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Ms. Suzanne B. Goldberg,  
Acting Assistant Secretary for Civil Rights  
Office for Civil Rights (OCR)  
U.S. Department of Education  
Via Electronic Submission: <https://www.regulations.gov/>

***Re: Federal Register Request for Information, Regarding the Nondiscriminatory Administration of School Discipline [Docket ID ED-2021-OCR-0068]***

Dear Ms. Goldberg:

The Education Law Center-PA submits this Reply Comment in response to the Request for Information (“RFI”) from the Office for Civil Rights (“OCR”) for comments regarding the nondiscriminatory administration of school discipline. OCR solicits comments from stakeholders on several topics, including: 1) the usefulness of current and previous OCR or Civil Rights Division (“CRT”) guidance; 2) school discipline policies and concerns about potentially discriminatory implementation; 3) referrals to alternative schools and programs; 4) types of guidance that OCR should provide to remedy discriminatory student discipline policies; and 5) data collection practices that would be helpful in identifying and addressing disparities in discipline. This comment addresses these topics in the context of both the school-to-prison pipeline and reentry. We call for greater collaboration between OCR and other offices, such as the Office of School Support and Accountability (“OSSA”) and the Office of Juvenile Justice and Delinquency Prevention (“OJJDP”) to better understand and facilitate the reentry of youth who have been excluded from education due to discriminatory discipline policies. Specific attention to the “prison” side of the pipeline and to the reentry of youth into community schools is critical to ensure that OCR fulfills its mission of ensuring equal access to education. As described more fully below, we recommend that OCR more definitively affirm the educational rights of youth who are system-involved by issuing guidance to local and state educational agencies and by collecting data specific to educational quality and reentry. We also recommend that OCR play a more central role through technical assistance to ensure educational providers across the country are equipped to collect additional data and focus on improving outcomes, even after youth have exited the placement.

***Who We Are***

The Education Law Center-PA (“ELC”) is a statewide non-profit legal advocacy organization dedicated to ensuring that all of Pennsylvania’s students have access to a quality public education. We advocate on behalf of students who are most underserved, including children living in poverty, children of color, children with disabilities, English Learners, those who are in the child welfare and juvenile justice systems, LGBTQ youth, and students who are experiencing homelessness. Our advocacy aims to ensure that the decisions made by policymakers serve the

needs of children who are most marginalized. Our comments emanate from our on-the-ground experience providing support, individual advocacy, legal representation, and technical assistance to families and students during the pandemic as well as our experience working in partnership with grassroots community organizations and state and local agencies that serve students impacted by racism, poverty, and academic needs that further widen educational inequities.

Over our forty-five-year history, ELC has focused on advancing the education rights of children in the child welfare and juvenile justice systems and has helped thousands of children who are system-involved to obtain the educational services they desperately need to achieve life stability and success. We have also worked to advance effective state and national legislation and policy reforms to improve educational outcomes for youth, including informing the development of federal and state laws relating to school stability, ensuring that child welfare professionals have access to education records and data collection, and providing higher education tuition waivers for students who have been in foster care. Along with the Juvenile Law Center and the American Bar Association's Center on Children and the Law, ELC co-founded the *Legal Center for Foster Care and Education*, and is also a co-founder of the *Legal Center for Youth Justice and Education*, a national collaboration which seeks to ensure that all youth in and returning from the juvenile and criminal justice systems can access a quality education. ELC has also played a leadership role at the state and local level as an active member of the *Pennsylvania State Roundtable on Educational Success and Truancy Prevention*, the *Pennsylvania's Child Welfare Council* and the *City of Philadelphia's Youth Residential Placement Task Force*.

