



The Council of Parent Attorneys and Advocates, Inc.
Protecting the Legal and Civil Rights of Students with Disabilities and Their Families

August 21, 2017

Stephanie Valentine

Acting Director, Information Collection
Clearance Division, Office of the Chief Privacy Officer, Office of Management
U.S. Department of Education
400 Maryland Avenue SW., LBJ, Room 216-34
Washington, DC 20202-4537

RE: Docket ID: ED-2016-ICCD-0147

Dear Ms. Valentine:

The Council of Parent Attorneys and Advocates (COPAA) is an independent, nonprofit organization of parents, attorneys, advocates, and related professionals. COPAA members nationwide work to protect the civil rights and secure excellence in education on behalf of the 6.5 million children with disabilities under the Individuals with Disabilities Education Act (IDEA) and over 700,000 children with 504 plans under Section 504 of the Rehabilitation Act of 1973 in America. COPAA is writing in response to the U.S. Department of Education's (ED) request for comments to the Mandatory Civil Rights Data Collection (CRDC).

COPAA fully supports the CRDC and believes in its purpose which is to "obtain vital data related to the civil rights laws' requirement that public local educational agencies (LEAs) and elementary and secondary schools provide equal educational opportunity." COPAA relies on these data to write, present and advocate for children. These data help COPAA articulate problems such as the abuse of children with aversives (e.g. restraint and seclusion) and other harsh disciplinary actions such as suspension and expulsion. The CRDC is critical to identifying where interventions are needed to address and reduce disparities and discrimination; to knowing when to file complaints against individual school districts; and, to raising awareness at the local, state and federal level. We believe the CRDC is essential to ensuring the protection of children's rights. Therefore, we urge ED, through the Office for Civil Rights (OCR) and under the direction of the Secretary to maintain and support this vital data collection.

Furthermore, given the critical importance of addressing systemic issues, ED should connect key datasets such as the CRDC and indicators under the IDEA reported as part of the Results Driven Accountability to facilitate correlational analyses that may provide insights into how key traditional public as well as charter schools' policies and practices influence outcomes for students with disabilities.

In general, we support the proposed additions and changes to the CRDC. However, COPAA makes one recommendation:

Recommendation: ED must include questions on the experiences of students with disabilities placed by public school districts in private or "non-public schools" that segregate students on the basis of disability. This is data that public school districts already receive and maintain, or can access readily.

Rationale: The current scope of the CRDC fails to capture a substantial proportion of the discriminatory practices being experienced by public school district students with disabilities. According to the most recent data, there are 104,585 students enrolled in 1,610 private, non-sectarian, special education schools.¹ Nearly 3% of all students with disabilities are placed by districts in "separate schools" with an additional 0.27 % placed in

residential facilities. For students with intellectual disability, these figures are significantly higher, at 6% and 0.38%, respectively.ⁱⁱ As stated in the letter to ED co-signed by COPAA in February 2017ⁱⁱⁱ, we believe it is essential to have accurate, timely, and transparent data for students placed by districts in *any* type of educational setting.

The CRDC presently only requires basic demographic information to be collected and reported on for students that are placed by school districts in private and non-public schools. For ED to more effectively perform its statutory responsibility to prevent discrimination, ED must collect and publish the following information from private or non-public schools in which public school students are placed. By doing so, ED will: ensure student safety and educational success; reduce segregation outside of public schools; help reduce student removals and use of aversives due to behaviors related to disabilities; assure students are not inappropriately involved with law enforcement and the criminal justice system; and, assure students receive appropriate interventions and instruction by trained and certified teachers in any educational setting. The data to include in the CRDC are:

- Total number of students enrolled by the Local Education Agency (LEA) in private or non-public schools, disaggregated by race, sex, disability, and Limited English Proficiency (LEP) status.
- Total number of students enrolled by the LEA in private or non-public schools who received one or more in-school suspension, one out-of-school suspension, more than one out-of-school suspension, or expulsion, disaggregated by race, sex, disability, and LEP status.
- Total number of students enrolled by the LEA in private or non-public schools referred to law enforcement or arrested for school-related activities, disaggregated by race, sex, disability, and LEP status.
- Total number of students enrolled by the LEA in private or non-public schools who received corporal punishment, and the total number of instances of corporal punishment in private or non-public schools, disaggregated by race, sex, disability, and LEP status.
- Total number of students enrolled by the LEA in private or non-public schools subjected to restraint or seclusion, and the total number of instances of restraint or seclusion in private or non-public schools, disaggregated by race, sex, disability, and LEP status. These data should also include:
 - Students (K-12) subjected to mechanical restraint:
 - Number of non-IDEA students subjected to mechanical restraint (disaggregated by race, sex, disability-504 only, LEP);
 - Number of students with disabilities (IDEA) subjected to mechanical restraint (disaggregated by race, sex, LEP).
 - Students (K-12) subjected to physical restraint:
 - Number of non-IDEA students subjected to physical restraint (disaggregated by race, sex, disability-504 only, LEP);
 - Number of students with disabilities (IDEA) subjected to physical restraint (disaggregated by race, sex, LEP).
 - Students (K-12) subjected to seclusion:
 - Number of non-IDEA students subjected to seclusion (disaggregated by race, sex, disability- 504 only, LEP);
 - Number of students with disabilities (IDEA) subjected to seclusion (disaggregated by race, sex, LEP).
 - Number of instances of mechanical restraint, physical restraint, seclusion (disaggregated by students without disabilities, students with disabilities-IDEA, students with disabilities-504 only).

- Total number of teachers in private or non-public schools contracting with the LEA meeting all state licensing/certification requirements.

By state law, state practice, and contractual right, states and school districts already receive and maintain this data, or have the right of ready access to it. It is imperative that the full range of data is collected from all schools educating students with disabilities.

We appreciate the opportunity to comment on the CRDC. COPAA stands committed to assuring all students have access to full educational opportunity in our nation's schools. For any questions or for additional information, please feel free to contact me.

Sincerely,



Denise Marshall
Executive Director

COPAA is an independent, nonprofit organization of parents, attorneys, advocates, and related professionals. COPAA members nationwide work to protect the civil rights and secure excellence in education on behalf of the 6.5 million children with disabilities in America. COPAA's mission is to serve as a national voice for special education rights and is grounded in the belief that every child deserves the right to a quality education that prepares him or her for meaningful employment, higher education and lifelong learning, as well as full participation in his or her community.

ⁱ Characteristics of Private Schools in the United States: Results From the 2015–16 Private School Universe Survey. National Center for Education Statistics. Available at <https://nces.ed.gov/pubs2017/2017073.pdf>

ⁱⁱ Number and percent of students ages 6 through 21 served under IDEA, Part B, by educational environment and state. IDEA Section 618 Data Products, 2015-2016. Available at <https://www2.ed.gov/programs/osepidea/618-data/static-tables/2015-2016/part-b/child-count-and-educational-environment/1516-bchildcountandedenvironment-13.xlsx>

ⁱⁱⁱ Letter to U.S. Department of Education, February 28, 2017, re: Docket ID ED-2016-ICCD-0147.