

## OCTOBER 2019 PUBLIC POLICY UPDATE

### Administration

#### Education Department Pushes Shakeup for Civil Rights Data

*(Courtesy of Education Week)*

Proposals from the U.S. Department of Education to change its massive, biennial collection of data from school districts could significantly alter what and how much information is available about topics that have long been of interest to educators, advocates, and researchers, from discipline data involving the youngest learners to teacher pay and sexual misconduct.

If the proposal released last month is finalized after a 60-day comment period, the department's office for civil rights would begin collecting new information about documented incidents of sexual violence committed by and against school staff, as well as new data about harassment and bullying in schools based on perceived religious affiliation.

But other data that had previously been collected would no longer be required by the department's office for civil rights. For example, the proposal would end breaking down preschool student enrollment by race. Such a move could make it much more difficult to calculate inequalities in areas such as discipline and access, a policy area that has proven controversial in the Obama and Trump administrations.

In addition, the Education Department's office for civil rights proposes to no longer track the number of first-year teachers, the number of students in credit recovery, and a host of school-level funding data.

The plan for the Civil Rights Data Collection aims to reduce the burden on the school districts that have to gather and report these data to the federal government. The proposal states that it would require 22 percent fewer responses from school districts for the 2019-20 collection. Meanwhile at the individual school level, elementary schools would see 2.6 percent fewer questions, and secondary schools would see 4.9 percent fewer questions.

But advocates who work on education civil rights argue that it would short-circuit important work and mirrors other moves by U.S. Secretary of Education Betsy DeVos that they have claimed leave many students, such as students of color and transgender students, more vulnerable to ill-treatment and discrimination. Collecting and reporting these data, they say, makes a material difference.

“For us, the primary consideration is the burden to children. That should be the same consideration that the Department of Education has,” said Liz King, the director of education policy for The Leadership Conference on Civil and Human Rights. “These data are not just used by researchers because they're interesting and fun.”

#### Comprehensive Look

The appetite for all the current civil rights data isn't universal, however. For example, there's a concern that the nature and increased demands of data collection in recent years has warped

how school districts think about key issues and has been misused by partisans, even as much of the publicized data doesn't necessarily help classroom practices or students.

"A lot of this federal data is not actually useful other than for providing a blank check for advocacy groups to push a specific agenda," said Max Eden, a senior fellow at the conservative Manhattan Institute.

The data, collected every two years, is the nation's largest and most comprehensive source of information on everything from student absenteeism to discipline and is used by advocates, practitioners, reporters, and researchers.

Changes to what education civil rights data the federal government collects are routine. For example, the Obama administration required school districts to provide new information about bullying on the basis of perceived sexual orientation in the 2015-16 data collection.

"It is important for [the Education Department] to deregulate where possible so that limited education funds may be directed to more effectively advance the education of students and [districts] may experience less burden and improve the quality of the data submitted," a supporting document for the proposal from the department states.

Giving local schools more flexibility in various ways has been a top priority for U.S. Secretary of Education Betsy DeVos. The proposals also align with President Donald Trump's push for regulatory reform across government, specifically to cut back on regulations and their impact.

Democrats have routinely attacked DeVos for her approach to civil rights, arguing that her approach to investigations and enforcement ignores systemic issues and leaves children of color and LGBT students more vulnerable to discrimination.

"It's notable that the particular data points that the department is proposing to strike are ones that have been most used by equity advocates," said Ary Amerikaner, a vice president for P-12 policy, research, and practice at the Education Trust, a civil rights advocacy group, who previously worked at the Obama Education Department.

The secretary, however, has countered that her office's strategy of approaching complaints on a case-by-case basis is more efficient than the Obama administration's approach. At the same time, she has repeatedly pledged to protect students' rights.

Some of the proposals might raise complicated questions for schools. For example, schools can't ask students about their religion or their sexual orientation, even though some are bullied on that basis. The proposal does say the harassment and bullying can be on the basis of "perceived religion" as reported by the school, regardless of whether a student is actually a member of that religion.

And while teachers' sexual assault and harassment of students often makes headlines, it can be a difficult thing to measure. Such conduct is often brushed aside or not reported at all. Some behavior such as "grooming" (working to win a child's trust with the intent of sexual abuse) that can lead to sexual assault wouldn't be documented in the new data. And some students, such as white children from affluent families, are more likely to report incidents than their peers.

Many students "may be afraid they will get in trouble, or they've already seen how [other reports of sexual assault] have been dealt with so they think it won't do any good to report," said Charol Shakeshaft, a professor of educational leadership at Virginia Commonwealth University who's studied the issue.

Indeed, an ongoing question for the OCR data collection in general is just how good the underlying data is. The CRDC data collection has produced errors and bizarre results, such as the unaccounted-for fluctuation in the number of districts reporting in recent years that they are

under desegregation orders. Eden said that “deep dives” into the data have “tended to debunk the top-line narratives” initially reported about the data.