In addition, ELC's work focuses on equal access to education and dismantling the school-to-prison pipeline. ELC represents students at the beginning of the pipeline who face disproportionate discipline, school exclusion, and school push out to alternative settings, such as residential facilities and detention centers. On the other side of the pipeline, ELC represents students who seek reentry from juvenile justice facilities but are denied enrollment in their neighborhood schools solely due to the nature of their system involvement. In October 2020, ELC began hosting a two-year fellowship funded by the Independence Foundation that focuses exclusively on access to quality education of youth who are system involved and residing in residential facilities or congregate care settings, including juvenile detention centers and adult prison facilities. Specifically, this project ensures that youth who are entering, residing in, or transitioning from residential facilities, have increased access to information, legal assistance, and enforcement of their educational rights. Through this project's specialization, ELC's law fellow, Ashli Giles-Perkins, has developed expertise in identifying systemic barriers that prevent youth who are system-involved from accessing quality education.

### ***Relevant Background on the School-to-Prison Pipeline***

The school-to-prison pipeline leads to more students being introduced to the justice system and, ultimately, more juveniles becoming incarcerated.<sup>1</sup> School-based administrative decisions have become part of the school-to-prison pipeline where virtually every person who finds their way to prison has a suspension on their school record.<sup>2</sup> The relationship between educational attainment and involvement in the justice system is one of the strongest and most consistent findings in the

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<sup>1</sup> Nancy A. Heitzeg, *Education or Incarceration: Zero Tolerance Policies and the School to Prison Pipeline*, 2 FORUM ON PUBLIC POLICY 1 (2009), <https://files.eric.ed.gov/fulltext/EJ870076.pdf>.

<sup>2</sup> Simone Marie Freeman, *Upholding Students' Due Process Rights: Why Students Are in Need of Better Representation at, and Alternatives to, School Suspension Hearings*, 45 FAMILY COURT REVIEW 638 (2007).

criminological literature.<sup>3</sup> According to nationally maintained statistics, 56% of those incarcerated in the federal prison system, 67% of state, and 69% of incarcerated persons overall did not complete high school.<sup>4</sup> Contributing to the relationship between school failure and justice involvement is the use of exclusionary discipline—namely, out-of-school suspension and expulsion.<sup>5</sup> Since 1974, the number of students suspended annually has doubled from 1.7 to 3.45 million.<sup>6</sup>

### ***Racial Disparities Have Grown***

The increase in the use of exclusionary discipline has not been equally distributed across the student population. Nationally, Black students are three times as likely to be suspended as White students.<sup>7</sup> Thus, as the number of suspensions has increased over time, so have racial disparities.<sup>8</sup> As noted in the RFI and in a 2019 joint report from the U.S. Commission on Civil Rights (“USCCR”) and the U.S. Government Accountability Office (“GAO”), “Students of color as a whole, as well as by individual racial group, do not commit more disciplinable offenses than their white peers—but black students, Latino students, and Native American students in the aggregate receive substantially more school discipline than their white peers and receive harsher and longer punishments than their white peers receive for like offenses.”<sup>9</sup> One in four Black students is suspended at least once compared with one in eleven White students.<sup>10</sup> Data shows inequitable discipline practices that exclude children of color beginning as early as preschool.<sup>11</sup>

Further, the March 2018 USCCR-GAO report also determined that Black students, boys, and students with disabilities were disproportionately disciplined “regardless of the type of disciplinary action, level of school poverty, or type of public school attended.”<sup>12</sup> Students served under the Individuals with Disabilities Education Act (“IDEA”) represented 13% of total student enrollment but 27% of students referred to law enforcement in 2017-18. During that school year, Black students with disabilities represented 18% of all students provided services under IDEA

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<sup>3</sup> Lance Lochner & Enrico Moretti, *The Effect of Education on Crime: Evidence from Prison Inmates, Arrests, and Self-Reports*, 94 AMERICAN ECONOMIC REVIEW 155 (2004); Stephen Machin, Olivier Marie & Sunčica Vujić, *The Crime Reducing Effect of Education*, 121 THE ECONOMIC JOURNAL 463 (2011).

