



November 18, 2019

Stephanie Valentine
PRA Clearance Coordinator
Information Collection Clearance Program
Office of the Chief Information Officer
U.S. Department of Education
550 12th Street SW
PCP, Room 9089
Washington, DC 20202-0023

Re: Docket ID Number: ED-2019-ICCD-0119, Agency Information Collection Activities;
Comment Request; Civil Rights Data Collection

Dear Ms. Valentine,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States, and the 56 undersigned organizations, we write in response to the notice published in the Federal Register on September 19, 2019 regarding the Civil Rights Data Collection (CRDC).

The civil and human rights community has relied on these data since the collection began in 1968. We believe it is vitally important that we preserve the scope, frequency and public accessibility of the information so as to support the Department of Education's work, and the work of others, in ensuring equal educational opportunity and compliance with federal law. The CRDC plays an important role in ensuring the Department of Education Office for Civil Rights (OCR) takes its civil rights responsibilities seriously and provides schools with the tools they need to address disparities. Disaggregated data reported in the CRDC by race, ethnicity, native language, socioeconomic status, English learner (EL) status, disability status, disability type, and sex (including sexual orientation and gender identity) help us to know about students' experiences in schools and whether all students have equal access to education. Effective data collection and dissemination are necessary for evaluation and review of all other programs and activities. Any change to limit the scope, frequency, or public accessibility of the CRDC would hamper the ability of the department to fulfill its legal obligations and undermine our shared interest in the best education for every child.

In response to the proposed changes, and on behalf of the civil and human rights community, we offer the following feedback¹:

¹ Many of these recommendations were included in comments submitted by individual organizations, including the letter from the National Center for Youth Law submitted on October 29, 2019 and available here: <https://youthlaw.org/crdc-comments-letter/final-2019-20-crdc-ncyl-comment/>

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Retain all school finance items

The current CRDC school finance data is central to identifying inequities. School spending matters. More money leads to better outcomes, especially if spent well and spent in schools serving students with the highest needs. We urge OCR to keep all of the current data elements in the school finance section.

Retain teacher experience and teacher absenteeism items

Removing teacher experience and teacher absenteeism data items, along with the school finance items discussed above, would send a strong signal that OCR is no longer interested in addressing resource inequities. We urge OCR to keep all the current data elements regarding first- and second-year teachers and teacher absenteeism.

Retain all early childhood education items

It is important to continue to require the collection and reporting of preschool enrollment data disaggregated by race, sex, disability-IDEA, and EL status. Absent the disaggregated enrollment data, there will be no effective way of determining whether exclusionary discipline continues to fall more harshly on particular groups of students. It is essential that we have the data that can help us to measure progress in ensuring that all children remain in and benefit from quality early childhood settings.

OCR should continue to require the collection and reporting of early childhood education program data. Early education is offered and supported by a variety of government programs, including public schools. It is important to understand the types of early childhood programs used by public schools that are currently serving children, including by collecting data regarding whether early childhood programs are full-day versus part-day, whether there is a cost for participation in the program, and whether services for children birth to age 2 are offered for children not identified for services under the IDEA. Without these data, it will be impossible to create an accurate picture of the early education landscape and potential discrimination in early education across the country. We urge the OCR to keep all of the current data elements regarding preschool education.

Retain Advanced Placement (AP) test-taking items

Measuring AP enrollment without measuring AP test taking ignores the fact that taking the examination seems to solidify the benefits of an AP course, and that this is true even if the student fails the examination.²

Retain the references to gender identity in the definition of “harassment on the basis of sex”

For the last three CRDC cycles, OCR defined “harassment on the basis of sex” to expressly include harassment on the basis of actual or perceived “gender identity, gender expression, and nonconformity with gender stereotypes.” Indeed, OCR promised that it would “prominently clarify (beyond the definitions section) that harassment on the basis of gender identity or transgender status is included in the sexual harassment category,” so that school districts would know how to track and report

² Russell T. Warne, Ross Larsen, Braydon Anderson & Alyce J. Odasso, The Impact of Participation in the Advanced Placement Program on Students' College Admissions Test Scores, *J. of Educ. Research*, 108:5, 400 (2015), <https://www.tandfonline.com/doi/full/10.1080/00220671.2014.917253>.

such harassment.³ The removal of this language may suggest to school districts that harassment based on gender identity or expression is not a form of harassment based on sex and therefore should not be recorded as such. This can compromise the collection of data regarding harassment targeting transgender students, which has been repeatedly shown to be pervasive and harmful.⁴ It is particularly troubling that the rationale provided for the proposed definition is “to achieve more consistency with OCR complaint processes,” reinforcing concerns about OCR’s failure to enforce legal protections for transgender students. This existing inclusive definition should be retained.

Retain item related to the number of EL students enrolled in EL programs by disability status

It is a widespread misconception that a student cannot be both an English learner in an EL program as well as a student with disability receiving special education services. In fact, an English learner enrolled in an EL program cannot be denied special education services, and a student can be enrolled in both types of services at the same time. It is essential that the CRDC continue to collect data that examines how well schools are serving the nearly 700,000 public school students who are both English learners and students with disabilities. Removing this disaggregation from the data collection will severely undermine public access to information about this often overlooked and underserved population.

Retain item regarding participation in credit recovery programs

Nearly 7,000 students drop out (are pushed out) of high school every day for various reasons, and most, if not all return to complete their educational credits. Removing data on the number of students who are participating in credit recovery programs will limit information about the experiences of this marginalized group of students. Additionally, removing this item would forgo an opportunity to reinforce the responsibility of school districts to ensure the success of ALL students.

