August 4, 2010

TO: State Board of Education
FROM: Michael P. Flanagan, Chairperson
SUBJECT: State and Federal Legislative Update

Primary Election
Depending on the outcome in November, the Senate could have several legislators that are seasoned in education policy and politics. Two former Democratic chairs of the House Education Committee have won their primaries and now head into the general election: Paul Gieleghem and Hoon-Yung Hopgood. Additionally, former Representatives Bruce Caswell and Doug Spade, who sat on education committees, will face off in the general election in one senate seat. Former Representatives Virgil Smith, John Moolenaar, and Mary Valentine sat on either standing or appropriations committees on education and also will move on to the general election in November. Current Representative Bert Johnson, who has played a role in many of the education reform discussions, won his primary for the Senate, as did Representative Rebekah Warren, who sponsored one of the anti-bullying bills. Representative Phil Pavlov, the current Minority Vice-Chair of House Education, will move on to the November election. Current Senators Gretchen Whitmer and John Gleason, who sit on Senate Education Committee won their primary races as well. Likewise, our own State Board of Education member Casandra Ulbrich will move on to the November election and clearly brings a strong education background. While term limit will bring huge change in the Senate, there may be a strong coalition of education supporters in the new Senate membership as well.

In the House, nothing is as clear, as most of those being elected are new to Lansing. Some may be coming from positions within local school districts, but the biographical information is not as easy to track. As we move closer to 2011, that information will become clearer and there will be an update at that time.

State Update
The Legislature has been at recess (other than a few Wednesdays) over the summer. They return for another Wednesday on August 11 and then have two regular session weeks tentatively scheduled from August 17 through the 26th. The budget will be at the forefront, but there likely will be some political posturing with policy bills over that period as well.
FY 2011 Budgets
The School Aid budget (SB 1163) has been signed and enacted now. There were no changes from the previous report (when the budget was enrolled, but had not been signed yet). A copy of the budget with vetoes is available at the following link: School Aid budget: [http://www.legislature.mi.gov/documents/2009-2010/publicact/pdf/2010-PA-0110.pdf](http://www.legislature.mi.gov/documents/2009-2010/publicact/pdf/2010-PA-0110.pdf)

The Michigan Department of Education (MDE) budget is still in conference committee. It is unclear when the Legislature will return to work on the budgets. Over the summer, the Legislature has been waiting for and hoping that the U.S. Congress will pass the federal Medicaid changes on which the Governor built some of her budget ($500 million assumed in the proposal). However, at this point, it is unclear if that will happen and if it will come in at a lower level ($300 million) than the Executive budgets assumed. Conference summaries of the House and Senate differences prepared by the Senate Fiscal Agency are available at the following link for the MDE budget: MDE budget: [http://legislature.mi.gov/doc.aspx?2010-SB-1154](http://legislature.mi.gov/doc.aspx?2010-SB-1154)

Senate Bill 1402 (Senator John Gleason) - National Rifle Association GunSafe® program encouraged.
Senate Bill 1402 passed the Senate (34-4) and is now before the House Tourism, Natural Resources and Outdoor Recreation Committee. A hearing was scheduled during August but there were not enough members present to reach a quorum and the meeting was cancelled. According to the House summary, the bill will amend the Revised School Code to require the Department of Education to develop or adopt, and make available to schools, one or more model programs for gun safety instruction for elementary school pupils by August 1, 2011. The model program would have to adopt or be based on the National Rifle Association's (NRA) "Eddie Eagle" GunSafe® Program.

Each school district and public school academy (charter school) would be encouraged, but not required, to adopt and implement the model gun safety instruction program for at least the third grade beginning in the 2011-2012 school year.