<sup>4</sup> U.S. Bureau of Justice Statistics, 2003. *Education and correctional populations*. Washington, DC: Department of Justice. Retrieved from <http://bjs.gov/content/pub/pdf/ecp.pdf>

<sup>5</sup> J. Wald & D. Losen, *Defining and Redirecting the School-to-Prison Pipeline*, 99 NEW DIRECTIONS FOR YOUTH DEVELOPMENT 9-15 (2003).

<sup>6</sup> Rachael Pesta, *Labeling and the Differential Impact of School Discipline on Negative Life Outcomes: Assessing Ethno-Racial Variation in the School-to-Prison Pipeline*, 64 CRIME & DELINQUENCY 1489, 1490 (2018).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Request for Information Regarding the Nondiscriminatory Administration of School Discipline, 86 Fed. Reg. 30449, 30450-51 (June 8, 2021) (citing U.S. COMMISSION ON CIVIL RIGHTS, BEYOND SUSPENSIONS: EXAMINING SCHOOL DISCIPLINE POLICIES AND CONNECTIONS TO THE SCHOOL-TO-PRISON PIPELINE FOR STUDENTS OF COLOR WITH DISABILITIES 161 (2019), <https://www.usccr.gov/pubs/2019/07-23-Beyond-Suspensions.pdf>).

<sup>10</sup> Jennifer L. Martin & Jane A. Beese, *Talking Back at School: Using the Literacy Classroom as a Site for Resistance to the School-to-Prison Pipeline and Recognition of Students Labeled “At-Risk,”* 52 URBAN EDUCATION 1204, 1207 (2017).

<sup>11</sup> *Id.*

<sup>12</sup> U.S. GOVERNMENT ACCOUNTABILITY OFFICE, K-12 EDUCATION: DISCIPLINE DISPARITIES FOR BLACK STUDENTS, BOYS, AND STUDENTS WITH DISABILITIES 12 (2018), <https://www.gao.gov/products/gao-18-258>.

but 32% of those who were referred to law enforcement.<sup>13</sup> More generally, students with disabilities were also overrepresented in exclusionary disciplinary actions as shown by the Civil Rights Data Collection (“CRDC”) data from 2017-18. Despite representing only 13% of the student population, they represented 25% of all students who received one or more out-of-school suspensions and 15% of those who were expelled without educational services in 2017-18.<sup>14</sup> Black students with disabilities represented 26% of expulsions without educational services although they accounted for only 18% of all students provided services under IDEA in 2017-18.<sup>15</sup>

Discriminatory discipline policies in schools disproportionately burden Black students, students with disabilities, and students at the intersection of those identities, a pattern that OCR knows well. These structures result in disproportionate numbers of Black students and students with disabilities getting placed in residential facilities. Because residential facilities often deprive students of adequate education, making reentry into regular schools much more challenging, Black students and students with disabilities are disproportionately burdened by these structures of educational deprivation. As a result, they are denied adequate education and a meaningful opportunity to participate in their communities.

### ***Need to Improve Education for Youth in Placement and Upon Re-entry***

Over the course of a year, hundreds of thousands of youths enter and exit child welfare and juvenile justice placements, and research shows that they are less likely than those not involved in the system to receive adequate education services.<sup>16</sup> Youth who are incarcerated or placed in juvenile justice facilities are often deprived of adequate education and support systems, making reentry into their communities and regular schools significantly more challenging.<sup>17</sup> For example, in Philadelphia where one in five youths are involved with the child-welfare or juvenile-justice systems, just 36% of students involved in the juvenile justice system graduate from high school.<sup>18</sup> These disturbing patterns call for greater oversight and enforcement of education and civil rights laws in those detention facilities in order to ensure equal access to education.

A 2019 report from the Department of Justice reported an analysis of survey data of state agencies (“SAs”) and school districts and local facilities (“LFPs”) in order to assess how state

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<sup>13</sup> Request for Information Regarding the Nondiscriminatory Administration of School Discipline, 86 Fed. Reg. 30449, 30451 (June 8, 2021).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> PETER LEONE & LOIS WEINBERG, GEORGETOWN UNIVERSITY CENTER FOR JUVENILE JUSTICE REFORM, ADDRESSING THE UNMET EDUCATIONAL NEEDS OF CHILDREN AND YOUTH IN THE JUVENILE JUSTICE AND CHILD WELFARE SYSTEMS (2012), available at <https://www.ojp.gov/ncjrs/virtual-library/abstracts/addressing-unmet-educational-needs-children-and-youth-juvenile-0>.

