

December 16, 2024

RE: Response to Public Input on Civil Rights Data Collection for 2025-26 and 2027-28 School Years
(Docket [ED-2024-SCC-0128-0001](#))

Dear Assistant Secretary Lhamon,

The Children's Equity Project (CEP) at Arizona State University (ASU) is grateful for the opportunity to provide public comment on the Civil Rights Data Collection (CRDC) by the Office of Civil Rights (OCR) on the proposed new and revised data elements in the information collection request (ICR). We appreciate the solicitation of public input and provide our feedback and recommendations developed with research, policy, and practice in mind.

The CEP's comments reflect our goal to advance equity in education systems with a particular focus on improving the CRDC to accurately reflect access for children with disabilities and emergent bilingual students, also referred to as Dual Language Learners or English Learners. More than four decades ago, Congress established the OCR to ensure students' equal access to educational opportunities. Over these past 45 years, OCR has met its obligations by safeguarding the rights of students and ensuring historically marginalized populations of students are not denied educational opportunities. The CRDC is a key resource to capture data on students' equal access to educational opportunities and to inform OCR, the federal government, researchers, and communities about schools' compliance with the civil rights laws.

Please let us know if we can provide any additional information. Thank you for your consideration.

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Public Comments from the Children's Equity Project

Non-COVID-19-related Instruction, Data Group (DG) 907

Recommendation: OCR should add new data elements into the Non-COVID-19-related Instruction school-level data elements that capture (a) whether or not a school temporarily shifted the instruction offered during the school year, and (b) the reasoning for any temporary changes to provide key insights to OCR, researchers, and communities to understand the root causes of disruptions in instruction and potential disproportionate impact on certain populations.

Disruptions to consistent, stable educational environments directly impact student growth and academic outcomes¹—such as pandemic closures and school closures due to climate or weather events, educator retention issues, and other factors. These learning disruptions vary across communities and disproportionately impact low-income districts and schools serving larger percentages of marginalized students.² Of note, the functioning of schools is increasingly impacted by weather events and the changing climate, which presents unique threats to children who are especially vulnerable because of their growing bodies. For example, exposure to unhealthy air pollution and poor air quality that forces students indoors, floods and wildfires that damage school facilities and homes, and extreme heat that shutter classrooms with inadequate resources to address minimal classroom safety needs like air conditioning, lead to long-term negative health, mental health, and developmental consequences for students.³

¹ Harmey, S. & Moss, G. (2021). Learning disruption or learning loss: using evidence from unplanned closures to inform returning to school after COVID-19. *Educational Review*, 75(4), 637-656. <https://doi.org/10.1080/00131911.2021.1966389>; Kim, J. (2024). *The long shadow of school closures: Impacts on students' educational and labor market outcomes*. (Working Paper, 24-963). Annenberg Institute at Brown University. <https://doi.org/10.26300/ax4m-3z14>; Schnieders, J.Z. (February, 2023). *Disruptions and gains: Students' reflections on the effects of the pandemic*. ACT Research. www.act.org/content/dam/act/unsecured/documents/R2295-Disruptions-Gains-Effects-of-Pandemic-02-2023.pdf.

² Eddins, M., Pehrson, M., & Burgess, K. (June, 2024). *Revisiting research on school closings: Key Learnings for district and community leaders*. Research for Action and Pennsylvania Clearinghouse for Education Research. www.researchforaction.org/wp-content/uploads/2024/06/revisiting-research-on-school-closings-key-learnings-for-district-and-community-leaders.pdf; Fahle, E.M., Kane, T.J., Patterson, T., Reardon, S.F., Staiger, D.O., & Stuart, E.A. (May, 2023). *School district and community factors associated with learning loss during the COVID-19 pandemic*. Center for Education Policy Research, Harvard University. https://cepr.harvard.edu/sites/hwpi.harvard.edu/files/cepr/files/explaining_covid_losses_5.23.pdf.

