

SUBPART 5—TEACHER LIABILITY PROTECTION

§ 6731. Short title

This subpart may be cited as the “Paul D. Coverdell Teacher Protection Act of 2001”.

(Pub. L. 89-10, title II, §2361, as added Pub. L. 107-110, title II, §201, Jan. 8, 2002, 115 Stat. 1667.)

§ 6732. Purpose

The purpose of this subpart is to provide teachers, principals, and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment.

(Pub. L. 89-10, title II, §2362, as added Pub. L. 107-110, title II, §201, Jan. 8, 2002, 115 Stat. 1667.)

§ 6733. Definitions

For purposes of this subpart:

(1) Economic loss

The term “economic loss” means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) Harm

The term “harm” includes physical, non-physical, economic, and noneconomic losses.

(3) Noneconomic loss

The term “noneconomic loss” means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society or companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, or any other nonpecuniary loss of any kind or nature.

(4) School

The term “school” means a public or private kindergarten, a public or private elementary school or secondary school, or a home school.

(5) State

The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) Teacher

The term “teacher” means—

(A) a teacher, instructor, principal, or administrator;

(B) another educational professional who works in a school;

(C) a professional or nonprofessional employee who—

(i) works in a school; and

(ii)(I) in the employee’s job, maintains discipline or ensures safety; or

(II) in an emergency, is called on to maintain discipline or ensure safety; or

(D) an individual member of a school board (as distinct from the board).

(Pub. L. 89-10, title II, §2363, as added Pub. L. 107-110, title II, §201, Jan. 8, 2002, 115 Stat. 1667.)

§ 6734. Applicability

This subpart shall only apply to States that receive funds under this chapter, and shall apply to such a State as a condition of receiving such funds.

(Pub. L. 89-10, title II, §2364, as added Pub. L. 107-110, title II, §201, Jan. 8, 2002, 115 Stat. 1668.)

§ 6735. Preemption and election of State nonapplicability**(a) Preemption**

This subpart preempts the laws of any State to the extent that such laws are inconsistent with this subpart, except that this subpart shall not preempt any State law that provides additional protection from liability relating to teachers.

(b) Election of State regarding nonapplicability

This subpart shall not apply to any civil action in a State court against a teacher with respect to claims arising within that State if such State enacts a statute in accordance with State requirements for enacting legislation—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this subpart shall not apply, as of a date certain, to such civil action in the State; and

(3) containing no other provisions.

(Pub. L. 89-10, title II, §2365, as added Pub. L. 107-110, title II, §201, Jan. 8, 2002, 115 Stat. 1668.)

§ 6736. Limitation on liability for teachers**(a) Liability protection for teachers**

Except as provided in subsection (b) of this section, no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if—

(1) the teacher was acting within the scope of the teacher’s employment or responsibilities to a school or governmental entity;

(2) the actions of the teacher were carried out in conformity with Federal, State, and local laws (including rules and regulations) in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;

(3) if appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice involved in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher’s responsibilities;

(4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and

(5) the harm was not caused by the teacher operating a motor vehicle, vessel, aircraft, or