The Michigan Department of Education opposes this bill for several reasons:
- Curriculum content is the responsibility of the Michigan Department of Education (MDE) and the State Board of Education.
- In this case, the MDE and State Board have already acted on the issue of gun safety in the Michigan Model© for Health. The Model addresses Kindergarten through Grade 6, and the provisions in the Model relate not just to guns, but various dangerous objects including: guns, knives, bows and arrows, matches and lighters, broken glass, fireworks, hot burners, and syringes and needles, in language as appropriate depending on the grade level.
- Local schools already may choose to use the Michigan Model© for Health just as they may choose to use the “Eddie Eagle” program named in this legislation. Legislation is unnecessary – and thus makes this simply an endorsement of a private product.
• The State does not support single vendor bills nor endorse products. This bill specifically names a private program in law (the “Eddie Eagle” GunSafe® Program from the NRA).
• The bill does not appropriate any funds for the MDE to review this suggested program as required in the bill.

This bill likely will be scheduled for a hearing and vote before the November election. You may wish to express your position on this bill to the members of the House Committee. Remember, this did not go to the House Education Committee, but to a Committee friendlier to the legislation. The members of the committee are listed at the following link should you wish to express your views:
http://www.house.mi.gov/committeeinfo.asp?lstcommittees=tourism%2C+outdoor+recreation+and+natural+resources&submit=Go

Federal Update
Education Jobs Bill
There is still hope for the inclusion of funds for the Education Jobs bill to save the jobs of teachers via Congressional amendment. The fight has been drawn out. As of this writing, the Senate was expected to vote to close off debate on an amendment that would provide $10 billion for the education jobs fund and $16.1 billion for an extension of increased Medicaid reimbursement rates. The vote would have allowed the Senate to set the time for a final vote on the amendment. However, action was delayed when the Congressional Budget Office notified the Senate that the proposed amendment would not be “budget neutral,” and would cost billions more than expected over the next ten years. In light of that development, Senate Majority Leader Harry Reid (D-NV) decided to kill the amendment and propose a new one to make the measure budget neutral. The new vote to close debate on the amendment is now scheduled for August 4th. The final vote will then proceed before the Senate adjourns for its August recess on Friday, August 6th.

Corporal Punishment
Attached is a copy of the introduced corporal punishment bill (Attachment A) and a sign-on letter in support (Attachment B) from a number of national groups. The bill's sponsors include members of the Committee on Education and Labor. The lead sponsor, Congresswoman McCarthy, hopes to amend the Elementary and Secondary Education Act (ESEA) during reauthorization when the time comes. This will be a very difficult conversation for the Republicans on the committee, so it is unclear how that will conflict with Congressman Kildee's desire to write a bipartisan bill. It will be even more difficult in the Senate. That said, there is a lot of attention brewing on the issue.

Child Nutrition Legislation
The reauthorization of child nutrition programs this year moved forward on July 15, 2010, when the House Education and Labor Committee approved legislation known as the “Improving Nutrition for America's Children Act” (H.R. 5504) to continue and to expand child nutrition services. The bill passed with a bipartisan tally of 32-13.
The bill would reauthorize many federal child nutrition programs and provide additional funding for school nutrition initiatives. The bill adds around $8 billion to spending over current law.

With a bill pending on the floor of each chamber, the pressure is on Congress to complete the reauthorization by the end of the current fiscal year. Republicans acknowledged the importance of children’s nutrition, but continuously insisted that the cost of the proposed bill was unacceptable because it was not completely offset. Democrats replied by stating that the bill would save money in the long run by eliminating later health costs, that they would find necessary offsets, and that the issue of children’s health was too important to ignore. The positions show that the committee still needs to find reasonable offsets for the bill before they can send it to the full House.

House Education and Labor Committee chair George Miller (D-CA) and Senate Agriculture Committee chair Blanche Lincoln (D-AR) sent a joint letter to President Obama on July 13, 2010, urging the President to make “a strong push [so] … we can maximize the likelihood of Congress passing, and you signing into law, this critically-needed legislation before the programs expire.”

First Lady Michelle Obama has come out expressing her desire that child nutrition legislation pass quickly. Clearly there is some momentum on this and the White House is using its spotlight to apply pressure and bring attention to the legislation.