### **Data Quality**

Last month, the Education Department announced that in order to improve the quality of civil rights data, the National Center for Education Statistics would partner with the office for civil rights. The aim is to change the procedures schools use to submit data to the department. Amerikaner stressed that the response to bad data should not be to stop collecting but “to improve the quality of the data.”

In addition to the quality of the data, a shrinking federal data collection on these issues will make getting good, comparable information about things like the costs of transportation, daily attendance, and suspension much harder, said Rebecca Sibilia, the founder of EdBuild, a nonprofit group that analyzes school funding and school district boundaries.

“The data can always be better, and the data can always be cleaner. Without some level of standardization, you're never ever going to be able to actually analyze interstate data,” Sibilia said.

### **Federal Judge Slams DeVos, Education Department for Violating Order on Corinthian Loans**

*(Courtesy of Politico)*

A federal judge on Monday sharply criticized the Education Department for violating her order to stop collecting the student loans of tens of thousands of borrowers who attended Corinthian Colleges, the now-defunct for-profit education company.

U.S. Magistrate Judge Sallie Kim said in a hearing she was “extremely disturbed” and “really astounded” that the department and Secretary Betsy DeVos had sought to collect on the student loans in spite of her May 2018 order to stop doing so.

“Whether it’s contempt or whether it’s sanctions, I’m going to entertain them,” Kim said during the hearing, according to an audio recording provided by the court to POLITICO. She added: “I’m not sending anyone to jail yet, but it’s good to know I have that ability.”

“There have to be some consequences for the violation of my order 16,000 times,” Kim said, referring to the number of borrowers whose loans the department admitted last month it had erroneously sought to collect. Kim also said the lawsuit would begin moving forward again, despite opposition from the Education Department.

The department said it is in the process of providing refunds to at least 3,200 of those borrowers who ended up making unnecessary payments. Some of the borrowers paid voluntarily after being incorrectly told they owed money. In other cases, the government erroneously seized borrowers’ federal tax refunds.

The plaintiffs in the lawsuit, who are former Corinthian students, had asked the judge last week to hold the department and DeVos in contempt for violating the order and impose sanctions on them, including fines.

Kim said on Monday that she was “really disturbed” by what she said was a lack of action by the Trump administration in trying to comply with the order.

“At best, it is gross negligence,” she said. “At worst, it’s intentional flouting of my order.”

Kim said she was considering a range of options, including requiring the department to better communicate with borrowers about the situation or hire a special master to oversee the department's management of the loans.

She said she would order both the Trump administration and plaintiffs to file briefs about the issue of contempt or sanctions within the next several weeks. "I'm not trying to be punitive," she said. "I just want to make sure that the students are helped."

Charlie Merritt, the Justice Department attorney who represents DeVos and the Education Department, said the agency was "surprised to learn the extent of the non-compliance issues" after examining them further over the past several months.

Merritt said that the department takes "responsibility" and is committing to bringing itself "into full compliance" with the court's order.

The Education Department "definitely has become aware of the need to have better oversight of its servicers going forward," he said. "It's been an eye-opening experience." The department has blamed many of its challenges in following the judge's order on errors by the loan servicing companies it hires.

The order prohibiting the Education Department from collecting on certain loans owed by former Corinthian students is part of a class-action lawsuit over DeVos' new policy that provided only partial loan forgiveness to some of the defrauded borrowers, a policy that Judge Kim has halted.

Most of the case, which is in the federal district court in San Francisco, has been on hold since the Trump administration appealed Kim's preliminary ruling to the 9th Circuit Court of Appeals in July 2018.

But on Monday, Kim granted the Corinthian students' requests to end the pause in the case. The Education Department had opposed moving ahead with the case during the appeal.

"I'm so concerned about this violation of the order that I think the stay is gone," Kim said. "And also, because the 9th Circuit hasn't ruled, and I'm not going to wait around for them any longer." "We're going to do everything full speed ahead from this point forward," she added.

## Congress

### House Democrats Unveil Higher Education Plan to Lower College Costs

*(Courtesy of the Washington Post)*

The Democratic-controlled House recently released a plan to make college more affordable and schools more accountable for students' success, reviving fraught efforts to reauthorize the main federal law governing higher education.

Compared with some of the 2020 Democratic presidential candidates' higher education proposals, including student debt forgiveness, the House bill is pretty tame. Still, the legislative package—provided in advance to *The Washington Post*—delivers reforms that top the wish lists of many liberal policymakers. Yet it may not go far enough for some student advocates.

Democrats anticipate the reforms will cost \$400 billion over ten years.

