August 19, 2013

Catherine Lhamon
Assistant Secretary for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Stephanie Valentine
Acting Director
Information Collection Clearance Division
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

RE: FR Doc ED-2013-ICCD-0079, Mandatory Civil Rights Data Collection

Dear Assistant Secretary Lhamon and Director Valentine:

The Council for Exceptional Children (CEC) – an international community of educators, including teachers, administrators, related service personnel, higher education faculty and researchers – is the voice and vision of special and gifted education. Our mission is to improve the quality of life for individuals with exceptionalities and their families through professional excellence and advocacy.

CEC appreciates the opportunity to provide comments in response to Federal Register Notice regarding the Mandatory Civil Rights Data Collection as published on June 21, 2013. CEC’s comments center around four issues of importance to our members: the availability of well prepared special educators and related service personnel serving students with disabilities; the impact of discipline and justice facilities on students with disabilities; ensuring that students with disabilities receive legally-required, timely services; and gaining more information about students with disabilities who have 504 plans.

The Civil Rights Data Collection (CRDC) provides invaluable information for educators, families, policymakers and other stakeholders to take action steps to address both pervasive challenges across states and targeted interventions for individual schools. The CRDC is more than a monitoring tool, it is the catalyst to improve educational opportunity. CEC commends the U.S. Department of Education in its efforts to make the CRDC a tool to address persistent, widespread inequities.

That said, CEC recognizes that a data collection of this magnitude does require a substantial investment in human capital and therefore, continues to encourage OCR to ensure that CDRC
data cross-references other data collection initiatives of the U.S. Department of Education, where appropriate. Furthermore, to make the CRDC most meaningful, the public must have confidence in the accuracy of the data. Therefore, CEC encourages the U.S. Department of Education to support increased investments and technical assistance to support states and school districts in their efforts to comply with the many federal data requirements, including the CRDC.

We appreciate the opportunity to provide feedback on the CRDC. Please feel free to contact Deborah Ziegler, Associate Executive Director at debz@cec.sped.org or 703-264-9406; or Kim Hymes, Senior Director at kimh@cec.sped.org or 703-264-9441.

Very truly yours,

Deborah A. Ziegler, Ed.D.
Associate Executive Director
Policy and Advocacy Services
CEC’s Comments about the Mandatory Civil Rights Data Collection

General Recommendation

**CEC Recommendation:** Increase resources and technical assistance to states and school districts to support the accurate completion of the Civil Rights Data Collection.

**CEC Rationale:** CEC recognizes the Civil Rights Data Collection (CRDC) is the catalyst for addressing in both pervasive challenges across states and targeted interventions for individual schools. However, particularly in this difficult fiscal time in which the federal investment in education programs has been cut by over $2 billion, CEC recognizes that a data collection of this magnitude requires a substantial investment in human capital. Indeed, OCR estimates that it will take schools 14 hours to complete this survey, an increase of 1.2 hours from 2011. Therefore, CEC continues to encourage OCR to ensure that CDRC data cross-references other data collection initiatives of the U.S. Department of Education, where appropriate. Furthermore, to make the CRDC most meaningful, the public must have confidence in the accuracy of the data. Therefore, CEC encourages the U.S. Department of Education to support increased investments and technical support to support states and school districts in their efforts to comply with the many federal data requirements, including the CRDC.

Ensuring Well-Prepared Special Educators Address the Needs of Students with Disabilities

**CEC Recommendation:** Reinstate Data Group 400 to continue data collection on the number of teachers meeting all state licensing and certification requirements.

**CEC Recommendation:** Add a data group to collect the extent to which students with disabilities, English language learners, students in rural areas, and students from low income families are taught by teachers-in-training enrolled in alternative certification programs.

**CEC Rationale:** CEC joins together with 95 national, state, and local organizations through the Coalition for Teaching Quality in opposing the proposal to eliminate the collection of data regarding the number of teachers meeting all state licensing and certification requirements.

CEC believes that all students, particularly students with disabilities, English language learners and students from low income families deserve access to educators who have completed their preparation programs. Research demonstrates that fully-prepared special education teachers have a greater impact on student achievement. Addressing the complex needs of students with disabilities requires training and clinical preparation. Furthermore, Congress has expressed its clear intent that high-need students have equitable access to teachers who are qualified, experienced and teaching in the field for which they are certified (20 U.S.C.§6311(b)(8)(C)).
Data has shown that students with disabilities and from other underrepresented constituencies are disproportionately taught by individuals who are still in the process of completing their alternate route to preparation program. If the CRDC is truly intended to identify whether school districts and schools are providing equal educational opportunity, it is essential that the CRDC include accurate data regarding the extent to which high-need students are taught by teachers who have not yet completed their preparation program nor earned full certification/licensure from their state.

**Equitable Access to Related Service Personnel/Specialized Instructional Support Personnel**

**CEC Recommendation:** Redefine the professions currently listed as support services staff type (see Attachment A-3-37) to align with the definitions of such staff already included in IDEA and ESEA to minimize confusion in the field:

IDEA, SEC. 602 (Sec. 300.34 of IDEA Regulations)
(a) General. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

At a minimum, OCR should expand the current permitted values of “psychologists” and “social workers” to include “school psychologists” and “school social workers”, professionals who are specially trained to work in school settings.

