

January 3, 2014

## Via Electronic Submission

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Stephanie Valentine, Acting Director Information Collection Clearance Division Office of Management U.S. Department of Education 400 Maryland Avenue, S.W. LBJRoom 2E105 Washington, D.C. 20202-4537

Re: ED Second Notice of Information Collection

Docket ID: ED-2013-ICCD-0079

Title of Collection: Mandatory Civil Rights Data Collection

OMB Control Number: 1870-NEW

## To the ICCD Director:

The National School Boards Association (NSBA), representing through our state associations approximately 13,800 school districts nationwide, offers its comments to the Second Notice, Agency

## I. Overview of Areas of Concern Raised by the Second Notice

OCR has provided a very short window within which to submit comments on the Second Notice, as discussed in Section II. Consequently, what follows here for your consideration is an overview of the more significant areas of OCR's proposed expansion of the CRDC with which NSBA is concerned. NSBA intends to file more detailed comments early next week that identify the specific concerns raised and challenges the proposed expanded data categories and data groups will create for LEAs across the country.

NSBA continues to believe there is questionable statutory and regulatory authority that allows OCR to require the submission of data for items and categories that are not connected to civil rights enforcement, have any civil rights implications for students, or impact the provision of equal educational opportunities to students under the five specific statutes (Title VI, Title IX, Section 504, Title II/ADA, and the Age Discrimination Act) for which OCR has investigative authority and are the bases of OCR's mission. NSBA is also concerned about OCR's expanding view of their authority to require school districts to collect and report non-civil rights-

II. An Additional Comment Period Should Be Provided, Because the Winter Comment Period Allowed for the Second Notice is Not Sufficient.

NSBA appreciates OCR's efforts to obtain feedback from the federal funds recipients who will be directly impacted by the significant (and legally unsupported) expansion of categories of data and information for the upcoming two civil rights data collections. However, like the First Notice, the Second Notice has not provided the affected parties with sufficient time to compile the necessary information to respond thoroughly. In its Response to Comments, OCR responded to concerns raised about the Summer 2013 publication of the First Notice occurring "when many LEAs may be on summer break without staff to monitor and review notices from the Federal Register." OCR further stated that "a second 30-day public comment period would take place when many school districts were back in session." However, this statement has proven not to be accurate.

The Second Notice was published in the Federal Register on Wednesday, December 4, 2013, with a dosing date of Friday, January 3, 2014. Most of the over 13,800 public school districts were dosed for the Winter Break from approximately Monday, December 23, 2013, through Friday, January 3, 2013. During this two-week period, school buildings and administrative offices were dosed, and the requisite school staff members, and access to relevant files and data, needed to compile information and draft comments to the Second Notice were not available. Thus, in actuality, OCR provided public school districts with only 13 business days or 19 calendar days, between December 4th (Wednesday) and 22nd (Sunday), within which to draft and submit comments related to the Second Notice. NSBA recommends that OCR provide the public with a third 30-day comment period that takes place when LEAs are in session to allow them to submit their detailed responses.

NSBA thanks the Department and OMB for their review and consideration of issues preliminarily