



February 28, 2017

Stephanie Valentine  
Director of the Information Collection Clearance Division  
U.S. Department of Education  
400 Maryland Avenue SW  
LBJ, Room 224-82  
Washington, DC 20202-4537

RE: Docket ID ED-2016-ICCD-0147

Dear Ms. Valentine:

Child Trends is a highly-respected nonpartisan research organization focused exclusively on improving the lives and prospects of children, youth, and their families. For nearly 40 years, decision makers have relied on our rigorous research, unbiased analyses, and clear communications to improve public policies and interventions that serve children and families. Because children spend substantial amounts of their developing years in educational institutions, comprehensive data about schools and children's experiences in school are critical to supporting students' academic and life-long success.

As an institution dedicated to promoting research-based, data-driven solutions to the challenges facing children, we are gratified by the U.S. Department of Education's (Department) continued efforts to develop and refine the Civil Rights Data Collection (CRDC). This collection is a treasure trove of critical data that supports the work of local, state, and federal policymakers, researchers, and the general public in building education systems that serve all students.

In response to the Department's request for comments and suggestions to improve the 2017-2018 CRDC, we would like to raise four issues for your consideration.

**1. The CRDC is integral to the Department's mission of promoting equity in education, and to supporting research that investigates our nation's progress toward that goal.**

In the Department's December 2016 Federal Register notice, you specifically requested comments as to whether the 2017-2018 CRDC is necessary to the proper functions of the Department. We definitely believe that it is a critical resource to the Department and the schools and communities it serves.

The Civil Rights Data Collection is the sole source of comprehensive school- and district-level data on critical domains of school quality and equity, including: school

climate and discipline, resource equity, harassment and bullying, college and career readiness, school finance, and educator experience. This collection, coupled with the biannual reporting of the data in multiple formats (e.g., privacy-protected tables and searchable databases to promote public transparency, and secure tables and formats for researchers) supports broad public participation in the work of creating education environments where every child can learn.

Because of the CRDC, the Department's Office for Civil Rights has the data it needs to examine and track conditions that may indicate noncompliance with civil rights and disability statutes. The CRDC is also an invaluable resource to research institutions such as Child Trends, as well as the Department and other governmental agencies that rely on us, as we work to inform the nation about ongoing and emerging disparities in education quality and access that affect academic success. Anecdotes and complaints alone are not adequate to this task – a consistent, reliable, and comprehensive source of data is needed. Beyond the Department, the CRDC enables parents and local officials to access important data on about the schools in their community, and to become partners in the effort to address education disparities.

## **2. The 2017-2018 CRDC should require public school districts to report the disciplinary experiences of students with disabilities they have placed in private or non-public schools.**

In the Department's Supporting Statements, you specifically requested comments as to whether public school districts should be required to report on the experiences of students with disabilities they have placed in private or non-public schools. We fully support the inclusion of new questions in the CRDC to capture the use of restraint and seclusion for such students with disabilities who are placed in private or non-public schools. In 2009, the Government Accountability Office released a report that reviewed deaths resulting from the use of seclusion and restraint. Many of the deaths reviewed occurred in private placements.<sup>1</sup>

However, we would encourage the Department to go beyond restraint and seclusion to include all of the disciplinary practices and school-based responses to student behavior currently captured in the CRDC, including: in- and out-of-school suspension, expulsion, referrals to law enforcement, school-based arrests, and corporal punishment. We believe that this more comprehensive approach will ensure that increased data transparency discourages private and non-public schools from exchanging one detrimental practice (e.g., seclusion) for another (e.g., suspension).

In general, students with disabilities not only bear the brunt of restraints and seclusions, but also suffer disproportionately high rates of disciplinary removal. This is cause for great concern, given clear research that links the use of suspension and

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<sup>1</sup> U.S. Government Accountability Office. (2009). Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers. Retrieved from <http://www.gao.gov/assets/130/122526.pdf>. <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>

expulsion with an increased risk of dropout, grade retention, and contact with the juvenile justice system.<sup>2</sup> According to the 2013-2014 CRDC, 12 percent of students with disabilities served under the Individuals with Disabilities Education Act (IDEA) received an out-of-school suspension -- more than twice the rate their peers without disabilities experienced (5 percent).<sup>3</sup> The use of disciplinary removal is markedly worse for black students with disabilities and for students with emotional disturbance. According to IDEA, Section 618 data, nearly 25 percent of students with emotional disturbance experienced an out-of-school suspension or expulsion exceeding 10 school days, while 18 percent experienced an out-of-school suspension or expulsion of fewer than 10 days.<sup>4</sup> Meanwhile, among black students with disabilities, 47 percent experienced an out-of-school suspension or expulsion exceeding 10 school days, while 37 percent experienced an out-of-school suspension or expulsion of fewer than 10 days.<sup>5</sup>

Given the data showing the students with disabilities are generally vulnerable to disciplinary practices that remove them from school, and vulnerable to the use of restraint and seclusion in both private and public school settings, we find it appropriate that the CRDC capture the full scope of disciplinary practices for students with disabilities placed by public school districts into private and non-public schools.

