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September 8, 2025

Ross Santy
Chief Data Officer, Office of Planning, Evaluation and Policy Development
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Re: Docket ID ED-2024-SCC-0128; Agency Information Collection Activities; Comment Request; Mandatory Civil Rights Data Collection

Dear Mr. Santy:

On behalf of the more than three million members of the National Education Association (NEA), we submit the following response to the U.S. Department of Education's August 7, 2025, request for comments related to the proposed, revised, and continuing collection of Mandatory Civil Rights Data.

The Civil Rights Data Collection (CRDC) provides clear, transparent information about our nation's schools that is necessary to ensure equal opportunities for all students across race, sex, background, ability, and ZIP code. The CRDC is critical to the Office for Civil Rights (OCR) statutory responsibility to hold schools, districts, and states accountable for compliance with our civil rights laws. Section 203(c)(1) of the 1979 Department of Education Organization Act delegates to the Assistant Secretary for Civil Rights the authority to "collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights" (20 U.S.C. § 3413(c)(1)). The NEA has relied heavily on these data since the collection began in 1968, and we believe these data are important in preserving the scope, frequency, and public accessibility of information to ensure equal educational opportunity and compliance with federal law. The collection is vital to keeping the public informed about how schools fare on quantifiable measures of school climate and resource equity. The CRDC has allowed education stakeholders and school communities to examine the various trends and identify which schools are working to provide equal educational opportunities for all students and which schools face continuing challenges.

We use the 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) to inform students' experiences in schools and whether all students have equal access to and benefit equitably from education. The CRDC is important in ensuring OCR takes its civil rights responsibilities seriously and provides schools with the tools they need to address disparities.

Effective data collection and dissemination are necessary for evaluation and review of all other programs and activities. Any change that limits the scope, frequency, or public accessibility of the

CRDC would hinder the ability of the Department to fulfill its legal obligations and would undermine our shared interest in the best education for every child.

Conduct the CRDC Annually

The Department should require schools and districts to collect and report data annually. Requiring such data collection would create a clearer understanding of changes over time and would better represent individual annual snapshots. The Department, educators, families, students, policymakers, and advocates need access to regular, timely data to address issues and intervene quickly so that children do not lose access to educational opportunities. Moving the CRDC to an annual schedule will enhance the accuracy and timeliness of this critical tool for tracking potential civil rights violations and responding to discrimination and inequity in communities. The shift to an annual collection should also include additional resources to support school districts and OCR staff to collect, review, and report the data to meet high accuracy and timeliness standards.

To best serve students of every race, place, background, and ability across the country, we need a mechanism that reports data in a timely manner. By doing so, the education community can work to adequately address issues and provide prompt responses to ensure that every child receives educational opportunities. In October 2020, the Department released CRDC data from the 2017–2018 collection. The slow-moving nature of these data further hinders the timely release of information that reveals civil rights violations and inequities in communities. Working toward publishing data in a more efficient manner will enhance the effectiveness and timeliness of this critical tool for tracking potential civil rights violations and responding to discrimination and inequity in communities. We believe that an essential step in this process requires collection and release of data on an annual basis.

Necessity for Data Collection for Minoritized Populations

We disagree with the Department’s proposal to eliminate questions related to transgender and nonbinary students and the removal of transgender students from the Department’s definition of “rape” and “sexual assault.” The previously held definition by the Department included “all students, regardless of sex, sexual orientation, or gender identity.” The proposed collection explicitly excludes “gender identity” from the new definition. The CRDC is a critical source of data on disparities that may indicate discriminatory school practices. LGBTQ+ students experience harassment and bullying at disproportionate rates, and national survey research indicates that some school practices may contribute to fostering school climates hostile to LGBTQ+ students. Therefore, we urge the Department to include sexual orientation and gender identity as two additional permitted values in the “Civil Rights Data Category (Counts)” data element.

We commended the addition of a nonbinary measure for student enrollment records and disaggregation across all CRDC measures where “sex (membership)” —or simply, gender—is currently collected for K–12 students. Previously, the absence of a nonbinary reporting option led to problematic data collection practices that created burdens for LEAs and SEAs that have adopted more inclusive student enrollment records. Under the current proposal, the Department seeks to remove the nonbinary designation as an option. We urge the Department to reconsider and maintain the nonbinary measures where currently listed. Without questions pertaining to transgender and nonbinary students, we will not have crucial data on the scope of discrimination and harassment of a vulnerable student population, making it more difficult to implement interventions that are needed to ensure a safe school environment for all.

