



November 19, 2019

Director of the Information Collection Clearance Division

Attn: Rosa Olmeda

U.S. Department of Education

550 12th Street SW

Potomac City Plaza, Room 9089

Washington, D.C. 20202-0023

RE: Docket ID: ED-2019-ICCD-0119

Dear Ms. Olmeda:

On behalf of AASA, The School Superintendents Association, representing more than 13,000 public school superintendents across the nation, I write to offer comments in response to the proposed 2019-20 Civil Rights Data Collection.

As referenced in the supporting documents, this data collection places a real burden on school districts. Nationally, it takes district staff close to 1.5 million hours of time to collect and submit this data resulting in a cost of approximately \$66 million that is diverted toward a federal data collection mandate. We sincerely appreciate the DeVos Administration's decision to decrease the burden of total responses by an LEA by 21.8%, yet there are still many data points that we question the value of continuing and the authority of ED to collect this data.

AASA fully recognizes the importance of data and its role in empowering schools and educators in expanding educational opportunities for students. Yet, this data collection represents a very real burden, demanding time and resources in school districts that have yet to recover to pre-recession budget levels. There is a significant cost to collecting this new data by school districts and superintendents believe the benefit is not high enough to make the new data requests by OCR advisable. Superintendents are leading systems that serve increasingly higher numbers of vulnerable students. Couple this with the expanded role of schools over the last twenty years, shifting from a more narrow focus on academic well-being to growing responsibility for providing food, clothing, health services, transportation, after-school placements, and technology on top of quality education programming, and it is easy to see why AASA is concerned by the continued expansion of data collection.

School districts have fewer dollars with which to invest time and personnel resources into data collection. Is it wise for the federal government to require such an expansive data collection that districts must reallocate \$70 million dollars to reporting old data points that may not be reviewed at the local, state or federal level and that is incompatible or duplicative when compared to the data

frequently collected by the State? AASA says no. While more affluent communities may be able to shoulder the burden and costs associated with the CRDC, poorer districts struggle to not only educate their high poverty, but also struggle with recruiting and retaining personnel to process the data collection. The budget dollars schools use to cover the increased federal reporting are at the direct expense of other more critical local educational priorities. AASA understands the legal obligation OCR has to investigate civil rights violations as well as the research community and activists' community desire for more data; it makes their case for state and federal legislative reform stronger. However, AASA questions whether the current data school districts must collect and report, coupled with new data that districts would potentially collect and report, are actually in the best interest of students given our current fiscal environment. As the leaders of our nation's school systems, AASA's members must ensure taxpayer funds are put to the best possible use and maximize the ability of students to learn, be healthy and safe and grow into successful adults. We do not believe the new data requested by OCR furthers this goal; in fact, we think it hinders it.

We appreciate that the latest CRDC recognizes that some of the data we have been collecting in the past has been overly expansive and of little value to school district leaders. We applaud the Department for proposing to eliminate the data points pertaining to school finance. Asking schools to report on data that they may already be reporting to ED under The Every Student Succeeds Act is redundant and burdensome.

Below are our responses to the directed questions.

AASA Response to Directed Question #1

CRDC is proposing to collect new information regarding harassment and bullying on the basis of religion, specifically requiring data on bullying on the basis of religion to be disaggregated by 14 unique religious categories. To our knowledge none of the data systems that districts are currently utilizing disaggregate datapoints by these religious categories and adding this data piece will require considerable professional development and administrative efforts for districts. Primarily it will require additional professional development to make sure that district personnel are appropriately identifying bullying based on perceived religious category and that personnel in schools can distinguish all 14 potential religious categories. It will also require districts to do more investigating to identify whether perceived religion was one of the reasons for the bullying. In situations where the bullying of a student may have multiple causes it would require districts to confirm that religion was a significant factor that impacted the bullying and harassment of a student. We believe the reliability of this data will be questionable at first, and for the general reasons outlined above regarding the burden of the CRDC we do not support this additional data collection mandate.

