

Submitted via www.regulations.gov

December 13, 2024

Stephanie Valentine, PRA Coordinator
Strategic Collections and Clearance
Governance and Strategy Division
Office of Chief Data Officer
Office of Planning, Evaluation and Policy Development
U.S. Department of Education
400 Maryland Ave. SW, LBJ, Room 4C210
Washington, DC 20202-1200

RE: Agency Information Collection Activities; Comment Request; Mandatory Civil Rights Data Collection – Docket ID ED-2024-SCC-0128

Dear Coordinator Valentine:

I am a professor at the University of Maryland Francis King Carey School of Law and faculty director of the Gibson-Banks Center for Race and the Law (Gibson-Banks Center). I submit these comments on behalf of the Gibson-Banks Center¹; however, I also teach the Youth, Education, and Justice Clinic. With these interests, I write in response to the U.S. Education Department's notice published in the Federal Register on October 17, 2024, regarding the proposed Civil Rights Data Collection (CRDC) Information Collection Request for the 2025-26 and 2027-28 school years.

The mission of the Gibson-Banks Center is to examine and address persistent issues of historical and current racial inequalities across systems and institutions in the City of Baltimore, the State of Maryland, and nationwide. Through education and engagement, advocacy, and research, the Gibson-Banks Center collaborates with students, faculty, community activists, policy makers, lawyers and other stakeholders to clarify and protect the civil rights of racially marginalized communities. We welcome the opportunity to express support for the CRDC generally and to provide specific comments on the proposed 2025-26 and 2027-28 CRDCs.

¹ This letter is submitted on behalf of the Gibson-Banks Center, and not on behalf of the University of Maryland Francis King Carey School of Law or University of Maryland, Baltimore.

Continue collecting CRDC data from public schools and districts nationwide

Since 1968, parents, guardians, students and attorneys who represent them have relied on the U.S. Education Department’s civil rights data to understand the experiences of students in the nation’s public schools. Law professors rely on the data as well, in their teaching, advocacy, and scholarship. I developed the Youth, Education and Justice Clinic nearly ten years ago. Each semester, I use the CRDC data in my teaching and advocacy. I instruct my students on how to use the data to better understand the experiences of Maryland’s public-school students as it relates to student discipline. Specifically, my students and I incorporate the CRDC data into our client and legislative advocacy, as we articulate the ways in which our clients—K-12 students who are primarily Black and/or have learning-related disabilities — have been excluded from Maryland schools due to suspensions, expulsions, and school-based arrests. Because CRDC data are collected from public schools and school districts from all 50 states, the District of Columbia, and the Commonwealth of Puerto Rico, my students can compare the experiences of Maryland students with those of students in other states. In essence, we rely on the CRDC to contextualize Maryland.

The Gibson-Banks Center supports the U.S. Education Department’s Office for Civil Rights (OCR) proposal to continue the collection of civil rights data nationwide for the 2025-26 and 2027-28 school years. Doing so will allow OCR, the Gibson-Banks Center, and other civil rights organizations and attorneys to continue the important work of ensuring that all students have equal access to educational opportunities regardless of race, national origin, sex, or disability as required by federal civil rights laws.

Require data collection on informal removals

We support OCR’s proposal to begin collecting data on the informal removal of students in preschool through grade 12 disaggregated by sex and race or ethnicity, sex and disability, and sex and English Learner. As is true in other states, informal removals live in the shadows of Maryland’s school discipline apparatus. The data is essentially non-existent, yet we know, from the experiences of clients of the Youth, Education, and Justice Clinic, that these removals are broad and constant. Many of the Clinic’s clients, particularly young clients (pre-kindergarten to second grade) and clients with disabilities, have routinely been excluded from class or sent home without formal documentation. Our experiences align with research, which shows that informal removal of students has denied them access to educational opportunities.²

OCR plans to define informal removals as follows:

Informal removal refers to any action by a school staff member to remove a student (regardless of age, grade level, or disability status) from an education program or activity for a period of time without the incident being entered into a student’s school record or without providing written notification about the incident to the student’s guardian.

² See generally, National Disability Rights Network, *Out from the Shadows Informal Removal of Children with Disabilities from Public Schools* (January 2022), <https://www.ndrn.org/wp-content/uploads/2022/01/Out-from-The-Shadows-1.pdf>.

We recommend the following clarifying revisions to the definition:

Informal removal refers to any action by a school staff member to remove a student (regardless of age, grade level, or disability status) from an education program or activity for a period of time due to a student's behavior without the incident being entered into a student's school record or without providing written notification about the incident to the student's guardian. Written notification is defined as a written explanation to a parent, guardian, or caretaker, on official school letterhead, of why the student was removed.

Collect data on student referrals to threat assessment teams

Since the early 2000s, the U.S. Education Department and the U.S. Secret Service has urged schools to use threat assessments to prevent acts of school violence by students.³ Specifically, federal law enforcement agencies have advised schools across the nation to create threat assessment teams comprising school personnel, including school police, to identify and manage students who may pose a threat of violence at schools.⁴ The Gibson-Banks Center is deeply concerned about using a law enforcement framework to assess alleged threatening student behavior in a school setting. Similar to some student discipline infractions, such as disorderly conduct, threats are subjective. A child who is misunderstood, misinterpreted, or agitated is at risk of being deemed a threat, depending on the interpretations and biases of any assessment team member. These interpretative risks may differ based on a student's race, national origin, or disability. That said, because threat assessment teams exist in school districts nationwide, including in Maryland, we support OCR's proposal to collect data about the prevalence of these teams.

Specifically, OCR proposes to add a new data element that would ask schools "[w]hether the school has a threat assessment team or any other formal group of persons to identify students who might be a potential risk for violent or harmful behavior (toward themselves and others)." The Gibson-Banks Center recommends adding a question about the membership of threat assessment teams; specifically, whether law enforcement officers, special education specialists, teachers, counselors, nurses, psychologists, social workers, or other school staff are members of the team. We also recommend the collection of data about the number of students who are referred to threat assessment teams disaggregated by race or ethnicity, sex, English Learner, and disability.

Thank you for considering the above comments. If you have any questions, then please do not

³ See, U.S. Secret Service and U.S. Department of Education, *Threat Assessment in Schools: A Guide to Managing Threatening Situations and the Creating Safe School Climates*, July 2004, <https://www.ed.gov/sites/ed/files/admins/lead/safety/threatassessmentguide.pdf>. See also,

⁴ See, National Threat Assessment Center, U.S. Secret Service, *Enhancing School Safety Using A Threat Assessment Model An Operational Guide for Preventing Targeted School Violence* (July 2018), https://www.cisa.gov/sites/default/files/publications/18_0711_USSS_NTAC-Enhancing-School-Safety-Brief.pdf.

hesitate to contact me at 410-706-3295.

Sincerely,

/s/

Michael Pinard

Francis and Harriet Iglehart Professor of Law

Faculty Director, Gibson-Banks Center for Race and the Law