



<http://dignityinschools.org/>.

May 3, 2010

Via Email: ICDocketMgr@ed.gov
The Honorable Arne Duncan
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

RE: Annual Mandatory Collection of Elementary and Secondary Education Data through ED Facts: Civil Rights Data Collection

Dear Secretary Duncan:

We, the undersigned parents, students, educators and civil rights and education organizations, commend the Department of Education's (ED) recent changes to the Civil Rights Data Collection (CRDC). In particular, we applaud the expansion of the data collected on school discipline, the required collection on the use of seclusion and restraint, and the survey's inclusion of state-operated juvenile justice facilities. As ED plans for the extension of the CRDC through 2013, we urge ED to include all schools and districts in an annual CRDC and broaden its collection of disciplinary data.

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. The CRDC provides critical information to parents, educators, and policymakers who seek to improve student achievement by proactively and positively addressing school discipline. To ensure that all stakeholders are informed of the disciplinary climate of their schools, we recommend that ED take the following steps when extending the CRDC.

Survey All Schools and Districts in the CRDC

The CRDC's current structure leaves too many stakeholders in the dark on the disciplinary practices of their schools and districts. Under the current collection parameters, over half of our nation's districts will not be included in the CRDC. Because some districts are randomly selected to report, a district may go years without being surveyed. Simply put, serious concerns about inappropriate, excessive and discriminatory use of discipline are too prevalent to allow for sporadic data collection and reporting. Civil rights monitoring and enforcement should be held to the same standards as other federal education accountability laws (e.g., No Child Left Behind). We believe it is essential that this data be collected from *all* public schools (including charters and disciplinary alternative schools) and districts.

Conduct the CRDC on an Annual Basis

It is essential that ED conduct the CRDC on an annual basis. Researchers have developed data-driven methods for improving school environments that rely on frequent collection and review of school discipline data. Making the CRDC an annual data collection would increase its utility to educators, parents, and civil rights advocates exponentially, allowing all to measure the progress of both proven and innovative methods for improving school climate. As you noted from the Edmund Pettus Bridge in Selma, Alabama, “Dr. King would have been... dismayed to learn of schools that seem to suspend and discipline only young African-American boys.” Annual public reporting of disciplinary data from all schools is a necessary first step to addressing this problem as a nation.

Disaggregate Data on Students with Disabilities of All Races

While we commend the disaggregation by race, gender, LEP and special educational status in all the discipline data collection categories, there remains a need to disaggregate, in a consistent manner, the data by those students eligible and served pursuant to the IDEA and those only eligible or served pursuant to section 504. For example, the current collection (ID 194 in Attachment B-5), separates IDEA and 504 students for the purpose of reporting discipline data by disability status, but limits the further disaggregation of this data by race/ethnicity to *only* those served by the IDEA. Racially disaggregated data for students served under Section 504 is especially important to have in the area of discipline given that the prevalence of racial disciplinary disparities in other reporting groups. Additionally, as disciplinary due process rights for students served only under Section 504 are weaker in some states than they are in others, it is important for the public and federal civil rights agencies to know whether students on 504 plans are being disciplined at relatively higher rates, and, if so, whether there is a racial dimension to this problem.

Collect and Publicly Report Data on Additional Topics

Below we offer additional recommendations for new data collection areas. For each recommendation, we support disaggregating the data by the aforementioned subgroups.

A. Pre-kindergarten Disciplinary Data: We urge ED to expand the CRDC to include the use of suspension and expulsion for students in pre-kindergarten. In its National Pre-Kindergarten Study, the Foundation for Child Development found that pre-kindergarten students are expelled at three times the rate of their K-12 peers and that, in 37 of 40 states, the pre-kindergarten expulsion rate exceeded the K-12 rate. This alarming national trend needs greater review and exposure. If the racial and disability-related disparities seen in K-12 expulsion rates are reflected in pre-kindergarten, then a generation of our most vulnerable students will not receive the immense benefits that early education can provide. Only with regularly collected and publicly reported data will the problem be understood and sound remedies be provided.

B. Expanded Data on Alternative Schools: We commend ED for differentiating between disciplinary alternative schools and schools using alternative curricula in the upcoming CRDC. Too many of our disciplinary alternative schools serve as “dropout factories” with little meaningful educational opportunities for those enrolled. To get a better sense of the practices of disciplinary alternative schools, we urge ED to include data on students’ average length of stay, teacher quality, and students’ re-enrollment and graduation rates upon return to their home schools.

C. Data on the Causes of School-Based Arrests and Referrals to Law Enforcement, and Information on the Educational Outcomes of Students Returning from Placements in the Juvenile and Criminal Justice Systems: An arrest significantly increases the odds that a student will dropout of high school, and reports abound of even our youngest students being arrested at school for misbehavior that was once handled by a call home. We commend ED for including school-based arrests and referrals to law enforcement in the CRDC. We urge ED to collect data on 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 or disturbing the peace). Moreover, ED 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 facility.

