PAPERWORK REDUCTION ACT SUBMISSION SUPPORTING STATEMENT

Mandatory Civil Rights Data Collection

September 2022

Attachment A-5

Directed Questions for Civil Rights Data Collection for School Years 2021–22 and 2023–24

Revised after 60-day public comment period.

Responses to, and changes made as a result of comments received during the 60-day public comment period are primarily addressed and reflected in Attachment B. In this Directed Questions document, changes were made as a result of comments received during the 60-day public comment period. Additional changes (including technical edits and revisions) were made for clarity, accuracy, and consistency. Changes appear as red text and new text is underlined.

INTRODUCTION

This attachment contains some topics for which the Office for Civil Rights (OCR) would like to obtain input from data submitters and stakeholders regarding the 2021−22 and 2023–24 Civil Rights Data Collections (CRDC).

DIRECTED QUESTIONS

1. Preschool Section 504 Only Student Enrollment

For the 2021−22 and 2023–24 CRDCs, OCR proposes to start collecting preschool enrollment data for preschool students with disabilities who are served only under Section 504 of the Rehabilitation Act of 1973. The data would be collected by sex and race/ethnicity, and sex and English learner (EL).

To inform OCR's decision, please respond to the following:

- Have local educational agencies (LEA) enrolled preschool students served only under Section 504 in preschool programs?

> Not applicable at my school. Warren Central High School is 9-12.

2. Preschool Student Enrollment in Gifted and Talented Programs

The CRDC currently collects counts of students enrolled in preschool and grades K-12 (or the ungraded equivalent) who were enrolled in gifted and talented programs. Specifically, LEAs currently provide counts by sex and race/ethnicity, sex and EL, and sex and student served under the Individuals with Disabilities Education Act (IDEA). For the 2021−22 and 2023–24 CRDCs, OCR is exploring the possibility of removing preschool students from the gifted and talented programs data element.

Gifted and talented programs are programs during regular school hours that provide special educational opportunities including accelerated promotion through grades and classes and an enriched curriculum for students who are endowed with a high degree of mental ability or who demonstrate unusual physical coordination, creativity, interest, or talent.

To inform OCR's decision, please respond to the following question:

- Have LEAs enrolled preschool students in gifted and talented programs?

> Not applicable at my school. Warren Central High School is 9-12.

3. Nonbinary Students

For the 2021−22 and 2023–24 CRDCs, OCR is proposing to expand the sex category (currently male and female) to include nonbinary. OCR is also proposing to define nonbinary as follows:

Nonbinary ~~refers to a student who does~~ means not ~~identify~~ exclusively ~~as~~ male or female. ~~Nonbinary does not refer to a transgender student who identifies exclusively as either male or female.~~

For the 2021–22 CRDC, LEAs that indicate they collect ~~this~~ nonbinary information from students' enrollment records will be required to report student enrollment data for nonbinary students. Elsewhere in the survey, the inclusion of data on nonbinary students in data elements disaggregated by sex will be optional for all LEAs. ~~for the 2021–22 CRDC but will be required for future CRDCs.~~ For the 2023–24 CRDC, only LEAs that indicate they collect nonbinary student information will be required to report all nonbinary student data.

The inclusion of a nonbinary sex category will allow OCR to capture data that will provide a greater understanding of the experiences of nonbinary students and will help to further OCR's mission to enforce Title IX's prohibition on discrimination on the basis of sex, which OCR interprets to include~~s~~ discrimination based on sexual orientation and gender identity. According to OCR's research, there are 11 SEAs that already allow for the ~~reporting~~ use of three categories for reporting student sex.

To inform OCR's decision, please respond to the following questions:

- Have LEAs collected data using a third nonbinary sex category?

> At WCHS, we have not up to this point. I cannot speak for other schools in the district.

- What, if any obstacles have LEAs faced in collecting such data?

> Required school paperwork does not ask gender identity questions. Often times, parents do not know, or even support, student identification of gender if it differs from gender that is identified at birth.

- What, if any, changes should OCR make to the proposed definition for nonbinary?

> No changes needed.

4. Chemical or Irritant Restraint

OCR is exploring the possibility of collecting new student restraint data involving the use of chemicals or irritants in public schools, for future CRDCs (after the 2021–22 and 2023–24 CRDCs).

To inform OCR's decision, please respond to the following questions:

- Have LEAs and schools collected data on the use of chemical or irritant restraints in schools, including the use of medication outside of a prescribed use and for the purpose of sedating a student, and the use of pepper spray, tear gas, or other chemical or irritant restraints on students?

> At WCHS, we have not up to this point. I cannot speak for other schools in the district.

- Should data collection include use of chemical or irritant restraints by a sworn law enforcement officer assigned to a school?

> Yes. They would be the only ones to use these items if they were used in a school.

- What, if any obstacles may LEAs face in collecting such data?

> None.

5. School Closures due to Extreme Heat or Cold Weather Conditions

OCR is exploring the possibility of collecting data for future CRDCs (after the 2021–22 and 2023–24 CRDCs) on school closures due to extreme heat or cold weather conditions, to better understand how these closures relate to inequities in school facilities and educational opportunities due to these school closures.

To inform OCR's decision, please respond to the following questions:

- Have schools temporarily closed due to extreme heat or cold weather conditions?