### **3. The bullying and harassment indicators—including harassment based on sexual orientation and religion—should be retained in the 2017-2018 CRDC.**

In 2015, 21 percent of students – roughly 5.04 million children – reported experiencing some form of bullying, including social exclusion, being made fun of, or more physical bullying behaviors.<sup>6</sup> In 2017, Child Trends published a set of recommendations – *Preventing Bullying and Cyberbullying: Research-Based Policy*

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<sup>2</sup> Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks, M. P., & Booth, E. A. (2011). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement*. New York: Council of State Governments Justice Center and Public Policy Research Institute. [https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking\\_Schools\\_Rules\\_Report\\_Final.pdf](https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf).

<sup>3</sup> U.S. Department of Education. (2016). 2013-2014 Civil Rights Data Collection: A First Look. Retrieved from

<sup>4</sup> U.S. Department of Education, ED Facts Data Warehouse (EDW): "IDEA Part B Discipline," 2014-15. Data extracted as of June 6, 2016 from file specifications 005, 006, 007, 088, 143 and 144. Retrieved from <https://www2.ed.gov/programs/osepidea/618-data/static-tables/2014-2015/part-b/discipline/1415-bdiscipline-15.xlsx>

<sup>5</sup> U.S. Department of Education, ED Facts Data Warehouse (EDW): "IDEA Part B Discipline," 2014-15. Data extracted as of June 6, 2016 from file specifications 005, 006, 007, 088, 143 and 144. Retrieved from <https://www2.ed.gov/programs/osepidea/618-data/static-tables/2014-2015/part-b/discipline/1415-bdiscipline-18.xlsx>

<sup>6</sup> Lessen, D. & Yanez, C. (2016). *Student Reports of Bullying: Results from the 2015 School Crime Supplement to the National Crime Victimization Survey, Web Tables (NCES 2017-015)*. U.S. Department of Education. Washington, D.C. Retrieved from: <https://nces.ed.gov/pubs2017/2017015.pdf>

*Recommendations for Executive and Legislative Officials in 2017*<sup>7</sup> – to help guide federal officials in supporting communities to prevent bullying. In that document, we recommended that federal agencies, including the U.S. Department of Education, maintain data collections on bullying. At present, federal agencies gather national bullying statistics using three critical data collections. The School Crime Supplement to the National Crime Victimization Survey and the Youth Risk Behavior Surveillance Survey track student reports of bullying victimization. The CRDC supplements these collections by tracking school reports of bullying allegations, incidents, and disciplinary actions. The CRDC, then, facilitates comparisons between school and student reports of bullying – a critical data gap. The CRDC also captures information regarding bullying at the elementary school level – the School Crime Supplement and Youth Risk Behavioral Surveillance System do not.

For this reason, we are pleased to see that the Department has retained the CRDC's indicators on bullying and harassment, including:

- allegations of harassment or bullying of K-12 students on the basis of sex, race, disability, sexual orientation, or religion;
- K-12 students reported as harassed or bullied on the basis of sex, race, or disability (disaggregated by race, sex, IDEA status, Section 504 status, and limited English proficiency);
- K-12 students disciplined for engaging in harassment or bullying on the basis of sex, race, or disability; and
- The existence of harassment or bullying policies on the basis of race, sex, or disability.

While bullying is rarely the sole cause of suicidal ideation and behavior, violence, and school shootings, it has been linked to all three.<sup>8</sup> This means that, while it is critical to measure the nation's progress in addressing bullying overall, we must also collect data that allow us to understand the extent to which different subgroups of students are experiencing bullying. The inclusion of sexual orientation and religion in the CRDC, then, provides the Department, the public, and researchers with important information regarding vulnerable subgroups of children.

#### **4. All directional indicators<sup>9</sup> for corporal punishment should be removed, to ensure that the Department, researchers, and the**

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<sup>7</sup> Child Trends, (2017). Preventing Bullying and Cyberbullying: Research Based Policy Recommendations for executive and Legislative Officials in 2017. Policy Brief. Retrieved from <https://www.childtrends.org/wp-content/uploads/2017/01/2017-06BullyingPolicyRecsFinal.pdf>

<sup>8</sup> Hertz, M.F., Donato, I., Wright, J. (2013). Bullying and suicide: a public health approach. *Journal of Adolescent Health*, 53(1 Suppl): S1-3. Retrieved from

