



February 11, 2022

United States Department of Education
400 Maryland Ave SW
Washington, DC 20202

Re: *Agency Information Collection Activities; Comment Request; Mandatory Civil Rights Data Collection, Docket No. ED-2021-SCC-0158*

To Whom It May Concern:

The Louis D. Brandeis Center for Human Rights Under Law (“LDB”) submits the following comments in response to the proposed regulations governing Civil Rights Data Collection (“CRDC”) issued by the Department of Education (“ED”).

The Louis D. Brandeis Center is a non-profit organization whose mission is to advance the civil and human rights of the Jewish people and promote justice for all. The civil and human rights of the Jewish people are inextricably bound to the pursuit of justice for all peoples. LDB promotes justice for all as a means of securing the rights of the Jewish people and secures the rights of the Jewish people as a means of advancing justice for all. In the Twenty-First Century, the resurgent problems of anti-Semitism and anti-Israelism in educational settings constitute vital civil and human rights challenges facing the United States. A 2021 survey commissioned by LDB of students who openly identified as Jewish found that over half the respondents had been personally targeted by an anti-Semitic remark in the past 120 days, over 60 percent of respondents said that they had felt unsafe as Jews on campus, and one out of six students feared actual physical attacks.¹ As U.S. Equal Employment Opportunity Commissioner Andrea Lucas recently observed, this report revealed “horrifying statistics [on Anti-Semitism.]” And even worse, to some degree is that the general

¹ LDB, “Anti-Semitism @ Campus,” Spring 2021, <https://brandeiscenter.com/wp-content/uploads/2021/09/Brandeis-Survey-Findings.pdf>

public does not seem to be aware of these concerns, or at least at the same level that American Jews do.”²

Students do not come to college campuses as blank slates. By the time they have entered college, they have absorbed copious amounts of information from home, school, and social media, for good or for ill. Often the college students who harass or bully other college students harassed or bullied their peers during their K-12 years. Therefore, it is vital for the CRDC to include reporting requirements on religion/perceived religion issues to the same detailed extent as it covers other categories of bias incidents. Collecting this information will significantly contribute to safer K-12 environments for all students

Moreover, these additional, but not onerous, reporting requirements would make it clear to local educational authorities (“LEAs”), the educational community, and the general public that ED views religion/perceived religion-related bias issues with the same degree of gravity as it does other forms of bias. Finally, making the requirements for religion/perceived religion-related reporting consistent would simplify reporting requirements for LEAs because it would add welcome uniformity across categories.

I. Section on “School & District Characteristics.”³

Specific Suggested Inclusions to Section on “School & District Characteristics.”

We suggest inserting “religion” to the list of covered categories in the following bullet points on page 34.

- “Whether an LEA has designated one or more employees (either part-time or full-time) to act as civil rights coordinators to coordinate efforts to carry out its responsibilities under federal law prohibiting discrimination on the basis of: sex; race, color, or national origin; or disability. (LEA).” (Bullet point two)

² Jewish News Service, “Federal Civil Rights Officials Raise Alarm Over ‘Horrible Statistics’ on Anti-Semitism in the Workplace,” jns.org, January 12, 2022.

³All references are to *Appendix: List of 2021-22 CRDC Data Elements*.

- “Contact information (email address) for the civil rights coordinators that carry out the LEA’s responsibilities under federal law prohibiting discrimination on the basis of: sex; race, color, or national origin; or disability. (LEA).” (Bullet point three).

II. Section on “Harassment or Bullying.”

We salute ED both for including religion in its new categories requiring information about an LEA’s written policy or policies prohibiting harassment or bullying of students and requiring information about the LEA’s web link to such policies.⁴ It is crucial that ED receive as much information as possible about religious bias incidents because it is the only federal agency collecting data on religious harassment in K-12 educational institutions. FBI data revealed that in 2020 hate crimes increased by nearly nine percent, while 54.9% of all religious bias crimes targeted Jews (who represent approximately two percent of the U.S. population.)⁵ Prior CRDC data on the number of religious offenses in schools revealed that over 10,000 religious bias offenses were committed in just one year.

We note, however, that ED is still requiring less data with respect to harassment or bullying linked to religion/perceived religion than it is requiring for other categories of bias-linked harassment or bullying crimes. Therefore, we suggest that the reporting requirements for religion/perceived religion-linked bias incidents be modified to mirror the reporting requirements for other bias-related harassment or bullying categories. Such inclusions would give ED the increased access to information necessary for the Department to accurately assess religious bias-related problems in U.S. schools.

These additions complement previously existing requirements. For example, ED already requires LEAs to report the number of allegations of harassment or bullying based on religion/perceived religion. It is only logical, then, for the LEA to be required to record the number of students who report being harassed or bullied based on

⁴ “Harassment or Bullying,” p. 37, bullet points 8 and 9.