D. Comprehensive Data on Incarcerated Youth: We understand that ED will be collecting data from state-operated juvenile justice facilities in the 2009 CRDC. This important improvement must be extended through 2013 and publicly acknowledged in ED's CRDC proposal. Further, while we regard the collection of data on state-operated juvenile justice facilities to be essential, we feel it is in need of significant expansion. Because states often sub-contract the care of youth held in detention, ED should not limit the data collection to "state-operated" facilities as we would lose track of the educational outcomes of literally thousands of incarcerated youth. The CRDC should survey all government-operated (state, county, and local) and privately operated juvenile justice facilities.

The education of youth in adult prisons should also be surveyed in the CRDC. As U.S. House Committee on Education and Labor Chairman George Miller recently noted, 200,000 youth are, held, sentenced, or incarcerated as adults.¹ The outcomes of incarcerating youth as adults are horrendous, with high levels of suicide, child abuse, rape, and, according to the Centers for Disease Control and Prevention, no benefit to anyone in terms of safety. We need a much more comprehensive survey of educational services in juvenile justice and adult facilities to evaluate the efficacy of policies, practices and procedures and to detect discrimination or injustice.

We strongly believe that the data collected by the CRDC will better inform educators, parents, students, and advocates, and facilitate better disciplinary decision-making at all levels. While we commend the Department for the significant recent improvements to the CRDC, we urge the consideration of the above recommendations. The information to be collected is too essential to cut short, or to delay.

Sincerely,

The Dignity in Schools Campaign and the following organizations and individuals:

¹ Reforming the Juvenile Justice System to Improve Children's Lives and Public Safety: Hearing Before the H. Comm. on Educ. and Labor, 111th Cong. 2 (2010) (statement of Rep. George Miller, Chairman, H. Comm. on Educ. and Labor).

Advancement Project
Advocates for Children of New York
Alliance for Educational Justice
American Civil Liberties Union (ACLU)
Bazelon Center for Mental Health Law
Blocks Together (Chicago, IL)
Center for Effective Discipline
Charles Hamilton Houston Institute for Race and Justice at Harvard Law School
Community Asset Development Re-defining Education (CADRE) (Los Angeles, CA)
Concerned Citizens for a Better Greenville (Greenville, MS)
Disability Rights Wisconsin
Disability Law Center (Massachusetts)
Education Law Center
Gwinnett Parent Coalition to Dismantle the School to Prison Pipeline (Gwinnett STOPP)
Illinois PBIS Network
International Institute for Restorative Practices
JustChildren, a Program of the Legal Aid Justice Center (Richmond, VA)
Independent Commission on Public Education (New York, NY)
Malcolm X Center for Self Determination
Mississippi Delta Catalyst Roundtable
MS Coalition for the Prevention of Schoolhouse to Jailhouse
Multiethnic Advocates for Cultural Competence, Inc. (Ohio)
NAACP Legal Defense and Educational Fund, Inc.
National Disability Rights Network (NDRN)
National Economic and Social Rights Initiative (NESRI)
Ohio Poverty Law Center
RKH Law Office
SC Appleseed Legal Justice Center
Southern Disability Law Center
Southern Poverty Law Center
University of Oregon Institute on Violence and Destructive Behavior
Youth Represent (New York, NY)

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

Prof. David C. Bloomfield, Program Head, Educ. Leadership, Brooklyn College, CUNY
Ana M. Esparza
John Gardner, Educational Consultant
Sherry Jackson, Teacher, Thornridge High School, Thornton High School District 205
Veronika Kot
Robert F. Ladenson, Professor of Philosophy, Illinois Institute of Technology
Stella Connell Levy, JD, Founder/Director, Restorative Schools Vision Project
Monica Llorente, Advocate and Parent
Daniel J. Losen, Senior Education Law and Policy Associate, the Civil Rights Project at UCLA
Piper A. Paul, Law Office of Piper A. Paul, LLC
Heather Price, Educational Researcher, University of Notre Dame
Karolyn Renard, Attorney and Advocate for Children With Disabilities
Marlene Sallo, Esq., Advocate

Sally Sommer, Oakland Unified School District, CA, Retired
Jeffrey Sprague, Ph.D., Co-Director, Univ. Oregon Inst. on Violence and Destructive Behavior
Nan D. Stein, Ed.D., Sr. Research Scientist, Wellesley Centers. for Women, Wellesley College
Charleta B. Tavares, Council member Columbus, Ohio
Merilee K. Waters, Esq., Student Advocate
Julie Waterstone, Director of the Children's Rights Clinic, Southwestern Law School
Dr. Patricia Watkins, Target Area Organization (Chicago, IL)
Jesse and Doris Willard, Advocates

Contact:

Matt Cregor
Safe Schools Strategist
NAACP Legal Defense and Educational Fund, Inc.
for the Dignity in Schools Campaign
646-515-5284
mcregor@naacpldf.org