

November 4, 2021

The Hon. Charles Allen  
Chairperson  
Committee on the Judiciary and Public Safety  
Council of the District of Columbia  
The John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, DC 20004

Dear Chairperson Allen:

I write to share written comments on Bill 24-0254, the School Police Incident Oversight and Accountability Amendment Act of 2021, to be included as part of the Council of the District of Columbia (the Council) Committee on the Judiciary and Public Safety's October 21, 2021, hearing record.

#### **Student discipline data required in the proposed legislation**

The School Police Incident Oversight and Accountability Amendment Act of 2021<sup>1</sup> would clarify student discipline reporting requirements for Local Education Agency (LEA) reporting to the Office of the State Superintendent of Education (OSSE). While the clarifications resemble OSSE's prior and current discipline data collection elements, Councilmembers expressed interest during the hearing in OSSE making publicly available more of these already-collected data elements regularly received by OSSE. Councilmembers also expressed interest in closer monitoring of discipline data in order to address what have been substantial differences in disciplinary action and law enforcement involvement by race, ethnicity, and special education status. We encourage the Council to closely monitor OSSE's regular reporting on student discipline to be sure the data are understood and that OSSE is meeting public reporting needs.

Because the bill focuses on the discipline data collection, it offers the potential to address many of the discipline data collection and subsequent reporting issues that the Office of the D.C. Auditor (ODCA) identified in our recent education data audit, [Measuring What Matters: More and Better Data Needed to Improve D.C. Public Schools](#). If the collection and reporting issues are not rectified, the Council is unlikely to receive accurate reporting on discipline incidents and law enforcement involvement which will hamper the effort to address inequities.

The bill also proposes new reporting requirements using some parallel data elements maintained by the Metropolitan Police Department (MPD). For this reason, it is important to consider why the current collections may differ. For example, OSSE's discipline data collection is tied to discipline incidents based

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<sup>1</sup> <https://lms.dccouncil.us/Legislation/B24-0254>

on federal reporting requirements. It is possible to have law enforcement involvement or arrests without a preceding discipline incident reported by a school. Therefore, as the collection is currently designed, the OSSE totals may not match with MPD totals and the extent of that mismatch could differ by school and by the presence of law enforcement.

Below we explain what discipline data is required for both federal and local reporting, what is wrong with our current discipline data collection, and the ODCA recommendation to address these problems via legislation. Finally, we provide supplementary technical information about OSSE's data collection mechanisms.

### **Discipline data required for federal reporting**

The District has both federal and local requirements to collect and report on student discipline data and today Local Education Agencies (LEAs) and the District as a state have multiple and duplicative reporting requirements. According to OSSE's discipline data guidance, the data elements required for federal reporting by OSSE are as follows:

- The length and quantity of in-school suspensions, out-of-school suspensions, and expulsions.
- The reason a student was disciplined.
- Detailed information on incidents involving firearms, including the type of weapon involved.
- Whether students with disabilities who are disciplined continued to receive educational services.
- Removals to an interim alternative education setting by type and reason for students with disabilities.<sup>2</sup>

The Individuals with Disabilities Education Act (IDEA) was most recently reauthorized in 2004,<sup>3</sup> and the District's compliance with its provisions is monitored by the U.S. Department of Education's Office of Special Education Programs (OSEP). The law requires submission of data on disciplinary actions involving students with disabilities, including in-school and out-of-school suspensions, expulsions, continuation of services, and resulting changes in the placement of students with disabilities.<sup>4</sup> OSEP uses these data for annual reporting to Congress including monitoring disproportionality in disciplinary actions based on students' disability status.<sup>5</sup>

The federal Gun-Free Schools Act of 1994 requires all states that receive federal funds to report annually the number of students suspended or expelled statewide for the possession of firearms on school property.<sup>6</sup>

Federal law also required local education agencies (LEAs) to report discipline data directly to the federal U.S. Department of Education's Office of Civil Rights (OCR) biannually for the Civil Rights Data Collection (CRDC). The U.S. Department of Education Organization Act authorizes OCR to collect data needed to ensure compliance with multiple civil rights laws, including The Civil Rights Act of 1964, Title IX of Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973. In addition, OCR has a role in enforcing Title II of the Americans with Disabilities Act of 1975 and the Boy Scouts of America

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<sup>2</sup> <https://osse.dc.gov/publication/student-discipline-data-collection-guidance>

<sup>3</sup> <https://www.congress.gov/search?q=%7B%22search%22%3A%22cite%3A%22%7D>

<sup>4</sup> <https://www2.ed.gov/programs/osepidea/618-data/collection-documentation/index.html>

<sup>5</sup> <https://sites.ed.gov/idea/files/significant-disproportionality-qa-03-08-17-2.pdf>