I hope this information is helpful to you. If you have any questions or concerns regarding these or other legislative issues, please contact Lisa Hansknecht, Director, Office of State and Federal Relations at 517-335-4913.
To end the use of corporal punishment in schools, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2010

Mrs. McCarthy of New York (for herself, Mr. Hare, Mr. Scott of Virginia, Mr. Holt, Mr. Polis of Colorado, Ms. Woolsey, Mr. Grijalva, Ms. Shea-Porter, Mr. Kucinich, Mr. Payne, Mr. Andrews, Mr. Hinojosa, Mrs. Davis of California, Ms. Hirono, Mr. Pascrell, Mr. Capuano, Mr. Murphy of Connecticut, and Mr. Sestak) introduced the following bill; which was referred to the Committee on Education and Labor.

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Ending Corporal Punishment in Schools Act.

SEC. 2. FINDINGS.

Congress finds the following:
(1) Behavioral interventions for children must promote the right of all children to be treated with dignity. All children have the right to be free from any corporal punishment.

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

(3) School personnel have the right to work in a safe environment and should be provided training and support to prevent injury and trauma to themselves and others.

(4) According to the Department of Education’s Technical Assistance Center on School-Wide Positive Behavior Interventions and Support, outcomes associated with school-wide positive behavior support are decreased office discipline referrals, increased instructional time, decreased administrator time spent on discipline issues, efficient and effective use of scarce resources, and increased perception of school safety and sustainability through a team approach.

(5) Twenty States continue to permit corporal punishment in public schools.

(6) According to Department of Education statistics, each year in the United States, hundreds of thousands of school children are subjected to cor-
poral punishment in public schools. School corporal punishment is usually executed in the form of “paddling”, or striking students with a wooden paddle on their buttocks or legs, which can result in abrasions, bruising, severe muscle injury, hematomas, whiplash damage, life-threatening hemorrhages, and other medical complications that may require hospitalization.

(7) Gross racial disparity exists in the execution of corporal punishment of public schoolchildren, and Black schoolchildren are disproportionately corporally punished. The most recent available statistics show that African-American students make up 17.1 percent of the national student population, but 35.6 percent of all students subjected to physical punishment at school.

(8) Public schoolchildren with disabilities are subjected to corporal punishment at disproportionately high rates, approximately twice the rate of the general student population in some States.

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

(10) Corporal punishment has resulted in physical injury and psychological trauma to children in
public and private schools. Social skills development after the use of corporal punishment may be severely altered, leading to aggressive behaviors. National research shows students have been subjected to corporal punishment in schools as a means of discipline, to force compliance, or as a substitute for appropriate educational support.

(11) Children are protected from corporal punishment in other settings, such as hospitals, health facilities, Head Start programs, and nonmedical community-based facilities. Similar protections are needed in schools.

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

**SEC. 3. PURPOSES.**

The purposes of this Act are to—

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

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

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

(A) corporal punishment in schools;
(B) aversive behavior interventions that compromise health and safety; and

(C) physical, emotional, or psychological abuse.

SEC. 4. PROHIBITION AGAINST CORPORAL PUNISHMENT.

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

“SEC. 448. PROHIBITION AGAINST CORPORAL PUNISHMENT.

“(a) General Prohibition.—No funds shall be made available under any applicable program to any educational agency or institution, including a local educational agency or State educational agency, that has a policy or practice which allows school personnel to inflict corporal punishment upon a student—

“(1) as a form of punishment; or

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

“(b) Local Educational Agency.—

“(1) In General.—In the case of an applicable program under which a local educational agency may only receive funds through a State educational agency that is prohibited under subsection (a) from receiving funds under any applicable program, a local
educational agency that is not prohibited under subsection (a) from receiving such funds may apply directly to the Secretary to receive funds under the program.

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

“(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preclude school personnel from using, within the scope of employment, reasonable restraint to the lightest possible degree upon a student, if—

“(1) the student’s behavior poses an imminent danger of physical injury to the student, school personnel, or others;

“(2) less restrictive interventions would be ineffective in stopping such imminent danger of physical injury; and

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

“(d) DEFINITIONS.—For purposes of this section—
“(1) the term ‘corporal punishment’ means paddling,spanking, or other forms of physical punishment, however light, imposed upon a student;

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

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

“(4) the term ‘school personnel’ has the meaning—

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

“(B) given the term ‘school resource officer’ in section 4151(11) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7161(11)); and

“(5) the term ‘student’ includes any person who is in attendance at an educational agency or institution.”.
SEC. 5. STATE PLAN AND ENFORCEMENT.