<sup>17</sup> CENTER ON JUVENILE AND CRIMINAL JUSTICE, COLLABORATING FOR SUCCESSFUL REENTRY: A PRACTICAL GUIDE TO SUPPORT JUSTICE-INVOLVED YOUNG PEOPLE RETURNING TO THE COMMUNITY (2019), available at <https://files.eric.ed.gov/fulltext/ED597305.pdf>.

<sup>18</sup> Kristen A. Graham, *Ten Years Later, City’s ‘Dropouts Crisis’ Improves*, THE PHILADELPHIA INQUIRER (May 20, 2015), <https://www.inquirer.com/philly/education/304367561.html#loaded>.

and local agencies were using funding to support educational and transitional services.<sup>19</sup> Overall, the study found that a majority of SA and LFP coordinators reported that it was “very difficult” for their facilities to track outcomes after youth exited placement.<sup>20</sup> Even more troubling, 58% of all SA coordinators and 47% of all LFP coordinators reported that their facilities “were unable to track outcomes for **any** youth once they exited placement.”<sup>21</sup> Some factors contributing to the inability to track outcomes were: a lack of willingness or cooperation from post-exit placements (84% SA, 66% LFP); a lack of staff, funding, or other resources dedicated to tracking these outcomes (82% SAs, 72% LFPs); disconnected information systems (77% SAs, 59% LFPs); and finally, non-existent student information systems was a major impact on the ability to track youth outcomes (75% SAs, 65% LFPs).<sup>22</sup>

Despite limited statistical data available regarding post-exit educational outcomes, ELC has significant anecdotal data regarding outcomes for students residing in residential and/or juvenile justice placements across Pennsylvania. These firsthand accounts demonstrate the myriad of barriers youth face when they seek to access education, in placement and following placement.

For example, R.N., a student with a disability, was prevented for months from returning to his neighborhood school after his release from a justice placement. Despite persistent follow up from ELC staff, R.N. was denied all access to school for almost six months and was unable to access special education through his IEP. Eventually, the school district restricted R.N.’s enrollment to an inferior, virtual environment where he became wholly disengaged by an education program that could not meet his needs. In another example, C.S., a student with a disability who was returning from a justice placement, was also restricted to an alternative school setting. He was provided no other options for his education and was denied a hearing to challenge the alternative placement.

Many youth do not earn any credits while in justice placements, in many cases because they are highly mobile and transfer frequently from one placement, one district, or even one state to another. In a national report co-authored by the Education Law Center, only 17% of respondents reported that youth always earn credit for work completed in long-term juvenile justice placement facilities and only 9% reported that youth earn credit while in detention.<sup>23</sup> This reality prevents the continuity of education, which has also been impacted by the COVID-19 pandemic. A number of ELC’s clients, upon their arrival to a new facility, were held in isolation for 1-14 days, with no access to education until the quarantine was over. Some facilities completely shut down their classrooms, or would no longer allow teachers to come in. While understandable in certain emergency situations, for too many students in juvenile justice placements, this reality continues to the present day, despite the lifting of many health and safety restrictions. For

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<sup>19</sup> U.S. DEPARTMENT OF JUSTICE, PROMOTING EDUCATION AND TRANSITION SUCCESS FOR NEGLECTED AND DELINQUENT YOUTH: AN EVALUATION OF THE TITLE I, PART D PROGRAM (2019), available at <https://www2.ed.gov/rschstat/eval/neglected/volume-i.pdf>.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> JUVENILE LAW CENTER, EDUCATION LAW CENTER-PA, DREXEL UNIVERSITY & SOUTHERN POVERTY LAW CENTER, CREDIT OVERDUE: HOW STATES CAN MITIGATE ACADEMIC CREDIT TRANSFER PROBLEMS FOR YOUTH IN THE JUVENILE JUSTICE SYSTEM (2020), available at <https://www.elc-pa.org/wp-content/uploads/2020/10/Credit-Overdue.pdf>.

example, three of ELC's clients in the same facility, all of whom were Black girls with disabilities, were denied the ability to earn **any** credits for the weeks and months in which they were in the facility.