⁵AJC, “AJC Deeply Troubled by FBI Hate Crimes Data Showing Overall Increase, Jews Most-Targeted Religious Group,” August 31, 2001, <https://www.ajc.org/news/ajc-deeply-troubled-by-fbi-hate-crimes-data-showing-overall-increase-jews-most-targeted>.

religion/perceived religion. The double reporting (number of allegations as well as number of students who report the allegations) is already required for other categories of bullying and harassment. Adding religion to bullet point four would be consistent, as well as clearly beneficial to the Department in its calculations both of current compliance and with respect to future rulemaking. With this extra data, ED will be able to determine how many students are being harassed or bullied on the basis of religion/ perceived religion.

Specific Suggested Additions to Section on: “Harassment or Bullying.”

We suggest that “religion/perceived religion” be included in the list of categories in the following bullet points on page 37:

- “Number of K-12 students who reported being harassed or bullied on the basis of sex; race, color, or national origin; disability.” (Bullet point four).
- “Number of K-12 students disciplined for engaging in harassment or bullying on the basis of sex; race, color, or national origin; disability.” (Bullet point five).

III. Additional Change to Section on “Harassment or Bullying:” Require that Reporting on Religious/Perceived Religious Bias Be Disaggregated by Religion.

We request that all reported harassment or bullying cases arising from religious bias be disaggregated by religion/perceived religion, using the delineated categories listed in bullet point three on page 37 relating to allegations of harassment or bullying of K-12 students on the basis of perceived religion. At a time of increased religious bias-related incidents, it is vital for ED to have as much information as possible identifying the precise nature and context of religious bias incidents. ED has already recognized the need for disaggregation in the reporting category pertaining to one reporting category. The disproportionate increase of anti-Semitic acts demands that LEAs produce as much disaggregated information as is feasible. In the words of FBI Director Christopher Wray, “We recognize that the Jewish community in particular has suffered

violence and faces very real threats from really across the hate spectrum.”⁶ Obtaining accurate information is a first step in addressing such violence and threats.

IV. Section on “Pathways to College and Career.”

By enacting the *Never Again Education Act* (P.L.116-141 (1920)), Congress and the President authorized the U.S. Holocaust Memorial Museum (the “Museum”) to develop and disseminate educational resources on the Holocaust and to create Holocaust educational program activities for teachers and educational leaders. The fact that Congress then appropriated the full amount of funding authorized in the *Never Again Act* to be spent in FY 2021, further demonstrates the federal government’s understanding of the importance of Holocaust education to our national commitment to eliminate all forms of bias and discrimination.⁷

It is an uphill battle. The manifestation of Holocaust ignorance that has come to the fore in the last two years because of the use and misuse of Holocaust analogies has incontrovertibly demonstrated the widespread lack of U.S. knowledge and understanding of what constituted the Holocaust. A recent report that analyzed online content during the two years, January 2020 through December 2021, found that there were over 60 million online engagements (e.g., includes posts, comments, links or shares) connecting the Holocaust with the Covid 19 pandemic.⁸ A September 2020

⁶ New York Times, “FBI Director Calls Texas Attack an Act of Anti-Semitism,” January 20, 2022, <https://www.nytimes.com/2022/01/20/us/fbi-texas-synagogue-antisemitism.html>.

⁷Press Release from Senator Ben Cardin, December 23, 2020, <https://www.cardin.senate.gov/newsroom/press/release/12/23/2020/never-again-cardin-says-spending-package-elevates-holocaust-education-supports-holocaust-survivors-and-expands-program-to-protect-synagogues-and-houses-of-worship-from-terrorism>.

⁸Combat Anti-Semitism, “Holocaust Survivors Demand Action as Online Data Report Identifies More than 60 Million Holocaust Trivialization Engagements,” <https://combatantisemitism.org/latest-news/holocaust-survivors-demand-action-as-online-data-report-identifies-more-than-60-million-trivialization-engagements/>, January 19, 2022.

nationwide survey on Holocaust knowledge among adults under 40 disclosed that “1 in 10 respondents who did not recall ever having heard the word “[Holocaust](#)” and 22 percent of respondents thought the Holocaust had something to do with the First World War.⁹ Only by including a category pertaining to Holocaust education in the CRDC, will ED be able to gauge the accessibility of Holocaust education to U.S. K-12 students, a necessary step in our national quest to eliminate all forms of racial and religious hatred.

Specific Proposed Addition to Section on “Pathways to College and Career.”

Insert new bullet points on page 41:

- “Number of Holocaust education courses provided.”
- “Number of courses that include Holocaust education in the curriculum.”

We appreciate ED’s consideration of these comments and look forward to answering any questions or being of assistance in this or in any other regard.

The Louis D. Brandeis Center for Human Rights Under Law

Submitted via <https://www.regulations.gov/commenton/ED-2021-SCC-0158-0041>

⁹ NBC News, “Survey Shows ‘Shocking’ Lack of Knowledge on Holocaust Among Millennials and Gen Z,” <https://www.nbcnews.com/news/world/survey-finds-shocking-lack-holocaust-knowledge-among-millennials-gen-z-n1240031>, September 18, 2020.