



November 12, 2019

Mark Allan Schultz  
Acting Assistant Secretary  
Office of Special Education and Rehabilitative Services  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

RE: Office for Civil Rights, Department of Education: Agency Information Collection Activities; Comment Request; Mandatory Civil Rights Data Collection (Docket No.: ED-2019-ICCD-0119)

Dear Acting Assistant Secretary Schultz:

On behalf of the American Speech-Language-Hearing Association, I write to comment on the September 19, 2019, *Federal Register* notice on Mandatory Civil Rights Data Collection.

The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 204,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students.

Audiologists specialize in preventing and assessing hearing and balance disorders as well as providing audiologic treatment, including hearing aids. Speech-language pathologists (SLPs) identify, assess, and treat speech and language problems, cognitive impairments, and swallowing disorders. More than half of ASHA members are employed in educational settings. The services provided by ASHA members help ensure students receive a free appropriate public education (FAPE).

The Civil Rights Data Collection (CRDC) is a longstanding aspect of the overall enforcement and monitoring strategy used by the U.S. Department of Education's (ED's) Office for Civil Rights (OCR) to ensure that recipients of ED's federal financial assistance do not discriminate on the bases of race, color, national origin, sex, and disability. ASHA recommends that OCR continues to collect this data and not retire any of the collection activities, in accordance with the civil rights laws enforced by OCR for which the CRDC collects data. This includes Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin; Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex; and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability.

ASHA recommends that ED continue collecting all data and not retire data collection as proposed. This data is used to inform state and local education agencies' (LEA) decision-making. Accountability diminishes without adequate data collection. The information collected allows ED to monitor, enforce, and support states and LEAs in their efforts to improve access to FAPE. Over time, the data collected shows trends within and across states and informs ED on supporting states and LEAs most appropriately based on the data. It's best practice for practitioners to collect data on their interventions so the data collection continues regardless of whether they must report it to the state or LEA for submission to OCR. In addition, meaningful

data collection informs Congress's decision-making on allocating resources where there is a demonstrable need.

ASHA provides the following responses to the questions posed (1, 3, 4, and 5) in ED's comment request.

***(1) Is this collection necessary to the proper functions of the Department?***

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**Recommendation:** Yes, ASHA recommends that ED not retire the collection of any proposed data elements (e.g., age of participants, length of preschool day, cost of program, family income, type/management of facility, IDEA status, gender, race/ethnicity, native language).

**Rationale:** ED needs this data to fulfill its role and serve as a resource for states and LEAs. Data collection and analysis are critical to determine appropriate resource allocation for them. In addition, continued data collection allows for comparison of data across states to identify effective strategies for eliminating disparities.

***(3) Is the estimate of burden accurate?***

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**Comments:** ASHA maintains that the long-term cost of not collecting data poses a greater threat to program effectiveness and efficiency than the short-term burden reduction that could be realized by not reporting already collected data to federal agencies.

***(4) How might the Department enhance the quality, utility, and clarity of the information to be collected?***

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**Recommendation A:** Do not retire the collection of any data elements that are proposed in this notice.

**Rationale:** The data elements proposed for retirement provide specificity on various learning environments and child/family characteristics, which affect children's success academically and beyond. Retiring these data elements would have negative implications on access to appropriate early childhood programs that foster future school readiness.

**Recommendation B:** Continue to collect this important civil rights data in its entirety, particularly in the following four areas:

**1. Personnel, such as for new teachers.**

**Rationale:** A key role at ED is to support personnel, eliminating data collection for new teachers may have unintended negative consequences. It could eliminate the detection of necessary supports required for new instructors as well as reduce the retention of qualified personnel requiring guidance and support to work with diverse populations. Persistent vacancies in districts with less local funding and federal resources may result in creating gaps in quality education depending upon location.

**2. Students served under Section 504 who participate in IB and AP courses.** This activity identifies the number of students receiving accommodations and modifications who participate in IB and AP courses and the subsequent summative academic assessments.

- 3. Early childhood, preschool, and kindergarten enrollment** on activities related to: *“Indication of whether the LEA’s preschool services or programs, in either LEA or non-LEA facilities, were being offered to all children; IDEA children; children in Title I schools; low-income children.”*

**Rationale:** Data on students receiving accommodations and modifications for IB and AP courses under Section 504 inform decision-making for providing 504 services to students. Reducing reporting burden should not be the reason to remove data collection. Also, early childhood data collection identifies subpopulations of students between the ages of three to five, who have speech-language disorders, learning disabilities, social-emotional disabilities, and other health impairments under IDEA Part C. Schools can access this data as students proceed to elementary school and receive services under IDEA Part B.

A profile of academic success is incomplete without data in AP participation as well as early childhood education. Conducting complete data collection across multiple trajectories informs how the education system may impede the education of the students. Lack of data collection in early childhood, for example, would potentially limit, inhibit, and alter the ability to determine and implement effective early elementary programming.

- 4. Early childhood, preschool, and kindergarten, including disaggregated data by race and ethnicity.**

**Rationale:** This data collection helps identify students who are disproportionately excluded from early childhood, preschool, and kindergarten programs, and consequently impacts the domains of school-readiness and social-emotional development. Therefore, this data collection must continue to determine appropriate allocation of resources. This data also allows for cross comparison data between states to identify effective strategies to eliminate disparities.