Students with disabilities in juvenile placements are also denied necessary special education services. D.J., a student with a disability, entered placement while in need of a triennial reevaluation. Despite frequent advocacy, this evaluation was not completed for nearly 10 months after his placement, far beyond the required 60 days. During these months while awaiting the triennial reevaluation, D.J.'s IEP included outdated and incomplete academic data that was inappropriate to address his needs.

Students who transfer from juvenile justice placements to adult jails and prisons fare much worse. J.D. was 17 and a student with a disability when he went into placement at a juvenile justice facility during the last school year. In November 2020, J.D. was transferred to an adult correctional facility in the same school district. Despite spending nearly the entire school year in an adult correctional facility, J.D. did not receive access to any education. In addition, his IEP had not been revisited since 2019.

In summary, while the negative and lasting impacts of the school-to-prison pipeline have been well documented, much of the focus has been on the regular school environment and policies around discipline. As a result, students who have already been pushed out, continue to fall between the cracks with few solutions. As the above research and case examples indicate, there is a gap in determining what happens to students who are no longer in the classroom. Much of the existing data and reporting does not look directly at residential settings, including juvenile justice facilities. It will be impossible to mitigate the woes of disparate discipline and the school-to-prison pipeline if we do not have a full picture of the landscape that system-involved students face. The following section will address specific recommendations for OCR to consider.

***OCR Recommendations: Collect Specific Data Regarding Education Quality During and Following Placement***

In order to address reentry, a critical stage in the school-prison pipeline, OCR must begin to collect additional data points on youth who are placed in juvenile placements or collaborate more closely with offices that already collect data in this area. At present, the CRDC maintains statistics on the use of discipline, restraints, and seclusion in schools and disaggregates the data by race and IDEA status. These data elements are extremely valuable for identifying discrimination in the administration of school discipline and reveal disturbing patterns of which OCR is well aware: Black students are disciplined and referred to law enforcement at significantly higher rates than their White counterparts.<sup>24</sup>

However, OCR does not currently maintain similar statistics on students who have already been excluded from community schools due to discriminatory discipline policies and their subsequent attempts at reentry. While OJJDP collects some data on youth in residential placements (including detention), this data does not track actual access to education nor educational

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<sup>24</sup> Request for Information Regarding the Nondiscriminatory Administration of School Discipline, 86 Fed. Reg. 30449, 30451 (June 8, 2021).



progress.<sup>25</sup> Without data, the horrible outcomes for youth in these facilities, which disproportionately impact students of color, remain unexamined because of insufficient oversight or enforcement.

OCR should collect data (disaggregated by race and IDEA status) on the rates at which students are placed in residential facilities and issue guidance to schools aimed at reducing the number of students referred for residential placement and more equitably referring students for residential placement.

OCR should collect data on the following questions to understand the educational landscape of youth in residential placement, including detention:

- How many students are earning credits that count towards their high school diploma while in a juvenile placement? How many students of those who should be eligible are successfully completing their diplomas while in placement?
- Are special education students receiving the services to which they are entitled in accordance with OCR's 2014 Dear Colleague letter<sup>26</sup>?
- How many youth who were once in detention facilities successfully reentered their neighborhood schools?

OCR must supplement its current CRDC statistics with data on students in residential facilities, which may involve collaboration with OJJDP or OSSA; this data is crucial to a full understanding of whether all students have equal access to education and to the proper enforcement of educational access and special education rights.

