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June 16, 2025

Matthew Soldner
Acting Director
Institute of Education Sciences
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

RE: Information Collection Request; National Assessment of Educational Progress (NAEP)
2026, OMB Control Number 1850-0928

Dear Acting Director Soldner,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 240 national organizations to promote and protect the civil and human rights of all persons in the United States, and The Leadership Conference Education Fund, we write in response to the proposed Information Collection Request (ICR) published in the Federal Register for the 2026 National Assessment of Educational Progress (NAEP).

As discussed below, we are deeply concerned about the U.S. Department of Education (ED)'s recent decision to remove the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) confidentiality assurance from the administration of the NAEP assessment, a foundational, federally mandated assessment that provides indicators of educational equity and student learning outcomes. This decision, reportedly due to internal staffing shortages within ED's statistical agency¹, raises serious civil rights implications, and jeopardizes the long-standing legal and ethical commitments to student privacy. We urge ED to immediately change course and ensure sufficient staffing in order to comply with the law and protect students' privacy.

The Department of Education must maintain capacity to fulfill its mandates.

ED plays a non-delegable federal role in ensuring equity in education. The collection, analysis, and dissemination of national education statistics, including those disaggregated by

¹ Per the [Federal Register's May 15th, 2025 ICR](#), "As of April 2025, NCES's assurances of confidentiality protections for NAEP 2026 have changed due to recent staffing changes at the Department of Education. NCES has removed the Foundations of Evidence-Based Policymaking Act of 2018, Title III, Part B, Confidential Information Protection ("CIPSEA") as a confidentiality assurance. However, confidentiality assurances under the Education Sciences Reform Act of 2002 (ESRA) remain in effect."

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race, socioeconomic status, disability, English learner status, sex, and more, is a key way ED carries out this role.² Federal law³ assigns ED this essential responsibility through the work of the National Center for Education Statistics (NCES) and NAEP. The inability to uphold CIPSEA protections because of staffing cuts contradicts ED's own federal charge. Title III, Part B of the Foundations for Evidence-Based Policymaking Act of 2018⁴, which reauthorized and strengthened CIPSEA, provides the highest level of legal confidentiality assurance for statistical data. Without sufficient staffing to uphold these protections, ED is failing to meet the statutory threshold needed to execute its mission with integrity.

High-quality, confidential, and disaggregated NAEP data is essential for civil rights monitoring and enforcement.

NAEP is the only nationally representative, continuous assessment of student learning across states and demographics and as such, is often referred to as "The Nation's Report Card."⁵ NAEP results enable policymakers, researchers, and advocates to detect and remedy barriers to opportunity and outcomes for historically marginalized students. Without trustworthy and disaggregated⁶ data, federal and state agencies cannot identify disparities in reading and math outcomes, examine disproportionality in discipline and school climate indicators over time, or track the impact of school conditions, policy changes, or funding shifts on vulnerable student groups. As the U.S. Commission on Civil Rights emphasized in its 2018 report, "data disaggregation by race, disability, language status, and income are indispensable to remedying inequities."⁷ Without legally protected, credible assessments, our collective ability to act on behalf of students is severely weakened.

Stripping CIPSEA from NAEP violates 20 years of privacy guarantees.

Since its adoption in 2002, CIPSEA has protected NAEP respondents by ensuring their information is used solely for statistical purposes and never disclosed in identifiable form. The act provides a criminal

² The Education Sciences Reform Act (ESRA) of 2002 charges the Department with the task of administering NAEP through the Institute of Education Sciences (IES). Congressional Research Service. (2023, March 20). *The Education Sciences Reform Act (ESRA): A primer* (CRS Report No. R47481). Congressional Research Service. <https://www.congress.gov/crs-product/R47481>

³ ESRA (20 U.S.C. § 9501 et seq.). While the May 15, 2025 Federal Register notice states that ESRA assurances remain in effect for NAEP, it is concerning that ED would not continue to enforce both ESRA and CIPSEA together as it has done for more than 20 years. As ED admitted on the Federal Register notice, the answer is that they lack the staff expertise to uphold CIPSEA, therefore neglecting ED's federal responsibility to upholding the highest confidentiality assurances for students due to its own short-sightedness of recent massive lay-offs and firings.

⁴ The [Confidential Information Protection and Statistical Efficiency Act](#) of 2002 (CIPSEA), Title V of the E-Government Act of 2002 (Pub. L. No. 107-347).

⁵ National Center for Education Statistics. (n.d.). *What is NAEP?* The Nation's Report Card. U.S. Department of Education, Institute of Education Sciences.

⁶ Disaggregated data are necessary to adequately identify, assess, and address educational inequities. See The Leadership Conference Education Fund. (n.d.). *Data Disaggregation Action Network*. The Leadership Conference on Civil and Human Rights. <https://www.civilrights.org/edfund/data-disaggregation-action-network/>

⁷ U.S. Commission on Civil Rights. (2018). *Public Education Funding Inequity in an Era of Increasing Concentration of Poverty and Resegregation*. <https://www.usccr.gov/files/pubs/2018/2018-03-22-Education-Inequity.pdf>.

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penalty for disclosure—up to \$250,000 in fines and/or five years in prison (CIPSEA, 2018)⁸—ensuring the highest confidence in federal education surveys.

As ED acknowledged in the Federal Register,⁹ the department has removed the CIPSEA pledge from NAEP due to insufficient staff capacity to meet the law’s compliance requirements. This is not a mere administrative decision. It is a regression in federal student privacy protections. The removal of CIPSEA erodes trust in the confidentiality of student and school data, weakens federal legal accountability, and sets a dangerous precedent that federal civil rights data protections can be downgraded by internal staffing decisions. NAEP has relied on CIPSEA for more than two decades to protect millions of students’ responses. To abruptly remove these protections, especially due to decisions made by ED leadership to reduce staffing, is indefensible.

We urge ED to return to full confidentiality compliance, upholding both ESRA and CIPSEA as it has been doing so for the past two decades by:

- Restoring full CIPSEA confidentiality protections to NAEP and all applicable NCES data collections;
- Rehiring to achieve the staffing capacity required to meet federal confidentiality compliance and carry out the work that is charged to IES by ESRA;¹⁰
- Reaffirming ED’s commitment to protecting student data at the highest levels, upholding legal obligations, and safeguarding its federally mandated functions.

If you have any questions or need additional information, please contact Natalie Truong (truong@civilrights.org), K-12 education senior program manager at The Leadership Conference on Civil and Human Rights.

Sincerely,

The Leadership Conference on Civil and Human Rights
The Leadership Conference Education Fund

⁸ The [Confidential Information Protection and Statistical Efficiency Act](#) of 2002 (CIPSEA), Title V of the E-Government Act of 2002 (Pub. L. No. 107-347).

⁹ U.S. Department of Education. (2025, May 15). *Agency information collection activities; submission to the Office of Management and Budget for review and approval; National Assessment of Educational Progress 2026* (Doc. No. 2025–08602; 90 FR 20636–20637). *Federal Register*.

¹⁰ On May 22, 2025, U.S. District Judge Myong Joun issued a preliminary injunction halting the mass layoffs at ED and ordered the reinstatement of approximately 1,300–1,400 staffers who had been terminated in March. The judge emphasized that the layoffs effectively “dismantle” the Department and are unlawful, as they lack congressional authorization. (See: Knox, L. (2025, May 22). *Judge orders Education Department employees reinstated. Inside Higher Ed.* https://www.insidehighered.com/news/government/politics-elections/2025/05/22/judge-orders-education-department-employees?utm_source=chatgpt.com)