The bill sends a clear message that greater federal investment is key to easing the burden of student debt, boosting graduation rates and lifting barriers to economic mobility. Democrats would use the federal purse to provide more grant aid and support services to students while imposing tougher regulations on colleges that produce poor outcomes.

Spending more money runs counter to Republican priorities to limit taxpayers' stake in financing of higher education and the federal role in the sector. The ideological differences have made a

bipartisan overhaul of the Higher Education Act elusive. The federal law, originally passed in 1965, is supposed to be renewed every five years but was last reauthorized a decade ago.

House Democrats' latest effort to reauthorize the law, through legislation dubbed the College Affordability Act, could move quickly through the chamber, albeit with revisions. Democrats have made higher education restructuring a priority.

Aspects of the legislation could garner bipartisan support. A number of provisions mirror elements of a bill introduced last month by Senate Health, Education, Labor and Pensions Committee Chairman Lamar Alexander (R-Tenn.), including proposals to overhaul the financial aid application and extend Pell Grants to prisoners. Other provisions of the House bill, including restoring Obama-era regulations aimed at for-profit colleges and giving the federal government more power over accreditation, will probably rankle Republicans.

Rep. Robert C. “Bobby” Scott (D-Va.), chairman of the House Education Committee, which drafted the legislation, said lawmakers across the political spectrum should be able to support a package that is a “necessary and sensible response to the challenges that students and families are facing every day.”

He said the proposal “improves the quality of education by holding schools accountable for their students’ success, and it meets students’ needs by expanding access to more flexible college options and stronger support — helping students graduate on time and move into the workforce.”

The bill calls for expanding federal aid to low-income families by increasing Pell Grants and tying them to inflation so the value doesn’t diminish. It would also create a grant program to help needy students address emergencies such as loss of housing or not having enough to eat.

Democrats are proposing creation of a partnership between the federal government and states to help them waive tuition at community colleges for residents. In exchange for federal funding, states would have to commit to sustained investment in public colleges and universities. The legislation creates a \$500 million fund for states to identify gaps in academic achievement and per-student spending and prioritize aid for colleges that serve minorities, low-income students and those in need of academic help.

States that agree to cover tuition and fees before any other grants or scholarships are applied — what’s known as a first-dollar program — would receive federal grants to assist with the cost. This model would allow students who receive need-based financial aid, such as Pell Grants, to stretch those dollars further and reduce the need to borrow.

Students who borrow would no longer pay loan origination fees and would have simpler options for repaying the debt. House Democrats want to whittle the suite of eight student loan repayment plans down to two: one standard plan and one income-based plan.

*NOTE: The HEA language introduced in the House is currently under review by NAPE and its coalition partners.*

## Congress’s \$2 Billion to Community Colleges Worth It or Not?

*(Courtesy of The Hill)*

October 4 was “numbers Friday” at the Labor Department—the day when the Bureau of Labor Statistics releases its monthly jobs report. On the same first Friday in October 10 years ago, the unemployment rate clocked in at 9.8 percent and more than 15 million Americans were without jobs. Over the preceding year, more than 500,000 workers had filed a new unemployment insurance claim every week.

The Great Recession was tough on many Americans, but among the hardest hit were workers with no college education. Their unemployment rate in October 2009 was twice as high as those with a bachelor's degree, a trend that persisted throughout most of the recovery. In fact, according to the Georgetown Center on Education and the Workforce, more than 90 percent of the new jobs generated since the recession went to workers with some college education while workers with only a high school education lost ground.

Recognizing that education would be critical for helping Americans get back on their feet, the Obama Administration put community colleges at the center of their economic recovery strategy. In 2009, the White House worked with Congress to pass the Trade Adjustment Act Community College Career Training (TAACCCT) grant program.

The \$2 billion investment had two goals: 1) to build the capacity of community colleges to serve adults, many of whom had never gone to college or were returning after a long time out of school, and 2) expand the evidence base around effective job training and re-employment approaches.

From 2010-2014, the Departments of Labor and Education awarded 256 grants, touching more than 700 community colleges across the country. The four-year grants funded strategies that researchers had identified as promising — like prior learning assessment that could help adults get credit for what they learned while working and complete their programs faster; open educational resources (OER) that could save students from having to buy expensive textbooks; enhanced advising and career navigation services that could help older students not familiar with college make good choices.

The grants also funded colleges to pay independent evaluators to determine whether the new strategies actually helped students complete their programs and get a job.

Did any of it make a difference? We commissioned a team of researchers to dig into those independent evaluations to find out. Using a process called “meta-analysis”, they analyzed data from studies that successfully compared what happened to students who participated in Trade Adjustment Assistance Community College and Career Training (TAACCCT-funded projects with similar students who did not. They found a positive impact on program completion, credential attainment, and employment for the students in TAACCCT-funded projects.