<sup>6</sup> <https://oese.ed.gov/files/2020/07/Guidance.Gun-Free-Schools-Act.pdf> ; <https://www.govinfo.gov/content/pkg/USCODE-2011-title20/pdf/USCODE-2011-title20-chap70-subchaplV-partA-subpart3-sec7151.pdf>

Equal Access Act.<sup>7</sup>

The federal Every Student Succeeds Act (ESSA) requires that many of the same discipline data elements that are collected via the CRDC be published annually at the state and school district level in the form of school report cards.<sup>8</sup> These required data elements include rates of in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, chronic absenteeism, and incidences of violence, including bullying and harassment, at the state, school district, and school level. OSSE has published these discipline data elements in school report cards using a combination of sources including CRDC data and OSSE-collected data. Because CRDC data is only collected biannually and there is a lag in federal reporting, the 2018 and 2019 STAR report cards published some of the same 2016 CRDC data.

The federal data reporting requirements are supported by extensive technical assistance on best practices for collecting, maintaining, and using student discipline data by the National Forum for Education Statistics and the Statewide Longitudinal Grant Program. OSSE's general counsel who testified at the hearing very usefully noted that reporting codes are helpful for gathering accurate and reliable data. The National Center for Education Statistics (NCES) created the Common Education Data Standards (CEDS)<sup>9</sup> including codes for discipline data which are in use by many of the states that maintain a statewide longitudinal data system, which the District does not yet have.

### **Discipline Data Required for Local Reporting**

The Student Fair Access to School Amendment of 2018 enacted by the Council requires additional student discipline data to be collected and reported.<sup>10</sup> The text below from OSSE's discipline data guidance displays the data required by this local law. As Councilmembers noted in the hearing, many of these data elements may be collected but are not yet included in local reporting.

#### *Data Elements Required*

The data elements mandated under the Fair Access Act, per DC Official Code § 38-236.09(b):

- Student demographic data.
- Disciplinary actions taken by schools including school-based interventions, in-school suspensions, involuntary dismissals, out-of-school suspensions, emergency removals, disciplinary unenrollment (expulsions, modified expulsions, and involuntary transfers), referrals to law enforcement, and school-based arrests and, for students with disabilities, change in placement -- including frequency and duration of the disciplinary action.
- Description of the misconduct or reasoning behind each disciplinary action.
- Special education services data, including whether the student received during the school year a functional behavioral assessment, an updated behavior improvement plan or a manifestation determination review – including the number of suspension days that triggered the review, whether the suspension days were cumulative, and the outcome of the review.
- Indication of incidents resulting in a referral to an alternative education setting for the course of a suspension and associated attendance.
- Indication of incidents resulting in school-based intervention rather than an in-school suspension, and a description of the school-based intervention.
- Voluntary and involuntary transfers and withdrawals.

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<sup>7</sup> <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/crdc.html>

<sup>8</sup> <https://www2.ed.gov/policy/elsec/leg/essa/report-card-guidance-final.pdf>

<sup>9</sup> <https://ceds.ed.gov/Default.aspx>

<sup>10</sup> [DC Official Code § 38-236.09\(b\)](#)

## **Moving to a unified, annual discipline collection**

The Council may want to consider amending the legislation in a manner that would require a single annual discipline collection to be provided by LEAs to OSSE and reported publicly, and from which LEAs could, on a biennial basis as required, also submit directly to the Civil Rights Division to meet the CRDC requirement, or OSSE could “prepopulate” the CRDC collection using these data on behalf of LEAs. Codifying in local law what is already required federally would also require that the Council maintain consistency with federal requirements if and when the federal requirements change with simplification for LEAs as well as local public reporting as goals for the legislation.

In fact, The National Forum on Education Statistics (The Forum), has recommended that state education agencies support the collection of these data. A recent resource document outlined options for this state level support and reported on an eight-state pilot effort from 2013 to “prepopulate” CRDC data to reduce data burden faced by LEAs.<sup>11</sup>

There are multiple examples of state education agencies aligning their local and federal requirements by collecting these data locally, including Virginia,<sup>12</sup> North Carolina,<sup>13</sup> Kentucky<sup>14</sup> and more. These states collect all four of the broad discipline categories required in CRDC including discipline incidents, law enforcement referrals and arrests, bullying and harassment, and the use of seclusion and restraint in schools, even though the use of seclusion and restraint is not required to be on school report cards. A recent Data Quality Campaign report noted the limited student protections and reporting around the use of seclusion and restraint in the District.<sup>15</sup>

## **OSSE’s student discipline data collection mechanism undermines data quality**

In addition to data elements that are collected but not reported, one of ODCA’s key audit findings was that OSSE’s current discipline data is of poor quality. For this reason, efforts to improve discipline data reporting must address both the content of what is reported and the underlying quality of the data.