Disaggregate by both IDEA- and 504-status for any item that is disaggregated by disability status

Students with disabilities vary from one another in a multitude of ways. While the majority of students with disabilities are served under IDEA, we are seeing an increasing number of students who receive accommodations and support through Section 504 of the Rehabilitation Act. However, there is no federal data collection on students with 504 plans; CRDC remains the sole source of information available about their educational experiences and outcomes. For many items collected through CRDC, data are disaggregated by disability status. In each of those items, disability status should be further differentiated by “disability-IDEA” and “disability-504” so the public can better understand how the experiences of students with disabilities differ based on this factor.

Include the experiences of children with disabilities placed by school districts in nonpublic schools in the CRDC

³ OCR, CRDC Data Set for School Years 2013–14 and 2015–16: Attachment C: Response to Second Round Public Comment, at C-14 (Feb. 2014), <https://www.reginfo.gov/public/do/DownloadDocument?objectID=46250101>.

⁴ See, e.g., Joseph G. Kosciw et al., *The 2017 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation’s Schools* (2018), <https://www.glsen.org/sites/default/files/2019-10/GLSEN-2017-National-School-Climate-Survey-NSCS-Full-Report.pdf>.

While tens of thousands of students with disabilities who are placed by their school districts into nonpublic schools can be subjected to exclusionary discipline, restraint and seclusion, and other adverse actions, or can be denied access to experienced teachers, those students' experiences are not tracked by the CRDC.

Collect and report data on an annual basis

Given how few years children spend in school from preschool through 12th grade, it is critically important that data be available for every year. The department, educators, families, and advocates need access to regular, timely data in order to address issues and intervene quickly, so that no children lose access to educational opportunities – even if only for a year.

Disaggregate race and ethnicity data by the American Community Survey categories

Existing disaggregation categories obscure significant diversity within communities. Asian Americans and Native Hawaiian / Pacific Islanders (AANHPIs) are tremendously diverse. The U.S. Census Bureau reports data annually on at least 22 distinct, self-identified AANHPI groups, each with unique linguistic, cultural, and historical differences. When government agencies report only averaged aggregate data under the “Asian” category, they conceal significant differences and inequities among the many distinct AANHPI groups. For example, for Southeast Asian Americans, the mass collective trauma from war, genocide, displacement, and the stressors associated with relocation — like English language difficulties and cultural conflicts — affect student outcomes.⁵ Disaggregated data would help address this issue.

Provide information regarding district and school level Civil Rights Coordinators

Civil Rights Coordinators serve as a critical resource to ensure compliance with nondiscrimination laws and ensure equal opportunity for all students in schools. Information about how to contact these individuals should be available in the CRDC at the school level, where students and families have the most direct engagement, as well as at the school district level.

Clarify how other data, such as that included in National Center for Education Statistics (NCES), are integrated into CRDC

Integrating data systems across the U.S. Department of Education so that students, families, and the community at large can see information about public schools all in one place without requiring duplicate reporting by schools, districts, or states makes sense. The department should ensure that the CRDC data tools clearly provide the source and year for each item not collected exclusively in the CRDC survey. Such clarity will enable better understanding of students' educational opportunities and experiences.

Make data about Puerto Rico schools public alongside data for all other schools

Information about the educational experiences of children in the Commonwealth of Puerto Rico should be collected and publicly available just as it is for children attending schools in the 50 states and the District of Columbia.

⁵ Data Disaggregation General Factsheet. SEARAC. March 26, 2019. <https://www.searac.org/education/data-disaggregation-general-factsheet/>.

As organizations committed to the fair and appropriate treatment of all children in all settings, we continue to press for changes to policy and practice - and the critical data that makes systemic change possible. A comprehensive, timely, and accessible CRDC is essential to ensuring equal educational opportunity and compliance with nondiscrimination laws. Our children deserve no less. Thank you for your consideration of our views. If you have any questions, please contact Leadership Conference Director of the Education Equity Program Liz King at king@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights

The Leadership Conference Education Fund

Alliance for Excellent Education

American Atheists

American-Arab Anti-Discrimination Committee

Arab American Institute

Association of University Centers on Disabilities (AUCD)

Bazelon Center for Mental Health Law

Casa de Esperanza: National Latin@ Network for Healthy Families and Communities

Center for American Progress

Center for Law and Social Policy

Children's Defense Fund

Clearinghouse on Women's Issues

Council of Parent Attorneys and Advocates

Disability Rights Education & Defense Fund (DREDF)

Education Deans for Justice and Equity

Education Law Center - PA

Education Reform Now

Educators for Excellence

Feminist Majority Foundation

Girls Inc.

GLSEN

Healthy Schools Campaign

Hindu American Foundation

Hispanic Association of Colleges and Universities (HACU)

Hispanic Federation

Hispanic National Bar Association, Inc.

Human Rights Campaign

Institute for Higher Education Policy

Inter University Program on Latino Research

Intercultural Development Research Association (IDRA)

League of United Latin American Citizens (LULAC)

MANA, A National Latina Organization

NAACP

NAACP Legal Defense & Educational Fund

National Alliance for Partnerships in Equity (NAPE)
National Association of Councils on Developmental Disabilities
National Association of Hispanic Federal Executives
National Center for Learning Disabilities
National Center for Special Education in Charter Schools
National Center for Transgender Equality
National Disability Rights Network
National Down Syndrome Congress
National Hispanic Media Coalition
National Latinx Psychological Association
National Women's Law Center
New America, Education Policy Program
OCA - Asian Pacific American Advocates
Poverty & Race Research Action Council
Southeast Asia Resource Action Center (SEARAC)
Southern Poverty Law Center
Teach For America
The Arc of the United States
The Education Trust
UnidosUS
United States Hispanic Leadership Institute
YWCA USA