



# Advocates for Children of New York

Protecting every child's right to learn

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August 21, 2017

Director of the Information Collection Clearance Division  
U.S. Department of Education  
Lyndon Baines Johnson (LBJ)  
400 Maryland Avenue SW  
Room 224-82  
Washington, DC 20202-4537

RE: Docket ID ED-2016-ICCD-0147

Dear Ms. Olmeda:

Advocates for Children of New York (AFC) respectfully urges the Department of Education to maintain the current Civil Rights Data Collection (CRDC) by preserving the existing questions, requiring all schools and districts to report the data, and continuing to make the CRDC accessible to the public.

For forty-five years, AFC has worked to promote access to the best education New York can provide for all students, especially students of color and students from low-income backgrounds. AFC provides a range of direct services, including free individual case advocacy, such as assisting students who are excluded from school through suspension, arrest, summons, or inappropriate referral to the emergency room due to unaddressed or unsupported behavioral and mental health needs. AFC works to help these students get the support they need to address their behavioral and mental health issues and succeed in school. AFC also works on institutional reform of education policies and practices through advocacy and litigation and advocates for positive, restorative, and trauma-informed alternatives to exclusionary, punitive discipline.

The need to maintain the current CRDC reflects many years of AFC's own client experiences. For example, just this school year, we represented a 15-year-old Hispanic girl shot in school by a police officer with a taser gun, even though she was already lying on the ground handcuffed and surrounded by several other NYPD officers. Since she began attending the school in the fall, her mother had repeatedly requested positive behavioral supports and interventions and an Individualized Education Program (IEP)

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from the school due to her mental health condition. However, the school never provided the supports and an IEP. By contrast, her previous school had successfully implemented specific positive behavior intervention practices that helped her to manage her behavior and avoid problems.

Early in the winter, the student became agitated and upset during lunch when another student, who had been bullying her for three months, threw food at her head. Even though the school knew she had a significant mental health history, they failed to reach a trained mental health professional to de-escalate the situation and help her calm down during the emotional crisis. Instead, an administrator contacted School Safety Agents and NYPD precinct officers who then violently restrained her with handcuffs. Upon being restrained, she became more agitated. Then an NYPD officer shot the student with a taser gun, even though the student was already physically restrained. To make matters even worse, the police officers hauled her off to a local precinct and gave her a juvenile report for disorderly conduct. Traumatized by the experience, the student was subsequently diagnosed with Post-Traumatic Stress Disorder and transferred out of the school. Instead of responding to her as a student in crisis in need of behavioral interventions and supports by trained mental health professionals, the police treated her as a criminal.

As another example, last year we represented an 8-year-old Hispanic boy with a disability who was handcuffed for nearly three hours while surrounded by numerous police officers. Instead of providing the child with positive behavioral supports and interventions, School Safety Agents got involved and escalated a minor lunchroom incident involving a plastic spork (combination of a spoon and a fork) and then called in NYPD officers who handcuffed the child. Even after the child's parents arrived and the little boy was clearly calm, the NYPD officers refused to take the handcuffs off the child. They also refused to allow the child's parents to take him home, insisting that Emergency Medical Services transport the child to the hospital. The child was released from the hospital shortly after receiving a psychiatric examination.

The Department is proposing to change the 2017-2018 CRDC to reduce the burden on school districts. However, the Department's primary goal must be to collect all the data needed to ensure that schools and districts are upholding the civil rights of all students, especially students of color and other student groups that often face discrimination, including students with disabilities and students who identify as Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ). Communities must also have all the information they need to accurately assess the quality of their schools and districts and to support local efforts to advocate for improvements when needed. Thank you for considering the following recommendations:



### **I. Collect data on police use of force against students**

The Department should collect data on police use of force against students including: number of students subjected to pepper spray, tasers, physical attack (e.g. tackling, body slamming, etc.), and number of students injured or killed by a firearm. Data on police use of force against students would provide education officials and community members with additional information on the impact of school police on students' well-being and school safety, as well as provide additional evidence to support local efforts to end the regular presence of police in schools.

### **II. Disaggregate discipline data by reason for the disciplinary action**

Students of color, students with disabilities, and students who identify as LGBTQ are often disproportionately disciplined for minor, subjective offenses such as disobedience and disruptive behavior. The Department should disaggregate all data on practices that push students out of the classroom (e.g. in- and out-of-school suspensions, expulsions, referrals to law enforcement, and school-related arrests) for this reason. This will provide important information about how many and which students are disciplined for non-violent, subjective offenses. These data would help to show if trainings for school staff and school administrators, as well as other interventions, are needed to prevent and address discrimination.

### **Collect data on the use of alternative discipline practices**

Schools and districts should indicate whether or not they are implementing restorative practices or School-Wide Positive Behavioral Interventions and Supports. This would allow comparisons of discipline rates and disparities between schools and districts implementing these approaches and those that are not, which would provide families and community members the evidence they need to advocate for these practices in their own communities.

### **III. Ensure that all discipline data is disaggregated by race, sex, disability, and English Language Learner status and is reported on an annual basis**

Some of the CRDC's data elements related to school discipline are not disaggregated by race, sex, and English Language Learner status. This leaves out important information about the outcomes for several student groups. The Department should fully disaggregate all data elements related to discipline to ensure that outcomes for all student groups are tracked.



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The Department should also collect data through the CRDC each year. Current data is needed to identify and address disparities as soon as possible to limit the negative impact on students. Ensuring that families, community members, and advocates have access to the most recent data would also prevent school and district officials from claiming that issues from previous school years have been resolved when older data is used to advocate for improvements.

Thank you for the opportunity to provide comments on this important matter.

Respectfully submitted,

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