> Heat - No. Cold - Not Recently.

- Have schools temporarily closed in extreme heat or cold weather conditions due to facility inadequacies (heating/cooling systems, etc.)?

No.

- Have LEAs and schools collected data on school closures due to extreme heat or cold weather conditions?

No.

- Have LEAs and schools collected data on the loss of learning time experienced due to school closures because of extreme heat or cold weather conditions?

Any closures are made up or NTI days are used.

- Have LEAs and schools collected data on whether schools have functioning heating or cooling systems?

Yes, if applicable.

- What, if any, obstacles may LEAs and schools face in collecting such data?

None.

6. _Interpretation Services_

OCR is exploring the possibility of collecting data for future CRDCs (after the 2021–22 and 2023–24 CRDCs) on the types of interpretation services used by LEAs and schools, to better determine communication practices used with students and families with disabilities and/or limited English proficiency.

To inform OCR's decision, please respond to the following questions:

- Have LEAs and schools relied on any of the following individuals or resources to provide oral and/or written interpretation services (check all that apply): (1) teachers and staff; (2)

classmates or other students; (3) a student's parents, siblings, or other family members; (4) adult volunteers; (5) certified professional interpreters; (6) online systems/computer software programs; and/or (7) other? If yes to any, then please explain when and how often these personnel or systems/programs are used.

> At Warren Central High School, we have a substantial amount of English Language Learners, so most of the services are used daily.
> 1) Teachers and staff - yes
> 2) Classmates and students - yes
> 3) Family members - yes
> 4) Adult volunteers - N/A
> 5) Professional Interpreters - yes (through our language phone line)
> 6) Online systems/software - yes

- Have LEAs or schools collected data on who provides oral interpretation services in schools?

> Yes.

- Have LEAs or schools collected data on who provides written interpretation services in schools?

> Yes.

- What, if any, obstacles may LEAs and schools face in collecting such data?

> None.

7. Commonwealth, Territories, and Freely Associated States

OCR collects CRDC data from LEAs in each of the 50 states, District of Columbia, and the Commonwealth of Puerto Rico. For the 2017–18 CRDC, OCR included Puerto Rico for the first time. For future CRDCs (after the 2021–22 and 2023–24 CRDCs), OCR is considering whether to include LEAs from seven additional jurisdictions that receive funding from the U.S. Department of Education, and that are included in ED*Facts*. Those jurisdictions include: the Commonwealth of Northern Mariana Islands, American Samoa, Guam, U.S. Virgin Islands, Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau.

To inform OCR's decision, please respond to the following questions:

- Should OCR include LEAs from the seven additional jurisdictions?

> Yes.

- What, if any obstacles may the jurisdictions' LEAs face in collecting CRDC data?

> None that I can think of.

8. *Informal Removals*

OCR is exploring the possibility of collecting data for future CRDCs (after the 2021–22 and 2023–24 CRDCs) on students who receive informal removals, such as removals from a class or a school, to gauge inequities in the use of informal removals as student discipline. For background information on informal disciplinary removals and students with disabilities, please see OCR's guidance *Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973* (July 2022) (pages 22-24), https://www2.ed.gov/about/offices/list/ocr/docs/504-discipline-guidance.pdf.

To inform OCR's decision, please respond to the following questions:

- How should OCR define informal removals of students?

> Many schools enter this data into our Infinite Campus database, and Tablou, a program utilized throughout our district to track data, such as informal removals.
> I believe that an informal removal would be anything that removes a student from the normal classroom environment. That can include, but not limited to, in-school suspension, out of school suspension, Alternative to Suspension programs (short-term placement of 3-10 days), alternative school placement (long-term placement of 45-90 days), or court ordered alternative placement.

- For students with disabilities, should the definition draw a distinction between 1) an informal disciplinary exclusion due to a student's disability-based behavior and 2) a determination, made consistent with free appropriate public education requirements under Section 504 or IDEA, that a student needs to attend classes for only part of the school day due to a disability such as for health-related reasons?

> Yes.

- What are the common types of informal removals you are aware of, for instance repeated "sent homes" by the school, shortened school days, or homebound placements?

  These can include, but not limited to, in-school suspension, out of school suspension, Alternative to Suspension programs (short-term placement of 3-10 days), alternative school placement (long-term placement of 45-90 days), or court ordered alternative placement. Shortened school days are typically based on individual circumstances and must be approved by the Board of Education. Homebound is health-related.

- Should OCR only consider including CRDC questions focused solely on students with disabilities who receive informal removals?

  No. I think that information such as demographics of the school should be considered in order to better understand and compare data.

- What specific data involving students who receive informal removals should OCR collect?

  Demographics, prior disciplinary actions, comparable data to peers, IEPs/504s/PSPs and the appropriate learning goals associated with each.

- What data are school districts and schools currently collecting regarding informal removals?

  Any student that receives a removal is tracked through Infinite Campus and Tablou. Students of disability or language learners are analyzed by their IEPs/504s/PSPs in order to determine proper removals in order to not violate IDEA or their legal rights as students. Consultations between school-level leaders and district-level leaders happen often in order to determine the least restrictive route for students, especially if it is a manifestation of their disability. For under-represented students, the district monitors and equity scorecard to ensure that data is tracked. If the school notices disproportionate data, intervention is provided to determine factors as to why that occurs.