**Recommendation C:** ASHA supports the addition/expansion of data collection in the following three areas:

- 1. Sex and gender identification.**

**Rationale:** As LEAs currently collect data in the area of sex and gender identification, ED should modify its response categories in the data collection to reflect data LEAs are currently collecting.

- 2. ASHA supports the proposed collection of additional data elements related to offenses of **sexual violence, harassment or bullying**, important elements to address the ever-increasing concerns about school climate and safety.**
- 3. ASHA supports the addition of data collection based on **religion in the areas of harassment and discipline**.**

**Rationale:** Collecting data provides critical information to respond to the *“ten-fold increase in the number of cases OCR has seen annually involving sexual violence from*

*2009-2018, the experience of OCR's enforcement offices, and the gravity of the offenses...".<sup>1</sup> The data elements would capture incidence and prevalence of harassment and bullying in schools based on religion and other factors including race, socio-economic status, and disability status.*

***(5) How might the Department minimize the burden of this collection on the respondents, including through the use of information technology?***

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**Recommendation:** ASHA recommends examining ways to create one universal system for data collection and reporting that may alleviate the duplicative collection burden because established systems across various agencies already collect significant civil rights data. In addition, as ED considers quality improvement and funding, comprehensive and universal data collection systems produce economies of scale that may significantly reduce the overall burden from state to state in the data analysis.

**Rationale:** Creating one universal system for comprehensive data collection and reporting would streamline the collection and reporting process and inform states and LEAs decision-making in many areas, including education programming and access to education. The data collected facilitates accountability and informs ED's decision-making when supporting states and LEAs in their efforts toward improving access to education.

**Additional Comments: From Directed Question #6 in Attachment A-5:**

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**How are the data for each data element noted above being used by the public?**

**Comments:** Each of these data elements provide comprehensive information about the ways in which states and LEAs prepare children for school and how children develop in relation to their family, early childhood, and school environments. These data enable stakeholders to study the relationship between a wide range of family, school, community, and individual variables on children's development, early learning, and future performance in school. The information provides support for implementing evidence-based practices that help children and their families foster success in academics and beyond.

To address local program improvement, the data can help to assess barriers to serve the needs of young children from a variety of backgrounds/environments, reduce educational and economic inequality, and identify effective ways to intervene with supportive programming and services for this population.

Research shows that quality early childhood care and education experiences provide a strong foundation for success in school. States rely on data from various early childhood and preschool settings to:

- inform policy discussions and decisions;
- monitor the progress of children, programs, and the state;
- strengthen and support the early childhood workforce;
- identify best practices and areas of need;
- create professional development programs; and
- allocate resources.

Retiring the specific early childhood and preschool data elements mentioned would take away critical information that helps programs answer the following questions and develop necessary resources:

- What effect does preschool have on children's grade retention and special education status?
- How do children who attend early childhood, early intervention, and preschool programs from various ages compare over time in academic achievement and social skills as compared to children who do not attend these programs?
- What is the readiness status of children when they enter kindergarten?
- What is the quality of the preschool programs available to children and how is this reflected in the qualifications of providers?
- Does length of day or length of year (i.e./e/, dosage) impact a child's academic and social outcomes?
- How does one year versus two years of preschool experience impact readiness and future success?
- What is the relationship between the costs of preschool and the short and/or long-term benefits achieved?
- Who is being excluded or experiencing limited access to programs and why? How do we rectify this?

#### **What, if any, obstacles have school districts faced in collecting such data?**

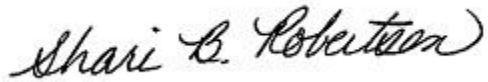
**Comments:** An important obstacle in data collection relates to integrating early childhood and K–12 data to help agencies know whether current early childhood policies and programs help children successfully transition from early intervention/preschool to the classroom and readiness for school. Lack of data collection in early childhood will limit, inhibit, and alter the ability to determine how to deliver effective early elementary programming.

Achieving high-quality data integration between early childhood and K–12 data systems will help states to determine:

- How many and which children in the state participate in early childhood programs and services.
- What combinations of early childhood programs and services do children receive, and how those combinations relate to child outcomes at kindergarten entry and later in school.
- Gaps in access to and participation in high-quality early childhood programs and services.
- For children who participated in early childhood programs and services, identify what relationships exist among data elements such as program dosage, age at entry, income, and the child's outcomes.
- Policies that guide early childhood education programs to align with the policies that guide K–12 education.
- What early childhood experiences best prepare children from different backgrounds for success in school and beyond.
- How to implement state policies and programs that support high-quality early childhood education that effectively prepare children for school.

Thank you for your consideration of ASHA's comments. If you or your staff have any questions, please contact Catherine D. Clarke, ASHA's director of education policy, at [cclarke@asha.org](mailto:cclarke@asha.org).

Sincerely,

A handwritten signature in cursive script that reads "Shari B. Robertson".

Shari B. Robertson, PhD, CCC-SLP  
2019 ASHA President

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<sup>1</sup> Courthouse News. (2019). *Mandatory Civil Rights Data Collection September 2019, Supporting statement, Part A: Justification*. Retrieved from [https://www.courthousenews.com/wp-content/uploads/2019/09/OMB\\_Supporting\\_Statement\\_A\\_09\\_13\\_19-2.pdf](https://www.courthousenews.com/wp-content/uploads/2019/09/OMB_Supporting_Statement_A_09_13_19-2.pdf).