**CEC Rationale:** CEC appreciates that this version of the CRDC expands the current focus on teachers to now also include other education professionals who are integral to academic, developmental, and behavioral success of students. To make eliminate potential confusion in the field regarding which professionals should be considered “support services staff”, OCR should align with the IDEA definition of ‘related service personnel’. Furthermore, to make this data meaningful and actionable the list of support services staff type must expanded and disaggregated by professional role.

Specialized Instructional Support Personnel (SISP) – known as related service personnel in the Individuals with Disabilities Education Act and pupil services personnel in the Elementary and Secondary Education Act – are integral to supporting a positive school climate and increasing
access to educational opportunities, particularly for students with disabilities. Whether it is through addressing students’ mental or physical health needs or other barriers to academic achievement, SISP work collaboratively with parents, educators and the entire school community to meet the needs of students.

The diversity of services and supports provided by SISPs varies greatly between the various professional roles. Therefore, it is necessary to have the CRDC disaggregate by professional role so that families, educators and policymakers can compare across schools, school districts, and states the availability of SISPs.

**Impact of Discipline Procedures/Justice Facilities on Students with Disabilities**

**CEC Recommendation:** Retain Data Group 921 and 922 to provide greater transparency regarding the frequency and impact of discipline procedures on students with disabilities, including preschool students with disabilities.

**CEC Rationale:** CEC wholeheartedly agrees with OCR that the 2009-2010 CRDC was a “first-of-its-kind opportunity gap data tool” which provided the public with actionable data from which to identify systemic challenges and address them at school, school district and state levels. Data collected regarding discipline procedures and their impact on students with disabilities led to many enlightening and influential reports, such as *Opportunities Suspended: The Disparate Impact of Disciplinary Exclusion from School* by Daniel J. Losen and Jonathan Gillespie.

CEC recognizes that the U.S. Department of Education’s Office of Special Education and Rehabilitative Services (OSERS) collects similar data related to the frequency of disciplinary procedures on students with disabilities. In the areas in which the OCR and OSERS data overlaps – such as in the number of days suspended for in-school or out-of-school suspension and whether special education services were provided during the suspension – CEC strongly urges for data alignment.

**CEC Recommendation:** Include student demographic information – including disability status – in Data Group 941, *Justice Facility Educational Program Participants Table*.

**CEC Rationale:** CEC commends OCR for expanding the CRDC to include justice facilities as more information and data is needed in this area. In addition to providing a cumulative count on the number of students who participated in justice facility, CEC encourages OCR to request this information be disaggregated racial/ethnic, disability status, and limited English proficiency status. Having this additional information would provide the public with actionable data from which positive change can occur.

---

Ensuring Students with Disabilities Receive Legally-Required, Timely Services

**CEC Recommendation:** Reinsert collection of *Children Awaiting Initial Evaluation for IDEA* (Data Group 478) though changing the data group to read: “Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe.” This language change would align with annual data collection already required by the Individuals with Disabilities Education Act, State Performance Plan/Annual Performance Report – Indicator 11.

**CEC Rationale:** A timely initial evaluation is essential to ensuring students with disabilities are provided a free appropriate public education, a right afforded by IDEA. The law recognizes the important role of the initial evaluation by providing key timelines that schools and school districts must adhere to comply with IDEA.

Currently, IDEA’s State Performance Plan/Annual Performance Report – Indicator 11 provides stakeholders with information regarding a state’s adherence to the timeline for an initial evaluation. According to the U.S. Department of Education, “states varied greatly in the number of children who did not receive timely evaluations. Approximately 37% of the states had less than 50 children who did not receive timely evaluations, while 23% of the states had 51-200 children; 27% had 201-1000 children; and 13% had more than 1000 children who did not receive timely evaluations.” With 63% of states reporting that students did not receive a timely evaluation, clearly more work must be done to ensure that schools and school districts meet IDEA’s timelines.

Therefore, CEC recommends that OCR replace the 2011 CRDC language for Data Group 478 with identical language to IDEA’s existing requirement. By having the CRDC cross reference the IDEA data requirement, the public would have greater access to data demonstrating how a school and/or school district adhered to the IDEA initial evaluation timeline. Currently, the public only has state level data on this issue. Furthermore, since it is already required data collection for schools/districts, adding it to the CRDC would likely not add to the data collection burden.

**Gaining Better Information Regarding Students with Disabilities Who Have 504 Plans**

**CEC Recommendation:** Disaggregate students who have 504 plans by race/ethnicity in the relevant data groups: 922 Discipline of students with disabilities table; 934 Harassment or bullying – students disciplined table; 935 Harassment or bullying – students reports as harassed

---

2 INDICATOR B11: TIMELY INITIAL EVALUATIONS Prepared by DAC http://uploads.tadnet.org/groups/115/assets/1936/download
or bullied table; 960 Restraint or seclusion for non-IDEA students table; 963 Retention table; and 978 Student chronic absenteeism table.

**CEC Rationale:** A key initiative of the Office of Civil Rights is to address instances of discrimination against students with disabilities who are afforded protections by Section 504 of the Rehabilitation Act of 1973. As part of this effort, CEC applauds OCR for distinguishing between students who have Individualized Education Programs and 504 Plans throughout the CRDC however, we believe this information should be further disaggregated by race/ethnicity. This additional information would provide the public and OCR with useful data from which improvements can be made.