<https://www.ncbi.nlm.nih.gov/pubmed/23790194>. See also Moore, K., Stratford, B, Caal, S., Hanson, C., Hickman, S., Temkin, D., Schmitz, H., Thompson, J., Horton, S., and Shaw, A. (2015). Preventing Violence: A Review of Research, Evaluation, Gaps, and Opportunities. Retrieved from <http://www.childtrends.org/wp-content/uploads/2015/03/2015-15FuturesWithoutViolence1.pdf>

<sup>9</sup> The Department described "directional indicators" as follows: "Directional indicators are used to determine whether a data group is applicable to an LEA. For example, an LEA will be presented with a simple question asking whether or not students are enrolled in Advanced Placement (AP) courses at the school. If the LEA answers "no," then the subsequent tables collecting student counts of AP enrollment, and exam-taking are not presented to the LEA." See U.S. Department of Education (2016). Mandatory Civil Rights Data Collection, December 2016, Attachment A-4: Directional

**public have a comprehensive picture of its scope and prevalence across the nation.**

Starting with the 2013-2014 CRDC, a directional indicator was added to corporal punishment to reduce survey burden on school district respondents by screening out questions that may not apply to them. Before schools are asked to identify instances of corporal punishment—cross-tabulated by race, disability, gender, and other demographic information—schools are first given a screener question to indicate whether they use corporal punishment to discipline students.

We recognize that, at first glance, a directional indicator for corporal punishment might seem appropriate to reduce survey burden; as of 2016, corporal punishment in schools was banned in 31 states and the District of Columbia.<sup>10</sup> However, the fact that the corporal punishment is banned in over half of states does not mean it is not in use.

When comparing the 2013-2014 corporal punishment data to that collected two years prior, before the directional indicator was established, two concerns arise. First, both collections show wide disparities by race in the use of corporal punishment. In both 2011-2012 and in 2013-2014, one-third of the students subjected to corporal punishment were black.<sup>11,12</sup> Second, the use of a screener question likely masks the use of corporal punishment in states that have banned its use. For example, while Maryland, Nevada, Washington, and Illinois have all had in place corporal punishment bans since 1993,<sup>13</sup> all four states reported instances of corporal punishment to the Department based on the 2011-2012 CRDC.<sup>14</sup> This included 660 instances in Illinois. However, in the 2013-2014 CRDC, the Department reported zero instances of corporal punishment for these states.<sup>15</sup> We find it highly unlikely that, in all four cases, all school districts were completely successful in eliminating all instances of corporal punishment in a two year period.

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Indicators for Civil Rights Data Collection for School Year 2017–18. Washington, DC. Retrieved from <https://www.regulations.gov/contentStreamer?documentId=ED-2016-ICCD-0147-0003&attachmentNumber=4&contentType=pdf>

<sup>10</sup> Gershoff, E.T., Font, S.A. (2016). Corporal Punishment in U.S. Public Schools: Prevalence, Disparities in Use, and Status in State and Federal Policy. *Social Policy Report*, 30(1): Society for Research in Child Development. Retrieved from [http://www.srcd.org/sites/default/files/documents/spr\\_30\\_1.pdf](http://www.srcd.org/sites/default/files/documents/spr_30_1.pdf)

<sup>11</sup> U.S. Department of Education. (2016). Open Letter to States Calling for an End to Corporal Punishment in Schools. Retrieved from <https://www2.ed.gov/policy/gen/guid/school-discipline/files/corporal-punishment-dcl-11-22-2016.pdf>.

<sup>12</sup> U.S. Department of Education. 2011-2012 Civil Rights Data Collection, State and National Estimations. Number and percentage of public school students with and without disabilities receiving discipline actions by gender and ethnicity, for state: School Year 2011-2012. Retrieved from [http://ocrdata.ed.gov/StateNationalEstimations/Estimations\\_2011\\_12](http://ocrdata.ed.gov/StateNationalEstimations/Estimations_2011_12)

<sup>13</sup> Ibid, 1.

<sup>14</sup> U.S. Department of Education. 2011-2012 Civil Rights Data Collection, State and National Estimations. Number and percentage of public school students with and without disabilities receiving discipline actions by gender and ethnicity, for state: School Year 2011-2012. Retrieved from [http://ocrdata.ed.gov/StateNationalEstimations/Estimations\\_2011\\_12](http://ocrdata.ed.gov/StateNationalEstimations/Estimations_2011_12)

<sup>15</sup> U.S. Department of Education. 2013-2014 Civil Rights Data Collection: Corporal Punishment District Map Data. Retrieved from <https://www2.ed.gov/policy/gen/guid/school-discipline/files/2013-14-corporal-punishment-district-map-data.xlsx>

We are grateful for this opportunity to provide comments and suggestions on the 2017-2018 CRDC. For any questions regarding this letter, please contact Elizabeth Jordan at Child Trends ([ejordan@childtrends.org](mailto:ejordan@childtrends.org); 240-223-9316).

Sincerely,

/s/

Carol Emig,  
President