### ***OCR Recommendations: Guidance Needed***

Current and previous guidance from OCR properly underscores that youth in residential placement continue to be protected by civil rights and education laws, including EEOA, Title VI, and Section 504.<sup>27</sup> Further guidance, however, is necessary to realize those protections.

- **Affirming the educational rights of youth who are incarcerated:** OCR must issue specific guidance to Local Education Agencies (“LEAs”), state education agencies, state prisons, juvenile detention centers, and other settings responsible for the education of youth who are justice involved to clearly state that youth maintain their state and federal rights to education, regardless of incarceration, to include the following:

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<sup>25</sup> SARAH HOCKENBERRY, NATIONAL INSTITUTE OF JUSTICE, JUVENILE JUSTICE STATISTICS: JUVENILES IN RESIDENTIAL PLACEMENT, 2017 (2020), available at <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/juveniles-in-residential-placement-2017.pdf>; OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, COMPENDIUM OF NATIONAL JUVENILE JUSTICE DATASETS: CENSUS OF JUVENILES IN RESIDENTIAL PLACEMENT (, available at <https://www.ojjdp.gov/ojstatbb/Compendium/asp/Compendium.asp?selData=1>.

<sup>26</sup> Office for Civil Rights, *Dear Colleague Letter from Assistant Secretary for Civil Rights, Catherine E. Lhamon, and Acting Assistant Attorney General for Civil Rights, Vanita Gupta*, U.S. DEPARTMENT OF EDUCATION (Dec. 8, 2014), available at <https://www2.ed.gov/policy/gen/guid/correctional-education/cr-letter.pdf> [hereinafter *Dear Colleague Letter*].

<sup>27</sup> *Id.* at 1-10.

- A restatement of the legal obligations under Title I Part D of Every Student Succeeds Act (“ESSA”) to educate youth within their care;
  - A checklist for providers regarding their specific obligations under federal law, including evaluating their programs’ effectiveness every three years;<sup>28</sup>
  - A checklist for families and youth on how to ensure obligations are met, what redress they have, and to whom complaints should be directed;
  - State models to facilitate communication and data sharing among state educational agencies, local school districts, and juvenile justice facilities;
  - How school districts and detention centers can better communicate, educate, and ensure successful transitions out of placement, including working closely with O SSA with its goal of helping youth successfully reenter their community schools;<sup>29</sup> and
  - Enforcement activities that will be undertaken by the U.S. Department of Education, including OCR, to ensure youth receive the quality of education to which they are legally entitled.
- **Appropriate educational programs in justice facilities:** Given that students in residential facilities are frequently denied an adequate education, OCR must also provide guidance on the “prison” side of the school-to-prison pipeline to assist justice facilities to fulfill their duties under the law. Guidance should outline specific steps a facility must take to educate students with disabilities, including ensuring “youth with disabilities are not placed in solitary confinement or other restrictive security programs because of their disability-related behaviors.”<sup>30</sup>
  - **Alternatives to incarceration:** Although OCR’s CRDC has already documented discriminatory effects of discipline policies that result in excluding students from schools (e.g. suspensions, expulsions, referrals to law enforcement), in order to best remedy discriminatory student discipline policies OCR should issue guidance encouraging schools to reduce their administration of such discipline policies in favor of alternatives, such as community service, that do not discriminatorily exclude students from accessing meaningful education.
  - **Anti-discrimination in education:** Lastly, OCR should also issue guidance to residential facilities to ensure that students placed therein are protected from discrimination on the basis of race and IDEA status. OCR should outline specific protocols or procedures that can ensure discipline is not administered due to implicit bias based on race or disability. That guidance should underscore the responsibility of residential facilities generally to provide adequate education to every student free from discrimination based on race and disability.<sup>31</sup>

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<sup>28</sup> This evaluation must measure “the program’s impact on the ability of participants . . . to accrue school credits that meet State requirements for grade promotion and high school graduation.” 20 U.S.C. § 6471(a), (a)(2).

<sup>29</sup> 20 U.S.C. § 6451.