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

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

(2) a description of the State’s policies and procedures; and

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

(b) ENFORCEMENT.—

(1) IN GENERAL.—

(A) USE OF REMEDIES.—If a State educational agency fails to comply with subsection (a), the Secretary shall—

(i) withhold, in whole or in part, further payments under an applicable program (as such term is defined in section 400(c) of the General Education Provisions Act (20 U.S.C. 1221)) in accordance with section 455 of such Act (20 U.S.C. 1234d);
(ii) enter into a compliance agreement in accordance with section 457 of the General Education Provisions Act (20 U.S.C. 1234f); or

(iii) issue a complaint to compel compliance of the State educational agency through a cease and desist order, in the same manner the Secretary is authorized to take such action under section 456 of the General Education Provisions Act (20 U.S.C. 1234e).

(B) CESSATION OF WITHHOLDING OF FUNDS.—Whenever the Secretary determines (whether by certification or other appropriate evidence) that a State educational agency who is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments, the Secretary shall cease the withholding of payments with respect to the State educational agency under such subparagraph.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the Secretary’s authority under the General Education Provisions Act (20 U.S.C. 1221 et seq.).
(c) Rule of Construction.—Nothing in this section shall be construed to preclude school personnel from using, within the scope of employment, reasonable restraint to the lightest possible degree upon a student, if—

(1) the student’s behavior poses an imminent danger of physical injury to the student, school personnel, or others;

(2) less restrictive interventions would be ineffective in stopping such imminent danger of physical injury; and

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

SEC. 6. Grant Authority.

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

(b) Duration of Grant.—A grant under this section shall be awarded to a State educational agency for a 3-year period.

(e) Application.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and
accompanied by such information as the Secretary may require, including information on how the State educational agency—

(1) will develop State training programs on school wide-positive behavior support approaches, such as training programs developed with the assistance of the Secretary (acting through the Office of Special Education Programs Technical Assistance Center on Positive Behavioral Interventions and Supports of the Department of Education); and

(2) will target resources to schools and local educational agencies in need of assistance related to improving school culture and climate through positive behavior supports.

(d) AUTHORITY TO MAKE SUBGRANTS.—

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

(2) APPLICATION.—A local educational agency desiring to receive a subgrant under this section shall submit an application to the applicable State educational agency at such time, in such manner, and containing such information as the State educational agency may require.
(e) Private School Participation.—

(1) In General.—A local educational agency receiving subgrant funds under this section shall, after timely and meaningful consultation with appropriate private school officials, ensure that private school personnel can participate, on an equitable basis, in activities supported by funds under this section.

(2) Public Control of Funds.—The control of funds provided under this section, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property.

(f) Required Activities.—A State educational agency receiving a grant, or a local educational agency receiving a subgrant, under this section shall use such grant or subgrant funds to carry out the following:

(1) Developing and implementing high-quality professional development and training programs, such as training programs developed with the assistance of the Secretary (acting through the Office of Special Education Programs Technical Assistance Center on Positive Behavioral Interventions and Supports of the Department of Education), to imple-
ment evidence-based systematic approaches to school-wide positive behavior supports, including improving coaching, facilitation, and training capacity for principals and other administrators, teachers, specialized instructional support personnel, and other staff.

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

(3) Researching, evaluating, and disseminating high-quality evidence-based programs and activities that implement school-wide positive behavior supports with fidelity.

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

(g) Evaluation and Report.—Each State educational agency receiving a grant under this section shall, at the end of the 3-year grant period for such grant, prepare and submit to the Secretary, a report that—
(1) evaluates the State’s progress toward developing and implementing evidence-based systematic approaches to school-wide positive behavior supports; and

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

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

SEC. 7. NATIONAL ASSESSMENT.