Data on Informal Removals

According to the Department, students with disabilities account for a larger percentage of those attending public schools than just a few years ago. New data shows that 15% of all students ages 3 to 21 are served under the Individuals with Disabilities Education Act (IDEA).¹ Additionally, the latest findings indicate that those with disabilities continue to be disciplined at disproportionate rates². Since the pandemic, U.S. public schools have experienced not only an increase in the number of students with disabilities but also an increase in mental health concerns, increased incidents of classroom disruptions, and other behavioral issues.³

Underfunding of IDEA, educator shortages, and a lack of trauma-responsive, positive, and equitable behavioral interventions contribute to the challenges educators face when managing disruptive behaviors in the classroom. Key supports are often missing, such as school-wide Positive Behavioral Interventions and Supports (PBIS) systems and access to mental health professionals like behavior specialists, psychologists, social workers, and behavior intervention staff.⁴ Without these resources and support personnel, challenging student behaviors are frequently addressed through exclusionary discipline practices that remove students from the learning environment for part or all of the school day.

As defined in guidance issued in 2022 by the Office of Special Education and Rehabilitative Services (OSERS), informal removal is “Action taken by school personnel in response to a child’s behavior that excludes the child for part or all the school day, or even an indefinite period of time. These exclusions are considered informal because the school removes the child with a disability from class or school without invoking IDEA’s disciplinary procedures. Informal removals are subject to IDEA’s requirements to the same extent as disciplinary removals by school personnel using the school’s disciplinary procedures.” Informal removals often go uncounted and unreported as suspensions, circumventing IDEA’s discipline protections. Such informal removals occur when schools administratively reduce a student’s school day in response to behavior without involving the IEP Team or following the placement process. Informal removals often limit educational access for these students to a minimal curriculum that only includes language arts and mathematics; notably, they often deprive them of other essential services, such as access to free and reduced-priced school lunches, a library and playground, and extracurricular activities.⁵

The removal of students with disabilities from the learning environment is not limited to informal removals; it can also be done through the use of seclusion. The Department of Justice Division of Civil Rights defines seclusion as “...the involuntary confinement of a student alone in any room or area. It includes the use of any room or area in which the student is alone and not free to leave (or believes they are not free to leave).”⁶ According to the most recent OCR data, students served under IDEA are far more likely than their non-disabled peers to experience seclusion, accounting for 75%

¹ National Center for Education Statistics (NCES). (May 2024). The Condition of Education 2024. Retrieved from nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2024144.

² U.S. Department of Education Office for Civil Rights. (November 2023). “A First Look: Students’ Access to Educational Opportunities in U.S. Public Schools.” Retrieved from ed.gov/sites/ed/files/about/offices/list/ocr/docs/crdc-educational-opportunities-report.pdf.

³ Institute of Education Sciences (IES). (n.d.) “School Responses to COVID-19.” Retrieved from ies.ed.gov/schoolsurvey/.

⁴ National Disability Rights Network. (January 2022). “Out of the Shadows: Informal Removal of Children with Disabilities from Public Schools.” Retrieved from ndm.org/wp-content/uploads/2022/01/Out-from-The-Shadows-1.pdf.

⁵ U.S. Department of Education Office for Civil Rights. (July 2022). “Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973.” Retrieved from ed.gov/sites/ed/files/about/offices/list/ocr/docs/504-discipline-guidance.pdf.

⁶ U.S. Department of Justice Civil Rights Division. (October 2023). “What is Seclusion?” Retrieved from justice.gov/crt/what-seclusion.

of students who were secluded. As with informal removals, these numbers are concerning because, in addition to lost learning time, there are numerous negative consequences related to the use of seclusion.⁷ Unlike informal removals, the Office for Civil Rights mandates reporting on seclusion incidents. Currently, information on the duration of seclusion and types of spaces in which students are secluded is not collected. This could provide valuable context for understanding seclusion conditions in future studies and applications and help distinguish between when seclusion is really an informal removal or when informal removal is an instance of seclusion.

The NEA supports OCR's efforts to enhance data collection, analysis, and reporting on exclusionary discipline practices, including additional data collection on informal removals, non-LEA status, and the removal of metrics specific to COVID-19, as outlined in Supporting Statement A and Attachments A-1 through A-4. By improving these processes, the OCR can better inform policy solutions that promote equitable educational environments for all students, free from disproportionate disciplinary measures that hinder academic and social development. The NEA believes comprehensive data is essential for identifying and addressing disparities in disciplinary actions and fostering inclusive and supportive learning environments across the nation's schools.

Conclusion

The NEA is committed to fulfilling the promise of education to prepare every student to succeed by ensuring that schools have the resources to adequately serve our students' needs. The CRDC provides vital information to ensure that schools have the tools and resources necessary to address educational disparities and is a critical resource for the Department to maintain.

The NEA respectfully submits the above comments for consideration and asks that the Department work to ensure that a richer data set is available to highlight those critical areas creating barriers to opportunity for students. Please do not hesitate to contact me or Bianca Singh at bsingh@nea.org should you have any questions.

Sincerely,



Daaiyah Bilal-Threats
Senior Director, Education Policy and Implementation Center
National Education Association

⁷ Alliance Against Seclusion and Restraint. (January 2024). "Opening Doors to Safer and More Inclusive Schools." Retrieved from endseclusion.org/2024/01/12/impact-of-seclusion-and-restraint-on-post-high-school-outcomes/.