³ Bucher, E.Z., Meek, S., Alexander, B.L., Soto-Boykin, X., & Cardona, M. (June, 2024). *Expanding access, enhancing quality, and advancing equity through state Child Care and Development Fund (CCDF) plans*. The Children's Equity Project. <https://cep.asu.edu/resources/AdvancingEquity-through-2025-2027-CCDF>; Sanson, A.V., Van Hoorn, J., & Burke, S.E.L. (2019). Responding to the impacts of the climate crisis on children and youth. *Child Development Perspectives*, 13(4), 201-207. <https://doi.org/10.1111/cdep.12342>; U.S. Early Years Climate Action Task Force. (2023). *Flourishing children, healthy communities, and a stronger nation: The U.S. early years climate action plan*. www.earlyyearsclimateplan.us; U.S. Environmental Protection Agency. (2023). *Climate change and children's health and well-being in the United States*. www.epa.gov/cira/climate-change-and-childrens-health-report.

Informal Removals, DG 1004, DG 1005, DG 1006

Recommendation: The CEP strongly supports including informal exclusions in CRDC.

As states and districts make an effort to curb expulsion and suspension, so-called soft suspensions and expulsions—or instances where children are “informally removed” and subtly pushed out of schools—sometimes even despite the presence of policies prohibiting this practice, have been on the rise.⁴ This can take the form of teachers frequently calling parents, suggesting a program is not a good fit, or asking families to pick children up without labeling this as a suspension.⁵ These soft exclusions result in children being removed from the learning setting and operate similarly to traditional exclusions but have been more difficult to track due to the unofficial nature of the exclusion. Understanding the rate at which children are excluded from the classroom—including soft exclusions and informal removals—is essential, but currently difficult given the lack of data reporting.

We recommend including a three part question on informal removals that specifies 1) duration of time away; 2) behavior that led to exclusion; and 3) whether the removal was on or off campus- in addition to child and teacher demographics (e.g. race, gender, disability, language).

We also believe that informal removals should be tied to alleged misconduct. Removals can happen for a number of other reasons (e.g., a student is feeling unwell). Isolating the data to removals that are due to alleged misconduct allows for greater transparency and a more precise understanding of issues that may have civil rights implications for students.

Non-LEA Facilities, DG 910, DG 939, DG 1049

Recommendation: The CEP strongly supports including data on students being served in non-LEA settings disaggregated by race, sex, and disability, and English Learner status—including the proposed number of preschool students enrolled in an LEA and who are being

⁴ Hoffstein-Rahmey, D., Giordano, K., Murphy, K. M., Reizin-Friedman, R., & Coyne, A. (2024). Soft expulsion: What happens when school-based supports aren't enough. *School Mental Health, 16*(4), 1171-1182.; Meek, S.E., Alexander, B.L., Bucher, E., Soto-Boykin, X., Catherine, E., Palomino, C., Ameley-Quaye, A. (November, 2023). *Start with equity Arizona: Increasing access, improving quality, and advancing equity in Arizona's early care and learning systems*. The Children's Equity Project. <https://cep.asu.edu/resources/Start-with-Equity-Arizona>; Murphy, K., Giordano, K., Hofstein-Rahmey, D., Reizin, R., & Coyne, A. (2024). Soft expulsion: A solution when there are no other options? *Children and Youth Services Review, 158*, 107441. <https://doi.org/10.1016/j.childyouth.2024.107441>; Zinsser, K. M., Silver, H. C., Shenberger, E. R., & Jackson, V. (2022). A systematic review of early childhood exclusionary discipline. *Review of Educational Research, 92*(5), 743–785. <https://doi.org/10.3102/00346543211070047>.

⁵ Loomis, A. M., & Panlilio, C. C. (2022). Trauma-informed attitudes, teacher stress, and expulsion decision risk in preschool classrooms. *School Mental Health, 14*(4), 918–932. <https://doi.org/10.1007/s12310-022-09513-6>; Zinsser, K., Silver, H. C., Hussani, Q., & Zulauf-McCurdy, C. (2019). *Evaluation report of the implementation of Illinois Public Act 100-0105: Early childhood programs' knowledge of and responses to the 2018 expulsion legislation*. University of Illinois at Chicago. <https://doi.org/10.25417/uic.14522400.v1>.

served in a non-LEA facility only; number of K-12 students enrolled in an LEA and who are being served in a non-LEA facility only; number of K-12 students enrolled in an LEA and who are being served in a non-LEA facility only that are subjected to mechanical restraint, physical restraint, and seclusion; and number of K-12 students enrolled in the LEA and who were being served in non-LEA facilities only, subjected to seclusion.