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

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

(2) identify best practices with respect to professional development and training programs carried out under section 6, which shall include identifying evidence-based school personnel training models with demonstrated success (including models that emphasize positive behavior supports and de-escalation techniques over physical intervention).
(b) REPORT.—The Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate—

(1) an interim report that summarizes the preliminary findings of the assessment described in subsection (a) not later than 3 years after the date of enactment of this Act; and

(2) a final report of the findings of the assessment not later than 5 years after the date of the enactment of this Act.

SEC. 8. PROTECTION AND ADVOCACY SYSTEMS.

Protection and Advocacy Systems shall have the authority provided under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043) to investigate, monitor, and enforce protections provided for students under this Act.

SEC. 9. LIMITATION OF AUTHORITY.

(a) IN GENERAL.—Nothing in this Act shall be construed to restrict or limit, or allow the Secretary to restrict or limit, any other rights or remedies otherwise available to students or parents under Federal, State, or local law or regulation.

(b) APPLICABILITY.—
(1) **PRIVATE SCHOOLS.**—Nothing in this Act shall be construed to affect any private school that does not receive, or does not serve students who receive, support in any form from any program supported, in whole or in part, with funds appropriated to the Department of Education.

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

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

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

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

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal year 2011 and each of the 4 succeeding fiscal years.

SEC. 12. DEFINITIONS.

In this Act:

(1) **CORPORAL PUNISHMENT.**—The term “corporal punishment” means paddling, spanking, or other forms of physical punishment, however light, imposed upon a student.

(2) **EDUCATIONAL SERVICE AGENCY.**—The term “educational service agency” has the meaning given such term in section 9101(17) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(17)).

(3) **ELEMENTARY SCHOOL.**—The term “elementary school” has the meaning given the term in section 9101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(18)).

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

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

(6) Positive behavior supports.—The term “positive behavior supports” means a systematic approach to embed evidence-based practices and data-driven decisionmaking to improve school climate and culture, including a range of systemic and individualized strategies to reinforce desired behaviors and diminish reoccurrence of problem behaviors, in order to achieve improved academic and social outcomes and increase learning for all students, including those with the most complex and intensive behavioral needs.

(7) Protection and advocacy system.—The term “protection and advocacy system” means a protection and advocacy system established under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043).

(8) School.—The term “school” means an entity—

(A) that—

(i) is a public or private—

(I) day or residential elementary school or secondary school; or
(II) early childhood, elementary school, or secondary school program that is under the jurisdiction of a school, local educational agency, educational service agency, or other educational institution or program; and

(ii) receives, or serves students who receive, support in any form from any program supported, in whole or in part, with funds appropriated to the Department of Education; or

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

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

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

(B) given the term “school resource officer” in section 4151(11) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7161(11)).

(10) SPECIALIZED INSTRUCTIONAL SUPPORT PERSONNEL.—The term “specialized instructional support personnel” means school counselors, school
social workers, school nurses, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, health, therapeutic, and other necessary corrective or supportive services.

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

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

(13) STATE.—The term “State” has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

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

(15) STUDENT.—The term “student” means a student enrolled in a school defined in paragraph (8).
SEC. 13. PRESUMPTION OF CONGRESS RELATING TO COMPETITIVE PROCEDURES.

(a) Presumption.—It is the presumption of Congress that grants awarded under this Act will be awarded using competitive procedures based on merit.

(b) Report to Congress.—If grants are awarded under this Act using procedures other than competitive procedures, the Secretary shall submit to Congress a report explaining why competitive procedures were not used.

SEC. 14. PROHIBITION ON EARMARKS.

None of the funds appropriated to carry out this Act may be used for a congressional earmark as defined in clause 9e, of rule XXI of the rules of the House of Representatives of the 111th Congress.
June 28, 2010

Representative Carolyn McCarthy
2346 Rayburn House Office Building
Washington, D.C. 20515

Re: Coalition Sign-on Letter in Support of the “Ending Corporal Punishment in Schools Act”

Dear Representative McCarthy:

On behalf of the ACLU and the undersigned coalitions, organizations, and individuals, we applaud the introduction of your bill, the “Ending Corporal Punishment in Schools Act,” which addresses the damaging use of corporal punishment against our nation’s school children. This important legislation will eliminate the use of corporal punishment in both public schools and private schools which serve students receiving federal services, as well as assist in creating a safer learning environment for every child. It is a vital step toward ensuring that our schools are places where students and educators interact in positive ways that foster students’ growth and dignity.

