Dear colleagues:

We are writing to comment on the proposed Civil Rights Data Collection (CRDC), and to suggest some changes to make the CRDC more useful as a tool to assess the impacts of modern school segregation policies, and to further the compelling national interest in promoting racial and economic integration of schools.

While the Civil Rights Data Collection provides crucial data on discriminatory policies, practices, and resource disparities, it has strayed from one of its original purposes, to monitor and support the implementation of holistic school desegregation plans.1 By assessing the multiple aspects of successful school integration plans, consistent with the mandate of Green v. County School Board of New Kent County, 391 U.S. 430 (1968),2 the CRDC enabled the Office for Civil Rights (OCR) and the Department of Justice to determine how well a district was doing in its efforts to fully integrate.3

Fifty-four years later, at a time when school segregation is increasing for low income children of color,4 the CRDC could still be a useful tool for both OCR enforcement of Title VI and local efforts to support school integration, by making it easier to see and compare multiple CRDC factors across racial enrollment of schools and districts, and by assessing the levels and rates of change in segregation within and across districts.

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2 The Green case called for an assessment or “every facet of school operations,” including “faculty, staff, transportation, extracurricular activities and facilities.” 391 U.S. at 435 (the “Green factors”).
3 Orfield, supra note 1.
Integration report cards: In much the same way that HUD has required jurisdictions to self-assess their patterns of segregation, OCR could make more use of the school-by-school racial enrollment data and indicate the degree to which each school varies from the mean racial enrollment data of the district. As with HUD’s AFFH tool, this data can self-populate from the NCES data, no additional effort would be required on the part of local districts. The data provided in other sections of the CRDC (school discipline rates, enrollment in advanced classes, etc) could then be easily cross-referenced by school – thus showing the relationships between factors such as graduation rates, suspension rates, and rates of experienced teachers and school/district enrollment composition by race.

School assignment policies: The vast majority of school districts in the U.S. assign children to schools based on their address, and changes in school assignment zones are a major factor contributing to increased school segregation within districts. A district’s approach to school assignment often determines whether students can access equitable educational opportunities. Districts should be required to report and specify any schools with changed attendance zone boundaries that occurred since the prior CRDC, and to report the resulting change in racial enrollment in the affected schools. In addition, the CRDC should require district reporting of any choice-based student assignment policies in effect.

School desegregation and school integration plans: The Office for Civil Rights and the Department of Justice have extensive files on districts still under desegregation plans, and similar data is compiled by private groups, including Brown University, The Century Foundation, and Propublica. To further data transparency, in addition to simply requesting that districts report whether they are operating a desegregation program, the Department of Education should automatically include a hyperlink to each plan in the district’s public-facing report.

Dual language programs: Well-designed and implemented dual language programs are associated with linguistic gains for English Learners and the cognitive and social/psychological

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6 Because school districts report NCES data in the fall and CRDC data typically in the spring, these two data sources may not align perfectly (e.g., in districts/schools with high turnover or dropout rates). Regardless, districts are already required to report enrollment data to the federal government and its inclusion would be a major improvement in CRDC accountability. For the future, the CRDC could also consider aligning its reporting schedule with the NCES.
9 https://s4.ad.brown.edu/Projects/schoolsegregation/SegDown/
10 https://tcf.org/content/report/school-integration-america-looks-like-today/
11 https://projects.propublica.org/graphics/desegregation-court-records
benefits of integration for all students.\textsuperscript{12} Little to no systematic data collection of dual language programs and their students exists, however. We recommend that the CRDC begin reporting on dual language programs, including school name; grade levels; partner language; year program started; type of program (e.g., one-way immersion, two-way immersion); program model (e.g., 90:10, 50:50); enrollment data (language, race, and whether the program is whole-school). Districts should also report whether dual language programs are used as a tool for desegregation through desegregation orders and voluntary efforts.

Additional missing factors in the CRDC: There are several factors not currently included in the CRDC that have a powerful effect on student outcomes, based on recent research:

- **School poverty rate:** The concentration of very low income children in racially isolated schools is a significant contributing factor to the racial achievement gap,\textsuperscript{13} and should be reported in the same way that other inputs are currently reported in the CRDC.

- **Educator diversity:** Surprisingly, race and ethnicity of certified teaching staff, by school, is not currently included in the CRDC in spite of growing evidence on its importance to student achievement and school climate.\textsuperscript{14} This data is also arguably authorized by Title II of the ESEA,\textsuperscript{15} and was also one of the original Green factors.\textsuperscript{16}

- **Resources:** As the Office for Civil Rights powerfully demonstrated in a 2014 policy guidance,\textsuperscript{17} racial disparities in resources across schools within a district (and across districts) present serious civil rights issues. All such disparities should be tracked in the CRDC to determine the relation between segregation and school resources.\textsuperscript{18}

- **Data on Referrals to law enforcement and school-based arrests:** With growing concerns about how police engage with people of color, including students of color, these data,


\textsuperscript{14} For a summary of some of this evidence, see \url{https://www.nytimes.com/2018/09/10/upshot/teacher-diversity-effect-students-learning.html}. \textit{See also} Anna J.Egalite and Brian Kisida, \textit{The Many Ways Teacher Diversity May Benefit Students} (2016), \url{https://www.brookings.edu/blog/brown-center-chalkboard/2016/08/19/the-many-ways-teacher-diversity-may-benefit-students/}, which notes that teachers of color can positively impact academic outcomes and school experiences for students of color.

\textsuperscript{15} \textit{See, e.g.,} 20 USC §6611(c)(4). \textit{See also} Department of Education, Office of Elementary and Secondary Education “Non-Regulatory Guidance for Title II, Part A: Building Systems of Support for Excellent Teaching and Leading” at 17–18 (2016), \url{https://www2.ed.gov/policy/elsec/leg/essa/essattileiapartaguidance.pdf} (This non-binding guidance on Title II states “research shows that diversity in schools, including representation of underrepresented minority groups among educators, can provide significant benefits to all students,” and encourages SEAs and LEAs to “consider supporting a diverse educator workforce as a critical component of all strategies across the career continuum.”)

\textsuperscript{16} \textit{See Green, supra} note 2.

\textsuperscript{17} “Dear Colleague” letter from Catherine Lhamon, October 1, 2014, available at \url{https://www2.ed.gov/about/offices/list/ocr/letters/colleague-resourcecomp-201410.pdf}.

\textsuperscript{18} Cf. EdBuild, \textit{$23 Billion}, \url{https://edbuild.org/content/23-billion}.\textsuperscript{15}
although required by the CRDC since 2009, are often missing or inaccurately reported.\textsuperscript{19} Emerging research suggests that rates of referrals to law enforcement may be more prevalent in racially isolated schools. OCR should issue clarifying guidance and provide technical assistance and use other accountability mechanisms to improve the accuracy of these data.

\textbf{Data transparency:} We commend the Department for its improvements in data transparency during the Obama Administration, but there is still significant room for improvement. For example, it is still virtually impossible to compare CRDC data across district boundaries, without downloading the data to analyze. That may limit its usefulness for communities and families. In addition, we applaud that OCR will collect universal for two consecutive years and urge DOED to make the CRDC an annual and universal collection. Having annually reported data from every school and district will make the data more useful for the purposes of civil rights enforcement and for monitoring civil rights remedies.

Thank you for your consideration of these comments.

Sincerely,

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\textsuperscript{19} Daniel Losen and Paul Martinez, Lost opportunities: \textit{How disparate school discipline continues to drive differences in the opportunity to learn} (Learning Policy Institute and Center for Civil Rights Remedies at the Civil Rights Project, UCLA, 2020).
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