

August 19, 2013

Stephanie Valentine  
Acting Director  
Information Collection Clearance Division  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
LBJ, Room 2E105  
Washington, DC 20202-4537

**Re: Comments Solicited under 78 FR 37529**

Dear Ms. Valentine:

The forty-nine undersigned civil rights, religious, education, and professional organizations are writing to offer our comments on the proposed revisions to the Mandatory Civil Rights Data Collection (CRDC), as outlined at 78 FR 37529.

Our comments are focused on two proposed changes to the CRDC relating to bullying prevention. First, we strongly welcome the Department's decision to expand the CRDC to include questions that will elicit information about bullying and harassment based on sexual orientation and religion, which will augment data already collected on race, color, national origin, sex, and disability. We also encourage the Department to collect information on bullying and harassment based on gender identity. Second, however, we strongly urge the Department to reconsider the proposal to eliminate questions relating to whether an education unit has adopted written policies prohibiting harassment and bullying on the basis of a civil rights law.

1) Support for the addition of CRDC questions concerning bullying and harassment on the basis of sexual orientation and religion – and for data on incidents based on gender identity

Since 1968, the CRDC has been collecting school and district level data. It is now the largest, most important, and most comprehensive data collection instrument of its kind. Much of the data that informs national patterns and policy guidance for schools and organizations comes from the CRDC. Since 2009, OCR has collected data at the school level through the CRDC regarding bullying/harassment on the basis of (1) sex, (2) race/color/national origin, and (3) disability. The inclusion of new questions that will elicit CRDC bullying and harassment data on incidents directed at students because of their sexual orientation and religion is essential for ensuring that the data provides an accurate overall representation of the experiences of all students, and will help ensure that schools and school districts are providing all students with equal educational opportunities.

We would urge the Department to add a question that will elicit CRDC bullying and harassment data on incidents directed at students on the basis of their gender identity. This reporting would be consistent with new data reported by Department of Education and the Department of Justice in their *Indicators of School Crime and Safety* report<sup>1</sup> – as well as the new FBI mandate to collect data on hate crimes directed at individuals because of their gender identity under the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA). The FBI recently published a new hate crime training manual with definitions and scenarios to help provide guidance in this data collection effort.<sup>2</sup>

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<sup>1</sup> *Indicators of School Crime and Safety*, Department of Education, National Center for Education Statistics, and Department of Justice, Bureau of Justice Statistics, <http://www.bjs.gov/content/pub/pdf/iscs12.pdf>

<sup>2</sup> FBI Criminal Justice Information Services Division, Uniform Crime Reporting Program, *Hate Crime Data Collection Guidelines and Training Manual*, <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/data-collection-manual>

Bullying and harassment in educational settings is an ongoing problem for school districts, parents, and students across the nation. In addition, a disturbing number of youth are misusing Internet and cell phone technology to bully, harass, and even incite violence against others. As Education Secretary Arne Duncan has said, “bullying is doubly dangerous because if left unattended it can rapidly escalate into even more serious violence and abuse.” For some perpetrators, in-person bullying and harassment, as well as online cruelty, may be precursors to more destructive behavior, including involvement in hate groups and bias-related violence.

The impact of bullying has been well documented. Studies have shown that difficulty making friends, loneliness, low self-esteem, depression, poor academic achievement and truancy are all associated with being bullied. However, to date, there is insufficient data on the nature and magnitude of bullying directed at individuals on the basis of their sexual orientation – and there is even less on religion-based and gender identity-based bullying. The few available studies demonstrate that a majority of LGBT students experience some form of verbal or physical bullying or harassment because of their sexual orientation or gender expression – and that many LGBT students feel unsafe in their own schools. This leads to problems with absenteeism, lowered academic aspirations and achievement, and poorer psychological well-being.<sup>3</sup>

Similarly, many students are targeted because of visible symbols of their religion, such as hijabs, turbans, or yarmulkes.<sup>4</sup> According to the Department of Health and Human Services, there have been several reports that indicate a rise in anti-Muslim and anti-Sikh bullying attributable to the false perception of an association between their religious heritage and terrorism.<sup>5</sup> However, further data is necessary to confirm national bullying trends motivated by religion. A 2013 report by the American Educational Research Association recommended that further research be conducted “to identify groups of individuals who are particularly vulnerable to bullying, harassment, and victimization.”

The Department of Education’s June 21, 2013 Supporting Statement provides an excellent reason for expanding OCR data collection in education settings to include the number of allegations of bullying or harassment on the basis of religion and sexual orientation:

Collecting these data would allow OCR to provide technical assistance where there are patterns of harassment and to assist with investigations in response to complaints. In 2010, OCR issued guidance regarding bullying and harassment that indicated that, under some circumstances, harassment against gay and lesbian students would violate Title IX (prohibiting sex discrimination), and that, under some circumstances, harassment against Jewish and Muslim students would violate Title VI (prohibiting national origin discrimination)... In addition, these data would further the effective administration of programs under the ESEA.