According to data from the Department of Education, nearly a quarter of a million students were subjected to corporal punishment in public schools in the 2006-2007 school year. Despite the many problems associated with the hitting or paddling of students, corporal punishment is a legal form of school discipline in 20 states. Aside from the infliction of pain and physical injury that often result from the use of physical punishment, these violent disciplinary methods impact students’ academic achievement and long-term well-being.1 Harsh physical punishments do not improve students’ in-school behavior or academic performance. In fact, one recent study found that schools in states where corporal punishment is used perform worse on national academic assessments than those schools in states that prohibit corporal punishment.

Moreover, evidence indicates that corporal punishment is disproportionately applied against certain groups of students. According to the Department of Education, while African Americans made up 17.1 percent of public school students nationwide, they accounted for 35.6 percent of those who were paddled during the 2006-2007 school year. Similarly, although students with disabilities

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constituted 13.7 percent of all public school students, they made up 18.8 percent of those who are subjected to corporal punishment. These students are often punished simply for behaviors arising out of their disabilities, such as autism or Tourette’s syndrome. Hitting any student should be an unacceptable practice, but the disproportionate application of corporal punishment against these populations further undermines their educational environment.2

The bill’s key provisions eliminating the use of corporal punishment in schools will assist in ensuring the safety of all students and educators. While this bill would be even stronger if it permitted families to enforce its provisions to protect students, the prohibition on the use of physical punishment against students is supported by other important accountability measures, such as allowing funds to be withheld from educational agencies that fail to comply, and ensuring that a plan is in place to alert school personnel and parents of policies eliminating corporal punishment for students.

In addition, the legislation also gives schools and educators new tools to foster a positive school climate by encouraging the use of school-wide positive behavior supports, an evidence-based approach to school discipline proven to reduce school discipline referrals and support improved academic outcomes. The bill establishes a grant program which provides funds to educational agencies in order to develop and implement positive behavioral supports and interventions in the classroom and throughout the school.

The federal government has a significant interest in ensuring a positive learning environment for the nation’s students. With schools both eliminating the harmful practice of corporal punishment and implementing positive, evidence-based policies, this legislation helps students achieve access to a safe and high-quality education. We thank you for your important leadership on this issue and hope the bill will move swiftly through the House.

If you have any questions, please contact Deborah J. Vagins, ACLU Legislative Counsel, at dvagins@dcaclu.org or (202) 715-0816.

Sincerely,

American Civil Liberties Union (ACLU) and the following organizations and coalitions:

Advancement Project
American Association of People with Disabilities
American Association of University Women (AAUW)
Autism National Committee (AutCom)
Bazelon Center for Mental Health Law
Center for Community Alternatives
Center for Effective Discipline
Center for Law and Education
CHADD - Children and Adults with Attention-Deficit/Hyperactivity Disorder
Charles Hamilton Houston Institute for Race and Justice at Harvard Law School
Children & Family Justice Center, Northwestern University School of Law

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2 Id. at 3-4.
Southern Juvenile Defender Center
Southern Poverty Law Center
Sunflower County Parents and Students Organization
TASH
Tennesseans For Non-Violent School Discipline
The Hitting Stops Here!
The Leadership Conference on Civil and Human Rights
University of Oregon Institute on Violence and Destructive Behavior
Waters & Associates, LLC
YAPS (Youth as Public Speakers)

The following individuals are listed with their affiliations for identification purposes only:

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Theresa A Edwards, Justice4Children
Ana Esparza, Parent Advocate, FL
John Gardner, Illinois Positive Behavior Interventions and Support Network
Michelle Giroux, ME
Rachel Gunther, Youth on Board
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