose legislation which proposes addressing what is perceived to be problematic student behavior through the use of violence risk assessments, threat assessments and preemptive use of law enforcement. Collectively, these measures do little more than harden schools and put the well-being of students, especially students of color and students with disabilities, at risk of further marginalization and in some cases serious physical injury or even death.

In addition to our overarching concern about the focus of the BIG Act on school hardening, we have specific concerns about some of the bill's key provisions, including provisions regarding "behavioral intervention teams." The bill encourages the use of threat assessments and violence risk assessments, which are of great concern to us; the evidence regarding the efficacy of these practices is sparse at best. The bill also encourages that behavioral intervention teams avoid "inappropriately limiting or restricting law enforcement's jurisdiction over criminal matters, or attempting to substitute the behavioral intervention process in place of a criminal process or to impede a criminal process, when an individual of concern's behavior has potential criminal implications." This language suggests that behavioral intervention teams should report concerning student behavior or behavior that has "potential" criminal implications first to criminal authorities rather than initiating what evidence and best practice show works--a comprehensive in-school process where a school team seeks to identify and address the root cause of this behavior. Training behavioral assessment teams to default to the criminal process

rather than school-based behavioral assessment and intervention would do little to address violence in schools and would likely foster rather than prevent a violent school environment.¹

While certain provisions of the bill urge the behavioral intervention teams to not involve law enforcement unnecessarily when student behavior does not have criminal implications, we are very concerned that this would be implemented ineffectively and would not adequately protect against inappropriate law enforcement involvement. Several studies and reports have shown that the presence of law enforcement in schools and the involvement of law enforcement in school based disciplinary proceedings increased rates of exclusionary discipline (e.g., suspension, expulsion, seclusion and restraint), which disproportionately impact students of color and students with disabilities.² This is in addition to an already troubling situation highlighted by the United States Commission on Civil Rights which found that disciplinary measures in schools affect students of color and students with disabilities at higher rates than their peers.³ By making the criminal process one of the frontline responses for student discipline, this bill will only serve to *increase* the number of students of color and students with disabilities referred and placed into the juvenile justice system.

Schools, educators, caregivers, and communities are in the best position to notice and address concerning student behavior. Experts agree behavioral interventions are most effective at reducing behavioral problems when they incorporate educators' knowledge of their students, are non-punitive, and avoid removal from school.⁴ The U.S. Department of Education has a variety of evidenced based resources outlining effective discipline practices and strategies to address problematic behaviors in schools, emphasizing the need for positive behavior interventions and supports and finding that “[e]vidence-based, multi-tiered behavioral frameworks . . . can help improve overall school climate and safety.”⁵

¹ “[C]reating an unwelcoming, almost jail-like, heavily scrutinized environment, may foster the violence and disorder school administrators hope to avoid.” Catherine Y. Kim, *Policing School Discipline*, 77 Brook. L. Rev. 892 (2012), *citing* Matthew J. Mayer & Peter E. Leone, A Structural Analysis of School Violence and Disruption: Implications for Creating Safer Schools, 22 *Educ. & Treatment of Children* 333, 349 (1999).

² *We Came to Learn*, The Advancement Project, 2018 at: <https://advancementproject.org/wp-content/uploads/WCTLweb/docs/We-Came-to-Learn-9-13-18.pdf?reload=1536822360635>

³ U.S. Commission on Civil Rights, “Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities” (July 2019) <https://www.usccr.gov/pubs/2019/07-23-Beyond-Suspensions.pdf>.

⁴ “Interventions, school-wide and individual, that use proactive, preventative approaches, address the underlying cause or purpose of the behavior, and reinforce positive behaviors, have been associated with increases in academic engagement, academic achievement, and reductions in suspensions and school dropouts.” U.S. Department of Education, “School Climate and Discipline” (last updated Jan. 4, 2017) <https://www2.ed.gov/policy/gen/guid/school-discipline/index.html#suspension-101>.

⁵ *Id.*

Congress should focus their efforts on strategies that we know improve school climate such as providing funding for schools to build positive school cultures and alternatives to exclusionary discipline and criminalization. This could also include increased funding to hire special educators, guidance counselors, social workers, health professionals as well as other specialized personnel and providing funding for the implementation of restorative justice and culturally responsive practices.

Again, we write in strong opposition to this bill and we urge you to abandon these efforts and instead craft policies that have been shown to create safe and inclusive schools for all children.

Respectfully,

American Association of People with Disabilities

Association of University Centers on Disabilities (AUCD)

Autistic Self Advocacy Network

Bazelon Center for Mental Health Law

Copeland Center for Wellness and Recovery

Council of Parent Attorneys and Advocates

Disability Rights Education & Defense Fund (DREDF)

Little Lobbyists

National Association for Rural Mental Health

National Association of Councils on Developmental Disabilities

National Association of County Behavioral Health & Developmental Disability Directors

National Council on Independent Living

National Disability Rights Network (NDRN)

New York Association of Psychiatric Rehabilitation Services

TASH

The Center for Learner Equity