2) Opposition to the proposal to drop questions relating to whether an education unit has adopted written policy prohibiting harassment and bullying on the basis of a civil rights law.

We strongly urge the Department to reconsider the proposal to drop questions for education units on whether they have written policies prohibiting bullying and harassment. Though the CRDC bullying and harassment data collection effort is only four years old – and the data is, therefore, far from complete – the CRDC has already demonstrated its potential to be the single best source of information on school and school district bullying and harassment data. An essential starting point for effective response to bullying and harassment in schools is the adoption of a comprehensive, inclusive bullying and harassment prevention policy. The inclusion of questions relating to whether an education unit has such a policy elevates awareness of the value of these policies and demonstrates that the Department of Education believes that having such policies is important – significant enough to highlight in the CRDC. Access to this information serves as an essential

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<sup>3</sup> <http://www.glsen.org/sites/default/files/2011%20National%20School%20Climate%20Survey%20Full%20Report.pdf>

<sup>4</sup> <http://www.stopbullying.gov/at-risk/groups#religion>

<sup>5</sup> <http://www.stopbullying.gov/at-risk/groups#religion>

measure of accountability for school districts that have, or have not, adopted a policy. Importantly, dropping such questions would send exactly the opposite message – an unwelcome, incorrect suggestion that bullying and harassment policies have become less important to schools and the Department of Education.

We understand that the Department is always trying to gauge the value of a CRDC question versus its utility and its burden. Yet, responding to questions about whether the education unit has a written policy on bullying and harassment would seem to be a low burden question that provides a vital piece of information in creating a safe learning environment. In fact, the CRDC survey would be the only national aggregation of that information of its kind.

We recommend consideration of a compromise proposal. In past CRDC surveys, this information was collected in four separate questions. One question asked about the existence of a written policy, and other questions asked whether there was a policy on the basis of: 1) disability, 2) sex, 3) race, color, or natural origin.

Combining these four questions into one inclusive question would free up the CRDC survey for other priority questions, without suggesting any diminution in the importance of information regarding the school district's adoption of an inclusive bullying and harassment prevention policy. To augment that singular question, we urge the Department to strongly consider asking the education units that indicated that they have adopted a bullying and harassment prevention policy to include a link to their policy in the comments section of that question.

The Obama Administration has demonstrated extraordinary commitment to addressing bullying and cyberbullying in a comprehensive and inclusive manner. Expanding CRDC data to include reports of bullying and harassment based on sexual orientation and religion – and explicitly identifying gender identity incidents – would be important and welcome steps towards ensuring that schools and school districts have access to relevant and accurate data necessary for promoting safe schools. In keeping with the commitment to addressing bullying and cyberbullying in a comprehensive and inclusive manner, we ask the Department to reconsider dropping questions related to whether schools have adopted a written bullying and harassment prevention policy – and instead maintain that critically important awareness and accountability measure.

Sincerely,

American-Arab Anti-Discrimination Committee (ADC)  
American Association of Colleges for Teacher Education (AACTE)  
American Association of People with Disabilities (AAPD)  
American Association of University Women  
American Federation of Teachers, AFL-CIO  
American Jewish Committee (AJC)  
American Psychological Association  
Anti-Defamation League  
Asian Americans Advancing Justice – AAJC  
Association of Jewish Family & Children's Agencies  
Bazelon Center for Mental Health Law  
B'nai B'rith International  
Campaign for Community Change  
Family Equality Council  
Gay & Lesbian Advocates & Defenders (GLAD)  
Gay, Lesbian & Straight Education Network (GLSEN)  
Hadassah, The Women's Zionist Organization of America, Inc.  
Human Rights Campaign  
Human Rights First  
Interfaith Alliance  
Japanese American Citizens League  
Jewish Council for Public Affairs  
The Jewish Disability Network

The Jewish Federations of North America  
Jewish Women International  
Lambda Legal  
League of United Latin American Citizens  
Muslim Advocates  
NAACP  
National Center for Lesbian Rights  
National Center for Transgender Equality  
National Council of Jewish Women  
National Disability Rights Network  
National Education Association  
National Gay and Lesbian Task Force  
National Women's Law Center  
Nehirim  
North American Federation of Temple Youth (NFTY)  
OCA – Asian Pacific American Advocates  
PFLAG National  
People For the American Way  
Sikh American Legal Defense and Education Fund (SALDEF)  
Sikh Coalition  
South Asian Americans Leading Together (SAALT)  
Southern Poverty Law Center  
The Trevor Project  
Union for Reform Judaism  
United Synagogue of Conservative Judaism  
Women of Reform Judaism