



Dignity in Schools

<http://dignityinschools.org/>.

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**Via Email ICDOcketMgr@ed.gov**

Angela Arrington, Director  
Information Collection Clearance Division  
Regulatory Information Management Services  
Office of Management  
U.S. Department of Education  
400 Maryland Ave., SW  
Washington, DC 20202-4537

**RE: Proposed Changes to School Discipline Information in the Civil Rights  
Data Collection**

Dear Ms. Arrington:

We, the undersigned members of the Dignity in Schools Campaign and other civil rights and education advocacy organizations, commend the Department of Education's ("the Department") proposed changes to the Civil Rights Data Collection (CRDC), in particular the expansion of the data collected on school discipline and the use of seclusion and restraint.

The Dignity in Schools Campaign is a national coalition of educators, parents, students, and policy advocates united to challenge the systemic problem of excessive and unnecessary suspensions, expulsions and arrests in our nation's schools and to advocate for the right of every child to receive a quality education, and to be treated with dignity.

It has never been more important to monitor the use of exclusionary practices in schools. Our nation's schools expel over 100,000 students and suspend over 3,000,000 students at least once during each school year. Our current disciplinary rates are the highest in the nation's history, and have more than doubled over the past three decades. While these practices are troubling in and of themselves, they are of particular concern because of their disparate use against students of color and students with disabilities. African-American students are nearly 3 times as likely to be suspended and 3.5 times as likely to be expelled, and Latino students are 1.5 times as likely to be suspended and twice as likely to be expelled as their white peers. Students with disabilities are suspended and expelled at a rate roughly twice that of their non-disabled peers.

While there is no question about the need to keep schools safe, there is reason to question the efficacy of exclusionary discipline. For instance, in its 2006 review of exclusionary and zero-tolerance disciplinary policies, the American Psychological Association found no evidence that the use of suspension, expulsion, or zero-tolerance policies has resulted in improvements in student behavior or increases in school safety. Research shows that such practices have negative effects on student academic performance: school suspension is a moderate-to-strong predictor of school dropout and schools with high suspension rates score lower on state accountability tests, even when adjusting for demographic differences. Meanwhile, schools implementing evidence-based approaches to discipline such as Positive Behavior Supports have reduced disciplinary referrals, improved achievement, and improved safety and staff morale.

The proposed changes to the CRDC would dramatically improve the disciplinary information available to the Department, State Education Agencies, school districts and communities, and can facilitate improvements to disciplinary practices nationwide. While the large majority of the disciplinary data to be collected by the proposed CRDC is already required by federal law, the format of the proposed CRDC will allow for more informed disciplinary decision-making at the school and district levels. Below we commend specific provisions of the proposed CRDC and offer recommendations for additional data collection.

In each of these recommendations and proposed provisions, we support disaggregating the data by race, gender, special educational status (separated by IDEA and 504), and LEP status. We also suggest that the survey be conducted not biennially but annually, and include all school districts and schools nationwide, including charter and privately-run schools that receive federal funding.

### **Improvements in Disciplinary Data Collection**

Unlike prior surveys, the proposed changes would track not only the number of students suspended at least once, but the number of students suspended multiple times – a key indicator of the effectiveness of a school or district’s approach to discipline. Similarly, the proposed changes would differentiate between disciplinary alternative schools and schools with non-traditional, alternative curricula – providing a clearer sense of the number of students referred to alternative schools for disciplinary incidents. We applaud these changes.

For a more complete understanding of a school or district’s disciplinary practices, we urge the Department to collect data on the use of in-school suspensions (which should include any instance where a student is removed for disciplinary reasons from the regular classroom environment for a half-day or more but remains in school). We also urge the Department to collect data on the number of students who re-enroll after expulsions in order to assess the extent to which that punishment pushes students toward dropping out.