<sup>30</sup> *Dear Colleague Letter, supra* note 26, at 6.

<sup>31</sup> See Section 504 of the Rehabilitation Act of 1973 (prohibits disability discrimination by schools receiving federal financial assistance); Title II of the Americans with Disabilities Act of 1990 (prohibits disability discrimination by public entities, including schools.); Title VI of the Civil Rights Act of 1964 (prohibits race, color, and national origin discrimination by schools receiving federal funds).



### ***OCR Recommendations: Providing Technical Assistance***

OCR can play a more **hands-on role by providing technical assistance** to states, districts, and advocate organizations to address specific, systemic gaps in the education of system-involved youth.

- **Assist with data collection/points:** Because many education agencies indicated that they had no existing information collection systems or they had systems that were not functional, OCR can provide technical assistance in positioning facilities to collect and maintain a record of what happens to youth once they leave placement.
- **Meeting state standards:** Assist agencies with getting education in facilities up to state standards, including the development of toolkits geared at providers and families.
- **Supporting the implementation of ESSA:** Create a factsheet or FAQ specific to the following aspects of ESSA<sup>32</sup>:
  - *Records transfer:* Correctional facilities must work with the youth’s family and the local educational agency to make sure relevant academic records transfer with the youth to the facility.<sup>33</sup>
  - *Credit transfer:* State and local agencies must assure credits earned in juvenile justice placements are recognized and transfer to school in the community.<sup>34</sup>
  - *Reentry Planning:* Correctional facilities must work with local education agencies so the youth’s education is not interrupted when he/she/they exits the facility.
    - Specifically, Timely and Appropriate Re-enrollment: State educational agencies must establish procedures to ensure students leaving juvenile justice facilities are timely re-enrolled in a program that best meets their needs, and local educational agencies must offer programs to facilitate the transition of re-entering youth.<sup>35</sup>
  - *Education Opportunities Upon Reentry:* Local agencies seeking funding must partner with higher education institutions or local businesses to promote post-secondary and workforce success for re-entering students. This may include opportunities for youth exiting facilities to enroll in secondary coursework eligible for academic credits, post-secondary education, and career/technical training in the community.<sup>36</sup>
  - *High school diplomas:* State and local agencies, as well as correctional facilities, must assist youth in the juvenile justice system in attaining traditional high school diplomas. Moreover, one accountability standard for local education agencies is devoted to increasing the number of youth attaining high school diplomas, and

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<sup>32</sup> ESSA specifically requires compliance with “procedures to ensure the timely re-enrollment of each student who has been placed in the juvenile justice system in secondary school or in a re-entry program that best meets the needs of the student, including the transfer of credits that such student earns during placement.” 20 U.S.C.

§ 6434(a)(2)(E)(i).

<sup>33</sup> 20 U.S.C. § 6434(c)(9).

<sup>34</sup> 20 U.S.C. § 6434(a)(2)(E).

<sup>35</sup> 20 U.S.C. § 6434(a)(2)(E)(i).

<sup>36</sup> 20 U.S.C. §§ 6434(a)(2)(C), 6453(7).

states and local jurisdiction must collect program evaluation data on the number of youth served who graduate on time.<sup>37</sup>

- **Create accessible video breakdown of the factsheets, Dear Colleague letters, FAQs, and other resources:** In addition to ensuring that OCR's resources are accessible to families and youth, OCR should also hold a webinar aimed at ensuring families with children who are system-involved know their rights, how to exercise them, how to raise complaints, and resources available to ensure youth are not tracked deeper in the justice system.
- **In-person and online trainings:** OCR should hold a series of in-person and online trainings aimed at educational agencies, residential facilities/LEAs, and leadership of juvenile justice facilities (local and state) to ensure they are fully aware of the federal rights and protections that system-involved youth possess.
  - This training series can be followed by surveys to youth, families, and schools; OCR can follow up with specific families or facilities to address remaining problem areas.

Respectfully Submitted,



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<sup>37</sup> 20 U.S.C. § 6456.