More specifically, we found differences across in-school suspension data collected by OSSE by school sector (i.e., traditional public versus public charter), differences that can be explained by data collection practices rather than differences in the discipline incidents that are the subject of the reports. These differences mean that prior discipline data was biased and could easily be misused or misinterpreted.

The data collection practices that led to these errors include not collecting enough data via the automated data system (ADT) and allowing public charter schools to report discipline data through a multi-step process instead of directly to OSSE.

Importantly, OSSE’s new discipline guidance does change the entity to which LEAs may report and now only allows reporting directly to OSSE. This critical change, in line with audit recommendations, should significantly lessen any bias in the discipline data by sector, and checks can be performed to assess this. However, the new guidance does not resolve the remaining ODCA findings and recommendations.

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<sup>11</sup> <https://nces.ed.gov/pubs2017/NFES2017168.pdf>

<sup>12</sup> [https://www.doe.virginia.gov/info\\_management/data\\_collection/support/school\\_safety/discipline\\_crime\\_violence/dcv-user-guide-2020-21.pdf](https://www.doe.virginia.gov/info_management/data_collection/support/school_safety/discipline_crime_violence/dcv-user-guide-2020-21.pdf)

<sup>13</sup> <https://www.dpi.nc.gov/media/13112/open>

<sup>14</sup> <https://education.ky.gov/districts/tech/sis/Documents/DataStandard-Behavior.pdf>

<sup>15</sup> <https://www.autcom.org/pdf/HowSafeSchoolhouse.pdf> ; <https://dataqualitycampaign.org/the-case-for-publicly-reporting-data-on-seclusion-and-restraint/>

In the audit, we explain that OSSE’s current multiple collection mechanisms, which include the ADT and additional ad hoc reporting systems and templates, lead to both increased error and increased burden on LEAs. The SLDS Grant Program encourages the practice of “collect once and use many times,” to encourage state education agencies to collect as much data as possible in one automated and integrated system. Further, The Forum notes that automated data extracts from LEA data systems that are aligned to federal reporting requirements reduces the burden of CRDC reporting.<sup>16</sup> Alignment across LEA data collections, state collections and federal reporting requirements is common in many states and support automated systems. For example, Virginia<sup>17</sup> collects discipline data in an automated system as do other states with successful statewide longitudinal data systems such as Kentucky,<sup>18</sup> Washington,<sup>19</sup> North Carolina,<sup>20</sup> Illinois,<sup>21</sup> and Florida.<sup>22</sup> Further, both Maryland<sup>23</sup> and Virginia require that all discipline data elements be included in local student information systems. Notably, the District modeled its ADT collection mechanism after Rhode Island but that state, unlike the District, requires that the vast majority of data, including discipline data, flow through the ADT and be collected on a daily basis.<sup>24</sup>

Some of these state level investments in discipline data collection are supported by legislation. One recent example is Hawaii, a state with a strong statewide longitudinal data system, where the state legislature last year passed a bill requiring additional standardized collection and reporting of discipline, seclusion and restraint, and school climate data.<sup>25</sup>

On the reporting side, the audit also showed that adult education students are included in OSSE’s annual discipline reporting denominators. Including adult students in denominators inappropriately lowers the percentage of students disciplined and creates an artificially low comparative discipline rate in the charter sector which serves more adults than are served in traditional public schools. Additionally, OSSE candidly acknowledges other important data quality issues such as missing data and data that does not match other OSSE collections in their annual discipline reports, problems that would be ameliorated with better controls and automation.

### **Discipline data should be collected via the ADT to ensure quality**

The deficiencies identified in the audit can be remedied with improved collection mechanisms and close monitoring. We recommend that the Council require that all student discipline data be collected via the ADT and with controls that ensure that all data is comparable and help ensure that daily administrative record keeping is aligned with both local and federal reporting needs.

LEAs spend significant time on data reporting; therefore, it is critical to improve data collection mechanisms so that the time invested produces meaningful and valid data for the public, and federal

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<sup>16</sup> <https://nces.ed.gov/pubs2017/NFES2017168.pdf>

<sup>17</sup> [https://www.doe.virginia.gov/info\\_management/data\\_collection/support/school\\_safety/discipline\\_crime\\_violence/dcv-user-guide-2020-21.pdf](https://www.doe.virginia.gov/info_management/data_collection/support/school_safety/discipline_crime_violence/dcv-user-guide-2020-21.pdf)

<sup>18</sup> <https://education.ky.gov/school/sdfs/Pages/Safe-Schools-Data-Collection-and-Reporting.aspx>