AASA Response to Directed Question #2

Districts collect data on sexual assault differently for students and staff. Typically, staff offenses are tracked through a district's HR system whereas student incidents are tracked via the district's student information system. Furthermore, most district HR systems were not designed with the intent of being integrated into a statewide collection system or federal collection system. Many districts may collapse all of these categories into a general "sexual misconduct" category rather than disaggregate for rape, attempted rape, and sexual assault. Therefore, tracking data on personnel for this collection is likely to be administratively complicated for districts and the fidelity of the data may be compromised.

With respect to the sexual assaults, investigations are often done with attorneys and involve protected, client attorney privileged information which could present challenges for reporting. The word “pending” also presents confusion for district administrators. Does “pending” refer to at the time when the data is being collected or at the time the school year ended?

We question how this data will be used, the reliability of how districts will report this data and whether it is necessary for OCR to access in order to demonstrate district Title IX compliance since it has not been requested before.

AASA Response to Directed Question #3

AASA does not object to the modified collection changes.

AASA Response to Directed Question #4

AASA strongly supports retiring the collection of data related to teachers and school support staff. Furthermore, we support retiring additional data that requires districts to report counts of mental health support staff and nurses. AASA believes OCR lacks the authority to require this information to be collected by all schools in America. We cannot see how the collection of these personnel types ensures compliance with Title VI of the Civil Rights Act, Title IX of the Education Amendments, Section 504 of the Rehabilitation Act of, Title II of the Americans with Disabilities Act, and Section 9533 and 9534 of the Elementary and Secondary Education Act. Can a school district be found in noncompliance with any of these laws because they lack a full-time social worker or school resource officer?

AASA believes the collection of this information will lead to incorrect inferences and assumptions about the prioritization of local, state and federal dollars by school district leaders. For example, if a school district reports having no school resource officers or sworn law enforcement personnel, does that mean the school district does not take the responsibility of providing a safe and secure environment for students seriously? Does a one-time snapshot of personnel employed by the district during this period of time tell OCR anything about prior employment of these personnel or the rationale behind an investment in other personnel or other critical expenditures? If the purpose for CRDC is to have OCR use this data to investigate civil rights violations, how can the presence of a single person who is positioned in a security staff capacity demonstrate whether a district is complying with federal civil rights statutes? Who benefits when school districts supply information about particular personnel without an understanding of the budget constraints a district may be under currently, previously or in the future?

AASA is aware of the shortage of qualified mental health professionals in schools. We have asked Congress on numerous occasions to dedicate funding towards ensuring a greater number of counselors, school psychologists and school social workers are present in our schools. However, these positions, along with administrative staff and other support staff, have been eliminated steadily since 2009. It is unclear what the purpose of reporting these numbers are; is it to shame districts for their inability to invest in these personnel despite their best intentions? Is it to question the local budgetary decisions made by school superintendents and school boards? We support the elimination of the datapoints under this category.

AASA Response to Directed Question #5

AASA believes the datapoints in the current collection are appropriate to adequately demonstrate whether the district is complying with Title IX as it pertains to single-sex interscholastic athletics sports.

AASA Response to Directed Question #6

AASA appreciates the changes that are proposed to the data on early childhood, preschool and kindergarten collection. It is far more appropriate to limit this data collection to data on students served by the LEA in preschool programs. Previously, AASA could find no definition for a non-LEA facility. It is unclear whether the LEA would be obligated to contact private pre-school placements and inquire as to the number of students they serve by age. Moreover, there is no legal obligation that the non-LEA facility must share information on their enrollment with the LEA, which could mean the data collection efforts by LEA would be wasteful and inaccurate. AASA opposed requiring these data collection points and believe that in larger districts with dozens of pre-school providers this data could be significantly burdensome to gather.

Thank you for the opportunity to comment on this data collection. If you have had any questions, please do not hesitate to contact Sasha Pudelski (spudelski@aasa.org).

Sincerely,

A handwritten signature in cursive script that reads "Sasha Pudelski".

Sasha Pudelski

Advocacy Director

AASA