The analysis provides the first hard evidence that, taken as a whole, the strategies funded through TAACCCT did help adults — many unemployed and with no college experience — earn new credentials and move back into the labor market. Their findings align with a growing body of research showing that greater spending on community colleges improves student outcomes.

Ten years later, our economy looks very different. The numbers in Friday's jobs report were mostly good: low unemployment, increasing rates of labor force participation, and even some modest wage growth. But beneath the surface, there are important similarities between today's labor market and the one that emerged during the Great Recession.

Many Americans remain vulnerable to job loss, whether due to recession, international trade, or automation. And many of them will need to acquire new skills and credentials to stay in the labor market. Indeed, the ability to access, afford, and complete high quality education and training opportunities throughout adulthood will likely become an even starker dividing line between Americans in the future than it already is today.

America's community colleges are a national infrastructure for lifelong learning that can support students of all ages. But despite compelling evidence of their critical role in connecting Americans to economic opportunity, funding for community colleges remains alarmingly low.

According to a recent report by the State Higher Education Executive Officers, state financial support for public higher education in 2018 was still 13 percent below its pre-recession level, forcing institutions to rely more heavily on tuition to finance their operations.

State and federal investments in workforce training similarly remain below pre-recession levels. Community colleges have been particularly hard hit by the lack of resources, even as states ask them to serve an increasingly diverse array of students and job seekers.

### **OSSS Announces New FY19 Awards**

*(Courtesy of the U.S. Department of Education, Office of Safe and Supportive Schools)*

U.S. Secretary of Education Betsy DeVos recently announced \$71.6 million in new funding to enhance school safety in schools and improve student access to mental health services. The U.S. Department of Education made the awards under four grant programs, which support recommendations identified in the school safety final report issued by the Federal Commission on School Safety in December 2018. The grant programs are School Climate Transformation Grant – LEA; Project Prevent Grant Program; Mental Health Demonstration Grant Program; and Trauma Recovery Demonstration Grant Program.

### **Collett to Depart Office of Special Education and Rehabilitative Services**

*(Courtesy of Politico)*

Johnny Collett, the Education Department's assistant secretary in the Office of Special Education and Rehabilitative Services, is leaving his post at the end of the week, a department spokesperson said today.

His duties will be taken over by Mark Allan Schultz, who will serve as acting assistant secretary, said the spokesperson, Angela Morabito. Schultz joined the Rehabilitation Services Administration, within OSERS, as a commissioner in August after serving as a deputy commissioner at the Nebraska Department of Education.

Collett took office in January 2018 after the U.S. Senate confirmed him by voice vote. He advised Secretary Betsy DeVos on the education of children and youth with disabilities and employment for youth and adults with disabilities.

“Johnny is a strong and passionate voice for individuals with disabilities, and he was a valued member of our team,” DeVos said in a statement. “His work to rethink OSERS and focus all of its work around achieving better results for students will leave a lasting mark. I’m grateful for the time he spent in Washington and wish him all the best as he returns home to Kentucky.”

DeVos did not say what Collett's plans are in Kentucky.

A former high school special education teacher, he previously served as the program director of special education outcomes at the Council of Chief State School Officers. Collett also served at the Kentucky Department of Education as the state's special education director, as an assistant division director and as an exceptional children consultant, according to his biography.

## October Reading

McKinsey report on [The Future of Work in Black America](#)

Leadership Conference Education Fund brief on the [Gainful Employment: A Civil Rights Perspective](#), a NAPE-supported brief calling for stronger oversight to prevent the exploitation of students of color by for-profit colleges.

Georgetown University Center on Education and the Workforce report on [The Unequal Race for Good Jobs: How Whites Made Outsized Gains in Education and Good Jobs Compared to Blacks and Latinos](#)

Center for American Progress brief on [Restoring the Promise of Higher Education](#)

Alliance for Education Excellence brief on [Fifteen Things to Know About Student Loan Debt and What Congress Can Do to Fix It](#)

Campaign to Invest in America's Future (CIAW) brief on [Investing in America's Workforce: A National Imperative for the 21st Century](#)

## Webinar

**National Skills Coalition: Quality assurance: One more reason why we need smart data**  
[Join NSC for a webinar](#) on Monday, November 4 at 1:00 PM EST for a discussion on its latest publication, "[Expanding Opportunities: Defining quality non-degree credentials for states,](#)" with Robert Asaro-Angelo, Commissioner of the New Jersey Department of Labor and Workforce; Zakiya Smith Ellis, New Jersey Secretary of Higher Education; Megan Healy, Chief Workforce Development Advisor to the Governor of Virginia; and Amy Ellen Duke-Benfield, Senior Fellow of National Skills Coalition. Our guests will address how defining quality non-degree credentials benefits workers, students, businesses, and state policymakers alike and state policies to support increasing the attainment of such credentials, including the importance of robust data policies to ensure equity.