<sup>19</sup> <https://www.k12.wa.us/data-reporting/reporting/cedars>

<sup>20</sup> <https://www.dpi.nc.gov/data-reports/discipline-arp-and-dropout-data>

<sup>21</sup> [https://www.isbe.net/Documents/student\\_discipline.pdf](https://www.isbe.net/Documents/student_discipline.pdf)

<sup>22</sup> <https://www.fldoe.org/safe-schools/discipline-data.stml>

<sup>23</sup>

[https://p3cdn4static.sharpschool.com/UserFiles/Servers/Server\\_2744/File/records\\_management\\_program/misc/StudentRecordsSystemManual.pdf](https://p3cdn4static.sharpschool.com/UserFiles/Servers/Server_2744/File/records_management_program/misc/StudentRecordsSystemManual.pdf)

<sup>24</sup> <https://www.ride.ri.gov/InformationAccountability/RIDEDataResources/DataCollection.aspx#39341498-data-collection-specifications>

<sup>25</sup> [https://capitol.hawaii.gov/Archives/measure\\_indiv\\_Archives.aspx?billtype=SB&billnumber=2486&year=2020](https://capitol.hawaii.gov/Archives/measure_indiv_Archives.aspx?billtype=SB&billnumber=2486&year=2020)

and local requirements. Collecting all student discipline data directly, combined with collecting discipline data via the ADT, will together produce substantive improvements in data quality and subsequent reporting.

**Additional information on using separate templates versus the ADT**

OSSE issued new discipline data collection guidance on Oct. 5, 2021.<sup>26</sup> As noted above, this guidance makes an improvement in that LEAs must submit discipline data directly to OSSE. The guidance continues to implement a separate, and in many cases, duplicative data collection process for student discipline data and does not address key collection problems that lead to misinterpretations of discipline data, nor does it align with the many state examples listed above, which include aligned discipline data collections in LEAs’ student information systems (SIS).

Instead of requiring the collection of discipline data via the ADT as recommended, OSSE has created a new discipline data submission process requiring LEAs to submit discipline data four times a year directly to OSSE. This additional submission process will continue to lead to error and burden on LEAs and, in fact, OSSE notes that they anticipate there will be continued misalignments between discipline data, enrollment data, and demographic data between this new collection and data submitted via the ADT.

Importantly, many of the required data elements in the new discipline data collection are already collected in the ADT via attendance codes. As evidence, OSSE provides a crosswalk of attendance codes to discipline elements in the guidance, shown below. Instead of collecting these elements repeatedly in a separate data collection, OSSE should be using the data it already has to maintain a daily, real-time understanding of student discipline, as is done in other states, rather than replicating that collection four times a year.

**Table 3. Disciplinary Action and Attendance Code Crosswalk**

Disciplinary Action	Suspension Period	OSSE Attendance Code
<b>In-School Suspension</b>	Greater than 50% of the instructional day	Present – In-School Suspension (PIS)
<b>Out-of-School Suspension</b>	Full-day out-of-school suspensions	Absent, Out-of-School Suspension (AOS)
<b>Out-of-School Suspension</b>	Partial day out-of-school suspensions that are 50% or more of the instructional day	Absent, Out-of-School Suspension (AOS)
<b>Involuntary Dismissal</b>	Removal for less than 50% of the instructional day	Present Partial Excused (PPE)

The new discipline data collection also requires demographic information and student IDs, all elements that are already collected and maintained by OSSE. These continued, burdensome requests show that OSSE data is not sufficiently linked by student ID, another audit finding. The guidance anticipates continued errors due to this duplication and provides many examples. For instance, if an LEA reports a validated attendance code of “Present – In School Suspension (PIS)” for a student on the same day that student has a recorded disciplinary action of out-of-school suspension, the UDE Report will identify a data error that the LEA must reconcile before resubmission of data. Last year’s annual student discipline report described these same errors.

<sup>26</sup> <https://osse.dc.gov/publication/student-discipline-data-collection-guidance>

School-based interventions in response to discipline incidents could be added to the ADT and collected in an automated way. Again, this could easily be an option in the ADT, like in-school suspension, for when students are out of the classroom for at least 50% of the school day receiving an intervention other than an in-school suspension. The current definition that does not include an amount of time out of the classroom and is not included in an LEA's student information system (SIS) is unlikely to produce reliable data across schools.

Thank you for considering these comments on Bill 24-0254 and we would be happy to provide any additional information that might be useful to the Committee.

Sincerely yours,

A handwritten signature in blue ink that reads "Kathleen Patterson". The signature is written in a cursive, flowing style.

Kathleen Patterson  
D.C. Auditor

cc: D.C. Councilmembers  
Dr. Christina Grant, Interim State Superintendent of Education