Teacher Certification in Specialized Areas, DG 1039

Recommendation: The CEP strongly supports more explicitly inserting language access in CRDC. Teacher certification is an important proxy to understanding language access for children who speak languages other than or in addition to English at home. Equal access to educational opportunities—including equal access to the curriculum, instruction, teacher relationships, school materials, and more—necessarily requires a dual language or bilingual approach.⁶ Dual or bilingual education is the most accessible learning approach to English Learners and other multilingual children, as all grade-level instruction is presented in their home language and English, therefore ensuring they are exposed to grade-level content, regardless of their English proficiency.⁷ Indeed, a robust base of research has found that dual language education is the gold standard for multilingual learners—from preschool and across the educational continuum.⁸

Defining Specialized Areas of Bilingual Certification/License/Endorsement. The CEP agrees that it is important to explicitly define teachers' specialized bilingual certification, licensure, or endorsement to account for the variability across states. To account for this variability, we recommend defining bilingual certification, licensure, or endorsement as those explicitly focusing on bilingual and biliterate instruction in dual language or bilingual education settings. This certification, licensure, or endorsement is aligned with states' specific requirements, including through the participation of bilingual preparation program, credentialing assessment, completing additional coursework or a practicum, and demonstrating proficiency in the non-English language of instruction. To reduce the potential for confusion, we recommend explicitly stating that this bilingual certification, licensure, or endorsement is *not* referring to English as a second language certifications/endorsement, where the focus is on providing English-only instruction.

⁶ Werblow, J., Duesbery, L., & Koulidobrova, H. (2020). The case for dual language programs as the future of public education. *Journal of Educational Leadership and Policy Studies*, 3(3).

⁷ Lindholm-Leary, K., Martinez, M. I., & Molina, R. G. (2018). Dual language education as a state equity strategy. In *Language and Social Justice in Practice* (pp. 80-87). Routledge.

⁸ Barnett, W. S., Yarosz, D. J., Thomas, J., Jung, K., & Blanco, D. (2007). Two-way and monolingual English immersion in preschool education: An experimental comparison. *Early Childhood Research Quarterly*, 22(3), 277-293; Durán, L. K., Roseth, C. J., & Hoffman, P. (2010). An experimental study comparing English-only and transitional bilingual education on Spanish-speaking preschoolers' early literacy development. *Early Childhood Research Quarterly*, 25(2), 207-217; Steele, J. L., Slater, R. O., Zamarro, G., Miller, T., Li, J., Burkhauser, S., & Bacon, M. (2017). Effects of dual-language immersion programs on student achievement: Evidence from lottery data. *American Educational Research Journal*, 54(1_suppl), 282S-306S; Padilla, A. M., Chen, X., Swanson, E., Peterson, M., & Peruzzaro, A. (2022). Longitudinal study of Spanish Dual Language Immersion graduates: Secondary school academic and language achievement. *Foreign Language Annals*, 55(2), 408-434.

Dual Certifications. The CEP agrees that it is important to ensure that teachers' credentials related to bilingual education and English as a second language are counted accurately. We recommend adding the following subquestions: (a) number of teachers that have an English as Second Language certification only; (b) number of teachers that have a bilingual certification/license/endorsement only; and (c) number of teachers that have *both* a certification in English as a second language *and* bilingual education. In addition, OCR should consider the access that EL and multilingual children with disabilities have to dual language education and bilingual educators. OCR can do this by adding a question to the above asking for the number of special educators and related service providers who have a special education and bilingual certifications, licenses, or endorsements.

Dual Language or Bilingual Education. Finally, it is critical to understand whether teachers who have such an endorsement or license are actually using it in their classroom and providing bilingual or dual language instruction. This would help the field understand untapped linguistic potential in the workforce, as well as the current state of actual instruction in dual languages.