## **Collection of Data on Schools' Use of Law Enforcement**

The proposed changes would also provide better insight into the relationship between schools and local law enforcement. The proposed CRDC would track referrals to law enforcement agencies and school-related arrests. While the Department should more clearly define these terms, collecting these data is of extreme importance, as involvement with the juvenile or criminal justice system has been shown to be a strong predictor of dropping out, and many juvenile courts have reported recent increases in school-related cases, often for minor, non-criminal, school disciplinary incidents. We would suggest defining “referrals to law enforcement as “instances when a student is referred to any law enforcement agency, including a school police unit, for an incident that occurs on school grounds, during school events, or while taking school transportation, regardless of whether official action is taken” and “school-related arrests” as “arrests of students for any activity conducted on school grounds, during off-campus school activities, or due to a referral by any school official.” The proposed CRDC would provide a reliable, national view of the use of law enforcement in our schools.

For a stronger sense of our schools' use of law enforcement, the Department should ensure that its tracking system specifies the types of events leading to arrest or referral (e.g., weapons offenses, offenses involving physical harm or threat thereof, property offenses, and civil offenses such as disorderly conduct and disturbing the peace). Moreover, the Department should track the number of students who disenroll from schools upon arrest or adjudication/conviction and the number of students who re-enroll upon completion of detention, incarceration, and/or other form of stay in a juvenile residential facility.

## **Collection of Data on the Use of Seclusion and Restraint**

We applaud the Department's proposed reporting requirements on seclusion and restraint. Secretary Duncan urged the Nation's chief state school officers to review and revise their seclusion and restraint policies to “ensure that every student in every school under your jurisdiction is safe and protected from being unnecessarily or inappropriately restrained or secluded.” Collecting data on instances of seclusion and restraint is necessary to limit the use of these practices to those circumstances when they are the only safe options.

To best evaluate our schools' use of these practices, the Department should modify its proposed definition of physical restraint to mirror the definition in the Children's Health Act (42 U.S.C. §290jj(d)(3)): “a personal restriction that immobilizes or reduces the ability of an individual to move his or her arms, legs, or head freely.” The Department should also separately collect data on the use of mechanical restraints, applying the definition found in the Children's Health Act (42 U.S.C. §290jj(d)(1)): “the use of devices as a means of restricting a resident's freedom of movement.” Finally, the proposed definition of seclusion should be slightly modified to leave out the word “alone.” A student may be effectively secluded by placing a person in the doorway of the room with the student to prevent the student from leaving. We commend your continued attention to this crucial issue.

We strongly believe that the data collected by the proposed CRDC will better inform educators, parents, students, and advocates, and facilitate better disciplinary decision-making at all levels. To avoid unnecessarily burdening our schools and districts, we urge the Department to develop streamlined reporting processes that allow schools and districts to provide the same data set once, rather than multiple times, as long as such a process can meet the reporting requirements of any laws in question. We commend the Department for the significant improvements contained in the proposed CRDC, and urge the consideration of the above recommendations. The information to be collected is too essential to cut short, or to delay.

Sincerely,

ACLU of Delaware  
ACLU of Eastern Missouri  
ACLU of Louisiana  
ACLU of Massachusetts  
ACLU of Northern California  
ACLU of Texas  
ACLU South Carolina National Office  
Advancement Project  
Alabama Disabilities Advocacy Program  
Alliance for Educational Justice  
American Civil Liberties Union  
American Civil Liberties Union of Florida  
Arizona Center for Disability Law  
Bazelon Center for Mental Health Law  
Californians for Justice  
Charles Hamilton Houston Institute for Race and Justice at Harvard Law School  
Coalition for Juvenile Justice  
Community Asset Development Re-defining Education (CADRE)  
Disability Rights Wisconsin  
Education Law Center – New Jersey  
Education Law Center - Pennsylvania  
Gwinnett Parent Coalition to Dismantle the School to Prison Pipeline (Gwinnett STOPP)  
JustChildren Program, Legal Aid Justice Center  
Justice Policy Institute  
Kansas State Conference of NAACP Branches  
NAACP Legal Defense and Educational Fund, Inc.  
National Disability Rights Network  
National Economic and Social Rights Initiative  
Ohio Poverty Law Center  
PACER Center  
Public Counsel  
Schott Foundation for Public Education  
South Carolina Appleseed Legal Justice Center  
South Carolina Autism Society  
South Carolina State Conference, NAACP

South Coastal Legal Services  
Southern Poverty Law Center  
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